

**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: **15/2012**

In the matter of:

**THE REGISTRAR OF FINANCIAL SERVICES  
PROVIDERS**

Applicant

and

**PROSPERITY GROUP (PTY) LIMITED**

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 contravened section 2 of the General Code of Conduct for Financial Services Providers and Representatives, 2003, issued under section 15 of the Financial Advisory and Intermediary Services Act, No 37 of 2002, and impose a penalty of R50 000 to be paid on or before 31 July 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 31 day of May 2012.



**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**

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**1. The parties**

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

1.2. Prosperity Group (Pty) Ltd ("the Respondent"), a company duly incorporated in accordance with the laws of the Republic of South Africa, bearing the registration number 2001/020633/07. The Respondent is an authorized financial services provider and has the FSP registration number 13916 assigned to it. The Respondent is represented by Mr



Christos Markatselis ("Mr Markatselis") in his capacity as a key individual of the Respondent. Mr Markatselis warrants that he is authorized by the Respondent to conclude this agreement.

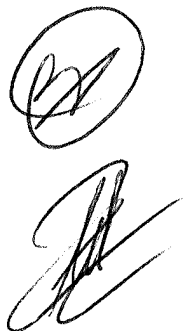
## 2. **Whereas**

- 2.1. The Registrar is of the opinion that the Respondent contravened certain provisions of the Financial Advisory and Intermediary Services Act, no 37 of 2002 ("the FAIS Act").
- 2.2. 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").

## 3. **The contravention**

- 3.1. It is agreed between the parties that the Respondent contravened the following provisions of the FAIS Act in that, during the period 1 February 2010 to 31 July 2010:

- 3.1.1. The Respondent contravened section 2 of the General Code of Conduct for Financial Services

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Providers and Representatives, 2003, ("the Code") issued under section 15 of the FAIS Act in that the Respondent acting through 3 field agents, who were not properly authorized as representatives, sold funeral policies to members of the public ("the clients" ) who were mostly in rural communities;

3.1.2. In respect of 11 of the clients, the field agents misrepresented that these clients had taken up funeral cover products when in fact these clients did not do so. As a result, fraudulent applications for insurance cover were submitted to registered insurance company who in turn paid out commissions to the Respondent.

3.1.3. The fraud could be perpetuated because the Respondent did not have proper control measures in place to ensure that at all times it employed the resources, procedures and appropriate technological systems that can reasonably be expected to eliminate as far as reasonably possible, the risk that clients and product suppliers would suffer financial loss through theft, fraud and other dishonest acts.



3.1.4. Consequently, the Respondent failed to render financial services with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry as required by section 2 of the Code.

#### 4. The mitigating circumstances

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

4.1.1. The Respondent accepted responsibility for the contravention; fully co-operated with the Registrar's investigation and the enforcement action, and displayed sincere remorse for the contravention;

4.1.2. On the evidence there was no intention to breach the FAIS Act or the Code and that at most the contraventions were as a result of negligence.

4.1.3. Prosperity reported the case to the police and assisted the police with apprehending one suspect;



4.1.4. Prosperity reversed the commissions and reimbursed the persons whose accounts were debited as a result of the fraudulent cover; and

4.1.5. Prosperity has terminated the funeral insurance business following the present incident.

## 5. **The agreed penalty**

5.1. 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 R50 000 on or before 31 July 2012 in settlement of the matter.

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

## 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 Financial Services Board (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.
- 6.3. 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. 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 FSB after the due date shall be without prejudice to any of the rights of 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. The parties choose as their domicilium citandi et executandi their respective addresses 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. For the purpose of this agreement the parties' respective addresses shall be:

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

6.6.2. Respondent:  
Unit 01  
Ground Floor  
Wierda Valley Office Park  
53A Albertyn Road  
Sandton  
2196

Signed at PRETORIA on 28 May 2012 on behalf of the Registrar.








.....  
G.E. Anderson

Signed at Sandton on <sup>21</sup>..... May 2012 on behalf of the Respondent.



.....  
C. Markatselis