The IN THE NATIONAL CONSUMER TRIBUNAL
HELD IN CENTURION

Case number: **NCT/376591/2025/73(2)(b)**

In the matter between:

NATIONAL CONSUMER COMMISSION APPLICANT

and

LANA-JANE DE JAGER N.O FIRST RESPONDENT
HANRO DE JAGER N.O SECOND RESPONDENT

Coram:

Adv C Sassman - Presiding Tribunal member
Mr CJ Ntsoane - Tribunal member
Dr MC Peenze - Tribunal member

Date of hearing - 29 May 2025
Date of judgment - 3 June 2025

JUDGMENT AND REASONS

THE PARTIES

1. The applicant is the National Consumer Commission (the applicant). The applicant is an organ of the state established in terms of section 85(1) of the Consumer Protection Act 68 of 2008 (CPA). It is tasked with, among other things, monitoring compliance with the CPA and enforcing consumer protection in the Republic.

2. At the hearing, the applicant was represented by its senior legal advisor, Ms Imrhan Magoro.

3. The first respondent is Lana-Jane De Jager (the first respondent), an adult female in her official capacity as a trustee of the Shabach Trust, trading as Droom Troue, with trust number IT2452/1992.

4. At the hearing, the first respondent was represented by Adv J.G. Botha, instructed by Yammin Hammond Attorneys.

5. The second respondent is Hanro De Jager (the second respondent). The second respondent is deceased and, at the time of the conduct that is the cause of the applicant's complaint, was a trustee of the Shabach Trust, trading as Droom Troue, with trust number IT2452/1992.

6. The second respondent was not represented at the hearing.

TERMINOLOGY

7. A reference to a section in this judgment refers to a section of the CPA unless stated otherwise.

APPLICATION TYPE

8. This is an opposed application in terms of section 73(2)(b). In this application, after investigating several consumer complaints, the applicant has referred the matter to the Tribunal for adjudication.

BACKGROUND

9. Between August 2022 and April 2023, the applicant received eleven complaints from consumers relating to advertisements placed by the respondents in bridal magazines. The respondents traded under the name Droom Troue and the advertisements purported to offer participants a chance to win a dream wedding valued at R500 000.00. To participate, readers were instructed to follow Bruidsgids on Instagram, click to like Droom Troue on Facebook, and text "Droom Troue" with their names and email addresses to 36996. Readers who participated were charged R5.00 per text message.

10. The complainants reported that the respondents notified them that they had won the prize, but they were required to sign a memorandum of understanding (MOU) and pay a non-refundable fee to claim it. On the strength of these complaints, the applicant formed a reasonable suspicion that the respondents were contravening certain provisions of the CPA. The applicant investigated the complaints and concluded that the respondents ran a promotional competition and required complainants to pay between R25 000.00 and R60 000.00 to claim the prize of a wedding valued at R500 000.00. The applicant alleges that after the complainants made their payments, correspondence from the respondents ceased.

11. The first respondent opposes the application and denies any contravention of the CPA. She submits that Droom Troue is a reality television show and that the complainants were carefully selected to participate in it and were not selected by lot or chance. She further submits that Droom Troue is not a promotional competition nor a supplier, and it did not enter into any agreement with the complainants to supply goods or services in exchange for consideration.

12. The applicant is seeking an order confirming that the respondents have contravened the CPA, compensation for the complainants, an administrative fine and other further relief. The first respondent denies the applicant's allegations and prays for the dismissal of the application.

THE APPLICANT'S SUBMISSIONS AND RELIEF SOUGHT

13. At the hearing, the applicant confirmed that it only wished to pursue complaints lodged by the following seven consumers, as the remaining complainants were already involved in litigation and/or settlement negotiations with the respondents:

Complainants' names	Amount paid to the respondents
Ahne van Wyk	R25 000.00
Christine Matthys Grobler	R40 000.00
Ina Van Oudshoorn	R34 400.00
Chantelle Steenkamp	R40 000.00
Juanita De Jager	R39 750.00
Stuart James Ross	R46 400.00
Terina van Schalkwyk and Neil Britz	R40 000.00

14. The applicant submits that the respondents' conduct amounts to a contravention of section 36(2)(a)(ii), (iii), and (iv) and section 36(3)(a) in that the respondents directly informed the complainants that they had won the competition and that the prize could only be obtained subject to the payment of a fee, which was previously undisclosed. The applicant further alleges that the respondents' conduct also amounts to a contravention of section 36(5)(c) to (f), in that the respondents failed to disclose the basis on which the results of the competition will be determined, the closing date for the competition, how the competition results would be made known, and how the participants could obtain a copy of the competition rules.

15. The respondents' conduct disregards the various provisions of the CPA and severely prejudiced the complainants. The contraventions committed by the respondents are of a serious nature, and the complainants have been deprived of the cash they paid for

their participation. The respondents have shown a blatant disregard for the provisions of the CPA in that they have made it clear that the complainants will not be refunded. It is difficult to ascertain in the absence of correct data from the respondents as to how many participants were affected by the respondents' conduct. However, given the number of complaints that the applicant received, it can reasonably be assumed that this adverse conduct affected many people.

16. The applicant is seeking the following orders:

    16.1 An order declaring that the respondents have contravened section 36(2)(a)(ii), (iii) and (iv); section 36(3)(a); and section 36(5)(c) to (f);

    16.2 An order for an interdict prohibiting the respondents from engaging in the same conduct in future;

    16.3 An order directing that the first and second respondents, jointly and severally, the one paying the other to be absolved, refund the complainants the amounts paid as stated in paragraph 13 above, with interest in accordance with the Prescribed Rate of Interest Act No. 55 of 1975, from the date of payment to the date of final payment. Alternatively, the issuing of a certificate in terms of section 115(2).

    16.4 An order directing the respondents to pay an administrative penalty of R1 000 000.00; and

    16.5 Any other appropriate order contemplated in line with section 4(2)(b)(ii).

THE FIRST RESPONDENT'S SUBMISSIONS

17. The first respondent submitted that Droom Troue is not a promotional competition as defined in the CPA but instead is a reality television show conceptualised in 2018 and which ended in 2024. The complainants were selected to be participants in the show and not a promotional competition, as the applicant alleges.

18. Droom Troue does not sell any goods or render any services for consideration and, as such,'s is not a business as defined in section 36. Furthermore, participants are not selected by "lot or chance". Almost all participants won the prize after a careful selection process. The relationship between the first respondent and the complainants was purely contractual and not subject to the provisions of section 36 of the CPA.

19. From the outset, potential participants were directed via a QR code to the Be Your Dream website and the Droom Troue webpage. The terms and conditions were available under https:\\ beyourdream.co.za/droomtroue/, and they were available before any potential participant entered.

20. Each potential participant was sent a message informing them that their number was received via the Droom Troue SMS network, that they had been nominated to participate in Droom Troue, and that they had to answer a few questions. Upon receiving the participants' answers, they were provided with a Droom Troue package with Frequently Asked Questions to further inform the potential participants of the terms and conditions under which they would participate. On assessing participants' answers to the questions, successful participants were selected to participate in the reality show. This decision was communicated to the participants, and they were provided with an MOU to sign.

21. Participants were free to ask questions, and in many instances, face-to-face meetings were held to explain the process before they committed to participating in the reality television show. Potential participants were always fully aware of the terms and conditions relating to their participation.

22. The so-called commitment fee payable by potential participants, specifically the complainants, was always known to them. It was explained to all potential participants and the complainants specifically that it was a commitment fee to commit the potential bride and groom to follow through with the wedding. The commitment fee was introduced to curb wasted costs, effort and time to ensure that the wedding would take place and could be aired on television. The payments received from participants are not consideration as defined in the CPA, and the so-called goods or services are bequests gifted to the couples. Clause 27 of the MOU clearly stipulates that the commitment fee is a non-refundable payment to ensure the participants are committed to following through with the wedding.

23. On 26 June 2022, a current affairs programme aired on television featuring certain complaints raised by previous participants who appeared on the show. Following this, all complainants, unilaterally and contrary to their terms and conditions, withdrew from participating further and, as such, on a proper reading of the MOU and its terms, would not be entitled to a refund. The fact that certain weddings had to be postponed due to circumstances beyond the reasonable control of the respondents, and given the terms of the MOU, does not constitute a breach of the agreement on the part of the respondents.

24. The respondents always intended to continue producing the Droom Troue reality show as and when circumstances allowed. It was the complainants who unilaterally and without reason withdrew from the production. The respondents never accepted the complainants' repudiation and always offered to continue with the complainants'

weddings, which the complainants refused to do. The first respondent prays for the dismissal of the applicant's case

CONSIDERATION OF THE EVIDENCE

25. It is common cause that the respondents are cited in their official capacities as trustees of the Shabach Trust, trading as Droom Troue, with trust number IT2452/1992. The general rule is that trustees must act jointly, and unless provided for otherwise, a trust is not a legal person. The rights and obligations comprising the trust estate do not bestow legal personality on the trust, and in litigation, the trustees must be cited and not the trust itself.[1] It is further common cause that the second respondent is deceased and is no longer a trustee. However, the Tribunal notes that the first respondent remains a trustee representing the trust, and the Tribunal may still make an order to be executed by her.

26. The Tribunal accepts the version put forward by the first respondent, that the trust, trading as Droom Troue, is not in the business of supplying goods and services to consumers but instead, is a reality television show that, in the ordinary course of business, produced several seasons of a show featuring various weddings taking place.

27. The applicant alleges that the respondents ran a promotional competition and failed to comply with the requirements for a promotional competition prescribed under the CPA. The first respondent disputes this. The CPA defines a promotional competition as any competition, game, scheme, arrangement, system, plan or device for distributing prizes by lot or chance. The first respondent argues that since the complainants were not selected by lot or chance, but instead through a detailed selection process, no promotional competition was held, and the provisions of section 36 cannot be applied. Almost all the consumers who responded to the advertisement received the prize.

28. The evidence before the Tribunal indicates that the respondents did not run a promotional competition as alleged by the applicant. The Tribunal accepts the first respondent's submissions in this regard. The respondents set out to recruit their show participants under the guise of a competition. In doing so, the respondents used advertisements in bridal publications, which attracted the complainants in this case.

[1] Land and Agricultural Bank of South Africa v Parker & others 2005 (2) SA 77 (SCA), para 10. See also Rossiter NO v Nedbank Limited (AR94/19, 8244/2010) [2020] ZAKZPHC 7 (14 February 2020), para 4(a).

None of the advertisements included in the case record[2] indicate that participants were being recruited to participate in a reality show. Each advertisement refers to winning a wedding worth R500 000.00 followed by instructions on how to win. Although the advertisements indicate that terms and conditions would apply, no terms and conditions were displayed. There was also no related QR code or webpage link that appeared in the advertisements as submitted by the first respondent. It is clear from the complaints received that the complainants felt misled and deceived by this practice.

29. The complainants were required to sign an MOU, which states as follows:

"b) Bride and Groom enters into agreement with Be Your Dream for the Wedding Package won in "Droom Troue" TV series competition 2022, on the terms and conditions as set out herein."

30. Throughout the MOU, and under the heading "Conditions of Winning Wedding Package," the bridal couple is further interchangeably referred to as "entrants" and "winners" who have won a prize. Section 36(2)(a)(i) states that a person must not directly or indirectly inform another person that a participant has won a competition if no competition has in fact been conducted.

31. The first respondent argues that section 36(2)(a)(i) finds no application in this instance since section 36(1)(a) defines a participant as a person who enters, competes in or is eligible to win a promotional competition. The first respondent reasons that since there was no promotional competition, the complainants cannot be classified as participants. The Tribunal rejects this notion.

32. The respondents in their MOU refer to the complainants as "entrants" participating in the competition or competition process.[3] One can hardly enter a competition and not be a participant in it. Section 4(3) states that if any provision of the CPA, read in its context, can reasonably be construed to have more than one meaning, the Tribunal or court must prefer the meaning that best promotes the spirit and purposes of the CPA. In this context, the Tribunal is of the view that the definition of a participant includes an instance such as this, where a consumer was under the impression that the competition they were entering existed. The fact that no competition took place does not mean the complainants cannot be viewed as participants since they still participated in the competition process, which we now know was just a ruse.

[2] See pages 344 and 430 – 435 of the case record.
[3] See paragraphs 2 and 3 of the MOU on page 964 of the case record.

33. Section 4(5)(b) states that in any dealings with a consumer, in the ordinary course of business, a person must not engage in any conduct that is unconscionable, misleading, deceptive, or that is reasonably likely to mislead or deceive. The Tribunal finds that the respondents, through their conduct in recruiting potential participants for their television show, intentionally set out to mislead and deceive consumers into thinking that they were entering a competition to win a prize and signed an MOU to that effect. In this regard, the Tribunal finds the respondents' conduct unconscionable and the terms of the MOU signed by the complainants to be misleading and deceptive. Therefore, the Tribunal is persuaded that the respondents have contravened sections 4(5)(b) and 36(2)(a)(i). The respondents' conduct amounts to prohibited conduct and cannot be condoned.

34. Since no promotional competition was indeed run, the applicant's allegations relating to contraventions of sections 36(2)(a)(ii), (iii) and (iv); section 36(3)(a); and section 36(5)(c) to (f) find no application as these can only be applied in the instance of a promotional competition which actually took place. The Tribunal, however, is not limited to adjudicating the alleged contraventions brought before it by an applicant and may conclude that prohibited conduct has occurred relating to any other provision of the legislation based on the evidence before it.

35. The rights afforded to consumers under the CPA are there to protect consumers, and an infringement of these rights can have serious financial consequences for consumers. Section 4(2)(b)(ii) requires the Tribunal to make appropriate orders to give practical effect to a consumer's right of access to redress, which includes making any innovative order that better advances, protects, promotes and assures the realisation by consumers of their rights in terms of the CPA.

36. Section 150(i) of the National Credit Act 34 of 2005 (NCA) further empowers the Tribunal to make any appropriate order required to give effect to a consumer's right in terms of the NCA or CPA when making a finding of prohibited conduct. In this case, the Tribunal is persuaded that it would be appropriate to set aside the MOUs concluded by the complainants, and for the complainants to be refunded any money paid to the respondents.

ADMINISTRATIVE FINE

37. The applicant requested the Tribunal to impose an administrative fine on the respondents. The Tribunal is satisfied that the nature of the respondents' contraventions and the consequent financial implications for the consumers justify the Tribunal

imposing an administrative fine. The kind of contraventions perpetrated by the respondents is undoubtedly the type of conduct the CPA seeks to prohibit. Once it finds that respondents have engaged in prohibited conduct, the Tribunal has a duty to exercise its powers by sending a clear and strong message that such conduct will not be permitted.

38. Section 112(3) outlines the factors the Tribunal must consider when determining an appropriate fine. These are listed and discussed under separate subheadings below.

<u>The nature, duration, gravity, and extent of the contravention</u>

The evidence shows that the contraventions are serious and display a disregard for the CPA and consumer rights. The respondents' conduct was intentionally deceptive and misleading. Although the Tribunal is uncertain about how many consumers have been affected by this conduct in the past, the nature and extent of the contraventions regarding these complainants warrant serious action against the respondents.

<u>Any loss or damage suffered as a result of the contravention</u>

The complainants have not received their wedding prize and have lost the money they paid to the respondents, as indicated in paragraph 13 above. This has no doubt resulted in inconvenience and financial prejudice to each complainant.

<u>The behaviour of the respondent</u>

The respondents acted contrary to the spirit and purpose of the CPA and set out to intentionally mislead and deceive consumers.

<u>The market circumstances in which the contravention took place</u>

The respondents' conduct illustrates that the market within which the contraventions occurred is one in which consumers find it challenging to pay for an entire wedding themselves and can easily fall prey to misleading and deceptive tactics, resulting in financial prejudice. These consumers are often not fully aware of their rights and are vulnerable to exploitation.

<u>The level of profit derived from the contravention</u>

The respondents benefited from the payments received from each complainant.

<u>The degree to which the respondents have cooperated with the applicant and the Tribunal</u>

The respondents cooperated with the applicant's inspector during the investigation and provided a comprehensive answer to the applicant's allegations made to the Tribunal.

Whether the respondents have previously been found in contravention of the CPA

There is no evidence that any prior investigations or enforcement action was instituted against the respondents.

39. Regarding the abovementioned factors, the factual evidence, and the conduct displayed, it is in the interest of justice for an administrative fine to be imposed on the respondents. The purpose of the administrative fine is, in this application's circumstances, a warranted punitive measure. Regarding the quantum of the administrative fine, section 112(2) provides that an administrative fine imposed may not exceed the greater of 10% of the respondent's annual turnover during the preceding financial year or R1 000 000.00 (one million rand). The applicant did not submit evidence of the trust's applicable annual turnover. The Tribunal can, however, still impose a fine limited to a maximum of R1 000 000.00 (one million rand) in the absence thereof.

CONCLUSION

40. By their conduct, the respondents set out to intentionally mislead and deceive multiple consumers and displayed little or no regard for the spirit and purpose of the CPA. The Tribunal finds their conduct unconscionable. Their conduct amounts to a contravention of sections 4(5)(b) and 36(2)(a)(i) and is declared prohibited conduct. The MOUs signed by the complainants must be set aside. The complainants are entitled to a full refund of any money paid to the respondents, and the applicant is entitled to further relief requested. An administrative fine against the respondents is warranted as a punitive measure. The Tribunal finds that a fine of R250 000.00 (two hundred and fifty thousand rand) will be appropriate.

ORDER

41. Accordingly, the Tribunal makes the following order:

41.1 The respondents contravened sections 4(5)(b) and 36(2)(a)(i) of the CPA;

41.2 The respondents' contravention of sections 4(5)(b) and 36(2)(a)(i) of the CPA is declared prohibited conduct;

41.3 An interdict is granted in terms of section 150(b) of the NCA prohibiting the first respondent from engaging in the same or similar prohibited conduct in the future;

41.4 The first respondent is ordered to, within sixty calendar days of the issuing of this judgment, refund each of the seven complainants in this matter as follows:

41.4.1 Ahne van Wyk – R25 000.00 (twenty-five thousand rand);

41.4.2 Christine Matthys Grobler – R40 000.00 (forty thousand rand);

41.4.3 Ina Van Oudshoorn – R34 400.00 (thirty-four thousand four hundred rand);

41.4.4 Chantelle Steenkamp – R40 000.00 (forty thousand rand);

41.4.5 Juanita De Jager – R39 750.00 (thirty-nine thousand seven hundred and fifty rand);

41.4.6 Stuart James Ross – R46 400.00 (forty-six thousand four hundred rand); and

41.4.7 Terina van Schalkwyk and Neil Britz – R40 000.00 (forty thousand rand).

41.5 The first respondent is ordered to, within ninety calendar days of the issuing of this judgment, pay an administrative fine of R250 000.00 (two hundred and fifty thousand rand) into the National Revenue Fund referred to in section 213 of the Constitution[4] using the following bank account details:

Bank: Nedbank Limited
Account holder: Department of Trade, Industry and Competition
Account type: Current account
Account number: 126 884 7941
Branch name: Telecoms and Fiscal
Branch code: 198765
Reference: NCT/376591/2025/73(2)(b) and the name of the first respondent or the trust; and

41.6 There is no cost order.

Adv C Sassman
Presiding Tribunal member

Tribunal members Mr CJ Ntsoane and Dr MC Peenze concur.

Authorised for issue by The National Consumer Tribunal

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[4] Constitution of the Republic of South Africa, Act 108 of 1996.