IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02624ADJ2026**

In the matter between:

MDUDUZI MABASA	Applicant
and	
STEPHENS MABASA	First Respondent
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Second Respondent

Presiding member: Richard Bradstreet

Date of decision: 5 May 2026

DECISION (Reasons and Order)

---

1. This is an application brought before the Companies Tribunal in terms of section 71(8) of the Companies Act 71 of 2008 ("**the Act**"), in which the Applicant, Mr Treversent Mduduzi Mabasa, seeks the removal of Mr Stephens Mnyameni Mabasa as a director of Nurturing Transformation (Pty) Ltd (registration number 2015/054138/07) ("the Company").

2. The application is made on Form CTR142 dated 2 March 2026, completed by hand, and supported by a hand-written affidavit deposed to before a commissioner of oaths at Pretoria Central on the same date. A subsequent Form CTR145 was filed on 13 April 2026. Attached to the papers are an Amended Registration Certificate issued by the Companies and Intellectual Property Commission ("**CIPC**") on 27 November 2024, a copy of the Applicant's identity card, a memorandum from the Adelaide Tambo Clinic dated 23 July 2025, a SARS Statement of Account for administrative penalties, and a SARS Final Demand letter dated 22 January 2026.

3. The Tribunal must determine whether the Applicant has made out a case for the removal of the First Respondent on the grounds set out in section 71(3) of the Act. No hearing was held; the matter falls to be decided on the papers, and by default, the First Respondent not having filed any opposing papers.

BACKGROUND

4. The Company is a private company that was originally incorporated on 19 February 2015 under the name Last Option Business Enterprise Services (Pty) Ltd. Its name was changed to Nurturing Transformation (Pty) Ltd with effect from 27 November 2024. Its registered and postal address is 2[…] M[…] X3, Mamelodi East, Pretoria, 0122 – the same address recorded as the Applicant's residential address.

5. It is clear from the papers that the Company has only two directors, namely the Applicant and the First Respondent. This is borne out by the Amended Registration Certificate at, which records the following:

5.1. Mr Treversent Mduduzi Mabasa was appointed a director on 19 February 2015 – i.e. on the date the Company was incorporated; and

5.2. Mr Stephens Mnyameni Mabasa was appointed a director on 7 October 2024 – some nine and a half years after the Company was first incorporated.

6. This chronology of events is of relevance for present purposes. The Disclosure Certificate dated 1 December 2022 confirms that, prior to the First Respondent's appointment in October 2024, the Applicant was the sole active director of what was then still Last Option Business Enterprise Services (Pty) Ltd.

7. The substantive complaint against the First Respondent, as set out in the CTR142 is that he is "not compliant with the company policy as a director to pay the amounts of the company depts as it is due at SARS" (*sic*). On the affidavit filed therewith: "not compliant with the company policy of filing amount that is due from SARS" (*sic*). The handwriting is not always clear, but similarly, on the affidavit accompanying the CTR145 for default judgment, the ground for removal is described as being "due to policy of filing unual-returns of the company from SARS" (*sic*).

8. The relief sought in the Form CTR145 is described as deregistering a non-compliant director in terms of section 180 to 184 "Act 7 Part D". The Applicant says he served the First Respondent with the application on 27 February 2026 – a few days before filing the Form CTR 142 on 2 March 2026. No proof of service is on the file, no statement of reasons of the kind required by section 71(4)(*a*) was prepared, and it may seem that no opportunity was afforded to the First Respondent to make a presentation prior to the filing of this application.

The First Respondent has not filed an answer; nor, however, is there anything on the papers to indicate that he was given proper notice in terms which would have permitted him to do so.

9. It bears emphasis that the relief sought – although described in the Form CTR 145 as "deregistering" a director – is, properly understood, the removal of a director from office. The Applicant's reference to "section 180 to 184 Act 7 Part D" is, with respect, not the appropriate statutory basis for the relief sought; the correct basis is section 71(8) of the Act, read with section 71(3). In the interests of substance over form, and given the lay nature of the application, I have approached the matter as if it were properly framed.

LEGAL FRAMEWORK

10. Section 71(1) of the Act provides that a director of a company may be removed by an ordinary resolution of the shareholders. Section 71(3), in turn, permits the board of directors to remove a director where it is alleged that the director has – (*a*) become ineligible or disqualified in terms of section 69, other than on the grounds contemplated in section 69(8)(*a*); (*b*) become incapacitated to the extent that the director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time; or (*c*) neglected, or been derelict in the performance of, the functions of director.

11. Section 71(3) only applies where the company has more than two directors. Where, as here, the Company has fewer than three directors, section 71(8)(*b*) provides that any director or shareholder may apply to the Tribunal to make the determination contemplated in section 71(3) – with section 71(4), (5) and (6) applying, with the changes required by the context, to that determination. The

Tribunal's power to remove a director under section 71(8) is therefore equivalent in scope to that of the board under section 71(3); the grounds available are the same, and the procedural protections must equally be observed.

12. Of particular relevance for present purposes is section 71(4), which requires that, before a resolution to remove a director may be considered, the director concerned must be given – (*a*) notice of the meeting, including a copy of the proposed resolution and a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the director to prepare and present a response; and (*b*) a reasonable opportunity to make a presentation, in person or through a representative, to the meeting before the resolution is put to a vote.

13. In *Pretorius and Another v PB Meat (Pty) Ltd and Another* (1057/2013) [2017] ZAWCHC 104 (14 June 2017) at para 10, the court held that the phrase "sufficient specificity" means "sufficiently detailed reasons to mount a response" to the case for proposed removal. The same procedural protections apply, *mutatis mutandis*, where the determination is made by the Tribunal under section 71(8) (see also *Steenkamp and Another v Central Energy Fund Soc Ltd and Others* 2018 (1) SA 311 (WCC)).

14. On the merits, the Applicant bears the onus of establishing, on a balance of probabilities, that the First Respondent has neglected, or been derelict in the performance of, his duties as a director, in the sense contemplated by section 71(3)(*b*). This onus is not discharged by the bare assertion that returns or amounts due to SARS have not been filed or paid; the Applicant must place evidence before the Tribunal which connects the alleged dereliction to the conduct of the First Respondent in his capacity as director, and which is of such a character as to justify the serious step of removal.

DISCUSSION / ANALYSIS

Procedural concerns

15. Before turning to the substance of the allegations, two procedural concerns arise from the application papers themselves which must be addressed.

16. The first is the question of notice and an opportunity to be heard. As set out above, section 71(4) (as it applies to a Tribunal determination by virtue of section 71(8)(*c*)) requires that, before the Tribunal may consider whether to remove the First Respondent, the First Respondent must be furnished with notice of the application, a copy of the proposed resolution or order sought, and "a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the director to prepare and present a response".

17. The Applicant's affidavit records that he "had managed to serve [the First Respondent] with the forms on the date of [27 February 2026] for director deregistration due to non-compliance with the Company policies". No return of service or other corroborating proof is annexed. More fundamentally, even taking that statement at face value, what was served was the application form itself. It is doubtful whether the application papers, as they stand, satisfy the "sufficient specificity" requirement: the reasons given are no more than the assertion that the First Respondent is "not compliant with the company policy" in respect of unspecified "unual returns" and unspecified "amounts due" to SARS. The First Respondent is not told which returns, for which periods, on what dates were due, or what conduct on his part is alleged to have caused or contributed to the alleged non-compliance.

18. The second procedural concern is the absence of any indication that the First Respondent was given a reasonable opportunity to make a presentation before the Tribunal's determination, as section 71(4)(*b*) requires. The application proceeds straight from purported service to a request for a determination on the papers. In an application of this gravity – the removal of a director from office is a serious matter, with potentially significant personal and financial consequences for the director concerned – the procedural protections in section 71(4) are not optional formalities; they go to the fairness of the process.

19. Either of these procedural shortcomings would, on its own, ordinarily warrant the postponement or dismissal of an application of this kind. As will be clear from what follows below, however, even if the procedural defects were cured, the application could not succeed on its merits.

The substantive complaint

20. The complaint against the First Respondent, distilled from the Forms CTR 142 and CTR 145 and the supporting affidavits, is twofold: (a) that the First Respondent has not complied with "the Company police of filing unual returns" from SARS; and (b) that the First Respondent has not paid "the amounts of the Company depts as it is due also SARS".

21. The only documentary evidence which speaks at all to these allegations is a SARS Statement of Account for administrative penalties dated 2 March 2026 and a SARS Final Demand letter dated 22 January 2026. These documents must be considered with care.

22. The Statement of Account sets out the transactional history of administrative penalties imposed in respect of "Outstanding ITS Returns" for the 2019 and

2020 tax years. The earliest entries are dated 3 June 2021 (recording "ITS Outstanding Returns 2019" and "ITS Outstanding Returns 2020" in the amount of R250 each). Recurring monthly penalties of R250 per outstanding return then accrue from 30 June 2021 through to 30 November 2022, adding up to a balance of R9 500. Two reversals of R250 each are reflected on 29 September 2023, reducing the balance to R9 000. The closing balance reflected at the top of page 8 is R500. The Final Demand at page 9 confirms that the "overdue amount" as at 22 January 2026 is R500.

23. There are two things worth noting about this evidence:

23.1. First, the entirety of the conduct underlying the SARS penalties – the failure to file the 2019 and 2020 ITS Returns – occurred well before the First Respondent's appointment as a director on 7 October 2024. Indeed, the last recurring penalty entry is dated 30 November 2022, almost two years before the First Respondent became a director of the Company. During the entire period in respect of which SARS imposed the penalties now relied upon, the Applicant was the sole active director of the Company. It is thus impossible for the First Respondent to have caused, or even contributed to, the non-filing of the returns which gave rise to the impugned SARS liability.

23.2. Second, the outstanding amount currently said to be owing to SARS is R500. That figure is plainly disproportionate to the relief now sought – namely the removal of a director from office. Even if a small administrative penalty of this nature could ever found removal under section 71(3)(*b*), it could surely not be in respect of a penalty that accrued before the impugned director was even appointed.

24. There is no other documentary evidence on the file. No annual returns are produced; no notices of non-compliance are produced; no minutes of board meetings, no correspondence between the directors, no banking records, no resolutions, and no description of any specific request that the First Respondent has refused or failed to act upon. The Applicant does not say what he himself has done in his capacity as a director (and as the longer-serving of the two) to bring the Company's SARS affairs in order, nor what assistance he has sought from the First Respondent and on what occasions. There is no allegation, much less evidence, of any meeting at which the First Respondent has refused to engage, any document he has refused to sign, or any decision he has refused to take.

25. Although the Applicant alleges that the First Respondent is "not Compliant", he produces no evidence of any specific act or omission on the part of the First Respondent, in his capacity as a director, which could be characterised as neglect or dereliction within the meaning of section 71(3)(*b*) of the Act.

26. For all the reasons set out above, on a conspectus of the papers, the Applicant has not made out a case for the removal of the First Respondent in terms of section 71(8) read with section 71(3) of the Act.

27. Nothing in this decision, however, precludes the Applicant from bringing a fresh application, properly supported, should there be evidence of conduct on the part of the First Respondent that meets the requirements of section 71(3)(*b*). Equally, the parties may wish to consider whether the underlying difficulties between them are better addressed through proper governance processes than through litigation of this kind.

ORDER

28. Accordingly, it is ordered that:

    (a) The application for the removal of Mr Stephens Mnyameni Mabasa as a director of Nurturing Transformation (Pty) Ltd (registration number 2015/054138/07) is dismissed.

    (b) There is no order as to costs.

Richard Bradstreet
Member of the Companies Tribunal

5 May 2026