

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: **2025-126117**

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
2026-03-03	
DATE	SIGNATURE

In the matter between:

SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Applicant

and

ANTHONY DAVID KAPLAN

Respondent

JUDGMENT

QOFA-LEBAKENG AJ

INTRODUCTION

- [1] The applicant is the South African Legal Practice Council ("the LPC"), the statutory regulator of legal practitioners. It seeks an order suspending the respondent, Mr Anthony David Kaplan, from practice, alternatively striking his name from the roll, together with ancillary relief aimed at protecting the public and trust creditors, including the appointment of a curator bonis to administer and control the respondent's trust accounts and practice records.
- [2] Proceedings of this nature are disciplinary and sui generis. The LPC approaches the Court not as an ordinary litigant, but as the body that places before Court the facts and its evaluation of a practitioner's conduct so that the Court may exercise its supervisory and disciplinary jurisdiction over its officers, in the public interest.
- [3] The respondent delivered a notice of intention to oppose. However, no answering affidavit dealing with the merits of the LPC's factual allegations was filed. The matter therefore falls to be decided on the founding evidence, assessed against the applicable legal framework.

COMMON CAUSE FACTS

The parties and jurisdiction

- [4] The LPC is established under section 4 of the Legal Practice Act 28 of 2014 ("the LPA") and has jurisdiction over legal practitioners.
- [5] The respondent is reflected as a legal practitioner admitted as an attorney and practising (or recorded as practising) under the style of his own practice. This Court has jurisdiction to entertain the application.

- [6] The record includes a communication evidencing that the respondent does not reside in South Africa and provides an address in Israel. This is relevant to (a) service and participation, (b) practical oversight by the regulator, and (c) the Court's assessment of risk and remediation.

The complaints and allegations advanced by the LPC

- [7] The LPC advances, in summary, that the respondent has engaged in conduct inconsistent with the standards required of a legal practitioner, including (amongst others): -

- 7.1 Practising without a Fidelity Fund Certificate for relevant periods;
- 7.2 Failure to submit annual auditor's reports for multiple financial periods as required;
- 7.3 Failure to pay annual fees/subscriptions to the LPC for multiple years;
- 7.4 Failure to respond to correspondence and requests from the regulator and failure to comply with directions;
- 7.5 Conduct said to hamper the LPC's ability to execute its statutory mandate and to protect the public.

- [8] The founding affidavit records that the LPC addressed correspondence calling upon the respondent to remedy failures and comply with regulatory requirements, which, on the LPC's version, was not met with adequate compliance.

THE APPLICABLE LEGAL FRAMEWORK

Fidelity Fund Certificate: LPA section 84

- [9] The Fidelity Fund Certificate ("FFC") regime is a central public-protection mechanism. In terms of section 84(1) of the LPA, a legal practitioner practising

for own account may not practise unless in possession of a valid Fidelity Fund Certificate. Practising without a valid FFC is not merely technical non-compliance: it undermines the protective structure designed to safeguard members of the public who entrust money to practitioners. Section 84(1) of the LPA requires that an attorney practising for own account must be in possession of a valid Fidelity Fund Certificate ("FFC"). The obligation is peremptory.

- [10] The FFC regime exists to protect the public and trust creditors. Practising without a valid FFC is not a technicality: it is a breach of the protective system at the centre of the profession's integrity. The LPA further treats practising without an FFC as unlawful and exposes the practitioner to regulatory discipline and, where applicable, statutory consequences.

Trust accounting, record-keeping and inspection — LPA section 87

- [11] Section 87 of the LPA regulates the keeping of accounting records and empowers the LPC to ensure that trust monies and accounting systems are properly managed and capable of inspection. The Notice of Motion expressly invokes the statutory mechanism for inspection costs, reflecting the protective and supervisory character of the relief sought. The requirements are that the proper accounting records must be kept for a legal practice, those records be maintained so that the LPC (and/or its authorised persons) can assess whether trust monies are properly dealt with; and where inspection is directed, the practitioner may be liable for the reasonable costs of inspection.

LPC Rules linking audit compliance to FFC issuance — Rule 54 (including Rule 54.29)

- [12] The LPC Rules give practical content to the statutory framework. Of relevance is Rule 54 governing trust accounting and compliance. In substance, Rule

54.29 links the issue/renewal of an FFC to proper accounting compliance and the furnishing of the required audit/inspector report(s).

- [13] The effect of the statutory and regulatory scheme is that failure to submit compliant audit/inspector reports is not an isolated breach: it has direct consequences for a practitioner's entitlement to practise for own account, and it impedes the LPC's ability to protect the public and trust creditors.

- [14] The LPC Rules supplement the LPA and give operational content to trust accounting duties. Of central importance, and directly aligned to the precedent approach, is Rule 54.29, which provides, in essence, that before a Fidelity Fund Certificate may be issued/renewed, there must be a proper and compliant audit/inspector's report in respect of the practice's trust accounting for the relevant period(s).

- [15] In short: audit compliance and FFC compliance are linked. A practitioner who is non-compliant with audit obligations places themselves outside the protective framework that justifies the right to practise for own account.

Duty of candour, co-operation and professional integrity

- [16] A legal practitioner is required to display candour, diligence, and co-operation with the regulator, particularly where trust accounting and Fidelity Fund compliance are implicated. A sustained failure to co-operate, coupled with unresolved compliance defaults, is a weighty indicator of unfitness.

- [17] The Court is entitled to consider (a) non-responsiveness to the regulator, (b) failure to provide required information and records, and (c) general conduct inconsistent with the standards demanded of practitioners, in determining fitness to practise and the appropriate sanction.

[18] In applications of this kind, the Court typically undertakes a structured enquiry:

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- 18.1 First, whether the offending conduct is established on a balance of probabilities;
- 18.2 Second, whether the practitioner is, in consequence, not a fit and proper person to continue to practise;
- 18.3 Third, the appropriate sanction: suspension (with conditions) or striking, having regard to protection of the public, the integrity of the profession, deterrence, and prospects of rehabilitation.

EVALUATION

Has misconduct been established?

- [19] The LPC's evidence, on oath, sets out repeated and continuing non-compliance: absence of required audit reports for specified periods, the consequences flowing therefrom for the Fidelity Fund Certificate regime, subscription arrears, and regulatory non-responsiveness.
- [20] The respondent has not placed before Court an answering affidavit that engages these allegations. On the papers, the LPC's allegations are accordingly established on a balance of probabilities.

IS THE RESPONDENT A Fit AND PROPER PERSON

- [21] The profession rests on trust, integrity, accountability, and strict compliance with protective rules—especially those regulating client money, trust accounting, and the Fidelity Fund framework. A practitioner who does not keep the regulator adequately informed, does not timeously file audit reports, and (on the record) practises without a Fidelity Fund Certificate, exposes the public to unquantified risk and undermines professional integrity.

- [22] Additionally, the respondent's location outside the Republic, coupled with the absence of meaningful engagement on the merits and absence of demonstrated compliance, aggravates the Court's concern: it reduces practical oversight, complicates accountability, and heightens the need for protective measures.
- [23] Whether a practitioner is fit and proper is ultimately a value judgment informed by established facts, the practitioner's attitude to compliance, the protection of the public, and the integrity of the profession.
- [24] The present matter is characterised by serious regulatory non-compliance striking at the heart of the public-protection scheme (FFC and trust-accounting oversight), furthermore, a lack of demonstrated remediation supported by verifiable documentation and inadequate and or no engagement with the regulator on issues central to trust-account integrity.
- [25] The respondent's location outside the Republic, which materially complicates effective oversight and increases the regulatory and practical risk associated with any continued entitlement to practise.
- [26] On the totality of these factors, the Court finds that the respondent is not a fit and proper person to continue practising.

SANCTION: SUSPENSION OR STRIKING?

- [27] Striking from the roll is the most severe sanction and is reserved for conduct showing that the practitioner is beyond rehabilitation, or where protection of the public demands permanent removal.
- [28] In the present matter, the misconduct established is grave, particularly because it goes to the profession's protective accounting and Fidelity Fund regime. On the material placed before Court, and absent any meaningful

engagement by the Respondent given the magnitude of the application, the sanction that best balances public protection with proportionality is striking off, coupled with stringent ancillary relief to secure trust accounts, records, and the winding up of the practice.

[29] The Respondent is equally no longer in the Country and has paid no attention to the application that has been brought against him despite all attempts to ensure he is made aware of it. This type of response in such a matter of importance demonstrate in the very least the fact that the Respondent has no further interest in continuing as a practitioner of this court. This conduct requires an even further element of protection to the Public. The Appropriate sanction therefore becomes striking off.

[30] The choice between suspension and striking off depends on whether the practitioner's conduct is such that the Court can responsibly permit a realistic prospect of rehabilitation under conditions, or whether the protection of the public and the integrity of the profession require removal from the roll.

COSTS

[31] The LPC seeks costs on an attorney-and-client scale. This is typically justified where the practitioner's conduct necessitated litigation to secure compliance and protect the public, and where the practitioner has not meaningfully engaged with the regulatory process. On the record before Court, that scale is warranted.

[32] I am satisfied that the Respondent is not a fit and proper person to continue to practice, his conduct cannot be excused. I am satisfied that the Applicant has made out a proper case for the prayers set out in the notice of motion including the costs order

ORDER

[33] The following order is made: -

The draft order marked "X" is made an order of Court.



M. QOFA-LEBAKENG
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

I agree



S. POTTERILL
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Case details

For the Applicant:

MR M STEENKAMP, Attorney with Right of Appearance
Instructed by: RW ATTORNEYS Inc.

For the Respondent: No Appearance

Heard on: **5 February 2026**

Date of judgment: **3 March 2026**