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REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2023/134003

1.	REPORTABLE: NO
2.	OF INTEREST TO OTHER JUDGES: NO
3.	REVISED.
.....	 October 2025
SIGNATURE	DATE

In the matter of:

**THE SOUTH AFRICAN LEGAL
PRACTICE COUNCIL**

First Applicant

and

NOVELWANOA ALICIA NONXUBA

First Respondent

**NONXUBA INCORPORATED
ATTORNEYS**

Second Respondent

**NA NONXUBA ATTORNEYS
INCORPORATED**

Third Respondent

This judgment has been handed down remotely and shall be circulated to the parties by way of email / uploading on Caselines. The date of hand down shall be deemed to be 22 October 2025

Summary: *Legal practitioner – striking off. Offending conduct having been established, practitioner was no longer fit to practice as such. Striking off order is the appropriate sanction.*

JUDGMENT

CORAM: BAM J with (DAVIS J concurring)

Introduction

1. We are called upon to determine the present application for the removal of the first respondent's name from the roll of Legal Practitioners. The applicant is the Legal Practice Council (the LPC) and the first respondent is a legal practitioner, currently enrolled by the LPC as an attorney.
2. The allegations are that the first respondent has made herself guilty of various acts of misconduct which render her unfit to continue practising as a legal practitioner of this court. The LPC further contends that the first respondent's conduct reveals character flaws or defects which cannot be tolerated in a legal

practitioner. When distilled to its bare essence, the first respondent's defence is that her failure or breaches of the law must be understood as stemming from a place of naivety and the trust she had reposed upon her co-director and husband (now former husband) who was responsible for managing the trust account of the second respondent.

Parties

3. The LPC's is a body corporate established in terms of Section 4 of the Legal Practice Act¹ (the Act) with full legal capacity. The LPC exercises jurisdiction over all legal practitioners and candidate legal practitioners as contemplated in the Act.
4. The first respondent, Ms Novelwanoa Alicia Nonxuba, was admitted as an attorney of this Court on 6 February 2018. She commenced practice as director of the second respondent, Nonxuba Incorporated Attorneys, on 12 February 2018. On 21 October 2021, the first respondent commenced practice for her own account under the name and style of the third respondent, N A Nonxuba Incorporated Attorneys. She was suspended from practice by this court, on 6 June 2024, pending finalisation of the present proceedings.
5. Without suggesting that the conduct of the first respondent whilst running the third respondent is irrelevant to the present proceedings, the conduct that is central to the LPC's case concerns, in the main, her time as co-director in the

¹ 28 of 2014

second respondent, which covers the period 12 February 2018 to 21 October 2021.

The nature of the inquiry and the process

6. It is now well established that when a court is called upon to exercise its disciplinary powers, the inquiry before it is not what constitutes appropriate punishment for past transgressions but rather what is required for the protection of the public in the future². The LPC's role in bringing these proceedings is not that of an ordinary adversarial litigant entangled in a fight to win, rather, the LPC brings evidence of a practitioner's misconduct to the attention of the court, in the interests of the court, the profession and the public at large, to enable the court to exercise its disciplinary powers³.

7. It is trite that the adjudication of this type of application involves a three stage inquiry. The three stages have been described thus:

'Firstly, the court must decide whether the alleged offending conduct has been established on a preponderance of probabilities, which is a factual inquiry. Secondly, it must consider whether the person concerned "in the discretion of the Court" is not a fit and proper person to continue to practise. This involves a weighing up of the conduct complained of against the conduct expected of an attorney and, to this extent, is a value judgment. And third[ly], the court must inquire whether in all the circumstances the person in question is to be removed from the roll of attorneys or whether an order of suspension from practice would suffice.'

² Van der Berg v General Council of the Bar of South Africa (270/06) [2007] ZASCA 16; [2007] SCA 16 (RSA); [2007] 2 All SA 499 (SCA) (22 March 2007), paragraph 50; Malan and Another v Law Society of the Northern Provinces (568/2007) [2008] ZASCA 90; 2009 (1) SA 216 (SCA) ; [2009] 1 All SA 133 (SCA) (12 September 2008), paragraph 7

³ Id, paragraph 2

8. The third stage of the inquiry is also a matter for the discretion of the court. The factors to consider here include, the nature of the conduct complained of, the extent to which it reflects upon the person's character or shows them to be unworthy to remain in the ranks of an honourable profession, the likelihood or otherwise of a repetition of such conduct and the need to protect the public, *Malan and Another v Law Society of the Northern Provinces*⁴.

Brief history of the litigation between the parties

9. I consider it useful to mention briefly the history of litigation between the parties. In February 2022⁵, following the applicant's refusal to issue the first respondent with a Fidelity Fund Certificate, (FFC) she launched an urgent motion to review and set aside the applicant's decision not to issue her with the FFC. The matter came up before Kooverjie J on 10 March. On 15 March, the learned Judge struck the matter off the roll with costs for want of urgency. The motion was re-enrolled for the urgent week of 6 April. It was again struck off the roll by Collis J on 8 April. It was later enrolled on the opposed roll of 16 May, and on 17 May, it was postponed *sine die*.
10. The motion was eventually argued on 28 July before Ndlovane AJ, and on 6 October, it was dismissed. Having been denied leave to appeal on 17 October, the first respondent applied for leave to the Supreme Court of Appeal, SCA. The application was unsuccessful and costs were awarded in favour of the LPC. On

⁴ Id, paragraph 6

⁵ All the months subsequent to this refer to 2022 unless specified

11 July 2023, the first respondent applied for reconsideration in terms of Sec 17 (2)(f) of the Superior Court Act⁶. On 19 September 2023, the President of the SCA dismissed the application for reconsideration.

Alleged acts of misconduct

11. The first charge concerns five court orders in respect of minors J[...], M[...], S[...], S[...]², and N[...]. During August 2018 and 19 September 2019, the Department of Health of Health paid millions of rand into the second respondent's trust banking account for the benefit of the five minors all of whom were victims of medical negligence. In terms of the court orders pertinent to five matters, the firm was directed to establish trusts in respect of each of the five minors, within a period of six months from date of the court order, and pay the funds into the individual trusts for the benefit of the minors. In direct contravention of the court order, the second respondent, that is, its directors at the time, which include the first respondent, failed to set the trusts up within the period stipulated in the court orders, failed to pay the monies into the accounts of the trusts, and further failed to account to the firm's clients save in one matter, where the funds were transferred to another firm of attorneys, following the termination of the second respondent's mandate. The firm into which the funds were paid, it is said, was entirely unhelpful to the family.

12. For the sake of completeness, one must add that in respect of minor, K J[...], an amount of R 16 340 266.00⁷ was paid into the trust account of the second

⁶ Act 10 of 2013

respondent, on 14 August 2018. In respect of minor, I M[...] the amount of R 19 271 767 was paid on 13 September 2018. For O S[...]2, a total amount of R 15 464 495⁸ was paid. For I N[...], the amount of R 23 966 658⁹ was paid. In respect of minor Z S[...] the trust was set up through ABSA, albeit way past the six months' period stipulated in the court order. Absa was later advised that the monies were paid over to another law firm, in contravention of the court order.

13. It is the LPC's case that the funds in respect of all five cases were stolen from the second respondent's trust account; that the first respondent failed to prevent the theft of monies from the second respondent's trust account; the first respondent, along with her former husband, failed to account to their clients for the monies; and the first respondent failed to take this court into her confidence as to what became of the monies. As a result of the misappropriation, the LPC submits that the second respondents' clients, all of whom live with severe mental retardation, now languish in abject poverty with poor health. The LPC's case is rooted, inter alia, in Sections 84(1)¹⁰, 86(1)¹¹ and Rule 54. 19¹², of the LPC Rules.

⁷ cents have been omitted in recording these figures

⁸ R5 019 657 was paid on 23 May 2019; R 116 805, on 31 May 2019, and R10 328 033 on 30 September 2019

⁹ R 6 582 814 was paid on 31 August 2018, R17 135 887 on 11 Feb 2019, and R247 957 on 12 March 2019

¹⁰ 84. (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 40

(b) as a director of a practice which is a juristic entity, must be in possession of a Fidelity Fund certificate.

¹¹ Trust accounts

86. (1) Every legal practitioner referred to in section 84(1) must operate a trust account.

¹² Responsibility for ensuring compliance

Rule 54.19 Every partner of a firm, and every director of a juristic entity referred to in section 34(7) of the Act, and every advocate referred to in section 34(2)(b) of the Act, will be responsible for ensuring that the provisions of the Act and of those rules relating to trust accounts of the firm are complied with.

14. In response to the charge/s, the first respondent says the trust account of the second respondent was operated and managed solely by her former husband. At first, she resisted the idea that there was a shortfall at all in the second respondent's trust account, claiming that the LPC had not conducted any audit or performed any investigation into the trust account of the second respondent. She submitted that the fact that she was a director does not render her complicit in the unlawful misappropriation of the trust funds, but she regrets not being hands-on in the management of the trust account and leaving everything to Mr Nonxuba. She states that because the firm was always issued an FFC, she took comfort in the clean audits of the firm's financials.
15. During argument, counsel for the first respondent gave impetus to the first respondent's assertions with reference to the *dicta* in *Law Society of the Northern Provinces v Stuart and Others*, where it was said that:
- '[11] Although the applicant's representative did not press the issue in oral argument, it is necessary to emphasise that an attorney cannot, however, be found guilty of professional misconduct solely because a partner has engaged in professional misconduct... While it is true that partners and co-directors of incorporated partnerships are jointly and severally liable for the debts and financial obligations of the partnership and for losses arising from the professional misconduct of their partners, this does not extend to infringements of professional obligations.'¹³
16. The *dicta* quoted from *Stuart* appears to be at odds with the reasoning of the Supreme Court of Appeal in a long line of cases. For present purposes, I mention

¹³ (52781/2017) [2018] ZAGPPHC 814; 2019 (3) SA 535 (GP) (21 June 2018), paragraph 11-12

a few. In *Limpopo Provincial Council of the South African Legal Practice Council v Chueu Incorporated Attorneys and Others*, the Limpopo LPC had brought an urgent application for the suspension of all the directors of the first respondent. The common thread running through the defence raised by the respondents was that, as individuals they had nothing to do with the firm's finances. Although these contentions had found favour with the Limpopo High Court, they were overturned on appeal by the SCA. In its reasoning, the SCA noted:

'[3] At the heart of this appeal is the question of the liability of all the directors of a law firm, when the financial misconduct has allegedly been committed by only one of the directors.

[26] Every director has a fiduciary duty towards the company of which it is a director. To plead ignorance of financial matters, when faced with allegations of misappropriation, does not absolve a director. It has been emphasised over the years that legal practitioners cannot escape liability by contending that they had no responsibility for the keeping of the books of account or the control and administration of the trust account.

[30] On the facts of this case, there can be no doubt that the offending conduct in respect of the financial affairs of the firm has been established. On their own version, the third to eighth respondents, by playing no role whatsoever in respect of the accounting and financial affairs of the firm, were in dereliction of their duties as directors. All that is required from the Limpopo LPC is to show a prima facie right, even if open to some doubt. Here, it could be argued that the Limpopo LPC established a clear right because there was no refutation of the firm's misdeeds, only a denial of responsibility for those misdeeds, which, in respect of directors, is no defence at all.¹⁴ (Own underlining)

¹⁴ (459/22) [2023] ZASCA 112 (26 July 2023), paragraphs 3, 24, 26, & 30

17. In *Hepple and Others v Law Society of The Northern Provinces*, it was said:

'[21] Moreover, that he was not involved with the financial management of the firm, is no defence at all. The duty to comply with the provisions of the Act and the Rules is imposed upon every practising attorney, whether practising in partnership or not, and no attorney can therefore be heard to say that under an arrangement between him and his partner, the latter was not responsible for the keeping of the books and control and administration of the trust account, and that he was therefore not negligent in his failure to ensure compliance with the provisions of the Act and the Rules.'¹⁵

18. In the present case, we have gone over the hurdle of whether there was indeed a shortfall in the trust account or whether monies were indeed stolen from the second respondent's trust account. That aspect has been confirmed in *South African Legal Practice Council v Nonxuba and Another*, as set out in the extracts here below:

'[22] It is not disputed that Mr Nonxuba was the attorney of record for the plaintiffs in the five medical negligence claims: J[...], M[...], S[...], S[...]², and N[...].

[23] In each of the five medical negligence claims, Mr Nonxuba represented children who were found to have suffered debilitating mental and physical harm because of the negligence of personnel of the Eastern Cape Provincial Department of Health. In all five claims, the Member of the Executive Committee for Health, Eastern Cape ('MEC for Health, EC') was ordered to pay substantial damages awards to Nonxuba Inc which, in turn, had to establish, within 6 months of the court orders, trusts to administer the monies for the benefit of the disabled children.

[24] Despite the fact that the court orders in all five medical negligence claims were made during 2018 and 2019, Nonxuba, as of July 2021, had not established all the trusts, and where the trusts had been established, he failed to pay over the monies due

¹⁵ (507/2013) [2014] ZASCA 75; [2014] 3 All SA 408 (SCA) (29 May 2014)

to these trusts. These facts were common cause in the suspension proceedings, as they are in this strike-off application.

[44] Based on its analysis, the LPC submitted that the trust bank account statements indicate that Mr Nonxuba made unlawful transfers from trust to business; it is inconceivable that he was entitled to trust funds amounting to R348 845 000 which he transferred in perfectly round amounts on 759 occasions since January 2017. The LPC concluded, therefore, that Mr Nonxuba siphoned off an astonishingly large amount of money from his clients over an extended period. ¹⁶

19. The challenge for the first respondent is that this court is bound by the reasoning of the SCA. In terms of *Chueu* and *Hepple*, the fact that the first respondent says only her former husband operated and managed the trust banking account is no defence at all. She is as responsible for the theft of the trust monies as her husband. The first respondent must in addition be held accountable for the failure to comply with the court's orders. That she has since resigned from the second respondent does not relieve her of the duty to answer to what became of the monies. In terms of Section 34(7) of the LPA:

'(7) A commercial juristic entity may be established to conduct a legal practice provided that, in terms of its founding documents—

(c) all present and past shareholders, partners or members, as the case may be, are liable jointly and severally together with the commercial juristic entity for—

(i) the debts and liabilities of the commercial juristic entity as are or were contracted during their period of office; and

(ii) in respect of any theft committed during their period of office.'

¹⁶ (16777/2023) [2024] ZAWCHC 410 (4 December 2024)

20. Further, in terms of Section 19 (3) of the Companies Act 71 of 2008, if a company is a personal liability company the directors and past directors are jointly and severally liable, together with the company, for any debts and liabilities of the company as are or were contracted during their respective periods of office.

Failure to pay the annual fee of R 8 655; and Failure to submit opening audit report

21. There appears to be no dispute around these two charges. The first respondent does not dispute that she failed to pay the annual fee for the years 2022 and 2023. She further concedes that she did not submit the opening audit report. She attributes the non compliance in both instances to the turmoil brought about by her own litigation against the LPC, in pursuit of the FFC and the litigation involving the second respondent and her former husband. She states that the litigation brought immense strain to her marriage, her family, health and her practice as attorney. I may at this point record that it is a matter of public record that the applicant and the Department of Health have been litigating against Mr Nonxuba and the second respondent via the Western Cape High Court for some time. That litigation culminated in the removal of Mr Nonxuba's name from the roll of Legal Practitioners.

Failure to respond to the LPC on the qualified audit report of the third respondent

22. The opening audit report in respect of the third respondent was submitted on 7 December 2022. It was due in April 2022, in terms of the Rules. On 12 December, an amended audit report was submitted with two qualifications relating to the failure to pay the interest arising from the trust account to the Legal Practitioners Fidelity Fund, LPFF. The report was qualified, in the second instance, on the basis that the first respondent had made a payment from the trust account using a mobile phone. In respect of the first qualification, the first respondent says the non compliance was based on her inexperience. She assumed that the interest is paid by the bank to the LPFF. In respect of the mobile banking transaction, she says the mistake occurred only once, during load shedding. In response to the failure to respond to the LPC, she avers that the LPC used an incorrect address which was deactivated way back in 2018. I have perused the e-mail in question. I conclude it would not be fair to find against the first respondent where the LPC used an incorrect e-mail address.

Outstanding audit report for the second respondent for 2022 and practising without a Fidelity Fund Certificate, FFC in respect of the third respondent

23. The first respondent says she resigned from the second respondent in September 2021, effective from 22 October 2021. At that point, the second respondent was in possession of the FFC for 2021. She submits that she cannot offer anything in relation to the status of the second respondent's trust account as she had no further access to the second respondent's affairs after her resignation. She does not deal with the fact that she never informed the LPC of

her resignation from the second respondent. The LPC cannot be faulted for its demand for the 2022 audit report in respect of the second respondent.

24. As to the charge of practising without an FFC, she denied the charge stating that she decided to close her practice after Kooverjie J struck her application to review the LPC's decision. I note in this regard that the first respondent, in similar fashion to her departure from the second respondent, simply closed the doors of the third respondent, without informing the LPC in writing of her intention to cease practice, as is required by Rule 54.31¹⁷.

Whether the misconduct has been established

25. The question that must now be answered is whether the misconduct has been established. On the conspectus of evidence before us, I am satisfied that the applicant has, on a balance of probabilities, established the misconduct, except on the charge relating to the first respondent's failure to comment on the qualified audit. We have no basis to dispute the first respondent's assertions that the email address used by the LPC fell into disuse in 2018. In concluding this discussion we cannot ignore the findings made by the Court in *South African Legal Practice Council v Nonxuba*, which, based on the principles espoused in *Cheue* and

¹⁷ Closure of firm

54.31 A trust account practitioner who practises for his or her own account and who intends to cease practising shall, before he or she so ceases to practice, provide the Council, in writing, with the following information:

54.31.1 notice of the trust account practitioner's intention to cease practising for his or her own account;

54.31.2 his or her future contact particulars, being his or her residential and business address, fax, e-mail and telephone details;

54.31.3 the steps to be taken to satisfy the Council that provision has been made for the effective winding up of his or her practice, both in respect of current files and archived files and in respect of accounting records;

54.31.4 the name, address and telephone number of his or her bookkeeper

Hepple, find application to the first respondent as director of the second respondent at the relevant period:

‘[50] Mr Nonxuba conceded that he had committed certain transgressions in relation to the manner in which he kept and maintained his accounting records. On the evidence before this Court, and in light of his concessions, it is apparent that Mr Nonxuba has contravened at least the following LPC Rules:

[50.1] Rule 54.6 and 54.14 – keeping proper accounting records;

[50.2] Rule 54.10 – the duty to keep up to date accounting records;

[50.3] Rule 54.11 – the duty to keep trust money separate from other funds;

[50.4] Rule 54.13 – the duty to make payments to clients within a reasonable time;

[50.5] Rule 54.14.14 – withdrawals from the trust bank account; and

[50.6] Rule 54.15 – the duty to prepare monthly trust reconciliations.

Whether the first respondent is fit to continue practising as a legal practitioner

26. As earlier indicated, this is a value judgment that the court must make based on the circumstances of the case. In her answering affidavit, the first respondent refuted the LPC’s assertions that the second respondent’s trust account had been poorly managed and that trust funds were stolen. This is notwithstanding her avowals that she had no insight into what was happening in the second respondent’s trust account, because Mr Nonxuba was the sole operator. She demanded evidence claiming that the LPC had not performed an audit of the

second respondent's trust banking account. How the first respondent was able to pedal two canoes of not knowing what was going on in the trust account, and at the same time, refute the claims of theft and impropriety in the management of the trust account of the second respondent, remains unexplained. This must surely count against her as the two positions are inconsistent with one another.

27. Although she later claimed to have learnt of the improprieties in the management of the second respondent's trust account upon reading the judgment of Nuku J, of the Western Cape High Court, there is not the slightest indication that the first respondent is remorseful of her conduct. While she was comforted by the so-called clean audits, there was massive pillaging of trust monies taking place in the second respondent, with devastating effects on the beneficiaries of the funds. The beneficiaries of the funds are said to live in abject poverty. Their families are without resources to provide them with the support they need. It is not in dispute that there are currently 24 claims lodged with the LPFF against the Second Respondent, in the amount of R 204 736 916.

28. When the LPC asserted that the first respondent does not qualify for the FFC, in February 2022, the first respondent promptly filed an application to review that decision and went on to wage a seventeen months' battle, instead of working with the LPC in order to address the LPC's concerns. Having lost that battle, she now claims in these proceedings that she has come to the realisation that she is

too inexperienced to practice for her own account and blames most of the infractions of the law to her naivety and trust in Mr Nonxuba.

29. There is more. From as far back as July 2018, a mere four months after the first respondent joined the second respondent, the MEC for Health, Eastern Cape, brought a motion, through the High Court, to interdict the second respondent from submitting fraudulent claims against it. That order was eventually granted by consent in 2018. There is no mention anywhere of what steps, if any, the first respondent took to satisfy herself that all was well within the second respondent.
30. A month before the first respondent launched the review proceedings, in February 2022, she was aware that one of the areas of contention between her and the LPC had to do with her failure to notify the LPC of her resignation from the second respondent. In March 2022, after her review application was struck from the roll, she decided to wind down her practice, return files to clients and transfer some files to attorneys who were willing to assist. All of this was done without first informing the LPC of her intention to cease practising, in writing, as required by the rules.
31. One must question just how the first respondent repeatedly up and leaves practice without first warning the LPC. When one carefully reflects on the circumstances of this case, against what is expected of a legal practitioner, it is not difficult to conclude that the first respondent has neither interest in

acquainting herself with nor upholding the law. She is indeed not a fit and proper person to continue to practise. In *Kekana v Society of Advocates of SA*, it was said that:

'Legal practitioners occupy a unique position. On the one hand they serve the interests of their clients, which require a case to be presented fearlessly and vigorously. On the other hand, as officers of the court, they serve the interests of justice itself by acting as a bulwark against the admission of fabricated evidence.'¹⁸

32. I have not found that the first respondent had anything to do with admission of fabricated evidence in this judgment. However, the infractions of the law demonstrated in her conduct and in respect of which she refers to her naivety and trust on her former husband as answers, suggest to us that she does not meet the standard required of a legal practitioner.

The appropriate sanction

33. Here I must first dispose of a point *in limine* raised in the first respondent's answering affidavit, which suggests that the LPC has no authority to seek her removal as the resolution signed by the LPC's council mentioned suspension. The point was not pursued during argument but I address it nonetheless. The power to discipline legal practitioners resides with the court. The provisions of Section 44, which deal with the Powers of High Court read:

'(1) The provisions of this Act do not derogate in any way from the power of the High Court to adjudicate upon and make orders in respect of matters concerning the conduct of a legal practitioner, candidate legal practitioner or a juristic entity.'

¹⁸ (57/98) [1998] ZASCA 54; 1998 (4) SA 649 (SCA); [1998] 3 All SA 577 (A) (1 June 1998), paragraph 13

34. This provision supports the conclusion that it is for this court, properly applying the law to the facts of an individual case, to decide the appropriate sanction. The court in the exercise of its discretion decides what is appropriate to protect the public and the profession. The point *in limine* must thus fail. I am of the view that, rather than ponder whether the infractions of the law that took place in this case would likely repeat themselves were the first respondent to be suspended, the facts of this case almost guarantee that they would certainly be repeated.
35. On this score, one, but illustrative example, will suffice to make the point. In terms of the order of 6 June 2024, the first respondent was required to deliver to the LPC, books of account, client files, bank statements, and books of prime entry, in respect of the second respondent for the period 12 February 2018 to October 2022. She was further required to deliver the same material in respect of the third respondent, from inception of the business. The records had to be furnished within 10 days from date of the order to enable the LPC to compile a report for the benefit of this court on the affairs of the two respondents.
36. In respect of the second respondent, the first respondent said she had no access to the second respondent books post her resignation. On 24 June, the first respondent's legal team sent a link to Ms Estelle Veldsman (Veldsman) of the LPC to access the necessary records in respect of the third respondent. But Veldsman was able to gain access to the site via the link only on 16 July 2024.

Even then, what was found on the site were not books of account, client files, bank statements, creditor's ledgers and full bank statements for the trust accounts. As Ms Veldsman explains in her report, she found a *commixtio* of odd documents that bore no relation to one another, with no value to the exercise she had to carry out. As a result, she mentioned cautiously that the LPFF may be at risk as the information in the records could not be reconciled back to the books of account and client files. The first respondent simply noted the fact that there were no claims against the third respondent lodged with the LPFF. She further stated that she had not been asked to explain anything about the third respondent's records, adding that she had given all that she had.

37. The third respondent has hardly been in existence for two years. Yet its book keeping was in a state of disarray with no client files maintained. As recent as 15 January 2024, Veldman noted from the trust banking account statements that there had been a payment made in the amount of R 979 131, in respect of Gazi /Zmm. Yet there were no records supplied to explain the genesis of this payment.
38. I conclude that it is in the interests of justice that the first respondent's name be removed from the roll of legal practitioners of this court.
39. After the matter was argued on 14 August 2025, this court extended an invitation to the parties to provide further submissions on the appropriate sanction. Those submissions were taken into account before reaching the conclusion set out

above. The court expresses its appreciation to the legal teams of the parties for their assistance.

Order

40. In the premises the order is as follows:

1. The name of **NOVELWANOA ALICIA NONXUBA** (hereinafter referred to as the first respondent) be and is hereby removed from the roll of legal practitioners and conveyancers of this Honourable Court.
2. The first respondent immediately surrenders and delivers to the registrar of this Honourable Court her certificate of enrolment as a legal practitioner of this Honourable Court.
3. In the event of the first 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.
4. The respondents be prohibited from handling or operating on the trust accounts as detailed in paragraph 5 hereof.
5. Ignatius Wilhelm Briel, the Director of the Gauteng Provincial Office of the applicant, be appointed as *curator bonis* (curator) to administer and control the trust accounts

of the respondents, including accounts relating to insolvent and deceased estates and any deceased estate and any estate under curatorship connected with the first respondent's practice as a legal practitioner and including, also, the separate banking accounts opened and kept by respondents at a bank in the Republic of South Africa in terms of section 86(1) & (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 hereafter referred to as the trust accounts), with the following powers and duties:

- 5.1. immediately to take possession of the Respondents' 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 Respondents were acting at the date of this order;
- 5.2. 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 respondents in respect of monies held, received and/or invested by the respondents 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 respondents were and may still have been concerned and to receive such monies and to pay the same to the credit of the trust account(s);

- 5.3. to ascertain from the respondents' accounting records the names of all persons on whose account the respondents appear to hold or to have received trust monies (hereinafter referred to as trust creditors) and to call upon the respondents 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;
- 5.4. 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 respondents and, if so, the amount of such claim;

- 5.5. 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;
- 5.6. 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;
- 5.7. in the event of there being any surplus in the trust account(s) of the respondents 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 respondents, 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 respondents 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 first respondent, if she is solvent, or, if the first respondent is insolvent, to the trustee(s) of the first respondent's insolvent estate;
- 5.8. in the event of there being insufficient trust monies in the trust banking account(s) of the respondents, 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;

5.9. 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

5.10. 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 respondents has/have been dealt with, until such time as the board notifies him that he may regard his duties as curator as terminated.

6. The respondents immediately deliver the accounting records, records, files and documents containing particulars and information relating to:

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

- 6.2. any monies invested by the respondents in terms of section 86(3) and/or section 86(4) of Act No 28 of 2014;
- 6.3. any interest on monies so invested which was paid over or credited to the respondents;
- 6.4. any estate of a deceased person or an insolvent estate or an estate under curatorship administered by the respondents, whether as executor or trustee or curator or on behalf of the executor, trustee or curator;
- 6.5. any insolvent estate administered by the respondents as trustee or on behalf of the trustee in terms of the Insolvency Act, No 24 of 1936;
- 6.6. any trust administered by the respondents as trustee or on behalf of the trustee in terms of the Trust Properties Control Act, No 57 of 1988;
- 6.7. 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 respondents as or on behalf of the liquidator;

- 6.8. any close corporation liquidated in terms of the Close Corporations Act, 69 of 1984, administered by the respondents as or on behalf of the liquidator; and
- 6.9. the first 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 respondents shall be entitled to have reasonable access to them but always subject to the supervision of such curator or his nominee.
7. Should the first 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 first 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.
8. The curator shall be entitled to:
- 8.1. 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;

8.2. 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 respondents and/or the respondents' clients and/or fund in respect of money and/or other property entrusted to the respondents provided that any person entitled thereto shall be granted reasonable access thereto and shall be permitted to make copies thereof;

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

8.4. wind-up of the first respondent's practice.

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

9.1. executor of any estate of which the first 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);

- 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, 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 and read together with the provisions of the Companies Act, No 71 of 2008;
- 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 section 74 of the Close Corporation Act, No 69 of 1984; and
- 9.7. administrator appointed in terms of Section 74 of the Magistrates Court Act, No 32 of 1944.

10. The Respondents are hereby directed:

- 10.1. 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 respondents;
- 10.2. to pay the reasonable fees of the auditor engaged by applicant;
- 10.3. to pay the reasonable fees and expenses of the curator, including travelling time;
- 10.4. to pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator as aforesaid;
- 10.5. to pay the expenses relating to the publication of this order or an abbreviated version thereof; and
- 10.6. to pay the costs of this application, together with the reserved costs of 22 October 2024, on an attorney-and-client scale, alternatively, scale C.

11. If there are any trust funds available the respondents 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 first respondent in respect of her former practice, and should she fail to do so, she shall not be entitled to recover such fees and disbursements from the curator

without prejudice, however, to such rights (if any) as she may have against the trust creditor(s) concerned for payment or recovery thereof;

12.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.

NN BAM
JUDGE OF THE HIGH COURT,
GAUTENG DIVISION, PRETORIA

I agree:

N DAVIS
JUDGE OF THE HIGH COURT,
GAUTENG DIVISION, PRETORIA

Date of hearing: 14 August 2025

Date of Judgment: 22 October 2025

APPEARANCES:

For the Applicant:

Adv J M Moolman

Instructed by:

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House, Hazelwood, Pretoria

For the 1st and 3rd Respondents:

Adv E Kilian SC and Adv C McKelvey

Instructed by:

Enzo Meyers