

[TO BE PUBLISHED BY THE FSCA]

Case No: 2216

In the matter between:

The Financial Sector Conduct Authority

And

Mr Sfiso Mtambu

Leroi Investment Group (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. **"Leroi Funeral Services"** means Leroi Investment Group (Pty) Ltd, a private company with limited liability, 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 2017/005385/07, with its principal place of business situated at 9166 Extension 2, Soshanguve South, Pretoria, Gauteng, 0152.
 - 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 Leroi Funeral Services.
 - 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.

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Executive Committee:

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

- 1.6. **"FSR Act"** means the Financial Sector Regulation Act No. 9 of 2017, as amended.
- 1.7. **"Mtembu"** means Mr Sfiso Mtembu, the sole director of Leroi Funeral Services.
- 1.8. **"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 a financial sector law. The Authority is empowered by the FSR Act to supervise and enforce compliance with financial sector laws.
3. The Authority received information that Leroi Funeral Services issued funeral policies without having an underwriter, which is a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Mtembu confirmed that Leroi Funeral Services started conducting unregistered insurance business from 1 November 2019.
5. Mtembu further confirmed that from 1 November 2019 to 13 December 2022, Leroi Funeral Services collected insurance premiums and processed claims. It conducted ten funeral services during this period.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an enquiry into the conduct of Leroi Funeral Services and Mtembu, as empowered by section 131(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period 1 November 2019 to 13 December 2022, to determine whether there was a reasonable suspicion of contraventions of:
- 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;
- 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 Act;

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- 6.3. 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 underwriters in terms of the long-term policy concerned; or that person does so with the approval of the Authority.
7. Mtembu, in his capacity as director of Leroi Funeral Services, caused and/or permitted Leroi Funeral Services to issue funeral policies without having a licensed underwriter. Mtembu further collected premiums and processed claims on behalf of policy holders.
8. Mthembu did not dispute his knowledge and/or involvement in the conduct of Leroi Funeral Services and as a result, he 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. Leroi Funeral Services and Mtembu have admitted all the contraventions.

ENFORCEABLE UNDERTAKING

9. Leroi Funeral Services and Mtembu gives the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:
- 9.1. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter.

NON-COMPLIANCE WITH THE UNDERTAKING

10. Leroi Funeral Services and Mtembu understand that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:
- 10.1. may impose an administrative penalty against Leroi Funeral Services and/or Mtembu on the basis of joint and several liability;
- 10.2. may debar Leroi Funeral Services and Mtembu; and/or
- 10.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking.
11. Leroi Funeral Services and Mtembu acknowledge that they are familiar with all the provisions of section 151 of the FSR Act.

DATED AT Pretoria ON THIS 23 DAY OF February 2023.

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Mr Sfiso Mtembu

(On behalf of Leroi Funeral Services)



Mr Sfiso Mtembu

(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 16th DAY OF MAY 2023.



Gerhard van Deventer

(For the Authority)

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