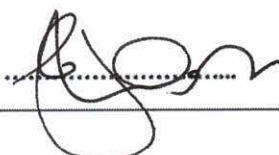


IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



CASE NO.: 28636/2022

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES /NO
(3)	REVISED.
<div>14/09/2022</div> <div></div>	

In the matter between:

SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Applicant

and

MPIYAKHE JUSTICE MAFUWANE

Respondent

JUDGMENT

van der Westhuizen, J

- [1] Following on an application for the striking off of the respondent from the roll of attorneys, alternatively for the suspension of the respondent from practicing as an attorney pending a final determination of the fitness of

the respondent to practice as an attorney, and after hearing argument on behalf of the applicant and the respondent, an order was granted on 2 September 2022 *inter alia* striking off the respondent from the roll of attorneys. The reasons for that order was reserved and what follows are the reasons.

- [2] The South African Legal Practice Council (LPC), is the statutory body which exercises jurisdiction over all legal practitioners and candidate legal practitioners as contemplated in the Legal Practice Act, 28 of 2014 (the Act).¹ In terms of the provisions of section 43 of the Act, the LPC is empowered to institute urgent legal proceedings in the High Court for the suspension of a practitioner from practice. A Practice Directive of this Division, that accords with the provisions of section 44 of the Act, not only provides for the suspension of a practitioner from practice, but also provides for the urgent striking off of a practitioner from the roll of attorneys.
- [3] The applicant is the Gauteng Provincial Council of the Legal Practice Council established in terms of the provisions of section 23 of the Act. Provincial Councils have jurisdiction over legal practitioners practising within their respective area of jurisdiction.
- [4] The respondent was a practising attorney who was admitted as an attorney of this Honourable Court on 5 July 2010, and practised as such under the name and style of Mafuwane (MJ) Attorneys in Gauteng. The respondent represented himself.
- [5] On 4 March 2022 the applicant resolved to institute these proceedings and the chairperson of the applicant was authorised to depose to the required affidavits in pursuit of these proceedings. The application was launched as an urgent application.

¹¹ Section 4

- [6] The aforesaid resolution followed on a complaint against the respondent which the applicant was obliged to investigate. The respondent, despite having been invited and requested to comment on the complaint and to participate in the investigation, refused to do so. The complaint related to a possible misappropriation of trust funds and the practising without a Fidelity Fund Certificate (FFC). An accountant, Mr Nyali, who is employed as an auditor in the Risk and Compliance unit of the applicant, was instructed to conduct an investigation into the respondent's practice.
- [7] Mr Nyali furnished his report, together with schedules thereto, to the applicant. His report recorded the following contraventions of the provisions of the Act:
- (a) The practising as an attorney without the prescribed FFC: sections 84(1) and (2) of the Act;
 - (b) Failing to produce a complete set of the required accounting records for inspection: sections 37(2)(a) and 87(5) of the Act;
 - (c) The failure to ensure that the amount of money in the respondent's trust banking account, trust investment account and trust cash at any date was not less than the total amount of credit balances of the trust creditors: Rule 54.14.8 of the applicant's Rules;
 - (d) The failure to immediately inform the applicant in writing of the trust monies deficit: Rule 54.14.10 of the applicant's Rules;
 - (e) The respondent made withdrawals from the trust account which were not for the benefit of trust creditors: Rule 54.14.14 of the applicant's Rules;
 - (f) The failure to furnish the applicant with the required practice audit report within 6 months of the annual closing of accounting records: Rule 54.24.1 of the applicant's Rules.

- [8] The respondent furthermore contravened section 3.1 of the Code of Conduct in that the respondent failed to act with the highest standard of honesty and integrity by failing to act in compliance with the requirements of the Act and the Rules of the applicant and furthermore, by his conduct following on the lodging of the complaint and after the institution of this application in the manner set out below.
- [9] The refusal by the respondent to comment on, or explain, his conduct in respect of the complaint lodged, and his refusal to assist or participate in the investigation of his practice that was conducted by Mr Nyali, screams against the requirement of the Code of Conduct to act with the highest standard of honesty and integrity.
- [10] Furthermore, the respondent's conduct since the launching of this application leaves much to be desired.
- (a) The respondent was in flagrant disregard of the court order affording him an opportunity until 30 June 2022 to file an answering affidavit, which was only forthcoming on or about 12 July 2022 when the application was to be heard in the urgent court during that week. The application was consequently postponed, with further directives as to getting the matter ripe for hearing;
- (b) The respondent made incorrect and false statements in his answering affidavit that related to:
- (i) The alleged non attachment of the report of Mr Nyali to the founding affidavit, when it was clearly so attached;
- (ii) The status of the annual audit report in respect of his practice which clearly was qualified and not, as submitted by the respondent, to be unqualified;

- (iii) That he was unable to file his annual audit report in respect of his practice due to illness in the absence of a full disclosure of the alleged illness, whilst it could have been submitted electronically.

(c) The respondent further served unwarranted, unfounded and baseless notices in terms of the provisions of Rule 30 of the Uniform Rules of Court and compelled a court hearing in respect thereof, prior to the hearing of this application. In my view, a clear attempt to frustrate the hearing of this application. The hearing in respect of those notices served before me a week prior to the enrolment of this application for adjudication. The respondent, a practising attorney, was clearly unaware of the legal principles that applied in respect of the said notices. The respondent also appeared in person at that hearing

[11] The respondent's response to the failure to file an unqualified annual audit report, which is a strict requirement, reveals a lack of character. He was clearly unaware that he could file it electronically. Furthermore, his claim that due to illness he was prevented from filing it, is unconvincing. The alleged illness was not explained, nor detailed appropriately. Random reports and payment slips were merely appended to his papers, and remained unexplained. No inference could be deducted from the random filed reports/payment slips as to the specific illness that the respondent suffered from, and the effect thereof. The annual audit remained qualified, something which the respondent obtusely denied.

[12] The complaint that the applicant received and which initiated this application related to the respondent's inability to account to a trust creditor. The respondent, in addition to his legal practice, attempted to dabble in the business of supplying PPE products. He sourced a potential client to purchase PPE products (masks) from him. That client then paid a total amount of R6 480 000.00 (in two tranches of

R3 000 000.00 and R3 480 000.00 respectively) to the respondent to source and pay for the masks. The clear instruction was that the said amount be held in trust until the masks were sourced and could be delivered. The respondent paid the said amount into his trust banking account. There was no agreement that the respondent could withdraw any fees therefrom. It was clearly earmarked for the purchase of the masks. Payment could only be made from those funds once the products were sourced and available for delivery to the client. A clear and simple business agreement, separate from the legal practice of the respondent. Apparently, a further deposit of R10 000.00 was made by the client in respect of possible fees, the purpose of which was not explained by the respondent.

- [13] The client demanded repayment of the amount of R6 480 000.00. The respondent could only repay an amount of R6 000 000.00 which left an apparent shortfall of R 480 000.00. The client then commenced proceedings against the respondent for the payment of the said shortfall. The respondent resisted the proceedings. However, the respondent entered into an admission of debt in respect of the amount of R480 000.00 which was made an order of court. The respondent reneged on the terms of the admission of debt and the said complaint was lodged with the applicant. As recorded earlier, the respondent was requested to comment on the complaint and when failing to do so, the aforementioned investigation was conducted. Again the respondent refused to participate and to assist in the manner recorded earlier.
- [14] Due to the respondent's refusal to provide his accounting records to Mr Nyali, the latter, of his own accord, sourced the trust banking statement relating to the specific trust account of the said trust creditor. After perusing that statement, Mr Nyali reported that a *"significant trust deficit was identified after only having considered one trust creditor. It is thus possible that the firm's trust deficit is higher than the amount of R479 983.67"*. The opening balance of that statement reflects a deficit of R37.17, which remained unexplained.

- [15] The said bank statement revealed that almost immediately after the said amount was paid into the respondent's trust banking account, the respondent commenced making withdrawals therefrom. Those withdrawals were mostly in respect of fees, according to the entries description, which were apparently not accounted to the client.
- [16] Despite the respondent refusing to provide Mr Nyali with all his accounting records, he has the audacity to deny the veracity of the entries in the said statement and Mr Nyali's report in that regard. During oral argument, the respondent tendered evidence from the bar, and was at pains to explain the entries and the obvious inferences to be deducted therefrom. His oral explanations were unconvincing and absurd. No explanations were provided in his answering papers. He clearly left it for argument at the hearing of this matter.
- [17] The respondent's attempt at explaining why he was unable to make payment of the full amount of R6 480 000.00 when demanded, was unconvincing and not supported by any evidence. The allegation that the said shortfall was due to a third party allegedly refusing to repay an amount of R1 000 000.00 which apparently was previously made in respect of the sourcing of marks is devoid of any truth. That amount was only paid to the third party after the repayment of the R6 000 000.00 that was made to the trust creditor.
- [18] The manner in which the respondent approached this application, spoke of a non-appreciation of the severity of the allegations and the consequential effect thereof. The requirements of filing papers and the time periods in respect thereof was clearly not followed by the respondent who merely lodged papers randomly and at the eleventh hour.

[19] The respondent raised the following in answer to this application in his answering affidavit and his oral evidence in argument at the hearing of this application:

- (a) In the answering affidavit the respondent took a number of technical points that related to the issue of urgency. It was clear that the matter was urgent; *lis alibi pendens* in respect of litigation unrelated to this application between different parties and in terms of which a Third Party Notice was issued against the respondent. The respondent did not appreciate that his joinder in those proceedings has no bearing on the present issue. His liability in respect of the aforesaid short fall of R480 000.00 had already been established in terms of the acknowledgement of debt referred to above; a clumsy reliance on the provisions of section 40(1) of the Act submitting that the applicant had not instituted an internal disciplinary hearing in respect of the aforementioned complaint. The applicant has a discretion whether to follow an internal disciplinary hearing, or whether to institute proceedings for the suspension or striking of the respondent for practising.² The respondent's clear unwillingness to participate in the aforesaid enquiry conducted by Mr Nyali puts paid to that issue.
- (b) The respondent was untruthful when he stated that the demand for repayment of the R6 480 000.00 was made only after the amount of R1 000 000.00. As recorded earlier, the amount of R1 000 000.00 was made to a third party after the repayment of R6 000 000.00 to the complainant.
- (c) An allegation that the acknowledgement of debt was signed under duress has no ring of truth. A belated statement that the respondent would apply for a rescission of that judgment wherein the

² *The Law Society of the Northern Provinces v Morobadi* (1151/2017) [2018] ZSCA 185 (11 December 2018) par [5]

acknowledgement of debt was made an order of court for that reason, is without merit. The judgment was granted almost two years before the application was launched. To date no such application was forthcoming.

- (d) The respondent has the audacity to argue that the report of Mr Nyali is speculative in that Mr Nyali did not have access to the respondent's trust accounting records. Until this day, the respondent had not provided any of his trust accounting records or the source records relating thereto. The respondent's inability to provide his accounting records were due to the fact that his bank had opted to place a hold thereon and furthermore that his trust account was dormant. During argument the respondent testified that his practice was of the kind of being paid in cash for services. Belatedly, when realising the consequence thereof, he hastened to add that he did pay such monies into his business account and that the cash payments for services rendered were only received after the rendering of legal services.
- (e) A further defence raised by the respondent related to the issue that the applicant, instead of launching this application, was obliged to approach the court for an order compelling the respondent to provide the required documentation. That defence ignores the fact that the respondent refused and/or was unwilling to provide a comment on the complaint or to participate in the investigation.
- (f) The respondent relied in oral argument on the unreported judgment in *The South African Legal Practice Council v Leigh Dorothy Harper et al* (Case Number 51846/2021 GLD) dated 21 December 2021. In that matter the court granted an order appointing a *curator bonis* to oversee and administer and control the trust accounts of the second respondent in that matter. The respondents were permitted to continue practising subject to the *curator bonis* taking control of the accounting of the respondents. That matter is distinguishable

from the present in a number of ways: the first respondent discovered a trust deficit in her trust account due to actions of the accountant of the firm; immediately on making that discovery, the first respondent laid criminal charges against the accountant and reported it to the applicant; the first respondent advanced cogent reasons for her misconduct which the court accepted. The present respondent submitted that a similar order be granted in this matter.

[20] There is no merit in the respondent's request for the grant of a similar order in this matter. He refused any co-operation with the applicant and applied delaying tactics to prevent this application coming before the court. The respondent filed a belated and inadequate answering affidavit in response to this application. Furthermore, he continued to tender evidence not contained in his answering affidavit and supplemented further evidence during his oral argument.

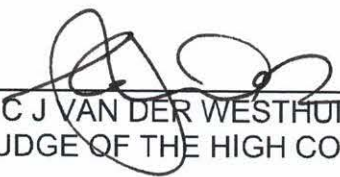
[21] It is trite³ that a striking off from the roll of attorneys, or a suspension, is a three stage inquiry:

- (a) The court must determine whether the alleged offending conduct has been established on a balance of probabilities. A factual inquiry;
- (b) Consideration must be given to the question whether, in the discretion of the court, the person concerned is not a fit and proper person to continue to practise as an attorney. This is a value judgment;
- (c) The Court is then to consider in the light of all the circumstances, whether the name of the attorney concerned should be removed from the roll of attorneys, or whether an order suspending him/her from practice would suffice.


³ *Summerley v Law Society, Northern Provinces* 2006(5) SA 613 (SCA) par [2]

- [22] From the foregoing, in my view, the respondent's conduct throughout indicated an attitude of irresponsibility in acting as a lawyer and with a flagrant and defiant disregard to his obligations in terms of the Act and the rules thereunder. The respondent abused the relevant court rules relating to court proceedings as recorded earlier.
- [23] The respondent is clearly not fit to practise as a legal practitioner and thus to remain on the roll of attorneys. In my view, there would serve no purpose to merely suspend the respondent from practising as a legal practitioner and to direct that the applicant conduct a further investigation. Whatever such further investigation may reveal, cannot undo the clear misappropriation of funds now before court, and the clear lack of fitness to practise as a lawyer as shown above. On his own version, the respondent's business account was on hold by his bank and his trust account dormant. It was not disclosed by the respondent since when that situation prevailed.
- [24] From all the foregoing, I am satisfied that the principles of the three stage enquiry have been proven.
- [25] For all of the aforesaid, the order striking off of the respondent from the roll of attorneys and the ancillary relief granted in the order of 2 September 2022 was granted. A copy of that order is appended hereto marked "XYZ".

I agree



C J VAN DER WESTHUIZEN
JUDGE OF THE HIGH COURT



JS NYATHI
JUDGE OF THE HIGH COURT

Date of Hearing: 02 September 2022

On behalf of Applicant: C P Fourie
Instructed by: FourieFismer Inc

On behalf of Respondent: In person

Order granted on: 02 September 2022

Judgment/Reasons for
Order Handed down on: 14 September 2022

"XY2"

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

21/12/2022

Case No: 28636/22

In the matter between:

	<div>REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA</div>	
SOUTH AFRICAN LEGAL PRACTICE COUNCIL		Applicant
	<div>Private Bag X67, Pretoria 0001</div>	
And	<div>2022-09-05</div>	
	<div>GD-PRET-019</div>	
MPIYAKHE JUSTICE MAFUWANE	<div>REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA</div>	Respondent

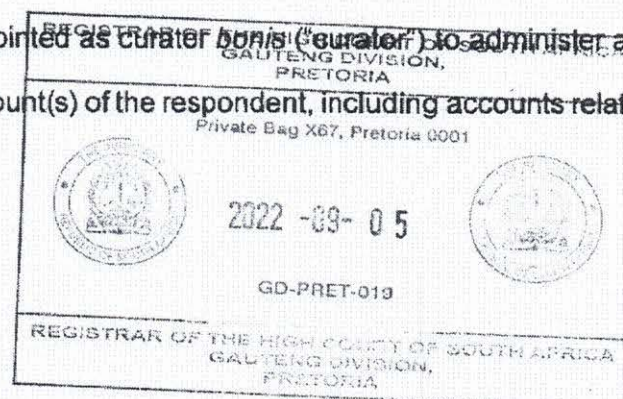
DRAFT ORDER
21/12/2022

After having considered the papers and having heard the legal representative for the applicant;

IT IS ORDERED

066-10
21/12/2022

1. That in terms of rule 6(12)(a) of the uniform rules of court, this Honourable Court dispenses with the forms and service provided for in the uniform rules of court and disposes of this matter at such time and place and in such manner and in accordance with such procedures as it deems fit.
2. That the name MPIYAKHE JUSTICE MAFUWANE, the respondent, be struck from the roll of attorneys of this Honourable Court.
3. That the respondent hands and delivers his certificate of enrolment as an attorney to the Registrar of this Honourable Court.
4. That in the event of the respondent failing to comply with the terms of this order detailed in the previous paragraph, within two (2) weeks from the date of this order, the sheriff of the district in which the certificate is, be authorised and directed to take possession of the certificate and to hand it to the Registrar of this Honourable Court.
5. That the respondent be prohibited from handling or operating on his trust account(s).
6. That Johan van Staden, the director, Gauteng provincial office of the applicant, or any person nominated by him, in his capacity as such, be appointed as curator ~~bonis~~ (curator) to administer and control the trust account(s) of the respondent, including accounts relating to insolvent and



deceased estates, and any deceased estate, and any estate under curatorship connected with the respondent's practice as an attorney and including, also the separate banking accounts opened and kept by the respondent at a bank in the Republic of South Africa in terms of section 86(1) of the Legal Practice Act ("LPA"), and/or any separate savings or interest-bearing accounts as contemplated by section 86(3) and/or section 86(4), in which monies from such trust banking accounts have been invested by virtue of the provisions of the said sub-sections, or in which monies in any manner have been deposited or credited (the said accounts being hereafter referred to as the "trust accounts"), with the following powers and duties:

- 6.1 immediately to take possession of the respondent's accounting records, records, files and documents as referred to in paragraph 7 below, and subject to the approval of the Board of Control of the Legal Practitioners Fidelity Fund ("Fund"), to sign all forms and generally to operate upon the trust account(s), but only to such extent and for such purpose as may be necessary to bring to completion current transactions in which the respondent were acting at the date of this order;

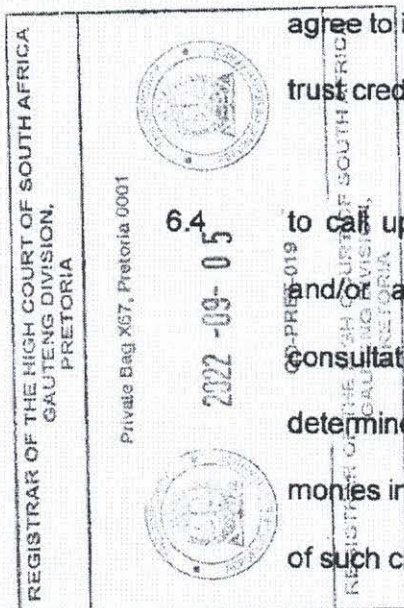
6.2 subject to the approval and control of the Fund, and where monies had been paid incorrectly and unlawfully from the trust account(s), to recover and receive and, if necessary, in the interests of persons having lawful claims upon the trust account(s) and/or against the respondent in respect of monies held, received and/or invested by the

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA	 Private Bag X67, Pretoria 0001 2022-09-05 GD-PRET-019 	REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
--	---	--

[Handwritten signature]
 02/09/2022

respondent, in terms of section 86(1) and/or section 86(3) and/or section 86(4) of the LPA (hereinafter referred to as "trust monies" or "trust money"), to take any legal proceedings which may be necessary for the recovery of money which may be due to such persons in respect of incomplete transactions, if any, in which the respondent was and may still have been concerned, and to receive such monies and to pay the same to the credit of the trust account(s);

- 6.3 to ascertain from the respondent's accounting records the names of all persons on whose account the respondent appear to hold or to have received trust monies (hereinafter referred to as "trust creditors"), and to call upon the respondent to furnish him, within 30 (thirty) days of the date of service of this order, or such further period as he may agree to in writing, with the names, addresses and amounts due to all trust creditors;



- 6.4 to call upon such trust creditors to furnish such proof, information and/or affidavits as he may require to enable him, acting in consultation with, and subject to the requirements of the Fund, to determine whether any such trust creditor has a claim in respect of monies in the trust account(s) of the respondent and, if so, the amount of such claim;

- 6.5 to admit or reject, in whole or in part, subject to the approval of the Fund, the claims of any such trust creditor or creditors, without

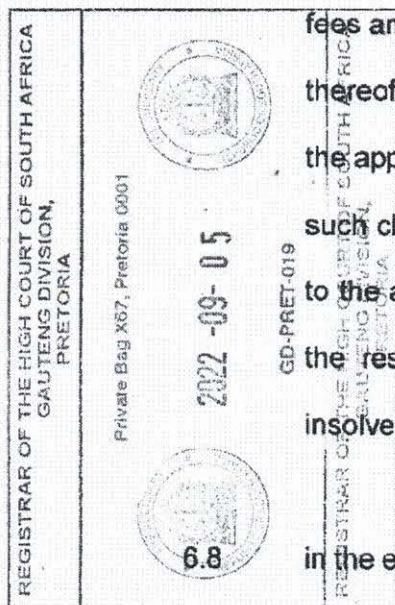
prejudice to such trust creditor's or creditors' right of access to the courts;

6.6 having determined the amounts which he considers are lawfully due to trust creditors, to pay such claims in full, but subject to the approval of the Fund;

6.7 in the event of there being any surplus in the trust account(s) of the respondent, after payment of the admitted claims of all trust creditors in full, to utilise such surplus to settle or reduce (as the case may be), firstly, any claim of the Fund in terms of section 86(5) of the LPA in respect of any interest therein referred to and, secondly, without prejudice to the rights of the creditors of the respondent, the costs,

fees and expenses referred to in paragraph 13 below, or such portion thereof as has not already been separately paid by the respondent to the applicant and, if there is any balance left after payment in full of all such claims, costs, fees and expenses, to pay such balance, subject to the approval of the Fund, to the respondent, if he is solvent, or, if the respondent is insolvent, to the trustee(s) of the respondent's insolvent estate;

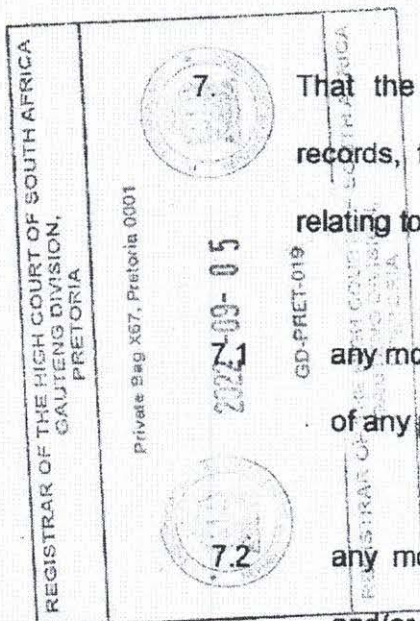
6.8 in the event of there being insufficient trust monies in the trust banking account(s) of the respondent, in accordance with the available documentation and information, to pay in full the claims of trust creditors who have lodged claims for repayment and whose claims have been approved, to distribute the credit balance(s) which may be



available in the trust banking account(s) amongst the trust creditors alternatively to pay the balance to the Fund;

6.9 subject to the approval of the Fund, to appoint nominees or representatives and/or consult with and/or engage the services of attorneys, counsel, accountants and/or any other persons, where considered necessary, to assist him in carrying out his duties as curator; and

6.10 to render from time to time, as curator, returns to the Fund showing how the trust account(s) of the respondent has been dealt with, until such time as the Fund notifies him that he may regard his duties as curator as terminated.



That the respondent immediately delivers his accounting records, records, files and documents containing particulars and information relating to:

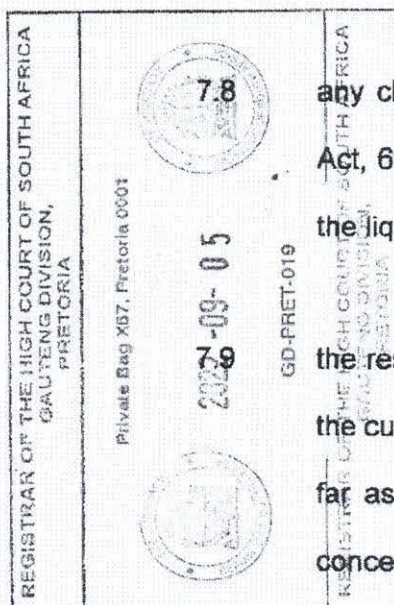
any monies received, held or paid by the respondent for or on account of any person while practising as an attorney;

any monies invested by the respondent, in terms of section 86(3) and/or section 86(4) of the LPA;

7.3 any interest on monies so invested which was paid over or credited to the respondent;

[Handwritten signature]
02/07/2022

- 7.4 any estate of a deceased person, or an insolvent estate, or an estate under curatorship administered by the respondent, whether as executor, or trustee, or curator, or on behalf of the executor, trustee or curator;
- 7.5 any insolvent estate administered by the respondent as trustee, or on behalf of the trustee, in terms of the Insolvency Act, 24 of 1936;
- 7.6 any trust administered by the respondent as trustee, or on behalf of the trustee, in terms of the Trust Properties Control Act, 57 of 1988;
- 7.7 any company liquidated in terms of the Companies Act, 71 of 2008, administered by the respondent and/or on behalf of the liquidator;



7.8 any close corporation liquidated in terms of the Close Corporations Act, 69 of 1984, administered by the respondent and/or on behalf of the liquidator; and

the respondent's practice as an attorney of this Honourable Court, to the curator appointed in terms of paragraph 6 above, provided that, as far as such accounting records, records, files and documents are concerned, the respondent shall be entitled to have reasonable access to them, but always subject to the supervision of such curator or his nominee.

[Handwritten signature]
02/09/2022

8. That should the respondent fail to comply with the provisions of the preceding paragraph of this order, on service thereof upon him, or after a return by the person entrusted with the service thereof, that he has been unable to effect service thereof on the respondent (as the case may be), the sheriff for the district in which such accounting records, records, files and documents are, be empowered and directed to search for and to take possession thereof wherever they may be and to deliver them to such curator.

9. That the respondent be and is hereby removed from office as –

9.1 executor of any estate of which the respondent has been appointed in terms of section 54(1)(a)(v) of the Administration of Estates Act, 66 of 1965, or the estate of any other person referred to in section 72(1) thereof;

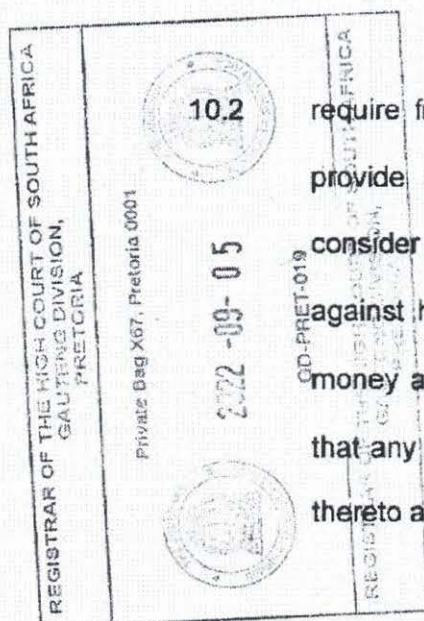
9.2 curator, or guardian of any minor, or other person's property in terms of section 72(1), read with section 54(1)(a)(v), and section 85 of the Administration of Estates Act, 66 of 1965;

trustee of any insolvent estate in terms of section 59 of the Insolvency Act 24 of 1936;

9.4 liquidator of any company in terms of section 379(2) read with 379(e) of the Companies Act, 71 of 2008;

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA	Private Bag X67, Pretoria 0001 2022-09-30 5 QD-PRET-019	REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
--	---	--

- 9.5 trustee of any trust in terms of section 20(1) of the Trust Property Control Act, 57 of 1988;
- 9.6 liquidator of any close corporation appointed in terms of section 74 of the Close Corporation Act, 69 of 1984; and
- 9.7 administrator appointed in terms of Section 74 of the Magistrates' Court Act, 32 of 1944.
10. That the curator shall be entitled to:
- 10.1 hand over to the persons entitled thereto all such records, files and documents, provided that a satisfactory written undertaking has been received from such persons to pay any amount, either determined on taxation or by agreement, in respect of fees and disbursements due to the respondent;



10.2 require from the persons referred to in paragraph 10.1 above, to provide any such documentation or information which he may consider relevant in respect of a claim or possible or anticipated claim, against him and/or the respondent, and/or the Fund in respect of money and/or other property entrusted to the respondent, provided that any person entitled thereto shall be granted reasonable access thereto and shall be permitted to make copies thereof;

10.3 publish this order or an abridged version thereof in any newspaper he considers appropriate; and

10.4 wind-up the respondent's practice.

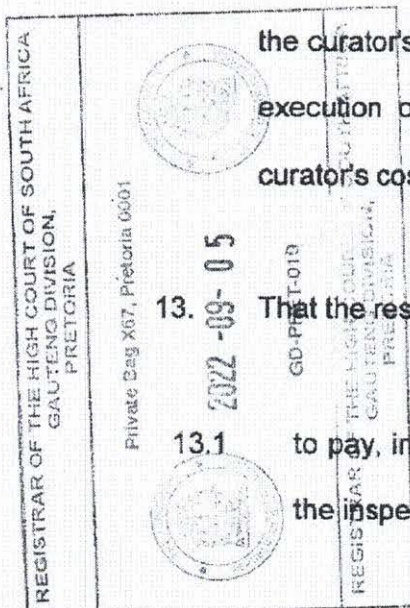
11. that, if there are any trust funds available, the respondent shall within 6 (six) months after having been requested to do so by the curator, or within such longer period as the curator may agree to in writing, satisfy the curator, by means of the submission of taxed bills of costs or otherwise, of the amount of the fees and disbursements due to the respondent, and should he fail to do so, he shall not be entitled to recover such fees and disbursements from the curator, without prejudice however, to such rights (if any), as he may have against the trust creditor(s) concerned for payment or recovery thereof.

12. That a certificate issued by the Fund shall constitute *prima facie* proof of the curator's costs and that the Registrar be authorised to issue a writ of execution on the strength of such certificate in order to collect the curator's costs.

13. That the respondent be and is hereby directed:

13.1 to pay, in terms of section 87(2) of the LPA, the reasonable costs of the inspection of the accounting records of the respondent;

13.2 to pay the reasonable fees and expenses of the curator;



- 13.3 to pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator as aforesaid;
- 13.4 to pay the expenses relating to the publication of this order or an abbreviated version thereof; and
- 13.5 to pay the costs of this application on the scale as between attorney and own client.



[Signature]
BY ORDER

066-20
[Signature]
02/09/2022