

**IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS
PRETORIA**

CASE NUMBER: FAIS-34596-22/23 FS 1

In the matter between: -

PULUNGOANA MOETI

Complainant

and

LEBOHANG FUNERAL HOME (PTY) LTD (FSP NO. 50729)

Respondent

**DETERMINATION IN TERMS OF SECTION 28(1) OF THE FINANCIAL
ADVISORY AND INTERMEDIARY SERVICES ACT NO. 37 OF 2002 ('FAIS ACT')**

THE PARTIES

- [1] The Complainant complained to the FAIS Office on 23 January 2023.
- [2] The Complainant is Pulungoana Moeti, an adult male.
- [3] The Respondent is Lebohang Funeral Home (Pty) Ltd, ("Lebohang") a company duly incorporated under South African law, with the registration number (2017/035710/07). The Respondent's registration as a financial services provider (FSP) (license number 50729) was suspended on 31 July 2024.

THE COMPLAINT

- [4] Mr. Moeti's funeral policy with Lebohang was incepted on 10 December 2018.
- [5] The monthly premiums payable on the policy were R200.00 with a benefit of R20,000.00.
- [6] When Mr. Moeti's sister, Malebina Mokoena Tjeku Tsosane, the life insured on the policy, passed away on 13 November 2022, he submitted a claim. The claim was not paid.
- [7] Mr. Moeti submits that the death occurred outside the waiting periods set by the contract and there are no grounds for Lebohang's non-payment.
- [8] Mr. Moeti approached this office for assistance to have the R20 000.00 claim paid out.

RESPONSE FROM GAVANNI GROUP SCHEMES (UNDERWRITER)

- [9] On or about 16 August 2022, Lebohang approached Gavanni (the Underwriters) to underwrite their policyholders due to historical non-compliance, as cited by the Financial Sector Conduct Authority.
- [10] On the same date, an invoice was then issued to Lebohang to the value of R102,477.50 for funeral insurance premiums collected from its members. The invoice provided to Lebohang was never paid. Thus, the policies were not incepted with Gavanni and also not the underlying underwriter, which in this case is Rand Mutual Assurance.
- [11] On 02 September 2022, Lebohang signed an acknowledgement of debt (AOD) to pay the outstanding August premiums by 15 September 2022. They failed to adhere to the terms of said AOD, and the invoice remains outstanding.
- [12] Confirmation of cover and policy inception can only be provided upon receipt of the first premium for that particular risk period. Lebohang's failure to remit policyholder premiums from August to November 2022 resulted in no insurance risk cover for the


same period. No coverage was confirmed for any policyholders as no risk was assumed over said period.

- [13] Notwithstanding the above, Lebohang continued to unlawfully send client claims to Gavanni and communicate to their clients that Gavanni is withholding claims.
- [14] Gavanni only assumed the risk when it received the first premium on 12 December 2022. This risk only applied to policyholders introduced to them for the risk period commencing 1 December 2022, with policy conditions that would include natural deaths having a waiting period of six (6) months. This period runs for one hundred and eighty (180) days from the date the first premium was paid. All six premium payments were required for the 6 month period but no payments were received.
- [15] As a result, they submit that no risk was accepted over the period in question, and no policies were incepted.
- [16] On 17 February 2023, Gavanni Group Schemes sent the Respondent a notice of termination of services due to the funeral home's non-payment of the underwriting fees.



RESPONDENT'S RESPONSE

- [17] Their cover with Gavanni started in September 2022, and there was no waiting period as far as they were concerned because they had a valid claim ratio from Safrican (the previous underwriter).

Scheme Code		S023654			
ASISA Claims Experience		1			
Plan Number	P020958				
Scheme Name	LEBOHANG FUNERAL HOME SOCIETY (M+)				
Scheme Number	S023654				
Experience End Date	31 July 2022				
FROM	END OF PERIOD	DEATH CLAIMS PAID	NUMBER OF CLAIMS		
1/01/2017	31/12/2017	R 0	0		
1/01/2018	31/12/2018	R 0	0		
1/01/2019	31/12/2019	R 0	0		
1/01/2020	31/12/2020	R 0	0		
1/01/2021	31/12/2021	R 0	0		
1/01/2022	31/07/2022	R 220,000	14		
Totals to date		R 220,000	14		

*based on transaction date

- [18] They paid Gavanni in December 2022 and communicated regularly with them regarding the delay in payments.
- [19] Gavanni mentioned that they would negotiate with the insurer to pay the October and November 2022 claims as long as the outstanding premiums were paid.
- [20] When the payment was made, Gavanni assured them that the claims for December and January 2023 would be paid. The claims for October and November 2022 would be pended subject to payment of the premiums.
- [21] Lebohang submits that they physically went to the Gavanni office on 13 January 2023 and met with them. Gavanni promised they would pay the claims. Based on this, they called their clients, assuring them that their claims would be paid the following week, 16-20 January 2023. However, no payment was made to clients.

[22] Lebohang did not provide any documentary or other evidence to support any payments made or what it was told by Gavanni.

ATTEMPTS TO RESOLVE THE MATTER

[23] On 18 June 2024, a recommendation in terms of section 27 (5) (c) of the FAIS Act was sent to Lebohang recommending that it settle the claim.

[24] On 27 June 2024, Lebohang agreed to pay the R20,000.00 claim in instalments of R1000.00 per month.

[25] This Office advised Lebohang to pay the claim amount of R20,000 as a lump sum or make a reasonable lump sum payment offer that the Complainant could consider.

[26] To date, no evidence of payment has been provided by Lebohang. The Complainant also confirmed that no payment was received.

[27] Repeated attempts to contact Lebohang by telephone and email have been unsuccessful.

ASSESSMENT OF THE EVIDENCE

[28] The Respondent issued the policy in question when RMA Life was the underwriter at the time. The policy was incepted on 10 December 2018, and the insured passed away on 13 November 2022.

[29] Based on the evidence submitted, the policyholder paid all the required premiums, and the claim for R20 000 was valid and should have been paid.

[30] The Respondent submitted that it was underwritten by Giovanni and blamed Gavanni for non-payment of the claim.

[31] Gavanni rejected the claim as it had not received any premiums from Lebohang for that period. It terminated its service agreement in February 2023.

[32] There is no clear evidence that Gavanni was the underwriter of the Complainant's policy when the insured passed away in November 2022.

[33] Lebohang appears to have unlawfully issued policies and accepted premiums without being underwritten. It is solely responsible and liable for paying the claim submitted by the Complainant.

[34] The Complainant paid the premiums to Lebohang and is entitled to payment of the claim. Lebohang further agreed to settle the claim. Lebohang's dispute with Gavanni regarding the payment of premiums and the agreement reached does not constitute a valid defence.

[35] Lebohang was still registered as a Financial Services Provider at the time the complaint was lodged with the Office. The subsequent suspension of the license does not affect the Office's jurisdiction to adjudicate on the matter.

THE ORDER

[36] The following order is made:

- The complaint is upheld.
- The Respondent is ordered to pay the Complainant the amount of R20,000.00; and
- Pay interest on the said amount at a rate of 11.75% per annum from the date of this determination to the date of final payment.

Please note that a person aggrieved by this decision has the right to apply for the reconsideration of the decision by the Financial Services Tribunal ("the Tribunal") as contemplated in section 230 of the Financial Sector Regulation Act.

An application for reconsideration must be made:

- (a) *In accordance with the Tribunal rules ([link](#)); and*

(b) Within 30 days as set out in section 230(2) of the FSR Act.

The contact details of the Tribunal secretariat are as follows:

Ms. Kim Host / Ms Alitah Morudu

E-mail: Applications@fstribunal.co.za

Telephone: (012) 741 4300 / (012) 741 4302 / (012) 741 4303

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546 Jochemus Street

Erasmuskloof

Pretoria

DATED AT PRETORIA ON THIS 1ST DAY OF NOVEMBER 2024

A handwritten signature in black ink, appearing to be 'John Simpson', written over a horizontal line. The signature is stylized with a large loop at the end.

ADV. JOHN SIMPSON

OMBUD FOR FINANCIAL SERVICES PROVIDERS