


REPUBLIC OF SOUTH AFRICA



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

Case Number: 2025-089315

1. Reportable: No
2. Of interest to other judges: No
3. Revised


[REDACTED]
WRIGHT J

8 June 2026

In the matter between:

CHIORINO SOUTH AFRICA (PTY) LTD

APPLICANT

and

FIRSTRAND BANK LTD

FIRST RESPONDENT

MALCOLM EDWARD TURNER N. O.

SECOND RESPONDENT

KAREN TURNER N.O.

THIRD RESPONDENT

JUDGMENT

WRIGHT J

1. The applicant, Chiorino seeks declarators that a suretyship it concluded in favour of Firstrand and a later subsequent acknowledgement of debt it concluded in favour of the respondents are null and void.
2. The papers are long and complicated. I shall attempt to summarise.
3. The first basis for the relief sought is that there was allegedly no compliance with section 226 of the Companies' Act 61 of 1973, applicable at the time of the suretyship, in that no valid special resolution was passed by the shareholders of Chiorino authorising the binding of Chiorino under the suretyship.
4. The second basis is that the subsequent acknowledgement of debt by Chiorino in favour of the respondents " *falls away* " as it was allegedly premised on the validity of the suretyship.
5. The answering affidavits raise huge disputes of fact. The alleged non-existence of the section 226 resolution is hotly disputed as are the facts surrounding the conclusion of the acknowledgement of debt.
6. It would be unwise to attempt to decide the matter on paper. A full set of pleadings, discovery and a trial are needed to determine the matter.
7. There is debate between the parties as to the applicability of section 226. One of the questions is whether it applies at all, given that it is alleged that a trust,

rather than a company, allegedly benefitted from the providing of the suretyship.

8. That question must await a trial.
9. If section 226 is applicable, as Chiorino contends, then Chiorino must prove that there was no valid resolution by shareholders of Chiorino authorising the suretyship.
10. If it is not applicable, as Firstrand contends, then the further disputes of fact, including the circumstances surrounding the conclusion of the later acknowledgement of debt can't be decided on paper.
11. Further factual disputes include, but are not limited to, the possible later ratification of the suretyship by Chiorino, the internal procedures followed or not followed by Chiorino at the relevant times and whether or not Mr Turner acted as trustee or in his personal capacity when certain things were done.

ORDER

1. The notice of motion stands as a simple summons.
2. The notice to oppose stands as a notice to defend.
3. The applicant is to deliver a declaration by 30 June 2026.
4. Thereafter, the matter proceeds as a trial action.
5. Costs reserved.

WRIGHT J

Heard 8 June 2026

Delivered 8 June 2026

Appearances:

Applicant: Adv I Currie

Instructed by: Knowles Husain Lindsay Inc

kma@khl.co.za

1st Respondent Adv R Shepstone

Instructed by: AD Hertzberg

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2nd - 4th respondents No appearance