

[TO BE PUBLISHED BY THE FSCA]

Case No: 2703

In the matter between:

The Financial Sector Conduct Authority

And

Sanele Gabriel Mthuli

Gabriel Mthuli Trading cc FSP 47459

Gabriel Mthuli Operation Pty Ltd FSP 48412

**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. **“Gabriel Mthuli Trading”** means **Gabriel Mthuli Trading CC** duly incorporated and registered in accordance with the company laws of the Republic of South Africa, under registration number 2010/042115/23, with its principal place of business situated at Kwanzimakwe Munster, Kwazulu Natal, 4278
 - 1.2. **“Gabriel Mthuli Operation”** means **Gabriel Mthuli Operation Pty Ltd** duly incorporated and registered in accordance with the company laws of the Republic of South Africa, under registration number 2017/051003/07 with

Executive Committee:

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

89

its principal place of business situated at Kwanzimakwe Munster, Kwazulu Natal, 4278

- 1.3. **“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.
- 1.4. **“Enforceable Undertaking”** means this undertaking duly signed and concluded between the Authority and Sanele Gabriel Mthuli, Gabriel Mthuli Trading and Gabriel Mthuli Operation.
- 1.5. **“FAIS Act”** means the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended.
- 1.6. **“FSR Act”** means the Financial Sector Regulation Act No. 9 of 2017 as amended.
- 1.7. **“Mthuli”** means Sanele Gabriel Mthuli, a member of Gabriel Mthuli Trading and a director of Gabriel Mthuli Operation.
- 1.8. **“The Authority”** means the Financial Sector Conduct Authority.
- 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 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 Gabriel Mthuli Trading and Gabriel Mthuli Operation Pty Ltd 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. Mthuli has confirmed that from 01 January 2021 to 30 April 2025 Gabriel Mthuli Trading and Gabriel Mthuli Operation advised a total of approximately 3450 main members with extended clients, collected a total amount of approximately R1.2 million in premiums per month and settled a total number of approximately 20 claims monthly valued at R 200 000 .
5. Mthuli further confirmed that the 3450 of policyholders of Gabriel Mthuli Trading/ and Gabriel Mthuli Operation are currently not placed with any licensed insurer.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an enquiry into the conduct of Mthuli, Gabriel Mthuli Trading and Gabriel Mthuli Operation as empowered by section 135(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period **01 January 2021 to 30 April 2025**, 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 **01 January 2021 to 30 April 2025**, Mthuli, caused and/or permitted Gabriel Mthuli Trading and Gabriel Mthuli Operation to issue funeral policies without having a licensed underwriter. Mthuli further caused and/ or permitted Gabriel Mthuli Trading and Gabriel Mthuli Operation to collect premiums and processed claims in respect of Gabriel Mthuli Trading and Gabriel Mthuli Operation's policy holders.

8. Mthuli did not dispute his knowledge and/or involvement in the conduct of Gabriel Mthuli Trading and Gabriel Mthuli Operation 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. Mthuli, Gabriel Mthuli Trading and Gabriel Mthuli Operation have admitted all the contraventions.

ENFORCEABLE UNDERTAKING

9. Gabriel Mthuli Trading/ Gabriel Mthuli Operation Pty Ltd and Mthuli, 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 30 working 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 30 workings 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. Gabriel Mthuli Trading/ Gabriel Mthuli Operation Pty Ltd **and** Mthuli, understands that if any term contained in this Enforceable Undertaking is breached or contravened, the Authority:
- 10.1. may impose an administrative penalty against Gabriel Mthuli Trading, Gabriel Mthuli Operation and Mthuli, on the basis of joint and several liability.
- 10.2. may debar Mthuli; and/or

10.3. may approach the Tribunal to make certain orders in respect of the Enforceable Undertaking.

11. Gabriel Mthuli Trading, Gabriel Mthuli Operation and Mthuli, acknowledge that they are familiar with all the provisions of section 151 of the FSR Act.

SIGNED AT Margate ON THIS 20th DAY OF MAY 2025.



Sanele Gabriel Mthuli

(On behalf of Gabriel Mthuli Trading)



Sanele Gabriel Mthuli

(On behalf of Gabriel Mthuli Operation)



Sanele Gabriel Mthuli

(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

SIGNED AT PRETORIA ON THIS 25 DAY OF JULY 2025.

A handwritten signature in black ink, appearing to read 'Gerhard van Deventer', written over a horizontal line.

Gerhard van Deventer

(For the Authority)