

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG NORTH, PRETORIA DIVISION

Case No 24187/02

In the matter between:

REGISTRAR OF PENSION FUNDS

In re

SACCAWU NATIONAL PROVIDENT FUND**A L MOSTERT N. O.****Respondent**

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES/NO.~~(2) OF INTEREST TO **Applicant**: ~~YES/NO.~~(3) REVISED. 24/5/2012
DATE

SIGNATURE

JUDGMENT

1. The applicant is the Registrar of Pension Funds ("the Registrar" or "the applicant"), represented in the person of Mr Boyd. Mr Boyd is a Deputy Executive Officer of the Financial Services Board ("the FSB"), appointed as such in terms of section 13 of the Financial Services Board Act 97 of 1990 ("the FSB Act").

2. The FSB is established by section 2 of the FSB Act. It supervises compliance with laws regulating financial institutions other than banks, and the provision of financial services.
3. Mr Boyd is in his capacity as Deputy Executive Officer the head of the Pensions Division of the FSB, responsible for compliance with the Pension Funds Act 24 of 1956 ("the Act"). In this capacity he is the Registrar of Pension Funds.
4. The application concerns the fate of the SACCAWU (the South African Commercial Catering and Allied Workers Union) ("the Union") National Provident Fund, referred to in this judgment interchangeably as 'the Fund' or "the respondent". It is currently under curatorship and supposedly under the guidance of a temporary or so-called 'shadow board', appointed by this court as a temporary measure. The applicant seeks an order terminating the office of the curator and the tenure of the shadow board, substituting a temporary board of trustees instead. The curator opposes the relief sought.
5. The Fund is an umbrella fund and consists of about 1000 participating employers and about 90 000 members spread over the length and breadth of South Africa. It is registered as a provident fund in terms of the Pension Funds Act 24 of 1956. According to the curator's assessment about a third of the Fund's members do not belong to SACCAWU. The Union places the non-Union membership at a much lower figure. The Fund's purpose is to provide its members with benefits, often at the end of their days.
6. The Fund is cited in these proceedings as the nominal respondent. It is represented by counsel to support the relief sought by the applicant.

7. The Fund's curator has joined the proceedings in his official capacity and opposes the application. His *locus standi* to do so was challenged in the papers and the heads of argument filed by the Fund, but the challenge evaporated during argument. There can be no doubt that the court-appointed curator of the respondent Fund is a necessary party to proceedings in which the termination of his office is sought. His right to be heard in such a case is in any event expressly guaranteed by section 5 (8) (b) of the Act, quoted *infra*.
8. SACCAWU was not formally joined as a party to the proceedings but appeared through counsel to lend support to the stance adopted by the applicant and the respondent. The Union's submissions are endorsed by the trade union federation COSATU, of which the Union is a member.
9. The powers exercised by the applicant and the curator are conferred upon them, as stated above, by the FI Act, subject to the court's control. This Act's preamble recites the purposes for which it has been placed upon the statute book:

"To provide for, and consolidate the laws relating to, the investment, safe custody and administration of funds and trust property by financial institutions; to enable the registrar to protect such funds and trust property; to repeal the Financial Institutions (Investment of Funds) Act, 1984 (Act No .39 of 1984); to improve the enforcement powers of the registrar; and to provide for matters incidental thereto".

10. According to section 7A of the Act, each pension fund must have a Board that consists of at least four members, at least half of which must be elected by the members of the fund concerned:

7A. Board of fund.—(1) *Notwithstanding the rules of a fund, every fund shall have a board consisting of at least four board members, at least 50% of whom the members of the fund shall have the right to elect.*

(2) Subject to subsection (1), the constitution of a board, the election procedure of the members mentioned in that subsection, the appointment and terms of office of the members, the procedures at meetings, the voting rights of members, the quorum for a meeting, the breaking of deadlocks and the powers of the board shall be set out in the rules of the fund: Provided that if a board consists of four members or less, all the members shall constitute a quorum at a meeting.'

11. The objects, duties and functions of a Board are set out in sections 7C and 7D of the Act:

'7C Object of board

(1) The object of a board shall be to direct, control and oversee the operations of a fund in accordance with the applicable laws and the rules of the fund.

(2) In pursuing its object the board shall-

(a) take all reasonable steps to ensure that the interests of members in terms of the rules of the fund and the provisions of this Act are protected at all times, especially in the event of an amalgamation or transfer of any business contemplated in section 14, splitting of a fund, termination or reduction of contributions to a fund by an employer, increase of contributions of members and withdrawal of an employer who participates in a fund;

(b) act with due care, diligence and good faith;

(c) avoid conflicts of interest;

(d) act with impartiality in respect of all members and beneficiaries.

7D Duties of board

The duties of a board shall be to-

(a) ensure that proper registers, books and records of the operations of the fund are kept, inclusive of proper minutes of all resolutions passed by the board;

(b) ensure that proper control systems are employed by or on behalf of the board;

(c) ensure that adequate and appropriate information is communicated to the members of the fund informing them of their rights, benefits and duties in terms of the rules of the fund;

(d) take all reasonable steps to ensure that contributions are paid timeously to the fund in accordance with this Act;

(e) obtain expert advice on matters where board members may lack sufficient expertise;

(f) ensure that the rules and the operation and administration of the fund comply with this Act, the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984), and all other applicable laws.'

12. The Fund is currently under curatorship in terms of the Financial Institutions (Protection of Funds) Act 28 of 2001 ("the FI Act"). It was placed under provisional curatorship on 10 September 2002 in terms of section 5 of the FI

Act. The provisional curatorship was confirmed on 18 March 2003. It was placed under curatorship as a result of the applicant having approached this court for an order in terms of section 5 of the Act.

13. Section 5 thereof is worded as follows:

5. Appointment of curator.—(1) *The registrar may, on good cause shown, apply to a division of the High Court having jurisdiction for the appointment of a curator to take control of, and to manage the whole or any part of, the business of an institution.*

(2) *Upon an application in terms of subsection (1) the court may—*

(a) *provisionally appoint a curator to take control of, and to manage the whole or any part of, the business of the institution on such conditions and for such a period as the court deems fit; and*

(b) *simultaneously grant a rule nisi calling upon the institution and other interested parties to show cause on a day mentioned in the rule why the appointment of the curator should not be confirmed.*

(3) *On application by the institution the court may anticipate the return day if not less than 48 hours' notice of such application has been given to the registrar.*

(4) *If at the hearing pursuant to the rule nisi the court is satisfied that it is desirable to do so, it may confirm the appointment of the curator.*

(5) *The court may make an order with regard to—*

(a) *the suspension of legal proceedings against the institution for the duration of the curatorship;*

(b) *the powers and duties of the curator;*

(c) *the remuneration of a curator appointed provisionally under subsection (2) (a) or finally under subsection (4);*

(d) *the costs relating to any application made by the registrar under subsection (1);*

(e) *the costs incurred by the registrar in respect of an inspection of the affairs of the institution concerned in terms of the Inspection of Financial Institutions Act, 1998 (Act No. 80 of 1998); or*

(f) *any other matter which the court deems necessary.*

(6) *The curator acts under the control of the registrar who made the application under subsection (1), and may apply to that registrar for instructions with regard to any matter arising out of, or in connection with, the control and management of the business of the institution.*

(7) *The curator must furnish the registrar of the institution concerned with such information concerning the affairs of that institution as the registrar may require.*

(8) (a) *Any person, on good cause shown, may make application to the court to set aside or alter any decision made, or any action taken, by the curator or the registrar with regard to any matter arising out of, or in connection with, the control and*

management of the business of an institution which has been placed under curatorship.

(b) A person who makes application contemplated in paragraph (a) must give notice of not less than 48 hours of such application to the registrar or the curator, as the case may be, and such registrar or curator is entitled to be heard at such application.

(9) The court may, on good cause shown, cancel the appointment of the curator at any time.'

14. Mr Anthony Louis Mostert was appointed as curator of the business of the fund. The Fund was placed under the control of the curator (subject to the applicant's control) and the Management Board of the Fund was divested of the control thereof. The benefit administration of the respondent is undertaken by Old Mutual under the curator's control.

15. The fund has an internal management facility, established by the curator, which deals with all the documentation that is essential for the payment of benefits arising from risk claims. It consists of 14 individuals who, according to the curator, provide a service of significantly superior quality to that provided by a Union-owned company prior to the advent of curatorship.

16. The Fund had to be placed under curatorship because, according to the applicant, an inspection undertaken at the applicant's behest revealed '*... serious mismanagement and mal-administration of the Fund which negatively impacted upon the financial soundness of the Fund*'. Nonetheless, the appointment of the curator was vigorously opposed by the former Board of Management, consisting entirely of SACCAWU members.

17. The curator has in several reports filed after his appointment charged the former Fund Board members with very grave irregularities, with criminal conduct, gross impropriety and, generally, with having mismanaged the Fund by raiding its assets for the benefit of the Union.

18. It must be understood that, although the misconduct with which Union officials and former Board members of the Fund are charged is described as having been aimed at benefitting the Union, such benefits would have, according to the curator, accrued to Union officials and Union management and not the individual Union members. Indeed, the position of individual members would have been endangered by the fact that, as related by the curator, many millions of Rand were diverted to the Union for the acquisition of office furniture and similar expenses. These millions would have been lost to the Fund members – resulting eventually in reduced benefits - if the curator had not taken vigorous steps to reclaim them
19. The Union has chosen not to deal with these grave charges in any particular detail and has contented itself basically with generalised denials in perfunctory affidavits by its president. It denies any wrongdoing and suggests that it was entitled to invest Fund assets for the Union's benefit. It claims that large sums of money were donated to it by the Fund and that it is entitled to retain these benefits. No explanation is provided of the actions that prompted the application to divest the Union-controlled Board of its duties and the order of this court placing the Fund under curatorship. There is no expression of regret and no suggestion that the Union would act in any other way in respect of the Fund's assets as it did in the past were it given the opportunity again to appoint Board members that might be beholden to the Union.
20. The Union president – who himself was a member and sometime president of the delinquent Board - leaves no doubt in his replying affidavit that the Union believes that it is entitled to control the Fund through the appointment of Board members. It has been referred to above that the Act determines that

members should appoint at least half the number of Board members. In argument it was suggested that the time had come to '*democratise*' the Fund by restoring the Union's power to nominate Board members or, in the interim and as will be discussed below, trustees to manage the Fund, as proposed in the order the applicant seeks.

21. It is clear that the applicant does agree that the former Union management endangered the Fund – hence his application to have the Fund placed under curatorship. The applicant does not discuss the grounds that prompted his intervention in any detail but refers to the curator's reports in this respect.
22. The allegations of grave misconduct on the part of the Union-controlled Board prior to the Fund being placed under curatorship are therefore for all intents and purposes common cause.
23. Although a victim of the raids executed upon it as stated above, the Fund was solvent and possessed of considerable assets when the curator was appointed. These assets have increased appreciably as a result of the curator's investment and administration policies and the considerable increase in the Fund's membership.
24. Part of the increase of the Fund's assets has been brought about by the vigorous litigation embarked upon by the curator to reclaim funds that were misappropriated by the former Board. In addition, the curator has successfully opposed creditors' claims seeking to attach Fund's assets to pay for debts incurred by the former Board, who unlawfully committed the Fund to pay for commodities acquired for the Union.
25. The former Board members, whose first-hand knowledge of the disputed transactions and investments the curator would have wished to rely upon to

protect the Fund's interests, were unwilling to assist him in his efforts and in fact opposed his efforts. As a result the litigation, which has been dragging on for several years, has still not been concluded while the obstructive attitude adopted by the Union and the former Board members has continued and has contributed to the delays.

26. It is clear that the curator must remain involved in this litigation and must see to it that it comes to fruition. The applicant realises that this is the case but suggests that this need could be met by ensuring that the curator continues to act as the Fund's attorney after being discharged from office. The curator on the other hand is of the view that he should remain in office at least until the litigation has been finalised and all the assets that can be recovered have been secured.
27. The parties are in agreement that it is undesirable that a fund should remain under curatorship for an extended period and should be discharged from that condition as soon as possible. In an earlier effort to prepare the ground for the handover of the Fund to a new Board, initiated by the applicant and the curator, a so-called 'shadow board' of trustees was appointed by order of this court.
28. The appointment of the trustees was authorised by this court on 15 August 2007. At that stage it was envisaged that the trustees would '*... on cancellation of the curatorship of the Fund at the instance of the Registrar, the appointees be vested with the power and duty to govern the Fund in terms of its Rules as at date of such cancellation, and in accordance with the provisions of the Pension Funds Act, No 24 of 1956...*' Seven trustees were identified by name as the appointees in the order of court. Two of these were

nominated by the applicant as independent trustees. One of them resigned. The other trustees were nominated by the Union and by COSATU, the latter appointing its then Deputy General Secretary as one of them.

29. The envisaged transition from curatorship to forming a new Board never came to fruition. According to the applicant, the curator and the trustees were unable to work together and numerous disputes arose between them until deadlock supervened and the trustees did not function as a 'shadow board' at all. The curator places the blame for the failure of the interim arrangement squarely at the door of the Union and COSATU trustees, who according to him, continued to frustrate the pending litigation in order to avoid an investigation into the role the previous Board had played in the Union affairs, bearing in mind that all Board members were Union officials appointed by the Union. There is no evidence in these papers that the curator's view is not based upon objectively ascertainable and, indeed, common cause facts and the applicant does not contend to the contrary.

30. While it is therefore inevitable that the curatorship will have to be terminated as soon as this can be done with comparative certainty that the Fund will not again fall prey to raids upon its assets by the Union whose members constitute a large majority of the Fund's membership, the question is at this stage whether the proposals put forward by the applicant can be said to be such that effective protection of the Fund is assured. Put differently, do the applicant's proposals provide sufficient protection against further harm befalling the Fund to justify the otherwise desirable termination of the curatorship? Only if this question can be answered in the affirmative can it be

said that good cause has been shown to warrant the Court exercising its powers under section 5(9) of the FI Act.

31. "Good cause" is, of course, a concept of some elasticity and it is generally undesirable to attempt to coin a comprehensive definition thereof. Whether good cause has been shown in a particular matter depends upon the legal issues at hand and the facts of the individual case. In general, formulations such as '*Legally adequate, or substantial grounds or reason to take a certain action*' (The Fairlex Free Dictionary) are employed to convey the application of the concept. In the most recent authority on the appointment of a curator to a fund or financial institution, *Executive Officer, FSB v Dynamic Wealth* 2012 (1) SA 453 SCA, Wallis JA, writing on behalf of the unanimous court, said the following at [4] (457D) to [6] (459 D):

[4] The registrar must therefore satisfy the court that there is good cause to appoint a curator.⁴ Reading sub-sec (1) together with sub-sec (4) that means that the court must be satisfied on the basis of the evidence placed before it that it is desirable to appoint a curator. Something is desirable if it is 'worth having, or wishing for'.⁵ The court must assess whether curatorship is required in order to address identified problems in the business of the financial institution. It assesses this in the light of the interests of actual or potential investors in the financial institution, or investors who have entrusted or may entrust the management of their investments to it. It must determine whether appointing a curator will address those problems and have beneficial consequences for investors. It must also consider whether there are preferable alternatives to resolve the problems. Ultimately what will constitute good cause in any particular case will depend upon the facts of that case. I take heed of what Innes CJ said,⁶ in regard to any attempt to define the content of the expression 'good cause', that:

'In the nature of things it is hardly possible, and certainly undesirable, for the Court to attempt to do so. No general rule which the wit of man could devise would be likely to cover all the varying circumstances which may arise in applications of this nature. We can only deal with each application on its merits, and decide in each case whether good cause has been shown.'

The potentially complex circumstances that may exist in regard to the operations of a financial institution render it undesirable to try and define further what will constitute good cause for the grant of such an order.

[5] In the court below the respondents relied on the judgment in *Ex parte Executive Officer of the Financial Services Board: In re Joint Municipal Pension Fund*,⁷ where it was held that s 5 'does not suggest a test which is more lenient than that set by the common law for the

removal of trustees' and the court consequently applied in relation to s 5(1) of the FI Act the approach to the removal of trustees laid down by this court in *Sackville West v Nourse & another*.⁸ That test is broadly whether the trustees have endangered the trust property by their acts or omissions or shown a want of honesty, fidelity or capacity to perform their duties. Lack of honesty or capacity on the part of the financial institution and those responsible for managing its affairs will ordinarily justify the appointment of curators to manage its business under s 5(1) of the FI Act. To that extent it is correct to say that circumstances warranting the removal of trustees of a trust, whether testamentary or *inter vivos*,⁹ would, if present in relation to a financial institution, ordinarily justify the grant of an order for the appointment of curators. However, it by no means follows that the power of a court to make such an order is limited to that class of case and in my view the analogy with the removal of trustees leads to an approach to s 5(1) that is too restrictive.

[6] The appointment of curators under s 5(1) may be appropriate even where the funds under administration are not shown to be at risk. Take an institution that is unlicensed and not qualified to be licensed, because those responsible for its management are disqualified from obtaining a licence. It can hardly matter that it demonstrates that the funds invested with it are properly segregated and identified,¹⁰ invested in accordance with the mandates given by investors and entirely safe. The inability or unwillingness of the institution to comply with regulatory requirements applicable to protected funds itself provides a reason for appointing a curator. Where there is uncertainty whether the funds of investors are at risk it may be desirable in order to safeguard the interests of investors to appoint a curator. In argument the example was put of the registrar being furnished with an adverse report by inspectors where management disputes the factual contents and conclusions of that report. Both counsel accepted, and rightly so in my view, that it might be proper for a curator to be appointed notwithstanding the dispute. The existence of an adverse report by inspectors after conducting an inspection under the Inspection Act may of itself provide legitimate grounds for concern and found an application for an interim curatorship, even if its conclusions are disputed. When dealing with the investment of the funds of the public, where considerable hardship will be suffered by ordinary people if things go wrong, the registrar cannot be expected to resolve factual disputes by litigation before obtaining an order appointing a curator. Provided the court is satisfied that the registrar's concerns are legitimate and that the appointment of a curator will assist in resolving those concerns it will ordinarily be appropriate to grant an order.

Footnotes:

4 The English text may suggest at first sight that it is the Registrar to whom good cause must be shown but any lack of clarity about this is resolved by reference to the Afrikaans text which reads:

'Die registrateur kan, by bewys van goeie gronde by 'n afdeling van die Hoë Hof wat oor regsbevoegheid beskik, aansoek doen om die aanstelling van 'n kurator om beheer te neem oor die geheel of enige gedeelte van die besigheid van 'n instelling en dit te bestuur.'

5 Shorter Oxford English Dictionary (6 ed, 2002, 2007 (electronic)) sv 'desirable'.

6 Cohen Brothers v Samuels 1906 TS 221 at 224. In Cairns' Executors v Gaarn 1912 AD 181 at 186 (180 at 184 in the 1921 reprint) he said in relation to the similar expression 'sufficient cause' that 'It would be quite impossible to frame an exhaustive definition of what would constitute sufficient cause.' It is apparent that Mason J was incorrect in saying in Mintz v Bloemhof Village Council 1922 TPD 430 at 431 that Innes J drew a 'sharp distinction' between the concepts of 'good cause' and 'sufficient cause'.

7 Ex parte Executive Officer of the Financial Services Board: In re Joint Municipal Pension Fund [2003] 4 All SA 603 (T) para 40.

8 Sackville West v Nourse & another 1925 AD 516 at 527.

9 The description in the FI Act of the assets held by a financial institution as 'trust property' flows from the special definition of that expression in that Act and the duties imposed upon various persons representing financial institutions by ss 2 and 3 of the FI Act and not from the law relating to trusts.

10 See by way of example s 2(2) of the Collective Investment Schemes Control Act 45 of 2002.

32. The same principles must apply when the converse order is sought to terminate the curatorship. Good cause must be established to discharge the curator, which must clearly be shown to serve the interests of the Fund and its members better than a continuation of the curatorship would. The persons designated to replace the curator must, at the very least, be clearly able to meet the requirements and perform the functions and duties set out in sections 7C and 7D of the Act.

33. The applicant has come to the conclusion that the Fund's curatorship should be terminated immediately. At the same time, the applicant seeks an order changing the rules of the respondent Fund to enable the appointment of twelve trustees in the curator's place, half of whom should be selected by the applicant and half by the Union, SACCAWU. The term of office of the trustees should be limited to three years until a new properly constituted Board can be appointed. The twelve trustees should furthermore have alternates, one for each trustee, appointed in the same fashion.

34. The order sought by the applicant provides for the immediate termination of the term of office of each member of the shadow board.
35. None of the individuals who were members of the Board when the Fund was placed under curatorship may become trustees, according to the order prayed for.
36. The trustees' control of the Fund management will, according to the notice of motion, resort under the applicant's supervision.
37. The notice of motion contains prayers that the trustees should each have one vote and should appoint a rotating chairperson who would not have a casting vote. The trustees should be enjoined to co-operate with one another and to manage the fund and its affairs on the basis that they must make reasonable efforts to obtain a majority decision of issues put to the vote. Should they be unable to achieve this, disputed issues should be referred to arbitration or to an expert for advice. Should that process not result in a resolution of the issue at hand, the disputed matter must be resolved by arbitration.
38. In the event of the trustees becoming deadlocked rendering the taking of decisions impossible, the independent trustees should assume sole responsibility for the management of the Fund.
39. The existing litigation should be continued by the curator as attorney, subject however to an assessment by an independent attorney whether the litigation should be persisted with or not.
40. The applicant obtained a rule *nisi* on 9 June 2011 calling upon interested parties to show cause why the curatorship should not be terminated on this basis.

41. The curator takes issue with the applicant and argues that it is clear from the attitude adopted by the Union and COSATU that the raids that were aimed at the Fund's assets will not cease, but will be resumed once the trustees are appointed. The pending litigation will, in his view, furthermore be prejudiced if the Union-appointed trustees were to be pressurised by the Union to do the latter's bidding.
42. Neither in the affidavits nor in argument did the Union suggest that it appreciated that the previous Board had been guilty of misconduct. No undertaking was given or envisaged that the Union would in future desist from attempts to influence the trustees appointed by it to secure investments of Fund assets in a fashion that might expose the Fund to unusual risks, arising from the intention to aid the Union rather than to advance the interests of the Fund's members. On the contrary, it is clear that SACCAWU is of the opinion that it is entitled to control the Fund and to use to use the Fund's assets to benefit itself.
43. There are repeated references in the papers to the fact that the UNION experiences financial problems. Whether this is correct or not need not be decided. The suggestion of financial distress highlights the danger, however, of the temptation that a multi-billion Rand Fund presents to a Union that might experience a shortage in its cash flow.
44. There is no safeguard proposed by the applicant to shield the trustees appointed by the Union from attempts to influence their investment and financial policies toward bending sound financial policies in favour of providing ready cash to the Union. There is no mechanism in the applicant's proposals

that would shield the Union trustees from a potential conflict of interest and consequent risk for the management of the Fund.

45. Given the history and the Union's unwillingness to undertake not to pressurise the trustees appointed by SACCAWU, the apprehension expressed by the curator that the inappropriate attempts to lay the Union's hand on the Fund's assets in the past may be repeated once the trustees are appointed, has not been dispelled.
46. If there is no guarantee that the Union trustees will be able to go about their business free from inappropriate interference, the continuing litigation between the curator and Union entities, or individuals and institutions associated with Union business, must become a matter of concern. There appears to be good reason for the curator's suspicion that his attempts to bring the litigation to finality in the Fund's favour may be obstructed by the Union and trustees appointed by the latter.
47. The applicant's proposals therefore contain the seeds of future conflict and a real threat of disputes and deadlock between the trustees which would certainly have a negative effect on the Fund.
48. The applicant's proposals, if implemented, would bring about little if any advantage other than the termination of the curatorship, but would introduce potential conflict and detriment by exposing the Fund and its suggested management to possible attempts to divert assets in an inappropriate fashion toward Union interests; to dispute and deadlock and to obstacles placed in the way of litigation that might impact negatively on Union interests. In this connection it must be recorded that no facts have been advanced that would

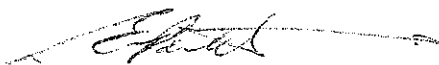
justify any need to obtain a second opinion regarding the curator's professional view that the litigation should be continued to finality.

49. It follows that the applicant has failed to meet the evidential threshold of showing good cause that the curatorship should be terminated. In the result, the rule nisi must be discharged. The curator's counter proposals to the applicant's proposals were not pursued with more than a modicum of determination during argument and need not be considered at this stage.

The following order is made;

1. The rule *nisi* is discharged.
2. No order is made in respect of costs.

Signed at Pretoria on this 24th day of May 2012.



E BERTELSMANN

Judge of the High Court

Date of the hearing : 16 April 2012

Judgment delivered on : 25 May2012

Counsel for the Applicant : Adv I V Maleka SC

Instructed by : Rooth & Wessels Inc, Pretoria

Counsel for the Curator : Adv J J Gauntlet SC
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