

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE**  
**ESTABLISHED IN TERMS OF SECTION 10 (3) OF THE FINANCIAL SERVICES**  
**BOARD ACT, NO. 97 OF 1990**

CASE NUMBER: 25/2017

In the matter of:

**REGISTRAR OF FINANCIAL SERVICES PROVIDERS**

Applicant

**DAVID MELVILL**

Respondent

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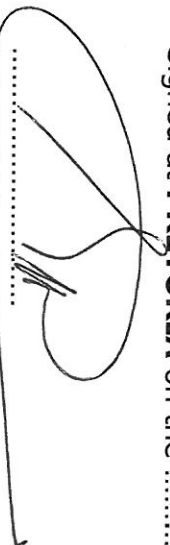
**ORDER**

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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 Respondents contravened section 7 (1) of the Financial Advisory and Intermediary Services Act, 37 of 2002. I hereby impose a penalty of R10 000 (Ten 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 .....<sup>9<sup>TH</sup></sup>..... day of **March 2017**.



**E-MOOLLA**  
**Deputy 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. PARTIES TO THE AGREEMENT**

- 1.1 The Applicant is the Registrar of Financial Services Providers (the Registrar) herein represented by Mrs Caroline da Silva in her capacity as the Deputy Executive Officer of Financial Services Providers, and
- 1.2 The Respondent is Mr David Melvill an adult male businessman whose business address premises are situated at Campground Road, Newlands, Cape Town.

**2. THE CONTRAVENTION OF SECTION 7(1) OF THE FINANCIAL  
ADVISORY AND INTERMEDIARY SERVICES ACT, 37 OF 2002 (THE  
FAIS ACT)**

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2.1. It is agreed between the parties that during November 2014 the Respondent rendered unauthorized financial services in respect of shares. His conduct constituted a contravention of section 7 (1) of the Financial Advisory and Intermediary Services Act, 37 of 2002 read with section 1 of the conditions and restrictions of his license .

### **3. FACTORS TAKEN INTO ACCOUNT REGARDING PENALTY**

3.1. It is agreed that *inter alia* the following factors are relevant to the matter:

3.1.1. The contravention was in respect of two clients;

3.1.2. When the Respondent realized his wrongful actions he expressed regret, admitted the contravention and gave his full co-operation to the Registrar to ensure that this matter is brought to finality; and

3.1.3. The Respondent has never been found to have contravened provisions of the FAIS Act prior to this matter.

### **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 FI Act), the parties have agreed that the Respondents will pay a penalty of R10 000 (Ten Thousand Rand) inclusive of costs.

### **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 Should the Respondent not comply with the terms of this agreement and it becomes necessary for the Registrar and/or the 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, interest and Value Added Tax.

5.3. No leniency or postponement given by the Registrar to the Respondents 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, which date shall be outlined in an invoice for payment of the penalty 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 only in respect of the Respondent's liability for an 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 may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

The Applicant:

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


The Respondent:

c/o David Melvill  
E mail: [davidm@finhub.co.za](mailto:davidm@finhub.co.za)

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

Signed at PRETORIA on ..... *7. MARCH 2017* ..... on behalf of the FSB and the Deputy Executive Officer of Financial Services Providers

.....  
C da Silva

Signed at New York on 28 February 2017 on behalf  
of the Respondent.  
  
D. Melville