

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 196499/2025

- (1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

[REDACTED]

24 November 2025

.....
SIGNATURE

.....
DATE

In the matter between:

SHAW TRANS (PTY) LTD

Applicant

and

DFS NAMIBIA (PTY) LTD

First Respondent

DFS GLOBAL (PTY) LTD

Second Respondent

ITC CREDIT BUREAU (PTY) LTD

Third Respondent

JUDGMENT

LABUSCHAGNE J

- [1] The applicant has approached the urgent court for relief to interdict the first and second respondents from listing the applicant with any registered credit bureau or any third party. This is in respect of an alleged indebtedness, pending final determination of the disputed amount between the parties. An

interdict is further sought to restrain the first and second respondents from publishing any statements that imply that the applicant is indebted to them or is in default of payment.

- [2] The application was triggered by the first and second respondents' threat in a letter of 13 October 2025 to blacklist the applicant should payment of a disputed amount not be received within 72 hours.

THE FACTS

- [3] The parties concluded a contract for the provision of transportation and logistics services. The first and second respondents would transport consignments of products, including for a large pharmacy group, procured by the applicant. When the first and second respondents' (hereafter "the respondents") trucks were delayed at a national border, they imposed a charge for standing time, which the applicant immediately placed in dispute. This dispute arose in February 2025, and since then, the relationship between the parties has soured.
- [4] The first and second respondents claimed payment by means of a notice dated 18 March 2025. The applicant's attorneys undertook to conduct a statement and debatement of the amounts on 24 March 2025 and placed the standing charge in dispute. By 7 May 2025, the applicant had established the amounts it owed and undertook to settle those sums by payments due up to the end of September 2025. The applicant contends that the balance at present comprise of disputed claims, which it intends to institute proceedings, ostensibly for an account and debatement thereof, before a court determines what is due and payable.

URGENCY

- [5] The application was sparked by the threat of blacklisting if the disputed amounts were not settled within 72 hours. During argument, the respondents advanced a contractual entitlement to report the applicant, even as a slow payer, to credit bureaus.

- [6] The clause relied upon falls under a warranty by the applicant. Contrary to what is submitted, the warranty referred to does not create a right in the hands of the respondents to report a delinquent or slow payer to the Regulator. It is a warranty by the applicant as consignor that it will not provide adverse credit information to the respondents about a consumer without giving that consumer 20 days notice and an opportunity to make representations.

- [7] The contractual relationship has soured to the extent that the contract has come to an end. The only business the parties have relates to the final accounting upon termination of the contract.

- [8] The respondents have denied urgency contending that the reporting of a delinquent debtor to a credit bureau does not cause immediate publication of the adverse credit information.

- [9] Further, they contend that internal remedies should first be exhausted before approaching the High Court, relying on **Du Toit v Benay Sager t/a Debt Busters and Others** (Western Cape case number 16226/2017). In that matter, a debtor was under debt review. He approached the court for a declarator that he is no longer over-indebted and no longer under debt review and applied for the credit bureaux to remove his debt review status from his credit reports. The court (per Thulare AJ) dismissed the application, finding that the applicant had to first exhaust his internal remedies in terms of the National Credit Act. This included the challenge to the accuracy of information held by the credit bureaux in terms of section 72(1)(c)(ii) of the National Credit Act, 34 of 2005 ("NCA").

- [10] The court found that the High Court is not the forum of first instance on matters in which both the Tribunal and the Magistrates' Court have jurisdiction. Where access to those tribunals under the NCA is open to an applicant, it is preferable that the intervention of the High Court be deferred until the domestic remedies provided for in the NCA have been exhausted. The High Court would, however, be the appropriate forum if the very complaint is the illegality or the fundamental irregularity of the decision sought to be challenged (**Welkom Village Management Board v Leteno** 1958 (1) SA 490 (A) at 501 C – 593 H, as referred to by the Court at paragraph [28]). This matter falls into the latter category.
- [11] In this matter, the first and second respondents are not registered creditor providers. The contract in question does not fall within the purview of the National Credit Act. The applicant had filled in a document which ostensibly is a credit application for R250 000.00 per month. This would take it outside the purview of the published limits (R15 000-R250 000). The cap relates to a transaction up to R250 000.00. The applicant further contends that its annual turnover exceeds R1 million and, therefore, is not subject to the NCA. The contention that the NCA does not apply to the contract has merit. (See **FirstRand Bank Ltd v Carl Beck Estates (Pty)(Ltd)** 2009 3 SA384(T))
- [12] Undaunted by this, the first and second respondents alleged that there is no need for the respondents to be registered as credit providers. A referral to the Regulator would still be permissible in terms of the provisions of the NCA. If this were intended for consumer protection, that may be so, but an improper motive would negate the referral.
- [13] I am satisfied that the matter is urgent in these circumstances.
- [14] The National Credit Act is aimed at consumer protection. It is a balancing act between the interests of consumers and creditors (see **Kubyana v Standard Bank of South Africa Ltd** 2014 (3) SA56 (CC) at 19-21) and imposes a

structure of oversight consisting of a Regulator¹ and a Tribunal,² and even provides for appeals of Tribunal decisions to the High Court, in respect of credit agreements.³

- [15] When it comes to information provided to credit bureaus, the statute creates an environment in which credit providers may, in certain circumstances, provide information to credit bureaus; however, the latter is obligated to investigate whether the information is correct or not. The creditor is entitled to challenge the veracity of the information, and the Regulator may not publish information so contested before conducting a verification of the information. These obligations appear in sections 70 to 72 of the NCA.
- [16] The contractual relationship between the applicant and the first and second respondents is not characterised as a credit agreement, but as a commercial agreement. The applicant due to its turnover of more than R1 million per annum and the amount involved (in excess of R250 000) are both outside the purview of the NCA.⁴
- [17] A dispute regarding an indebtedness is a matter that the applicant has the right to present to a court of competent jurisdiction for determination. The provisions of the National Credit Act do not empower the Regulator to adjudicate legal disputes as if it were a Court of law. It determines the veracity of information provided to it and on issues arising under the NCA.
- [18] As the facts of this matter differ substantially from those in the **Debt Busters** case, in which the applicant was already within the realm of debt review under the National Credit Act, the first port of call regarding a dispute on liability is not the Regulator in terms of the NCA, but the Court.

¹ Id section 12.

² Id sections 26 & 27.

³ Id section 59(3).

⁴ Id section 4

- [19] The first and second respondents' resistance to having their disputes decided by the Courts but rather resorting to a reporting of the applicant to a credit bureau, is nothing more than the exertion of commercial pressure to try and enforce payment on a disputed claim. The first and second respondents' threat to report the applicant, denying urgency by relying upon the statutory obligations upon a credit bureau to investigate the veracity of information provided to it, and the applicant's right to challenge the veracity of such information before the Regulator under section 72 of the NCA, is improper.
- [20] The mere fact that the first and second respondents wish to report a disputed claim to a credit bureau is indicative of an ulterior motive in doing so. It is not about reporting credit information in the interest of consumers. It is to exert pressure on the applicant to pay a disputed debt.
- [21] The applicant's right in terms of section 34 of the Constitution is to have a dispute, capable of being resolved by the application of the law, determined before a court of competent jurisdiction. The Regulator, in terms of the NCA, is not a court which is capable of resolving a legal dispute on a disputed claim. A disputed claim for payment is a matter to be determined in accordance with the law, rather than through statutory oversight and empowering provisions, which are designed to give effect to the purposes of the National Credit Act, eg to investigate the veracity of credit information.
- [22] On a conspectus of the papers, and having considered the defences, I am satisfied that the applicant has established a case for the interdictory relief. During argument, the applicant indicated that it will not persist with Prayers 3 and 4 of the notice of motion and that the envisaged court proceedings will be instituted within 30 daays.

ORDER

- [23] In the premises, I make the following order:

1. The application is found to be urgent in the context of Rule 6(12) of the Uniform Rules of Court.
2. The first and second respondents are interdicted and restrained from instructing, causing or permitting the listing of the applicant with any registered credit bureau or any third party in respect of the alleged indebtedness, pending the final determination of the dispute between the parties.
3. The applicant is directed to institute court proceedings within 30 (thirty) days of date of this order, to resolve the dispute regarding its alleged indebtedness, failing which this order will lapse.
4. The first and second respondents are ordered, jointly and severally, to pay the costs of the application, such costs to be on Scale B.



LABUSCHAGNE J
JUDGE OF THE HIGH COURT

Appearances

For the Applicant : ADV R ORR

Instructed by : Bailie Janke Snyman Attorneys

For the First and Second Respondents : ADV WC CARSTENS

Instructed by : Van Der Merwe Attorneys