



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

|                                    |                                                                                                             |
|------------------------------------|-------------------------------------------------------------------------------------------------------------|
| DELETE WHICHEVER IS NOT APPLICABLE |                                                                                                             |
| (1)                                | REPORTABLE: YES <input checked="" type="checkbox"/> NO <input checked="" type="checkbox"/>                  |
| (2)                                | OF INTEREST TO OTHER JUDGES: YES <input checked="" type="checkbox"/> NO <input checked="" type="checkbox"/> |
| (3)                                | REVISED.                                                                                                    |
| 28 June 2019                       |                                                                                                             |
| DATE                               | SIGNATURE                                                                                                   |

**Case No: 61165/2018**

In the matter between:

**THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL**

Applicant

and

**CHRIS WILMER PRINSLOO**

Respondent

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**JUDGMENT**

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**THE COURT:**

[1] This is an application by the Law Society of the Northern Provinces (now "The South African Legal Practice Council") for the suspension of the respondent ("Mr Prinsloo") from practice as an attorney alternatively, that his name be removed from the Roll of Attorneys. The application was served on the respondent personally on 30 August 2018. The respondent entered an appearance to oppose the application on 10 September 2018. He did not file an answering or opposing affidavit. The notice of set down was served on

Mr Prinsloo's attorney of record on 30 October 2018 after a notice of application for a court date was served on his attorney on 18 October 2018. The applicant's practice note and heads of argument was served on Mr Prinsloo's attorney of record on 5 June 2019. When the matter was called before us we were handed an affidavit deposed to by Mr Prinsloo on 11 June 2019 the purpose of which is stated in paragraph 2 of the affidavit as follows:

**"2. AD PURPOSE OF THIS AFFIDAVIT**

2.1 *The purpose of this affidavit is to humbly seek the relief of and intervention from the Above Honourable Court to postpone the above matter to the Opposed Motion Court Roll.*

2.2 *Moreover, to be in a position to prepare, serve and file a proper Answering Affidavit, and to state relevant facts that contributed to a personal breakdown and the reasons form (sic) most of the incidents recorded in the Applicant's Founding Affidavit."*

[2] An application for postponement was moved on behalf of Mr Prinsloo. We refused the application for postponement and indicated that the reasons for the refusal would follow.

[3] Following the refusal of the application for a postponement the main application was argued. Counsel for Mr Prinsloo informed us that she was not in a position to argue the merits of the main application despite our invitation to do so.

[4] In proceedings of this kind the applicant litigates as *custos morum* of the attorneys' profession. The attorneys' profession is a controlled profession. It is regulated by legislation, regulations promulgated in terms of the legislation and the rules of the professional body, the applicant. Our Courts oversee the regulated attorneys' profession and applications of this kind are considered by our Courts as *sui generis*.

[5] When the applicant contends that the conduct of a practitioner must be enquired into, a threefold enquiry has to take place. At first it must be decided as a matter of fact whether the offending conduct relied on by the applicant has been established. If so satisfied, a value judgment must be made whether the person concerned is a fit and proper person or not to practise as a legal practitioner.<sup>1</sup> If a Court finds that the legal practitioner concerned is not a fit and proper person to practise as a legal practitioner it must exercise its discretion whether, taking into account all the circumstances, his name should be removed from the roll or whether he should be suspended from practice.<sup>2</sup>

[6] In exercising its discretion a Court should consider all the facts proved in the proceedings. No facts may be considered in isolation.<sup>3</sup>

[7] Our Courts expect from a legal practitioner to scrupulously comply with all statutory requirements imposed on him or her as a practitioner. In the present application it is alleged by the applicant that Mr Prinsloo failed to lodge

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<sup>1</sup> Kaplan v Incorporated Law Society, Transvaal 1981 (2) SA 762 (A).

<sup>2</sup> Jasat v Natal Law Society 2000 (3) SA 44 (SCA).

<sup>3</sup> Summerley v Law Society Northern Provinces 2006 (5) SA 613 (SCA).

unqualified audit reports for the periods ending February 2016 and February 2017. His failure to submit the said reports caused him not to be issued with a Fidelity Fund Certificate for the year that commenced during January 2016.

[8] The applicant also alleges that Mr Prinsloo failed to complete the required legal practice management course mentioned in section 13(B) of the Attorneys Act. His failure in that regard resulted in him not being issued with a Fidelity Fund Certificate. Breaches of the Attorneys Act and Regulations by Mr Prinsloo remain unanswered and it seems to us that he practised unlawfully as an attorney for his own account.

[9] The applicant appointed Mr Van Rooyen, a management consultant to conduct an investigation into Mr Prinsloo's practice. Mr Van Rooyen supplied the applicant with a report attached to the founding papers as annexure "A19". The body of the report reads as follows:

**"OUTSTANDING FORM OF ASSURANCE REPORT:**

**PRINSLOO C W ATTORNEYS - PRETORIA**

*I refer to your mandate dated 6 February 2017 and wish to reply with the following letter.*

*On 8 February 2017 I opened a file for this matter and perused the firm and member profile that was received with the mandate. According to your records there are seven unresolved complaints from 2014 to 2017 on record.*

*I telephoned the office telephone number, 012 809 0175, and the cell phone number, 082 093 5601, according to the firm and member*

profile, attached as addendum A1-2, without any success as the telephones just kept ringing.

After reporting the situation to you I was instructed to forward an e-mail as a last resort, and if there is no reply to visit the attorney at his offices as per your records, Blok 78, Unit 5, Tijger Valley Office Park, Silver Lakes Street, Pretoria. On 15 February 2017 I drafted and sent the attached addendum B e-mail to the attorney without getting a reply.

I visited the premises on 20 February 2017. At the gate a certain, Bongani, a security guard, informed me that Mr. Prinsloo had evacuated the premises during 2016, and that the forwarding address is now 789 Park Street, Hatfield.

At the new address I found it to be the offices of Uys Coetzee Attorneys. At reception I asked to speak to Mr. Prinsloo. He entered reception and took me to an office.

Mr. Prinsloo informed me that on 20 February 2016 I man tried to shoot himself in his old office. This had such a tremendous effect on him that he could not sleep. His medical practitioner prescribed sleeping tablets, which he became addicted to. When he was institutionalised his wife found out about his addiction and started divorce proceedings. He thus did not practise for the whole of 2016. Management of his previous premises locked him out of his office due to the fact that he was in arrears with his rent. He however did get his files. His accounting records, according to him is intact as it is backed up by Lexpro.

He also informed me that Mr. Uys of the firm Uys Coetzee Attorneys agreed to help him to get back on his feet again. When I asked him whether his cell phone number has changed he said no, but he does not want to answer it, if he does not know the number as all his creditors are driving him crazy. He agreed to put my name on his cell phone so that he will answer my calls in future.

*As he pointed out to me that Mr. Uys was willing to assist him I recommended that he tries to get Mr. Uys's auditor to assist him to get his accounting records up to date as soon as possible. He requested that I give him two weeks to try and get his accounting records in order and the report issued.*

*I reported same to you and diarized my file for 13 March 2017.*

*I received the attached WhatsApp Chat from Mr. Prinsloo on 13 March 2017, which I printed out and which is attached hereto as addendum C. I also forwarded a message to him requesting that he request his medical practitioner to provide him with a medical certificate. I again requested a medical certificate on 14 March 2017 to which I also did not receive a reply.*

*As Mr. Prinsloo is now requesting extension until 24 April 2017 to file his Form of Assurance Report, which we know nobody can agree, to I reported the situation to you and was requested to file an interim report.*

***In view of the information provided to me by the Law Society and Mr. Prinsloo it appears that he may have abandoned his practise as the Law Society was not informed about the change of address and it is not sure whether his clients were notified of the situation.***

*As appears that this matter may well be dealt with administratively by the Law Society due to the situation, I thank you for the mandate and I am temporarily closing my file in this matter."*

[10] In addition to the complaint by the applicant that Mr Prinsloo failed to obtain the required Fidelity Fund Certificates (and failed to comply with the other statutory provisions mentioned above) it is alleged that he is guilty of unprofessional conduct set out in the complaints by Mr Fourie, Maree Attorneys

and Conveyancers, D&K Attorneys and Dawie Beyers Attorneys. Those complaints are factual and may be disputed by Mr Prinsloo. In his affidavit presented in support of the application for a postponement it is alleged that Mr Prinsloo suffers from "*an emotional breakdown and deterioration*". That affidavit, however, implies that Mr Prinsloo can and does practise as an attorney "*under the proverbial wing of my mentor and employer, Mr. Marius Uys*". No affidavit of Mr Uys was, however, tendered in evidence. We are mindful of the fact that an order suspending Mr Prinsloo from practice or removing his name from the roll of attorneys would have a material adverse effect on his ability to make a living. We are of the view that the facts set out in the founding affidavit should, as mentioned in *Summerley (supra)* not be considered in isolation. Mr Prinsloo's affidavit presented in support of the application for postponement suggests that he has been or is ill. He further indicated that he would very soon be in a position to present an affidavit of a qualified psychologist or psychiatrist to present evidence that might provide some answer to the charges levelled against him. We are, therefore, not prepared to exercise our discretion without the benefit of that evidence to decide whether Mr Prinsloo should be suspended from practice or struck from the roll of attorneys. We are however concerned about Mr Prinsloo's conduct and his refusal to cooperate with the applicant to investigate the affairs of his practice (which now seems to be no longer in existence). In that regard we consider it necessary to order that the applicant's representatives be given access, with the cooperation of Mr Prinsloo, to his trust account and other records of his practice. We enjoy that authority in terms of section 44 of the Legal Practice Act, No 28 of 2014.

[11] We are further of the view that Mr Prinsloo should be afforded approximately one month to file his answering affidavit in answer to the relief sought in paragraph 1 of the notice of motion. Postponement of the matter when it was called and without granting the appropriate relief in terms of section 44 of the Legal Practice Act would have meant that Mr Prinsloo can practise for his own account and without granting the applicant access to the records of his erstwhile practice. In our view that should not be allowed as such conduct is unlawful and at this stage Mr Prinsloo will enjoy the benefit of the doubt that his conduct may have been caused or influenced by illness, but that is for him to show in the proceedings for the relief sought in terms of prayer 1 of the notice of motion and for that court to consider.

Under the circumstances we make the following order:

1. The respondent is prohibited from handling or operating a trust account detailed below and from practising for his own account pending finalisation of the relief sought by the applicant in terms of paragraph 1 of the notice of motion dated 21 August 2018 or any amendment thereof;
2. The respondent is afforded until Monday 22 July 2019 to file his answering affidavit, if any, in answer to the application for the relief claimed in paragraph 1 of the notice of motion dated 21 August 2018;
3. That the respondent be prohibited from handling or operating on the trust accounts as detailed in paragraph 4 *infra*;

4. That Johan van Staden, the Head: Legal Practitioners' Affairs of the applicant or any person nominated by him, be appointed as *curator bonis* ("curator") to administer and control the trust accounts 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 a legal practitioner 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) and (2) of Act No 28 of 2014 and/or any separate savings or interest-bearing accounts as contemplated by section 86(3) and/or section 86(4) of Act No 28 of 2014, 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 hereinafter referred to as "the trust accounts"), with the following powers and duties:
  - 4.1. immediately to take possession of the Respondent's accounting records, records, files and documents as referred to in paragraph 6 and subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control (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;

- 4.2. subject to the approval and control of the Legal Practitioners' Fidelity Fund Board of Control and where monies had been paid incorrectly and unlawfully from the undermentioned 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 section 86(1) & (2) and/or section 86(3) and/or section 86(4) of Act No 28 of 2014 (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);
- 4.3. 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;

- 4.4. 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 Legal Practitioners' Fidelity Fund Board of Control, 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;
- 4.5. to admit or reject, in whole or in part, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, 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;
- 4.6. 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 Legal Practitioners' Fidelity Fund Board of Control;
- 4.7. 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 Act No 28 of 2014 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 10 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 Legal Practitioners' Fidelity Fund Board of Control, to the Respondent, if he is solvent, or, if the Respondent is insolvent, to the trustee(s) of the Respondent's insolvent estate;

4.8. 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 Legal Practitioners' Fidelity Fund;

4.9. subject to the approval of the chairman of the Legal Practitioners' Fidelity Fund Board of Control, to appoint nominees or representatives and/or consult with and/or engage the services of legal practitioners, counsel, accountants and/or any other persons, where considered necessary, to assist him in carrying out his duties as curator; and

4.10. to render from time to time, as curator, returns to the Legal Practitioners' Fidelity Fund Board of Control 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.

5. That the Respondent immediately deliver the accounting records, records, files and documents containing particulars and information relating to:

5.1. any monies received, held or paid by the Respondent for or on account of any person while practising as a legal practitioner;

5.2. any monies invested by the Respondent in terms of section 86(3) and/or section 86(4) of Act No 28 of 2014;

5.3. any interest on monies so invested which was paid over or credited to the Respondent;

5.4. 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;

5.5. any insolvent estate administered by the Respondent as trustee or on behalf of the trustee in terms of the Insolvency Act, No 24 of 1936;

- 5.6. any trust administered by the Respondent as trustee or on behalf of the trustee in terms of the Trust Properties Control Act, No 57 of 1988;
  - 5.7. any company liquidated in terms of the provisions of the Companies Act, No 61 of 1973 read together with the provisions of the Companies Act, No 71 of 2008, administered by the Respondent as or on behalf of the liquidator;
  - 5.8. 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
  - 5.9. the Respondent's practice as a legal practitioner of this Honourable Court, to the curator appointed in terms of paragraph 5 hereof, 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.
6. 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.

7. That the curator shall be entitled to:

- 7.1. 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;
- 7.2. 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 the 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;
- 7.3. publish this order or an abridged version thereof in any newspaper he considers appropriate; and
- 7.4. winding-up of the Respondent's practice.

8. That the Respondent be and is hereby removed from office as:

- 8.1. 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, No 66 of 1965 or the estate of any other person referred to in section 72(1);

- 8.2. 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, No 66 of 1965;
- 8.3. trustee of any insolvent estate in terms of section 59 of the Insolvency Act, No 24 of 1936;
- 8.4. liquidator of any company in terms of section 379(2) read with 379(e) of the Companies Act, No 61 of 1973 and read together with the provisions of the Companies Act, No 71 of 2008;
- 8.5. trustee of any trust in terms of section 20(1) of the Trust Property Control Act, No 57 of 1988;
- 8.6. liquidator of any close corporation appointed in terms of section 74 of the Close Corporation Act, No 69 of 1984; and
- 8.7. administrator appointed in terms of Section 74 of the Magistrates Court Act, No 32 of 1944.

9. That the Respondent be and is hereby directed:

- 9.1. to pay, in terms of section 87(2) of Act No. 28 of 2014, the reasonable costs of the inspection of the accounting records of the Respondent;

- 9.2. to pay the reasonable fees of the auditor engaged by applicant;
  - 9.3. to pay the reasonable fees and expenses of the curator, including travelling time;
  - 9.4. to pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator as aforesaid;
  - 9.5. to pay the expenses relating to the publication of this order or an abbreviated version thereof; and
  - 9.6. to pay the costs of this application on an attorney-and-client scale.
10. 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, shall 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, 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;
11. That a certificate issued by a director of the Legal Practitioners' Fidelity Fund shall constitute *prima facie* proof of the curator's costs

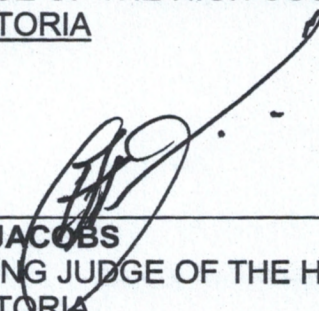
and that the Registrar be authorised to issue a writ of execution on the strength of such certificate in order to collect the curator's costs.

12. The respondent is ordered to pay the costs of the proceedings of 11 June 2018 on an unopposed scale which costs shall be taxable on a scale as between attorney and own client.



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**T A N MAKHUBELE**  
JUDGE OF THE HIGH COURT  
PRETORIA



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**H F JACOBS**  
ACTING JUDGE OF THE HIGH COURT  
PRETORIA