

20 March 2024

[REDACTED]

Per email: [REDACTED]

OUR REF: [REDACTED]

Dear [REDACTED]

Your complaint, as detailed below, refers:

[REDACTED]

Complainant

And

Global & Local Investment Experts

Respondent

You state you invested funds with the advice of Michael Haldane (founder and Managing Director) in 2019 and that they were mandated to use the funds available to provide for your remaining years.

You further stated that a portfolio comprising a 50/50 split between BHI Trust (now known to be an unregistered and unaudited fund and suspected of being a Ponzi scheme) and Allan Gray was proposed at the time and has been in place since October 2019.

You state you are a widow and that the respondent knew you were highly risk-averse and had limited finances in the future. He believes he should not have contemplated an investment into the BHI Trust, given that it was already under investigation by the FSCA.

You suspected that it was his and his company's intention to top-up this fund as it was running into financial peril and claim you were told they were incentivized to do this.

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Although your loss amounted to R2248 462, the relief you seek is R800 000.00, the jurisdictional limit of this Office. We have no proof of how much you invested.

Based on a search on the FSCA website, the 1st Respondent is a licensed Financial Service Provider (FSP) with registration number 43286. The 2nd Respondent does not appear to be an authorized FSP.

The Respondent provided a generic response to all complaints filed against it with this Office. In summary, the 1st Respondent submits that all the complaints are currently under investigation by the relevant Law Enforcement Units, the Financial Services Conduct Authority (FSCA), and the respective Ombud where the complaints were lodged. They advise clients to follow the process set out by the provisionally appointed trustees of Kaapvaal Trust.

In support of your complaint, you included a copy of the BHI Statement dated 31 October 2019 and one dated September 2023, respectively; a Letter of Demand by the Salant Attorneys dated 06 November 2023, a Withdrawal Form dated 24/10/2023 and a Notice of Provisional Sequestration of BHI Trust dated 25/10/2023. The Respondent did not provide us with any further information on your investment.

This Office does not have sufficient information to adjudicate the matter. Despite the documents above, there is little information about the type of investment involved, the amount invested when it was invested, or any record of advice provided by the Respondent. The Office cannot determine whether a recognized financial product is involved and whether the Office has the required jurisdiction to adjudicate. In such circumstances, where no information is available, and the Respondent is not cooperating in providing the information, the Office cannot take the matter further. The Office can only report such a complaint to the FSCA for further enforcement action against the Respondent and close the file.

In general, the FSCA is the regulatory body that is responsible for the licensing and registration of FSPs. It can take enforcement action, impose administrative fines and impose various other sanctions where appropriate. The FAIS Office is a separate body and serves a different purpose. It adjudicates based on information provided by the parties and can make an award for financial compensation where appropriate.

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Menlyn Central Office Building, 125 Dallas Avenue, Waterkloof Glen, Pretoria 0010
PO Box 41, Menlyn Park, 0063
Phone: (012) 762 5000; Fax: (012) 470 9097 Sharecall 086 066 3274
www.faisombud.co.za

The Office is aware that the FSCA is investigating various FSPs recommending investments into BHI Trust. The FSCA may uncover the necessary information to assess and adjudicate your complaint. However, it must be noted that this process may take some time. Until the necessary information is available, the Office will provisionally close the file on this matter. We will also report your complaint to the FSCA for its records and possibly add it to their investigation.

It further appears that liquidation proceedings against the Trust have been initiated. Any possible payments made to creditors regarding this process must also be considered. We suggest that you monitor the news media for any information relating to the FSCA investigation. Should the FSCA investigation uncover the information needed on your specific complaint, you can request the FSCA to provide it. You are at liberty to approach our Office with the information, then we can assess it to determine whether we have the required jurisdiction and whether the information is sufficient to adjudicate.

Regarding Section 27(3)(c) of the FAIS Act, the Office declines to take the matter further at this stage. The file on this matter is now closed.

Please be aware that the prescription was interrupted while this matter was with this Office. However, it will again apply from the date of this letter. Please consider this for any legal proceedings you envisage or complaint you wish to lodge.

We regret our inability to assist and shall now close our file.

Please note, in terms of Section 27(2) of the FAIS Act, Official receipt of a complaint by the Ombud suspends the running of prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969) for the period that the matter was with the Ombud. You are at liberty to obtain independent legal advice from your legal representative.

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Take further notice that a person aggrieved by this decision has the right to apply for the permission of the chairperson to apply for 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 leave to reconsideration must be made:

(a) In accordance with the Tribunal rules. Herewith the link to access the rules

<https://www.fsca.co.za/EnforcementMatters/Financial%20Services%20Tribunal/Financial%20Services%20Tribunal%20Rules%20-%201%20June%202021.pdf> ; and

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

The contact details of the Tribunal secretariat are:

Ms. Kim Host / Ms Alitah Morudu

E-mail: Applications@fstribunal.co.za

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

Facsimile: (012) 740 0001

Kasteel Office Park

Orange Building (2nd Floor)

546 Jochemus street

Erasmuskloof

Pretoria

0048

Violet Ellis

Adjudicator

OFFICE OF THE FAIS OMBUD

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