



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
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STATUS Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Law Society of the Northern Provinces v Viljoen (094/2010) and Law Society of the Northern Provinces v Dykes (648/2010) [2010] ZASCA 176 (02 December 2010)

The Supreme Court of Appeal today dismissed two appeals brought by the Law Society of the Northern Provinces against two judgments by two judges in two separate matters heard at the North Gauteng High Court.

These matters involved two firms of attorneys practising as conveyancers under the appellant's jurisdiction who had applied for fidelity fund certificates for 2010 in terms of s 42 (3) (a) of the Attorneys Act 53 of 1979. Relying on a Council Resolution dated 22 June 2009, second respondent (the secretary) refused to issue the fidelity fund certificate. The reason proffered is that both respondents had cases pending against them either for their suspension or removal of their names from the roll of attorneys.

The Council Resolution provided that where the Council had resolved to proceed with an application for the suspension or removal of an attorney from the roll of attorneys, a fidelity fund certificate should not be issued to the applicant, unless the Council for good reason decided otherwise.

Both courts below had found that s 42 (3) (a) cannot be interpreted to be so broad as to encompass the issue of pending proceedings to, either suspend or have the attorney's name from the roll. The SCA found that the Council Resolution was vague and so unclear that an

applicant would not know exactly what it is that the society required him or her to do as a requirement to qualify for a fidelity fund certificate. The SCA found further that the Council Resolution is not related to the legislative purpose served by the issue of a fidelity fund certificate. The SCA confirmed the findings of the courts below.