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

52781/17
Case no: ~~A339/2017~~

(1) REPORTABLE: YES
(2) OF INTEREST TO OTHER JUDGES: YES
(3) REVISED.

4/7/18 .....

In the matter between:

THE LAW SOCIETY OF THE NORTHERN PROVINCES Applicant

and

MARLON LESLIE STUART First Respondent

RUANN KRUGER Second Respondent

STUART VAN DER MERWE INC. ATTORNEYS Third Respondent

KRUGER & CO INC. ATTORNEYS Fourth Respondent

JUDGMENT

MOULTRIE AJ:

Introduction

[1] This matter revolves around the question of the nature and extent of the professional duty of an attorney practising in an incorporated partnership (i.e. the third respondent firm) to oversee the accounting and financial administration of the firm as a whole and specifically in relation to his partner's matters, in circumstances where he had no involvement in such matters.

[2] In particular, the issue is whether an attorney remains fit and proper to practise as an attorney in circumstances where he is admittedly guilty of professional misconduct because he did not take the steps reasonably required of an attorney to ensure that he was in possession of sufficient information to ensure the adequacy of the accounting and administration systems and where the only steps that he undertook in this regard were limited to the matters in relation to which he has personal knowledge, and not in respect of the firm as a whole or matters in which he was not involved. A further issue is the appropriate sanction that should be imposed in such an instance.

[3] The matter was launched on an urgent basis on 31 July 2017, with Part A seeking urgent relief against the first and second respondents. In Part B, the applicant ("**the Law Society**") sought orders removing them from the roll of attorneys and concomitant relief. Part A was enrolled for hearing on 22 August 2017. On that date, an order was granted by Tuchten J by agreement between the parties in terms of which the first respondent ("**Stuart**") was struck off the roll of attorneys. In the current matter, this court is dealing only with the relief sought against the second respondent.

Facts

[4] In his answering affidavit and in his supplementary affidavit, the second respondent candidly describes the manner in which the firm operated. This is accepted by the Law Society in reply and the relevant facts are largely recorded in its heads of argument. There is no suggestion that the second respondent has sought in any way to conceal any detail relating to the conduct that forms the

basis of the application or that there is any dispute regarding the relevant facts. In brief, the relevant facts (largely extracted from the Law Society's heads of argument) are as follows:

1. The second respondent was admitted as an attorney in 2003. He became a partner of his previous firm in 2004 and practiced as such until 2012.

2. In 2012, the second respondent became a partner of Stuart in the firm, which had been formed in 2007.

3. The second respondent stated under oath that he:

   "became a director at my instance as I had already practised for a substantial period of time and it was important for purposes of status in the eyes of my clients that they deal with a director of the Third Respondent".

4. Stuart and the second respondent practised as co-directors of the third respondent during the period 10 January 2012 until the latter's resignation on 17 February 2017.

5. The second respondent was employed as a director of the firm and held a 1% shareholding therein. He was, however, a salaried director and did not receive any dividends nor was he party to any profit-sharing arrangement during his tenure. The Law Society does not dispute the second respondent's statement that

   "My shareholding however was purely nominal and I had never during the course of my directorship received any other benefits than my salary; no dividends were paid to me as the salaries were structured together with the other overhead expenses to the extent that no profits were generated in the Third Respondent. …

   It was also made clear to the members of staff that due to my virtually insignificant shareholding that I was in effect no more than an employee as far as the First Respondent and the other members of staff were concerned".

6. At a staff meeting, Stuart informed those present that:

   "moenie na Ruann toe hardloop nie agter my rug. Hy werk ook net vir my. Ek is die Baas en niemand anders nie".

7. The individual attorneys in the firm, including the second respondent, ran their own matters, attended to their own files, and wrote their own fees. The second respondent was not involved in the running, marking of fees and administration of files that were attended to by Stuart or any of the other attorneys. The majority of the second respondent's work related to litigation matters, and the trust monies pertaining to his matters were usually fees paid in advance by clients.

8. Although aware of the importance of such matters in an attorney's practice, the second respondent was not involved in the accounting and administration of the firm on a day-to-day basis, except in relation to his own clients and files. The management and the administration of the practice (as opposed to the administration of individual files while actually being litigated) was attended to by Stuart. The second respondent stated that:

   "I trusted the First Respondent, who was my senior and to all intents and purposes my employer, to attend to the financial affairs of the Third Respondent in a responsible and ethical manner and was astounded to hear that [the misconduct] had taken place with his knowledge".

9. The second respondent was not in possession of the relevant codes to operate on the firm's trust banking accounts. Stuart consistently promised the second respondent that this would be addressed, but never was. The second respondent speculates (reasonably in my view) that the reason for this was most probably because it would have resulted in him being in a position to discover Stuart's conduct.

10. The second respondent was only furnished with information regarding the accounting records insofar as they related to his own matters. The firm's experienced bookkeeper would e-mail the fee earners on a daily basis and advise them of any monies received in the trust banking account relating

to matters they were attending to. This seems to have been done on the basis of "*search criteria*" used by the bookkeeper to retrieve selected transactions. The second respondent described that:

> *"I authorized payments after checking that those matters that I attended to had sufficient funds to absorb both overheads and fees from time to time. I regularly reviewed the accounting records in respect of matters attended to by me".*

11. The second respondent did not review the trust accounting records as maintained by the firm's bookkeeper, nor did he have access to the bookkeeper's records. He maintained his own record of trust monies in respect of the matters he was attending to.

12. The second respondent was unaware that the firm had a trust deficit and was of the view that the firm's trust accounting records were being properly maintained considering the firm always received unqualified audit reports. The Law Society does not dispute that Stuart actively sought to conceal his malfeasance from the second respondent, seemingly with the complicity of the bookkeeper.

13. The second respondent was aware of one instance in which Stuart had attempted to improperly draw funds from the firm's trust account. This was brought to his attention by the bookkeeper and the transaction was not proceeded with.

14. There was a further instance in July 2016 when the second respondent became aware of a suggestion of a possible trust shortage. He testified that

> *"I immediately confronted the First Respondent who told me that everything was in control; that no shortfalls exist, but that the auditors had to do simple rectifications".*

15. The second respondent left the firm in March 2017 due to non-payment of his salary, removed his client files and moved his clients to a new firm. The second respondent is currently practising as an attorney as a sole

practitioner for his own account under the style of Kruger & Co Incorporated Attorneys (the fourth respondent) at 105 Club Avenue, Waterkloof, Pretoria, Gauteng Province.

16. On 11 May 2017, the Law Society received an anonymous tip-off that there was a deficit in the trust accounts of the third respondent, which ultimately led to the current proceedings.

[5] The Law Society's case against the second respondent is based on an admitted shortage in the firm's trust accounts and on the admitted failure by the second respondent to take adequate control and oversight of the firm's accounts and finances. The gravamen of the charge against the second respondent as it emerges from the Law Society's affidavits is that although there is no evidence that he was in any way responsible for the trust deficit, he is liable to be professionally disciplined because the second respondent "*did not take on the duties and responsibilities of a director*", was "*complacent in his duties as a director*" and "*one partner cannot blame the other*" because "*partners are jointly liable for irregularities in a practice and contraventions of the Attorneys' Act and the Law Society's rules*".

The applicable law

The Court's power and approach to sanction

[6] In determining the question whether the second respondent is a fit and proper person in terms of section 22(1)(d) of the Attorneys Act, 53 of 1979 ("**the Act**") the court must undertake a three-stage inquiry:

1. firstly, whether or not the alleged offending conduct has been established on a preponderance of probabilities;

2. secondly, whether "*in the discretion of the court*", the second respondent is not a fit and proper person to continue to practise. This entails a value judgment and is not a strictly factual question;[1] and

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[1] *Law Society of the Good Hope v C* 1986 (1) SA 616 (A); *Law Society of the Good Hope v Budricks* 2003 (2) SA 11 (SCA).

3. thirdly, whether in all the circumstances, the second respondent is to be removed from the roll of attorneys or whether an order suspending him/her from practice for a specified period (or indeed another penalty altogether, if it is found that the attorney is indeed fit and proper to continue practise) will suffice.

[7] In the *Malan* case, Harms ADP noted that …

> *"… logic dictates that if a court finds that someone is not a fit and proper person to continue to practise as an attorney, that person must be removed from the roll. However, the Act contemplates a suspension. This means that removal does not follow as a matter of course. If the court has grounds to assume that after the period of suspension the person will be fit to practise as an attorney in the ordinary course of events it would not remove him from the roll but order an appropriate suspension."*[2]

[8] The sanction imposed will depend on factors such as the nature of the conduct complained of, the extent to which it reflects upon the person's character or shows him to be unworthy to remain in the ranks of an honourable profession, the likelihood or otherwise of a repetition of such conduct and the need to protect the public. Ultimately this is a question of degree. In deciding whether an attorney ought to be removed from the roll or suspended from practice, the court is not first and foremost imposing a penalty. The main consideration is the protection of the public.[3]

[9] On the other hand, if a court finds that an attorney is guilty of unprofessional conduct but that such conduct does not make him unfit to continue to practise, then "*the court may discipline the attorney by suspending him from practice with or without conditions or by reprimanding him.*[4]

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[2] *Malan & Another v Law Society, Northern Provinces* 2009 (1) SA 216 (SCA) para [8].

[3] *Jasat v Natal Law Society* 2000 (3) SA 44 (SCA).

[4] *Malan* (above) para [5].

Proper approach in cases of "partner misconduct"

[10] An attorney who leaves the management of the administration and finances of his practice to another person, even another attorney, and pays no further heed to it, either in setting up the systems to be followed or in monitoring them may be found guilty of misconduct in their own right under the principle of dereliction of duty, which is discussed further below.

[11] Although the applicant's representative did not press the issue in oral argument, it is necessary to emphasise that an attorney cannot, however, be found guilty of professional misconduct solely because a partner has engaged in professional misconduct, and irrespective of his or her own conduct, as the Law Society suggests in its replying affidavit. One attorney is not guilty of professional misconduct solely because of the professional misconduct of his or her partner in relation to the running of a matter for which the partner is responsible. While it is true that partners and co-directors of incorporated partnerships are jointly and severally liable for the debts and financial obligations of the partnership and for losses arising from the professional misconduct of their partners, this does not extend to infringements of professional obligations.

[12] The *Cirota* case[5] is not authority for the proposition that an attorney may be found guilty of the professional misconduct of his partner – it is clear that significant portions of the judgment are directed towards dismantling the second appellant's argument that he was never personally involved in the alleged touting that the firm had undertaken and had no knowledge of it. Indeed, it would appear from this that the Appellate Division accepted the argument of LW Ackerman SC and MM Joffe included in the reported judgment to the following effect:

> *"The principles of vicarious liability, which apply to co-partners in regard to contractual and delictual liabilities, cannot simply be transported into matters involving professional misconduct. In the latter cases each partner's culpability and the degree thereof ought to be evaluated in the light of all the facts bearing on his own actions and particular*

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[5] *Cirota and Another v Law Society, Transvaal* 1979 (1) SA 172 (A).

circumstances. Cf Incorporated Law Society (OFS) v V 1960 (3) SA [887 (O)] at 892B – C".

[13] It is also noteworthy that the Appellate Division raised no eyebrow regarding the evidence that only one of the partners was "*concerned with the bookkeeping and administrative side of the partnership*".

[14] The facts in the case referred to in Ackerman and Joffe's argument (*Law Society (OFS) v V*) are instructive. In that case, it was alleged that the respondent, while practising in partnership with one Heath, failed to ensure that the books relating to the trust account of the partnership were properly kept and that sufficient funds were kept on hand to meet the claims of trust creditors. The facts were as follows:

> *"It is common cause that prior to 1st July, 1957, the said Heath had been in practice as an attorney in Bloemfontein for some years, at one time in partnership with one Parkinson, and thereafter on his own account for a short period, and that immediately before respondent entered into partnership with him on 1st July, 1957, there was a considerable deficiency in his trust account of which the respondent was clearly unaware. From the papers before us it appears that, according to the books of account of the partnership, this deficiency increased after the 1st July, 1957 ...*
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> *When the respondent entered into partnership with Heath on 1st July, 1957, he was a young man of 26 years and an attorney of 4 years' standing, while Heath was a man of 58 years and a senior attorney of many years' experience. It is quite clear from the papers that Heath was at that time generally regarded by members of both branches of the legal profession in Bloemfontein as a man of substance, high repute and unquestionable integrity. ...*
>
> *It would not be surprising therefore, if the respondent had felt flattered and honoured at Heath's invitation to join him in partnership, which invitation it is clear the respondent was eager to accept as he regarded it as one of the greatest opportunities that could have been offered to him in his career. Under these circumstances respondent would*

undoubtedly have been careful to refrain from prejudicing in any way the conclusion or continuation of the partnership which had been offered to him and, in view of Heath's high reputation, it is not surprising that the respondent was perfectly satisfied to agree, on the insistence of Heath, that the latter alone would be responsible for the administration of the office and the control of the books of account and the investments and the trust moneys of the partnership, and that the respondent was not to concern himself with that at all, but to attend solely to the legal work of the firm.

The respondent states that to his knowledge a reputable firm of auditors was responsible for auditing the books and accounts of the firm which were kept by an experienced bookkeeper employed by the partnership and generally regarded as most reliable. Under all these circumstances he had no reason whatsoever to make any investigations into the conduct of the financial business or books of the partnership. It was only after Heath had been gravely ill for some months and when the possibility of Heath's death and the responsibility of the conduct of all the partnership's affairs devolving upon him alone occurred to him, that the respondent considered it his duty to fully acquaint himself with the financial aspects of the firm's business. A consequent investigation by him of the firm's books during April, 1959, revealed a considerable deficiency in the trust account. This was confirmed by the auditors and the respondent thereupon immediately reported the position to the secretary of the applicant Society. A few days later Heath died."[6]

[15] The court expressly emphasised that the finding of blameworthiness that it made against the respondent was not based on some form of vicarious liability, but rather on the basis that the arrangement that the respondent had made with Heath was "*coupled with the fact that thereafter and in accordance with that arrangement the respondent did not once concern himself with the books of the partnership and the state of its trust account*". In the event, the court ordered a reprimand.

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[6] *Incorporated Law Society (OFS) v V* 1960 (3) SA 887 (O) at 888C-889E.

[16] A very similar result was reached, for very similar reasons, in *Incorporated Law Society (Tvl) v K*, where the court found that the second respondent "*had not in any way concerned himself with the manner in which that account had been run or with the question whether sufficient money was always retained in the trust banking account to provide for the accounts of the trust clients*".[7] The court emphasised that:

> *"His guilt extends not from the direct default in making the necessary provisions or in contravening the section of the Act but in the fact that he failed to ensure, as an attorney of this Court, that the partnership firm was complying with the requirements of the section, and as a partner he was admittedly guilty of that charge."*

[17] It should also be recalled that this case and the *Visse* case[8] of this period referred to in the Law Society's heads of argument were decided against the backdrop of a reverse onus provision imposing criminal liability against partners contained in section 381(7) of the Criminal Procedure Act, 56 of 1955 that no longer exists, and which would in any event constitute and unjustifiable breach of the presumption of innocence contained in section 12 of the Constitution. In any event, none of them constitute authority for the proposition that an attorney can be held liable for the professional misconduct of his or her partners without misconduct on his or own part such as a dereliction of duties. The *Matthews* case[9] relied upon in the Law Society's heads of argument takes the matter no further.

[18] To hold otherwise would not only be patently unfair but would permit of absurd results. On this principle, an attorney could for example be struck off the roll because his or her partner assaulted a client in a meeting at which he or she was not present and which he or she had no power to prevent. Furthermore, it would create the ironic situation that an attorney who works in partnership labours under a duty over and above those which applies to attorneys in sole practice: not only must such an attorney ensure his own compliance with professional

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[7] *Incorporated Law Society, Transvaal v K and Others* 1959 (2) SA 386 (T) at 387 - 388.

[8] *Incorporated Law Society, Transvaal v Visse and Others* 1958 (4) SA 115 (T).

[9] *Law Society, Transvaal v Matthews* 1989 (4) SA 389 (T).

duties, but he must also ensure the compliance of other attorneys who themselves are under the same professional duties.

[19] To the extent that the Law Society may seek to rely on the recent *Cowling* decision[10] (this is not referred to in the heads of argument):

1. It is clear from paragraph 112 of the *Cowling* judgment that the finding of professional misconduct against Janeke arose from the fact that he was found to have been "*grossly in breach of his duties*". This is not surprising, in view of Janeke's admission that "*the financial management and bookkeeping was left entirely to Cowling*" and the fact that he said that "*he would not be surprised if Cowling was involved in money laundering activities*". In paragraph 137, the court confirmed that Janeke had been found guilty of "*dereliction of his duties*", not of the misconduct perpetrated by Cowling.

2. The further statement in paragraph 112 that Janeke was "*100% accountable for any mismanagement of the company, financially or otherwise*" was simply a statement regarding his liability for losses arising from any financial or other mismanagement, which is one of the ordinary incidents of a partnership or a professional firm established under the Attorneys Act. It did not lay down a *dictum* to the effect that Janeke was liable to a finding of professional misconduct for any such mismanagement.

3. This is underlined by paragraph 132, which makes it clear that the statement in paragraph 133 that "*there is no exemption to liability on matters of this nature*" was a mere "*analogy on partnership practices*". Furthermore, what was actually concluded by the court in paragraph 133 is that attorneys "*must always be vigilant on matters of trust otherwise they will be equally liable*" – not that they can held (professionally) liable for their partners' misconduct (as opposed to losses arising therefrom).

[20] As such, the proper question for determination in cases of "*partner misconduct*"

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[10] *Law Society of the Northern Provinces v Cowling* 2016 JDR 1512 (GP).

is whether the attorney in question was guilty of dereliction of duty in the sense that he failed to take the measures that a reasonable attorney would have taken in the circumstances to detect his partners' misconduct and prevent the occurrence of the harm that eventuated. This question must be evaluated on a case-by-case basis, taking into account the specific risks and circumstances that apply in each instance. Even then, there are only limited circumstances under which a merely negligent (as opposed to reckless or directly intentional) failure in this regard could be regarded as unprofessional conduct justifying a striking from the roll of attorneys.

[21] When it comes to trust moneys, the issue is whether the attorney had sufficiently interested himself/herself in the books of account of the firm, not simply whether a non-compliance had taken place. In other words, there is and can be no "strict" liability of partners for the non-compliance of other partners. To the extent that the *Cowling* judgment holds otherwise, I consider that it was wrongly decided.

Analysis

[22] I am satisfied that the second respondent was not aware of Stuart's misconduct. Indeed, it is apparent that Stuart took active steps, seemingly together with the firm's bookkeeper, to prevent the malfeasance coming to the second respondent's knowledge. It is significant that Stuart, in his answering affidavit promised to make good the trust account shortage in its entirety and made no effort to suggest that the second respondent should be in any way liable in this regard. It is thus apparent that Stuart recognised that he, and he alone, was responsible for the shortage. For the reasons set out above, the second respondent cannot be held directly responsible for Stuart's secret manipulation of the firm's administration and accounting systems, but can only be held liable for his own misconduct in failing to take necessary steps in this regard.

[23] The second respondent rightly concedes, however, that he is guilty of professional misconduct in failing to take the steps that a reasonable attorney would take to ensure control over the finances and administration of the firm. Given that the trust moneys of the firm were pooled, I am persuaded that such steps that the second respondent did take (i.e. ensuring that no more was paid

out of trust in relation to his own matters than should have been) could in no way have assisted to prevent the abuse of the funds by Stuart. The second respondent's failure to perform his duties thus posed serious potential risks to all of the firm's clients (including his own), as well as the Attorneys Fidelity Fund that persisted over an extended period of approximately five years. While the second respondent enjoyed the benefits (in his own word, "*status*") of being a director of the firm during this period, he failed to take on, or even appreciate, the responsibilities of that position. Although this may possibly have been the result of the imbalance of power between him and his co-director, it is irrelevant that he was only a 1% shareholder. In the circumstances, I am of the view that the second respondent's conduct as a director of the firm at all times prior to February 2017 was not consistent with that of a fit and proper attorney.

[24] I do not, however, accept (and the Law Society's representative rightly conceded in oral argument) that the second respondents failure to appreciate and fulfil his responsibilities was a permanent "*character defect*", and there was no suggestion of dishonesty. Furthermore, it would appear that Stuart's active measures to deceive the second respondent were such that his malfeasance would probably not have been detected even if the second respondent had indeed acted with due professional care (the trust account shortages were not detected by the firm's external auditors despite having been going on at least since 2015). I thus take the view that the second respondent's professional misconduct at the time does not merit his removal from the roll of attorneys. While a mere reprimand is inappropriate in view of the need to emphasise the seriousness of the misconduct involved and to 'send a message' to other attorneys in a manner that will meet the objective of protecting the public, I consider that it merits a suspension from practice on the basis that (in the words of Harms ADP), "*after a period of suspension the [second respondent] will be fit to practise as an attorney in the ordinary course of events*".

[25] That, however, is not the end of the matter. The question arises whether on the facts of this case, it would be appropriate to suspend the suspension.

[26] It is significant that the whole episode has evidently served as a significant 'wake-up call' to the second respondent. He has consistently stated that he

"*deeply regrets*" his lack of diligence in his duties as director of the firm. He states that:

> *"If I could reverse time, with the benefit of hindsight, I would certainly have adopted a totally different approach. My failure to have been more diligent in my duty as a director of the third respondent has, since I became aware of the investigations of the applicant into the affairs of the first and third respondents caused me tremendous trauma and still causes me ongoing trauma. …*
>
> *Due to the fact that this pending application has such a huge emotional impact upon me and my family, I have revisited the unfortunate circumstances and facts of this matter several times. Questions about what I could have done and what I should have done in the circumstances have been keeping me awake and bothering me since the first respondent admitted to what transpired."*

[27] This has resulted in the second respondent becoming hyper-vigilant regarding the treatment of trust monies in his own practice. In this regard, the respondent stated as follows:

> *"In my present practise I have since its inception (and more particularly so due to the lessons learned from the present unfortunate events) guarded the affairs of the fourth respondent, with specific emphasise on the trust account affairs of the fourth respondent and interests of the fourth respondent's clients, like a lioness guards her cubs."*

[28] In its short history, the second respondent's current firm has operated with a clean bill of health and there is no suggestion that his practice is currently anything but a model of probity.

[29] It will be recalled that the main consideration in matters such as the current one is not punishment, but rather the protection of the public. I consider that that the second respondent currently poses little foreseeable risk to the public.

[30] For these reasons, I am of the view that although the second respondent's previous conduct was not consistent with that of a fit and proper attorney, he is

currently fit to practise as an attorney and that no purpose would be served by requiring him to serve a suspension.

[31] In summary, the conduct of the second respondent was unacceptable, unprofessional, and shows negligence and at least inattention. Although there was no evidence of dishonesty or he has not benefitted financially, the second respondent's conduct at the time was not befitting a fit and proper attorney. While the second respondent's conduct justifies a suspension from practice, he has clearly learnt his lesson and I do not believe that he is currently unfit to continue practising as an attorney. The only question is whether the lesson will be converted into practice and the appropriate sanction is therefore to suspend the suspension on conditions relating to the second respondent's compliance with the applicable rules in relation to trust monies and the keeping of accounting records.

Costs

[32] I have found that the second respondent is guilty of unprofessional conduct that merits a suspension from practice, albeit suspended. Given that the Act grants the Law Society no power to impose such a sanction, it was left with no alternative course but to pursue the current proceedings against the second respondent. Even though the second respondent did not dispute his guilt, it is customary for a respondent in a matter such as this to be ordered to pay the costs of the Law Society on the attorney and client scale.[11]

[33] Stuart has already been ordered to pay the costs of the application comprising the costs of the founding papers and the hearing before Tuchten J on an attorney and client scale. In the circumstances, it is appropriate that the costs order should apply only in relation to the costs incurred since the date of that order.

Order

[34] In the premises, the following order is made:

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[11] *Botha v Law Society of the Northern Provinces* 2009 (1) SA 227 (SCA) 236F; *Law Society of the Northern Provinces v Mogami & Others* 2010 (1) SA 186 (SCA) at para [31]. cf. *Law Society of the Northern Provinces v Sonntag* 2012 (1) SA 372 (SCA) at para [20] and *Law Society of the Northern Provinces v Dube* [2012] 4 All SA 251

1. The second respondent is suspended from practising as an attorney for one year.

2. The suspension referred to in (1) above is suspended for three years with effect from the date of this order on condition that it is not finally determined (whether by the Law Society or a court) that the second respondent has contravened any of the following Rules of the Attorneys Profession promulgated in GN 2 of 2016 (Government Gazette 39740 of 26 February 2016):

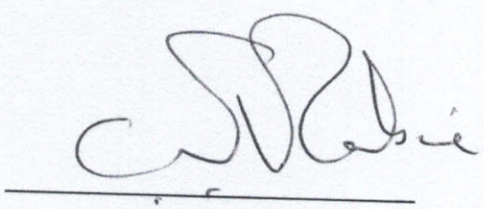
    i. Rule 35.5;

    ii. Rule 35.13.7.1;

    iii. Rule 35.13.9; and

    iv. Rule 35.13.14.

3. The second respondent is ordered to pay the applicant's costs arising after 22 August 2017 on the attorney and client scale.



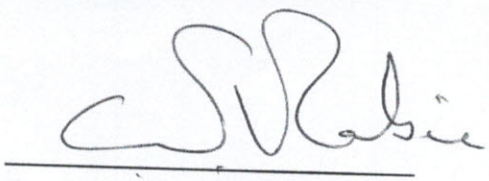
RJA MOULTRIE

Acting Judge of the High Court

Gauteng Division, Pretoria

RABIE J:

I agree and it is so ordered.



CP RABIE

Judge of the High Court

Gauteng Division, Pretoria

DATE HEARD: 3 May 2018

JUDGMENT DELIVERED: 04 July 2018

APPEARANCES

For the Applicant:	L Groome
Instructed by:	RW Attorneys, Pretoria
For the Respondent:	Adv O Basson
Instructed by:	Klagsbrun Edelstein Bosman De Vries, Pretoria