



The National Credit Regulator
127-15th Road, Randjespark
Midrand
1685
Tel: (011)554-2600/2700
Website: www.ncr.org.za

Media Release

January 2020

National Credit Regulator: Asia Lamara's registration as a debt counsellor cancelled

The National Credit Regulator (NCR) became aware that Ms. Lamara, a registered debt counsellor, with registration number NCRDC4469 who provided debt counselling services through the companies MSA consultants and/or Consumer Finance Services (CFS), was conducting business in a manner contrary to the National Credit Act, as amended (NCA). Some of the complaints received were that Ms. Lamara was placing consumers under debt review without their consent. The NCR investigated the conduct of Ms. Lamara and found that she was acting in a manner, which constituted serious contravention of the NCA.

Following the investigation, the NCR applied to the National Consumer Tribunal (NCT) for the deregistration of Ms Lamara as a debt counsellor. The NCT handed down its ruling in December 2019 confirming that Ms. Lamara contravened several sections of the NCA, the Regulations and her Conditions of Registration. The contraventions were deemed serious enough and Ms. Lamara's registration as a debt counsellor was cancelled. She was ordered by the NCT to immediately cease engaging in any activity that requires registration as a debt counsellor, surrender her files to the NCR after conducting an audit and to pay an administrative fine of R1 million.

The audit that Ms. Lamara was ordered to conduct, was intended to establish the following:

- if Ms. Lamara's consumer files contain completed and signed statutory debt review application forms confirming that consumers have indeed applied and consented to be placed under debt review;
- if Ms. Lamara listed consumers under debt review at the credit bureaus without referring their matters to the Magistrates Court or the National Consumer Tribunal for a debt restructuring order or consent order within 60 days of the dates that the consumers applied for debt review; and
- if Ms. Lamara's debt counselling fees complied with the debt counselling fee guidelines.

In its ruling, the NCT confirmed that the NCA requires **personal** involvement of a debt counsellor, who is qualified and registered to render debt counselling services to consumers. Debt counsellors cannot circumvent their statutory obligations by appointing unregistered persons to provide debt counselling services nor are debt counsellors entitled to rely on a computer system to render debt counselling services, including making the crucial determination that consumers are over-indebted.

The NCT confirmed that the prescribed manner in applying to a debt counsellor was not by way of an oral mandate made to an agent of a debt counsellor. A further crucial part of the order is the NCT's confirmation that Ms. Lamara failed to submit debt restructuring proposals to a Magistrate's Court or consent orders to the NCT. The NCT further held that debt counsellors are statutorily bound to do so and had no discretion in terms hereof. Ms. Lamara failed to perform debt counselling in a manner that is consistent with the purpose and requirements of the NCA and is found to have brought debt counselling and the NCR into disrepute.

Ms. Lamara has since filed a Notice for Leave to Appeal the NCT's judgment. The NCR will oppose the Appeal.

Ends

About The National Credit Regulator

The National Credit Regulator (NCR) was established in terms of the National Credit Act 34 of 2005 (NCA) and is responsible for the regulation of the South African credit industry. The NCR is mandated with the registration of Credit Providers, Credit Bureaus, Debt Counsellors, Payment Distribution Agents, and Alternative Dispute Resolution Agents; and monitoring their conduct in compliance with the National Credit Act as amended. The National Credit Regulator offers education and protection to consumers of credit in promotion of a South African credit market that is fair, transparent, accessible and dynamic.

For more information contact:

Media Office: media@ncr.org.za

Or

Ntombizodwa Mahlangu
(011) 554-2612
E-mail: NMahlangu@ncr.org.za
Website: www.ncr.org.za