

[TO BE PUBLISHED BY THE FSCA]

Case No: 2523

In the matter between:

The Financial Sector Conduct Authority

And

Mirriam Kedibone Molefe

Retswelapele Funeral Services

**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. **"Retswelapele Funeral Services"** means **Retswelapele Funeral Services** 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 2015/268730/07, with its principal place of business situated at number 9 President Street, Krugersdorp, Mogale City, Gauteng 1754.
 - 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 Retswelapele 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.
- 1.6. **"FSR Act"** means the Financial Sector Regulation Act No. 9 of 2017 as amended.
- 1.7. **"Mirriam"** means Mirriam Kedibone Molefe, a director of Retswelapele 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 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 Retswelapele 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. Mirriam confirmed that from 1 January 2020 to 31 October 2023 Retswelapele Funeral Services advised a total of 68 clients, collected a total amount of R 33,720 in premiums and settled a total number of 37 claims valued at R 169,500
5. Mirriam further confirmed that the 68 clients/policyholders of Retswelapele Funeral Services are currently not placed with any licensed insurer.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an enquiry into the conduct of Retswelapele Funeral Services Mirriam, 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 October 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. During the period from 1 January 2020 to 31 October 2023, Mirriam, caused and/or permitted Retswelapele Funeral Services to issue funeral policies without having a licensed underwriter. Mirriam further caused and/ or permitted Retswelapele Funeral Services to collect premiums and processed claims in respect of Retswelapele Funeral Services's policy holders.
8. Mirriam did not dispute his knowledge and/or involvement in the conduct of Retswelapele 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. Retswelapele Funeral Services and Mirriam have admitted all the contraventions.

ENFORCEABLE UNDERTAKING


9. Retswelapele Funeral Services and Mirriam, tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act.

- 9.1. They will provide proof of their insurance business underwriting within 90 days from the date of signing this Enforceable Undertaking;
- 9.2. They will ensure that all their representatives are added to the representative register of a financial services provider or an underwriter within 90 days from the date of signing this Enforceable Undertaking; and
- 9.3. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter.

NON-COMPLIANCE WITH THE UNDERTAKING

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

SIGNED AT Krugersdorp ON THIS 25 DAY OF January
2024



Mirriam Kedibone Molefe

(On behalf of Retswelapele Funeral Services)



Mirriam Kedibone Molefe

(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

SIGNED AT Pretoria ON THIS 25 DAY OF March
2024.



Gerhard van Deventer

(For the Authority)