NATIONAL CONSUMER COMMISSION v WINGFOOT TRAINING (PTY) LTD t/a AIMX

CASE NO: NCT/417333/2025/73(2)(b)

1. SUMMARY OF THE JUDGEMENT

The matter concerned three consumers, aged 64, 74 and 76, who purchased AIMX Simulation Software packages from Wingfoot Training (Pty) Ltd t/a AIMX (the Respondent), following direct marketing. The consumers paid upfront amounts of R35 000, R35 000 and R39 000 respectively, in addition to monthly subscription fees.

When the consumers sought to cancel their agreements and obtain refunds, the Respondent refused, relying on clause 6.5 of its standard terms and conditions, which restricted cancellation and refunds until completion of a six-month simulation period.

Following its investigation, the National Consumer Commission (NCC) referred the matter to the National Consumer Tribunal (Tribunal), alleging contraventions of sections 14, 16, 40 and 51 of the Consumer Protection Act 68 of 2008 (CPA).

The Tribunal found that the various documents signed by the consumers, although presented as separate agreements, were interdependent and constituted a single, indivisible agreement.

Importantly, the Tribunal found that clause 6.5 unlawfully restricted consumers' statutory cancellation rights by subjecting cancellation to a six-month waiting period. The clause effectively deprived consumers of their right to cancel fixed-term agreements on 20 business days' notice and enabled the Respondent to retain their money despite their expressed intention to terminate the agreements.

The Tribunal consequently found the Respondent in contravention of sections 14(2)(b)(i)(bb) and 51(1)(a) and (b) of the CPA and declared the conduct prohibited conduct.

The Tribunal ordered the Respondent to refund the three consumers a total of **R109 000.00** within 15 business days and imposed an administrative fine of **R350 000.00**, payable within 60 business days.

However, the Tribunal dismissed the allegations relating to sections 16 and 40, finding that the Commission had not provided sufficient evidence to establish those contraventions. In particular, the Commission failed to produce recorded telephone cancellations to establish compliance with section 16, and failed to prove that the Respondent had engaged in unfair tactics or knowingly exploited the consumers' vulnerabilities as contemplated in section 40.

2. IMPACT OF THIS CASE

This judgment reinforces the principle that contractual terms cannot override or undermine statutory consumer rights. A supplier cannot impose additional contractual conditions that effectively suspend a consumer's right to cancel an agreement under the CPA.

The Tribunal also confirmed that separate contractual documents may constitute a single, indivisible agreement where their nature, context and purpose demonstrate that they are interdependent.

3. A STRONG MESSAGE TO THE SUPPLIERS

A supplier cannot lock consumers into unwanted agreements through contractual clauses that defeat their statutory cancellation rights. Where a consumer exercises a right to cancel in accordance with the CPA, the supplier must give effect to that right.

The Tribunal's order of R109 000.00 in refunds, together with an administrative fine of **R350 000.00**, demonstrates that retaining consumers' money through unlawful contractual restrictions carries serious consequences.