

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 008 OF 2023

BETWEEN : **ABHINASH NAND**

APPLICANT

AND : **MC LAWYERS**

RESPONDENT

THE CHIEF REGISTRAR

AMICUS CURIAE

Counsel : **Mr V Maharaj for the Applicant**
No Appearance for the Respondent
Ms R Wati for the Chief Registrar

Date of Hearing : **7 July 2025**

Date of Decision : **8 October 2025**

DECISION

[1] This is an application by Abhinash Nand for reimbursement of \$494,883.96 from the Fidelity Fund under section 23 of the Trust Accounts Act.

Statutory Framework

[2] Section 23 of the Trust Accounts Act allows reimbursement only where funds were lost through the stealing or fraudulent misappropriation by a legal practitioner in the course of private practice or by any clerk or employee of such legal practitioner, subject to monetary caps, unless the Commission directs otherwise. The claim must relate to trust money properly entrusted and not be solely for investment purposes. The standard of proof is strict: clear evidence of

"entrustment," loss, and causation is required, and reimbursement is generally capped at \$50,000 per legal practitioner per year unless the Commission exercises discretion.

Applicant's Affidavit Evidence

- [3] The affidavit of Abhinash Nand relies mainly on secondary records and assertions, rather than direct primary trust accounting evidence. There is no production of client trust ledger, reconciled trust account statements, receipts, or trust account deposit evidence tying the claimed sum to the practitioner's trust account as required for the statutory threshold. The claim is based on the alleged balance in MC Lawyers' frozen trust account but makes no clear correlation to deposited sums traceable to the estates for which Mr. Nand acts as administrator.

Submissions by the Chief Registrar

- [4] The Legal Practitioners Unit, through Avneel Chand, refers to three separate audit entries for the Sukhnandan estate each reflecting different balances and marked "insufficient information from client." The sum claimed does not match any single entry or address in the 2020 Audit Report. Repeated audit reports highlight missing records, unreconciled balances, errors in posted entries, and inconsistencies between years, making it impossible to definitively identify entitlement or trace specific funds to the estate in question. As a result, both the auditors and the Chief Registrar are unable to ascertain which clients are owed what amounts from the trust, or whether any trust moneys have already been released to a claimant.

Determination of the claim

- [5] The onus is on the applicant to prove with reliable and primary documentation, which specific funds were entrusted and remain unpaid; that the loss occurred through improper conduct as defined in the Act; and that no portion of the funds was previously released or paid.

- [6] Where audits flag unreliability of evidence pertaining to the claim and there is substantial missing evidence, the threshold for satisfaction is not met. The Commission have consistently refused to pay out claims against the Fidelity Fund in the absence of unimpeachable evidence for specific losses, with emphasis for prudence to ensure fairness to all claimants.
- [7] The evidence demonstrates that the total sum of claims (\$3,074,272.89) far exceeds the funds available in both the trust account and the Fidelity Fund combined. To pay out a single claim in full, without proper proof, would unjustly prejudice other similarly situated claimants, breaching the principle of equitable distribution, which must be observed in situations of financial scarcity and incomplete records.
- [8] Furthermore, the Fidelity Fund is a last resort. Claimants are expected to exhaust direct recovery from the trust account, the legal practitioner, and all other means before approaching the Fund. The Applicant has not demonstrated exhaustion of all alternative remedies prior to seeking Fidelity Fund reimbursement.

Conclusion

- [9] For these reasons, the application for reimbursement is declined.



[Handwritten Signature]
Justice Daniel Goundar
COMMISSIONER

Solicitors:

M A Khan Esquire for the Applicant
Respondent in Person
Legal Practitioners Unit for the Chief Registrar