



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

Not reportable

Case No: 1594/2025

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant
and
JONATHAN OLEFILE MAROBE First Respondent
MAROBE TSHOSE ATTORNEYS INCORPORATED Second Respondent
(Registration Number: 2020/035236/21)

CORAM: PETERSEN ADJP et MNYOVU AJ

HEARD: 17 April 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 10h00 on 21 April 2026.

Summary: Legal Practice — Professional Discipline — Suspension from Practice — Unopposed application by the South African Legal Practice Council for the suspension of an attorney who failed to lodge audit reports for three consecutive financial years, practised without Fidelity Fund Certificates in contravention of s 84(1) of the Legal Practice Act 28 of 2014, failed to pay annual fees, and failed to respond to regulatory correspondence — Application of the threefold disciplinary enquiry in *Matsi and Another v South African Legal Practice Council (Gauteng Province)* 2026 ZASCA 12: establishment of conduct on a balance of probabilities; fitness and propriety assessment; and the exercise of discretion between suspension and striking off — Appointment of curator *bonis* to administer trust accounts — Attorney-and-client costs order confirmed as appropriate where the LPC acts in fulfilment of its statutory mandate.

JUDGMENT

PETERSEN ADJP (MNYOVU AJ concurring):

Introduction

[1] This is an unopposed application brought by the South African Legal Practice Council (“the LPC”) for the suspension from practice, alternatively the removal from the roll of legal practitioners, of the First Respondent, Mr Jonathan Olefile Marobe, an attorney of this Court. The Second Respondent is his incorporated legal practice, Marobe Tshose Attorneys Incorporated (Registration Number: 2020/035236/21). The application is premised on the First Respondent’s failure to comply with the provisions of the Legal Practice Act 28 of 2014 (“the LPA”), the Rules of the South African Legal Practice Council (“the LPC Rules”), and the Code of Conduct for all Legal Practitioners (“the Code of Conduct”).

[2] In addition to the suspension or striking off of the First Respondent, the LPC seeks a range of ancillary relief, including the appointment of a curator *bonis* to administer the Respondents’ trust accounts, the delivery of accounting records and client files, and an order for costs on the attorney-and-client scale.

Background

[3] The First Respondent was admitted and enrolled as an attorney of this Court on 30 June 2017. He commenced practicing as a director of the Second Respondent on 13 June 2018. The LPC’s founding affidavit, deposed to by Mr. Gabriel Itumeleng Pule, the Chairperson of the LPC’s North-West Provincial Council, sets out a history of regulatory non-compliance spanning several years.

[4] The uncontroverted material allegations are as follows:

- (a) The First Respondent failed to cause his auditor to lodge unqualified audit reports for the financial periods ending February 2022, February

2023, and February 2024, as required by Rules 54.23, 54.24, and 54.29 of the LPC Rules.

(b) Consequently, the First Respondent was not issued with Fidelity Fund Certificates (“FFCs”) for the years commencing January 2023, January 2024, and January 2025.

(c) Despite not being in possession of the requisite FFCs, the First Respondent continued to practice for his own account and for reward, in contravention of sections 84(1) and 84(2) of the LPA.

(d) The First Respondent failed to pay his annual fees to the LPC for the year 2024 in the amount of R4 611.00, contravening Rule 4.1 and Rule 6 of the LPC Rules read with Clause 3.16 of the Code of Conduct.

(e) The First Respondent failed to respond timeously to correspondence from the LPC dated 14 May 2024 and 21 June 2024, and failed to comply with the LPC’s directions, in contravention of Clauses 16.1, 16.2, and 16.3 of the Code of Conduct.

[5] The matter was considered by an Investigating Committee on 19 July 2024, which recommended that the First Respondent be charged. He was called to appear before a Disciplinary Committee on 29 August 2024, but failed to attend, and the matter was postponed *sine die*. He was again called to appear on 18 September 2024. On that occasion, the First Respondent appeared, pleaded guilty to all charges, and was found guilty. The Disciplinary Committee recommended that an application be made for his suspension from practice for a period of six months.

[6] The LPC resolved to institute the present application for suspension or striking off. The notice of motion and founding affidavit were served on the First Respondent personally on 8 May 2025, and he accepted service on behalf of the Second Respondent. On 26 May 2025, the First Respondent wrote to the LPC’s attorneys, acknowledging receipt of the application, indicating that he did not

intend to oppose the matter, and querying whether his audit reports for 2022 and 2023 had been submitted, while requesting a consultation. No answering affidavit was ever filed, and the First Respondent did not pursue any consultation.

[7] The application was enrolled for hearing on 17 April 2026. The notice of set down was served on the Respondents on 3 December 2025. The LPC filed a practice note and heads of argument. The matter proceeded unopposed.

The applicable principles

[8] The legal principles governing applications of this nature are well-established. The enquiry is threefold, as confirmed by the Supreme Court of Appeal in *Matsi and Another v South African Legal Practice Council (Gauteng Province)*¹ (“*Matsi*”). In that judgment, the following trite principles were articulated at para 18:

“First, the court must determine whether the alleged offending conduct has been established on a balance of probabilities. Second, if the conduct is established, the court must make a value judgment as to whether the legal practitioner concerned is not a fit and proper person to continue to practice. Third, if the court concludes that the practitioner is not a fit and proper person, it must exercise its discretion as to whether to strike the practitioner's name from the roll or to suspend the practitioner from practice. This is a question of degree, having regard to the nature and gravity of the misconduct, the practitioner's overall character, and the interests of the public and the profession.”

[9] The Court in *Matsi* further emphasised² that the failure to comply with the regulatory requirements of the LPA including the obligation to lodge audit reports timeously and to be in possession of a valid FFC strikes at the heart of the statutory scheme designed to protect the public and the Legal Practitioners’

¹*Matsi and Another v South African Legal Practice Council (Gauteng Province)* (184/2024) [2026] ZASCA 12 (6 February 2026).

²*Matsi* (n 1 above) para 22.

Fidelity Fund. The Court held that persistent non-compliance, even in the absence of proven theft of trust monies, can justify a finding that a practitioner is not a fit and proper person, depending on the degree of the default and the practitioner's attitude.

[10] The LPA and the LPC Rules impose peremptory obligations on trust account practitioners. Section 84(1) of the LPA³ requires every attorney practicing for his or her own account to be in possession of an FFC. Section 93(8)⁴ of the LPA makes it a criminal offence to practise without an FFC. Rule 54.24⁵ requires a firm to ensure that its auditor lodges an audit report within six months of the annual closing of its accounting records. The purpose of these provisions is to ensure that trust monies are properly accounted for and that the Fidelity Fund is not placed at risk.

[11] In *Matsi*,⁶ the Supreme Court of Appeal had occasion to consider a similar pattern of conduct. There, the legal practitioners had failed to lodge audit reports and had practiced without FFCs. The Court held that such conduct demonstrated a disregard for the regulatory framework and the professional standards expected of legal practitioners. It confirmed that the LPC is entitled to rely on such failure as evidence that a practitioner is not a fit and proper person, particularly where the practitioner has been afforded multiple opportunities to remedy the default and has failed to do so.

Discussion

[12] Applying the threefold enquiry from *Matsi* to the present case, evinces the following:

³Legal Practice Act 28 of 2014, s 84(1).

⁴Section 93(8) of the LPA.

⁵Rule 54.24 of the Rules of the South African Legal Practice Council (GN R1 of 2018, as amended).

⁶*Matsi* (n 1 above).

First stage: Has the offending conduct been established?

[13] The allegations set out in the founding affidavit are clear, detailed, and supported by documentary evidence. The First Respondent filed no answering affidavit to dispute these facts. His letter of 26 May 2025, in which he states he does not intend to oppose and merely queries whether his audit reports might have been submitted, does not constitute evidence. Moreover, the First Respondent pleaded guilty to the same charges before the Disciplinary Committee on 18 September 2024. I am satisfied that the Applicant has established, on a balance of probabilities, that the First Respondent failed to lodge audit reports for three consecutive years, practiced without a valid FFC for three consecutive years, failed to pay his annual fees, and failed to respond timeously to the LPC's communications.

Second stage: Is the First Respondent a fit and proper person to continue to practice?

[14] The failure to lodge audit reports and to be in possession of an FFC is not a trivial or technical breach. It goes to the very core of the regulatory regime designed to protect clients' trust monies. As held in *Matsi*,⁷ a legal practitioner who fails to account for trust monies or who places the Fidelity Fund at risk by failing to demonstrate that trust monies are intact fundamentally undermines the trust and confidence that the public is entitled to place in the legal profession.

[15] The First Respondent's conduct persisted over a period of three years. The LPC gave him multiple opportunities to remedy his non-compliance. The letters of 14 May 2024 and 21 June 2024 were ignored. He failed to attend the first disciplinary hearing. Only when faced with a second hearing did he appear and plead guilty. Even then, he took no steps to rectify his defaults. His letter of 26 May 2025, while indicating he would not oppose, also queried whether his audit

⁷*Matsi* (n 1 above) para 29.

reports “were not submitted”, suggesting a fundamental lack of accountability for his own professional obligations. A legal practitioner who demonstrates such sustained and careless disregard for the fundamental regulatory duties of the profession cannot be said to be a fit and proper person to continue to practice.

Third stage: Should the First Respondent be suspended or struck from the roll?

[16] This is the most difficult question. The LPC seeks, in the alternative, either suspension or striking off. The Disciplinary Committee recommended a suspension of six months. There is, however, no evidence before us of any actual misappropriation or theft of trust monies. The LPC’s concern is based on the absence of audit reports, which means it cannot be verified whether trust monies are intact. This is a serious matter, but it is distinguishable from cases where actual defalcation has been proved.

[17] In *Matsi*, the Supreme Court of Appeal confirmed that striking off is a severe sanction, reserved for the most serious cases in which the practitioner’s character defects are irremediable or the misconduct has caused or risked substantial harm to the public or the profession. The Court held⁸ that suspension may be an appropriate sanction where the practitioner has shown genuine remorse, has taken steps to address the defaults, and where the court is satisfied that the practitioner can be rehabilitated and will in future comply with his or her professional obligations.

[18] In this case, the First Respondent’s conduct demonstrates a significant degree of neglect and a casual attitude towards his professional responsibilities. There are, however, factors that mitigate in favour of suspension rather than striking off. First, there is no allegation or evidence of theft of trust monies. Second, the First Respondent pleaded guilty before the Disciplinary Committee,

⁸*Matsi* (n 1 above) para 41.

which indicates some acknowledgment of wrongdoing. Third, he indicated that he would not oppose this application, saving both parties the time and expense of a contested hearing. Fourth, the Disciplinary Committee, which heard the matter firsthand, recommended a suspension of six months. While that recommendation does not bind this Court, it is entitled to give it due weight.

[19] We are of the view that a suspension from practice for a period of twelve months, double the Disciplinary Committee's recommendation, is an appropriate sanction in all the circumstances. A suspension of this duration sends a clear message to the First Respondent and to the profession that persistent regulatory non-compliance will not be tolerated. It also affords the First Respondent an opportunity, during his period of suspension, to remedy his defaults and to demonstrate, on an application for reinstatement, that he is once again a fit and proper person. Should further misconduct come to light, or should he fail to remedy his defaults, the LPC may bring a fresh application for his removal from the roll.

Ancillary relief

[20] The ancillary relief sought by the LPC is standard in applications of this nature and is necessary to protect the interests of the First Respondent's clients and trust creditors. The appointment of Ms Saneliswe Princess Ngcobo, the Director of the LPC's North-West Provincial Office, as curator *bonis* is appropriate. The delivery of accounting records, files, and documents to the curator is necessary to enable her to ascertain the state of the trust accounts and to complete any pending transactions. The removal of the First Respondent from his various fiduciary offices follows as a matter of course from his suspension.

Costs

[21] The First Respondent is directed to pay the costs of this application on the scale as between attorney and client. This is justified because the LPC is the

statutory regulator acting in the public interest, and it is the First Respondent's own misconduct that necessitated these proceedings. The attorney-client scale ensures that the LPC is not out of pocket for fulfilling its statutory duty. In *Matsi*,⁹ the Supreme Court of Appeal confirmed that such costs orders are a necessary deterrent and a reflection of the serious breach of professional duties.

Order

[22] In the result, the following order, incorporating the draft order presented by the LPC, is made an order of Court:

1. That JONATHAN OLEFILE MAROBE (hereinafter referred to as the First Respondent) be suspended in his practice as a legal practitioner of this Honourable Court.
2. The First Respondent immediately surrenders and delivers to the registrar of this Honourable Court his certificate of enrolment as a legal practitioner of this Honourable Court.
3. That in the event of the First Respondent failing to comply with the terms of this order detailed in the previous paragraph within two (2) weeks from the date of this order, the sheriff of the district in which the certificate is, be authorised and directed to take possession of the certificate and to hand it to the Registrar of this Honourable Court.
4. That the Respondents be prohibited from handling or operating on the trust accounts as detailed in paragraph 5 hereof.
5. That Sanelisiwe Princess Ngcobo, the Director of the North West Provincial Office of the Applicant be appointed as curator bonis (curator) to administer and control the trust accounts of the Respondents, including accounts relating to insolvent and deceased

⁹*Matsi* (n 1 above) para 48.

estates and any deceased estate and any estate under curatorship connected with the First Respondent's practice as a legal practitioner and including, also, the separate banking accounts opened and kept by Respondents at a bank in the Republic of South Africa in terms of section 86(1) & (2) of Act No 28 of 2014 and/or any separate savings or interest-bearing accounts as contemplated by section 86(3) and/or section 86(4) of Act No. 28 of 2014, in which monies from such trust banking accounts have been invested by virtue of the provisions of the said sub-sections or in which monies in any manner have been deposited or credited (the said accounts being hereafter referred to as the trust accounts), with the following powers and duties:

5.1 immediately to take possession of the Respondents' 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 (hereinafter referred to as the fund) to sign all forms and generally to operate upon the trust account(s), 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;

5.2 subject to the approval and control of the Legal Practitioners' Fidelity Fund Board of Control and where monies had been paid incorrectly and unlawfully from the undermentioned trust accounts, to recover and receive and, if necessary in the interests of persons having lawful claims upon the trust account(s) and/or against the Respondents in respect of monies held, received and/or invested by the Respondents in terms of section 86(1) & (2) and/or section 86(3) and/or section 86(4) of Act No 28 of 2014 (hereinafter referred to as trust monies), to take any legal proceedings which may be necessary

for the recovery of money which may be due to such persons in respect of incomplete transactions, if any, in which the Respondents were and may still have been concerned and to receive such monies and to pay the same to the credit of the trust account(s);

5.3 to ascertain from the Respondents' accounting records the names of all persons on whose account the Respondents appear to hold or to have received trust monies (hereinafter referred to as trust creditors) and to call upon the Respondents to furnish him, within 30 (thirty) days of the date of service of this order or such further period as he may agree to in writing, with the names, addresses and amounts due to all trust creditors;

5.4 to call upon such trust creditors to furnish such proof, information and/or affidavits as he may require to enable him, acting in consultation with, and subject to the requirements of the Legal Practitioners' Fidelity Fund Board of Control, to determine whether any such trust creditor has a claim in respect of monies in the trust account(s) of the Respondents and, if so, the amount of such claim;

5.5 to admit or reject, in whole or in part, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, the claims of any such trust creditor or creditors, without prejudice to such trust creditor's or creditors' right of access to the civil courts;

5.6 having determined the amounts which she considers are lawfully due to trust creditors, to pay such claims in full but subject always to the approval of the Legal Practitioners' Fidelity Fund Board of Control;

5.7 in the event of there being any surplus in the trust account(s) of the Respondents after payment of the admitted claims of all trust creditors in full, to utilise such surplus to settle or reduce (as the case

may be), firstly, any claim of the fund in terms of section 86(5) of Act No 28 of 2014 in respect of any interest therein referred to and, secondly, without prejudice to the rights of the creditors of the Respondents, the costs, fees and expenses referred to in paragraph 10 of this order, or such portion thereof as has not already been separately paid by the Respondents to the Applicant, and, if there is any balance left after payment in full of all such claims, costs, fees and expenses, to pay such balance, subject to the approval of the Legal Practitioners' Fidelity Fund Board of Control, to the First Respondent, if he is solvent, or, if the First Respondent is insolvent, to the trustee(s) of the First Respondent's insolvent estate;

5.8 in the event of there being insufficient trust monies in the trust banking account(s) of the Respondents, in accordance with the available documentation and information, to pay in full the claims of trust creditors who have lodged claims for repayment and whose claims have been approved, to distribute the credit balance(s) which may be available in the trust banking account(s) amongst the trust creditors alternatively to pay the balance to the Legal Practitioners' Fidelity Fund;

5.9 subject to the approval of the chairman of the Legal Practitioners' Fidelity Fund Board of Control, to appoint nominees or representatives and/or consult with and/or engage the services of legal practitioners, counsel, accountants and/or any other persons, where considered necessary, to assist her in carrying out her duties as curator; and

5.10 to render from time to time, as curator, returns to the Legal Practitioners' Fidelity Fund Board of Control showing how the trust account(s) of the Respondents has/have been dealt with, until such

time as the board notifies her that she may regard her duties as curator as terminated.

6. That the Respondents immediately deliver the accounting records, records, files and documents containing particulars and information relating to:

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

- 6.2 any monies invested by the Respondents in terms of section 86(3) and/or section 86(4) of Act No 28 of 2014;

- 6.3 any interest on monies so invested which was paid over or credited to the Respondents;

- 6.4 any estate of a deceased person or an insolvent estate or an estate under curatorship administered by the Respondents, whether as executor or trustee or curator or on behalf of the executor, trustee or curator;

- 6.5 any insolvent estate administered by the Respondents as trustee or on behalf of the trustee in terms of the Insolvency Act, No 24 of 1936;

- 6.6 any trust administered by the Respondents as trustee or on behalf of the trustee in terms of the Trust Properties Control Act, No 57 of 1988;

- 6.7 any company liquidated in terms of the provisions of the Companies Act, No 61 of 1973 read together with the provisions of the Companies Act, No 71 of 2008, administered by the Respondents as or on behalf of the liquidator;

6.8 any close corporation liquidated in terms of the Close Corporations Act, 69 of 1984, administered by the Respondents as or on behalf of the liquidator; and

6.9 the First Respondent's practice as a legal practitioner of this Honourable Court, to the curator appointed in terms of paragraph 5 hereof, provided that, as far as such accounting records, records, files and documents are concerned, the Respondents shall be entitled to have reasonable access to them but always subject to the supervision of such curator or her nominee.

7. That should the Respondents fail to comply with the provisions of the preceding paragraph of this order on service thereof upon him or after a return by the person entrusted with the service thereof that he has been unable to effect service thereof on the Respondents (as the case may be), the sheriff for the district in which such accounting records, records, files and documents are, be empowered and directed to search for and to take possession thereof wherever they may be and to deliver them to such curator.

8. That the curator shall be entitled to:

8.1 hand over to the persons entitled thereto all such records, files and documents provided that a satisfactory written undertaking has been received from such persons to pay any amount, either determined on taxation or by agreement, in respect of fees and disbursements due to the firm;

8.2 require from the persons referred to in paragraph 8.1 to provide any such documentation or information which she may consider relevant in respect of a claim or possible or anticipated claim, against her and/or the Respondents and/or the Respondents' clients and/or fund in respect of money and/or other property entrusted to the

Respondents provided that any person entitled thereto shall be granted reasonable access thereto and shall be permitted to make copies thereof.

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

8.4 wind-up of the Respondents' practice.

9. That the First Respondent be and is hereby removed from office as:

9.1 executor of any estate of which the First Respondent has been appointed in terms of section 54(1)(a)(v) of the Administration of Estates Act, No 66 of 1965 or the estate of any other person referred to in section 72(1);

9.2 curator or guardian of any minor or other person's property in terms of section 72(1) read with section 54(1)(a)(v) and section 85 of the Administration of Estates Act, No 66 of 1965;

9.3 trustee of any insolvent estate in terms of section 59 of the Insolvency Act, No 24 of 1936;

9.4 liquidator of any company in terms of section 379(2) read with 379(e) of the Companies Act, No 61 of 1973 and read together with the provisions of the Companies Act, No 71 of 2008;

9.5 trustee of any trust in terms of section 20(1) of the Trust Property Control Act, No 57 of 1988;

9.6 liquidator of any close corporation appointed in terms of section 74 of the Close Corporation Act, No 69 of 1984; and

9.7 administrator appointed in terms of Section 74 of the Magistrates Court Act, No 32 of 1944.

10. That the Respondents be and are hereby directed:

10.1 to pay, in terms of section 87(2) of Act No. 28 of 2014, the reasonable costs of the inspection of the accounting records of the Respondents;

10.2 to pay the reasonable fees of the auditor engaged by applicant;

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

10.4 to pay the reasonable fees and expenses of any person(s) consulted and/or engaged by the curator as aforesaid;

10.5 to pay the expenses relating to the publication of this order or an abbreviated version thereof; and

10.6 to pay the costs of this application on an attorney-and-client scale, alternatively, scale C.

11. That if there are any trust funds available the Respondents shall within 6 (six) months after having been requested to do so by the curator, or within such longer period as the curator may agree to in writing, shall satisfy the curator, by means of the submission of taxed bills of costs or otherwise, of the amount of the fees and disbursements due to the First Respondent in respect of his former practice, and should he fail to do so, he shall not be entitled to recover such fees and disbursements from the curator without prejudice, however, to such rights (if any) as he may have against the trust creditor(s) concerned for payment or recovery thereof;

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

13. That in the event that the First Respondent intends to continue to practise as a legal practitioner, the First Respondent shall make an application to this Court demonstrating that the infractions which brought about his suspension from practice as a legal practitioner has been corrected and further demonstrating that he is a fit and proper person to be allowed to continue to practise as a legal practitioner.



A H PETERSEN
ACTING DEPUTY JUDGE PRESIDENT
NORTH WEST DIVISION, MAHIKENG

I agree.



B F MNYOVU
ACTING JUDGE
NORTH WEST DIVISION, MAHIKENG

APPEARANCES

For the Applicant: Mrs M Moolman
Instructed by: Damons Magardie Richardson Attorneys

For the Respondents: No appearance