

REPUBLIC OF SOUTH AFRICA



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

Case No: 2025-069166

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
22 August 2025	
DATE	SIGNATURE

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Applicant

and

REGINALD NKOSINATHI MKHIZE

Respondent

REASONS FOR ORDER

KRÜGER AJ

- [1] This matter came before me in the Urgent Court during the week of 2 June 2025 to 6 June 2025 and is an application brought by the applicant, *inter alia* for the suspension of the respondent from practicing as an attorney.
- [2] The respondent is a practicing attorney and in possession of a fidelity fund certificate.
- [3] The applicant submitted to the Court the following grievances that was lodged against the respondent with the applicant:
- a. 8 May 2020 – the respondent had breached a fee splitting agreement which the respondent had entered into with Ms M Sehlako. The agreement concerned the management of the estate of the late Mr. Gule. The children of the late Mr Gule laid a complaint regarding the misappropriation of their inheritance.
 - i. In this grievance, annexed to the founding affidavit, the complainant lodged a statement of complaint against the respondent, to which was annexed a document with the heading “Split-Fee Agreement” paragraphs 2.1 and 2.2 of the agreement reads as follows:

“2.1 In recognition of the business that Mkhize attorneys, a business owned by Nkosinathi Mkize, has obtained through Mapule Sehlako in relation to the Estate Late Brian Thami Gule, Nkosinathi Mkhize hereby agree that it would charge 25% (twenty five percent) fee on all the moneys received by the Estate.

2.2 Nkosinathi Mkhize further agrees that from the 25% fee received, it would split the fee equally with Mapule Sehlako. As

an example, if the estate receives a full amount of R10 000.00, Mkhize attorneys would take 25% of the R10 000.00 which is R 2500. Nkosinathi Mkhize and Mapule Sehlako would share the amount of R 2500 equally, which would be R1250 for each party.

- ii. The agreement was signed by the respondent and dated 07/07/14. The counsel for the respondent argued that the respondent denies that it was a split fee agreement but could not explain the heading and contents of the document. It was common cause that the respondent entered into the agreement.

- b. On 29 June 2021 the applicant received a complaint from Mr Vendavato, whom complained that he had paid the respondent the amount of R 9 000.00 during February 2016 to recover a debt of R 24 000.00 on his behalf, however by 30 November 2016 after multiple attempts to contact the respondent including visits to the office of the respondent, Mr Vendavato had been unable to contact the respondent.

[4] It was argued by the applicant that due to these complaints, the application before me was triggered as the respondent transgressed several provisions of the Legal Practice Act, the Legal Practice Council Rules and the Code of Conduct and posed a threat to his trust creditors and the Legal Practitioners Fidelity Fund.

[5] It was further argued by the applicant, that the applicant instituted an investigation into the allegations and complaints received by the applicant. The applicant appointed Mr Nyali to conduct the investigation. Some of the findings of Mr Nyali were *inter alia*:

- a. The respondent intentionally misrepresented the firms position to the applicant in order to obtain a fidelity fund certificate;

- b. The respondent contravened Rule 16.1 of the Code of Conduct in failing to reply to communications which require an answer within a reasonable time, unless there is good cause for refusing to answer;
- c. The respondent contravened Rule 54.14.10 of the Legal Practice Council Rules in failing to report to the Legal Practice Council that the balance of the firms trust account is less than the claims of the trust creditors;
- d. The respondent did not co-operate with the inspection of the Legal Practice Council and hampered its ability to conduct its function and thereby contravened Rule 16.4 of the Code of Conduct. The respondent also did not respond timeously and fully to requests from the Legal Practice Council for information and/or documentation which the firm was able to provide.
- e. The respondent did not produce the accounting records and client files for inspection to a person authorised by the applicant to conduct such inspection.
- f. The respondent entered into a fee splitting agreement, in contravention of Rule 43.1 of the LPC Rules, with Ms Sehlako, who is not an authorised legal practitioner;

[6] Mr Nyali in his report to the applicant was of the opinion that the respondent was un-cooperative and evasive throughout the investigation of the applicant from May 2021 up to August 2024 despite repeated requests and follow ups from the applicant. The only reasons advanced by the respondent to the applicant as to his lack of cooperation was claims of severe health issues and ongoing therapy for inter alia mental illness.

[7] Mr Nyali found further that there is a significant trust deficit arising from the misappropriation of trust funds by the respondent exceeding an amount of

R 13 788 970.00 (thirteen million seven hundred and eighty eight thousand nine hundred and seventy rand)

- [8] Thus it was argued by the applicant that the respondent entered into the fee splitting agreement with Ms Sehlako in contravention of Rule 43.1 of the applicant's Rules which prohibit a legal practitioner to enter into an agreement with a person who is not a legal practitioner to secure professional work in exchange for financial reward.
- [9] As such the applicant argued, that the respondent received an amount of R 13 788 970.00 (thirteen million seven hundred and eighty eight thousand nine hundred and seventy rand) on behalf of the estate of the late BT Gule. This amount included the sale of a petrol station for R 10 000 000.00 (ten million rand) the children of the late BT Gule was however not granted access to their inheritance and not paid their monthly allowances.
- [10] The respondent opposed this application and filed an answering affidavit on 23 May 2025. The respondent denied misappropriating funds from his trust account but failed to put any evidence before the Court as to his denial, neither did he put any evidence before the Court that could refute the evidence of the applicant on a balance of probabilities. No viable explanations for his conduct was advanced by the counsel for the respondent at the hearing hereof either.
- [11] The respondent persisted with his claim that he suffered from mental illness, disturbance and that he is receiving treatment for such. The respondent further claimed that he was not summoned to a disciplinary hearing to answer to the allegations and complaints against him. In this hearing the respondent were given the opportunity to answer to the allegations and complaints against him before the Court. He however did not make use of the opportunity, not only in his answering affidavit, but also when the Court stood the matter down for the counsel of the respondent to get instructions from the respondent if there were anything the respondent wishes to add to his answering affidavit, or any other evidence the respondent would want to place before the Court. The respondent

was also given the opportunity to appear before the Court or to just attend the proceedings, all of which the respondent declined.

- [12] In as far as the respondent alleges that he would have wanted to appear before the disciplinary hearing by the applicant, where he would have addressed the complaints against him, the counsel for the applicant referred the Court to the matter of **South African Legal Practice Council v Shabangu and Another**¹ where the Court referred to *Du Plessis v Prokureursorde, Transvaal* 2002 (4) SA 344 (T) where it was held that:

“the Law Society could even bring an application for removal without any preceding investigations having been conducted” it was further held that “the application for removal was a matter where the Court had to consider the alleged conduct of the applicant. The respondent did not act as a party in this matter but in its capacity as custos mores to assist the Court”

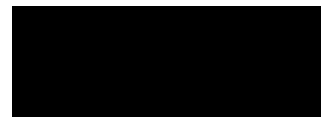
In paragraph 16, Strydom J stated *“It could not have been the intention and requirement of the LPA, that where a complainant brings the application to suspend or to strike off, there should first be a disciplinary hearing conducted and concluded by the LPC.”*

- [13] I align my view with Strydom J in this respect and therefor found that this argument on behalf of the respondent did not hold any water.
- [14] The Legal Practice Act provides in section 44 thereof that the provisions of the LPA do not derogate in any way from the power of the Court to adjudicate upon and make orders in respect of matters concerning the conduct of legal practitioners and juristic entities.
- [15] The council for the respondent could not give any viable answers, explanations or arguments against the allegations, complaints and arguments raised by the applicant herein.

¹ (112621/24)[2025] ZAGPPHC 117

[16] The Court is there to protect the interest of the public against any transgressions of legal practitioners, that have to comply with the standards required of a fit and proper person to practice as a legal practitioner. As such the legal practitioners practicing as such have to be transparent and compliant with any requests, investigations and questions from the applicant as the governing body for such practice. The respondent failed in this regard and despite being given the opportunity to quiet the concerns of the applicant and the Court, the respondent declined to do so. There can only be one interment drawn by the Court from the conduct of the respondent herein and that is that the respondent is to be suspended from practice as an attorney pending further investigation and/or an application to strike him from the roll of attorneys.

[17] Inter alia, for the reasons set out herein the Court made the draft order uploaded to Caselines (021:1:1-11) and handed up by the counsel of the applicant, an order of Court.



M KRÜGER

ACTING JUDGE OF HIGH COURT
GAUTENG DIVISION
PRETORIA

Date of hearing: 03 and 04 June 2025

Date of reasons requested dated: 06 June 2025

Date of reasons: 22 August 2025

For the Applicant : Adv NS Mteto
Instructed by : Renqe FY Incorporated

For the Defendant : Adv DZ Kela
Instructed by : Mkhize Attorneys