



**Financial Services
Tribunal**

THE FINANCIAL SERVICES TRIBUNAL

Case No: FSP53/2025

In a matter between:

KENJI BOTHA

APPLICANT

and

FUTURE GREEN DOT

RESPONDENT

TRIBUNAL PANEL: Judge MF Legodi , KD Magano & P Maseko

Appearance for the applicant: In person

Appearance for the respondent: Magrietha Elizabeth van Jaarsveld

Date of hearing: 16 February 2026

Date of Decision: 09 March 2026

Summary: *Application for reconsideration in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 - Failure to comply with section 14 of the Financial Advisory and Intermediary Services Act 37 of 2002—Application for reconsideration dismissed.*

DECISION

INTRODUCTION

1. This is an application for reconsideration of a decision by the Respondent, FUTURE GREEN DOT ("**Future**"), to debar the Applicant, KENJI BOTHA ("**Mr Botha**"). Mr Botha also seeks an order condoning the late filing of his application for reconsideration, dated 17 July 2025.
2. The application is brought in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 ("**the FSR Act**") and concerns Mr Botha's debarment in terms of section 14(1) of the Financial Advisory and Intermediary Services Act 37 of 2002 ("**the FAIS Act**"), on the basis of alleged non-compliance with the fit and proper requirements relating to honesty and integrity.

CONDONATION: PROCEDURAL CHRONOLOGY

3. Mr Botha was debarred by Future on 4 December 2023. In terms of the applicable regulatory framework, an application for reconsideration must be lodged within 30 days of such notification.
4. Mr Botha's application for reconsideration and condonation is dated 17 July 2025. To account for this timing, Mr Botha alleges that he faced extraordinary personal challenges and ill health throughout 2024, which contributed to his inability to adhere to the statutory deadlines.

5. His application was supported by an affidavit to which he attached a death certificate of a family member and a medical certificate regarding his mental health condition.
6. On 2 September 2025, the Tribunal received Mr Botha's augmented grounds and an application for the further submission of new evidence in terms of Section 232(5) of the FSR Act.
7. Subsequently, on 6 October 2025, Mr Botha applied for the suspension of his debarment in terms of Section 231 of the FSR Act; that application was dismissed on 21 October 2025.
8. In considering this application for condonation, the Tribunal notes that the prospects of success constitute a material factor. Because an assessment of those prospects requires consideration of the merits of the application for reconsideration, the Tribunal will address the substantive issues below before returning to the final determination on condonation.
9. Having set out the procedural history and the timeline relevant to the condonation application, the Tribunal now turns to the factual background and the underlying merits of this case. This assessment is essential not only to determine the substantive issues in dispute but also to evaluate Mr Botha's prospects of success, which remains a pivotal factor in the determination of his application for condonation.

FACTUAL BACKGROUND

10. On 30 May 2023, Mr Botha signed a contract of employment with Future, effective from 1 June 2023, as a representative of Future until he resigned with immediate effect on 4 October 2023.
11. He was debarred on 4 December 2023, while no longer in the employ of Future.
12. On 12 October 2023, Future sent a notice to Mr Botha to attend a debarment hearing, setting the hearing date for 16 October, stating its intention to debar him, and providing a copy of its debarment procedure.
13. Mr Botha was charged by Future with allegations of fraud and that he no longer meets the fit and proper requirements of honesty and integrity.
14. Future contends that Mr Botha no longer satisfies the 'fit and proper' requirements, specifically in relation to honesty and integrity. This position is predicated on allegations that, before his resignation, Mr Botha signed up clients to secure commission from Future, and subsequently influenced those same clients to cancel their policies.
15. Future had established that acts of misconduct committed by Mr Botha during his tenure rendered him no longer fit and proper to provide honest and integral financial advice. It is contended that Mr Botha knowingly misled clients for personal gain by soliciting business to secure commissions prior to his resignation, and subsequently coerced those same clients to terminate their policies.

16. In its determination of the incidents that took place during September and October 2023, the following facts emerge from the record to support the conclusion that such misconduct was indeed committed. From the outset of his employment with Future, Mr Botha did not enrol family members, friends, or acquaintances. However, from 22 September 2023, he began signing up a number of individuals, all of whom were either related to him or personally known to him. Specifically:
 - 16.1. On 7 August 2023, he signed up VVM, with a policy commencement date in November 2023.
 - 16.2. On 19 September 2023, he signed up his brother, CB, for a policy with a commencement date in December 2023.
 - 16.3. On 19 September 2023, he signed up MRR, with a policy commencement date in December 2023.
 - 16.4. On 22 September 2023, he signed up MNT, with a policy with a commencement date in December 2023.
 - 16.5. On 25 September 2023, he signed up PLM, with a policy commencement date in December 2023.
 - 16.6. On 26 September 2023, he signed up his mother, LLB, with a policy commencement date in December 2023.
17. This pattern indicates a significant shift from his previous enrolment practices, characterised by the rapid initiation of multiple policies for relatives and

acquaintances. Mr Botha resigned effective immediately on 4 October 2023. Between 5 and 9 October 2023, the individuals Mr Botha enrolled in September 2023 cancelled their policies with Future. The reasons provided included that, since Mr Botha was no longer employed by Future, there was no reason to continue with the policy. Some clients gave other reasons, such as already having a similar product with another provider.

18. The Legal department was informed about these cancellations, and it was established that Mr Botha deliberately signed up family members and acquaintances prior to his intention to resign so he could collect commission. After resigning, he unduly influenced clients to cancel policies they bought because he was no longer in the employ of Future.
19. During the hearing of the reconsideration application, Mr Botha conceded that all of the clients he enrolled in September 2023 were either relatives or acquaintances of his family members. When questioned about the subsequent cancellations and how these clients became aware of his resignation, he stated that he had personally called them to inform them that he was no longer employed at Future. He, however, denied having influenced or persuaded them to cancel their policies. His argument was that two clients who attended the debarment hearing confirmed that they had cancelled their policies after learning of his resignation, which caused them discomfort that he was no longer working for Future and that the policies they bought were purely to support him.

20. Mr Botha challenges the debarment on the basis that it lacks clear and convincing evidentiary support regarding its validity and fairness. He maintains that, in the absence of such justification, Future's actions amounted to an arbitrary exercise of power.
21. On 1 September 2025, Mr Botha filed a supplementary affidavit. This was accompanied by new evidence consisting of communications between him, his former colleagues, and various clients. Through these records, Mr Botha sought to confirm the underlying motivations for the policy cancellations and disputes, and to challenge Future's characterisation of his conduct.

LEGISLATIVE PROVISIONS

22. Section 14(1)(a) of the FAIS Act states that an authorised FSP must debar a representative who (iii) does not meet, or no longer complies with, the requirements referred to in section 13(2)(a); (b) The reasons for a debarment in terms of paragraph (a) must have occurred and become known to the financial services provider while the person was a representative of the provider. Before effecting a debarment in terms of subsection (1), the FSP must ensure that the debarment process is lawful, reasonable and procedurally fair.

Section (14)(5) requires that a debarment in terms of subsection (1) that is undertaken in respect of a person who no longer is a representative of the FSP must be commenced not longer than six months from the date that the person ceased to be a representative of the FSP.

CONDONATION

23. In determining an application for condonation, the Tribunal must consider the degree of lateness, the adequacy of the explanation provided, the prospects of success on the merits, and the broader interests of justice.
24. The delay in this matter is substantial. Mr Botha was debarred on 4 December 2023, yet this application was only launched on 17 July 2025. The period of delay is approximately 19 months. While Mr Botha cites personal challenges and ill health during 2024, the explanation lacks the requisite particularity to account for such an extensive period of non-compliance. A claim of ill health, without medical evidence covering the entirety of the 19-month delay, does not constitute a reasonable or satisfactory explanation for the default.
25. Turning to the prospects of success based on a discussion of the factual background above, the Tribunal finds that Future adhered to the procedural requirements set out in sections 14(1)(b) and 14(5) of the FAIS Act. Mr Botha was notified of the debarment hearing on 12 October 2023, well within the six-month statutory period following his resignation. He was afforded the opportunity to participate online and was duly informed of his procedural rights. Accordingly, the Tribunal is satisfied that the debarment process was procedurally fair.
26. The core issue for determination is whether Mr Botha's conduct during September and October 2023 justifies a conclusion that he no longer meets the fit and proper requirements of honesty and integrity. The factual matrix reveals a clear and concerning pattern: after a period of standard enrolment practices, Mr Botha

abruptly enrolled six individuals, all of whom were personal relations, immediately prior to his resignation.

27. These policies were deliberately structured with future commencement dates in November and December 2023. This enabled Mr Botha to receive commission in his September salary, despite the fact that Future would not ultimately realise the value of those policies. The subsequent repayment of certain sums by Mr Botha in October 2023 underscores the irregularity of these earnings.
28. The Tribunal finds that Mr Botha's defence that he merely "informed" clients of his resignation and did not "influence" their cancellation is untenable when considered in light of his contractual and statutory obligations. By his own admission, he contacted these clients immediately after his resignation, conduct which breached his employment contract and directly precipitated the cancellation of the policies between 5 and 9 October 2023.
29. Whether described as "coercion" or "undue influence," the effect is the same: Mr Botha orchestrated a situation in which policies were written to secure personal gain, with the knowledge that they would not endure beyond his tenure. This deliberate "churning" of policies involving family members and acquaintances to achieve commission targets constitutes a clear breach of the honesty and integrity standards required of representatives in the financial services sector.
30. The Tribunal further finds that the evidence contained in Mr Botha's supplementary affidavit of 1 September 2025 does not displace Future's findings. Even if some clients' motivation was to "support" him, the fact remains that he facilitated such

support through temporary policy sign-ups, thereby failing to act with the degree of integrity required by the FAIS Act.

31. Accordingly, the Tribunal finds that Future has presented clear and convincing evidence that Mr Botha's conduct was inconsistent with the fit and proper requirements of honesty and integrity. The debarment was therefore substantively justified.
32. It follows from the above that Mr Botha has failed to demonstrate any prospects of success. It is a trite that where a delay is egregious, and the explanation for it is thin or non-existent, even strong prospects of success might not assist an applicant.
33. In this instance, both the length of the delay and the lack of merit weigh heavily against Mr Botha. Consequently, the Tribunal finds no basis to grant the indulgence sought. There is no basis to interfere with the decision of Future.

ORDER

34. As a result, the following order is made:
 - 34.1. The application for condonation is dismissed.
 - 34.2. The application for reconsideration is dismissed.

Signed on behalf of the Tribunal panel.

___Sgd P Maseko___

P MASEKO