

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 004 OF 2025

BETWEEN : **ARYA PRATINIDHI SABHA**

APPLICANT

AND : **SURESH CHANDRA**

1ST RESPONDENT

THE CHIEF REGISTRAR

2ND RESPONDENT

Counsel : **Mr K Lachman for the Applicant**
Ms R Wati for the Chief Registrar

Date of Hearing : **7 July 2025**

Date of Decision : **3 October 2025**

DECISION

- [1] This is a claim by Bhuwan Dutt, as trustee of Arya Pratinidhi Sabha of Fiji (APS), for reimbursement of \$20,000 from the Fidelity Fund under section 23 of the Trust Accounts Act 1996.

Statutory Grounds

- [2] Section 23 permits reimbursement only where loss occurs "through the stealing or fraudulent misappropriation by a legal practitioner in private practice... or by any clerk or servant" of money or property entrusted in the course of legal practice.

The fund is not available for losses resulting from breach of contract or unsuccessful transactions unless theft or misappropriation is clearly established:

Evidence

- [3] The evidence shows the transaction involved a \$20,000 deposit paid into MC Lawyers' trust account for a land sale agreement that eventually fell through due to litigation between APS and ATL.
- [4] The deposit was forfeited to APS after court proceedings, but the funds remain frozen and unrecovered due to MC Lawyers' receivership, not due to proven theft or fraudulent conduct by a legal practitioner or staff member.
- [5] The audit evidence points to an overdrawn trust account and possible record deficiency, but does not establish with clarity the existence of the specific statutory wrong (theft or fraudulent misappropriation) that activates section 23 of the Act.

Insufficiency of Evidence and Legal Discretion

- [6] The applicant's claim is based on entitlement to the deposit as the "rightful beneficiary," but there is no clear proof that the loss of the \$20,000 resulted from stealing or fraudulent misappropriation by the lawyer or their staff.
- [7] The Commission is vested with absolute discretion and is empowered to refuse claims that are premature, inadequately substantiated, or where supporting records do not establish the precise statutory criteria.
- [8] Claims must be supported by full, contemporaneous records clearly proving misappropriation, not simply loss due to receivership, overdrawn accounts, or missing records.

Fiduciary and Policy Considerations

- [9] The Fidelity Fund is a last-resort mechanism, and claimants are expected to pursue all other remedies against the respondent before seeking fund reimbursement.
- [10] Allowing payment for claims not strictly within the statutory mandate risks unfair depletion of the fund and may set a precedent encouraging imprudent claims, potentially leaving other legitimate claimants unremedied.

Conclusion

- [11] For these reasons, the Commission declines APS's claim. The loss of the deposit, while unfortunate, was not established as arising from stealing or fraudulent misappropriation by a legal practitioner or their staff. The evidence does not provide sufficient proof within the strict criteria of section 23, and to allow the claim would risk undermining the equitable administration of the Fidelity Fund.



Justice Daniel Goundar
COMMISSIONER

Solicitors:

Vijay Maharaj Lawyers for the Applicant

Legal Practitioners Unit for the Chief Registrar