

**Bartholomew Mswaka AND Securities Commission of Zimbabwe
H.C.8067/10.**

Applicant resisted a SECZ Directive contained in a Circular to all securities dealers and their firms to apply for a licence from the regulator. SECZ proceeded to suspend his licence with effect from the 30th September 2010 as he had failed to meet the licensing requirements by not regularizing his licence.

SECZ published the names of compliant securities dealers in the Herald newspapers and others on the 15th October, where Applicant's name was excluded. Immediately, Applicant paid his personal and firm (Renaissance Securities) licence fees "under protest". He also paid the surcharge, being 100% of the fees as well as interest at 5% per annum on the amount.

Following the Applicant's compliance, SECZ lifted the suspension on 27 October 2010. On 10 November 2010 he filed a court application seeking a **declarator** that the "savings" provision in Section 121(3) of the Securities Act accorded him the deemed licensed status for life. He argued further that because he was deemed licensed there was no legal requirement placed on him to be "re-registered" or "re-licensed" by SECZ, as his registration in 2001 in terms of the Zimbabwe Stock Exchange Act (Chapter 24:18) was for life/ in perpetuity, unless cancelled for proven disciplinary reasons.

SECZ opposed the matter, arguing that the "deeming" could not be construed as being in perpetuity otherwise the establishment of the Commission was redundant as the **status quo ante** would be maintained in the markets. SECZ argued that the "deeming" was merely a way of issuing licences to stockbrokers who were already in business in order to avoid a vacuum- a mechanism to save the old dispensation from collapsing while the new one kicked in. This is a normal transitional arrangement.

Applicant has failed to prosecute the matter and SECZ has instructed its lawyers to approach his lawyers with a demand to either prosecute or withdraw it.