

Case No: 2213

Booyesen Funeral Services CC

DEFINITIONS

1. For purposes of this undertaking, the following definitions shall apply:
 - 1.1. "Booyson Funeral Services" means Booyson Funeral Services CC, a closed corporation, duly incorporated and registered in accordance with the company laws (Companies Act No. 71 of 2008, as amended) of the Republic of South Africa, under registration number 2005/137274/23, with its principal place of business situated at 45 Long Street, Rustdene, Beaufort West, 6970.
 - 1.2. "Effective Date" means the date on which this undertaking becomes enforceable which is upon signature by a duly authorised officer acting on behalf of the Authority.
 - 1.3. "Enforceable Undertaking" means this undertaking duly signed and concluded between the Authority, Booyson and Booyson Funeral Services.

Executive Committee:
 Commissioner: U. Vamala | Deputy Commissioners: A. Lunde | K. Gibson | F. Gabel

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"FAIS Act" means the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended.

- 1.5. "The Authority" means the Financial Sector Conduct Authority.
- 1.6. "FSR Act" means the Financial Sector Regulation Act No. 9 of 2017, as amended.
- 1.7. "FSP" means an authorised Financial Services Provider.
- 1.8. "Booyesen" means Mr Johannes Booyesen, the sole member of Booyesen Funeral Services.
- 1.9. "Tribunal" means the independent Financial Services Tribunal, a statutory body established in terms of section 219 of the FSR Act, with its principal place of business at Kassod Office Park, Orange Building, 546 Jochemus street, Erasmusdorp, Pretoria, Gauteng.

COMPLAINT

2. The Authority is the market conduct regulator of financial institutions that are licensed in terms of a financial sector laws. The FSR Act empowers the Authority to supervise and enforce compliance with financial sector laws.
3. The Authority received information that Booyesen Funeral Services issued funeral policies without having an underwriter, which was a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Booyesen confirmed that Booyesen Funeral Services conducted unregistered and sell insurance business from 1 January 2022 to 30 April 2023.
5. Booyesen further confirmed that Booyesen Funeral Services collected insurance premiums and processed claims.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an investigation into the conduct of Booyesen Funeral Services and Booyesen, as empowered by section 135(1)(a) of the FSR Act. The investigation was in respect of their conduct during the period from 1 January 2022

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D to 30 April 2023, to determine whether there was a reasonable suspicion of contraventions of the following financial sector law(s):

- 6.1. Section 7(1) of the FAIS Act which states that a person may not act or offer to act as a financial services provider unless such person has been issued with a license under section 8, or, unless such a person has been appointed as a representative of an authorised financial services provider under section 13 of the FAIS Act.
- 6.2. Section 5(1) of the Insurance Act which states that no person may conduct insurance business in the Republic unless that person is licensed under the Insurance Act.
7. Booysen Funeral Services issued funeral policies without having a licensed underwriter in contravention of section 5(1) of the Insurance Act.
8. Booysen Funeral Services advised policyholders in respect of the funeral policies without having a FSP license and therefore contravened section 7(1) of the FAIS Act.
9. Booysen, in his capacity as director of Magudulela's Unique Funerals, caused and/or permitted Magudulela's Unique Funerals to issue funeral policies without having a licensed underwriter and advised policyholders in respect of those funeral policies without having a FSP license.
10. Booysen did not dispute his knowledge and/or involvement in the conduct of Booysen Funeral Services and as a result, he caused and/or permitted the contraventions of sections 7(1) of the FAIS Act and 5(1) of the Insurance Act.
11. Booysen Funeral Services and Booysen have admitted to all the contraventions.

ENFORCEABLE UNDERTAKING

12. Booysen Funeral Services and Booysen gives the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:
 - 12.1. In order to comply with 5(1) of the Insurance Act, they will move all insurance business to a licensed underwriter of their choice within 60 working days, from the date of the signature of this Enforceable undertaking:

BOOYSEN FUNERALS
45 Longstreet Rustdene
Beaufort-west
Cel 064 089 2903

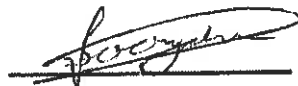
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- 12.2. In order to comply with 7(1) of the FAIS Act, Booysen Funeral Services and all its representatives are registered as juristic representatives/ representatives of an authorised FSP, within 14 working days from the date of the signature of this Enforceable undertaking;
- 12.3. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter; and
- 12.4. They will ensure that at all relevant times Booysen Funeral Services and all its representatives are registered as juristic representatives/ representatives of an authorised FSP.

NON-COMPLIANCE WITH THE UNDERTAKING

13. Booysen Funeral Services and Booysen understand that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority;
- 13.1. may impose an administrative penalty against Booysen Funeral Services and/or Booysen on the basis of joint and several liability;
- 13.2. may debar Booysen Funeral Services and Booysen; and/or
- 13.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking
14. Booysen Funeral Services and Booysen acknowledge that they are familiar with all the provisions of section 151 of the FSR Act.

DATED AT _____ ON THIS 01 DAY OF June 2023.



Mr Johannes Booysen

(On behalf of Booysen Funeral Services)



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Mr Johannes Booysen

(In his personal Capacity)

The aforesaid Enforceable Undertaking is accepted by the Financial Conduct Authority in terms of section 151(1) of the Financial Sector Regulation Act, 2017

DATED AT Pretoria ON THIS 01 DAY OF June 2023.



Gerald van Deventer

(For the Authority)

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45 Longstreet Rustdene
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