

[TO BE PUBLISHED BY THE FSCA]

Case No: 2501

In the matter between:

The Financial Sector Conduct Authority

And

Ms Magda Elizabeth Koen

Greenway Burial Society 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. “**Greenway Burial Society**” means **Greenway Burial Society CC** 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 2010/151332/23, with its principal place of business situated at 31 ST. Georges Street, Cor, Hanger St, Bloemfontein, 9301.
 - 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

- 1.3. “**Enforceable Undertaking**” means this undertaking duly signed and concluded between the Authority and Greenway Burial Society.
- 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. “**Koen**” means Ms Magda Elizabeth Koen, a director of Greenway Burial Society.
- 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 Greenway Burial Society 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. Koen has confirmed that from 1 Aug '22 to 31 Oct '23 Greenway Burial Society advised a total of 800 clients, collected a total amount of R1783942 in premiums and settled a total number of 51 claims valued at R 238 000 .
5. Koen further confirmed that the 800 clients/policyholders of Greenway Burial Society are currently not placed with any licensed insurer.

INVESTIGATION AND CONTRAVENTIONS

6. The Authority commenced an enquiry into the conduct of Greenway Burial Society and Koen, 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 August 2022 to 31 October 2023, Koen, caused and/or permitted Greenway Burial Society to issue funeral policies without having a licensed underwriter. Koen further caused and/ or permitted Greenway Burial Society to collect premiums and processed claims in respect of Greenway Burial's policy holders.
8. Koen did not dispute his knowledge and/or involvement in the conduct of Greenway Burial Society 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. Greenway Burial Society and Koen have admitted all the contraventions.

ENFORCEABLE UNDERTAKING

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

DATED AT Bloemfontein ON THIS 9th DAY OF January 2024.



Ms Magda Elizabeth Koen

(On behalf of Greenway Burial Society)



Ms Magda Elizabeth Koen

(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 Pretoria ON THIS 25 DAY OF March 2024.



Gerhard van Deventer

(For the Authority)