



**THE ELECTORAL COURT OF SOUTH AFRICA,
BLOEMFONTEIN**

Not Reportable

CASE NO: 002/25EC

In the matter between:

**ELECTORAL COMMISSION OF SOUTH AFRICA
CHIEF ELECTORAL OFFICER**

First Applicant

Second Applicant

and

THE GOOD PARTY

First Respondent

BRETT NORTON HERRON

Second Respondent

KAIROS COMMUNICATIONS (PTY) LTD

Third Respondent

INCORP GLOBAL INVESTMENTS (PTY) LTD

Fourth Respondent

INCORP TRADE AND INVESTMENTS CC

Fifth Respondent

ASHWIN GOVENDER

Sixth Respondent

SARAVAN DEVARAJ GOVENDER

Seventh Respondent

ELECTROX PROPERTIES (PTY) LTD

Eighth Respondent

ELIAS PHATUDI MAPONYA

Ninth Respondent

Neutral Citation: *Electoral Commission of SA and Another v The Good Party and Others* (002/25EC) [2026] ZAEC 03 (26 August 2026)

Coram: ADAMS J, STEYN AJ and PROFESSOR PHOOKO (Additional Member)

Heard: Decided in Chambers on the papers.

Delivered: 26 August 2026 – This judgment was handed down electronically by circulation to the parties' representatives *via* email, by publication on the website of the Supreme Court of Appeal and by release to SAFLII.

The date and time for hand-down is deemed to be 14:00 on 26 August 2026.

Summary: The Political Funding Act 6 of 2018 (Funding Act) – ss 9 and 12, read with Regulations 7, 8 and 10 of the Regulations regarding the Funding of Political Parties issued in terms of s 24(2) of the Funding Act – whether the respondents have complied with their obligations in terms of s 9 and s 12, read with reg 10, of the Funding Act to account for their income – the circumstances under which the Electoral Commission may approach this Court for an order imposing administrative penalties on the respondents – whether a proper case is made out for this Court to impose administrative penalties on the respondents as prayed for by the applicants – Application succeeds – declaratory orders granted against respondents – administrative penalties imposed as envisaged by s 18 – No order as to costs.

ORDER

- (1) It be and is hereby declared that the first, second and eighth respondents failed to comply with their respective obligations in terms of sections 9 and 12 of the Political Funding Act, Act 6 of 2018 ('Funding Act'), read with Regulations 7, 8 and 10 of the Regulations regarding the Funding of Political Parties issued in terms of Section 24(2) of the Funding Act.
- (2) The first respondent shall pay to the first applicant an administrative penalty, as contemplated in section 18 of the Funding Act, read with schedule 1 thereof, in the amount of R50 000 for contravening section 9 of the Funding Act.
- (3) The first and the second respondents, jointly and severally, the one paying the other to be absolved, shall pay to the first applicant an administrative penalty in the amount of R40 000 for having contravened section 12 of the Funding Act.
- (4) The eighth respondent shall pay to the first applicant an administrative penalty in the amount of R40 000 for having contravened section 12 of the Funding Act.
- (5) Each party to pay its own costs.

JUDGMENT

Adams J (Steyn AJ and Professor Phooko (Additional Member) concurring):

[1] In the run-up to the 2021 Municipal Elections, which was scheduled to be held on 1 November 2021, the first respondent (Good Party) during August and September of that year purchased T-shirts and other party-political marketing material from the third respondent (Kairos Communications) at a total cost of R1 972 365. On 22 September 2021, an amount of R900 000 was paid to Kairos Communications by the eighth respondent (Electrox Properties), apparently as a donor, on behalf of the Good Party. This donation of R900 000 was not disclosed by the Good Party to the first applicant (Electoral Commission), nor did it reflect in the

annual financial statements of the Good Party for the relevant financial period. The Good Party simply did not account for this gratuitous donation to it from Electrox Properties.

[2] This, so the Electoral Commission avers, is unlawful in that it contravenes certain provisions of the Political Funding Act 6 of 2018 (Funding Act), read with the Regulations regarding the Funding of Political Parties, Independent Representatives and Independent Candidates issued in terms of s 24(2) of the said Act (the Regulations). The Electoral Commission accordingly applies for declaratory orders in terms of these legislative provisions and also asks that the offending parties be penalised and that penalties be imposed on them in terms of the said regulations.

[3] In the alternative, and in the event of the Court finding that the donation of the R900 000 was in fact not made by Electrox Properties, then the Electoral Commission prays for the orders to be granted against the third, fourth and fifth respondents – which are all related entities – on the basis that the goods, which were supposed to be sold by these entities to the Good Party, were in fact donated to it in contravention of the Funding Act.

[4] As already indicated, the first applicant is the Electoral Commission of South Africa, and the second applicant is its Chief Electoral Officer.

[5] The first respondent is the Good Party, a political party registered as such with the Electoral Commission in terms of the Electoral Commission Act, and the second respondent (Mr Herron) is its accounting officer as defined in the Funding Act. He is also the secretary-general of the Good Party and, in his capacity as the Good Party's reporting officer, is the person responsible for reporting donations to the Electoral Commission in terms of the Funding Act.

[6] The third, fourth, fifth, sixth and seventh respondents are all related individuals and entities. These natural and legal persons are related in that the corporations have the same shareholders and directors and the individuals are either directors or shareholders in some or all of the legal entities. Importantly, the seventh respondent (Mr Govender) is, by all accounts, the controlling mind behind the third, fourth and

fifth respondents. All of these respondents were collectively referred to from time to time as the 'Govender respondents' and I shall do likewise. These respondents are implicated in this matter in that they collectively or individually are alleged to have sold and supplied to the Good Party the t-shirts and other party regalia. The third respondent (Kairos Communications), in particular, is the company which is alleged to have invoiced the Good Party and which received the impugned R900 000.

[7] The eighth respondent (Electrox Properties) is implicated in the matter as the company that made the payment of the R900 000 to the Good Party, and the ninth respondent (Mr Maponya) is a director of the said company. Mr Maponya is also the duly authorised representative of Electrox Properties for purposes of reporting reportable donations made by it to political parties as contemplated in reg 8 of the Regulations.

[8] The respondents implicated in the unlawful conduct – notably the Good Party, the second respondent (Mr Herron), who is the accounting officer of the Good Party, and Electrox Properties – all deny that there was an undisclosed donation complained of by the Electoral Commission. The issue to be decided is therefore a very limited factual dispute between the parties as to whether R900 000 was in fact paid on behalf of the Good Party and who in fact made that payment. There is, in that regard, no dispute about the fact that there was no disclosure of the donation. Put another way, the question to be considered by this Court is this: Which one of the two versions, relative to the payment of R900 000 by Electrox Properties to Kairos Communications on behalf of the Good Party, is to be accepted – that of the applicants, on the one hand, or that of the respondents, on the other hand.

[9] That issue is to be decided on the basis of the evidence before the Court, to which I shall return in due course. Suffice to say, at this stage, that in the context of this opposed application the principle in *Plascon Evans*¹ finds application, which

¹ *Plascon-Evans Paints (TVL) Ltd v Van Riebeeck Paints (Pty) Ltd* [1984] ZASCA 51; [1984] 2 All SA 366 (A); 1984 (3) SA 623; 1984 (3) SA 620 at 634 and 635 held as follows: -

'It is correct that, where in proceedings on notice of motion disputes of fact have arisen on the affidavits, a final order, whether it be an interdict or some other form of relief, may be granted if those facts averred in the applicant's affidavits which have been admitted by the respondent, together with the facts alleged by the respondent, justify such an order. The power of the Court to give such final

requires of us to accept the version of the respondents unless it is so far-fetched and untenable that this Court can reject it out of hand. Put differently, the version of the respondents on the facts cannot and should not be rejected by this Court out of hand, unless it is so patently implausible and far-fetched to be rejected on the papers.

[10] A convenient starting point for a discussion of the issues in the matter is, in my view, a reference to the relevant legislative provisions, which would also place in context the dispute to be adjudicated.

[11] The relevant provisions of the Funding Act read as follows: -

‘9 Disclosure of donations to political parties, independent candidates and independent representatives

- (1) A political party, independent representative or independent candidate must disclose to the Commission all donations received –
 - (a) above the prescribed threshold; [R250 000 (GN R275 in GG 53182 of 18 August 2025) and
 - (b) in the prescribed form and manner.
- (2) A juristic person or entity that makes a donation to a political party, independent representative or independent candidate above the threshold prescribed in terms of subsection (1) (a) must disclose that donation to the Commission in the prescribed form and manner.
- (3) The Commission must publish the donations disclosed to it in terms of subsections (1) and (2) –
 - (a) on a quarterly basis; and
 - (b) in the prescribed form and manner.
- (4)

...

11 Political party, independent representative and independent candidate to furnish information to Commission

In order for the Commission to monitor compliance with this Act, a political party, independent representative and independent candidate must, at the prescribed

relief on the papers before it is, however, not confined to such a situation. In certain instances the denial by respondent of a fact alleged by the applicant may not be such as to raise a real, genuine or bona fide dispute of fact Moreover, there may be exceptions to this general rule, as, for example, where the allegations or denials of the respondent are so far-fetched or clearly untenable that the Court is justified in rejecting them merely on the papers ...’

times, furnish the Commission with any information and documentation that is prescribed, or required in terms of a direction issued under section 15.

12 Political party to account for income

- (1) A political party must –
 - (a) deposit all donations received by that political party, membership fees and levies imposed by the political party on its representatives into an account with a bank registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990), in that political party's name;
 - (b) keep a separate account with a bank registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990), into which all money allocated to it from the Funds must be deposited;
 - (c) appoint an office-bearer or official of that political party as its accounting officer; and
 - (d) if it is represented in the National Assembly or a provincial legislature, appoint an auditor registered and practising as such in terms of the Auditing Professions Act, 2005 (Act 26 of 2005), to audit its books and financial statements.
- (2) The accounting officer contemplated in subsection (1) (c) must –
 - (a) account for all income received by the political party;
 - ...
 - (d) within the prescribed period—
 - ...
 - (ii) prepare a statement showing all donations and membership fees, and any levy imposed by the political party on its elected representatives during that financial year.
 - ...

[12] The foregoing provisions are relevant to this matter and the issues implicated herein. There are also other important provisions of the Funding Act, such as s 1, in which a donation is defined as including a donation in kind. A donation in kind is in turn defined to mean, amongst others: (a) any money lent to a political party, independent representative or independent candidate other than on commercial terms; (b) any money paid on behalf of the political party for any expenses incurred directly or indirectly by that political party; (c) the provision of assets, services or facilities for the use or benefit of a political party other than on commercial terms; and (d) a sponsorship provided to a political party, independent representative or independent candidate.

[13] Section 9(1) of the Funding Act, as mentioned above, read with reg 7 of the Regulations, requires political parties (and their accounting officers) to disclose to the Electoral Commission all donations received above the prescribed threshold and in the prescribed form and manner. In terms of reg 7(2), the Electoral Commission must keep a record of the disclosures made in terms of this regulation and make them publicly available in accordance with reg 9. Importantly, s 9(2) of the Funding Act, read with reg 8, requires a juristic person or entity making a donation (and their duly authorised representatives) to disclose to the Electoral Commission the donation made.

[14] Section 11 imposes general disclosure obligations on political parties. And s 12, read with reg 10, requires political parties to keep proper books of account. It requires the accounting officer of a political party, inter alia: (a) to account for all income received by the political party; and (b) to prepare a statement showing all donations made in a fiscal year and to have the statements audited by an auditor registered and practising in terms of the Auditing Professionals Act 26 of 2005.

[15] Section 18 of the Funding Act empowers the Electoral Commission to institute proceedings to request the imposition of an administrative fine in respect of any contravention of any provision of the said Act. It also empowers this Court to impose an administrative fine in accordance with Schedule 1 in respect of a contravention or repeated contravention of the Funding Act.

[16] That brings me back to the facts of the matter.

[17] The Electoral Commission's case is that the Good Party secured a donation of R900 000.00 from Electrox Properties towards the purchase price of the campaign material. Electrox Properties paid the impugned donation into the bank account of the fourth respondent (Incorp Trade and Investment CC) rather than directly to Kairos Communications. However, immediately upon receipt of the impugned donation by Incorp Trade, Kairos Communications acknowledged the impugned donation as received by it (Kairos Communications) and credited it against the purchase price for the campaign material.

[18] The fulcrum of the Electoral Commission's case is that the Good Party bought t-shirts and other campaign material worth R900 000 from Kairos Communications. The donated t-shirts were delivered to and used by the Good Party, as evidenced by unchallenged and uncontested documentary and photographic evidence. Kairos Communications issued an invoice to the Good Party for payment of the donated t-shirts. The Good Party did not itself pay this invoice, but it was paid on its behalf by Electrox Properties.

[19] The foregoing is evidenced by a detailed investigation report by specialist investigators appointed by the Electoral Commission, which corroborated the evidence of a Mr August, a former member of the Good Party, who, after he left the party under somewhat acrimonious circumstances, blew the whistle on the fact that the Good Party failed to discharge its obligations in terms of the Funding Act in that they did not disclose to the Electoral Commission the R900 000 donation they received from Electrox Properties. Mr August was also the official at the Good Party, who, at the relevant time, was the person responsible for negotiating the procurement of the t-shirts and who was directly responsible for securing the donation. Importantly, his unequivocal assertion that the R900 000 was not paid by the Good Party, but by a sponsor, was not seriously challenged by the party in their answering affidavit in this application.

[20] Moreover, the payment of the R900 000 is confirmed by the invoice from Kairos Communications. In that regard, the evidence indicates that Electrox Properties paid R900 000 to Incorp Trade and Investment, but the paperwork recorded that the said sum was received by Kairos Communications. This, in my view, can safely be interpreted as Electrox Properties having made payment to Kairos Communications of the R900 000 on behalf of the Good Party.

[21] What is more, the denial by Electrox Properties of this payment to Kairos on behalf of the Good Party rings hollow. The explanation by Electrox Properties that the payment was in respect of 'a commercial transaction', the nature of which it has chosen not to disclose, is so far-fetched that it can be rejected out of hand if regard is had to the evidence as a whole. Importantly, the payment of R900 000 followed

enquiries by Mr Govender to Mr August, during their written communications, as to when the payment would be made for the t-shirts. When the payment was made, Mr Govender also acknowledged receipt and confirmed same with Mr August. That, for me, puts paid to the version of the Good Party.

[22] It is so, as contended on behalf of the Electoral Commission, that there is no genuine denial of the allegation that the payment made by Electrox Properties to Incorp Trade was for the donated t-shirts – so this must be accepted as correct. The payment was a donation. Electrox Properties ought to have reported the donation in terms of the Funding Act. It did not do so, in contravention of s 9(2) of the said Act, read with reg 8 of the Regulations, and it must thus be fined.

[23] From the foregoing, it follows that the donated t-shirts were paid for by Electrox Properties on behalf of Good Party. This means that the Good Party received them as a donation (absent proof of payment or credit agreement) and it, together with Mr Herron, being the Good Party's accounting officer, ought to have reported the donation in terms of the Funding Act. They did not do so, in contravention of ss 9 and 12 of the said Act, read with reg 7 and 10, and their conduct must thus be declared as such, and they must be fined.

[24] It bears emphasising that the denials by the Good Party, Mr Herron, the Govender respondents, and Electrox Properties that there was a donation of R900 000 made to the party can and should be rejected out of hand. Such denial is far-fetched and untenable if regard is had to all of the facts in the matter, in particular those set out in the paragraphs which follow.

[25] On 12 June 2023, Mr August lodged a complaint with the Electoral Commission alleging that the Good Party received a donation for its campaign material, which it failed to report to the Electoral Commission and thus contravened the Funding Act. Whilst he was at the Good Party, Mr August was a high-ranking member. In fulfilment of its obligation in terms of s 14 of the Funding Act, the Electoral Commission investigated the complaint. It did so by appointing a team of experienced independent investigators who investigated the complaint and produced a

comprehensive report for the Electoral Commission. The report has been made available to all the parties who asked for it and has been filed in Court under a confidentiality regime, considering that it contains confidential issues.

[26] The investigation conducted by the Electoral Commission revealed that during September 2021, the Good Party required t-shirts and other marketing material in preparation for the 2021 Local Government Elections. These were sourced from Kairos Communications. The Good Party secured a donation of R900 000 from Electrox Properties towards the purchase of the donated t-shirts. Put differently, Electrox Properties bought the donated t-shirts from Kairos and donated them to the Good Party.

[27] Electrox Properties paid R900 000 to Incorp Trade (Kairos' sister company). This payment was acknowledged as received by Kairos (although paid to its sister company) and credited by Kairos towards the purchase price for the donated t-shirts. The simple point of this matter is that the Good Party received the donated t-shirts, which it did not itself pay for (in cash or via credit), and used them for its benefit leading up to the 2021 Local Government elections.

[28] Therefore, on the basis of the complaint by Mr August and the subsequent investigations on behalf of the Electoral Commission, it can safely be concluded that factually Electrox Properties paid to Kairos Communications an amount of R900 000 on behalf of the Good Party for t-shirts sold and delivered to the said Party.

[29] The foregoing is to be contrasted with the version of the Good Party, who also contend that the donation was between Mr August and Mr Govender only. This is clearly an attempt by the Good Party to disown Mr August and to suggest that he acted on a frolic of his own. This is, however, not possible considering the Good Party's own contention that Mr August was one of its high-ranking members, responsible for the purchase of campaign material. His relevant actions were those of the Good Party and were indeed approved by the Good Party when it received and used the donated t-shirts. Moreover, this version of the Good Party falls flat because

Mr Herron himself was copied in most of the correspondence relating to the payment of R900 000 and the donated t-shirts.

[30] The same applies to the Good Party's contention that the investigation report unjustifiably rejected Electrox Properties' version that the payment of R900 000 was for tiles, supposedly ordered by them for use on a project in the Eastern Cape somewhere. This version can and should be rejected out of hand for the simple reason that it flies in the face of the other facts in the matter, notably the invoice from Kairos Communications to the Good Party during September 2021. Moreover, in an attempt to give credence to their story, Electrox Properties produced proof of purchase relating to related material acquired many months after the payment of the R900 000.

[31] Furthermore, as contended on behalf of the Good Party, what is conspicuously missing from the Good Party's affidavits is an explanation of how it paid for the t-shirts worth R900 000.00 it received from Kairos Communications and proof of such payment.

[32] This means that, applying *Plascon Evans*, the applicants' version should be accepted, and that of the Good Party and the other respondents rejected as far-fetched and untenable.

[33] All of the foregoing translate into a finding that the following persons contravened the Funding Act and the Regulations, by failing to report to the Electoral Commission the donation: (a) the Good Party – as the party that received the donated t-shirts; (b) Mr Herron – as the accounting officer of the Good Party specifically obliged or mandated by the Funding Act to report the donation to the Electoral Commission; and (c) Electrox Properties – as the party that made the donation.

[34] As regards the administrative penalties to be imposed, the relief sought by the Electoral Commission requires this Court to exercise a discretion. In exercising its discretion, the Court must do so judiciously, considering all relevant factors. This Court has explained its discretion in *Electoral Commission of South Africa and*

Another v African Independent Congress and Others (African Independent Congress) ² as follows:

‘As with any discretion, this Court’s discretion must be exercised judiciously considering all the relevant factors. When exercising its discretion to impose administrative penalties, this Court should be guided by the need to give effect to the purpose and objective of the Funding Act and to prevent future incidents of non-compliance. Therefore, this Court should promote the interest of justice when exercising its discretion.

The Funding Act was enacted to safeguard political rights ... It is important that non-compliant political parties are dealt with firmly, to buttress the importance of meeting their statutory obligations. Otherwise, political parties may continue ignoring their s12 obligations with impunity, thus undermining the very important objectives of the Funding Act, to the peril of South Africa’s constitutional democracy.’³

[35] The Good Party contends that the fines sought by the Electoral Commission are the maximum fines sought without any proper application of its mind by the Electoral Commission. The Electoral Commission, on the other hand, points out that it properly applied its mind. It also draws attention to the fact that they incurred substantial costs in investigating the matter, and the respondents still deny contravention of the Funding Act. This is not a minor case where respondents may have overlooked their obligations and unwittingly contravened the Act. According to the investigation report, it appears that there was a deliberate attempt to conceal the donation. I agree that this is material.

[36] As was pointed out by this Court in *African Independent Congress* in relation to the importance of the Funding Act provisions contravened by the respondents:

‘Since funders of political parties may influence party policies and decisions, these requirements empower voters to make an informed decision when voting by ensuring access to information regarding persons and entities who fund the party, they intend voting for. These requirements are also aimed at preventing corruption as funders of political parties

² *Electoral Commission of South Africa and Another v African Independent Congress and Others* 2024 JDR 1863 (EC).

³ *Ibid* paras 56-57.

may exert pressure on political parties to act in their private interests once elected to public office.⁴

[37] In relation to the Good Party, this Court pointed out in *African Independent Congress* that:

‘Non-compliance by registered political parties is aggravating because these parties receive funding under the Funding Act. . .they are in a position to carry the disbursements that are necessary to comply with the Funding Act, even if their only funding is that received under the Funding Act as well as membership fees. . .’⁵

[38] In my view, after weighing up all the relevant factors in the matter, including the requirement that a strong message must be sent out to role players in the electoral justice system that there should be transparency, the penalties to be imposed should range between R40 000 and R50 000.

[39] For all of these reasons, the Electoral Commission’s application, as against the Good Party, Mr Herron and Electrox Properties, should succeed. In light of my findings that the payment was made by Electrox Properties on behalf of the Good Party, the alternative relief, directed mainly at the Govender respondents, falls away.

Costs

[40] The award of costs is a matter which is within the discretion of the Court considering the issue of costs. This discretion must be exercised judicially, having regard to all the relevant considerations. One such consideration is the principle, in line with *Biowatch Trust v Registrar, Genetic Resources, and Others*,⁶ that in general in this Court, an unsuccessful party ought not to be ordered to pay costs. But this is not an inflexible rule, and it can be departed from where there are strong reasons

⁴ Ibid para 1.

⁵ Ibid para 66.

⁶ As per the *ratio* in *Biowatch Trust v Registrar Genetic Resources and Others* [2009] ZACC 14; 2009 (6) SA 232 (CC); 2009 (10) BCLR 1014 (CC), in which it was held that private parties that lost in constitutional litigation against the State should not as a rule be mulcted in costs. This means that when a private party sought to assert a constitutional right against the government and failed, each party should bear its own costs.

justifying such departure, such as in instances where the litigation is frivolous or vexatious.

[41] I can think of no reason why the foregoing general rule should be departed from. Each party should therefore bear his/its own costs.

Order

[42] In the result and for these reasons, the following order is granted:

- (1) It be and is hereby declared that the first, second and eighth respondents failed to comply with their respective obligations in terms of sections 9 and 12 of the Political Funding Act, Act 6 of 2018 (Funding Act), read with Regulations 7, 8 and 10 of the Regulations regarding the Funding of Political Parties issued in terms of Section 24(2) of the Funding Act.
- (2) The first respondent shall pay to the first applicant an administrative penalty, as contemplated in section 18 of the Funding Act, read with schedule 1 thereof, in the amount of R50 000 for contravening section 9 of the Funding Act.
- (3) The first and the second respondents, jointly and severally, the one paying the other to be absolved, shall pay to the first applicant an administrative penalty in the amount of R40 000 for having contravened section 12 of the Funding Act.
- (4) The eighth respondent shall pay to the first applicant an administrative penalty in the amount of R40 000 for having contravened section 12 of the Funding Act.
- (5) Each party to pay its own costs.

L R ADAMS
JUDGE OF THE ELECTORAL COURT
Bloemfontein

Appearances

For the First and Second Applicants: B D Lekokotla and M Z Gwala
Instructed by: Mota Africa Incorporated, Waterkloof Glen
Extension 2, Pretoria

For the First and Second Respondents: H J De Waal SC
Instructed by: Lionel Murray Schwormstedt & Louw, Cape
Town

For the Third to Seventh Respondents: M S Khan SC
Instructed by: Manoj Haripersad Attorneys Inc, Pinetown

For the Eighth and Ninth Respondents: L Koen
Instructed by: Maponya Incorporated, Pretoria