

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

n/v
B
22/12/2020

Before the Honourable Mr Justice Bozalek
Cape Town: Tuesday, 22 December 2020

CASE NO. 15118/2020

In the *ex parte* application brought by the:

UNIVERSITY OF CAPE TOWN

In re: Removal of discriminatory conditions

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION, CAPE TOWN	
Private Bag X9020, Cape Town 8000	
	2021-01-18
WCD-005	
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION, CAPE TOWN	

Applicant

~~DRAFT ORDER~~

Having read the papers filed of record and having heard counsel for the applicant:

IT IS ORDERED THAT:

1. A *rule nisi* do issue calling upon all interested persons to show cause to this court on Friday, **26 February 2021** at **10h00** or so soon thereafter as the matter may be heard as to why the following order should not be made final:
 - 1.1. It is declared that the discriminatory provisions in the bequests, trusts and/or endowments listed on annexure "A" hereto are:

Filed by: Fairbridges Wertheim Becker Attorneys
Ref.: Ms A Petersen
Tel: 021 4057300

1.1.1. in conflict with the equality provisions in section 9 of the Constitution of the Republic of South Africa, 1996, Act, No. 108 of 1996 ("*the Constitution*");



1.1.2. in conflict with the Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000;

1.1.3. in conflict with the Higher Education Act, No. 101 of 1997;

1.1.4. contrary to public policy.

1.2. That the said discriminatory clauses or words which are underlined in annexure "A" hereto shall be deleted;

1.3. That the applicant is granted leave to administer the said trusts, bequests and/or endowments for the benefit of all students enrolled at the university as it may deem meet.

2. The applicant is granted leave to apply on the same papers duly amplified, if necessary, for further discriminatory provisions to be deleted from bequests, trusts and/or endowments made to it.

3. The applicant pays the costs of this application.

4. Service of the order together with annexure "A" thereto, shall be effected on persons with an interest, in the matter by:

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- 4.1. Forwarding a copy electronically to such persons where an email address is available;
- 4.2. Sending a copy by prepaid registered post where a postal address is available;
- 4.3. Publication thereof in one edition of the Sunday Times newspaper;
- 4.4. Publication thereof in one edition of the Cape Times newspaper; and
- 4.5. Publication thereof in one edition of the Government Gazette.

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WESTERN CAPE DIVISION,
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Private Bag 11020, Rondebosch 7700

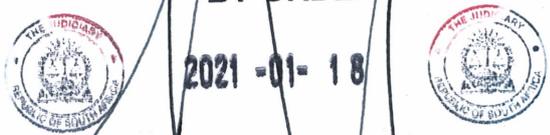
BY ORDER OF THE COURT

2021 -01- 18

WCD-005

COURT REGISTRAR

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
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Annexure "A" to Notice of Motion

No.	Donor name	Name of bequest/trust/endowment and discriminatory conditions/words
1.	Farquhar, Adelaide Fleetwood, Estate Late	Adelaide Fleetwood Farquhar Scholarship: <i>"English-speaking <u>male</u> students (only those coming from English speaking homes and where both parents are of <u>English descent</u>)"</i>
2.	Radford, Mrs MYL, Estate Late	Aubrey Radford Scholarship: <i>"<u>descendants of French, British, Dutch and/or German settlers of the Republic or of the territories which now constitute the Republic</u>"</i>
3.	Irving, Marjory	Marjory Irving Bursary Fund and the David Irving Bursary Fund: <i>"the net income to assist <u>white</u> male or female Christian students"</i>
4.	Savage, Dr Ann	Dr Alison Good Bursary: <i>"<u>an older</u> woman"</i>
5.	Lincows (Pty) Ltd	Gwen Lincow scholarship: <i>"<u>Male</u> candidates only"</i>
6.	Lincows, Gerald	Gerald Lincow Scholarship: <i>"<u>Male</u> candidates only"</i>
7.	Lincows (Pty) Ltd	Harold Lincow Scholarship: <i>"<u>Male</u> candidates only"</i>
8.	Waddell, William David, Estate Late	David Waddell Bursaries: <i>"<u>the White group</u>"</i>
9.	David Bennie Hewat, Estate Late	Bennie Hewat Scholarships: <i>"<u>European student</u>";</i> <i>"<u>a Coloured student who is or has been a student of the Hewat Training College, Crawford</u>" and</i> <i>"<u>Should no available student form the Hewat Training College be able to take up the Scholarship, the Trustees may award it to some other Coloured student meeting with their approval</u>"</i>
10.	Dr Morris, Joseph Estate Late	Dr and Mrs Joe Morris Trust Fund Bursaries: <i>"<u>male matriculants of the Witbank Government School for Boys, Transvaal and the Wynberg High School for Boys, Cape</u>"</i>
11.	Mrs F Menzies	The Professor George Menzies prize: <i>"the best <u>male</u> student"</i>
12.	Epstein, Mrs Bertha Isobel, Estate Late	The Louis Epstein Endowment Scholarship: <i>"<u>Europeans of South African nationality</u>"</i>

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13.	Epstein, Mrs Bertha Isobel, Estate Late	Bertha Isobel Epstein Endowment Bursary: " <u>white students</u> of South African nationality"
14.	Marais, Mrs Maria Elizabeth Johanna, Estate Late	The Jacobus Stephanus Marais Scholarship: "to be used for children of <u>European descent</u> and Protestant denomination"
15.	Marais, Maria, Elizabeth, Johanna, Mrs Estate Late	The Jacobus Stephanus Marais Memorial Research Fund: "to be used by post graduate students of <u>European descent</u> and Protestant denomination"
16.	Koopmans De Wet, Mrs, Estate Late	The Koopmans De Wet Scholarship: " <u>the less affluent portion of the colonists, and the sons of descendants of the old Dutch settlers are to have preference</u> "
17.	Murray, Henry, Estate Late	Murray's Gift: "boys from the affluent portion of the <u>Colonists, and the sons or descendants of the Old Dutch Settlers to have a preference</u> "
18.	Day, RFR, Estate Late	" <u>European</u> "
19.	Tippetts-Aylmer, Madeleine Musgrave, Estate Late	T-A Trust: " <u>of European descent</u> "
20.	Cape Town Combined Schools Association	" <u>coloured students</u> "
21.	Sellick, LC, Estate Late	John Sellick Bursary: " <u>his studies</u> "
22.	Van Dijk, BC	Jenny Van Dijk Bursary Fund: " <u>Coloured Students</u> "
23.	Mirvish, Dr I, Estate Late	Dr I Mirvish Paediatric Prize: " <u>coloured</u> "
24.	Huguenot Memorial Fund Committee	Huguenot Scholarship: " <u>Huguenot descent</u> ".
25.	Davie, Mrs Vera C, Estate Late	" <u>his</u> "
26.	Coutts, Elizabeth Elsie, Estate Late	Elizabeth Elsie Coutts Music Scholarship: " <u>Coloured persons</u> "

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27.	Berk, Isaac Michael, Estate Late	Isaac Michael Berk Memorial Bursary: " <u>coloured students</u> "
28.	Bonnytown Bursaries	Bonnytown Bursaries: " <u>Coloured</u> "
29.	Horne, Percy Stuart, Estate Late	Non-European Students' Fund: " <u>Cape Coloured students</u> " and " <u>non-white students</u> "
30.	Murray Parker, EM, Estate Late	Non-European Students' Fund: " <u>Non-European Students Fund</u> "
31.	Russell, WA, Estate Late	Russel Scholarships: " <u>Cape Coloured Community</u> "
32.	Scholtz, Mrs MJ, Estate Late	Peter Scholtz Scholarship Trust: " <u>of European parentage and be of Protestant faith</u> "
33.	UCT Ex-Service Association	University of Cape Town War Commemoration Bursaries: "<u>for men students</u>" in respect of bursaries 1 to 3 and "<u>for women students</u>" in respect of the S.A.W.A.S. Command 13 bursary, "<u>preference shall be given to a candidate who has been on full-time service in the 1939-1945 War or who is the son/daughter of a full-time ex-serviceman/woman of the first or second World Wars or a member of S.A.W.A.S. Command 13</u>"
34.	Lurie, Dora, Estate Late	" <u>him</u> "
35.	Sceales E J H	Ted Sceales Bursary: " <u>male students</u> "
36.	Spracklen, Williams John, Estate Late	The W J Spracklen Scholarship: " <u>a boy</u> ", " <u>him</u> " and " <u>his</u> "
37.	Philander, Peter	Alice and Peter Philander Memorial Fund: " <u>Coloured</u> "
38.	Various Donors from Ellerton Junior School - in memory of Charles Daniels	Charles Daniels Memorial Bursary: " <u>a coloured student/s. Bursary to be awarded on results to a coloured student, man or woman</u> "
39.	Hartley E D, Mrs	Baron Hartley Scholarship: " <u>special consideration to be given to any direct descendant of any member of the late Colonial Regiment of the Cape Mounted Rifles</u> "



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