

**FSCA fines Mr Renault Otto Kay R500 000 and debar him for a period of 5 years.
FSCA fines Mr Melusi Christian Ntumba R10million and debar him for a period of 10 years. Both contravened financial sector laws.**

The Financial Sector Conduct Authority (“the FSCA”) has imposed an administrative penalty of R500 000 on Mr Renault Otto Kay (“Kay”) and debarred him for a period of 5 years. The FSCA also imposed an administrative penalty of R10 million on Mr Melusi Christian Ntumba (“Ntumba”) and debarred him for a period of 10 years.

The FSCA instructed an investigation of Smart Billion Investments (Pty) Ltd (“Smart Billion”) after it received a complaint alleging that Smart Billion traded client funds without authorisation and failed to reimburse clients’ losses caused by Smart Billion.

The FSCA found that Smart Billion traded in contracts for differences (“CFDs”) on behalf of clients through an online trading platform, GT247 (Pty) Ltd (“GT247”). Smart Billion opened a trading account at GT247, pooled client funds, and traded it in the name of Smart Billion. Clients deposited funds for trading purposes into Smart Billion’s bank account of which only a portion were transferred to GT247, for trading purposes. The balance of clients’ funds that remained in Smart Billions’ bank account, was used to pay clients’ withdrawal requests.

The FSCA found that Smart Billion contravened section 2 and 10(1)(e)(i) of the General Code of Conduct for Authorised FSPs and Representatives (“the General Code”), section 2(a) of the Financial Institutions (Protection of Funds) Act 28 of 2001 (“the FI Act”), section 19(2) read with section 19(1) of the Financial Advisory and Intermediary Services Act (“the FAIS Act”), section 13(2) of the FAIS Act and certain conditions contained in the suspension of authorisation of Smart Billion.

The FSCA found that Kay, as director and key individual (“KI”) of Smart Billion, contravened section 42 of Board Notice 194 in Government Gazette 41321 of 15 December 2017 (“Board Notice 194”) in that Kay was unable to maintain the operational ability to fulfil the responsibilities imposed on Smart Billion. Kay also contravened Section 8A of the FAIS Act.

The FSCA considered, as aggravating factor, that Kay agreed to act as Smart Billions’ KI only to secure a FAIS license for Smart Billion, whereafter his only role was to oversee platform trading. The FSCA considered that Kay did not perform the responsibilities bestowed upon him as KI to ensure that Smart Billion had the operational ability as envisaged in section 37 of Board Notice 194.

Executive Committee:

The FSCA found that Ntumba, in his capacity as director, representative and CEO of Smart Billion, contravened section 2(a) of the FI Act in that he did not observe the utmost good faith and did not exercise proper care and diligence with regards to client funds. Ntumba contravened section 2 and 10(1)(e)(i) of the General Code and certain conditions contained in the suspension of authorisation of Smart Billion. Ntumba contravened Section 8A of the FAIS Act in that he no longer meets the fit and proper requirements. Ntumba also caused, attempted, or conspired with, aided, abetted, induced, incited, or procured Smart Billion to contravene financial sector laws.

The FSCA considered as aggravation factor that a miniscule amount of client funds were transferred to GT247, whilst the balance of the funds was utilised to repay clients and personal and/or business expenses.

The Serious Commercial Crime Unit is investigating a criminal case against Smart Billion. The FSCA is providing assistance in this case.

ENDS

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