

**IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS**

**PRETORIA**

**CASE NUMBER: FAIS 06649/11-12/ WC 1**

**In the matter between:**

**Diandra Laura Adams**

**Complainant**

**and**

**Thiersen Brokers (Pty) Ltd t/a HCT Konsult**

**First Respondent**

**Jacques Carstens**

**Second Respondent**

**Hendrik Thiersen**

**Third Respondent**

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**DETERMINATION IN TERMS OF SECTION 28(1) OF THE FINANCIAL ADVISORY  
AND INTERMEDIARY SERVICES ACT NO 37 OF 2002 (the Act)**

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**A. INTRODUCTION**

[1] This determination follows a recommendation made in terms of section 27 (5) (c) of the Act on 7 March 2018. Section 27 (5) (c) empowers the Ombud to make a recommendation in order to resolve a complaint speedily by conciliation. The recommendation is attached hereto marked Annexure (A) and is to be read together as part of this determination.

[2] The respondent's reasons for not accepting the recommendation are dealt with in the paragraphs following below.

## **B. THE PARTIES**

[3] Complainant is Miss Diandre Laura Adams, an adult female, of 29 years of age, whose full details are on file with this Office.

[4] First Respondent is Horn Carstens & Thiersen Brokers (Pty) Ltd t/a HCT Konsult, a company duly incorporated in terms of South African law, with registration number (1996/001062/07). First Respondent is an authorised financial services provider (FSP) (licence number 3411) with its principal place of business noted in the Regulator's records as Langstraat, Morreesburg, 7310.

[5] Second respondent is Mr Jacques Carstens a key individual and representative of first respondent. Second respondent's place of business is the same as that of first respondent.

[6] Third respondent is Mr Hendrik Thiersen a key individual and representative of first respondent. Third respondent's place of business is the same as that of first respondent

## **C. RESPONDENT'S REPLY TO THE RECOMMENDATION**

[7] Respondent's response was received on 22 March 2018. Respondent claims that its previous responses contained his honest feedback, and that it remains of the view that it was not responsible for complainant's loss. In support of this, respondent provided a letter from its professional indemnity underwriters dated 20 May 2016, which records that complainant's claim against respondent will not be

entertained as there is no substantiating proof that the damage caused was as a result of respondent's actions.

**D. DETERMINATION**

[8] Respondent did not respond to any of the issues raised in the recommendation, the findings of which are hereby confirmed.

**E. THE ORDER**

[9] In the result, I make the following order:

1. The complaint is upheld.
2. The respondents are ordered, jointly and severally, the one paying the other to be absolved, to pay the complainant the amount of R65 100;
3. Interest on this amount at a rate of 10.25% per annum from the date of determination to date of final payment.

**DATED AT PRETORIA ON THIS THE 28<sup>th</sup> DAY OF MARCH 2018.**



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**NOLUNTU N BAM  
OMBUD FOR FINANCIAL SERVICES PROVIDERS**