

**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA**

**("THE TRIBUNAL")**

**CASE NUMBER: CT010SEP2014**

**In the matter of:**

**IVUZI INVESTMENTS (RF) LIMITED**

**APPLICANT**

**Application for exemption in terms of section 72(5) of the Companies Act 71 of 2008 from the requirement to appoint a Social and Ethics Committee**

**Coram: PJ Veldhuizen**

**Order delivered 25 May 2015**

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**ORDER**

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**1. THE APPLICANT**

The Applicant is **IVUZI INVESTMENTS (RF) LTD** ("the Applicant"), a limited company duly incorporated in terms of the company laws of the Republic of South Africa.

**2. THE APPLICATION**

2.1. This is an application brought in terms of Section 72(5)(b) of the Companies Act No. 71 of 2008 ("the Act") for an exemption from the requirement to appoint a Social and Ethics Committee. The application

is brought as an *ex parte* application and it should be mentioned that an Applicant who brings an application on an *ex parte* basis should be aware that “*it is trite that an ex parte applicant must disclose all material facts which might influence the court in deciding the application*”.<sup>1</sup>

2.2. What is significant is that the Applicant fails to disclose in his supporting affidavit that this application had been brought previously to the Tribunal under case number 014/06/2012 and dismissed by Kganyago MF on 7 January 2013.

2.3. In essence, the Applicant is requesting the Tribunal to overturn a previous ruling. Notwithstanding the Tribunal's view on this failure to disclose material facts, the Tribunal, in any event is not vested with the legal authority to revisit a prior decision as it is *functus officio*.

### **3. ORDER**

The Application is dismissed.



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**PJ VELDHUIZEN**  
**MEMBER OF THE COMPANIES TRIBUNAL**  
**CAPE TOWN**

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<sup>1</sup> Phillips and others v National Director of Public Prosecutions [2003] 4 All SA 16 (SCA)