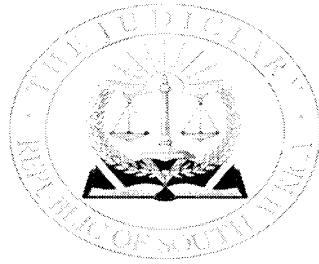
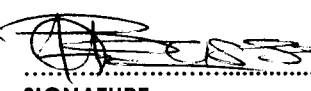


REPUBLIC OF SOUTH AFRICA**IN THE HIGH COURT OF SOUTH AFRICA****GAUTENG DIVISION, PRETORIA**

8/3/17.

CASE NO: 69007/2015

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED.
	
SIGNATURE	08.03.2017
	DATE

PAUL MODIKENG RANAMANE

Applicant

(In the application for leave to appeal)

and**THE LAW SOCIETY OF THE NORTHERN PROVINCES**

Respondent

(In the application for leave to appeal)

JUDGMENT: Application for Leave to Appeal

AC BASSON, J

- [1] This is an application for leave to appeal against this Court's judgment dated 27 October 2016.
- [2] The applicant raised various grounds of appeal in the Notice of Appeal. I do not deem it necessary to list these grounds. Suffice to point out that all of these grounds have duly been considered.
- [3] In essence the applicant takes issue with the Court's refusal to grant leave to him to file two further affidavits. The one affidavit was delivered to the offices of the Law Society one day prior to the hearing and the other affidavit was delivered on the day of the hearing. Both affidavits were filed late and no proper explanation was tendered to the Court for the lateness thereof. Furthermore, no proper application served before the Court to have the two affidavits admitted. I should also point out that at the hearing Senior Council on behalf of the applicant did not take issue with the ruling of the court and in fact apologised to the Court for the matter in which the matter was handled "in particular the late filing of the one affidavit which was handed up this morning and the apparently non-filing of the main affidavit upon which I have sought to rely and which your Ladyship and your Lordship say you never got to see".
- [4] In the absence of a proper application and in the absence of a proper explanation for the delay in filing these affidavits, the Court refused to accept the affidavits. I am not persuaded that this Court has erred or misdirected itself in making this ruling. I am accordingly not persuaded that there exist reasonable prospects of success on appeal in respect of this point. I am likewise not persuaded that there exists prospects of success on appeal in respect of the ground that the applicant's constitutional right to be afforded a fair hearing was affected by the refusal to allow the further affidavits.
- [5] The applicant also raised the point that the Court erred or misdirected itself in imposing a harsher sentence to that meted out to Mr Phungo (the third respondent). This ground for leave to appeal has no merit. It does not follow

as a matter of course that the mere fact that the Mr Ranamane and Mr Phungo were co-directors that they should be treated the same in respect of a sanction. Ultimately this court has a discretion which should be exercised taking into account all the relevant circumstances. One of the crucial factors that distinguished Mr Phungo from Mr Ranamane is the finding that it cannot be said that Mr Phungo was dishonest and deceitful. Unfortunately the same could not be said of Mr Ranamane. In fact, Senior Council on behalf of Mr Ranamane conceded not only that Mr Ranamane was not candid with the Court, but that he was unable to advance any submissions that could absolve Mr Ranamane from wrongdoing in respect of the R 5 million deposited by the Department of Public Works into the firm's trust account. In this regard I am equally not persuaded that there exist prospects of success on appeal in respect of this ground.

[6] In the event the following order is made:

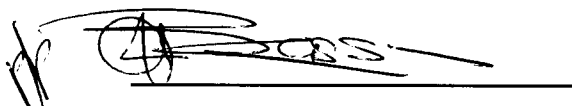
The application for leave to appeal is dismissed with costs.



AC BASSON

JUDGE OF THE HIGH COURT

I agree and it is so ordered:



M SENYATSI

ACTING JUDGE OF THE HIGH COURT

Appearances:

For the applicant (Mr Rabamane): Adv Hassin SC

Instructed by : MB Mokoena Attorneys

For the respondent : Mr PJ Smith

Instructed by : Rooth & Wessels Inc.