IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO 31148/20

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO.
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.
DATE: 18 MAY 2021
SIGNATURE:

In the matter between

SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant

and

LUCKY BONANG MASHABELA Respondent

Coram: Davis J and Munzhelele AJ

Date heard: 11 March 2021

Date delivered: 18 May 2021

JUDGMENT

MUNZHELELE AJ

Introduction

[1] The applicant, Legal Practice Council (The Council) brought an application to strike the name of Lucky Bonang Mashabela (The Respondent) from the roll of attorneys and on such terms and with such conditions as the Court may deem appropriate. The respondent did not deliver an answering affidavit to oppose this application.

[2] On the date for hearing of this application, the respondent, who appears in person, filed on Caseline the Fidelity Fund certificate for the year ending in 31 December 2020 together with two letters dated 10 March 2017 and 26 June 2017 addressed to one Ruby, and the attorneys for the Council Rooth & Wessels Inc, Lekgetho and Curators at the Law Society of the Northern Provinces. The respondent alleges that he was practising in 2020 while in possession of the Fidelity Fund certificate. It was because of this late filing of the certificate and the letters which led to the court allowing the applicant to file a supplementary affidavit on 11 March 2021.

Background of the case

[3] The facts of this case arise from the report filed by the chartered accountant and auditor Puseletso Hlogoana and the founding affidavit of Hlaleleni Kathleen Matolo-Dlepu the chairperson of the Legal Practice Council. It is alleged that the respondent, Mr Lucky Bonang Mashabela is a practising attorney in the Gauteng Province since 24 April 2017. He is conducting his practice under the name Mashabela (Bonang) Attorneys as a sole practitioner. The firm is situated at Suite 201, Second Floor, Bank Towers, No 190 Thabo Sehume Street, and Pretoria. He was mainly dealing with Road Accident Funds

claims. Respondent is alleged to have contravened several provisions of the Legal Practice Act (The LPA), among others, section 84(1) by practising without a Fidelity Fund certificate and, Rule 54.14.8 of the LPA by having a trust deficit in his bookkeeping. He is also accused of contravention section 87(5)(a) and having committed an offence in terms of section 93(9) of the LPA which provides that:

> "*Any person who—*
> *(a) refuses or fails to produce a book, document or any article in terms of section 37(2)(a) or (b) or 87(5);*
> *(b) contravenes section 37(2)(c) or 87(6); or*
> *(c) obstructs or hinders any person in the performance of his or her functions under those provisions, commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year*".

[4] The Council also received complaints from the respondent's clients regarding their Road Accident Funds claims, in respect of which he failed to account and to pay them. Because of such complaints the Council instructed a Chartered Accountant and Auditor Puseletso Hlogoana (Hlogoana) to conduct an inspection of the respondent's accounting records and practice affairs and also to investigate the complainants. Hlogoana's investigation report which was filed reveals that the respondent was not co-operative during these investigations; and that he failed to cooperate with the council in its inspection of his accounting records and practice affairs. He also failed to comply with the council's requests and to reply to its correspondence.

[5] On 20 April 2020 the Gauteng Provincial Office of the Council resolved that the attorneys be instructed to apply to court urgently for the suspension of the attorney Mr Lucky Bonang Mashabela in his practice as a legal practitioner and that the chairperson or any member of the executive committee be

authorised to sign all the documents necessary to give effect to the resolution on behalf of the Council, pending the finalisation of the application.

[6] On the 28 July 2020 an order for suspension of the respondent pending the finalisation of this application was granted by Neukircher, J on an urgent basis.

[7] On 11 March 2021, the application for striking of the respondent's name from the roll of attorneys has been heard through virtual recording by the Court. Mr Mashabela (the respondent) was present and was acting in his own defence. He only argued the issue pertaining to the Fidelity Fund certificate of the year 2020.

[8] The facts of the allegations were determined through investigations conducted by the chartered accountant and an auditor Puseletso Hlogoana (Hlogoana) and she reported thereon in writing on the 21 January 2020 that:

8.1. The respondent failed to furnish Hlogoana with his accounting records despite having been timeously notified and also given reasonable time to provide same. In doing so, the respondent contravened Section 87 (5) (a) of the Legal Practice Act (The LPA) 28 of 2014 which provides that:

> "Despite section 37(2)*(a)*, any attorney or an advocate referred to in section 34(2)*(b)* or an employee of a trust account practice must, at the request of the Council or the Board, or the person authorised thereto by the Council or the Board, produce for inspection a book, document or article which is in the possession, custody or under the control of that legal practitioner or such

employee, which book, document or article 25 relates to the trust account practice or former trust account practice of such attorney or advocate: Provided that the Council or the Board or person authorised by the Council or the Board may make copies of such book, document or article and remove the copies from the premises of that attorney, advocate or trust account practice".

8.2. The respondent did not utilise any accounting records for purposes of managing his trust banking account and accounting for trust funds.

8.3 Respondent failed to update his accounting records and therefore contravened rule 54 (10) of the Act:

"A firm shall update and balance its accounting records monthly and shall be deemed to comply with this rule if, *inter alia*, its accounting records have been written up by the last day of the following month".

[9] Hlogoana could not be able to determine the firm's current trust position due to the fact that she was not furnished with trust bank statement but however she was able to obtain them from the respondent's bank, FNB. Respondent had an amount of R835 498.10 which was available in the account on the 28 February 2019.

[10] In the supplementary affidavit filed on the 11th of January 2021 it was found that the trust deficit is now R2 577 740.09.

[11] Respondent's failure to keep proper account records in respect of his practice is a contravention of section 87(1) of the LPA and Rule 54.6 of the LPC. Section 87(1) of the LPA which provides that:

> "A trust account practice must keep proper accounting records containing particulars and information in respect of—
>
> *(a)* money received and paid on its own account;
>
> *(b)* any money received, held or paid on account of any person;
>
> *(c)* money invested in a trust account or other interest-bearing account referred to in section 86; and any interest on money so invested which is paid over or credited to it"

Rule 54.6 of the LPC which provides that:

> "A firm shall keep in an official language of the Republic such accounting records, which record both business account transactions and trust account transactions, as are necessary to enable the firm to satisfy its obligations in terms of the Act, these rules and any other law with respect to the preparation of financial statements that present fairly and in accordance with an acceptable financial reporting framework in South Africa the state of affairs and business of the firm and to explain the transactions and financial position of the firm including, without derogation from the generality of this rule

54.6.1 records showing all assets and liabilities as required in terms of sections 87 of the Act;

54.6.2 records containing entries from day to day of all monies received and paid by it on its own account, as required by sections 87(1) and 87(3) of the Act;

54.6.3 records containing particulars and information of:

54.6.3.1 all monies received, held and paid by it for and on account of any person;

54.6.3.2 all monies invested by it in terms of section 86(3) or section 86(4) of the Act;

54.6.3.3 any interest referred to in section 86(5) of the Act which is paid over or credited to it;

54.6.3.4 any interest credited to or in respect of any separate trust savings"

[12] The respondent's failure to account to his clients in respect of the trust funds there by contravenes Rule 10 which provides that:

> An attorney shall within reasonable time reply to all communications which require an answer unless there is good cause for refusing an answer; An attorney shall respond timeously and fully to request from the Council for information and or documents which he or she is able to provide. An attorney shall comply timeously with directions from the Council.

[13] It appears form the audit record that the respondent has delayed the payment of trust funds to his clients in contravention of Rule 54.12 and 13 of the LPC which provides that:

> 54.12 Every firm shall, within a reasonable time after the performance or earlier termination of any mandate, account to its client in writing and retain a copy of each such account for not less than five years. Each account shall contain details of:
>
> 54.12.1 all amounts received by it in connection with the matter concerned, appropriately explained.
>
> 54.13 A firm shall, unless otherwise instructed, pay any amount due to a client within a reasonable time. Prior to making any such payment the firm shall take adequate steps to verify the bank account details provided to it by the client for the payment of amounts due. Any subsequent changes to the bank account details must be similarly verified.

[14] The respondent's failure to reply to his client, Mashaba Motlatsi's correspondence and to communicate with her or consult with her, has also been established through the report compiled.

[15] The respondent has also conclusively indicated that the received proceeds of Mashaba Mtlatsi's claim in the amount of R525 000 had been utilised by him for other purposes. In other words he misappropriated Mashaba Motlatsi's monies. It also appears from the report that the respondent has utilised the trust monies of one trust creditor in order to pay another. He "rolled" the trust fund in order to conceal the trust deficits in his bookkeeping. The respondent has admitted to this misappropriation of Mashaba's monies.

[16] In acting as aforesaid, the respondent contravened rule 54 14.14 of the LPC

Rule 54.14.14 provides that:

> Withdrawals from a firm's trust banking account shall be made only:
>
> 54.14.14.1 to or for a trust creditor; or
>
> 54.14.14.2 as transfers to the firm's business banking account, provided that such transfers shall be made only in respect of money due to the firm; and provided that no transfer from its trust banking account to its business banking account is made in respect of any disbursement (including counsel's fees) or fees of the firm unless:
>
> 54.14.14.2.1 the disbursements have actually been made and debited by the firm; or
>
> 54.14.14.2.2 a contractual obligation has arisen on the part of the firm to pay the disbursement;
>
> 54.14.14.2.3 fees and disbursement have been correctly debited in its accounting records.

[17] The fact that the respondent's trust banking account no longer had Mashaba's monies resulted in a deficit as at 31st March 2019 of R392 851.90. This is a further contravention of Rule 54.14.8 of LPC which provides that:

> A firm shall ensure that the total amount of money in its trust banking account, trust investment account and trust cash at any date shall not be less than the total amount of the credit balances of the trust creditors shown in its accounting records.

[18] The respondent failed to report the trust deficit in his bookkeeping to the council which is in contravention of Rule 54.14.10 of LPC which provides that:

> A firm shall immediately report in writing to the Council should the total amount of money in its trust bank accounts and money held as trust cash be less than the total amount of credit balances of the trust creditors shown in its accounting records, together with a written explanation of the reason for the debit and proof of rectification.

[19] It appears that the respondent practiced as an attorney without being in possession of fidelity Fund Certificate from the period 1 January 2019 until the 6 March 2019, and again on the period between 1st January 2020 until 5th March 2020. The applicant conceded, however that it was in correct to have stated that he (the respondent) did not have a Fidelity Fund certificate the whole year of 2020. Section 84(1) and (2) of the LPA provides that :

> (1) Every attorney or any advocate referred to in section 34(2)*(b)*, other than a legal practitioner in the full-time employ of the South African Human Rights Commission or the State as a state attorney or state advocate and who practises or is deemed to practise—
>
> (a)for his or her own account either alone or in partnership; or
> (b)as a director of a practice which is a juristic entity, must be in possession of a Fidelity Fund certificate.

(2) No legal practitioner referred to in subsection (1) or person employed or supervised by that legal practitioner may receive or hold funds or property belonging to any person unless the legal practitioner concerned is in possession of a Fidelity Fund certificate.

[20] However, what the respondent also failed to do was to pay his annual membership fees to the council and he thereby contravened Rule 4 of the LPC which provides that.

> Every legal practitioner who is admitted and enrolled in terms of section 24(1) of the Act as a legal practitioner shall pay an annual fee to the Council at such time as may from time to time be fixed by the Council.

[21] Additional complaints referred to in the Council's papers to which the respondent did not reply to when requested to comment on by the investigator are the following:

- Ms Msiza.'s claim was finalised and the Road Accident Fund paid. She was never paid the money. When Lekopane Khumalo Attorneys took over the matter and communicated with the respondent, he ignored them.
- Mr Mashiane's claim was also finalised and the respondent failed to pay him. Mashiane tried to contact the respondent but he failed to account to the where about of the money.
- Mr Sallmani 's third party claim paid in February 2020 by the RAF and respondent failed to pay him. He also failed to account to the client.

- Miss Tlhaka's claim was paid by the Road Accident Fund but the respondent delayed the payment and started paying the claimant in instalments. He did not pay all the money. The whereabouts of the money is unknown.
- Mr Moleme lodged a claim in 2009 and was never updated about the progress. Up until now he does not know the status of the claim. The respondent contravened Rule 54.12 and 13 of the LPC rules .

[22] The applicant argued that the respondent's conduct reveals a character which is unacceptable and cannot be tolerated in the attorneys' profession and an officer of the Court. It is further contended that the respondent is not a fit and proper person to practice as a legal practitioner and cannot be allowed to continue practising as such. The respondent continuously placed his trust creditors and the Legal Practitioners Fidelity Fund at risk.

Issue

[23] The issue to be determined is whether the respondent is a fit and proper person to practice as a legal practitioner in the circumstances of this case.

The law applicable to the issue

[24 The Council is empowered under section 40 (3) (a) (iv) read with section 44 (1) of the LPA, to launch an application with the High Court for the striking off the roll or suspension from practice of a legal practitioner. The court has inherent powers to exercise disciplinary jurisdiction over the respondent.

[25] Accordingly, the LPC is not an ordinary litigant in this application. As *custos morum* of the profession, the LPC places the facts and its views for this court to take appropriate action in the exercise of its discretion using its disciplinary powers. See *A v Law Society of the Cape of Good Hope* 1989 (1) SA 849 (A). Significantly, the court's power is inherent in nature over and above the provisions of the Act. *Law Society of the Transvaal v Tloubatla* [1999] 4 All SA 59 (D); *Law Society of the Transvaal v Machaka and Others (No 2)* 1998 (4) SA 413 (T) and *Law Society of the Cape of Good Hope v C* 1986 (1) SA 616 (A) unreported judgement South African Legal Practice Council v Chalom (18445/2020) ZAGPPHC 663 delivered on the 26 November 2020.

[26] In deciding the issue of a fit and proper person there are three stages of enquiry namely

1. The court must decide whether the alleged offending conduct has been established on preponderance of probabilities if so.

2. It must decide in its discretion whether the person concerned is a fit and proper person to practice as an attorney and this require a value judgment, and if not

3. The court must in its discretion, which involves yet again a value judgment determine whether the attorney should be merely suspended or struck off the roll.

Discussion

[27] The above facts are accepted as correct because they have not been disputed by the respondent. This facts clearly demonstrate the respondent's conduct in misappropriation of the trust fund to the disadvantage of his clients. The respondent admitted to using the trust money of Motlatsi Mashaba for himself when confronted by the investigator Hlogoana. The respondent then advised that he was going to secure a loan from his partner to repay the money in October 2019. However such money was never paid till to date. The respondent has done this to more than five of his clients. This led to trust fund deficits to the tune of R2 577 740.09 in January 2021. Because of these deficits the respondent kept on rolling the trust funds in order to hide the misappropriation of the clients trust monies.

[28] All the above clients whose third party claims paid up, were never updated of the progress, and to some he paid their claims in instalments thereby delaying the payment to others he did not pay their claims at all. .

[29] The respondent contravened several provisions of the LPA, the LPC rules and the code of conduct. He even failed to cooperate with the Council in these investigations. He failed to produce accounting records for inspection or to grant the Council access to those records.

[30] With regard to the issue brought by the Council that the respondent did not have the Fidelity Fund certificate when he was practising as an attorney.

Respondent produced the Fidelity Fund certificate which was issued on the 5th of March 2020. It is clear that from January 2020 until the 4 March the respondent practised without a certificate. He did not dispute this. It is therefore accepted that the respondent contravened Section 84(1) and (2) of the LPA.

[31] A legal practitioner is a member of a learned, respected and honourable profession and, by entering it, a practitioner pledges himself or herself with total and unquestionable integrity to society at large to the courts, and to the profession. Only the highest standard of conduct and repute and good faith are consistent with membership of the legal profession which can indeed only function effectively if it inspire the unconditional confidence and trust of the public. The image and the standing of the legal profession are judged by the conduct and reputation of all legal practitioners and to maintain confidence and trust all legal practitioners must exhibit the qualities set out above at all times. The respondent lacked professionalism, integrity, and the public would lose confidence if he continues to practice as a legal practitioner.

[32] We have found the misconduct of the respondent proved on a preponderance of probabilities.

[33] Having regard to the undisputed numerous and varied contraventions of the LPA, LPC Rules and Code of conduct that have been indicated on the founding and supplementary affidavits, and weighing that against the standard required of a legal practitioner as outlined above, we hold the view that the respondent is not a fit and proper person to practise as an attorney

[34] The offending conduct complained of has been repeatedly done. More than five people have not been paid and no one knows where the money went to. It is accepted that the respondent had been covering his deficits by rolling the money over so that the misappropriation of the client's trust fund could never be detected. This takes a careful planning to do. Looking at the fact that so many of his clients had already fallen victims he intended for it to continue unabated. This was seen also from the two letters which he had written addressed to the Council when he wanted his files back and hailing all insulting words to the chairperson of the Council.

[35] The respondent's character shows a person who is unworthy to remain in the ranks of this honourable profession. The community must be protected from a practitioner like the respondent. Therefore, the Courts and the LPC have a duty to act in order to protect the public. The respondent should therefore be struck from the roll in order that his continued misconduct should be stopped.

[36] In the result, the following order is made

1. The respondents name is truck from the roll of legal practitioners of the High Court of South Africa (Gauteng Division) and the Legal Practice Council is directed to remove his made from the roll of attorneys.
2. Costs on attorney and client scale are to be paid by the respondent for this application

3. The respondent must immediately surrender and deliver to the Registrar of this Honourable Court his certificate of enrolment as an attorney of this Honourable Court.
4. In the event of the respondent failing to comply with the terms of this order detailed in paragraph 2 above within two (2) weeks from the date of this order, the sheriff of the district in which the certificate was issued, be authorised and directed to take possession of the certificate and to hand it to the Registrar of this Court.
5. The respondent be prohibited from handling or operating his trust account(s) as detailed in paragraph 6 hereof.
6. That Johan van Staden, the Head: Risk Compliance of the applicant or any person nominated by him, in his capacity as such, remains a suitable person to act 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 sections 86 (3) and 86 (4) of the LPA, 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. To 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 (hereinafter referred to as the 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 was acting at the date of this order;

6.2 Subject to the approval and control of the board of control of the Fund and where monies had been paid incorrectly and unlawfully from the under mentioned trust accounts, 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 respondent in terms of sections 86 (3) and 86 (4) of the Legal Practice Act (hereinafter referred to as trust monies), 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

appears 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 board of control 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 board of control 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 civil courts;

6.6 Having determined the amounts which he considers are lawfully due to trust creditors, to pay such claims in full but subject always to the approval of the board of control 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 Act 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 1.3 of part B of the notice of motion of this order, 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 board of control 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 chairman of the board of control 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 board of control of the Fund showing how the trust account(s) of the respondent has/have been dealt with, until such time as the board notifies him that he may regard his duties as curator as terminated.

7. The respondent is ordered to immediately deliver to the curator appointed in paragraph 5 his accounting records, records, files and documents containing particulars and information relating to:

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

7.2 Any monies invested by the respondent in terms of sections 86 (3) and 86 (4) of the LPA;

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

7.4 Any estate of a deceased person or an insolvent estate or an estate under curatorship administered by the respondent, whether as executors or trustees or curators 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 Property Control Act 57 of 1988;

7.7 Any company liquidated in terms of the Companies Act 61 of 1973, administered by the respondent as 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 as or on behalf of the liquidator; and

7.9 The respondent's practice as an attorney of this Court.

8. 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 section54 (1)(a)(v) of the administration of estate act no66 of 1965 or the estate of any other person referred to in section 72(1);

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 85 of the administration of estate act no 66 of 1965'

9.3 Trustee of any insolvent estate in terms of section 59 of the insolvency act no 24 of 1936;

9.4 Liquidator of any company in terms of section 379(2) read with 379(e) of the companies act no 61 of 1973'

9.5 Trustee of any trust in terms of section 20(1) of the trust property control act no 57 of 1988;

9.6 Liquidator of any close corporation appointed in terms of section74 of the close corporation act 69 of 1984; and

9.7 Administrator appointed in terms of section 74 of the magistrate court act no 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 firm;

10.2 Require from the persons referred to in paragraph 8.1 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 respondent and/or the respondent's clients and/or 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 of the respondent's practice.

11. 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 in respect of his former practice(s), 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. A certificate issued by a director of 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.

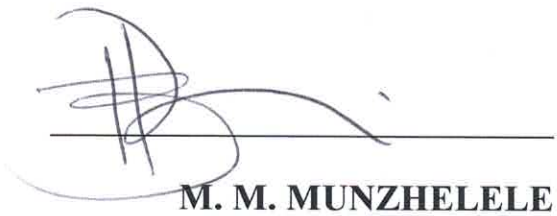
13. The respondent be and is hereby directed:

13.1 To pay, in terms of section 87 (2) of the Act, 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.



M. M. MUNZHELELE
Acting Judge of the High Court
Gauteng Division, Pretoria

I agree.

N. DAVIS

Judge of the High Court

Gauteng Division, Pretoria

Appearance on behalf of the applicant:	Mr L. Groome
Instructed by	Rooth & Wessels Inc
Appearance by the respondent in person:	Mr L.B. Mashabela
Virtually heard on:	11 March 2021
Judgment delivered:	18 May 2021