

**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: **3/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**FINANCIAL MANAGEMENT INTERNATIONAL  
LIMITED**

Respondent

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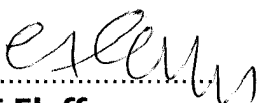
**ORDER**

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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 (1) of the Financial Advisory and Intermediary Services Act, No 37 of 2002 and impose a penalty of R75 000 to be paid on or before 30 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 the 22 day of March 2012.



**C F Eloff**

**Chairperson of the Enforcement Committee**

**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: **03/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**FINANCIAL MANAGEMENT INTERNATIONAL  
LIMITED**

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:

1.1.1. The Registrar (the Registrar of Financial Services

Providers) herein represented by Mr German Emmanuel

Anderson, with its offices at Riverwalk Office Park,

41 Matroosberg Road, Ashlea Gardens Ext 6, Pretoria; and

1.1.2. FMI (Financial Management International Limited), a public

company incorporated in terms of the Companies Act, with

Handwritten signatures and initials at the bottom right of the page. There is a circular stamp containing a signature, a vertical signature, and the initials 'MM' below it, along with a small mark to the right.


registration number 1995/006325/06. FMI is a financial services provider with FSP number 2717, approved to give advice and perform intermediary services with regard to the following categories: Categories A, B1, B2 and C – long-term insurance, personal lines, short-term insurance and pension funds benefits.

1.1.3. FMI has its place of business at FMI House, Gleneagles Park, 10 Flanders Drive, Mount Edgecombe.

1.2. FMI is herein represented by Mr Brad Jason Toerien who holds the position of chief executive officer who confirms that he is duly authorised to sign this settlement agreement.

## 2. **Background information and the contravention**


2.1. FMI created the Vision policy that it marketed and sold to clients. The policy was underwritten by Lombard (Lombard Life Limited) and consisted of a long term insurance component and where elected, a savings benefit.

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- 2.2. The Vision policy was marketed and sold primarily to low-income groups. A monthly premium was collected from clients by Lombard and the savings scheme portion paid over by Lombard to FMI.
- 2.3. FMI paid the total of the savings scheme premiums to a financial institution for investment in the name of FMI. FMI, in turn, guaranteed an investment return on the funds to their clients.
- 2.4. The funds received as part of the savings benefit scheme constitute deposits as defined in section 1 of the Banks Act, 94 of 1990 read with section 1 of the FAIS Act. FMI was not licenced to offer intermediary services in respect of such deposits and has therefore contravened section 7 (1) of the FAIS Act.

### 3. The mitigating circumstances

- 3.1. The Registrar considered numerous mitigating factors in favour of FMI in determining the agreed penalty, which included the following:

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3.1.1. FMI fully co-operated with the staff of the Registrar during the entire process, and in fact reported the contravention to the Registrar itself;

3.1.2. No clients suffered prejudice as a result of the contravention, as FMI honoured every agreement with every client;

3.1.3. The savings scheme was specifically designed to benefit low-income groups that had little or no access to savings products;

3.1.4. The savings scheme constituted an insignificant part of the business of FMI, and FMI received negligible revenue from it; and

3.1.5. The contravention occurred as a result of a *bona fide* misinterpretation of the applicable law.

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#### 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 FMI will pay a penalty of R75 000 in settlement of the matter on or before 30 April 2012.
- 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 aware of the possibility that the Enforcement Committee may not accept the terms of this agreement.
- 5.2. If FMI does not comply with the terms of this agreement and it is necessary for the FSB to proceed with legal proceedings, FMI herewith consents to pay all legal costs to the FSB on the

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Attorney and Client scale in terms of the High Court Rules  
inclusive of collection commission and Value Added Tax.

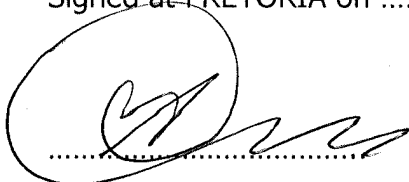
5.3. If payment of the penalty is received on or before 30 April 2012,  
no interest shall be payable. If payment is not received by due  
date, interest shall accrue at the prescribed rate of 15.5% per  
annum calculated from 30 April 2012.

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

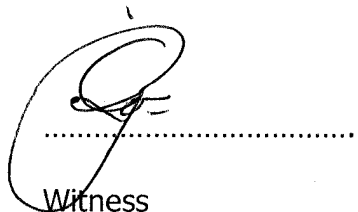
5.5. For purposes of the notification in terms of section 6E of the FI  
Act, FMI elects to receive notification via e-mail at  
[wikusj@fmi.co.za](mailto:wikusj@fmi.co.za).

5.6. This agreement constitutes the whole agreement between the  
parties arising from the contravention including FMI's liability  
for penalties, costs, fees and expenses.

Signed at PRETORIA on 22 March 2012 on behalf of the Registrar.



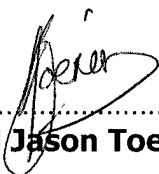
**G E Anderson**



Witness



Signed at Mount Edgecombe on 19 March 2012 on behalf of FMI.



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**Brad Jason Toerien**



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Witness

