

DECLARATION

I, Benjamin T Kujinga do hereby declare that, except for references specifically indicated as such in the text, this dissertation is entirely the result of my individual and original research and analysis. This dissertation has not been submitted in fulfillment of the requirements of any degree at any University.

Signed

University of Fort Hare (Alice)

Date.....

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SUMMARY.

Auditors perform a very important task within the context of the affairs of a company because financial reporting can only serve its purpose if stakeholders can rely on its accuracy and reliability. An auditor's duty is to opine whether an entity's financial reporting has been done according to the requirements of the law. The responsibility of reporting according to the law lies with an entity's directors. Auditors cannot issue an absolute assurance as to the lawfulness and reliability of an entity's financial reporting. However when it is subsequently discovered that the financial reporting was incorrect and that fraud has occurred auditors are often blamed and sued for enormous amounts of money for failing to detect material anomalies in the financial reports. These actions are based on the fact that auditors have a duty to exercise reasonable care and skill in the performance of their duties and through their failure to act as such, have caused financial harm to the clients or third parties. The fact that auditors are only required by law to exercise *reasonable* care and skill and perform an audit according to the standards of the reasonable auditor and not the most meticulous one, is often not regarded or is sometimes deliberately ignored.

This clearly represents a problem in our law, namely that the presence of fraud in financial reports does not in itself suggest negligence on the part of the auditor but is apparently often perceived to do so. This research shows that the auditor's duty of reasonable care and skill does not necessarily entail the duty to detect fraud. The elements of the duty of reasonable care and skill are identified from case law, legislation and international auditing standards. In order to limit the liability of auditors in general it is important to focus also on the elements of fault (negligence), wrongfulness and causation. This research shows that negligence cannot be established merely by the presence of fraud or material misstatements in financial statements. The responsibility for fair financial reporting lies with the directors. This research gives prominence to this fact which often seems to be ignored for convenience and in order to place the blame on the auditors. This research implicitly asks the question, why are auditors being held responsible for material misstatements in a company's financial statements and not the

directors? Guidelines for determining the extent of an auditor's liability in this regard are formulated in this research.

KEY WORDS.

Auditing procedures.

Auditing standards.

Auditor.

Contractual liability.

Delictual liability.

Duty of care and skill.

Financial statements.

Fraud.

Material irregularities.

Suspicious circumstances.

TO MY PARENTS, SISTERS, JUNIOR AND YOU AUDREY

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