

IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

PRETORIA

CASE NUMBER: FAIS 08301/12-13/ FS 1

FAIS 08303/12-13/ FS 1

In the matter between:

Estate Late Mr Neville Richard Emms Giddy

First Complainant

Veronica Giddy

Second Complainant

and

Gariep Investment and Financial Planners CC

First Respondent

Willem Jacobus Nienaber

Second Respondent

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

A. INTRODUCTION

[1] This determination follows a recommendation made in terms of section 27 (5) (c) of the Act on 27 November 2017. Section 27 (5) (c) empowers the Ombud to make a recommendation in order to resolve a complaint speedily by conciliation. Respondent did not respond to the recommendation. This determination therefore, shall be read in conjunction with the recommendation and shall form part of this determination.

B. THE PARTIES

- [2] First complainant is Brett Richard Giddy, in his capacity as Executor of the Estate late Mr Neville Richard Emms Giddy¹.
- [3] Second complainant is Mrs Veronica Giddy an adult female pensioner and widow of the late Mr Giddy. Her full particulars are on file with this Office
- [4] First respondent is Gariep Investment and Financial Planners CC, a close corporation duly incorporated in terms of South African laws, with registration number (CK 1995/046743/23). The first respondent is an authorised financial services provider (license number 15197) with its principal place of business noted in the Regulator's records as No.85 Somerset Street, Aliwal North, 9750. The license has been active since 25 November 2004.
- [5] Second respondent Mr Willem Jacobus Nienaber (who is also a member, key individual and representative of first respondent) appears to have been fully licensed in his own right as a sole proprietor trading under the name and style of Willem Jacobus Nienaber, with license number 10646. Second respondent's address is noted in the Regulator's records as the same as that of first respondent. The license has been active since 20 October 2004.

¹ in terms of the letters of executorship issued by the Master of the High Court dated (15/09/2015) with reference number (002852/2015)

C. CONCLUSION

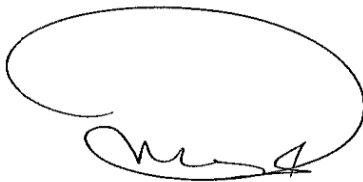
[6] Based on the information provided in the recommendation it follows that Respondent is liable to pay complainants claim

D. THE ORDER

[7] In the result, I make the following order:

1. The complaint is upheld.
2. The respondents are ordered, jointly and severally, the one paying the other to be absolved, to pay the complainant the amount of R120 000;
3. Interest on this amount at a rate of 10.25% per annum from the date of determination to date of final payment.
4. Complainant to cede her rights and title in respect of any further claims in respect of this investment to respondent.

DATED AT PRETORIA ON THIS THE 16th DAY OF FEBRUARY 2018.



**NOLUNTU N BAM
OMBUD FOR FINANCIAL SERVICES PROVIDERS**

