**IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA**

**Case No: CT02403ADJ2025**

**In the matter between:**

**REA YA KABELO TRADING PROJECTS (Pty) Ltd** **APPLICANT**
**(Registration number: 2018/559233/07)**

**and**

**COMPANIES AND INTELLECTUAL PROPERTY COMMISSION** **RESPONDENT**

Presiding Member of the Companies Tribunal: NOMAGCISA CAWE

Date of Decision: 31 October 2025

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**DECISION** (Reasons and Order)

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This is an application for the review and setting aside of the administrative decision of the Companies and Intellectual Property Commission ("the CIPC"), in terms of which it refused to investigate or shed light on the circumstances surrounding the removal of Kabelo Kekana as sole director of REA YA KABELO TRADING PROJECTS (Pty)Ltd. The matter to be determined is whether the refusal is lawful or not, in terms of the Companies Act 71 of 2008 ("the Act").

**INTRODUCTION**

1. Applicant is REA YA KABELO TRADING PROJECTS (Pty) Ltd, a company duly incorporated in accordance with the company laws of the Republic of South Africa, with registration number (2018/559233/07) ("the company/Applicant"), with its registered business address at 13 Pudungoane Street, Saulsville, Pretoria 0125. The Applicant is represented by Kabelo Conrad Kekana (Kekana), an adult male businessman and sole director of the Applicant before the alleged hijacking/ takeover by Messers: Mosher Dakalo Mudungwa (Mdungwa), Sibusiso Simon Peter Shilubane (Shilubane) and Rudzani Robert Ravholali (Ravholali).

2. Respondent is the Companies and Intellectual Property Commission ("CIPC"), a juristic person established in terms of section 185(1) of the Companies Act 71 of 2008 ("the Act"). The Respondent is an organ of the state authorised to register company names on application.

3. On 22 September 2025, Applicant applied to the Companies Tribunal for an order cancelling the decision taken by CIPC to not investigate Applicant's complaint that Kekana was fraudulently removed as director of the company and replaced by other persons, together with the change of the company's name from Rea Ya Kabelo Trading Projects (Pty) Ltd to Onyx Mining Solutions (Pty) Ltd ("Onyx"). The company profile change was effected on 27 January 2020.

4. The Companies register reflects Onyx's enterprise number as K 2018 855 9233, and its incorporation date as 24 October 2018, with its business address as: 4 Michelin Street, Vanderbijl Park, Gauteng. The registration number and date of incorporation are the same as those of the Applicant.

5. Kekana seeks an order directing the CIPC to amend its records by removing Mdungwa, Shilubane and Ravholali as directors of the company, removing Onyx as the company name and restoring the *status quo ante.*

6. In his Affidavit, accompanying the Form CTR 142, Kekana avers that he first became aware of the change in the company's profile in 2024 when he started

receiving emails from the South African Revenue Services (SARS) for outstanding returns. He noticed that the company profile name had changed to ONYX MINING SOLUTIONS (PTY) LTD, in 2020 without his knowledge or consent, but the registration number had remained that of the Applicant. He discovered that the company had been hijacked by individuals unknown to him. The company's register reflected that he had resigned as director and new directors had been appointed.

7. Confronted by this turn of events, Kekana approached the CIPC for an explanation. On 4 September he received a response from the CIPC Director Amendments stating:

> "We have processed your application for director amendments
> please note the application has been terminated with reason: In the event that the board has fewer than three directors, the board may not remove the director as contemplated above, however any party may approach the Companies Tribunal. The website address for the Companies Tribunal for more information is www.companiestribunal.org.za
> Please log back into the system to submit a new application".

I have noted that this was in response to Kekana's request for the removal of the 3 directors and the company name ONYX from the Companies register.

8. Dissatisfied with the CIPC's response, Applicant referred the matter to the Companies Tribunal for relief. On 23 September 2025 Applicant served the referral electronically on the CIPC. Respondent response was that in light of Applicant's failure to timely invoke the provisions of Regulation 168(6) of the Act, Respondent had effected the change of directorship in good faith.

9. Respondent decided not to investigate the matter further and advised Applicant to open a criminal case with the South African Police Services.
   I will hasten to point out that by the time Kekana referred the matter to the Tribunal he had already reported a case of fraud to the South African Police Services (case number 66/10/2024).

**EVALUATION**

10. I will deal with the evaluation of the evidence before me, using the relevant and applicable law. From the papers submitted to the Tribunal it is not clear how the change of the directorship of the company was effected by the CIPC, without the submission of the documentation required by the Act and the regulations for such change. The Director of Amendments at the CIPC does not answer the question asked by the Applicant's Representative but refers him to Section 71(8) of the Act, which provides that:-

    (a) If a company has fewer than three directors-
    subsection (3) does not apply to the company;
    (b) in any circumstances contemplated in subsection (3), any director or shareholder of the company may apply to the Companies Tribunal, to make a determination contemplated in the subsection; and
    (c) …

    Section 71(8) does not apply in the instant case as Kekana is the sole director and could, therefore, not apply for his own removal.

11. The onus rests on the party that refers to legal authority in its submissions, to furnish full citation, for ease of reference. Further, it is in the interests of justice that the reviewing authority be placed in possession of all relevant information that led to the party's decision. The Director of Amendments does not apply the section of the Act that it refers to, to the instant case. The response cites what it claims to be the relevant provision in a vacuum. For example the reference to "the above" does not make sense as there is no "above" in its letter to Applicant.
    Section 193(2) of the Act enjoins each organ of the state to assist the Companies Tribunal to perform its functions effectively. This can hardly be said to be the case in the response of the Respondent. The question still remains who, how and why were the registration details of the Applicant altered.

12. Failure by the CIPC to furnish a full citation of the legislative provisions that led to its decision to change the profile of the company undermines the legislative provisions requiring organs of the state to assist the Tribunal to perform its functions effectively.

13. There is no clarity as to who lodged the application for the change of the company name and profile, while retaining the company's registration number. A reading of the CIPC register gives the impression that Kekana changed the profile, which is vigorously denied by Kekana. In the absence of any proof of registration documentation, Kekana's version stands to be upheld.

14. Section 186(1) of the Act describes the CIPC's objectives as:

(b) the maintenance of accurate, up-to-date and relevant information concerning companies,

(c) …

(d) the promotion of compliance with this Act, and any other applicable Legislation.

What transpired in the instant case does not reflect compliance with the above section of the Act. The CIPC is not forthcoming with information as to how the company profile was altered. I get the impression that it has taken a casual approach to, and is dismissive of Applicant's enquiry.

15. Section 187(4)(d) of the Act states that one of the functions of the CIPC is to register and deregister companies, directors, business names and property rights, in accordance with relevant legislation; and

(e) perform any related functions assigned to it by legislation or reasonably necessary to carry out its registry function.

16. The present case concerns an amendment to the company records by the CIPC, allegedly in a not so transparent manner and in complete disregard of the law as already stated. The CIPC does not lay any basis of how and why Kekana came to be replaced as a director of a company bearing the registration number of his original company without his apparent consent or knowledge.

17. Companies Regulation 168 deals with the filing of document, and requires:

(4) The recording officer of a regulatory agency— (a)

must take reasonable steps to—

(i) confirm the identity of any person filing a document with that regulatory agency;

(ii) verify that the person filing a document on behalf of, or in relation to a juristic person, has the right to file that document in their own name, or is authorised to file the document on behalf of another person who has the right to file the document;

(iii) verify the authenticity of every document being filed;

(iv) …

18. It is clear from the CIPC records, that prior to January 2020, Kekana was the sole director of the company. Kekana states that he only became aware of the change in his status in 2024 when SARS contacted him about outstanding tax returns for the financial year ended in March 2019. The CIPC did not contact Kekana during the whole process of changing the company profile.

19. After receiving the SARS notifications, Applicant sought the assistance of Respondent to investigate what transpired during the change of the Applicant's profile. I have highlighted the relevant provisions of the Act as they apply to the CIPC when a complaint is lodged. The Respondent's outcome of the investigation report simply denies Applicant any further relief citing the five year lapse of time from the time the profile was changed to the time of the referral, and claims further that he had resigned as director without proof thereof. In the face of the serious allegations made by Applicant, this response leaves much to be desired, to say the least.

20. In the circumstances there is no reason not to accept the Applicant's representative's version that he never resigned from the original company ( Rea Ya Kabelo Trading Projects (Pty) Ltd, that he never changed the name of his company and has remained the sole director of that company.

21. Having considered all the circumstances relevant to the present application as well as the submissions of the Applicant, I have come to the conclusion that the CIPC erred on several points of law when it changed the details of the Applicant without due diligence as to who had lodged the name change application and also Kekana's alleged resignation. It's administrative decision is therefore unlawful. Accordingly, the appropriate relief in the circumstances is to overturn the registration of Onyx and nullify the unlawful changes to Applicant's profile.

22. An order that the CIPC remove the names of Dungwa, Shilubane and Ravholali, together with the name Oynx Mining Solutions (Pty) Ltd from the profile of the company whose registration number is 2018/559233/07, and reinstate the legitimate director and owner of the company with the reflected registration number is appropriate

In the result I make the following order:-

**ORDER**

23. The application for review of Respondent's decision is upheld.

24. The CIPC is ordered to remove the name Oynx Mining Solutions (Pty) Ltd from the profile of the company, in the Companies register, and substitute it with Rea Ya Kabelo Trading Projects(Pty) Ltd, Registration number 2018/ 559233/07and revert to the *status quo ante* by registering Kabelo Conrad Kekana as the sole director thereof within ten days from receipt of this order.

25. The registrar of the Tribunal is hereby directed to deliver a copy of this order and the reasons therefor to the CIPC within ten days of receipt of this order.

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**Nomagcisa Cawe: Member of the Companies Tribunal**