

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: 32/2017

In the matter of:

THE REGISTRAR OF FINANCIAL SERVICE PROVIDERS Applicant
and

MZALA & COMPANY (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 section 7 (1) of the Financial Services Act, 37 of 2002. I hereby impose a penalty of R20 000 (Twenty thousand rand).

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **Durban** on the^{6TH}..... day of **JULY 2017**.

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Deputy Chairperson of the Enforcement Committee

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

In the matter of:

CASE NUMBER: 32/2017

THE REGISTRAR OF FINANCIAL SERVICES PROVIDERS

Applicant

and

MZALA & COMPANY (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

1.1 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;

- The Respondent is Mzala & Company (Pty) Limited (the Respondent), a company registered and incorporated in accordance with the company laws of the Republic of South Africa bearing the registration number 2013/197459/07. The Respondent is herein represented by Mr Wilton Mshengu, a director of the Respondent who warrants that he has been duly authorised by the Respondent to enter into this agreement.
- The Respondent's business address is at 25 Palm Castle Road, Newlands West, Durban.

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

- It is agreed between the parties that the Respondent rendered financial services to clients in respect of Long-term Insurance Category C products and in respect of Collective Investment Schemes products in circumstances where he was not authorized by the Registrar to deal with said products.
- The Respondent's conduct constituted a contravention of section 7 (1) of FAIS.

• **THE MITIGATING CIRCUMSTANCES**

- It is agreed that *inter alia* the following mitigating factors are relevant to the matter:

- The Respondent expressed regret for his actions, admitted the contravention and gave his full co-operation to the Registrar to ensure that this matter is brought to finality; and
- The Respondent has never been found to have contravened the provisions of FAIS prior to this contravention.

- **THE AGREED PENALTY**

- 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 Respondent will pay a penalty of R20 000 (Twenty 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 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, 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

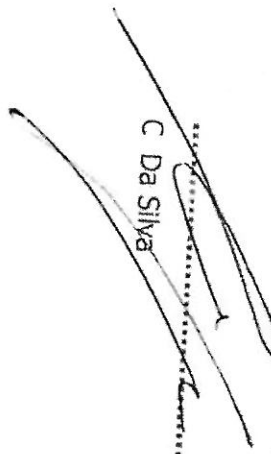
Financial Services Board.
Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens ext. 6
Pretoria
0081

The Respondent:

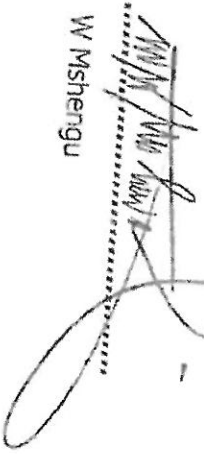
Mzala & Company (Pty) Limited
Email: mapi1@vodamail.co.za

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 14. 7. 19 on behalf of the FSB and the Deputy Executive Officer of Financial Services Providers.


C Da Silva
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Signed at AMMAN on 04/07/2017 on


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W Mshengu