IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ***NO***
(2) OF INTEREST TO OTHER JUDGES: ***NO***
(3) REVISED:

Date: ***19th FEBRUARY 2016*** Signature: _____

CASE NO: 2014/45832

In the matter between:

COOK: GEOFFREY	Applicant
and	
HESBER IMPALA (PTY) LTD	First Respondent
FOX: NICHOLAS	Second Respondent
MORRISON: MURRAY	Third Respondent
LAWRENSON: FENELLA	Fourth Respondent

JUDGMENT

ADAMS AJ:

[1]. This application and the counter – application are *inter alia* for relief founded in terms of the provisions of section 75, 76, 77 and 162 of the Companies Act 71 of 2008 *('the Companies Act')*, and relate to the roles and duties of directors of companies and the associated liability they may face.

[2]. The applicant applies for a declaratory order against the second, third and fourth respondents, all co – directors with the applicant of the first respondent. The order sought by the applicant is to the effect that these respondents are declared to have a financial interest in the subject matter of resolutions tabled at a meeting of the first respondent on the 28th February 2014. Flowing from this order, are two consequential orders prayed for to the effect that the aforesaid resolutions are declared to have been adopted by the first respondent and are binding on it and its directors.

[3]. The applicant furthermore applies for an order declaring the second, third and fourth respondents delinquent directors and / or unfit to hold the office of director of the first respondent, and resulting from this order further ancillary orders are sought by the applicant against the second, third and fourth respondents.

[4]. The second, third and fourth respondents oppose the application and allege that same is misconceived. In any event, so it is submitted on behalf of these respondents, applicant's application should be dismissed on the basis of no less the 9 points *in limine* and on its own merits.

[5]. The second and fourth respondents have also brought a counter – application against the applicant in terms of which counter – application the respondents *inter alia* seek an order declaring the applicant to be a delinquent director.

[6]. The applicant and the second to fourth respondents are all directors of the first respondent, Hesber Impala (Pty) Ltd. At all relevant times (since 2010), the shareholding in this company was as follows: 25% of the issued shareholding – owned by the applicant; 25% - owned by the third respondent; and 50% owned by the Fox Family Trust (controlled by the second and fourth respondents).

[7]. The applicant is of the view that his three co-directors are not committed to acting in the company's best interests because they have other financial interests elsewhere which conflict with the company's best interests.

[8]. The first respondent is the owner of a piece of land located in a private game reserve. The applicant describes the land of the first respondent in colourful terms as being situated *'along a beautiful stretch of river*

surrounded by magnificent indigenous bush'. It allegedly presents the most ideal location in the reserve for a tourism operation like tented camps that can offer accommodation to guests who visit and stay in the reserve. According to the applicant's founding affidavit its location along the winding meanders of the river also makes it ideal because the tourism operator can offer visitors to the reserve game drives and boat rides from that location.

[9]. Another company called *Sibuya Game Reserve & Lodge (Pty) Ltd ('Sibuya')* is providing accommodation and conducting commercial tourism operations on the property owned by the first respondent without paying any consideration to it. Additionally, a close corporation called *Salisbury Trading CC ('Salisbury')* is grazing its game animals on that land as well, also without paying anything to the first respondent. The Fox Family Trust owns 100% of the issued shares of *Sibuya* as well as 100% membership in *Salisbury.*

[10]. The applicant accordingly claims that both *Sibuya* and *Salisbury* are making use of the first respondent's only valuable asset, its land, for free This, according to the applicant, has been allowed to happen only because the second to fourth respondents have a financial interest in both *Sibuya* and *Salisbury.* It is untenable, so the applicant alleges, that the directors of the first respondent would give away valuable *'tourism'* and grazing rights to an operator for free. That would never happen in the free market nor would it ever be in the best interests of the company.

[11]. The specific relief sought by the applicant in the notice of motion (as amended) is an order in the following terms:-

11.1 *'It is declared that:*

11.1.1 *The second, third and fourth respondents have a financial interest in the subject matter of the resolutions proposed by the applicant for adoption by the first respondent's board of directors at the meeting of 28 February 2014, a copy of which is attached to this notice of motion as 'X' ('the 28 February 2014 resolutions');*

11.1.2 *The second, third and fourth respondents should have recused themselves and are consequently disqualified from voting on the 28 February 2014 resolutions;*

11.1.3 *The 28 February 2014 resolutions are adopted and are binding on the first respondent and its directors;*

11.2 *It is declared that:*

11.2.1 *The second, third and fourth respondents have failed to comply with the standards of conduct required of directors in terms of the Companies Act and or their fiduciary duties under the common law vis-a-vis their directorships in the first respondent;*

11.2.2 *The second, third and fourth respondents breached their legal duties as directors of the first respondent by failing to attempt to*

secure for the first respondent a market related fee for the use and enjoyment of its assets from Sibuya Game Reserve & Lodge (Pty) Ltd and Salisbury Trading (Pty) Ltd or failing them another prospective contractant;

11.2.3 *The second, third and fourth respondents are declared delinquent directors and/or unfit to hold the office of director and are precluded from holding office as a director of the first respondent.*

11.3 *In the event that the Court grants the declaratory relief sought in paragraph [11.2] then the applicant is granted leave to:*

11.3.1 *Negotiate and a conclude a contract on behalf of the first respondent with Sibuya Game Reserve & Lodge (Pty) Ltd and Salisbury Trading (Pty) Ltd or failing them another prospective contractant for the use of its assets and payment therefore; and*

11.3.2 *Appoint an independent law firm to represent the first respondent in the action proceedings instituted under case number 14342/14.*

11.4 *The second, third and fourth respondents are jointly and severally liable in their personal capacities for the following payments due to the first respondent:*

11.4.1 *All legal costs invoiced by Fluxmans Attorneys to the first respondent in respect of legal services rendered; and*

11.4.2 *The loss of rental income suffered by the first respondent over a three year period in an amount of R2,763,233.00 or any other amount that the Court may deem just and equitable.*

11.4.3 *Alternatively to [11.4.2], and should there be a genuine dispute of fact over whether the applicant is entitled to claim damages suffered by the first respondent or the quantum of such damages - as contained in para 71 of his founding affidavit read together with the second respondent's answer to such allegation in his answering affidavit read further with paras 74, 75 and 76 of the applicant's replying affidavit - such is referred to oral evidence in terms of Rule 6(5)(g) by way of trial.*

11.4.3.1 *The applicant, as plaintiff, shall deliver his particulars of claim within 10 days of this order;*

11.4.3.2 *The conduct of the trial shall be governed by the Uniform Rules of the High Court pertaining to actions;*

11.4.3.3 *Prayer [11.4.2] is postponed* sine die *with costs in the cause.*

11.5 *The second, third and fourth respondents are jointly and severally liable in their personal capacities for the cost of this application;*

11.6 *Further and/or alternative relief'.*

[12]. In terms of their counter – application, the second and fourth respondents seek the following relief:

12.1 *'Declaring the applicant to be a delinquent director;*

12.2 *Removing the applicant as a director of the first respondent;*

12.3 *Directing the applicant to remove the thatched lapa structure erected on the first respondent's land within 30 days;*

12.4 *In the absence of compliance with prayer 3 above, authorising and directing the Sheriff of the above Honourable Court to give effect to prayer [12.3] above;*

12.5 *Interdicting and restraining the applicant from conducting any tourism operations on land owned by the first respondent;*

12.6 *Directing the Applicant to bear the costs of this application on scale between attorney and client.'*

THE FACTS

[13]. On the 28th February 2014 at a meeting of the board of directors of the first respondent, the applicant proposed the passing of resolutions to try and secure, according to him, an arrangement that would best serve the interests of the company.

[14]. In summary the applicant proposed in terms of the proposed resolutions that the company concludes agreements with *Sibuya* and *Salisbury* for a period of 5 years, renewable for a further 5 year period, in terms of which *Sibuya* pays R55,000 per month (escalated at CPIX per annum) and *Salisbury* pays R25,000 per month (escalated at CPIX per annum).

[15]. The meeting occurred but the proposed resolutions were not adopted. The applicant and the second to fourth respondents were all present.

[16]. A dispute arose in the meeting as to whether the second to fourth respondents had a personal financial interest in the subject matter of the proposed resolutions.

[17]. The second to fourth respondents did not recuse themselves. But the proposed resolutions were nevertheless voted upon. Predictably the applicant voted in favour of the company getting rent from both *Sibuya* and *Salisbury*. The second to fourth respondents voted against it. The validity of the votes is in issue. If these respondents ought to have recused themselves then their votes are invalid.

[18]. This is the issue, i e the validity of the votes, which I am now called upon to determine.

[19]. At the 28 February 2014 meeting the applicant proposed the passing of resolutions. Before the vote, the applicant advised the second to fourth respondents that they each had a personal financial interest in the proposed resolutions and should accordingly recuse themselves.

[20]. At the said meeting, the second to fourth respondents retorted that all of the directors were conflicted, and suggested that, at best, the applicant and the third respondents are in exactly the same position in that both of them have an interest in the subject – matter of the resolutions in that both of them were party to an agreement in terms of which it was agreed that *Sibuya* would not be charged for the use of the first respondent's property.

[21]. Section 1 of the Companies Act defines personal financial interest to mean a *'direct material interest of that person, of a financial, monetary or economic nature, or to which a monetary value may be attributed'*.

[22]. According to section 75(5) of the Companies Act where a director has a personal financial interest in a matter or knows that a related person has a personal interest in the matter, which the board has not yet considered, the director must do at least three things:

22.1 First, he or she must disclose the interest and its general nature to the board before the matter is considered at the meeting; and

22.2 Second, he or she must disclose to the meeting any *'material'* information relating to the matter and known to the director; and

22.3 Third, if present at the meeting, that director must leave the meeting immediately after having so disclosed, and must not take any further part in the consideration of that matter.

[23]. The applicant states the *personal financial interests* of his co-directors in the following terms:

23.1 The second respondent *('Fox')* has a personal financial interest because he is a director and shareholder of *Sibuya* and a member of *Salisbury*. Both *Sibuya* and *Salisbury* are currently benefitting from the first respondent at its expense in a manner that is, according to the applicant, nothing short of complete exploitation.

23.2 The fourth respondent (*'Lawrenson')* has a personal financial interest because she is a director and shareholder of *Sibuya* and she is also a beneficiary of the family trust that owns *Salisbury,* as she is the second respondent's sister in law.

23.3 As far as the third respondent is concerned, the applicant contends that he was equally conflicted because he had a *personal financial interest* arising from the fact that he undertook to the second respondent that *'Sibuya could operate its business on the first respondent's immovable property for free*'.

[24]. Accordingly, as the second to fourth respondents had a personal financial interest in the proposed resolutions, so the argument goes on behalf of the applicant, they should not have participated in or voted on that resolution under any circumstances.

[25]. At the aforesaid meeting, the second and fourth respondents specifically offered to recuse themselves and were told by the applicant that it was not necessary. The implication of the aforegoing is that the second and fourth respondents accepted that they are conflicted and should not have voted on the proposed resolutions.

[26]. By the same token, in 2010, when the second respondent took over the tourist operations of *Sibuya* by buying the shares held by *Seabush* in *Sibuya*, the applicant himself expressly undertook that no rental would be payable. This then means that the applicant was as conflicted as was the third respondent. He also ran the risk of being held legally liable by the second respondent on the basis of the express undertaking he gave to them.

[27]. In particular, on or about 2 August 2010, the third respondent and the applicant concluded an agreement referred to in the papers as the *'Swop Agreement'*. The relevant material express terms of the *Swop Agreement* were the following:

27.1 The applicant would sell his shareholding in both *Seabush* and *Sibuya* together with all of his claims against both companies to the third respondent;

27.2 The applicant would resign as a director of both *Seabush* and *Sibuya*; and

27.3 The applicant would continue to hold 25% of the issued shareholding in the first respondent in his personal capacity.

27.4 The applicant agreed to forego any rental fee that may be ordinarily be levied for allowing the Fox Family Trust to operate a lodge on land in which he had an indirect interest through the first respondent.

WHO WAS ENTITLED TO VOTE AT THE 28 FEBRUARY 2014 MEETING?

[28]. At the meeting of the board of directors of the first respondent on the 28th February 2014, the applicant was the only one who proposed and voted in favour of the company charging a rent to *Sibuya* and *Salisbury* for the use of its land. The second to fourth respondents voted against the proposed resolutions.

[29]. The second and fourth respondents had a personal financial interest in the vote to decide on whether the company should charge a rent to *Sibuya* and *Salisbury*, because they are directors and shareholders of *Sibuya* and the direct beneficiaries of such an arrangement. They also have a

personal financial interest in *Salisbury* using the land for free in that second respondent is a member of *Salisbury* and the fourth respondent is a related person.

[30]. In any event, at the meeting the second and fourth respondents readily conceded that they have a personal financial interest in the subject matter of the proposed resolutions, and they were content to recuse themselves. I am therefore of the view that the second and fourth respondents were conflicted and should have recused themselves from voting on the proposed resolutions.

[31]. The applicant submitted that the third respondent's personal financial interest arises out of the contract that he concluded with the second respondent when he sold *Sibuya*, because in that contract he (the third respondent) expressly undertook to the second respondent that *Sibuya* could operate its business on the company's land for free. This means that the third respondent, according to the applicant, had a significant financial interest in ensuring that his undertaking is not breached.

[32]. By the same token, on the 2nd August 2010 the applicant agreed that he would forego any rental fee that may ordinarily be levied for allowing the *Fox Family Trust* to operate a lodge on land in which he had an indirect interest through his shareholding in the first respondent. This agreement was reached in the context of the applicant having sold his shareholding in

Sibuya at a time when this company was in dire financial difficulties, and needed to be salvaged.

[33]. Therefore, on the basis of the very same arguments raised by the applicant vis – a – vis the third respondent's personal financial interest in the subject matter of the proposed resolutions, I am of the view that the applicant himself had such an interest. After all, he also agreed that the Fox Family Trust, as the owner of *Sibuya*, would be entitled to use the land of first respondent free of charge. He therefore also had a significant financial interest in ensuring that his undertaking is not breached.

[34]. I am therefore of the view that all of the directors at the board of directors meeting of the first respondent on the 28th February 2014 had a *personal financial interest* in the subject matter of the proposed resolutions, which in turn means that the resolutions would not have carried. This then takes care of the applicant's application for an Order in terms of prayers 1(a), (b) & (c) of the applicant's Notice of Motion, which stand to be dismissed.

DID THE RESPONDENTS BREACH THEIR FIDUCIARY DUTIES?

[35]. The second respondent explains that during 2010 the *Fox Family Trust* was only prepared to purchase *Sibuya* (from the third respondent) if no rental would be payable by *Sibuya* to the company'.

[36]. This arrangement, according to the second respondent, may very well be in the best interests of the first respondent, for the simple reason that *Sibuya* could not afford any rental payments. This means that, had the first respondent insisted on a rental payable by *Sibuya,* it would not have operated its tourism operations, which would then have deprived the first respondent of the other benefits associated with these operations. At the 28 February 2014 meeting the benefits to the company and its shareholders are detailed as at least the following: anti-snaring, access control, land rehabilitation, alien vegetation control, maintenance of access and game drive roads, building of new roads, maintenance and rehabilitation of dams, fences, pipelines, security and patrolling by the anti-poaching unit, the payment of rates, traversing rights for shareholders and increased land values as part of a Big5 game reserve leading to long term capital gains.

[37]. The second to fourth respondents also allege that, if regard is had to the fact that the first respondent was always viewed by all of its members as an investment tool and not as an income generating entity, the tourism operations and the presence of game on its property enhanced its value, which was a *quid pro quo* in lieu of rental payable. I agree with this submission. If nothing else, this is an indication to me that it cannot be said that the second to fourth respondents did not act in the best interest of the first respondent and that they neglected their fiduciary duties as directors of the first respondent.

[38]. Furthermore, a binding agreement exists between the first respondent, *Sibuya* and *Salisbury*, coupled with an undertaking made by the applicant not to charge these entities any rental. The second to fourth respondents, as well as the applicant, cannot be seen to be conducting themselves contrary to the written agreement and are certainly entitled to act in the same manner contemplated by the applicant's own written undertaking.

[39]. Therefore, in my view, the second to fourth respondents have not breached their legal duties as directors of the first respondent. There are cogent and reasonable explanations for their refusal to start charging the *Sibuya* and *Salisbury* rental.

[40]. In coming to this conclusion, I am alive to the fact that I should resist the temptation to substitute my own opinion for the opinion of the Board of Directors.

[41]. In *Visser Sitrus (Pty) Ltd v Goede Hoop Sitrus (Pty) Ltd & Others,* 2014(5) SA 179 (WCC), Rogers J quoted inter alia from the judgment of Brennan J in the matter of *Wayde v New South Wales Rugby League Limited* as follows:

> *'The Directors had to make a difficult decision in which it was necessary to draw upon the skills, knowledge and understanding of experienced administrators of the game of rugby league. The Court, in determining whether the decision was unfair, is bound to have*

regard to the fact that the decision was admittedly made by experienced administrators to further the interests of the game. There is nothing to suggest unfairness save the inevitable prejudice to and discrimination against Wests, but that is insufficient by itself to show that reasonable directors with the special qualities possessed by experienced administrators would have decided that it was unfair to exercise their power in the way the leagues director did.'

[42]. *In casu*, the Court is not a game farmer and not the operator of a big five tourist facility. It therefore lacks the insight that the shareholders and directors of the first respondent had when the applicant gave his undertaking on 2 August 2010 and, on the same day, the directors and shareholders of the first respondent concluded the agreement, which the applicant is now attempting to jettison.

[43]. Rogers J then referred to the requirements of Section 76, and confirms that the power of the directors must be exercised:-

43.1 in good faith and for a proper purpose;

43.2 in the best interest of the company; and

43.3 with the degree of care, skill and diligence that may reasonably be expected of a person –

43.3.1 carrying out the same functions in relation to the company as those carried out by the directors; and

43.3.2 having the general knowledge, skill and experience of that director.

[44]. Taking into account the conditions prevailing at the time of the 2010 agreement there is nothing on the facts to suggest that the conclusion of the agreement at that time could found any relief or any justifiable complaint of a failure to meet the standards required by Section 76.

[45]. The nature of the test required by Section 76 is analysed by Rogers J at [76] - [80] of his judgment and commences with the reference to Section 76 (4) (a), which requires the director to take reasonably diligent steps to become informed about the matter, that either the director has no material personal financial interest in the subject matter or has complied with Section 75 and has made a decision, or supported a decision and that the director had a rational basis for believing and did believe that the decision was in the best interests of the company.

[46]. Rogers J referred to the *'rationality criterion as laid down in Section 76'* as *'an objective one'*, and to place it in perspective, referred to the decision of Chaskalson P in the matter of *Pharmaceutical Manufacturers Association of SA and Another: In re Ex parte President of the Republic of South Africa and Others*, 2000(2), in which the following is said:

'The setting of this standard (rationality) does not mean that the Courts can or should substitute their own opinions as to what is appropriate for the opinions of those in whom the power has been vested. As long as the purpose sought to be achieved by the exercise of public power is within the authority of the functionary, and as long as the functionary's decision, viewed objectively, is rational, a Court cannot interfere with the decision simply because it disagrees with it or considers that the power was exercised inappropriately. A decision that is objectively irrational is likely to be made only rarely but, if this does occur, a Court has the power to intervene and set aside the irrational decision...'

[47]. And lastly at [80] Rogers J refers to Section 76(3)(a) and identifies that the test for *'proper purpose ... is objective, in the sense that once one has ascertained the actual purpose for which the powers exercised, one must determine whether the actual purpose falls within the purpose for which the power was conferred, the latter being a matter of interpretation of the empowering provision in the context of the instrument as a whole'.*

[48]. Based on the aforegoing, I reiterate that, in my view, it cannot be said that the second to fourth respondents did not act in the best interest of the first respondent.

[49]. This finding then takes care of the application for an order in terms of prayers 3(a), (b) & (c), and 4(a) & (b), and 5(a), (b) & (c) of the amended

Notice of Motion, and the application for these orders stand to be dismissed.

[50]. I may just mention that at the commencement of the hearing of the application, Adv Hopkins, Counsel for the Applicant, confirmed that the applicant would not be pursuing the alternative relief sought in prayer 2 of the Notice of Motion.

THE COUNTER APPLICATION

[51]. The second and fourth respondents, supported by the third respondent, seek various relief by way of a Counter-Application.

[52]. The main grievance forming the basis of the Counter-Application is the conduct of the applicant in building illegal structures for his own use on property owned by the first respondent and conducting illegal tourist activities thereon.

[53]. It is alleged by the second and fourth respondents that the applicant has built a structure for his own purpose on the land of the first respondent to augment his illegal tourism operation. This, according to the second and fourth respondents, brings him into breach of the obligations contained in the 2010 agreement and places him squarely in contravention of the provisions of Sections 162(5)(c) of the Companies Act.

[54]. They also say that the applicant has grossly abused his position as a director and has taken personal advantage of an opportunity, and that he has intentionally inflicted harm on the company by:

54.1 Constructing an illegal structure on the property of the first respondent without municipal planning or environmental approval. The applicant denies this and claims that the structure is merely *'temporary'*.

54.2 Exposing the first respondent to the danger of having an illegal structure erected on its land for which no public liability insurance can be obtained. Objectively considered, this is a serious issue, especially given the tourist activities are taking place on the first respondent's land. If the illegal structure results in any injury or death, the first respondent is then liable to be sued. It will be appreciated that the structure includes the illegally built jetty which protrudes into the river, which is narrow;

54.3 A death or injury sustained from the illegal structure could also result in criminal proceedings against the first respondent and its directors.

[55]. It is furthermore clear, so it is submitted by the second respondent, that the applicant has used his position as director to gain an advantage for himself and has knowingly caused harm to the first respondent by exposing it to substantial risk.

[56]. It was submitted on behalf of the second and fourth respondents that the order declaring the Applicant to be a delinquent director is justified and called for on the papers.

[57]. The applicant alleges that the *'thatched lapa structure'* had been erected on the land of the first respondent with the express consent of the second respondent and with the tacit consent and approval of the fourth respondent, as well as that of the third respondent.

[58]. The respondents also seek to interdict and restrain the applicant from conducting any tourist operations on the land owned by the first respondent. Applicant denies that he is conducting these operations as alleged by the second and fourth respondents.

[59]. The applicant contends that the counter-application should fail for the reasons stated hereunder.

[60]. The applicant submits that the counter – application for an order declaring the applicant to be a delinquent director (prayers 1) and an order removing the applicant as a director of the first respondent (prayer 2) should fail, because a declaration of delinquency has to be made in relation to one of the legislated grounds stipulated in section 162 of the Companies Act. The counter-application does not locate the impugned conduct in one the

legislated grounds. In any event, there is no 'evidence' of any conduct that warrants the applicant being declared a delinquent.

[61]. I agree with these submissions. In any event the applicant's conduct complained of by the second and fourth respondents, notably the erection of an illegal structure on the property of the first respondent and his *'illegal'* tourism operations, are disputed by the applicant. The dispute of facts relating to these issues is by no means able to be resolved on the papers, and for this reason alone the counter – application should fail.

[62]. The applicant furthermore submits that the counter – application for the removal of the *'thatched lapa structure"* (prayers 3 and 4) should similarly fail because of a lack of standing. The application, so the argument goes on behalf of the applicant, should have been brought by the owner of the land, being the first respondent.

[63]. In any event, the application for this relief must fail because again there is a dispute of material facts relating to whether or not the second to fourth respondents had consented to the erection by the applicant of the structure. Also, there is no agreement on whether or not the structure is permanent or temporary. This is a dispute of fact, which, in my view, and applying the principles enunciated in the matter of: *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd*, 1984 (3) SA 623 (AD), is incapable of being resolved on the papers,. Therefore, I am of the view that the counter

– application for the relief sought in prayers 3 and 4 stands to be dismissed.

[64]. The applicant submits that the application for an order interdicting the applicant from conducting a tourism operation on the land of the first respondent (prayer 5) should also fail. I agree. As is the case relating to the other relief sought by the second and third respondents, they lack the necessary *locus standi* to bring this application. Clearly, the first respondent is the interested party. However, it is not an applicant in the counter-application.

[65]. In the circumstances, I am of the view that the counter – application should be dismissed.

ORDER:

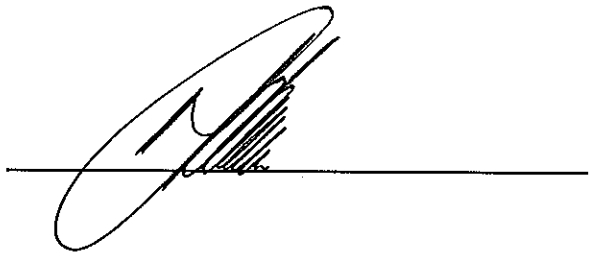
Accordingly, I make the following order:-

1. The application is dismissed with cost.

2. The applicant shall pay the cost of the second, third and fourth respondents in the main application.

3. The counter – application is dismissed with cost.

4. The second and fourth respondents shall pay the applicant's cost of the counter – application, jointly and severally, the one paying the other to be absolved.



L ADAMS
Acting Judge of the High Court
Gauteng Local Division, Johannesburg

HEARD ON:	30th November 2015 – 4th December 2015
JUDGMENT DATE:	19th February 2016
FOR THE APPLICANT:	Adv K Hopkins
INSTRUCTED BY:	Bouwer, Kobeli & Morabe Attorneys
FOR THE 2nd & 4th RESPONDENTS:	Mr K J Van Huysteen
INSTRUCTED BY:	Fluxmans Incorporated
FOR THE 3rd RESPONDENT:	Adv A J Venter
INSTRUCTED BY:	Murray Van Rensburg Incorporated