

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

" X "
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 " 12/21/26

Case No: 2026-016776

In the matter between:

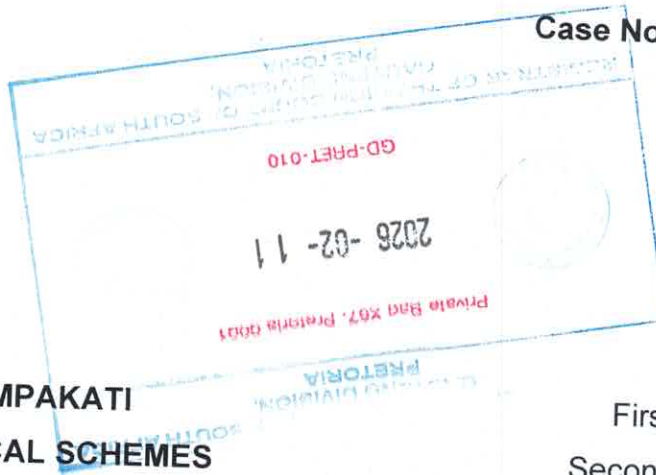
LUYOLO MAKWABE

Applicant

and

LEBOGANG GRACE MPAKATI
REGISTRAR OF MEDICAL SCHEMES
THE TRUSTEES OF SIZWE HOSMED MEDICAL SCHEME
LISTED IN ANNEXURE X

First Respondent
Second Respondent
Third Respondent



DRAFT ORDER

By agreement between the parties -

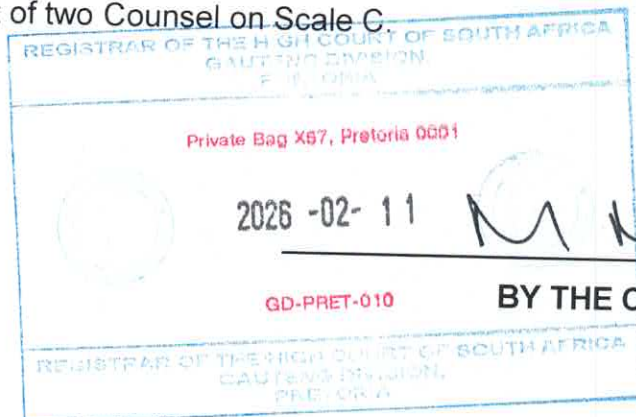
IT IS ORDERED THAT:

1. The Second Respondent's non-compliance with the forms, service and time limits provided for in the rules of court, in terms of the provisions of Rule 6(12)(a), is hereby condoned and this matter is heard as one of urgency.
2. The appointment of Lebogane Grace Mpakati as curator of Sizwe Hosmed Medical Scheme is hereby cancelled in terms of the provisions of Section 5(9) of the Financial Institutions (Protection of Funds) Act 28 of 2001 (the "FI Act").
3. Ian Fleming is appointed as the Curator of Sizwe Hosmed Medical Scheme with effect from the date of this Order in accordance with the provisions of the

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order granted by Manamela AJ on 4 September 2025 and subsequently confirmed by Makhoba J on 9 October 2025. (Annexure "A" hereto).

4. Lebogane Grace Mpakati is directed to handover all information, documentation, and equipment in her possession, and/or under her control, pertaining to Sizwe Hosmed Medical Scheme, to Ian Fleming within 30 (thirty) days of this Order.
5. Lebogane Grace Mpakati is further directed to provide a final report to the Second Respondent within 30 (thirty) days of this Order.
6. Lebogane Grace Mpakati will be remunerated, at the current approved rate of R2 500.00 per hour, for the handover period subject to the approval of her invoice by the new Curator Mr Ian Fleming.
7. Directing Sizwe Hosmed Medical Scheme to pay the Second Respondent's costs on an attorney and client scale including the costs consequent upon the employment of two Counsel on Scale C.



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ANNEXURE "A"

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NO. 33

CASE NUMBER: 2025-150109

AT PRETORIA ON THE 03rd DAY OF SEPTEMBER 2025
BEFORE THE HONOURABLE JUSTICE K MANAMELA AJ

In the Ex Parte Application of

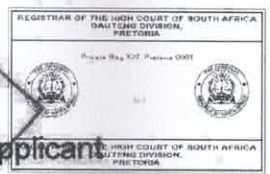
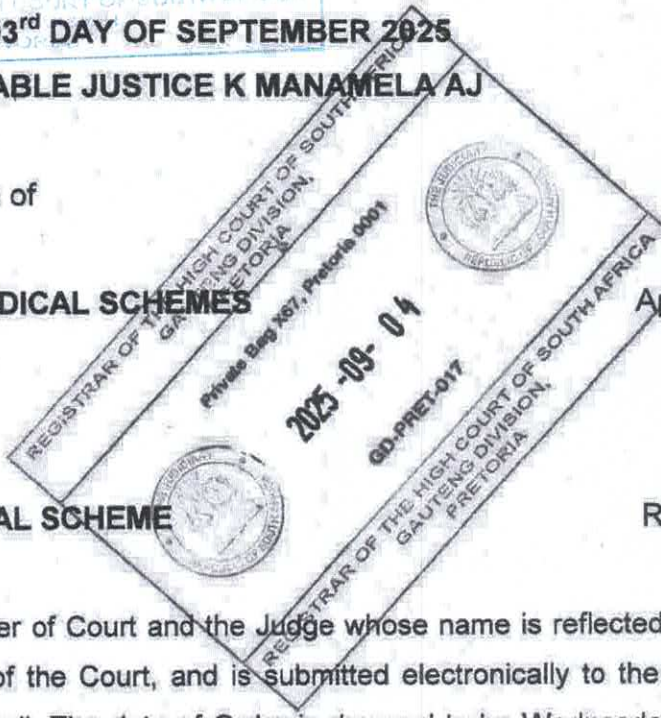
THE REGISTRAR OF MEDICAL SCHEMES

and

SIZWE HOSMED MEDICAL SCHEME

Applicant

Respondent



This Order is made an Order of Court and the Judge whose name is reflected herein, duly stamped by the Registrar of the Court, and is submitted electronically to the Parties/their legal representatives by email. The date of Order is deemed to be Wednesday, the 03rd of September 2025.

COURT ORDER

HAVING read the filed papers of record, having heard Counsel and having considered the matter:

IT IS ORDERED THAT:

1. The Applicant's non-compliance with the forms, service and time limits provided for in the rules, in terms of the provisions of Rule 6(12)(a) is hereby condoned and this matter is heard as one of urgency;

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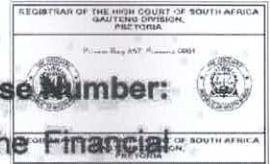
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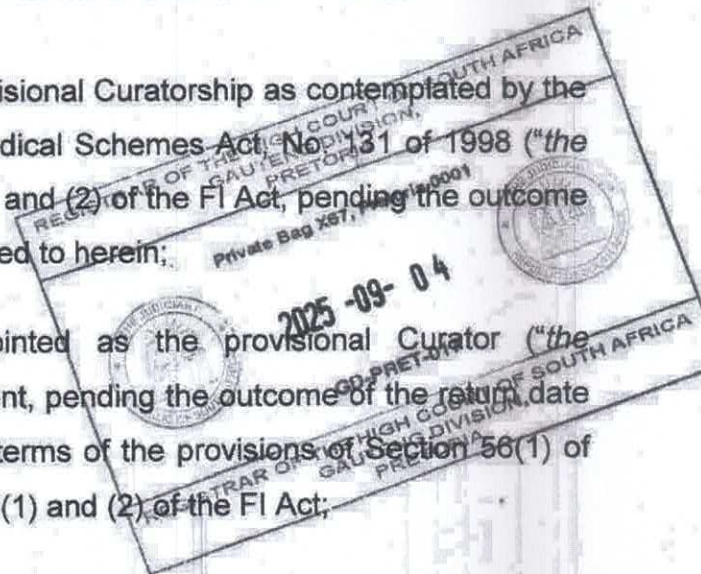
2. The failure of the Applicant to serve these papers on the Respondent prior to the application for the relief set out herein is hereby condoned and this application is heard *ex parte*.

3. The Applicant is granted leave for the application to be heard on in camera in terms of the provisions of Section 32 of the Superior Courts Act 10 of 2013 and the Registrar of the High Court is ordered not to place the matter for hearing on the roll for open court, before service of the application on the Respondent.

4. The statutory management Order granted on 06 May 2025 under **Case Number: 109433/2024** is hereby terminated in terms of Section 5A(8) of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001 ("*the FI Act*");



5. The Respondent is placed under provisional Curatorship as contemplated by the provisions of Section 56(1) of the Medical Schemes Act No. 31 of 1998 ("*the MSA*"), read together with Section 5(1) and (2) of the FI Act, pending the outcome of the return date of the rule *nisi* referred to herein;



6. Lebogane Grace Mpakati is appointed as the provisional Curator ("*the provisional Curator*") of the Respondent, pending the outcome of the return date of the rule *nisi* referred to herein, in terms of the provisions of Section 56(1) of the MSA, read together with Section 5(1) and (2) of the FI Act;

7. That pending the outcome of the return date of the rule *nisi*, and subject to the control of the Applicant, the provisional Curator be and is hereby -

7.1 authorised to take immediate control of, and in the place of the board of trustees, manage the business and operations of and concerning the Respondent, together with all assets and interests relating to the business of the Respondent, in accordance with the provisions of the MSA and the Respondent's rules;

7.2 vested with all powers of control and management which would ordinarily be vested in and exercised by the board of trustees or principal officer of

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the Respondent, whether by law or in terms of the rules of the Respondent;

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REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA

7.3 directed to give consideration to the best interests of the members of the Respondent;

7.4 directed to exercise the powers vested in her with the view to conserving the business of the Respondent and not without the leave of the Applicant to alienate or dispose of any of the property of the Respondent, save to the extent and for the purposes set out hereunder;

7.5 directed to take control of the cash, cash investments, shares and other securities, as well as of all other assets owned, held or administered by or on behalf of the Respondent;

7.6 authorised to incur such reasonable expenses and costs as may be necessary or expedient for the Curatorship and control of the business and operations of the Respondent, and to pay same from the assets owned, administered or held by or on behalf of the Respondent;

7.7 authorised to pay claims or other benefits to the Respondent's members, having regard to the rules of the Respondent and its financial position;

7.8 permitted to engage such assistance of a legal, accounting, actuarial, administrative or other professional nature, as she may reasonably deem necessary for the performance of her duties in terms of this order, and to defray reasonable charges and expenses thus incurred from the assets owned, administered or held by or on behalf of the Respondent;

7.9 authorised to institute or prosecute any legal proceedings on behalf of the Respondent and to defend any action against the Respondent;

7.10 authorised to invest such funds as are not required for the immediate purposes of the business, with an institution or financial instruments as he may regard financially sound and appropriate;

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
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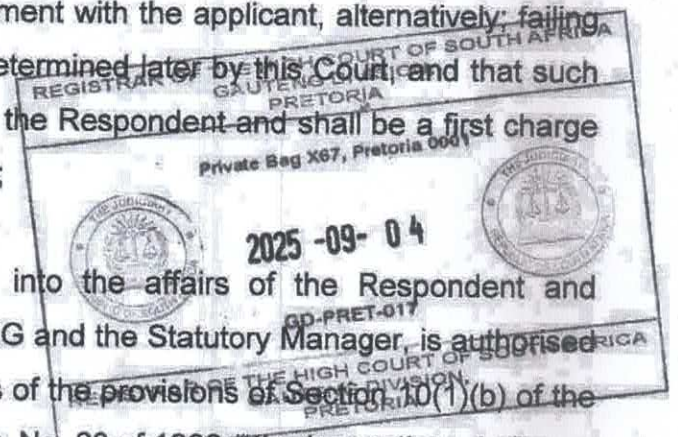
7.11 authorised to take control of ~~and to~~ operate or close existing banking accounts of the Respondent whether conducted in South Africa or off-shore, and to open and operate any new banking accounts for the purposes of the Curatorship;

7.12 authorised to investigate allegations of financial and governance irregularities set out in the founding affidavit attached to this notice of motion and to recommend the appropriate action to be taken to address same and where necessary, recommend action to be taken against any person who may be guilty of misconduct or a crime;



7.13 authorised, at any time during her term of office, to apply on ~~48 hours~~ notice or on an *ex parte* basis for any amendment or amplification of the powers granted to him in terms hereof in the event that it is necessary to amend or amplify such powers for the effective exercise of her powers and responsibilities; and

7.14 authorised to be entitled to reasonable remuneration and disbursements, as might be allowed by agreement with the applicant, alternatively, failing such agreement as may be determined later by this Court, and that such remuneration shall be paid by the Respondent and shall be a first charge upon the Respondent's assets;

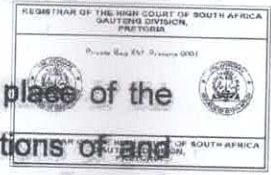


8. That the disclosure of the reports into the affairs of the Respondent and associated entities, compiled by KPMG and the Statutory Manager, is authorised as annexure to these papers in terms of the provisions of Section 10(1)(b) of the Inspection of Financial Institutions Act, No. 80 of 1998 ("the Inspections Act");

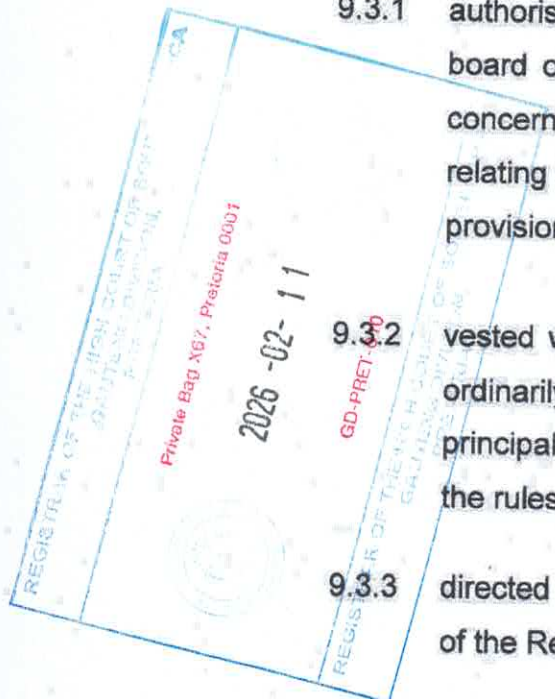
9. That a rule *nisi* be issued calling upon the Respondent and other interested persons to show cause, if any on **30 October 2025** at 10:00 or so soon thereafter as Counsel may be heard, why an Order should not be made in the following terms:

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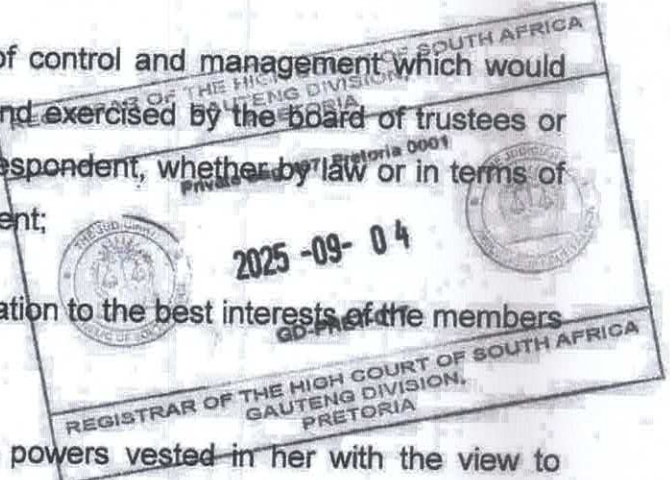
- 9.1 Confirming the Curatorship of the Respondent as contemplated by the provisions of Section 56(1) of the MSA, read together with Section 5(1) and (2) of the FI Act;
- 9.2 Confirming the appointment of Lebogane Mpakati as Curator ("the Curator") of the Respondent, in terms of the provisions of Section 56(1) of the MSA, read together with Section 5(1) and (2) of the FI Act;
- 9.3 Confirming the powers and mandate of the Curator to be that she is –



9.3.1 authorised to take immediate control of, and in the place of the board of trustees, manage the business and operations of and concerning the Respondent, together with all assets and interests relating to the business of the Respondent, in accordance with the provisions of the MSA and the Respondent's rules;



9.3.2 vested with all powers of control and management which would ordinarily be vested in and exercised by the board of trustees or principal officer of the Respondent, whether by law or in terms of the rules of the Respondent;



9.3.3 directed to give consideration to the best interests of the members of the Respondent;

9.3.4 directed to exercise the powers vested in her with the view to conserving the business of the Respondent and not without the leave of the applicant to alienate or dispose of any of the property of the Respondent, save to the extent and for the purposes set out hereunder;

9.3.5 directed to take control of the cash, cash investments, shares and other securities, as well as of all other assets owned, held or administered by or on behalf of the Respondent;

9.3.6 authorised to incur such reasonable expenses and costs as may be necessary or expedient for the Curatorship and control of the business and operations of the Respondent, and to pay same from the assets owned, administered or held by or on behalf of the Respondent;

9.3.7 authorised to pay claims or other benefits to the Respondent's members, having regard to the rules of the Respondent and its financial position;

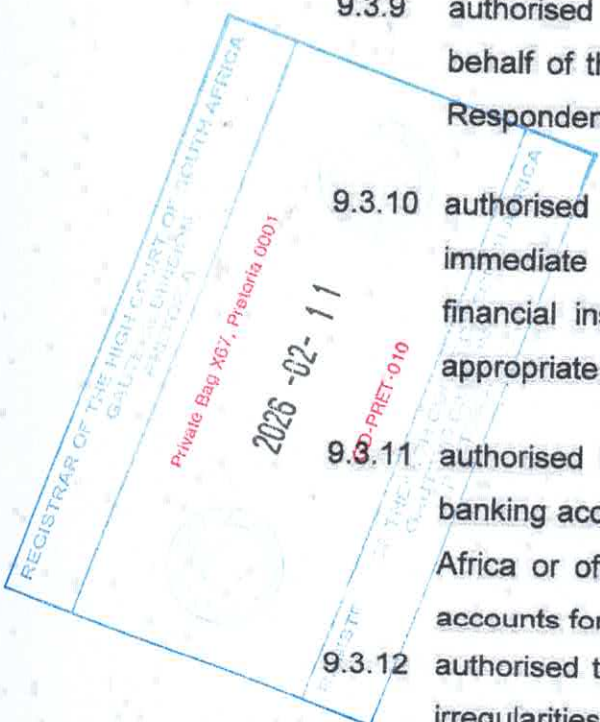
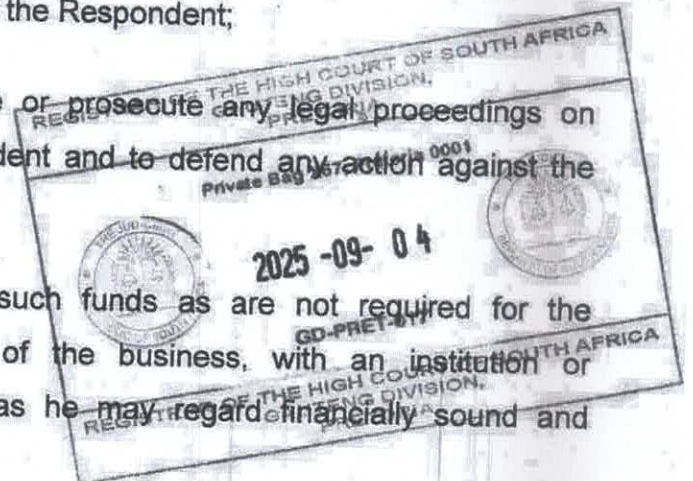
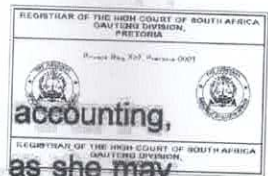
9.3.8 permitted to engage such assistance of a legal, **accounting**, actuarial, administrative or other professional nature, **as she may** reasonably deem necessary for the performance of her duties in terms of this order, and to defray reasonable charges and expenses thus incurred from the assets owned, administered or held by or on behalf of the Respondent;

9.3.9 authorised to institute or ~~prosecute any legal proceedings on behalf of the Respondent and to defend any action against the Respondent;~~

9.3.10 authorised to invest such funds as are not required for the immediate purposes of the business, with an institution or financial instruments as he may regard financially sound and appropriate;

9.3.11 authorised to take control of and to operate or close existing banking accounts of the Respondent whether conducted in South Africa or off-shore, and to open and operate any new banking accounts for the purposes of the Curatorship;

9.3.12 authorised to investigate allegations of financial and governance irregularities set out in the founding affidavit attached to this notice of motion and to recommend the appropriate action to be taken to address same and where necessary, recommend action to be

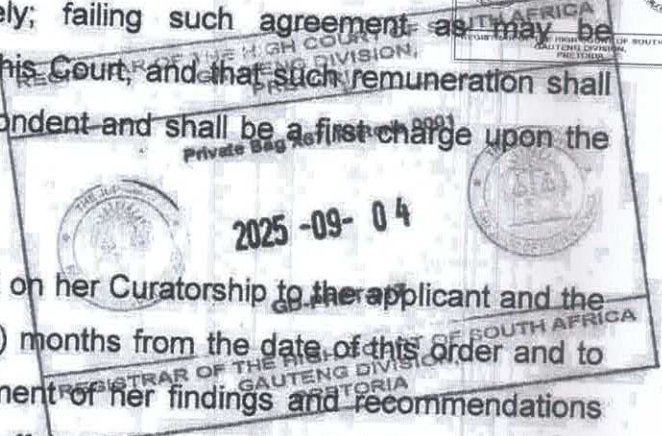


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taken against any person who may be guilty of misconduct or a crime;

9.3.13 authorised, at any time during her term of office, to apply on 48 hours' notice or on an ex parte basis for any amendment or amplification of the powers granted to her in terms hereof in the event that it is necessary to amend or amplify such powers for the effective exercise of her powers and responsibilities; and

9.3.14 authorised to be entitled to reasonable remuneration and disbursements, as might be allowed by agreement with the applicant, alternatively; failing such agreement, as may be determined later by this Court, and that such remuneration shall be paid by the Respondent and shall be a first charge upon the Respondent's assets;



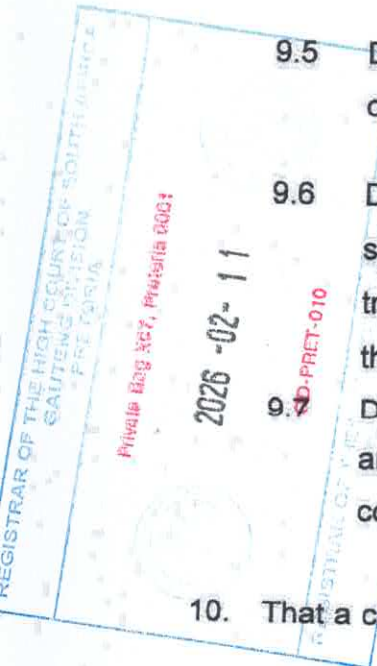
9.4 Directing the Curator to report on her Curatorship to the applicant and the Respondent within twelve (12) months from the date of this order and to include in her report a statement of her findings and recommendations concerning the Respondent's affairs and the continuation, if necessary, of the Curatorship;

9.5 Directing the Curator to report on the Respondent's affairs to the applicant on a monthly basis during the aforesaid period of twelve (12) months;

9.6 Directing the Curator to take all steps which are necessary to convene a special general meeting of the Respondent at which a new board of trustees who are fit and proper for this purpose shall be elected and report thereon within the twelve (12) month period referred to above;

9.7 Directing that the costs of this application on the scale between attorney and own client be paid by the Respondent, which costs are to include costs of two counsel, one being a senior counsel.

10. That a copy of this Order, including the rule nisi, as well as the Notice of Motion



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herein and the Founding Affidavit together with the Annexures thereto, be served⁸ on the Respondent at Treur Close (Old Pragma Building), Bekker Road, Midrand, Gauteng, as well as on the Statutory Manager, Mr Joe Selokane.

BY THE COURT



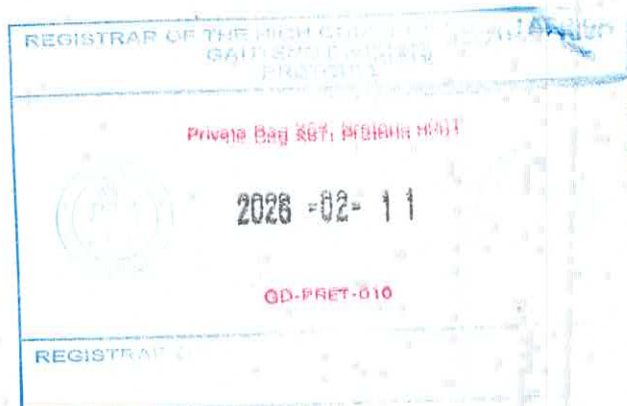
Applicant's counsel:

Adv J.J. Brett SC : 011 535 0806

Adv L. A. Makua : leks@leksma.co.za

Mothle Jooma Sabdia Attorneys

Ref: Thipe Mothle / Email: thipem&mjs-inc.co.za



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