IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS PRETORIA

CASE NUMBER: FAIS 06609/13-14/ GP 1

In the matter between:

HUIBRECHT JOHANNA FREDERICKA PFISTER **Complainant**

and

FREESURE PTY (LTD) **First Respondent**

LOURENS OBERHOLZER **Second Respondent**

DETERMINATION IN TERMS OF SECTION 28(1) OF THE FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 37 OF 2002 (the Act)

A. INTRODUCTION

[1] The complaint relates to an investment made by complainant into one of the Sharemax property syndication investments, namely, Silverwater Crossing Centre Holdings Ltd[1] (herein after referred to as "the Company").

[2] The basis of the complaint is that respondent advised complainant to invest in a high risk scheme that was incompatible with her personal circumstances and profile as a pensioner.

[1] Registration number 2005/007193/06

B. THE PARTIES

[3] Complainant is Huibrecht Johanna Fredericka Pfister, an adult female pensioner whose full particulars are on file with this Office.

[4] First respondent is Freesure (Pty) Ltd, a private company duly registered in terms of South African law, registration number 2002/010930/07, with its business address noted in the regulator's records as 44 Mimosa Street, Wilropark, Roodepoort, 1724. First respondent was a licensed financial services provider as provided for in terms of the FAIS Act, with license number 11997. The license was withdrawn during 2011.

[5] Second respondent is Lourens Oberholzer, an adult male, key individual and representative of first respondent, who, at the time of rendering financial services to complainant, operated under license number 11997. His principal place of business as per the regulator's records is noted the same as that of first respondent.

[6] The regulator's records note second respondent now as key individual for Dartingo Trading 230 (Pty) Ltd (Dartingo), (registration number 2010/007559/07), with FAIS license number 42368. The principal place of business of Dartingo is noted as 44 Mimosa Street, Wilropark, Roodepoort. The license has been in force since 12 October 2010. The name of this company has since been changed to Retire Rich and Happy (Pty) Ltd[2].

[7] At all times material hereto, second respondent rendered financial services to complainant.

[2] Registration number 2010/007559/07

[8] I refer to first and second respondents as respondent. Where necessary, I specify.

C. BACKGROUND TO SHAREMAX

[9] Sharemax Investments (Pty) Ltd (hereinafter referred to as Sharemax) was a promotor of public property syndication companies, engaged in the business of managing and administering property and investor funds. Sharemax was incorporated in 1998 and was based in Pretoria.

[10] On 13 September 2005, Sharemax was granted licence number 6152 to act as an Authorised Financial Services Provider in terms of section 8 of the FAIS Act. In terms of the licence, Sharemax was authorised as a Category 1 Financial Services Provider to render advisory and intermediary services with regard to Securities and Instruments, shares (1.8) and debentures (1.10).

[11] Sharemax issued prospectuses regarding the various property syndication investments that it promoted from time to time. These prospectuses were purportedly registered with the Registrar of Companies in terms of section 155 of the Companies Act 61 of 1973.

[12] According to the information contained in the Sharemax prospectuses, investor funds were to be paid into the attorneys' trust account and were meant to be retained there until the immovable property *[being the object of the property syndication]* was transferred into the name of the property syndication. However, long before transfer, funds were withdrawn by Sharemax, some of which were utilised to fund commissions.

[13] Investors had a choice between two income plans and the capital growth options thereof. Investors were advised that they could either receive healthy returns at a projected rate **from date of their investment** or, alternatively, they could receive a guaranteed percentage return **from date of occupation** which would escalate each year.

[14] During the course of 2010 various property syndications under Sharemax experienced difficulties in paying out income to investors.

[15] Following an inspection conducted during 2010, under section 12 of the South African Reserve Bank Act[3], the Registrar of Banks concluded that the Sharemax business model offended the Bank's Act. The subsequent intervention by the Reserve Bank resulted in frozen investments which led to dormant, uncompleted building operations.

[16] Directives were issued to Sharemax for the repayment of funds collected from individual investors in September 2010.

[17] During 2012 the court sanctioned schemes of arrangement[4] in respect of several schemes within the Sharemax stable. Several of these schemes were taken over by Nova Property Group Holdings Limited 2011/003964/06 (Nova) and Sharemax investors were issued with debentures or shares in Nova.

[18] Sharemax's FSP license nevertheless lapsed in October 2012.

---

[3] 90 of 1989

[4] As contemplated by section 311 of the Companies Act 61 of 1973

[19] A few interesting points to note:

19.1 The current board of directors of Nova Property Group Holdings Limited, (Nova) are Dominique Haese (Managing Director), Connie Myburgh (Chairman), Rudi Badenhorst (Financial Director), Dirk Koekemoer (Operations Director)[5].

19.2 The registered address for Nova Property is 105 Club Avenue, Waterkloof Heights, Pretoria, which is the same address as the old Sharemax head office.

19.3 Frontier Asset Management (Pty) Ltd provide a range of administrative services to Nova, and Centro Property Group manages the property portfolio on behalf of Nova. The directors of Frontier are D Haese, D R Koekemoer, C J Van Rooyen and R N van Zyl (formerly directors of the erstwhile Sharemax Investments (Pty) Ltd; and the directors of Centro Property Group are E Grobler and M J Osterloh)[6].

19.4 Frontier Asset Management sent out a communique dated 6 August 2013 warning investors that those who brought complaints to the Office of the FAIS Ombud would lose their right to have their Sharemax investments converted into Nova debentures or shares.

[20] It might also be worthwhile noting that, as was the case with most public property syndications promoted by Sharemax Investments (Pty) Ltd. Sharemax was the promoter, the company secretary, the property manager and administrator. No

---

5 http://www.frontieram.co.za/wp-content/uploads/2016/12/Nova-COMMUNIQUE-7-December-2016-English.pdf

6 http://www.frontieram.co.za/AboutUs.aspx

record has ever been furnished by any provider *[who marketed Sharemax],* to demonstrate the amounts claimed by Sharemax in respect of the aforementioned services. It simply is not an area that attracted attention from providers, despite the obvious conflict of interest. That trend was not disturbed by respondents either.

[21] The directors of Silverwater Crossing Centre Investments (Pty) Ltd[7] (herein after referred to as "Silverwater Crossing Centre"), *[the latter being the entity that supposedly owned the immovable property]* were the same as those of Silverwater Crossing Centre Holdings Ltd, the Company.

[22] There is no evidence that there was ever an independent board of directors, audit, risk nor remuneration committees in place within the Sharemax group's business. Neither is there evidence that investors were represented in any of the decision-making structures of the Sharemax entities.

D. THE COMPLAINT

[23] On 24 October 2005, on advice of respondent, complainant purchased shares in Silverwater Crossing Centre Holdings Ltd, to the value of R160 000. During February 2007[8], complainant made a further investment of R10 000 in the same syndication.

---

7 Registration number 2005/000007/07

8 While Government Notice 459, as per Government Gazette 28690, published on 30 March 2006, was not yet applicable when the first investment of R160 000 was made, it was in force at the time of making this investment. Respondent had a duty to ensure that the scheme complied with same.

[24] Complainant stated that she used to receive about R1 000 as a monthly income from the investment. During 2010 the monthly income started to decrease and at the moment complainant is only receiving around R300 per month.

[25] During 2008, complainant initiated a 'withdrawal' of a portion of her investment in order to deal with her late husband's medical needs but was dissuaded by respondent.

[26] On 12 August 2010, concerned about the negative media coverage regarding the Sharemax group, complainant sought information from respondent on the financial position of Sharemax. Respondent allayed complainant's fears in this statement:

"There is no need to worry, the controversy related to Sharemax being in the news the last couple of weeks has all been related to its 2 new projects which were both new developments in progress, (Zambezi Retail Park and The Villa Retail Park) it does not influence any of the old properties which was existing properties that was syndicated by Sharemax, ***as these properties are now owned by the shareholders like your mom and not by Sharemax****.*

Sharemax is only the ***property management company*** *on those properties. Each property is a completely separate business entity owned by the shareholders and the income paid out to the shareholders is generated by the property itself*[9]*."* (*Own emphasis provided).*

[27] During October 2010, five years into the investment, complainant informed respondent that she would like to withdraw her capital. Complainant was of the

[9] Obtained from e-mail correspondence from respondent to complainant dated 12 August 2010

view that with the term having ended, her investment had to be paid. When no capital was paid, complainant realised something was amiss.

[28] It is complainant's version that when respondent first made the recommendation to her, he failed to advise her that the investment was high risk in nature.

[29] As a result of respondent's failure to render financial services in compliance with the Code, so states complainant, she has lost capital of R170 000 and interest thereon. Complainant holds respondent liable for the loss of her investment.

E. RELIEF SOUGHT

[30] Complainant seeks repayment of the amount of R170 000 from respondent.

[31] The basis of complainant's claim against respondent is the latter's failure to render financial services in line with the FAIS Act and the General Code of Conduct, which includes respondent's failure to appropriately advise complainant and disclose the risk involved in the Sharemax investments.

F. THE RESPONSE

[32] In compliance with Rule 6(b) of the Rules on Proceedings of the Office of the Ombud, the Office referred the complaint to respondent on 26 January 2012, advising respondent to resolve the complaint with his client. Respondent duly responded on 1 February 2012. His response is summarised as follows:

32.1 Respondent met complainant on 17 October 2005, through her daughter; the latter had an existing business relationship with respondent.

32.2 A letter of engagement was signed by complainant, reflecting that complainant elected not to undertake a risk analysis.

32.3 At the time, complainant had a savings account with a bank and was looking for investment options in order to make high returns.

32.4 Respondent explained to complainant that in order to increase her income, she would have to look beyond a bank fixed deposit and accept more risk. Respondent then recommended Sharemax and explained how it worked.

32.5 Respondent provided complainant with the relevant Sharemax prospectus. The investment was finalised on 24 October 2005 when complainant had finally decided to proceed. Complainant's funds were deposited into the trust account of Weavind & Weavind Attorneys.

32.6 Complainant was informed that the investment was for a term of five years; indicating that it was long term. Complainant's objective in effecting the investment was to generate income.

32.7 Respondent advised complainant to have money set aside for emergencies.

32.8 Respondent emphasised that complainant "*did not request a risk analysis to be done and also signed an Unlisted Securities South Africa (USSA) form.*"

32.9 During February 2007, complainant's daughter, on complainant's behalf, requested respondent to invest more funds, since complainant was happy with the existing investment. More funds were again invested into

Silverwater. In terms of this investment, respondent states that he again informed complainant that it was long term, which focused on generating income.

32.10 Respondent stated that the negative press surrounding Sharemax in 2009 resulted in the intervention of the Reserve Bank. The negative press, according to respondent, had a detrimental effect on investors.

32.11 In conclusion, respondent argued that he could not be held responsible for the losses suffered by complainant as the schemes *[syndication schemes]* were approved by the FSB even though same fell foul of the Banks Act. Respondent claims there was no way he could have predicted this outcome. Respondent asserted that complainant was informed of the nature of the investment, advised to keep funds available for unforeseen circumstances and signed the declarations that she understood the explanation.

[33] On 12 June 2015, the FAIS Ombud addressed correspondence to respondent in terms of Section 27(4) of the FAIS Act informing him that the complaint had not been resolved and the Office was proceeding with an investigation. The letter invited respondent to address the Office on the question of appropriateness of advice, especially given the risk involved in the investment, along with respondent's duty in terms of sections 8(1) (a) to (c) of the Code.

[34] Respondent replied that he had already submitted a response in 2012. Confirmation was sent by the Office that the matter would be investigated and then determined, in terms of Section 28 of the FAIS Act.

G. DETERMINATION

[35] The following issues arise for determination:

35.1 whether respondent, in rendering financial services to complainant violated the FAIS Act and the General Code, (the Code) in any way. Specifically, the question is whether complainant was appropriately advised, as demanded by the Code;

35.2 in the event it is found that respondent breached the FAIS Act and the Code, whether such breach caused the complainant's loss.

Risk involved in the Sharemax investment.

[36] It is apposite to first sketch out the patent financial red flags, into which respondent ought to have made extensive enquires and therefore halted the advice process, until credible answers were obtained.

[37] Respondent made much of complainant having signed a form issued by USSA[10] in order to demonstrate that the risk involved in the product was explained to complainant. I will demonstrate that, despite the signature, respondent had no appreciation of the risk involved in the Sharemax product, including the

[10] Unlisted Securities South Africa, (trading as FSP Network (Pty) Ltd), an authorised financial services provider with license number 6152. USSA was established by Gerhardus Rossouw Goosen while he was a director of Sharemax. Independent brokers like respondent, who were licensed in their own right as Financial Services Providers, but lacked the correct license type, were able to give advice on the Sharemax product as representatives of FSP Network (Pty) Ltd. This entity was finally liquidated in 2013.

magnitude thereof, such that respondent could not have appropriately advised complainant of same.

[38] I will also demonstrate that respondent's handing over of the prospectus to complainant, does not amount to compliance with the requirement to provide appropriate advice and disclose the risk involved in the product.

[39] The following important facts noted in the prospectus of the Company, confirm that complainant was presented with nothing more than a web of lies and deceit. Evidently, respondent, who calls this an investment, could not decipher that there was simply no investment in this mess. It was a scheme to enrich those who designed it:

39.1 The directors of Silverwater Crossing Centre Holdings Limited ("the company into which complainant's investment went into"), were the same directors of the promoter, namely Sharemax (Pty) Ltd; and Silverwater Crossings Centre Investments (Pty) Ltd, [*the company that owned the property*]. Sharemax was, in addition to being the promoter, the property manager, company secretary and manager of investor funds. A basic knowledge of corporate governance[11] would have alerted respondent to the inherent risks of this glaring conflict of interest.

[11] Reference is drawn to the King II report where one of the seven characteristics of good corporate governance is independence. It is explained as: "*Independence is the extent to which mechanisms have been put in place to minimise or avoid potential conflicts of interest that may exist, such as dominance by a strong chief executive or large shareowner. These mechanisms range from the composition of the board, to appointments to committees of the board, and external parties such as the auditors. The decisions made, and internal processes established, should be objective and not allow for undue influences".*

39.2 There is no evidence that respondent was aware of the amounts claimed by Sharemax from the investor funds for rendering the services mentioned in paragraph 39.1.

39.3 There is no evidence *[and this was patently clear from the prospectuses]* that an independent board of directors ever existed in the entire group of Sharemax entities at the time, nor were there audit and risk and remuneration committees. With no evidence of independent oversight, it is fair to conclude that investors would have no protection whatsoever and were at the mercy of executive directors.

39.4 Flowing from the lack of oversight arrangements in the form of an independent board of directors, the executive directors were at liberty to spend investors' monies and pay themselves as they pleased, for they accounted to themselves.

39.5 Again, flowing from the lack of oversight arrangements by means of an independent board of directors, respondent had no clue whether there were any internal controls, and the extent to which such controls would support reliance on financial statements produced by the entities within the Sharemax stable. It is plain from respondent's version that he had never seen a set of audited financial statements of any of the entities within the Sharemax stable. Respondent simply had no clue whether the assets of the entities within Sharemax were properly recorded and expenses accurately accounted for, so as not to inflate profits or understate losses.

39.6 I may perhaps pause here to state that the mere fact that respondent was happy to market this investment, when he knew that he could not question or interrogate a single detail in the prospectus and supporting marketing material is sufficient to conclude he was reckless. The flaws do not end here.

39.7 Each share sold comprised of an unsecured floating rate claim or debenture, and the prospectus states that the interest payable on the debenture component of the unit, **will be determined from time to time by the directors**. Notwithstanding respondent's claim that complainant stood to realise a higher interest rate, there is no question whether he explained to complainant that the so called high interest rate could be zero percent, should the directors decide. Complainant's funds were moved from a fixed deposit that guaranteed complainant income and the safety of her capital to this product, where the level of interest depended on the sole discretion of conflicted directors. Despite invitation from this Office, respondent failed to explain his reasons for concluding that this high- risk investment was suitable to complainant's circumstances as a pensioner.

39.8 It is noted in paragraph 4.2 of the prospectus that the company had never traded prior to its registration and has not made any profit whatsoever. The question that should have immediately arisen in respondent's mind is the source of the income paid to investors.

39.9 From the projected financials in the prospectus, it was evident that there would be significant shortfalls. Respondent does not explain how the

entity intended to make up these shortfalls, and why, notwithstanding this information, he went ahead with the investment.

39.10 The prospectus[12] further states that the company intended to utilise the proceeds of the offer to:

39.10.1 pay the purchase price in respect of the entire shareholding in Silverwater Crossing Centre, to Sharemax, in the amount of R14 497 456, and

39.10.2 advance loan funding to Silverwater Crossing Centre for the purpose of purchasing the immovable property from Fouche Eiendomme (Pty) Ltd;[13] and settling a loan that might be owing to a commercial bank. At the time of public offer, such a loan had not been procured. Note that the amount of the loan is not mentioned.

39.11 The amount of R14 497 456 was payable by the Company to Sharemax[14] to defray expenses as set out in the prospectus[15]. These included advertising, printing, marketing costs, and amongst others, travel and accommodation. The same amount is shown in the projected financials - income and expenditure - as “impairment of goodwill[16]”.

---

12 See paragraph 4.3 in this regard

13 Registration number 1988/000544/07

14 Refer to paragraph 5.9 of the prospectus

15 Paragraph 5.9

16 An asset is impaired when its carrying value exceeds the recoverable amount.

39.12 The same prospectus notes that debentures are only repayable in the event of the winding-up of the company, or disposal of the immovable property, provided that a period of a least 12 months has lapsed since the date of issue of the debentures.

39.13 Paragraph 5.7.3 of the prospectus stated the following:

"payment of an amount of R2 502 544 (two million five hundred and two thousand five hundred and forty four rand) being 3.34% of the said capital in ***a reserve fund to fund cashflow shortfalls on interest payments to investors. Investors expressed a need to earn higher yields on their investment initially by sacrificing on the escalations of their interest income in the years thereafter.*** *The directors estimate the shortfalls which will be funded from this cash reserve to be as follows…… "*

This paragraph simply informs investors that the attractive interest was made possible because a portion of their capital was used to fund the income. This goes to the heart of the viability of the scheme.

39.14 The same prospectus in paragraph 5.10 states that upon payment of the purchase price into the attorney's trust account, an amount equal to 10% would be released to Sharemax to pay commissions. It must be highlighted at this point that Notice 459 published in Government Gazette 28690, was not applicable in 2005 when complainant made the first investment. The Notice was certainly in force when the second investment was made and respondent

ought to have been aware that the directors were communicating their intention to disregard the law by withdrawing the funds from the trust account prior to the transfer of the immovable property.

[40] It is plain from respondent's version that none of these financial red flags were ever dealt with when he advised complainant to move her savings from a fixed deposit into Sharemax. Respondent does not explain what made the Sharemax high risk product appropriate for a pensioner who required capital security.

[41] Respondent lacked the skill to appreciate this product, but was bold enough to take advantage of his uninformed client. To demonstrate how unfair respondent was to his client, one only has to have regard to all the financial red flags set out in paragraphs 39.1 to 39.14, which respondent was not alive to, and contrast this with his claims that he had furnished the prospectus to his client. In addition, respondent claims that complainant signed the USSA form, both of which led respondent to the conclusion that complainant appreciated the risk involved in the product. Given that respondent could not understand the prospectus, what chance existed for complainant who was solely dependent on him?

[42] Complainant was merely provided with a letter of engagement and a USSA[17] form, which seeks to exempt respondent from any form of liability in wide and general terms. The part that respondent relies on in this form warrants reproduction: *"….it is very important that you are quite sure that the product or transaction meets your needs and that you feel you have all the information you need before making the decision".* This statement is in itself reckless, and

[17] USSA trading as FSP Network was finally liquidated in 2013

offensive to several provisions of the General Code, not the least of which are sections 2, 3 (1) (a), 7 (1)[18] 8 (1) (a) to (c), and 9[19]. The form is a futile attempt to transfer the duties placed on the provider by the Code on to complainant. Now respondent seeks this Office's *imprimatur*.

[43] Complainant relied on the expertise of respondent to guide her. Instead, respondent, who had not carried out even the most basic checks in terms of due diligence, as demanded by section 2 of the General Code, misled complainant. Respondent had to carry out the necessary due diligence. Had he done so, he would have been in a better position to inform complainant on product suitability, taking into account her circumstances.

[44] On a balance of probabilities, had complainant been fully aware of the risks inherent in the Sharemax product, she would not have agreed to it. This is so because respondent has neither placed information before this Office to suggest that complainant was knowledgeable in financial products, nor demonstrate that the latter had previously indulged in risky investments of similar ilk.

[45] The only rational conclusion for respondent's conduct in recommending a product he did not investigate can only be because of the lucrative commission Sharemax paid to providers. At 6 % of the capital invested, without the possibility

---

[18] 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*.

[19] Section 9(1) of the General Code of Conduct provides that:
"A provider must, subject to and in addition to the duties imposed by section 18 of the Act and section 3(2) of this Code, maintain a record of the advice furnished to a client as contemplated in section 8, which record must reflect the basis on which the advice was given, and in particular—
(a) a brief summary of the information and material on which the advice was based;
(b) the financial products which were considered;
the financial product or products recommended with an explanation of why the products selected, is or are likely to satisfy the client's identified needs and objectives;

that such commission could ever be clawed back, respondent stood to better his financial position. The rate of commission alone, was out of kilter with that paid by the rest of the institutions within the financial services industry.

Did respondent's conduct cause complainant's loss?

[46] Based on complainant's version, the investment in Sharemax was as a result of the respondent's advice. This means, had it not been for respondent's advice, complainant would not have made the investment. This answers the test for factual causation.

[47] The next step is to establish legal causation or the proximate cause test. The focus here is whether, as a matter of public and legal policy, it is reasonable to impose legal responsibility on respondent for the failure of the investment. In other words, could respondent have reasonably foreseen the collapse of Sharemax.

[48] The reasonable foreseeability test did not require that the precise nature, or the exact extent of the loss suffered, or the precise manner of the harm occurring should have been reasonably foreseeable for liability to result; it was sufficient if the general nature of the harm suffered by complainant and the general manner of the harm occurring was reasonably foreseeable.

[49] Given that respondent had carried out no due diligence and the obvious poor governance practices within Sharemax, (see 39.1 to 39.14), the failure of the scheme was almost a certainty.

[50] It is easy and convenient to impute loss to director mismanagement or other commercial causes. In this case however, complainant's loss was not caused by management failure at Sharemax, but respondent's inappropriate advice. That the risk actually materialized, for whatever reason, is not important. Otherwise the whole purpose of the Act and the Code would be defeated. Every FSP can ignore the Act and Code in providing services to their clients and hope that the investment does not fail. Then when the risk materializes and loss occurs they can hide behind unforeseeable conduct on the part of product providers. This defeats the purpose of public and legal policy and the provisions of the Act and Code.

[51] The loss suffered by complainant as a result of respondent's inappropriate advice was reasonably foreseeable by respondent. I refer in this regard to S*tandard Chartered Bank of Canada v Nedperm Bank Ltd*[20] where the Court held that:

"as to the issues of loss and causation, that although the untrue report issued by the respondent had been a factual cause of the appellant's loss, the test to be applied to the question whether the furnishing of the untrue report had been 'linked sufficiently closely or directly to the loss for legal liability to ensue was a flexible one in which factors such as reasonable foreseeability, directness, the absence or presence of a novus actus interveniens, legal policy, reasonability, fairness and justice all played a part."

[52] Information at this Office's disposal points to the following conclusions:

[20] 1994 (4) SA 747 (AD)

52.1 Had respondent followed the Code, he would not have recommended an investment in Sharemax. Being acutely aware of complainant's circumstances, he would have found an investment that was appropriate for complainant. Thus, respondent failed to match complainant's risk profile and capacity to that inherent in the Sharemax product. (section 8 (1) (a) to (c) of the General Code.

52.2 Respondent failed to conduct proper due diligence on the Sharemax investment, in complete disregard of the law. When respondent recommended the investment in Sharemax, he could not have been acting in complainant's interest. In fact, it would appear that respondent was advancing his own interest.

52.3 Notwithstanding the patent red flags respondent went ahead with the investment, in circumstances where he ought to have known that there was a real risk that investors would lose their money.

[53] I find that, in advising complainant to invest in Sharemax, respondent contravened sections 2; 3; 7 (1) and 7 (2); 8 (1) 8 (2); and 9 of the Code. I also find that respondent's conduct was the cause of complainant's loss.

H. QUANTUM

[54] Complainant invested an amount of R170 000.

[55] Accordingly, an order will be made that respondent pay to complainant an amount of R170 000 plus interest.

I. THE ORDER

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

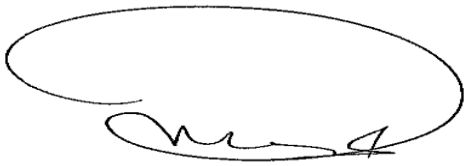
1. The complaint is upheld.

2. Respondents are ordered to pay complainant, jointly and severally, the one paying the other to be absolved, the combined amount of R170 000.

3. Interest on this amount at the rate of 10.25% per annum from the date of determination to date of final payment.

4. Upon receipt of payment, complainant will cede her rights to any further claims to respondent.

DATED AT PRETORIA THIS THE 21st DAY OF FEBRUARY 2017.



_____

NOLUNTU N BAM

OMBUD FOR FINANCIAL SERVICES PROVIDERS