

**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: 10/2016

In the matter of:

THE REGISTRAR OF FINANCIAL SERVICES PROVIDERS

Applicant

and

DISCOVERY LIFE LIMITED

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 3A of the General Code of Conduct. I hereby impose a penalty of R2 500 000 (Two Million Five Hundred Thousand Rand).

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

Signed at **PRETORIA** on the ^{14th}..... day of **October 2016**.



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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: 10/2016

In the matter of:

REGISTRAR OF FINANCIAL SERVICES PROVIDERS

Applicant

and

DISCOVERY LIFE LIMITED

Respondent

**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 Discovery Life Limited ("Discovery"), a company that is registered and incorporated in accordance with the company laws of the Republic of South Africa bearing the registration number 1966/03901/06, herein represented by Mr Hylton Kallner, who has been duly authorized to do so.

1.3 The Respondent has its registered office at 155 West Street, Sandton, Johannesburg, Gauteng, South Africa.

- 1.4 The Respondent is an authorized financial services provider under FSP license 2409 issued in terms of the Financial Advisory and Intermediary Services Act, 37 of 2002 (the FAIS Act).

2. The Contravention

- 2.1. On 4 December 2014 section 3A of the General Code of Conduct ("GCoC") came into operation. This section reads as follows:

"... No person may offer or provide a sign-on bonus to any person, other than a new entrant, as an incentive to become a Category I provider that is authorised or appointed to give advice."

- 2.2. The Respondent engaged with the persons referred to below with the view to them becoming representatives of the Respondent. Such negotiations took place prior to 4 December 2014 and previous offers were made to these persons prior to this date containing formulas to determine the quantum of the cash offers. The Respondent finalized the offers to pay sign-on bonuses to these representatives, as defined in section 1 of the GCoC, on 5 December 2015, as an incentive to become representatives of the Respondent.

- 2.3. The persons involved are:

- 2.3.1. Mr Thristam Davies;
- 2.3.2. Mr Shaul Robin;
- 2.3.3. Mr Mario Wiese; and
- 2.3.4. Mr John Georgakapoulus.

- 2.3 The persons above accepted their revised offers after 5 December 2014.

- 2.4 This was in contravention of section 3A of the GCoC.

3. The Mitigating Circumstances

- 3.1. The Registrar took into account that:

- 3.1.1. The Respondent fully co-operated with the investigation;

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- 3.1.2. The Respondent fully co-operated during the enforcement process and promptly agreed to a settlement;
- 3.1.3. The Respondent undertook to reverse and recover the sign-on bonuses unlawfully provided to the persons referred to above; and
- 3.1.4. Senior management of the Respondent immediately took steps to address the issue.

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 and cost order of R2.5 million (two and a half million rand), made up as follows:
 - 4.1.1. The value of the sign-on bonuses recovered from the individuals listed in paragraph 2.3, amounting to R 840 000 (Eight Hundred and Forty Thousand Rand); and
 - 4.1.2. A penalty of R1.66 million (One Million Six Hundred and Sixty Thousand Rand).

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

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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. Discovery Life Limited
155 West Street
Sandton
Johannesburg
Gauteng

Signed at PRETORIA on 15TH SEPTEMBER 16 on behalf of the Applicant.


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Caroline Da Silva

Signed at SANDTON on 6 September 2016 on behalf of the Respondent


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HILTON KRUGER


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CDS