

**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: **14/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES
PROVIDERS**

Applicant

and

ABSA ASSET MANAGEMENT (PTY) 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 Sections 5.1(g) and 5.3 of the Code Of Conduct For Discretionary FSP's and impose a penalty of R10 000 to be paid on or before 25 May 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 ...12..... day of April 2012.



C F Eloff

Chairperson of the Enforcement Committee

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

CASE NO: 14/2012

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES
PROVIDERS**

Applicant

and

ABSA ASSET MANAGEMENT (PTY) LIMITED

Respondent

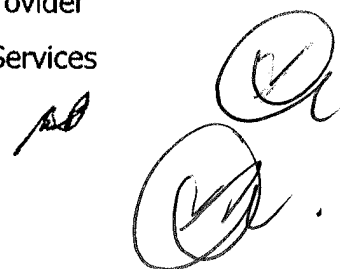
**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B(7)(a) OF
THE FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT,
28 OF 2001**

PARTIES TO THE AGREEMENT

1. The parties to this agreement are the Registrar of Financial Services Providers ("the Registrar") herein represented by German Emmanuel Anderson in his capacity as the Deputy Registrar of Financial Services Providers;

and

ABSA Asset Management (Pty) Limited bearing registration number 1997/017903/07 ("Respondent"), herein represented by Busisa Mhlanga Jiya in his capacity as the managing director of the Respondent and who warrants that he is authorized by the Respondent to conclude this agreement. The Respondent is an authorised financial services provider in terms of section 8 of the Financial Advisory and Intermediary Services Act 37 of 2002 ("the Act").

Handwritten signatures and initials in black ink, including a small signature and two larger circular signatures.

WHEREAS

2. The Registrar is of the opinion that the Respondent contravened sections 5.1(g) and 5.3 of the Code Of Conduct For Discretionary FSP's (Code).
3. 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").

NOW THEREFORE IT IS AGREED AS FOLLOWS

4. It is agreed between the parties that the Respondent contravened the following provisions:
 - 4.1. Section 5.1(g) of the Code, in that on or about 19 March 2009 the Respondent failed to disclose in a mandate the basis on which the management fee would be calculated;
 - 4.2. Section 5.3 of the Code, in that on or about 2 February 2010 the Respondent introduced a substantial amendment to a mandate without the approval of the Registrar.
5. **The mitigating circumstances**
 - 5.1. It is also agreed that the following mitigating factors are relevant to the matter:
 - 5.1.1. The Respondent accepted responsibility for the contravention;



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

5.1.3. The Respondent remedied the breach.

6. In the light of the above, the parties have agreed that the Respondent will pay a collective penalty of R10 000 in respect of both contraventions on or before 25 May 2012, in settlement of the matter.

7. Other conditions

- 7.1. 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.
- 7.2. 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.
- 7.3. 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.

- 7.4. Any receipt of a payment by the Registrar and/or the FSB after the due date shall be without prejudice to any of the rights of the Registrar and/or the FSB.
- 7.5. This Agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 7.6. This agreement is in full and final settlement of the Respondent's liability for an administrative sanction to the Registrar arising from this contravention.
- 7.7. The parties choose as their domicillum citandi et executandi their respective address 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. However the notice contemplated in terms of section 6E of the FI Act may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

7.7.1. Financial Services Board:

Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens ext 6
Pretoria
0081

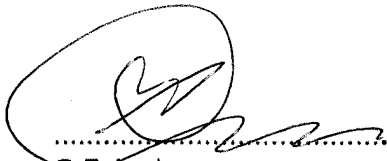


7.7.2. Respondent:


ABSA Investments Campus
Block A First Floor
65 Empire Road
Parktown
2193

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

Signed at PRETORIA on 12 APRIL 2012 on behalf of the Registrar.


.....
G-E Anderson

Signed at 65 EMPIRE ROAD, PARKTOWN on 12 APRIL 2012 on behalf of the Respondent.


.....
B. Jiya