

**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: **27/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES
PROVIDERS**

Applicant

and

**MOREMODIEGISA FINANCIAL SERVICES
AND PROJECTS CC**

First Respondent

SETLHARE, SAMUEL MOHALE

Second Respondent

ORDER

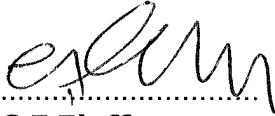
WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, I hereby determine that the Respondents, contravened section 11 of the General Code of Conduct for Authorised Financial Services Providers and Representatives, 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 R20 000 to be paid on or before 30 November 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 **NOVEMBER 2012**.

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

C F Eloff
Chairperson of the Enforcement Committee

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**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:

1.1.1. 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;

1.1.2. Moremodiegisa Financial Services and Projects CC ("First Respondent"), a close corporation duly incorporated in accordance with the laws of the Republic of South Africa, bearing the registration number 2009/149554/23. The First Respondent is an authorised financial services provider

S.M



bearing the FSP number 40062. The First Respondent is represented by the Second Respondent; and

1.1.3. Mr Samuel MohaleSetlhare is the sole member and a key individual of the First Respondent and was at all relevant times in complete control of the First Respondent, and exclusively acted on behalf of the First Respondent.

3. The contraventions

3.1. It is agreed between the parties that the Respondents contravened section 11 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, No 37 of 2002 ("FAIS Act").

3.2. The parties further agree that during the period 17 November 2009 to 11 November 2011, the Respondents did not effectively employ resources, procedures and appropriate technological systems that can be reasonably expected to eliminate as far as reasonably possible, the risk that clients will suffer financial loss through fraud and dishonest acts, in that:

3.2.1. A representative of the Respondents marketed as such financial products on behalf of the Respondents;

3.2.2. And in doing so, the representative falsified records and created fictitious applications for such financial products, and caused monies to be deducted from the bank accounts of persons unlawfully; and

S.M



3.2.3. The representative was able to execute these unlawful actions, because the Respondents did not employ resources or have procedures and systems that could reasonably be expected to eliminate the risk that clients will suffer financial loss through fraud or other dishonest acts.

3.2.4. The Second Respondent, through the offices of the First Respondent, submitted these applications to the relevant financial institution.

4. The mitigating circumstances

4.1. It is also agreed that the following mitigating factors are relevant to the matter:

4.1.1. The Respondents accepted responsibility for the contravention; and

4.1.2. The Respondents fully co-operated with the Registrar's investigation and the enforcement action.

5. The agreed penalty

5.1. In the 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 FI Act"), the parties have agreed that the Respondent will pay a penalty of R20 000 in respect of the contravention on or before 30 November 2012.

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

S.M



6. Other conditions

- 6.1. 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.
- 6.2. 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.
- 6.3. 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.
- 6.4. 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.

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- 6.5. This Agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 6.6. This agreement is in full and final settlement of the Respondent's liability for an administrative sanction to the Registrar arising from these contraventions.
- 6.7. The parties choose as their *domicilumcitandietexecutandi* 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:

6.7.1. Financial Services Board:

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

6.7.2. First and Second Respondent:

1441 Lebari Street
 Molapo
Kwa-Xuma
 1818,

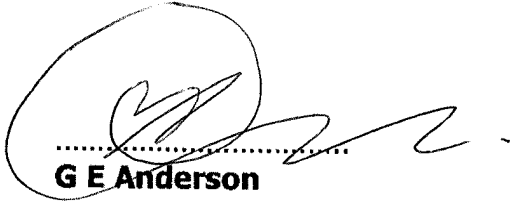
or

Email: setlharesammy@yahoo.com

S.M



Signed at **PRETORIA** on 1 November 2012 on behalf of the Registrar


.....
G E Anderson

Signed at ~~Johannesburg~~ on 30/10/2012..... on behalf of the First Respondent.


.....
S M Setlhare

Signed at ~~Johannesburg~~ on 30/10/2012..... on behalf of the Second Respondent.


.....
S M Setlhare