



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

**("THE TRIBUNAL")**

**CASE NUMBER: CT004JAN2017**

In the matter between:

**GRETHA TERBLANCE**

**APPLICANT**

and

**GERRIT CHRISTO GREYLING**

**RESPONDENT**

**IN RE: C X SAND AND STONE (PTY) LTD**

**Coram: PJ Veldhuizen**

**Order delivered 3 February 2017**

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**ORDER**

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**1. THE COMPANY / THE APPLICANT**

1.1. The Company is CX Sand and Stone (Pty) Ltd (the “Company”), a private company duly incorporated as such in terms of the Companies Act 71 of 2008 (“The Act”), with registration Number 2016/246264/07.

1.2. The Applicant is Ms. Terblance (“the Applicant”), one of two directors of the Company, the other being Mr. Greyling (“the Respondent”). The Applicant has made application to the Tribunal for the removal of the Respondent as a Director of the Company.

## **2. URGENCY**

The Application is brought on an urgent basis. The Applicant has successfully set out the grounds on affidavit attached to the CTR 147 form filed on 16/01/17 by reference to the founding affidavit. The Tribunal was satisfied that the matter was urgent and heard counsel on the Application for a Default Order.

## **3. THE APPLICATION**

The Respondent, who was personally served with a copy of the Application on 17/01/17, has failed to file a Notice of Opposition or any indication that he has any interest in the proceedings whatsoever.

## **4. THE LAW**

4.1. The Application is brought in terms of the provisions of section 71(8) of the Act which provides, in essence, that the Companies Tribunal may make an order removing a Director of a Company if:

- a. The Company has fewer than three directors; and
- b. The Tribunal is satisfied that the Director has become:
  - i. ineligible or disqualified in terms of section 69;
  - 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
- iii. has neglected, or been derelict in the in the performance of, the functions of a director.

## **5. APPLICATION OF THE FACTS TO THE LAW**

5.1. The Respondent's conduct as described by the Applicant in the papers filed remains uncontested.

5.2. Against this backdrop, the conduct of the Respondent according to the Applicant included:

- a. Lengthy periods of absence from the workplace;
- b. Diversions of funds due to the Company due to himself;
- c. Threats of physical violence and intimidation toward the Applicant and other staff; and
- d. Failure to perform his duties as a director in good faith in the best interests of the Company and with the expected due care and skill.

## **6. DECISION**

6.1. Any one of the acts complained of by the Applicant would be sufficient for the Application to succeed.

6.2. Accordingly, the Tribunal is satisfied that a proper case has been made out for the relief sought.

## **7. ORDER**

7.1. The following order is made in terms of the Notice of Motion:

- a. The requirements of the Uniform Rules of the High Court are dispensed with due to the urgency of this matter;
- b. The Respondent be removed as a Director of CX Sand and Stone (Pty) Ltd in terms of Section 71(8) of the Companies Act 2008;
- c. The Companies and Intellectual Property Commission is to assist the Applicant in the removal of the Respondent from the board of the CX Sand and Stone (Pty) Ltd.
- d. Costs of this application are to be paid by the Respondent.



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