IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED NO

DATE: 8 May 2023

SIGNATURE:.....

Case No. 38383/18

In the matter between:

DANCO BOERDERY (PTY) LTD	**APPLICANT**
And	
CAWOOD, WERNER	**FIRST RESPONDENT**
BEER, JOHAN CHRISTIAAN	**SECOND RESPONDENT**
THE RESCUE COMPANY (PTY) LTD	**THIRD RESPONDENT**

Coram: Millar J

Heard on: 12 April 2023

Delivered: 08 May 2023 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 09H00 on 08 May 2023.

Summary: Termination of Business Rescue – Section 132(2)(c)(ii) of the Companies Act 71 of 2008 is a self-standing ground – not necessary to also in addition file a notice in terms of either section 132(2)(b) or section 153(5) for termination of proceedings – After termination practitioner opening new bank account and cashing company investment to pay fees without knowledge of company - Payment made to unconnected third party – Conduct of practitioner to be deprecated – Repayment ordered together with punitive costs.

ORDER

It is Ordered:

[1] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay to the applicant the sum of R595 958.95.

[2] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay to the applicant interest on the sum of R595 958.95 at the rate of 10.25% per annum from 22 August 2016 to date of payment, both days inclusive.

[3] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay the applicant's costs of the application on the scale as between attorney and own client.

JUDGMENT

MILLAR J

[1] This is an application in which the applicant[1] (Danco) seeks an order for the payment of R595 958.95 together with interest and costs against the first (Mr. Cawood) and third (The Rescue Company) respondents.

[2] Danco is a company that was placed in business rescue and Mr. Cawood appointed as its business rescue practitioner.[2] The Rescue Company is an unconnected third party which Mr. Cawood contends was a 'vessel' utilized by him to receive his fees as business rescue practitioner from Danco. It is the circumstances under which these fees purportedly due to Mr. Cawood came to be paid to The Rescue Company that lie at the heart of the matter.

[3] During the latter half of 2015, Danco found itself in financial distress in consequence of limited liquidity. Advice was sought by Danco and it was in consequence of this advice, that Danco was placed in business rescue on 1 October 2015. Thereafter, on 8 October 2015, both Mr. Cawood and the second respondent were appointed as business rescue practitioners.[3] Subsequently, a

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1 Initially a Close Corporation but subsequently converted to a Limited Liability Company and hence the references to Danco elsewhere as a CC.

2 The business rescue practitioner is appointed in terms of the Companies Act 70 of 2008 and once appointed is clothed with the powers set out in section 140.

3 The second respondent played no role in the matter after November 2015 and did also did not oppose this application.

business bank account was opened with First National Bank to be utilized during and for the business rescue proceedings.

[4] On 20 October 2015, a first meeting of creditors was held. On 1 December 2015 a business rescue plan was published. A second meeting of creditors was scheduled to be held on 10 December 2015 but was postponed to 22 January 2016 so that the business rescue plan could be amended. The amended plan was published on 15 January 2016. This plan was rejected on 22 January 2016 by the creditors at the second meeting.

[5] It was resolved at the second meeting, that an application would be made to convert the business rescue proceedings into liquidation proceedings.[4] This application was subsequently made in the name of Mr. Cawood and the second respondent on 26 January 2016.

[6] It was anticipated that the application would come before court for hearing on the unopposed roll on 29 April 2016. Besides service on the registrar, when the application was issued, it was also served upon the Master of the High Court, the South African Revenue Services, creditors and affected parties as well as Danco. Pertinently, the application was also served on the Companies and Intellectual Properties Commission (CIPC).

[7] On 3 March 2016, Mr. Cawood wrote to Danco and set out how the business was to be conducted pending the hearing of the application:

"

1. *We confirm that, pending the outcome of the said conversion Application, you continue to remain in control of the day to day running of Danco Boerdery CC.*

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[4] The order sought in those proceeding was that: *"1. That the Business Rescue with regards to the Respondent is terminated and that the Respondent be placed under liquidation in the hands of the Master in terms of Section 141(2)(a)(ii). 2. That the costs of this application form part of the expenses of the Applicants in the business rescue proceedings of Danco Boerdery CC, payable before the claims of any other secured or unsecured creditor of the Respondent as contemplated in terms of section 135(3) read with section 143 of the Companies Act, Act 71 of 2008."*

2. *We furthermore confirm that you are tasked with maintaining and preserving the assets of the CC.*

3. *We furthermore confirm that writer is tasked with monitoring your actions in order to ensure that the concursus creditorum is maintained while the assets of the CC are properly preserved and also maintained.*

4. *In order for you to place us in a position to properly monitor the proceedings going forward, we require the following on a weekly basis:*

   4.1 *Copies of the bank statements of the CC for the current week;*
   4.2 *Supporting documents for any payments received;*
   4.3 *Supporting documents for any payment of running costs and expenses incurred by the CC.*

5. *The following reports are also required on a monthly basis:*

   5.1 *The signed off management accounts of the CC for the previous month need to reach us by the 15th of the following month. These management accounts need to be signed off by the external accountants;*

   5.2 *Confirmation that the short term insurance policy is up to date and in place for cover over all the moveable assets;*

   5.3 *A reconciliation of Income and expenditure for a given month by no later than the 15th of the following month;*

   5.4 *All proof of payments made in terms of the business rescue plan;*

   5.5 *Confirmation that all statutory (SARS) returns and payments are up to date.*

6. *Please also provide us with the above mentioned information and/or documentation with regards to the historic periods which we have not received.*

7. *This furthermore stands to confirm that you are not allowed to make payment to any creditor for any claim that existed at the commencement of the business rescue proceedings.*

8. *Take further notice that any payments contemplated that do not fall within the scope of the day to day running of the CC can only be made with writer's written consent."*

[8] Thereafter, on 22 April 2016, and pursuant to discussions[5] between Mr. Cawood and Danco, he was authorized to "*sign all relevant investment documentation on behalf of Danco Boerdery CC in line with his appointment as Business Rescue Practitioner.*" An investment account was opened with Allan Gray and on 6 May 2016, the sum of R600 000.00 was transferred from Danco into the investment account.

[9] The application for conversion of the business rescue proceeding which had been set down for hearing on the unopposed roll for 29 April 2016, did not proceed. There was a dispute as to the reasons for this. It is in my view immaterial. It suffices only to state that the application for conversion was never moved and was subsequently withdrawn.

[10] Nothing further transpired regarding the business rescue proceedings during the period May 2016 to the end of July 2016 save that the business of Danco was conducted in accordance with the instructions set out in the letter of 3 March 2016. Noteworthy is perhaps the fact that the management accounts prepared by the external accountants, in accordance with the instructions of Mr. Cawood, revealed that while Danco had a loss of R1 375 561.00 as 29 February 2016, this

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[5] There is a dispute between the parties as to the reason why the investment was opened but the reason for its opening is in my view neither material nor relevant to the determination of the matter.

had by May, been reduced to a loss of R637 598.00. Danco, at least on the face of it no longer needed rescuing.

[11] At some stage during the course of the business rescue proceedings and notwithstanding the opening of the First National Bank account, Mr. Cawood opened a separate bank account in the name of Danco with the Standard Bank of South Africa Ltd. Only he knew of the existence of this account and only he had authority to transact on the account. This was only discovered by Danco subsequent to events during the course of August 2016.

[12] On 1 August 2016, Mr. Cawood, gave notice to cash in the Allan Gray investment and for the proceeds to be transferred into the Standard Bank account that had been opened by him. This was done on 10 August 2016 and 11 August 2016 when Allan Gray transferred the sums of R386 870.00 and R209 088.95 respectively. Thereafter on 17 August 2016, The Rescue Company raised an invoice for R519 074.45.

[13] A number of events occurred on 22 August 2016:

[13.1] Danco contacted Allan Gray to make enquiries regarding the investment and were informed on that day for the first time about both the notice given by Mr. Cawood as well as the transfer into the separate Standard Bank account

[13.2] Notwithstanding an invoice from The Rescue Company for only R519 074,45 Mr. Cawood transferred the sum of R595 000.00 (the entire balance except R958.95) to the account of The Rescue Company ostensibly for "*BRP fees and D*".

[14] On 25 August 2016, Mr. Cawood closed the Standard Bank account.

[15] On 29 August 2016, Mr. Cawood filed a notice of the termination of the business rescue with CIPC. The notice was headed *"Notice of no reasonable prospect for the close corporation to be rescued"* and recorded *inter alia*:

> *"The above-mentioned company commenced business rescue proceedings by resolution on 01 October 2015.*
>
> *In terms of Section 152 of the Companies Act, Act 71 of 2008, the business rescue plan was rejected by the majority of the holders of voting interest.*
>
> *In terms of Section 153 of the Act no affected party took any action within 5 days from the date of the business rescue plan was rejected.*
>
> *This notice stands to confirm that business rescue proceedings are terminated in terms of Section 132(2)(c)(i)."*

[16] On 30 August 2016, the application to convert the business rescue to liquidation proceedings was withdrawn.

[17] On 16 September 2016, Danco received an invoice, dated 17 August 2016, from The Rescue Company for the fees and disbursements relating to the business rescue proceedings.

[18] There are 2 issues that arise for consideration. Firstly, when did the business rescue proceedings terminate – on 1 February or 29 August 2016? and secondly, was it permissible for Mr. Cawood to make payment to The Rescue Company?

[19] Section 132(2) of the Companies Act regulates the duration of the business rescue proceedings and determines how the business rescue proceedings terminate, it provides:

"***132. Duration of business rescue proceedings.-***

(1) ...

(2) Business rescue proceedings end when-

a) the court –

i. sets aside the resolution or order that began those proceedings; or

ii. has converted the proceedings to liquidation proceedings;

b) the practitioner has filed with the Commission a notice of the termination of the business rescue proceedings;

c) a business rescue plan has been-

i. proposed and rejected in terms of Part D of this Chapter, and no affected person has acted to extend the proceedings in any manner contemplated in section 153; or

ii. adopted in terms of Part D of this Chapter, and the practitioner has subsequently filed a notice of substantial implementation of the plan.

(3) ..."

[20] In the present matter two of the provisions in s 132(2) are to be considered, s 132(2)(a)(ii) and s 132(2)(c)(i). The former provides for the ending of the business rescue proceedings when the court has ordered a conversion to liquidation proceedings and the latter when the proposed business rescue plan has been rejected and no further steps taken by any affected person in terms of s 153.

[21] In the present matter it was argued for Mr. Cawood that until a notice of termination of the business rescue proceedings was filed, the business rescue remained extant. The application brought for the conversion of the proceedings

did not result in the ending of business rescue until the court had ordered the conversion. Furthermore, having regard to the rejection of the business rescue plan, s 132(2)(c)(i) did not automatically result in the termination of the business rescue. Since the section referred to s 153, regard had to be given to the provisions of s 153(5)[6] which specifically provided for the filing of a notice of termination. It was argued that these two sections although not mutually exclusive in their operation, were both predicated upon a decision or action on the part of Mr. Cawood[7] and that in practice this meant s 132(2)(b) was, by incorporation, a peremptory requirement.

[22] It was submitted on behalf of Mr. Cawood that it was only after the judgment in *Commissioner South African Revenue Services v Primrose Gold Mines (Pty) Ltd and Others*[8] was handed down on 23 August 2016, that the true legal position became known, and that Mr. Cawood then acted, within a reasonable time, to file a notice of termination and withdraw the conversion application.

[23] This argument proceeds from the basis that the provisions of s 132(2)(a), (b) and (c) can only be considered conjunctively, and that the individual subsections which define when business rescue ends cannot be regarded separately and distinctly as setting out individual grounds upon which business rescue can be ended. Each ground remains subject to the business rescue practitioner either taking the step of bringing an application for conversion or filing a notice of termination.

[24] For its part, it was argued for Danco that the business rescue came to an end when the plan was rejected, and no further steps were taken in terms of s 153. This argument follows the decision in *Artio Investments (Pty) Ltd v Absa and*

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6 The section provides *"If no person takes any action contemplated in subsection (1), the practitioner must promptly file a notice of the termination of the business rescue proceedings."*

7 The argument was framed thus: "*an application for conversion of business rescue proceedings to liquidation proceedings does not represent, on a reading of the relevant sections, a necessity and that the filing of a notice of termination of the business rescue proceedings in terms of section 153(5) also represented an option open to a business rescue practitioner.*"

8 [2016] ZAGPPHC 737 (23 August 2016).

Others[9] in which it was held that business rescue proceedings come to an end once the creditors had rejected a business plan. In *Artio Investments*, the court considered the judgment in *Oakdene Square Properties (Pty) Ltd and Others v Farm Bothasfontein (Kyalami) (Pty) Ltd and Others*[10] in which it was held:

> *"[38] If the statement is intended to convey that the declared intent to oppose by the majority creditors should in principle be ignored in considering business rescue, I do not agree. As I see it, the applicant for business rescue is bound to establish reasonable grounds for the prospect of rescuing the company. If the majority creditors declare that they will oppose any business rescue scheme based on those grounds, I see no reason why that proclaimed opposition should be ignored. Unless, of course, that attitude can be said to be unreasonable or mala fide.* ***By virtue of s 132(2)(c)(i) read with s 152 of the Act, rejection of the proposed rescue plan by the majority of creditors will normally sound the death knell of the proceedings****. It is true that such rejection can be revisited by the court in terms of s 153. But that, of course, will take time and attract further costs. Moreover, the court is unlikely to interfere with the creditors' decision unless their attitude was unreasonable. In these circumstances I do not believe that the court a quo can be criticized for having regard to the declared intent of the major creditors to oppose any business rescue plan along the lines suggested by the appellants."* (my emphasis)

[25] In *Rogal Holdings (Pty) Ltd and Another v Victor Turnkey Projects (Pty) Ltd and Others*[11] the court considered this issue. In deciding whether the Primrose Gold Mines in fact set out the true legal position with regards to when business rescue ends, the decision was compared and distinguished from that in In *Land and Agricultural Development Bank of South Africa v Agri Oil Mills (Pty) Ltd and Others; Agri Oil Mills (Pty) Ltd and Others v CIPC and Others (Land and Agricultural Development Bank of South Africa Intervening)*[12]. It was held:

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9 (7562/2014) [2014] ZAGPPHC 689 (8 September 2014). See also *Landosec (Pty) Ltd t/a Lasertech and One Other v Raymond Edward McClaren and One Other* 2017 JDR 1492 (ECP) at paras [12] – [13].

10 2013 (4) SA 539 (SCA) at para [38].

11 (53473/2021) [2022] ZAGPPHC 167 (28 March 2022).

12 (KZP) Case No: 3426/ 2019P (13 May 2021).

"[44] *At first blush, the decision in Land and Agricultural Development Bank, supra, seems to promote a different position than what was held by a Full Court of this Division in Commissioner for the South African Revenue Service v Primrose Gold Mines (Pty) Ltd (CSARS-decision). Since I am bound to follow a decision of the Full Court of this Division even if I am of the view that Koen J's decision is correct, it is necessary to have regard to the CSARS-decision. It is of importance that in the CSARS-decision the court defined the 'single and narrow issue' of the appeal as 'whether the respondents [the business rescue practitioners] still held office, and hence had locus standi, when they brought the application for the liquidation of Primrose in August 2014'. The facts underpinning this 'single and narrow issue' were that after the business rescue plan was finally rejected the business rescue practitioners filed a notice of termination with the CIPC. The CIPC did not accept the termination notice as a valid termination of the business rescue proceedings. After this notice was filed, the directors of Primrose proceeded to issue a resolution to place Primrose in business rescue again. The CIPC informed the business rescue practitioners that in its view they remained the business rescue practitioners a that the new resolution by Primrose's directors was regarded as non-existent. The business rescue practitioners then approached the court for a declaratory order in respect of their status as business rescue practitioners. The business rescue practitioners interpreted the court a quo's order that the business rescue proceedings in respect of Primrose were still pending, and 10 months after they filed the termination notice, they launched a liquidation application.*

[45] *It is against this background, where the business rescue plan was finally rejected and a termination notice was filed with the CIPC, that the court on appeal expressed the opinion that 'once a termination notice has been filed, either in terms of section 153(5) or s 141(2)(b)(ii) of the Act, it will end the business rescue proceedings.' The court, on appeal, did not*

engage with the question as to whether the final rejection of a business rescue plan, in the absence of the practitioner or affected parties taking the steps contemplated in s 153, terminates business rescue proceedings. This position was dealt with by Koen J in Land and Agricultural Development Bank of South Africa v Agri Oil Mills (Pty) Ltd,"

[26] On the thesis advanced by Mr. Cawood, the business rescue could remain extant, in the absence of a business rescue plan being adopted as happened in the present matter, for an extended or even indefinite time, in the discretion of the business rescue practitioner.[13] The failure to file a notice of termination in terms of s 153(5) does not override s 132(2)(c)(i). Regarding the filing of the notice, in *Primrose Gold Mines*,[14] the court held that *"The CIPC has no adjudicative function in this regard. Its role is simply to receive and deposit documents required to be filed in terms of the Act."* In the present matter, notice was in any event given to CIPC when the application for conversion was served upon it and so substantively, at least, there was compliance with s 153(5).

[27] Properly construed, the *Primrose Gold Mine* case does not support the case advanced by Mr. Cawood. The view expressed in both *Rogal* and *Land and Agricultural Bank* are consonant with the decision in *Artio Investments* and is to be preferred.

[28] From the authorities it is apparent that the provisions setting out when business rescue proceedings come to an end, set out in s 132(2)(a), (b) and (c) respectively are to be viewed disjunctively, each being a separate and distinct instance when the business rescue proceedings come to an end.

[29] For these reasons I find that the business recue proceedings came to an end in terms of s 132(2)(c)(ii) on 22 January 2016. What of the subsequent application for conversion? It follows that if the application was brought after the business

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[13] Such a situation is inimical to the purpose of business rescue. See *Diener NO v Minister of Justice and Others* 2018 (2) SA 399 (SCA) at para [28] – "*Business rescue is not an open-ended process.*"

[14] *Primrose Gold Mines footnote 7 supra* at para 17.

rescue proceedings had already ended, that the application had no basis in law and was doomed to fail.

[30] This is however not the end of the matter. While the proceedings may have come to an end after the rejection of the business rescue plan, both Mr. Cawood and Danco proceeded until the end of August 2016 on the basis that they had not.

[31] The fact that the parties all laboured under the mistaken belief that Danco was still under business rescue raises for consideration the way in which Mr. Cawood conducted himself – not during the business rescue *per se* but rather during the latter part of August 2016 and regarding the payment of his fees. For his part, he considered himself to be acting as the business rescue practitioner of Danco and his conduct from the time that the business rescue plan was rejected is reflective of this.

[32] During business rescue, the practitioner assumes full responsibility for the management of the company,[15] and is deemed to be an officer of the court. [16]

[33] Being 'an officer of the court' as a business practitioner has been described by courts to encompass the attributes of being "*held to a high professional and ethical standard*"[17] and *"it conveys that a fairly high standard of personal integrity is called for from the person so described."*[18]

[34] In *Samons v Turnaround Management Association Southern Africa NPC and Another*[19] it was held that, *"Business rescue practitioners are in a position of trust and owe substantial duties of care to the public and to the court."* In *Commissioner, South African Revenue Service v Louis Pasteur Investments (Pty) Ltd (in provisional*

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[15] Section 140(1)(a) of the Act. See also *Booysen v Jonkheer Boerewynmakery (Pty) Ltd (in business rescue) and another* [2017] 1 All SA 862 (WCC).
[16] S140(3)(a) of the Act.
[17] *African Bank Corporation of Botswana Ltd v Kariba Furniture Manufacturers (Pty) Ltd and Others* [2015] 3 All SA 10 (SCA) para 35.
[18] *Knoop N.O and Another v Gupta (Tayob as Intervening) supra at* para 33.
[19] 2019 (2) SA 596 (GJ) at para 18.

liquidation) and others,[20] it was held that "*A business rescue practitioner is expected to conduct himself with the utmost good faith and to provide an objective and reasoned approach in assessing the state of the business and then deciding whether or not to continue with the business rescue.*"

[35] It is axiomatic that the business rescue practitioner should always prioritize the needs of the business they are rescuing and the stakeholders of such a business.[21]

[36] It is my view that Mr. Cawood neither conducted himself in a manner nor to a standard expected of a business rescue practitioner. While on his version the proceedings were extant, he, without taking the management or any other stakeholder into his confidence:

[36.1] Opened a new bank account for Danco;

[36.2] Gave instruction to Allan Gray to close the investment;

[36.3] Instructed the payment of the proceeds of the investment into the new account opened by him;

[36.4] Proceeded to pay the sum of R595 958.95 to the Rescue Company in circumstances where it was not a creditor of Danco; and

[36.5] Summarily moved to terminate the business rescue and withdraw the application for conversion.

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[20] 2022 (5) SA 179 (GP) para 86.

[21] See *Robinson v Randfontein Estates* 1921 AD 168 at 177-178 –"*Where one man stands to another in a position of confidence involving a duty to protect the interests of that other, he is not allowed to make a secret profit at the other's expense or place himself in a position where his interests conflicts with his duty.*"

[37] The reason proffered for this series of events was the delivery of the judgment in the *Primrose Gold Mines* case on 23 August 2016. It does not appear from the papers when the new bank account referred to in para [36.1] was opened. However, it must have been opened before the Allan Gray Investment was closed on 1 August 2016. On 22 August 2016, payment was made to the Rescue Company. Both events occurred before the judgment was delivered.

[38] The closure of the new bank account on 25 August, delivery of a notice of termination of business rescue on 29 August and withdrawal of the application for conversion on 30 August 2019, seem to me to have been effected, not to comply with *Primrose Gold Mines* but rather to frustrate any steps by Danco to question or challenge the payment. Danco was presented with *a fait accompli.*

[39] It is not in dispute that there was no contractual *nexus* between Danco and The Rescue Company.[22] It was argued for Mr. Cawood that the establishment of the Rescue Company was so that it could be a vessel for the payment of fees earned by him as a business rescue practitioner. This was something known only to him and only disclosed subsequently.

[40] The Rescue Company was only incorporated and registered during April 2016, some 6 months after Danco was put under business rescue. Its existence or the fact that it was to be used in the manner contended by Mr. Cawood was never disclosed by him to Danco. On the part of Danco, it had no knowledge of the Rescue Company, and it was not a creditor of Danco. Its existence and the purpose for which it was to be purportedly used only came to light on after Danco had demanded information regarding the Allan Gray Investment and after it had been presented with *a fait accompli.*

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[22] Mr. Cawood was appointed as the business rescue practitioner in his personal capacity on 8 October 2015, some 6 months before The Rescue Company was incorporated or registered with the South African Revenue Service as a VAT vendor and some 2 months after the business rescue plan had been rejected by the creditors.

[41] Since I have found that the business rescue terminated in terms of s 132(2)(c)(ii) on 22 January 2016, Mr. Cawood ceased to be the business rescue practitioner and had no authority to either open the new bank account, close the Allan Gray Investment, or pay funds belonging to Danco to anyone, let alone an unconnected third party.[23] For the reasons I have stated, the claim of Danco must succeed.

[42] This does not mean that Mr. Cawood was not entitled to be paid for the work done by him as the appointed business rescue practitioner. Had he invoiced for the work done in his own name or been forthcoming in disclosing his intentions regarding The Rescue Company, the present litigation may well have been entirely avoided.

[43] Danco sought a punitive costs order. It was argued that the way in which Mr. Cawood had conducted himself, particularly regarding the opening of the new bank account and closing of the Allan Gray Investment and thereafter was to be deprecated and warranted censure. I agree and hence the order for costs that I intend to make will be punitive.

[44] In the circumstances it is ordered:

[44.1] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay to the applicant the sum of R595 958.95.

[44.2] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay to the applicant interest on the sum of R595 958.95 at the rate of 10.25% per annum from 22 August 2016 to date of payment, both days inclusive.

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[23] *Landosec supra* at para [13].

[44.3] The first and third respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay the applicant's costs of the application on the scale as between attorney and own client.

A MILLAR

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

HEARD ON:	12 APRIL 2023
JUDGMENT DELIVERED ON:	08 MAY 2023
COUNSEL FOR THE APPLICANT:	ADV. J MÖLLER
INSTRUCTED BY:	JACO VAN RENSBURG ATTORNEYS
REFERENCE:	MR. J VAN RENSBURG
COUNSEL FOR THE FIRST RESPONDENT:	ADV. L VAN DER MERWE
INSTRUCTED BY:	KOSTER ATTORNEYS
REFERENCE:	MR. J KOSTER