



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT02631ADJ2026

In the matter between:

MOGOMOTSI MOTHIBI

Applicant

and

ABRAHAM KOSHY

First Respondent

**COMPANIES AND INTELLECTUAL
PROPERTIES COMMISSION**

Second Respondent

Date of Decision: 19th August 2026

DECISION

INTRODUCTION

1. The Applicant is **MOGOMOTSI MOTHIBI** (ID Number-xxxxxxxxxxxxxx) a director of INK ENGINEERING (PTY) LTD (Registration 2025/970194/07).

2. The First Respondent is **ABRAHAM KOSHY** (Identity Number-xxxxxxxxxxxxxx) a director of INK ENGINEERING (PTY) LTD (Registration 2025/970194/07).

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

4. This is an application in terms of sections 71(8)(b) of the Companies Act No. 71 of 2008 ("the Act") for an Administrative Order determining the removal of the Third Respondent as a director.

APPLICANT'S SUBMISSIONS

5. The Applicant request that the First Respondent be removed as director. The Applicant alleges that the First Respondent was guilty of the following.

- a. Fraudulent Misrepresentation and Dishonesty The First Respondent knowingly misrepresented his qualifications and professional standing by:
 - Failing to disclose his Matric certificate;
 - Submitting a degree certificate that does not reflect a valid identification number; and
 - Falsely representing himself as a Professional Engineer registered with the Engineering Council of South Africa (ECSA) without providing any verifiable proof.
- b. Material Non-Disclosure and Breach of Fiduciary Duty The First Respondent deliberately withheld material information relevant to his appointment and suitability as a director. \

- c. Gross Misconduct – Unauthorized Interference with Company Systems the First Respondent unlawfully and without mandate deactivated a Company email address, thereby interfering with Company communications, operations, and governance. This constitutes gross misconduct, abuse of authority, and operational sabotage.
- d. Failure to Respond to Serious Allegations, The First Respondent failed to respond to repeated correspondence and serious allegations constitute gross insubordination, contempt for corporate governance, and aggravation of misconduct.
- e. Fraudulent Misrepresentation of B-BBEE Status. The First Respondent falsely represented to the Company that he qualified under Black Economic Empowerment (B-BBEE) on the basis that he allegedly came to South Africa before 1994.

APPLICABLE LAW

- 6. Section 71 (removal of directors) is the applicable section of the Act.

71 of the Act provides as follows:*Removal of directors*

71. (1) Despite anything to the contrary in a company's Memorandum of Incorporation or rules, or any agreement between a company and a director, or between any shareholders and a director, a director may be removed by an ordinary resolution adopted at a shareholders meeting by the persons entitled to exercise voting rights in an election of that director, subject to subsection (2). (2) Before the shareholders

of a company may consider a resolution contemplated in subsection (1)— (a) the director concerned must be given notice of the meeting and the resolution, at least equivalent to that which a shareholder is entitled to receive, irrespective of whether or not the director is a shareholder of the company; and (b) the director must be afforded a reasonable opportunity to make a presentation, in person or through a representative, to the meeting, before the resolution is put to a vote.

(3) If a company has more than two directors, and a shareholder or director has alleged that a director of the company— (a) has become— (i) ineligible or disqualified in terms of section 69, other than on the grounds contemplated in section 69(8)(a); or (ii) incapacitated to the extent that the director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time; or (b) has neglected, or been derelict in the performance of, the functions of director, the board, other than the director concerned, must determine the matter by resolution, and may remove a director whom it has determined to be ineligible or disqualified, incapacitated, or negligent or derelict, as the case may be. (4) Before the board of a company may consider a resolution contemplated in subsection (3), the director concerned must be given— (a) notice of the meeting, including a copy of the proposed resolution and a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the director to prepare and present a response; and (b) a reasonable opportunity to make a presentation, in person or through a representative, to the meeting before the resolution is put to a vote. (5)

If, in terms of subsection (3), the board of a company has determined that a director is ineligible or disqualified, incapacitated, or has been negligent or derelict, as the case may be, the director concerned, or a person who appointed that director as contemplated in section 66(4)(a)(i), if applicable, may apply within 20 business days to a court to review the determination of the board. (6) If, in terms of subsection (3), the board of a company has determined that a director is not ineligible or disqualified, incapacitated, or has not been negligent or derelict, as the case may be— (a) any director who voted otherwise on the resolution, or any holder of voting rights entitled to be exercised in the election of that director, may apply to a court to review the determination of the board; and (b) the court, on application in terms of paragraph (a), may— (i) confirm the determination of the board; or (ii) remove the director from office, if the court is satisfied that the director is ineligible or disqualified, incapacitated, or has been negligent or derelict. (7) An applicant in terms of subsection (6) must compensate the company, and any other party, for costs incurred in relation to the application, unless the court reverses the decision of the board. (8) If a company has fewer than three directors— (a) subsection (3) does not apply to the company; (b) in any circumstances contemplated in subsection (3), any director or shareholder of the company may apply to the Companies Tribunal, to make a determination contemplated in that subsection; and 5 10 15 20 25 30 35 40 45 50 55142 (c) subsections (4), (5) and (6), each read with the changes required by the context, apply to the determination of the matter by the Companies

Tribunal. (9) Nothing in this section deprives a person removed from office as a director in terms of this section of any right that person may have at common law or otherwise to apply to a court for damages or other compensation for— (a) loss of office as a director; or (b) loss of any other office as a consequence of being removed as a director. (10) This section is in addition to the right of a person, in terms of section 162, to apply to a court for an order declaring a director delinquent, or placing a director on probation

EVALUATION AND FINDINGS

7. The main issue is whether the First Respondent has been negligent or derelict in her duties as director.

8. Having considered the provisions of section 71 I am convinced that the Respondent has acted negligently and derelict in his duties. The Applicant alleges that the First Respondent lied about his qualifications and BEE status. Without any response from the First Respondent, I am inclined to accept what was stated by the Applicant. The First Respondent had committed fraud by lying about his qualification. He also put the company in jeopardy by lying about his BEE status.

9. The Tribunal finds that it is thus in the best interest of the company for the First Respondent to be removed as director.

ORDER

10. The relief sought by The Applicant is granted.
- a. The First Respondent is removed as a director of INK ENGINEERING (PTY) LTD (Registration 2025/970194/07) in terms of Section 71(8) of the Act.
 - b. The Companies and Intellectual Property Commission is hereby ordered to deregister **ABRAHAM KOSHY** (Identity Number- xxxxxxxxxxxx) as a director of INK ENGINEERING (PTY) LTD (Registration 2025/970194/07) within a period of 10 (ten) days from receipt of this order.
 - c. The Registrar of the Tribunal is hereby directed to deliver a copy of this order to the Commissioner of Companies and Intellectual Property Commission within 5 (five) days from date of this order.

MOHAMED ALLTHE APPLICANTCHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL