



THE FINANCIAL SERVICES TRIBUNAL

CASE NO: FSP28/2025

In the matter between:

MATHABATHE KHOMOTSO PHOGOLE

APPLICANT

and

CREDICO ADVISORY SERVICES (PTY) LTD)

RESPONDENT

TRIBUNAL PANEL: Adv T Golden SC, Mr J Boyd and Adv O Tongoane

Date of Decision: 11 March 2026

Summary: Application for reconsideration of a decision of the Financial Sector Conduct Authority in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017. The investigation conducted lacks evidence to substantiate the findings of fraud, dishonesty and misrepresentation. Debarment set aside.

DECISION

INTRODUCTION

1. This is an application for reconsideration of the decision of the Financial Sector Conduct Authority (“the Authority”) in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017 (“the FSR Act”).
2. The applicant is Mathabathe Khomotso Phogole, an independent sales agent who was previously employed by Vision Marketing which utilizes the FSP license of Credico Advisory Services (Pty) Ltd (“Credico” or “the respondent”) for trading. Credico, the respondent, is a financial services provider as defined in section 1 of the FAIS Act 37 of 2002 and the FSR Act.
3. The application for reconsideration was set down for hearing on 18 February 2026.
4. Neither party was legally represented.

THE FACTS

5. On 30 November 2024 the applicant processed two policy applications for the same customer. She failed to verify the customer’s income and, instead, according to the respondent, allegedly inflated the earnings of the customer to make the customer qualify for the product when she submitted the application for a second time.

6. The applicant's contract of employment was terminated by Vision Marketing on 3 December 2024. An investigation was conducted on the same day. Credico's Advisory Services Compliance Department produced an investigation report ("the report") dated 3 December 2024 with findings and recommendations.
7. The report, however, contains a number of inconsistencies. The first is that the report identifies the nature of the complaint against the applicant as collusion. Paragraph 1 of the report describes the complaint as one where the applicant inflated the income of the customer. Paragraph 2 records that the applicant assumed the customer's income based on his status as a pensioner without requesting proof of income and then submitted a second application when the customer mentioned a second source of income. The key issues were identified as non-compliance with verification and application submission policies and misunderstanding system restrictions on repeated applications. The report records that the applicant has acknowledged her mistake including her failure to verify the income of the customer. The report then concludes in paragraph 3 under the heading "Investigation Conclusions", that the applicant was guilty of dishonesty including but not limited to the submission of false information on FAIS questionnaires, campaign fraud, non-consent and misrepresentation and code sharing.
8. The report recommended disciplinary action against the applicant. Although the applicant submitted in the hearing that she continued to be active as an agent on the Credico system, it is not disputed that her employment with Vision Marketing was terminated on the same day that the investigation report was produced.

9. On 22 January 2025 the respondent issued a notice of intention to debar the applicant and, also on the same date issued the applicant with a notice to attend a debarment hearing on 29 January 2025.
10. On 29 January 2025 and based on the findings of the investigation report, the respondent concluded that the applicant no longer meets the fit and proper requirements set out in section 13 of the FAIS Act and took the decision to debar her.
11. On 19 March 2025 the respondent submitted a debarment application to the Regulator for processing.
12. On 20 March 2025 the Regulator recorded the debarment of the applicant in the central representative register as per the respondent's notification.
13. The applicant applied for reconsideration of the decision to debar her on 24 March 2025.

LEGAL PRINCIPLES

14. Section 14(1)(a) of the FAIS Act requires an authorized FSP to debar representatives who do not meet the fit and proper requirements as provided for in section 13(2)(a).
15. Section 14(1) of the FAIS Act provides:

“14. Debarment of representatives – (1)(a) An authorised financial services provider must debar a person from rendering financial services who is or was, as the case may be –

(i) a representative of the financial services provider; or

(ii) ...

If the financial services provider is satisfied on the basis of available facts and information that the person –

(iii) does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); or

(iv) has contravened or failed to comply with any provision of this Act in a material manner.” (Emphasis added)

16. In terms of section 4(3) of the FAIS Act a representative must be given notice of the FSP’s intention to debar, which notice must set out the grounds and reasons for debarment; the representative must be given a copy of the FSP’s debarment policy; the FSP must afford the representative a reasonable opportunity to make submissions; and the FSP must consider those submissions prior to debarring a representative.

17. In terms of section 6A(2)(a) the fit and proper requirements include, inter alia, appropriate standards relating to personal character qualities of honesty and integrity.

ANALYSIS OF THE FACTS

18. It is not disputed that the applicant was an independent sales agent and representative of Vision Marketing which operated under the FSP license of Credico at the time of the incident in question which resulted in her debarment.
19. It is undisputed that:
 - 19.1 On 30 November 2024 she processed two applications for a customer.
 - 19.2 She failed to verify the customer's income.
 - 19.3 Her employment was terminated on 3 December 2024.
 - 19.4 An investigation report was produced on 3 December 2024.
 - 19.5 The relevant customer was not contacted at all during the investigation.
20. The application centers around the questions as to whether the applicant's conduct fails to meet the fit and proper requirements of honesty and integrity and whether the decision to debar her was justified.
21. The respondent relied on the findings of the investigation report as the basis to debar the applicant.
22. Notwithstanding the findings of collusion, fraud and dishonesty and the serious implications for the applicant, the respondent conceded that it did not interview the relevant customer nor did it obtain evidence to substantiate that the salary/income in the second application which the applicant had erroneously processed was

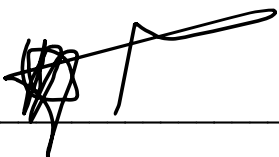
incorrect. It appears that the respondent's investigation involved a desktop exercise with no real investigation as to the facts which underpinned the allegations. It arrived at an unfounded conclusion that the applicant's conduct amounted to fraud, dishonesty and misrepresentation without any evidence to support these conclusions and then relied on the said report to debar her for no longer meeting the fit and proper requirements in the Act. Moreover, the report had identified the nature of her conduct as collusion, which requires the participation of the customer (or someone else) and which had also not been investigated.

23. The respondent's conclusion of dishonesty, fraud or collusion was unfounded and not borne out by the facts. The findings contained in the investigation report did not support any of these allegations. For this reason, the basis of the applicant's debarment was unfounded and irrational.

24. Although the facts indicate that the applicant may have been careless in the manner in which she had processed the application when she failed to verify the income of the customer, this does not amount to dishonesty, fraud or misrepresentation for which she was debarred. Negligence or committing an error of itself do not justify debarment which the respondent's own internal debarment policy itself appears to acknowledge. Paragraph 4.1 of the policy describes that it shall consider debarment for three reasons: i) the representative no longer meets the fit and proper requirements; ii) the representative contravened the FAIS Act in a material manner and iii) the representative conspired with or procured another person to contravene the FAIS Act in a material way. More pertinent, however, committing an error or negligence were not the reasons for her debarment.

25. Since the investigation report upon which the debarment is based is materially flawed, in that its findings are not supported by facts, it would serve no purpose to remit the matter in terms of Section 234(1)(a).
26. Accordingly, the debarment is uplifted and set aside.

**SIGNED ON BEHALF OF THE TRIBUNAL AT PRETORIA ON THIS 11th DAY OF
March 2026.**



Adv O Tongoane obo the Tribunal