

REPUBLIC OF SOUTH AFRICA



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

Case No: 25089/2025

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

In the matter between:

LILY PATRICIA DORAN

Applicant

and

WILGEHEUWEL AFTREE-OORD PTY LTD

Respondent

JUDGMENT

This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and uploading it onto the electronic platform. The date and time of hand-down is deemed to be 10h00 on Tuesday 28 April 2026.

COOKE AJ:

1. Despite the lengthy answering affidavit in this matter, the lone issue for determination before me has become agreed between the parties. It is whether a provisional or final winding-up order should be granted. The applicant contends for a final order, while the respondent a provisional one.
2. Mr Kloek appeared on behalf of the respondent. In supporting his client's contention that a provisional order should be granted, he made two main submissions, namely:
 - 2.1. it is the practice in this division to grant a provisional winding up order, and that I am obliged to follow that practice. I disagree. There is a wealth of authority that outlines the discretion with which a court is vested in granting a winding up order. To limit that discretion because of a practice alone, no matter how established, detrimentally fetters an important tool that a court has and should use in appropriate cases; and
 - 2.2. there is a doubt as to whether the respondents' employees are aware that this matter is being heard today. The contention is thin in the extreme, but to cure any possible doubt, Mr Kloek tendered that the respondent's attorney would furnish the applicant's attorney with the work email addresses of each of the respondent's employees, to which notice of this judgment and order can be sent, in addition to the accepted forms of notification to them of a provisional order and any additional steps that the applicant wishes to take to do so.
3. The question of service on the employees aside, there is a further (and more compelling) reason for the grant of a provisional order. In the course of this week in the dedicated Insolvency Motion Court, a matter with similar facts and near

identical impact came before me. In that matter a provisional order was sought to sequester a trust – the Mon Elmie Trust – that had been used to engage in the same activities as the respondent in this application. I granted a provisional order against the Mon Elmie Trust and issued a *rule nisi* returnable on 20 July 2026.

4. I was informed by counsel in this matter that there are an array of other entities and persons engaged in the same activity as the respondent and that, in fact both the respondent and the Mon Elmi Trust are just some of the respondents faced with liquidation or sequestration (as the case may be) in a matter that came before Wanless J a few weeks ago. I am told further that Wanless J has not handed down judgment.
5. Because pensioners are involved, I am sensitive to the need for this matter, and others involving the same subject and activities, to be resolved expeditiously. It is not lost on me that a provisional order does not facilitate that end as a final order would. I was reliably informed by counsel that, the cost of an additional hearing aside, there is little likelihood of harm to result in consequence of the delay if a provisional order is granted. The additional cost is regrettable, but is eclipsed by the importance of the subject matter of these cases and the wider public interest that they present.
6. I have intentionally refrained from expanding on what I have said above, or on the nature of this matter as a whole. Because I have granted a provisional order against the Mon Elmi Trust, and intend to do the same in this application, both matters will come before a judge on the return date in due course. Accordingly, I

make, and intend to make, no findings that could be said to be binding on that court or inform its judgment.

I make the following order:

1. *Wilgeheuwel Aftree-Oord (Pty) Ltd (Reg no: 2005/032054/07) is placed under provisional winding-up in the hands of the Master of this Court.*
2. *A rule nisi is issued, calling upon all interested persons to show cause and advance reasons, on 20 July 2026 at 10:00 or so soon thereafter as counsel may be heard, why the following order should not be made final:*
 - 2.1. *Wilgeheuwel Aftree-Oord (Pty) Ltd (Reg no: 2005/032054/07) be placed under final winding-up;*
 - 2.2. *The costs of the application be costs in the winding-up*
3. *Notwithstanding paragraph 2 above, should the respondent, its directors, shareholders, related entities or like persons wish to show cause why this order should not be made final, it shall do so by filing an affidavit on or before 15 May 2026, in which event the following procedural timetable will apply:*
 - 3.1. *The applicant is permitted to file an affidavit in response and shall do so on or before 29 May 2026;*
 - 3.2. *The applicant shall deliver its heads of argument on or before 12 June 2026;*
 - 3.3. *The respondent, its directors, shareholders, related entities or like persons (as the case may be) shall deliver its/their heads of argument on or before 26 June 2026;*
 - 3.4. *The parties shall deliver a joint practice note on or before 10 July 2026.*
4. *The respondent's attorney is to furnish to the applicant's attorney the work email addresses of all of the respondents employees by 12:00 on Wednesday 29 April 2026;*
5. *This matter is to be enrolled and heard with the matter of PETRUS FRANCOIS JANSE VAN RESNBURG N.O. v THE TRUSTEES FOR THE TIME BEING OF THE MON ELMIE TRUST: (IT 0011202/2006) Case Number: 97800/2025 and heard on the same day before the same judge.*


M J COOKE
ACTING JUDGE OF THE HIGH COURT
GAUTENG, JOHANNESBURG

DATE OF HEARING	24 April 2026
DATE OF JUDGMENT	28 April 2026
APPLICANT'S COUNSEL	C de Villiers-Golding
APPLICANT'S ATTORNEYS	Richter Attorneys
RESPONDENT'S COUNSEL	JW Kloek
RESPONDENT'S ATTORNEYS	Casper le Roux Inc