IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH

Case no: 1461/2018
Date heard: 31 May 2018
Date delivered: 26 June 2018

In the matter between:

CITY PAINT & TOOL (PTY) LTD	**Applicant**
vs	
KEVIN CHAMBERLAIN	**First Respondent**
DAR AUTOMOTIVE (PTY) LTD	**Second Respondent**

JUDGMENT

MSIZI AJ:

INTRODUCTION

[1] The applicant conducts business as, *inter alia*, a distributor and retailer of paint (for residential, industrial, automotive and marine applications) and hardware, from nine branches located in the Eastern and Western Cape, namely, North End and Walmer, Port Elizabeth; Uitenhage; Humansdorp; Queenstown; East London; Pletternbeg Bay; Kynsna and George.

[2] The first respondent was employed by the applicant from 6 February 2006 to 16 December 2016. During the course of the employment the applicant and the first respondent concluded three restraint of trade agreements at different time.[1]

[1] I deal with each of the agreements later.

[3] He commenced on 6 February 2006 as a manager of the applicant's branch in Uitenhage where there were 7 employees. Later he was promoted to a sales manager in Port Elizabeth in charge of 10 sales representatives. In this position he was responsible for all sales in George; in the Western Cape; Uitenhage and North End branches of Port Elizabeth. He regularly travelled to George and Uitenhage to visit clients in addition to visiting the ones resident in Port Elizabeth.

[4] On 1 January 2013 the first respondent was again promoted to sales director. This position entailed substantially the same duties as those of a Group Sales Director. In this position he was responsible for all sales in George; Uitenhage and North End in Port Elizabeth. As such he would travel regularly to George and Uitenhage visiting clients including those in Port Elizabeth. He was in charge of 20 sales representatives and 4 technical sales representatives. On the same date he was also made a statutory director of the applicant.

[5] On 15 July 2016, the first respondent returned to the employ of the applicant as a sales manager. On 19 July 2016 the parties signed a new restraint of trade agreement. He resigned from the employ of the applicant on 16 December 2016. In February 2017 he assumed employment with the second respondent.

[6] The second respondent is a supplier of industrial and automotive engineering components, a distributor of and retailer of sikken automotive paints. The second respondent conducts business in Port Elizabeth; Johannesburg; Cape Town; Pretoria; Durban; Bloemfontein; George; Nelspruit and Polokwane.

HISTORICAL DEVELOPMENTS

[7] In September 2017, the second respondent entered the automotive paint business selling sikken paint. This was seven months after the first respondent commenced his employment with the second respondent and nine months since the latter left the applicant. At the time the applicant was oblivious to this development.

[8] On 2 October 2017, Plastic Bumper Repairs ("BPR"), then a client of the applicant, terminated its business relationship with the applicant and started using sikken paints supplied by the second respondent as a replacement of the paint supplied by the applicant. Applicant also heard rumours that the first respondent played a role in the termination of this contract.

[9] On 8 November 2017, Swan Craft Panelbeaters ("SCP"), another client of the applicant also terminated its business contract with the applicant and commenced using sikken paint supplied by the second respondent.

[10] In January 2018, Technodent, another client of the applicant, underwent a trial of sikkens paint supplied by the second respondent. On 12 February 2018, it terminated the supply of the paints by the applicant and is now supplied sikken paints by the second respondent. Technodent was responsible for an average of R230 000.00 per month for purchases from the applicant.

[11] Premier Body Works (PBW) another client terminated its supply agreement with the applicant and contracted with the second respondent for the supply of

sikken paint. PBW generated about R80 000 per month for the applicant. On 12 March 2018, CP Nel, another client, also followed suit. C P Nel was worth R115 000.00 per month of the revenue of the applicant. Hardly a week later, on 23 March 2018 another client S&Z requested the applicant to remove its paint bank with which the applicant uses to dispense its paint at S&Z premises. The applicant installs paint banks in the premises of its customers premises to dispense its paint in the site of its clients.

[12] Within a space of a month the applicant lost three premium clients to the second respondent. At this point there was a noticeable definite migration of the customers of the applicant to the second respondent.

[13] This culminated in the launch of the present application on 19 April 2018, brought by way of semi urgency. The applicant seeks a final interdict in the following terms:

> "2 *The First Respondent is interdicted and restrained from:*
>
> 2.1 *Approaching any of the clients of the Applicant with a view to persuading those clients to cease doing business with the Applicant;*
>
> 2.2 *Being concerned in any business which is competitive or likely to be competitive with the business of the Applicant, including but not limited to the Second Respondent, whether as principal agent,partner, director, employee secretary of consultant,within the Eastern Cape Provice for a period of 3 (three) years, and within a 200 (two hundred) kilometre radius of the magisterial district of George for a periods of 2 (two) years from 16 December 2016."*

[14] In challenging this application, the first respondent has raised three issues: lack of urgency; absence of a protectable interest and lack of breach. In the event that it is unsuccesful in challenging this application on these grounds it made a tender. This tender has been rejected by the applicant.

URGENCY

[15] The respondents were served with the application on 19 April 2018. The first respondent was granted until 26 April 2018 to indicate whether he intended to oppose or not. He was also given until 14 May to file his opposing papers. The application was set down for argument on 31 May 2018.

First Respondent's contention

[16] The first respondent contends that this application is not urgent or if the Court finds it is, such urgency is self created by the applicant. As such, this application should be struck off the roll with costs.

[17] To support his resistance of the application, the first respondent relied on the following factors. The application was brought 15 months after the termination of the employment contract between the first respondent and the applicant. At least one of the applicant's directors became aware of the first respondent's new employment as early as February 2017. Furthermore, applicant had been aware since 2013 when it was approached by the second respondent that the latter had desires to enter the automotive paint industry. Therefore, applicant should have acted in February 2017 not in April 2018.

[18] Even on its own version, the applicant has problems regarding urgency. According to the applicant it only became aware that the second respondent intended to sell automotive paints in July 2017, yet it never brought this application then. Instead, on 2 August 2017 it sent the first respondent a letter through its erstwhile attorneys in which it warned him that he was in breach of the restraint of trade. First respondent submitted that abundantly clear from this was that already then, in August 2017 the applicant believed that the second respondent was in breach, yet did not institute any proceedings. The applicant remained lethargic even after learning that in October 2017; November 2017; January/February 2018 and March 2018 it was losing clients to the second respondent.

[19] First respondent then urged the Court to reject the explanation of the applicant for its apparent delay in bringing this application. He argued that the explanation proffered by the applicant that it had not brought this application earlier because it relied on the denial of the attorneys of the first respondent that he was not in breach of the restraint, and also acted on the advice of its erstwhile attorney that it first had to establish the involvement of the first respondent in the exodus of its clients to the second respondent. In arguing for the rejection of this explanation, the first respondent submitted that the applicant could not have earnestly relied on the denial of the first respondent's attorneys after it had itself established that its interest was being harmed. He pointed out on its own version applicant contended that it had clear evidence of the breach of restraint. In those circumstances the advice from its attorneys is thus clearly no excuse.

The Applicant's response

[20] The explanation of the applicant was that when it first learnt of the employment of the first respondent by the second respondent in February 2017, the former had assured it that the second respondent was not a competitor in the automotive sector and did not intend to enter that business. He thus assured the applicant that there was no need for the reminder about the restraint.

[21] Later in July 2017 applicant only learnt of the intention of the second respondent to enter the automotive business. At that point, the second respondent had not commenced that business. This prompted a warning to the first respondent in the letter of August written by the applicant's former attorneys. It then relied on the denial of the first respondent's attorneys of any culpability of the first respondent. However, this response had not explained the actual job of the first respondent and the applicant through its attorneys requested a job description of the first respondent in October 2017 to satisfy itself. The first respondent's attorneys only responded in January 2018 providing the description and denying the breach.

[22] During the period between 12 February and 12 March 2018 the applicant lost three premium clients to the second respondent. On 23 March the applicant received information that the first respondent had visited one of its then clients, S&Z in George. The applicant had received this information directly from S& Z employee confirming that the first respondent was in direct contact with them about this move of business. The applicant's employee also took a photo of the first respondent at the site of S&Z on 23 March 2018.

[23] In his answering affidavit even though the first respondent denied being instrumental in the removal of the businesses lost to the second respondent, he confirmed that he was in direct communication with Technodent; PBW and S&Z.

[24] At the point of being advised to gather more information linking the first respondent, the applicant only possessed information in the form of rumours and suspicions which it could not directly link to the first respondent, a *lacuna* it was advised was by its erstwhile attorneys, was fatal. By April it had changed its attorneys to the present. That is when things moved forward.

[25] Though the application was brought on the basis of urgency, the time given for response was adequate and the first respondent has not been prejudiced, he certainly did not raise any prejudice in his papers.

[26] I have considered the explanation proffered by the applicant in particular how the applicant has explained every stage in the journey towards bringing this application. This detail has provided this Court with the essential information regarding the time of bringing the application in relation to when the applicant became aware of the harm to it. I have also considered and I am persuaded by applicant's counsel that applications to enforce restraint of trade agreements are, by their nature characterised by a measure of urgency.[2] I have also considered the merits of the applicant's case. I am also satisfied that the applicant did not drag its

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[2] MMA Security Services CC t/a Broubant Security and Another v Brian Paul Calllanan and Another Case No. 495/10 unreported judgment of Kroon J delivered in Port Elizabeth High Court on 31 May 2010 (See paragraph [20]

feet in this instance. The first respondent has also not shown any prejudice suffered as a result of the urgent application. Dictates of justice require that this Court should entertain the application.

THE LAW APPLICABLE

Proper Approach to Final Interdictory Relief

[27] The applicant seeks a final interdict. The requirements for a final interdict are: a clear right; injury actually committed or reasonably apprehended; no other suitable alternative remedy.

[28] Motion proceedings are not designed to resolve factual disputes. Unless concerned with interim relief, such applications are all about the resolution of legal issues based on common cause facts. In the absence of special circumstances they are not used to resolving factual issues because they are not designed to determine probabilities.

[29] In ***Plascon – Evans Paint Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623(A) 634-635,** the rule was established that where in motion proceedings disputes of fact arise on the affidavits, a final order can be granted only if the facts averred in applicant's affidavits, which have been admitted by the respondent, together with the facts alleged by the latter, justify such order. It may be different if the respondent's version consists of bald or uncreditworthy denials, raises fictitious disputes of fact, is palpably implausible, farfetched, all so clearly untenable that the Court is justified in

rejecting them merely on the papers see ***National Director of Public Prosecutions v Zuma*** 2009 (2) SA 279 SCA [26].

[30] As regard specifically applicants regarding restraint of trade, in ***Omni Technologies (Pty) Ltd v Barnard and Others*** [2008] 2 All SA 207 with reference to ***Reddy v Siemens Telecommunications (Pty) Ltd*** 2007 2) SA 486 (SCA) the Court explained the position to be taken when is requested to implement a restraint of trade provisions. It held that the Court exercises a value judgment on its assessment of facts seen in the light of both the common law principles and the cositutional values (the first is essentially embodied in the maxim *pacta servanda sunt*) .The second is reflected in section 22 of the Constitution, that every citizen has the freedom to choose his or her occupation.[3]

Legal Principles Applicable to agreements in Restraint of Trade

[31] The *locus classicus* on this subject is ***Magna Alloys and Reasearch (SA) (Pty) Ltd v Ellis 1984(4)*** SA 874 (A) at 897F-898E, where the legal position was summarised, *inter alia*, as follows:

> "12.1 There is nothing in our common law which states that a restraint of trade agreement is invalid or unenforceable;
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> 12.2 It is a principle of our law that agreements which are contrary to the public interest are unenforceable. Accordingly, an agreement in restraint of trade is unenforceable if the circumstances of the particular case are such, in the court's view, as to render enforcement of the rstraint prejudicial to the public interest;
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> 12.3 It is in the public interest that agreements entered into freely should be honoured and that everyone should, as far as possible, be able to operate freely in the comercial and professional world;

[3] MMA Security Services CC (supra) at paragraph [14]

12.4 In our law the enforcement of a restraint should be determined by asking whether the enforcement will prejudice the public interest;

12.5 When someone alleges that is not bound by a restraint to which he had assented in a contract, he bears the onus of proving that enforcement of the restraint is contrary to the public interest" [4]

[32] In our law, a party seeking to enforce a contract in restraint of trade is required only to invoke the restraint agreement and prove breach thereof. In ***Basson v Chilwan***[5] Botha JA in a separate judgment held:

> "The incidence of the onus in a case concerning the enforceability of a contractual provision in restraint of trade does not appear to me in principle to entail any greater or more significant consequences that in any other civil case in general. The effect of it in practical terms is this: the convenantee seeking to enforce the restraint need do no more than to invoke the provisions of the contract and prove the breach; the covenantor seeking to avert the enforcement is required to prove on a preponderance of probability that in all the circumstances of the particular case it will be unreasonable to enforce the restraint; if the Court is unable to make up its mind on the point, the restraint will be enforced. The covenantor is burdenend with the onus because public policy requires that people should be bound by their contractual undertakings. The convenantor is not so bound, however, if the restraint is unreasonable, because public policy discountenances unreasonable restrictions on people's freedom of trade. In regard to these two opposing considerations of public policy, it sems to me that the operation of the former is exhausted by the placing of the onus on the covenantor; it has no further role to play thereafter, when reasonableness or otherwise of the restraint is being enquired into."

[4] These principles have been reaffirmed in other decisions of our courts. Basson v Chilwan and Others 1993 (3) SA 742 (A) at 767G-H and 776h-777A-B; Kwik Kopy (SA) (Pty) Ltd v Van Haarlem and Another 1999 (1) SA 472 (W) at 484 (E); Rawling and Another v Caravan Truck (Pty) Ltd 1993 (1) SA 537

[4] 11R SA BV (Inc in the Netherlands) t/a Institute for International Research v Tarita 2004 (4) SA 156 (W) at

[5] At 776H-J-777A-B . See footnote 3 above,

[33] It is trite that all an applicant is required to show is merely that the respondent could utilise the applicant's confidential information and not that he actually did[6].

PROTECTABLE INTEREST AND BREACH

[34] It is common cause that the first respondent was employed by the applicant for more than 11 years, in very senior positions. He understands the automotive paint industry in and out especially in the Eastern Cape and part of the Western Cape as he had been in the industry for about 21 years since he left school. He also operated in Port Elizabeth and its surrounds up to George in the Western Cape.

[35] It is also not denied that during his employment with the applicant he acquired secrets of the trade and confidential information regarding the business strategy of the applicant. He was privy to the applicant's pricing and marketing strategy and the system it uses in this respect. He also acquired privileged information regarding the special automotive paint used by, supplied and distributed by the applicant. He also received training in these products. In this context he learnt about the strength and weaknesses in the business of the applicant and the needs of applicant's clients.

[36] All three restraint of trade agreements were premised on the fact that during his employment, the first respondent would access confidential information of the applicant. Confidential information included trade secrets. He is thus restrained from *inter alia*, enticing applicant's clients to another supplier or be concerned in any business which is in competition or likely to be in competion with the applicant. He is

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[6] 11R SA BV (Inc in the Netherlands) t/a Institute for International Research v Tarita 2004 (4) SA 156 (W) at 1664H-167A/B

equally restrained from competing with the applicant in any activity relating to the manufacturing and marketing and selling products in respect of which the applicant is trading or any related business. He is prohibited from soliciting any business opportunity sought by the applicant or utilise the information or knowledge accummulated by the applicant in terms of which he stands to profit at the expense of the applicant. One of the issues *in casu* is which of the three agreements is operational.

[37] However, the first respondents contended that he left the employ of the applicant in December 2016. The information relied on by the applicant, its pricing and marketing strategy, dates back approximately 18 months to 16 December 2016. The applicant conceded that its pricing changes at least twice a year in April. Accordingly, its pricing had changed at least twice since the he left applicant's employ. Any pricing he may have been aware of is of no longer relevant. Therefore the applicant no longer has a protectable interest in that information as it is stale.

[38] A pricing strategy is more than just the actual prices. If his submission were to be sustained, that would be a distortion of what a strategy is and the reduction of the issue. This point therefore should be rejected.

[39] As regards contacts with the applicant's customers, first respondent submitted that the relations he has with some of the applicant's customers predate his employment by the applicant. Some are his family and others schools friends etc. He was born and bred in Port Elizabeth, which is a small town and there is bound to be an overlap in the relationships.

[40] This stance has to be taken together with what he stated In his answering affidavit. He averred that during the course of his employment with the applicant, the applicant had relied on the previous networks he had gathered from his previous employer where he worked for ten years before joining the applicant. From this it is abundantly clear that the importance of these networks is not lost to him. It is therefore not open to him to dismiss the pivotal role of these networks by simply saying they are relationships that he built before he entered the employ of the applicant, as he is doing. The fact of the matter is that there is value in those networks which for the applicant translates into a protectable interest.

[41] Though it is undeniable that some of the custorners that have now emigrated to the second respondent had been the second respondent's existing customers as it supplied these customers with automotive parts, that is a nuetral point for the first respondent. The restraint prohibits him from interfacing with these customers. Any thing else is irrelevant.

[42] I am satisfied that a protectable interest exists.

[43] The first respondent's submitted that in the event that this Court finds that such protectable interest exists, he has not breached the agreement.

[44] The first respondent denies that he ever approached applicant's customers. According to him, those who migrated to the second respondent were disgruntled and unhappy with applicant's service. They actively sought an alternative supplier. Losing these customers was thus inevitable, whether to the second respondent or

another competitor. These customers' choice of the second respondent was due to the effort of *Messrs Nortier and Everard* the second applicant's sales representative. He therefore denies any breach of the restraint of trade.

[45] In 2013, whilst the first respondent was still employed by the applicant, the applicant was approached by the second respondent. The latter revealed its desire to enter the automotive paints industry and was in a way testing waters with the applicant on a possible collaboration. Nothing ever transpired between the two after this meeting. The applicant only became aware in July 2017 that the second respondent intended to enter the automotive paint industry. This was five months after the first respondent entered the employ of the second respondent. In September 2017, the business commenced. This is in direct competition with the applicant. Soon thereafter a high number of the customers of the applicant move over to the second respondent the new employer of the first respondent. the first respondent had been instrumental in securing at least three of these customers for the applicant. It is highly impossible that the migration of the customers of the applicant to the second respondent is caused by a mere coincidence.

[46] During his employment by the applicant, the first respondent held senior positions. The seniority of the position he held with the applicant is a material consideration- see ***Dickson Holdings Group (Pty) Ltd v Du Plessis*** **2008 (4) SA 214 (N)** at paragraphs [34] and [38]. I also considered what was said in ***Reddy*** at paragraph [20] that:

> "Reddy is in possession of confidential information in respect of which the risk of disclosure by his employment with a competitor, assessed objectively, is

> obvious. It is not that the mere possession of knowledge is sufficient, and this is not what was suggested by Marais J in BHT Water: Reddy will be employed by Ericsson, a 'concern which carries on the same business as [Siemens]' in a position similar to the one he occupied with Siemens. His loyalty will be to his new employers and the opportunity to disclose confidential information at his disposal, whether deliberately or not, will exist."

[47] He was responsible for the applicant securing three of the four customers who have now migrated to the second respondent. The natural inference must be that he was involved in securing these customers for the second respondent through *Nortier.* Applicant argued that this inference is further supported by the first respondent's failure to describe what his job as a National Sales Manager of the applicant in fact entails. I agree with that.

[48] Also time spent by first respondent in the employ of the applicant is significant in considering his range of influence – see ***Value Logistics Ltd v Van Zyl*** [2009] JOL 23613 (GNP) where the following was held:

> "Common sense should prevail that within the four years that the first respondent spent in the employ of the applicant he must have learnt of the style of entertainment offered by the applicant to its customers and must also have obtained trade secrets as protectable proprietary interests of the applicant. The first respondent during that period must have fostered a close and ongoing relationship with the customer connections and built up extremely close relationships with the applicant's customers."

WHICH RESTRAINT OF TRADE IS OPERATIONAL

[49] The first respondent contended that the operating agreement is the one signed on 19 July 2016. In contending for the application of a two years restraint, the first respondent refers to the history of the relationship with the applicant and the restraint of trade agreements concluded during the subsistence of the employment.

[50] The first agreement in February 2006 on commencement of the employment with the applicant bound him to a year's restrain from the date of termination of that employment.

[51] The second agreement was signed in January 2013 when the first respondent became a sales director. It prohibited him from being concerned with any business which is competitive with or likely to be competitive with the business of the applicant for a period of three (3) years after the termination of the employment and within the province of the Eastern Cape. He retained this position for three and a half years before he resigned on 11 July 2016.

[52] Explaining his stance, the first respondent proferred the following explanation. Along the way, in 2016 the relations with the applicant became strained eventually he was compelled to resign by the applicant. He was then persuaded to return a week later in a lower position. On his return the previous agreement was abandoned a new one was concluded.

[53] The first respondent posits that the only operating restraint is the last one concluded on his return on 19 July 2016. He argued that the 2013 contract was

novated and superceded by the July 2016 contract. Therefore, the terms of the previous agreement cannot be used to vary or defeat the 2016 agreement.

[54] Based on this he made a "without prejudice" tender of the terms of restraint. *"That the first respondent be interdicted and restrained :*

> *"(a) until 16 December 2018 from approaching any clients of the applicant with a view to persuading those clients to cease to do business with the applicant;*
>
> *(b) from using the confidential information of the applicant (to the extent that it exists) for his own benefit or for the benefit of a third party including the second respondent;*
>
> *(c) from disclosing the confidential information of the applicant (to the extent that it exists) for his own benefit or the benefit of a third party including the second respondent."*

[55] The applicant's stance is that all three restraint agreements are operational either concurrently and from the date of the termination of the employment of the applicant in 16 December 2016. Alternatively, each agreement operates severally in respect of each position held, further alternatively, that the restraint concluded upon the first respondent's demotion to sales manager applies as such was a written novation of a previous restraint. It therefore rejected the tender of the first respondent.

[56] The difficulty with the first respondent's proposition is the following. The purpose of a restraint is to eliminate the possible sabotage of the business of a former employer. It precludes a former employee who, relying on the intimate knowledge of the former employer's business, ventures out to reestablish

himself/herself riding on the advantages of the information and the networks acquired whilst with the former employer. The extent of a restraint naturally has to be determined by the extent of the risk. So, the position occupied by an employee is a determining factor.[7]

[57] When the first respondent was the sales director, his area of business was expanded; his access to knowledge about the business naturally also increased. He was elevated to the upper echelons of the business. He also became the statutory director of the company. This must have informed the period of the restraint. Surely then he accessed more intimate information of the business of the applicant. He remained in this position for three years and as such must have accessed that information.

[58] The knowledge he had acquired in the three and half years he was a sales director was still very much alive when in July 2016 he became a sales manager. That knowledge and relationships fostered with the applicant's customers did not disappear in the week he had resigned. His contention otherwise does not reside well with logic. His interpretation makes a mockery of the rational and purpose of a restraint of trade.

[59] Therefore, I am in agreement with the applicant that this Court should accept that there was a continuous employment relationship albeit different positions, with the first respondent. In all the positions he held, he had access to the confidential information of the applicant and developed strategic relationships with the applicant's

[7] Reddy (supra)

clients. This justified that the restraints of trade agreements should apply cumulatively.

[60] I am equally persuaded that the radius of the restraint must extend to George given the first respondent's sphere of influence at the time he was in the employ of the applicant. This is also anchored by the fact that one of the clients who has migrated to the second respondent is based in George and the first respondent himself does not deny that he was in contact with that client.

COSTS

[61] In the notice of motion the applicant spelt out that it only sought costs against the second respondent in the even that it directly or indirectly opposed the relief sought against the first respondent. Otherwise it only sought costs against the first respondent only. The second respondent did not oppose this application.

[62] I can see no reason for costs not to follow the event.

ORDER

[63] In the result, the following order is issued:

1. The First Respondent is interdicted and restrained from:
    1.1 Approaching any of the clients of the Applicant with a view to persuading those clients to cease doing business with the Applicant;
    1.2 Being concerned in any business which is competitive or likely to be competitive with the business of the Applicant, including but not limited

to the Second Respondent, whether as principal agent,partner, director, employee secretary of consultant,within the Eastern Cape Provice for a period of 3 (three) years, and within a 200 (two hundred) kilometre radius of the magisterial district of George for a periods of 2 (two) years from 16 December 2016."

2. The costs of the application shall be paid by the first respondent.

N MSIZI
Acting Judge of the High Court

Appearances:

For the Applicant	Adv JJ Nepgen Instructed by: Joubert Galpin Searle Port Elizabeth
For the Respondent	Adv P Bosman Instructed by: Eversshed Sutherland (SA) Inc. C/O Greyvensteins