



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

Case no 2026-175984

- (1) REPORTABLE: Yes ☐ / No ☒  
(2) OF INTEREST TO OTHER JUDGES: Yes ☐ / No ☒  
(3) REVISED: Yes ☒ / No ☐

Date: 30 July 2026

In the matter between:

**AMBER LEIGH FARBER**

Applicant

and

**THEODORE VAN DEN HEEVER N.O.**

First Respondent

**D&T TRUST (PTY) LTD**

Second Respondent

**THE COMPANIES AND INTELLECTUAL  
PROPERTY COMMISSION**

Third Respondent

**MARK FARBER**

Fourth Respondent

**FIRSTRAND BANK LIMITED**

Fifth Respondent

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**JUDGMENT**

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DU PLESSIS J

*Introduction*

[1] In this urgent application, the applicant seeks an order in Part A directing the first respondent, within 24 hours, to instruct the fifth respondent to lift the suspension

of the bank account held by a closed corporation ("CC"), thereby permitting the corporation to operate the account. Part B, still to be instituted, will address the declaration that the first respondent's expungement of the applicant's membership interest in the close corporation is unlawful, and seek an order under section 21(2)(c) of the Insolvency Act<sup>1</sup> separating that interest from the insolvent estate of the fourth respondent, Mr Mark Farber, to whom the applicant is married.

[2] The applicant's founding affidavit asserts standing on the basis of a retained proprietary and reversionary interest in the close corporation. However, the founding affidavit does not mention that the CC was placed in final liquidation two months ago, nor that this urgent application was launched without that disclosure. This has a fundamental bearing on who has authority to deal with the CC's assets, including its bank account.

[3] The first respondent raised the applicant's standing as a point in limine. Relying on *AMS Marketing Co v Holzman*<sup>2</sup> they indicate that on winding-up, a corporation's members and directors are divested of the power to act on its behalf, as such power passes to the liquidators, or, pending the liquidator's appointment, to the Master by virtue of section 361 of the Companies Act<sup>3</sup> as applied to closed corporations by section 66(1) of the Close Corporations Act.<sup>4</sup> On this argument, it is the trustee, and not a person such as the applicant who merely retains an interest, who is entitled to deal with and litigate in respect of an estate, save where the trustee neglects or refuses to act. The first respondent contends that this is not met on the facts of this matter.

[4] I am satisfied that the point in limine must succeed. The CC is in final liquidation. Whatever interest the applicant retains does not authorise her to instruct, or to compel instruction, regarding dealings with the assets of a corporation. In the absence of a liquidator, that authority vests in the Master (who was also not joined). The applicant

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<sup>1</sup> 24 of 1936.

<sup>2</sup> 1983 (3) SA 263 (WLD) at 269E-F.

<sup>3</sup> 61 of 1973.

<sup>4</sup> 69 of 1984.

has accordingly failed to establish the standing necessary to seek the relief claimed in Part A.

[5] At the hearing, counsel for the applicant handed up an email indicating that the Master would decide imminently (the next day) on the appointment of a liquidator to the close corporation. I record this for completeness. It underscores the difficulty facing the applicant: even if this court were persuaded to grant the relief sought in Part A, any such order would be of markedly short duration, since the appointment of a liquidator would immediately displace whatever residual control the order purported to restore, with the authority to deal with the close corporation's assets then vesting in the liquidator rather than in the applicant. The relief sought is accordingly not only unsupported by standing but would, in any event, be overtaken by events within a short time.

[6] As a result, the application is dismissed for want of locus standi.

[7] Regarding costs, the first and second respondents seek an order de bonis propriis against the applicant's attorneys of record. I decline to grant that relief. Nothing before me suggests that the applicant's attorneys acted mala fide, or that they were aware of the close corporation's liquidation and nonetheless elected to withhold it from this court; the more probable inference, on the papers, is that they proceeded on their client's version. The same latitude cannot be extended to the applicant herself. I am accordingly satisfied that costs should be awarded on the attorney-and-client scale.

#### *Order*

[8] The following order is made:

1. The application is dismissed with costs on an attorney and client scale.

  
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**WJ du Plessis**

Judge of the High Court, Gauteng Division,  
Johannesburg

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|---------------------|--------------------------------------------|
| Date of hearing:    | 30 July 2026                               |
| Date of judgment:   | 30 July 2026                               |
| For the applicant:  | S Cohen instructed by Davids Attorneys Inc |
| For the respondent: | HD Baer instructed by Van Veijeren Inc     |