



**Financial Services  
Tribunal**

**FINANCIAL SERVICES TRIBUNAL**

**CASE NUMBER FSP 52/2025**

In a matter between:

**TP MDAKANE**

**APPLICANT**

and

**MOMENTUM INSURE COMPANY LIMITED**

**RESPONDENT**

Tribunal panel: Adv TJ Golden SC, Adv J Lukwago-Mugerwa , Mr Obed Tongoane

Appearance for applicant:

In person

Appearance for Respondent:

Mr. Malcom Subramoney

Date of Hearing:

12 November 2025

Date of Decision:

3 December 2025

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**DECISION**

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1. This is a reconsideration application in terms of Section 230 of the Financial Services Regulation Act, 9 of 2017 (“the FSR Act”), arising from the applicant’s debarment by the respondent, following a disciplinary hearing and a subsequent debarment enquiry.
2. The applicant was employed with the respondent as a representative for a period of 9 years before his employment was terminated.
3. He was suspended from duty pending an investigation into alleged misconduct.
4. The applicant was subsequently charged with the following counts:

**Count 1.** It was alleged that the applicant was guilty of dishonesty and misrepresentation arising from an insurance claim involving a motor vehicle where his spouse was the policyholder. It was alleged that the applicant falsified both the date and place of the accident in order to claim from the insurance policy, while at the material time of the accident which had taken place nearly a month earlier, his driver’s licence had expired.

**Count 2.** This charge arises directly from count 1, where he was charged with failure to uphold honesty and integrity characteristics as a fit and proper representative.

**Count 3.** This charge involved the enrolment of direct leads as client referrals for payment into a business account, where he was the sole director, contrary to the respondent's policy prohibiting this practice.

5. The applicant pleaded guilty to charges 1 and 2, and not guilty to charge 3. He was found guilty of the charges and dismissed from his employment. He did not dispute his dismissal and accepted his fate that this employment was terminated.
6. The respondent then pursued debarment proceedings against the applicant who was informed of the process. Following a separate debarment hearing, the chairperson recommended the applicant's debarment in terms of section 14 of the FAIS Act on 9 May 2025. The debarment was confirmed by the Financial Sector Conduct Authority and entered in the relevant register.
7. 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)*

8. 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.

9. The applicant does not dispute the procedure that was followed in the debarment process. He also does not dispute the substantive findings against him which resulted in his dismissal, and which underpinned his debarment.
10. The basis for his reconsideration application is solely that the period for debarment is unfairly long. He submitted, given his personal circumstances, that the period was excessive and unduly onerous. The applicant understood, and indeed did not dispute, the respondent's obligation to take steps to debar him.
11. In his oral submissions, the applicant addressed both the charges and his personal circumstances.
12. Regarding count 3, the respondent's version is that during the period of COVID-19, an email was sent to all staff outlining changes in policy regarding the enrolment of direct leads as client referrals and for payment into bank accounts of representatives/ employees. The respondent submitted that this information was also placed on its internal electronic staff platform, Ulwazi, which platform served to update staff on these and other company policy changes. This policy, as conveyed to staff, was aimed at preventing double payment, where representatives would claim a commission for each approved referral and also receive payment for direct referrals into their bank accounts.

13. It is not disputed that the applicant logged policy referrals which were referrals made by his wife and that payment for the referrals was made into a company bank account which belonged to him and his wife. It is also not disputed that the applicant received commission on all the approved referrals.
  
14. The applicant submitted that the referrals in question were legally done by his spouse, amounting to a total payment of R117 000.00 that was correctly paid to him for the referrals. He admitted that this amount was paid into Montana Incorporated Projects of which he was the sole director. The applicant did not inform the respondent that this business belonged to him and his wife. According to the respondent , had they known, they would not have made payment into this bank account.
  
15. According to the applicant, he was not aware of this policy which had been placed on the respondent's internal electronic system. His explanation was that it was during Covid at a time when they worked from home and when he did not frequently access the system. His version is that the respondent did not specifically alert him directly (and the other staff). But he does not dispute that notification of the policy change was done.

16. We are to consider the narrow basis for the reconsideration application that the period of debarment is excessive and onerous.
17. The applicant did not dispute his dismissal and the termination of his employment.
18. Charge 1 which related to him misrepresenting the date of his vehicle accident due to his expired drivers' licence in order to claim from his insurance, was a deliberate act. The applicant knew that his claim would be repudiated if he had an expired drivers' licence. He deliberately altered the date of the accident so he could claim from the insurance, a policy he held with the respondent. This was dishonest and tantamount to fraud. This goes to the heart of him being a fit and proper person to render services as an insurance representative. It is irrelevant that the respondent had not suffered any financial harm. Had the respondent not investigated, the applicant would have benefited from the claim. The applicant accepts that he was dishonest and that it was a stupid mistake and a bad error in judgment. He explained that he panicked when he realised that his drivers' licence had expired. Then there is also the charge which relates to the referrals and the policy relating to the payment of referral commission which the applicant accepts was also done in contravention of the respondent's policy.

19. The applicant requests that the period of debarment be reduced to 6 months given his personal circumstances and his many years in the industry where he had achieved success with a blemish free record.
20. The applicant is a seasoned insurance representative with a total of 18 years in the industry, of which 9 were with the respondent.
21. He has three children, one of whom is a special needs child who is in an expensive special school. According to the applicant, he would not be able to afford this school if he is not allowed to work. He enjoyed an unblemished record and success in the industry for many years before these incidents occurred.
22. We accept that the applicant was remorseful for what he did and candidly accepted that the respondent had grounds to terminate his employment.
23. However, the charges were serious and impacts directly on his fitness as a representative and employee in the insurance industry.
24. There are no grounds upon which this tribunal can interfere with the period of debarment.

25. Nothing precludes the applicant from applying to have the debarment uplifted subject to the statutory time period and if he meets the fit and proper requirements provided for in the FAIS Act.
26. The application for reconsideration must fail.

**Signed on behalf of the panel on 3 December 2025.**

**Sgd Adv J Lukwago-Mugerwa**

**Adv. Joseph Lukwago-Mugerwa**