

**LEGAL PRACTICE COUNCIL
DISCIPLINARY HEARING**

DATE: 2023-03-30

HELD AT:

The Gauteng provincial office of the Legal Practice Council,
Proforum Building, 123 Paul Kruger Street, Pretoria, Gauteng.

In the matter between:

S MAY & OTHERS Complainant

and

SCHUMANN VAN DER HEEVER & SLABBERT Respondent

BEFORE CHAIRPERSON: MR A CHAGAN

LPC PROSECUTOR: MR K MASEDI

PANEL MEMBERS: MR B MAKUKUNZVA

ADV I MURERIWA

COMPLAINANT'S REPRESENTATIVE: MR S MAY

RESPONDENT'S REPRESENTATIVE: MR K MASEDI

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that *in as far as it is audible*, this is a true and correct transcription of the mechanically recorded proceedings in the matter of:

LEGAL PRACTICE COUNCIL DISCIPLINARY ENQUIRY

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TRANSCRIPTION NOTES:

1. Speakers not addressed by name or where same could not be identified indicated as male/female speaker.
2. Where parties are unclear or speak simultaneously, indicated with [indistinct] and a time code.
3. Incorrect grammar, where applicable, typed verbatim.

PROCEEDINGS ON 30 MARCH 2023

MR MASEDI: Good morning, Chair and the Committee. We are now on record. It is the matter of the Firm, Schumann, Van Der Heever & Slabbert Incorporated. And the complainant in that matter is Mr May. There are other respondents therein listed as well. Thank you, Chair. 5

CHAIRPERSON: Thank you very much. Good morning, ladies and gentlemen. Welcome to this disciplinary committee of the Legal Practice Council. My name is Mr Chagan. I am the chairperson for today. On my right is Mr Makukunzva, who is an attorney. On my left is Adv Mureriwa who is, of course, an advocate. Together the three of us constitute a panel that have been mandated by the LPC to preside over today's matter. The legal official, I am sure you are all acquainted with, Mr Masedi. I am going to ask the parties to introduce themselves, starting with the gentleman on my left. When you speak, please make sur that you press green button on your mic so that this red light comes on. This mic is only for recording purposes, not – before you press, – when you press then my mic will go off. It only permits one person to speak at a time. Just to emphasise that this is a recording device, it is not an amplifying device, so, please make sure that you speak clearly so that we can all hear you. Thank you, very much. 10 15 20

MR MAY: I am Mr Stephen May, I am an attorney, I act for the – whether I am the complainant or not, will be – we act for the complainant, I am not sure. On my left is Kgomotso Sekonya, 25

and Claudia Bompani, they both assist me.

CHAIRPERSON: Are they from your firm, Mr May?

MR MAY: Indeed, yes.

CHAIRPERSON: And the actual complainants, Ms Dhlamini and company, are they present today? 5

MR MAY: No, they are not. I might add, that the reason that they – apologies, Mr Chairperson, owing to transportation costs and difficulties on their part.

CHAIRPERSON: Thank you.

MR THOMPSON: Thank you, Mr Chairperson, Charles 10
Thompson, I am an advocate and I am representing Schumann, van der Heever and Slabbert, and all other respondents, other than Mr Supra.

CHAIRPERSON: And then with you ...[indistinct].

MR THOMPSON: To my immediate left is Mr Louw. 15

CHAIRPERSON: First name?

MR THOMPSON: Ivan.

CHAIRPERSON: I-V-A-N?

MR THOMPSON: Indeed, sir, yes, Mr Chairperson. And next to him is Mr Isak Bosman. 20

CHAIRPERSON: Yes?

MR THOMPSON: Ms Azelle Kleinen, and Mr Johan Slabbert.

CHAIRPERSON: Thank you very much, Adv Thompson. Mr Masedi?

MR MASEDI: Thank you, Chair. Before we proceed, 25

perhaps we need to just state for the record that given the nature of this particular matter and the evidence before the committee, the LPC sought it appropriate that we should separate the processes, between the firm itself and the directors that are sitting here, from the respondent, Mr Supra. Especially, because it would appear from the papers that these respondents may and will in the course of the processes be testifying against Mr Supra, and probably vice-versa, so, it was necessary for us to then recommend to this committee that these processes should be separated and then the committee is able to proceed.

CHAIRPERSON: Of course, Mr Masedi, you are *dominis litis* that is the approach that you wish to take, the committee will of course go along with that. Can I just establish for the sake of clarity, Mr Louw, Bosman and Slabbert as well as Ms Kleinen, you are all currently directors in this Firm?

MR THOMPSON: That is correct, Mr Chairperson, they are.

MR MASEDI: If I may, chair, also to assist ...[intervene]

MR THOMPSON: Sorry, sorry, Mr Chairperson. Correction, Mr Louw is in actual fact no longer a director at Schumann Van Der Heever & Slabbert.

CHAIRPERSON: But was he a director at the time concerned?

MR THOMPSON: Also, not. The directors at that stage was Mr Supra, Ms Kleinen, Mr Bosman and Mr Slabbert.

CHAIRPERSON: And then may I just inquire, what was Mr Louw's involvement at the relevant time?

MR THOMPSON: None, whatsoever, he was merely employed by the firm, Schumann Van Der Heever & Slabbert, as I understand matters, from Mr Masedi, the LPC intend to withdraw the charges against Mr Louw.

CHAIRPERSON: ...[indistinct] 5

MR MASEDI: That is indeed correct, Chair, that was the – perhaps the next thing that we were going to address the committee on, that Mr Louw who is sitting here is not a director at the Firm, he was not a director at the time, in question, as such, the LPC thus withdraws the charges as levelled against him before you, and the 10
LPC has no intention of proceeding with those charges here today.

CHAIRPERSON: Thank you very much, Mr Masedi. Mr Louw, you have obviously heard and you understand what that means, you are at liberty to then remain behind if you so just wish to listen to the rest of the proceedings, or you are excused if you wish to – if you 15
wish to leave our company. I suppose. Mr May, just on the issue of Mr Louw – do you have any comment?

MR MAY: No, there is no comment from my side.

CHAIRPERSON: Thank you very much, Mr Masedi, please proceed. 20

MR MASEDI: Thank you, Chair. As part of this processes, prior to the meeting in question with the understanding that today we are sitting for a disciplinary hearing. We were in a position to sit with the parties that are here, in particular the respondents. With a view to curtail the lengthy processes, by having a level of bargaining so 25

that we can understand or that we can pave the way that would be swift for all involved. And the LPC together with the respondents who are sitting here, have reached an agreement in as far as a plea bargaining is concerned.

CHAIRPERSON: Yes? 5

MR MASEDI: The terms of which are as follows, Chair. That the first respondent who is the firm Schumann Van Der Heever & Slabbert Incorporated, will plead guilty to all the charges that are levelled against it. That is charge 1, 2, 3 up to charge number 6.

CHAIRPERSON: Can I just stop you there, Mr Masedi? 10

MR MASEDI: Yes.

CHAIRPERSON: Adv Thompson, your – the directors of the Firm understand the charges they have read the charges, they have been explained to them. Is there any need to formally place on record the nature of the charges, or will you accept that it has been explained? 15

MR THOMPSON: We can accept, Chairperson.

CHAIRPERSON: There is no need to formally read these charges into the record.

MR THOMPSON: There is no need to read the charges into the record. 20

CHAIRPERSON: Thank you, Mr Thompson. Yes, please proceed, Mr Masedi.

MR MASEDI: Thank you, Chair. As such, the first respondent being the Firm, has agreed to plead guilty to all the six charges that are levelled against them. And secondly, when it comes 25

to the third, the ...[intervene]

CHAIRPERSON: Can I just stop you there? Do you then agree with that submission now made by Mr Masedi that the Firm is now pleading guilty to all six charges, which have been explained and understood.

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MR THOMPSON: It is confirmed, Chairperson.

CHAIRPERSON: ...[indistinct] all six charges.

MR MAY: Chairperson, I just want to mention, as a result of technical difficulties between myself and LPC, I was at a bit of a disadvantage in so far as the papers in this matter are concerned. I only received the full bundle yesterday, which consisted of some, 900 pages. So, I have not had a chance to go through it in its entirety. My understanding of what the respondents are pleading guilty to, is that it – the culpability requirements pertains primarily to negligence. I do have some reservations in that regard, I do not want to now lead evidence, albeit that this is an informal situation.

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CHAIRPERSON: Yes. Well, Mr may, let me just explain the procedure. As you are no doubt aware, I mean we are in the situation, where we have what we know as a plea bargain. The contribution of the complainant, is required and it is something that we must consider. If the complainants are in agreement that this is the situation, then we can proceed from that basis. I am not too sure now, what your submission is. You are here on behalf of the complainant in this matter.

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MR MAY: The submission is simply that I would make,

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and I do not want to delve into a ...[intervene]

CHAIRPERSON: ...[indistinct] regarding that ...[indistinct], any objection to ...[indistinct], in that regard.

MR MAY: Chairperson, my understanding of what the plea pertains to, is that the culpability element of that is that it 5
pertains to negligence, not intention. That is where my reservations lie. That it would have been in my submissions and there are several factors that would militate against this. That it would be very difficult for mere negligence to have occasioned a culpability of the respondents, as they sit here now. The – and again, I do not want 10
to delve deeply into the evidence, as it would come out in a hearing, but in a full-blown hearing, and I don't want to lead evidence from the bar, so to speak, although I do accept that this is a less formal hearing than it would be in court. ...[indistinct] for mere negligence ...[intervene] 15

CHAIRPERSON: Mr May, sorry ...[intervene]

MR THOMPSON: ...[indistinct]

CHAIRPERSON: I will come to you in a second, Mr Thompson.

MR MAY: : ...[indistinct] the charges relate to failing to render accounts, ...[indistinct] and the rest of the charges, as such. 20
Because it is a ...[indistinct] entity. If pleading guilty to these charges as ...[indistinct]

MR THOMPSON: Mr Chairperson, may I have a copy of the chargesheet?

CHAIRPERSON: Yes, of course ...[indistinct] 25

MR MURERIWA: Mr May, I do not know whether you are following, the processes, there are charges that have been made against the firm. Are we agreed to that?

MR MAY: I think, Adv Mureiwa, Mureriwa, I beg your pardon. Certainly, we know that there are charges. May I have a copy of the chargesheet? 5

...[indistinct]

MR MURERIWA: Now, Mr May, with the charges, they have read and understood the charges. In other words, they have understood the case against you – against them. And their election is to accept liability for it. They are saying they are guilty. 10

MR MAY: You are talking about the firm, not the individual directors.

MR MURERIWA: Ja.

MR MAY: In so far as the firm is concerned, I do understand and I just very briefly now had occasion to peruse the chargesheet, I understand now that the culpability element in relation to most of these things would not be negligence, but intentional, therefore we – you know any objection that – I think it was more related to ignorance of what these charges were. 15 20

CHAIRPERSON: Alright, so, there is no problem then with the objections.

MR MAY: In respect of the Firm itself, the first respondent, no objection.

MR MURERIWA: No further... 25

CHAIRPERSON: Adv Thompson, you wanted to say something?

MR THOMPSON: I just wanted to point out that Mr May's recording element was not on.

CHAIRPERSON: I beg your pardon?

MR THOMPSON: I just wanted to point out that Mr May's recording element was not on due to the fact that Adv Mureriwa had pressed his button. 5

CHAIRPERSON: Oh, oh I see, ja. Alright. Yes. Okay. Please proceed, Mr Masedi.

MR MASEDI: Thank you Chair. In respect to the third respondent, in the form of Mr J.J. Slabbert, who is a director, the terms of the plea bargaining are as follows. That the LPC will proceed with charge 5 which relates to bringing the profession into disrepute, and then by virtue of having plead to all the other charges, the LPC will withdraw, charges, 1, 2,3 4 and 6 and only proceed with charge 5. And that it be accepted by the committee Mr Slabbert has also agreed to plead guilty to charge 5. 10 15

CHAIRPERSON: So, let us just – let us just run through all the other directors, then I will ask Mr Thompson to respond at the end of it. 20

MR MASEDI: The position will then be the same, Chair, in relation to Mr I Bosman and the position will also be the same in relation to Ms Kleinen.

CHAIRPERSON: Thank you, very much, Mr Masedi. Mr Thompson? 25

MR THOMPSON: I confirm that, Mr Chairperson, and I confirm the plea of guilty on charge 5 in respect of the third, fourth and fifth respondent, for record purposes, Mr Slabbert, Bosman and Ms Kleinen

CHAIRPERSON: Thank you very much, Adv Thompson. Mr 5
May?

MR MAY: Mr Chairperson, obviously I am not dominus 10
litis here and I cannot compel the LPC to proceed with any of the charges. In so far as the plea bargain and the acceptance thereof, my submissions remain the same. That if there was a blindness in 10
these ...[intervene]

CHAIRPERSON: Ja, we will come to that – we will come to that when you address me now, on the sentence, apparently that has – in the sanction that has been discussed between the parties, as to whether you believe it is appropriate or not appropriate 15
circumstances. But just purely on the plea now. I take cognisance of the fact that you say you are not dominus latus and that the LPC has withdrawn this. But, my invitation to you was simply, if you had a comment on that because the full participation of the complainant is critical in this process. 20

MR MAY: Chairperson, my comment is, there is some reticence on my part on which all of the charges have been withdrawn. Aside from the 5th charge. If – the requirement in respect of the other charges 1, 2, 4 and 6, would be that of intention and I suspect that the reason for the withdrawal is that the LPC has 25

accepted the intention – the element of intention as not present. I don't fully believe that to be the case.

CHAIRPERSON: Well, thank you, for that, Mr May, well, in fact I suppose you will then consider your position in light of what happened, now, but of course your reticence as you put it is noted. 5
Alright? Mr Masedi, is there anything you wish to add at this point?

MR MASEDI: Save to say the – we will address you then as to what the agreement in so far as the appropriate sanction is ...[intervene]

CHAIRPERSON: Alright. 10

MR MASEDI: But other, we have nothing further.

CHAIRPERSON: Thank you, very much, Mr Masedi, thank you, very much, Adv Thompson, Mr May. Alright, we have heard the charges as put forward by Mr Masedi on behalf of the Legal Practice Council – we will of course take them into consideration and heard 15
what Adv Thompson says on behalf of all the practitioners, we accept that Adv Thompson has been properly mandated to plead guilty on your behalf – you are all present here, I see you are all nodding your heads, you have all indicated that you know and understand the charges both in your personal capacities as well as that in your – on 20
behalf of the, on behalf of the firm.

Mr May, your comments have of course been noted, and as you – as we have already indicated, no doubt you will consider it and decide on an appropriate way forward in the best interest of your client, and indeed if there is any option that you wish to explore. 25

Having said all of that, we are then satisfied that the plea of guilty is in accordance with the charges put forward. We accordingly find the firm and I just want to get the full name of the firm, now – Schumann Van Der Heever & Slabbert Incorporated, is then found guilty of charges 1 through to 6, and that the directors present today, Mr Bosman, Mr Slabbert and Ms Kleinen are then found guilty of charge 5. 5

That of bringing the profession into disrepute and then just for the sake of the record, there is no charges against Mr Louw, all of which have been withdrawn and no finding is made against Mr Louw. Thank you, very much, Mr Masedi. 10

MR MASEDI: Thank you Chair, the LPC accepts the findings and the decision of the committee as given. The further particulars of our engagements, in terms of plea bargaining is that the Firm being found guilty of all the charges, the LPC will recommend to this committee that a sanction of a fine against the Firm in the amount of R120 000. R120 000 being, posed against the Firm. That in relation to the directors who are sitting there – I mean who are sitting here, that is Mr Slabbert, Mr Bosman and Ms Kleinen, a sanction in the amount of R60 000 as a fine against each individual director, be imposed as a fine for the contravention that is before you. Those were the terms and particulars of our plea bargaining, and should the Chair so require that we address you any further in any of the circumstances we are ready to do so, should you so please. 15 20

CHAIRPERSON: Thank you, Mr Masedi. Adv Thompson? 25

MR THOMPSON: Thank you, Mr Chairperson. I confirm that those are the figures that was discussed between the parties, and I submit that they do, do justice and equity between all the relevant parties.

CHAIRPERSON: And you confirm further that the amounts have been explained to all the directors of the Firm, and that they are satisfied? 5

MR THOMPSON: I confirm, Chairperson.

CHAIRPERSON: Mr May?

MR MAY: Mr Chairperson, I have no object to the quantum and the – of the fine as a sanction imposed, in so far as that relates to the fifth charge, obviously my comment in relation to the other charges remain as they are on record. 10

CHAIRPERSON: Thank you, very much, Mr May. Mr Masedi, and colleagues present today, you are of course aware that ultimately the panel hold the discretion as to whether this is an appropriate sanction. We have formed a prima face view as you are already aware. There is just one or two questions that we have, for the sake of clarity, before we hand down our final announcement. The first thing, we would like to enquire, Mr Masedi, is what is the status with previous convictions of the directors, of the practitioners present today? 15 20

MR MASEDI: Thank you, Chair. In relation to Mr Slabbert, the LPC records only one previous conviction, but that dates back to 1994, which was a failure to honour an undertaking ...[intervene] 25

CHAIRPERSON: So, it did not involve any element of dishonesty, you did not address us on that. Anything else?

MR MASEDI: In regards to Mr Bosman, the LPC records no previous convictions, he is before you here as a first-time offender. Then in relation to ...[intervene]

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CHAIRPERSON: Ms Kleinen.

MR MASEDI: Ms Kleinen, we also record a previous conviction, that dating to 1999, which ...[intervene]

CHAIRPERSON: Did it involve an element of dishonesty?

MR MASEDI: No, it relates to late submission of ...[indistinct]

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CHAIRPERSON: Alright, you need not to address us on that. We are quite happy then to regard this as a first offender for everybody.

MR MASEDI: And of course, in relation to the firm, itself, ...[indistinct], in the relation to the Firm itself, the LPC also records no previous convictions of any sort.

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CHAIRPERSON: Alright. I have already indicated that we are not going to be considering any of this for our purposes of confirming the recommended sanction, but I must place on record that I noticed there was some disagreement with what Mr Masedi said. Is there anything that you wish to comment on that? Adv Thompson?

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MR THOMPSON: Chairperson, if you will just bear with me for one moment. Mr Kleine does not know of the previous conviction that is against her, but since the fact that it is not taken into consideration for sentence, it is a matter that we will take up with Mr

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Masedi outside of these proceedings.

CHAIRPERSON: Yes, if it has been some administrative error, of course you are at liberty to discuss it with Mr Masedi, but please rest assured, it is not going to influence us, one way or the other. May I then also enquire from you, just for the sake of context, Adv 5
Thompson, do you know if any of the complainants have claimed money from the fidelity fund, or were if at all compensated? What is the current status, in so far as that goes?

MR THOMPSON: The current status, as far as we know, is that there is no claims against the fidelity fund at this stage, Mr May 10
represents eight complainants at this stage, of which we know, there has been an action instituted on behalf of the eight respondents and the parties are in talks with each other in regards to those matters.

CHAIRPERSON: ...[indistinct] has been finalised?

MR THOMPSON: That has not been finalised, the plea is only 15
due, next week, Monday.

CHAIRPERSON: Mr May ...[indistinct]. We also notice from the papers that there was some confusion regarding the whereabouts of the files. Can you clear that up for us?

MR THOMPSON: During the execution of the Anton Piller order, 20
if memory serves correct, 25 files were originally found. Of those 25, of the 30 files that was identified, by way of the independent attorney and by way of filtering of the files, 25 files were then taken into the custody of the Sherriff. Since then, three additional files have been found and they were handed over to the Sherriff as well. The two 25

remaining files, we unfortunately have no idea where they are and whether Mr Supra might have spirited them away or not.

CHAIRPERSON: And I have also noticed from your response that the firm has lodged criminal – a criminal complaint against Mr Supra. Can you just tell us, what is the status of that matter? 5

MR THOMPSON: The complainants have been following up with the South African Police Service as to what is occurring with that matter, we are awaiting the arrest of Mr Supra. But to this far, the South African Police Service has taken no steps to further prosecute the matter. 10

CHAIRPERSON: But, unless I misunderstood your response, it appears that the firm, itself also lodged ...[indistinct] ...[intervene]

MR THOMPSON: That is, when I talk about the complainant, Chairperson, I am talking about the complainant as the Firm and as represented by the directors. 15

CHAIRPERSON: I understand. Mr Masedi, I have got one question for you. Do you if any proceedings are contemplated against Adv ...[indistinct]

MR MASEDI: Thanks, Chair, there is a complaint that we currently have before us as the LPC against Adv ...[indistinct]. 20

CHAIRPERSON: Not relating to this issue ...[indistinct], Mr Masedi?

MR MASEDI: More so, relating to the documentary that was aired by Checkpoint. In particular, ...[indistinct] there. But that has been – it has been investigated to a certain point but it was apparent 25

from the commission that considered the matter, that we can only take that matter any further, subject to these proceedings. Depending on our investigation in relation to this matter, because you will see from the papers that there is quite a number of references in relation to her involvement and in relation to Mr Supra. 5

So, we do have a file that is ready, it is just waiting for us to take these proceedings further and then to decide how to approach that particular matter. Chair, if I may, perhaps before you then make a further determination on the matter. Save to say, we – as part of our engagements with the respondent, they have also given an undertaking that in relation to any and all files within their offices that relates to Road Accident Fund, for the purpose of the LPC being able to investigate and augment the report that appears to you, the Firm will be willing to cooperate with the LPC, subject to the – to the fact that the LPC’s officials will come to their offices, and make copies of whatever files they need to make copies of, and make sure they are investigated to augment the report as the need. 10 15

Because you will see that in some of the instances in the report, our auditor could not make final determinations, simply to say, further investigations are required on this aspect for the investigation of the suspect, and so forth and so forth. So, that will still need to be done, and Mr Supra’s matter is not before you, as yet, but it will follow and we will address you further in those terms. But for their purpose, the undertaking on the table, is that they will cooperate. I think it was an undertaking that was made really in terms of the 20 25

papers. Cooperate with the LPC should there be any need for the LPC to make copies of matter relating to this – to these allegations, the Firm will open their doors for the LPC to come through – make copies or scan those particular documents to enable them to do whatever investigation they need. And to finalise their report. Thank you, Chair. 5

CHAIRPERSON: Now I have a question for Adv Thompson, before I ask my colleagues if they have got any questions to you. Do you have any comments to make, regarding the proposed sanction, the amounts, the quantum? 10

MR THOMPSON: None, whatsoever, but may I just add on to what Mr Masedi has now indicated with regards to the undertaking, just to elucidate on that, Mr Chairperson? What we have at this stage is such, two batches of files.

There is the batch of files that is with the Sheriff that was taken there under the order of Anton Pillar order. The Anton Pillar order has lapsed, but there is an appeal by the SCA, by Ms Dhlamini for which we are awaiting the outcome of. Legally speaking, Schumann, van der Heever and Slabbert is entitled to go and fetch those files, because there is nothing that precludes them from doing so, However, in order to demonstrate their bona fide those files are still with the Sherriff. If the appeal is decided in favour of Schumann, van der Heever and Slabbert, the tender is that any file for which Mr May does not formally hold instructions for, is tendered to the LPC, subject thereto that copies are made under supervision of parties so 15
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that everyone has a duplicate copy of the file.

And the files for which Mr May holds instruction for, is tendered to Mr may, subject, of course, to copies being made. The second batch of files, is any or all files which are still with the first respondent, to which the LPC has a right of inspection in terms of the LPA. The tender has previously been made and we reiterate the tender that the LPC may send anyone at any stage, to 1: come inspect those files, 2: take possession of those files in so far as they need to take possession of those files, subject to the request that copies of those files, whether hard copies or electronic copies, I made, again under supervision of the relevant parties so that everyone has duplicate copies of the files.

And in so far it may be necessary to do so, the first respondent, third, fourth and fifth respondents, tender their cooperation to the LPC, the LPC's investigating committee, and in so far it is able to do so with litigious purposes to Mr May, in order to determine 1: liability and 2: if at all quantum liability.

CHAIRPERSON: Thank you, Adv Thompson. Mr May?

MR MAY: Mr Chairperson, I am quite open to – that offer is on the table for some time, and it was previously rejected, it may require reconsideration. I suspect that this forum may not be the correct forum for that type of negotiation, but I am happy to enter into a sort of round table discussion with the respondents, on an urgent basis if necessary.

CHAIRPERSON: Any comment regarding the quantum?

...[indistinct] agreement for the record.

MR MAY: Mr Chairperson, forgive me, I ...[indistinct] my comment in so far of the quantum of the plea bargain had already been made. I have no objection to the quantum of the plea bargain, subject, obviously it pertains to charge 5, not the other charges. If I can add to that and this is an assumption, perhaps, a question, that the Law Society, if the evidence arose that the other charges could be reinstated, that this would not be subjected to a sort of double jeopardy proscription of the reinstatement of those charges. 5

CHAIRPERSON: And of course, you will appreciate that we cannot comment on that, I mean you will have to read the Act and consider your options. I mean, the simple fact between us is that they have been withdrawn. So, we are not required to determine them or to adjudicate them then we can only deal with what is before us. Alright then, alright. 10 15

We have had a discussion regarding the quantum, we take into consideration, everything that has been said. The circumstances under which these incidents happened, you may rest assured that we familiarise ourselves with the papers, and we are fully aware of the version of each of the directors. They are quite lengthy papers, as you are aware. In these circumstances and in light of the conduct and the undertaking of the practitioners, and the agreement with the complainant and the LPC, we are satisfied that the sanction is an appropriate one in these circumstances. 20

We accordingly make an order that the firm, pay the 25

amount of R120 000 and that each of the partners, that is Mr Bosman, Mr Slabbert and Ms Kleinen, pay a fine of R60 000. Mr Masedi will furnish you with the details as to where payments of these amounts must be made.

MR MASEDI: Chair, through you, if I may, if I may, perhaps 5
you can then assist by conveying – by also checking with the
respondents as to the payment method. 1: is to whether they would
be able to make payment of this amount at one go, or whether they
would not – and 2: as to how long will they require to make payment.
What we usually propose is that within 30 days of the date of the 10
issuing of invoice, which the LPC will issue, to the firm, but of course
they must also guide us as to the amount and quantum, then we can
make a decision accordingly.

CHAIRPERSON: I would have thought that Adv Thompson 15
would have addressed us on this issue, as to whether a payment
plan was required. But I suppose the proceedings still remain open.
...[indistinct]

MR THOMPSON: Thank you, Mr Chairperson. The request I 20
have just received, is whether the committee will consider whether
the payment will be made in two transfers, the one at the end of April,
and the second one, at the end of May.

CHAIRPERSON: ...[indistinct] R120 000 are you saying 60 000
at the end of April and 60 000 at the end of May?

MR THOMPSON: That is correct, Chairperson.

CHAIRPERSON: ...[indistinct] 25

MR THOMPSON: R30 000 and R30 000.

CHAIRPERSON: R30 000 in April and R30 000 in May. Mr May?

MR MAY: I have no objection to that.

CHAIRPERSON: Mr Masedi?

MR MASEDI: That is in order, Chair. 5

CHAIRPERSON: Alright, then we record then that terms are acceptable to the committee, and for the record, then, in respect of the first respondent, in respect of the firm, Schumann Van Der Heever & Slabbert, R60 000 is payable on the last working of April 2023, and R60 000 is payable on the last working day of May 2023. 10

In respect of Mr Bosman, Mr Slabbert and Ms Heinen, R30 000 is payable on the last working day of April 2023, and R30 000 is payable on the last working day of May 2023. Is that accurately recorded?

MR THOMPSON: Thank you, Mr Chairperson, I confirm that it is accurately recorded. 15

CHAIRPERSON: Thank you, unless there is anything else, I think that concludes this matter.

MR MASEDI: That would conclude this first leg of this matter, Chair. 20

CHAIRPERSON: Yes, this first leg ...[indistinct]

MR MASEDI: Thank you.

CHAIRPERSON: Alright, thank you, very much for your attendance and your cooperation, and for taking us into your confidence, ladies and gentlemen. May I just request that we go off 25

record, before I execute the fine[?] ...[indistinct]

PROCEEDINGS ADJOURN

PROCEEDINGS RESUME

MR MASEDI: Thank you, Chair, we are back on record. 5

CHAIRPERSON: Thank you very much. Good afternoon, ladies and gentlemen. Welcome to this disciplinary hearing of the Legal Practice Council, my name is Mr Chagan. I am the Chair of today's proceedings. On my left is Adv Mureriwa, on my right, is Mr Makukunzva, together the three of us constitute the panel, and we 10 have mandated by the Legal Practice Council to adjudicate on today's matter. You are all familiar with Mr Masedi, who is the legal official, prosecuting the matter today. Starting from my left, may I just ask that everybody present introduce themselves, can I just remind you, when you speak to press the green button on your 15 microphone, so that it records what you are saying. Thank you, very much, sir, you may go ahead.

MR MAY: I am Mr Steven May, I am for the – I act for the complainants in this matter. To my left is Ms Kgomotso Sekonya, and Ms Claudia Bompani, who assist me from my practice. 20

CHAIRPERSON: Thank you, very much, Mr May.

MR REDDY: Good day, I am Aswin Reddy, I am an auditor in the risk and compliance department of the Legal Practice Council.

CHAIRPERSON: Thank you, very much, Mr Reddy.

MR SUPRA: Good day, I am Mr Supra, the second 25

respondent in this matter.

MR WERNER: My name is Marius Werner, I am a senior manager in the Forensic Investigation Department of the Road Accident Fund.

CHAIRPERSON: Sorry, ...[indistinct] 5

MR WERNER: Marius Werner.

CHAIRPERSON: Marius Werner? Did you complete the audit ...[indistinct]

MR MASEDI: No, no, he is a Senior Forensic Investigator for the Road Accident Fund. 10

CHAIRPERSON: ...[indistinct]

MR MASEDI: Yes.

CHAIRPERSON: Okay. Are we expecting anybody else, Mr ...[indistinct]

MR SUPRA: No Chairperson, I actually want to ask for 15
postpone in order to obtain ...[intervene]

CHAIRPERSON: ...[indistinct]

MR SUPRA: No. I am representing myself.

CHAIRPERSON: Mr Masedi?

MR MASEDI: Thank you, Chair. Okay, I just wanted to be 20
sure that document has nothing to do with the documents that we
should be aware of. Secondly, you asked for copies of the files in
question.

MR SUPRA: Correct.

MR MASEDI: These are the files that you worked on. 25

MR SUPRA: That is correct.

MR MASEDI: And you are asking them from the LPC.

MR SUPRA: Well, once again I have asked them from the firm, and the firm has not helped, they seem that they are not going to provide me anything information, I must work without. 5

MR MASEDI: And when you worked on these files, what did you do with them?

MR SUPRA: I do not understand the question.

MR MASEDI: What did you do with the files, themselves, you worked on these files. 10

MR SUPRA: Yes.

MR MASEDI: What did you do with them, where did you put them?

MR SUPRA: In the filing cabinet, ...[indistinct] but I do not understand the question, I did not keep any, nothing. ...[indistinct] 15

MR MASEDI: So, you left the files at the Firm.

MR SUPRA: Correct, because I was ...[indistinct] these files that I worked on, obviously ...[indistinct] the Firm get all the files.

MR MASEDI: So, you left all the files there. And the comment by the Firm, do you want their response to the report so that you can prepare yours forward, or what? 20

MR SUPRA: I have prepared my report, yes ...[indistinct] But I need their comments as well, to see what their comments are.

MR MASEDI: Okay, okay.

MR MURERIWA: I think, Mr Masedi, which documents are you 25

able to provide ...[intervene]

MR MASEDI: Thank you, Chair, as it stands the only document that we would be able to provide to Mr Supra, would be the comments that are made by the Firm to the report. But of course, that would be subject to whether in the circumstances, currently, there would be any need for those comments to be furnished to him, because he will be responding to the report where it affects him, and the documents that we believe would be key to assist, if any will be the ones that will be furnished by the Firm, and not necessarily their comment.

But there is nothing that binds us, Adv Mureriwa, in furnishing him with a bundle of documents that are before you, so that he can be able to prepare his response and/or his defence, accordingly. So, the bundle of papers, is the one that you have – they can be – they can be given to him, so that he can acquaint himself with the contents.

MR MURERIWA: Mr Masedi, ...[indistinct] that he worked with.

MR MASEDI: Ja, so if a response is solicitate – solicited from us as to whether we believe that the documents that are requested by the practitioner would perhaps hide discussions in any way, we do not necessarily believe so, but we believe that every individual who has to prepare any sort of a defence, he is entitled to whatever documents that he believes will assist him. And the committee would then exercise its discretion as to whether the

requested documents are relevant or are required to assist in that venture.

MR MURERIWA: : ...[indistinct]

MR MASEDI: Yes, we do not have them, whether they exist or not, the Firm would have to respond to that, ja. 5

MR MURERIWA: ...[indistinct]

MR MASEDI: That is correct.

MR MURERIWA: ...[indistinct] what can be derived from the pages ...[indistinct]. Because what I want to get to, are we ...[indistinct] because the documents which ...[indistinct]. 10
respondent as we thought, has not because of a fault ...[indistinct]
the documents ...[indistinct]. It is a fault if there is a fault ...[indistinct]

MR MASEDI: Thank you, Adv Mureriwa, our response to that would be very, very simple. There are two sets of files, that currently exist in as far as we know and what appears in our papers. The first 15
set, is the files that are part of the Anton Piller dispute. Piller, Piller dispute, that is from what we know, currently before the Supreme Court of Appeals, where we are waiting for a judgment to that effect. And from what we understand, that is an odd 28 or so, files, as intimated to this committee I think, earlier today and also by Mr May. 20

But there are other files that we have also established are still in the Firm, they are still with the Firm itself. And we sit here with an undertaking from the Firm which is in the bundle of papers before you, and also, they made such an undertaking, further today, that they can make those files available to the LPC so that the LPC can 25

make any copies that they require, in order for the LPC to finalise, if need be, any further investigation from their side. So, I would – if I am bold, and answer, and say, there are files that are available, but those files are not in the possession of the LPC. They are either with the Sherriff or with the firm, itself. 5

MR MAY: Mr Chairperson, I may, if I may beg for your pardon for making interruption? There are three things that I wish to bring to the committee's attention. The first, is the time line involved. Mr Supra left the firm, I think on the firm's version, during or about December 2020. They were bringing this to the attention of the LPC 10 in March 2021. So, his departure in December 2020 would have followed some, 9 months, while he was still active at the firm, would have been in possession of the Anton Piller application which contained all of the material allegations against Mr Supra, himself, the Firm and the other directors, generally. And would have been 15 able to avail himself of that information. This would, I submit, tend towards an indication, generally that there was a reticence to answer, because no answer to those allegations levelled by Mr Supra or any other directors of the Firm, during that period.

The second thing that I wish to bring to the committee's 20 attention is that – well, simply a tender on my part, that I will engage with Schumann Van Der Heever, the remaining directors, as well as Mr Masedi, to try and propel, forward to the extent that it is necessary, a copying of the files, retrieval of whatever files are with the Sherriff, so that we can make sure that Mr Supra has whatever 25

he feels in necessary and relevant, so that he can prepare his defence properly. And – well, today, if – well, today I will send an email out, copying the relevant parties so that we can try and accelerate that process.

The third, and final thing, is in so far as the civil proceedings are concerned – firstly, if I may direct a question to Mr Supra. Mr Supra, are you aware of the proceedings that have been instituted? 5

MR SUPRA: Which proceedings are you talking about?

MR MAY: The action in the High Court, it is a civil action proceeding, the proceedings that were foreshadowed in the Anton Pillar application for the recovery ...[intervene] 10

CHAIRPERSON: Is it under case number, let me see if there is a case number here. It is in our bundle, it appears at the end of the bundle. It is a summons, issued out of the offices of Mr May, with the plaintiff being Ms Thandi Dlamini, is that the one that you are referring to? 15

MR MAY: Indeed, Mr Chairperson, yes. Seven other plaintiffs, too.

...[indistinct] 20

MR SUPRA: No, I am not aware of that action.

MR MAY: Mr Supra, following from that ...[intervene]

CHAIRPERSON: ...[indistinct]

MR MAY: If I may, beg for the very brief indulgence, Mr Chairperson. 25

CHAIRPERSON: Yes?

MR MAY: Your former colleagues, your former co-directors, as they then were, have accepted liability in so far as the allegations are – can be proved, as they are set out in the Anton Piller application. In so far as those allegations can be proved, do you also accept liability? 5

CHAIRPERSON: No, Mr May, I am not going to allow this. He is not in the witness stand, this is not cross examination, we are here for a hearing, he has brought an application for a postponement, and we just want to consider. 10

MR MAY: I beg your pardon, Mr Chairperson. To that end, then, may we – may the – Mr Supra just put on record and address whichever of this can be effected, because this has been a difficulty.

CHAIRPERSON: You can address that through Mr Masedi. 15

MR MAY: As the Chairperson pleases.

CHAIRPERSON: Alright, may we then adjourn the matter for a few moments, it will not be longer than 5 minutes, ...[indistinct] anything to say ...[indistinct]

MR MURERIWA: No, I think the committee rests. 20

CHAIRPERSON: So, if the parties can excuse us for 5 minutes, while we deliberate on the request, and then ...[indistinct] our judgment ...[indistinct]

MR THOMPSON: Thank you, Chairperson.

PROCEEDINGS ADJOURN 25

PROCEEDINGS RESUME

MR MASEDI: Thank you, Chair, we are back on record.

CHAIRPERSON: Thank you, very much, Mr Masedi. On
resumption, we have considered the request for a postponement by 5
the practitioner, Mr Supra, and we have also considered the
submissions made by Mr May on behalf of the complainant as well
as that of Mr Masedi on behalf of the Legal Practice Council. It goes
without saying, of course, that any practitioner accused of offences
as serious as the ones levelled against him in this matter, must be 10
given an opportunity to prepare his defence as fully as possible.

That is certainly a right that the practitioner has in this
forum and it is a right that members of the public have in any legal
forum. The panel is fully aware that the practitioner should not be 15
unduly prejudiced, in the preparation of his defence in matters, like
this. However, the enquiry does not end there. While I have
emphasised the interest of the practitioner, we of course have to
emphasise the competing interests as well. The interests of the
complainant in the finality of the matter, the interests of the legal
Practice Council in the finality of the matter, and very, very 20
importantly, is the nature of the charges.

We must emphasise that we have gone through the report
compiled by Mr Reddy, with painstaking detail, it has consumed
much of our time. And I have no hesitation in saying that we do not
come across allegations of this seriousness every day. And when 25

we are confronted with these allegations, we must treat it with the necessary seriousness that it warrants. I also do not want to belabour the point but everybody present here today here at this matter has attracted some media attention, and while that is certainly not influencing us in our decision, whether or not to grant the postponement, I would just like to add that it is regrettable that it has come to that, and that is just an indication of the seriousness of the matter. 5

Although we are a disciplinary committee, I must emphasise that no evidence has been led. We make no finding on whether Mr Supra is guilty or not guilty, of these allegations, that is an opportunity that would have been ventilated toady, but in light of the application for a postponement and in light of all the interests that I have – that I have mentioned, we have decided that the best way, in the interests of all parties and in the interests of a speedy resolution to resolve this matter, would be to invoke the provisions of Section 43 of the Legal Practice Act. For the record, I am going to read section 43 just a short section. The heading is 10 15

“Urgent Legal Proceedings.

Despite the provisions of this chapter, if upon considering a complaint, a disciplinary body is satisfied that a legal practitioner has misappropriated trust monies, or is guilty of other serious misconduct, it must inform the council thereof, with a view of the council instituting 20 25

urgent legal proceedings in the high Court, to suspend the legal practitioner from practice and to obtain alternative interim relief.”

From the documents available to us, we have very little doubt, without making a formal finding, as I have already indicated, 5 that there are serious allegations of misconduct, and that it would not be in the interests of justice, or in the interests of any of the parties, for this matter to be postponed. But the most appropriate course of action would then be to refer this matter to the council, with a recommendation that the council institute urgent legal proceedings 10 with the High Court, for the suspension of the legal practitioner, Mr Supra.

In such application, the council will of course present all the evidence that it has to support the application for the suspension. Mr Supra will oppose that in the normal cause and introduce all the 15 evidence that he has to oppose such application, if he so inclined. We take note that both Mr May as well as Mr Masedi have undertaken to provide Mr Supra with all documentation that he requests. We expect you to abide by your undertaking.

And if and when Mr Supra requests either Mr May or Mr 20 Masedi to provide him with documents that are in their possession, or under their control, obviously, the same would be made available immediately to Mr Supra to assist him in the preparation of his defence.

To summarise, then, very simply, the application for a – 25

application is refused, and the council – the recommendation is for the council to act in terms of section 43 of the Legal Practice Act. T

The final thing that we wish to add, is that we are directing the monitoring unit, Mr Reddy, to conduct, as soon as possible, as a matter of urgency, an investigation into the trust account of Mr Supra's new firm, we understand that he is now practicing for his own account. We expect Mr Supra to make the full details available to Mr Reddy, as well as to Mr Masedi. So that Mr Reddy or a designated person from his office can contact you in order to act in accordance with this directive. 5 10

In so far as Mr May requires the contact details of Mr Supra, the LPC is directed to forward all contact details they have on record for Mr Supra, to Mr May, forthwith. If you require a formal request to do so, then Mr May must formally request you in writing to provide him with such details. And you are directed then to make those details available to Mr May. That is our finding in this matter, ladies and gentlemen, thank you, very much for your attendance today. You are all excused, and this matter is now closed. Thank you, very much. 15

MR MASEDI: Thank you, Chair. 20

CHAIRPERSON: Thank you.

PROCEEDINGS ADJOURNS
