Companies Tribunal
a member of the dti group

Companies Tribunal Bulletin

Volume 3 October to December 2017

From the Editor's desk

Inside this edition

The Companies Tribunal (Tribunal) welcomes you back in the New Year, 2018. The Tribunal is excited to share with you strides made in the third quarter of 2017 and to continuously create awareness about the Tribunal's mandate.

The Tribunal will host a seminar on Company Name Disputes at the Industrial Development Corporation on 16 February 2018. The seminar is intended to attract Intellectual Property Law Firms, Academics, the Judiciary, Business Formations and Members of the Public. Amongst others the seminar is aimed at engaging stakeholders on the protection of company names or trademarks against infringement.

This Bulletin also features the following articles: The Tribunal's discretion to award costs; Compliance Notices; Name Dispute Case Highlights; Stakeholder engagement with SAICA and the Law Societies, Goodbyes are never easy and invitation to the seminar on Company Name Disputes.

I would like to end by a quote from Martin Luther King Jr who said: "I came to the conclusion that there is an existential moment in life when you must decide to speak for yourself; nobody else can speak for you".

We encourage our stakeholders to make suggestions and contributions, such inputs must be sent to Messrs. Simukele Khoza and Dumisani Mthalane at the following email email addresses: SKhoza@companiestribunal.org.za and DMthalane@companiestribunal.org.za, contact us on 012 394 3071 and send email to Registry@companiestribunal.org.za

I hope to hear from you.

Editor: S Khoza, Manager Research

The Tribunal's Discretion to Award Costs

- By Mulalo Nengudza

In the matter between *Ithungelw' Ebandla Investment Holdings v Piotrans Board of Directors and Others* case number CT013MAR2016, an application for postponement was brought by the Applicant in relation to a directorship dispute. The four Respondents did not oppose the Applicant's application for postponement but they argued that the Applicant should be ordered to pay costs on Attorney and Client scale.

The Presiding Member made reference to the case of *Giulana Pump Injector Services (Pty) Ltd 1966 (3) SA 451 (R)* at page 453 B-E where the court said the following:

"The language used by the Lord Justice Bowen in the case of Foster v Farquhar, (1893) 1 Q.B.D 564 at p.568, appears to me to reflect the law with regard to costs which is appropriate to this case:

"The measure of what is fair as to costs is not to be found in a mere consideration of his conduct towards the opposite side. It may have been reasonable from his point of view to do that which it would be unreasonable to make the opposite litigant pay for. Although he has won the action, he may have succeeded only upon a portion of his claim under circumstances which make it more reasonable that he should bear the expenses of litigating the remainder than that it should fall on his opponent. The point is not merely whether the litigant has been oppressive in the way he waged his suit or prosecuted his defence, but whether it would be just to make the other side pay. We can get no nearer to a perfect test than the inquiry whether it would be more fair as between the parties that some exception should be made in the special instance to the rule that costs should follow upon success…'I cannot entertain a doubt', says Lord Halsbury, LC, that everything which increases the litigation and the costs, and which places the defendant a burden which he ought not to bear in the course of that litigation, is perfectly good cause for depriving the plaintiff of costs. 'The language of Lord Watson is to the same effect: I shall not attempt' he says, 'a complete definition of what is meant by these words. They are all events embrace in my opinion everything for which the party is responsible connected with the institution or conduct of the suit and calculated to occasion litigation and expense."

Having considered the following facts:

- The extract from the *Foster case*;
- The Applicant, being the one seeking indulgence, blamed its current attorneys of record for the mishaps it found itself in which led to the application for postponement; and
- The Presiding Member was of the opinion that the Applicant should have made the application for postponement way earlier as the matter was not yet ripe for hearing due to several factors, and the Applicant was aware of such.

The Tribunal postponed the matter *sine die* and ordered the Applicant to pay the four Respondents' costs on Attorney and

Client scale, which costs would include the employment of one counsel for the Respondents that have engaged the services of a counsel.

In making an order, Regulation 156(1) of the Companies Regulations gives the Companies Tribunal ('the Tribunal') discretion to make an order of costs. Where the Tribunal has made such award, Regulation 156(2) states that the following provisions, *inter alia*, will be applicable:

a)The fees of one representative may be allowed between party and party, unless the Tribunal authorises the fees of additional representatives.

b)The fees of any additional representative authorised in terms of sub-regulation (1) must not exceed one half of those of the first representative, unless the Tribunal directs otherwise.

What is a legal costs order?

A legal costs order is an order made by the court, at its judicial discretion, in relation to those costs that help pay the lawyers and court in a legal case. The order is usually made against the losing party or in favour of the successful party. The logic behind a costs order usually being awarded this way is that the successful litigant should be indemnified against the necessary expense of having to defend his or her rights in law.

The court, in case of *Ferreira v Levin NO and Others* 1996 (2) SA 621 (CC) at 3, stated the basic rules pertaining to legal costs:

"The Supreme Court has, over the years, developed a flexible approach to costs which proceeds from two basic principles, the first being that the award of costs, unless expressly otherwise enacted, is in the discretion of the presiding judicial officer, and the second that the successful party should, as a general rule, have his or her costs. Even this second principle is subject to the first. The second principle is subject to a large number of exceptions where the successful party is deprived of his or her costs. Without attempting either comprehensiveness or complete analytical accuracy, depriving successful parties of their costs can depend on circumstances such as, for example, the conduct of parties, the conduct of their legal representatives, whether a party achieves technical success only, the nature of the litigants and the nature of the proceedings. I mention these examples to indicate that the principles which have been developed in relation to the award of costs are by their nature sufficiently flexible and adaptable to meet new needs which may arise in regard to constitutional litigation. They offer a useful point of departure. If the need arises the rules may have to be substantially adapted; this should however be done on a case by case basis. It is unnecessary, if not impossible, at this stage to attempt to formulate comprehensive rules regarding costs in constitutional litigation."

Categories of a legal costs order

Legal costs are grouped into three categories, namely: Party and Party costs, Attorney and Client costs and Attorney and Own Client costs. Party and Party costs refer to those costs reasonably necessary for the matter at hand, and only at a prescribed tariff. Where an agreement is silent on the issue of costs, a party would only be entitled to claim costs on a Party and Party scale.

These costs are to be paid by the client and not the attorney. In practice, these costs are set off against the Attorney and Client costs and the client therefore pays the difference. This practice, which has been followed for decades, has now become trite law.

Attorney and Client costs were defined in the case of *Hawkins v Gelb & Another* 1959 (1) SA 702 (W) at 705 as costs which an attorney is entitled to recover from his client for the disbursements made by him on behalf of his client and the professional services rendered by him. They are similar to Party and Party costs in that they are restricted to the prescribed tariffs, but they have a much broader scope. As such, a party would be entitled to recover all fees and disbursements incurred by a client in the performance of a

mandate.

They are not specifically limited to the matter at hand; an example of these costs would be costs incurred in relation to sending letters to a client to report on the progress of a matter. Such letters would not be essential to the matter; they do not have any bearing on the outcome of the matter. Attorney and Client costs would only be recoverable where there is a court order to that effect. Just like Party and Party costs, they are to be paid by the client and not the attorney.

Attorney and 'Own' Client costs, on the other hand, differ fundamentally from the other types of costs in that they are not governed by the prescribed tariffs; they are governed by a private contract entered into between the attorney and his or her client on the onset of the mandate (if mandate or fee agreement does not exist, the court tariffs will be applicable). But in essence, they are Attorney and Client costs.

The exercise of judicial discretion regarding costs orders

Having regard to the extract from the *Ferreira* case, the award of costs rests solely upon the discretion of the Tribunal or the court. Discretion has a lot to do with 'choice' having regard to what is fair to all parties. In so far as judicial discretion has a lot to do with 'choice', the case of *Rex v Zackey* 1945 AD 505 at page 513 confirms that, 'there must exist some grounds for its exercise, for a discretion exercised on no grounds cannot be judicial'. Its very nature requires it not be exercised arbitrarily or upon a wrong, as its exercise is aimed at the prevention of an injustice. Questions as to what is right, just, equitable, or reasonable are included in the domain of judicial discretion, so far as they are not predetermined by precedent but remain committed to the liberum arbitrium of the courts. This was emphasized in the *Media Workers Association of South Africa and Others* v *Press Corporation of South Africa Ltd* 1992 (4) SA 791 (AD) in paragraph 14.

Discretion can be exercised in one of two ways; the narrow (or true) sense and the wide (loose) sense. The distinction between the narrow and the wide sense was clearly stated in paragraphs 85-86, in the case of *Trencon Construction (Pty) Limited v Industrial Development Corporation of South Africa Limited and Another* [2015] ZACC 22 as follows:

[85]. A discretion in the true sense is found where the lower court has a wide range of equally permissible options available to it. This type of discretion has been found by this Court in many instances, including matters of costs... It is "true" in that the lower court has an election of which option it will apply and any option can never be said to be wrong as each is entirely permissible. [86] In contrast, where a court has a discretion in the loose sense, it does not necessarily have a choice between equally permissible options. Instead, as described in *Knox D'Arcy Ltd and Others v Jamieson and Others* [1996] ZASCA 58 at 3611, a discretion in the loose sense— "means no more than that the court is entitled to have regard to a number of disparate and incommensurable features in coming to a decision."

The meaning of wide discretion was described, in a different way, in the case of *Media Workers Association of South Africa and Others v Press Corporation of South Africa Ltd* 1992 (4) SA 791 (AD) at paragraph 16, as discretion that "involves an exercise of the moral judgment, and it is therefore differentiated from questions of pure fact and separately classified."

In relation to costs occasioned by a postponement, the court held, in *Sublime Technologies v Jonker and Wilkinson* (484/2008) [2009] ZASCA 149 paragraph 3, that the party responsible for a case not proceeding on the day set down for hearing must ordinarily pay the wasted costs as a general rule. As a party may not be necessarily 'responsible' for the case not proceeding merely because he or she applied for a postponement, the court emphasized that the general rule is only applicable to the party who was at fault or in default.

When making orders of costs, courts are generally reluctant to make an award of costs on the very punitive Attorney and Client scale. Such an order of costs would be granted by the courts as a mark of disapproval of the conduct of the party

asking for the indulgence. However, it must be more than just punishment of the party asking for indulgence; special grounds should be present, for example, the motives of the party seeking indulgence should have been vexatious, reckless and malicious or frivolous or that he or she has acted unreasonably in his or her conduct of the case, or that his or conduct is in some way reprehensive. This has been confirmed by courts in the cases of *Mcpherson v Teuwen and Another* [2012] ZAGPJHC 18 paragraph 58 and *Ludik v Ludik* (13096/14) [2015] ZAGPPHC 768 at paragraph 8.

Review of a legal costs order

The *Trencon* case, which made a distinction between discretion in the wide and narrow senses applied that distinction in determining the extent of the court's powers to interfere on judicial review with a discretionary administrative decision. It stated in paragraphs 87-88 that:

"…an appellate court must heed the standard of interference applicable to either of the discretions. In the instance of a discretion in the loose sense, an appellate court is equally capable of determining the matter in the same manner as the court of first instance and can therefore substitute its own exercise of the discretion without first having to find that the court of first instance did not act judicially. However, even where a discretion in the loose sense is conferred on a lower court, an appellate court's power to interfere may be curtailed by broader policy considerations. Therefore, whenever an appellate court interferes with a discretion in the loose sense, it must be guarded. When a lower court exercises a discretion in the true sense, it would ordinarily be inappropriate for an appellate court to interfere unless it is satisfied that this discretion was not exercised—"judicially, or that it had been influenced by wrong principles or a misdirection on the facts, or that it had reached a decision which in the result could not reasonably have been made by a court properly directing itself to all the relevant facts and principles. An appellate court ought to be slow to substitute its own decision solely because it does not agree with the permissible option chosen by the lower court."

In making an order of costs against the Applicant in the *Ithungelw' Ebandla Investment Holdings* case, on an Attorney and Client scale, the Presiding Member carefully scrutinized the conduct of the Applicant (who had applied for a postponement) and also applicable case law. It is the Tribunal's opinion that the Applicant's conduct was unreasonable and thus reprehensible. It can be said that the Tribunal exercised its discretion judiciously. Sympathy could not have been a ground to absolve the Applicant from the costs.

Currently, the Tribunal follows the High Court tariffs in relation to legal costs, since it has not set its own tariffs. This is permitted by Regulation 154(1)(b). Guideline 2.5 of the Tribunal's Practice Guidelines allows a reasonable deviation from the formalities of the High Court should it be necessary depending on the circumstances of a matter before the Tribunal as it conducts its proceedings informally. Taking into account that the Tribunal is a cost-effective entity seeking to be accessible to the man on the street, it is recommended that the Tribunal set its own tariffs, which should ideally be lower than that of the High Court.

Compliance Notices

- By Grethe Carr and Peter J Veldhuizen

The Companies Tribunal, as established under section 193 of the 'new' 2008 Companies Act (hereinafter the 'Companies Act') , is a new body introduced to streamline and simplify the South African commercial landscape. This paper will consider the use of compliance notices and the role of the Companies Tribunal as a reviewing body.

Complaints and investigations

A significant amendment under the 2008 Companies Act involved the decriminalisation of various provisions that carried a criminal penalty under the 1973 Companies Act (hereinafter the '1973 Act'), mostly due to criminal sanctions never actually being enforced. However, actual adherence with the 2008 Companies Act is ensured and enforced by way of the investigation and complaints system, which aims to encourage adherence by granting opportunity to comply rather than by way of criminal liability.

Under section 168 of the Companies Act, any person may report any contravention of the Companies Act or any breach of rights afforded to a person in terms of the Act or a company's Memorandum of Incorporation or rules to the Companies and Intellectual Property Commission (CIPC). A complaint is lodged by sending a completed CoR135.1 and supporting documents to the CIPC.

The CIPC may then, after consideration of the complaint, decide to dismiss the complaint, refer the matter to a relevant body or direct an investigator to inquire into the allegations. The CIPC also has the authority to initiate a complaint mero motu or on the request of another regulatory authority. On the direction of the Minister of Trade and Industry, CIPC must investigate an alleged contravention of the Companies Act or 'other specified circumstances'.

The Companies and Intellectual Property Commission has the authority to initiate a complaint mero motu or on the request of another regulatory authority.

Once the report compiled by the inspector or investigator has been considered, the Takeover Regulation Panel (hereinafter 'the Panel') or the CIPC, as the case may be, may, inter alia, refer the complaint to the Panel, the CIPC, the Companies

Tribunal, the National Prosecuting Authority or any other regulatory authority.

Compliance notices

If the matter is referred to the Commission or the Panel, as per section 170(1)(g), a compliance notice in terms of section 171 of the Companies Act may be issued. The Commission or the Executive Director of the Panel may issue a compliance notice to any person who they, on reasonable grounds, believe contravened the Act or 'assented to, was implicated in, or directly or indirectly benefitted from a contravention of the Act'. A compliance notice may require that the person to whom it is addressed, inter alia, cease, correct, reverse or take any action so as to ensure compliance with the Companies Act. A compliance notice 'remains in force' until it is 'set aside' by the Companies Tribunal, the Takeover Special Committee or a court on review of the notice, or until a compliance certificate is issued.

A person may object to a compliance notice issued against them in terms of section 172. A person may apply to the Companies Tribunal or the Takeover Special Committee, depending on who issued the notice, as well as a court. The person has to apply within 15 business days, but may apply at any longer period, which may be allowed if good cause is shown.

The body hearing the application may, considering any representations by the applicant, confirm, modify or cancel all or part of the compliance notice.

It seems that the aim of the legislature with the compliance notice system was to regulate with oversight and guidance, encouraging directors to act honestly and remain accountable, to shareholders, stakeholders and society at large.

Role of the Companies Tribunal

The Companies Tribunal, established under section 193 of the Companies Act, is an agency of the Department of Trade and Industry that aims at providing an alternative forum for company disputes as well as serving as a quasi-'appeal' body for decisions made by the CIPC. The Companies Tribunal may adjudicate on any application made to it and may make any order as allowed under the Companies Act.

The Companies Tribunal is a creature of statute and as such is limited to the authority granted to it by the Companies Act; it is important that adjudicators at the Companies Tribunal do not overstep their jurisdiction. This was a fundamental aspect highlighted by the Tribunal in the Duduzile Cynthia Myeni v Companies and Intellectual Property Commission (2017) judgement.

In the Myeni case, the Companies Tribunal ruled that they did not bear jurisdiction over a compliance notice that had been acted on by Myeni and resultantly had a compliance certificate issued. The Tribunal reasoned that as there had been compliance and a compliance certificate issued, the compliance notice was no longer in force and as a result the Companies Tribunal held no jurisdiction.

The Companies Tribunal may adjudicate on any application made to it and may make any order as allowed under the Companies Act

Conclusion

If it is submitted that the compliance notice system under the 2008 Companies Act does well in guiding persons who have never operated in the companies sphere before whilst also ensuring that large and established bodies also comply with the Companies Act. Further, the introduction of the Companies Tribunal ensures that there remains an alternative avenue for review that does not encompass expensive litigation in the courts.

Name Disputes Case Highlights

- By Simukele Khoza

BRAVURA CAPITAL (PTY) LTD (Applicant) versus **BRAVURA GROUP (PTY) LTD (First Respondent)** and **THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC) (Second Respondent)**

The Applicant brought an application in terms of Section 160 of the Companies Act 71 of 2008 ("the Act") and regulations 143 and 153 of the Act for a default order that the First Respondent be ordered to change its name BRAVURA Group (Pty) Ltd as it does not satisfy the requirements of section 11(2) (b) and (c) of the Act. The Applicant is the owner of the trademark "BRAVURA", has been utilising this trademark for approximately 16 years and conducting business under the name together with other subsidiaries in its Group structure.

The First Respondent was registered in 20 May 2016. The use of "BRAVURA" by the First Respondent is the first and dominant part of its name and the only other word added to the name is Group which does not distinguish its name from that of the Applicant. The First Respondent's name could easily imply that they are a subsidiary of the Applicant or part of the BRAVURA Group of companies. The Applicant filed an application with the Tribunal on 30 August 2017. The First Respondent was served (pinned on the principal door) on the registered business address. As per CIPC records, the directors were also served by emails on two occasions i.e. 06th and 19th September 2017 and furthermore the directors were informed telephonically of the Application. The First Respondent failed to file an answer with the Tribunal as a result the Applicant proceeded to file an application for Default Order in terms of Regulation 153.

The Tribunal found that by merely looking or hearing the two names, the name of the First Respondent is confusingly similar to the Applicant's name in terms of Section 11 (2)(b) and (c)(1), it may falsely imply, suggest or reasonably mislead a person to believe incorrectly that the First Respondent is part of, or associated with the Applicant.

The First Respondent was directed to change its name to one which does not incorporate and is not confusingly similar to the Applicant's trademark "BRAVURA". The First Respondent was further directed to file a Notice of amendment of its Memorandum of Incorporation with CIPC within 30 days from the date of order. Furthermore, in the event the First Respondent fails to amend its name within 30 days, the CIPC was directed to remove the First Respondent's name and substitute it with its registration number on the CIPC company register.

ORDER: Granted.

TRANSNET SOC LTD (Applicant) versus **M A KUTUMELA TRANSNET CO PTY LTD (First Respondent)** and **CIPC (Second Respondent)**
The Applicant brought an application in terms of Sections 11 (2) (a) (i), 11(2)(b) and 160 of the Act read with regulation 153 of the Act. The Applicant sought an order that the First Respondent change its name so that it does not incorporate the trademark "TRANSNET" as it is confusingly similar to its trademark.

The Applicant filed an application with the Tribunal on 17 January 2017 and further stated that the same was served on the First and Second Respondent. In the CTR 142 form served on the First Respondent, the signature of the First Respondent is reflected.

However, the Applicant did not confirm in the affidavit where and when it was served on the First Respondent and what time for it to be credible. Lastly there was no confirmation of how it was served. In the founding affidavit, the Applicant stated that the principal address of the First Respondent is the same as the registered address and argued that the principal place is unknown to the Applicant without any attempt to find the principal place of business.

The Tribunal found that the service on the First Respondent is inconsistent and contradictory while the Second Respondent had the CIPC Registrar's stamp with a clear date. The Tribunal's view was that service is usually acceptable in terms of High Court Rules or in terms of regulation 7. Therefore, the Tribunal was not satisfied that the application has come to the attention of the First Respondent as per the reasons stated above.

Furthermore, the Tribunal found that the Applicant failed to show 'good cause' in terms of Section 160 (2) (b) and should have addressed this matter immediately the Applicant became aware of the existence of the First Respondent. The Tribunal expected the Applicant to explain the five months delay in making the application after being aware. This application was dismissed with no costs.

ORDER: Dismissed

KAROO SPITBRAAI SPECIALIST (PTY) LTD (Applicant) versus **KAROO SPIT BRAAI (PTY) LTD (Respondent)**
The Applicant applied to the Tribunal in terms of Sections 160. The basis of the application was that the Respondent's name KAROO SPIT BRAAI (PTY) LTD offends the provisions of Section 11(2)(b) and (c) of the Act by incorporating a name that is confusingly similar to the Applicant's company name KAROO SPITBRAAI SPECIALIST (PTY) LTD. The Applicant sought an order that the Tribunal should direct the Respondent to change its name to one which does not incorporate the word KAROO SPITBRAAI. The Applicant's company was registered in 2014 while the Respondent's was registered in 2017. The Applicant served the Respondent on the 05th October 2017 and the Respondent did not file an answering affidavit.

The dominant word in both the Applicant and Respondent KAROO SPITBRAAI which creates an impression in the mind of the customer and could falsely suggests or mislead a person to incorrectly believe that the Respondent is part of or associated with the Applicant. It was therefore the Tribunal's view that if members of the public were to look at the names of the two entities they would be misled by the similarity of the names.

The Respondent was directed to change its name to one which does not incorporate and is not confusingly or deceptively similar to the Applicant's company name KAROO SPITBRAAI SPECIALIST (PTY) LTD. The Respondent was directed to file a Notice of amendment of its Memorandum of Incorporation with CIPC within 60 days of receipt of the order. The Respondent was exempted from the requirements to pay the prescribed fee for filing the notice of amendment. Furthermore, the determination had to be served on the Applicant, Respondent and the CIPC. Lastly, the Tribunal advised that any other person with an interest in the name KAROO SPITBRAAI may within 20 business days after receiving notice of the determination and administrative order, apply to a court to review the determination.

ORDER: Granted

Stakeholder engagement with SAICA and Law Societies

- By Dumisani Mthalane

To effectively deliver on its mandate of being a world-class adjudicatory and dispute resolution body through providing speedy resolution of company disputes, the Tribunal needs to constantly engage and work in partnership with a wide range of stakeholders in business, legal fraternity, government, the Judiciary and others. Stakeholder engagement in advancing the Tribunal mandate is essential on delivering services to intended beneficiaries. As a result, the Tribunal exhibited at the South African Institute of Chartered Accountants (SAICA) 2017 Tax Update Johannesburg and Cape Town seminars and presentations were made to the Law Societies.

SAICA 2017 Tax Update Seminar Exhibitions

The SAICA exhibitions took place on 14 November 2017 in Cape Town and on 21 November 2017 in Johannesburg. The seminars were well attended and comprised of financial planners, financial managers, auditors and advisors, tax practitioners as well as business managers.

The aim of the seminar was to provide amongst others, a practical overview of the 2017 tax bill amendments, as well as the tax cases, interpretation notes, and advanced tax rulings that arose during the year. It was also aimed at discussing some exciting and challenging new tax developments, such as the changes to the foreign income exemption and the further expansion of section 7C to the Income Tax Act dealing with donation tax and interest-free loans to trusts. In addition to significant legislative amendments, it also included more reports issued by the Davis Tax Commission and court cases providing interpretation of key tax legislation.

SAICA is one of the strategic stakeholders the Tribunal has identified. This is because SAICA is the leading accountancy body in South Africa which develop chartered accountants enabling them to become leaders in government, businesses and communities. It plays an influential role in South Africa's highly dynamic business sector. It offers a wide range of support services to its members who are CAs(SA), CEOs, MDs, board directors, business owners, CFOs, auditors and leaders in their spheres of operation. The significance of exhibiting at these events was to raise awareness about the existence and mandate of the Tribunal to SAICA members and corporates who attended.

SIACA members sit in boards of companies providing advice in terms compliance with the legislation, it was important for them to understand how to utilize the services of the Tribunal so that when disputes in terms of the Companies Act arise e.g. directors or shareholders disputes, they can advise them to apply for alternative dispute resolution. In this regard SAICA members are better positioned to assist in advancing the mandate of the Tribunal. They also got the opportunity to ask questions and receive Tribunal information in the form of

Delegates listening to a presentation by Mr Wessel Smit who is an independent tax consultant and director at Core Tax (Pty)

brochures.

Engagement with the Law Societies

The Tribunal also reached out to the Law Society of South Africa (LSSA) and the law Society of the Northern Province (LSNP). A presentation was made to the Company Matters Committee of the LSSA and another presentation was made to the LSNP. The LSSA represent the attorneys' profession with six constituent members which are the Black Lawyers Association, Cape Law Society, KwaZulu-Natal Law Society, Law Society of the Free State, Law Society of the Northern Provinces and the National Association of Democratic Lawyers. While the LSNP is the statutory body governing the attorney's profession in Gauteng, Mpumalanga, North West and Limpopo Provinces. It was important for the Tribunal to engage with these stakeholders because they represent lawyers who file cases with the Tribunal on behalf of their clients. A significant percentage of applications the Tribunal receives come from attorneys. An agreement was made that a seminar should be held with LSNP during the first half of 2018 and the Tribunal will also participate in one of LSSA trainings or seminars.

Other important stakeholders the Tribunal engaged with was the South African Judicial Education Institute (SAJEI), Institute of Directors South Africa (IOD SA), the Independent Regulatory Board for Auditors (IRBA) and the Johannesburg Stock Exchange (JSE). The Tribunal values partnerships and collaboration with various stakeholders and will continue to create on-going awareness as stakeholders play a significant role in spreading the Tribunal's message.

Goodbyes Are Never Easy

- By Mulalo Nengudza

In working environments, professional relationships are built. It is not odd for such relationships to develop into solid friendships as a result of employees connecting through years (or even months) of working together. When a colleague, turned friend has to leave a working environment for another, it is always a bittersweet moment. For the Tribunal, that moment arrived when Mr. Selby Magwasha (pictured below) announced that he would be leaving the Tribunal for a new role as Deputy Director (Corporate Services) at the Department of Labour.

Selby was the Deputy Manager Registry for a period of three years. He was well-known for his ability to engage with colleagues (at any level). His outspoken personality complemented by his reasoning skills earned him a role as Employee Representative, which nomination followed after his colleagues felt that they could trust him to handle their issues professionally and confidently. A colleague of his, Mandla, who closely worked with him in the Registry Division, described Selby as, "Quite a dedicated and punctual hard worker who is always jolly and always stands for what he believes in; the Tribunal's superman."

To Selby: Arthur Schopenhauer said, "A good supply of resignation is of the first importance in providing for the journey of life". The Tribunal truly lost a gem. That being said, the Tribunal wishes you the very best in your new role and your future endeavours. Make us proud!"

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INVITATION

Companies Tribunal Seminar on Company Name Disputes

The Companies Tribunal (the Tribunal) cordially invites you to participate in the seminar on company name disputes. The Tribunal is empowered by section 160 of the Companies Act no. 71 of 2008 to adjudicate on company name disputes. The objective of the seminar is to engage stakeholders on key issues relating to the adjudication of company name disputes.

The seminar will also focus on how the Companies and Intellectual Property Commission (CIPC) administers the process of company registration and key principles that companies should consider when registering, reserving the company name or protecting a trade mark. It will also serve as a platform to raise awareness about the Tribunal's recourse mechanism for companies and ordinary people when their company name registration or reservation is refused, and for companies to protect their company name or trade mark.

Speakers include Judge of the Gauteng Local Division of the High Court, Judge Lebogang Modiba; UNISA Department of Mercantile Law, Associate Professor D Farisani; Tribunal Member, Professor Kasturi Moodaliyar; President of the South African Institute of Intellectual Property Law (SAIIPL), Mrs Debbie Mariott and CIPC Commissioner, Adv. Rory Voller.

Details of the Seminar

Date: 16 February 2018 | Time: 09:00 to 13:00
Venue: Industrial Development Corporation (IDC) Conference Centre, 19 Friedman Drive, Sandton

Companies Tribunal
a member of the dti group

RSVP by 9 February 2018 to:
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