

**TO BE PUBLISHED BY THE FSCA**

**Case No: 2184**

**In the matter between:**

**The Financial Sector Conduct Authority**

**And**

**Mr Mfana Nathaniel Maimela**

**Melumzansi Funeral Services CC**

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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. **"Melumzansi"** means **Melumzansi Funeral Services CC**, a close corporation, duly incorporated and registered in accordance with the Companies Act No. 71 of 2008 of the Republic of South Africa, under registration number 2005/114660/23, with its principal place of business situated at 21079 EXT 3 Buffer Zone, Mamelodi East, Gauteng, 0122.
91. in 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 Melumzansi.
- 1.4. **"FAIS Act"** means the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended.

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**Executive Committee:**

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



- 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. **"Maimela"** means Mr Mfana Nathaniel Maimela, a member of Melumzansi.
- 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 or required to be licenced in terms of financial sector laws. The FSR Act empowers the Authority to supervise and enforce compliance with financial sector laws.
3. On 29 August 2022, the Authority received information that Melumzansi was issuing funeral polices (insurance business) without having an insurer, which was a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Maimela has confirmed that from 1 January 2019 to 30 April 2022, Melumzansi advised a total of XXX clients, collected a total amount of RXXX in premiums and settled a total number of XXX claims valued RXXX.
5. Maimela further confirmed that the XXX clients/policyholders Melumzansi advised were never placed with any licensed insurer.

## INVESTIGATION AND CONTRAVENTIONS

6. On 25 February 2023, the Authority commenced an investigation into the conduct of Melumzansi and Maimela, in terms of section 135 of the FSR Act. The investigation was in respect of their conduct during the period 1 January 2019 to 30 April 2022, to determine whether there was a contravention of:

- 6.1. 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; and

- 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; The investigation revealed that during the period from 1 January 2020 to 30 April 2023, Melumzansi and Maimela issued ~~XXX~~ funeral policies without a licensed insurer in contravention of Section 5(1) of the Insurance Act.
- 6.3. The investigation revealed that during the period from 1 January 2020 to 30 April 2023, Melumzansi and Maimela advised, collected RXXX premiums and settled XXX claims valued RXXX on behalf of policyholders.

7. Maimela did not dispute their knowledge and/or involvement in the conduct of Melumzansi 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.

8. Melumzansi and Maimela have cooperated with the Authority and admitted all the facts and contraventions in respect of this investigation.

#### **ENFORCEABLE UNDERTAKING**

9. Melumzansi and Maimela tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:

- 9.1. In order to comply with section 5(1) of the Insurance Act, Melumzansi and Maimela will move all insurance business to a licenced underwriter of their choice within 90 working days, from the date of the signature of this Enforceable undertaking;
- 9.2. In order to comply with section 7(1)(b) of the FAIS Act, Melumzansi and Maimela will ensure that they and all their 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;

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- 9.3. Melumzansi and Maimela will ensure that at all relevant times their clients' insurance business is placed with a licensed insurer;
- 9.4. Melumzansi and Maimela will submit proof within 90 working days from the date of the signature of this Enforceable undertaking, that paragraph 9.1 and 9.2 above was complied with; and
- 9.5. Melumzansi and Maimela will ensure that at all relevant times they and all its representatives are registered as juristic representatives /or representatives of an authorised FSP.

#### **NON-COMPLIANCE WITH THE UNDERTAKING**

10. Melumzansi and Maimela understands that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:
- 10.1. may impose an administrative penalty against Melumzansi and/or Maimela, on the basis of joint and several liability;
- 10.2. may debar Melumzansi and Maimela; and/or
- 10.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking.
11. Melumzansi and Maimela acknowledge that they are familiar with all the provisions of section 151 of the FSR Act. 156

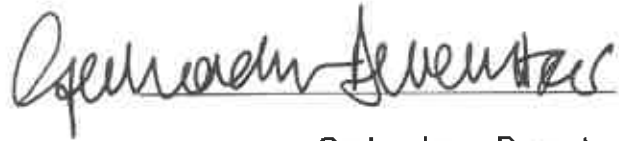
DATED AT Mamelodi ON THIS 21 DAY OF June 2023.

Mr Mfana Nathaniel Maimela  
(On behalf of Melumzansi)

Mr Mfana Nathaniel Maimela  
(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 18 DAY OF JUNE 2023.



Gerhard van Deventer

(For the Authority)