

**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: **27/2015**

In the matter of:

THE REGISTRAR OF FINANCIAL SERVICES

PROVIDERS

Applicant

and

ROWE HOOPER INSURANCE AND

INVESTMENT BROKERS CC

Respondent

ORDER

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, 37 of 2002 and sections 2 and 8 of the General Code of Conduct for Authorized Financial Services Providers and Representatives. I hereby impose a penalty of R150 000 (One hundred and fifty thousand rand).

I make no order as to costs.

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the ²⁷..... day of **October 2015**.



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: 27/2015

In the matter of:

REGISTRAR OF FINANCIAL SERVICES PROVIDERS Applicant

and

ROWE HOOPER INSURANCE AND INVESTMENT Respondent
BROKERS CC

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

1. PARTIES TO THE AGREEMENT

1.1 The Applicant to these proceedings is the Registrar of Financial Services Providers (the Registrar) herein represented by Mrs. Caroline Da Silva in her capacity as the Deputy Registrar of Financial Services Providers.

and

1.2 The Respondent is Rowe Hooper Insurance and Investment Brokers CC, a company registered and incorporated in accordance with the company laws of the Republic of South Africa bearing the registration number CK1999/021515/23. The Respondent is herein represented by Mr Rowe Hooper, a sole member of the Respondent who warrants that he is duly authorized by the Respondent to enter into this agreement.



- 1.3 The Respondent has its registered office at 1 Mahogany Court, Redlands Estate, George Mcfarlane Lane, Pietermaritzburg, 3201.
- 1.4 The Respondent is an authorized financial services provider under FSP license 5412 issued in terms of the Financial Advisory and Intermediary Services Act, 37 of 2002 (the FAIS Act).

2. THE CONTRAVENTIONS

- 2.1. It is agreed between the parties that during the period from November 2012 to June 2014 the Respondent had a business arrangement with a third party in terms of which the Respondent and the third party organized life and incapacity insurance policies for certain truck drivers who had acquired trucks through a credit facility.
- 2.2. The Respondent kept records showing that advice as contemplated in section 1 of the FAIS Act was given to the clients in respect of the aforementioned policies. Those records were misleading because the Respondent did not give advice to the clients who took the insurance policies.
- 2.3. The Respondent's actions in this regard constituted a breach of section 2 of the General Code of Conduct for Financial Services Providers and Representatives, 2003 (the Code) in that the Respondent failed to render financial services honestly, fairly with due skill, care and diligence and in the interest of clients and the integrity of the financial services industry.
- 2.4. During the aforesaid period and in respect of the same clients, the Respondent failed to take reasonable steps to seek appropriate and available information from the clients regarding their financial situation, financial product experience and objectives so as to ensure clients were



provided with appropriate advice regarding the insurance policies. This was a breach of section 8 of the Code.

2.5. The Respondent's arrangement with the third party constituted a breach of section 7 (3) of the FAIS Act in that the Respondent conducted financial services business with an unauthorized financial services provider.

3. THE MITIGATING CIRCUMSTANCES

3.1. It is agreed that *inter alia* the following mitigating factors are relevant to the matter:

3.1.1. The Respondent admitted the contravention and acted promptly by rectifying the non-compliance after becoming aware of it;

3.1.2. The contravention was due to a *bona fide* misunderstanding of the applicable law. The Respondent believed that since the clients had a defined single need which was to obtain insurance cover for purposes of the credit arrangements there was no need to give advice and to conduct a full suitability analysis.

3.1.3. The Respondent regrets his actions and warrants that he did not intend to prejudice his clients nor to conduct himself in a manner that was inconsistent with the FAIS Act and the Code;

3.1.4. The penalty imposed on the Respondent includes a disgorgement of the profits he derived from the aforementioned policies; and

3.1.5. The Respondent has not been found by the Enforcement Committee to have contravened any of the laws administered by the Financial Services Board (FSB) prior to this matter.



4. THE AGREED PENALTY

4.1. In light of the above, and in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, the parties have agreed that the Respondent will pay a penalty of R150 000 (One hundred and fifty thousand rand), inclusive of costs incurred by the Applicant in bringing this matter before the Enforcement Committee (EC).

5. Other conditions

5.1. This agreement is subject to approval by the EC and the parties specifically record that they are aware of the possibility that the EC may not accept the terms of this agreement. In such an event this agreement will be null and void and neither party will have any rights or obligations in terms hereof nor will this document be capable of being used in any proceedings against the Respondent in the future.

5.2. If the Respondent does not comply with the terms of this agreement and it is necessary for the 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 and interest on the outstanding amount, at the rate prescribed in terms of section 1 (2) of the Prescribed Rate of Interest Act, 55 of 1975.

5.3. No leniency or postponement given by the FSB 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;

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;



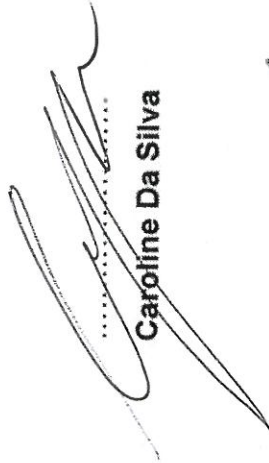
5.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay the penalty and costs.

5.6. The parties elect the addresses below as their *domicilium citandi et executandi* for the purposes of service of the EC order and any Notice or pleadings related to the breach of this agreement:

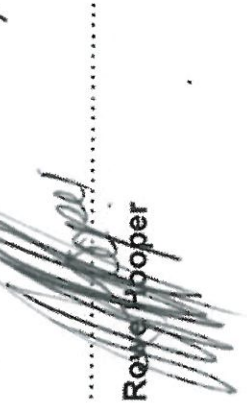
5.6.1. The Financial Services Board
Block B, Riverwalk Office Park
No. 41 Matroosberg Road
Ashlea Gardens
Pretoria

5.6.2. Rowe Hooper
1 Mahogany Court, Redlands Estate,
George Mcfarlane Lane,
Pietermaritzburg

Signed at PRETORIA on 26th 10 2015 on behalf of the Applicant.


.....
Caroline Da Silva

Signed at 23.10.2015 on behalf of the Respondent


.....
Rowe Hooper