

IN THE APPEAL BOARD OF THE FINANCIAL SERVICES BOARD

In the matter between

THOMAS B JANSEN t/a THOMAS B BROKERS Appellant

AND

THE REGISTRAR OF FINANCIAL SERVICE PROVIDERS Respondent

Coram: LTC Harms (chair), Mr Z Mabhoza and Mr J Damons

For the appellant: No appearance

For the respondent: Mr BJJ Bredenkamp

Hearing: 9 March 2017

Date of order: 9 March 2017

Summary: Appeal – non-appearance by the appellant – matter struck from the roll

JUDGMENT

The appellant appealed against a decision of the Registrar to withdraw his authorisation to render financial services on the basis of non-compliance with ten cases of non-compliance with

the provisions of the Financial Advisory and Intermediary Services Act 37 of 2002. For present purposes we list some of them:

- Repeated failure to pay the prescribed levy and interest thereon;
- Repeated failure to successfully complete the required first level regulatory examination;
- Failure or inability to maintain suitable guarantee or professional indemnity or fidelity insurance cover (professional indemnity cover);
- Failure to register with the FIC as accountable institution (FIC registration).

The facts are not in dispute, also not that the appellant had been given repeated warnings and extensions to enable him to comply. The appeal is in essence a plea *ad misericordiam* – an appeal to compassion and pity – while the function of this Appeal Board is to determine whether the Registrar was right or wrong.

The problem is that the appellant did not appear at the hearing. Although he had previously indicated that he would be represented and that two persons would attend the hearing he sent an email at about 1500 on the day before the hearing stating that he had fallen ill and that he would send a doctor's note the next day.

When the appeal was called there was no appearance, no application for postponement and no doctor's note.

Although the Registrar wished to proceed with the appeal in the absence of the appellant we decided that the proper course to adopt is to strike the appeal from the roll because of non-

appearance. If the appellant wishes to prosecute the matter he will first have to file a proper application for condonation and reinstatement of the appeal.

ORDER: THE APPEAL IS STRUCK FROM THE ROLL.

Signed on behalf of the Appeal Tribunal

A handwritten signature in black ink, appearing to read 'LTC Harms', written in a cursive style.

LTC Harms (Chair)