

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case Number: **2023-11660**

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES /NO
(3)	REVISED: YES/ NO
<i>JRG</i>	
5 November 2025_____	
DATE	SIGNATURE

In the matter between:

ABSA BANK LTD

APPLICANT

and

NUBIAN TOUCH (PTY) LTD

RESPONDENT

JUDGMENT

JOHANN GAUTSCHI, AJ

- [1] The Applicant seeks an order for the final winding up of the respondent. Today is the return day of provisional winding up order which was granted on 30 April 2025 in the absence of any appearance by the Respondent or the Respondent's attorneys or counsel.
- [2] Yesterday, 4 November 2025, Ms Mpho Clementine Mathope, the sole director of the Respondent filed an application for condonation of the late filing of a notice

to oppose the final liquidation of the Respondent. Her application for condonation was in the form of an affidavit in which she explained that the reason for the delay was her impression, based on the advice of the Respondent's former attorney of record, that *"the matter could be resolved commercially without the need to incur further litigation costs"* and that *"engaging with the Applicant directly and continuing efforts to regularise the account would be the most prudent course of action in support of the Respondent's financial recovery."* She further explained that due to the Respondent's precarious financial position *"the Respondent lacked the means to properly brief attorneys and obtain the necessary supporting documentation for a comprehensive opposition"*.

- [3] The remainder of her affidavit describes health issues and hospitalisation which she had experienced and submits that a three-month indulgence should be granted to *"facilitate investor access to the property"*, *"secure investments or a funded offer"* and *"satisfy creditors in a manner that preserves – rather than destroys – value"*. It concludes with a request that the Respondent be *"given an opportunity to either sell at market related value or to conclude an investment opportunity that will be beneficial to all Creditors."*
- [4] Ms Mathope also filed a second affidavit which essentially repeats the contents of her above-mentioned application for condonation.
- [5] Ms Mathope appeared in person in the office of my Court secretary for this application which was heard virtually on Microsoft Teams. I allowed Ms Mathope to appear and make submissions initially in support of her application for condonation and, after I dismissed the application, also as to any reasons why a final order should not be granted. I did so on the basis that as a director of the Respondent she had an interest in opposing the grant of a final winding-up order.¹
- [6] There is no substance in the application for condonation and no merit in seeking the indulgence sought. The three-month indulgence sought amounts to no more than a plea *ad misericordiam*. As pointed out by counsel for the Applicant, the Respondent had not in its answering affidavit opposing the provisional winding

¹ Absa Bank Ltd v Rhebokskloof (Pty) Ltd and Others 1993 (4) SA 436 (C)

up order disputed the debts owed to the applicant, nor had it disputed that the Respondent is insolvent. Also at this stage Ms Mathope's application for condonation did not dispute the debts owed by the Respondent to the Applicant nor did she dispute that the Respondent is insolvent. In the circumstances I dismissed the application for condonation.

- [7] I then gave Ms Mathope, as sole director of the Respondent and thus an interested party, an opportunity to make further submissions as to why a final winding up order should not be granted. Ms Mathope still did not dispute the debts owed by the Respondent to the Applicant, nor did she dispute that the Respondent is insolvent.
- [8] The Applicant filed a service affidavit deposed to by an attorney who is a director of the Applicant's attorney of record. It describes, with supporting annexures, that the service requirements of the provisional winding up order rule nisi had been complied with. In addition, the practice note filed by counsel for the Applicant set out all the issues which are common cause, cross-referenced to the relevant paragraphs in the answering affidavit which had been filed by the Respondent in opposition to the application for provisional winding-up.
- [9] In the premises I am satisfied that the requirements for the granting of a final winding-up order have been satisfied and that a final winding-up order should be granted.

ORDER:

- [1] The Respondent is placed into final winding-up in the hands of the Master of the High Court.
- [2] Consequent upon the granting of the relief referred to in paragraph 1 above, the Master of the above Honourable Court is directed and authorised to forthwith take such steps as are necessary to appoint a liquidator in respect of the winding-up of the Respondent.
- [3] The costs of this application and of the application for provisional winding-up are to be costs in the winding up proceedings.

Johann Gautschi
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

For the Applicant: Adv K Mitchell
Instructed by: Tim du Toit Inc. (charmaine@timdutoit.co.za)
(011-274 9800)

For the Respondent: No appearance.

Appearance by interested party in person: Ms Mpho Clementine Mathope, sole
director of the Respondent
(No contact details provided)

Date of hearing: 5 November 2025

Date of Judgment: 5 November 2025