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

CASE NO: 2023-119339

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

6 March 2026
DATE SIGNATURE

In the matter between:

ADELE FERMOYLE N.O Applicant
(In her capacity as executor for the late estate:
JOHN PATRICK SMITH, estate no: 9051/2023)

and

10X INVESTMENTS (PTY) LTD First Respondent

SHAUN BOWIE Second Respondent

GUARDRISK LIFE LIMITED Third Respondent

THE MASTER OF THE HIGH COURT, JOHANNESBURG Fourth Respondent

JUDGMENT

WATT-PRINGLE AJ:

[1] This is an application by the executor of the estate of the late John Patrick Smith ("***the deceased***" or "***Mr Smith***") for an order declaring that the records of the beneficiaries held by the first respondent ("***10X Investments"*** *or* ***"10X"***) in respect of the deceased's living annuity policy (policy number LA204185) are invalid, null and void; and that the proceeds of the policy are to be paid to the

deceased's estate, on the basis that no valid beneficiary was on record at the time of his death.

[2] The application is opposed by the second respondent, Mr Shaun Bowie ("***Mr Bowie***"), who claims to be the nominated beneficiary. The first respondent, 10X Investments, abides the decision of the Court.

[3] The central issue for determination is whether it has been shown, on a balance of probabilities, that the Mr Bowie was "*nominated*" as beneficiary in the 10X profile of Mr Smith without the knowledge or consent of the deceased.

[4] For purposes of the relief sought it is not strictly necessary to decide who purported to make the nomination, only whether it was Mr Smith who did so, either personally or through his authorised agent.

[5] I have however concluded that the applicant is entitled to the relief sought on the basis that it was Mr Bowie who accessed 10X investment profile of Mr Smith and inserted his name "*Shaun*" as the 100% beneficiary of Mr Smith's living annuity investment, without Mr Smith's knowledge or consent.

[6] With the benefit of hearing *viva voce* evidence, the clearest route to my conclusion is via the facts as I see them and those facts point overwhelmingly to the conclusion that Mr Bowie, without the knowledge or consent of Mr Smith, purported to make the nomination.

[7] There is an ancillary issue as to whether the person with whom the deceased co-habited at the time of his death, Mr Marius Verster, who also testified as Mr Bowie's witness, was involved in the purported nomination of Mr Bowie.

[8] The deceased passed away on 17 October 2022 after a prolonged illness. At the time of his death, he held a living annuity policy with 10X Investments.

[9] The Applicant, as executor, made enquiries with 10X Investments regarding the existence of any nominated beneficiary. She was ultimately informed that the only beneficiary on record was a person named "*Shaun*", with no surname provided at the time.

[10] The Applicant was unaware of any person by that name with whom her late brother was associated and launched further enquiries concerning the circumstances under which this nomination was made. Following a PAIA request to 10X Investments which gave the applicant access to information and documents concerning the details of the nomination and of the various further occasions on which the profile was accessed and altered, the applicant was convinced that the nomination had been made by irregular means without her late brother's knowledge or consent. It emerged that Mr Smith's profile had been accessed on multiple occasions between 12 May 2022 and the date of his death, and, notably, about two weeks after his death.

[11] Despite the patently suspicious circumstances surrounding the purported nomination, the applicant's entreaties to 10X Investments not to accept the nomination without thorough investigation, 10X Investments, indicated its intention to pay the proceeds of the investment to Mr Bowie "*following extensive investigation*"[1]. The applicant therefore launched an urgent application interdicting the payment, pending the present proceedings.

[12] This matter was before me in May 2025 as an opposed motion. I concluded while there were clear probabilities that the nomination may have been fraudulent, there were disputes of fact incapable of resolution on paper and I therefore referred the matter to oral evidence on limited issues pursuant to an

1 Email dated 2 November 2023 from 10X's Jade Longano advising various internal and extremal parties of 10X's intention to pay out the benefit by 30 November 2023.

order drafted on terms acceptable to both parties. I also ordered that discovery of documents relevant to the issues referred to oral evidence be made by the applicant, 10X Investments and Mr Bowie. I furthermore expressed the view that 10X Investments had not served the interests of justice, or of its now deceased client, Mr Smith, by remaining aloof from a controversy which, as this judgment will show, was in no small measure of its making.

[13] 10X Investments ought in my view clearly to have declined to accept the nomination. This is implicit in the report it compiled within days or my judgment directing that this matter be referred to oral evidence and suggesting that 10X had a fiduciary responsibility to the estate of the late Mr Smith to act diligently in ensuring that effect would be given to his wishes, post his demise. Had 10X declined to pay Mr Bowie, it would have been Mr Bowie and not the applicant who would have had to launch proceedings, assuming he had the confidence to do so[2]. Mr Bowie was clearly emboldened by the initial position adopted by 10X. Following its second investigation in June 2025, 10X concluded that the purported nomination did not in fact represent Mr Smith's wishes.

[14] The applicant's case on motion was based both on her own evidence and on the audit trail and email correspondence between 10X Investments and a person identifying himself as Marius Verster, using the email address l[…], and between 10X Investments and Mr Bowie, following the death of the deceased.

[15] 10X Investments was the first respondent and the entity against whom relief was sought, insofar as declaratory relief can be said to be "*against*" any party.

2 For reasons that will become apparent, it is doubtful that Mr Bowie would have done so. Without the benefit of the more thorough10X investigation carried our belatedly in June 2025 after I ordered that this matter be referred to oral evidence, Mr Bowie was able to brazen the matter out in his answering affidavit. Once confronted with Mr van Zyl's detailed investigation of the audit trail showing what had happened in relation to Mr Smith's profile between May and October 2022, it became impossible for him to present an exculpatory version that could withstand scrutiny.

Mr Bowie as the putative nominee clearly had an interest in the matter, hence his joinder as second respondent. The applicant's difficulty when I heard the matter as an opposed motion in May 2025 was that while the part of the audit trail and other documents produced by 10X Investments were admissible as against 10X, they were not admitted for the truth of their contents by Mr Bowie. Mr Bowie's version was that although he had no knowledge of the 10X investment and no direct knowledge of any nomination or how it came about, he had had a prior relationship with the deceased, was in touch with him prior to his death and the deceased had undertaken to look after him financially. Therefore, he contended, the nomination represented the wishes of the deceased.

[16] At the time it appeared to be common cause that the emails purportedly from Mr Verster in November 2022 (after Mr Smith's death) from the email address l[…] were in fact from Mr Verster. In those emails "*Mr Verster*" placed significant pressure on 10X to pay out Mr Bowie without delay, and in one of them Mr Verster represented that he was co-executor of Mr Smith's estate, which is not the case. (He was an alternate, if the applicant was not available.) These emails suggested that Mr Verster may have colluded with Mr Bowie in procuring Mr Bowie's nomination without Mr Smith's consent.

[17] In her founding affidavit, the applicant for good reason at the time alleged that the email address l[…] as well as the mobile number commencing 060 were Mr Vester's. In response Mr Bowie responded that he had "*no knowledge*" as to the veracity of those allegations, although he alleged that he had created the email address "*about four years ago*" for Mr Smith. (It is now common cause that the 060 number is in fact his and I find, for reasons that follow, that so too is the email address l[…])

[18] Confounding the probabilities even further is that Mr Verster had on 22 August 2022 (less than two months before Mr Smith's death) been named as the sole heir to Mr Smith's estate. Absent a valid nomination, the 10X investment would fall into that estate and ostensibly into Mr Verster's hands.

[19] There was thus a dispute of fact on the papers, not assisted by 10X Investment's decision to sit on its hands and allow the applicant alone to fight for the vindication of Mr Smith's true intentions.

[20] Pursuant to a judgment I handed down on 10 June 2025, the matter was referred to oral evidence on the following issues:

a. the possible methods by which the deceased's 10X Investments portal could have been accessed for purposes of making a beneficiary nomination during the period May to November 2022;

b. the occasions and manner in which the deceased's 10X Investments profile was in fact accessed during the period;

c. whether the use of the cell phone number 081 509 3076 was necessary to access 10X Investments profile on the relevant occasions;

d. whether the deceased or any other person had access to and/or use of the cell phone number 0[…] during the period.

[21] The applicant testified and her counsel called two additional witnesses: Jade Longano (CFO of 10X Investments) and Rehan Van Zyl (senior developer at 10X Investments). The Second Respondent testified and called two additional witnesses: Ivan Du Plessis (IT manager) and Marius Verster.

[22] The Applicant's case is that the deceased could not have personally accessed the 10X portal to nominate Mr Bowie as beneficiary, as he did not have use of the registered cell phone required for the OTP (one-time pin) authentication process at the relevant times. The Applicant further contends that the portal was accessed and the beneficiary nomination effected by a person other than the deceased, using contact details and an email address not belonging to the deceased, and that this person was Mr Bowie.

[23] The evidence established that Mr Smith's 10X Investments member profile could be remotely accessed on 10X Investments member portal and certain changes made to it by the investor or a person authorised by him in the following manner. The user would input the member's identity number. The 10X Investments portal would then send a one-time password (OTP) to the mobile number associated with the member's profile. If that OTP was not used, an OTP would be sent to the email address associated with the member's profile. Once an OTP was used as required, the login was complete and the person was successfully logged in.

[24] The OTP send to the mobile phone would not be the same as the one sent to the email address. Consequently, 10X Investments can ascertain after the fact which of the OTPs was used. This is important to the facts of this case.

[25] It is also possible to ascertain the internet service provider (ISP) used by the person logging in, which in turn allows 10X Investments to ascertain the geographic location of the device used for the login. This was referred to as "*geolocation*" in the evidence. It is theoretically possible to disguise the geolocation using a virtual public network (VPN), but this assumes that the person logging in would have reason to disguise his geolocation. There is no such probability in this case.

[26] Mr van Zyl's witness statement, which he confirmed at the commencement of his evidence in chief, and which remained undisturbed in cross-examination included the following analysis of the audit trail:

"***FACTUAL FINDINGS***

Unauthorized change of contact details (12 May 2022)

12. The first irregular event I discovered was an unauthorized change to Mr Smith's registered contact information, which occurred on 12 May 2022. This was a precursor to the beneficiary change and essentially enabled potential fraud. The details are as follows:

12.1 On 12 May 2022, a support ticket was logged in 10X's system (HubSpot Ticket #906720077) based on an email received from an address 'r[…]'. The sender of that email posed as Mr John Smith and requested that 10X 'remove my old cell phone number and email' on file and update the account with a new cell phone number 0[…] and a new email address (given as 'Z[…]'*, his known email address) - purportedly because the sender was the client wanting to update his contact info. The email was signed off 'Kind regards, John Patrick Smith.'*

12.2 The email 'r[…]' *was not Mr Smith's known email. Mr Smith's actual email address* ('Z[…]'*, as per our records prior to this change) was different, and he typically communicated via that official email or phone.*

12.3 The request on 12 May 2022 came from an unknown Gmail account and should have been treated as suspicious. However, it appears the support staff member handling the ticket took the request at face value, likely because the third party provided Mr Smith's correct ID number in the email.

12.4 In response to that support request, a 10X support agent manually updated Mr Smith's profile on the back-end.

12.5 At 09:46:06 SAST, on 12/05/2022, the audit log shows that the support staff updated the user's cell phone number from +2[…] to 0[…]. In other words, the primary contact number on Mr Smith's account was changed from his existing number (0[…] - a number known to be used by Mr Smith) to a new number 0[…] (which was not a known number for Mr Smith).

12.6 This action is believed to be unauthorized by Mr Smith. By persuading a support staff member to alter the contact details without authenticating through Mr Smith's actual OTP or any other known direct confirmation, the third party gained control of the account's recovery and authentication channels.

12.7 From this point forward, any OTP sent for Mr Smith's account access would go to 0[…] (the third-party's phone) instead of to Mr Smith's known phone.

13. It is worth noting that, in May 2022, 10X's procedures did allow support staff to make certain profile changes upon client request, but this case shows a potential breakdown of security protocols—the request came from an unknown source, and the change was done manually and possibly without additional member verification.

Unauthorized account access and beneficiary addition (19 May 2022)

14. With Mr Smith's contact information now controlled by the third party (after 12 May 2022), the next major event was the addition of a beneficiary to Mr Smith's policy under suspicious circumstances on 19 May 2022. The timeline on that day, pieced together from the logs, is as follows:

14.1 On the morning of 19 May 2022, someone logged into Mr Smith's My10X online account using Mr Smith's personal credentials (ID number) and an OTP. Because the primary cell phone on the account at that time was set to the third-party's number (0[…]), the One-Time Pin for login was sent via SMS to that number. The audit log shows that, at 07:13:25 SAST, an OTP was issued to the number 0[…], and, by 07:13:35, the OTP was successfully verified, allowing a login. The IP address recorded for this login was 41.113.27.67, which geolocates to Johannesburg on the MTN network.

14.2 Immediately following the successful login, the intruder used Mr Smith's online profile to add a new beneficiary to Mr Smith's 10X living annuity policy. The audit log captures this event at 07:17:29 SAST, on 19/05/2022, with an entry: "Beneficiaries.Insert.Success Inserting beneficiaries succeeded." The details of the beneficiary added are recorded in the log and can be summarized as follows:

14.2.1 Name: 'Shaun' (no surname given in the audit excerpt, just the first name was captured as the FullName field).

14.2.2 Relationship to Policyholder: 'Other' (the person was not categorized under standard relations like Spouse or Child at this stage—'Other' was selected). (p. 8)

14.2.3 Date of Birth: 10 January 1995.

14.2.4 ID/Passport Number: 9[…] (which correlates with a South African ID number for someone born on 1995-01-10, gender male).

14.2.5 Contact Number: 0[…].

14.2.6 Email Address: l[…].

14.2.7 Percentage of Benefit Allocation: 100%.

14.3 In plain terms, the beneficiary 'Shaun' was given 100% of the benefit of Mr Smith's investment. This was the first time any beneficiary was recorded on Mr Smith's policy (previously, as I understand, he either had no beneficiary nominated or one was set to default). The information provided for 'Shaun' is highly suspicious: the contact number listed for this beneficiary is the same number that had just been set as Mr Smith's contact a week prior, and the email l[…] *was likewise not Mr Smith's known email.*

*14.4 The audit logs show that a few minutes after adding the beneficiary, the third party performed another critical action: at 07:24:07-07:24:36 SAST, the account's contact details were changed again via the My10X portal, this time using the normal user interface, not through support. Specifically, the cell phone number on Mr Smith's profile was changed back to 0[…] (Mr Smith's original number) and the email address on file was changed to '*L[…]*.' (entry at 07:24:36 on 19/05/2022).*

14.5 This step is very telling. It appears the third party, after successfully inserting 'Shaun' as beneficiary, wanted to restore Mr Smith's phone number on the account—possibly to reduce the chance of immediate detection so that Mr Smith might continue to receive SMS OTPs or notices on his phone and not realize it had been changed earlier.

*14.6 However, the third party did not restore Mr Smith's correct email; instead, he set Mr Smith's email contact to another email (*l[…]*). By doing so, a third party could now receive communications (especially emails) from 10X, including any OTPs sent via email or any account change confirmations.*

15. *In summary, the events of 19 May 2022 show a clear case of unauthorized access and manipulation: an unknown person accessed the account by exploiting the prior support-assisted contact change, added a beneficiary, and then partially backtracked the contact info to cover their tracks while maintaining a foothold (the email) in the account*."

[27] But for 10X's conduct described in paragraphs 12.3, 12.4 and 13 of this report, it is improbable that Mr Bowie would have been able to do what I have found he did.

[28] For Mr Bowie, Mr Ivan du Plessis was called as an expert witness with appropriate IT expertise and experience. He had also considered the 10X Investments audit trail concerning Mr Smith's profile in respect of changes

made to it on 19 May 2022. Mr du Plessis was a credible witness, but his evidence did not differ in any material respect from that of Mr an Zyl. He was unable to comment on the email from the r[…] email address which had set the entire course of events regarding the purported nomination of "*Shaun*" in motion. On the face of it, the activity on the profile on 19 May 2022 was in accordance with 10X's normal protocols, and that was his evidence. It is unclear why he was called at all, given that he did not take issue with Mr van Zyl's evidence.

[29] I now turn to the evidence of Mr Bowie. Mr Bowie was not an impressive witness. His fundamental difficulty was that in his answering affidavit he had claimed no knowledge of Mr Smith's 10X investment prior to Mr Smith's death, or of how it came about that he was nominated as sole beneficiary of the death benefit. His evidence on affidavit was that he was in communication with Mr Smith in September 2022 when Mr Smith was at 1 Military Hospital and Mr Smith had indicated that "*he wanted to care for me because we helped each other out and that his life was coming to an end.*" He says that he visited Mr Smith in hospital on 16 October 20022 (the day before Mr Smith died) and that "*I was not aware of the policy at the time of his passing, I cannot recall him ever discussing it with me.*"

[30] However, on receipt *inter alia* of Mr van Zyl's detailed analysis of the audit trail and the fact that his mobile phone number was the one inserted as the one to which OTP's should be and were sent, thereby facilitating access to Mr Smith's 10X profile, he changed his version. He testified to the entirely new version that Mr Smith requested his assistance to access his profile and that his role was limited to providing the OTP to Mr Smith when it arrived as an SMS on his mobile phone. What Mr Smith had done once he had gained access to his

profile was, according to his evidence, a matter between Mr Smith and 10X Investments about which he had no knowledge.

[31] He could not explain why, according to his version, Mr Smith had changed the mobile phone number associated with his profile back to the 081 number, which had not been in use since 2021 and was no longer available to Mr Smith. Or why Mr Smith had apparently changed from his email address to the l[…] address, to which OTPs were in fact were sent and used to access the profile on multiple occasions from May to October 2022, as per Mr van Zyl's statement above.

[32] Mr Bowie's evidence was riddled with contradictions and inconsistencies:

a. He gave different timeframes for his relationship with the deceased in his affidavit and oral evidence.

b. He claimed not to have met the deceased's family but was contradicted by a transcript of his conversation with one Valery Sher, who interviewed him on behalf of the applicant's attorneys, showing that according to Mr Bowie he had been to the residence of Caryn, Mr Smith's other sister.

c. He claimed but provided no credible evidence of a relationship of mutual financial support between him and Mr Smith.

d. He gave conflicting accounts regarding the creation and use of the email address l[…]. From his affidavit it appears that he admitted creating that email address, allegedly for Mr Smith to use. In his evidence he claimed no knowledge of it at all.

e. He was unable to provide proof that OTPs were sent to the deceased, but could provide other evidence from the same period, suggesting that such proof did not exist.

[33] Mr Bowie produced "*screenshots*" of vital exchanges with Mr Smith, supporting the notion that Mr Smith had used him to provide OTPs and supporting his version that Mr Smith intended to "*look after*" him as they had allegedly always done for one another. The difficulty with these screenshots is that they were either undated or taken in such a manner that they could have been created at any time. I do not accept the authenticity of these so-called screenshots. If they are authentic, there is no explanation as to why they were not referenced in Mr Bowie's answering affidavit.

[34] There is a screenshot of an exchange purportedly between Mr Bowie and Mr Smith (appearing on Mr Bowie's mobile phone WhatsApp account as "*Juan Smith*") on 19 May 2022, commencing at 08h44 and ending at 09h02, which reads like this:[3]

> *"[JS] I am not that old and want to live now. They just ...[obscured by a system message " Screenshot and recordings"]*
>
> *[JS] A*
>
> *[JS] Yes*
>
> *[SB] What is you policy number or ID number*
>
> *[JS] 5[…]*
>
> *[JS] ID*
>
> *[JS] Now you can see how ancient I am*
>
> *[JS] Ok*
>
> *[JS] Thank you*

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[3] I have inserted [JS] indicating "Juan Smith" and [SB] indicating Mr Bowie.

[SB] 10x needs a letter from you to give us permission to work on the profile

[JS] FFS, I dong

[JS] Don't have a computer which is working

[SB] Shit

[JS] I will need to buy a computer. Hawkins fucked up my pc and laptop"

[35] It must be borne in mind that "*Mr Smith*" using the ronburger email address had already one week earlier, on 12 May 2022, changed the mobile number on his profile to Mr Bowie's 060 number and requested 10X to use his already existing email address. Also, that on 19 May 2022 at 07:13:25 an OTP was sent to Mr Bowie's mobile phone via SMS and Mr Smith's profile successfully accessed 10 seconds later at 08:13:35. The person who logged into Mr Smith's profile inserted a beneficiary where previously none had been nominated. The precise details of the person nominated are recorded in the extract from Mr van Zyl's statement reproduced above. This includes Mr Bowie's date of birth, ID number, contact number (the 060 number which was also associated with Mr Smith's profile) and the email address l[…]. Shortly after that, the mobile number associated with the profile was inexplicably changed back to the useless 081 number and the same email address l[…] was inserted in the place of Mr Smith's email address, so that in future, if the OTP sent to the defunct 081 mobile number was not used, a new one would be sent to the nominated email address.

[36] The location of the person logging in on 19 May 2022 was geolocated to Johannesburg. At the time Mr Smith was, according to the applicant's uncontradicted evidence, living in Cape Town, while Mr Bowie was in the Johannesburg area. Indeed, Mr Bowie in his answering affidavit refers to Mr Smith going to live in Cape Town in March 2022, which is where he lived until

Mr Verster brought him to Johannesburg during June 2022, to live with him and his daughter.

[37] Yet according to Mr Bowie he had the above WhatsApp exchange with Mr Smith, after Mr Smith had supposedly unbeknown to him already nominated him as beneficiary, between 08h44 and 09h02 that same morning. The objective audit trail evidence, and Mr Bowie's evidence including the purported screenshot of a WhatsApp exchange on 19 May 2022, are irreconcilable.

[38] The WhatsApp exchange indicates that armed with a letter from Mr Smith, 10X would allow "*us to work on the profile*". Yet Mr Bowie's version is that he never accessed the profile at all. He did no more than send an OTP to Mr Smith to facilitate the latter's access to his own profile. On Mr Bowie's version, once the mobile number on the profile was changed back to the then defunct 081 number and Mr Smith had accessed the profile, he had no further part in accessing Mr Smith's profile.

[39] Tellingly, when asked why he had kept the 19 May 2022 WhatsApp screenshot reproduced above, Mr Bowie said that he had done so to deal with just such an enquiry as that with which this application is concerned. Yet in his answering affidavit he did not reference the WhatsApp exchange and in fact ventured a version that he knew nothing at all about the investment until after Mr Smith's death.

[40] In the circumstances Mr Bowie was unable to explain his *volte face*, despite ill-defined attempts to blame the lack of candour in his answering affidavit on his erstwhile attorneys. He did not however suggest that he had provided them with the version advanced before me and that they had inexplicably failed to

capture this version in his answering affidavit. As deponent he must take full responsibility for the version he gave under oath.

[41] After Mr Bowie, his counsel called Mr Verster. A brief unsigned witness statement had been delivered by Mr Bowie's attorneys over the weekend prior to the commencement of the hearing on Monday 8 December 2025. Mr Verster was asked to confirm this statement under oath. He said that he would do so with certain deletions and amendments. As it transpired, these were neither minor nor inconsequential. Either Mr Verster was not consulted on the delivered version of his statement, or he changed his version overnight. The most significant of these is that he sought deletion of the version that he had sent email correspondence to 10X Investments in the months following Mr Smith's death. It was thus according to his evidence not the case that emails sent from I[…] were sent by him. A further implication of this evidence is that the OTP's sent to that email address over the period 19 May to 30 October 2022 were not received or acted upon by him. Nor could it reasonably be inferred that the late Mr Smith had received OTP's via that email address prior to his death, on the basis that he co-habited with Mr Verster.

[42] Given the content of the emails sent from that account to 10X in November 2022, there is only one other person who could have used that email address and that is Mr Bowie. While it is true that this version was never put to Mr Bowie, that is because his attorney had delivered a witness statement for Mr Verster confirming that the email address and correspondence were his, only for Mr Verster to disown that version. Counsel for the applicant could not put a contrary version to Mr Bowie. Counsel for Mr Bowie did not seek to recall Mr Bowie, nor did she seek to cross examine Mr Verster on the basis that he was a hostile witness.

[43] There are difficulties with Mr Verster's evidence too. Mr Verster and Mr Smith had been in a relationship and co-habited in 2005 and 2006. He testified that they had thereafter maintained a platonic relationship. In February 2022, when Mr Smith was living in Middelburg in the Eastern Cape, Mr Smith posted an advertisement on Facebook that he wished to purchase a property, and he ill-advisedly revealed that he had his R2.2 million 10X Investments nest egg to pay for it. Mr Verster posted a comment on the post, which suggests that he was aware of the 10X investment. Although Mr Verster's evidence when asked about this was vague and evasive, he did not deny the post or that he may, as the applicant testified, have commented on it, but asserted that the first time he became aware of the 10X investment was in July 2022.

[44] He however testified that from about February 2022 he and Mr Smith rekindled their romantic relationship, remotely it would appear. Given the events that followed over the next six months, the public post about Mr Smith's 10X investment, Mr Verster's sudden renewed interest in a man he had last been in a relationship with some 18 years previously does not smack of mere coincidence.

[45] In March 2022 Mr Smith relocated to Cape Town where he co-habited with one Gareth. Gareth, according to both Mr Verster (and Mr Bowie) was allegedly abusive to Mr Smith who was in poor health because of a brain tumour which inter alia affected his balance and left him wheelchair bound. So much so that in June 2022, Mr Verster and his brother travelled to Cape Town and brought Mr Smith back to live with Mr Verster and his daughter in Carletonville, later Fochville, both to the west of Johannesburg. A cynical view would be that the catalyst for this sudden affection and concern for Mr Smith may have been the 10X investment. Subsequent events do nothing to dispel this inference.

[46] On 14 July 2022, Mr Venter and Mr Smith became engaged. This was a mere three weeks after Mr Smith had relocated from living with Gareth to living with Mr Verster. On 15 August 2022, Mr Verster and Mr Smith consulted an attorney who drew up a will for Mr Smith. His sole beneficiary was Mr Verster.

[47] Mr Verster confirmed that he has no assets or investments to speak of, and nor did Mr Smith, save for his 10X investment. Shortly after Mr Smith died, Mr Verster sent a WhatsApp to the applicant stating that he hoped that she and her sister would benefit from the 10X investment and that "*none of those losers*" would get it. He confirmed that he was referring to Mr Bowie and Gareth. Mr Verster's expressed hope that Mr Smith's sisters would benefit and not Mr Verster himself, when he had recently been nominated sole heir per Mr Smith's recently attested will, seems improbable.

[48] Even more inexplicable is that despite his initial disdain for Mr Bowie as a possible heir to the 10X investment, Mr Verster had supported Mr Bowie's claim to the 10X investment after he became aware of the nomination. That his suspicions were not aroused by Mr Smith's left-field nomination of Mr Bowie even as he was making Mr Verster sole heir to what little would remain after his death seems improbable in the extreme.

[49] Mr Verster justified his support for the Bowie nomination on the basis that after Mr Smith's death, Mr Bowie had told him how he had cared for Mr Smith following surgery that he had undergone after their relationship had ended, and that it seemed from what he was told that Mr Smith and Mr Bowie really cared for one another. It is implausible that he would so easily have accepted Mr Bowie's convenient version provided after Mr Smith's death, a version never previously disclosed to him by Mr Smith to whom he was supposedly engaged.

[50] Asked by Mr Bowie's counsel whether he still supported Mr Bowie getting the money, he remained equivocal. This even though as matters stand, Mr Verster as sole heir is in line for the 10X investment should the purported nomination of Mr Bowie be declared unlawful.

[51] I have serious difficulty with this version. Mr Verster sat through Mr Bowie's somewhat torrid cross examination. By the time he testified, it must have been apparent to him that Mr Bowie had inserted himself as beneficiary. He could offer no reason why, despite his and Mr Smith's marriage plans, he was sanguine about Mr Smith leaving his sole asset of any value to a man young enough to be his grandson, whom he had regarded as a "*loser*".

[52] It must also have been apparent to him that the emails sent to 10X, purportedly from him, were in fact sent by Mr Bowie. There is no other possible candidate for that role. The probabilities point to Mr Verster having known more than he is prepared to say about the manipulation of Mr Smith's 10X profile. If they were jointly complicit, that would explain why even now that Mr Verster is sole heir, he is not prepared to condemn Mr Bowie as a fraudster who nominated himself.

[53] I am satisfied, on a balance of probabilities, that the nomination of Mr Bowie as beneficiary was not authorised by the deceased, but was instead the result of fraudulent conduct by Mr Bowie. The records of 10X Investments purporting to record such nomination are invalid, null and void.

[54] Clause 7.6 of the 10X policy states that in the absence of a nomination at the time of the policy holder's death, the death benefit will be paid into the estate of the deceased.

[55] Counsel for the applicant sought a costs order against 10X Investments and Mr Bowie, jointly and severally. I would have been sympathetic to the request in

regard to 10X Investments, but for the fact that the Notice of Motion only sought costs by parties opposing the relief sought, and 10X Investments did not oppose. Consequently, although 10X Investments is before me in the limited sense that it is cited as first respondent, it has never been put on notice that costs may be sought against it. I cannot in those circumstances order it to pay costs.

[56] In fairness to 10X, my criticism of its initial conduct in the matter has somewhat been mitigated by the assistance and cooperation its witnesses provided to the applicant. Their evidence was pivotal to the definitive findings of fact I have been able to make.

[57] Mr Bowie is for obvious reasons going to be held liable for the applicant's costs.

ORDER

1. It is declared that the named beneficiary that 10X Investments has on record for the policy (living annuity) of the deceased under policy number LA204185 are invalid, null and void.

2. It is declared that the proceeds of the policy under policy LA204185 are to be paid to the estate late of the deceased, John Patrick Smith.

3. The Second Respondent is ordered to pay the costs of this application on party and party scale C, such costs to include the costs reserved in my judgment dated 10 June 2025.

BY THE COURT

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REGISTRAR

CE WATT-PRINGLE
ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Electronically submitted

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 6 March 2026.

Date of hearing:	8, 9 and 12 December 2025
Date of judgment:	6 March 2026

Appearances

Counsel for the applicant:	Kerry Howard
Instructed by:	Vermeulen Attorneys
Counsel for the second respondent:	Thandiwe Ndaba
Instructed by:	Mupeti Attorneys