



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT01931ADJ2024

In the matter between:

Tracey Margaretha Howard

Applicant

and

**COMPANIES AND INTELLECTUAL PROPERTIES
COMMISSION**

Respondent

Date of Decision: 10th December 2024

DECISION

INTRODUCTION

1. The Applicant is Tracey Margaretha Howard (ID number 700123 0172083) a Trustee of the Brecan Trust residing at 6 rosemary Street Fourie Glen Pretoria.

2. The Respondent is the Companies and Intellectual Properties Commission resident at DTI Campus 77 Meintjies Street.

3. The Applicant applies to the Companies Tribunal in terms of Section 195(7) of the Companies Act 71 of 2008 (“the Companies Act”) questioning the decision of the Respondent and wanting it to be set aside by the Tribunal.

APPLICANT’S SUBMISSIONS

4. On 17th November 2021 the applicant filed its application with the Companies Tribunal.

5. The Applicant states that she and Gordon Howard are both Trustees of the Breca Trust a shareholder of Hahn Collections (Pty) Ltd (2009/024689/07). The Applicant stated that Gordon Howard was unlawfully removed as director of Hahn Collections (Pty) Ltd.

6. The Applicant submits that she had applied to CIPC for Gordon Howard to be reinstated as Director as he had not resigned

7. The Applicant argued that the Respondent had denied her request on 3rd October 2023. They received an email from Martha Lahare from CIPC. The email stated that since they could not find any letter of resignation and the complaint was lodged seven years after the retention period her application is denied.

8. The Applicant argued that this reasoning is unacceptable. The fact that there is no letter of resignation should be proof that Gordon Howard did not resign.

9. On 26th February 2021 the Applicant had a general meeting of Hahn Collections (Pty) Ltd where she was informed by the secretary that they did not have a resignation letter. This letter was also not available from CIPC. A search works report confirmed by CIPC showed that the Applicants appointment and resignation date to be both 10th October 2011. The Applicant states that these dates are incorrect since Gordon Howard had signed a notice of change of auditors as a Director on 22nd August 2012 and thus could not have resigned in 2011.

APPLICABLE LAW

10. Section 195 (7) of the Companies Act states that

“An decision by the Companies Tribunal with respect to a decision, notice or order by the Commission is binding on the Commission, subject to any review by the court.”

EVALUATION AND FINDINGS

11. The decision by CIPC not to reinstate Gordon Howard as director is not justified. Gordon Howard denies having resigned. There is no proof of his resignation. There is no proof of any resignation letter. The date of appointment and resignation are both dated 10th October 2011, which makes it

questionable. The fact that Gordon Howard has signed a change of auditor form as a director in 2012 also puts into question his resignation in 2011.

ORDER

- a. The decision made by CIPC on 3rd October 2023, not to reinstate Gordon Howard as director of Hahn Collections (Pty) Ltd (2009/024689/07) is set aside.
- b. CIPC is ordered to reinstate Gordon Howard as director of Hahn Collections (Pty) Ltd (2009/024689/07) within 7 days of receiving this decision.

MOHAMED ALLI CHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL