

IN THE OFFICE OF THE OMBUD FOR FINANCIAL SERVICES PROVIDERS

PRETORIA

CASE NUMBERS: FAIS 06918 and

06467/12-13/ GP 1

In the matter between:

Ms ANNA ELIZABETH JOHANNA PIETERSE

**(both in her personal and official capacity as Executrix of the
Late Estate Mrs A E J Rosslee, in terms of the letters of Executorship
issued by the Master of the High Court numbered (006039/2017)
and dated 17 August 2017)**

Complainant

and

**HUIS VAN ORANJE FINANSIELE DIENSTE BPK
STEPHANUS JOHANNES VAN DER WALT**

First Respondent

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 13 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 Ms Anna Elizabeth Johanna Pieterse both in her personal and official capacity as Executrix of the Late Estate Mrs A E J Rosslee¹.

[3] The first respondent is Huis Van Oranje Finansiële Dienste BPK, (Huis van Oranje), a company duly incorporated and registered in terms of South African laws. First respondent's address is recorded in the papers furnished by respondents as TLU Gebou, James Rylaan 194, Silverton, 0127, Gauteng. First respondent is represented by Mr Barend Petrus Geldenhuys, an adult male, key individual and authorised representative of first respondent in terms of the FAIS Act.

[4] The registrar's records confirm that first respondent's licence lapsed in July 2011.

[5] Second respondent is Stephanus Johannes van der Walt, an adult male and authorised representative of first respondent (as provided for in the FAIS Act) at the time material hereto. Second respondent is now a representative of FNB Financial Advisory FSP 3075, with its principal place of business at FNB Century City Shop, 139 Canal Walk Shopping Centre, Century City, Cape Town, 8001.

¹ in terms of the letters of Executorship issued by the Master of the High Court numbered (006039/2017) and dated 17 August 2017)

[6] I refer to the respondents collectively as “respondent”. Where appropriate, I specify which respondent is being referred to.

C. CONCLUSION

[7] 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

[8] 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:
 - 2.1 An amount of R120 000 in respect of her own investment; and
 - 2.2 An amount of R800 000 in her capacity as executor of the late Mrs Rosslee’s estate.
3. Interest on this 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 her rights, title and any further claims in respect of this investment to respondents.

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 several cursive strokes, all contained within a hand-drawn oval.

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