

**THE FINANCIAL SECTOR CONDUCT AUTHORITY
CASE NO: 07 / 2019**

In the matter between:

FINANCIAL SECTOR CONDUCT AUTHORITY

and

MR CHARLES WINSHAW

**ORDER IN TERMS OF SECTION 167 OF THE FINANCIAL
SECTOR REGULATION ACT, NO.9 OF 2017**

1. The Financial Sector Conduct Authority ("the Authority") is a juristic person established in terms of section 56 of the Financial Sector Regulation Act, No.9 of 2017 ("FSR Act"). The office of the Authority is situated at Riverwalk Office Park, Block B, 41 Matroosberg Road, Ashlea Gardens.
2. The functions of the Authority are *inter alia* to regulate and supervise the conduct of financial institutions in accordance with the financial sector laws.
3. Mr Charles Winshaw ("Winshaw") is an adult male businessman.

The facts

4. During the period, June 2014 to 11 August 2015 ("the period"), Winshaw was employed as a senior advisor of Prestige Wealth Solutions (Pty) Ltd t/a Prestige Wealth Solutions (Pty) Ltd ("PWS"). PWS was not an authorised Financial Services Provider ("FSP"). From 7 August 2014, Winshaw was

registered as a representative of Ms Marilyn May Michau, a sole proprietor FSP ("Michau").

5. During the period, Winshaw rendered financial services to clients. He rendered the financial services in the name of Michau, but under the *branding* of PWS.
6. No service contract, agreement or mandate was entered into between Winshaw and Michau.
7. Winshaw failed to disclose to clients that he was a representative of Michau. He failed to provide clients with confirmation that Michau accepts responsibility for his activities performed during the period.
8. Accordingly, the Authority has found that Winshaw contravened section 13(1)(b)(i) of the Financial Advisory and Intermediary Services Act, No 37 of 2002 ("FAIS Act") in that he acted as a representative of an authorised FSP, but failed to (i) prior to rendering a financial service, provide confirmation certified by the provider, to clients (aa) that a service contract or other mandate, to represent the provider, exists; and (bb) that the provider accepts responsibility for those activities of the representative performed within the scope of, or in the course of implementing, any such contract or mandate.

The penalty

9. The Authority hereby imposes an administrative penalty of R10 000 (ten thousand rand), on Winshaw, to be paid by Winshaw in full by 30 June 2019.

Factors taken into account in determining the penalty

10. The Authority has taken the following circumstances into consideration in this matter:

- 10.1. Winshaw accepted responsibility for his actions for having contravened the FAIS Act.
- 10.2. The Authority received no complaints from clients of Winshaw and there was no prejudice to clients that the Authority is aware of.
- 10.3. Winshaw co-operated with the Authority.
- 10.4. Winshaw has not been found to have previously breached any provisions of the FAIS Act.

Further take note that:

11. If Winshaw fails to pay the administrative penalty within the period prescribed in this order, in terms of section 169 of the FSR Act, interest, at the rate prescribed for the time being in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), will be payable in respect of any unpaid portion of administrative penalty until it is fully paid.

12. Failure to comply with this order and notice will result in the provisions of section 170 of the FSR Act being invoked, which reads as follows:

“(1) The responsible authority that makes an administrative penalty order may file with the registrar of a competent court a certified copy of the order if:-

(a) the amount payable in terms of the order has not been paid as required by the order; and

- (b) *either:-*
- (i) *no application for reconsideration of the order in terms of a financial sector law, or for judicial review in terms of the Promotion of Administrative Justice Act of the Tribunal's decision, has been lodged by the end of the period for making such applications; or*
 - (ii) *if such an application has been made, proceedings on the application have been finally disposed of.*
- (2) *The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court."*

13. In terms of section 230 of the FSR Act a person aggrieved by this decision has a right to apply for the reconsideration of the decision by the Financial Services Tribunal ("Tribunal"). An application for reconsideration must be made –

- (a) in accordance with the Tribunal rules; and
- (b) within the time periods set out in section 230(2) of the FSR Act.

14. Winshaw may contact the secretary of the Tribunal at (012) 428 8012 or per electronic mail at LEG.Tribunal@fsca.co.za.

Signed at Pretoria on the 14th day of May 2019.


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MS C D DA SILVA
FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY