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**ASSESSING PERSONAL INJURY LAWYERS ALLEGED MISAPPROPRIATION  
OF CLIENT COMPENSATION FUNDS IN SOUTH AFRICA:  
TAKING THE BRIEFS OUT OF THE BRIEFCASE**

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**ABSTRACT | 摘要 | RESUMEN**

The Road Accident Fund (RAF) was created to provide social protection and compensation for victims of motor-vehicle accidents. Yet, its functioning has increasingly been compromised by unethical conduct from some legal practitioners. This paper examines the extent to which the RAF fulfills its mandate and the ways in which certain lawyers have misappropriated or withheld client compensation funds, violating fiduciary duties and constitutional rights. Through doctrinal research, it analyzes the legal framework governing RAF litigation, including the Road Accident Fund Act, the Legal Practice Act, Legal Practice Council Rules, and relevant constitutional provisions. Key case law is reviewed to illustrate judicial responses to professional misconduct. The findings indicate significant weaknesses in regulatory enforcement and oversight. The study concludes by proposing reforms to strengthen accountability, enhance claimant protection, and restore confidence in the legal profession's role in RAF matters.

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## 1. INTRODUCTION

The Road Accident Fund (RAF) was created by the Road Accident Fund Act as a statutory insurance scheme aimed at compensating victims of motor vehicle accidents for bodily injury or loss of support, regardless of fault<sup>1</sup>. The scheme reflects South Africa's constitutional commitment to socio-economic justice by ensuring that accident victims are not left destitute because of another's negligence<sup>2</sup>.

However, over time, reports of misconduct by certain legal practitioners have cast a shadow over the RAF's intended role<sup>3</sup>. Instead of protecting vulnerable claimants, some attorneys have unlawfully retained or misappropriated settlement funds meant to restore victims' financial stability<sup>4</sup>. This conduct amounts to a breach of the fiduciary duty lawyers owe to their clients and undermines public confidence in the legal system<sup>5</sup>. Remember, a lawyer cannot take a case against a past client if there's a real chance that they might use that client's secrets against them [41].

The fiduciary nature of the attorney-client relationship is deeply entrenched in South African common law and reinforced by statutory duties under the Legal Practice Act and the Legal Practice Council's (LPC) Code of Conduct<sup>6</sup>. Yet, despite these regulatory safeguards, misconduct involving RAF claims has persisted [27]. The Special Investigating Unit (SIU) has uncovered large-scale fraud involving over 100 law firms, some of which received duplicate payments amounting to hundreds of millions of rands from the RAF<sup>7</sup> [36].

Misappropriation of funds often occurs through the abuse of attorneys' trust accounts, which are regulated under sections 86-91 of the Legal Practice Act to protect client money<sup>8</sup>. The courts have repeatedly condemned such conduct. In *Motswai v Road Accident Fund* [20], the Supreme Court of Appeal described an attorney's misrepresentation and mishandling of a claim as "legally untenable and ethically unconscionable." The court held that fraud was found against the attorney without a proper hearing in open court and without the facts. Judgment was delivered after an informal discussion between

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<sup>1</sup> Road Accident Fund Act 56 of 1996

<sup>2</sup> Neethling, J., Potgieter, JM., & Visser, PJ. (2020).

<sup>3</sup> Van Zyl, CH., and Visser, J. (2016).

<sup>4</sup> Code of Conduct for Legal Practitioners; Coetsee., SA. (2019).

<sup>5</sup> The described conduct constitutes a breach of a lawyer's fiduciary duty, which is a serious violation that undermines public trust in the legal system. This duty requires lawyers to act in the best interests of their clients, and maintain confidentiality. Zhou, J. (2024)

<sup>6</sup> The Legal Practice Act 28 of 2014, specifically sections 25 and 86, and the Legal Practice Council's Code of Conduct for Legal Practitioners (2019), govern the conduct and practice of legal professionals in South Africa.

<sup>7</sup> The Special Investigating Unit (SIU) conducted preliminary investigations into the Road Accident Fund (RAF) and discovered over R340 million in duplicate payments to law firms, including Sheriffs

<sup>8</sup> Legal Practice Act 28 of 2014 sections 86-91.

the judge and legal representatives in chambers, irregular and unfair, second judgment failing to correct prejudicial findings against attorneys<sup>9</sup>.

Similarly, in *South African Legal Practice Council v Dube*, [34] the court struck an attorney from the roll for misappropriating RAF client funds and practising without a Fidelity Fund certificate<sup>10</sup>.

The constitutional dimension of this problem is significant. Section 10 of the Constitution of the Republic of South Africa, 1996 guarantees everyone the right to dignity, while section 34 ensures the right of access to courts both of which are compromised when claimants are deprived of their lawful compensation<sup>11</sup>. Greenbaum (2020) argued that protecting these rights requires strong regulatory enforcement and a proactive approach to attorney misconduct, particularly in high-risk areas such as RAF litigation. Academic commentary<sup>12</sup> further highlights that inadequate enforcement mechanisms within the LPC contribute to the persistence of misconduct [42].

The matter *South African Legal Practice Council v Marais* [35] concerns an application to permanently remove the respondent's name from the roll of legal practitioners, specifically attorneys. The respondent is already serving a suspension imposed by this court on 25 February 2021. The application faces opposition on two main grounds: first, that the process has not been procedurally fair; and second, that there is no substantive justification for either the existing suspension or the proposed striking-off. Between January 2019 and June 2025, the LPC received over 53,000 complaints, including almost 10,000 relating to RAF matters, yet only a small fraction resulted in findings of guilt [16].

This raises critical questions about whether the regulatory framework is meeting its constitutional and professional mandates. From a jurisprudential standpoint, misappropriation of client funds also undermines the foundational principle that attorneys are officers of the court and have a duty to uphold the administration of justice [38]. In addition to statutory reform, the literature points to the importance of robust internal controls within law firms, regular audits of trust accounts, and enhanced disciplinary transparency to deter misconduct [11]. The RAF itself has called for closer cooperation with the LPC and the SIU to expedite investigations and prosecutions against corrupt practitioners<sup>13</sup> [42].

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<sup>9</sup> *Motswai v Road Accident Fund* [2014] ZASCA 104, para 31

<sup>10</sup> *South African Legal Practice Council v Dube* [2025] ZAGPPHC 365, para 42-45

<sup>11</sup> Constitution of the Republic of South Africa, 1996 sections 10 & 34

<sup>12</sup> Academic commentary suggests that the Legal Practice Council's (LPC) inadequate enforcement of its rules and regulations contributes to the persistence of misconduct related to the Road Accident Fund (RAF).

<sup>13</sup> The Road Accident Fund (RAF) is seeking closer collaboration with the Legal Practice Council (LPC) and the Special Investigating Unit (SIU) to speed up investigations and legal actions against corrupt legal practitioners involved in RAF claims.

This paper, therefore, examines the legal, constitutional, and regulatory dimensions of RAF-related attorney misconduct, using a doctrinal research approach to analyse legislation, case law, and scholarly perspectives. It argues that unless oversight bodies adopt more rigorous preventive measures, misconduct will continue to jeopardise the RAF's constitutional mandate and the rights of accident victims. Part I of the study deals with the effectiveness of the Road Accident Fund in fulfilling its mandate within South Africa's legal system. Part II focuses on legal practitioners and ethical breaches in South Africa. Part III deals with the adequacy of Legal Frameworks and Regulatory Bodies in Safeguarding Constitutional Rights in RAF Matters.

## **2. THE EFFECTIVENESS OF THE ROAD ACCIDENT FUND IN FULFILLING ITS MANDATE WITHIN SOUTH AFRICA'S LEGAL SYSTEM**

### **2.1 Objectives and Constitutional Foundation**

The RAF's mandate is inseparable from South Africa's constitutional commitment to socio-economic rights. Section 27 of the Constitution recognises the right to social security [6], while section 10 recognises the right to dignity, and section 34 guarantees the right to access to courts, which in this matter reinforces the need for effective remedies for those injured in accidents. The RAF exists to ensure that victims are not left destitute due to another person's negligence [3]. The transformative constitutional vision, therefore, frames the RAF not simply as an insurance mechanism but as an instrument of social justice [8]. Its objectives are threefold: (i) to compensate victims of road accidents for bodily injury or loss of support, (ii) to promote equitable access to remedies, and (iii) to relieve claimants from the burdens of complex and costly litigation [3].

### **2.2 Operational Mechanisms and Challenges Facing the RAF**

The RAF is financed primarily through a fuel levy imposed under the Customs and Excise Act<sup>14</sup>, which ensures a steady revenue stream. Claimants may lodge claims directly or through legal practitioners, and compensation typically covers medical expenses, loss of earnings, and general damages for pain and suffering [3]. Attorneys and medico-legal experts play an important role in lodging claims, assessing damages, and negotiating settlements [1].

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<sup>14</sup> Act 91 of 1964

However, in practice, delays, inefficiencies, and reliance on legal representatives for RAF claims often create new barriers [19]. For many claimants, lawyers become the sole gateway to accessing their RAF compensation, increasing their vulnerability to exploitation.

Despite its constitutional and statutory foundations, the RAF has been plagued by systemic challenges [23]. Backlogs in processing claims frequently result in delays of several years, undermining the Fund's social justice mandate. The RAF Annual Report (2023/24) highlights a financial deficit running into billions, further complicating its ability to settle claims promptly [40]. Fraudulent practices, including the submission of inflated medico-legal reports and duplicate claims, have drained the Fund's resources [42]. The Special Investigating Unit (SIU) uncovered more than R340 million in duplicate payments made to legal practitioners and sheriffs, underscoring the scale of corruption.

These challenges have eroded public confidence in the RAF, with many claimants perceiving the Fund as an obstacle rather than a source of relief.

The RAF does not operate in isolation; its success depends on institutional collaboration with oversight bodies such as the Legal Practice Council (LPC), Parliament, and the SIU. The LPC plays a vital role in regulating lawyers who handle RAF claims, yet it has often been criticised for weak enforcement. The SIU has been mandated to investigate unlawful practices and recover funds siphoned off through fraud, while Parliament's Standing Committee on Public Accounts (SCOPA) monitors the RAF's financial and governance performance [43]. However, the fragmentation of accountability mechanisms has allowed misconduct to flourish. Without effective coordination and transparency, RAF claimants continue to bear the brunt of systemic failures [21].

The RAF Amendment Bill of 2023 introduces significant reforms to the Road Accident Fund's mandate and compensation model. One of the key changes involves a reduction in the scope of coverage. Instead of compensating claimants for their full damages, the Bill proposes a shift toward structured benefits, which would be paid out in the form of annuities rather than once-off lump sum payments [29].

### 3. LEGAL PRACTITIONERS AND ETHICAL BREACHES IN SOUTH AFRICA

#### 3.1 The Fiduciary Duty of Attorneys

According to Yifat Naftali Ben Zion on the underlying conceptions of fiduciary law, the heart of attorney-client relations lies in the fiduciary duty, which obliges lawyers to act with loyalty, integrity, and in the best interests of their clients [22]. This duty is entrenched in South African common law and reinforced by the Legal Practice Act and the LPC's Code of Conduct [12]. Attorneys are required to maintain trust accounts for client monies and to hold valid Fidelity Fund certificates as a safeguard against misappropriation<sup>15</sup>.

The fiduciary duty includes safeguarding confidentiality, avoiding conflicts of interest, and ensuring transparent handling of settlements. Breaches of this duty not only harm individual clients but also undermine the legal profession's legitimacy [31].

#### 3.2 Common Forms of Misconduct in RAF Cases and Judicial Condemnation of Ethical Breaches

RAF-related misconduct typically manifests in several recurring forms. First, misappropriation of client funds, where attorneys unlawfully retain settlement monies, is the most widespread. Second, lawyers often engage in overcharging, particularly by inflating medico-legal fees. Third, collusion between some practitioners and RAF officials has led to fraudulent claims and duplicate payments [42]. These practices divert funds away from deserving claimants, many of whom rely on RAF compensation for medical care and basic subsistence.

South African courts have consistently denounced misconduct in RAF litigation. In *Motswai v RAF*, the Supreme Court of Appeal condemned an attorney's misrepresentation as ethically unconscionable [20]. In *Legal Practice Council v Dube*, the court struck an attorney from the roll for misappropriation and for practising without a Fidelity Fund certificate [34]. Similarly, in *Legal Practice Council v Marais*, the High Court considered striking-off proceedings against a practitioner already under suspension [35].

The above cases illustrate the judiciary's recognition that RAF-related misconduct is not a trivial matter but a serious breach of constitutional and professional duties.

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<sup>15</sup> Legal Practice Act 28 of 2014, sections 86-91

### 3.3 The Role of the Legal Practice Council (LPC)

The legal profession has long been viewed as a noble calling, with legal practitioners traditionally respected by the public. In *Vassen v Law Society of the Cape of Good Hope*, the court highlighted that being an attorney is an honourable profession that requires its members to uphold absolute honesty, trustworthiness, and integrity [4]. Accordingly, practitioners have a duty to act truthfully towards their clients, the courts, their peers, and the public at large.

Section 2 of the Legal Practice Act describes the purpose of the LPA [12]. The purpose of the LPA is to transform and regulate the legal profession to reflect South Africa's diversity while ensuring accountability and independence. Section 5 of the LPA empowers the Legal Practice Council to uphold professional and ethical standards while protecting the public from unethical conduct.

However, between 2019 and 2025, it received over 53,000 complaints, of which nearly 10,000 concerned RAF matters, yet only a small fraction resulted in findings of guilt [42]. This gap raises serious concerns about the LPC's enforcement capacity.

Scholars like Shaka Yesufu (2025) argue that the LPC's disciplinary processes are opaque, under-resourced, and overly lenient, allowing corrupt practitioners to continue operating. In his study, Shaka provided that the Road Accident Fund (RAF) was turned into a cash cow by unscrupulous lawyers who inflated bills, falsified accounts, and stole funds meant for vulnerable victims. He explained that many lawyers enriched themselves overnight through these illicit dealings while the Legal Practice Council failed to protect victims or stop the exploitation. Shaka argued that such individuals were not genuine legal practitioners but fraudsters who entered the profession for personal gain. To curb this misconduct, he called for mandatory prison terms for convicted lawyers to be increased from 10 years to 30 years as a deterrent [40]. Parliament's SCOPA has also criticised the LPC for failing to exercise robust oversight, particularly in high-risk areas such as RAF litigation.

### 3.4 Systemic Implications of Misconduct

Attorney misconduct in RAF matters has ripple effects that extend beyond individual clients. First, it erodes public trust in the legal profession, undermining the perception of lawyers as officers of the court. Second, it compromises constitutional rights by depriving victims of their compensation, thereby

threatening their right to dignity and access to justice<sup>16</sup>. Third, it exacerbates the RAF's financial instability, as fraudulent or inflated claims drain resources that should be directed to genuine victims [26].

From a jurisprudential standpoint, misconduct compromises the administration of justice itself, weakening the rule of law and South Africa's broader commitment to constitutional democracy.

#### **4. ADEQUACY OF LEGAL FRAMEWORKS AND REGULATORY BODIES IN SAFEGUARDING CONSTITUTIONAL RIGHTS IN RAF MATTERS DISCUSSION**

The regulation of legal practitioners in South Africa, particularly those involved in Road Accident Fund (RAF) matters, reveals significant gaps that undermine both the integrity of the legal system and the protection of vulnerable claimants [2]. The misconduct of lawyers who misappropriate compensation funds exposes a troubling tension between professional regulation and constitutional guarantees of access to justice [9], [33]. While the Legal Practice Act establishes a framework for regulating attorneys and advocates, its enforcement mechanisms remain insufficiently robust to deter or effectively address unethical conduct [12].

The Road Accident Fund Act was designed as a social security measure to compensate accident victims and their dependents. Still, it has become increasingly associated with delays, mismanagement, and exploitation by unscrupulous practitioners [28]. Section 17(1) of the Act provides that the Fund must compensate claimants for loss or damage arising from bodily injury or death caused by negligent driving [65].

However, lawyers' failure to pass on these funds to their clients effectively nullifies the constitutional promise of access to justice and undermines the dignity of victims [10]. Section 10 of the Constitution of the Republic of South Africa, 1996, explicitly guarantees everyone the right to inherent dignity, while section 34 ensures the right to access courts and resolve disputes fairly [6]. The withholding of RAF settlements violates both these rights, leaving claimants without the compensation intended to restore their dignity and support their livelihoods.

Judicial decisions underscore the seriousness of such misconduct. In the matter of *Law Society of the Northern Provinces v Mabaso*, the Supreme Court of Appeal (SCA) addressed the serious misconduct of an attorney who had misappropriated client funds, including money received from a Road Accident

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<sup>16</sup> Constitution of the Republic of South Africa, 1996, sections 10 & 34



Fund claim. The respondent, Mr Christopher Mabaso, was accused of failing to keep client funds properly in his trust account, neglecting to account for monies received, and delaying payments to clients, thereby breaching his fiduciary duties. The Gauteng Division of the High Court had initially suspended him for a year rather than striking him off the roll, prompting the Law Society to appeal the decision [14].

Judge Mpati P, delivering judgment for the SCA, reaffirmed the well-established three-stage enquiry when considering whether an attorney should be removed from practice: first, determining whether the misconduct is proven; second, assessing whether the attorney remains a fit and proper person to practise; and third, deciding whether suspension or striking off is the appropriate sanction<sup>17</sup>.

#### **4.1 The LPC's Oversight Role in RAF-Related Complaints**

The Legal Practice Council (LPC), in a briefing before Parliament's Standing Committee on Public Accounts, reported that instances of attorney misconduct in Road Accident Fund (RAF) matters remain statistically low, with fewer than one percent of practitioners found guilty of wrongdoing. Between 2019 and June 2025, the LPC received more than 53,000 complaints against attorneys, of which 9,671 were related specifically to RAF claims [42]. Out of this number, only 280 practitioners were ultimately found guilty of professional misconduct, and a mere 78 of those cases involved the misappropriation of RAF funds.

The LPC noted that the sharp rise in complaints over this period could be attributed largely to the RAF's operational challenges, particularly its chronic delays in paying out claims and the moratorium on writs of execution. These difficulties often fuelled client frustration and misunderstandings, which in turn escalated into formal complaints against their legal representatives. The grievances most frequently raised included poor communication by attorneys, excessive or unlawful charges of fees, and the mishandling of contingency fee agreements.

#### **4.2 Criminal Prosecution against Legal Practitioners who commit fraud**

When a legal practitioner misappropriates client funds, the aggrieved party is not confined to complaining to the Legal Practice Council (LPC). Such a complainant, often a former client, is also entitled to lay criminal charges with the South African Police Service (SAPS) against the practitioner concerned [24]. Importantly, the lodging of a criminal complaint does not have to await the outcome of disciplinary

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<sup>17</sup> See *Law Society of the Northern Provinces case paragraph 2*. See also *Summerley v Law Society, Northern Provinces [2006] ZASCA 59; 2006 (5) SA 613 (SCA) paragraph 2*.

proceedings before the LPC. In fact, the LPC itself, acting in its regulatory capacity, may lay charges if it reasonably believes that a criminal offence has been committed by a practitioner.

The Legal Practitioners Fidelity Fund (LPFF) plays a pivotal role in safeguarding public confidence in the legal profession. Section 55 of the Legal Practice Act provides that the LPFF is liable to reimburse persons who have suffered financial loss owing to the theft of trust money or property by practitioners or their employees<sup>18</sup>. However, this protection does not mean that dishonest practitioners escape liability. Section 80 of the Act expressly subrogates the LPFF, once it has compensated a claimant, into all the rights and legal remedies that the claimant would have had against the defaulting practitioner<sup>19</sup>.

In effect, the LPFF "steps into the shoes" of the victim and can pursue civil recovery or other legal remedies. In addition to this, claimants retain the right to lay criminal charges and to institute civil proceedings in their own name to recover stolen trust funds [24]. Furthermore, the LPFF has proactive enforcement powers: section 63(1)(i) empowers it to institute private prosecutions where the National Prosecuting Authority (NPA) declines to prosecute practitioners accused of theft or misappropriation of trust property<sup>20</sup>. This illustrates that the LPFF is not merely a compensatory mechanism for victims but also an enforcement body that actively supports the prosecution of errant practitioners, thereby reinforcing accountability within the profession.

### 4.3 Removal of Legal Practitioners from the Roll

The Legal Practice Council (LPC) serves as the central regulatory authority overseeing all legal practitioners in South Africa, including both attorneys and advocates, as well as candidate legal practitioners. In exercising its mandate under section 6 of the Legal Practice Act, the LPC is empowered to establish norms and standards that ensure the integrity and accountability of the profession. To give practical effect to this responsibility, the Council has adopted a comprehensive Code of Conduct applicable to all practitioners, candidate practitioners, and juristic entities engaged in legal practice<sup>21</sup>. This Code is supplemented by the Rules promulgated in terms of sections 95(1), 95(3), and 109(2) of the Act.

Collectively, these instruments set out the ethical and professional obligations expected of practitioners. Where an attorney or advocate fails to comply with the provisions of the Act, the Code, or the Rules, the LPC may initiate disciplinary proceedings before its designated committee, which could

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<sup>18</sup> Legal Practice Act 28 of 2014, section 55

<sup>19</sup> Legal Practice Act 28 of 2014, section 80

<sup>20</sup> Legal Practice Act 28 of 2014, section 63(1)(i)

<sup>21</sup> Legal Practice Act 28 of 2014, section 6

ultimately result in the removal of the practitioner's name from the roll. Section 40 of the Legal Practice Act gives the LPC's disciplinary committee the authority to recommend serious sanctions where a practitioner is found guilty of misconduct<sup>22</sup>. Among the options available, the committee may advise that the Council seek an order from the High Court to strike the practitioner's name from the roll, suspend them from practice, or prohibit them from handling trust monies.

This procedure reflects the principle that removal from the roll is not a matter the LPC can finalise independently, but rather one that falls within the supervisory jurisdiction of the courts. In terms of section 31(1)(a), read together with sections 44(1) and (2) of the Act, the High Court retains the ultimate authority to determine whether a practitioner is no longer "fit and proper" to continue practising law, and it is the Court that may order a striking off, suspension, or other appropriate relief<sup>23</sup>. This ensures judicial oversight over the most serious professional sanctions, safeguarding both the integrity of the legal profession and the rights of practitioners.

Rule 54.14.9 of the Legal Practice Council (LPC) rules places a strict obligation on firms to ensure that no trust creditor's account ever reflects a debit balance [17]. In addition, rule 54.14.14 stipulates that any withdrawal from a firm's trust banking account may only be made in favour of a trust creditor or, alternatively, transferred to the firm's business account for funds that are legitimately due [18]. The combined effect of these provisions is to safeguard the integrity of clients' monies by creating a closed system of accountability.

Where a legal practitioner disregards these rules and withdraws funds in contravention of the provisions, it almost inevitably results in a deficiency in the trust account. Such conduct not only undermines professional standards but also amounts to a serious breach of fiduciary duty, and in many cases may constitute the criminal offence of theft of trust funds.

Theft of trust funds by legal practitioners represents one of the gravest breaches of professional duty and carries severe consequences for those found guilty. South African courts have consistently affirmed that an attorney who dishonestly misappropriates client funds cannot be regarded as a fit and proper person to remain in practice, and that the appropriate sanction in such cases is removal from the roll of attorneys.

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<sup>22</sup> Legal Practice Act 28 of 2014, section 40

<sup>23</sup> Legal Practice Act, section 90 (1)

In *Law Society of the Free State v Le Roux and Others*, the court emphasised that dishonesty of this nature warrants the "ultimate sanction" of strike-off, given the betrayal of public trust and the damage caused to the profession's integrity [13]. Similarly, in *South African Legal Practice Council v Bobotyana*, the respondent misappropriated over R2 million in trust monies. The Eastern Cape Division found that his conduct was deliberate, persistent, and fundamentally inconsistent with the faithful discharge of an attorney's duties [32]. The court stressed that once dishonesty is proven, a lesser sanction is rarely appropriate, and accordingly, the respondent's name was struck from the roll.

In *Legal Practice Council (KwaZulu-Natal Provincial Office) v Naicker and Another*, the court dealt with an attorney who had misappropriated R1 million deposited into his trust account for the purchase of immovable property. The respondent made several unauthorised withdrawals from the account and proceeded with the transfer and registration of the property despite lacking the necessary funds. Although he later repaid the money, the court emphasised that repayment does not erase the initial wrongdoing, as the knowing misuse of trust money amounts to theft [15]. Importantly, the court distinguished this case from more severe instances of dishonesty, finding that while the respondent's conduct demonstrated a serious breach of professional standards, it did not establish that his character was irredeemably flawed. Consequently, rather than ordering his removal from the roll, the court imposed a suspension from practice for two years. This decision highlights the court's nuanced approach in balancing the gravity of misconduct against the practitioner's overall fitness to continue in the profession.

## 5. CONCLUSIONS

The Road Accident Fund was created to protect and compensate victims of motor vehicle accidents, upholding South Africa's commitment to social justice. Unfortunately, the unethical conduct of some legal practitioners, particularly the misappropriation of client funds, has significantly undermined this purpose and eroded public confidence in the legal system.

Courts have repeatedly emphasised that attorneys must act with integrity and uphold their fiduciary duties, yet gaps in enforcement under the Legal Practice Act and the LPC's Code of Conduct have allowed misconduct to continue. This not only affects individual claimants but also threatens constitutional rights, including the right to dignity and access to justice.

The following should be considered: effective collaboration between the RAF, LPC, and SIU is critical for detecting, investigating, and deterring fraudulent activity.

Measures such as regular audits of trust accounts, improved transparency, and robust accountability mechanisms are essential to rebuild public trust. Without these interventions, the RAF's ability to fulfil its constitutional mandate and protect vulnerable accident victims remains at risk.

Strengthened legal and institutional safeguards are therefore crucial to ensure justice, uphold professional ethics, and restore confidence in the Road Accident Fund system.

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## ABOUT THIS ARTICLE

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## EVALUACIÓN DE LA ALEGACIÓN DE APROPIACIÓN INDEBIDA DE FONDOS DE COMPENSACIÓN DE CLIENTES POR ABOGADOS DE LESIONES PERSONALES EN SUDÁFRICA: RETIRANDO LOS ARCHIVOS DEL MALETÍN

### RESUMEN

El Fondo de Accidentes de Tránsito (RAF) se creó para brindar protección social e indemnización a las víctimas de accidentes automovilísticos. Sin embargo, su funcionamiento se ha visto cada vez más comprometido por la conducta poco ética de algunos profesionales del derecho. Este documento examina hasta qué punto el RAF cumple con su mandato y las formas en que ciertos abogados han malversado o retenido fondos de compensación de clientes, violando deberes fiduciarios y derechos constitucionales. A través de una investigación doctrinal, se analiza el marco legal que rige los litigios del RAF, incluyendo la Ley del Fondo de Accidentes de Tránsito, la Ley de Práctica Legal, el Reglamento del Consejo de Práctica Legal y las disposiciones constitucionales pertinentes. Se revisa la jurisprudencia clave para ilustrar las respuestas judiciales a la mala conducta profesional. Los hallazgos indican deficiencias significativas en la aplicación y supervisión regulatoria. El estudio concluye proponiendo reformas para fortalecer la rendición de cuentas, mejorar la protección de los demandantes y restablecer la confianza en el papel de la abogacía en asuntos relacionados con el RAF.

Palabras clave: Fondo de Accidentes de Tránsito, mala praxis de los profesionales del derecho, acceso a la justicia, cumplimiento normativo

### 评估南非人身伤害律师涉嫌挪用客户赔偿金的行为：揭开法律的神秘面纱

#### 摘要

道路交通事故基金（RAF）的设立旨在为机动车事故受害者提供社会保障和赔偿。然而，一些法律从业人员的不道德行为日益损害了该基金的运作。本文探讨了道路交通事故基金履行其职责的程度，以及某些律师挪用或扣留客户赔偿金、违反信托义务和宪法权利的方式。通过法理学研究，本文分析了道路交通事故基金诉讼的法律框架，包括《道路交通事故基金法》、《法律执业法》、《法律执业委员会规则》和相关宪法条款。本文还回顾了关键案例，以说明司法机关对职业不当行为的回应。研究表明，监管执法和监督方面存在重大缺陷。该研究最后提出改革建议，旨在加强问责制、提升索赔人保护，并恢复公众对法律界在道路交通事故基金（RAF）事务中所扮演角色的信心。

关键词：道路交通事故基金、法律从业人员不当行为、司法救济、监管执法