

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 002 OF 2024

BETWEEN : **GYAN PRAKASH**

APPLICANT

AND : **MC LAWYERS**

RESPONDENT

THE CHIEF REGISTRAR

AMICUS CURIAE

Counsel : **Mr V Maharaj 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 Applicant, Gyan Prakash, seeks reimbursement of \$140,712.01 plus interest and costs from the Fidelity Fund following the non-release of estate sale proceeds held in the trust account of MC Lawyers (now in receivership). The claim arises out of the administration and sale of estate assets, and the subsequent failure to obtain proceeds from the law firm's trust account.

Statutory Framework

- [2] Section 23 of the Trust Accounts Act 1996 permits payments from the Fidelity Fund only for losses caused by the "stealing or fraudulent misappropriation by a legal practitioner in private practice ... or by any clerk or servant of such legal practitioner, of money or other property entrusted to such legal practitioner, clerk or servant in the course of such practice." Claims must be supported by evidence of theft or dishonest misappropriation, and losses arising from broader financial or administrative failings do not meet the statutory test.

Affidavit and Evidence

- [3] The affidavit of Gyan Prakash outlines the sale of estate property, payment of proceeds into MC Lawyers' trust account, and attempts to recover funds. No evidence is presented of stealing or fraudulent misappropriation of those funds by MC Lawyers or their employees. As in the matter of Ajendra Prakash (ILSC Case No.002 of 2023), available audits reveal poor record-keeping and professional failings, but not the dishonest actions required by law.

Legal Analysis

- [4] The law requires that any payment from the Fidelity Fund can occur only upon proof of actual stealing or fraudulent misappropriation, not merely negligence, administrative incompetence, or trust account mismanagement. Precedent affirms these parameters, and deviating from them would risk the integrity and sustainability of the Fidelity Fund for future claimants. In the present case, there is no evidence that MC Lawyers, or any of their staff, stole or fraudulently misappropriated funds belonging to Gyan Prakash.

Conclusion

- [5] Gyan Prakash's application fails to satisfy the burden imposed by Section 23 of the Trust Accounts Act 1996. The loss, whilst regrettable, did not arise from proven

stealing or fraudulent misappropriation by MC Lawyers or their staff. Accordingly, the application for reimbursement from the Fidelity Fund is dismissed.



Justice Daniel Goundar

COMMISSIONER

Solicitors:

Vijay Maharaj Lawyers for the Applicant

Legal Practitioners Unit for the Chief Registrar

