

# Vincent Manko

Director



Vincent Manko is a Director in our Dispute Resolution practice. Vincent operates mainly in the fields of commercial litigation and arbitrations, business rescue, restructuring and insolvency, perfections and foreclosures, corporate recoveries, administrative and procurement law.

## About Vincent

Vincent joined Cliffe Dekker Hofmeyr as a Candidate Attorney in 2013. He was appointed as an Associate and admitted as an Attorney in 2015 and promoted to Senior Associate in 2018. Vincent was promoted to Director in 2022.

## Credentials

### Education

- LLB, University of Johannesburg (UJ)
- Year of admission as an attorney: 2015
- The 6th Course of China-Africa Legal Professional Exchange Programme: 17 June 2019 to 7 July 2019
- Registered with the Legal Practice Council

### Membership

- Legal Practitioner in terms of the Legal Practice Act
- South African Restructuring and Insolvency Practitioners Association (SARIPA)
- INSOL International (International Association of Restructuring, Insolvency & Bankruptcy Professionals)

## Experience

- Arbitration and court proceedings

Advising and acting for a JSE listed chemicals group in a dispute with City of Johannesburg Metropolitan Municipality and Johannesburg Water SOC Limited in arbitration and court proceedings relating to among others the powers of the Municipality to enter into binding and valid agreements in terms of the municipal regulatory framework including inter alia the Local Government: Municipal Systems and the Municipal Finance Management Act.

## Contact Vincent

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[Vincent on LinkedIn](#)

## Expertise

[Dispute Resolution](#)

[Business Rescue, Restructuring & Insolvency](#)

Public Law

Regulatory

## Location

Johannesburg

## Language

English

isiXhosa

isiZulu

Sepedi

Sesotho

Setswana

- **judicial review of the findings**

Advising and acting for leading players in the recovery and treatment of all types of waste from both industry and local communities that provide integrated waste management services to a wide range of industries from manufacturing, mining and petro chemicals to oil and gas, construction, FMCG, pharmaceuticals and automotive in a judicial review of the findings of the Broad-Based Black Economic Empowerment Commission that they committed the offence of fronting and undermined the objectives of the Broad-Based Black Economic Empowerment Act.

- **Commercial arbitration proceedings**

Advising and acting for a water service board and a major public entity in commercial arbitration proceedings against a water services authority for a claim in excess of R100 million.

- **Commercial arbitration**

Advising and acting for a major public entity in commercial arbitration proceedings and auxiliary litigation arising from disputes relating to public procurement and claims in excess of R800 million.

- **Defamation proceedings**

Advising and acting for a global market research and a consulting firm in defamation proceedings with a claim of R50 million.

- **Range of securities**

Advising and acting for banks and development financial institutions in perfecting a wide range of securities including notarial general covering bonds, mortgage bonds and special notarial bonds.

- **Business rescue**

Advised and acted for a major bank in the perfection of its securities in respect of the facilities in the sum of approximately R72 million and advising on the resultant business rescue.

- **Advised and acted for a major commercial bank in a cross-border insolvency dispute and advised on the resultant sequestration.**

- **Business rescue**

Advised and acted for a public entity in relation to the business rescue of an anthracite coal mine against the Business Rescue Practitioners and an JSE listed entity where the public entity contended that the adopted business rescue plan amounted to unlawful expropriation of its shareholding which was ultra vires the Companies Act.

- **Recovery of guarantees**

Advised and acted for a multinational oil and gas company in the business rescue of fuel wholesaler trading with fuel and fuel related products and ultimately led to the recovery of guarantees in the amount of R220 million.

- **Public procurement**

Regularly advising private companies and public entities on issues of public procurement, delegations of authority and supply chain management and the implications of the Public Finance Management Act, the National Treasury Regulations and Practice/Instruction Notes; Preferential Procurement Policy Framework Act and the Regulations, Local Government: Municipal Systems and the Municipal Finance Management Act.

- **State-owned telecommunications**

Advised a state-owned telecommunications company on the potential conflict of interests on a tender relating to the appointment of a panel of service providers for the provision of technical personnel on an ad hoc basis and applicability of the cooling-off period in terms of the provisions of its supply chain management policy and further advised on an exit strategy and drafted the necessary termination letters.

- **Procurement fraud and corruption**

Advised as a state-owned air traffic management entity in relation to serious fraud and corruption allegations levelled against one of its service providers (a multinational company) and whether it should continue doing business with that entity, after it had been accused of serious crime involving procurement fraud and corruption in the Republic of South Africa.

- **Civil aviation authority**

Advised a state-owned air traffic management entity on a tender issued by the civil aviation authority of a neighbouring SADC state including its obligations to National Treasury and its execute authority arising from the Public Finance Management Act, the National Treasury Regulations and Practice/Instruction Notes.

- **Compliance**

Advising private companies on compliance with the Broad-Based Black Economic Empowerment Act and appearing before the Broad-Based Black Economic Empowerment Commission.

## News

### Procurement integrity and general procurement requirements

Public procurement is one of the government activities highly vulnerable to corruption. The financial interests at stake, the volume of transactions and the close interaction between public and private sectors in the awarding of public contracts all pose risks to the integrity of the procurement process. The findings of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State all bear testimony to this fact.

### The establishment of the Public Procurement Tribunal

The complex public procurement system in South Africa has been fertile ground for litigation over many years, and to say that law reports are replete with cases dealing with public procurement would be an understatement. Litigation in this context almost invariably brings significant delays in public procurement. Those delays cost money and cause much frustration and inefficiency within public procurement, and are a significant contributor to the lack of service delivery. The unnecessary complexity in the public procurement regulatory framework often results in confusion that invariably leads to disputes.

### The extent of business rescue practitioners' powers to suspend a company's contractual obligations

Chapter 6 of the Companies Act 71 of 2008 (Companies Act) confers various powers on business rescue practitioners (BRPs) once they have assumed their responsibilities to restructure the affairs of a company that has been placed under business rescue. This is achieved through the temporary supervision of the company, and the management of its affairs, business and property, by the BRP; a temporary moratorium on the rights of claimants against the company or in respect of property belonging to the company or lawfully in the possession of the company; and the development and implementation, if approved, of a business rescue plan to rescue the company by restructuring its affairs, amongst other things.

### The interplay between set-off and post-liquidation debt

Can a creditor that has realised its security in terms of section 83(3) of the Insolvency Act, 1936 claim set-off of a post-liquidation debt owed to it by an insolvent estate or company in liquidation against the amount of the proceeds of the realisation of the secured property that it is obliged to pay to the liquidator in terms of section 83(10) of the Insolvency Act? The High Court indicated that the answer is " No " and, inter alia , ordered the creditor to pay the amount of the net proceeds of the realised security to the joint liquidators. The interplay between set-off and post-liquidation debt was therefore considered by the Supreme Court of Appeal in *Emontic Investments (Pty) Ltd v Bothomley NO and Others (1123/2022) ZASCA 1 (9 January 2024)*.

### The role of shareholders in business rescue proceedings

One of the stated purposes of the Companies Act 71 of 2008 (Companies Act) is to promote innovation and investment in South African markets and provide for the efficient rescue and recovery of financially distressed companies, in a manner that balances the rights and interests of all relevant stakeholders, including shareholders. Business rescue is therefore widely accepted as an alternative to liquidation for financially distressed companies, with the intention of giving such companies the opportunity to reorganise and restructure their affairs for them to regain their solvency. To this end, the definition of " affected persons " includes creditors, employees (or their representative), a registered trade union and shareholders. The role played by each " affected person " is unique in many ways but can have an impact on the failure or success of any business rescue proceedings.

## Videos

[Webinar Recording | Unlocking and Protecting Investment Flow in Africa: The AfCFTA Investment Protocol](#)

Investment into existing and new industries in Africa is critical to unlock the economic growth and development benefits the AfCFTA holds for Africa.

## Podcasts

[Unravelling SA's public procurement challenges](#)

Vincent Manko joined Jeremy Maggs on Moneyweb to unpack the unravelling of SA's public procurement challenges – the ins and outs of the Public Procurement Tribunal.

[What are the next steps for Comair](#)

The provisional liquidation Comair continues to raise questions on what will happen going will forward. Vincent Manko, Director in our Business Rescue, Restructuring & Insolvency sector discussed the next steps for Comair with SAfm.

[All news by Vincent Manko →](#)