



Financial Sector
Conduct Authority

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[TO BE PUBLISHED BY THE FSCA]

Case No: 551

In the matter between:

The Financial Sector Conduct Authority

And

Phinda Funeral Parlour (Pty) Ltd

Palesa Adelinah Phinda

**ENFORCEABLE UNDERTAKING IN TERMS OF SECTION 151(1) OF THE FINANCIAL
SECTOR REGULATION ACT 9 OF 2017**

DEFINITIONS

1. For purposes of this undertaking, the following definitions shall apply:
 - 1.1. "Phinda Funeral" means Phinda Funeral Parlour (Pty) Ltd, a private company with limited liability, duly incorporated and registered in accordance with the Companies Act 71 of 2008 of the Republic of South Africa, under registration number 2022/412809/07, with its principal place of business situated at 1471 Metampelong Str Qibing Location, Wepener, Free State.
 - 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 Phinda Funeral.

- 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. **"FSP"** means an authorised Financial Services Provider.
- 1.8. **"Ms. Phinda"** means **Palesa Adelinah Phinda**, a director of **Phinda Funeral**.
- 1.9. **"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 a financial sector law. The Authority is empowered by the FSR Act to supervise and enforce compliance with financial sector laws.
3. On 15 November 2024, the Authority received information that Phinda Funeral was issuing funeral policies (insurance business) without having an insurer, which was a contravention of section 5(1) of the Insurance Act 18 of 2017 (the Insurance Act).
4. Ms. Phinda confirmed that from **2 January 2023 to 30 April 2025**, Phinda Funeral advised a total of 100 clients, collected a total amount of R 472 000 in premiums and settled a total number of 40 claims valued R 320,000.
5. Ms. Phinda further confirmed that the clients/policyholders of Phinda Funeral are currently not placed with any licensed insurer.

INVESTIGATION AND CONTRAVENTIONS

6. On 03 December 2024, the Authority commenced an investigation into the conduct of Phinda Funeral and Ms. Phinda in terms of section 135(1)(a) of the FSR Act. The investigation was in respect of their conduct during the period 1 January 2023 to 30 April 2025, to determine whether there was a reasonable suspicion of contraventions of the following financial sector law(s):

- 6.1. Section 7(1) of the FAIS Act which provides 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"*.
- 6.2. Section 5(1) of the Insurance Act which provides that *"no person may conduct insurance business in the Republic unless that person is licensed under the Insurance Act"*.
7. The investigation revealed that during the period from **2 January 2023 to 30 April 2025**, Ms. Phinda caused and/or permitted Phinda Funeral to issue funeral policies without having a licensed underwriter. Ms. Phinda further caused and/or permitted Phinda Funeral to collect premiums and processed claims in respect of Phinda Funeral policy holders.
8. Ms. Phinda did not dispute his knowledge and/or involvement in the conduct of Phinda 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.
9. Ms. Phinda have cooperated with the Authority and admitted all the facts and contraventions in respect of this investigation.
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ENFORCEABLE UNDERTAKING

10. Ms. Phinda gives the following Enforceable Undertaking to the Authority in terms of section 151(1) of the FSR Act:
- 10.1. They will provide proof of their insurance business underwriting within 30 working days from the date of signing this enforceable undertaking;
- 10.2. They will ensure that all their representatives are added to the representative register of a financial service provider or an underwriter within 30 working days from the date of signing this Enforceable Undertaking; and
- 10.3. They will ensure that at all relevant times their clients' insurance business is placed with a licensed underwriter.

NON-COMPLIANCE WITH THE UNDERTAKING

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

DATED AT Bloemfontein ON THIS 20 DAY OF May 2025.

p. phinda
Palesa Adelinah Phinda
(On behalf of Phinda Funeral)

p. phinda
Palesa Adelinah Phinda
(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 29 DAY OF May 2025.

Gerhard van Deventer

Gerhard van Deventer