

**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA**

**("THE TRIBUNAL")**

**CASE NUMBER: CT010APR2014**

**THE LIFESENSE GROUP (PTY) LTD**

**APPLICANT**

and

**LIFE 9 ASSIST (PTY) LTD**

**RESPONDENT**

**Coram: PJ Veldhuizen**

**Order delivered 17 April 2015**

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**ORDER**

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**1. THE PARTIES**

1.1. The Applicant is **THE LIFESENSE GROUP (PTY) LTD** ("the Applicant"), a company incorporated and existing under the company laws of the Republic of South Africa, having its principal place of business at No 86 Oxford Road, Houghton Estate, Johannesburg, Gauteng, Republic of South Africa.

1.2. The Respondent is **LIFE 9 ASSIST (PTY) LTD** ("Respondent"), a company incorporated and existing under the company laws of the Republic of South Africa, having its registered office at No 209 Van der Hoff Road, Pretoria Gardens, Pretoria, Gauteng, Republic of South Africa.

## 2. THE APPLICATION

2.1. This is an application brought for an Administrative Order in terms of Section 160 of the Companies Act No. 71 of 2008 ("the Act") ordering the Respondent to choose a new name that does not contain the Applicant's "**LIFEASSIST**" trademark.

2.2. The Applicant has filed an objection to the use of the word **LIFEASSIST** by the Respondent in its company name, as prescribed by Regulation 142 (1)(a) and has in support of its objection, filed an affidavit by *inter alia* its Administration Manager, **ROLAND LYONARD WHITTAKER**, setting out the facts on which the application is based, as required by regulation 142 (1)(b).

2.3. Further affidavits of 21 October 2014 and 26 January 2015 have been filed by **JEREMY SPERES**, the Applicant's attorney. The former affidavit deals with the law as it pertains to the application and the latter, the procedural aspects of the application.

## 3. THE PROCEDURAL ASPECTS

3.1. The Applicant has, in my view, not complied with the procedural aspects related to filing of a supporting affidavit in that the "Objectors Founding Affidavit" is commissioned by **ANGUS KEI ROWE ("ROWE")**, the Managing Director of the Applicant. It is inconceivable that **ROWE** does not have an interest in the matter. This amounts to a contravention of **GNR.1258 of 21 July 1972**.

3.2. Furthermore, **ROWE** has failed to state his designation and the area for which he holds his appointment or the office held by him if he holds his appointment *ex officio*.

3.3. Further procedural impediments befall the application which include the fact that the Respondent was registered on 12 April 2011, before the coming into effect of the Act which, even if the first two procedural complaints were to be rectified, would not afford the Tribunal jurisdiction to entertain the application.

#### **4. ORDER**

The application is dismissed.



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**PJ VELDHUIZEN**  
**MEMBER OF THE COMPANIES TRIBUNAL**  
**CAPE TOWN**