

**IN THE ENFORCEMENT COMMITTEE OF THE FILM AND PUBLICATION  
BOARD (FPB)**

Film and Publication Board (FPB)

Applicant

and

Pleasure Palace Edenvale (PPE)

Respondent

Case No: 010/2025/RD/GP

Date of hearing: 05 November 2025

**MEMBERS OF THE ENFORCEMENT COMMITTEE**

Judge Thokozile Masipa - Chairperson

Ms Malini Maharaj - Member

Dr. Adv Nzumbululo Silas Siphuma - Member

**OFFICE OF THE ENFORCEMENT COMMITTEE**

Mpho Mooketsi - Registrar

**LEGAL REPRESENTATION**

For the Applicant

Mr. Sanele Mjila

For the Respondent

Mr. C A Phiri

---

## DECISION

---

Judge Thokozile Masipa

### INTRODUCTION

[1] In this matter, the Applicant alleged that the Respondent, a distributor of adult material, failed to comply with section 18(1)(a) and 18(1)(b) of the Films and Publications Act No 65 of 1996 as amended (“the FP Act”).

[2] The matter was referred to the Enforcement Committee in terms of section 6B(1) of the FP Act after the FPB had made investigations into the affairs of Pleasure Place Edenvale.

### THE PARTIES

[3] The Applicant is the Film and Publication Board (FPB), a statutory body established in terms of section 3 of the Films and Publications Act No 65 of 1996 as amended (“the FP Act “), to regulate the creation, production, possession and distribution of films, games and certain publications.

[4] The Respondent is Pleasure Palace Edenvale (PPE), a shop in Edenvale, Gauteng, which conducts the business of distributing adult sexual films at Shop 1, 67 Van Rebeeck Avenue, Edenvale, Gauteng.

[5] According to Companies and Intellectual Properties (CIPC) check, conducted by FPB, Pleasure Palace is registered under registration number 2008/223111/23 with two members namely Viola Ngwenya and Carry-Anne Phiri.

## **FACTUAL BACKGROUND**

[6] Following an investigation into the business of Pleasure Place, Edenvale, relating to non-compliance issues, the FPB found that Pleasure Palace Edenvale is not registered with the FPB as a distributor of adult sexual material.

[7] In addition, the adult sexual films, distributed by the shop, have not been classified by the FPB as required by section 18(1)(a) and (b) of the FP Act. Furthermore, it does not display any FPB classification ratings.

[8] Consequently, the FPB referred the matter to the Enforcement Committee alleging noncompliance with the provisions of the FP Act.

[9] On 20 February 2025, FPB issued PPE with a Notice of Contravention for contravening the FP Act by distributing adult sexual films without having been registered with the FPB as well as distributing unclassified films.

[10] The Respondent was afforded 30 (thirty) days to comply with the provisions of the FP Act, by registering as distributor of adult sexual films and by ensuring that the films, it distributed, were classified.

[11] In June 2025, Ms Nosiseko Mtshemla, a Compliance Officer attached to the FPB Head Office, conducted a follow up inspection during which she found that the Respondent had still not complied with the provisions of the FP Act.

## RELIEF SOUGHT

[12] The FPB sought the following relief:

- 12.1. That the Enforcement Committee adjudicate on the allegations of non-compliance, and make appropriate findings after giving both parties an opportunity to be heard;
- 12.2. In the event of a finding of non-compliance, impose a fine not exceeding the sum of R150000 for distributing films without first having been registered with the Board as the distributor of films as prescribed in terms of section 24A (1) of the FP Act; and
- 12.3. Impose a fine not exceeding the sum of R750000 for distributing unclassified adult films, as prescribed in terms of section 24A (1) of the FP Act.
- 12.4. Ordering the Respondent to pay the costs in respect of the proceedings.
- 12.5. Further and/or alternative relief.

## THE RESPONDENT'S RESPONSE

[13] There was no response from the Respondent to the allegations made against it.

## THE PROCEEDINGS

[14] On the morning of the proceedings, it transpired that the Respondent might not be present at the hearing as he had not responded to the invitation to the hearing.

[15] However, a few minutes after the commencement of the hearing, Mr. Carry-Anne Phiri, the co-owner of the Respondent, arrived. Mr. Phiri stated that he had not been aware of the hearing until he checked his emails that morning, a few minutes before he arrived at the hearing.

[16]Mr. Phiri stated that he had responded to the charges against the Respondent.

This was strange since neither the Office of the Registrar nor members of the Enforcement Committee had received any papers from the Respondent. It transpired later that Mr. Phiri was confused and could not distinguish between papers for registration of the Respondent, and papers setting out the Respondent's defence.

[17]On behalf of the Respondent, Mr. Phiri admitted both allegations in the charge sheet. In addition, he raised a defence which shall be discussed hereunder.

## **DISCUSSION AND ANALYSIS OF THE EVIDENCE**

[18]The Respondent's defence was that failure to comply with the Act was not intentional but was merely an unfortunate oversight. According to Mr. Phiri, he currently lives and works in the United Kingdom. That, unfortunately, meant that he has very little time to attend to his business locally, he explained. He stated that he was now in the process of appointing someone who would run the business of Pleasure Palace Edenvale in his absence.

[19]Considering the nature of the evidence presented to the Enforcement Committee, the flimsy excuse offered by Mr. Phiri as a defence, for the Respondent's failure to comply, leaves a lot to be desired. More importantly, it is a worrisome indication that the Respondent takes its obligation to regulatory compliance very lightly.

## THE EVIDENCE

[20] Evidence placed before the Enforcement Committee included that of Ms. Nosiseko Mtshemla, the Compliance Officer for FPB.

[21] Nosiseko Mtshemla's evidence was contained in a statement that she compiled following an investigation she conducted concerning the status of PPE as a distributor.

[22] According to the statement, on 13 February 2025, as part of her duties, Ms Mtshemla conducted a physical compliance inspection at the premises of Pleasure Palace Edenvale Gauteng.

[23] During the course of this investigation, she noted that PPE distributes and/or exhibits movies without being registered with the Board as required in terms of section 18(1)(a) of the FP Act read with the provisions of section 24A(1) of the FP Act. A copy of the Compliance Inspection Report dated 17 February 2025 and marked **Annexure "NM1"** was attached to Ms. Mtshemla's statement.

[24] In addition, Ms Mtshemla conducted verification checks through FPB Online system which confirmed that PPE is not registered with the FPB. In support of this statement, Ms Mtshemla attached proof of FPB Online check marked **Annexure "NM2"**.

## NOTICE OF CONTRAVENTION

[25] On 20 February 2025, having observed the unlawful conduct of PPE, Ms. Mtshemla issued and served PPE with a Notice of Contravention.

[26] In terms of the Notice of Contravention, Pleasure Palace Edenvale was afforded 30 (thirty) days to remedy the non-compliance. In the event the Respondent was

unable to meet this deadline it had an opportunity to request an extension from FPB.

[27] At the time of the hearing, the Respondent had still not complied. In addition, there was no request for an extension of the deadline.

## **THE RESPONDENT'S DEFENCE**

[28] As alluded to earlier, a lame defence was raised on behalf of the Respondent. Mr. Phiri admitted the allegations of non-compliance with section 18(1)(a) and 18(1)(b) read with section 2A of the FP Act.

[29] He stated that he currently resides in the United Kingdom where he works. For that reason, he spends most of his time there and hardly has time to attend to his business locally. He, however, was in the process of appointing someone whose job would be to manage Pleasure Palace Edenvale in his absence.

[30] The Enforcement Committee found this defence woefully inadequate.

[31] Mr. Phiri knows or should know that Pleasure Palace operates in the business of distributing adult content which, by its very nature, is harmful to young children and that, therefore, extra caution should be exercised to protect them.

[32] There is a good reason why content such as that distributed by the Respondent is regulated.

[33] The primary purpose of such regulations is to balance freedom of expression with what is in the public interest.

[34] More importantly, it is to prevent the exposure of children to harmful or premature exposure to adult experiences and combating child sexual abuse material.

[35] In addition, classification provides consumer advice so that adults can make informed decisions about what they choose to consume or what those in their care consume.

[36] The Films and Publication Board protects the public, particularly children, against harmful and prohibited content.

[37] The FPB regulates adult content primarily to balance constitutional rights of expression with the need to protect vulnerable individuals, especially children, from harmful material.

[38] The legal framework ensures, *inter alia*, age-appropriate access while empowering adults to make informed choices about what they and those in their care consume.

[39] In contrast to our history of censorship by the government, in the not-so-distant past, the FPB plays a monitoring role to those industry players who choose to regulate themselves.

[40] At the same time it also assists those who fail to comply by giving them a period of 30 days to remedy the non-compliance. Should the thirty-day period prove to be inadequate, a distributor may ask for an extension of the time in which to take remedial action.

[41] In addition to the above, distributors of films and other content are also allowed to self-regulate.

[42] In our view, the regulatory framework is more than reasonable and aims to encourage industry players to co-operate with the FPB. In many instances, however, entities fail to co-operate. Rather than take advantage of the 30 day period to remedy their noncompliance, many ignore the notices of contravention issued and continue the non-compliance with impunity as happened in this case.

[43] In the present case, the Respondent was served with a notice of contravention and afforded an opportunity to remedy the non-compliance within 30 days or ask for an extension, if necessary. It did not rectify its non-compliance or request an extension. Instead, it ignored the notice and chose to fabricate a defence that showed that it did not take its regulatory obligations seriously.

[44] This alone is an aggravating factor which warrants heavy sanction.

[45] What seals the fate of the Respondent is that it gave an incoherent and inconsistent version of why it failed to comply with the regulations.

[46] While Mr. Phiri stated that he was abroad from November last year, the record shows that the Respondent has been non-compliant since 2011 when its registration expired. Nothing in the submissions by Mr. Phiri explained why the Respondent failed to comply with the law for so many years.

[47] In any event, if the business could run successfully in his absence, without any problems, it could equally successfully meet its regulatory obligations in his absence.

[48] One interesting feature about this case was that the Respondent appeared very casual in conducting its case. Throughout the proceedings, the Enforcement Committee found no indication that the Respondent had any remorse for having committed the contraventions.

[49] Instead, it appeared that Mr. Phiri saw nothing wrong with his failure to register the Respondent as a distributor of films. Similarly, he saw nothing wrong with distributing unclassified films and other material.

[50] Lack of remorse from a Respondent is extremely concerning as it shows lack of insight which is a strong indication that the Respondent might find itself in the same position that it is facing today.

## FINDING

[51] On the facts before the Enforcement Committee, the following finding is made:

- 52.1. the Respondent is found to have contravened section 18(1)(a) of the FPB Act in that it failed to register with the Applicant as a distributor of adult movies/material; and
- 52.2. the Respondent is found to have contravened section 18(1)(b) read with section 24A of the FPB Act in that it failed to submit the films it distributed for classification.

## ORDER

[52] Accordingly,

- 53.1. a fine of R150000 is imposed on the Respondent for distributing films without first having been registered with the board as the distributor of films as prescribed in terms of section 24A(1) of the FP Act.
- 53.2. a fine of R750000 is imposed on the Respondent for distributing unclassified adult films, as prescribed in terms of section 24A (1) of the FP Act; and
- 53.3. the Respondent is ordered to pay the costs in respect of the proceedings.

29/07/2026

*TMD Masipa*

ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member