

SETTLEMENT ORDER.

IN THE NATIONAL CONSUMER TRIBUNAL

REF NO : NCT/96/2009/57(1) (P)&149(1)(P)

DATED : 1 SEPTEMBER 2009

In the matter between:

NATIONAL CREDIT REGULATOR	1 st Applicant
FM DE BEER	2 nd Applicant
S DU PLESSIS	3 rd Applicant
AT NIEMAND	4 th Applicant
F SWART	5 th Applicant
T MAGANO	6 th Applicant
M ABRAM	7 th Applicant
M VERMEULEN	8 th Applicant
B MOLEFE	9 th Applicant
F VENABLES	10 th Applicant
P JORDAAN	11 th Applicant
T BERRIMAN	12 th Applicant
R RUPPING	13 th Applicant
C GREYLING	14 th Applicant
E VAN HEERDEN	15 th Applicant
L RAUTENBACH	16 th Applicant

and

BARRY KOTZE

Respondent

Handwritten signatures of Barry Kotze and other respondents, including a signature that appears to be 'BKC' and another that appears to be 'J'.

WHEREAS

- A. the Applicant has commenced proceedings before the National Consumer Tribunal for an interim order for relief pending the hearing of the principle matter described in the application; and
- B. the parties have settled the dispute and wish to make it an interim order

NOW THEREFORE an interim order is made in the following terms :

1. That the Respondent's registration as debt counsellor under registration no **NCRDC 436** is not suspended pending the finalization of the matter;
2. That Respondent be prohibited from accepting any new or further applications for debt review from consumers as of date of this order;
3. That Respondent be directed to comply with the obligations in terms of Section 57(9)(a), including strict compliance with applicable provisions for Debt Councillors as contained in the National Credit Act 34 of 2005 [the Act], the Regulations in terms of the Act and the conditions of registration of the Respondent until compliance with orders 4, 5 and 6 hereunder;
4. That Respondent be directed to within 24 hours after receipt of instruction from the consumer, transfer such consumer's file to another registered debt counsellor nominated by such consumer;

Handwritten signatures and initials:
A large, stylized signature, possibly "D. H. ...", is written over the text of item 4.
To the right of the signature, there are several smaller initials and marks, including what appears to be "M." and a large, bold, stylized mark.

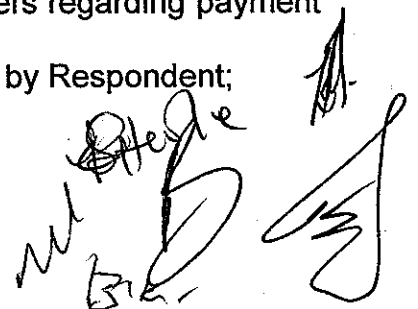
5. That Respondent be prohibited from, directly or indirectly, intimidate, induce or entice consumers not to transfer or request to transfer their files to another registered debt counsellor;

6. That Respondent be directed to supply the following schedules to the National Credit Regulator not later than 30 days of date of this order, to wit:
 - 6.1 A schedule containing the full names, identification number, residential- and work address and contact details of each and every consumer who has applied for debt review with the Respondent;

 - 6.2 Schedules containing the full names, identification numbers, residential- and work address, contact details of all consumers who applied to the Respondent for debt review but whose applications were rejected;

 - 6.3 A schedule containing the full names, identification numbers, residential and work address and contact details of each and every consumer who is presently under debt review with the Respondent;

 - 6.4 Schedules containing particulars with regards to each and every amount paid by consumers, including the full names, identity numbers and contact details of such consumers regarding payment of the application and cancellation fees levied by Respondent;

Handwritten signatures and initials in black ink, including a large signature that appears to be 'M. Steyn' and another signature to its right, with some initials below.

- 6.5 A schedule containing information with regards to each and every payment received by Respondent from consumers in lieu of his appointment as debt counsellor (e.g. recalculated monthly instalments);
- 6.6 Schedules containing full particulars of the payment distribution agents used by Respondent as well as full particulars with regards to each and every amount that has been paid over by Respondent to such payment distribution agencies and/or each and every amount received by such agents from consumers;
- 6.7 An audited statement reflecting all amounts received by Respondent and Payment Distribution Agents appointed by him including all disbursements or charges and setting out distribution and payments of all amounts. The schedule must include full particulars with regards to each and every consumer with regards to which charges were claimed as well as the amounts and dates of disbursements and costs and charges. The schedule must also set out clearly all distributions that have already been made to creditors on behalf of the each and every consumer. The Respondent is to provide details of his auditor by not later than 4 September 2009 to the applicant's attorneys who will be entitled to meet with such auditor to discuss the mandate of such auditor. The Respondent shall bear all costs regarding this audit. The Respondent confirms that his auditor is Jan Erasmus of Jan Erasmus Auditors,, 012 361 7755, Rosemary Avenue, Lynnwood. Pretoria.

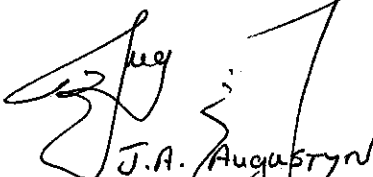
Done
W.D.
B.K.

7. That Respondent be directed to pay over all amounts paid over to him by consumers to a Payment Distribution Agency, which has been approved by the National Credit Regulator by not later than 11th September 2009.

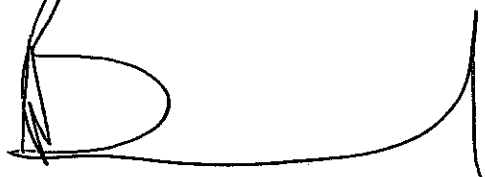
8. That Respondent be directed to instruct any and all non-approved payment distribution agents to pay over any and all amounts currently in trust with them, before 11th September 2009, to a Payment Distribution Agency which has been approved by the National Credit Regulator. The Respondent must ensure that the monies are properly distributed by such Payment Distribution Agency and must assist such Payment Distribution Agency with proper payment schedules.

9. Applicant is to give the Respondent 48 hours notice in writing to his email address linda@barrykotze.com, of date on which their proposed investigation is to be conducted. Respondent confirms that he is not available for the week of 14 – 18 September 2009.


Dated and signed at CENTURION on this 1st day of September 2009.




On behalf of Applicant



Witness



Witness

M B.K.


Dated and signed at CENTURION on this 1st day of September 2009.

B. KOLE
On behalf of Respondent

[Signature]
Witness

[Signature]
Witness

[Signature]
[Signature]