Financial Services Tribunal

Case No: **FSP6/2026**

In the matter between:

THAMSANQA MBELE Applicant

and

OLD MUTUAL INSURE LIMITED/ IWYZE Respondent

TRIBUNAL PANEL: Judge Harms & K.D Magano

Date of Decision: 17 June 2026

Summary: *FAIS Act – section 14 debarment – reconsideration application – representative found to have processed policy maintenance transactions as new business – conduct inconsistent with the honesty and integrity requirements applicable to representatives – application dismissed– debarment upheld.*

DECISION

A. INTRODUCTION

1. This is an application in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 for the reconsideration of a decision taken by the respondent, Old Mutual Insurance Limited to debar the applicant, Mr Thamsanqa Mbele, in terms of section 14 of the Financial Advisory and Intermediary Services Act 37 of 2002 ("the FAIS Act").

B. MATERIAL FACTUAL BACKGROUND

2. The applicant was appointed as a representative of the respondent in September 2024. During his tenure with the respondent, he rendered financial services to members of the public under the respondent's license as an authorised financial services provider ("FSP").

3. The applicant's appointment was governed by a written representative mandate. Under that mandate, he was required to process client transactions in accordance with the prescribed operational protocols and standard operating procedures.

4. The respondent's procedures distinguished between new business and policy maintenance transactions. Where an existing policyholder wished to replace a vehicle, amend cover, reduce a premium or make other changes to an existing policy, the matter was required to be referred to the Maintenance Department and processed as a maintenance transaction. Such transactions were not to be recorded

as new business through the cancellation of an existing policy and the creation of a new policy.

5. The applicant was not employed in the Maintenance Department and was not authorised to process such transactions as maintenance requests. His role was limited to the functions assigned to him as a sales consultant.

6. During September 2025, the respondent conducted a forensic investigation into policies processed by the applicant. The investigation focused on transactions involving existing policyholders who had contacted the respondent to make changes to their policies.

7. According to the respondent, the investigation revealed that the applicant was not referring these requests to the Maintenance Department as required. Instead, he dealt with the transactions himself, despite not being authorised to perform the functions of a maintenance consultant.

8. It is alleged that in some instances, the applicant represented himself to clients as a maintenance consultant or otherwise acted as though he was authorised to perform that role.

9. According to the respondent, the applicant then cancelled the existing policies and created new policies in their place. As a result, the transactions were recorded as new business rather than policy maintenance transactions. The respondent alleges that the applicant processed thirteen policies in this manner.

10. The findings of the forensic investigation raised concerns that the applicant may have acted dishonestly and no longer complied with the honesty and integrity requirements applicable to representatives under the FAIS Act. Those findings led to the initiation of disciplinary and debarment proceedings.

11. Before initiating the debarment process, the respondent instituted disciplinary proceedings against the applicant arising from the findings of the forensic investigation. A disciplinary enquiry was convened on 2 October 2025. The applicant did not attend the enquiry, and the proceedings continued in his absence. At the conclusion of the enquiry, the chairperson found the applicant guilty of misconduct.

12. On 7 October 2025, the respondent informed the applicant that his employment had been terminated. Thereafter, on 10 October 2025, the respondent initiated a separate debarment process in terms of section 14 of the FAIS Act and issued a notice of debarment enquiry to the applicant.

13. Following receipt of the notice, the applicant sought an extension of time to prepare a response. The respondent furnished further documentation and extended the deadline for submitting written representations.

14. Written representations were subsequently submitted on behalf of the applicant opposing the proposed debarment. In those representations, the applicant disputed the allegations against him. He also challenged the fairness of the process and contended that the conduct at issue did not warrant a finding that the applicant no longer met the fit and proper requirements.

15. A debarment enquiry was subsequently conducted on 9 December 2025. No oral debarment hearing was convened. Instead, the respondent conducted the debarment enquiry on the basis of the documentary material before it, including the forensic investigation, supporting documentation and the written representations submitted on behalf of the applicant. Following that process, the respondent became satisfied that the applicant no longer complied with the honesty, integrity and competence requirements applicable to representatives. It therefore resolved to debar him in terms of section 14 of the FAIS Act.

16. The applicant was notified of the debarment decision on 17 December 2025. Aggrieved by that decision, he lodged the present application for reconsideration before the Tribunal.

C. <u>THE APPLICANT'S GROUNDS FOR RECONSIDERATION</u>

23. The applicant seeks the reconsideration and setting aside of the debarment decision on both procedural and substantive grounds.

24. Regarding procedural fairness, he contends that he was denied a proper opportunity to be heard during the debarment process. He disputes that he elected not to participate in the debarment hearing and maintains that he was not given notice of any hearing date, time or platform. He further contends that he was not furnished with the full evidentiary material relied upon by the respondent and was therefore unable to respond meaningfully to the allegations against him.

25. The applicant also contends that the respondent improperly relied on the outcome of the disciplinary enquiry to justify his debarment. According to the applicant, the disciplinary proceedings and the debarment process were unlawfully conflated, and the respondent failed to conduct an independent assessment of his fitness and propriety as required by section 14 of the FAIS Act.

26. On the merits, the applicant disputes that his conduct demonstrated dishonesty, a lack of integrity, or any other basis for concluding that he no longer met the fit and proper requirements applicable to representatives. He contends that the alleged policy irregularities amounted, at most, to administrative errors and did not involve fraud, theft, or intentional misconduct.

27. The applicant further relies on a number of mitigating circumstances, including the death of his father during the relevant period, the pressure associated with workplace production targets, his previously clean disciplinary record and the absence of proven financial loss or consumer complaints. He contends that debarment was disproportionate in the circumstances and that less restrictive measures should have been considered.

D. <u>THE RESPONDENT'S RESPONSE</u>

28. The respondent opposes the application and contends that the debarment process complied with the requirements of procedural fairness.

29. The respondent submits that the applicant received a notice of intention to debar him, was furnished with the material relied upon by the respondent, requested and

was granted an extension of time to respond, and was afforded an opportunity either to attend the debarment hearing or to make written representations. Instead, he elected to make written representations, which were considered before the decision to debar him was taken.

30. The respondent further denies that the disciplinary proceedings and the debarment process were conflated. It contends that the disciplinary enquiry and the debarment enquiry were separate processes conducted for different purposes, and that the debarment decision was taken following an independent assessment conducted in terms of section 14 of the FAIS Act.

31. On the merits, the respondent relies on the findings of the forensic investigation, together with documentary evidence, system records and call recordings, to contend that the applicant deliberately bypassed prescribed procedures for personal gain, thereby demonstrating a lack of honesty, integrity and competence. The respondent submits that, once it was satisfied that the applicant no longer complied with the fit and proper requirements applicable to representatives, section 14 of the FAIS Act obliged it to debar him. It accordingly contends that the debarment was lawful, reasonable and procedurally fair.

E. <u>ANALYSIS AND FINDINGS</u>

32. Section 14(1) of the FAIS Act places a mandatory, non-discretionary statutory obligation on an FSP to debar its representatives. If it is satisfied on the basis of available facts that a representative no longer complies with the fit and proper requirements, specifically those relating to honesty, integrity, and good standing.

33. The applicant has raised several procedural challenges, asserting that he was denied a fair hearing, that he was never served with a virtual link or formal notice of the physical sitting of the FAIS panel on 9 December 2025, and that the process was conducted behind his back.

34. After examining the record, the Tribunal finds no merit in these procedural arguments. The evidence before us shows that the respondent issued a formal notice of intention to debar on 10 October 2025, setting out the allegations against the applicant. At his request, the respondent granted a formal extension until 28 October 2025 to allow him to submit his representations.

35. The debarment does not require a formal oral hearing in every instance. What is required is that a full and fair opportunity is given to make representations. The record shows that the applicant was given a choice between attending an oral panel sitting and filing comprehensive written submissions. The applicant elected to submit detailed written representations.

36. Having exercised his option to place his defence in writing, the principles of *audi alteram partem* were fully satisfied. The applicant was given a proper opportunity to be heard, and he used it.

37. Regarding the argument that the applicant conflated the disciplinary process and FAIS debarment, the record shows a clear separation. The disciplinary inquiry concluded with his summary dismissal on 7 October 2025. A separate, standalone regulatory process under section 14 of the FAIS Act was initiated on 10 October 2025 and culminated in the independent debarment panel's decision in December

2025. The mere fact that the two processes arose from the same underlying factual matrix does not amount to double jeopardy or an unlawful conflation of processes.

38. Turning to the substantive merits, a striking feature of this application is the applicant's failure to meaningfully engage with the hard evidence. The respondent's decision was not based on vague assertions but on a conclusive, data-driven forensic audit.

39. The forensic investigation established that across 13 distinct policy files, the applicant followed a specific operational methodology: when existing policyholders requested standard risk adjustments or vehicle transfers, he bypassed the protocols by cancelling the active policies and re-capturing the transactions as entirely "new business" under his unique user profile.

40. The applicant does not offer a version to dispute the allegations against him. Instead, his response is purely quantitative and evasive. He argues that he was only provided with the full, granular particulars of *two* policies prior to the internal disciplinary hearing. Therefore, this argument misconstrues the nature of these proceedings. Before this Tribunal, the full forensic record was available, and the pattern of behaviour remains entirely unrebutted. The applicant has failed to produce an iota of evidence to show that these 13 system manipulations did not occur or were technically justified.

41. The argument that he did not commit fraud or that the clients did not suffer financial loss is flawed. The threshold for a finding of a lack of honesty and integrity under the FAIS Act does not require a completed fraud, an external victim, or measurable financial loss. His conduct of cancelling and reinstating policies as new business is, by its very nature, an act of dishonesty. It demonstrates a character flaw that is fundamentally incompatible with the fit and proper obligations of a trusted financial representative.

F. CONCLUSION

42. Having considered the record and the parties' submissions, the Tribunal finds no basis to interfere with the respondent's decision to debar the applicant.

43. The applicant's procedural and substantive challenges cannot be sustained; accordingly, the application for reconsideration must be dismissed.

G. ORDER

44. The application for debarment is dismissed.

45. The respondent's decision to debar the applicant in terms of section 14 of the FAIS Act is confirmed.

SIGNED at PRETORIA on this 17th day of JUNE 2026.

Signed on behalf of the Tribunal panel.

__*Sgd Adv KD Magano*_____

ADV KD MAGANO