THE HIGH COURT OF SOUTH AFRICA

(NORTHERN CAPE DIVISION, KIMBERLEY)

Reportable/**Not Reportable**

Case no: 660/2025

In the matter between:

PIETER HENDRIK STRYDOM	Applicant
and	
CAREL ARON VAN DER MERWE	Respondent

In re:

JOHANNES ZACHARIUS HUMAN MÜLLER	1st Applicant
DEON MARIUS BOTHA	2nd Applicant
PIETER HENDRIK STRYDOM	3rd Applicant/Intervening Party
and	
CAREL ARON VAN DER MERWE	1st Respondent
SHANIE VAN DER MERWE	2nd Respondent
ERIC TORR	3rd Respondent
SKY TAILOR	4th Respondent
PROVINCIAL COMMISSIONER (NORTHERN CAPE) SOUTH AFRICAN POLICE SERVICE N.O.	5th Respondent

PROVINCIAL COMMISSIONER (GAUTENG)
SOUTH AFRICAN POLICE SERVICE N.O. 6th Respondent
THE STATION COMMANDER, SOUTH AFRICAN POLICE SERVICE, FRASERBURG N.O. 7th Respondent

Neutral citation: *Strydom v Van der Merwe; In re: Müller and Others v Van der Merwe and Others* (660/2025) 30 October 2026.

Coram: Mamosebo J.

Heard: 16/10/2026.

Delivered: 30/10/2026.

Summary: Urgent application – Contempt of court – Application for condonation of late filing of answering and replying affidavits – Existing interim interdict prohibiting the publication of false, defamatory or reputation-damaging statements remained extant and binding pending the determination of Part B of the main application and the counterapplication – Principles governing civil contempt restated – Applicant required to prove beyond reasonable doubt the existence of the order, service or notice thereof, and non-compliance with its terms – Upon proof of those requisites, evidentiary burden shifted to the respondent to establish that the non-compliance was not wilful and mala fide – Respondent admitted knowledge of the order and its contents – Publications and re-postings made after the granting of the order constituted conduct falling within the ambit of the prohibitions contained in the order – Respondent failed to advance a credible explanation demonstrating that his non-compliance was not deliberate and in bad faith – Wilfulness and mala fides established – The court's authority and the rule of law require compliance with extant court orders – Respondent accordingly held to be in contempt of court – Suspended term of imprisonment imposed to secure future compliance and vindicate the authority of the court.

ORDER

1. The application is urgent, and the ordinary forms and service provided for in the Uniform Rules of Court are dispensed with.
2. Condonation for the late filing of the respondent's answering affidavit in the contempt application is granted.
3. The respondent is declared to be in contempt of paragraphs 5.1 and 5.4 of the order granted by Roach AJ on 04 April 2025 under Case Number 660/2025.
4. The respondent is committed to prison for a period of ninety (90) days, such imprisonment is wholly suspended for a period of one (1) year or the final determination of Part B of the main application or the counterapplication, whichever is the earlier, on the following conditions:
   (a) That the respondent complies with paragraphs 5.1 and 5.4 of the interim order of Roach AJ granted on 04 April 2025 pending the finalisation of Part B of the application and the counterapplication;
   (b) That the respondent removes all posts and publications concerning the applicant which contravene paragraphs 5.1 and 5.4 of the order of Roach AJ, including on Facebook, more particularly, on the 'Genoeg is Genoeg' Facebook page, pending the finalisation of Part B of the main application referred to in (a) above; and
   (c) That the respondent refrains from publishing any statements prohibited by paragraph 5.1 of the order granted by Roach AJ on 04 April 2025 including Facebook regarding the applicant pending the finalisation of Part B of the main application and the counterapplication referred to in (a) above.

5. Should the respondent fail to comply with the conditions in (a), (b), and (c) above, the applicant is authorised to apply on the same papers, duly supplemented, if necessary, for an order for the enforcement of the suspended order in 4 above or any appropriate order.
6. The respondent is ordered, within 48 hours of service of this judgment and order upon him, to post an unredacted copy thereof on the 'Genoeg is Genoeg' Facebook page. Such post shall remain visible on that page for a continuous period of ninety (90) days.
7. The respondent is ordered to pay the costs of this application on scale C.

JUDGMENT

Mamosebo J

Introduction

[1] This is a contempt of court application brought on an urgent basis in which the applicant seeks a declarator finding the respondent to be in wilful contempt of Roach AJ's order granted on 04 April 2025, particularly paragraphs 5.1 and 5.4 of the order. The applicant asked this Court to condone his non-compliance with the prescribed time limits, forms, and service, and to hear the application as urgent in terms of Rule 6(12) of the Uniform Rules of Court. That the respondent be committed to direct imprisonment for a period of 18 (eighteen) months, alternatively, such sentence that this Court may

deem fit. The applicant contended that he would not be afforded substantial redress in the ordinary course. The application is opposed.

[2] Roach AJ's order, in relevant part, is to this effect:

"5. Pending the final outcome of the application for the relief sought by the applicants in Part B and the first respondent's counterapplication:

5.1. The first, second, third and fourth respondents are interdicted and restrained from making, posting or publishing any false or defamatory statements or comments, or any statements or comments which cause or which are designed to cause harm to the reputation of the applicants or the business entities in which the first and second applicants are engaged namely Tshwane Trust Co. (Pty) Ltd and Corporate Liquidators (Pty) Ltd ("the Corporate Entities"):

5.1.1 on any social media platform including the Facebook Page; and

5.1.2 on any other media platform including print media, radio, television, YouTube or any other streaming platform.

5.2 The first, second, third and fourth respondents are ordered to remove or ensure the removal of the statements, posts and comments which are annexure **NOM1.1** to **NOM 1.4** to the notice of motion delivered by the first and second applicants and annexures **SA16.1, SA17.1, SA18.1, SA19.1, SA20.1, SA21.1, SA22, SA23, SA24, SA25, SA26** and **SA27** to the supplementary affidavit filed by the first and second applicants ("the Impugned Statements") from the Facebook Page within 24 hours of service on them of an order granted by this Court, which service is authorised to take place in terms of paragraph 3 above.

5.3 The first, second, third and fourth respondents [are] ordered to remove or ensure the removal of the statements, posts and comments which are annexures **PHS1** to **PHS8** ("the Further Impugned Statements") to the notice of motion filed by the third applicant from the Facebook Page within 24 hours of service on them of an order granted by this Court, which service is authorised to take place in terms of paragraph above.

5.4 That the first, second, third and fourth respondents are directed to deliver affidavits to the first and second applicants' attorney of record and the third applicants' attorney of record within 7 days of service of this order in terms of paragraph 4 above, in which they confirm that they have complied fully with the provisions of paragraphs 5.2 and 5.3 above and removed or ensured the

removal of the Impugned Statements, and the Further Impugned Statements from the Facebook Page.

5.5 The applicants are granted leave to make application to the urgent motion court, on the same papers duly supplemented, for an order declaring the first, second, third, and the fourth respondents to be in contempt of court and imposing such sanctions in respect of such persons found to be in contempt of Court (including incarceration for as long as the contempt is not purged) as the Court may deem appropriate."

Roach AJ's order remains extant and enforceable pending the outcome of Part B of the main application and the respondent's counterapplication.

The parties

[3] The only parties in this contempt of court application are the applicant, admitted in the previous hearing as the intervening party, Mr Pieter Hendrik Strydom (hereinafter referred to as the applicant), and the respondent, Mr Carel Aron Van der Merwe, hereinafter referred to as the respondent. The other parties did not participate in this application.

[4] The issue before this Court is not to determine finally whether the publications are actionable as defamation. The issue is whether the publications, objectively construed, fall within the category of statements interdicted by paragraph 5.1 of the order and whether the respondent knowingly persisted in publishing such material notwithstanding the restraint imposed upon him.

[5] The respondent brought an application for leave to appeal Roach AJ's order, which was unsuccessful. He subsequently contended that the applicant should not have referred to the leave to appeal judgment and order, nor attached it to the papers, as that was

done to create an atmosphere. The submission is without merit, as it is normal for a party to refer to steps taken after judgment was granted or refused. These safeguards exist for a reason.

Condonation

[6] According to the Notice of Motion dated 15 September 2026, the respondent had until 18 September 2026 to file his notice of intention to oppose the application and until 02 October 2026 to file his answering affidavit, and the applicant had until 12 October 2026 to file his replying affidavit. Despite having prepared a condonation application for the late filling of the answering affidavit, Mr D Olivier, for the respondent, intimated that because of the agreement between the parties, he would not seek condonation on behalf of his client. Only after Ms Schoeman, for the applicant, denied the agreement and clarified that the applicant would abide by the Court's decision, was a substantive application made.

[7] It is settled that condonation is not there for the taking. The Constitutional Court has held that the standard for considering an application for condonation is the interests of justice.[1] The respondent explained that he lives in Sutherland and his access to electronic communication facilities was restricted. The delay was not extensive, and neither party raised nor suffered prejudice. The applicant's replying affidavit was also filed a day out of time, but the respondent took no issue thereto. I therefore find that it is in the

[1] *Van Wyk v Unitas Hospital and Another (Open Democratic Advice Centre as Amicus Curiae)* 2008 (2) SA 472(CC) para 20; *Grootboom v National Prosecuting Authority and Another* 2014 (2) SA 68 (CC) paras 22, 23 and 50; *Asla Construction (Pty) Ltd v Buffalo City Metropolitan Municipality* [2017] 2 All SA 677 (SCA); 2017 (6) SA 360 (SCA) para 11.

interests of justice to grant condonation for the late filing of the answering affidavit.

Urgency

[8] Ms Schoeman, relying on *Bogartman*[2], argued that contempt of court inherently involves an element of urgency. Counsel further submitted that the nature of the application, with the repeated infringements which tarnish the reputation of the applicant, undermines the authority of the Court and the rule of law, necessitating that the matter be heard on urgency. The applicant maintained that he is not on social media and only became aware of the publications when alerted by friends, family and colleagues. Mr Olivier contended that the application is not urgent and that the papers have not made any reference to paragraph 5.5 of Roach AJ's order. Counsel argued that the applicant has failed to explain why it took him two weeks to bring the application. Counsel further argued that since the applicant had stated that the harm was already done and cannot be purged, there is no reason why he cannot be afforded substantial redress in future. Ms Schoeman argued that, with the respondent being an unrehabilitated insolvent, a claim for damages in the ordinary course would ring hollow as compensation for the reputational harm and loss of income that the applicant would have suffered. Therefore, the applicant would not be able to obtain substantial redress in due course, so argued Counsel.

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[2] Unreported judgment neutral citation: *Tornovert (Pty) Ltd t/a Bogart Man v Borelli (Pty) Ltd and Others* (2026-148124) [2026] ZAWCHC 602 (14 October 2026) paras 16 - 19. See also *Victoria Park Ratepayers' Association v Greyvenouw CC and Others* (511/03) [2003] ZAECHC 19 (11 April 2003); [2004] 3 All SA 623 (SE) para 5.

[9] Cameron JA, writing for the majority in *Fakie NO v CCII Systems (Pty) Ltd*[3] insightfully remarked:

> "It is a crime unlawfully and intentionally to disobey a court order. This type of contempt of court is part of a broader offence, which can take many forms, but the essence of which lies in violating the dignity, repute or authority of the court. The offence has, in general terms, received a constitutional 'stamp of approval', since the rule of law - a founding value of the Constitution - 'requires that the dignity and authority of the courts, as well as their capacity to carry out their functions, should always be maintained'."

[10] Roach AJ expressly granted the applicants leave in paragraph 5.5 of the order to approach the urgent motion court for appropriate relief in the event of non-compliance. The respondent's contention that the applicant failed to rely expressly on paragraph 5.5 is therefore misplaced. More fundamentally, the order remains extant, valid and binding unless and until it is set aside by a competent court. The respondent's submission that the matter lacks urgency because the alleged harm has already occurred cannot be sustained. The complaint is not confined to past conduct. The applicant alleges ongoing and repeated publications made after the order was granted, which publications are said to constitute continuing non-compliance therewith. Continued publication of material allegedly falling within the prohibitions contained in the order gives rise not only to a continuing infringement of rights for which the applicant seeks protection, but also to concerns regarding obedience to a subsisting court order. In contempt proceedings, the interests sought to be protected extend beyond those of the litigants and include the preservation of the authority of the courts and the rule of law. In these

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[3] 2006 (4) SA 326 (SCA) para 6.

circumstances, I am satisfied that the applicant has established sufficient grounds for the matter to be entertained as one of urgency.

Salient facts

[11] In the main application, the first and second applicants, Messrs Johannes Zacharias Human Muller and Deon Marius Botha, who are not participants in this contempt of court application, approached the Court on an urgent basis, seeking interim relief restraining the first respondent[4] therein from posting or publishing any false or defamatory statements or comments, or statements or comments which are designed to cause harm to the reputation of the applicants, or to the business entities in which the applicants are engaged. The first and second applicants are liquidators and trustees of various insolvent estates. The applicant, Mr Hendrik Strydom, applied for and was granted leave to intervene as the third applicant by Roach AJ. The applicant is an insolvency attorney. He argued that although the respondent removed some of the posts attached to the notice of motion in the main application, he did not remove all of them. Further that the respondent continued to post and repost defamatory statements or comments even after being warned not to. The applicant averred in his founding affidavit that the publication of the posts and comments does not only harm his name but also his firm, Strydom & Bredenkamp Inc.

Requirements for civil contempt

[4] Now the only respondent in these contempt proceedings.

[12] The requirements for civil contempt are settled in our law.[5] For the applicant to succeed in his contempt application, he must show the following beyond reasonable doubt: (a) the existence of a court order; (b) service or notice thereof; (c) non-compliance with the terms of the order; and once the applicant has shown (a), (b) and (c), the evidentiary burden shifts to the respondent to show that (d) the non-compliance was not wilful and mala fide. The respondent admits at paragraph 22 of his answering affidavit that he was present in court when the order was made; he does not dispute its existence and is aware of its contents. It therefore follows that requisites (a) and (b) are common cause and need not be proven. The remaining requirement that the applicant must establish is (c).

[13] The applicant argued that paragraph 5.1 of the interim order interdicted and restrained the respondent from making, posting, or publishing any false or defamatory statements or comments designed to cause harm to his reputation. Notwithstanding that he is admitted as an applicant and intervening party in his personal capacity, the defamatory statements and comments made affect his firm, Strydom & Bredenkamp, of which he is a director. While the respondent conceded that paragraph 5.1 of the order is applicable to the applicant, he denies that it extends to his firm. I raised this with the respondent's counsel and invited argument on the fact that the applicant is a legal practitioner and that any negative, adverse, or defamatory statements or utterances about his firm would undoubtedly also affect his personal reputation. It was contended that the applicant was not referred to by name and his firm is not a party

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[5] *Fakie NO v CCII Systems (Pty) Ltd* 2006 (4) SA 326 (SCA); *Pheko and Others v Ekurhuleni City* 2015 (5) SA 600 (CC) paras 25 -36; *Matjhabeng Local Municipality v Eskom Holdings Ltd and Others* 2018 (1) SA 1 (CC) para 67.

in this litigation. Accepting this submission would elevate form above substance.

[14] The applicant relies on posts published between 8 and 31 August 2026. These are some of the statements made to substantiate the averment of non-compliance with the order. On 29 August 2026, the respondent published the following on *Genoeg is Genoeg*:

"Landbank het geen reg om voort te gaan om boere, hul gesinne en werkers te bly teister nie. Landbank en hul sindikaat het hul plig versaak om wetende dat hul verkeerd is, so baie skade aan boere te verrig."

The respondent refers to the applicant as "Landbank and its syndicate". Whereas the respondent argued that no mention is made of the applicant, and Landbank is also not a party in this application, Ms Schoeman referred to the interview that the respondent had with Mr Izak Du Plessis on a Podcast on 03 August 2026, marked PHS20, where the respondent stated:

"Rondom 2021, Juniemaand . . . Mei/ Juniemaand, kry ons 'n skrywe van Landbank af, en hulle prokureurs wat vir hulle daai tyd opgetree het, en nou nog optree was Strydom... en is Strydom & Bredenkamp, en hulle doen 'n Artikel 345 aanmaning op ons, wat beteken dat jy kan nie jou skuld aan Landbank betaal nie. Met ander woorde, met R240 miljoen bates kan ons nie R7.2 miljoen skuld aan Landbank betaal nie, en hulle gaan ons likwideer omdat ons nie die skuld kan betaal nie."

[15] The respondent's contention that references to the applicant's firm fall outside the ambit of the interim order because the firm is not cited as a party to these proceedings is unpersuasive. It is unnecessary to determine whether Strydom & Bredenkamp enjoys protection under paragraph 5.1 independently of the applicant. The relevant enquiry is whether the publications would reasonably be understood, directly or

indirectly, as referring to the applicant and affecting his reputation. The evidence, including the podcast interview relied upon by the applicant, establishes a clear association between the applicant and the firm of which he is a director. In those circumstances, publications concerning the firm are capable of simultaneously identifying and affecting the applicant. While the applicant instituted these proceedings in his personal capacity, that does not preclude the Court from considering the context in which the impugned statements were made and the manner in which an ordinary reader would understand them. The respondent further argued that the applicant impermissibly sought to expand his case in reply by emphasising his association with Strydom & Bredenkamp Inc. I do not agree. The applicant's professional connection to the firm formed part of the factual matrix from the outset and does not constitute a new cause of action. The submissions made in reply merely elaborated upon existing allegations and did not alter the essential basis upon which the contempt application was brought.

[16] The applicant also relied on an unreported judgment of Sher J[6] which dealt with allegations similar in character to those raised by the respondent.

[17] The respondent maintained that annexures PHS7 (the final protection order granted by the magistrate in favour of the applicant) and PHS8 (the judgment of Sher J) are irrelevant because they do not establish a breach of paragraph 5.1 of the order. There is merit in the proposition that neither document is proof of contempt in these

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[6] *Shanie Taljaard and Another v The Land and Agricultural Development Bank of South Africa Ltd* (15365/2021) [2026] ZAWCHC (20 February 2026) paras 59 - 61.

proceedings. They are therefore not relied upon for that purpose. At most, they provide contextual background to the dispute between the parties and demonstrate that the allegations concerning the applicant have previously been the subject of judicial consideration. The determination of whether the respondent is in contempt depends exclusively on the evidence before this Court regarding compliance or non-compliance with the order granted by Roach AJ.

[18] The objective import of the publications, read in context and against the backdrop of the restraint order, demonstrates that they were reasonably capable of causing reputational harm. It is unnecessary to decide whether the respondent was formally the administrator of the Facebook page. On his own version, he was a regular contributor who posted and reposted content on the platform. The evidence demonstrates that the impugned publications relied upon by the applicant were either authored by the respondent, reposted by him, or disseminated with his approval. The respondent cannot avoid responsibility on the basis that another person held administrative privileges.

[19] The respondent's continued posting and reposting after the Roach AJ order amounts to non-compliance with same. More importantly, whilst the respondent claims to be teaching the followers of the Facebook page, he does not redirect them from untruths being published, nor does he publish verified true facts himself. Rather than distancing himself from the impugned publications, the respondent amplified and perpetuated their dissemination. The admonishments by the Supreme Court of Appeal to Mr Nicholas Harman in *Francois*

Jurie Nicolaas Harman v Pieter Hendrik Strydom[7] apply with equal force in this instance.

Was the respondent wilful and mala fide

[20] The onus to prove the first three requirements lies with the applicant. Differently put, once the applicant has succeeded in proving the existence of the order, that the contemnor was aware of the order and the non-compliance by the contemnor with the order, the evidentiary burden shifts to the contemnor to prove that he was not wilful or mala fide.

[21] Ms Schoeman demonstrated, by highlighting the statements or comments, that the allegation of non-compliance with the said interim order arose after the respondent's application for leave to appeal the interim order by Roach AJ was refused and after service of this application. The respondent lodged complaints against the applicant with the Legal Practice Council (LPC) and the South African Restructuring and Insolvency Practitioners Association (SARIPA). In the letter dated 10 June 2026 by the LPC to the respondent, no prima facie misconduct was found on the part of the applicant or his firm. The respondent's complaint against the applicant at SARIPA was also removed from its register because the respondent did not revert to SARIPA. Both institutions investigated the respondent's complaints, and the outcome was the applicant's exoneration.

[7] (285/2024) [2025] ZASCA 108 (18 July 2025).

[22] The respondent admitted at PHS13 that he referred to Landbank and its syndicate, but contended that Landbank has many attorneys and that he refers to "*regslui*" or "lawyers" as a class. However, as referred to earlier, in the Podcast interview, the respondent specifically mentioned the applicant and his firm as the Landbank attorney. His present attempt to distance himself from that reference is inconsistent with his earlier statements. The applicant cannot be faulted for understanding that the respondent was referring specifically to him and his firm when he referred to "*Landbank se regslui*".

[23] This is what the respondent said in the Podcast interview:

"En omdat hierdie likwidateure en die prokereur van Strydom & Bredenkamp kop in een mus met Landbank is, reg van die begin af in hierdie hele skema, sit ons met 'n situasie waar boere gelikwideer word en die likwidateure nie hulle plig nakom om dan nou te bevind, 'n onafhanklike bevining te doen of hule wel 'n vorderingsreg het en die wet nakom nie."[8]

To publish allegations that the applicant and his firm are acting in concert with the Landbank in a scheme against farmers supports the inference that the respondent knowingly persisted in conduct falling within the prohibitions contained in paragraph 5.1 of the order.

[24] Brand AJ, writing for the majority in *Le Roux and Others v Dey (Freedom of Expression Institute and Restorative Justice Centre as Amici Curiae)*[9] explained:

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[8] Loosely translated: And because these liquidators and the attorney from Strydom & Bredenkamp are in cahoots with the Land Bank–right from the very start of this entire scheme–we are faced with a situation where farmers are being liquidated, yet the liquidators fail to fulfil their duty to conduct an independent assessment to determine whether a valid claim actually exists and fail to comply with the law.

[9] 2011 (3) SA 274 (CC) para 86.

"'Publication' means the communication or making known to at least one person other than the plaintiff. It may take many forms. Apart from the obvious forms of speech or print, the injurious information can also be published through photographs, sketches, cartoons or caricatures."

The Court further said:[10]

"Where the plaintiff is content to rely on the proposition that the published statement is defamatory per se, a two-stage enquiry is brought to bear. The first is to establish the ordinary meaning of the statement. The second is whether that meaning is defamatory. In establishing the ordinary meaning, the court is not concerned with the meaning which the maker of the statement intended to convey. Nor is it concerned with the meaning given to it by the persons to whom it was published, whether or not they believed it to be true, or whether or not they then thought less of the plaintiff. The test to be applied is an objective one. In accordance with this objective test the criterion is what meaning the reasonable reader of ordinary intelligence would attribute to the statement. In applying this test it is accepted that the reasonable reader would understand the statement in its context and that he or she would have had regard not only to what is expressly stated but also to what is implied."

[25] I am satisfied that the respondent included the applicant when referring to the alleged "Landbank syndicate" in PHS13. That conclusion is supported by the contents of the podcast interview recorded in PHS20, in which the applicant and his firm were expressly identified as attorneys acting for the Landbank. The respondent's subsequent attempt to distance himself from that association is inconsistent with his own prior statements. Viewed objectively and in context, the references to a "syndicate", parties acting "in cahoots", and participation in a "scheme" would reasonably be understood by an ordinary reader as imputing improper

[10] Ibid para 89.

conduct on the part of those concerned. Such statements are capable of causing reputational harm and fall within the category of publications prohibited by paragraph 5.1 of the order. The respondent's reliance on the argument that neither Landbank nor the applicant's firm is specifically named in the order does not answer the substance of the complaint, namely whether the statements would reasonably be understood as referring to the applicant and thereby contravening the restraint imposed by the order.

[26] The evidence establishes that, notwithstanding the restraint imposed by Roach AJ, the respondent continued to publish and republish material concerning the applicant which falls within the prohibitions contained in paragraph 5.1 of the order. The respondent did so despite having knowledge of the order and despite unsuccessful attempts to challenge it. Such conduct constitutes non-compliance with the order and undermines the authority of the Court.

[27] The respondent's reliance on the fact that he was not the formal administrator of the Facebook page does not avail him. As stated earlier, it is unnecessary to determine who exercised administrative control over the page. On the respondent's own version, he was a regular contributor who posted and reposted content on the platform. The evidence demonstrates that the publications relied upon by the applicant were authored, disseminated or republished by the respondent himself. Responsibility for compliance with the order therefore cannot be avoided by attributing administrative functions to another individual. For similar reasons, I reject the submission that the applicant's decision to litigate in his personal capacity excludes from consideration publications that would reasonably be understood

as referring to him through his association with his firm. The proper enquiry remains whether the publications, objectively construed and viewed in context, affected or were intended to affect the reputation of the applicant in a manner prohibited by the order.

[28] For the respondent to claim that he is teaching those who follow the Facebook page without ensuring the truthfulness of what is being taught is wilful and malicious. In respect of PHS17, under the heading: "*DA KRY GROENLIG* – Ondersoeke op Landbank se prokureur en likwidateure kom!!!", the respondent claims that he was not the author of the article by Maroela Media, but he reposted it on the *Genoeg is Genoeg* Facebook page on 12 August 2026 for the sake of interest. He contends that because the article does not refer to the applicant by name, it does not show his contempt for paragraph 5.1 of the interim order.

[29] We are concerned with the ordinary meaning of the respondent's statements and what a reasonable reader or person of ordinary intelligence would understand them to mean in context, and that he or she would regard both what is expressly stated and what is implied. A publication is defamatory if it has the "tendency" or is calculated to undermine the status, good name or reputation of the applicant. This Court was informed that the respondent has removed some of the postings before the contempt application was heard. The postings which identify the applicant and his firm as representing the Landbank, are inflammatory to the farming community, and if they are not managed, they can get out of hand.

[30] The respondent's explanation does not create a reasonable doubt regarding wilfulness and mala fides. On the contrary, the objective facts establish that he was fully aware of the order, understood its operative provisions, and nevertheless persisted in publishing and republishing material falling within the scope of the prohibition. His defence rests largely on technical distinctions between the applicant and his firm and on attempts to distance himself from the Facebook page, despite his admitted participation and contribution thereto. Those explanations are unpersuasive and do not rebut the inference/ presumption of deliberate non-compliance.

[31] Court orders are not advisory. Until set aside by a competent court, they remain binding on those to whom they are addressed. The rule of law would be gravely undermined were litigants permitted to decide for themselves which orders they will obey and which they will ignore. The applicant has proved beyond reasonable doubt the existence of the order, the respondent's knowledge thereof, and non-compliance with its terms. The respondent has failed to place evidence before the Court sufficient to establish that such non-compliance was not wilful and mala fide. A finding of contempt is therefore unavoidable.

[32] As to sanction, the Court must mark its disapproval of the conduct while remaining mindful that committal for contempt constitutes a serious intrusion upon personal liberty. In all the circumstances, a substantial suspended sentence will adequately vindicate the authority of the Court, secure future compliance and afford the respondent an opportunity to purge his contempt. Direct incarceration would, at this stage, be disproportionate.

[33] In the result, the following order is made:

1. The application is urgent, and the ordinary forms and service provided for in the Uniform Rules of Court are dispensed with.
2. Condonation for the late filing of the respondent's answering affidavit in the contempt application is granted.
3. The respondent is declared to be in contempt of paragraphs 5.1 and 5.4 of the order granted by Roach AJ on 04 April 2025 under Case Number 660/2025.
4. The respondent is committed to prison for a period of ninety (90) days, such imprisonment is wholly suspended for a period of one (1) year or the final determination of Part B of the main application or the counterapplication, whichever is the earlier, on the following conditions:
   (a) That the respondent complies with paragraphs 5.1 and 5.4 of the interim order of Roach AJ granted on 04 April 2025 pending the finalisation of Part B of the application and the counterapplication;
   (b) That the respondent removes all posts and publications concerning the applicant which contravene paragraphs 5.1 and 5.4 of the order of Roach AJ, including on Facebook, more particularly, on the 'Genoeg is Genoeg' Facebook page, pending the finalisation of Part B of the main application referred to in (a) above; and
   (c) That the respondent refrains from publishing any statements prohibited by paragraph 5.1 of the order granted by Roach AJ on 04 April 2025 including Facebook regarding the applicant pending the finalisation of Part B of the main application and the counterapplication referred to in (a) above.

5. Should the respondent fail to comply with the conditions in (a), (b), and (c) above, the applicant is authorised to apply on the same papers, duly supplemented, if necessary, for an order for the enforcement of the suspended order in 4 above or any appropriate order.
6. The respondent is ordered, within 48 hours of service of this judgment and order upon him, to post an unredacted copy thereof on the 'Genoeg is Genoeg' Facebook page. Such post shall remain visible on that page for a continuous period of ninety (90) days.
7. The respondent is ordered to pay the costs of this application on scale C.



MC MAMOSEBO
JUDGE OF THE HIGH COURT
NORTHERN CAPE DIVISION

Appearances

For the Applicant	Adv. A.J Schoeman
Instructed by:	Van de Wall Inc.
For the Respondent:	Adv. A.D Olivier
Instructed by:	Haarhoffs Inc.