

**NOTICE OF NON-COMPLIANCE BY AN UNREGISTERED  
ENTITY/INDIVIDUAL IN TERMS OF SECTION 54(1) OF THE NATIONAL  
CREDIT ACT 34 OF 2005**

NCR Form 12

**Name of unregistered entity/individual**

Ian Hugh McCabe 5411255212080  
Arctogen Investments (Pty) Ltd ("Arctogen"), and  
PKA Financial Services cc ("PKA") and  
Quickvest 326 (Pty) Ltd ("Quickvest")

**Address**

No.1, 1<sup>st</sup> Floor  
Westridge Centre  
Mitchell's Plain  
Cape Town

**A. It has come to the attention of the National Credit Regulator that you are engaging in or offering to engage in or holding yourself out as authorised to engage in the following activity(ies) –**

1. The provision of credit under at least 100 credit agreements, which activity in terms of section 40(1) of the National Credit Act ("the Act") requires registration with the National Credit Regulator and
2. Thereby, conducting the business of a credit provider without being registered with the National Credit Provider as required in terms of section 40(1) the Act.
3. Using the registration number of another registered credit provider.

**B. Your attention is further drawn to the fact that as a credit provider you have failed to comply with the provisions of the Act in that:**

1. Without being registered as a credit provider, as required in terms of section 40(1) of the Act, you
  - (i) offer, make available or extend credit, and/or

- (ii) enter into credit agreements and/or
- (iii) agree to do any of these things,

in contravention of Section 40(3) of the Act; and/or

2. Consumers are required to pay a deposit or fee which is not listed as a permissible fee or charge under a credit agreement, in contravention of section 100(1)(a) read with section 101(1) of the Act and/or
3. Reasonable steps are not taken before entering into credit agreements, to assess proposed consumers'
  - (i) General understanding and appreciation of the risks and costs of the proposed credit, and/or
  - (ii) debt repayment histories under credit agreements and/or
  - (iii) their existing financial means, prospects or obligations,

in contravention of section 81(2) of the Act, and/or

4. Consumers are not provided with quotations in the prescribed form, setting out:
  - (i) the principal debt,
  - (ii) the proposed distribution of the amount,
  - (iii) the interest rate and other credit costs, and
  - (iv) the total cost of the proposed agreement

in contravention of section 92(2)(b) of the Act read with regulation 29, and/or

5. Documents recording large credit agreements do not contain all the information as required in regulation 31(2), in contravention of section 93(3) of the Act, and/or
6. Consumers are offered a particular policy of credit insurance without being given the choice of arranging their own insurance, in contravention of section 106 (4)(a) of the Act, and/or
7. The purchase of a particular policy is proposed to a consumer without disclosure, in the prescribed manner and form, of the amount of any fee, commission or benefit receivable by you, in

contravention of section 106(5)(b)(ii) of the Act read with regulations 31(2)(c)(xv) & (xvii), 33(1) and Form 21, and/or;

8. Consumers are required or induced, or another person is permitted to require or induce consumers, to sign mortgage bonds that contains a provision that would be unlawful if it were included in a credit agreement, namely a provision in terms of which the consumer consents to a pre-determined value of costs relating to enforcement of the agreement, in contravention of section 91(a) or (c), read with sections 90(1) and 90(2)(k)(iv) of the Act, and/or
9. The following provisions in the credit agreements are unlawful as they purport to set aside or override the provisions of the Act and/or waive or deprive a consumer a right set out in this Act in terms of section 90(2)(b) read with section 90(1) of the Act:

9.1 Clauses entitling the credit provider on default by the consumer to:

- (i) claim immediate payment of the full outstanding balance owed under the bond, or
- (ii) terminate the agreement at which point the full outstanding amount becomes payable,

which clauses override the procedures required before debt enforcement, as set out in sections 129 and 130 of the Act, and/or

9.2 Clauses in terms of which the consumers are required to pay a valuation fee, which is not listed as a permissible charge under a credit agreement and therefore overrides the limitation of permissible charges as set out in 100(1)(a) read with section 101(1) of the Act.

**C. In terms of Section 54(1) of the Act you are hereby notified to immediately desist from engaging in, offering to engage in or holding yourself out as authorised to engage in credit provision.**

**D. You are further required to:**

1. With immediate effect cease using another registered credit provider's registration number.

2. Within 15 business days of receipt of this notice refund any deposit or amount paid to you or to your attorney by consumers.
3. Within 25 days of receipt of this notice furnish the National Credit Regulator with a written affidavit by Mr. Ian McCabe, to the effect that such amounts have been refunded, attaching a list of the names and amounts, together with proof of such repayment.

**E. As required in terms of Section 54(3)(e), we would like to bring to your attention that the following order may be made and penalties may be imposed if the required steps are not taken to rectify the areas of non-compliance:**

1. The NCR may refer this matter to the Tribunal, which may impose the penalties as defined in section 150 of the Act for each act of non compliance, including:
  - (i) declaring any conduct prohibited;
  - (ii) interdicting such prohibited conduct;
  - (iii) an administrative fine not exceeding the greater of 10% of your annual turnover during the preceding financial year, or R1 000 000.00 (One Million Rand);
  - (iv) requiring repayment to consumers of any excess amounts charged; or
  - (v) any other appropriate order.
2. In terms of Section 54(5) of the Act, failure to comply with this notice is an offence and capable of an order of a fine or imprisonment or both a fine and imprisonment.

**F. We wish to bring to your attention that you may object to this Notice in terms of Section 56 of the Act and may request the Tribunal to review this Notice, within 15 business days after receiving this Notice.**

Signed at Midrand on this .....<sup>29<sup>th</sup></sup> day of .....<sup>July</sup>..... 2010.

  
Gabriel Davel  
Chief Executive Officer  
National Credit Regulator