

National Bargaining Council vs Avalanche Clothing

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In this 2006 case, a Cape Town clothing factory boss who owed the clothing bargaining council (NBC) an amount of R250 000 in arrear levies for provident fund and healthcare funds had his house attached for sale in execution.

The NBC also sought the arrest of Magmoed Toefy, owner of Avalanche Clothing Manufacturers, for contempt of court for having defied an earlier Labour Court order that he should register with the council. The NBC had managed to pierce the corporate veil when it discovered that Avalanche was a front for a Mrs Rifda Josephs who was the only registered member and who in turn was a front for her husband, Mr Toefy Joseph. The lawyers also found that the home in which they lived was owned by a Rifda Josephs Family Trust and the assets were being diverted into this trust, in order to protect it against any claims from creditors, including the bargaining council.

The NBC vs Avalanche Clothing case is important because it is the first time that the Court has authorised the attachment of the personal property of an employer in order to recover debt arrears.