IN THE HIGH COURT OF SOUTH AFRICA

NORTH WEST DIVISION, MAHIKENG

Not reportable

Case No: 1593/2025

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant

and

FREDERIK CHRISTOFFEL HENDRIK PRETORIUS Respondent

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 — Cessation of Practice — Section 30(3) of the Legal Practice Act 28 of 2014 — Unopposed application by the South African Legal Practice Council for suspension of an attorney who failed to lodge audit reports for three consecutive financial years, practised without Fidelity Fund Certificates, and failed to pay annual membership fees — Respondent disclosed in opposing affidavit that he had ceased to practise in 2021 but had failed to formally notify the LPC of cessation as required by s 30(3) of the LPA and Rule 40.2 of the LPC Rules — Consequences of non-notification: continued accrual of fee liability, ongoing

audit obligations, and exposure to disciplinary proceedings — Application withdrawn on agreed terms including payment of outstanding membership fees of R13 285.00 and a costs order on scale B.

JUDGMENT

PETERSEN ADJP (MNYOVU AJ concurring):

Introduction

[1] This is an application brought by the South African Legal Practice Council ("the LPC") for the suspension of the Respondent, Mr Frederik Christoffel Hendrik Pretorius, an attorney of this Court, from practice as a legal practitioner, alternatively for the removal of his name from the roll of legal practitioners. The application came before us on 17 April 2026 and was ultimately resolved. This judgment records our reasons and places emphasis on a matter that animated the proceedings, the Respondent's failure to comply with his statutory obligations upon ceasing to practice.

[2] The matter does not end in a disciplinary order of suspension or removal. It ends, instead, with a withdrawal by the LPC of its application, conditional upon payment of outstanding membership fees and an order for costs. But the path by which it arrived at this resolution is itself instructive, and the legal principles engaged are of broader application to legal practitioners in similar circumstances.

Background

[3] The Respondent was admitted and enrolled as an attorney in the Gauteng Division of the High Court on 12 February 1991, a period of practice spanning

over three decades. He practiced as a director under the name and style of Van Velden-Duffey Attorneys, with offices at 6[…] B[...] Street, Rustenburg. His name remains on the roll of legal practitioners of this Court.

[4] The founding affidavit, deposed to by Mr. Gabriel Itumeleng Pule, the Chairperson of the LPC's North-West Provincial Council, detailed a pattern of non-compliance. The uncontroverted allegations in the founding papers were as follows:

(a) The 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.[1]

(b) As a consequence of the outstanding audit reports, the Respondent was not issued with Fidelity Fund Certificates ("FFCs") for the years commencing January 2023, January 2024, and January 2025. He thereby practiced, or was in a position to practice, in contravention of sections 84(1) and 84(2) of the LPA.[2]

(c) The Respondent failed to pay his annual membership fees to the LPC, with arrears accumulating to R13 285.00.[3]

(d) The Respondent failed to respond timeously to correspondence from the LPC and failed to comply with its directions, in contravention of clauses 16.1, 16.2, and 16.3 of the Code of Conduct.[4]

[5] The Respondent also failed to attend two Disciplinary Committee meetings convened to address these complaints. The application was served on him personally on 12 August 2025.

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[1] Rules 54.23, 54.24, and 54.29 of the LPC Rules (GN R1 of 2018, as amended).

[2] Section 84(1) and 84(2) of the LPA.

[3] Rules 4.1 and 6 of the LPC Rules read together with clause 3.16 of the Code of Conduct for all Legal Practitioners.

[4] Clauses 16.1, 16.2, and 16.3 of the Code of Conduct for all Legal Practitioners.

Procedural History

[6] On 15 May 2025, the Respondent filed a notice of intention to oppose the application. On 27 May 2025, he filed a notice in terms of Rule 35(14) seeking documentary production. The LPC responded by email on 5 June 2025 and, following the Respondent's insistence, filed a formal reply to the Rule 35(14) notice on 19 November 2025.

[7] The matter was set down for hearing on 17 April 2026. Notwithstanding the notice of intention to oppose, the Respondent had, at the stage of the LPC's practice note filed on 31 March 2026, still not filed an answering affidavit. An opposing affidavit was ultimately filed on 13 April 2026, effectively on the eve of the hearing.

[8] The Respondent was represented by Van Velden-Duffey Incorporated, Rustenburg (c/o Van Rooyen Tlhapi Wessels, Mahikeng). Ms Mari Moolman of Damons Magardie Richardson Attorneys appeared for the LPC.

The applicable principles

[9] It is necessary to set out the legal framework applicable to an attorney who ceases to practice. This is not merely of academic interest. It is of direct relevance to why the Respondent found himself as a respondent in these proceedings at all.

[10] Section 30(3) of the LPA[5] provides that a legal practitioner who ceases to practice must, within three months of so ceasing, give written notice to the LPC indicating the date on which he or she ceased to practice. This obligation is peremptory. It is not directory or aspirational. It places a firm and unambiguous duty on the departing practitioner to communicate with the LPC promptly and formally.

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[5] Legal Practice Act 28 of 2014, s 30(3).

[11] The LPC Rules complement this statutory obligation. Rule 40.2 requires a practitioner who ceases to practice to give written notice to the LPC, to return the Fidelity Fund Certificate for the current year, and to ensure that a final audit report in respect of the last financial period is lodged.[6] These obligations are structured to achieve a clean and orderly conclusion of the attorney's regulatory relationship with the LPC, ensuring that trust creditors are protected, that trust accounts are properly wound up, and that the LPC's roll accurately reflects who is and who is not a practicing attorney.

[12] The rationale for these obligations is self-evident. The LPC cannot regulate the profession if it does not know who is, and who is not, actively practicing. A practitioner who walks away from practice without notification creates exactly the kind of regulatory blind spot that these provisions are designed to prevent.

Discussion

The cessation disclosure and its significance

[13] The central and decisive development in this matter was the Respondent's revelation, in his opposing affidavit, that he had ceased to practice as a legal practitioner during 2021. He furnished the LPC with proof of this. The LPC accepted the proof. This fundamentally altered the character of the proceedings. It meant that the conduct giving rise to the application was not the conduct of a practicing attorney who was actively defying his regulatory obligations, but rather the conduct of an attorney who had stopped practicing years earlier but had failed to notify the LPC of that fact and to take the steps required of him by the LPA upon cessation.

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[6] Section 30(3) of the LPA; see also Rule 40.2 of the LPC Rules (GN R1 of 2018, as amended), which requires a practitioner who ceases to practise to give written notice to the LPC, to return the Fidelity Fund Certificate for the current year, and to ensure that a final audit report in respect of the last financial period is lodged.

[14] The LPC, acting responsibly as the custodian of the profession, took the pragmatic and appropriate course of withdrawing the application, conditional upon payment of the outstanding membership fees and a costs order in its favor. The matter was resolved on those terms.

The consequences of regulatory silence

[15] The Respondent ceased to practice in 2021. That may have been a personal or commercial decision that was entirely his to make. What was not his to make unilaterally, however, was the decision not to notify the LPC of that cessation. By remaining silent, the Respondent remained, for all regulatory purposes, a practicing attorney.

[16] The consequences of that silence were both predictable and avoidable. First, because the Respondent remained on the roll as a practicing attorney, the LPC's administrative systems continued to treat him as such. Annual membership fees accrued. Audit reports remained due. When neither were forthcoming, the LPC was obliged, in the discharge of its statutory mandate as custos morum of the legal profession, to take steps. Those steps eventually resulted in these proceedings.

[17] Second, the absence of audit reports for three consecutive financial years, 2022, 2023, and 2024, was not, on the Respondent's own version, attributable to any defalcation or improper handling of trust monies. It was attributable to the fact that he had a practice that was no longer operating, from which he was no longer generating audit reports, because he had stopped. But the LPC did not know this. From the LPC's perspective, the non-submission of audit reports by a practicing attorney is a matter of serious concern, as it means the integrity of the trust account cannot be verified. The Respondent's silence and his failure to comply with his cessation obligations thus converted what should have been a simple administrative matter of deregistration into a set of apparently serious regulatory infractions warranting disciplinary proceedings.

[18] Third, the failure to notify cessation meant that the obligation to hold an FFC, and the concomitant requirement to lodge audit reports in order to qualify for one, continued, at least in the LPC's records, to apply to the Respondent.[7] The LPC was entitled to commence and maintain proceedings based on the facts as it understood them, which were that the Respondent was a practicing attorney in material breach of his statutory obligations. It is only the Respondent's disclosure in his opposing affidavit that revealed the underlying reality, and even then, only after the application had been served, opposed, and set down.

[19] Fourth, and most critically from the perspective of the outstanding membership fees, the Respondent's failure to formally notify cessation meant that his fee liability to the LPC continued to accrue. Membership fees are levied on all enrolled legal practitioners, whether or not they are actively in practice, unless and until the LPC is formally notified of cessation and the practitioner's removal from the roll is effected. The outstanding membership fees of R13 285.00 are the direct product of the Respondent's failure to regularise his position. That amount remained due and owing, regardless of when he ceased practicing. The LPC was entitled to insist on payment as a condition for withdrawing the application.

Resolution of the application

[20] It is important to observe that the LPC's position throughout these proceedings was entirely consistent with its statutory mandate. It did not proceed with the application in bad faith or without basis. When the Respondent provided proof of cessation and the LPC accepted it, the LPC acted responsibly in withdrawing the application. However, the circumstances that required the LPC to bring the application in the first place are squarely attributable to the Respondent's own regulatory delinquency, not in the conventional sense of misappropriation or dishonesty, but in the more pedestrian but no less important

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[7] Section 84(1) read with section 93(8) of the LPA.

sense of failing to comply with the formal obligations that govern the conclusion of a legal practice.

[21] The message that flows from this matter is a simple but important one for the profession. An attorney who ceases to practice does not simply cease to have regulatory obligations. The obligations follow the practitioner until they are properly discharged. The failure to notify the LPC of cessation is not a minor administrative omission. It is a breach of a statutory duty that has real consequences, both for the practitioner and for the regulatory system. Practitioners in this position are well advised to act promptly and in compliance with section 30(3) of the LPA and the applicable LPC Rules.

Costs

[22] The LPC seeks its costs on scale B, including the costs of the hearing. The Respondent does not resist this. The cost order is appropriate. The LPC was compelled to bring and prosecute this application by reason of the Respondent's own failure to comply with his regulatory obligations. The costs are a consequence of that failure and should lie where they were caused.

[23] It is trite that in proceedings of this nature, there is no *lis* in the conventional adversarial sense. The LPC acts in its capacity as the profession's statutory regulator, placing facts before the Court for the exercise of its disciplinary jurisdiction.[8] A costs order does not detract from that characterisation. Where, as here, the application was necessitated by the Respondent's own conduct and the LPC was required to incur substantial legal costs in the vindication of its statutory mandate, a costs order on scale B is fair and justified.

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[8] *Prokureursorde van Transvaal v Kleynhans* 1995 (1) SA 839 (T); *The Law Society of the Northern Provinces v Mogami and Others* 2010 (1) SA 186 (SCA); see also *Matsi and Another v South African Legal Practice Council (Gauteng Province)* (184/2024) [2026] ZASCA 12 (6 February 2026).

Order

[24] In the result, the following order, incorporating the draft order, is made an order of the Court:

1. THAT the application against the Respondent is hereby withdrawn, subject to the following:

1.1 THAT the Respondent effects payment of all his outstanding membership fees due to the Applicant, in the amount of R13 285.00, on or before 31 May 2026;

1.2 THAT the Respondent pays the Applicant's costs on scale B, including the costs of today.

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:	Ms M Moolman
Instructed by:	Damons Magardie Richardson Attorneys, Pretoria
For the Respondent:	Adv C Wessels
Instructed by:	Van Velden-Duffey Incorporated, Rustenburg
	c/o Van Rooyen Tlhapi Wessels, Mahikeng