

CONFIDENTIAL

THE LEGAL PRACTICE COUNCIL: GAUTENG PROVINCE

REPORT

INSPECTION OF RECORDS

OF

SCHUMANN VAN DEN HEEVER AND SLABBERT INC.

JOHANNESBURG

2021

21 June 2021

The Director

The Legal Practice Council – Gauteng Provincial Office

BACKGROUND

I received instructions to perform an inspection of the firm's accounting records in terms of S37 (2) (a) of the Legal Practice Act No.28 of 2014 as a result of a complaint lodged against the firm. Further details pertaining to the complaint are contained in paragraph 6 below.

1. ATTENDENCES

1.1 I met with Mr J Supra (Director) and Mr I Bosman (Director) at the firm's offices located at 32 Kempton Road, Kempton Park, Johannesburg on 22 October 2020.

1.2 During the meeting the two Directors were informed of the following:

1.2.1 My mandate to conduct an inspection in terms of S37 (2)(a) of the Legal Practice Act;

1.2.2 The reason for the inspection;

1.2.3 The process pertaining to the inspection;

1.2.4 The report that I would be compiling on finalisation of the inspection

1.3 The original mandate was furnished to Mr Bosman and he signed a copy as acknowledgement of receipt.

A copy of the mandate which was signed by Mr Bosman is attached hereto as Annexure A.

- 1.4 The Directors confirmed that they understood the process and had no queries regarding the inspection.
- 1.5 It was further agreed that any requests relating to the firm's records and information would be directed to Mr Bosman and that he would communicate the requirements to the other directors of the firm.
- 1.6 I informed the firm of the specific accounting records required for the inspection via a letter dated 23 October 2020 which was e-mailed to Mr Bosman.

A copy of the letter is attached hereto as Annexure C.

- 1.7 The firm's accounting records were provided in electronic format on a flash drive which was couriered to the offices of the Legal Practice Council on 10 November 2020.

2. NATURE AND STRUCTURE OF PRACTICE

- 2.1 According to the records of the Legal Practice Council, the firm was established on 1 January 1946.
- 2.2 The records of the Legal Practice Council indicate that the current directors of the firm are as follows:

Name	Date joined
JJ Slabbert	01/03/1976
I Bosman	01/03/2003
A Kleinen	01/03/2005
I Louw	01/03/2021

The records of the Legal Practice Council indicate that Mr Supra was a director of the firm during the period 1 August 2014 to 18 December 2020.

- 2.3 A company report obtained directly from the Companies and Intellectual Property Commission (CIPC) confirmed that the current directors of the company are as indicated in paragraph 2.2 above. The report however, also indicate that

Ms M.I.G Magagulu was appointed as non-executive director of the firm on 17 March 2021.

A copy of the company report is attached hereto as Annexure B.

2.4 The directors informed me that the firm comprised the 4 Directors, 2 Professional Assistants and 30 administrative staff.

2.5 According to the firm's website each director's area of responsibility is as follows:

Mr JJ Slabbert	Mr I Bosman
Commercial and contracts	Magistrate's litigation
Notarial	Collections
Bonds	Labour law
Trusts	Contracts
Ms A Kleinen	Mr J Supra
High court litigation	Road Accident Fund claims
Collections	Medical Negligence claims
Family Law	Personal injury claims
Insolvency and rehabilitations	Family law
Deceased estates	Correspondence work

Mr Bosman and Mr Supra confirmed that the above-mentioned information is still accurate, as at the time of my visit to the firm.

2.6 Mr Bosman informed me that the firm is on the panel of attorneys for ABSA Trust, to attend to property transfers from deceased estates as well as to attend to the administration of deceased estates. In addition, the firm was also on the panel for Nedbank in respect of bond registrations.

2.7 The Directors informed me that the firm had documented and signed fee agreements with all clients.

According to the Directors a standard fee agreement is entered into with clients in respect of litigation services. A copy of the standard fee agreement is attached hereto as Annexure D1.

- 2.8 I enquired about the firm's fee agreements in respect of motor vehicle accident claims. Mr Supra informed me of the following in this regard:
- 2.8.1 All fee agreements with clients tended to be contingency fee agreements as clients could not afford to outlay monies in advance towards the firm's fees and disbursements;
 - 2.8.2 Staff are required to record all attendances as file notes, on the Legalsuite system;
 - 2.8.3 The firm's party and party costs are drafted internally;
 - 2.8.4 The firm's fees on an attorney and client scale is arrived at by multiplying the fees per the bill of costs drawn on a party and party scale by two (2).
- 2.9 I enquired about the firm's marketing methods and was informed by Mr Bosman and Mr Supra that the clients were usually obtained by way of word of mouth referrals. Mr Bosman further stated that the firm also employed social media marketing.

3. TERMS OF REFERENCE AND SCOPE OF INSPECTION

- 3.1 My inspection was directed at the following:
- 3.1.1 An overview of the accounting and supporting records, systems and procedures with a view to establish the general state thereof and the identification of and commentary on any aspects considered irregular and/or unsatisfactory.
 - 3.1.2 The determination of the trust position of the firm at specific and/or selected dates and reporting on any trust deficiencies or other similar irregularities.
 - 3.1.3 The identification of any other circumstances or irregularities which manifested themselves during the course of the inspection, which in my view required comment.

3.1.4 The identification of and reporting on any contravention of:

3.1.4.1 The Attorneys Act 53 of 1979 ("the Act");

3.1.4.2 The Legal Practice Act 28 of 2014 ("the LPA"), with effect from 1 November 2018;

3.1.4.3 The Rules of the Law Society of the Northern Provinces ("the Rules");

3.1.4.4 The Rules for the Attorneys Profession "the National Rules", with effect from 1 March 2016;

3.1.4.5 The South African Legal Practice Council Rules "the LPC Rules", with effect from 1 November 2018;

3.1.4.6 The Code of Conduct for all legal practitioners, candidate legal practitioners and juristic entities, with effect from 29 March 2019 with specific reference to the accounting records and administration of trust monies;

3.1.4.7 Rules made in terms of Section 6 of the Contingency Fee Act 66 of 1997.

3.2 I did not perform any substantive audit procedures on the documentation and accounting records presented to me.

4. SOURCES OF INFORMATION

4.1 The findings per this report was based on the following information:

4.1.1 The information contained in the complaints lodged against the firm;

4.1.2 The records of the Legal Practice Council which includes the firm's submission in terms of Rule 35.23 of the Rules for the Attorneys Profession/ Rule 54.23 of the South African Legal Practice Council Rules;

- 4.1.3 The firm's accounting records which I had requested as detailed in Annexure C;
- 4.1.4 The representations made by Mr Supra and Mr Bosman during my meeting at the firm's offices on 22 October 2020;
- 4.1.5 Information contained on the firm's website;
- 4.1.6 Information obtained from the Companies and Intellectual Property Commission (CIPC). Refer to Annexure B.

5. ACCOUNTING AND SUPPORTING RECORDS, SYSTEMS AND PROCEDURES

5.1 *Introduction*

- 5.1.1 Mr Bosman advised that the firm's trust accounting records were updated on Legalsuite by the firm's bookkeeper, Ms Angela Viljoen on a daily basis.
- 5.1.2 Mr Bosman informed me that the Directors do not ordinarily review the trust accounting records as it would be impractical for them to do so as the firm had too many transactions.
- 5.1.3 Mr Supra and Mr Bosman stated that any issues with a trust creditors balance would be identified as the directors worked on a file.

5.2 *Banking accounts*

- 5.2.1 Details of the trust bank accounts are as follows:

ABSA

Schumann Van Den Heever and Slabbert Inc.
Posbus 67
Kempton Park
1620

Account number: 11-9923-0448

Branch: Central Avenue

The account had a credit balance in the amount of R12, 846,603.07 as at 29 February 2020

Nedbank

Schumann Van Den Heever and Slabbert Inc.

Account number: 1987367170

Branch: Glen Acres

The account had a credit balance in the amount of R2, 202,074.16 as at 29 February 2020.

- 5.2.2 The firm holds a number of trust investment accounts at ABSA Bank in terms of S86 (4) of the Legal Practice Act.

A list of the investment bank accounts in terms of S86 (4) of the Legal Practice Act is attached hereto as Annexure F.

5.3 *Receipts*

- 5.3.1 Mr Bosman advised that the firm did not receive any trust cash as clients are required to effect payments directly into their trust banking account alternatively deposit cash into their trust bank account.

- 5.3.2 Mr Bosman stated that all monies received in the trust bank account is receipted on Legalsuite and receipts are issued in triplicate.

5.4 *Payments*

- 5.4.1 Mr Bosman explained that the firm's payment process is as follows:

5.4.1.1 The trust creditor account balance is checked on the Legalsuite system before a payment is requested;

5.4.1.2 A payment requisition form is prepared by the relevant fee earner and is then submitted to the respective Head of Department for authorisation;

5.4.1.3 Once the payment requisition is signed by the relevant Head of Department, the bookkeeper checks the requisition to the supporting documents and thereafter loads the payment on the online banking system;

5.4.1.4 He (Mr Bosman) would then agree the details on the payment requisition to the supporting document and signs the requisition as evidence of him checking and authorising the payment. He then authorises the electronic funds transfer;

5.4.1.5 The requisition is sent back to the bookkeeper for filing.

5.4.2 Mr Bosman explained that beneficiary banking details are verified. The firm requires clients to provide proof of their banking details in the form of a letter from the bank confirming their account details or a bank statement.

5.4.3 All payments are effected via electronic funds transfer and any of the directors have the authority to authorise a payment.

5.5 *Fees journal and transfer procedure*

5.5.1 According to Mr Bosman only the Head of Departments, the conveyancing secretary and the bookkeeper has the system rights to record fees on Legalsuite.

5.5.2 Mr Bosman stated that the bookkeeper would then generate a fee report on Legalsuite which would reflect the fees which the firm could transfer. The electronic transfer from the trust banking account to the business banking account is then authorised.

5.5.3 Upon my enquiry Mr Bosman stated that the Directors place reliance on each other to records the correct fees on Legalsuite. The Directors thus do not query or check the fees recorded by their counterparts.

5.6 *Retention of records*

5.6.1 Mr Bosman confirmed that the firm's accounting records are retained in both hard copy and electronic copy.

5.6.2 Mr Bosman advised that the hard copies of the accounting records are retained in a fireproof safe located in the firm's offices and that the electronic copy of the accounting records are backed up to an offsite location.

6. **COMPLAINT FROM STEPHEN G. MAY ATTORNEY**

6.1 The Legal Practice Council received a copy of the court papers in respect of the application launched by Ms Thandi Caroline Dhlamini in the High Court of South Africa, Gauteng Local Division under case number 2020/9518 against her erstwhile attorney namely, Schumann Van Den Heever and Slabbert Inc and seven (7) others.

A copy of the complaint bundle is attached hereto as Schedule E.

6.2 The background of the matter is that Ms Dhlamini was injured in a motor vehicle accident on 1 September 2014. Ms Dhlamini was assisted by Mr Jakkie Supra (a Director of the firm, Schumann Van Den Heever and Slabbert Inc.) in lodging a claim against the Road Accident Fund (hereinafter referred to as, "R.A.F"). The claim was settled on or about May 2018.

Ms Dhlamini was subsequently contacted by a whistle-blower at the firm, Mr William Richard Crichton who had informed her of certain facts relating the claim against the Road Accident Fund.

6.3 Ms Dhlamini brought an application for *ex parte* Anton Piller relief for the preservation of the files and records which were in the possession of her former attorneys, Schumann Van Den Heever and Slabbert Inc. which would enable her and members of the class constituting the eight respondent (being all persons with claims against the Road Accident Fund which were prosecuted by the firm, Schumann Van Den Heever and Slabbert Inc.) to finalise claims which they have against the Schumann Van Den Heever and Slabbert Inc.

- 6.4 In Ms Dhlamini's founding affidavit she makes the following statements which provide further background into the matter:
- 6.4.1 On or about 1 September 2014 she was involved in a motor vehicle accident whilst travelling from Potchefstroom to Parys;
- 6.4.2 In January 2015 she was contacted by someone from the firm, Schumann Van Den Heever and Slabbert Inc. who informed her they were aware of her accident and enquired if she would like to institute a claim against the Road Accident Fund;
- 6.4.3 She queried how the person had come to know of her accident and was informed that they had seen her accident report at the police station;
- 6.4.4 She received an amount of R1, 000.00 (one thousand Rand) from the firm to enable her to travel to the firm's offices in Kempton Park. She travelled together Ms M.A Mogale, Ms P.A Mokoena and Ms S.N Mlambo who were with her at the time of the accident.
- 6.4.5 She later established that the amounts advanced to her by the firm to enable her to travel were deducted from the settlement received from the Road Accident Fund.
- 6.4.6 The travel costs were incurred as a result of the distance between her place of residence and the firm's offices. Had she been aware that she was liable for the transport costs she would have engaged a local attorney who specialised in personal injury claims.
- 6.4.7 She travelled to the firm's offices and met with Mr Supra. She signed a bundle of documents, the content of which she did not understand and does not remember. She was not furnished with copies of these documents.
- 6.4.8 Mr Supra informed her that she could expect to receive an estimated amount of R500, 000.00 from R.A.F and that his fees would amount to 25% of the capital award.

- 6.4.9 She consulted with certain medical professionals however, she is quite certain that she did not consult with "Dr L.A Oelofse (Orthopaedic Surgeon)" and "Dr JJ Schutte (General Practitioner)" whose costs were specifically provided for on the "draft order" she was furnished with;
- 6.4.10 On or about 14 May 2019 she met with Mr Supra at his offices and was informed that her claim was settled for an amount of R583,454.90. She requested confirmation of the settlement and was provided with an unsigned draft order.
- 6.4.11 Mr Supra informed her that he would retain an amount of R100, 000.00 in respect of his legal fees. She subsequently received an amount of R400, 000.00 by way of electronic funds transfer. By her own calculation she still expected a further amount of R83, 454.90 however, she did not receive further payments.
- 6.4.12 She queried the discrepancy and was advised by Mr Supra that the balance had been utilised to defray the advocate and medical expert's fees and that she could peruse their invoices if she wished.
- 6.4.13 In late 2019 she was approached by a journalist who informed her that a whistle-blower had furnished him with documentation that on a *prima facie* basis indicated that she had several claims against the firm.
- 6.4.14 She was subsequently introduced to her current attorney (Stephen G May Attorney) whose services she has retained.
- 6.5 In Ms Dhlamini's affidavit she makes the following serious allegations:
- 6.5.1 The settlement amount received from R.A.F in respect of her claim was an amount of R683, 454.90 however, Mr Supra advised her that her claim was settled for an amount of R583, 454.90. On this basis alone she would be owed an amount of R100, 000.00;
- 6.5.2 The ledger printout of her matter reflects a payment in the amount of R106, 000.00 to "Polmed" which is a medical aid for the South African Police

Services (SAPS). She is not a SAPS member, nor is she a member of their medical aid scheme;

- 6.5.3 It appears that 2 (two) bill of costs were taxed. The fees and disbursements per the bill of costs after taxation was as follows:

SVDH's bill of costs	R269,718.70
Correspondent's bill of costs	R42,263.99
Total	<u>R311,982.69</u>

The ledger printout indicated that the firm received an amount of R311, 982.69 from RAF on 25 January 2019 in respect of party and party costs.

- 6.5.4 The party and party costs were not paid to her;
- 6.5.5 R.A.F had paid a total amount of R995, 435.59 (being the sum of R683, 454.90 and R311, 982.69) into the firm's trust account in settlement of her claim however, she only received payment in the amount of R400, 000.00
- 6.5.6 The bill of costs (as referred to in paragraph 6.5.3 above) were inflated which had the effect that R.A.F had been defrauded in that they had paid for fictitious attendances recorded on the bill of costs. In addition she had also been defrauded as the firm's normal fee and consequently the success fee was also inflated (notwithstanding that the firm's deductions were in excess of 25% of the capital award);
- 6.5.7 The firm failed to properly account to her. Of particular concern to her was:

6.5.7.1 The failure to account for the full settlement amount of R683, 454.90 and the fact that the firm had retained an amount of R100, 000.00;

6.5.7.2 The party and party costs were not accounted for;

6.5.7.3 The payment in the amount of R106, 000.00 to "Polmed";

6.5.7.4 Approximately R83, 000.00 which was disbursed to counsel and medical experts.

6.6 Ms Dhlamini's application was supported by an affidavit by the whistle-blower, Mr William Richard Crichton. In Mr Crichton's affidavit he states the following:

6.6.1 He was employed at Schumann Van Den Heever and Slabbert Inc. (SVDH) as a candidate attorney in the firm's R.A.F litigation department over the period November 2017 to October 2019;

6.6.2 He had concluded that the firm was not operating ethically and that he could not turn a blind eye to the wrongdoing. He did some research and came across a number of articles written by a journalist who was critical of personal injury attorneys. He subsequently sent an e-mail to the said journalist;

6.6.3 Mr Supra was responsible for the firm's RAF department and handled all claims against R.A.F in the same manner which can be summarised as follows:

Step 1	Touting
	The firm made use of, "runners" who would sell the files to the firm for a commission of between R10, 000.00 and R50, 000.00. These payments are usually funded out a bank account referred to as, "business savings".
Step 2	Pre-litigation
	Clients would attend the firm's offices to sign a bundle of documents and consultations would be arranged with various medical experts through a firm called, "Fundamedical". The initial consultation is the only consultation that anyone from SVDH actually attended. The multiple attendances in respect of consultations with clients and experts did not transpire.
Step 3	Settlement
	The objective was to settle client's claims as expediently as possible rather than to obtain the best

	possible settlement for the client. The reason for this was the profit for SVDH was derived from the cost orders, for which they would inflate the bill of costs.
	Mr Supra would present the settlement figure to the client in the form of handwritten notes and inform the client that they could expect to receive 75% of the figure disclosed.
	The settlement which provided for costs would then be made an order of the court. Final payment would be made to the client after deducting the firm's fee of 25% of the award. At this point the clients' relationship with the firm would have ended.
Step 4	Drafting of the bill of costs
	The drafting of the bill of costs for SVDH as well as the correspondent attorney would commence as soon as the settlement agreement was made an order of the court.
	The claim in respect of costs would be finalised by agreement since the firm avoided taxation. The party and party costs received from R.A.F would simply be retained by the firm.
	The bill of costs was inflated by the inclusion of fictitious attendances/consultations, fictitious telephone calls, letter and e-mails, fabrication of the correspondent attorney's bill of costs and inflation of counsel's invoices (in order to align consultations "attended" as indicated on the bill of costs of SVDH.
Step 5	Fee transfers
	Upon receipt of the party and party costs from R.A.F the monies would be transferred to the firm's business account alternatively the firm's business savings account.

6.7 Mr Stephen May furnished the Legal Practice Council with a letter dated 22 July 2020 wherein he outlined the various issues which he believed to be misconduct on the part of SVDH. The issues raised are as follows:

- 6.7.1 The firm touted for clients. In the case of Ms Dhlamini, it appears to have been a SAPS member that forwarded the firm her accident report from the Parys Police Station. Ms Dhlamini was thus induced to appoint SVDH;
- 6.7.2 The former clients of the firm which he had consulted with indicated to him that the arrangement was that SVDH would take 25% of the capital award as their fee without any mention of their normal fee structure or hourly rate. The fee agreement is thus contrary to the Contingency Fees Act and the Legal Practice Council Rules regarding contingency fees;
- 6.7.3 On the day of trial the client would meet Counsel however, there are no witnesses or medical experts present which one would expect on a trial date;
- 6.7.4 The client would then be informed that there is a settlement offer and informed that this is the best offer they would receive and that may end up getting less or alternatively waiting years for another trial date;
- 6.7.5 SVDH does not properly account to clients;
- 6.7.6 When the settlement is received in the firm's trust banking account, SVDH merely deducts an amount of no less than 25% of the settlement account in respect of their fees;
- 6.7.7 SVDH's normal fee is not calculated;
- 6.7.8 During their search at the firm's offices they only found about 30 files but he is reasonably certain that a substantial amount of other files had been removed from the firm's offices.
- 6.7.9 The party and party bill of costs were inflated with fictitious attendances;
- 6.7.10 SVDH appointed Jacques Swanepoel Attorney as a post-box correspondent and misrepresented him as being an active correspondent. In each matter Mr Swanepoel charged an amount of between R1, 300.00 and R1, 700.00. SVDH however drafted a bill of cost of between R30, 000.00 – R40, 000.00 in

his name and even added VAT to the bill despite Mr Swanepoel not being registered as a VAT vendor;

6.7.11 SVDH would not disclose the party and party costs to the client. The costs were retained by the firm.

6.8 I discussed the allegations levelled against the firm (as outlined in paragraph 6.5 – 6.7 above) with Mr Supra and Mr Bosman during my meeting with them on 22 October 2020. Their representations regarding the allegations are detailed below:

6.8.1 Allegation: The firm touts for clients. Ms Dhlamini alleges that someone from the firm contacted her in January 2015. The person who contacted her informed her that they (the firm) were aware of her accident and enquired if she would like to institute a claim against R.A.F.

Response

6.8.1.1 Mr Supra advised that he had consulted with Ms Dhlamini as well as the 3 (three) other individuals who were with her in the motor vehicle at the time of the accident at the firm's office.

6.8.1.2 Ms Dhlamini's claim originated in 2015 (to his recollection) however, he could not recall how she had come to the firm and neither could he recall if he paid for the cost of her transport to their offices.

6.8.2 Allegation: Clients are not furnished with a copy of the fee agreement that they enter into with the firm.

Response

6.8.2.1 Mr Supra advised that it was not standard practice for the firm to provide a copy of the fee agreement to clients. Clients are asked if they would like a copy of the fee agreement and if they do, then a copy of the fee agreement is provided.

- 6.8.3 Allegation: The firm charged a flat fee of 25% (and sometimes in excess of 25%). The firm did not determine its normal fees in respect of claims against R.A.F).

Response:

6.8.3.1 Mr Supra stated that generally if the settlement amount was less than an amount of R1,000,000.00 (One Million Rand) then the firm the firm would debit a fee amounting to 25% of the settlement amount as the firm's fees would be in the region of R300,000.00 (Three Hundred Thousand Rand).

6.8.3.2 If a claim is settled for an amount in excess of R1, 000,000.00 (One Million Rand) then the firm's attorney and client fees would be the fees per their bill of costs drawn on a party and party scale multiplied by a factor of 2 (two) according to Mr Supra.

6.8.3.3 Mr Supra stated that the firm was not renowned for personal injury matters. The firm's clients (in respect of personal injury matters) were client's that the larger personal injury firms did not want. The claims that the firm generally attended to were settled for less than R1, 000,000.00 (One Million Rand).

- 6.8.4 Allegation: The trial date is a farce designed to inflate the firm's bill of costs drawn on party and party scale

6.8.4.1 In the past a claim would not progress until such time as a trial date was obtained;

6.8.4.2 At pre-trial the Judge would go through the matter and certify that the matter is ready for trial;

6.8.4.3 Experts would then be instructed to prepare joint reports. In certain instances, the joint reports would only be received on the day of the trial;

- 6.8.4.4 In Ms Dhlamini's case there were no witnesses as R.A.F had conceded merits;
- 6.8.4.5 In the event that a settlement is recorded with the attorneys representing R.A.F then the experts are not required. Furthermore, the courts do not allow reservation fees for witnesses.
- 6.8.5 Allegation: The firm does not account to its clients in writing
- 6.8.5.1 Mr Supra admitted that the firm previously did not issue clients with a written statement of account;
- 6.8.5.2 Since the complaint of Mr Stephan May the firm has started to issue statement of accounts to clients;
- 6.8.5.3 Despite not issuing clients with a written statement of account in the past, Mr Supra stated that he explained to the clients how the settlement offer was calculated;
- 6.8.5.4 Mr Supra further stated that the client would be informed that they would receive 75% of the settlement amount less any amounts to be paid to bridging financiers.
- Mr Supra elaborated by stating that certain clients obtained bridging finance from a company called, "Setsebi Finance" (now called We-Breach) or alternatively "RAF Pay" which was secured by the claim against R.A.F.
- By the practitioner's own admission, the firm has contravened Rule 54.12 of the Legal Practice Council Rules in that the firm failed to render a written statement of account to its clients on finalisation of their mandate.
- 6.8.6 Allegation: Ms Dhlamini did not receive full payment of the amount due to her.

- 6.8.6.1 Mr Supra advised that Ms Dhlamini had applied for bridging finance
- 6.8.6.2 She did not receive the full 75% of the settlement amount as a portion of the monies due to her was utilised to settle the bridging financiers.
- 6.8.7 Allegation: Mr Crichton alleged that the firm's bill of costs were inflated by the inclusion of fictitious attendances/consultations, telephone calls, letters, as well as fabrication of the correspondent attorney's (Jacques Swanepoel Attorneys) bill of costs.
- 6.8.7.1 Mr Supra advised that he was not in a position to comment on the allegation without knowing any specific details regarding the allegation;
- 6.8.7.2 Mr Supra advised that the firm did draft the correspondent attorney, Jacques Swanepoel Attorney's bill of costs in order to save costs;
- 6.8.7.3 The firm's bill of costs as well the correspondent attorney's bill of costs were scrutinised and approved by cost consultants acting for R.A.F according to Mr Supra.
- 6.8.8 Allegation: Files had been removed from the firm's offices
- 6.8.8.1 Mr Bosman stated that the files were last removed from the firm's office premises approximately 2 (two) years ago however, the files removed were closed files which were no longer required to be retained by the firm.
- 6.8.8.2 Mr Bosman advised that they were completely unaware of the Anton Piller order, thus it was certainly not the case they had removed files from the office in order to prevent the Sheriff from taking possession of the said files.

6.8.8.3 Mr Stephan May indicated that during their search at the firm's offices they had only found about 30 files (refer to paragraph 6.7.8 above).

In my letter dated 23 October 2020 to the firm (refer to Annexure C) I requested that the firm provide a complete list of all closed matters relating to claims against the Road Accident Fund (RAF) since 2015.

The list provided by the firm indicated that the firm had 125 closed matters relating to motor vehicle accident claims since 2015.

A copy of the list provided by the firm is attached hereto as Annexure Q.

It would thus appear that there are merits to the allegation.

6.9 I inspected the trust creditor ledger account of Ms Dhlamini and summarised the transactions thereon as follows:

Description	Amount
Capital	R683,454.90
Party and party costs	R311,982.69
Sub-total	R995,437.59
Less:	
Fees	(R288,139.44)
Disbursements	(R160,906.98)
Payment to medical aid (Polmed)	(R106,000.00)
Payment to client	(R440,391.17)
Balance	R nil

A copy of the trust creditors ledger account is attached hereto as Annexure G1.

An analysis of the trust creditors ledger account into the above-mentioned components is attached hereto as Annexure G2.

- 6.10 The summary above indicates that the firm's fees in the matter amounted to R288,139.44 in circumstances where the capital received from R.A.F was an amount of R683,454.90. Despite Mr Supra's assertion that the firm's fees would amount to 25% of the capital award in cases where the claim value was less than R1 million, the ledger indicates that the firm debited fees which equate to 42.16% of the capital award.

The firm has thus not complied with the provisions of the Contingency Fees Act 66 of 1997 ("CFA") and has overreached the client. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct.

- 6.11 The trust creditors ledger also reflects a payment in the amount of R106,000.00 on 23 October 2018. The narration for this payment is, "Polmed". Polmed is the South African Police Service Medical Scheme. The criteria for be eligible for membership (according to the Rules of the medical aid) are as follows:

"6.1.1 Current members who are duly Registered Members of the Scheme

6.1.2 Every member of the South African Police Service, appointed in terms of the South African Police Service Act, 1995 is eligible to become a member of the Scheme from the date of his appointment as a member of the South African Police Service."

- 6.12 According to Ms Dhlamini's founding affidavit in relation to her ex parte application for an Anton Piller order against the firm, she indicates that she is a retired teacher. Ms Dhlamini further states in her affidavit that she not a SAPS member (refer to paragraph 6.5.2 above. The payment to Polmed is thus concerning and requires further investigation.

- 6.13 The trust creditors ledger indicates a payment in the amount of R1,370.00 to Swanepoel Attorneys who acted as correspondent attorneys in the matter. The taxed correspondent bill of costs drawn on a party and party scale however, indicates that the correspondent's fees and disbursements after taxation amounted to R42,263.99.

A copy of the bill of costs is attached hereto as Annexure I2.

The discrepancy would indicate that the correspondent attorneys bill of costs was inflated in order to for the firm to receive a higher settlement in respect of costs from

R.A.F. Furthermore, it is apparent that only the firm benefited from this practice as the party and party costs were not paid to the client.

The above-mentioned practice is dishonest and amounts to defrauding the Road Accident Fund. I am thus of the view that the practitioner (i.e Mr Supra) has contravened paragraph 3.1 of the Code of Conduct in that he failed to act with honesty and integrity.

The directors of the firm (Mr I Bosman, Ms A Kleinen, Mr J.J Slabbert) addressed a letter dated 17 December 2020 to the Legal Practice Council. The letter indicated that the manner in which the correspondent accounts were handled by Mr Supra were unacceptable to the board of directors and that Mr Supra was requested to resign as a director (which he did). The letter further indicates that the firm intends to take up the matter of the correspondent accounts with R.A.F with the proposal that the correspondent accounts be revised and that the firm settle any possible over payment.

A copy of the letter dated 17 December 2020 is attached hereto as Annexure R.

- 6.14 A comparison of the disbursements per the firm's bill of costs (party and party) to the trust creditors ledger revealed the following discrepancies:

- 6.14.1 The bill of costs reflects a disbursement in respect of Adv. F Darby (item no.111 on the bill of cost) on 30 April 2018 for an amount of R10,800.00. The ledger, however, did not reflect a payment of R10,800.00 to Adv. Darby;
- 6.14.2 The bill of costs reflects a disbursement (item no.159 on the bill of costs) in respect of an invoice from Fundamedical for the report of Dr J.J Schutte for an amount of R5,700.00. The ledger however indicates that only an amount of R2,850.00 was paid to Dr Schutte.

A copy of the ledger is attached hereto as Annexure G1.

A copy of the firm's bill of costs in the matter is attached hereto as Annexure I1.

- 6.15 Further investigation is required in order to establish the validity of the disbursements per the trust creditor's ledger.

7. MS MAMOLEFE ANNAH MOGALE

7.1 Ms Dhlamini's application for *ex parte* Anton Piller relief (as indicated in paragraph 6.3 above) was supported by an affidavit deposed to by Ms M.A Mogale. In Ms Mogale's affidavit she states the following:

- 7.1.1 She was travelling in the same vehicle as Ms Dhlamini as well as Ms S Mlambo and Ms A Mokoena , which was involved in an accident on 1 September 2014. They were all injured as a result of the accident and were treated at Potchefstroom Mediclinic;
- 7.1.2 She was unaware of how SVDH came to know of her however, someone from the firm, SVDH contacted her and informed her that they had seen the police accident report;
- 7.1.3 She only visited the offices of SVDH once in November 2014, at which time Mr Supra had consulted with her as well as Ms Mlambo and Ms Dhlamini;
- 7.1.4 She travelled to Johannesburg for her medical consultations and her travel expenses were paid however, she now is aware that the cost of the travel was debited to her account;
- 7.1.5 She was requested to attend Court on 28 May 2018. Mr Supra then contacted her and advised her to meet with him at a nearby coffee shop;
- 7.1.6 She met with Mr Supra at the coffee shop and he handed her a piece of paper with an amount on it. She could not recall the exact amount however, it was in the region of R200,000.00. Mr Supra informed her that this was the settlement amount being offered and enquired if she was satisfied with that amount;
- 7.1.7 She informed Mr Supra that she was not satisfied with the settlement offer however, Mr Supra insisted that she accept the offer. Mr Supra did not inform her of the merits of the matter, the prospect of success at trial or the likely quantum of the claim if her claim was successful at trial. Mr Supra's sole focus was the settlement of the matter;

7.1.7 She eventually signed the documents given to her, although she did not understand them and nor were they explained to her;

7.1.8 The matter was settled that day in Court even though she was not present in Court as Mr Supra requested that she not come into the Court room;

7.1.9 She did not receive a statement of account from the firm;

7.1.10 She was paid an amount of R184,585.50 however, she is now aware that the firm received a total amount of R607,109.51 in respect of her claim which consisted of:

7.1.10.1 R249,314.00 in respect of the settlement of her claim

7.1.10.2 R357,795.51 in respect of the taxed legal costs and disbursements

A copy of Ms Mogale's affidavit is attached hereto as Annexure J1.

7.2 I inspected the trust creditor ledger account of Ms Mogale and summarised the transactions thereon as follows:

Description	Amount
Capital	R249,314.00
Party and party costs	R357,795.51
Sub-total	R607,109.51
Less:	
Fees	(R229,981.66)
Disbursements	(R190,142.35)
Payment to client	(R186,985.50)
Balance	R nil

A copy of the trust creditors ledger account is attached hereto as Annexure J2.

An analysis of the trust creditors ledger account into the above-mentioned components is attached hereto as Annexure J3.

- 7.3 The summary above indicates that the firm's fees in the matter amounted to R229,981.66 which is approximately 92.25% of the settlement amount received from R.A.F. This is once again contrary to Mr Supra's assertion that the firm's fees would amount to 25% of the capital award in circumstances where the claim is for an amount less than R1 million.

The firm has thus not complied with the provisions of the Contingency Fees Act 66 of 1997 ("CFA") and has overreached the client. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct.

- 7.4 According to the ledger, Ms Mogale received 75% of the capital award. The ledger indicates that the firm retained the party and party costs. This practice amounts to overreaching considering that a portion of the bill of costs drawn on a party and party scale relates to the firm's fees. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct.

- 7.5 Annexed to Ms Mogale's affidavit (as referred to in paragraph 7.1 above) was a copy of a letter dated 23 August 2018 from the firm to Pule Inc. who represented R.A.F. The letter conveyed the firm's acceptance of the settlement of their bill of costs which comprised of:

Main bill	R305,047.13
Correspondent bill	R 52,748.38
Total	R357,795.51

A copy of the firm's letter dated 23 August 2018 is attached hereto as Annexure J4

- 7.6 The trust creditors ledger confirms that an amount of R357,795.51 was paid into the firm's trust banking account on 27 March 2019.
- 7.7 According to the ledger only an amount of R1,165.00 was paid to the correspondent attorney, i.e. Swanepoel Attorneys. It would thus appear that the correspondent attorney's bill of costs was inflated in order to secure a higher settlement in respect of costs from R.A.F.

7.8 The ledger reflects the following high value disbursements:

No	Date	Payee	Description	Amount
1	05/03/2018	Unkown	Claim reports	R20,000.00
2	29/03/2019	Unkown	Claim reports	R20,000.00
3	23/10/2018	Funda Medical – Dr N Arm – IN116981	Unknown	R11,400.00
4	23/10/2018	Funda Medical – Dr M Rennie – IN116890	Unknown	R11,400.00
5	29/10/2018	Funda Medical – Dr C Hearn	Unknown	R14,820.00
6	06/11/2018	Adv. F Darby	Counsel fees	R28,800.00
7	29/03/2019	Adv. F Darby	Counsel fees	R28,800.00
8	05/11/2020	Funda Medical – Dr M Rennie 2 nd half	Industrial Psychologist	R11,400.00
9	05/11/2020	Funda Medical – Dr N Arm 2 nd half	Unknown	R11,400.00
10	05/11/2020	Funda Medical – Dr L.F Oelofse and Dr Schutte 2 ND half	Orthopaedic surgeon	R14,250.00
11	29/03/2019	Johan Sauer	Actuary	R11,845.00

7.8.1 The payments for, "claim reports" for a cumulative amount of R40,000.00 is unusual. These payments require further investigation however, in the absence of the client file I was unable to ascertain the beneficiary of these payments and what they actually relate to.

7.8.2 A total amount of R57,600.00 was paid to Adv. F Darby. In the absence of the client file I was unable to inspect Adv. Darby's invoices to determine the extent of the work she performed. It should be noted that the matter was settled and did not proceed to trial.

7.8.3 Further investigation is required to establish the validity of the disbursements to the medical experts.

8. MS PODILE ANASTACIA MOKOENA

8.1 Ms Dhlamini's application for *ex parte* Anton Piller relief (as indicated in paragraph 6.3 above) was supported by an affidavit deposed to by Ms P.A Mokoena. In Ms Mokoena's affidavit she states the following:

8.1.1 She was travelling in the same vehicle as Ms Dhlamini, Ms Mlambo and Ms Mogale at the time of the motor vehicle accident, in which they were all injured;

8.1.2 Her career at the South African National Defence Force (SANDF) has been drastically affected and a promotion within the ranks of the SANDF is not likely;

8.1.3 Someone from SVDH contacted her and informed her that they had seen the police accident report;

8.1.4 She only consulted once with Mr Supra late in 2014 or early 2015 and did not see him again until 2018 when she attended court;

8.1.5 She consulted with several medical professionals during 2015 but does not remember their names, nor was she furnished with their medical reports;

8.1.6 Mr Supra initially informed her that an amount of R1.3 million would be claimed from R.A.F;

8.1.7 On the court date, Mr Supra informed her that the matter would be settled for an amount of R700,000.00. She thought that the amount was not sufficient considering the extensive injuries which she had sustained however, Mr Supra informed her that if she did not accept the settlement offer, the matter would take another 2 years to finalise and that she may only receive R50,000.00 – R100,000.00;

8.1.8 She agreed to the settlement however, she was not in court at the time the settlement agreement was made an order of the court, as Mr Supra requested that she wait in the passage;

8.1.9 She was paid an amount of R450,000.00 which is less than the amount expected as Mr Supra advised her that his fees would amount to 25% of the capital award;

8.1.10 She requested the stamped settlement agreement from Mr Supra on numerous occasions however, Mr Supra failed to provide her a copy;

8.1.11 She did not receive a proper accounting from the firm and was uncertain about the correctness of the amount paid to her.

A copy of the affidavit is attached hereto as Annexure K1.

8.2 I inspected the trust creditor ledger account of Ms Mokoena and summarised the transactions thereon as follows:

Description	Amount
Capital	R838,588.75
Party and party costs	R282,028.43
Sub-total	R1,120,617.18
Less:	
Fees	(R251,509.47)
Disbursements	(R180,518.96)
Payment to client	(R450,000.00)
Payment to Polmed	(R238,588.75)
Balance	R nil

A copy of the trust creditors ledger account is attached hereto as Annexure K2.

An analysis of the trust creditors ledger account into the above-mentioned components is attached hereto as Annexure K3.

8.3 The firm's fees in the matter amounted to approximately 30.10% of the capital award received from R.A.F. It would thus appear that fees debited in the matter, did not comply with the provision of the Contingency Fees Act.

In light of the fees charged to the client being higher than that permitted in terms of the Contingency Fees Act I am of the view that the client was overreached. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct.

- 8.4 The payment to Ms Mokoena appears to have been calculated in the following manner:

Capital award	R838,588.75
Less: Payment to Polmed	(R238,588.75)
Sub-total	R600,000.00
Less: Contingency fee at 25%	(R150,000.00)
Payment due to client	R450,000.00

- 8.5 The accounting summary contained in paragraph 8.2 above indicates that the party and party costs was not paid to the client. Further to this Ms Mokoena indicates in her affidavit that she is employed by the South African National Defence Force. SANDF members are not eligible for membership of Polmed (refer to Annexure H for an extract of Polmed's membership rules). It is possible that the Ms Mokoena was a member of Polmed as a result of her spouse being employed by the South African Police Services however, the payment is suspicious and requires further investigation.

- 8.6 The ledger reflects the following high value disbursements:

No	Date	Payee	Description	Amount
1	23/01/2018	Fundamedical	Unknown	R11,400.00
2	23/01/2018	Fundamedical	Unknown	R17,100.00
3	05/03/2018	Fundamedical	Unknown	R7,980.00
4	06/04/2018	Fundamedical for M Hales	Occupational Therapist	R7,980.00
5	05/06/2018	Johan Sauer	Actuary	R11,400.00
6	05/06/2018	Fundamedical for Dr Kruger	Unknown	R11,400.00
7	05/06/2018	Fundamedical for M Hales	Occupational Therapist	R11,400.00
8	05/06/2018	Fundamedical for Oelofse and Schutte	Orthopaedic surgeon	R14,250.00

9	05/06/2018	Claim reports: Neurosurgeon	Unknown	R20,000.00
10	04/07/2018	Adv. F Darby	Counsel fees	R61,200.00

Further investigation of the above-mentioned disbursements is required in order to establish the validity thereof.

9. MS SANAH NOMUISELO MLAMBO

9.1 Ms Dhlamini's application for *ex parte* Anton Piller relief (as indicated in paragraph 6.3 above) was supported by an affidavit deposed to by Ms S.N Mlambo. In Ms Mlambo's affidavit she states the following:

9.1.1 She is an adult female schoolteacher;

9.1.2 She was the driver of the vehicle transporting Ms Dhlamini, Ms Mokoena and Ms Mogale on 1 September 2014, at the time of the motor vehicle accident in which they were all injured and were treated at Potchefstroom Mediclinic;

9.1.3 She is unaware of how the firm (SVDH) came to know of her or handle her claim however, someone from the firm's offices had contacted her;

9.1.4 On 26 April 2018, being the trial date, she met with Mr Supra at court and he requested that she not come into the court room;

9.1.5 Mr Supra produced a piece of paper on which a settlement amount was written. She could not recall the exact amount but recalls that it was in the region of R700,000.00;

9.1.6 Mr Supra explained that from the settlement amount, an amount equating to 25% would be deducted in respect of the firm's fees and a further 10% would be deducted because she was found to be partially at fault for the accident;

9.1.7 She has been subsequently advised that the 10% in respect apportionment of damages could not have emanated from a judgement as she had not given evidence at court;

9.1.8 She has thus been advised that the 10% apportionment must have either been a settlement on the merits in respect of which she was never consulted and gave no instruction or alternatively, a lie to justify additional deductions which the firm was not entitled to;

9.1.9 She requested a copy of the signed and stamped settlement agreement from Mr Supra on several occasions however, Mr Supra failed to provide her with the same;

9.1.10 She is now aware that the firm received a cumulative amount of R1,069,340.68 which comprised of:

9.1.10.1 R787,841.00;

9.1.10.2 R281,499.68

9.1.11 She was paid an amount of R488,844.32 which implies a deduction of 38% of the capital received from R.A.F;

9.1.12 She did not receive proper accounting from the firm and as uncertain about the correctness of the amount paid over to her.

A copy of Ms S.N Mlambo's affidavit is attached hereto as Annexure L1.

9.2 I inspected the trust creditor ledger account of Ms Mlambo and summarised the transactions thereon as follows:

Description	Amount
Capital	R787,841.00
Party and party costs	R281,499.68
Sub-total	R1,069,340.68
Less:	
Fees	(R282,114.21)
Disbursements	(R159,750.25)
Payment to client	(R489,644.32)
Payment to Polmed	(R134,981.90)

Balance	R2,850.00
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A copy of the trust creditors ledger account is attached hereto as Annexure L2.

An analysis of the trust creditors ledger account into the above-mentioned components is attached hereto as Annexure L3.

- 9.3 The ledger reflects that the firm's cumulative fees in the matter amounted to R282,114.21 which is approximately 35.81% of the capital amount received from R.A.F.

It is thus apparent that the firm's fees were in excess of the maximum fee permitted in terms of the Contingency Fees Act. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct in that the client was overreached.

- 9.4 The amount paid to Ms Mlambo appears to have been calculated as follows:

Capital award	R787,841.00
Less: Payment to Polmed	(R134,981.90)
Sub-total	R652,859.10
Less: Contingency fee at 25%	(R163,214.78)
Payment due to client	R489,644.33

- 9.5 From the above it is clear that the firm does not deduct any disbursements from the capital however, the party and party costs recovered from R.A.F are retained by the firm. This is contravention of Rule 6.6 of the Rules made in terms of Section 6 of the Contingency Fees Act 66 of 1997. The effect of this practice is that the client has been overreached and amounts to a contravention of paragraph 18.7 of the Code of conduct.
- 9.6 The payment to Polmed (medical aid for the South African Police Services) in the amount of R134,981.90 is suspicious considering that Ms Mlambo indicated in her affidavit that she was a schoolteacher. Further investigation is required to establish the validity of this payment.
- 9.7 Annexed to Ms Mlambo's affidavit (as referred to in paragraph 9.1 above) was a copy of a letter dated 25 September 2018 from the firm to KHR Attorneys, who represented

R.A.F. The letter conveyed the firm's acceptance of the settlement of their bill of costs which comprised of:

Main bill	R251,211.90
Correspondent bill	R 30,287.78
Total	R281,499.68

A copy of the firm's letter dated 25 September 2018 is attached hereto as Annexure L4.

- 9.8 The trust creditors ledger confirms that an amount of R281,499.68 was paid into the firm's trust banking account on 28 March 2019.
- 9.9 According to the ledger only an amount of R1,165.00 was paid to the correspondent attorney, i.e. Swanepoel Attorneys. It would thus appear that the correspondent attorney's bill of costs was inflated in order to obtain a higher settlement in respect of costs from R.A.F.
- 9.10 Attached to Ms Mlambo's affidavit was a copy of her trust creditor ledger account which was extracted from the firm's records by the whistle-blower and former employee of the firm, Mr W.R Crichton. The ledger reflects that the last entry in the matter was recorded on 5 April 2019. On this date the firm recorded a fee in the amount of R13,009.66 which then resulted in the ledger account having a nil balance as at 5 April 2019. The ledger account appears to have been printed by Mr Crichton on 2 October 2019. A copy of this ledger account is attached hereto as Annexure L5.
- 9.11 The trust creditor ledger, which was furnished to me however, indicated that following transactions were posted after 5 April 2019:

Date	Description	Amount	Dr/Cr
05/04/2019	Balance	R nil	
03/11/2020	Normal fee reversed	(R37,050.00)	Cr
05/11/2020	Payment – Fundamedical – Dr Z Schaik 2 nd Half	R11,400.00	Dr
05/11/2020	Payment – Fundamedical – M Hales 2 nd Half	R11,400.00	Dr

05/11/2020	Payment – Fundamedical – Dr Oelofse 2 nd Half	R11,400.00	Dr
05/11/2020	Closing balance c/f	R2,850.00	Cr

- 9.12 I met with Mr Supra and Bosman on 22 October 2020 and received the requested accounting records from the firm on 10 November 2020 as indicated in paragraph 1.1 and 1.7 above.

It would thus appear that the firm reversed a portion of its fees and recorded three (3) payments to Fundamedical prior to furnishing me with the firm's accounting records. The timing of the entries referred to in paragraph 9.11 are suspicious and further investigation is required to establish the validity of the payments to Fundamedical.

- 9.13 In addition to the disbursements referred to in paragraph 9.11 above, the ledger reflects the following high value disbursements which require further investigation to determine if they were valid disbursements incurred:

No	Date	Payee	Description	Amount
1	11/07/2018	Fundamedical – IN116398	Unknown	R8,050.00
2	11/07/2018	Fundamedical – IN116397	Unknown	R8,050.00
3	11/07/2018	Fundamedical – IN116404	Unknown	R11,400.00
4	18/07/2018	Fundamedical	Unknown	R11,400.00
5	18/07/2018	Fundamedical	Unknown	R8,050.00
6	2018/11/06	Adv F Darby	Counsel fees	R27,500.00
7	2019/03/29	Adv F Darby	Counsel fees	R27,500.00
8	2019/03/29	Johan Sauer	Actuary	R18,745.00

10. MR MONGEZI XAKAMA

- 10.1 Ms Dhlamini's application for *ex parte* Anton Piller relief (as indicated in paragraph 6.3 above) was supported by an affidavit deposed to by Mr M Xakama. In Mr Xakama's affidavit he states the following:

- 10.1.1 He is an adult male security guard;
- 10.1.2 He was injured in a motor vehicle accident in Benoni on or about 21 December 2014 and had suffered injuries to his neck and spine as a result of being flung from the back of a "bakkie";
- 10.1.3 He was hospitalised at Sunshine Hospital in Actonville for a period of 5 days and underwent surgery to his neck;
- 10.1.4 After his accident he was contacted by someone from the firm's (SVDH) offices and they informed him that they would attend to his claim against R.A.F. He queried how they had obtained his contact details and was informed that they retrieved his details from someone at the hospital;
- 10.1.5 He attended a single consult at the offices of SVDH, early in 2015. He could not recall with whom he consulted with but recalls that he was advised that the firm would deduct a fee amounting to 10% of the final award. He was not given an estimate of the quantum;
- 10.1.6 The firm arranged transport for him from Bedfordview to the firm's offices in Kempton Park. He was transported in the back of a "bakkie", notwithstanding the circumstances of his accident or the resultant psychological trauma;
- 10.1.7 He consulted with medical specialists however, he cannot recall their names nor was furnished with a copy of their reports;
- 10.1.8 He was requested to attend court in the latter part of 2018 and was informed that his claim had been settled for an amount of R200,000.00 from which he would be paid an amount of R150,000.00;
- 10.1.9 He was dissatisfied with the settlement which did not appear to take into account the nature and extent of his injuries however, the overriding focus appeared to be the prompt settlement of the matter;
- 10.1.10 He is now aware that that SVDH received a total amount of R520,506.55 in respect of his claim which comprised of:

10.1.10.1 R200,000.00 in respect of the settlement;

10.1.10.2 R320,506.55 in respect of taxed costs and disbursements;

10.1.11 He did not receive any form of proper accounting from SVDH and was uncertain about the correctness of the amount paid over to him.

A copy Mr Xakama's affidavit is attached hereto as Annexure M1.

10.2 I inspected the trust creditor ledger account of Mr Xakama and summarised the transactions thereon as follows:

Description	Amount
Capital	R200,000.00
Party and party costs	R320,506.55
Sub-total	R520,506.55
Less:	
Fees	(R171,134.84)
Disbursements	(R210,771.71)
Payment to client	(R150,000.00)
Balance	(R11,400.00)

A copy of the trust creditors ledger account is attached hereto as Annexure M2.

An analysis of the trust creditors ledger account into the above-mentioned components is attached hereto as Annexure M3.

10.3 The ledger reflects that the firm's cumulative fees in the matter amounted to R171,134.84 which equates to 85.57% of the settlement amount received from R.A.F.

It is thus apparent that the firm's fees were in excess of the maximum fee permitted in terms of the Contingency Fees Act. The directors of the firm have thus contravened paragraph 18.7 of the Code of Conduct in that the client was overreached.

- 10.4 The ledger indicates that Mr Xakama was paid an amount of R150,000.00 (75% of the settlement amount) on 14 May 2019. It is thus clear that the firm does not deduct any disbursements from the client however, the party and party costs recovered from R.A.F are retained by the firm. This is contravention of Rule 6.6 of the Rules made in terms of Section 6 of the Contingency Fees Act 66 of 1997. The effect of this practice is that the client has been overreached.
- 10.5 Annexed to Mr Xakama affidavit (as referred to in paragraph 1.1 above) was a copy of a letter dated 6 February 2019 from the firm to R.A.F. The letter conveyed that the firm's bill of costs had been settled with Mthipane Tsebane Attorneys on 6 February 2019. According to the letter the payment due to the firm in respect of their taxed party and party costs was as follows:

Main bill	R251,211.90
Correspondent bill	R 30,287.78
Total	R281,499.68

A copy of the firm's letter dated 6 February 2019 is attached hereto as Annexure M4.

- 10.6 The trust creditors ledger confirms that an amount of R320,506.55 was paid into the firm's trust banking account on 30 July 2019.
- 10.7 According to the ledger only an amount of R1,575.00 was paid to the correspondent attorney, i.e. Swanepoel Attorneys on 5 August 2019. It would thus appear that the correspondent attorney's bill of costs was inflated in order to obtain a higher settlement in respect of costs from R.A.F.
- 10.8 Attached to Mr Xakama's affidavit was a copy of her trust creditor ledger account which was extracted from the firm's records by the whistle-blower and former employee of the firm, Mr W.R Crichton. The ledger reflects that the last entry in the matter was recorded on 11 September 2019. On this date the firm recorded a fee in the amount of R325.00 which then resulted in the ledger account having a nil balance as at 11 September 2019. The ledger account appears to have been printed by Mr Crichton on 2 October 2019. A copy of this ledger account is attached hereto as Annexure M5.
- 10.9 The trust creditor ledger, which was furnished to me however, indicated that following transactions were posted after 11 September 2019:

Date	Description	Amount	Dr/Cr
11/09/2019	Balance b/f	R nil	
03/11/2020	Normal fee reversed	(R47,600.00)	Cr
05/11/2020	Payment – Fundamedical – Dr M Rennie joint	R10,350.00	Dr
05/11/2020	Payment – Fundamedical – N Arm – 2 nd half	R11,500.00	Dr
05/11/2020	Payment – Fundamedical – Dr Oelofse 2 nd Half	R11,400.00	Dr
05/11/2020	Payment – Fundamedical – Dr Schutte	R2,850.00	Dr
05/11/2020	Payment – Fundamedical – M Rennie – 2 nd half	R11,500.00	Dr
05/11/2020	Payment – Fundamedical – Dr C Schutte – 2 ND half	R11,500.00	Dr
05/11/2020	Balance c/f	R11,400.00	Dr

It would thus appear that the firm reversed a portion of its fees and recorded six (6) payments to Fundamedical prior to furnishing me with the firm's accounting records. The timing of the entries referred to in paragraph 10.9 are suspicious and further investigation is required to establish the validity of the payments to Fundamedical.

11. CONTINGENCY FEES

- 11.1 During my discussion with Mr Supra (refer to paragraph 6.8.3.1) he stated that generally if the settlement amount was less than an amount of R1,000,000.00 (One Million Rand) then the firm would debit a fee amounting to 25% of the settlement amount as the firm's fees in the matter would be in the region of R300,000 (Three Hundred Thousand).
- 11.2 Implicit in Mr Supra's statement is that he assumed the firm's normal fees would be in the region of R300,000.00 (in respect of matters settled for an amount under

R1,000,000.00) and thus he had capped the fee to 25% of the settlement amount as per the requirements of S2(2) of the Contingency Fees Act.

- 11.3 I inspected the trust ledger accounts which related to motor vehicle accident claims. Below is a summary of the firm's fees in these matters:

Account	Capital Amount	Fees incl VAT	Fees excl VAT	Fees excl VAT as a % of the capital amount	Reference
BRA59/0001 - Marlon Dean Brass // Road Accident Fund	R964,706.54	R300,790.80	R261,557.20	27.11%	Annexure N1/N2
DE106/0001 - A T van der Vyver	R35,000.00	R 33,031.66	R28,975.14	82.79%	Annexure N3/N4
MUN43/0001 - Gourishanker Munmohan	R180,000.00	R85,470.05	R74,321.78	41.29%	Annexure N5/N6
PEN5/0001 - Min-Chung Pen	R30,513.00	R33,693.05	R29,413.48	96.40%	Annexure N7/N8
PRE145/0001 - Michael Willem Pretorius	R821,429.51	R246,214.70	R215,977.81	26.29%	Annexure N9/N10
SEF6/0001 - Peter Michael Sefularo	R515,995.95	R231,203.38	R201,046.42	38.96%	Annexure N11/N12

- 11.4 In respect of the above-mentioned matters, the ledger accounts indicate that the client was paid 75% of the capital award. The firm's fees in these matters exceeded 25% of the capital award primarily as a result of the party and party costs being retained by the firm.

12. ALLEGATIONS IN THE MEDIA

- 12.1 An investigative current affairs programme aired an episode titled, "RAF Fraud" on ETV on 24 November 2020. The episode contained the following allegations:

Touting

- 12.1.1 Mr W.R Chrichton (former candidate attorney at the firm and whistle-blower) stated that clients were brought to the firm by touts and were paid an amount of R10,000.00 per matter;
- 12.1.2 Mr Sevrin Crawford (a police reservist) states that he started working with Mr Supra in 2016. According to Mr Crawford after had a taken a client to the firm, Mr Supra enquired if he knew how to procure more clients;
- 12.1.3 It would appear that Mr Crawford would obtain a mandate for the firm to act on behalf of individuals who had been involved in a motor vehicle accident. Mr Sevrin claimed that he would complete the necessary documentation on behalf of clients and obtain the hospital and police reports. He would then hand over a complete file to Mr Supra who would the pay him;
- 12.1.4 Mr Crawford states that within the first 7 – 8 months he procured approximately 75 clients for Mr Supra and in the second year he had obtained many more;
- 12.1.4 Mr Crawford states that his account with Mr Supra fell into arrears;
- 12.1.5 Mr Crawford also alleged that he was not the only tout employed by the firm.

Fraudulent attendances

- 12.1.6 Mr Crichton alleged that Mr Supra charged for consultations with client, witness and counsel that did not take place. He similarly alleged that Counsel charged for consultations with the attorney, client and witness did not take place;
- 12.1.7 According to Mr Crichton, clients were generally only consulted with on two occasions, being the initial consult and thereafter at court;
- 12.1.8 A former client of the firm, Mr Sydney Modise indicated that he had only attended one consultation at the firm and that he only met with Adv. Faith Darby once, which was at Court;

12.1.9 Another former client of the firm, Mr Jimmy Otto also alleges that he had only consulted with Mr Supra on 2 – 3 occasions.

12.1.10 Adv. Faith Darby's invoice reflects consultations with attorney and client which did not take place;

12.1.11 Mr Supra and Adv. Darby had not prepared for trials yet charged for trial preparation work, which included consultations with clients and experts that did not actually take place;

Failure to account /lack of transparency

12.1.12 Both Mr Modise and Mr Otto allege that they were instructed to wait outside the courtroom and that Mr Supra had merely written down the proposed settlement amount on a piece of paper;

12.1.13 Mr Modise was not aware of the amount that his claim was settled and had not seen any documents regarding his claim;

12.1.14 Mr Otto alleges that Mr Supra merely indicated to him how much he will receive after all deductions however, he did not receive any documentation.

12.2 According to Mr Crichton's supporting affidavit (in respect of Ms Dlamini's application for ex parte Anton Piller relief as indicated in paragraph 6.3 above), the firm made use of "runners" who would sell the firm files for a commission ranging between R10,000.00 and R50,000.00.

12.3 Mr Crichton further alleges that payments to the "runners" were usually effected from the firm's business savings account. According to Mr Crichton the business savings account is an unaudited bank account used by the firm to fund its RAF practice.

12.4 I inspected the firm's bank statements in respect of their business savings account held at ABSA bank and noted numerous payments ranging from R10,000.00 to R15,000.00. The bank statements over the period 1 February 2019 to 31 January 2020 reflected numerous payments to, "AN Van Rooyen", "N Tshabalala", "LE Muller", "F Sebelo", and "L Janse Van Rensburg".

Between the period 1 February 2019 to 31 January 2020, the bank statements of the firm's business savings account with ABSA reflected a cumulative amount of R385,000.00 which was paid to the afore-mentioned individuals.

A schedule reflecting these payments is attached hereto as Annexure P.

Further investigation is required to determine the reason for these payments.

13. TRUST POSITION

13.1 According to the accounting records, the trust position of the firm is as follows:

Date	Total Trust Creditors (R's)	Trust Funds available in terms of trust banking accounts	Surplus/ (Deficit)
29/02/2020	R65,682,216.13	R65,682,216.33	Nil

13.2 The trust position reported in the firm's Attorneys Annual Statement on Trust Accounts for the year ended 29 February 2020 which was submitted to the Legal Practice Council reflects the same trust position as per paragraph 12.1 above.

The auditor's report for the same financial year reflected an unqualified audit opinion.

A copy of the Attorneys Annual Statement on Trust Accounts as well as the auditor's report is attached hereto as Annexure O.

14. SUMMARY

14.1 Based on my instructions received from the Legal Practice Council: Gauteng Provincial Office and my findings thereon set out previously, I am of the opinion that the Directors of the firm did not comply with the Legal Practice Act 28 of 2014; Attorneys Act 53 of the 1979; the South African Legal Practice Council Rules; the Rules for the Attorneys Profession; the Rules of the Law Society of the Northern Provinces, the Code of Conduct and Rules made in terms of Section 6 of the Contingency Fee Act 66 of 1997:

14.1.1 Rule 54.12 of the South African Legal Practice Council Rules in that the Directors of the firm failed to render written statement of accounts to its clients on finalisation of their mandate (in respect of motor vehicle accident claims). Mr Supra's admission of his failure to render a written statement of account to clients is noted in paragraph 6.8.5.4 above;

14.1.2 Paragraph 18.7 of the Code of Conduct in that clients of the firm had been overreached as a result of the Directors of the firm failing to comply with the provisions of the Contingency Fees Act 66 of 1997 as indicated in paragraph 6.10, 7.3, 8.3, 9.3 and 10.3;

14.1.3 Paragraph 18.7 of the Code of Conduct in that clients of the firm had been overreached as a result of the firm's practice of retaining the taxed party and party costs in respect of motor vehicle accident matters as highlighted in paragraph 7.4 above;

14.1.4 Rule 6.6 of the Rules made in terms of Section 6 of the Contingency Fees Act 66 of 1997 in that the firm retained the taxed party and party costs in respect of motor vehicle accident matters as described in paragraph 9.5 and 10.4 above

14.1.5 Section 3.1 of the Code of conduct in that the practitioner (Mr Supra) failed to act with honesty and integrity as explained in paragraph 6.13 above;

15. CONCLUSION

15.1 The Legal Practice Council – Gauteng received a copy of the court papers in respect of an application launched by Ms Thandi Caroline Dhlamini in the High Court of South Africa, Gauteng Local Division under case number, 2020/9518 against her erstwhile attorney namely, Schumann Ven Den Heever and Slabbert Inc. (SVDH).

15.2 The background of the matter is that Ms Dhlamini was injured in a motor vehicle accident on 1 September 2014. Ms Dhlamini was assisted by Mr Jakkie Supra (a former director of the firm (SVDH) in lodging a claim against R.A.F. The claim was settled on or about May 2018.

- 15.3 Ms Dhlamini was subsequently contacted by a whistle-blower at the firm, Mr William Richard Crichton (a former candidate attorney at SVDH) who had informed her of certain facts relating her claim against R.A.F.
- 15.4 Ms Dhlamini brought an application for *ex parte* Anton Piller relief for the preservation of the files and records which were in the possession of her former attorneys (being SVDH), which would enable her and members of the class constituting the eight respondent (being all persons with claims against R.A.F which were prosecuted by SVDH), to finalise claims which they have against SVDH.
- 15.5 The complaint received from Stephan G May Attorney together with the court papers and media coverage contain numerous allegations of misconduct relating to the firm's Road Accident Fund claims department which was headed up Mr Jakkie Supra (a former director of the firm).
- 15.6 I met with Mr Supra and Mr Bosman at the firm's offices on 22 October 2020. The directors of the firm were informed of my mandate to conduct an inspection of the firm's accounting records, the reasons for the inspection and that the report that I would be compiling upon finalisation of the inspection.
- Mr Bosman was furnished with my mandate and acknowledged receipt.
- 15.7 The directors of the firm were informed of the accounting records required for the inspection via a letter dated 23 October 2020 which was e-mailed to Mr Bosman. The firm provided the requested accounting records in electronic format on a flash drive which was couriered to the offices of the Legal Practice Council on 10 November 2020.
- 15.8 As a result of Ms Dhlamini's application for Anton Piller relief the firm's client files relating to motor vehicle accident claimed were uplifted from the firm's offices by the Sheriff. I thus did not have access to the firm's client files which related to motor vehicle accident claims.
- 15.9 Mr Crichton, a former candidate attorney at the firm's R.A.F litigation department over the period November 2017 until October 2019 (and now a whistle-blower) alleges that the firm made use of, "runners" who would sell files to the firm for a commission of between R10,000.00 to R50,000.00 and that these payment were usually effected from the firm's business savings account.

- 15.10 The allegations of touting is echoed by Mr Sevrin Crawford who featured on an investigating and current affairs television programme episode entitled, "RAF Fraud" which aired on ETV on 24 November 2020. Mr Crawford alleges that he started working with Mr Supra in 2016 and that Mr Supra had enquired if he knew how to procure more clients.
- 15.11 Mr Crawford alleges that he had procured approximately 75 clients for Mr Supra within the first 7 – 8 months and that he had obtained many more clients for Mr Supra in the second year.
- 15.12 The affidavits of Ms T.C Dhlamini, Ms M.A Mogale, Ms P.A Mokoena, Ms S.N Mlambo and Mr M Xakama all indicate that someone from the firm had contacted them and that they were informed that the firm would assist with their claim against the Road Accident Fund.
- 15.13 During my discussion with Mr Supra he advised that he could not recall how Ms Dhlamini had come to the firm.
- 15.14 An inspection of the firm's bank statements in respect of their savings account revealed numerous payments ranging between R10,000.00 to R15,000.00 that was paid to regularly to certain individuals. These payments correlate with the allegations made by Mr Crichton however, further investigation is necessary to establish the nature and reason for these payments.
- 15.15 It was also alleged that the firm did not comply with the provisions of the Contingency Fees Act. According to the complaint of Stephan G May Attorney, clients which had consulted with him indicated that they were informed that SVDH would retain 25% of the capital award as their fee without any mention of their normal fee structure or hourly rate.
- 15.16 During my discussion with Mr Supra he stated that generally if the settlement amount was less than R1 million then the firm would debit a fee amounting to 25% of the settlement amount as the firm's fees would be in the region of R300,000.00 (Three Hundred Thousand Rand). Mr Supra informed me that most claims attended to by the firm were generally settled for an amount less than R1 million.

According to Mr Supra, if a claim was settled for more than R1 million then the firm's attorney and client fees would amount to the firm's fees per the bill of costs drawn on a party and party scale multiplied by a factor of 2 (two).

15.17 Implicit in Mr Supra's statement is that were claims are settled for less than R1 million the firm's normal fees are not determined, and it is assumed that the firm is entitled to a fee amounting to 25% of the capital award.

15.18 In the various matters which I had inspected, the firm's fees generally amounted to more than 25% of the capital award. This was primarily due to the firm's practice of retaining the party and party costs.

It was standard practice for the firm to pay client's 75% of the capital award and retain the party and party costs in full. This practice is contrary to the Rules made in terms of Section 6 of the Contingency Fees Act 66 of 1997 and the ultimate effect is that the clients were overreached.

15.19 During my discussion with Mr Supra it was evident that clients were not furnished with a copy of the fee agreement which they had entered with clients. According to Mr Supra clients are asked if they would like a copy of the fee agreement and only if they do, is a copy of the agreement provided to them.

15.20 Mr Crichton also alleges that the firm's main focus was the prompt settlement of a claim with R.A.F as their main source of profit was the cost awards.

According to the affidavits deposed to by some of the firm's former client's, it would appear that Mr Supra did not inform the clients of the merits of their matter, the prospect of success at trial or the likely quantum of the claim if the claim is successful at trial. The affidavits deposed to by the firm's former clients indicate that Mr Supra's focus was on settlement of the matter and that Mr Supra had motivated that they accept the settlement being offered to them.

15.21 The affidavits of the firm's former clients indicate a consistent pattern whereby Mr Supra requests that the clients not be present in the court room at the time the settlement is made an order of the court. The affidavits of the firm's former clients indicate that they were requested to wait outside the court room or at a nearby coffee

shop and that their settlement offer was presented to them in the form of a handwritten amount on a piece of paper.

15.21 The lack of transparency is further exacerbated by Mr Supra's admission that he did not account to clients in writing on finalisation of their mandate.

15.22 Based on the affidavits of the firm's former clients it would appear that they were not provided with copies of their settlement agreements with R.A.F, nor did they receive copies of their medical reports or a statement of account.

15.23 During the course of the inspection it was also identified that the firm utilised the services of a correspondent attorney namely, Jacques Swanepoel Attorneys. In certain instances, the firm's trust creditor ledger accounts indicate that the firm paid Swanepoel Attorneys their fees which were usually less than an amount of R2,000.00. The firm however, prepared a bill of costs on behalf of Swanepoel Attorneys which was then settled with the attorneys acting on behalf of the Road Accident Fund. It was identified that despite Swanepoel Attorneys charging less than an amount of R2,000.00 for their services the firm had the correspondent bill of costs settled for amounts ranging between R30,000.00 – R52,000.00.

15.24 The party and party costs were retained in full by the firm and were debited (to an extent) by the firm as fees. As a result, the firm's fees would generally exceed 25% of the capital award.


This practice was clearly dishonest, and the result is that R.A.F was ultimately defrauded as a result of the inflated bill of costs.

15.25 The Legal Practice Council received a letter from the firm during December 2020 whereby the directors indicated that they found the manner in which Mr Supra handled the correspondent accounts unacceptable and had thus requested that he resign as a director of the firm (which he did).

15.26 The remaining director of the firm informed the Legal Practice Council that they intend to communicate with R.A.F and that they would propose that the correspondent accounts be revised and that any possible over-payment (to the firm) be paid back to R.A.F.

15.27 In addition to the afore-mentioned fraudulent conduct it was identified in several instances that the firm claimed to have had effected payments to, "Polmed" (medical aid for the South African Police Services) in instances where the claimants advised that they were not employed by the South African Police Services. These payments are thus suspicious and would require further investigation.

15.28 Considering the nature of the findings contained in this report I recommend that my report be referred to the Disciplinary Department.


A Reddy

Chartered Accountant (SA)
Auditor –Risk & Compliance