

IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

PRETORIA

CASE NUMBER: FAIS 08491/12-13/ WC 1

In the matter between:

MICHAEL McNAMARA

Complainant

and

JOHNLYN FINANCIAL ADVISORY SERVICES (PTY) LTD

First respondent

GERTRUIDA WYNETTA VENTER

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

B. THE PARTIES

[2] Complainant is Mr Michael McNamara an adult male whose full details are on file with this Office.

[3] First respondent is Johnlyn Financial Advisory Services (Pty) Ltd (reg. number 2000/001296/07), a company duly incorporated in terms of South African law, with its principal address of business noted in the regulator's records as 83 Akkerboom Street Zwartskops, Ext 4, Centurion, Gauteng. The regulator's records confirm that the licence was issued in September 2005 and is still in force. First respondent is represented by its key individual Ms Getruida Wynetta Venter.

[4] Second respondent is Johnny Venter an adult male Certified Financial Planner (CFP) whose details appear to be the same as those of first respondent. Second respondent is an authorised representative of the first respondent as provided for in the FAIS Act. At all times material hereto, second respondent rendered financial services to complainant.

[5] I refer to the respondents collectively as "respondent".

C. CONCLUSION

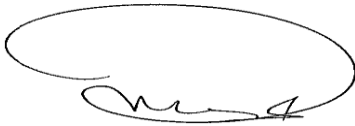
[6] Based on the findings set out in the recommendation, which are hereby confirmed, it follows that respondents are liable to pay complainants' claim.

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 R420 000;
3. Interest on the said amount at the rate of 10.25% per annum from the date of determination to date of final payment.
4. Complainant, upon full payment, is to cede his rights, title and any further claims in respect of this investment to respondent.

DATED AT PRETORIA ON THIS THE 22nd DAY OF MARCH 2018.

A handwritten signature in black ink, consisting of a large, loopy initial 'N' followed by a cursive name, all enclosed within a large, hand-drawn oval.

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