



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not Reportable

Case Number: 2546/2024

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL **Applicant**

and

ZAHED MINTY **Respondent**

Coram: Petersen ADJP et Reddy J

Date enrolled: 20 March 2026

Dates heard: 20 March 2026 and 27 March 2026

Judgment reserved: 27 March 2026

Delivered: This judgment was handed down electronically, circulated to the parties' representatives via email, uploaded to CaseLines, and released to SAFLII. The date and time for the handing down of the judgment are deemed to be 10h30 on 21 April 2026.

Summary: Legal Practice Act 28 of 2014 — Application for removal of legal practitioner from roll — Respondent admitted as attorney in 1983 — Eight client complaints — Failure to execute mandates — Failure to appear in court — Practising without Fidelity Fund Certificate for three successive years — Failure to file audit reports — Failure to pay annual membership fees — Non-compliance with court order directing delivery of answering affidavit — Fitness to practice — Conduct established on balance of probabilities — Not a fit and proper person — Removal from roll granted.

JUDGMENT

Petersen ADJP

Introduction

[1] This is an application by the South African Legal Practice Council ('the LPC') for the removal of the name of the respondent, Zahed Minty, from the roll of legal practitioners. In the alternative, the LPC seeks his suspension from practice as a legal practitioner. The application is brought in the exercise of the LPC's statutory function as *custos morum* of the legal profession, pursuant to the Legal Practice Act 28 of 2014 ('the LPA').

[2] The respondent filed a notice of intention to oppose the application on 09 July 2024 but has, to date, failed to file an answering affidavit. He has also disregarded a court order of 15 October 2025 directing him to do so by 28 November 2025. The matter was heard on 20 March 2026 where there was an attempt without a substantive application for postponement to 24 April 2026. This Court postponed the application until 27 March 2026 for argument on the basis of the disputed date of postponement relying on the submission of Adv Seleka that the date agreed with Adv Zwegelaar was in fact 27 March 2026 and not 24 April 2026. As indicated aforesaid, the answering affidavit which was to be filed by 28 November 2025, irrespective of the disputed date, has passed. There is no cogent explanation for the failure to comply with that order. Notwithstanding the order of the Court of 20 March 2026, the respondent elected to file an application for postponement which was not moved on 27 March 2026, since there was no appearance for the respondent. That application should not engage this Court, save to note that the content contradicts facts on oath by the respondent in July 2024 that he had everything at his disposal to answer to the case against him. He now asserts that he will only have such information early in April 2026.

The Respondent

[3] The respondent was admitted and enrolled as an attorney in the then Transvaal Provincial Division of the Supreme Court on 15 February 1983. He has practised as a sole practitioner under the name and style of 'Z Minty Attorneys'

since 01 April 1983. His name remains on the roll of legal practitioners of this Court.

Nature of These Proceedings

[4] It is well settled that applications of this nature are *sui generis*. They are not ordinary civil suits and there is no *lis* between the parties. The LPC acts in these proceedings not as a litigant pursuing its own interests, but as the guardian of the honour and integrity of the legal profession, placing facts before the Court so that the Court may exercise its inherent disciplinary jurisdiction over its own officers. The Court acts in the public interest.¹

[5] The three-stage enquiry which the Court must conduct in applications of this nature is well established. First, the Court must determine as a matter of fact whether the alleged offending conduct has been established on a balance of probabilities. Secondly, if such conduct is proved, the Court must make a value judgment on whether the respondent is not a fit and proper person to practise as a legal practitioner. This is a matter for the Court's discretion, not purely a factual finding.² Thirdly, if the respondent is found not to be a fit and proper person, the Court must decide, in the exercise of its discretion, whether the appropriate sanction is removal from the roll or suspension from practice. The choice between removal and suspension is ultimately a question of degree.³ The facts upon which the Court's discretion is to be exercised must be considered in their totality. The Court must not evaluate each alleged act of misconduct in isolation.

Procedural History

[6] The application was launched by notice of motion dated 22 May 2024. It was e-mailed to the respondent on 06 June 2024 and served on him personally by the sheriff on 01 July 2024. On 09 July 2024, the respondent filed a notice of intention to oppose. No answering affidavit was ever delivered.

[7] The matter was first set down for hearing on 25 July 2025. On that date, it was postponed to 15 August 2025 in order to afford the respondent an opportunity to launch a formal postponement application. The respondent duly filed a

¹*Hassim v Incorporated Law Society of Natal* 1977 (2) SA 757 (A) at 767C–G; *Law Society Transvaal v Matthews* 1989 (4) SA 389 (T) at 393E; *Cirota & Another v Law Society Transvaal* 1979 (1) SA 172 (A) at 187H.

²*Law Society of the Cape of Good Hope v C* 1986 (1) SA 616 (A) at 637C–E; *A v Law Society of the Cape of Good Hope* 1989 (1) SA 849 (A) at 851A–E.

³*Jasat v Natal Law Society* 2000 (3) SA 44 (SCA) at 51B–I; *Law Society of the Cape of Good Hope v Budricks* 2003 (2) SA 11 (SCA) at 13I–14B; *Malan v The Law Society of the Northern Provinces* (568/2007) [2008] ZASCA 90 at [9].

postponement application on 11 August 2025. The LPC filed an answering affidavit in opposition to that application on 13 August 2025. The matter could not proceed on 15 August 2025 and was re-enrolled for 19 September 2025. On 19 September 2025 the matter was postponed to 15 October 2025, to allow for the reconstitution of the Court and to hear the postponement application. When the matter was called on 15 October 2025, counsel for the respondent indicated that she had not had an adequate opportunity to consider the LPC's answering affidavit to the postponement application and sought a further postponement. The Court granted a postponement to 27 March 2026 (subsequently adjusted to 20 March 2026). In the same order, the Court directed that the respondent file his answering affidavit in the main application on or before 28 November 2025, and that the LPC file its replying affidavit, if any, on or before 19 December 2025.

[8] Notwithstanding the Court's order, the respondent failed to file any answering affidavit by 28 November 2025, or at all. The matter accordingly proceeded on 20 March 2026 on the founding affidavit and the annexures. Adv Khapuma appeared duly instructed by the respondent, with no substantive application for postponement, and failed to secure a postponement to the April 2026 date. The matter was postponed to 27 March 2026, by order of the Court. On 27 March 2026, the respondent did not appear and was not represented.

Applicable Legal Principles

[9] Section 84(1) of the LPA provides that a legal practitioner may only practise for reward if he or she is in possession of a valid Fidelity Fund Certificate ('FFC'). Section 84(2) prohibits a legal practitioner who does not hold a valid FFC from receiving fees, rewards or disbursements from clients. A legal practitioner who practises without a valid FFC exposes both his clients and the Legal Practitioners' Fidelity Fund to risk. The trust that underpins the fiduciary relationship between practitioner and client requires strict compliance with the statutory framework governing trust funds and professional accountability.

[10] A legal practitioner must at all times exhibit the highest standard of honesty and integrity. The image and standing of the profession are judged by the conduct of all its members. The law expects from a legal practitioner *uberrima fides*, the highest possible degree of good faith in dealings with clients, which implies that at all times the practitioner's submissions and representations to clients must be accurate, honest and frank.

[11] A legal practitioner must scrupulously comply with the provisions governing trust monies. Trust money is not the practitioner's money. It must be kept separate, accounted for faithfully, and returned or applied strictly in accordance with the client's mandate. The unjustifiable handling of trust money is totally untenable and not only violates the legal requirements relating to trust monies but also undermines the principle that a trust account is completely safe in respect of money held therein by a legal practitioner on behalf of another person.

The Alleged Misconduct

[12] The founding affidavit, which stands unchallenged, discloses the following categories of misconduct.

Failure to maintain Fidelity Fund Certificates

[13] The respondent failed to lodge an unqualified audit report for the period ending February 2023. He also failed to apply for FFCs for the years commencing January 2022 and January 2023. As a direct consequence of his failure to submit the required audit report for the period ending February 2023, he was not issued with an FFC for the year commencing January 2024. Accordingly, the respondent has been practising without a valid FFC for three successive years, in contravention of sections 84(1) and 84(2) of the LPA, while continuing to receive fees, rewards and disbursements from clients. This conduct also constitutes contraventions of Rules 54.23, 54.24 and 54.29 of the LPC Rules.

Failure to pay annual membership fees

[14] The respondent failed to pay his annual membership fees to the LPC in the total amount of R26 497.00, in contravention of Rules 4.1 and 6 of the LPC Rules read with Clause 3.16 of the Code of Conduct.

Client complaints

[15] The founding affidavit places before the Court the complaints of eight clients, each of which reveals a pattern of professional dereliction. I deal with each in turn.

(a) Mr Thembela Noluphondwana

[16] The respondent was instructed to attend to three matters on behalf of this complainant: recovery of his repossessed minibus taxi, assistance with employment re-integration, and debt collection of R20 000.00 owed by one Mr Bandile Mzana.

The complainant paid the respondent a total of R12 000.00. The respondent failed to execute any of the three mandates and failed to respond to correspondence from the LPC.

(b) Mr Arshad Abed

[17] The complainant instructed the respondent to attend to a High Court matter. He paid the respondent R100 000.00 upfront and a further R18 000.00 for an accident analyst. The respondent failed to appear in court at the relevant hearings. As a direct consequence of the respondent's failure to appear, a writ of execution was issued against the complainant and the sheriff attended at his business premises, compelling him to pay R35 000.00 to the sheriff. The opposing attorneys are now pursuing the complainant for R700 000.00. The respondent failed to communicate with the opposing attorneys and has failed to respond to LPC correspondence.

(c) Mr Shafik Samaal

[18] The respondent was instructed to institute a claim against Capitec Bank arising from the alleged unlawful withdrawal of funds from the complainant's account. The complainant paid R2 500.00. The respondent failed to execute the mandate. The respondent's offices were consistently found closed. The respondent failed to respond to LPC correspondence.

(d) Mr Haliche Aissa

[19] The respondent was instructed to attend to an application for a child permit, a mandate given to him as long ago as 2017. Despite receiving payment of R6 758.00, the respondent sent only invoices and failed to attend to the matter. The respondent was called before a Disciplinary Committee on 29 September 2021. He responded citing short service and a medical condition, requesting postponement to January 2022. The LPC's Investigating Committee thereafter determined to bring charges against the respondent. The respondent did not respond to those proceedings either.

(e) Mr Matthews Mzolisa

[20] The complainant paid R6 500.00 for assistance with a property matter and recovery of his title deed. The respondent failed to execute the mandate and failed to furnish the complainant with his title deed. Although the respondent acknowledged receipt of the LPC's correspondence in a handwritten note of March 2021, he failed thereafter to respond.

(f) Mr Kegomoditswe Godfrey Pilane

[21] The respondent was instructed to recover R65 000.00 paid by the complainant for a motor vehicle that proved to have been stolen and confiscated by the SAPS. The complainant paid R10 000.00 to the respondent for this mandate. The respondent failed to issue summons or furnish progress reports. WhatsApp messages annexed to the founding affidavit demonstrate that the respondent solicited further payments from the complainant without executing the mandate. Despite undertaking to refund the complainant, no refund was made. The respondent failed to respond to LPC correspondence.

(g) Mr Fred Badanile Mbityo

[22] The complainant instructed the respondent to institute a claim against the SAPS for the wrongful arrest of the complainant's son. The agreed fee was R20 000.00. The complainant paid this amount in full by instalments. The respondent raised a dispute about whether the full amount had been paid, undertook to audit the file, and then failed to do so. When the complainant visited the respondent's office on 26 January 2018, the respondent refused to see him. The respondent has, to date, failed to execute the mandate and failed to respond to LPC correspondence.

(h) Mr Jim Matshabe Manyi

[23] The respondent was instructed to pursue a claim against RTT Couriers for R450 000.00, with an agreed fee of R50 000.00 to be retained from the proceeds. Despite numerous demands, the respondent failed to pay the R400 000.00 balance to the complainant and became evasive, ceasing to answer calls. The LPC forwarded the complaint to the respondent on 12 January 2017 and granted an extension on 06 February 2017. No substantive response was ever furnished.

Analysis and Findings

The establishment of the offending conduct

[24] The founding affidavit stands unchallenged. The respondent filed a notice of intention to oppose but, despite numerous opportunities and a specific court order requiring him to do so, has not filed an answering affidavit. There is nothing before this Court to contradict, qualify or contextualise any of the facts placed before it by the LPC. The Court accordingly accepts the evidence in the founding affidavit as correct.

[25] On the uncontested evidence I am satisfied that the following has been established on a balance of probabilities. The respondent has been practising as a

legal practitioner for reward without valid Fidelity Fund Certificates for the years commencing January 2022, January 2023 and January 2024, in direct contravention of sections 84(1) and 84(2) of the LPA. The respondent failed to lodge unqualified audit reports within the prescribed periods, in contravention of Rules 54.23, 54.24 and 54.29 of the LPC Rules. The respondent failed to pay annual membership fees in the amount of R26 497.00, in contravention of Rules 4.1 and 6 of the LPC Rules read with Clause 3.16 of the Code of Conduct. The respondent received fees and payments from at least eight clients in respect of mandates which he wholly failed to execute over extended periods, spanning in some instances several years. In several instances the respondent failed to appear in court to attend to his clients' matters, causing direct and serious prejudice to those clients. The respondent failed to account to clients and failed to provide written statements of account, in contravention of Rule 54.12 of the LPC Rules. The respondent failed, repeatedly and systematically, to respond to correspondence from the LPC, in contravention of Clauses 16.1, 16.2 and 16.3 of the Code of Conduct. The respondent's conduct is in contravention of Clauses 3.1, 3.8, 3.11 and 18.14 of the Code of Conduct.

Fitness to practice

[26] The conduct established in the preceding paragraph is, by any measure, deeply troubling. The respondent has exhibited a pervasive and sustained disregard for his professional obligations. His misconduct spans an extended period and involves not a single isolated failure but a wholesale abandonment of his obligations to multiple clients, to the Court, to the LPC, and to the profession. He has accepted fees without performing work. He has failed to appear in court when required to do so, with direct financial consequences for at least one client. He has maintained a studied silence in the face of repeated correspondence from the LPC and specific court orders.

[27] The respondent's own conduct in these proceedings is itself instructive. Despite being personally served with the application and afforded multiple opportunities to place his version before the Court, including a specific court order directing him to do so, he has done nothing. This pattern of non-engagement mirrors the very conduct complained of. An attorney who takes on mandates and then simply withdraws from engagement with all those who seek to hold him to account.

[28] I am satisfied that the respondent is not a fit and proper person to practise as a legal practitioner.

Removal or suspension

[29] The choice between removal and suspension depends on the totality of the circumstances. Relevant considerations include the number of instances of misconduct, the period over which the conduct extended, the degree of moral blameworthiness, the consequences for affected parties, and whether there are any mitigating circumstances.

[30] Weighing these factors in this matter evinces the following. The misconduct is extensive. It involves eight separate client complaints, each demonstrating neglect of a mandate and failure to account, compounded by regulatory non-compliance in respect of FFCs, audit reports and annual fees. The conduct spans a very long period. Some of the complaints date back to 2017 and 2018. The regulatory defaults concern the years 2022, 2023 and 2024. The consequences for clients have been severe. Mr Abed suffered a writ of execution being enforced against his business and now faces a claim of R700 000.00 due to the respondent's failure to appear in court. Mr Many was denied the benefit of a R400 000.00 recovery. The remaining complainants were deprived of funds paid for services that were never rendered. There are no mitigating circumstances before this Court. The respondent's only engagement with the disciplinary process was to oppose the application and then do nothing further. His earlier reference to a medical condition in the context of the Aissa complaint was never substantiated and was raised in any event in 2021 solely to avoid a disciplinary hearing, not to explain or excuse the broad range of misconduct now before the Court. The respondent has demonstrated a complete absence of remorse or acknowledgment. He has not engaged with these proceedings at all, despite having been served and afforded extensive opportunity to respond.

[31] In these circumstances, suspension would not adequately protect the public. The respondent has demonstrated that he is unwilling to honour his professional obligations and is indifferent to all attempts, by clients, by the LPC, and by this Court to hold him to account. The public must be protected from further harm. Removal from the roll is the only appropriate sanction.

Costs

[32] It is well established that in applications of this nature the LPC is entitled to its costs irrespective of the outcome, as it performs a statutory function in the public

interest.⁴ Given the breadth of the respondent's misconduct and his disregard for these proceedings, costs on the attorney-and-client scale are warranted and are hereby ordered.

Order

[33] In the circumstances, the following order is made:

1. The name of **ZAHED MINTY** is removed from the roll of legal practitioners.
2. The Respondent shall forthwith surrender and deliver to the Registrar of this Court his certificate of enrolment as a legal practitioner.
3. In the event of the Respondent failing to comply with paragraph 2 of this order within two (2) weeks of service thereof upon him, the sheriff of the district in which the certificate is located is authorised and directed to take possession of the certificate and to deliver it to the Registrar.
4. The Respondent is prohibited from operating on or handling the trust accounts referred to in paragraph 5 of this order.
5. SANELISIWE PRINCESS NGCOBO, Director of the North West Provincial Office of the Applicant, is appointed as curator bonis to administer and control the trust accounts of the Respondent, including accounts relating to insolvent and deceased estates and any estate under curatorship connected with the Respondent's practice, as well as any separate banking, savings or interest-bearing accounts operated by the Respondent in terms of sections 86(1), 86(2), 86(3) and/or 86(4) of the LPA ('the trust accounts'), with the following powers and duties:
 - 5.1. immediately to take possession of the Respondent's accounting records, records, files and documents as referred to in paragraph 6 and, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, to sign all forms and generally to operate upon the trust accounts, but only to such extent and for such purpose as may be necessary to bring to completion current transactions in which the Respondent was acting at the date of this order;

⁴*Prokureursorde van Transvaal v Kleynhans* 1995 (1) SA 839 (T) at 865; *Law Society of the Northern Provinces v Mogami & Others* 2010 (1) SA 186 (SCA); *Du Plessis v Prokureursorde van Transvaal* 2002 (4) SA 344 (T).

- 5.2. subject to the approval and control of the Legal Practitioners' Fidelity Fund Board of Control, and where monies had been paid incorrectly or unlawfully from the trust accounts, to recover and receive such monies and, if necessary, to institute legal proceedings for the recovery of trust monies due to persons having lawful claims thereto;
- 5.3. to ascertain from the Respondent's records the names of all trust creditors and to call upon the Respondent to furnish, within 30 days of service of this order (or such further period as the curator may agree in writing), the names, addresses and amounts due to all trust creditors;
- 5.4. to call upon trust creditors to furnish such proof, information and affidavits as the curator may require to determine the validity and quantum of their claims, subject to the requirements of the Legal Practitioners' Fidelity Fund Board of Control;
- 5.5. to admit or reject, in whole or in part and subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, the claims of trust creditors, without prejudice to their right of access to the civil courts;
- 5.6. having determined the amounts lawfully due to trust creditors, to pay such claims in full, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control;
- 5.7. in the event of any surplus remaining after payment in full of all admitted claims, to apply such surplus firstly to any claim of the Fund in terms of section 86(5) of the LPA and secondly to the costs, fees and expenses referred to in paragraph 10 of this order, and to pay any remaining balance to the Respondent (if solvent) or to the trustee of his insolvent estate (if insolvent), subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control;
- 5.8. in the event of insufficient trust monies to pay all admitted claims in full, to distribute the available balance equitably amongst the trust creditors or to pay such balance to the Legal Practitioners' Fidelity Fund;
- 5.9. subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, to appoint nominees, representatives or consultants (including legal practitioners, counsel, accountants and other persons) as may be necessary to assist in carrying out her duties; and

5.10. to render periodic returns to the Legal Practitioners' Fidelity Fund Board of Control showing how the trust accounts have been dealt with, until notified by the Board that her duties as curator are terminated.

6. The Respondent shall immediately deliver to the curator all accounting records, records, files and documents relating to:

6.1. any monies received, held or paid by the Respondent for or on account of any person while practising as a legal practitioner;

6.2. any monies invested by the Respondent in terms of sections 86(3) and/or 86(4) of the LPA;

6.3. any interest on such invested monies paid to or credited to the Respondent;

6.4. any deceased, insolvent or curatorship estate administered by the Respondent in any capacity;

6.5. any trust administered by the Respondent as trustee or on behalf of the trustee in terms of the Trust Property Control Act 57 of 1988;

6.6. any company or close corporation administered by the Respondent as or on behalf of a liquidator; and

6.7. the Respondent's practice generally,

provided that the Respondent shall be entitled to reasonable access to such records subject to the supervision of the curator or her nominee.

7. Should the Respondent fail to comply with paragraph 6 of this order upon service thereof, or should it be impossible to effect service, the sheriff of the district in which the records are located is authorised and directed to search for and take possession of such records wherever they may be and to deliver them to the curator.

8. The curator shall be entitled to:

8.1. hand over to persons entitled thereto all records, files and documents upon receipt of a satisfactory written undertaking to pay any fees and disbursements due to the firm, either by agreement or in terms of a taxed bill of costs;

8.2. require from such persons such documentation or information as she considers relevant to any actual or anticipated claim against the

Respondent, the Respondent's clients or the Fidelity Fund, provided that reasonable access and copying rights are afforded;

8.3. publish this order or an abridged version thereof in any newspaper she considers appropriate; and

8.4. wind up the Respondent's practice.

9. The Respondent is hereby removed from all offices to which his status as a legal practitioner was a prerequisite, including as:

9.1. executor of any estate appointed in terms of section 54(1)(a)(v) of the Administration of Estates Act 66 of 1965 or section 72(1) thereof;

9.2. curator or guardian of any minor or other person's property in terms of sections 72(1) and 85 of the Administration of Estates Act 66 of 1965;

9.3. trustee of any insolvent estate in terms of section 59 of the Insolvency Act 24 of 1936;

9.4. liquidator of any company in terms of section 379(2) read with section 379(e) of the Companies Act 61 of 1973, read with the Companies Act 71 of 2008;

9.5. trustee of any trust in terms of section 20(1) of the Trust Property Control Act 57 of 1988;

9.6. liquidator of any close corporation in terms of section 74 of the Close Corporations Act 69 of 1984; and

9.7. administrator appointed in terms of section 74 of the Magistrates' Courts Act 32 of 1944.

10. The Respondent shall pay:

10.1. the reasonable costs of the inspection of the Respondent's accounting records in terms of section 87(2) of the LPA;

10.2. the reasonable fees of the auditor engaged by the Applicant;

10.3. the reasonable fees and expenses of the curator, including travelling time;

10.4. the reasonable fees and expenses of any person engaged by the curator as provided for herein;

10.5. the costs of publication of this order or an abridged version thereof; and

10.6. the costs of this application on the attorney-and-client scale.

11. If trust funds are available, the Respondent shall, within six (6) months of being requested by the curator to do so (or such longer period as the curator may agree in writing), satisfy the curator by means of taxed bills of costs or otherwise as to the fees and disbursements due to him in respect of his former practice. Failure to do so shall disentitle the Respondent to recover such fees and disbursements from the curator, without prejudice to any rights he may have against the relevant trust creditors.

12. A certificate issued by a director of the Legal Practitioners' Fidelity Fund shall constitute prima facie proof of the curator's costs, and the Registrar is authorised to issue a writ of execution on the strength of such certificate to collect such costs.



A H PETERSEN
ACTING DEPUTY JUDGE PRESIDENT OF THE HIGH COURT OF
SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

I agree.




A REDDY
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Appearances:

For the Applicant: Adv G K Seleka
Instructed by: Damons Magardie Richardson Attorneys
c/o Maponya Attorneys
Mahikeng

For the Respondent: Adv N Kaphuma (20 March 2026)
No appearance on 27 March 2026