

[TO BE PUBLISHED BY THE FSCA]

Case No: 2499

In the matter between:

The Financial Sector Conduct Authority

And

Mrs Cecilia Motshabi Carolus

Chesli Caro Trading (Pty) Ltd

**ENFORCEABLE UNDERTAKING IN TERMS OF SECTION 151(1)(2) OF THE
FINANCIAL SECTOR REGULATION ACT, 2017**

DEFINITIONS

1. For purposes of this undertaking, the following definitions shall apply:

1.1. "**Chesli**" means **Chesli Caro Trading (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 2013/134347/07, with its principal place of business situated at 12 Margeriyen Street, Brentpark, Kroonstad, Free State, 9499.

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.

Executive Committee:

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


C.C.

- 1.3. **"Enforceable Undertaking"** means this undertaking duly signed and concluded between the Authority and Boikanyo.
- 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. **"Carolus"** means Mrs Cecilia Motshabi Carolus, sole director of Chesli.
- 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 Authority is empowered by the FSR Act to supervise and enforce compliance with financial sector laws.
3. The Authority received information that Chesli issued funeral polices without having an underwriter, which is a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. The investigation revealed that during the period from **1 August 2023 to 13 November 2023**, Chesli advised policyholders in respect of those funeral policies without having a FSP license and therefore contravened section 7(1) of the FAIS Act.
5. Carolus, in her capacity as director of Chesli, caused and/or permitted Chesli to issue funeral policies without having a licensed underwriter and advised policyholders in respect of those funeral policies without having a FSP license.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an investigation into the conduct of Chesli and Carolus, as empowered by section 135(1)(a) of the FSR Act. The investigation was in respect of their conduct during the period **1 August 2023 to 13 November 2023**, to determine whether there was a reasonable suspicion that the aforementioned persons contravened:
 - 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; and
 - 6.2. Section 5(1) of the Insurance Act No. 18 of 2017 (Insurance Act) which states that no person may conduct insurance business in the Republic unless that person is licensed under the Act.
7. During the period from **1 August 2023 to 13 November 2023**, Carolus caused and/or permitted Chesli to issue funeral policies without having a licensed insurer. Carolus further caused and/ or permitted Chesli to collect premiums and processed claims in respect of Chesli's policy holders.
8. Carolus did not dispute her knowledge and/or involvement in the conduct of Chesli and as a result, he caused and/or permitted the contraventions of section 7(1) of the FAIS Act and 5(1) of the Insurance Act. Chesli and Carolus have admitted all the contraventions.
9. Carolus and Chesli fully cooperated with the Authority during the course of the investigation.

ENFORCEABLE UNDERTAKING

10. Chesli and Carolus, tender the following Enforceable Undertaking to the Authority in terms of section 151(1)(2) of the FSR Act:
 - 10.1. In order to comply with 5(1) of the Insurance Act, they 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;
 - 10.2. In order to comply with 7(1) of the FAIS Act, Chesli, Carolus and all their representatives are registered as juristic representatives/ representatives of an authorised FSP, within 30 working days from the date of the signature of this Enforceable undertaking;
 - 10.3. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter; and
 - 10.4. They will ensure that at all relevant times Cesli and all its representatives are registered as juristic representatives/ representatives of an authorised FSP.

NON-COMPLIANCE WITH THE UNDERTAKING

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

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DATED AT FSCA ON THIS 13 DAY OF November 2023.



Mrs Cecilia Motshabi Carolus

(On behalf of Chesli)



Mrs Cecilia Motshabi Carolus

(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 FSCA ON THIS 13 DAY OF November 2023.



Mr Gerhard van Deventer

(For the Authority)