

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

**PRETORIA**

**CASE NUMBER: FAIS-18223-20/21**

In the matter between:

**LEE-ANN ROBINSON**

Complainant

and

**UNCLE MIKES 24 FUNERAL SERVICES (PTY) LTD**

**t/a NATTEX FUNERAL SERVICES (FSP NO. 47679)**

Respondent

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**DETERMINATION IN TERMS OF SECTION 28 (1) OF THE FINANCIAL ADVISORY  
AND INTERMEDIARY SERVICES ACT 37 OF 2002 ('FAIS ACT')**

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**THE PARTIES**

[1] The Complainant is Ms Lee-Ann Robinson, an adult female.

[2] The Respondent is Uncle Mikes 24 Funeral Services Pty (Ltd) trading as Nattex Funeral Services, with its principal place of business at, Nr 1, 95 Du Toitspan Road, Kimberly CPD, 8301. The Respondent is registered with the Financial Sector

Conduct Authority (FSCA) as a Financial Services Provider (FSP), with license number 47679, in terms of the FAIS Act.

## THE COMPLAINT

- [3] The Complainant filed a complaint form with the FAIS Office on 5 June 2020.
- [4] The Complainant took out a funeral policy with the Respondent for a benefit amount of R40,000.00 at a monthly premium of R250.00. The policy, with respect to the insured individuals, commenced on 25 September 2019, with the first debit order being deducted on the same day.

Additional Insured:	
& Surname: <u>PETRUS CLARKE</u> ID Number	Relation <u>UNCLE</u> Benefit <u>40 000.00</u>
& Surname: <u>DIRK EKSTEEN</u> ID Number	Relation <u>Cousin</u> Benefit <u>40 000.00</u>
& Surname: <u>TESHWILL EKSTEEN</u> ID Number	Relation <u>Cousin</u> Benefit <u>40 000.00</u>
& Surname: <u>DENVE DELIG</u> ID Number	Relation <u>BROTHER</u> Benefit <u>40 000.00</u>
& Surname: <u>GRAIG CLARKE</u> ID Number	Relation <u>BROTHER</u> Benefit <u>40 000.00</u>
& Surname: <u>INNALINE KELLA</u> ID Number	Relation <u>SISTER</u> Benefit <u>40 000.00</u>
& Surname: _____ ID Number	

- [5] The Complainant's cousin, Teshwill Eksteen, passed away on 13 April 2020, and a claim was subsequently submitted on 15 April 2020. All the required proof of the claim was submitted.
- [6] Mr. Winston Williams, the key individual of the Respondent, sent the Complainant a letter dated 20 April 2020, informing her that the claim would not be honoured as the deceased died within the waiting period of 6 months.
- [7] The Complainant submits that the waiting period on the policy is 6 months for natural causes, and the policy was 7 months old at the time the claim was submitted.

## **RELIEF SOUGHT**

[8] The Complainant requests the Respondent to make payment of the claim amounting to R40,000.00, in respect of the policy held and paid for.

## **RESPONDENT'S RESPONSE**

[9] On 26 June 2020, the Respondent replied to this Office, confirming that the claim of R40,000.00 would be paid to the Complainant.

[10] It agreed to pay an amount of R10 000.00 per month from the end of August 2020, until the full amount is paid.

## **ATTEMPTS TO RESOLVE THE MATTER**

[11] To date, no evidence of payment has been provided by the Respondent. The Complainant also confirmed that no payment was received.

[12] On 6 October 2023, a recommendation in terms of section 27 (5) (c) of the FAIS Act was sent to the Respondent. The Respondent did not respond to the recommendation.

[13] Repeated attempts to contact the Respondent telephonically and by email have been unsuccessful.

[14] Moonstone Compliance sent notice to the Financial Sector Conduct Authority (FSCA), that it had cancelled its contract with the Respondent as its compliance officer on 8 November 2023.

## **ASSESSMENT OF THE EVIDENCE**

[15] The policy was incepted on 25 September 2019. The policy conditions confirm that there is a six-month waiting period. The policy condition states:

Waiting Period

- Six (6) months for natural cause of death;
- Six (6) months for members below 75 years and twelve (12) months for members above 74 years;
- Twenty Four (24) months for suicide;
- No waiting period for unnatural causes of death, provided that the inception (1<sup>st</sup> premium) was paid;
- If a policy is cancelled and reinstated the normal waiting period will apply.

[16] The deceased was listed as an insured under the funeral policy. The death certificate states that the deceased died of natural causes on 13 April 2020.

[17] Based on the evidence presented, the contractual 6-month waiting period would have started on 25 September 2019 and would have ended on Wednesday, 25 March 2020, which is prior to the date of death on 13 April 2020.

[18] From the undisputed facts before this Office, it can be concluded that:

- The Respondent is licensed as a Financial Services Provider.
- All the required monthly payments were made by the Complainant on the policy.
- The Respondent was at risk and was liable to pay the Complainant as per the policy conditions.
- The Respondent admitted liability for the claim but has not provided any evidence that it paid the claim as agreed to.

[19] The Respondent is in contravention of Section 2 of the FAIS Act which provides as follows:

*“A provider must at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry.”*

[20] The Complainant has submitted a valid claim, and the Respondent has a contractual obligation in terms of the funeral policy to pay a cash benefit of R40,000.00 when an insured person dies.

## ORDER

[21] The following order is made:

[21.1] The complaint is upheld.

[21.2]. The Respondent is hereby ordered to pay the Complainant the amount of R40,000.00 plus interest at a rate of 11.75% per annum from 26 June 2020 to the date of final payment.

*Please note that a person aggrieved by this decision, has the right to apply for the reconsideration of the decision by the Financial Services Tribunal (“the Tribunal”) as contemplated in section 230 of the Financial Sector Regulation Act.*

*An application for reconsideration must be made:*

*(a) In accordance with the Tribunal rules ([link](#)); and*

*(b) Within 30 days as set out in section 230(2) of the FSR Act.*

*The contact details of the Tribunal secretariat are as follows:*

*Ms. Kim Host / Ms Alitah Morudu*

*E-mail: [Applications@fstribunal.co.za](mailto:Applications@fstribunal.co.za)*

*Telephone: (012) 741 4300 / (012) 741 4302 / (012) 741 4303*

*Kasteel Office Park*

*Orange Building (2nd Floor)*

*546 Jochemus street*

*Erasmuskloof*

*Pretoria*

**DATED AT PRETORIA ON THIS THE 28<sup>TH</sup> DAY OF NOVEMBER 2023**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

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**ADV. JOHN SIMPSON**

**OMBUD FOR FINANCIAL SERVICES PROVIDERS**