

**[TO BE PUBLISHED BY THE FSCA]**

**Case No: 2351**

**In the matter between:**

**The Financial Sector Conduct Authority**

And

**Gundo Negukhula**

**NMG Holdings (Pty) Ltd**

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

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**DEFINITIONS**

1. For purposes of this undertaking, the following definitions shall apply:
  - 1.1. **“NMG Holdings”** means **NMG Holdings (Pty) Ltd** 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 2020/191755/07, with its principal place of business situated at 27 Duiwenhoks Circle, Alberton, Gauteng, 1448.
  - 1.2. **“Negukhula”** means Gundo Negukhula, an adult female and sole director of NMG Holdings.

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**Executive Committee:**

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

- 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, Negukhula and NMG Holdings.
- 1.5. “**FAIS Act**” means the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended.
- 1.6. “**The Authority**” means the Financial Sector Conduct Authority.
- 1.7. “**FSR Act**” means the Financial Sector Regulation Act No. 9 of 2017 as amended.
- 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 NMG Holdings issued funeral policies without having an underwriter, which is a contravention of section 5 of the Insurance Act, No. 18 of 2017 (the Insurance Act).
4. Negukhula confirmed that during the period 1 May 2020 to 23 August 2023 NMG Holdings advised a total of 110 clients/policyholders, collected a total amount of R363 146 in premiums and settled one (1) claim valued at R30 000.

5. Negukhula further confirmed that the 110 clients/policyholders of NMG Holdings are currently placed with a licensed insurer and that NMG Holdings had ceased business operations.

### **INVESTIGATION AND CONTRAVENTIONS**

6. The Authority commenced an investigation into the conduct of NMG Holdings and Negukhula, as empowered by section 135(1)(a) of the FSR Act. The enquiry was in respect of their conduct during the period 1 May 2020 to 23 August 2023, to determine whether 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 May 2020 to 23 August 2023, Negukhula, caused and/or permitted NMG Holdings to issue funeral policies without having a licensed underwriter. Negukhula further caused and/ or permitted NMG Holdings to collect premiums and processed claims in respect of NMG Holdings' policy holders.

8. Negukhula did not dispute her knowledge and/or involvement in the conduct of NMG Holdings and as a result, she caused and/or permitted the contraventions of sections 7(1) of the FAIS Act, 5(1) of the Insurance Act. Negukhula and NMG Holdings have admitted all the contraventions.

### **ENFORCEABLE UNDERTAKING**

9. In the event that Negukhula and NMG Holdings start operating in future, the following Enforceable Undertaking in terms of section 151(1) of the FSR Act will take effect:

- 9.1. They will ensure that at all relevant times the business and all its representatives are added to the representative register of a financial services provider; and
- 9.2. They will ensure that at all relevant times their clients' insurance business is placed with a licensed insurer.

**NON-COMPLIANCE WITH THE UNDERTAKING**

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

**SIGNED AT** ALBERTON **ON THIS** 25 **DAY OF** MARCH **2024.**



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Gundo Negukhula

(On behalf of NMG Holdings)



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Gundo Negukhula

(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** 11 **DAY OF** April  
**2024.**

  
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Gerhard van Deventer

(For the Authority)