

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

Film and Publication Board (FPB)

Applicant

and

LIVING SCRIPTURES

1st Respondent

Mark Smith

2nd Respondent

Case No: 023/2025/RD/Gauteng

Date of hearing: 15 May 2026

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

Ms Ntweleng Baloyi

For the Respondent

(No Appearance)

DECISION

Judge Thokozile Masipa

INTRODUCTION

- [1] This application was referred to the Enforcement Committee for adjudication of alleged contraventions by the Respondent of the provisions of the Films and Publications Act 65 of 1996, as amended (“the FP Act”).
- [2] The Application was brought with the aim of protecting the South African public, especially children, from harmful and inappropriate material.
- [3] By implementing mandatory registration and classification, the Board ensures that content distributed to the public is age appropriate and that there is consumer advice that enables adults to make informed choices on the content that they and the children under their care consume.

THE PARTIES

- [4] The Applicant is the Film and Publication Board, a statutory body established in terms of section 3 of the Films and Publications Act. It is the content Regulatory Authority in the Republic of South Africa.

[5] The Respondent is Living Scriptures, a company conducting business with its headquarters located at 172 N Promontory, Site 285, Farmington, UT 84025, United States of America.

THE ALLEGED NONCOMPLIANCE

[6] The Applicant alleged that the Respondent had contravened section 18(1)(a) and (b) of the FP Act in that it had failed to register with the Applicant as a distributor of films and publications and that it had failed to submit such films and content to the Applicant for classification.

THE RELIEF SOUGHT

[7] The Applicant sought a finding of noncompliance against the Respondent and appropriate penalties including the imposition of maximum fines in terms of the FP Act.

RESPONDENT'S DEFENCE

[8] The Respondent did not respond to any of the correspondence by the Applicant. In addition, there was no appearance on behalf of the Respondent at the hearing. As a result, the application proceeded unopposed.

FACTUAL BACKGROUND

[9] On 3 September 2025, Nosiseko Mtshemla, a Compliance Officer employed by the Applicant, conducted an online compliance inspection on the website of Living Scriptures using URL: <https://www.living-scriptures.com>

[10] The online inspection revealed that the Respondent unlawfully distributed/streamed various films/movies, accessible to members of the public in

the Republic of South Africa in contravention of sections 18(1)(a) and (b) read together with section 24A (1), 24A (2) and 24A (6) of the FP Act.

[11] On 8 September 2025, Ms Mtshemla, issued and served the Respondent with the Notice of Contravention using email address cs@livingscriptures.com

[12] The notice afforded the Respondent a thirty (30) day period in which to remedy the noncompliance or ask for an extension.

[13] On 18 November 2026, the same Compliance Officer, conducted a follow up online inspection on the website of the Respondent and established that the Respondent had still not registered with the Applicant as distributor of films.

[14] In addition, the Respondent was still distributing unclassified films and publications. It was this insistence on noncompliance that triggered a referral of the matter to the Enforcement Committee.

The Condonation Application

[15] The Applicant made an application for condonation for the late filing of the Notice of Referral to the Enforcement Committee.

[16] For the application for condonation to succeed, the Applicant must show good cause which includes explaining the nature, cause and extent of the delay, the likelihood of prejudice to the Respondent if the application were to be granted, the prospects of success for the Applicant in the main application and whether it is in the public interest to grant the condonation application.

The Nature and the Reasons for the Delay.

[17]The Applicant submitted that it had serious Human Resources challenges especially in the Compliance Division.

[18]While the amendment to the FP Act, which became effective in March 2022, expanded the mandate of the Board to include online content regulation, no additional staff was added to cover the workload.

[19]The imbalance negatively affected the performance of the Compliance Division especially its ability to meet its deadlines. The delay was experienced not only in conducting compliance inspections but also in conducting follow-up inspections. As to be expected, this, in turn, led to delays in referrals of matters to the Enforcement Committee.

[20]The Enforcement Committee is of the view that the circumstances which led to the delays were beyond the control of the Applicant. Also taken into account was that the Applicant was currently taking steps to remedy the problem, temporarily, while waiting for the Treasury to allocate the necessary resources.

Whether the Respondent is Likely to be Prejudiced if the Condonation were to be Granted.

[21]From the facts of the case, there seems to be no likelihood that the granting of the application would lead to any prejudice to the Respondent.

[22]On the contrary, not granting the application is likely to cause prejudice to the Applicant in the long term.

[23]I say this because the Applicant might lose public confidence as an effective watchdog for the public. In addition, if the application against the Respondent were to be dismissed because Condonation was refused, unscrupulous distributors of

films, games and publications might be emboldened to flout the law with impunity. Meanwhile children would be left exposed to the harm and danger posed by unclassified material.

Prospects of Success in the Main Application

[24] The evidence in support of the allegations of noncompliance not only remains uncontradicted but has been found to be credible and unreliable. The prospects of success, therefore, in the main application are very high.

Whether it is in the Public Interest that Condonation Should be Granted

[25] The totality of the facts, the supporting evidence as well as submissions by counsel and the objectives of the FP Act, all support the view that it is in the public interest that the Condonation should be granted.

[26] Having regard to all the relevant considerations, the Enforcement Committee is persuaded that the condonation application should be granted.

THE MAIN APPLICATION

[27] The Applicant alleged that the Respondent was in contravention of section 18(1) (a) and (b) in that it was not registered with the Applicant as a distributor/exhibitor of films/games/publications and had not submitted these to the Applicant for classification respectively.

[28] In support of the allegations, the Applicant provided formidable evidence in the form of screenshots and other documentary evidence.

[29] Notably, the evidence was not contradicted as the Respondent failed to answer to the charges or oppose the allegations at the hearing.

[30] The Enforcement Committee examined all the relevant facts and the evidence before it and found the evidence credible and reliable.

[31] In the view of the Enforcement Committee, the Applicant made out a case for the relief that it sought.

FINDING

[32] In the result the Enforcement Committee makes the following finding:

- 32.1. The Respondent is found to have contravened section 18(1) (a) of the FP Act in that it failed to register with the Applicant as a distributor/exhibitor of films/games and publications.
- 32.2. The Respondent is found to have contravened section 18(1) (b) of the FP Act in that it failed to submit its films/games/publications to the Applicant for classification.
- 32.3. In the result, the following Order is granted:

ORDER

[33] The application for condonation for the late filing of the Notice of Referral in terms of Rule 9(1) of the Enforcement Committee Rules is granted.

[34] The Respondent shall pay a fine in the amount of R150 000 (One Hundred and Fifty Thousand Rand) for failure to register with the Applicant as a distributor of films/games/publications.

[35]The Respondent shall pay a fine in the amount of R500 000 (Five Hundred Thousand Rand) for its failure to submit films/games/publications it was distributing for classification.

[36]The Respondent shall pay costs in respect of these proceedings.

TMD Masipa

ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member

Date: 14/8/2026