

THE FINANCIAL SERVICES TRIBUNAL

CASE NO.: FSP9/2021

In the matter between:

MOITHUMI ALICE NTSANE

Applicant

and

LIBERTY GROUP LIMITED

Respondent

Application for the reconsideration of a debarment in terms of the Financial Advisory and Intermediary services Act 37 of 2002 (the FAIS Act)

DECISION

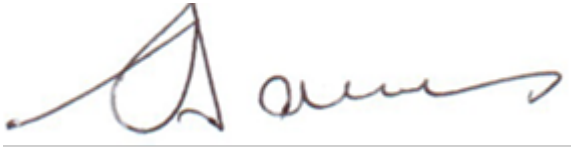
1. The applicant was employed as a financial service representative by the respondent, the Liberty Group Limited, which is a financial services provider. The applicant was debarred by the respondent and applies for the reconsideration of the debarment. The debarment took place in terms of section 14 of the FAIS Act.
2. The application for reconsideration is under section 230 all the Financial Sector Regulation Act 9 of 2017.
3. The parties waived their right to a formal hearing and the matter is to be decided on the papers filed.
4. The applicant had applied for the suspension of her debarment but that was refused. What now must be considered is her debarment itself.

5. The debarment was registered on 22 January 2021, and the application for upliftment was filed on 2 or 3 February 2021. The applicant alleged that she became aware of her debarment when she was informed of that fact by her present employer.
6. The basis of the application for reconsideration is that she has no knowledge of the charges against her and of the process that was followed and, in other words, that the process was fatally therefore flawed.
7. The respondent dealt at length with the allegations which it says were established against the applicant after a paper hearing. In short, the applicant had initiated a policy without the knowledge or consent of the so-called client by using an incorrect cell phone number and residential address that did not belong to the client and by forging the client's signature on the relevant application documents.
8. It was found that the applicant fraudulently used the client's personal information and that she dishonestly in the disclosure letter, the financial needs analysis and record of advice alleged that she had indeed dealt with the client. It appeared that she had colluded with someone to pretend to be the client for the sales manager to conduct the focus call.
9. The applicant did not respond to these allegations by her former employer. In response to the allegation that due process was not followed, the respondent stated as follows and provided the underlying documentation.
10. The Applicant was contracted by the Respondent to act as its representative in terms of the FAIS Act. She operated within the Respondent's Welkom branch of its Emerging Consumer Markets business unit.
11. The Applicant's contract started on 1 June 2019 and was terminated on 25 January 2021.
12. The Respondent received a complaint from a client on 16 July 2020, alleging that a policy was issued in his name without his consent or knowledge.
13. On 10 September 2020 at 10:49, the Respondent's forensics team contacted the Applicant on her cell phone number 072 401 5731 for a telephonic interview to discuss

the complaint. When told about the purpose of the call, the Applicant allegedly had bad reception, with the call ending thereafter. Further telephone calls made to the Applicant on the cell phone number were ignored by the Applicant.

14. The Respondent had requested the Applicant's area sales manager to arrange an interview with the Applicant on 15 September 2020. The Applicant subsequently absconded and never returned to the office.
15. On 16 September 2020, due to the fact that the interview could not be confirmed with the Applicant, the Respondent sent an e-mail to the Applicant's business email address, [moithumi.ntsane@liblink.c.oza](mailto:moithumi.ntsane@liblink.c.oza), requesting a written statement from the Applicant regarding the initiation of the unauthorised policy. To date, no response was received from the Applicant in this regard.
16. On 17 November 2020, the Respondent notified the Applicant of a documentary inquiry being initiated against her, with the Applicant being afforded five (5) days to respond. The notice was sent to the Applicant via email, [moithumi@gmail.com](mailto:moithumi@gmail.com) being the latest alternative email address on record. On the same day, the Respondent tried calling the adviser on 076 488 8094 without being able to make contact.
17. On 24 November 2020, the documentary inquiry commenced without a response from the Applicant.
18. After concluding the corrective action inquiry in January 2021, the Respondent notified the Applicant of the outcome of the inquiry and the decision to debar the Applicant on 21 January 2021.
19. The applicant did not file any statement in reply and the allegations of the respondent therefore stand uncontradicted.
20. The application is dismissed.

Signed on behalf of the Tribunal on 13 April 2021.

A handwritten signature in brown ink, appearing to read "LTC Harms", enclosed in a thin black rectangular border. The signature is written in a cursive style with a large initial 'L'.

LTC Harms (deputy chair)