

## HD Finance Group pays for contravening NCA

Consumer watchdog, the National Credit Regulator (NCR), has taken on a credit provider that flouted provisions of the National Credit Act (NCA) and won.

The NCR applied to the National Consumer Tribunal (NCT) for the cancellation of the registration of HD Finance Group owing to the credit providers continued contravention to the provisions of the NCA.

### The ruling

Adv. Jan Augustyn, Manager: Investigations & Prosecution at the NCR, says the specific sections of the Act which HD Finance was found to have contravened pertains to the retention and usage of identity documents, credit or debit cards, bank accounts or any similar identifying documents when collecting money owed by consumers or when enforcing credit agreements.

“The NCT ruled in favour of the NCR and held that HD Finance was retaining and using bankcards and pin codes as a collection method when collecting money owed by consumers, consequently HD Finance was found to have repeatedly contravened the NCA, in particular section 133 of the Act,” explained Augustyn.

Augustyn says at a hearing on 3 February 2009, the Tribunal ordered that the registration of HD Finance be cancelled with effect from Friday, 3 April 2009. However, provided that HD Finance, prior to 3 April, at its own initiative and costs, satisfies the NCR that all its 22 branches are fully compliant with the Act, the company will be able to retain its registration.

“The NCR should thereafter inform the Tribunal that it is satisfied that HD Finance is in compliance with the Act, and then cancellation of registration will not take effect,” said Augustyn.

### Not the first time

HD Finance is not new to controversy. In 2001 the credit provider, while operating under the umbrella of Micro Finance Regulatory Council (MFRC), was convicted and fined under the repealed Usury Act for retaining and using borrowers' bank cards and pin codes to collect money owed by borrowers.

As if the previous punishment in the form of conviction and the fine were not enough, HD Finance was recently found to retain and use bank cards and pin codes as a collection method when gathering money owed by consumers and therefore in contravention of the NCA. In attempt to remedy the situation, the NCR issued a compliance notice to HD Finance to cease the practice. HD Finance, however, failed to comply with this notice.

Given HD Finance's continued contravention of the NCA and failure to comply, the NCR applied to the Tribunal to have HD Finance deregistered as a credit provider.

The NCR submitted to the Tribunal that, by persisting to contravene the NCA, HD Finance has undoubtedly undermined the existence and functionary role of the Regulator. NCR further argued that the regulator cannot afford to have registrants who deliberately contravene and don't comply with the Act, concluded Augustyn.

## **Be warned**

Adv. Gideon Mashamaite, the prosecutor in this case, states that other credit providers who still retain bank and pension cards should take note of recent decisions by the Tribunal. Should they wish to continue to grant loans, compliance with the National Credit Act is a must.

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