



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

CASE NO:13712/2008

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED.
..... [REDACTED]	
DATE 08/04/2026LENYAI J	

LINDA PATRICK MASUKU

Applicant

And

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Respondent

(Formerly known as the Law Society of the Northern Provinces)

In re:

THE LAW SOCIETY OF THE NORTHERN PROVINCES

Applicant

(Now known as the South African Legal Practice Council)

And

LINDA PATRICK MASUKU

Respondent

Delivered: This judgment is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading to Caselines. The date and time of hand-down is deemed to be 14:00 on 08 April 2026.

JUDGMENT

LENYAI J (MOLOPA-SETHOSA J CONCURRING)

[1] This is an application by the applicant to uplift the suspension order granted against him on 23 October 2009 and in addition to this upliftment application, the applicant is also seeking the removal of a curatorship placed on his law firm.

[2] The issues to be determined by the court include the following:

- 2.1 Is the applicant fit and proper to be re-enrolled/continue practicing as a legal practitioner?
- 2.2 Is it competent for the court to grant an order removing/discharging the curatorship? And
- 2.3 The costs of the application.

[3] The respondent raised the following point *in limine* against the applicant's case in its answering affidavit:

- 3.1 Non-joinder of the Curator bonis
- 3.2 The applicant erred in bringing the upliftment application under case number 13712/2008, as this violates Uniform Rule 6. The matter under this case number has been concluded and order was granted and therefore, the applicant cannot bring the current matter under the very same case number. This was not earnestly pursued by the LPC. In any event, in my considered view, the suspension was granted under Case number

31712/2008; and the applicant's practice was placed under curatorship under the same Case number 13712/2008; therefore, it cannot be said that the applicant was incorrect in bringing this application under Case number 13712/2008.

[4] The Legal Practice Council of South Africa (Previously known as the Law Society of Northern Provinces), applied for the suspension of the applicant after it was found out that the applicant had committed the following contraventions:

4.1 The applicant practiced without a fidelity fund certificate for a number of years (2004 to 2009).

4.2 The applicant failed to submit his annual auditor's reports for the periods ending 28 February 2003 and 28 February 2007 to the former Law Society; and he failed to submit his annual auditor's reports for the periods ending 29 February 2004, 28 February 2005 and 28 February 2006 timeously to the former Law Society (now referred to as "the Legal Practice Council").

4.3 The applicant failed to pay his subscription fees to the former Law Society.

4.4 The applicant failed to keep proper accounting records, to such an extent that his records could not be used "*to manage the accounts and the firm's trust position*".

4.5 The applicant had trust deficits in his bookkeeping.

4.6 Several of the applicant's trust creditors' accounts reflected debit balances.

4.7 The applicant failed to co-operate with the Law Society in its inspections of his firm, by failing to respond to correspondence from the Law Society, failing

to adhere to undertakings given to the Law Society and failing to hand over documents requested.

4.8. On several occasions the applicant appeared before disciplinary committees which found him guilty of misconduct and imposed fines upon him. The applicant failed to pay those fines.

[5] The Legal Practice Council was successful in its application, which resulted in the suspension of the applicant as a legal practitioner.

Applicant's submissions

[6] The applicant submits that the reason driving this application for the uplifting of the suspension order is because of the irregularities surrounding the application of his suspension. He submits that he was not afforded an opportunity to defend himself. He states that this is because he was not given notice regarding the list of contraventions he was accused of.

[7] He also submits that he was not in court when the order was granted although the copy of the court order he obtained stipulates otherwise. He further submits that he never had a consultation with Mr Van Rensburg of the LPC and that because of this, Mr Van Rensburg's unsigned affidavit evidence should be deemed inadmissible, and amounts to hearsay. According to the applicant's submission, Mr Van Rensburg also made a mistake stating that the applicant conducts his practice under Masuku Attorneys instead of LP Masuku Attorneys. Further, Mr Van Rensburg also stated that the applicant has his practice in Mpumalanga not in Gauteng.

[8] The applicant submits that because he had passed a bookkeeping course offered by the Law Society and that he satisfied all the requirements and he was admitted as an attorney on 15 October 2002, he is then fit and proper to return to practice.

The applicant also submits that no misconduct complaints were made against his practice. He further avers that it is the accident he was involved in on 29 June 2007 that resulted in him not being able to submit audit reports to the Law Society thus, also adding to one of the reasons for his suspension.

[9] The applicant submits that his suspension had a negative significant effect on his personal life. This is so because he is unable to further his children's studies even though they have done well for themselves in matric. He is also unable to repair both his motor vehicle and his household. He further submits that because of the loss of income he incurred due to this defective suspension, he is not intending on suing the LPC but will however be forced to do so should he encounter unnecessary defense from the LPC (if his application for upliftment is opposed). The applicant is asking the court to set aside the suspension so that he can be able to generate fees that would be able to ensure that he maintains himself and his family, put his children to school and be able to repair both his vehicle and house.

[10] The applicant further submits that he is fit and proper to return to practice and to show this transformation; he indicates that he had been consulting with a psychologist, Mr Martin Mgcina who declared him fit to practice. He further indicates that he alongside the Legal Aid Board, drafted the divorce summons for his divorce which was granted in his favour, he successfully defended a *mandament van spolie* application against someone who owed him R 100,000.00 that he had invested, and lastly, that he is a legal advisor and a born again Christian at his church.

Oral Submissions: What the applicant said before court.

[11] The applicant submitted that he was not afforded an opportunity to resolve this issue through other means that could have been employed by the LPC before taking him to court. This is in reference to the fact that he submitted that he wasn't given an opportunity to explain himself before a disciplinary hearing. He further submitted that the LPC took advantage of him in the sense that they waited for him to be hospitalised and when he couldn't defend himself due to the accident, they proceeded with the suspension application which was granted.

[12] The applicant also asked for the costs in the original suspension application to be directed not at him, but rather at his former legal representative. This is because the applicant submits that he had instructed his former legal representative to oppose costs when prayed for by the LPC in the original application, but such opposition never took place, and as a result, the applicant is financially strained as he must pay such costs.

Respondent's submissions

[13] The LPC submits that the applicant's submission pertaining to the alleged irregularities surrounding his suspension application is flawed. This is so, because the applicant in one of his arguments regarding the alleged irregularity avers that he was not afforded an opportunity to defend himself. The respondent submits that this submission is untrue, because the applicant was served with the suspension application on 17 March 2008 and he did oppose the suspension proceedings and subsequently filed an opposing affidavit. The respondent also submits that the applicant's submission that Mr Van Rensburg's affidavit was not signed is false. This is because the affidavit in question at Caselines, page 03-54 indicates Mr Van Rensburg's signature, thus negating the applicant's submission.

[14] The LPC submits that the applicant's submission 'that because of the accident he encountered on 29 June 2007 is the reason why he was unable to submit the auditor's reports to the Law Society timeously' is untenable. This is because these auditors' reports were required in 2003 for the months of June and August, which is way before the period of the applicant's alleged accident, which was during June 2007 on the applicant's version.

[15] According to the applicant's submission, he insinuates that his suspension resulted due to a "misunderstanding" instead of complaints or contraventions from his end. This submission is in disregard of the contraventions indicated above. Further, the LPC also received the following complaint post suspension of the applicant, the

former Law Society received a complaint from an MB Moloi against the applicant. In short, the complaint indicates that the applicant misappropriated an amount of R60 412.13 from a deceased estate.

[16] The LPC submits that the applicant also had various interactions/disciplinary hearings with the LPC where he was found guilty of various offences and various fines were imposed because of those offences. The applicant still has not paid any of those fines even though they were imposed ages ago. The LPC submits that this debunks the applicant's submission of not being afforded an opportunity to appear before a disciplinary hearing.

[17] The court, regarding the costs argument as made by the applicant in the postponement application, however, indicated to the applicant that this is not the appropriate place or court to seek such relief. Instead, the applicant should have sought an appeal regarding this issue.

[18] The LPC further submits that the applicant keeps shifting blame for most of the things that transpired in his case. For example, he owes the costs of the original suspension application. He blames his former legal representative (Mr Lukhele). The applicant also blames his legal representative regarding the attacks made against the LPC in his answering affidavit.

[19] The applicant at some point during some of the interactions with the LPC blamed his former principal for not educating him on how to conduct himself as a legal practitioner. The applicant also blamed the LPC for failing to apprise him that his conduct was not that envisaged of a legal practitioner. The LPC submits that this behaviour indicates lack of accountability, which is a character defect for a legal practitioner and especially for someone who wishes to be accepted back to practice as a legal practitioner.

[20] Regarding the *curatorship* relief, the LPC submits that the applicant is misguided for asking the court to uplift the *curatorship* subjected to him. This is because the applicant was never subjected to any *curatorship*, only his practice was. And his practice has since been wound up and thus the court cannot be asked to uplift such order, because this is no longer possible since the practice in question no longer exists.

[21] The LPC submits that this reflects very poorly on the applicant's honesty and integrity and reflects an unwillingness to accept responsibility for his conduct. The LPC avers that such characteristics are defective in nature for any legal practitioner. In addition, the applicant is not showing any remorse, appreciation or acknowledgement of the wrongs he committed. This is because in his submissions he never at any point addressed any of the transgressions levelled against him. The LPC submits that this shows that the applicant never went under any rehabilitation or transformation for him to be allowed back into practice. In essence, the applicant does not appreciate and acknowledge the seriousness of his misconduct.

Legal Framework

[22] The court in *Malan and another v The Law Society, Northern Provinces* [2009] 1 All SA 133 (SCA), said the following:

“The implications of an unconditional order removing an attorney from the roll for misconduct are serious and far-reaching. Prima facie, the court which makes such an order visualizes that the offender will never again be permitted to practice his profession because ordinarily such an order is not made unless the court is of the opinion that the misconduct in question is of so serious a nature that it manifests character defects and lack of integrity rendering the person unfit to be on the roll. If such a person should in the years apply for re-admission, he will be required to satisfy the court that he is ‘a completely reformed character’ (Ex parte Wilcocks 1920 TPD 243 at 245) and that his ‘reformation or rehabilitation is, in all the known circumstances, of a permanent nature’ (Ex parte Knox 1962 (1) SA 778 (N) at 784). The very stringency of the test for

re-admission is an index to the degree of gravity of the misconduct which gave rise to disbarment.”

[23] It is evident from this reasoning that character defects and lack of integrity are what need transformation or rehabilitation for any person that has been subjected to either removal or suspension from the roll, should such person wish to be allowed back in practice. The *onus* lies with the person in question convince the court that such a person has permanently transformed.

[24] The test applied in the case of re-admission of legal practitioners has been set out as follows by the court in *Slabbert v Legal Practice Council* 2021 JDR 3109 (FB) at paragraph 9:

“The fundamental question to be answered in an application of this kind is whether there has been a genuine, complete and permanent reformation on the appellant’s part. This involves an enquiry as to whether the defect of character or attitude which led to him being judged not fit and proper no longer exists. (Aarons at 5 294H.) Allied to that is an assessment of the appellant’s character reformation and the chances of his successful conformation in the future to the exact demands of the profession that he seeks to re-enter. It is thus crucial for a court confronted with an application of this kind to determine what the particular defect of character or attitude was. More importantly, it is for the appellant himself to first properly and correctly identify the defect of character or attitude involved and thereafter to act in accordance with that appreciation. For, until and unless there is such a cognitive appreciation on the part of the appellant, it is difficult to see how the defect can be cured or corrected. It seems to me that any true and lasting reformation of necessity depends upon such appreciation.”

[25] It is further evident from this reasoning that as part of transformation and/or rehabilitation of character defects, integrity and attitude of the person in question, that individual bears the onus of indicating before court of every wrong done and the reasons behind what led to the commission of those acts. Such individual is required to be truthful in explaining all this before court, as this apprises the court of whether the

person in question is in appreciation of the wrongs done and whether the wrongs are acknowledged. In essence, such appreciation or acknowledgment of the wrongs committed and showing remorse amongst other things, indicates the state of transformation or rehabilitation on the applicant's end.

[26] Such acknowledgement and appreciation of the wrongs done is very crucial but is, however, not the sole deciding factor. Other factors in addition to this help the court to come to a decision of whether re-admission is to be granted, in this case, whether the suspension should be uplifted.

[27] The court in *Malan and another v The Law Society, Northern Provinces*, further said the following:

"It is seldom, if ever, that a mere suspension from practice for a given period will transform a person who is unfit to practice into one who is fit to practice. Accordingly, as was noted in *A v Law Society of the Cape of Good Hope* 1989 (1) SA 849 (A) at 852E–G [also reported at [1989] 4 All SA 361 (A) – Ed], it is implicit in the Act that any order of suspension must be conditional upon the cause of unfitness being removed. For example, if an attorney is found to be unfit of continuing to practice because of an inability to keep proper books, the conditions of suspension must be such as to deal with the inability. Otherwise, the unfit person will return to practice after the period of suspension with the same inability or disability."

[28] As previously indicated that various factors play a significant role in deciding whether a suspended or removed individual is to be re-admitted; from the above reasoning it can be deduced that rehabilitation or transformation not only refers to character defects, attitude or integrity of the individual in question, but also refers to the technical skills or competencies which may have also added to the individual's suspension. In this case, the applicant is required to show before court that he took necessary steps and means to rectify his incompetencies, i.e. learning how to keep proper

accounting records. In essence, the applicant in this case should address every transgression levelled against him by the LPC by ensuring that whichever transgression can still be rectified, that happens before applying for re-admission.

[29] In *South African Legal Practice Council v Teffo* [2023] JOL 61514 (GP), the court said the following:

"[2] The personal qualities of an advocate, and indeed any legal practitioner, as an officer of the court must include those of diligence, honesty and integrity. It is those qualities one looks to when giving thought to the phrase a "fit and proper person" which is at the forefront of all admission applications, and it is uppermost on a court's mind when taking the decision to strike a practitioner from the roll."

[30] It is clear from this reasoning that any individual hoping for admission to the legal profession as well as those who are subjected to either suspension or removal from the roll must satisfy the "fit and proper person" test either for admission to be successful and for suspension or removal from the roll not to take place. The test, as mentioned *supra*, requires that such individuals be those who are honest, have integrity and are diligent in how they perform their legal duties and conduct themselves as legal practitioners. Lack of such traits indicate individuals who are unworthy to be in the legal profession as they pose danger to the public they ought to serve.

[31] The court in the case of, *South African Legal Practice Council v Kgaphola and Another* (795/2023) [2025] ZASCA 66 (23 May 2025), said the following regarding impugning the integrity of the LPC:

"[36] I also consider the respondent's conduct in the proceedings before the high court. In his answer to the LPC's application, instead of addressing the complaints against him, the respondent resorted to impugning the integrity of the LPC. For example, he stated that the LPC: (a) brought the application well knowing that its allegations were

baseless; (b) was 'clutching at straws' to build a 'non-existent case'; and (c) twisted the facts.

[37] As a result, said the respondent, he was perplexed about the motive behind the application. As stated, all the complaints by the LPC had been established. The respondents' allegations were clearly intended to convey that the LPC had sinister motives against him. These are serious insinuations against a professional regulatory body whose function is, among others, to maintain ethical standards. They should not be lightly made. In *Law Society of the Northern Provinces v Mogami (Mogami)*,²³ this Court warned against such conduct and pointed out that this, in itself, constitutes unprofessional conduct and a strategy that the courts cannot countenance.

[38] It behoves us to repeat that warning here. A time will soon arrive when legal practitioners who make themselves guilty of this unprofessional conduct risk being suspended from practice or struck off the roll, solely based on this, as this may be indicative of, or border on, lack of fitness to practice as a legal practitioner."

Analysis

[32] For the applicant to be re-enrolled back into the legal profession, he had the onus to prove and convince the court that he had reformed or transformed permanently. In proving before court of his transformation, he had to prove that his defective character traits had been rectified and show that he is a person with integrity. To do all this, the applicant had to address all the misconducts levelled against him by the LPC and explain honestly before court why he committed each one of those transgressions, and how he is reformed.

[33] In addition to the explanations, he had to indicate to the court the initiatives he undertook to rectify all the transgressions that are still possible of being rectified. Example of this would be paying the fines imposed by the LPC against him in the disciplinary hearings they had with him. But the applicant did not attempt to do any of these. Of course, the applicant submitted a psychological report indicating his fitness and he undertook and passed a bookkeeping course offered by the Law Society, but that is unfortunately not enough for re-admission.

[34] The applicant's argument before court was motivated by his eagerness to come back into practice for purposes of being employed and making money. This argument is flawed in the sense that it says nothing about the reasons why he was suspended. In his argument to be re-enrolled, he does not take the public which he is supposed to serve as a legal practitioner into confidence.

[35] Legal practitioners exist to uphold the law and serve the public. This means that in everything that legal practitioners do, the public must be the beneficiary of such acts. The applicant's argument does not reflect this, and it indicates that the applicant is thinking only about himself and the family, which is wrong if that is the sole reason for his intention of coming back to practice.

[36] Since the applicant never attempted to rectify or address any of the transgressions levelled against him, this indicates that he failed to pass the "fit and proper person" test, and he failed to acknowledge and appreciate his wrongs. This is an indication of lack of reformation or transformation on the part of the applicant. A person who is unable to identify their defective character traits cannot reform as the motives, intentions and reasons behind committing the wrongful acts in question are unknown and not explained before court.

[37] It is common cause that 'practicing without a fidelity fund certificate' has been deemed a serious misconduct. The fact that the applicant says nothing about this transgression in his argument to be re-enrolled back into practice screams lack of courtesy and amounts to breach of professional integrity by the applicant.

[38] Further, the applicant submitted that the LPC was not genuine in how it dealt with his suspension because they took advantage of him in the sense that they waited for him to be hospitalized and when he couldn't defend himself due to the accident, they proceeded with the suspension application. The alleged accident in question here was allegedly prior to the transgression of the applicant.

[39] Legal practitioners have been warned about loosely attacking the LPC, see the SCA of LPC v Kgaphola mentioned above at paragraph 31 above. This is a professional regulatory body whose role is to regulate the conduct of legal practitioners and ensure that ethical standards of the law profession are maintained. Such utterance constitutes unprofessional conduct and can be detrimental to the applicant as this misconduct alone can result in either suspension or removal from the roll. Since in this case the applicant has already been suspended, such is an indication of failure to satisfy the "fit and proper person" test for upliftment of the suspension.

[40] The applicant is also praying for the removal of a curatorship placed against his practice. This prayer is however impossible to grant considering that the applicant's practice has since been wound up and the effect of such wounding up means that the practice has lost its legal status, and its business activities have ceased.

[41] Due to this, the applicant's practice has ceased to exist, and the curatorship no longer exists since the practice is dissolved. Further, the *curator bonis* that was appointed to deal with the applicant's practice is not joined in this case, although such *curator bonis* has direct and substantial interest in the matter. This failure to join the curator bonis is a violation of the fundamental principle of *audi alteram partem* and as such, this relief cannot be entertained

[42] Under the circumstances the following order is made:

1. The application for the upliftment of the suspension is dismissed.
2. The application for the discharge of the curatorship on the applicant's former practice is dismissed.
3. The applicant is ordered to pay the respondent's costs on an attorney and client scale at Scale B.

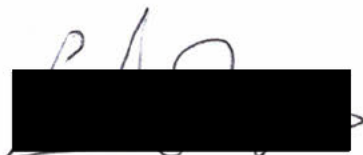


MMD LENYAI J

**JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

And

I concur and it is so ordered.



LM MOLOPA-SETHOSA J

**JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

Appearances

For the Applicant:

Linda Patrick Masuku (*pro se*)

For the Respondent:

M Steenkamp instructed by
Rooth and Wessels Inc

Date of hearing:

09 October 2025

Date of Judgement:

08 April 2026