

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case No: 58950/2021

In the matter between:

THE PRUDENTIAL AUTHORITY

Applicant

and

3SIXTY LIFE LIMITED

First respondent

**NATIONAL UNION OF METAL WORKERS OF SOUTH
AFRICA**

Second respondent


CONFIRMATORY AFFIDAVIT

I, the undersigned

BIANCA EARLEY

state under oath that:

1. I am an adult female employed by the BDO South Africa Incorporated as a Regulatory Manager: Financial Services.
2. Unless the context indicates otherwise, I have personal knowledge of the facts set out in this affidavit and they are, to the best of my belief, true and correct.
3. I have read the supplementary replying affidavit of **SUZETTE JEANNE VOGELSANG** and confirm its contents insofar as it relates to me.
4. In particular, I confirm that:


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- 4.1. I received the email attached as annexure RA15 from Ms Ram on 11 February 2022 which related to the investigations which I, together with the BDO support team, were conducting on the governance issues at 3Sixty.
- 4.2. It appears that the reportable irregularity relating to 3Sixty reducing its share capital without approval of the Authority is in contravention of section 38 of the Insurance Act, 2017.
- 4.3. The BDO support teams have reported to the Authority that:
- 4.3.1. 3Sixty's board of directors (prior to being divested of their powers as a consequence of the 21 December 2021 court order) consisted of 5 independent and 6 non-independent members (if you count the two directors that appear on 3Sixty Life Limited's website that were not approved by the Applicant). Thus, not majority independent.
- 4.3.2. There are currently two directors (Ms Ellan Cornish and Ms Olu Luthaga) on the Board of 3Sixty that have not been approved by the Authority. Despite this, Ms Luthaga is reflected as a director on the CIPC documentation and Ms Cornish is reflected as a director on 3Sixty's website.
- 4.3.3. Mr Msibi appears to serve on 13 boards in the NUMSA group and Ms Olu Luthaga (the Chief Financial Officer of the 3Sixty Group) appears to serve on 14 boards in the NUMSA group (see details set out in annexure RA17.6).


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- 4.3.4. The BDO support teams found examples of claims that were paid out by 3Sixty, despite documentation suggesting that the claims were rejected.
- 4.3.5. The BDO support teams also found instances of payments to policyholders where there is an approximate 449% difference between the cover amount and the paid amount.
- 4.3.6. The BDO support teams also identified a number of claims that were over-paid.
- 4.3.7. The BDO support teams have reached out to individuals at 3Sixty for comment on the above issues but are still awaiting feedback.
- 4.4. The BDO support teams are of the view that apart from the solvency challenges faced by 3Sixty, there are concerns relating to premium increases that appear to be implemented in an inconsistent fashion amongst policyholders and without approval from the FSCA. Ongoing investigations remain necessary to the extent to which the Policyholder Protection Rules have been contravened.
- 4.5. The BDO support teams have shared with Ms Ram the information which has been reported to the Authority.



BIANCA EARLEY

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at



Rosebank on this 13 day of MARCH 2022, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.

~~M. M. M. M.~~ 20 APR 22

COMMISSIONER OF OATHS



Full names: Maryade Agreij

Address: 15 STURDEE AVENUE
ROSBANK

Capacity: CS

TA