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**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: 2025-222445

In the matter between

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL

APPLICANT

and

LAMBERT HENDRIK ROUX

RESPONDENT

Neutral citation: *The South African Legal Practice Council v Lambert Hendrik Roux*
(2025-222445) [2026] ZAFSHC 71 (24 February 2026)

Coram: MHLAMBI ADJP and PARKS AJ

Heard: 19 February 2026

Delivered: 24 February 2026

Summary: Legal practice – precautionary suspension – extension of suspension order – administrative trust account irregularities – s 86(4) of the Legal Practice Act 28 of 2014 – disciplinary proceedings – fit and proper person – interest of justice.

ORDER

- 1 The application to extend the suspension order is dismissed.
 - 2 Each party shall pay its own costs.
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JUDGMENT

Mhlambi ADJP (Parks AJ concurring)

[1] The applicant approached the Court on an urgent basis on 26 November 2025 for an order suspending the respondent from practice, pending an application by the applicant to have his name struck from the roll and to appoint a curator to administer and control his trust accounts. The application was postponed to 11 December 2025. The respondent was ordered to file his opposing affidavit on or before 3 December 2025, and the applicant was to file its replying affidavit on or before 5 December 2025.

[2] On 11 December 2026, the respondent was suspended from legal practice on precautionary grounds until 12 February 2026. The applicant was ordered to decide on the matter and to communicate the decision to the respondent and the Court on or before 6 February 2026. The application was postponed to 12 February 2026, and the applicant and the respondent were granted leave to supplement their papers, if necessary, on or before that date. On 12 February 2026, the matter was postponed by agreement, and the rule *nisi* was extended to 19 February 2025.

[3] In its founding affidavit, the applicant stated that it obtained objective and compelling evidence that the respondent had committed acts of misconduct warranting his suspension from practice. Chief among those acts was the respondent's failure to administer trust funds properly and the provision of false information to the applicant regarding the deduction of R36 170 from the respondent's trust account. It was inherently urgent that the respondent be suspended from practice to protect members of the public and his present and prospective clients, who were at risk of losing funds

entrusted to him. He had proven himself incapable of operating the trust banking account.

[4] The thrust of the applicant's case is that, after receiving a letter from the respondent dated 23 April 2025, it launched an investigation that culminated in the investigation committee's recommendation to the applicant dated 1 October 2025, which identified transgressions under the Legal Practice Act 28 of 2014 (LPA). On 29 October 2025, the applicant's management committee decided that the applicant should institute urgent legal proceedings to suspend the respondent from practice pending an inspection of the firm's accounting records and/or the striking off of the respondent and/or the finalisation of the disciplinary hearing.

[5] In the founding affidavit, the applicant alleged that the respondent had misappropriated the trust funds of the Brink Roux Wesselsbron Attorneys over a very short period. The respondent breached fundamental rules and committed criminal offences, including theft and/or fraud. He moved funds from the trust account without notifying the client, leaving client funds vulnerable to attachment, as evidenced by the funds the South African Revenue Service (SARS) attached. He contravened the LPA, the rules, and the code of conduct. The applicant concluded that the respondent was not a fit and proper person to continue practicing as a legal practitioner and should be suspended from practice pending an application to have him struck from the roll.

[6] The letter of 23 April 2025, states that:

'It has come to my knowledge that SARS took an amount of R 36 170.00 from the above-mentioned account number. The account is an account held in terms of Section 86(2)(3)(4) of the Legal Practice Council Act. The money in the account belongs to MC Hlalele in connection with a transfer of a property in Odendaalsrus. The transferee is Estate late JC Van der Westhuizen.

It is a well-known obligation of any lawyer that a trust account must be held in terms of Sections 84, 85, 86a, and 87 of the Act. These Sections clearly indicate that the money kept in the trust account does not form part of the assets of the practitioner.

I need advise from the LPC as to what must be done to resolve the situation I find myself in.

I would suggest that:

1. SARS was not legally entitled to take the money from my trust account;
2. ABSA was not legally entitled to pay money from [the/my] trust account to pay SARS; and
3. That either of the parties mentioned in 1 and 2 above, should repay the money.

May I please receive advice from all the above recipients of this letter.

It needs be recorded that BRINK ROUX WESSELSBRON INCORPORATED with Registration Number 2015/357330/21 denies any liability to SARS for the amount taken from my trust account or any amount.

The amount taken was in settlement of SARS Account Number 9[...], while the Tax Reference Number of the current BRINK ROUX is 4[...].

I was advised by the person auditing my business account that the current BRINK ROUX does not owe the amount recovered and should therefore not paid. I accepted this advice as correct and in good faith.'

[7] The respondent stated in his answering affidavit that the attached funds were related to a property transaction in which he, as conveyancer, was authorised by the purchaser to invest the deposit and purchase price in an interest-bearing account under s 86(4) of the LPA for the purchaser's benefit, with all interest accruing to the purchaser, less a 5 percent levy payable to the Legal Practitioners' Fidelity Fund. The property transaction has been finalised, and there was no shortfall.

[8] He admitted without reservation that two administrative irregularities occurred: the Trust Savings Account had been opened many years earlier as a general trust investment facility and was never retitled in the client's name, as required by s 86(4) of the LPA read with rule 55.4 of the Legal Practice Council (LPC) rules. In the months that followed, funds belonging to four other conveyancing clients were also deposited into the same account, rather than each client being given a correctly named s 86(4) account. These were purely administrative oversights. There was never any intention to treat the funds as anything other than trust monies, and they were always ring-fenced and accounted for as such.

[9] Unknown to him or any member of his staff, the firm's bank had, at an earlier stage, incorrectly classified account 9[...] in its internal systems as a business account rather than a trust investment account. Apparently, the bank did not always correctly identify s 86(4) accounts and opened a sub-account for the client. On 14 April 2025, SARS issued a third-party notice and unilaterally deducted R36 170 from that account. Neither he nor his staff withdrew nor misappropriated the funds. According to him, the funds were exclusively trust monies that could not be attached under s 88(1) of the LPA, which expressly protects such property from attachment by any creditor, including SARS. He paid R36 170 from his private resources into the trust banking account, eliminating any trust deficit before the application was launched.

[10] He invited the applicant to conduct a complete, unhindered forensic inspection and audit of all trust accounts, lectures, vouchers, and supporting documentation at any time convenient to the applicant. As an alternative to outright dismissal of the application, he was willing to accept a limited suspension until 31 January 2026, to allow the LPC to conduct further investigation if it deemed it necessary. He was prepared to continue practicing under the supervision of a senior practitioner appointed by the applicant, or to subject himself to any other reasonable conditions the court may impose. He was also willing to undergo counseling and, on the LPC's recommendation, to complete the LPC's Trust Account Management course, the Practice Management Program, and any ethics or professional responsibility courses the LPC may direct.

[11] An indefinite suspension pending a disciplinary hearing, which he was advised of only in March 2026, will irreversibly destroy his 40-year practice and cause severe prejudice to dozens of innocent clients who have placed their trust in him over decades.

[12] The applicant's supplementary affidavit was filed on 5 February 2026, with the stated purpose of confirming the applicant's intention to file an application to have the respondent struck from the roll of legal practitioners and to ensure that all relevant facts and information are before the court. The applicant confirmed that finalising the striking-off application would not be possible before 12 February 2026 and requested that this Court order an extension of the current precautionary suspension order to allow the conclusion of the disciplinary and striking processes in compliance with the LPA.

[13] The reasons were as follows:

- (a) 'The offices of the applicant were closed from 12 December 2025, and reopened on 5 January 2026';
- (b) The disciplinary charges are still to be finalised and issued;
- (c) The Disciplinary Committee hearing will proceed, and therefore, the charges will be provided to the respondent before the end of March 2026;
- (d) The Disciplinary Committee is expected to hear the matter in April 2026;
- (e) Once the Disciplinary Committee has made its determination, the matter is to be referred to the Disciplinary Oversight Committee, which must consider and accept the recommendation to cancel enrollment and submit it to the National Council; and
- (f) This process may not be undertaken or finalised at the Provincial Council level and must be conducted nationally in accordance with the LPA and the Council Governance Framework.

[14] According to the applicant, the dispute centered on a property transaction in which trust funds were mistakenly deposited into a business account due to administrative errors, and on the subsequent irregularities that came to light, as set forth in the founding affidavit. The seriousness of such an infringement indicates behavior unlikely to be remedied without intervention, and allowing the respondent to continue practicing may expose additional clients to harm and undermine public confidence in the legal system. If the respondent is permitted to continue practicing while disciplinary proceedings are pending, there is a real possibility of irreparable prejudice to current and prospective clients. This could include financial loss, breach of confidentiality, or loss of legal rights.

[15] The respondent stated in his supplementary affidavit that, by agreement, he was precautionarily suspended from practice until 12 February 2026 to allow the applicant sufficient time to conduct its investigation, decide on the way forward, including whether to pursue striking off, and communicate that decision to him and the Court by 6 February 2026. This limited, temporary measure was granted out of an abundance of caution pending further investigation, not because the practitioner has been found unfit or a present threat. Had the Court been of the view that he posed a real or ongoing

danger to members of the public or trust creditors, the only logical order would have been an indefinite interim suspension pending the finalisation of disciplinary proceedings, or, at the very least, an open-ended suspension with no fixed return date. The Court did not do so. Instead, it limited the suspension to a fixed and very short period and made the order returnable on 12 February 2026.

[16] The respondent contends that, at the time the applicant agreed to the court order on 11 December 2025, it knew its disciplinary committee would convene only in March or April 2026, supporting the inference that it fully knew it would be unable to comply with the timelines set out therein. The conduct of agreeing to the order under these circumstances is unconscionable and should not be rewarded with an extension. The applicants' offices were closed from 12 December 2025 to 5 January 2026, for the holiday period, but this closure was foreseeable and did not justify an extension.

[17] According to the respondent, there was ample time from 5 January 2026 to conduct the necessary investigation, finalise charges, and comply with the court order. No satisfactory explanation is provided for why the charges were not finalised earlier or why the process was not expedited. His staff advised him that none of the applicants' representatives had ever visited his offices.

[18] The respondent relied on the judgment of *Coetzee and Another v South African Legal Practice Council*¹ delivered on 4 September 2024, where it was said that interim suspensions pending investigation or disciplinary proceedings are generally undesirable and should only be granted where there is no other means of protecting the public from ongoing malfeasance. An interim order has a grave impact on a practitioner's professional life, as it would be severely prejudicial if ultimately exonerated. The respondent contended that no trust monies were missing, that no public complaints existed, and that the alleged conduct was not ongoing, rendering the suspension unjustified.

[19] It was correctly contended on behalf of the applicant that an application for removal from the roll or suspension from practice often involves a three-stage inquiry. First, the court will decide whether the alleged offence has been established on the

¹ *Coetzee and Another v South African Legal Practice Council and Others* [2024] ZAFSHC 385 para 16.

balance of probabilities. Second, once the court is satisfied that the offending conduct has been established, it will consider whether, in its discretion, the respondent is a fit and proper person to continue practicing. This involves weighing the conduct complained of against the conduct expected of an attorney and, to this extent, is a value judgment. Third, once both questions have been decided, the court will, in its discretion, consider what an appropriate sanction should be.

[20] I was also referred to the decision of *Vassen v Law Society of the Cape of Good Hope*,² where Eksteen JA stated:

‘It must be borne in mind that the profession of an attorney, as of any other officer of the Court, is an honorable profession which demands a complete honesty, reliability and integrity from its members; and it is the duty of the respondent and the Society to ensure, as far as it is able, that its members measure up to the high standards demanded of them.’

[21] It is common cause that the respondent, *mero motu* and throughout, gave his cooperation toward the resolution of this matter. He displayed honesty and engaged the applicant immediately upon realising what he perceived as an irregularity in his trust account. He unreservedly admitted the two administrative irregularities in his trust savings account, stated that the shortfall had been settled, and that no one was at risk. Moreover, the applicant, despite agreeing to the short-term court order, has failed to produce evidence or finalise investigations to justify its stance and approach to this matter. Surely, the respondent is prejudiced in the conduct of his practice.

[22] I agree with the respondent’s submission that the precautionary suspension was granted on the basis that the alleged irregularities were historic and posed no continuing risk. Since 11 December 2025, nothing has changed to justify converting a purely precautionary measure into an indefinite or extended suspension. There is no reason for the applicant to remain suspended while the investigations against him continue. I therefore find that the precautionary suspension, which was of short duration, has lapsed. The application to extend the suspension is accordingly dismissed.

² *Vassen v Law Society of the Cape of Good Hope* [1998] ZASCA 47; 1998 (4) 532 (SCA) [1998] 3 All SA 358 (A) para 14.

[23] It is trite that the successful party is entitled to the costs. The Court has discretion in awarding costs. In the given circumstances, I find it prudent that each party should pay its own costs.

[24] Consequently, I make the following order:

- 1 The application to extend the suspension order is dismissed.
- 2 Each party shall pay its own costs.

I concur, and it is so ordered.

J J MHLAMBI
JUDGE OF THE HIGH COURT

C PARKS
ACTING JUDGE OF THE HIGH COURT

Appearances

For the applicant:

I Sander

Instructed by:

Blair Attorneys, Bloemfontein

For the respondent:

PC Ploos van Amstel

Instructed by:

Pieter Skein Attorneys, Bloemfontein.