

TO BE PUBLISHED BY THE FSCA

Case No: 2131

In the matter between:

The Financial Sector Conduct Authority

And

Mr Thabang Gerald Molaba

Ms Lerato Nancy Sebolai

Dirisanang Funeral Services (Pty) Ltd

**ENFORCEABLE UNDERTAKING IN TERMS OF SECTION 151(1) OF THE FINANCIAL
SECTOR REGULATION ACT, 2017**

DEFINITIONS

1. For purposes of this undertaking, the following definitions shall apply:
 - 1.1. **"Dirisanang"** means **Dirisanang Funeral Services (Pty) Ltd**, a private company with limited liability, duly incorporated and registered in accordance with the Companies Act No. 71 of 2008 of the Republic of South Africa, under registration number 2019/058769/07, with its principal place of business situated at 1159/62 Machaba Drive, Mofolo North, Kwa Nhlapo Shops, Soweto, 1801.
 - 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 and Dirisanang.

Executive Committee:

Commissioner: U. Kamlana **Deputy Commissioners:** A. Ludin K. Gibson F. Badat

- 1.4. **"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. **"Molaba"** means Mr Thabang Gerald Molaba, the director of Dirisanang.
- 1.8. **"Sebolai"** means Ms Lerato Nancy Sebolai, the director of Dirisanang.
- 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 Kasteel Office Park, Orange Building, 546 Jochemus street, Erasmuskloof, Pretoria, Gauteng.

COMPLAINT

2. The Authority is the market conduct regulator of financial institutions that are licensed in terms of financial sector laws. The Authority is empowered by the FSR Act to supervise and enforce compliance with financial sector laws.
3. The Authority received information that Dirisanang issued funeral policies (insurance business) without having an insurer, which is a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Molaba and Sebolai confirmed that during the period October 2019 to August 2021, Dirisanang was underwritten by Safrican Insurance Company Limited.
5. Molaba and Sebolai confirmed that from September 2021, Dirisanang never had any licensed insurer for its insurance business.
6. Molaba and Sebolai further confirmed that from September 2021, Dirisanang rendered financial services without being authorised as a financial services provider (FSP), or as a representative of an authorised FSP, thus contravening section 7(1) of the FAIS Act.
7. Molaba and Sebolai confirmed that from October 2019 to 28 March 2023, Dirisanang collected premiums and settled claims. It conducted 14 funerals to date.

INVESTIGATION AND CONTRAVENTIONS

8. The Authority commenced an enquiry into the conduct of Dirisanang, Molaba and Sebolai, as empowered by section 131(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period October 2019 to 28 March 2023, to determine whether there was a reasonable suspicion of contraventions of:
 - 8.1. Section 7(1) of the Financial Advisory and Intermediary Services Act No. 37 of 2002 (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;
 - 8.2. 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 Act;
 - 8.3. Section 8(3)(a) and (b) of the Long-term Insurance which provides that subject to this Act, no person shall render services as intermediary, in relation to a long-term policy, unless long-term insurers are the only insurers in terms of the long-term policy concerned; or that person does so with the approval of the Authority.
9. During the period September 2021 to 28 March 2023, Dirisanang, Molaba and Sebolai issued funeral policies without a licensed insurer. Dirisanang, Molaba and Sebolai further collected premiums and settled claims on behalf of policyholders. Dirisanang, Molaba and Sebolai also rendered financial services on funeral policies, without authorisation.
10. Molaba and Sebolai did not dispute their knowledge and/or involvement in the conduct of Dirisanang and as a result, they caused and/or permitted the contraventions of sections 7(1) of the FAIS Act, 5(1) of the Insurance Act and 8(3)(a) and (b) of the Long-term Insurance Act. Dirisanang, Molaba and Sebolai have admitted all the contraventions.

ENFORCEABLE UNDERTAKING

11. Dirisanang, Molaba and Sebolai tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:
- 11.1. They will ensure that at all relevant times their clients' (insurance business) are placed with a licensed insurer.
 - 11.2. They will provide proof of an underwriting agreement with a licensed insurer, within 3 months from the date on which they signed this undertaking.
 - 11.3. They will not accept new clients until proof of underwriting has been provided to the Authority.
 - 11.4. Within 3 months from the date on which they signed this undertaking, Dirisanang, Molaba and Sebolai will provide proof that were added as a juristic representative of an authorised FSP, or proof that Dirisanang have applied for its own FSP licence.

NON-COMPLIANCE WITH THE UNDERTAKING

12. Dirisanang, Molaba and Sebolai understands that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:
- 12.1. may impose an administrative penalty against Dirisanang, Molaba and/or Sebolai, on the basis of joint and several liability;
 - 12.2. may debar Dirisanang, Molaba and Sebolai; and/or
 - 12.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking.
13. Dirisanang, Molaba and Sebolai acknowledge that they are familiar with all the provisions of section 151 of the FSR Act.

DATED AT PTA ON THIS 28 DAY OF MARCH 2023.



Mr Thabang Gerald Molaba



Ms Lerato Nancy Sebolai

(On behalf of Dirisanang)



Mr Thabang Gerald Molaba



Ms Lerato Nancy Sebolai

(In their 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 15th DAY OF MAY 2023.



Gerhard van Deventer

(For the Authority)