

TO BE PUBLISHED BY THE FSCA

Case No: 262

In the matter between:

The Financial Sector Conduct Authority

And

Mr Nthabeleng Thuto Msimanga

Mohapi Funeral Services CC

**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. **“Mohapi Funeral”** means **Mohapi Funeral Services CC**, duly incorporated and registered in accordance with the company laws of the Republic of South Africa, under registration number 2005/057295/23, with its principal place of business situated at 6223 Mampoi Street, Phuthaditjhaba, 9866.
 - 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 Mohapi Funeral.

Executive Committee:

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

- 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. **“Msimanga”** means Mr Nthabeleng Thuto Msimanga, a member of Mohapi Funeral.
- 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. On 25 March 2024, the Authority received information that Mohapi Funeral was issuing funeral policies (insurance business) without having an insurer, which was a contravention of section 5 of the Insurance Act 18 of 2017 (the Insurance Act).
4. Msimanga has confirmed that from 1 January 2023 to 30 October 2024 Mohapi Funeral advised a total of **.350..** clients, collected a total amount of R **240 000** in premiums and settled a total number of **10.** claims valued at R **110 000..**
5. Msimanga further confirmed that the **...350.** clients/policyholders of Mohapi Funeral advised were never placed with any licensed insurer during the period from 1 January 2023 to 30 October 2024.

INVESTIGATION AND CONTRAVENTIONS

6. On 10 April 2024, the Authority commenced an enquiry into the conduct of Mohapi Funeral, as empowered by section 135(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period 1 January 2023 to 30 October 2024, 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 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 Act”*.
7. The investigation revealed that during the period from 1 January 2023 to 31 October 2024, Mohapi Funeral collected **R240 000**...premiums and settled **10** claims valued **R 110 000**..... on behalf of policyholders. Mohapi Funeral issued funeral policies without having a licensed underwriter in contravention of Section 5(1) of the Insurance Act.
8. The investigation revealed that during the period from 1 January 2023 to 31 October 2024, Mohapi Funeral advised policyholders in respect of those funeral policies without having a FSP license and therefore contravened section 7(1) of the FAIS Act.
9. Msimanga did not dispute her knowledge and/or involvement in the conduct of Mohapi Funeral 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. Mohapi Funeral and Msimanga have cooperated with the Authority and admitted all the facts and contraventions in respect of this investigation.

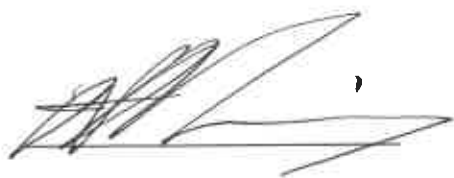
ENFORCEABLE UNDERTAKING

11. Mohapi Funeral and Msimanga, tender the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act.
 - 11.1. They will provide proof of their insurance business underwriting within 60 days from the date of signing this Enforceable Undertaking;
 - 11.2. 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
 - 11.3. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter.

NON-COMPLIANCE WITH THE UNDERTAKING

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

DATED AT Phuthaditjaba ON THIS 29 DAY OF January 2025.



Mr Nthabeleng Thuto Msimanga

(On behalf of Mohapi Funeral)



Mr Nthabeleng Thuto Msimanga

(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 14th DAY OF MAY 2025.



Gerhard van Deventer

(For the Authority)