

**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: **29/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**PIETER LABUSCHAGNE**

Respondent

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**ORDER**

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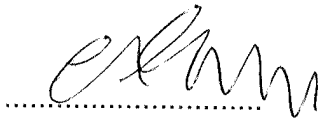
WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, I hereby determine that the Respondent, during or about the period January and February 2010, contravened section 2 of the General Code of Conduct for Authorised Financial Services Providers and Representatives ("the Code"), prescribed in terms of section 15 of the Financial Advisory and Intermediary Services Act 37 of 2002 ("FAIS Act").

I hereby impose a penalty of R150 000 to be paid on or before 17 October 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 ...<sup>1<sup>h</sup></sup>... day of **October 2012**.

A handwritten signature in black ink, appearing to read 'C F Eloff', written over a dotted line.

**C F Eloff**  
**Chairperson of the Enforcement Committee**

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CASE NO: 29/2012

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES PROVIDERS**

Applicant

and

**PIETER LABUSCHAGNE**

Respondent

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

**1. The parties**

- 1.1. The parties to the agreement are the Registrar of Financial Services Providers ("the Registrar") herein represented by Mr German Emmanuel Anderson in his capacity as the Deputy Registrar of Financial Services Providers; and
- 1.2. Pieter Labuschagne an adult male ("Respondent"), who resides at 12 Huijboom Street, Dalpark Extension 5, Brakpan. The Respondent was at all relevant times a duly appointed representative of Discovery Life Limited, an authorised financial services provider.

## 2. The Contravention

- 2.1. The Registrar is of the opinion that the Respondent contravened section 2 of the General Code of Conduct for Authorised Financial Services Providers and Representatives ("the Code") published pursuant to section 15 of the Financial Advisory and Intermediary Services Act, No.37 of 2002 ("FAIS Act").
- 2.2. The Respondent wishes to enter into a settlement agreement with the Registrar as contemplated by section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").
- 2.3. It is agreed between the parties that the Respondent contravened section 2 of the Code by failing to render financial services fairly, with due skill, care and diligence and in the interests of his clients and the financial services industry in that during/or about the period January and February 2010, he rendered financial services to two clients and negligently failed to discharge the following duties:
  - 2.3.1. Obtain sufficient information relating to the clients' financial position and experience in respect of financial products;
  - 2.3.2. Analyse the available client information with the view of recommending an appropriate financial product;
  - 2.3.3. The advice was not adequately recorded; and
  - 2.3.4. The insurance policy application forms that were submitted to the product supplier were not signed by the Respondent.



2.4. Further during the period January 2010, and in respect of one client, whose business the Respondent received through a referral, the Respondent negligently failed to directly render financial services to such client but instead merely availed his broker code to secure the business.

**3. The mitigating circumstances**

3.1. It is also agreed that the Registrar will take into account as a mitigating factor the fact that the Respondent fully co-operated with the Registrar's investigation and the enforcement action.

**4. The agreed penalty**

4.1. 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 R150 000 in respect of the contravention on or before 17 October 2012 in settlement of the matter.

4.2. The parties humbly request that the Honourable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of the FI 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. If the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.



- 5.2. 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.
- 5.3. 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.
- 5.4. 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.
- 5.5. This Agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 5.6. This agreement is in full and final settlement of the Respondent's liability for any administrative sanction to the Registrar arising from this contravention.
- 5.7. The parties choose as their *domicilium 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

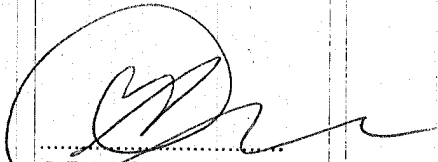


breach or termination may validly be served upon or delivered to the parties. However the notice contemplated in terms of section 6E of the FI Act will be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

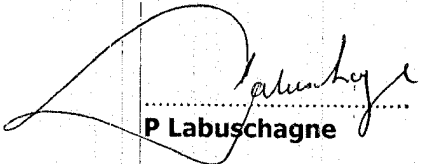
5.7.1. Financial Services Board:  
Block B, Riverwalk Office Park  
41 Matroosberg Road  
Ashlea Gardens ext 6  
Pretoria  
0081

5.7.2. Respondent:  
23 Kingsway  
Nigel  
1491  
Email: [jp@krugerokes.co.za](mailto:jp@krugerokes.co.za)

Signed at **PRETORIA** on 11 October 2012 on behalf of the Registrar.

  
G E Anderson

Signed at Nigel on 11<sup>th</sup> of October 2012 on behalf of the Respondent.

  
P Labuschagne

