

**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: **26/2015**

In the matter of:

THE REGISTRAR OF LONG-TERM INSURANCE

Applicant

CLIENTELE LIFE ASSURANCE COMPANY 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 Rule 16.1. (c) (iii) of the Policyholders Protection Rules issued under the Long-Term Insurance Act, 52 of 1998 and impose a penalty of R100 000 (One hundred thousand rand).

I make no order as to costs.

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

Signed at **PRETORIA** on the^{23rd}..... day of **JUNE 2015**.


.....
C F Eloff
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

CASE NUMBER: 26/2015

In the matter of:

THE REGISTRAR OF LONG-TERM INSURANCE

Applicant

and

CLIENTELE LIFE ASSURANCE COMPANY LIMITED

Respondent


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

1. PARTIES TO THE AGREEMENT

1.1 The Applicant is the Registrar of Long-term Insurance (the Registrar) herein represented by Jonathan Ian Dixon in his capacity as the Deputy Registrar of Long-term Insurance and the Deputy Executive Officer for Insurance.

and

1.2 The Respondent is Clientele Life Assurance Company Ltd (the Respondent), a company registered and incorporated in accordance with the company laws of the Republic of South Africa bearing the registration number 1973/16606/06. Clientele is herein represented by Mr Basil

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Reekie, Group Managing Director who warrants that he has been duly authorised by the Respondent to enter into this agreement.

- 1.3 The Respondent has its registered office at Clientele Office Park, Corner Rivonia and Alon Road, Morningside. The Respondent is an authorised insurer in terms of the Long-term Insurance Act, 52 of 1998 and an authorised financial services provider under FSP licence 15268 issued in terms of the Financial Advisory and Intermediary Services Act, 37 of 2002.

2. THE CONTRAVENTION OF RULE 16.1.(c)(iii) OF THE POLICYHOLDER PROTECTION RULES

- 2.1. It is agreed between the parties that during the period September 2013 to December 2014 (and occasionally prior to that) the Respondent failed to inform policyholders of their right to lodge a complaint, under the Financial Services Ombud Schemes Act, 37 of 2004, when the Respondent rejected or disputed the quantum of their claims.

3. THE MITIGATING CIRCUMSTANCES

- 3.1. It is agreed that *inter alia* the following mitigating factors are relevant to the matter:
- 3.1.1. The Respondent admitted the contravention and acted promptly by rectifying the non-compliance after becoming aware of it;
- 3.1.2. The contravention was due to a *bona fide* oversight and was not intended to prejudice policyholders;
- 3.1.3. The Applicant is not aware of any policyholders who were prejudiced by the contravention; and

3.1.4. The Respondent has not been found by the Enforcement Committee to have contravened any of the laws administered by the Financial Services Board (FSB) prior to this non-compliance.

4. THE AGGRAVATING CIRCUMSTANCES

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

4.1.1. The contravention committed by the Respondent lasted for a period of about fifteen (15) months;

4.1.2. The Respondent was negligent as it failed to ensure that its internal controls functioned properly;

4.1.3. The conduct of the Respondent failed to demonstrate that they were acting in the public interest; and

4.1.4. There is no evidence that the contravention would have been detected and the situation corrected by the Respondent had the Registrar's office not detected the contravention.

5 THE AGREED PENALTY

5.1 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 parties have agreed that the Respondent will pay a penalty of R100 000 (One Hundred Thousand Rand), inclusive of costs incurred by the Applicant in bringing this matter before the Enforcement Committee.

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 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 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, 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.
- 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 only in respect of the Respondent's liability for an administrative sanction to the Registrar arising from this contravention.
- 6.7 The parties choose as their *domicillum 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:

Clientele Life Assurance Company limited
Clientele Office Park
Corner Rivonia and Alon Road
Morningside
Johannesburg
E-mail: brockie@clientele.co.za

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

Signed at PRETORIA on22 June 2015..... on behalf of the FSB and the Registrar of Long-term Insurance.

.....
J I Dixon

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[Handwritten signature]

Signed at MORNINGSIDE on 22nd JUNE 2015 on behalf
of the Respondent.

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