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TO: ALL NEWS EDITORS AND JOURNALISTS

HIGH COURT ISSUES COURT ORDERS IN FAVOUR OF CIPC, TO IMPOSE ADMINISTRATIVE FINES ON ENTITIES WHO IGNORED COMPLIANCE NOTICES FOR FAILING TO LODGE ANNUAL FINANCIAL STATEMENTS

The Companies and Intellectual Property Commission (CIPC) established in terms of the Companies Act, Act 71 of 2008 has as one of its objectives in Section 186 (1)(d) a responsibility to “promote compliance with the Act”; S186 (1)(e) “efficient, effective and widest possible enforcement of the Act”. One of its functions in terms of Section 187 (3) is also to “promote the reliability of financial statements by, among other things – monitoring patterns of compliance with, and contraventions of, financial reporting standards”.

CIPC received Reportable Irregularity reports from the Independent Regulatory Board For Auditors (IRBA) as prescribed in Section 45 of the Auditing Profession Act. The companies were reported by their Auditors through the IRBA for failure to comply with Section 30 of the Companies Act 71 of 2008 wherein every company is required to prepare its annual financial statements within six months after the end of its financial year end and file the same AFSs with the regulator where applicable. Compliance Notices were issued by CIPC to the three companies and their directors, but were ignored.

CIPC therefore, through the Corporate Disclosure Regulation and Compliance Unit went on to utilize the provisions of Section 175 of the Companies Act 71 of 2008, which provides for an Administrative fine to be issued for a company whom a Compliance Notice has been issued for specific continuous non-compliance of the Companies Act with no change.

The following are the three companies being referred to above whereby Notices of Motion were issued to them and for an administrative fine to be imposed on them, viz.

CIPC V CITICONNECT 9503/18 – ORDER GRANTED
CIPC V BLUE SKY AIR 9502/18 – ORDER GRANTED
CIPC V SISAO PROJECT 9504/18 – ORDER GRANTED

Court orders were granted for an administrative fine to be paid by these non-compliant companies in terms of Section 175 of the Companies Act. The administrative fine to be paid by each company is equal to 10% of their turnover during the period which the companies were non-compliant.



Companies and Intellectual
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Conclusion

This is another landmark victory for CIPC in the application of the enforcement provisions provided for by the Companies Act 71 of 2008.

Companies whom CIPC engages on matters relating to non-compliance must strive to rectify conduct that goes against the spirit of the Companies Act, which is “high standards of corporate governance and high levels of transparency”. This judgments against non-compliant entities should raise awareness to all registered companies to adhere to the provisions of the Companies Act 71 of 2008.

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