



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Reportable

Case No: 2025-199912

In the appeal between:

SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Applicant

And

JAN LODEWYK FOURIE

Respondent

JUDGMENT

Coram: DA SILVA SALIE, J et RALARALA, J

Heard on: 26 November 2025

Delivered on: 26 November 2025

Summary:

Legal practitioner — Misconduct — Misappropriation of trust funds — R500 000 repaid but interest outstanding — Breach of LPC Rules 3.8, 3.18 and 3.4 — Failure to account and failure to invest trust monies — Three-stage Jasat inquiry — Whether attorney

remains fit and proper — Severe personal and professional crises, remorse and restitution considered — Protective rather than punitive approach — Public interest adequately safeguarded by conditional suspension — Striking-off refused — Respondent prohibited from trust-account access, restricted to supervised practice, directed to undergo therapy, complete LPC training, and provide full debatement and payment of outstanding interest with ongoing LPC oversight.

ORDER

1. The application to strike the respondent from the roll of legal practitioners is refused.
2. The respondent may practice only as an employed attorney under the supervision of a legal practitioner in good standing, approved in writing by the LPC.
3. The respondent is prohibited from accessing, operating, controlling, or having signing powers in respect of any trust account.
4. The respondent shall, within thirty (30) days of this order:
 - (i) prepare and furnish to the LPC and to Ms. Coetzee a full debatement and calculation of all interest due on the R500 000 trust funds for the period July 2024 to date of the payment, calculated in accordance with the applicable LPC Rules and prescribed rates; and

- (ii) pay such interest to Ms. Coetzee's attorney or record trust account.
 - (iii) Proof of calculation and payment shall be delivered to the LPC.
5. Within three (3) months, the respondent shall file with the LPC and this Court a psychological or psychiatric report confirming his therapeutic progress and making recommendations regarding ongoing treatment.
6. The respondent shall undergo psychotherapy or counselling as recommended in the report, and proof thereof shall accompany all quarterly reports as ordered in paragraph 8 below.
7. The respondent shall, within six (6) months, successfully complete the LPC's Trust Account Management Course, the Practice Management Programme, and any ethics or professional responsibility courses the LPC may direct.
8. The respondent and his supervising attorney shall file quarterly reports with the LPC confirming:
- (i) Compliance with this order.
 - (ii) The nature of work undertaken.
 - (iii) That the respondent has not accessed or handled trust monies; and
 - (iv) Any concerns regarding his conduct or suitability to practice as an attorney.

9. The LPC is granted leave to approach this Court on the same papers, duly supplemented, in the event of non-compliance of the conditions as ordered herein.
10. After the expiry of three (3) years, the respondent may on the same papers duly supplemented, apply to this Court, on good cause shown and with the LPC's input, to resume practice for his own account.
11. The respondent shall pay the applicant's costs on the attorney-and-client scale.

JUDGMENT

DA SILVA SALIE J:

Introduction:

[1] The applicant, the South African Legal Practice Council ("the LPC"), seeks an order striking the respondent, Mr Jan Lodewyk Fourie ("Fourie"), from the roll of legal practitioners in terms of s 40(3)(a)(iv) of the Legal Practice Act 28 of 2014 ("the LPA").

[2] The factual matrix relevant to this application is largely undisputed. Fourie admits that he misappropriated trust funds and that his conduct constitutes professional misconduct. His opposition is confined to the sanction. He pleads for the Court's indulgence not to strike his name from the roll, but to impose a period of suspension with stringent conditions aimed at rehabilitation and public protection.

[3] Fourie has been under interim suspension from practice since 31 October 2025 pursuant to an order by Dolamo J.

The Legal Framework

[4] The High Court retains inherent jurisdiction over the conduct of attorneys and bears the responsibility to supervise and regulate the profession in the public interest.

[5] The purpose of striking from the roll is not punitive; it is protective of the public and the integrity of the profession.

[6] The well-established three-stage test from ***Jasat v Natal Law Society 2000 (3) SA 44 (SCA)*** at paragraph 10 must be applied:

- (a) a factual inquiry into the alleged offending conduct.
- (b) whether the practitioner is, considering such conduct, a fit and proper person to continue practising and practising for his own account.
- (c) what sanction is appropriate.

[7] The LPC argues that where dishonesty is present, striking off should ordinarily follow unless exceptional circumstances are shown. The respondent contends that the protective purpose may be equally achieved by a tightly controlled suspension.

Factual Background

[8] In May 2024, Ms Jeanetta Deborah Coetzee instructed the respondent to prepare an indemnification agreement and to hold R500 000 in trust, which was to be placed in an interest-bearing account. The funds were paid into Fourie's trust account on 24 July 2024.

[9] Fourie failed to invest the funds, failed to provide proof of investment or interest, and failed repeatedly to respond to the complainant's and the LPC's enquiries of 2 July and 3 September 2025. These failures breached Rules 3.8 and 3.18 of the LPC Code of Conduct.

[10] On 31 May 2025, an unexplained payment of **R17 015.88** was made from the trust account. No adequate explanation has been given for its source or purpose.

[11] Fourie admits that he utilised the trust money to address his personal and practice obligations during a period of emotional and financial collapse. He repaid the **R500 000** only on 1 November 2025, after the interim suspension order. The interest remains outstanding and/or unaccounted for.

Respondent's Explanation and Mitigating Factors

[12] Fourie places before the Court extensive material concerning a period of severe instability, including:

- (a) A divorce in February 2024 with attendant financial and emotional strain.

- (b) A business partnership collapse requiring urgent restructuring of the practice.
- (c) His father's kidney failure, with Fourie undergoing extensive donor-compatibility tests.
- (d) Serious financial difficulties, arrears, and inability to meet obligations.
- (e) Emotional exhaustion, absence from practice, and inability to attend to correspondence.

[13] He describes this period as one in which he “lost control”, accepts full responsibility, expresses remorse, and details ongoing weekly psychotherapy. He proposes stringent supervision, exclusion from trust-account operations, and re-enrolment in management and ethics training.

Stage 1 – Factual Inquiry

[14] The misconduct is admitted. The factual inquiry is established on the papers and is not in dispute.

Stage 2 – Fit and Proper Inquiry

[15] Misappropriation of trust funds is serious. It strikes at the integrity of the profession and the protection of the public. Fourie's failure to cooperate with the LPC aggravates the seriousness.

[16] However, the enquiry is a nuanced one. The Court must distinguish between entrenched character manifesting in dishonesty, and misconduct emerging from an acute personal implosion accompanied by remorse, restitution, rehabilitation, and prospects of reform.

[17] Fourie's circumstances, while not an excuse, contextualise his loss of judgment. His misconduct occurred amid overlapping crises, and he has since made full repayment, disclosed the misconduct, sought therapy, and volunteered extensive practice-limiting conditions. Juxtaposed against these factors, must be the egregious nature and circumstances of the respondent's misappropriations of the funds in his trust account and the events which the victim of his actions had to endure and resort to in an endeavour to secure the return of the money. This action goes to the heart of the trust which is afforded to legal practitioners in the course of them being in control of the funds of others entrusted into their control. Without honesty, integrity and accountability, the legal profession cannot function. These values underpin the trust on which the profession is founded and give meaning to the supervisory jurisdiction this Court exercises over practitioners admitted to practise before it.

Stage 3 – Appropriate Sanction

[18] The LPC contends that striking off is the only appropriate sanction. It argues that there are no exceptional circumstances which justify deviation from this precedent in matters which involves dishonesty in relation to trust accounts.

[19] The Court must, however, exercise its discretion on a case-specific basis. In these matters the Court's discretion must be exercised with an appropriate consideration of what would be protective, not only for the public but also for the respondent. In short, both the public and the practitioner in question must be protected from himself. **See *Malan v Law Society, Northern Province (568/2007) [2008] ZASCA 90***

[20] Factors supporting a conditional suspension include:

(a) A single complaint of misappropriation of trust funds during the respondent's career as an attorney.

(b) He has expressed remorse and has admitted the misconduct.

(c) He is working on rehabilitation: ongoing therapy and showing a willingness to correct his behaviour.

(d) He has repaid the amount of R500 000 as the principal amount, albeit a full debatement of the accrued interest and amount due in respect thereof remains outstanding. The respondent's failure to calculate, account for, and pay the interest constitutes a further dereliction of his professional obligations. I shall address this the order below.

(e) I am mindful that permitting his continued practice in the profession subject to various conditions aimed at rehabilitation and an enforceable structure for strict supervision would remove the risk to society in relation to monies payable by members of the public.

(f) I take into account the numerous case authorities to which counsel for the LPC referred to in support of the LPC's stance that on these facts striking off is the only appropriate Order. However, the exercise of discretion is not bound by rules and precedents remain as a guideline. The facts of each case are different and the exercise of discretion need not be the same in similar cases, for this would mean that the Court has no real discretion.

[21] In the totality of circumstances, I am satisfied that the respondent is not presently fit to practise independently or with access to trust monies. Having said that however, it is trite that the position from our Court in matters of this nature is that where restitution, remorse, and corrective action are present, removal is not necessarily the appropriate outcome, and the Court must exercise its discretion based on various factors.

[22] In my view exceptional circumstances exist herein taking into account the full matrix of this matter. The public will be fully protected by a stringent conditional order that strips the respondent of trust account autonomy, prohibits trust-account access, mandates therapy and professional courses, and subjects him to continuous reporting and oversight. The protective purpose is therefore achieved without the far-reaching step of striking off.

Order

[23] For the reasons as stated herein, I make the following order:

1. The application to strike the respondent from the roll of legal practitioners is refused.
2. The respondent may practice only as an employed attorney under the supervision of a legal practitioner in good standing, approved in writing by the LPC.
3. The respondent is prohibited from accessing, operating, controlling, or having signing powers in respect of any trust account.

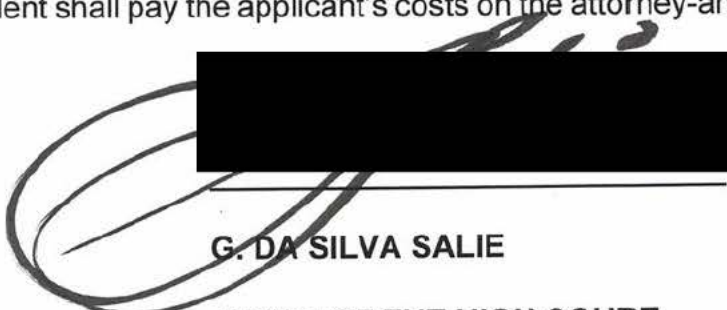
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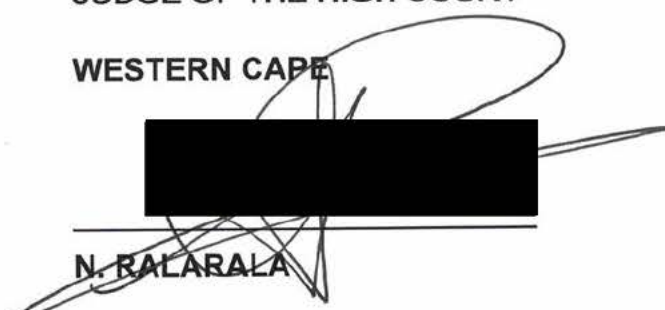
11. The respondent shall pay the applicant's costs on the attorney-and-client scale.



G. DA SILVA SALIE

JUDGE OF THE HIGH COURT

WESTERN CAPE



N. RALARALA

JUDGE OF THE HIGH COURT

WESTERN CAPE

I AGREE

Appearances

For Applicant: Ms M Engela

Instructed by: CK Inc. Attorneys

For Respondent: Mr J Fourie (In Person)