

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: FSPS0/2022

In the matter between:

JABULILE JOCELYN KHUMALO

APPLICANT

and

LIBERTY GROUP LIMITED

RESPONDENT

Application for reconsideration in terms of sec
230(1) of the Financial Sector Regulation Act 9
of 2017 of a debarment decision made in
accordance with sec 14 of the FAIS Act 2002

DECISION

- 1 The applicant applies for the reconsideration of her debarment as financial service representative by the respondent, a financial services provider, who had been her employer.
- 2 The parties waived their right to a formal hearing and this is then the decision of the Tribunal.
- 3 The applicant attacks her debarment on a procedural ground, namely that she expected an oral hearing where she would have been able to state her case in her own language and not necessarily in English.
- 4 There is no merit in her complaint. She filed affidavits in answer to the allegations against her and when given notice of a desk hearing in accordance with the rules of the respondent, she did not object. In her present application she again dealt with her side of the facts in detail, and it does not differ from or add to the facts that she had stated in her affidavits that were considered by the respondent's adjudicator

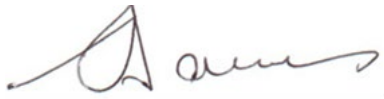
when concluding that the applicant was no longer a fit and proper person to act as FSR.

- 5 The charge against the applicant, in simple terms, was that she had initiated six policies for three persons without their authority or consent. She had not met the clients and the information supplied was fraudulent and by submitting the disclosure pack she created the impression that she had provided the clients with advice, which she had not done.
- 6 The applicant's defence was that she had met someone who had contacts and that this person and she had an arrangement whereby he would provide her with information about potential clients, that she would do the paper work, that he would receive the full commission from her, and that he then paid her 30% of the commission.
- 7 The applicant's excuse for what she had done was that she was desperate to get the business and that she was depressed because she was facing a lot of accusations from clients and cancellations.
- 8 Then Adjudicator dealt with the matter in more detail, facts that the applicant does not dispute (except the conclusion of fraud):
 - That you initiated the above-mentioned policy without knowledge and/or consent of the clients.
 - That you carried out the fraudulent transactions by -
 - using mobile numbers and residential addresses which do not belong to clients on the application documents:

- completing information for all three clients incorrectly on the disputed documents;
- falsifying the FNA and ROA findings for new policies initiated for all three clients as there was no clients' consent for new policies to be taken out for their beneficiaries
- you used incorrect mobile numbers for all three clients and any focus call(s) to be conducted would have still not been with the clients;
- forging all three clients' signatures disputed documents; and
- adding beneficiaries who were unknown to all the three clients.
- You used the same modus operandi to initiate the six policies in which you colluded with a third party who was not contracted with Liberty to fraudulently obtain clients' information and use it to open new policies which clients never consented to.
- You denied allegations of fraud by alleging that a third party, who was not contracted with Liberty, provided you with leads -
 - You did meet some of the clients and never met others and simply uploaded the new business received from TM: and
 - In addition, you confirmed that commission resulting from the new business was then shared with TM, with you earning a 30% share of the commission and the rest going to TM.
- You admitted to having knowledge of the correct process for new business, however, worked with the third party, TM, and loaded new business when you had never met with the clients to discuss taking up new policies.
- That you used the clients' personal information to conduct fraudulent transactions.

- That you were dishonest in the FNA and ROA by claiming to have done them with the clients and finding a need for the Liberty Life Cover Plan and Liberty Funeral Plus Plans.
- 9 To the extent that she may have been the victim of fraud by TM, that does not explain in any manner the fraudulent paperwork that she produced, including forging signatures.
- 10 There is no merit in the application, and it is dismissed.

Signed on 28 December 2022.

A handwritten signature in dark ink, appearing to read 'LTC Harms', written on a light background.

LTC Harms (deputy chair)