

# **SUPREME COURT OF APPEAL OF SOUTH AFRICA**

## **MEDIA STATEMENT – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal  
Date: 26 May 2006  
Status: Immediate

### **FELDMAN, DAVID CHARLES v MIGDIN, JACK NO**

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

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The Supreme Court of Appeal today upheld an appeal against a judgment by the Johannesburg High Court. The appellant was the executor in an estate. As such he represented a close corporation whose only member was the deceased in a sale of the close corporation's property. He received the purchase price of R150 000 but did not deposit the amount into the estate's account. As executor he also received cheques which he failed to deposit into the estates banking account as a result of which the cheques became stale. He was subsequently removed as executor and a new executor was appointed. The new executor managed to obtain payment of the R150 000 and of the cheques from the close corporation and the drawers of the cheques respectively. In an action instituted by the new executor against the appellant, the Johannesburg High Court ordered the appellant to pay an amount equal to the aggregate of the sum of R150 000 and the amount of the cheques to the estate.

In terms of the Administration of Estate's Act moneys received by the appellant 'for the estate' had to be deposited into the estate's bank account and to the extent that he failed to do so he had to pay into the estate an amount equal to double the amount which he had failed to so deposit. The SCA held that the R150 000 had not been received by the appellant 'for the estate' and that 'money' in terms of the relevant provision of the Act did not include cheques. .