

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH SECTION 10A OF THE FINANCIAL
SERVICES BOARD ACT, 97 OF 1990**

CASE NO: **EC 23/2015**

In the matter of:

THE REGISTRAR OF LONG-TERM INSURANCE First Applicant

FINANCIAL SERVICES BOARD Second Applicant

and

MPITI'S FUNERAL SERVICES CC First Respondent

MZOMHLE MPITI Second Respondent


ORDER

WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, I hereby determine that the Respondents contravened Section 7(1) of the Long-Term Insurance Act, No 52 of 1998.

I hereby impose a penalty inclusive of costs of R200 000 to be paid jointly and severally by the Respondents on or before 30 October 2015.

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the^{15^m} day of September **2015**



C F Eloff
Chairperson of the Enforcement Committee

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IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE
ESTABLISHED IN TERMS OF SECTION 10 (3) OF THE FINANCIAL SERVICES
BOARD ACT, NO. 97 OF 1990

CASE NO: EC 23/2015

In the matter of:

THE REGISTRAR OF LONG-TERM INSURANCE

First Applicant

FINANCIAL SERVICES BOARD

Second Applicant

And

MPITI'S FUNERAL SERVICES CC

First Respondent

MZOMHLE MPITI

Second Respondent

**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B (7) (a) OF THE
FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, 28 OF 2001**

PARTIES TO THE AGREEMENT

1. The First Applicant is the Registrar of Long-term Insurance (Registrar).
2. The Second Applicant is the Financial Services Board (FSB), a juristic person established in terms of section 2 of the Financial Services Board Act, No. 97 of 1990. The functions of the FSB are *inter alia* to supervise and enforce compliance with the laws relating to financial institutions and the provision of financial services.

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3. The First and Second applicants are represented by Jonathan Ian Dixon in his capacity as the Deputy Registrar of Long-Term Insurance and as the Deputy Executive Officer for Insurance.

and

4. The First Respondent is Mpiti's Funeral Services (First Respondent), a close corporation registered and incorporated in accordance with the company laws of the Republic of South Africa bearing the registration number 2005/112870/23. The First Respondent has its registered office at 160 Hope Street, Bizana, 4800. The First Respondent is herein represented by Mr Mzomhle Mpiti.
5. The Second Respondent is Mr Mzomhle Mpiti (Second Respondent), an adult male, whose has his principal place of business at 160 Hope Street, Bizana, 4800. The Second respondent holds a 100% interest in the First Respondent.

WHEREAS

6. The Registrar is of the opinion that the Respondents contravened section 7(1) of the Long-Term Insurance Act, No 52 of 1998 ("the LTI Act").
7. The Respondents wish to enter into a settlement agreement with the Registrar as contemplated in section 6B (7) (a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

NOW THEREFORE IT IS AGREED AS FOLLOWS

8. At all relevant times:

8.1. The First Respondent was the directing mind and will of the First Respondent.

8.2. The Second Respondent acting in his personal capacity and in his capacity as the directing mind and will of the First Respondent used the First Respondent as a vehicle to conduct unregistered long-term insurance business in contravention of the LTI Act.

9. It is therefore agreed between the parties that the Respondents acting in concert contravened Section 7(1) (a) of the LTI Act in that during the period 1 November 2008 until 31 December 2013 the Respondents, without being registered as a long-term insurer, offered to enter into and entered into assistance policies and undertook to provide policy benefits in respect of these policies. The Respondents also maintained, serviced and collected premiums in respect of these assistance policies and received and dealt with claims in respect of these assistance policies without being registered as a long-term insurer and was not authorised to carry out any kind of long-term insurance business.

10. The mitigating circumstances

10.1. It is also agreed that the following mitigating factors are relevant to the matter:

10.1.1. The Respondents accepted responsibility for the contravention and

10.1.2. The Respondents co-operated with the enforcement action.

10.1.3. The Respondents have regularized the business by arranging for all the policies to be underwritten by a registered insurance company.

11. In the light of the above, the parties have agreed that the Respondents will jointly and severally pay a penalty of R200 000 (two hundred thousand rands), inclusive of costs incurred by the Second Applicant in investigating this matter.

- 12.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. If the Enforcement Committee declines to make this agreement an order, then in such event this agreement will be null and void.
- 12.2. If the Respondents do not comply with the terms of this agreement and it is necessary for the Registrar and/or the FSB to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the Registrar and/or the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.
- 12.3. No leniency or postponement given by the Registrar to the Respondents or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties. Any leniency or postponement granted by the Registrar or any amendment to this Agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act.
- 12.4. Any receipt of a payment by the Registrar and/or the FSB after the due date shall be without prejudice to any of the rights of the Registrar and/or the FSB.
- 12.5. This Agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.
- 12.6. This agreement is in full and final settlement only in respect of the Respondents' liability for an administrative sanction to the Registrar arising from this contravention.


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12.7. The parties choose as their *domicillum citandi et executandi* their respective address set out below for all purposes arising out of or in connection with this agreement at which addresses all the processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. However the notice contemplated in terms of section 6E of the FI Act may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

12.7.1. First and Second Applicants

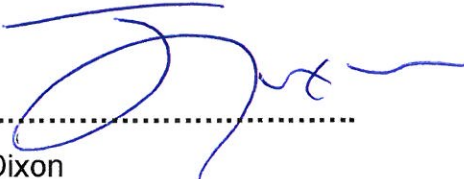
Financial Services Board:
Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens ext. 6
Pretoria
0081

12.7.2 The First and Second Respondents:

160 Hope Street
Bizana
4800
Email address: Mabheshu@gmail.com

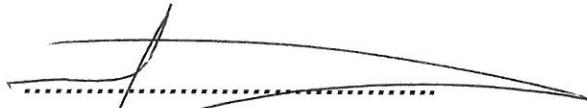
13. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B (7) (b) of the FI Act.

Signed at PRETORIA on 14 September 2015 on behalf of the FSB and the Registrar of Long-term Insurance.

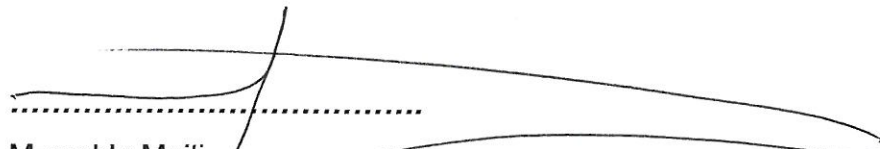

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J I Dixon

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Signed at MBIZANA on 27-08-2015 on behalf
of the First Respondent.


Mzomhle Mpiti

Signed at MBIZANA on 27-08-2015 by the
Second Respondent.


Mzomhle Mpiti

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