

PRESS RELEASE / ADVISORY

Action taken by South African Legal Practice Council against Mr Zuko Nonxuba

Given recent media coverage regarding attorney Mr Zuko Nonxuba, the LPC has resolved to issue a media release to update the public (and legal practitioners) on the steps it has taken to discipline Mr Nonxuba.

Mr Nonxuba practised in Gauteng, the Eastern Cape and in the Western Cape as a director of the firm Nonxuba Incorporated. He brought medical negligence claims against various Provincial Departments of Health on behalf of disabled children.

In many of these matters Mr Nonxuba was ordered by the Court to establish trusts into which the medical negligence damages awards in favour of the children were to be paid. The trusts were to administer the damages award for the benefit of the children.

On Monday 2 August 2021, the LPC was first made aware of the fact that in some of the matters in which Mr Nonxuba was ordered by the Court to establish trusts, the trusts in question had either not been established or had not received any funds from Mr Nonxuba, to whom the damages awards had been paid.

Four days later, on Friday, 6 August 2021, the LPC required Mr Nonxuba to satisfy the LPC that he could account for, and still held, the funds that he ought to have paid to the trusts in question.

Mr Nonxuba failed to satisfy the LPC that he could account for and still held the funds. Accordingly, the LPC immediately made application for Mr Nonxuba to be interdicted from operating on his trust account and for the Director of the Gauteng Office of the LPC to be appointed as curator to oversee the bank accounts of Mr Nonxuba's firm. This was done to ensure the funds then held by Nonxuba Inc. remained intact and that they were removed from Mr Nonxuba's control.

An order was obtained by the LPC one week later, on 13 August 2021. The order included a confidentiality clause, which Mr Nonxuba sought, which prohibited the LPC from making public the papers in the application and the order itself. The LPC has consistently opposed the inclusion of the confidentiality provision in the order. It affirms its commitment to transparency and open access to justice.

The LPC took the steps necessary to interdict Mr Nonxuba from practising. It obtained an order to this effect on 18 April 2022. Notably, the 18 April 2022 Court order removed the confidentiality imposed on the LPC by the August 2021 order.

Mr Nonxuba applied for leave to appeal this order in the Western Cape High Court. He was unsuccessful and then applied for leave to appeal to the Supreme Court of Appeal. This application was also refused. Mr Nonxuba then applied to the President of the Supreme Court of Appeal for the reconsideration of the order refusing him leave to appeal. This application, too, was unsuccessful. He then applied to the Constitutional Court for leave to appeal. The LPC has successfully opposed all of the appeal processes brought and is opposing his application for leave to appeal to the Constitutional Court. The outcome of his latest application for leave to appeal, to the Constitutional Court, is still pending.

On each occasion that Mr Nonxuba applied for leave to appeal the 18 April 2022 interdict order, the operation of the order becomes suspended with the result that the August 2021 order, with the confidentiality provision, remains in force.

However, between Mr Nonxuba's applications for leave to appeal, when the April 2022 Court order was in effect and the LPC was not bound by the confidentiality provision, the LPC has made the relevant Court papers available to the Specialised Commercial Crimes Unit of the National Prosecuting Authority, the Deputy National Director of the National Prosecuting Authority, and the Commercial Crimes Investigation Unit of the Hawks.

As a result of the allegations made against Mr Nonxuba and Nonxuba Inc., the LPC refused to issue Mr Nonxuba with a fidelity fund certificate for 2022. He needs this in order lawfully to practise for his own account. Mr Nonxuba challenged the LPC's refusal to issue to him a fidelity fund certificate in Court. His application was opposed by the LPC and the Court upheld the LPC's decision not to issue a fidelity fund certificate to him. In the circumstances, Mr Nonxuba has not been legally permitted to practise for his own account since 1 January 2022.

Moreover, according to the records of the LPC, Mr Nonxuba is also not practising as an attorney as an employee of another firm. It follows that Mr Nonxuba has not lawfully practised as an attorney in any capacity since the beginning of 2022.

The LPC was not aware of all the cases referred to in the recent media coverage, now that we are aware thereof it is to be investigated. The LPC requests any persons who suspect that they may have suffered loss as a result of Mr Nonxuba's actions to contact their nearest LPC Office where they will be assisted.

Janine Myburgh

Chairperson of the Legal Practice Council