

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

CASE NO: **50/2011**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**EMQ TRAINING SOLUTIONS CC**

Respondent

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**ORDER**

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WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") 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 section 3(a) of the Financial Advisory Services Regulations, 2003 (Regulations) prescribed in terms of section 35 of the Financial Advisory and Intermediary Services Act, no 37 of 2002 during the period 17 March 2009 until 31 August 2011 and impose a penalty of R25 000 to be paid on or before 1 April 2012. 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 21 October 2011.



C. F. Eloff

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

CASE NO: **50/2011**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES PROVIDERS**

Applicant

and

**EMQ TRAINING SOLUTIONS CC**

Respondent

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

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**1. The parties**

1.1. The parties to the agreement are the Registrar of Financial Services Providers ("the Registrar") herein represented by Dube Phineas Tshidi in his capacity as the Registrar of Financial Services Providers; and

1.2. EMQ Training Solutions CC, a close corporation duly incorporated in accordance with the laws of the Republic of South Africa, bearing the registration number 2009/044148/23. The Respondent is represented by Mr Frederik Potgieter ("Mr Potgieter") in his capacity as a member of the Respondent. Mr Potgieter warrants that he is authorized by the Respondent to conclude this agreement.

SPT 

## 1. WHEREAS

1.1. The Registrar is of the opinion that the Respondent contravened the provisions of section 3(a) of the Financial Advisory Services Regulations, 2003 (Regulations) prescribed in terms of section 35 of the Financial Advisory and Intermediary Services Act, no 37 of 2002.

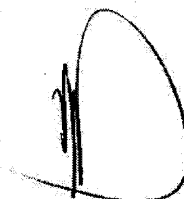
1.2. The Respondent wishes to enter into a settlement agreement with the Registrar as contemplated in section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

## 2. The contravention

2.1. It is agreed between the parties that the Respondent contravened the provisions of section 3(a) of the Regulations in that:

2.1.1. The Respondent during the period 17 March 2009 to 31 August 2011 and within the Republic of South Africa, canvassed for, marketed and/or advertised the rendering of financial services by a foreign based company, namely AVA Financial Ltd.

2.1.2. AVA Financial Ltd was not authorised as a financial services provider nor was it a lawfully appointed representative of an authorised financial services provider.

JPT 

### **3. The mitigating circumstances**

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

3.1.1. The Respondent accepted responsibility for the contravention;

3.1.2. The Respondent fully co-operated with the Registrar's investigation and the enforcement action.

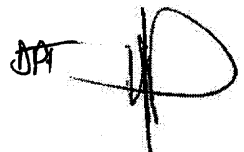
### **4. The agreed penalty**

4.1. In light of the above, and in terms of section 6B(7)(a) of the FI Act, the parties have agreed that the Respondent will pay a penalty of R25 000 on or before 1 April 2012.

4.2. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of the FI Act.

### **5. Other conditions**

5.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. If

A handwritten signature in black ink, appearing to be 'JPA' followed by a large, stylized flourish.

the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.

5.2. If the Respondent does not comply with the terms of this agreement and it is necessary for the Registrar and/or the Financial Services Board (FSB) to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the Registrar and/or 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. No leniency or postponement given by the Registrar to the Respondent or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties. Any leniency or postponement granted by the Registrar or any amendment to this Agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act.

5.4. Any receipt of a payment by the Registrar after the due date shall be without prejudice to any of the rights of the Registrar and/or the FSB.

5.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.

JPT



5.6. The parties choose as their *domicilium citandi et executandi* their respective addresses set out below for all purposes arising out of or in connection with this agreement at which addresses all the processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. For the purpose of this agreement the parties' respective addresses shall be:

5.6.1. Financial Services Board

Block B, Riverwalk Office Park

41 Matroosberg Road

Ashlea Gardens ext 6

Pretoria

0081

5.6.2. Respondent:

19 Garsfontein Office Park


645 Jacqueline Drive

Garsfontein

0081

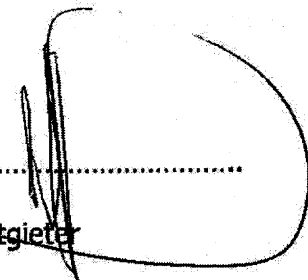
DPT 

Signed at PRETORIA on 20<sup>th</sup> Oct. 2011..... by the Registrar

  
.....

D.P. Tshidi

Signed at ~~PRETORIA~~ on 20 OCTOBER 11, on behalf of the Respondent.

  
.....  
F Potgieter