

OUR REFERENCE: FSOS 00246/15-16/ FS 1

2 November 2017

ATTENTION: Ms M Mokhetlo

Jo-Meri Funeral Services

Per email: jomerifuneral@gmail.com

Dear Ms Mokhetlo

M BITTERBOS v MARIAM MOKHETLO t/a JO-MERI FUNERAL SERVICES: RECOMMENDATION IN TERMS OF SECTION 27 (5) (c) OF THE FAIS ACT, (ACT 37 of 2002)

A. INTRODUCTION

1. The complainant is Mrs Martha Bitterbos, an adult female whose full details are on file with this office.
2. The respondent is Mariam Mokhetlo, an adult female sole proprietor who trades under the name and style Jo-Meri Funeral Services. The respondent's address is 206 Colying Court, 7 Wriqth Street, De Beers, Kimberley, Northern Cape.
3. The regulator's records confirm that the respondent has never been registered as a financial services provider. At a particular point, the respondents were said to be juristic representatives of KGA Life Ltd but ceased to be so some time in December 2014.

B. THE COMPLAINT

4. The complainant with the assistance of the respondent concluded an agreement with KGA Life Ltd, (Reg 1998/023657/06), a registered insurer and authorised financial services provider.
5. The terms of the agreement, which incepted in February 2013, entailed in brief the provision of funeral cover against an agreed monthly premium.

6. One of the lives covered in terms of the policy was the complainant's aunt, an adult female who was unemployed and wholly dependent on the complainant.
7. After the premiums had been paid as agreed, the complainant's aunt passed away in April 2015. The complainant's claim for the payment of the agreed benefit of R10 000 was ignored by the respondent, causing the complainant to fund the funeral expenses out of her own pocket.
8. The respondent, according to the complainant, made an undertaking to pay the claim but failed. The reason advanced by the respondent was that they were awaiting the completion of an investigation into the legality of their business by the Financial Services Board (FSB).
9. Having not heard from the respondent with regard to the payment, the complainant turned to this Office for assistance in November 2015.
10. In her complaint, the complainant sought relief in the amount of R10 000. She provided proof of payment of the premiums that had spanned a period of 22 months as at the date of the aunt's demise. She claimed at the time that she was still paying premiums towards the same policy.
11. The complainant sought relief in the full amount of R10 000, being the benefit promised in terms of the contract.

C. INVESTIGATION

12. On 15 February 2016 the complaint was referred to the respondent for resolution with her client in terms of the rules. As the respondent did not resolve the complaint with the complainant, a notice in terms of section 27 (4) of the FAIS Act was issued to the respondent. This notice was ignored by the respondent.
13. As a result of several enquiries, this Office established on 7 March 2017 from KGA Life Ltd that the agreement between it and Jo-Meri Funerals had been cancelled on 1 December 2014, following respondent's failure to pay the agreed premiums. KGA Life provided this Office with a letter dated 1 November 2014 in which it informed the respondent of its intention to cancel the agreement effective

1 December 2014. In the event the respondent failed to pay the premiums for the months of October and November 2014. KGA Life Ltd further advised that all their attempts to contact the respondent were unsuccessful.

14. There is no evidence that the respondent had any other underwriter involved in her business, notwithstanding the continued collection of premiums from her clients.
15. To date, the complainant has not been paid the promised benefit.

D. ANALYSIS AND RECOMMENDATION

16. Having regard to the circumstances set out in the preceding paragraphs and no contention from the respondent, this Office accepts the validity of the complainant's claim against the respondent.
17. The respondent is thus under an obligation to pay the complainant the benefit of R10 000 in terms of the agreement.

E. RECOMMENDATION

18. The FAIS Ombud recommends that the respondent pays the complainant the amount of R10 000 within TEN (10) working days from the date of this recommendation.
19. Failure to respond to this recommendation will result in a final determination being made against the respondents.

Yours sincerely



NOLUNTU N BAM
OMBUD FOR FINANCIAL SERVICES PROVIDERS