

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH 10A OF THE FINANCIAL SERVICES
BOARD ACT, 97 OF 1990**

CASE NO: **3/2011**

In the matter of:

**THE REGISTRAR OF FINANCIAL
SERVICES PROVIDERS**
and

The Applicant

**SIPHIWO FINANCIAL AND MANAGEMENT
CONSULTANTS (PTY) LIMITED**

Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement 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 has contravened section 7(1) of the Financial Advisory and Intermediary Services Act, 37 of 2002, read with Notice No. 270 published in Gazette No. 26080 on 5 March 2004 and impose a penalty of R10 000 on the Respondent.

I make no order regarding costs.

Signed at **PRETORIA** on the¹¹ day of **MAY 2011**.


.....
C F Eloff
Chairperson of the Enforcement Committee

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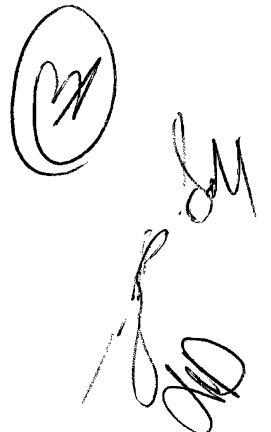
Respondent

**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 the Registrar of Financial Services Providers ("the Registrar") herein represented by German Emanuel Anderson; and

1.2. Siphwo Financial and Management Consultants (Pty) Limited ("Siphwo"), herein represented by Hendrik Mathys Jacobus Petrus van Zyl ("Van Zyl") with identity number 550712 5046 085.

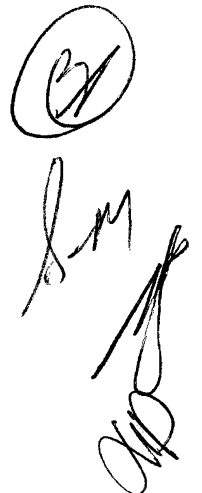
Handwritten signature and initials in the bottom right corner. The signature appears to be 'H. Mathys Jacobus Petrus van Zyl' and there are some initials to the right.

2. The contravention

2.1. It is agreed between the parties that Sipiwo contravened section 7(1) of the Financial Advisory and Intermediary Services Act, no 37 of 2002 ("the Act"), read with Notice No 270 published in Gazette No. 26080 on 5 March 2004, in that:

2.1.1. Sipiwo entered into an agreement with Nestlife Assurance Corporation Limited ("Nestlife") on 24 February 2009, in terms whereof Sipiwo furnished advice and rendered intermediary services with regard to long-term insurance financial products of Nestlife. As a result, Sipiwo was acting as a financial services provider as contemplated in section 7(1) of the Act, from 24 February 2009 to 12 November 2010.

2.1.2. At all times relevant to this case, Van Zyl acted on behalf of Sipiwo.

Handwritten signature and initials. At the top is a circled 'CZ'. Below it is a signature that appears to be 'S.M.' followed by a large, stylized signature that looks like 'Van Zyl'.

2.1.3. Sipiwo has not been authorised to act as a financial services provider by the Registrar as contemplated in section 8 of the Act.

3. The mitigating circumstances

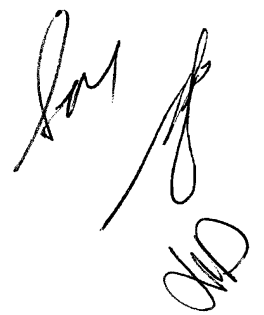
3.1. It is also been agreed that the following mitigating factors are relevant to the matter:

3.1.1. The contravention was a *bona fide* oversight and Sipiwo and Van Zyl accepted accountability for it;

3.1.2. There is no evidence of any prejudice resulting from the contravention;

3.1.3. Van Zyl, who was at all relevant times in control of Sipiwo, is an authorised financial services provider;

3.1.4. When Van Zyl became aware of the contravention, he attempted to rectify the situation by engaging with Nestlife to enter into a replacement agreement;



3.1.5. Sipiwo is a relatively new company with a small income and no material assets;

3.1.6. The previous owner of Sipiwo could not attend to its duties because of a life-threatening medical condition; and

3.1.7. Van Zyl and Sipiwo fully co-operated with the Registrar's investigation and the enforcement action, and displayed sincere remorse for the oversight.

4. The agreed penalty

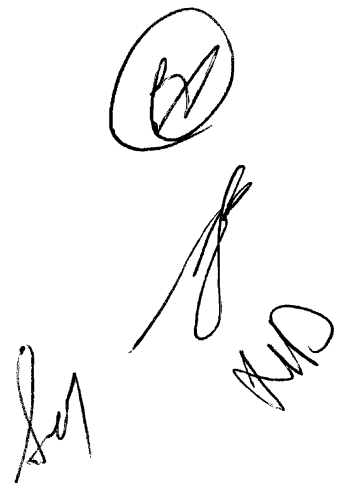
4.1. In the light of the above, and in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, the parties have agreed that Sipiwo will pay a penalty of R10 000 in settlement of the matter.

4.2. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of the Financial Institutions (Protection of Funds) Act.

The image shows three handwritten signatures or initials in black ink. The top one is a circular stamp containing the initials 'BZ'. Below it are two more signatures, one on the left and one on the right, both appearing to be stylized cursive or shorthand. The signature on the right is more prominent and appears to be 'DJP'.

5. Other conditions

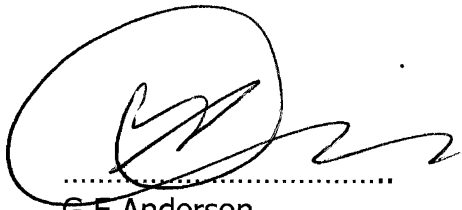
- 5.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement.
- 5.2. If Sipiwo does not comply with the terms of this agreement and it is necessary for the FSB to proceed with legal proceedings, Sipiwo 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.
- 5.3. No leniency or postponement given by the FSB to Sipiwo 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.
- 5.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.

The image shows three handwritten signatures or initials in black ink. At the top right is a circular stamp containing the initials 'BS'. Below it are two more signatures: one on the left that appears to be 'Sipiwo' and one on the right that appears to be 'FSB'.

5.5. This Agreement shall not be a novation of the cause of action in terms whereof Sipiwo was found to have contravened the Act.

5.6. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.

Signed at PRETORIA on 3 May 2011 on behalf of the Registrar

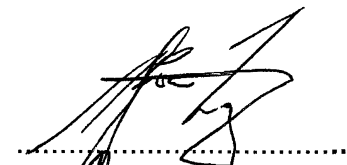


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G E Anderson

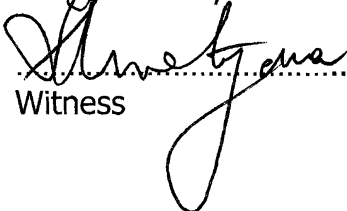


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Witness

Signed at PRETORIA on 28 APRIL 2011 on behalf of Sipiwo Financial and Management Consultants (Pty) Limited



.....
H M J P van Zyl



.....
Witness