

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 010 OF 2022

BETWEEN : **RAJENDRA PRASAD**

APPLICANT

AND : **SURESH CHANDRA**

RESPONDENT

AND : **THE CHIEF REGISTRAR**

AMICUS CURIAE

Counsel : **Ms K Saumaki for the Applicant**
No Appearance for the Respondent
Mr S Nand for the Chief Registrar

Date of Hearing : 7 July 2025

Date of Decision : 30 September 2025

DECISION

[1] This is an application by Rajendra Prasad for reimbursement from the Fidelity Fund pursuant to section 23 of the Trust Accounts Act 1996.

[2] **Legal Basis under Section 23**

Section 23 of the Trust Accounts Act 1996 requires the Commission to be satisfied that 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 to them in the course of legal practice.

[3] The Act also empowers the Commission to exercise absolute discretion in considering claims and specifically allows the Commission to refuse a claim if not adequately substantiated or if premature.

[4] **Evidence**

Affidavit evidence establishes that the applicant's funds were deposited into MC Lawyers' trust account and a portion remained after deduction of fees. The account was later frozen when the firm went into receivership.

[5] There is acknowledgement that significant trust account discrepancies exist and that multiple client claims (in excess of the available balance) are outstanding—\$2,157,062.69 in claims against a trust account balance of \$800,964.16.

[6] The respondent, Mr. Chandra, denies theft or misappropriation, citing ongoing police and audit investigations, as well as disciplinary and forensic audit proceedings into the management of MC Lawyers' trust account.

[7] The evidence (including the audit and disciplinary proceedings) demonstrates that alleged misappropriation/theft is not conclusively proven at this time. The pending results of the audit and police investigations are material to whether the claim qualifies under section 23.

[8] **Determination**

- Prematurity: The claim is premature because there is no definitive finding of theft or fraudulent misappropriation as required by section 23. Without conclusive determinations by the police and audit investigations, statutory requirements are not met.
- Protection of Other Claimants: Premature reimbursement would risk unjustly exhausting the trust funds available, to the possible prejudice of other clients with equally or more valid claims. The Act requires that claims be managed fairly,

in accordance with principles of equitable allocation and with regard to the finite amount of trust assets.

- Statutory Compliance and Finality: Section 23 demands exhaustion of all proper procedures and requires more than unproven assertions. Payouts from the Fund can only be made where wrongdoing is established by objective findings, not while key processes (such as audits and police inquiries) are still incomplete.
- Alternative Remedies Not Exhausted: The applicant had not fully pursued other available recovery processes before turning to the Fidelity Fund, further weighing against early intervention.

[9] **Conclusion**

Accordingly, the application is dismissed on the basis that:

- (1) The statutory requirements under section 23 are not satisfied on the current evidence;
- (2) Independent investigations are ongoing and a final audit report is awaited; and
- (3) Premature reimbursement would be inconsistent with the duties of fairness and the proper administration of the Fidelity Fund.


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Justice Daniel Goundar
COMMISSIONER



Solicitors:

Shelvin Singh Lawyers for the Applicant

R Patel Lawyers for the Respondent

Legal Practitioners Unit for the Chief Registrar