

**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: **46/2011**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**SAFRICAN INSURANCE COMPANY LIMITED**

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 7(3) of the Financial Advisory and Intermediary Services Act, No 37 of 2002, and impose a penalty of R60 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 26 day of **OCTOBER 2011**.

  
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**C F Eloff**

**Chairperson of the Enforcement Committee**

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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 to the agreement**

1.1. The Applicant is the Registrar of Financial Services Providers ("the Registrar") herein represented by German Emanuel Anderson in his capacity as the Deputy Registrar of Financial Services Providers.

1.2. The Respondent is Safrican Insurance Company Limited, a company duly incorporated in accordance with the laws of the Republic of South Africa, bearing registration number 1935/007463/06. The Respondent is licensed to carry long-term insurance business in terms of section 9 of the Long-Term Insurance Act, No 52 of 1998 ("Long-Term Act"); and

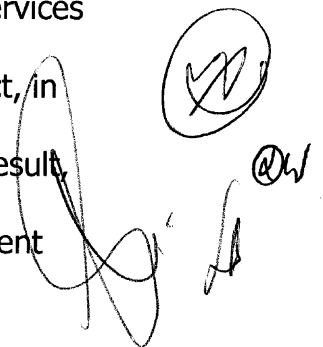
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is an authorised financial services provider in terms of section 8 of the Financial Advisory and Intermediary Services Act, No 37 of 2002 ("the FAIS Act").

- 1.3. The Respondent is represented by Ms Nthabiseng Mmatli, its Chief Executive Officer, who warrants that she is authorised by the Respondent to conclude this agreement.

## 2. Background to the agreement

- 2.1. The Respondent entered into an agreement with Gertel Algemene Handelaars t/a Multi Brokers (Multi Brokers) on 1 February 2010. In terms of the aforesaid agreement the Respondent issued life policies as contemplated in section 1 of the Long-Term Act to clients of Multi Brokers.
- 2.2. The aforesaid policies were issued as part of a funeral scheme operated by Multi Brokers. In October 2010 the agreement was terminated.
- 2.3. In this instance, Multi Brokers acted as a financial services provider as contemplated in section 1 of the FAIS Act, in contravention of section 7(1) of the FAIS Act. As a result the Applicant referred Multi Brokers to the Enforcement

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Committee of the Financial Services Board, and a penalty of R45 000 was imposed.


**3. The contravention**

3.1. It is therefore agreed between the parties that the Respondent contravened section 7(3) of the FAIS Act, in that it conducted financial services related business with Multi Brokers, whilst Multi Brokers was not authorised to render financial services.

3.2. It is further agreed that the case be referred to the Honourable Enforcement Committee, and the Honourable Enforcement Committee is requested to make this settlement agreement an order as contemplated in section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

**4. The mitigating circumstances**

4.1. It is recorded that:



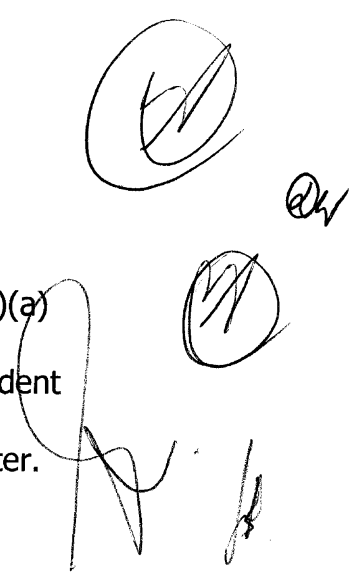
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- 4.1.1. The Respondent accepted full responsibility for the contravention, and fully co-operated with the Registrar's investigation and enforcement action;
- 4.1.2. The Respondent constantly engaged the Registrar during this period in an effort to find a solution and took immediate action to rectify the contravention when it became aware of it;
- 4.1.3. The Respondent ensured that no policyholders were negatively affected by its actions;
- 4.1.4. The Respondent is a relatively small insurance company and the contravention took place for a period of under nine months; and
- 4.1.5. The contravention occurred as a result of a *bona fide* oversight by the Respondent.


## 5. The agreed penalty

- 5.1. In the 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 R60 000 in settlement of the matter.
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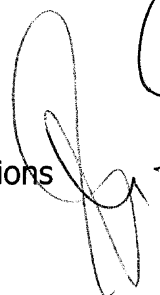

- 5.2. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B (7)(b) of the FI Act.

**6. Other conditions**

- 6.1. 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 the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.
- 6.2. If the Respondent does not comply with the terms of this agreement and it is necessary for the Financial Services Board ("FSB") to proceed with legal proceedings, the Respondent 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.
- 6.3. No leniency or postponement given by the FSB to the Respondent or any amendment to the terms and conditions



@V



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.

- 6.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.
- 6.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 6.6. 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:

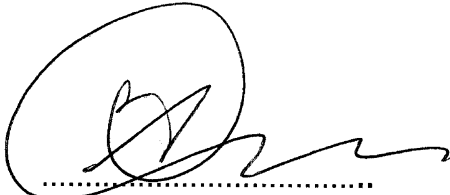
The Applicant  
Financial Services Board  
Block B, Riverwalk Office Park

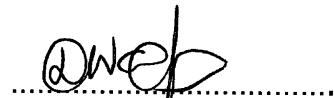
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41 Matroosberg Road  
Ashlea Gardens ext 6  
Pretoria  
0081

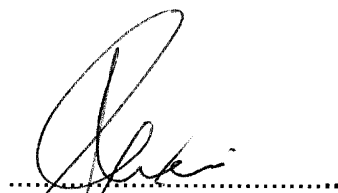
The Respondent:  
Safrican Insurance Company Limited  
1<sup>st</sup> floor Grosvenor Corner  
195 Jan Smuts Avevue  
Rosebank  
2096

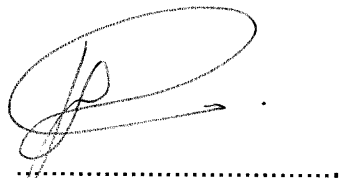
Signed at PRETORIA on 25 October 2011 on behalf of the Registrar

  
.....  
G E Anderson

  
.....  
Witness

Signed at ROSEBANK on 05 October 2011 on behalf of the Respondent.

  
.....  
N Mmatli

  
.....  
Witness