

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

CASE NUMBER: FAIS 07507/11-12/ FS 1

In the matter between:

JOHANNES FREDRICK KRUGER

Complainant

And

ERNEST LEHANIE T/A ERNEST VENTER MAKELAARS

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 20 March 2018. Section 27 (5) (c) empowers the Ombud to make a recommendation in order to resolve a complaint speedily by conciliation. The respondent did not respond to the recommendation. This determination shall be read in conjunction with the recommendation and shall form part of this determination.

B. THE PARTIES

[2] The complainant is Mr Johannes Fredrick Kruger, an adult male pensioner, whose full particulars are on file with this Office.

[3] The respondent is Mr Ernest Lehanie (previously known as Ernest Venter), then a sole proprietor trading under the name and style of Ernest Venter Makelaars. Respondent was

an authorised financial services provider (FSP) (license number 15127) with its principal place of business noted in the Regulator's records as No. 24C Hertzog Street, Henneman, 9445. The license was active since 02 December 2004 and lapsed 11 November 2015.

[4] The respondent currently trades as Crowther Le Hanie Finansiële Dienste, a close corporation duly incorporated in terms of South African law, with registration number (2001 / 082866 / 23). Crowther Le Hanie Finansiële Dienste is an authorised FSP (license number 45033). Crowther Le Hanie Finansiële Dienste is not a party to this matter.

[5] It appears from the Regulator's records that respondent (as Ernest Venter Makelaars) was licensed to render financial services in connection with unlisted shares categorised as 1.8 (described in the FAIS Act as Securities and Instruments: Shares). However, respondent was never licensed in terms of category 1.10 (described in the FAIS Act as Securities and Instruments: Debentures and Securitised Debt). This means that respondent was never adequately licensed to render financial services with regards to The Villa Ltd syndication (refer to the attached correspondence).

C. CONCLUSION

[6] Based on the findings set out in the recommendation, which are hereby confirmed, it follows that the respondent is liable to pay complainant's claim

D. THE ORDER

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

1. The complaint is upheld.
2. The respondent pay complainant's loss in the amount of R70 000 in respect of The Villa Ltd syndication.

3. Interest on this amount at a rate of 10% 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 these investments to the respondent.
5. Should any party be aggrieved with the decision, leave to appeal to the Financial Sector Tribunal is granted in terms of section 28 (5) (b) (i), read with section 230 of the Financial Sector Regulation Act 9 of 2017.

DATED AT PRETORIA ON THIS THE 28th DAY OF JANUARY 2019.



NARESH S TULSIE

OMBUD FOR FINANCIAL SERVICES PROVIDERS