

[TO BE PUBLISHED BY THE FSCA]

Case No: 2137

In the matter between:

The Financial Sector Conduct Authority

And

Ms Konekone Sophy Ndlovu

Matekenya Funeral Undertaker and Burial Society (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. **"Matekenya "** means **Matekenya Funeral Undertaker and Burial Society (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 2014/054158/07, with its principal place of business situated at shop number 7, 46 Dudu Madisha Street, Mokopane, 0600.
 - 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 Matekenya .
 - 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.

Executive Committee:

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

- 1.6. **"FSR Act"** means the Financial Sector Regulation Act No. 9 of 2017 as amended.
- 1.7. **"Ndlovu"** means Ms Konekone Sophy Ndlovu, the director of Matekenya.
- 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 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 Matekenya Funeral Undertaker and Burial Society 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. Ndlovu confirmed that from February 2021 to date, Matekenya collected premiums and processed claims.
- 5. Ndlovu further confirmed that Matekenya never had any licensed underwriter for its funeral scheme.

INVESTIGATION AND CONTRAVENTIONS

- 6. The Authority commenced an enquiry into the conduct of Matekenya and Ndlovu, as empowered by section 135(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period 01 January 2020 to 31 March 2023, to determine whether there was a reasonable suspicion that the aforementioned persons contravened:
 - 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; 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 Act.

7. Ndlovu, caused and/or permitted Matekenya to issue funeral policies without having a licensed underwriter. Ndlovu further collected premiums and processed claims in respect of policy holders.
8. Ndlovu did not dispute her knowledge and/or involvement in the conduct of Matekenya and as a result, she caused and/or permitted the contraventions of sections 7(1) of the FAIS Act, 5(1) of the Insurance Act. Matekenya and Ndlovu have admitted all the contraventions.


ENFORCEABLE UNDERTAKING

9. Matekenya and Ndlovu, tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act.
 - 9.1. They will regularise their business within 90 days from the date of signing this Enforceable Undertaking; and
 - 9.2. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter.

NON-COMPLIANCE WITH THE UNDERTAKING

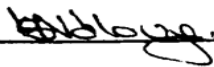
10. Matekenya and Ndlovu, understands that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:
 - 10.1. may impose an administrative penalty against Matekenya and Ndlovu, on the basis of joint and several liability;
 - 10.2. may debar Matekenya and Ndlovu;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

DATED AT Giyani ON THIS 06th DAY OF June 2023.



Ms konekone Sophy Ndlovu

(On behalf of Matekenya)

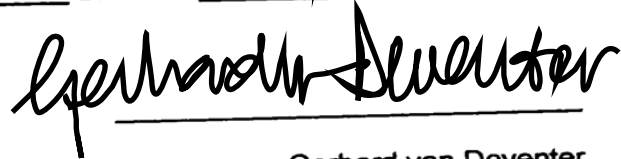


Ms Konekone Sophy Ndlovu

(In her 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 28TH DAY OF JUNE 2023.



Gerhard van Deventer

(For the Authority)

