FAISOmbud
Office of the Ombud for Financial Services Providers

**OUR REFERENCE: FAIS-09156-10/11 FS 1**

**FAIS-09159-10/11 FS 1**

**13 April 2018**

**MR PIETER CRONJE**

**PIETER CRONJE MAKELAARS**

Per email: pcronje@internet-sa.co.za; margie@pcmk.co.za

**CAREL JACOBUS VAN ZYL** (first complainant) and **HESTER DORETHEA VAN ZYL** (second complainant) **v PIETER CRONJE MAKELAARS** (respondent)

**RECOMMENDATION IN TERMS OF SECTION 27 (5) (c) OF THE FAIS ACT 37 OF 2002**

## A. INTRODUCTION

1. The first and second complainant are married to each other and were aged 60 and 56 respectively at the time of advice. The complainants made investments in Sharemax (Zambezi and The Villa), on the advice of the respondent that their capital would be secured, and that there were no risks relative to the investments. The complainants also made an investment in Propspec (Pacific Coast Investments), on advice of the respondent.

2. When the news broke about the possible financial problems at Sharemax, the complainants continually contacted the respondent to discuss the matter. The respondent however assured the complainants that they had nothing to be concerned about.

3. The complainants have since stopped receiving income on their investments, and consider their capital lost. In their complaint, the complainants asked the assistance of this Office to recover their invested capital totaling R749 000.



Sussex Office Park, c/o Lynnwood and Sussex Avenue, Lynnwood, 0081
P O Box 74571, Lynnwood Ridge, 0040
Phone: (012) 762 5000 / (012) 470 9080; Fax: (012) 348 3447 / (012) 470 9097
www.faisombud.co.za

## B. THE PARTIES

4. The first complainant is Mr Carel Jacobus van Zyl, an adult male pensioner whose particulars are on file with this Office. The second complainant is Mrs Hester Dorethea van Zyl, an adult female pensioner whose particulars are also on file with this Office.

5. The respondent is Pieter Cronje Makelaars, a partnership according to the regulator's records. The respondent's address is noted as 4 Liebenberg Street, Nelspruit, 1200. The respondent is an authorised financial services provider with licence number 19980. The licence has been active since 9 November 2005.

6. I refer to the first and second complainants as "the complainant". Where appropriate, I specify.

## C. DELAYS IN FINALISING COMPLAINTS INVOLVING PROPERTY SYNDICATIONS

7. In view of our mandate to resolve complaints expeditiously, amongst other demands posed by section 20 of the FAIS Act, it is important to address the delay in finalising the property syndication related complaints. During September 2011, after the Office issued the *Barnes* determination[1], the respondent in that matter brought an urgent application seeking *inter alia*, a declaration that certain provisions of the FAIS Act were unconstitutional and the setting aside of the determination[2]. Before the fate of the application could be known, the respondents sought an undertaking from this Office that it would not proceed to determine any other property-syndication-related complaints involving them.

8. Since no legal basis existed for the respondent's demands, the Office continued to determine further property-related complaints, to which the respondents responded with an urgent application for an interdict to stop the Office from filing the determinations in court and issuing further determinations against them. The decision in the original application, favouring the Office, was finally delivered in July 2012. See in this regard *Deeb Risk v FAIS Ombud & Others*[3].

---

1 See E Barnes v D Risk Insurance Consultants FAIS-06793-10/11 GP 1

2 The respondent claimed that section 27 of the FAIS Act was unconstitutional

3 Gauteng High Court Division, case number 50027/2014

9. The Office continued to determine complaints involving property syndications after the High Court decision. However, in 2013 and following the *Siegrist* and *Bekker* determinations[4] and the relevant appeal, a decision was taken by the Office to halt processing property-syndication-related complaints. The decision was not taken lightly, but was a precautionary and necessary risk management step, as the Office had for the first time sought to hold the directors of property syndication schemes liable for complainants' losses. The said appeal was finally decided in April 2015[5], after which the Office resumed the processing of complaints that involved property syndications with due regard to the decision. A substantial number of complaints had to be shelved pending the Appeals Board decision.

**D. THE COMPLAINT**

10. The complainants have known the respondent since 2003. The first complainant resigned from his employment at a municipality and invested the proceeds of his pension fund in a Sanlam Glazier investment. He continued working as an intermediary for medical schemes, earning commission and income from other smaller investments. The first and second complainant are married in community of property and the second complainant was a housewife all her life. She earned no income, other than interest on a savings account with the bank.

11. The complainants approached the respondent during 2008, indicating that the income they are receiving from the Glazier investment is no longer sustaining them. The respondent invited the complainants to attend a presentation about Sharemax, which was portrayed as "the best and safest investment option". No risks were explained to them.

12. Following this presentation, the respondent allegedly advised that all available funds should be invested in Sharemax. No other investment options were offered. The Sharemax investments are set out below:

    12.1 R297 000 – Zambezi – March 2008 (H van Zyl)

---

[4] See in this regard FAIS-00039-11/12 and FAIS-06661-10/11

[5] See in this regard the decision of the Appeals Board date 10 April 2015

12.2 R297 000 – Zambezi – March 2008 (C van Zyl)

12.3 R40 000 – Zambezi – November 2008 (H van Zyl)

12.4 R30 000 – Zambezi – November 2008 (C van Zyl)

12.5 R30 000 – The Villa – March 2009 (H van Zyl)

12.6 R10 000 – The Villa – April 2009 (C van Zyl)

12.7 R30 000 – The Villa – January 2010 (H van Zyl)

13. During September 2009, the respondent informed the second complainant of an opportunity to invest in Propspec (Pacific Coast Investments). The investment was promoted to the complainant as a short, six months' investment. Despite the maturity of the investment, the complainant has to date not received her capital of R15 000 back.

14. The complainants, at every interaction with the respondent, emphasized that they are only interested in safe investments, especially since they previously lost money in the Krion[6] scheme. Each time however, the respondent assured the complainants that Sharemax is "their property", and that they could not lose their money.

15. The complainants claim they trusted that the respondent would provide them with the best possible advice, and therefore hold him liable for the losses they suffered.

**E. THE RESPONDENT'S VERSION**

16. During March 2011, notices in terms of rule 6 (b) were issued, referring the complaints to the respondent to resolve with his clients. The complaints were not resolved. The respondent provided his response to this Office. His reply is summarised as follows:

16.1 The respondent confirmed that the complainants were not satisfied with the performance of their investments and required a higher rate of return. Investments in Sharemax were accordingly recommended.

[6] An illegal Ponzi-type money multiplication scheme that operated between 1998 and 2002 wherein investors lost approximately R900 million when it collapsed in 2002.

16.2 The respondent claimed to have done the necessary due diligence on Sharemax. Amongst others, the respondent relied on the fact that Sharemax was registered with the FSB; the prospectus was registered with the Registrar of Companies; and that Sharemax had a good track record for a period of 10 years.

16.3 The respondent further confirmed that he acted as a representative of USSA[7]. This is because he did not have the necessary license to sell category 1.8 and 1.10 products.

16.4 In terms of the Propspec investment, the respondent confirmed that he approached the complainants with an offer to purchase shares in Pacific Coast Investments from a client who needed to sell her shares.

16.5 In all instances, the complainants signed the necessary documentation, including a record of advice which confirmed that they were investing in unlisted shares.

16.6 The respondent claimed that the complainants have not suffered a financial loss yet, owing to the scheme of arrangement in the case of Sharemax, and the business rescue plan for Propspec.

16.7 In conclusion, the respondent is of the view that he acted under supervision when rendering the financial advice, therefore, he cannot be held liable.

17. During May 2011 and May 2015 respectively, the Office addressed correspondence to the respondent in terms of Section 27 (4) of the FAIS Act, informing the respondent that the complaints had not been resolved and that this Office had intention to investigate the matter. The respondent was invited to provide the Office with his case, including supporting documents, in order for the Office to begin its investigation. No reply to these letters was received.

[7] Unlisted Securities South Africa was established by Gerhardus Rossouw Goosen while he was a director of Sharemax. Independent brokers like the respondent - who were licensed in their own right as Financial Services Providers, but lacked the correct license type - were able to market unsecured debentures as representatives of FSP Network Ltd, trading at the time as USSA. FSP Network was finally liquidated in 2013

**F. ANALYSIS**

***The law***

18. To place into context the paragraphs that follow, I find it important to first set out the applicable sections of the Code.

19. Section 2 of the Code states that a provider must at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry. I note that respondent, on his own version, had carried out a due diligence exercise.

20. Section 8 (1) (a) to (d) of the General Code states that:

*"A provider other than a direct marketer, must, prior to providing a client with advice -*

*(a) take reasonable steps to seek from the client appropriate and available information regarding the client's financial situation, financial product experience and objectives to enable the provider to provide the client with appropriate advice;*

*(b) conduct an analysis, for purposes of the advice, based on the information obtained;*

*(c) identify the financial product or products that will be appropriate to the client's risk profile and financial needs, subject to the limitations imposed on the provider under the Act or any contractual arrangement; and*

*(d) where the financial product ("the replacement product") is to replace an existing financial product wholly or partially ("the terminated product") held by the client, fully disclose to the client the actual and potential financial implications, costs and consequences of such a replacement……."*

21. Section 8 (4) (a) and (b) of the General Code states that:

*'Where a client-*

*(a) has not provided all information requested by a provider furnishing advice, as part of the analysis referred to in subsection (1) (b), or where the provider has been unable to conduct such an analysis because in the light of the circumstances surrounding the case, there was not reasonably sufficient time to do so, the provider must fully inform the client thereof and ensure that the client clearly understands that-*

*(i) a full analysis in respect of the client referred to in subsection (1) (b) could not be undertaken;*

*(ii) there may be limitations on the appropriateness of the advice provided; and*

*(iii) the client should take particular care to consider on its own whether the advice is appropriate considering the client's objectives, financial situation and particular needs; or*

*(b) elects to conclude a transaction that differs from that recommended by the provider, or otherwise elects not to follow the advice furnished, or elects to receive more limited information or advice than the provider is able to provide, the provider must alert the client as soon as reasonably possible of the clear existence of any risk to the client, and must advise the client to take particular care to consider whether any product selected is appropriate to the client's needs, objectives and circumstances.'*

22. Lastly, section 9 provides for the keeping of a record of advice which must reflect the following:

*(a) a brief summary of the information and material on which the advice was based;*

*(b) the financial product [sic] which were considered;*

*(c) the financial product or products recommended with an explanation of why the product or products selected, is or are likely to satisfy the client's identified needs and objectives; and*

*(d) where the financial product or products recommended is a replacement product as contemplated in section 8(1)(d) –*

*(aa) the comparison of fees, charges, special terms and conditions, exclusions of liability, waiting periods, loadings, penalties, excesses, restrictions or circumstances in which benefits will not be provided, between the terminated product and the replacement product; and*

*(bb) the reasons why the replacement product was considered to be more suitable to the client's needs than retaining or modifying the terminated product…*

***Response to section 27 (4) notice***

23. During November 2017, the respondent was provided with a further opportunity to address the Office in terms of section 27 (4) of the FAIS Act. The respondent had to reply to specific questions, which are summarised below:

    23.1 The prospectuses (Sharemax) declare that the respective entities had never traded prior to the registration of the prospectuses, had not made any profit whatsoever and were still under construction. In these circumstances, how was income expected to be paid, other than out of investors' money?

    23.2 The prospectuses refer to the investment as being in an *unsecured subordinated* interest rate acknowledgment of debt linked to a share, which share was in an entity still under construction. Additionally, the registrar of companies within the prospectuses stated that the shares on offer were unlisted and should be considered as a risk capital investment. Given this information, why were these investments not considered to be anything less than an extremely risky venture, without any substance to its guarantee on interest payments? Were these risks disclosed to the clients?

    23.3 What information was relied on to conclude that these investments were appropriate to the client's risk profile and financial needs?

24. No response to this notice was received.

***Representative of USSA / FSP Network***

25. The respondent indicated that he was acting in his capacity as an authorised representative of USSA when he rendered financial services to the complainant. This does not assist the respondent in any way. I refer in this regard to the decision of the Appeals Board in the matter of *Black v Moore*[8]. The complaint is thus directed at the correct party: the respondent. In any event, USSA was finally liquidated in 2012.

[8] In the Appeal Board of the Financial Services Board, John Alexander Moore and Johnsure Investments CC / Gerald Edward Black, 15 January 2013 at para 59 – 61 and 91.

26. The question of whether a representative [and not the provider] should be held liable in this context was again dealt with by the Board of Appeal in the second *Black v Moore* Appeal[9]. The appellants, relying on Board Notice 95 of 2003, argued that the responsibility lay not with the appellant as a representative, but rested solely with the financial services provider. In dismissing the argument, the Board concluded:

'*the effect of the Exemption Notice thus allows a representative (due to his minimum experience) to market products subject to a supervisor's guidance. Apart from this exemption, he has to comply with the Code of Conduct*.'

27. Section 13 (2) (b) of the Act[10] states:

*"An authorised financial services provider must take such steps as may be reasonable in the circumstances to* ***ensure that representatives comply with any applicable code of conduct*** *as well as with other applicable laws on conduct of business*." (My emphasis).

It is clear that there is a duty imposed not only on the provider but also the representative to comply with the provisions of the FAIS Act and Code of Conduct.

28. It is worth mentioning that upon examining the application forms completed for the Sharemax investments, it was the respondent's FSP number that was noted on the application form. Furthermore, all other correspondence was done on the respondent's stationery, thereby creating the impression that the advice was rendered under his own license, and not under that of another entity.

***Advice***

29. The respondent had an agreement with the complainants in terms of which he rendered financial services to them. The specific form of financial service that this complaint is concerned with is advice[11]. This advice had to meet the standard prescribed in the Code. The complainants acted on this advice, an issue which is not disputed.

---

9 In the Appeal Board of the Financial Services Board, John Alexander Moore and Johnsure Investments CC / Gerald Edward Black - Decision handed down on 12 November 2014, paragraphs 18 to 23

10 Financial Advisory and Intermediary Services Act 37 of 2002

11 The definition of a financial service in section 1 includes an intermediary service.

30. The questions posed in the notices in terms of section 27 (4) had their answers grounded in the prospectuses, such that, if the respondent had read the prospectuses, he would have understood that the investments were not suitable for the complainants.

31. The respondent further claims to have disclosed several aspects of the investments, including that the shares were unlisted. The respondent refers in this regard to a document entitled "Advice and Intermediary Service Agreement for Investments", wherein he noted that the shares were unlisted. This document seems to represent a record of advice, but is in actual fact an agreement setting out the terms of each specific Sharemax investment. These documents were signed by the complainants, therefore they understood what they were investing in, or so the respondent says.

32. It is also the respondent's version that the complainants insisted on higher income, which is what led to the decision to invest in the Sharemax schemes. However, there is no record as provided for by the Code in section 8 (4) (b), which would indicate that other products were offered, but could not meet the complainants' expectations. Equally, there is no record demonstrating that the complainants ignored the respondent's advice not to invest in such high risk schemes.

33. As far as the Propspec investment was concerned, the second complainant was provided with a disclosure document to sign. This document incorporated a paragraph noted as the "record of advice". This paragraph however seeks to exempt the respondent from any liability in respect of the advice rendered. I refer in this regard to the following sentence:
*"I must take particular care to consider on my own whether the advice is appropriate considering my objectives, financial situation and particular needs".*

This statement is in itself reckless, and offensive to several provisions of the Code, being sections 2, 3 (1) (a), 7 (1)[12] 8 (1) (a) to (c), and 9. The form is a futile attempt to transfer the duties placed on the provider by the Code, onto the complainant.

---

[12] The section calls upon providers other than direct marketers to provide (a) '*reasonable and appropriate general explanation* of *the nature and material terms of the relevant contract* or transaction to a client, *and generally make full and frank disclosure* of any information *that would reasonably be expected to enable the client to make an informed decision*.

34. I now refer to the attached annexures, being summaries of The Villa and Zambezi prospectuses, the Sale of Business Agreement (SBA), and Government Notice 459. Also attached is a summary of the Propspec investment. With these documents, I demonstrate that there was no basis for the respondent to have recommended the high risk Zambezi, The Villa and Propspec investments.

***Zambezi Ltd and The Villa prospectuses***

***Conflicting provisions***

35. In respect of Zambezi, paragraph 19.10 states that funds collected from investors would remain in the trust account and investors would be paid their return from the interest accumulated therefrom. Paragraph 5.11.2, on the other hand, states that the funds would not remain in the trust account long enough, since 10% would be released after the cooling-off period of seven days to pay commissions. Paragraph 4.3 confirmed that funds would be advanced to the developer in terms of the SBA via the sister company, Zambezi (Pty) Ltd. These payments were in violation of the Notice.

36. From the onset, paragraphs 3.2 and 3.1.1 of the The Villa prospectus make it clear that the directors of Sharemax, who also were directors of all the other Sharemax companies involved in the prospectus had no intention of complying with Notice 459.

37. Section 4.3 makes provision for the disbursement of investors' funds to pay for the entire shareholding in The Villa Retail Shopping Investments (Pty) Ltd (The Villa (Pty) Ltd), from Sharemax. There is no detail as to how this benefited investors. In the same section 4.3, the prospectus discloses that investor funds will be paid out to the seller of the immovable property via a sister company, namely, The Villa (Pty) Ltd and later to Capicol 1, long before the transfer of the immovable property into the name of the syndication vehicle.

38. The movement of the funds was illegal and a direct affront to the very legislation that was meant to protect investors (refer to section 2 (b) of the Notice). I conclude that respondent must have been oblivious to the risk and could not have appropriately advised the complainants in that case.

39. Two problems arise with the proposition that the investor's return was paid from the interest generated by the trust account:

39.1 At the time, interest payable by the bank on investments made in line with section 78 (2A), did not go beyond one digit. In fact, this office obtained information that the interest payable at the time was between 7.5% and 9.5%[13]. Sharemax promised 10%.

39.2 The prospectus is unequivocal that the funds would not stay in the trust account long enough to have accumulated any significant interest because of the withdrawals to fund commissions and, subsequently, to fund the acquisition of the immovable property.

40. The prospectuses did not hide the universal role of the promoter, highlighting that investors would have no protection whatsoever as the directors would only be accountable to themselves. The investors were therefore at the mercy of the directors.

41. The prospectuses issued by The Villa Ltd and Zambezi Ltd refer to an SBA[14] concluded between Zambezi (Pty) Ltd and the developer Capicol in respect of Zambezi Ltd and Capicol 1 in respect of The Villa. Two types of payments are dealt with in the SBA: payments to the developer and to an agent called Brandberg Konsultante (Pty) Ltd (Brandberg).

***Payments to Capicol[15]***

42. According to the agreement, investors' funds were moved from Zambezi Ltd to Zambezi (Pty) Ltd and advanced to the developer of the shopping mall. At the time of releasing the Zambezi Ltd prospectus Sharemax had already advanced substantial amounts to the developer in line with this agreement. A brief analysis of the SBA reveals:

42.1 No security existed for the loan; this is clear from reading the prospectus and the agreement.

42.2 The prospectus states that the asset was acquired as a going concern; however, the building was still in its early stages of development.

---

13 http://www.fidfund.co.za/wp-content/uploads/2016/03/Historical-Credit-Interest-Rates-from-30-01-2014.pdf

14 Note that the SBA in respect of both entities, Zambezi (Pty) Ltd and The Villa (Pty) Ltd carried essentially the same terms but differed in terms of amounts. The developer, however, **was Capicol in respect of Zambezi and Capicol 1 in respect of The Villa**. Both the borrowers and lenders were represented by the same persons.

15 (Capicol 1 in the case of The Villa (Pty) Ltd)

42.3 At the time the funds were advanced to the developer, the immovable property was still registered in the name of the developer. Although the prospectus mentioned the intention to register a mortgage loan, there is no evidence that this was done.

42.4 The developer paid interest of 14%, from which Sharemax took 2% and paid the remaining 12% to the investors of Zambezi. There are no details regarding the economic activity that generated the 14% return paid by the developer.

42.5 The agreement is devoid of detail relating to the assessment of the developer's credit worthiness. There was no evidence that the developer had independent funds from which it was paying interest. Besides, if the developer had the financial standing to borrow such large sums of money at 14% per annum, it would have gone to mainstream commercial sources.

42.6 No detail is provided to demonstrate that the directors of Zambezi had any concerns about the Notice 459 violations.

43. The only rational conclusion is that the interest paid to investors came from their own capital.

***Payments to Brandberg***

44. An entity known as Brandberg was paid commission in advance. According to the SBA, the commission had been calculated at 3% of the purchase price. There are no details of how these payments benefited investors, or why commission had to be advanced, in light of the risk to investors. No security was provided against this advance to protect the investors' interests.

45. These are serious red flags (as comprehensively noted in the annexures) that were apparent from the start and should have led a reasonable person, particularly one in the position of the respondent, to foresee the harm and take steps to mitigate it accordingly[16].

[16] *Van Wyk v Lewis, Durr v ABSA*, case number 424/96, SCA

***Propspec (Pacific Coast Investments) Prospectus***

46. With reference to the attached summary of the Pacific Coast Investments prospectus, I note the following:

46.1 The conflict of interest on the part of the directors was evident from the onset. The number of layers of entities involved where directors wore more than one hat, should have raised questions about the protection of investors, and prompted the respondent to steer his clients in a different direction.

46.2 Whilst there is reference to investor funds being kept in an attorney's trust account as provided for in section 78 (2A) of the Attorneys Act, the document clearly states that the funds would not be retained until registration of transfer into the property syndication vehicle, but up to the point where share certificates are issued. This offends the provisions of Notice 459 which is primarily aimed at protecting investors. It should have alerted the respondent to the high risk of the investments, and that the offering was inappropriate for his client. The directors had already indicated their intention to violate the law that is aimed at protecting investors.

46.3 The offering contains no relevant financial detail which the respondent could have utilized to assess the viability of the investment. There is a glaring absence of good governance practices. The documents confirm that there are no audited financial statements, no independent board, and no audit and risk committees that would monitor the conduct of the directors. The directors would therefore only be accountable to themselves.

46.4 There is no mention of an independent trustee that would hold and be accountable for investor funds. Instead, the disclosure document suggests that the very same directors of the company, in this case, the financial services provider, would also be the fund manager.

46.5 The respondent should not have recommended this product to his client. His conduct was at odds with section 8 (1) (c) of the Code.

## G. FINDINGS

47. What is clear from the aforesaid information, is that the respondent was out of his depth when he recommended the Sharemax and Propspec investments to his clients. This, despite the warnings contained in the prospectuses, illustrates that the respondent did not understand the intricacies of the products. This information was always available to the respondent.

48. In this respect, the respondent's advice was negligent and in violation of his duty as set out in section 2 of the Code. The respondent could therefore not advise his clients appropriately, in contravention of sections 3 (1) (a) (i) – (iii) and 8 (1) (a) to (c) of the Code.

49. It does not assist the respondent that the complainants wanted investments that would render a higher return. There is nothing in the documentation before this Office which would suggest that the complainants' needs could not be satisfied with any other products. The respondent had the duty to adhere to the Code and to appropriately advise the complainants. If the complainants then persisted in wanting to invest in Sharemax and Propspec, the respondent should have complied with section 8 (4) (b) of the Code and informed the complainants that the investment was contrary to his advice in respect of suitability.

50. Section 9 of the Code must be read with sections 8 (1) and (2). The latter sub-section places a duty on an FSP to ensure the investor is in a position to make an informed decision. Section 9 requires that the provider, after collecting relevant information from the client and analysing it, identify a product that will suit the client's risk profile and circumstances. The provider has to record the financial products that were considered, as well as a summary of why the recommended product is most likely to suit the client's circumstances.

51. In light of the above I can only conclude that the respondent failed to appropriately advise the complainants and apprise them of the risks in the respective investments, in violation of section 7 (1) of the Code. It follows that the complainants could not have made an informed decision about any of the investments.

52. As a consequence of the breach of the Code, the respondent committed a breach of his agreement with the complainants in that he failed to provide suitable advice. The respondent must have known that the complainants would rely on his advice as a professional financial services provider in effecting the investments in Sharemax and Propspec.

53. It stands to reason that the respondent caused the complainants' loss.

**H. RECOMMENDATION**

54. The FAIS Ombud recommends that the respondent considers not only the questions raised in the respective notices, but also the information provided in paragraphs 35 to 46, and pay the following amounts to the complainants:

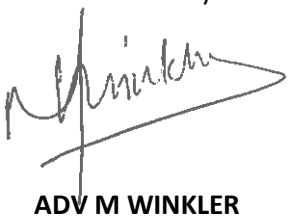
54.1 R337 000 to the first complainant

54.2 R412 000 to the second complainant

55. The respondents are invited to revert to this Office within TEN (10) working days with their response to this recommendation. Failure to respond will result in a determination being made in terms of Section 28 (1) of the FAIS Act[17].

56. The complainants, upon full payment, are to cede all their rights and title to the investments to the respondent.

Yours sincerely



**ADV M WINKLER**

**ASSISTANT OMBUD**

[17] "*The Ombud must in any case where a matter has not been settled or a recommendation referred to in section 27(5)(c) has not been accepted by all parties concerned, make a final determination, which may include-*
*(a) the dismissal of the complaint; or*
*(b) the upholding of the complaint, wholly or partially….*"