

IN THE INDEPENDENT LEGAL SERVICES COMMISSION
AT SUVA

ILSC CASE NO. 003 OF 2023

BETWEEN : **ASHOK KUMAR**

APPLICANT

AND : **MC LAWYERS**

1ST RESPONDENT

THE CHIEF REGISTRAR

2ND RESPONDENT

Counsel : **Mr K Jamnadas for the Applicant**
1st Respondent in Person
Mr S Nand for the Chief Registrar

Date of Hearing : **7 July 2025**

Date of Decision : **3 October 2025**

DECISION

[1] Ashok Kumar seeks reimbursement of \$320,319.53 from the Fidelity Fund under section 23 of the Trust Accounts Act 1996.

Statutory Grounds

[2] Section 23 of the Trust Accounts Act 1996 only authorizes reimbursement if the Commission is satisfied that the loss occurred "through the stealing or fraudulent misappropriation by a legal practitioner in private practice... or by any clerk or

servant of such legal practitioner" of money entrusted in the course of legal practice. The Commission has absolute discretion, and may refuse payment if the claim is premature, inadequately substantiated, or the supporting records are insufficient to establish that the loss meets statutory criteria.

- [3] The law also limits payouts to \$50,000 per practitioner in any 12-month period, subject to the Commission's discretion and available funds.

Evidence

- [4] The affidavits and evidence reveal that, while Ashok Kumar's funds were held in MC Lawyers' trust account and there is affirmation of loss due to frozen accounts, the pivotal legal requirement of proving "stealing or fraudulent misappropriation" on the part of the practitioner or his staff is not made out on the facts presented. The loss in question appears linked primarily to the receivership, professional misconduct, and accounting failures of Suresh Chandra, not necessarily to specific acts of theft or fraud by him or his employees as required by statute.

Discretion and Procedural Requirements

- [5] The Commission has discretion to reject claims that lack adequate evidence, or where proper records are missing, particularly where:
- The underlying facts are not clearly established or supported by documentation.
 - All other remedies and recovery avenues (such as recovery proceedings against the practitioner) have not been exhausted.
 - Proportional and equitable distribution among all valid claimants is required, not full satisfaction of any one claim.
- [6] The Chief Registrar's affidavit makes clear that there are competing and larger claims, substantial deficiencies in trust account records, and a significant shortfall

in the fund relative to all client claims. Consequently, releasing the full claimed sum to Ashok Kumar would be both inequitable to other claimants and inconsistent with the purpose and limitations of the Fidelity Fund.

Fiduciary Principles and Policy Considerations

- [7] The Fidelity Fund is not a substitute for practitioner liability and is intended only as a last resort for losses proven to fall squarely within the statutory criteria. The evidence here fails to conclusively establish theft or fraudulent misappropriation. Rather, the circumstances involve mismanagement and insolvency, triggering regulatory and disciplinary action but not the threshold for Fidelity Fund reimbursement.

Conclusion

- [8] For these reasons, Ashok Kumar's claim for the sum of \$320,319.53 (with interest) from the Fidelity Fund is declined. The claim does not satisfy section 23 of the Trust Accounts Act 1996, nor does the available evidence or procedural context meet the required legal or evidentiary standards for reimbursement from the Fidelity Fund.




Justice Daniel Goundar
COMMISSIONER

Solicitors:

R Patel Lawyers for the Applicant

Legal Practitioners Unit for the Chief Registrar