



**Publication:** Cape Times - Main  
**Title:** ADVOCATE'S LEGAL WOES PILE UP  
**Publish date:** 13 Oct 2023  
**Page:** 1

**Reach:** 10921  
**AVE:** R 27223.81  
**Author:** Nicola.daniels

# ADVOCATE'S LEGAL WOES PILE UP

*Council takes control of R100m in trust account*

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IN YET another blow for embattled advocate Zuko Nonxuba, the Legal Practice Council (LPC) has taken control of the last remaining R100 million in his trust account.

However, the council's investigations showed that the trust balance should have been substantially more.

Nonxuba is alleged to have misappropriated hundreds of millions of rand paid into his trust account that was due to his former clients after successfully litigating against the Department of Health in matters relating to medical malpractice.

Nonxuba was ordered by the courts

in all cases where minors were involved to set up trusts on behalf of the claimants in the medical malpractice suits, and to ensure that they received compensation as beneficiaries of the trusts.

However, according to the LPC, Nonxuba failed to adhere to the court orders and is alleged to have retained and misappropriated these funds.

"Once it became clear to the LPC that there was the potential that Mr Nonxuba had misappropriated trust funds, the LPC approached the High Court in the Western Cape for an urgent interdict against Mr Nonxuba to prevent him from transacting further on his trust account.

"Since the inception of the proceedings against Mr Nonxuba, he continu-

ously tried to frustrate the proceedings with countless court applications against the LPC. Despite this, we succeeded in obtaining an interdict preventing him from operating his trust account on April 18, 2022.

"He then appealed this order and finally on August 3, 2023, the Constitutional Court dismissed his appeal. When we took control of the trust account it had a balance of just over R100m. Our investigations have, however, shown that the trust balance should have been substantially more," said LPC spokesperson, Kabelo Letebele.

The LPC has since concluded its investigations into Nonxuba's case and is in the process of obtaining an order to strike him from the roll of attorneys.

In the meantime, the LPC has to identify all trust creditors who may have a claim against the money held in trust.

"We are, however, not allowed at this stage to pay any trust creditors, since there appears to be a shortfall on the trust account, and due to Mr Nonxuba's refusal to cooperate with the LPC it is difficult to finalise a reconciliation of the trust creditors. This means that we cannot say for certain which of his former clients the money currently in trust belongs to."

At this stage, the LPC said it was not possible to say when it would be able to finalise the reconciliation of all transactions, given years of alleged transgressions.

The LPC noted that while it inves-

tigates numerous complaints of misappropriation of trust funds, "very few instances are as extensive as the matter of Nonxuba".

"The cases where there are large-scale payouts for clients are generally for medical negligence and Road Accident Fund claims.

"Of all the complaints currently being investigated by the LPC, less than 5% relate to misappropriation of trust funds. The LPC strongly condemns all practitioners who steal from their clients, which is why we ask for the strongest possible sanction against such practitioners."

Nonxuba is currently suspended from practice, subject to the finalisation  
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**Publication:** Cape Times - Main  
**Title:** `Pleased there is recourse for vicims`  
**Publish date:** 13 Oct 2023  
**Page:** 2

**Reach:** 10921  
**AVE:**R 19562.47  
**Author:** Nicola.daniels

LAW

## 'Pleased there is recourse for vicims'

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of the various investigations as well as the imminent court process seeking his strike-off, the LPC confirmed.

In response to the matter, co-chairperson of the Law Society of South Africa and current president of the National Association of Democratic Lawyers, Mvuzo Ntyesi, called on the LPC to deal with the matter swiftly, as it was "punishing the image of the profession, and had prejudiced members of the public".

"First and foremost, theft of trust funds prejudices members of the public, and that on its own leaves a negative perception about the profession and brings the profession into disrepute and reduces public confidence in a profession that's supposed to be honourable.

"We are pleased the LPC acted in terms of the matter and that there is recourse for the victims, in addition that the victims will be able to approach the fidelity fund in terms of money that has been stolen.

"The victims must be advised, they have a right to approach the fidelity fund and claim whatever losses they have suffered, there must be assistance, the LPC must be able to guide and inform victims, that will restore the damage to public trust," Ntyesi said.

Meanwhile the SIU on Wednesday said in the Western Cape during 2018, about 33 fraudulent birth injury claims were identified in the contingency liability register to the value of about R409m submitted by Nonxuba Incorporated Attorneys.

"Criminal cases have been registered in the Eastern Cape, Gauteng, and Western Cape against Nonxuba Inc. and Nonxuba. Regarding the criminal case registered in the Western Cape, 33 matters were referred to the SAPS and are currently being investigated by the Directorate of Priority Crime Investigations (DPCI). The SIU is collaborating with the DPCI," the SIU said.

In the Eastern Cape, the SIU noted that 158 medico-legal matters to the value of about R2.9 billion for contingent liability were identified and handled by similar legal firms, where there were no hospital records of all the claimants found at any of the hospitals.

"Through the SIU's interventions, the matters were removed from the Contingent Liability Register and subsequently reduced the contingent liability of the department to R132.8m. Five medico-legal claims were identified, with judgments handed down in favour of the claimants. The department paid out approximately R97.3m into the trust account of the claimant's attorney. The attorney failed to register trusts as instructed in the court orders.

"The attorney also failed to communicate the outcome of High Court civil proceedings to the affected claimants and withheld payments to the respective claimants. The attorney was suspended by the LPC on unrelated matters, and the law firm's trust account was placed under curatorship. The SIU is preparing a referral to the relevant prosecuting authority and LPC," the SIU said.

It did not confirm by deadline if the attorney in question was Nonxuba.

Attempts to reach Nonxuba were unsuccessful by deadline.