

NOTICE 1762 OF 2004**DEPARTMENT OF TRADE AND INDUSTRY
CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988**

I, Mandisi Mpahlwa, MP, Minister of Trade and Industry, after having considered a report by the Consumer Affairs Committee in relation to an investigation of which notice was given in Notice 499 of 2002 published in Government Gazette No. 23111 of 2 April 2002, which report was published in Notice 1761 in Government Gazette No. 26701 of 18 August 2004, and being of the opinion that an unfair business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12 (1) (b) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.

**M B M MPahlwa****MINISTER OF TRADE AND INDUSTRY****SCHEDULE**

In this notice, unless the context indicates otherwise -

"the parties" means, Emerald van Zyl Business Consultants and EC van Zyl or any business in which the parties have an interest,

"unfair business practice" means the business practice whereby the parties, directly or indirectly,

- (a) receive any money or valuable consideration for the performance of any service they agree to perform for a consumer where the consumer might have a problem with a financial institution/creditor with the view to renegotiate an agreement between the consumer and the financial institution/creditor or obtain a settlement on behalf of the consumer before such service is fully performed where

"service fully performed" means that the parties have fulfilled all the services offered to the consumer, and the financial institution/creditor has agreed to or rejected any claim or request for a renegotiated agreement or settlement in writing. The financial institution/creditor must agree to or reject the claim/request within 90 days after receiving the claim/request, failing which service is presumed to have been fully performed and/or

- (b) advise a consumer to stop payment to a financial institution/creditor in an effort to force the financial institution/creditor to provide information.
- (c) place advertisements in newspapers about interest charged by banks that

have not been substantiated.

1. The unfair business practice is hereby declared unlawful in respect of the parties.
 2. The parties are hereby directed to
 - (a) refrain from the application or continuation of the unfair business practice as described above, and
 - (b) cease to have any interest in a business or type of business which applies to such a business practice or to derive any income therefrom and to refrain from at any time obtaining any interest in or deriving any income from a business or type of business applying such a business practice.
 - (c) refrain from at any time applying the unfair business practice.
 3. This notice shall come into operation upon the date of the publication hereof.
-