

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 15 November 2011

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Executive Officer: Financial Services Board v Dynamic Wealth Ltd & others

The Supreme Court of Appeal today upheld an appeal by the Registrar of Financial Institutions against the decision of the Gauteng North High Court, dismissing his application for the business of Dynamic Wealth Ltd and certain associated companies and institutions to be placed under curatorship. The court held that the contents of an inspection report prepared at the instance of the Registrar was admissible as evidence and showed that a curatorship would have been appropriate. Dynamic Wealth was operating investments in collective investment schemes without approval in terms of the Collective Investment Schemes Act and without compliance with important requirements of the Act, such as having audited accounts for the investment portfolios. In addition it had placed the assets of certain schemes into a company controlled by one member of the Dynamic Wealth Group and issued non-cumulative, non-redeemable preference shares to investors in place of the liquid investments they believed they had. This was done without informing investors and was characterised by the court as blatantly dishonest conduct. Although the appointment of curators would have been appropriate at the time the application was brought in the intervening two

years events had moved on and the business had effectively been closed in consequence of the withdrawal of the licences to operate as financial institutions of two of the companies in the group. As a result it was no longer appropriate to appoint curators but the order of the High Court was set aside and Dynamic Wealth and the other respondents ordered to pay the Registrar's costs in both courts.