**THE FINANCIAL SERVICES TRIBUNAL**

**Case No: FSP24/2026**

In the matter between:

**KHOTSO CALVIN MASHININI** Applicant

and

**MOTOVANTAGE: THE ENGINE ROOM DIRECT SOLUTIONS (PTY) LTD** Respondent

**TRIBUNAL: PANEL: Adv G Goedhart SC, Adv M Mphaga SC, and Adv P Long**

Appearance for the Applicant: In person

Appearance for the Respondent: Ms K Jacobs

Date of hearing: 8 September 2026

Date of Decision: 2 November 2026

*Summary: Reconsideration of a decision of MotoVantage: The Engine Room Direct Solutions (Pty) Ltd in terms of Section 230 of the Financial Sector Regulation Act 9 of 2017 ("the FSRA")-Section 14 of the Financial Advisory and Intermediary Services Act of 2002- debarment*

## DECISION

## INTRODUCTION

1. This is an application, brought in terms of section 230 of the Financial Sector Regulation Act 9 of 2017 ("the FSR Act"), for the reconsideration of a decision by M.V. ("the respondent"), an authorised financial services provider, to debar K.M. ("the applicant") in terms of section 14(1)(a) of the Financial Advisory and Intermediary Services Act 37 of 2002 ("the FAIS Act") with effect from 11 March 2026.

2. The applicant was employed by the respondent as a Call Centre Telesales Agent and was its representative, mandated to render financial services in respect of credit life and credit shortfall cover. An application to suspend the debarment pending these proceedings was dismissed by the Chairperson for want of prospects of success.[1] Having considered the full merits, the Tribunal confirms that assessment. The applicant's grounds and augmented grounds are treated as his written argument.

## THE CONDUCT AND THE ADMISSION

3. The respondent's customer relationship management system pre-generates the principal debt on outbound leads and this may not be updated or altered by the agent. The principal debt is the foundation on which the premium for credit life and credit shortfall cover is calculated, the lower the principal debt, the lower the premium.

[1] Record p 12.

4. On 20 January 2026, the applicant was suspended. Later that morning, having been given several hours to reflect, he submitted the following written statement:

> "I acknowledge and admit that I intentionally changed the principal debt amounts on the [system], which resulted in reduced premiums for certain clients. I understand that this conduct was wrong, in breach of company policy, and unacceptable. The changes were made with the intention of securing cheaper premiums for clients in order to improve affordability and policy uptake. However, I fully accept that this does not justify manipulating system data or misrepresenting information, regardless of the outcome for the client."

5. The notice of intention to debar identified twelve contracts in which the principal debt had been reduced while the applicant was the agent, by amounts ranging from R30,000 to R220,000; eleven were round figures. Every change was downwards and was followed immediately by a call to the client quoting the reduced premium. That pattern is irreconcilable with a system error or an honest mistake and is consistent only with deliberate conduct.

6. At the disciplinary enquiry on 10 February 2026 the applicant pleaded not guilty, alleging coercion, system glitches and inadequate training. The enquiry chairperson, applying the test in *Brauns and Others v Wilkes NO and Others*[2] for workplace confessions, found the statement to have been freely and voluntarily made and, independently of it, that the objective system evidence

[2] (JA 47/22) [2024] ZALAC 1.

established deliberate and intentional conduct. The applicant was found guilty of fraud and summarily dismissed.

**THE DEBARMENT PROCESS**

7. The notice of intention to debar was issued on 17 February 2026, within the period prescribed by section 14(5) of the FAIS Act. It stated the grounds, identified the twelve contracts, attached the respondent's Debarment Policy, allowed fourteen days for representations and invited requests for documents. It was served in person and the applicant signed for it. He submitted written representations on 27 February 2026. The debarment panel considered them on 11 March 2026, worked through the requirements of section 14(3) and resolved to debar him. The debarment notice of 17 March 2026 informed him of his right to seek reconsideration under sections 229 and 230 of the FSR Act.

**LEGAL FRAMEWORK**

8. Section 14(1)(a) of the FAIS Act is peremptory: an FSP must debar a representative whom it is satisfied, on the basis of available facts and information, does not meet or no longer complies with the fit and proper requirements, or has contravened the Act in a material manner. The word "must" is significant as it removes the FSP's discretion once the relevant state of satisfaction is reached.

9. The applicable requirement is honesty and integrity under section 8 of the Determination of Fit and Proper Requirements for Financial Services Providers, Board Notice 194 of 2017 ("BN 194"), read with section 9(1)(l). Section 9(3) requires regard to the seriousness of the conduct and the surrounding

circumstances, including its actual or potential impact and evidence of rehabilitation.

10. Debarment is protective, not punitive. Its purpose is to protect the investing and insuring public and the integrity of the financial sector.[3] It is not a second sanction for the misconduct that led to dismissal. Dismissal regulates the employment relationship, and debarment on the other hand, regulates eligibility to render financial services at any FSP, and section 14(1)(a) expressly applies to a person who "is or was" a representative. Proportionality is not a free-standing ground of reconsideration where the fit and proper requirements are not met.[4]

11. The Tribunal's function under section 230 of the FSR Act is a reconsideration of the decision on the full record, which is wider than a review under the Promotion of Administrative Justice Act 3 of 2000 ("PAJA"). The applicant's reliance on PAJA therefore adds nothing.

## GROUNDS FOR RECONSIDERATION AND EVALUATION

12. The applicant raises nine grounds, procedural and substantive, together with augmented grounds. They are addressed in turn.

*Procedural fairness and the debarment process*

13. The applicant contends that he received no notice under section 14(3) and no opportunity to present mitigation. The record contradicts this. The notice complied with section 14(3)(a) and was served in person; the applicant signed

[3] *Mtshali v Capitec Bank Limited* (FSP39/2026) [2026] ZAFST 74 (14 August 2026) at para 34.
[4] *De Vries v Sanlam Life Insurance Limited* (FSP52/2026) [2026] ZAFST 73 (18 August 2026) at para 49.

for it and responded with written representations on 27 February 2026. A person who received no notice does not respond to it.

14. Those representations were confined to a single contention: that debarment amounted to double punishment. He did not raise coercion, system glitches, training or personal mitigation, and an FSP cannot be faulted for not considering what the person, invited to raise it, chose not to raise. The panel nonetheless considered his clean regulatory record, the absence of complaints to the Ombud or the FSCA, his length of service and his competence.

15. The complaint that the process was premature and predetermined is unfounded. The notice followed the disciplinary findings by three days; the panel decided only after the representations were received, and worked systematically through timing, notice, the applicable requirement, the seriousness of the conduct under section 9(3) of BN 194, and future risk. That is the antithesis of a predetermined outcome.

*Double punishment*

16. The double punishment contention is misconceived. Dismissal ended the employment relationship; debarment addresses whether the applicant may render financial services to the public at any FSP. The two processes serve different purposes under different legal regimes, and the panel correctly recorded that they are separate.

*Coercion*

17. The applicant contends that his written statement of 20 January 2026 was coerced by a senior official (D.B.) and ought not to have been relied upon. The Tribunal accepts, as the enquiry chairperson did, that a workplace confession

must be made freely and voluntarily, without undue influence, clearly and unambiguously, and with an understanding of its consequences. The coercion contention cannot be sustained for the following reasons.

18. First, the chronology militates against coercion. The alleged remark was made on 19 January 2026; the request for a statement followed by email the next morning, and the applicant submitted it almost two hours before the deadline, alone and with ample time to reflect, consult or decline. Second, the statement is a considered, self-generated account of the conduct, its effect, the motive (cheaper premiums to improve policy uptake) and its wrongfulness. Third, coercion was not raised in his representations to the debarment panel. Fourth, and decisively, the statement does not stand alone, as the activity log, showing each change followed immediately by a sales call at the reduced premium, corroborates it in every material respect, and the enquiry chairperson found that intent was established even without the statement. This Tribunal agrees. The coercion ground fails.

*System glitches and inadequate training*

19. The applicant's quality assurance witness testified that repeated conduct is treated as intentional rather than as process error, that the only system issues she knew of arose during a bank system decoupling, and conceded that she could not see from the system whether a principal debt had been changed. A random malfunction would not consistently reduce the principal debt and never increase it, produce round-figure reductions in eleven of twelve cases, confine itself to the applicant's contracts, and be followed each time by a call quoting the reduced premium. Moreover, the applicant admitted that the changes were intentional; a glitch cannot explain a deliberate act.

20. The applicant had been a representative since 2018, had completed his FAIS training, made an annual declaration and signed a Representative's Declaration of Undertaking addressing the fit and proper requirements. His own statement acknowledged that the conduct was wrong. An email noting the absence of written training material on principal debt manipulation does not exculpate him.

*The role of a colleague*

21. The applicant complains that the role of a colleague (M.N.) was not investigated. Whether the respondent acted against another employee is a matter of internal consistency, outside a reconsideration under section 14. The question is whether the applicant himself meets the fit and proper requirements. On his own account M.N. showed him how to make the changes; knowing the correct course, he chose to participate. The conduct of another cannot exonerate him.

*Absence of loss, absence of complaints and the "isolated lapse" contention*

22. The applicant contends that no client suffered financial loss, no complaint was received, and the conduct was an isolated lapse. None of these contentions are sound.

23. Dishonesty is not measured by whether financial harm has materialised. The requirement concerns character and trustworthiness. In any event, the premise of no prejudice is wrong. Where the principal debt is understated, the policyholder is under-insured and the cover may prove insufficient to settle the true debt, exposing the policyholder or his estate to the shortfall. The insurer accepts a risk on information that understates it and the FSP is exposed to claims and reputational harm, as the panel recognised.

24. The conduct was also not isolated. Twelve contracts were identified (the enquiry evidence referred to fifteen) over December 2025 to January 2026, each involving a deliberate step on the system followed by a sales call. The panel aptly described it as intentional, repeated behaviour that would have continued but for detection. That is not a momentary lapse.

*Mitigation and future risk*

25. The panel considered the applicant's circumstances being an expired warning on an unrelated matter, no previous debarment, no complaints to the Ombud or the FSCA, and competence as an agent who met his targets. These cannot outweigh deliberate and repeated dishonesty. Good performance, length of service and the effect on his livelihood are regrettable consequences present in every debarment and cannot override the statutory imperative to protect the public.

26. As to remorse, the applicant's statement of 20 January 2026 expressed regret and apology, but he did not maintain that position. At the enquiry he pleaded not guilty, called the statement coerced and denied making the changes; in mitigation he reiterated his innocence while claiming genuine remorse; and his representations to the panel raised only double punishment. Before this Tribunal he continues to deny responsibility and to blame others. This is in keeping with the panel's observations of no accountability and lack of genuine remorse.

*Proportionality and less restrictive alternatives*

27. Section 14(1)(a) confers no discretion to substitute supervision, training or a restricted mandate for debarment where honesty and integrity are lacking;

proportionality is not a free-standing ground of reconsideration.[5] The alternatives are in any event inapt: supervision and training address competence, not character. The applicant was rendering services under supervision when the conduct occurred, yet it was neither prevented nor detected. The deficiency is one of character, and the provisions of section 14(1)(a) are peremptory.

28. As the debarment notice advised, debarment is not necessarily permanent. The applicant may seek reappointment under the Authority's requirements for debarred representatives if he can show over time that he has re-established his fitness and propriety. That is the appropriate mechanism, not a ground for setting aside a correct debarment.

**CONCLUSION**

29. The applicant admitted that he intentionally and repeatedly altered principal debt amounts to reduce the premiums quoted to clients, and that admission is corroborated by objective system evidence. The debarment process complied with section 14 of the FAIS Act and each ground for reconsideration fails. The respondent, satisfied that the applicant no longer met the requirement of honesty and integrity, was obliged by section 14(1)(a) to debar him. The decision was correct and the application must fail.

**ORDER**

30. The application for reconsideration is dismissed.

[5] *De Vries v Sanlam Life Insurance Limited* (FSP52/2026) [2026] ZAFST 73 (18 August 2026) at para 49.

Signed on behalf of the Tribunal panel.



**ADV M MPHAGA SC**

Panel Member