FAISOmbud
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under the baobab tree

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INTRODUCTION

Lolu shicilelo lwe-12 lwe-Under the Baobab Tree LoMhlaziyi-zikhalo We-FAIS luphetha ikota yesibili ku-2016. Kulolu hlelo siye sakhetha ukugxila kulezo zikhalo ezibandakanya amapholisi okungcwaba, okuyiwona ewuhlobo lomshwalense ovame kakhulu eNingizimu Afrika futhi lapho khona ngaphansana nje kwe-90% yawo onke amakhava ezingcuphe kungawalolu hlobo lomshwalense. Amapholisi okungcwaba abaliwe lapho kuchazwa ibhizinisi losizo okusho ukuthi izinzuzo ezinikwayo azinakuba ngaphezulu kwe-R30 000. Nakuba amapholisi omngcwabo eyindlela yokuqinisekisa ukuthi umndeni onomshwalense nalabo abencike kumuntu onomshwalense akudingeki bathwale umthwalo wezimali ongaphezu kwesilinganiso ukuze bakhokhele umcimbi womngcwabo, ngokuvamile iqiniso liba ngokwehluke kakhulu kulabo abasele ngemuva futhi abathembele ezinzuzweni ezinikezwayo. Ngesizathu sokuthi ngokungafani nezinhlobo ezijwayelekile zomshwalense wokufa (life cover) lezo eziba nokwesekwa ngokwesimo sempilo yomuntu (medical undewriting) ngesikhathi sokufaka isicelo ukuze kukalwe ubungako bengcuphe (risk) obulethwa yiloyo okubhekwe ukuba abe yikhasimende, amapholisi omngcwabo awasihloli isimo sempilo yomuntu ukuze kukalwe ubungako bengcuphe obulethwa yiloyo muntu okubhekwe ukuba abe yikhasimende. Ngenxa yalokho la mapholisi abeka imingcele njengezinkathi zokulinda nokunye okuyaye kungafakwa kupholisi ukuze kudanjiswe ingcuphe elethwa ngamakhasimende aqinisekisiwe ngokwemukelwa naphezu kwanoma yiziphi izimo ezingezinhle zezempilo. Kuphakathi kokuthi lezi zinkathi zokulinda naloko okuyaye kungafakwa kupholisi akucatshangelwa noma kudalulwe kubafaki-zicelo (prospective clients) ngesikhathi sokufakwa kwesicelo sepholisi. Amakhasimende amaningi asala edumele lapho amakileyimu esenqatshwa ngenxa yokuthi ukuphila komuntu othathe umshwalense akuhambisani nezimfuneko zepholisi bese kudliwa yileyo mishwana ebeka ezinye izimo eceleni (exclusionary clauses). Nokho, amakhasimende anaso isivikelo ngokuthi uMthetho We-FAIS kanye nokuhambisana nawo uHlaka Lokuziphatha Oluvamile Lwabahlinzeki Bamasevisi Ezimali Abagunyaziwe Nabameleli (General Code of Conduct for Authorised Financial Services Providers and Representatives [uHlaka]) kubizela ukuthi umhlinzeki wamasevisi ezimali aqale ngokuthola lonke ulwazi (information) oluphathelene nendaba nolutholakalayo ukuze kuqinisekiswe ukuthi lo mkhiqizo otuswayo awufaneleki nje kuphela kodwa futhi nokudalulwa okufunekalyo kuzokwazi ukwenziwa ukuqinisekisa ukuthi ikhasimende libekwa esimeni sokwenza isinqumo esisekelwe olwazini.

UKUHLAZIYWA KODABA 1

Umgomo oyinhloko womshwalense wukunxephezela umninipholisi ngokulahlekelwa, okuvame ukuba ngokwezimali, okwenzeka ngenxa yenhlekelele ethathelwe umshwalense. Ukuvumela ukuba umninipholisi anxeshezelwe ngokulahlekelwa okungamthinti loyo muntu ngokwezimali kungadala inkinga engokwesimilo, njengoba kobe kungekho sizathu noma isisusa sokuba loyo muntu avimbele lokho kulahlekelwa. Ngenxa yalokho isizathu isifiso sokuthathwa komshwalense siyimfuneko eyisisekelo sokunikwa kwepholisi yomshwalense, okukwenza kube ngokomthetho futhi kufaneleke. Umuntu uba nesifiso sokuthatha umshwalense ngento ethile okungathi ukulahleka noma ukulimala kwayo kubangele ukuba loyo muntu alahlekelwe ngokwezimali noma ngezinye izindlela. Ngokomshwalense wokungcwaba isimiso sesifiso sokuthathwa komshwalense sivame ukubhekwa njengesifanelekile uma abathintekayo behlobene eduze futhi loyo oyothola izinzuzo zomshwalense eyolahlekelwa ngokwezimali ngokufa kwaloyo othathelwe umshwalense, njengabantu abashadile abanokuthathelana umshwalense ngokuphila kwabo. Isifiso sokuthathwa komshwalense kumele sibe khona lapho kufakwa isicelo somshwalense wokufa futhi akudingeki sivele ngoba sekufakwa ikileyimu.

UDABA LUKA-"NKS M"

Facts

Umfakisikhalo wayefake isicelo sepholisi yomngcwabo saphumelela futhi wayefake umyeni wakhe njengomuntu othathelwe umshwalense ngokuphila kwakhe kuleyo pholisi. Kubalulekile ukuqaphela ukuthi umfakisikhalo nomyeni wakhe babeshade ngokoMthetho Wesiko. Emva kokuba iqalile ukusebenza le pholisi, umyeni womfakisikhalo washona emva kokuba le pholisi isakhokhelwe amaprimiyamu (premiums) amabili kuphela. Emva kokufaka ikileyimu ukuze athole isamba okufanele sikhokhwe yilo mshwalense esiwu-R10 000.00 umfaki-sikhalo washaqeka ukuthola ukuthi ikileyimu yakhahlelwa ngesisekelo sokuthi ngokuya ngommangalelwa (respondent) umfakisikhalo wayengenasithakazelo esinokuthathelwa umshwalense. Ngaphezu kwalokho ummangalelewa wayethe futhi umfakisikhalo akazange ahlangabezane nenkathi yokullinda yeprimiyamu okungenani eyodwa.

UKUNGENELA KWETHU

Lapho leli Hhovisi lithola lesi sikhalo lasibhekisa kummangalelwa ngokwemithetho elawula ukusebenza kwaleli Hhovisi. Ummangalelwa wacelwa ukuba anike leli Hhovisi amaphepha abonisa ukuthi kwahlangabezanwa nalokho okufunwa wuHlaka Lokuziphatha Oluvamile Lwabahlinzeki Bamasevisi Ezimali Abagunyaziwe Nabameleli (uHlaka) futhi ngokuthe ngqo abonisa ukuthi ummangelelwa waluthola yini lonke ulwazi oluphathelene nendaba nolutholakalayo ukuqinisekisa ukuthi lo mkhiqizo otuswayo wawuzifanelekela kahle yini izidingo nezimo zomfakisikhalo.

Kuloku, kwafunwa futhi ukuba ummangalelwa akhanyise izisekelo zokukhahlela ikileyimu njengoba babukhona ubufakazi bokuthi umufi wayemkhiphelile ilobolo umfakisikhalo. NgokoMthetho Wokuqaphela Imishado Engokwesiko (Recognition of Customary Marriages Act), umshado ongokwesiko ubhekwa njengosebenzayo uma izingxoxo zokubonisana (negotiations), imicikilisho (rituals) nemicimbi kuhambisana nomthetho wesiko. Ukuthi lowo mshado awubhalisiwe eMnyangweni Wezasekhaya akuwenzi nangayiphi indlela ukuthi lowo mshado ube ngongenakuqashelwa.

Kwatholwa impendulo evela kummangalelwa ayeveza kuyo ukuthi wayeye wasibukeza isinqumo esasithathwe ekuqaleni nokuthi wayesekwemukele ukuthi ngempela umfakisicelo wayenaso isithakazelo sokuthathelwa umshwalense ngenxa yokuthi lo mshado wawuhlangabezanile nezingxoxo, imicikilisho nemicimbi ngokoMthetho Wesiko.

IZIFUNDO EZIFUNDIWE:

1. Isithakazelo sokuthathelwa umshwalense siyimfuneko eyinhloko kunkontraki yomshwalense esebenzayo, futhi kudingeka kuqondakale ukuthi noma ubani ofaka isicelo somshwalense ngokuphila
2. Abashadikazi bayisibonelo sokuhlobana okuletha isithakazelo sokuthathelwa umshwalense futhi kuhlanganisa nalabo abashade ngokomthetho wesiko;
3. Isithakazelo sokuthathelwa umshwalense kudingeka sibe khona ngesikhathi sokufakwa kwesicelo somshwalense, futhi asidingeki lapho sekufakwa ikileyimu.

Ukuhlaziywa kodaba 2

Isimo ebesivele sikhona yileso simo sempilo ngokwezokwelapha esingafakiwe ekukhokhelweni yinkampani yomshwalense ngoba leso simo kwakukholelwa ukuthi sasikhona ngaphambi kokuba loyo muntu athole ipholisi kuleyo nkampani ethile yomshwalense. Lokhu kuchazwa okubanzi kusetshenziswa yizinkampani zomshwalense, zona ezihlinzeka imikhiqizo efana namapholisi omngcwabo, ukuze zenqabele amakileyimu lapho umufi eshone ngokuqondile noma ngokungaqondile ngenxa yesimo sempilo ngokwezokwelashwa ebesikhona ngaphambi kokuba ipholisi iqale ukusebenza. Izinkampani zomshwalense zinalo ilungelo lokuwenqaba la makileyimu ngoba, ngokungafani nezinhlobo ezivamile zomshwalense wokufa, ikhava yamapholisi omngcwabo inikwa ngaphandle kokuba leyo nkampani yomshwalense yenze ukuhlolwa kwempilo ngokwezokwelapha kuqala, futhi ngaphandle kokuyazi ingcuphe elethwa yilokho kuphila komuntu okuzokhokhelwa wumshwalense. Ngakho-ke kubaluleke kakhulu ukuba umhlinzeki wamasevisi ezimali athole lonke ulwazi (information) oluphathelene nendaba nolutholakalayo kuloyo muntu osethubeni lokuba yikhasimende okuzovumela ukuba kudalulwe ngemininingwane egcwele ukungafakwa kwaleso simo nanoma siphi esinye isiwombe lapho umshwalense ongeke ukhokhe khona. Ukudalulwa kwalolu lwazi kuzovumela ikilayenti (client) ukuba lenze isinqumo esisekelwe olwazini sokuthi le pholisi etuswayo iyafaneleka yini kulo ngokwezidingo nezimo zalo.

ISEHLAKALO SIKA-'MNU. L"

Facts

Umfakisikhalo wayenepholisi yomngcwabo eqhubekayo nommangalelwa eyayiqalise ngoMeyi 2015, futhi wayekhokha iprimiyamu yenyanga eyi-R269.00. Le pholisi yayiye yalungiselelwa ukukhokhela ubaba ngomshado (stepfather) womfakisikhalo kanye namanye amalungu omndeni. Phakathi noMashi 2016 umfakisikhalo wayeye wafaka ikileyimu kummangali emva kokushona kukababa wakhe ngomshado, futhi ikileyimu laliye lakhahlelwa ngesisekelo sokuthi umufi wayephathwe yisimo esasivele sikhona.

Umfakisikhalo wema kwelokuthi lokhu kwakungazange kudalulwe kuye lapho ipholisi iqalisa nanokuthi wayetshelwe okokuqala ngalokhu kubekwa eceleni lapho efaka ikileyimu yakhe. Ngaphezu kwalokho umfakisikhalo wayenombono wokuthi njengoba ayengazange ake eqiwe yiprimiyamu ummangali kufanele ayemukele ikileyimu yakhe, khona-ke wabe eseza kuleli Hhovisi ukuze athole usizo.

UKUNGENELA KWETHU

Isikhalo sathunyelwa kummangalelwa owabe esecelwa ukuba anike amaphepha adingekayo ngokoMthetho i-FAIS kanye nokuhambisana nawo uHlaka Lokuziphatha Oluvamile Lwabahlinzeki Bamasevisi Ezimali Abagunyaziwe Nabameleli. La maphepha, okwakufanele ahlanganise nerekhodi leseluleko esanikwa ikilayenti, kwakufuneka abonise ukuthi ummangalelwa akazange agcine ngokuthola lonke ulwazi okuphathelene nendaba nolutholakalayo kumfakisikhalo ukuze abone ukuthi lo mkhiqizo wawufanelekile yini ngokwezidingo zekilayenti, kodwa futhi nokuthi zonke izici eziwumongo wepholisi zaziye zadalulwa. Ukudalulwa kwezici eziwumongo wepholisi kwakuyoqinisekisa ukuthi umfakisicelo wayeye wabekwa esimeni sokuba enze isinqumo esisekelwe olwazini.

Ngakho-ke ummangalelwa waziswa kwakufuneka athole ulwazi olunjengomlando wokwelashwa womfakisikhalo kanye nalabo ayefisa ukubathathela umshwalense kule pholisi. Lolu lwazi lwaluyokwenza ummangali akwazi ukuxoxa ngendaba yokuthi umuntu onjengomufi angase angakwazi ukufaka ikileyimu ephumelelayo uma kwenzeka efa ngokwendlela yemvelo. Ummangali wakuvuma ukushiyeka kwakhe kule ndaba wabe eselikhokha inani lekileyimu eliyi-R10 000 elisikhokhela ngokugcwele nangokokugcina isikhalo.

IZIFUNDO EZIFUNDIWE

4. Emikhiqizweni yomshwalense efana namapholisi omngcwabo, lapho kungenziwa khona siqinisekiso ngesikhathi sokufakwa kwesicelo, kuyaye kufakwe kupholisi imishwana ebeka izinto ezithile eceleni ezibonisa lokho umshwalense ongezukukukhokhela maqondana nanoma yisiphi isimo esingokwempilo ngokwezokwelapha esivele sikhona ukuze kunqandwe ingcuphe elethelwa inkampani yomshwalense.
5. Lapho ufuna ukuthenga ipholisi yomngcwabo qiniseka ngaso sonke isikhathi ukuthi umhlinzeki wamasevisi ezimali wakho udalula lonke ulwazi oluwumongo ikakhulukazi ngokuphathelene nalezo zinto ezingeke zikhokhelwe mayelana nezimo ebezivele zikhona kanye nanoma ziphi ezinye iziwombe ezingeke zikhokhelwe. Lokhu kuzovumela umuntu ukuba anqume noma lo mkhiqizo otuswayo uyamfanelekela yini ngokwezidingo nezimo zakhe.

Ukuhlaziywa kodaba 3:

Ngokuphathelene namapholisi omngcwabo, izingane ezondliwayo zivame ukukhokhelwa zize zifinyelele ubudala beminyaka engama-21, noma-ke uma umninipholisi ekwazi ukuveza ubufakazi bokuthi leyo ngane iyisitshudeni noma ngokwezimali incike kumzali. Ngaphezu kwalokhu, izingane ezikhubazekile ngokomzimba noma ngokwengqondo ngokuvamile ziyakwazi ukunakekelwa ngokwepholisi inkathi engabekelwe mngcele. Iningi lezikhalo kulo mkhakha livela ngezingane ezazingaphansi kobudala beminyaka engama-21 ngesikhathi ipholisi iqala, futhi kusobala ukuthi abahlinzeki bamasevisi ezimali bayehluleka ukwazisa amakilayenti abo ngaloku kubekelwa eceleni lapho befaka ingane eyondliwayo kumshwalense wepholisi yomngcwabo.

UDABA LUKA-"MNU. S"

Facts

Umfakisikhalo, owayewumnini wepholisi yomngcwabo eyayituswe wummangalelwa, wathi ummangalelwa akamazisanga ukuthi kukhona umngcele wobudala beminyaka engama-21 ngabantu abathathelwe umshwalense njengabondliwayo ngokwepholisi yakhe yomngcwabo. Umfakisikhalo wayekhokha iprimiyamu maqondana naye nomfowabo omncane, owayebhaliswe kule pholisi njengomondliwa. Lapho iqala ukusebenza ipholisi umfowabo womfakisikhalo wayeneminyaka eyi-18 ubudala kwathi lapho eshona wabe eseneminyaka engama-24. Ikiliyemu eyafakwa wumfakisikhalo kamuva yakhahlelwa ngesisekelo sokuthi umshwalense womufi waphelelwa yisikhathi lapho efinyelela ubudala beminyaka engama-21. Umfakisikhalo wama kwelokuthi lokhu kwakungazange nanini kuchazwe kuye ngesikhathi kuthengiselanwa noma ngezincwadi zokuvuselela zanjalo ngonyaka; wabe eseza kuleli Hhovisi ukuze ummangalelwa akhokhe inzuzo egcwele eyi-R10 000.

Ukungenela Kwethu

Lapho kufika kithi lesi sikhalo, ummangalelwa wacelwa ukuba anike leli Hhovisi irekhodi leseluleko esanikwa ikakhulukazi ngokudalulwa okwénziwa maqondana nalezo zinto ezingeke zikhokhelwe ngabantu abondliwayo abathathelwe umshwalense ngokwale pholisi. Ummangalelwa akakwazanga ukwenza kanjalo, kodwa esikhundleni salokho wamane wabhekisa kumaphepha epholisi ayequkethe lo mshwana, ngaso sonke isikhathi ephikelela ngokuthi lo mngcele wawusebenza kuyo yonke imboni futhi kwakufanele ukuthi ikilayenti lazi ngawo. Nokho ummangalelwa wayezimisele ukukhipha isamba somusa esiyi-R5000 ngokwehluleka kwakhe ukugcina la maphepha aphathelene nendaba. Umfakisikhalo waqala ngokuyenqaba le offer, ephikelela ngokuthi makuhlaiakhokhelwe inzuzo ephelele, nokho wagcina eyemukele i-offer njengokukhokhelwa okugcwele nokokugcina ngalesi sikhalo.

IZIFUNDO EZIFUNDIWE:

6. Kubalulekile ukuthi wazi nganoma yimiphi imingcele ebekwe kupholisi yakho yomngcwabo ikakhulukazi ngokuphathelene nabomndeni osabalele (extended family) abathathelwe umshwalense.
7. Ngaphandle kokuba umuntu ekwazi ukuveza ubufakazi besithakazelo sokuthathelwa umshwalense,

umshwalense angeke ubakhokhele abondliwa abangaphezu kweminyaka engama-21 ubudala.

8. Nakuba lokhu kungase kube yinto esebenza kuyo yonke imboni, umhlinzeki wamasevisi ezimali ulokhu enawo umthwalo wokudalula leyo mingcele yomshwalense ukuze anike ikilayenti ithuba lokwenza isinqumo esisekelwe olwazini.

Ukuhlaziywa kodaba 4:

Izinkathi zokulinda azinakugwemeka kumshwalense womngcwabo ngenxa yokuthi ekuqaleni akukho ukuqinisekiswa kwempilo ngokwezokwelapha okwenziwayo ukuhlola ingcuphe elethwa yikilayenti. Njengoba kushiwo esingenisweni ngenhla, khona-ke amapholisi omngcwabo abeka imingcele njengezinkathi zokulinda, eziqala ngosuku umuntu othathe umshwalense aba nelungelo ngalo ngalowo mshwalense, ngokujwayelekile okuba lapho kutholwa iprimiyamu yokuqala, futhi kule nkathi akukho nzuzo ekhokhwayo uma ukufa kwenzeka ngezimbangela ezingokwemvelo. Izinkathi zokulinda zivame ukuchazwa njengenkathi lapho kungekho khona ukufaka amakileyimu phakathi nezinyanga zokuqala ezi-3, ezi-6 noma ezi-9 ipholisi iqalile. Kubalulekile ukuba umuntu akuqaphele ukuthi inkathi yokulinda iya ngobude bethemu (term), hhayi inani lamaprimiyamu akhokhiwe. Ngamanye amazwi, amaprimiyamu ayi-6, ngokwesibonelo, awaqinisekisi ukuthi ikileyimu izophumelela uma umufi eshone ngenyanga yesi-5 yenkathi yokulinda eyizinyanga eziyi-6.

UDABA LUKA- 'MNU. F'

Facts

Umfakisikhalo wayefake isicelo somshwalense womngcwabo kummangalelwa saphumelela, lapho kufakwe nogogo wakhe njengomuntu wokukhokhelwa uma efa. Ipholisi yaqala ukusebenza ngomhla ka-1 Okthoba 2012 futhi umfakisikhalo kwakudingeka akhokhe ungakadluli umhla ka-15 wenyanga ngayinye. Iprimiyamu yomfakisikhalo yokuqala yakhokhwa ngomhla ka-10 Okthoba 2012 emahhovisi ommangalelwa, kwahlelwa ukuthi konke ukukhokha okulandelayo kwakuzokwenziwa ngendlela efanayo.

Ngenxa yalokho umfakisikhalo akazange anikwe ezinye izindlela zokukhokha.

Kamuva umfakisikhalo wathola umsebenzi kwesinye isifundazwe futhi wacela ilungu lomndeni ukuba limkhokhele. Isivumelwano saba wukuthi umfakisikhalo uzofaka iprimiyamu ku-akhawunti yaleli lungu lomndeni bese lona liyikhokha kummangalelwa egameni lomfakisikhalo. Phakathi noDisemba 2015 ugogo womfakisikhalo washona kungakadingeki ukukhokhwa kweprimiyamu. Lapho umfakisikhalo efaka ikileyimu watshelwa ukuthi ikileyimu ikhahleliwe ngenxa yokungakhokhwa kwamaprimiyamu. Ummangalelwa wathi umfakisikhalo wayengazange akhokhe amaprimiyamu amathathu ngenxa yalokho ipholisi yomfakisikhalo yayisenkathini yokulinda ukusuka kuJuni 2015. Ngakho-ke ummangalelwa wathi ikileyimu yomfakisikhalo yayifakwe phakathi nenkathi yokulinda yezinyanga ezintathu futhi ngaleyo ndlela yayingeke yemukeleke. Umfakisikhalo yena wathi wayengazange aziswe ukuthi ipholisi yakhe yayisenkathini yokulinda ngenxa yokungakhokhwa kwamaprimiyamu lapho ekhokha iprimiyamu phakathi noJuni 2015 futhi wayenombono wokuthi ipholisi yakhe yayilokhu isebenza ngaphandle kwemibandela yokukhokhwa komshwalense uma nje eqhubeka nesibopho sakhe sokukhokha amaprimiyamu.

UKUNGENELA KWETHU:

Lapho sithola lesi sikhalo sacela ummangalelwa ukuba asinike ubufakazi bokuthi umfakisikhalo wayazisiwe ngezimo lapho izinzuzo zazingeke zikhokhwe khona. Ngokukhethekile, sacela ummangalelwa ukuba aveze ubufakazi bokuthi umfakisicelo wayazisiwe ukuthi uma kwenzeka engakhokhwa amaprimiyamu ipholisi iyonqamuka kodwa uma kamuva ewakhokha amaprimiyamu asilele ipholisi iyovuselelwa bese iba senkathini yokulinda entsha yezinyanga ezintathu. Ummangalelwa akakwazanga ukusinika noma yibuphi ubufakazi obubhaliwe ubudingekayo kodwa kunalokho wasinika ikhophi yamaphepha epholisi wona ayemane esho ukuthi ipholisi izokhanselwa emva kwezinyanga ezintathu ezilandelanayo zokungakhokhwa kwamaprimiyamu kodwa ayengasho lutho ngemibandela emayelana nokuvuselelwa kwepholisi. Ummangalelwa wagcina ngokulivuma iqiniso lokuthi lapho kwemukelwa lawo maprimiyamu ákhokhwa ngoJuni ummeleli wakhe wehluleka ukwazisa umfakisikhalo ukuthi lokho kukhokha kwakuwukuvuselela ipholisi esinqamukile nangemiphumela lokho okwakuza nayo. Ummangalelwa wavuma futhi ukuthi umfakisikhalo wanikwa umbono wokuthi ipholisi yayilokhu iqhubeka futhi nezinzuzo eziphelele zilokhu zikhona. Ngenxa yalokho, ummangalelwa wavuma ukukhokhela umfakisikhalo inzuzo egcwele eyi-R20 000.00

IZIFUNDO EZIFUNDIWE:

9. Inkontraki yomshwalense idala umthwalo kuzo zombili izinhlangothi ezenza isivumelwano. Ngakho-ke nakuba umnikimshwalense eyamukela ingcuphe elethwa yikilayenti, umnikimshwalense ukwenza lokhu ngokushintshiselana ngamaprimiyamu akhokhwa yikilayenti.

10. Uma kwenzeka engakhokhwa amaprimiyamu umnikimshwalense unelungelo lokuyikhansela inkontraki yomshwalense. Ngakho-ke umuntu othathe umshwalense kumele aqiniseke ukuthi onke amaprimiyamu akhokhwa ngesikhathi ukuze agweme ukukhanselwa kwepholisi.

11. Uma kwenzeka ikilayenti lifisa ukuvuselela le pholisi esikhanseliwe, ikilayenti kudingeka lazi ukuthi kungase kube khona inkathi yokulinda entsha esebenza kule pholisi evuselelwe.

Ukuhlaziywa kodaba 5:

Umqinisekisi (underwriter) yinkampani yomshwalense yenkathi ende ebhaliswe ku-Financial Services Board (iBhodi Lamasevisi Ezimali) okuyiyona eyamukela amaprimiyamu akho futhi enomthwalo wokukhokha izinzuzo uma kuba khona ukufa. Ngakho-ke, isici esibaluleke kakhulu wukuthi ipholisi kufanele iqinisekiswe yinkampani yomshwalense yenkathi ende. Lokhu kwenzelwa ukuqinisekisa ukuthi nakanjani ilungu lizokhokhelwa ngekileyimu esemthethweni uma kwenzeka efa umuntu othathelwe umshwalense ngale pholisi. Ngaphezu kwalokho, umninipholisi kumele

aqinisekise ukuthi uthola ikhophi yamaphepha epholisi, okufuneka ibe nalo igama lenkampani yomshwalense eqinisekisa leyo pholisi. Futhi loyo ongase abe yikilayenti kumele aqaphe ukuthi le pholisi yomngcwabo elifuna ukuyithenga iqinisekiswe wumhlinzeki wamasevisi ezimali orejistiwe. Uma kwenzeka umuntu engaqiniseki ngokuba semthethweni kwenkampani ethile, iBhodi Lamasevisi Ezimali linika imininingwane yazo zonke izinkampani eziku-website yalo.

UDABA LUKA-'NKS M'

Facts

Ngo-2009 umfakisikhalo wafaka isicelo sepholisi yomngcwabo kusosayathi yokungcwaba (umasingcwabane, burial society) owayesebenzela endaweni ahlala kuyo. Phakathi nalesi sikhathi, le sosayathi yokuncgwaba ngokwayo yayifake isicelo sepulani lokusekela amasosayathi okungcwaba enkampanini ethile eyabe isiba wumqinisekisi wale sosayathi yokungcwaba. Leli pulani lokusekela amasosayathi okungcwaba lalihloselwe ukukhava amalungu ale sosayathi yokungcwaba ngazo zonke izindleko zokungcwaba kumuntu oyilungu eliyinhloko kanye nabondliwa abangabantu abadala abane. Ikhava yepulani lokusekela amasosayathi okungcwaba laqala ukusebenza ngoMeyi 2010.

Umfakisikhalo wayewakhokhe ngenkuthalo amaprimiyamu omshwalense wakhe womngcwabo ukusuka ekuqaleni kwaze kwaba sekushoneni komunye wabathathelwe umshwalense ngokwale pholisi. Umfakisikhalo wabe esefaka ikileyimu njengokufanelekile, yona kamuva eyabe isikhahlelwa ngesisekelo sokuthi umfakisikhalo wayeye walungisa (update) ipholisi yakhe futhi, ngenxa yalokho, kwase kudaleke inkathi yokulinda entsha. Umfakisikhalo wasisola isinqumo sesosayathi yokungcwaba sokukhahlela ikileyimu yakhe kumqinisekisi futhi watshelwa yisosayathi yokungcwaba ukuthi ipholisi yayo nomqinisekisi yayinqamukile ngoba amanye amalungu ale sosayathi yokungcwaba ayengazange akhokhe amaprimiyamu awo. Emva kwalokho umfakisikhalo waqondisa isikhalo sakhe kumqinisekisi wabe esetshelwa ukuthi ipholisi yasekuqaleni yesosayathi yokungcwaba yayinqamuke ngoSeptemba 2012 ngenxa yokungakhokhwa kwamaprimiyamu. Umqinisekisi washo nokuthi le sosayathi yokungcwaba eqinisweni yayishintshe igama layo phakathi no-2012 yafaka isicelo senye ipholisi yokungcwaba ngaphansi kwegama layo elisha. Naleyo pholisi yanqamuka ngenxa yokungakhokhwa kwamaprimiyamu.

Umfakisikhalo waba sesimeni sokuthi kokubili umqinisekisi kanye nesosayathi yokungcwaba babekwenqaba ukuba nesibopho ngale kileyimu. Umfakisikhalo wathi wayengazange aziswe ngokushintha kwegama nanokuthi wayengaziswanga ngokunqamuka kwepholisi yesosayathi yokungcwaba. Empeleni wayelokhu ewakhokhela ize amaprimiyamu kule sosayathi yokungcwaba. Ngakho-ke, umfakisikhalo wacela usizo lwethu lokuba phakathi kwale sosayathi yokungcwaba nomqinisekisi kube khona onesibopho sokukhokhela ikileyimu yakhe.

UKUNGENELA KWETHU:

Lapho sithola lesi sikhalo, sasibhekisa kusihlalo wesosayathi yokungcwaba yena owathi:

- Le sosayathi yayine-akhawunti yasebhange eyodwa lapho onke amalungu kwakufuneka akhokhe khona amaprimiyamu awo. Kamuva kuleyo akhawunti umqinisekisi wayeyobe esedonsa iprimiyamu yesosayathi yenyanga;
- Amalungu esosayathi atshelwa ukuthi akhokhe amaprimiyamu awo ngaphambi komhla ka-1 enyangeni ngayinye ukuze umqinisekisi akwazi ukuthola iprimiyamu egcwele;
- Lawo mapholisi ayeye anqamuka ngenxa yokuthi amanye kumalungu esosayathi ayeye angayikhokha iprimiyamu yawo yenyanga noma ayekhokhe emva kwesikhathi, okusho ukuthi lapho umqinisekisi ezama ukudonsa iprimiyamu yesosayathi yenyanga yayingekho imali eyanele ku-akhawunti;
- Usihlalo wathi lolu wuhlelo amalungu ayevumelane ngalo emihlanganweni yawo.

Emva kwalokho isikhalo sabe sesibhekiswa kumqinisekisi njengomhlinzeki wamasevisi ezimali ogunyaziwe. Kwadingeka umqinisekisi anike leli Hhovisi ubufakazi bokuthi umfakisikhalo wayazisiwe ngokukhanselwa kwaleli pulani lokusekela amasosayathi okungcwaba ngenxa yokungakhokhwa kwamaprimiyamu. Umqinisekisi waphikelela ngokuthi wayethumele i-SMS kusihlalo wesosayathi yokungcwaba nanokuthi kwakuwumsebenzi kasihlalo ukwazisa ngalinye ilungu lesosayathi ngokunqamuka kwale pholisi. Sazisa umqinisekisi ukuthi leyo ndlela yokwenza yayingahambisani nomoya woHlaka Lokuziphatha (Code of Conduct) nanokuthi kwakuyimfuneko ngokweMithetho Yokuvikelwa Kwabaninimapholisi (Policy Holder Protection Rules) yena azise ngalinye ilungu lesosayathi ngokunqamuka kwepholisi. Umqinisekisi akakwazanga ukunika leli Hhovisi ngobufakazi obufunekayo kodwa esikhundleni salokho wabe eseveza isifiso sokukhokhela umfakisikhalo inani eligcwele lenzuzo eliyi-R5000.00, okuwukukhokhelwa okugcwele nokokugcina kwalesi sikhalo.

IZIFUNDO EZIFUNDIWE:

12. Lapho ufaka isicelo senkontraki yomshwalense qiniseka ukuthi leyo sosayathi yokungcwaba inaye umqinisekisi ozoba nomthwalo ngengcuphe yokunxephezela amalungu ale sosayathi yokungcwaba uma kuba khona ukulahlekelwa; kungenjalo ungaba sengozini yokungakhokhelwa ngekileyimu lapho engekho amaprimiyamu anele aqoqiwe okuhlangabezana namakileyimu afakiwe kusosayathi yokungcwaba.
13. 2. Ngaphambi kokufaka isicelo senkontraki yomshwalense qiniseka zikhathi zonke ukuthi leyo sosayathi yokungcwaba irejistiwe kuBhodi Lamasevisi Ezimali ngokuthola izinamba zaloyo mhlinzeki wamasevisi ezimali bese uqinisekisa imininingwane yokurejistwa kwayo kuBhodi Lamasevisi Ezimali ngokuthe ngqo.

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