

SOUTH AFRICA / JUDGMENT

Law Society for the Northern Provinces v Melamed (44638/2018) [2019] ZAGPPHC 1091 (21 November 2019) [2019] ZAGPPHC 1091

COURT

North Gauteng High Court, Pretoria

BEFORE

Neukircher, Kumalo

CASE / FILE NUMBER

44638/2018

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Policy

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

(1)

REPORTABLE: NO
(2)
OF
INTEREST TO OTHER JUDGES: NO
(3)

REVISED: YES
21/11/2019
CASE
NO: 44638/2018
In

the matter between: THE LAW SOCIETY
OF THE NORTHERN PROVINCES
APPELLANT
and
STEPHEN
MELAMED
RESPONDENT

JUDGMENT**THE COURT****INTRODUCTION**

1] The respondent before is an attorney who was admitted to practice, and still does, on 17 October 1978. His name still appears on the roll of attorneys, and he practises for his own account in Johannesburg.

BACKGROUND

2] On 25 August 2014 R[....] P[....] S[....] and A[....] M[....] S[....] (the parties) were divorced. As part of their decree, the Settlement Agreement (the agreement) they signed^[1] made provision for a Trust to be established. The relevant provisions of the agreement provided that inter alia:

2.1 the SAC S[....] Trust (the Trust) was established for the education of the S[....] children who are also the income and capital beneficiaries of the Trust to be established;

2.2 the parties would each nominate a trustee of the Trust;

2.3 the Trust capital was to be secured from Mr S[....]'s 34% share in the sale of a property in London which would be transferred to the trust account of the respondent's firm;

2.4 the funds would be invested in an interest-bearing trust account pending establishment of the Trust and, once established, the funds would be transferred to the Trust;

2.5 the funds received by the Trust were to be utilized f=to give effect to the purpose of the Trust and for the purchase of a property (selected by Mr S[....]) which would be registered in the name of the Trust.

3] Mr S[....] nominated the respondent as trustee of the Trust and Mrs S[....] nominated A[....] V[....] (V[....]).

4] On 7 August 2014 Mr S[....] purchased an immovable property utilizing some of the funds belonging to the Trust (to be established). The property was registered in the name of a company of which Mr S[....] was the sole director and the Trust the sole shareholder.

5] In August 2014, an amount of R6 885 373-73 was paid into the respondent's trust account from Mr S[....]'s 34% share of the net proceeds of the London property:

4.1 on 14 August 2014 the respondent transferred the remaining funds into an interest-bearing account held at Standard Bank;

4.2 on 30 September 2014, the Trust Deed was signed by L[....] S[....]^[2] V[....] and the respondent;

4.3 the Master of the High Court issued letters of authority to the respondent and V[...] on 30 October 2014;

4.4 the respondent failed to transfer the trust funds to the Trust.

5] As it turns out, the respondent failed to properly perform his duties as Trustee and, as a result, on 19 May 2016, the Master removed him.

6] Aggrieved by this decision, the respondent then launched review proceedings. This application (which was opposed) was eventually heard on 3 September 2018. The respondent failed to appear and the application was dismissed.

7] In the meantime, and as review proceedings did not suspend the Master's decision, various demands were made by V[...] that the respondent pay over the monies to the Trust - the respondent simply failed to do so and this led to an application to compel being launched against him which was successful.[3] The respondent's application for leave to appeal and his petition were also both unsuccessful[4].

8] These orders notwithstanding, the respondent continued to ignore the continued and regular demands to pay the monies to the Trust.

Although on many occasions he gave undertakings that payment would be made, he simply failed to do so.

9] Eventually, on 5 December 2017, the respondent was found in contempt of court and ordered to comply with the order[5] within 5 days of service of the order on him. The order was emailed to him and he acknowledged receipt of it - to no avail. In fact, at no stage during this application was it ever contended that he did not receive that order.

10] To date, the funds are unaccounted for, and a claim has been accepted by the Attorneys Fidelity Fund.

THE PRESENT APPLICATION

11] On 24 July 2018 the (then) Law Society of the Northern Provinces launched an application to suspend the respondent from practice, with the view of eventually striking the respondent's name off the roll of attorneys[6]. An order suspending him from practice was granted on 24 July 2018 with a return date of 14 March 2019. The respondent eventually filed his answering affidavit[7] on 2 March 2019. This led to the matter being postponed to 31 October 2019 when it was heard by this court.

THE COMPLAINT

12] It is unnecessary to enumerate each and every complaint lodged by the applicant[8]-the highlights will be set out and dealt with in this judgment. Suffice it to say that the complaints are serious and numerous. They are inter alia that:

12.1 the Respondent appears to have abandoned his practice;

12.2 the Respondent was not in possession of a fidelity fund certificate for the year 2018;

12.3 the Respondent failed to submit his auditor's report for the period ending February 2017 to the Law Society;

12.4 the Respondent persistently failed to account in respect of his trust funds;

12.5 the Respondent delayed the payment of trust funds to the Trust;

12.6 a claim in the amount of R4,181,536.85 has been lodged against the Attorneys Fidelity Fund founded on the misappropriation of trust

funds by the Respondent;

12.7 the Respondent failed to comply with an order of court compelling him to account for the trust funds and has also been found to be in contempt of court by an order of the High Court;

12.8 the Respondent failed to honour undertakings to account for the trust funds;

12.9 the Respondent has in all likelihood misappropriated substantial amounts of trust funds; and

12.10 the Respondent has placed his trust creditors as well as the Attorneys Fidelity Fund at risk.

THE DEFENCE

13] In the affidavits filed by the respondent he sets out his defence to this application.

Inter alia:

13.1 he denies that he abandoned his practice. Instead, his explanation is that he was overseas for extended periods at a time and as a result of his prolonged absence from his office he "took [his] eye off the ball";

13.2 the respondent states that he allowed "essential and important administrative functions to fall by the wayside" and he relied heavily on his staff and gave them an "unfettered discretion to manage themselves" - he rarely questioned their conduct and judgment;

13.3 as to the missing and unaccounted for R4.1 million, he states "I suspect that the[9] were depleted over a period of time to pay the expenses of the practice without my knowledge or consent", but his excuse is that he "never personally gained any material benefit from the utilization of the funds";

13.4 he denies that he required a Fidelity Fund certificate for 2018 as he was mostly travelling overseas for that period and he was thus not "in practice" or "practising" as an attorney.

14] Interestingly, he denies misappropriating the trust funds, His argument is that although the original amount of approximately R6,6 million was paid into his trust account during August 2014, the money was then transferred into a different account[10] and from there it went missing. Thus, his argument goes, as the money was not in an attorney's trust account at the time, no claim lies against the Fidelity Fund and this then would exclude the applicant's locus standi.

15] In his affidavits, the respondent then admits that he is personally responsible for the loss of the funds and also admits that he is guilty of negligent conduct but eschews actual responsibility for the misappropriation of the money that was set aside for the maintenance and support of the S[...] minor children.[11]

16] At the hearing of this matter, Mr Antonie relied on two main arguments:

16.1 the first is that as the respondent did not practice as an attorney from 1 January 2018 he did not need a Fidelity Fund certificate. The argument is that, in any event, the applicant was in possession of the respondent's books of account for an extended period of time[12] and that no evidence had been adduced by the applicant which established that the respondent did practise as an attorney;

16.2 the second is as regards the appropriate sanction that should be imposed which he submits should be one similar to that imposed in *The Law Society of the Northern Provinces v Kyle*[13].

THE RESPONDENT'S ARGUMENT

17] As regards the issue of whether the respondent required a Fidelity Fund certificate or not, the following is relevant:

17.1 in terms of s18 of the Regulations[14] to the Legal Practice Act "18 Specific provisions relating to conduct of attorneys An attorney shall-

18.1 refrain from accepting from any person directly or indirectly any sum of money or financial reward which it is agreed or intended should be used as payment or part payment for services to be rendered or for disbursements to be made in the future in the event of any future act or omission forming the basis of any criminal charge against the person by or for whose benefit such payment was made;

18.2 issue and, on request, hand over or otherwise deliver to the person making payment, a receipt for any money received;

18.3 exercise proper control and supervision over his or her staff and offices;

18.4 not abandon his or her practice;

18.5 not close his or her practice without prior written notice to the Council and to his or her clients and without arranging with the clients for the dispatch of their business or the care of their property in his or her possession or under his or her control;

18.6 if he or she is practising as a sole practitioner, and intends to be absent from his or her practice for a period in excess of 30 consecutive days, give notice in writing to the Council at least 14 days prior to his or her departure of the arrangements which he or she has made for the supervision of the practice during his or her absence. The attorney may, in the case of urgency only, give the Council a shorter period of notice. In the notice the attorney must inform the Council-

18.6.1 which other attorney will be supervising his or her practice;

18.6.2 the extent of the supervision which the other attorney will exercise;

18.6.3 what arrangements he or she has made for the payment of business and trust creditors; and

18.6.4 the reason for the late notice, if applicable.

17.2 The precursor to this rule was Rule 21 of the Attorneys Act^[15] Regulations^[16] which provided as follows:

"Practitioners who cease to practise and winding up of abandoned practices

26.1 Before applying for the removal of his or her name from the roll a practitioner who practises or has practised for his or her own account in the area of jurisdiction of the society shall:

26.1.1 advise the secretary in writing of that fact;

26.1.2 unless exempted by the Council, furnish the secretary with a certificate by an auditor approved by the Council, or such other proof as the Council may require, that proper provision has been made for the liquidation, taking over or protection of all trust money;

26.1.3 satisfy the Council by affidavit or otherwise, as the Council may require, that:

26.1.3.1 all obligations to clients have been discharged or duly assigned with such consents as may be necessary; and

26.1.3.2 any other requirements, including those set out in rules 35.29 and 35.30, which the Council deems necessary for the protection of trust money or other assets held in trust, the completion of work on hand, the handling of queries and in general the orderly winding up of his or her practice or former practice, have been met;

26.1.4 state in his or her application that he or she has complied with the provisions of this rule 26.1.

26.2 Before or as soon as may be after ceasing voluntarily to practise for any reason other than pursuant to rule 26.1, a practitioner who practises or has practised for his or her own account in the area of jurisdiction of the society shall comply with the provisions of rule 26.1 other than those of rule 26.1.4 and shall thereafter inform the secretary in writing of any changes in his or her business, postal and residential addresses for a period of three years from the date of his or her ceasing to practise or for so long as his or her name remains upon the roll, whichever period

is the shorter.

26.3 Without derogating from the provisions of rules 26.1 and 26.2, should a practitioner who practised as the sole proprietor of a practice in the area of jurisdiction of the society, for any reason whatsoever have ceased so to practise without having, in the view of the secretary, made adequate arrangements for the continuance or winding up of his or her practice or for the protection of his or her or his or her clients' affairs or property, any firm may, at the request and under the direction of the secretary, take such steps as may appear necessary to ensure that such practice is wound up with reasonable expedition, subject to any right which such firm may have to recover the reasonable expenses of such winding up or other compensation from such practitioner or from his or her estate or from any other source. Where the secretary himself or herself intervenes or assists a practitioner for the purpose of winding up the practice of the practitioner concerned, he or she will also be entitled to recover from the practitioner or from his or her estate, on behalf of the society, the reasonable expenses incurred by him or her and reasonable compensation for the work done by him or her in connection with his or her assistance or intervention."

17.3 Thus, irrespective of which of the Regulations one applies, it is clear that an attorney cannot simply cease to practice - a procedure must be followed in order to do so and the respondent's assertion that he simply ceased to practice during 2018 because he was either overseas or his books had been seized pursuant to the court order of 24 July 2018 do not pass muster. He had to be in possession of a valid Fidelity Fund certificate at the beginning of 2018 and he was not.

17.4 His argument also fails as, on his own version, his doors were not closed - he continued to employ staff and the doors to his practice remained open and, by all accounts, continued to transact - although on his version he left that to his employees.

18] As to the argument regarding the sanction this court should impose, Mr Antonie has submitted the following:

18.1 the respondent has essentially admitted all of the complaints levelled against him other than that he stole the funds. There is, in any event, no direct evidence that the respondent stole the funds and the applicant's conclusion that he did so is premised on a mere inference which he submits is insufficient to found a finding of dishonesty;

18.2 it is common cause that the applicant is facing criminal charges and it is the criminal court that remains the most appropriate forum to decide whether or not the respondent stole the funds;

18.3 the respondent has conceded that he is personally responsible for the loss of the funds and has conceded that his conduct "fell dramatically short of the standards required of a prudent attorney";

18.4 the respondent has undertaken to "do his utmost" to repay the missing funds to the Trust;

18.5 the respondent has also conceded that over the years he became complacent and reliant on the staff which he inherited after his father passed away and his partner retired - in fact, his reliance was of such a nature that they controlled the banking dongle and could thus conduct transfers of funds when necessary without his authorization. But he denies that he personally transferred funds and states that his lack of knowledge of how to effect the transfers was of such a nature that he would have been unable to do so;

18.6 the respondent concedes that he exercised bad judgment; and

18.7 the respondent believes that the funds were utilised by his staff to meet the practice expenses when they fell due.

19] Mr Antonie submits that, applying the reasoning in the *Law Society of the Northern Provinces v Kyle* judgment (supra), the most appropriate sanction would be to refrain from a finding of dishonesty and to make an order that the respondent is suspended from practice until such time as he satisfies the Court that he is a fit and proper person to resume practice as an attorney.

20] We cannot agree.

21] Firstly, the respondent has demonstrated conduct throughout these proceedings that is worthy of censure. He has prevaricated and placed blame elsewhere in all his affidavits. Although he states that he is personally responsible for the loss of the funds and conceded that his conduct "fell dramatically short of the standards required of a prudent attorney", it is clear that he still takes no responsibility and instead has placed the blame on the doorstep of his staff - but he bears a responsibility to his clients to conduct himself in accordance with the rules of his profession and these include the accounting responsibilities not just in respect of booking but also with respect to accounting to (in this case) the Trust - he failed to do so.

22] The respondent was also demonstrably obstructive - he ignored 2 court orders and made promises and gave undertakings which he knew he was not going to honour. In all of this he ignored the needs of 2 minor children who were reliant on the Trust for their maintenance and education. His conduct is not just to be frowned upon, it is worthy of censure.

23] His argument that he lacks of knowledge of accounting and the resultant reliance on his staff to conduct the financial affairs of his practice (mostly in his absence if his explanations are to be accepted) is not acceptable. The Respondent's lack of knowledge, experience and training with regard to accounting matters does not count in his favour. In *Holmes*[17] the court remarked as follows:

"Likewise, plaintiff's lack of knowledge due to inadequate training and in experience cannot mitigate in her favour. As explained in *die Prokureursorde van die Oranje-Vrystaat* an attorney, and particularly a practising attorney, has a duty to apply himself/herself not only to attending to his clients' interests, but also to those of his/her Society's rules and his/her obligations, as contained therein and consequently he/she goes astray, he/she does not deserve much sympathy in his/her punishment."

THE TEST TO BE APPLIED

24] Matters of the nature before us are sui generis and are of a disciplinary nature. There is no lis between the applicant and the respondent. The applicant is the custos morum of the profession and merely places facts before the court for its consideration.[18]

25] The test applicable in an enquiry of this nature is well established and documented in our case law[19] and involves a three stage enquiry: the preliminary question which a court has to decide is whether the alleged offending conduct has been established on a preponderance of probabilities[20]; secondly, whether in the discretion of the court, the person is a fit and proper person to continue to practise given the conduct expected of an attorney[21] and thirdly whether in all the circumstances the practitioner was to be removed from the roll of attorneys or whether an order of suspension from practice for a specified period would suffice.[22]

26] In *Malan and another v Law Society, Northern Provinces Harms ADP* stated:

"[8] Second, 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. In this regard the following must be borne in mind:

The implications of an unconditional order removing an attorney from the roll for misconduct are serious and far-reaching. Prima facie, the Court which makes such an order visualises that the offender will never again be permitted to practise his profession because ordinarily such an order is not made unless the Court is of the opinion that the misconduct in question is of so serious a nature that it manifests character defects and lack of integrity rendering the person unfit to be on the roll. If such a person should in later years apply for re-admission, he will be required to satisfy the Court that he is 'a completely reformed character' (Ex parte Wilcocks 1920 TPD 243 at 245) and that his 'reformation or rehabilitation is, in all the known circumstances, of a permanent nature' (Ex parte Knox 1962 (1) SA 778 (N) at 784). The very stringency of the test for re-admission is an index to the degree of gravity of the misconduct which gave rise to disbarment.

(Incorporated Law Society, *Natal v Roux* 1972

(3) SA 146 (N) at 1508 – E quoted with approval in *Cirota and Another v Law Society, Transvaal* 1979 (1) SA 172 (A) at 1948 - D.)" (our emphasis)

27] In *Jasat*[23] the court had this to say pertaining to an appropriate order:

"... will depend upon such factors 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."

28] In the matter of Law Society of the Northern Provinces v Kyle the respondent had failed to account to clients in respect of his trust account. An investigation revealed that he did not have updated accounting records[24]. There were

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complaints that he had failed to account for monies collected on his behalf and that he had defaulted in repaying a loan. He had also failed to register as an "accountable institution" with the Financial Intelligence Centre[25]. Lastly, the respondent had failed to submit unqualified audit reports which had resulted in him not being issued with a Fidelity Fund certificate. The court a quo had suspended the respondent from practice for a period of 6 months. This order was overturned on appeal by the Law Society and the court found that the transgressions of the respondent were more serious than simply allowing him to resume his practice after a 6 months suspension. In setting aside this order, the SCA found as follows:

"[24] I agree with counsel on behalf of the Law Society that a more serious sanction than that imposed by the court below was called for. The court below erred materially by not taking into account all of the other transgressions referred to above. The statement by the court that it is not even necessary to deal with the other complaints is a serious misdirection. It is the compounding effect of all the transgressions that play a material part in the sanction that should be imposed. Mr Kyle acted in disregard of his clients' best interests, failed to observe the most fundamental rules relating to the keeping of accounting records, did not heed the regulatory directions of the Law Society, did not pay counsel and an attorney, failed to comply with Financial Intelligence Centre Act requirements and behaved deplorably when faced with his own bad behaviour. I also agree that what was called for was a clear finding that Mr Kyle was not a fit and proper person to continue practice. In *Malan & another v Law Society, Northern Provinces* [2008] ZASCA 90; 2009 (1) SA 216 (SCA) the following was said (para 8):

'It is seldom, if ever, that a mere suspension from practice for a given period in itself will transform a person who is unfit to practise into one who is fit to practise. Accordingly, as was noted in *A v Law Society of the Cape of Good Hope* 1989 (1) SA 849 (A) at 852E-G, it is implicit in the Act that any order of suspension must be conditional upon the cause of unfitness being removed. For example, if an attorney is found to be unfit of continuing to practice because of an inability to keep proper books, the conditions of suspension must be such as to deal with the inability. Otherwise the unfit person will return to practice after the period of suspension with the same inability or disability.'" (our emphasis)

29] It is exactly this "compounding effect of all the transgressions" that, in our view, makes any form of suspension[26] inappropriate. The respondent's conduct has been severely lacking in any form of forthrightness as regard his complete disregard towards his duties as Trustee of the Trust[27] his duties towards the minor children who were the beneficiaries of the Trust, his duties as an officer of this court by his complete

disregard to the terms of two orders granted against him, his lack of forthrightness as evidenced in his affidavits and his actual lack of acceptance of his culpability which is also evidenced in his affidavits. The fact that he stated that he derived no benefit when funds were misappropriated to fund his practice is, to say the least, astonishing.

30] In our view the respondent's conduct is egregious and is deserving of the highest sanction which is that he should be struck of the roll.

COSTS

31] It was submitted by Mr Groome that the Law Society does not approach the Court as an ordinary litigant - it does so under a public duty in circumstances where the respondent has failed to comply with his lawful obligations and that it is therefore entitled to be fully indemnified for its costs on an attorney and client scale[28]. We agree and that order will follow.

THE ORDER

32] Thus the following order is made:

32.1. The name of STEPHEN MELAMED is struck off the roll of attorney of this Court.

32.2 The relief set out in paragraphs 1.4 up to and including 1.13 and 1.15 of the court order dated 24 July 2018 will remain in force.

32.3 The respondent is hereby direct to:

32.3.1 pay, in terms of section 78(5) of Act 53 of 1979, the reasonable costs of the inspection of the accounting records of the respondent;

32.3.2 pay the reasonable fees and expenses of the curator;

32.3.3 pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator;

32.3.4 pay the expenses relating to the publication of this order or an abbreviated version thereof;

32.3.5 pay the costs of this application on an attorney and client scale.

NEUKIRCHER J

Judge of the High Court

KUMALO AJ

Acting Judge of the High Court

Heard on:

31 October 2019

Date of

Judgment:

11

November 2019

For the Applicant

Mr L Groome

Instructed by

RW Attorneys, Pretoria

For the Respondent

Adv M M Antonie SC

Instructed by:

Jacobson & Levy Inc

[1] In June 2014

[2] The donor in terms of the agreement

[3] An order being granted on 5 April 2017

[4] The latter being refused on 19 September 2017

[5] Which ordered payment of the funds

[6] The Attorneys Act No. 53 of 1979 has since been repealed, however section 116(2) of the Legal Practice Act No 28 of 2014 makes provision that proceedings already instituted are to continue and be concluded as if the Attorneys Act had not been repealed. S116 provides as follows: "(2) Any proceedings in respect of the suspension of any person from practice as an advocate, attorney, conveyancer or notary or in respect of the removal of the name of any person from the roll of advocates, attorneys, conveyancers or notaries which have been instituted in terms of any law repealed by this Act, and which have not been concluded at the date referred to in section 120 (4), must be continued and concluded as if that law had not been repealed, and for that purpose a reference in the provisions relating to such suspension or removal to the General Council of the Bar of South Africa, any Bar Council, any Society of Advocates, any society or the State Attorney must be construed as a reference to the Council."

[6] The Attorneys Act No. 53 of 1979 has since been repealed, however section 116(2) of the Legal Practice Act No 28 of 2014 makes provision that proceedings already instituted are to continue and be concluded as if the Attorneys Act had not been repealed. S116 provides as follows:

"(2) Any proceedings in respect of the suspension of any person from practice as an advocate, attorney, conveyancer or notary or in respect of the removal of the name of any person from the roll of advocates, attorneys, conveyancers or notaries which have been instituted in terms of any law repealed by this Act, and which have not been concluded at the date referred to in section 120 (4), must be continued and concluded as if that law had not been repealed, and for that purpose a reference in the provisions relating to such suspension or removal to the General Council of the Bar of South Africa, any Bar Council, any Society of Advocates, any society or the State Attorney must be construed as a reference to the Council."

[7] Several supplementary answering affidavits were filed by the respondent

[8] Which emanated from a complaint lodged by Mike Nurse Attorneys on behalf of V[...], on 16 February 2018

[9] i.e. the funds

[10] His first argument is that it was paid into a Standard Bank account created by members of his staff but that he has no knowledge of how they created that account and he does not possess any details pertaining to that account. Later he states that the funds were deposited into a TPFA {Third Party Fund Administration account) - this account is an electronic platform established by Standard Bank and was established by Standard Bank for attorneys to invest funds on behalf of their clients at favourable interest rates - however this account is nothing more than a s78(2A) trust account which was created in the name of the Trust

[11] Who now live in Scotland with Mrs S[...] and are supported by her and a friend of hers

[12] Bearing in mind that this court suspended him from practice on 24 July 2018

[13]

[2016] ZASCA 120 (19 September 2016) and which provides that Kyle "is suspended from practising as an attorney of the court until such time as he satisfies the Court that he is a fit and

proper person to resume practice as an attorney."

[14] Published under GenN 168 In GG 42337 of 29 March 2019 as corrected by GenN 198 in GG 42364 of 29 March 2019

[15] 53 of 1979

[16] GG39740 Notice no 2 of 2016

[17] Holmes v Law Society of the Cape of Good hope & Another; Law society of the cape of Good Hope v Holmes 2006 (2) SA 139 (C) at para [28]

[18] Hassim v Incorporated Law Society of Natal 1977(2) SA 757(A) at 767C-G, Law Society Transvaal v Matthews 1989(4) SA 389(T)@ 393E;

Cirota & Another v Law Society Transvaal, 1979(1) SA 172(A)@ 187H

[19] Kaplan v Incorporated Law Society, Transvaal 1981 (2) SA 762@ 782A-C; Jasat v. Natal law Society 2000(3) SA 44 (SCA)@ 51 B-1; Malan v the Law Society of the Northern Provinces (2000) ZASCA 90 (12/09/2008) amongst others

[20] Jasat supra at 44D-E

[21] This involves a weighing up of the conduct complained of against the conduct expected of an attorney and, to this extent, is a value judgment : Malan and another v Law Society, Northern Provinces [2008] ZASCA 90; 2009

(1) SA 216 (SCA) at par [4]

[22] Jasat at 51C-1

[23] supra

[24] In fact, he failed to keep proper accounting records and supporting records which was all in contravention of the Rules of the Law Society

[25] In terms of the Financial Intelligence Centre Act no 38 of 2001

[26] Even the unlimited one set out in Kyle

[27] Which saw his appointment terminated by the Master

[28] Law Society of the Northern Provinces v Mogami and Others 2010 (1) SA 186 (SCA at par{31]; Law Society of the Northern Provinces v Sonntag 2012 (1) SA 372 (SCA) at par[20

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