

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH 10A OF THE FINANCIAL SERVICES
BOARD ACT, 97 OF 1990**

CASE NO: **10/2011**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES
PROVIDERS**

The Applicant

and

**PREMIER GROWTH (Pty) Ltd
Trading as THE UNLIMITED**

Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement attached hereto and in terms of section 6B (7) (a) of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001, I hereby determine that the Respondent contravened sections 13 of the General Code of Conduct for Authorized Financial Services Providers and Representatives, 2003 read with section 3 (a) of Board Notice 123 of 2009 and impose a penalty of R10 000. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

I make no order regarding costs.

Signed at **PRETORIA** on the^{12th} day of **JULY 2011**.



C F Eloff

Chairperson of the Enforcement Committee

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**THE REGISTRAR OF FINANCIAL SERVICES
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trading as THE UNLIMITED**

Respondent

**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B(7)(a) OF
THE FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT,
28 OF 2001**

1. The parties

1.1. The parties to the agreement are:

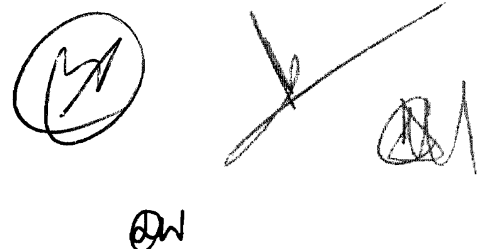
1.1.1. The Registrar ("the Registrar of Financial Services

Providers") herein represented by Mr German Emmanuel

Anderson; and

1.1.2. The Unlimited ("Premier Growth Group (Pty) Limited

trading as The Unlimited"), a company duly registered and



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incorporated in terms of South African company law with registration number 2002/002773/07.

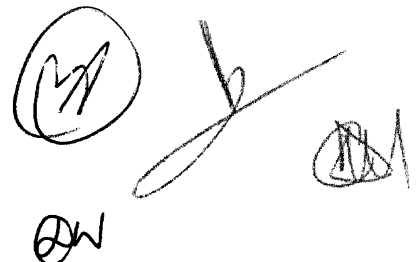
1.1.3. On 14 July 2005 The Unlimited was authorized as a financial services provider (FSP) in terms of section 8 of the FAIS Act ("the Financial Advisory and Intermediaries Services Act, No 37 of 2002"). The license was issued under license number FSP 21473 and authorises The Unlimited to offer the following financial services:

1.1.3.1. Financial Advisory Services in respect of Long-term insurance: Category A and B, Short –term insurance : Personal Lines and Commercial Lines; and

1.1.3.2. Financial intermediary services in respect of Long – term insurance: Category A and B, Short-term Insurance: Personal Lines and Commercial Lines.

1.2. The Unlimited is herein represented by Mrs Sandy Pistorius, one of its directors.

2. The contravention

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- 2.1. Section 13 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 2003 read with section 3 (a) of Board Notice 123 of 2009 state that:

Section 13

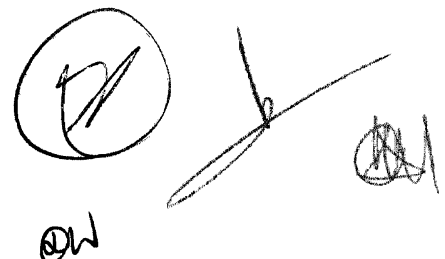
"A provider, excluding a representative, must, if and to the extent, required by the Registrar maintain in force suitable guarantees or professional indemnity or fidelity insurance cover."

Section 3 (a) of Board Notice 123 of 2009

"A person who is a category I or IV provider and who does not receive or hold clients' financial products or funds on the date of commencement must, with effect from a date 12 months after that date, maintain in force in respect of clients –

- (i) Suitable guarantees of a minimum amount of R1 million; or*
- (ii) Suitable professional indemnity and fidelity insurance cover of a minimum amount of R1 million".*

- 2.2. The commencement date for the aforesaid Board Notice was 21 September 2009. The Unlimited was required to comply with said Board Notice (12 months thereafter) which was on 21 September 2010.
- 2.3. It is recorded between the parties that The Unlimited is authorised as a Category I FSP. During the analysis of The Unlimited's 2010 compliance report, it was noted that the



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entity did not hold professional indemnity cover or guarantees as required by the aforesaid quoted sections.

2.4. Said cover in the form of a guarantee to the value of R1 million was only obtained from ABSA Bank Limited on 13 May 2011.

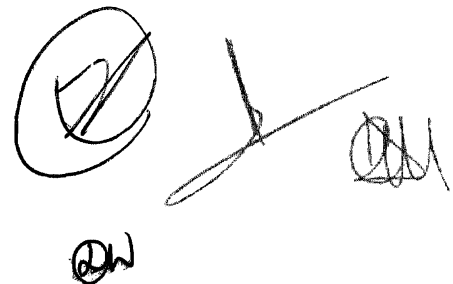
2.5. It is therefore common cause that The Unlimited has contravened section 13 of the Code read with section 3 (a) of Board Notice 123 of 2009.

3. The mitigating circumstances

3.1. It is also been agreed that the following mitigating factors are relevant to the matter:

3.1.1. There is no evidence of any prejudice resulting from the contravention;

3.1.2. The Unlimited has taken steps to ensure that the contravention is rectified by obtaining guarantees in compliance with the Code.

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3.1.3. The Registrar is not aware of any prior contraventions of the FAIS Act, Code or any Board Notices issued in terms of the FAIS Act or any non-compliance related thereto by the Unlimited.

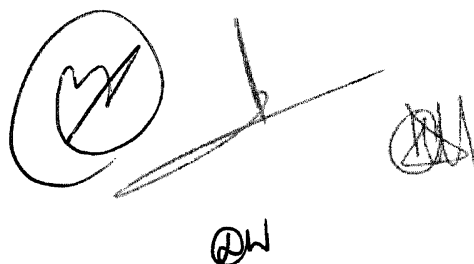
4. **The agreed penalty**

4.1. In the light of the above, and in terms of section 6B(7)(a) of the FI Act (Financial Institutions (Protection of Funds) Act, No 28 of 2001), the parties have agreed that The Unlimited will pay a penalty of R10 000 in settlement of the matter, on or before 29 July 2011.

4.2. The parties humbly request that the Honourable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of the Financial Institutions (Protection of Funds) Act.

5. **Other conditions**

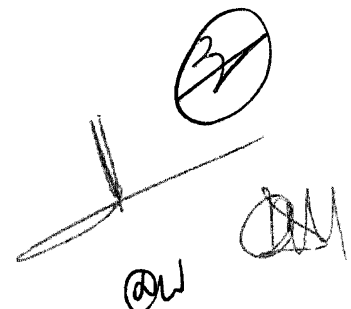
5.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are

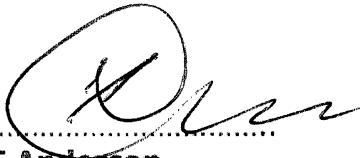
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aware of the possibility that the Enforcement Committee may not accept the terms of this agreement.

- 5.2. If the Unlimited does not comply with the terms of this agreement and it is necessary for the FSB to proceed with legal proceedings, The Unlimited herewith consents to pay all legal costs to the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.
- 5.3. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.
- 5.4. For purposes of the notification in terms of section 6E of the FI Act, The Unlimited elects to receive notification via e-mail at cmaree@theunlimited.co.za and/or Rob@ice-sa.co.za.
- 5.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.

Signed at PRETORIA on 12 July 2011 on behalf of the Registrar.

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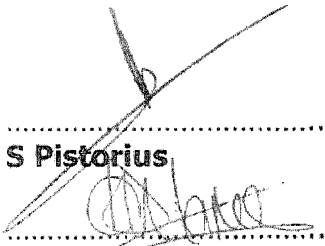


.....
G E Anderson



.....
Witness

Signed at Hillcrest on 11 July 2011 on behalf of The
Unlimited.



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S Pistorius

.....
Witness