

REPUBLIC OF SOUTH AFRICA



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

Case No: 112948/2023

Reportable: Yes
Of interest to other Judges: Yes
Revised: No
Date: 10 May 2024

SIGNATURE

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant

and

ASHLEY MICHAEL YOUNGMAN First Respondent

JUDGEMENT

MOOKI J (MNCUBE AJ concurring):

- 1 The applicant seeks to have the first respondent (“the respondent”) struck from the Roll of legal practitioners. The respondent was admitted and enrolled as an attorney on 5 July 2013. He commenced practising as a sole practitioner under the name and style of “Youngman Attorneys Incorporated” on 6 January 2014. The court suspended the respondent from practising as a legal practitioner on 5 December 2023, following an application by the applicant (“the LPC”) on 31 October 2023. This application is to determine whether the respondent is to be struck from the Roll of legal practitioners.
- 2 The respondent has not participated in the proceedings. He was served with the application and the order suspending him from practice. He was aware of the hearing. He did not enter a notice to oppose.
- 3 The LPC’s primary case is that the respondent misappropriated trust funds. The misappropriation occurred as follows. The respondent received instructions in various transactions pertaining to the sale of immovable

property. Clients deposited funds in the respondent's trust account, for purposes of implementing the property transactions.

- 4 The respondent's conduct essentially followed the same approach. He would receive instructions in a property related transaction. Funds would be deposited into his trust account. He would not carry out the instruction. He would also ignore queries in relation to the instruction. There is an instance of the respondent threatening a client after the client had complained to the LPC.
- 5 The founding affidavit identifies more than twenty complaints concerning the respondent. The following are illustrations of some of the complaints. Ms Mbatha signed an offer to purchase immovable property. She instructed the respondent to attend to the transfer of the property into her name. She paid transfer costs in the amount of R12,862.55 into the respondent's trust account. The respondent never effected the transfer.
- 6 Ms Mbatha eventually lodged a complaint with the LPC. The LPC requested the respondent to comment on the complaint. The respondent did not respond to the invitation. Ms Mbatha lodged a claim with the Legal Practitioner's Fidelity Fund.
- 7 The LPC received a complaint from Mr Hinckley. He had instructed the respondent to attend to the transfer of registration of property into Mr Hinckley's name. Mr Hinckley paid a total amount of R2 518 432.40 into the respondent's trust account. The respondent did not transfer the property into Mr Hinckley's name.

- 8 Attorneys for the sellers in the Hinckley transaction requested the respondent to provide proof that the funds remained available in his trust account. The respondent did not provide the proof. He also did not effect transfer into the name of the complainant. He refused to deliver files and funds in the trust account to the complainant's new attorneys. The LPC notified the respondent of this complaint. The respondent did not reply to the notification.
- 9 The respondent, in another property-related transaction, refused to refund a client the amount of R1 600 000.00. The payment was for the respondent to effect transfer of immovable property into the name of the client. The client complained to the LPC. The respondent sent the complainant threatening messages on email and by text messages after the complainant started making enquiries with the respondent. The respondent informed the complainant that the transaction could not be proceeded with because one of the respondent's companies had been liquidated. The LPC established that the respondent's company had not been liquidated, and that the respondent had misrepresented the facts.
- 10 The complaints against the respondent are not limited to property transactions. They include instances where the respondent was appointed executor of deceased estates. More than two-thirds of the complaints, however, pertain to property-related transactions.
- 11 The respondent is not admitted to practice as a conveyancer. The LPC contends that the respondent contravened the LPA, the Rules, and the Code

of Conduct in holding himself as a conveyancer and purporting to practice as such.

12 The respondent wrote to the LPC on 6 June 2023 requesting a meeting to report his firm's trust deficit. He mentioned that he wished to work with the LPC to ensure that his clients were paid or reimbursed. The meeting occurred on 12 June 2023. The respondent informed officials at the LPC that a Mr Mario Grobler, who owned several estate agencies, approached the respondent to acquire the respondent's legal practice. The respondent sold the practice to Grobler. Grobler paid the respondent a salary once Grobler took over the firm.

13 Grobler was not an attorney. The respondent mentioned that Grobler appointed persons to attend to the firm's conveyancing matters. One of those persons had been struck from the Roll. Grobler is said to have implemented controls on purchasing the practice. One such control was that an independent third party, appointed by Grobler, would audit the firm's trust account.

14 The respondent also related that most of the firm's work originated from Grobler's estate agencies. The firm started receiving complaints 18 months after Grobler took control of the practice. The respondent made enquiries and resolved matters with various clients.

15 The respondent stated that the trust account was in deficit and that Grobler was responsible for the deficit. That was because Grobler controlled the account and authorised all payments from the trust account.

- 16 The firm changed its name to Kharikhobe and Partners. This followed an agreement with a Mr Gogome to become the firm's BEE partner. The change in name was to secure contracts with the government and other entities. The respondent indicated that the contracts did not materialise and the firm is to revert to Youngman Attorneys.
- 17 Mr Reddy, an official at the LPC, attended the meeting referred to above. He also investigated the respondent's firm. Mr Reddy, following his investigation, opined that the firm's continued operation posed a risk to clients. That was because the respondent had admitted that the firm had a trust deficit. Mr Reddy determined, on information available to him, that the firm had a significant trust deficit.
- 18 Mr Reddy's investigation revealed that several of the respondent's trust accounts had been closed. The trust banking account with FNB was closed on 14 August 2018. The trust account with Standard Bank was closed on 16 February 2022. The trust account with Nedbank had a credit balance of R14 931.29 on 31 May 2023.
- 19 Mr Reddy established that the respondent's firm had a trust account deficit in the amount of R6 948 758.24. He expressed the view that the deficit was likely higher because he did not investigate all trust creditors.
- 20 The LPC also contends that the respondent's conduct constituted a failure to account faithfully, accurately and timeously for his clients' money; he failed to treat trust funds separately from his own money, and to retain funds for so long as was strictly necessary; he failed to use his best efforts

to carry out work competently and timeously; he failed to furnish clients with written statements of account setting out, amongst others, details of all amounts received in connection with a matter, including failing to indicate the amount due to or owed by a client.

21 The respondent's conduct fell far short of what is required of a legal practitioner. He was not authorised to hold himself as a conveyancer. He misled the public in this regard. He threatened clients when those clients wanted him to account to them. He largely ignored the LPC when the LPC invited him to respond to complaints against him. His failure to oppose the application is an admission that the case against him is unanswerable.

22 The law on whether a person is fit and proper is well-established.¹ A court makes a finding with reference to the facts before court.² The facts show that the respondent is not a fit and proper person as is required of a legal practitioner. I find that his name ought to be struck from the Roll of legal practitioners. He abused a position of trust in relation to his clients. His removal from the Roll will protect the public.³

23 There are aspects to this application that merit remark regarding the conduct of the LPC in complaints against the respondent.

24 The LPC, as part of making its case against the respondent, stated that the Legal Practitioner's Fidelity Fund, which is used to reimburse persons who

¹ See, for example: *Incorporated Law Society, Transvaal v Mandela* 1954 (3) SA 102 (T) at 10; *Jasat v Natal Law Society* 2000(3) SA 44 (SCA) at 51C -H; *Law Society, Cape v Peter* 2009 (2) SA 18 (SCA) at 26 B-C;

² *Summerley v Law Society, Northern Provinces* 2006 (5) SA 613 (SCA) at 620A.

³ *Ndleve v Pretoria Society of Advocates* 2016 (12) BCLR1523 (CC) at para [10].

suffered pecuniary loss because of theft by a legal practitioner, “is at risk due to the apparent failure by the First Respondent to account for trust funds.” The LPC is correct to raise this concern. The LPC, however, contributed to the risk.

- 25 The LPC failed to take appropriate measures concerning complaints about the respondent over multiple years. The respondent’s mischief would have been arrested much earlier had the LPC effected proper policing of the respondent.
- 26 Members of the public lodged complaints with the LPC concerning the respondent over several years. There were almost monthly complaints about the respondent. There are instances of multiple complaints on the same day. The LPC registered all these complaints. The LPC’s response to the complaints was perfunctory, and fell short of what is expected of the LPC as a regulator of the profession.
- 27 The LPC, on receipt of a complaint, would generally notify the respondent, seeking his comment on a complaint. The notification by the LPC was sometimes made many months after the lodging of a complaint. There is no evidence that the LPC took measures between the lodging of a complaint and the LPC’s notification of that complaint to the respondent.
- 28 The respondent generally ignored notifications sent to him by the LPC. The LPC, in turn, hardly made follow-ups when the respondent ignored the notifications. The LPC, in the meanwhile, continued receiving new complaints during the LPC’s inactivity before notifying the respondent of

the next complaint or whilst awaiting a response to its notification to the respondent.

29 The table below is a summary of the chronology pertaining to some of the complaints associated with the respondent. The table shows the date when a complaint was lodged with the LPC, the nature of the complaint, the date when the LPC notified the respondent of a complaint, and whether the LPC took any action in relation to a complaint. The table illustrates the LPC's failure to properly police complaints against the respondent.

Date	Nature	Notification	Steps by the LPC
11/11/2019	Property related. ⁴	15/11/2019,16/01/2020 Replied on 5/02/2020, saying the matter had been settled, and that withdrawal of the complaint was a term of the settlement. ⁵ 17/02/2020 Replied on 12/02/2020.	None
18/11/2019	Property related.	18/12/2019 Replied on 16/01/2020. Accused complainant of breach. ⁶	Investigating Committee called for a meeting. ⁷

⁴ Pertained to the respondent having been appointed to attend to the transfer of property into the name of the complaint. The complainant purchased properties in 2016.

⁵ Complainant advised on 7 February 2020 that he was not withdrawing the complaint. The complainant advised the LPC on 10/02/2020 that the respondent had been sending him threatening messages.

⁶ Complainant settled with the sellers. The respondent refused to pay the difference, unless the complaint was withdrawn.

⁷ The respondent was called to attend a meeting with the Investigating Committee on 8 June 2023. The respondent asked for a postponement. The matter was postponed *sine die*.

7/10/2021	Property related.	14/10/2021;14/01/2022 , 4/02/2022 ⁸ Replied on 11/12/2021. Said paid third party. ⁹	None
18/11/2021	Refusal to refund client	24/11/2021 No response. ¹⁰	None
28/01/2022	Appointment as executor	1/07/2022 ¹¹	None
26/04/2022	Property related.	24/08/2022,31/01/2023, 27/02/2023 No response	None
6/06/2022	Property related.	21/02/2023 ¹² No response. ¹³	None
5/07/2022	Property related.	14/07/2022,19/08/2022, and 3/11/2022 No response	None ¹⁴
6/07/2022	Property related.	12/07/2022	None ¹⁵
18/11/2022	Property related	6/02/2023 ¹⁶ Replied on 11/04/2023 ¹⁷	None ¹⁸
03/02/2023	Property related	20/02/2023, 3/04/2023	None

⁸ No response to the LPC's letters of 14/01/2022 and 4/02/2022.

⁹ Complainant advised the LPC that he did not authorise payment or that the third party was known to the complainant.

¹⁰ Complainant advised the LPC on 13/12/2021 that the respondent paid. The complainant requested that the complaint be withdrawn.

¹¹ No explanation why the respondent was only notified of the complaint some 6 months after the complaint.

¹²The LPC does not say it was making enquiries pertaining to the complaint. The LPC did nothing between 6 June 2022 and 21 February 2023, a period of some eight months.

¹³ Respondent requested an extension on 27/03/2023 to respond.

¹⁴ LPC wrote to the respondent on 25/10/2022, advising that the matter would be referred to the LPC's investigating Committee. Respondent later wrote that he had notified his insurer and there was a fraud. The LPC did nothing after the respondent's letter of 10/11/2022.

¹⁵ The respondent wrote to the new attorneys on 7/11/2022, stating that the complaint be withdrawn before he could pay. He then wrote to the LPC on 8/11/2022, saying he had settled with the complainant and that he would pay the complainant within 24 hours of the complainant withdrawing the complaint. The LPC took no steps.

¹⁶ For a complaint received in November 2022

¹⁷ Respondent replied, stating that he had settled with the complainant.

¹⁸ The complainant's attorneys wrote (20/04/2023) to say that the respondent had not paid the full amount. The LPC took no further steps.

		No response	
2/03/2023	Property related.	10/03/2023 Replied on 5/04/2023 ¹⁹ Replied on 8/05/2023 ²⁰	None
13/03/2023	Property related.	18/05/2023;10/07/2023 Replied on 21/07/2023	None ²¹
29/03/2023	Property related.	Practitioner not notified of complaint	None
April 2023	Property related.	24/04/2023 No response	None
April 2023	Property related.	Practitioner not notified of complaint	None
April 2023	Property related.	28/07/2023 No response	None
April 2023	Property related.	09/05/2023;12/07/2023 No response	None
4/05/2023	Property related.	28/07/2023 No response	None
23/05/2023	Property related. ²²	24/05/2023 ²³	None
23/05/2023	Property related.	29/05/2023 No response	None

30 The court was informed during the hearing that each complaint to the LPC is identified with reference to a law firm and is then given a unique descriptor. For example, complaints regarding the respondent would be registered as “Youngman/X”, with “X” signifying the unique complaint.

¹⁹ Respondent requested confirmation on 5/04/2023 that the complaint had been withdrawn before the respondent would pay the complainant.

²⁰ Respondent advised the LPC that he settled with the complainant and that the complainant withdrew the complaint. The LPC advised respondent on/06/2023 that the LPC decides whether or not to accept withdrawal of a complaint

²¹ The LPC, in the founding affidavit, does not say that it was satisfied with the response to the complaint.

²² Two complaints.

²³ Replied on 21/06/2023. Complainant’s response to the reply on 17/07/2023

- 31 The court was also informed that the LPC has some 23 officials who deal with complaints lodged against legal practitioners. It is a surprise that the responsible officials at the LPC failed to notice an obvious trend given the large number of complaints against the respondent.
- 32 The following illustrates the LPC's failure to effect proper policing of wayward practitioners, such as the respondent. The LPC called the respondent to appear before the LPC's disciplinary committee on 4 November 2021. The hearing was later rescheduled for 27 January 2022. The respondent wrote to the LPC on 27 January 2022, saying the dispute had been settled.
- 33 The respondent was absent at the hearing on 27 January 2022. The complainant was in attendance. A plea of not guilty was entered on behalf of the respondent. The disciplinary committee was informed that the parties had settled. The complainant informed the sitting that he intended to withdraw the complaint on receipt of payment by the respondent. The hearing was then postponed to 21 February 2022.
- 34 The respondent attended the hearing on 21 February 2022. He requested terms for when he would repay the complainant. The hearing did not proceed. The respondent did not make all payments that he undertook to make. The LPC informed the respondent that the hearing would be re-enrolled. The matter was not re-enrolled.
- 35 It is a concern that the LPC, given the many complaints against the respondent at that time, was prepared to indulge the respondent by not

subjecting him to a disciplinary process only because a complainant had agreed to settle with the respondent. The LPC was aware of other complaints against the respondent at that time. The LPC brought this application in 2023. The LPC had the opportunity to halt the conduct of the respondent at least in 2021.

36 The court was informed during the hearing that there are 51 claims against the respondent with the Legal Practitioners' Fidelity Fund. All but one of the claims pertain to the respondent purporting to act as a conveyancer.

37 The Legal Practitioners' Fidelity Fund has paid R23 491 476.81 as a result of claims made against the respondent. There are several contingent claims valued in the millions of Rand. There would have been far fewer claims had the LPC been diligent in attending to the multiple complaints concerning the respondent.

38 I make the following order:

1. That the name of **ASHLEY MICHAEL YOUNGMAN** (the "First Respondent") be removed from the Roll of legal practitioners.
2. That the First Respondent immediately surrenders and delivers to the Registrar of this Court his certificate of enrolment as a legal practitioner.
3. That in the event of the First Respondent failing to comply with the terms of this order detailed in the previous paragraph within two (2) weeks

from the date of service of this order on the First Respondent, the sheriff of the district in which the certificate is located, be authorised and directed to take possession of the certificate and to hand it to the Registrar of this Court.

4. That the Respondents be prohibited from handling or operating on the trust accounts as detailed in paragraph 5 hereof.

5. That Ignatius Wilhelm Briel, the Director of the Gauteng Provincial Office of the Applicant; or any other person holding that office, be appointed as *curator bonis* (curator) to administer and control the trust accounts of the Respondents, including accounts relating to insolvent and deceased estates and any deceased estate and any estate under curatorship connected with the First Respondent's practice as a legal practitioner and including, also, the separate banking accounts opened and kept by Respondents at a bank in the Republic of South Africa in terms of section 86(1) & (2) of Act No 28 of 2014 and/or any separate savings or interest-bearing accounts as contemplated by section 86(3) and/or section 86(4) of Act No. 28 of 2014, in which monies from such trust banking accounts have been invested by virtue of the provisions of the said sub-sections or in which monies in any manner have been deposited or credited (the said accounts being hereafter referred to as the trust accounts), with the following powers and duties:

- 5.1 immediately to take possession of the Respondents' accounting records, records, files and documents as referred to in paragraph 6 and subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control (hereinafter referred to as the fund) to sign all forms and generally to operate upon the trust account(s), but only to such extent and for such purpose as may be necessary to bring to completion current transactions in which the Respondents were acting at the date of this order;
- 5.2 subject to the approval and control of the Legal Practitioners' Fidelity Fund Board of Control and where monies had been paid incorrectly and unlawfully from the undermentioned trust accounts, to recover and receive and, if necessary in the interests of persons having lawful claims upon the trust account(s) and/or against the Respondents in respect of monies held, received and/or invested by the Respondents in terms of section 86(1) & (2) and/or section 86(3) and/or section 86(4) of Act No 28 of 2014 (hereinafter referred to as trust monies), to take any legal proceedings which may be necessary for the recovery of money which may be due to such persons in respect of incomplete transactions, if any, in which the Respondents were and may still have been concerned and to receive such monies and to pay the same to the credit of the trust account(s);
- 5.3 to ascertain from the Respondents' accounting records the names of all persons on whose account the Respondents appear to hold or to have received trust monies (hereinafter referred to as trust creditors) and to

call upon the Respondents to furnish him, within 30 (thirty) days of the date of service of this order or such further period as he may agree to in writing, with the names, addresses and amounts due to all trust creditors;

5.4 to call upon such trust creditors to furnish such proof, information and/or affidavits as he may require to enable him, acting in consultation with, and subject to the requirements of the Legal Practitioners' Fidelity Fund Board of Control, to determine whether any such trust creditor has a claim in respect of monies in the trust account(s) of the Respondents and, if so, the amount of such claim;

5.5 to admit or reject, in whole or in part, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, the claims of any such trust creditor or creditors, without prejudice to such trust creditor's or creditors' right of access to the civil courts;

5.6 having determined the amounts which he considers are lawfully due to trust creditors, to pay such claims in full but subject always to the approval of the Legal Practitioners' Fidelity Fund Board of Control;

5.7 in the event of there being any surplus in the trust account(s) of the Respondents after payment of the admitted claims of all trust creditors in full, to utilise such surplus to settle or reduce (as the case may be), firstly, any claim of the fund in terms of section 86(5) of Act No 28 of 2014 in respect of any interest therein referred to and, secondly, without

prejudice to the rights of the creditors of the Respondents, the costs, fees and expenses referred to in paragraph 10 of this order, or such portion thereof as has not already been separately paid by the Respondents to the Applicant, and, if there is any balance left after payment in full of all such claims, costs, fees and expenses, to pay such balance, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, to the First Respondent, if he is solvent, or, if the First Respondent is insolvent, to the trustee(s) of the First Respondent's insolvent estate;

5.8 in the event of there being insufficient trust monies in the trust banking account(s) of the Respondents, in accordance with the available documentation and information, to pay in full the claims of trust creditors who have lodged claims for repayment and whose claims have been approved, to distribute the credit balance(s) which may be available in the trust banking account(s) amongst the trust creditors alternatively to pay the balance to the Legal Practitioners' Fidelity Fund;

5.9 subject to the approval of the chairman of the Legal Practitioners' Fidelity Fund Board of Control, to appoint nominees or representatives and/or consult with and/or engage the services of legal practitioners, counsel, accountants and/or any other persons, where considered necessary, to assist him in carrying out his duties as curator; and

5.10 to render from time to time, as curator, returns to the Legal Practitioners' Fidelity Fund Board of Control showing how the trust account(s) of the

Respondents has/have been dealt with, until such time as the board notifies him that he may regard his duties as curator as terminated.

6. That the Respondents immediately deliver the accounting records, records, files and documents containing particulars and information relating to:

6.1 any monies received, held or paid by the Respondents for or on account of any person while practising as a legal practitioner;

6.2 any monies invested by the Respondents in terms of section 86(3) and/or section 86(4) of Act No 28 of 2014;

6.3 any interest on monies so invested which was paid over or credited to the Respondents;

6.4 any estate of a deceased person or an insolvent estate or an estate under curatorship administered by the Respondents, whether as executor or trustee or curator or on behalf of the executor, trustee or curator;

6.5 any insolvent estate administered by the Respondents as trustee or on behalf of the trustee in terms of the Insolvency Act, No 24 of 1936;

6.6 any trust administered by the Respondents as trustee or on behalf of the trustee in terms of the Trust Properties Control Act, No 57 of 1988;

- 6.7 any company liquidated in terms of the provisions of the Companies Act, No 61 of 1973 read together with the provisions of the Companies Act, No 71 of 2008, administered by the Respondents as or on behalf of the liquidator;
- 6.8 any close corporation liquidated in terms of the Close Corporations Act, 69 of 1984, administered by the Respondents as or on behalf of the liquidator; and
- 6.9 the First Respondent's practice as a legal practitioner of this Court, to the curator appointed in terms of paragraph 5 hereof, provided that, as far as such accounting records, records, files and documents are concerned, the Respondents shall be entitled to have reasonable access to them but always subject to the supervision of such curator or his nominee.
7. That should the First Respondent fail to comply with the provisions of the preceding paragraph of this order on service thereof upon him or after a return by the person entrusted with the service thereof that he has been unable to effect service thereof on the First Respondent (as the case may be), the sheriff for the district in which such accounting records, records, files and documents are located, be empowered and directed to search for and to take possession thereof wherever they may be and to deliver them to such curator.

8. That the curator shall be entitled to:
 - 8.1 hand over to the persons entitled thereto all such records, files and documents provided that a satisfactory written undertaking has been received from such persons to pay any amount, either determined on taxation or by agreement, in respect of fees and disbursements due to the firm;
 - 8.2 require from the persons referred to in paragraph 8.1 to provide any such documentation or information which he may consider relevant in respect of a claim or possible or anticipated claim, against him and/or the Respondents and/or the Respondents' clients and/or fund in respect of money and/or other property entrusted to the Respondents provided that any person entitled thereto shall be granted reasonable access thereto and shall be permitted to make copies thereof;
 - 8.3 publish this order or an abridged version thereof in any newspaper he considers appropriate; and
 - 8.4 wind-up of the First Respondent's practice.
9. That the First Respondent be and is hereby removed from office as:

- 9.1 executor of any estate of which the First Respondent has been appointed in terms of section 54(1)(a)(v) of the Administration of Estates Act, No 66 of 1965 or the estate of any other person referred to in section 72(1);
- 9.2 curator or guardian of any minor or other person's property in terms of section 72(1) read with section 54(1)(a)(v) and section 85 of the Administration of Estates Act, No 66 of 1965;
- 9.3 trustee of any insolvent estate in terms of section 59 of the Insolvency Act, No 24 of 1936;
- 9.4 liquidator of any company in terms of section 379(2) read with 379(e) of the Companies Act, No 61 of 1973 and read together with the provisions of the Companies Act, No 71 of 2008;
- 9.5 trustee of any trust in terms of section 20(1) of the Trust Property Control Act, No 57 of 1988;
- 9.6 liquidator of any close corporation appointed in terms of section 74 of the Close Corporation Act, No 69 of 1984; and
- 9.7 administrator appointed in terms of Section 74 of the Magistrates Court Act, No 32 of 1944.
10. That the Respondents be and is hereby directed:

- 10.1 to pay, in terms of section 87(2) of Act No. 28 of 2014, the reasonable costs of the inspection of the accounting records of the Respondents;
 - 10.2 to pay the reasonable fees of the auditor engaged by Applicant;
 - 10.3 to pay the reasonable fees and expenses of the curator, including travelling time;
 - 10.4 to pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator as aforesaid;
 - 10.5 to pay the expenses relating to the publication of this order or an abbreviated version thereof; and
 - 10.6 to pay the costs of this application on an attorney-and-client scale.
11. That if there are any trust funds available the Respondents shall within 6 (six) months after having been requested to do so by the curator, or within such longer period as the curator may agree to in writing, shall satisfy the curator, by means of the submission of taxed bills of costs or otherwise, of the amount of the fees and disbursements due to the First Respondent in respect of his former practice, and should he fail to do so, he shall not be entitled to recover such fees and disbursements from the curator without prejudice, however, to such rights (if any) as he may have against the trust creditor(s) concerned for payment or recovery thereof;

12. That a certificate issued by a director of the Legal Practitioners' Fidelity Fund shall constitute *prima facie* proof of the curator's costs and that the Registrar be authorised to issue a writ of execution on the strength of such certificate in order to collect the curator's costs

MOOKI J

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

I agree:

MNCUBE AJ

**JUDGE (ACTING) OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

Appearance:

On behalf of the Applicant: J M Moolman

Instructed by: Damons Magardie Richardson Attorneys

On behalf of the Respondent: No Appearance

Date of Hearing: 7 May 2024

Date of Judgement: 10 May 2024