

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number: **044202/2025**

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED: YES/NO
8 January 2026	[Redacted Signature]
DATE	SIGNATURE

In the matter between:

LIMELIGHT ACADEMY INSTITUTION (PTY) LTD

Applicant

and

FIRST NATIONAL BANK OF SOUTH AFRICA

Respondent

In re

LIMELIGHT ACADEMY INSTITUTION (PTY) LTD

First Applicant

KHABO THATSISWE

Second Applicant

and

MAKWENA ROSE MOLELE

First Respondent

FIRST NATIONAL BANK OF SOUTH AFRICA

Second Respondent

JUDGMENT

JANSE VAN NIEUWENHUIZEN J

Introduction

- [1] On 8 April 2025 the court ordered the respondent to immediately remove the hold or block on the Applicant's account. The respondent duly complied with the order until 15 December 2025 when it, once again, placed a hold on the applicant's bank account. Notwithstanding correspondence exchanged between the parties, the respondent refused to uplift the hold.
- [2] In the premises, the applicant brought this urgent application seeking *inter alia* an order that the respondent be held in contempt of the court order dated 8 April 2025. The application is opposed by the respondent.

I pause to mention, that the applicant also seeks an interdict in terms of prayer 5 of the Notice of Motion, prohibiting the respondent from interfering with the applicant's internal business affairs. I indicated from the outset to Mr Simango, counsel for the applicant, that the relief is not urgent and Mr Sibango, to his credit, did not persist with the relief.

Background

- [3] The applicant conducts the business of a registered independent school. The first respondent in the main application, Makwena Rose Molele ("Molele"), was a director of the applicant. On 8 November 2024 and at a shareholders meeting attended by the second applicant in the main application, Thatsiswe Khabo ("Khabo"), the applicant passed two resolutions, to wit; resolution 1: removing Molele as a director of the applicant and resolution 2: removing Molele as a signatory on the applicant's bank account held with the respondent.
- [4] Molele did not take kindly to the resolutions passed by the applicant and a toe and thro in respect of the funds held in the applicant's bank account ensued. On

3 March 2025, Khabo requested the respondent to place a block on the applicant's account. The respondent complied and advised Khabo that she must obtain a court order addressing the dispute between herself and Molele.

[5] This led to the launching of the main application that ultimately resulted in the court order granted on 8 April 2025.

[6] Subsequent to the court order a new mandate was signed appointing Khabo as the signatory to the account and the mandate was forwarded to the respondent. On 14 April 2025 the respondent responded as follows: *"Please be advised that the mandates have been updated and the hold on the account removed."*

[7] Molele maintained that she was unlawfully removed as a director of the applicant and the matter was referred to the Companies Tribunal. On 27 August 2025 the Tribunal held that Molele, due to non-compliance with the provisions of the Companies Act, was unlawfully removed as a director and the Companies and Intellectual Commission was ordered to reinstate Molele as a director.

[8] On 15 November 2025 Molele informed the respondent of the Tribunal's ruling and insisted that she be reinstated as a signatory on the account of the applicant. Subsequent to receiving the aforesaid information, the respondent sent an email to the applicant on 15 December 2025. The email was addressed to Khabo and reads as follows:

"We wish to inform you that the Bank has received an updated CIPC certificate reinstating the appointment of Ms Molele as a director, along with her instruction to be added as an authorised signatory.

In absence of a formally lodged dispute of CIPC records, the bank intends on accepting this instruction as Ms Molele is the current director.

As a precautionary measure, a hold has been placed on the business account until the new mandates have been updated and signed by both directors."

[9] In a further letter dated 18 December 2025 the respondent stated that *"Because directors have fiduciary duties towards the company, the Bank must take their views into consideration."*

[10] The applicant does not agree with the respondent's view and maintains that the respondent is in contempt of the court order dated 8 April 2025.

Points in limine

Urgency

[11] The respondent contends that the applicant knew on 15 December 2025 that the respondent had placed a block on the applicant's account. The application was, furthermore advised on 18, 19 and 23 December 2025 that the hold would remain in place until new mandates are signed by both directors. The applicant has failed to adhere to the respondent's demands and instead launched the urgent application. In view of the aforesaid facts, the urgency in the matter is self-created and the application should be struck from the urgent roll due a lack of urgency.

[12] The applicant issued this application on 18 December 2025, a mere three days after becoming aware of the block. The allegation of self-created is, in the circumstances, ill-conceived. The applicant is a learning institution that need to have access to its bank account in order to function. The matter is patently urgent and I am prepared to hear the matter on an urgent basis.

Rule 7

[13] The respondent served a rule 7 notice on the applicant's attorneys on the basis that the applicant's attorneys have failed to produce a resolution or power of attorney signed by all the directors of the applicant authorising the launching of the contempt of court application.

[14] The applicant's attorneys were duly appointed to represent the applicant in the main application by virtue of a resolution dated 10 March 2025. The resolution authorised the attorneys to "*take all steps necessary to protect the interests of the company*" in the application. The contempt application is a further step in the enforcement of the relief obtained in the main application and I am satisfied that the attorneys acting for the applicant has been duly authorised to act for the applicant herein.

Non-joinder

- [15] The respondent contends that Molele, in her capacity as director of the applicant and due to her request to be reinstated as a signatory on the account of the applicant, has a direct and substantial interest in the relief sought herein and that she should have been joined as a party to the matter. According to the respondent the applicant's failure to join Molele is fatal to the application.
- [16] The applicant does not agree and Mr Simango referred to, *inter alia*, *Gordon v Department of Health, KwaZulu-Natal* 2008 (6) SA 522 (SCA) in which the test as to whether a party should be joined was set out as follows:

[9] The court formulated the approach as, first, to consider whether the third party would have locus standi to claim relief concerning the same subject-matter, and then to examine whether a situation could arise in which, because the third party had not been joined, any order the court might make would not be res judicata against him, entitling him to approach the courts again concerning the same subject-matter and possibly obtain an order irreconcilable with the order made in the first instance. This has been found to mean that if the order or judgement sought cannot be sustained and carried into effect without necessarily prejudicing the interests of a party or parties not joined in the proceedings, then that party or parties have a legal interest in the matter and must be joined."

- [17] The 8 April 2025 order was granted against the respondent and only the respondent can be found in contempt of court for non-compliance with the order. The point *in limine* is dismissed.

Contempt of court

- [18] The requisites for contempt of court is trite, to wit: an order, service or notice of the order, non-compliance, unlawfulness and *mala fides*. Should committal be sought the standard of proof is beyond reasonable doubt whereas a balance of probabilities suffices for civil contempt remedies. [See: *Fakie NO v CCII Systems (Pty) Ltd* 2006 (4) SA 326 (SCA) at par [42]; *Matjhabeng Local Municipality v Eskom Holdings Ltd and Others* 2018 (1) SA 1 (CC)]

[19] In *casu*, the respondent denies non-compliance with the court order dated 8 April 2025 and contends that it immediately uplifted the block on the account after the order was granted. It submits that the new block was necessitated by new developments.

[20] The applicant does not agree. The applicant submits that the respondent placed a block on the account on the previous occasion to assist Molele and that the respondent again *“placed a hold on the same account, once more at the request or instigation of Ms Molele.”*

[21] Mr Langa, counsel for the respondent, submitted that the respondent acted in terms of the contract between itself and the applicant when it placed the recent block on the applicant’s account. Mr Langa referred more specifically to clause 1 of the agreement, that reads *inter alia* as follows:

“1. Authorised Representatives

“Only individual/s appointed by you (Authorised Representatives) may act on your behalf, either as administrators, transactors, users or viewers, or in any other capacity that will allow your Authorised Representatives to make changes to or perform any other action on your customer information profile and/or bank accounts. Your Authorised Representatives may appoint further representatives to act your behalf as either as administrators, transactors, users or viewers, or in any other capacity. The aforesaid representatives will, for purposes of these terms and conditions, be regarded as Authorised Representatives. You must inform us from time to time using the forms or processes we require about which person(s) are authorized to represent you and what authority they will have. You alone are responsible for deciding on and checking the powers given to any of your representatives to determine them as Authorised Representatives, and to determine how we respond to instructions from you Authorised Representatives.

You must give us correct and up to date information about your Authorised Representatives. We require your Authorised Representatives to verify information provided by you, prior to your Authorised Representatives instructing us to make changes or performing any other action for you. Until we

receive all the necessary documents or instructions regarding Authorised Representatives, we will act according to the last recorded instructions you gave us. You are responsible for ensuring that your Authorised Representatives do not give us conflicting instructions. If we receive conflicting instructions from you or any Authorised Representative we can, at our option: a) refuse to carry out any instructions or transactions; or b) act on the instruction of any person who was recorded as a valid administrator or representative of you at the time the instruction was given; or c) place a hold on the account until we receive instructions that are not conflicting.”

[22] It is common cause that the last mandate given by the applicant to the respondent in terms of clause 1 of the agreement, emanates from the court order and was signed by Khabo on or before 14 April 2025. From 14 April 2025 to date Khabo is the only Authorised Representative of the applicant as contemplated in clause 1. In the result, clause 1 does not come into play, because the respondent has not received conflicting instructions from either the applicant or its Authorised Representative. Mr Langa agreed with this proposition but submitted that Molele was unlawfully removed at the time the applicant provided the 14 April 2025 mandate. Molele has subsequently been reinstated by an order of the Tribunal and she has a fiduciary duty to act in the applicant's best interests.

[23] When it was pointed out to Mr Langa that the terms and conditions of the agreement do not create a right for the respondent to place a hold on the account in the prevailing circumstances, Mr Langa submitted that the respondent will be liable for damages if it simply ignores the dispute between the directors of the applicant.

[24] In support of this submission, Mr Langa referred to *FirstRand Bank Ltd v Spar Group Ltd* 2021 (5) SA 511 (SCA). The matter concerns the bank accounts of Umtshingo Trading 30 (Pty) Ltd (Umtshingo) held at another branch of the respondent (FNB). Umtshingo was a franchisee of the Spar Group and when the business ran into difficulties, the parties agreed that Spar would take over the business and run it for its own account. This entailed that all deposits made into the bank account/s of Umtshingo originated from the business conducted by Spar.

[25] Being fully aware of the agreement between the parties, FNB still used the funds in the account to set off money owed to it by Umtshingo and also allowed the controlling mind of Umtshingo, one Mr Paolo, to withdraw funds from the account/s. The Supreme Court of Appeal held that Paolo's conduct in withdrawing funds to which he knew he had no entitlement amounted to theft. The issue then arose whether FNB's conduct in facilitating the theft could give rise to any delictual liability by FNB to Spar. The question was dealt with as follows:

"[73] This issue was determined in Yorkshire Insurance Co Limited, recently affirmed in this court in Breetzke. In Yorkshire Insurance Co Limited, Harris, a professional trustee and liquidator, paid cheques in respect of estates under his administration into his personal bank account and stole the money. A delictual action was brought against the bank. Greenberg J held that Harris, in drawing the cheques for an unauthorised purpose, commenced the process of misappropriation. The bank honoured the cheques, knowing that Harris had no right to draw them. The bank was a party to Harris' unlawful conduct, and hence a joint wrongdoer.

[74] Breetzke concerned a breach of trust. Wallis JA expressed the principle thus:

'Where the execution of a breach of fiduciary duty involves or requires the involvement or participation of a third party, and that third party has knowledge that the transaction in question involves a breach of fiduciary duty, it seems to me clear that the legal convictions of the community demand that the third party share the liability of the person breaching the fiduciary duty. That is not because they owe a similar duty to the injured party, but because by aiding, enabling or facilitating the breach they are themselves equally responsible for the injury caused to, or loss suffered by, the injured party.'

[75] Although Mr Paolo's disbursements from the accounts were not a breach of fiduciary duty, they were plainly wrongful. The Bank enabled Mr Paolo's conduct by allowing him to operate the accounts, well knowing that Umtshingo had no claim to the credits reflected in the accounts. Indeed, the bank had assured Spar

that the Bank had frozen the one account of which Spar had knowledge. The Bank was a joint wrongdoer owing a legal duty to Spar.”

[26] Whether the facts in *casu* fall within the principle emanating from the *Spar* matter is not an issue to be decided at this stage. What is, however, clear is that the factual matrix informing the first blocking order differs from the factual matrix informing the present blocking order. The court ordered the respondent on 8 April 2025 to “immediately remove **the** hold or block on the First Applicant’s account.” Does this order prevent the respondent from placing a new block on the account in future in changed circumstances? I do not believe it does for two reasons; one, the order refers to the block that was on account at the time and two, a court would be hesitant to prohibit future conduct that was not contemplated at the time that the order was granted.

[27] I want to emphasise that I am not at this stage making any ruling on the validity of the respondent’s most recent conduct. Its conduct is better left to be adjudicated at the appropriate time and in circumstances where Molele is a party to the litigation.

Conclusion

[28] The applicant did not succeed in proving on a balance of probabilities that the respondent’s conduct in placing a new block on the account is in contempt of the court order dated 8 April 2025. The application stands to be dismissed with costs to follow the result. The issues are of sufficient complexity to justify counsel’s fees on scale C.

Order

The application is dismissed with costs. Counsel’s fees on scale C.



JANSE VAN NIEUWENHUIZEN
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION

DATE HEARD:

6 April 2026

DATE DELIVERED:

8 January 2026

On behalf of the applicant: Adv Simango

Instructed by : Memela KS Inc

On behalf of the respondent: Adv.Langa

Instructed by : Cliffe Dekker Hofmeyer Inc

