

**IN THE NATIONAL CONSUMER TRIBUNAL HELD IN CENTURION – HELD IN
CHAMBERS**

Case Number: NCT/158496/2020/140(1)

In the matter between:

NATIONAL CREDIT REGULATOR

APPLICANT

AND

**HAO CASH LOANS (PTY) LTD
(NCRCP 8136)**

RESPONDENT

Coram:

Ms H Alwar - Presiding Tribunal member

Date of adjudication in chambers – 28 February 2022

Date last documents received – 1 March 2022

Date of judgment and order -1 March 2022

JUDGMENT AND ORDER

APPLICANT

1. The Applicant is the National Credit Regulator (the Applicant), a juristic person established by section 12 of the National Credit Act, 2005 (the Act) with its physical address at 127 15th Road, Randjiespark, Midrand, Johannesburg, Gauteng.

RESPONDENT

2. The Respondent is HAO Cash Loans (Pty) Ltd (the Respondent), a registered credit provider with registration number NCRCP 8136. Its business premises is situated at Unit 142, Glen Gardens, 123 Harris Avenue, Edenglen.

APPLICATION TYPE

3. This is an application in terms of section 138 (1) (b)¹ of the Act for the Tribunal to confirm a settlement agreement as a consent order.

4. The Applicant has submitted a Settlement Agreement that the parties wish to be confirmed as a consent order (the settlement agreement). A reference to a section in this consent order refers to a section in the Act.

BACKGROUND

5. On 26 March 2020, the Applicant filed an application in terms of Section 140(1) for various orders.

6. The matter was set down on numerous occasions and then removed from the roll for the consideration of condonation applications for the late filing of pleadings. The parties then requested that the matter be removed from the roll as they were entering into settlement negotiations. The parties filed the settlement agreement, to be confirmed as an order of the Tribunal. The Tribunal considered the settlement agreement in chambers on 28 February 2022.

7. The settlement agreement records the Respondent's failure to comply with various provisions of the Act and Regulations.

8. The settlement agreement also records the remedial actions that will be taken by the

¹ Section 138 (1) (b) provides that if a matter has been investigated by the National Credit Regulator, and the National Credit Regulator and the respondent agree to the proposed terms of an appropriate order, then the Tribunal without hearing evidence, may confirm the resolution or agreement as a consent order.

Respondent. The Respondent agrees to pay an administrative fine.

9. The Applicant and the Respondent agree that the settlement agreement may be confirmed as a consent order.

ANALYSIS

10. Section 138 (1) (b) must be read with section 150, which empowers the Tribunal to make an appropriate order in relation to prohibited or required conduct and in subsection (d) includes confirming a “consent agreement” as an order of the Tribunal.

11. The Tribunal is satisfied that the settlement agreement correctly records the Respondent’s prohibited conduct; and that the Respondent has undertaken to perform a range of remedial actions. The Tribunal has considered that the Applicant and the Respondent have agreed that the settlement agreement may be confirmed as a consent order in terms of section 138(1)(b).

CONCLUSION

12. Consequently, the Tribunal is persuaded that it is appropriate to grant the application and confirm the settlement agreement as a consent order.

ORDER

13. Accordingly, the Tribunal makes the following order: -

13.1. The settlement agreement that the Applicant and the Respondent concluded on 4 February 2022; which is annexed to this consent order as “Annexure A to NCR v HAO Cash Loans (Pty) NCT/158496/2020/140(1)”, is confirmed and made an order of the National Consumer Tribunal in terms of section 138(1)(b) of the National Credit Act, 2005; and

13.2. There is no order as to costs.

DATED ON THIS 1st DAY OF MARCH 2022

MS H ALWAR PRESIDING MEMBER