IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not Reportable

Case No: J 2012/19

In the matter between:

AFRICAN INDEPENDENT BROKERS (PTY) LTD **Applicant**

and

GRANT COETZEE **First Respondent**

LEEANN COETZEE (NEE BARRY) **Second Respondent**

B-SURE AFRICA INSURANCE BROKERS (PTY) LTD **Third Respondent**

WE SURE WORLD WIDE INSURANCE BROKERS (PTY) LTD **Fourth Respondent**

Heard: 10- 12 February 2020

Delivered: 13 March 2020

JUDGMENT

NIEUWOUDT, AJ

Introduction

[1] The applicant seeks to enforce a restraint of trade against the first and second

respondents. The matter came before Court on 8 November 2019 as an opposed motion. By agreement between the parties, it was ordered on that date that the matter be postponed for oral hearing on specific issues, namely:

1.1 whether the applicant had a protectable proprietary interest in its confidential information or customer connections;

1.2 the exposure of the first and second respondents to the applicant's proprietary interests while in its employ;

1.3 whether the employment of the first and second respondents by respectively the third and fourth respondents would infringe such proprietary interests, if any;

1.4 whether (although it was probably intended to mean "how") such interests weighed up qualitatively and quantitatively against the interest of the first and second respondents not to be economically inactive and unproductive;

1.5 whether the restraint went further than was necessary to protect the applicant's proprietary interests, if any.

[2] The matter came before me from 10 to 12 February 2020 when the first and second respondents testified on their behalf and Ms Maponyana, the CEO of the applicant, testified on behalf of the applicant.

[3] The *dramatis personae* in this matter are:

3.1 The applicant, which conducts business as an insurance broker in the short-term insurance industry; for the purpose of this application, focused mainly on motor business.

3.2 The first respondent (Grant) to whom I refer to by his first name in order to distinguish him from his wife, who had commenced employment in the group of which the applicant forms part, during June 2007, and who was employed by the applicant from January 2016 to the end of August 2019 as manager of the Optimum sub-division of its Key Accounts division.

3.3 The second respondent (Leeann), who has been employed by the applicant since July 2000 and, from December 2015, as a team leader in the Schemes sub-division of its Key Accounts division.

3.4 The third and fourth respondents are both insurance brokers, in whose respective employment Grant and Leeann are as dealer sales managers. (No relief is sought against them and, unless it is necessary to specifically refer to them, I shall refer to Grant and Leeann as the individual respondents.)

<u>Background</u>

[4] As stated, the applicant and the third and fourth respondents all conduct business as brokers in the short-term insurance industry. They are engaged by insurance companies to procure applications for insurance when motor vehicles are sold by motor dealers. They do not necessarily place such business with a specific insurance company and may do business with a number of insurance companies. The range of services that brokers render to insurance companies differs.

[5] Motor dealerships employ finance and insurance managers. Generally, when a vehicle is sold, the salesperson would refer the purchaser to the finance and insurance manager of the dealership. The latter would enquire from the purchaser whether the purchaser requires finance or insurance. If the purchaser requires insurance, the finance and insurance manager would contact an insurance broker. Often this happens electronically but the finance and insurance manager may also contact an employee of the insurance broker telephonically. An employee of the insurance broker would then contact the purchaser in order to offer the purchaser different cover options available at different insurers and to complete an insurance application form, which would then be submitted to the insurer.

[6] The applicant has two divisions, namely a Key Accounts division, which comprise of a sub-division called Optimum that exclusively dealt with Barloworld Motors Retail (Barloworld) and a Schemes sub-division that dealt with motor groups such as CMH, Key Group and Squad Cars (which are

called "partners"), and a Dealer Sales division that dealt with individual dealerships.

[7] The applicant is the exclusive insurance broker of Barloworld. Despite this exclusivity, there is a low conversion rate of the sales concluded by Barloworld to the insurance policies brokered by the applicant. This conversion rate is a lot higher where the finance and insurance manager referred the purchaser directly to the applicant, rather than just populating the electronic form. (For confidentiality reasons these figures are not quoted.) This shows that the finance and insurance manager has a strong influence on which broker is used.

[8] The applicant does not have an exclusive relationship with the partners with whom they have service level agreements. There could be up to 8 insurance brokers on the panels of such groups. There is no information before the Court of the conversion rate in respect of these groups. However, on the probabilities, the conversion rate would be lower than the rate at Barloworld where the applicant has an exclusive agreement. It follows that the finance and insurance manager has an even bigger influence on where the insurance would be placed.

[9] In the Dealer Sales division, the applicant has no service level agreements with the dealerships. It is accordingly dependent on the finance and insurance managers of the different dealerships to generate business. There are approximately 14,000 dealerships in South Africa.

[10] The point of contact that the finance and insurance managers have with the applicant is at the level of dealer sales consultant. Ms Mponyana stated that the finance and insurance manager ultimately has the relationship with the individual dealer sales consultant employed by the applicant. This is corroborated by a statement that a dealership would often follow a dealer sales consultant when he or she leaves the applicant's employment.

[11] Grant's duties and responsibilities, according to him, were to:

11.1 communicate with Barloworld management to ascertain its sales requirements;

11.2 communicate with his superiors to ascertain the applicant's sales targets;

11.3 communicate those requirements and targets to his team and determine how they should meet them;

11.4 ensure that sales consultants contact Barloworld dealerships on a regular basis to promote increased sales;

11.5 oversee and track the activities and performance of the sales consultants;

11.6 motivate and guide sales consultants to ensure an effective and cohesive team;

11.7 counsel, support and discipline underperforming sales consultants;

11.8 ascertain from sales consultants whether they have heard from dealerships or finance and insurance managers of anything of note that competitors have been doing;

11.9 report to his superiors and to Barloworld and to provide feedback on sales made, targets met, and requirements achieved;

11.10 represent the applicant at marketing events to promote its business and brand.

[12] There is a dispute about whether Grant was responsible for developing relationships with finance and insurance managers. If one looks at his admitted functions, it is overwhelmingly probable that he had responsibilities in this regard.

[13] According to Leeann, her roles duties and responsibilities were to:

13.1 provide encouragement to sales consultants;

13.2 answer sales consultants' questions and help them with their problems;

13.3 supervise the work of sales consultants and to ensure that they keep to the sales scripts;

13.4 ensure that sales consultants meet their targets;

13.5 assist the human resources department with interviewing potential sales consultants and identifying underperforming sales consultants;

13.6 report to her superiors on sales consultants' productivity, performance and challenges.

[14] Further Grant submitted that:

14.1 He attended group manager conferences but, according to him nothing of a strategic value was discussed at these meetings. This was disputed by the applicant and, on the probabilities, it would seem likely that strategic matters were in fact discussed at these meetings. It is not clear what purpose they would otherwise serve.

14.2 Attended monthly meetings at which he presented on past performance and dealt with action plans to improve performance. The monthly performance figures changed but the action plans are of a more enduring nature. At these meetings, the performance of partners and independent dealers was discussed and plans were devised on how the applicant would meet challenges.

14.3 Attended meetings with partners, for example with the regional managers of Barloworld. Those meetings had the goal of assisting Grant to "*get things going*".

14.4 Attended meetings with finance and insurance managers once every 4 to 6 months.

14.5 Attended the year end function of scheme partners.

14.6 Prepared the script that finance and insurance managers could use to channel business to the applicant.

14.7 Had knowledge of the content of service level agreements with partners but was not involved in negotiating them.

14.8 Was in possession of the contact list and details of finance and insurance managers at Barloworld.

14.9 Went on roadshows to meet with finance and insurance managers in each region.

14.10 Stated that it might have ruined the applicant if it was announced that he and Leeann were leaving.

14.11 Called Ms Rudolph because he was concerned that she was exposed to negativity at the applicant and wanted to hear how she was doing. He denied that he had asked her to procure scripts.

14.12 Was called by Khubeka who was looking for a job at the third respondent, but referred her to human resources.

[15] Further, Leeann submitted that:

15.1 She continued to do some sales herself while she was a team leader. This was at the instance of finance and insurance managers who had requested to deal with her.

15.2 Did not attend group management meetings but did attend monthly meetings.

15.3 Was involved when a particular finance and insurance manager wished to increase her commission.

15.4 Was not involved in sales at the fourth respondent.

[16] On 4 September 2019, which was before the individual respondents were put to terms by the applicant, the individual respondents concluded agreements amending their contracts of employment with their respective employers. These amendments are in the form of an undertaking to the third and fourth respondents, to not do the following:

16.1 elicit business from a list of clients and potential clients provided by the applicant to them;

16.2 utilise any information or knowledge specifically related to the business or affairs of the applicant to which they had access as a result of their employment with the applicant;

but excludes clients or potential clients of respectively the third and fourth respondents.

The legal principles

[17] A party seeking to enforce a restraint of trade agreement is required only to prove the existence of the restraint and a breach of its terms. Once this has been done, the onus is on the respondent to prove on a balance of probabilities that the restraint agreement is unenforceable because it would be unreasonable to enforce it[1].

[18] The question of the resolution of disputes of fact, which may be complicated when final relief is sought in motion proceedings, does not apply in this matter due to the fact that evidence was led on the issues on which the individual respondents bore the onus and that the issues on which the applicant bore the onus were not disputed.

[19] Both parties relied on *Basson v Chilwan and Others*[2] where the majority of the then Appellate Division held that the reasonableness or otherwise of a restraint is determined with reference to the following four considerations:

19.1 Is there an interest deserving of protection at the termination of the agreement?

19.2 Is that interest being prejudiced?

19.3 If so, how does that interest weigh up qualitatively and quantitatively against the interest of the other party not to be economically inactive and unproductive?

[1] See: *Magna Alloys and Research (SA) (Pty) Ltd v Ellis* 1984 (4) SA 874 (A).
[2] 1993 (3) SA 742 (A) at 767G—H.

19.4 Is there another facet of public policy not having anything to do with the relationship between the parties which requires that the restraint should either be enforced or disallowed?

[20] To this an additional ground was added in *KwikKopy (SA) (Pty) Ltd v Van Haarlem and another*[3], namely whether, as between the parties, the restraint goes further than is necessary to protect the interest. I have previously indicated[4] that I would prefer to deal with this ground, not as a separate ground, but when considering the weighing up of the respective interests of the parties.

[21] It is well established that the proprietary interests that may be protected by a restraint agreement, are essentially of two kinds, namely:

> 'The first kind consists of the relationships with customers, potential customers, suppliers and others that go to make up what is compendiously referred to as the "trade connection" of the business, being an important aspect of its incorporeal property known as goodwill. The second kind consists of all confidential matter which is useful for the carrying on of the business and which could therefore be used by a competitor, if disclosed to him, to gain a relative competitive advantage. Such confidential material is sometimes compendiously referred to as "trade secrets".'[5]

[22] In *Rawlins and Another v Caravantruck (Pty) Ltd*[6] the then Appellate Division set out a very useful test to be utilised when deciding whether a protectable trade connection existed:

> '[If the employee acquires] such personal knowledge of and influence over the customers of his employer . . . as would enable him (the servant or apprentice), if competition were allowed, to take advantage of his employer's trade connection'.

and

[3] 1999 (1) SA 472 (W) at 484E. See also: *Reddy v Siemens Telecommunications (Pty) Ltd* 2007 (2) SA 486 (SCA) at para 17.
[4] In *Alcon Laboratories (SA) Pty Ltd v Potgieter and others.* Unreported decision (Case number J1039/19).
[5] See: *Sibex Engineering Services (Pty) Ltd v Van Wyk and another* 1991 (2) SA 482 (T) at 502 D-F
[6] 1993 (1) SA 537 (A) at 540 I-J.

> ‘Whether the criteria referred to are satisfied is essentially a question of fact in each case, and in many, one of degree. Much will depend on the duties of the employee; his personality; the frequency and duration of contact between him and the customers; where such contact takes place; what knowledge he gains of their requirements and business; the general nature of their relationship (including whether an attachment is formed between them, the extent to which customers rely on the employee and how personal their association is); how competitive the rival businesses are; in the case of a salesman, the type of product being sold; and whether there is evidence that customers were lost after the employee left.

[23] In *Den Braven SA (Pty) Ltd v Pillay and Another*,[7] the Court set out further principles which are important with regard to trade connections:

> ‘It is not in my view necessary for an applicant in this situation to winnow the wheat of trade connections and customer contact from the chaff of other factors that may influence purchasing decisions. It suffices for the applicant to show that trade connections through customer contact exist and can be exploited by the former employee if employed by a competitor.’[8]

but

> ‘In considering the facts of a particular case it must always be borne in mind that a protectable interest in the form of customer connections does not come into being simply because the former employee had contact with the employer's customers in the course of their work. The connection between the former employee and the customer must be such that it will probably enable the former employee to induce the customer to follow him or her to a new business”[9]

[24] The facts in *Reddy v Siemens Telecommunications (Pty) Ltd*[10] are of some assistance in deciding the issue of confidential information:

> ‘[19] Reddy will during the period of the restraint have no contact with Vodacom, nor will he be able to solicit Vodacom to move its business to Ericsson. He

[7] 2008 (6) SA 229 (D).
[8] Ibid at para 17.
[9] Id fn 7 at para 6.
[10] 2007 (2) SA 486 (SCA).

will, however, provide services to MTN in South Africa and to Celtel and Safricom in Kenya where Siemens does not operate. The restraint against being employed by a competitor, in addition, applies to Gauteng only despite Siemens being active throughout South Africa. It was submitted on behalf of the appellant that in these circumstances the restraint is unreasonable.

[20] However, all the facts must be considered. Siemens and Ericsson are competitors providing services to telecommunication network operators. Although Vodacom and Cell C are customers of Siemens, Ericsson does some business with them. Siemens still has to acquire any of MTN's business. Reddy is in possession of trade secrets and confidential information of Siemens. Moreover, shortly before his resignation from Siemens, he attended a training course updating his knowledge of the processes, methodologies and systems architecture developed by Siemens. Information of this kind, if disclosed, could be used to the disadvantage of Siemens. ……………………. 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. …………………………………. His loyalty will be to his new employers and the opportunity to disclose confidential information at his disposal, whether deliberately or not, will exist. The restraint was intended to relieve Siemens precisely of this risk of disclosure. In these circumstances the restraint is neither unreasonable nor contrary to public policy.'

[25] In *Coolair Ventilator Co SA (Pty) Ltd v Liebenberg and Another*[11] the Court dealt with the requirement that information had to be useful to a competitor in order to qualify as confidential information, and stated:

'If it is objectively established that a particular item of information could reasonably be useful to a competitor as such, i.e. to gain an advantage over the plaintiff, it would seem that such knowledge is prima facie confidential as between an employee and third parties.'

<u>The tender</u>

[26] Grant and Leeann made a tender without any admission of wrongdoing or liability and it does not include an undertaking not to be employed by the third

[11] 1967 (1) SA 686 (W) at 689G.

and fourth respondents nor any undertaking by the third and fourth respondents. The interim order that was handed down by agreement on 8 November 2019, essentially captures the tender. The applicant did not accept it.

[27] Mr Nel, for the individual respondents, submitted that the undertaking was sufficient to protect such proprietary interests as the applicant might prove to have. He advanced a separate submission on the impact of the interim order that was granted by agreement and the sharing of confidential information with the legal team of the individual respondents in a confidential affidavit. This will be addressed later.

[28] Mr Whitcutt SC (who appeared for the applicant together with Mr Le Roux) referred the Court to a number of decisions dealing with the adequacy of a tender in circumstances where a party is in breach of a restraint. In *New Justfun Group (Pty) Ltd v Turner and others*[12] this Court stated that the enforcement of a restraint, the purpose of which is to protect confidential information, cannot be defeated by an undertaking that the employee will not divulge the information if he or she is permitted, contrary to the restraint, to enter into employment with a competitor. The Court motivated this position as follows[13]:

> 'This is not to cast any aspersions on Turner's bona fides or those of the second respondent, but as the authorities make clear, the very purpose of a restraint agreement is to relieve the enforcing party from the obligation to police undertakings such as those given by Turner and the second respondent.'

[29] This sentiment was endorsed in *Experian SA (Pty) Ltd v Haynes and another*[14] where the point was succinctly captured as follows:

> "Indeed, the very ratio underlying the bargain is that the applicant should not have to content itself with crossing its fingers and hoping that the respondent would act honourably or abide by the undertakings that he has given. It does

[12] (2018) 39 ILJ 2721 (LC).
[13] Ibid at para 21.
[14] (2013) 34 ILJ 529 (GSJ) at paras 21 and 22.

> not lie in the mouth of the ex-employee, who has breached a restraint agreement by taking up employment with a competitor, to say to the ex-employer, 'Trust me: I will not breach the restraint further than I have already been proved to have done." [15]

[30] The individual respondents were not forthright with the applicant about their future plans when they resigned. In fact, Grant was untruthful by stating that he intended to join a carpentry business. In addition, Grant underplayed the exposure that he had to the confidential information of the applicant. The authorities are clear and there is no reason to depart from them. In the result, the tender does not preclude the applicant from seeking relief.

<u>The restraint agreements</u>

[31] The parties are in agreement that the restraint of trade agreements attached to the founding affidavit are binding on the individual respondents and it is not contended that the relief sought by the applicant is not encompassed by the terms thereof.

<u>Breach</u>

[32] It is common cause that the mere fact that the individual respondents are in the employment of respectively the third and fourth respondents constitutes a breach of the restraint of trade agreements.

[33] There is no evidence (distinct from suggestions) that shows that the individual respondents have breached the restraint of trade agreements in any other respect.

<u>Interest deserving of protection</u>

Period of assessment

[34] Both the individual respondents were in their last positions with the applicant for approximately 2 ½ years before they resigned. Mr Whitcutt contended that

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[15] See: *International Executive Communications Ltd ta Institute for International Research v Turnley and Another* 1996 (3) SA 1043 (W) at 1055E-1057B and *BHT Water Treatment (Pty) Ltd v Leslie and Another* 1993 (1) SA 47 (W) at 57D-H.

the Court should have regard to the information to which they had access in, and the responsibilities of, their previous positions. I do not believe that trade connections or confidential information that were older than 2 years by the time that the individual respondents had breached the restraint of trade agreements are deserving of any protection. This does not mean that such access or responsibilities are irrelevant where there was a continuation thereof in the last positions.

Trade connections

[35] There was some debate about whether the requirement was that the influence over the trade connection should be so high so as to put the connection in the proverbial "*pocket*" of the individual respondents, but it is not the test as set out above in *Rawlins* and *Den Braven*.

[36] Grant was a manager and Leeann was a team leader. Ms Maponyane stated that the main responsibility of dealer sales consultants was to introduce finance and insurance managers and dealerships to the applicant, to advise them of the services that the applicant provided and to build and maintain relationships with the financial and insurance managers and individual dealers.

[37] She further stated that the relationship between the dealer sales consultants and finance and insurance managers is cardinal to the success of the applicant's Key Accounts strategy. It often happened that when a dealer sales consultant left its employment, some dealerships would move with that consultant. Ultimately, the finance and insurance managers had the relationship with the individual dealer sales consultants.

[38] There is no evidence that any particular finance and insurance manager has ceased giving leads to the applicant or have followed the individual respondents. In fact, Leeann testified that she was not involved in sales at the fourth respondent.

[39] I am mindful of the fact that Grant had some interaction with finance and insurance managers and that some of them had specifically preferred to

continue to deal with Leeann when she became a team leader.

[40] However, in light of the above even if there is a trade connection worthy of protection it is not strong.

Confidential information

[41] Grant had exposure to confidential information. The fact that he underplayed this aspect is of concern. The conversion rate of total car sales to insurance deals concluded and the difference of that rate between direct leads and pooled leads must be crucial to the applicant's business. I accept that these figures are not static but it is certainly not something that the applicant wants to publicise to its competitors. The fact that the finance and insurance manager may disclose the information to a competitor does not cause it not to be confidential. I have already stated that he was privy to strategic information. This is also not something which a competitor ought to have access to.

[42] Leeann had some access to confidential information shared at monthly meetings. It is, however, clear that the main focus of her position was to manage the dealer sales consultants in her team. I am not convinced that this is an interest worthy of protection.

Period of protection

[43] The restraint of trade agreements provide for a restraint for a period of twenty-four months. However, in the replying affidavit, the applicant contended that its interests would be protected by a restraint of twelve months. Mr Whitcutt contended that the twelve months should run from the date of the order but I do not read that qualification in the statements in the replying affidavit.

Prejudice

[44] To the extent that the applicant has a protectable interest as far as trade connections is concerned, I am of the view that that interest is not prejudiced by the fact that the individual respondents are employed by the third and fourth respondents.

[45] In *Justfun*[16] the Court postulated a test regarding confidential information. It held that all the applicant needed to show was that there was secret information to which the first respondent had access to and which she, in theory, could transmit to the second respondent if she should wish to do so. Although the test was postulated in the context of determining whether there is a protectable interest, it is equally applicable in determining whether there is potential prejudice. In this regard the passage of *Experian*, dealt with above[17], is also applicable.

[46] In Grant's case the confidential information that he has, if disclosed to the third and fourth respondents would prejudice the applicant. I have already found that I am not convinced that Leeann had access to confidential information that is worthy of protection. I am of the view that even if she had, the applicant would not be prejudiced by her employment by the fourth respondent.

<u>Weighing up of interests</u>

[47] The individual respondents effectively spent their whole working careers with the applicant and their expertise is in short-term insurance broking. They state that they would be economically inactive if they are not able to work in that industry. I am inclined to agree that it would not be easy for them to find employment at their level of seniority outside the industry. However, Grant is employed in a managerial position and Leeann in a junior managerial position; they are not dependent on selling for an income.

[48] Further there are insurance brokers who do not focus on the motor trade and the agreements do not preclude them from being employed by such insurers in other industries. Thus, their right not to be economically inactive did not play a significant role in the decision in this matter.

[49] This brings the Court to the contention, which Mr Nel vigorously pursued, that there was a less restrictive way in which the applicant's interests could be protected. He relied on the undertaking that was given, the fact that there was

[16] Id fn 12 at para 14.
[17] Id fn 14 at para 30.

no complaint that the interim court order was breached and the fact that the applicant trusted the individual respondents to the extent that it had disclosed confidential information to them for the purposes of the litigation. The undertaking has been dealt with and need not be revisited.

[50] The fact that there is no complaint that the interim order has been breached, does not mean that it has not; at best, it means that the applicant is not aware of the breach. The difficulty that an applicant in restraint proceedings would have in proving actual use of confidential information has already been dealt with earlier in this judgment and need not be repeated.

[51] Last, it would be hugely ironical if a complainant seeking to enforce a restraint of trade would be defeated in its attempt because it was compelled to disclose certain information in order to be successful in its claim.

<u>Other facet of public policy</u>

[52] This issue was not raised by any of the parties.

<u>Conclusion</u>

[53] The individual respondents tendered, in their answering affidavit, that they would not use any confidential information of the applicant or disclose it to any third party, including the third and fourth respondents; solicit any employees of the applicant until 31 August 2021; or solicit any business, leads or referral of customers from any partner serviced by the applicant's Key accounts division until 31 August 2021. They are bound to this tender.

[54] As far as Leeann is concerned, the applicant has not made out a case for precluding her from being employed by the fourth respondent.

[55] However, as far as Grant is concerned, the applicant has shown a clear right and an injury actually committed as far as the use of its confidential information is concerned. The individual respondents' submission that the tender constitutes a satisfactory alternative remedy is rejected and the applicant is entitled to final relief.

[56] The order sought by the applicant is unnecessarily wide and it should be confined to entities that conduct business which directly or indirectly compete with the business of the applicant. Therefore, once read down the applicant is entitled to an order interdicting and restraining the first respondent as per the restraint agreement.

Costs

[57] The applicant seeks costs. In *Justfun*[18] it was held that this Court would follow its normal approach, namely a consideration of law and fairness, in deciding costs. In *Medtronic (Africa) (Pty) Ltd v Kleynhans and Another*[19] this Court considered the fact that a party was an individual as a factor against awarding costs. Further, the applicant and the individual respondents each had some success.

[58] Accordingly, a costs order is not warranted.

Order:

1. The first and second respondents are interdicted and restrained from:

   1.1. using any confidential information of the applicant or disclosing it to any third party, including the third and fourth respondents;

   1.2. soliciting any employees of the applicant until 31 August 2021;

   1.3. soliciting any business, leads or referral of customers from any partner of the applicant (being an entity with which the applicant had a service level agreement on 31 August 2019 and which was serviced by its Key Accounts division) until 31 August 2021.

2. The first respondent is interdicted and restrained from, until 31 August 2020 and in the Republic of South Africa, from being interested or engaged, whether directly or indirectly, in any capacity whatsoever in:

   2.1. in the business of the third respondent;

[18] Id fn 12 at para 23.
[19] (2016) 37 ILJ 1154 (LC).

2.2. any entity which conducts a business that directly or indirectly competes with the business of the applicant.

3. There is no order as to costs.

H. Nieuwoudt

Acting Judge of the Labour Court of South Africa

<u>Appearances:</u>

For the Applicant: Adv C Whitcutt SC

Instructed by: ENS Africa

For the Respondents: Adv EJJ Nel

Instructed by: Jansen and Jansen Inc