



IN THE REPUBLIC OF TRINIDAD AND TOBAGO

THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

In the matter of the Securities Act Chapter 83:02 of the Laws of the Republic of Trinidad and Tobago ("the Act") and Part VIII of the Securities Industry (Hearings and Settlements) Practice Rules 2008 ("the Rules")

And

In The Matter of the application for, and purchase of, 659,588 First Citizens Bank Limited's shares by Mr. Hassan Phillip Rahaman on 12th August 2013 and his subsequent sale of 634,588 First Citizens Bank Limited's shares on January 14, 2014 and the alleged contravention of sections 91(1), 91(2) and 94 of the Act ("the Matter")

.....

SETTLEMENT AGREEMENT

.....

THIS SETTLEMENT AGREEMENT is made in duplicate the 20th day of December Two Thousand and Nineteen Between the **STAFF OF THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION**, a body corporate established under the Securities Act, Chap. 83:02 of the Laws of the Republic of Trinidad and Tobago and having its principal place of business at Levels 22-23, Tower D, International Waterfront Centre, No. 1 Wrightson Road, in the City of Port of Spain, in the Republic of Trinidad and Tobago (the "**Staff**") of the One Part and **MR. SUBHAS RAMKHELAWAN**, Managing Director of Bourse Brokers

Limited of [REDACTED] in the Republic of Trinidad and Tobago and **BOURSE BROKERS LIMITED** a body corporate duly registered under the Companies Act, Chapter 81:01 with its registered place of business at 24 Mulchan Seuchan Road, Chaguanas in the Republic of Trinidad and Tobago of the Other Part.

PART 1 -- INTRODUCTION

1. The Staff of the Commission is responsible for inter alia the investigation of alleged contraventions of the Act and prosecuting of those alleged offences by way of administrative proceedings.
2. By Notice of Hearing dated 20th July 2018 (“the **Notice of Hearing**”) as amended by letters dated 17th September 2018, 5th October 2018 and 25th January 2019 (“the **Amended Notice of Hearing**”), the Trinidad and Tobago Securities and Exchange Commission (“the **Commission**”), advised Mr. Subhas Ramkhelawan and Bourse Brokers Limited (“the **Third and Fourth Respondents** respectively”) that the Board of the Commission has resolved to hold a hearing pursuant to Section 159(1) of the Act to determine whether the Third and Fourth Respondents either severally and/or jointly with two other named Respondents, Hassan Phillip Rahaman and Imtiaz Rahaman contravened Sections 91(1), 91(2) and/or Section 94 of the Act in relation to the sale and purchase of 634,588 First Citizens Bank (“FCB”) shares on 14th January 2014;
3. Pursuant to the Orders for Procedural Directions dated 19th February 2019 and issued by the Pre-Hearing Conference Panel, the Staff and the Respondents filed their respective list and bundles of documents.
4. Hassan Philip Rahaman, the First Respondent, was at all material times the Chief Risk Officer of First Citizens’ Bank Limited (FCB).
5. Imtiaz Rahaman, the Second Respondent, was at all material times the Deputy Chairman of the Rahamut Group of Companies which included Caribbean Metal Industries Limited, CEDI

Settlement Agreement Between Staff of the Commission and Bourse Brokers Limited and Mr. Subhas Ramkhelawan / In The Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008

Holdings Limited, Island Ventures Limited, Olympic Manufacturing Limited, Olympic Rentals Limited and Rahamut Service Stations Limited.

6. Subhas Ramkhelawan, the Third Respondent, was at all material times the Managing Director, and the registered representative and a senior officer of Bourse Brokers Limited, the Fourth Respondent.
7. Bourse Brokers Limited, the Fourth Respondent, was at all material times registered as a broker-dealer under the Act.
8. The Fourth Respondent is a wholly owned subsidiary of Bourse Securities Limited (BSL). BSL oversees the treasury and funding operations of the Bourse Group of Companies but is not a Respondent in the Matter and/or the proceedings in relation thereto.
9. Pursuant to Rule 61 of the Rules, the Staff and the Third and Fourth Respondents entered into and carried on discussions with a view to arriving at a settlement of the Matter.

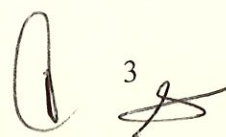
PART II -- JOINT SETTLEMENT RECOMMENDATION

10. The Staff and the Third and Fourth Respondents have arrived at a proposed Settlement Agreement, and have agreed to a resolution and disposition of the Matter and the proceedings in relation thereto against the Third and Fourth Respondents in the interest of all stakeholders including the public, in accordance with the terms and conditions as set out in this Settlement Agreement.

11. Pursuant to such resolution and disposition, the Staff recommends:

- a. the withdrawal of all proceedings against the Third and Fourth Respondents arising out of or in connection with the Matter against the Third and Fourth Respondents on such date subsequent to the approval of this Settlement Agreement as shall be agreed between the parties hereto; and

3



b. such withdrawal shall be in full and final settlement of the Matter against the Third and Fourth Respondents upon the terms and conditions set out in this Settlement Agreement being satisfied by the parties hereto, which terms have been arrived at:

- (i) without any admission of wrongdoing or guilt or liability, whether civil or criminal or otherwise, on the part of the Third Respondent and/or the Fourth Respondent; and
- (ii) without any admission of the truth of the claims/allegations made by the Staff of the Commission in the Matter and the proceedings related thereto.

12. The Staff and the Third and Fourth Respondents agree that the terms of this Settlement Agreement will, subject to Part X of this Settlement Agreement, be released to the public only if and when the Settlement Agreement is approved by the Commission.

PART III -- ACKNOWLEDGEMENT

13. Both the Staff and the Third and Fourth Respondents agree with the facts set out in Part IV herein below for the purposes of the matters contained in this Settlement Agreement.

14. Notwithstanding any other provision herein, if this Settlement Agreement is approved by the Commission, and any party hereto fails to comply with any of the terms of this Settlement Agreement (the '**Non-Compliant Party**'), the Staff and the Third and Fourth Respondents each reserve the right to bring proceedings against such Non-Compliant Party for breach of the terms of this Settlement Agreement and every waiver of claim contained herein in favour of such Non-Compliant Party shall be deemed null and void in relation to that Non-Compliant Party only.

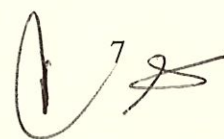
PART IV – FACTS

15. Paragraphs three (3) to (9) inclusive hereof are repeated.
16. On or about 15th July 2013 FCB offered for sale in an Initial Public Offering (IPO) 48,484,655 shares, 15% of which were allocated to its employee category which ranked first in priority to all other categories.
17. First Citizens Brokerage and Advisory Services (FCBAS) was the Lead Broker responsible for the allocation of FCB shares.
18. As a senior officer of FCB, the First Respondent was entitled to subscribe for shares in the FCB employee category of the FCB IPO subscription which closed in August 2013.
19. By email dated 9th July 2013 the First Respondent instructed the Fund Manager of BSL to transfer \$600,000.00 to his account with the Fourth Respondent, \$500,000.00 of which was intended for his purchase of FCB shares.
20. By emails dated 11th and 15th July 2013 the Fund Manager of BSL sent to the First Respondent documents including the share subscription form and the source of funds declaration form.
21. On 6th August 2013 the First Respondent submitted to the Fund Manager of BSL his share subscription form for the purchase of FCB shares and his source of funds declaration, in which the source of funds was described as a “combination of savings and bank debt”.
22. By telephone conversation on 11th August 2013 the Second Respondent told the Third Respondent that he was submitting to BSL, cheques issued by himself and companies belonging to the Rahamut Group, the proceeds of which were to be used to fund the First Respondent’s application for FCB shares in his personal IPO application only.

23. By email dated 11th August 2013 to the Third Respondent, the General Manager of the Fourth Respondent and other persons, the Second Respondent confirmed his verbal instructions as per the telephone conversation stated in paragraph [22] above.
24. On 12th August 2013 BSL received from the Second Respondent the sum of Thirteen Million Nine Hundred and Ninety-Nine Thousand, Nine Hundred and Forty-Two Trinidad and Tobago Dollars (TT\$13,999,942.00) for credit to the account of the First Respondent for the purpose of the First Respondent's subscription for shares in the FCB IPO.
25. On 12th August 2013 the Fund Manager of BSL submitted the First Respondent's subscription form for 659,588 shares in the FCB IPO at a consideration of \$14,499,936.00.
26. By email dated 14th August 2013 the Fund Manager of BSL sent copies of the First Respondent's subscription form, source of funds declaration and Savinvest Redemption Form to the Second Respondent.
27. On 6th September 2013, the First Respondent received the full allocation of the 659,588 FCB shares for which he applied.
28. As an employee of FCB, the First Respondent's allocation of shares were subject to a black out period of ninety (90) days. This meant that the First Respondent could not trade his FCB shares until after 18th December 2013.
29. On 10th January 2014, the First Respondent emailed the Fund Manager at BSL to advise of his intention to sell approximately 634,000 of his FCB shares commencing on 13th January 2014.
30. On 12th January 2014, the Second Respondent emailed the General Manager of the Fourth Respondent with instructions to purchase a total of 636,361 FCB shares at market price. The email further stated that *"the Order is subject to us agreeing on the transaction fee on Monday Morning"* and *"we also want to ensure that we get all of the shares that we are*

trying to get from the block identified.” The First Respondent and the Third Respondent were copied on this email.

31. The Staff of the Commission has advised that on 12th January 2014, during a telephone conversation between the First Respondent and the Second Respondent, the First Respondent informed the Second Respondent that he was retaining 25,000 of the FCB shares.
32. By another email dated 12th January 2014 to the General Manager of the Fourth Respondent, and copied to the Third Respondent, the Second Respondent revised downward the total number of shares that he was looking to purchase to 634,588 (“the Revised Buy Orders”).
33. By email dated 13th January 2014, the General Manager of the Fourth Respondent informed the Second Respondent that *“all efforts and trading strategies will be pursued to completely fill the order but please note that this is a trade that will be executed on the open market and is as such subject to other orders (buy and sell) and applicable prices in the market at the time of execution.”*
34. By email dated 13th January 2014 to the Second Respondent’s email dated 12th January 2014 with the Revised Buy Order and to the General Manager of the Fourth’s Respondent email dated 13th January 2014, the Third Respondent stated that *“while the trades would be open market, appropriate trading strategies should allow you to access most if not all of the shares sought.”*
35. By email dated 13th January 2014, sent after the close of trading, the First Respondent instructed the Fund Manager of Bourse Securities Limited to sell 634,588 of his FCB shares at market on 14th January 2014. These instructions were copied to the Fourth Respondent.
36. In interviews with the Commission’s investigators, the General Manager of the Fourth Respondent said after receiving the First Respondent’s email referred to in paragraph 35



above, it became apparent to him that the block of shares referred to in the Second Respondent's email were the First Respondent's shares.

37. After the close of trading on 13th January 2014, the Fourth Respondent's trader entered the First and Second Respondent's respective sell and revised buy orders at a price of \$41.73 on the Trinidad and Tobago Stock Exchange Global Vision System as 'withheld'. The withheld function, which is available on the TTSE Global Vision Trading System, allows the trader to keep in reserve the withheld order. This means it cannot be seen by other brokerage firms and cannot be traded on the open market until released by the trader.
38. On the morning of 14th January 2014, the General Manager of the Fourth Respondent engaged in negotiations with the Second Respondent with respect to the Fourth Respondent's commission for the execution of the First Respondent's sell order and the Second Respondent's buy orders.
39. The Fourth Respondent's General Manager referred the Second Respondent's position of a commission of 25 basis points to the Third Respondent. The Second Respondent and the Third Respondent thereafter negotiated and agreed; (a) an increased commission of 35 basis points on each side; (b) to the extent that the Second Respondent acquired any shares from the First Respondent's Sell Order, the trade for such shares would be settled net and the Fourth Respondent would receive the commission payable to it and the fees payable to the TTSE and the Trinidad and Tobago Central Depository excluding the purchase price of the shares and, (c) an indemnity would be required from the First Respondent as seller to the Fourth Respondent.
40. After this conversation the Third Respondent told the Fourth Respondent's General Manager of the agreement arrived at with the Second Respondent.
41. On 14th January 2014 the General Manager of the Fourth Respondent instructed a trader of the Fourth Respondent to execute the orders of First and Second Respondents on the open market.

42. On 14th January 2014 FCB shares moved from an opening price of \$41.66 and was trending upwards on the TTSE. The Fourth Respondent's trader changed the price of the First and Second Respondents' sell and buy orders to \$42.15 which was above the last trading price of \$42.11 at 10:44 am and made the First and Second Respondent's sell and buy orders "firm" in the open market at 10:53 am.
43. Once the First and Second Respondent's sell and buy orders were made firm they entered the queue for execution on the TTSE Global Vision trading platform and were matched at 10:53 am as the sell and buy orders were of the same amount and at the same price and became available on the open market.
44. The Fourth Respondent received its commission at the agreed rate for the buy and sell side of the 14th January 2014 trades from the Second Respondent.
45. By letter dated 16th January 2014, the First Respondent indemnified the Fourth Respondent for all costs, charges and matters in respect of receipt of payment for the sale of his 634,588 FCB shares to the Second Respondent. The letter also noted that there was a discussion between the First Respondent and the Third Respondent that there was precedent for net settlement.

PART V – THE BALANCING FACTORS INFLUENCING THE PARTIES' AGREEMENT TO SETTLE

46. **The decision to enter this Agreement to settle was made with regard to the following factors:**
 - (a) For the most part the salient facts with respect to the share application on 12th August 2013 and the trades on 14th January 2014 and the dealings between the Respondents are not in dispute;

- (b) However, the parties have different views on matters of law and/or the application of the law to the facts, in particular whether the trades contravened sections 91(1), 91(2) and 94 of the Act as alleged or at all;
- (c) The Third and Fourth Respondents co-operated with Staff throughout its investigation which began in the month of March, 2014;
- (d) The Third Respondent has no disciplinary record in Trinidad and Tobago in the securities market;
- (e) Save and except for an administrative fine paid by the Fourth Respondent and confirmed by order dated 10th November 2017 for the late filing of its mid yearly 30th June 2017 financial statements, the Fourth Respondent has no other disciplinary record in Trinidad and Tobago in the securities market;
- (f) The length of time that the Matter has been outstanding and unresolved since the commencement of the investigation;
- (g) The Third and Fourth Respondents have been subject to adverse public speculation and comments as a result of the length of the time that the Matter has been outstanding;
- (h) The Commission's obligation under the Act as regulator of the Trinidad and Tobago securities market;
- (i) That the continuation of the proceedings, including the possibility of appellate and/or other available proceedings, without certainty as to the timeframe for its final completion was likely to have the Matter unresolved for an indefinite period;
- (j) That it was in the public's interest for the Matter to be resolved finally; and

(k) Based on the foregoing factors, the public interest would be protected in accordance with the mandate of the Commission.

47. Without resiling from their respective positions, the Staff has proposed, and the Third and Fourth Respondents have accepted to pay the sum as further detailed below, without any admission of wrongdoing and/or guilt and/or liability, and without admission as to the truth of the claims/allegations in the Matter and the proceedings related thereto.

PART VI – THE RESPONDENTS’ REPRESENTATIONS AND UNDERTAKINGS

48. Subject to the approval of this Settlement Agreement by the Settlement Panel and the Board of Commissioners, the Third and Fourth Respondents undertake that:

(a) The Fourth Respondent shall, without any admission as to wrongdoing and/or guilt and/or liability whatsoever and without admission as to the truth of the claims/allegations in the Matter and the proceedings related thereto, pay to the Commission the sum of **ONE MILLION THREE HUNDRED THOUSAND TRINIDAD AND TOBAGO DOLLARS (TT\$1,300,000.00)** in full and final settlement of the Matter and all matters alleged against the Third and Fourth Respondents in the proceedings.

(b) They shall comply with all other applicable terms, conditions, covenants, obligations and stipulations contained in this Settlement Agreement.

PART VII – TERMS OF SETTLEMENT

49. The Third and Fourth Respondents agree to the terms of the settlement set forth herein and consent to the Order in substantially the form attached hereto as Schedule A, subject to this Settlement Agreement being approved by the Commission.

PART VIII – THE STAFF’S COMMITMENTS

50. If this Settlement Agreement is approved by the Commission, the Staff will not proceed against the Third and Fourth Respondents in the present proceedings or initiate or participate in any further civil or administrative proceedings or make any criminal complaint in respect of any or any alleged conduct of the Third and Fourth Respondents in relation to the Matter and/or any of the matters alleged against them in the proceedings.
51. The approval of this Settlement Agreement by the Commission shall be signified by the making of the Order, and such Order shall represent the complete and final resolution of the Matter and all matters alleged in the proceedings against the Third and Fourth Respondents.
52. Provided always, that if this Settlement Agreement is approved by the Commission and the Third and/or Fourth Respondents fail to comply with any of the terms of this Settlement Agreement, the Staff reserves the right to bring proceedings under the Act or other applicable law against the Third and/or Fourth Respondents in relation to the Matter as well as the breach of the Settlement Agreement.
53. Subject to the approval of this Settlement Agreement by the Commission, the Staff agrees:
- (a) To comply with all other applicable terms, conditions, covenants, obligations and stipulations contained in the Settlement Agreement; and
 - (b) To recommend to the Commission that any and all allegations and claims made against the Third and Fourth Respondents in relation to the Matter and in the proceedings be withdrawn and/or settled in accordance with the provisions of the Rules and this Settlement Agreement.



PART IX -- PROCEDURE FOR APPROVAL OF SETTLEMENT AND EFFECT OF ORDER

54. Pursuant to Rule 63(1) of the Rules, the parties hereto will seek approval of this Settlement Agreement by the Settlement Panel of the Commission.
55. If necessary, the Third and Fourth Respondents will attend in person and/or be represented by Counsel, at a settlement hearing or other meeting, convened *in camera*, by the Settlement Panel.
56. The Staff and the Third and Fourth Respondents, each agree in consideration of the foregoing premises that:
- (a) the Third and Fourth Respondents irrevocably agree to waive all rights to a full hearing, judicial review or appeal of the proceedings relative to this Matter under the Act;
 - (b) they will not make any public statement that is inconsistent with the Settlement Agreement to be issued by the Commission; and
 - (c) they will not make any adverse public comment about each other and/or any other party and/or the role of or positions adopted by each other and/or any other party in the proceedings.
57. If for any reason whatsoever, this Settlement Agreement is not approved by the Commission, this Settlement Agreement and all discussions and negotiations between the Staff and the Third and Fourth Respondents are and will continue to be treated as without prejudice and inadmissible against any of the parties hereto, so that any admissions as to facts and/or waivers of any rights, claims, actions or proceedings contained herein shall be null and void and of no effect and each party shall be entitled without restriction to pursue all available proceedings, remedies and challenges, including proceedings to continue the

hearing of the allegations in the Notice of Hearing and submissions thereunder as though this Settlement Agreement had not been made.

58. An Order made by the Commission approving this Settlement Agreement shall release and forever discharge the Third and Fourth Respondents from, and represent the complete and final resolution of, any and all claims, demands, actions and causes of action (of every nature and kind whatsoever, whether asserted or unasserted, known or unknown) by the Staff against the Third and Fourth Respondents arising as a result of or in connection with the Matter.
59. If this Settlement Agreement is not approved by the Commission then no person or agency (including any of the Parties hereto) may rely on any statement, representation or agreement contained or set out in this Settlement Agreement.

PART X-DISCLOSURE OF THE AGREEMENT

60. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission.
61. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission it shall remain confidential, except as may be required by law, provided that the Third and Fourth Respondents inform the Staff in writing of the requirement prior to the disclosure of same.
62. Each of the parties hereto undertakes and agrees that any statements that are to be made in relation to this Settlement Agreement and the Proceedings shall be made in accordance with, and subsequent to the publication of the Settlement Agreement by the Commission.


PART XI - APPLICABLE LAW

63. This Settlement Agreement shall be governed, construed and interpreted in accordance with the Laws of the Republic of Trinidad and Tobago.

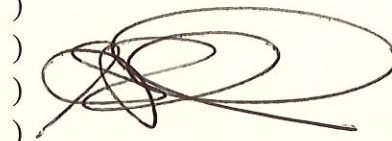
PART XII – EXECUTION OF SETTLEMENT AGREEMENT

IN WITNESS whereof the duly authorized representative of the Staff on behalf of the Staff, the Third Respondent in his capacity as the Managing Director of the Fourth Respondent, and the duly authorised representative of the Fourth Respondent have hereunto set their hands the day and year first hereinabove written.

SIGNED by **Mr. Hadyn Gittens** as **Chief Executive Officer** for and on behalf of the Staff of the Trinidad and Tobago Securities and Exchange Commission in the presence of **CAROL HUGGINS-LEWIS**
EXECUTIVE ASSISTANT
TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION
as

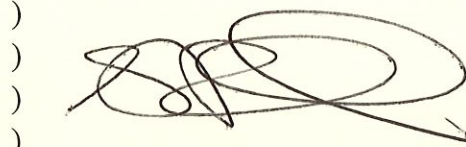

Carol Huggins-Lewis

SIGNED by **Mr. Subhas Ramkhelawan** in his capacity as **Managing Director** in the presence of **ALEEMA MOHAMMED**
as **6 GALLUS STREET**
WOODBROOK, PORT OF SPAIN


Aleema Mohammed

SIGNED by **Mr. Subhas Ramkhelawan** in his capacity as **registered representative and duly authorised to do so** for and on behalf of **Bourse Brokers Limited** in the presence of

ALEEMA MOHAMMED
6 GALLUS STREET
WOODBROOK, PORT OF SPAIN
as


Aleema Mohammed

Settlement Agreement Between Staff of the Commission and Bourse Brokers Limited and Mr. Subhas Ramkhelawan / In The Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008

AND WHEREAS the Third Respondent (in his aforesaid capacity) and the Fourth Respondent have agreed, without admission of wrongdoing or guilt or liability, to the settlement terms including the payment of the sum of **ONE MILLION, THREE HUNDRED THOUSAND TRINIDAD AND TOBAGO DOLLARS (TT\$1,300,000.00)** to be paid by the Fourth Respondent, on and behalf of itself and its Managing Director, the Third Respondent, to the Commission in full and final settlement of the Matter and all matters raised against the Third and Fourth Respondents in the Proceedings.

AND WHEREAS the Settlement Panel of the Commission approved the Settlement Agreement and agreed to submit the Settlement Agreement to the Commission for its approval;

AND UPON the Board of Commissioners reviewing the Notice of Hearing and the Settlement Agreement and considering the submissions and undertakings contained therein; and

AND UPON the Board of Commissioners being satisfied that it is in the public interest to make this Order and that the making of this Order is essentially procedural and does not require a Hearing pursuant to Section 159(10)(a) of the Act.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is hereby approved; and
2. This Order shall be published in the Trinidad and Tobago Gazette and posted on the Commission's website. A notice of the posting shall be published in two (2) daily newspapers of general circulation in Trinidad and Tobago.

(Chairman)

(Deputy Chairman)

(Commissioner)

(Commissioner)

(Commissioner)

(Commissioner)

