

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 002 OF 2023

BETWEEN : **AJENDRA PRAKASH**

1ST APPLICANT

OM PRAKASH

2ND APPLICANT

AND : **SURESH CHANDRA**

RESPONDENT

THE CHIEF REGISTRAR

AMICUS CURIAE

Counsel : **Ms A Singh for the Applicants**
No Appearance for the Respondent
Ms R Wati for the Chief Registrar

Date of Decision : **10 November 2025**

DECISION

(Application for Reimbursement from the Fidelity Fund)

Background

[1] The Applicants, Ajendra Prakash and Om Prakash, seek reimbursement of \$354,210.69 from the Fidelity Fund under Section 23 of the Trust Accounts Act 1996, together with interest, following the non-release of estate sale proceeds by

MC Lawyers. The application is supported by the affidavit of Om Prakash. The Chief Registrar, represented by Avneel Chand, opposes the claim by affidavit, citing statutory requirements and evidentiary deficiencies.

Statutory Framework

- [2] Section 23 of the Trust Accounts Act 1996 enables reimbursement from the Fidelity Fund only for losses arising "through the stealing or fraudulent misappropriation by a legal practitioner in private practice ... or by any clerk or servant of such legal practitioner, of any money or other property entrusted to such legal practitioner, clerk or servant in the course of such practice." Claims for reimbursement must be supported by evidence of such wrongdoing, and the section specifically excludes losses arising solely from investment.

Affidavit Evidence

- [3] The affidavit of Om Prakash outlines the background to the claim, which arises from an estate administration, subsequent litigation, the sale of property, the payment of proceeds into MC Lawyers' trust account, and subsequent disputes regarding the release of those funds.
- [4] The supporting affidavit of Avneel Chand, acting for the Chief Registrar, highlights that:
- No direct evidence has been presented of "stealing or fraudulent misappropriation" by MC Lawyers or any of its employees.
 - Audits of MC Lawyers' trust account show inconsistencies, missing records, and failure to comply with professional standards, but no direct evidence of fraudulent theft or misappropriation as statutorily required.
 - The ILSC has previously ordered interim payments, and the matter is complicated by the firm's receivership and ongoing competing claims.

- The total claims against MC Lawyers' trust account exceed available funds, and the audit trail is incomplete.

Legal Analysis

[5] The law is settled that, for a claim to be paid out of the Fidelity Fund, there must be proof of actual stealing or fraudulent misappropriation and that mere negligence, administrative errors, or trust account mismanagement do not suffice. Authority further affirms that the Fidelity Fund is a mechanism of last resort, and payments outside the narrow statutory rubric risk setting an unjust precedent and depleting the fund to the detriment of future claimants.

[6] Applying these principles to the present case:

- The affidavits of Om Prakash and Avneel Chand show, at best, significant failings in MC Lawyers' trust account management, but do not establish the requisite wrongdoing.
- No direct evidence links the Applicants' loss to any act of theft or dishonest misappropriation, as required under Section 23.
- Record-keeping failures, the absence of a current practising certificate, and office receivership, while deeply concerning, do not meet the statutory test for Fidelity Fund reimbursement.
- The intrigue of competing claims and incomplete audit records further warrants caution in authorizing any payment from Fidelity Fund.

Conclusion

[7] Accordingly, the Applicants have not satisfied the strict evidentiary burden imposed by Section 23 of the Trust Accounts Act 1996. The loss suffered, while regrettable, does not arise from proven stealing or fraudulent misappropriation by a legal practitioner or their clerk within the statutory meaning. The application

for reimbursement of \$354,210.69 (together with interest and any further relief) from the Fidelity Fund is dismissed.



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Justice Daniel Goundar
COMMISSIONER

Solicitors:

Kohli & Singh for the Applicants

Legal Practitioners Unit for the Chief Registrar