

**TO BE PUBLISHED BY THE FSCA**

**Case No: 2000**

**In the matter between:**

**The Financial Sector Conduct Authority**

**And**

**Mr Eugene Sihlesakhe Magudulela**

**Magudulela's Estate Services Closed Corporation (CC) t/a Magudulela's Unique Funerals**

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

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**DEFINITIONS**

1. For purposes of this undertaking, the following definitions shall apply:
  - 1.1. **"Magudulela's Estate Services Closed Corporation (CC) t/a Magudulela's Unique Funerals"** means **Magudulela's Unique Funerals**, 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 2006/083071/23, with its principal place of business situated at 19 Lyell Street, Ladysmith, Kwa-Zulu Natal, 3370.
  - 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, Magudulela and Magudulela's Unique Funerals.

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**Executive Committee:**

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

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- 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. **"FSP"** means an authorised Financial Services Provider.
- 1.8. **"Magudulela"** means Mr Eugene Sihlesakhe Magudulela, the sole director of Magudulela's Unique Funerals.
- 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 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 Magudulela's Unique Funerals 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. Magudulela confirmed that Magudulela's Unique Funerals collected insurance premiums and processed claims without the necessary authorisation.

#### **INVESTIGATION AND CONTRAVENTIONS**

5. The Authority commenced an investigation into the conduct of Magudulela's Unique Funerals and Magudulela, as empowered by section 135(1) of the FSR Act. The investigation was in respect of their conduct during the period 1 January 2019 to 31 March 2023, to determine whether there was a reasonable suspicion of contraventions of the following financial sector law(s):

- 5.1. 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.
- 5.2. 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.
6. Magudulela's Unique Funerals issued funeral policies without having a licensed underwriter in contravention of Section 5(1) of the Insurance Act.
7. Magudulela's Unique Funerals advised policyholders in respect of the funeral policies without having a FSP license and therefore contravened section 7(1) of the FAIS Act.
8. Magudulela, 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.
9. Magudulela did not dispute his knowledge and/or involvement in the conduct of Magudulela's Unique Funerals 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.
10. Magudulela's Unique Funerals and Magudulela have admitted to all the contraventions.

#### **ENFORCEABLE UNDERTAKING**

11. Magudulela's Unique Funerals and Magudulela gives 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 is placed with a licensed underwriter.
  - 11.2. They will ensure that at all relevant times Magudulela's Unique Funerals and all its representatives are registered as juristic representatives/ representatives of an authorised FSP.

**NON-COMPLIANCE WITH THE UNDERTAKING**

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

DATED AT Ladysmith ON THIS 25 DAY OF May 2023.



Mr Eugene Sihlesakhe Magudulela

(On behalf of Magudulela's Unique Funerals)



Mr Eugene Sihlesakhe Magudulela

(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 1<sup>ST</sup> DAY OF JUNE 2023.

A handwritten signature in dark ink, appearing to read 'Gerhard van Deventer', written in a cursive style.

Gerhard van Deventer

(For the Authority)