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

**Case Number: 143746/2021**

(1) REPORTABLE: NO

(2) OF INTEREST TO THE JUDGES: NO

(3) REVISED: YES

DATE: 23/2/26

SIGNATURE:

In the matter between:

**GROBLER: TANYA ELIZABETH**

**Applicant**

and

**FILTER: HANS HEINDRICH N.O.**

**1<sup>st</sup> Respondent**

**GROBLER: PETRO N.O.**

**2<sup>nd</sup> Respondent**

**SYMINGTON: ALETTA ELIZABETH N.O.**

**3<sup>rd</sup> Respondent**

**THE MASTER OF THE HIGH COURT: PRETORIA**

**4<sup>th</sup> Respondent**

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**JUDGMENT**

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**ALLY, AJ**

[1] This is an opposed application for the removal of a trustee in terms of Section 21(1) of the Trust Property Control Act<sup>1</sup>, hereinafter referred to as 'the Act', alternatively, in terms of the common law.

[2] The applicant was represented by Adv. D.D. Swart and the first respondent by Adv. C. Richard.

[3] The rest of the respondents have chosen not to oppose the application and the second and third respondents have been cited, for the reason that they are trustees of the WJ GROBLER FAMILIE TRUST (I[...]) which will be hereinafter referred to as 'the Trust'. The fourth respondent, the Master of the High Court, Pretoria, has been cited in terms of Section 3 of 'the Act'.

[4] 'The Trust'<sup>2</sup> was created or established on 6 June 2011 by the deceased, WJ Grobler, the second respondent and the first respondent.

[5] It is common cause that the founder of the Trust, WJ Grobler, passed away on 30 September 2021 and the applicant was appointed as a trustee on 15 November 2021. It is further common cause that the first respondent instituted an action<sup>3</sup>, on 4 November 2022, against 'the Trust' for payment of an amount of R6 500 000-00 (six million five hundred thousand rand). The action is being defended by 'the Trust'.

[6] It is also common cause that the applicant requested the first respondent to resign as trustee of 'the Trust' which the first respondent declined to do, hence this application.

[7] It should be noted at the outset 'the Trust' contains a clause that stipulates that a recent trustee cannot force a founding trustee to resign<sup>4</sup>.

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<sup>1</sup> Act 57 of 1988, as amended

<sup>2</sup> Caselines: Section 001-31 - 001

<sup>3</sup> Caselines: Section: 001-85

<sup>4</sup> Clause 4.5.6@ Caselines: Section001-34

[8] The applicant sets out the grounds for the application for removal in paragraph 11 of her founding affidavit which provides as follows:

8.1. "misconduct, alternatively

8.2. the conduct of the first respondent imperils the property or the administration of the trust; alternatively

8.3. the relationship between the first respondent on the one hand and the remaining trustees on the other hand has broken down to the extent that they no longer have any mutual respect and trust for each other."<sup>5</sup>

[9] The applicant alleges that the proceeds from the life policy of the deceased, WJ Grobler, would be used to procure properties from the joint estate and take ownership thereof and as she, her mother and sister are the only capital beneficiaries of 'the Trust', the procurement of the properties from the joint estate by 'the Trust' would enable the trust beneficiaries to benefit from the rental of the properties.

[10] The applicant alleges and it is common cause that on 3 June 2022 ABSA Bank, required certain documentation to be signed by each of the trustees, in order to comply with the Financial Intelligence Centre Act.

[11] The applicant, second respondent and the third respondent apparently signed the ABSA Bank document on 2 June 2022 as alleged by the applicant. When it comes to the first respondent, however, the document from ABSA bank shows that the first respondent signed on 2 June 2022 or at least, ex facie the document, he signed on 2 June 2022.

[12] However, even if one accepts that the first respondent signed the relevant document on 2 June 2022, it does not mean that the document was sent to ABSA bank on this date. This inference and the only inference that can be drawn, is that as on 8 June 2022 an email from ABSA Bank reflected that 'the Trust's' bank account had been frozen. In my view, this means that the first respondent had not submitted

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<sup>5</sup> Caselines: Section: 001-11

the required documentation in time which resulted in ABSA bank freezing the account of 'the Trust'.

[13] The question to be posed, however, is whether this conduct of the first respondent amounts to 'misconduct' or any of the other grounds for removal mentioned by the applicant in her founding affidavit. It is also important to note that the applicant is bound by the grounds she mentions in her founding affidavit. This is trite law.

[14] It should be remembered that the bank requested the documentation to be signed and by 8 June 2022<sup>6</sup> 'the Trust' bank account had been frozen. Now, as stated above, the only reasonable inference that can be drawn from ABSA bank freezing the bank account of 'the Trust' is that the first respondent had not submitted the documentation. In my view, the fact that no payments could be made on behalf of 'the Trust' and 'the Trust' having to rely on Assegaai Banke (Pty) Ltd is clearly conduct which can be elevated to misconduct and imperils the administration of 'the Trust' and on this ground alone entitles the applicant to request the Court to remove the first respondent as trustee of 'the Trust'.

[15] Counsel for the applicant submitted that the institution of an action by the first respondent against 'the Trust' imperils 'the Trust' property and thus on this ground as well, the first respondent should be removed.

[16] I indicated to Counsel for the applicant, during the hearing, that I was unable to find case law reflecting that the mere filing of an action by a trustee against a trust, amounts to imperilling the property and administration of 'the Trust'. In my view, a trustee is entitled to secure his or her claim against a trust and this cannot reasonably be equated to imperilling the property and administration of the trust.

[17] The Court was referred by Counsel for the applicant, to an unreported judgment<sup>7</sup> by my brother Davis J as authority that a conflict of interest may constitute

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<sup>6</sup> Caselines: Section: 001-74

<sup>7</sup> Harrop-Allin & Ano v Harrop-Allin & Others 2024 GPPHC

a ground for removal of a trustee. In this regard, the Court was referred to the following statement by my brother Davis J and the case law referred to therein:

*"A trustee may be removed even if his or her conduct was bona fide, since neither mala fides nor even misconduct are necessary requirements for removal ...*

*... a trustee must avoid any conflict of interest between his duties and obligations as a trustee and his (or her) personal interests. Failure to do so might justify removal."*<sup>8</sup>

[18] I agree with the principles and statement set out above by my brother Davis J but each case must be determined on its own facts. Davis J makes it clear that certain conduct might amount to grounds for removal. In my view, the securing of a claim against a trust by a trustee is not such a ground. Accordingly, it is my view that the first respondent cannot be removed on the ground that he instituted a claim against 'the Trust'. It was common cause during argument that this Court was not required to engage with the merits of the case launched in the Western Cape Division of the High Court and this Court agrees therewith.

[19] Finally, can it be stated on a conspectus of all the evidence that the conduct of the first respondent imperilled the property and the administration of the Trust? In my view, imperilling the trust property and imperilling the administration of the trust must be seen as two separate and distinct grounds.

[20] The word 'imperil' is defined as<sup>9</sup>:

*"bring or put into danger".*

[21] The refusal of the first respondent to submit the relevant documentation, on a conspectus of all the evidence, to ABSA bank, in my view imperilled the administration of 'the Trust' in that ABSA bank, in line with the Financial Intelligence

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<sup>8</sup> supra at paragraphs 36 and 38

<sup>9</sup> The Concise Oxford Dictionary, 9<sup>th</sup> Edition

Centre Act, froze the bank account of 'the Trust' and 'the Trust' was not able to make use of the monies in 'the Trust'. However, I would not go so far as finding that the said conduct of the first respondent imperilled the property of 'the Trust' on the available evidence before this Court.

[22] In conclusion therefore this Court finds that the applicant, for the reasons stated above, has made out a case for the removal of the first respondent as a trustee of 'the Trust' and that I am satisfied that such removal is in the interests of 'the Trust' and its beneficiaries in accordance with Section 20(1) of 'the Act'.

[23] In respect of costs there is no reason why costs should not follow the result and neither Counsel argued otherwise.

[24] Accordingly, the following Order shall issue:

- a). the Order marked "X" is made an order of Court.

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**ALLY, G**  
**ACTING JUDGE OF THE HIGH COURT**  
**PRETORIA**

**Electronically submitted therefore unsigned**

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 23 February 2026.

Date of hearing: 3 September 2025

Date of judgment: 23 February 2026

For the Applicant: Adv. D. Swart instructed by

JW Bates Incorporated  
henriette@jwbotesinc.co.za

For the First Respondent: Adv. C. Richard instructed by  
TC Botha  
litigation@tcbothalaw.eo.za/lizerie@weavind.co.za

**“X”**

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

**CASE NUMBER: 2024 - 143746**

In the matter between:

**TANYA ELIZABETH GROBLER**

**APPLICANT**

and

**HANS HEINRICH FILTER N.O.**

**FIRST RESPONDENT**

**PETRO GROBLER N.O.**

**SECOND RESPONDENT**

**ALETTA ELIZABETH SYMINGTON N.O.**

**THIRD RESPONDENT**

**THE MASTER OF THE HIGH COURT. PRETORIA**

**FOURTH RESPONDENT**

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**COURT ORDER**

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AFTER HAVING HEARD THE PARTIES AND AFTER HAVING READ THE DOCUMENTS FILED OF RECORD, THE FOLLOW IS MADE: AN ORDER OF THE COURT:-

1. THAT the first respondent is removed as trustee of the WJ Grobler Familie Trust (I[...]); and
  2. THAT the first respondent pays the costs of the application on Scale B.
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**BY ORDER OF THE COURT  
REGISTRAR**

**APPEARANCES:**

For the applicant: DO SWART  
Instructed by  
HJ ROBBERTSE

For the first respondent. C RICHARD  
Instructed by  
TC BOTHA