

ORDER under the Companies Act 2006

In the matter of application No 575

By Rev. Peter George Popoff, People United for Christ, Inc and Word for the World Ministries UK Limited

for a change of company name of registration

No 08457122

DECISION

1. Section 69 of the Companies Act 2006 (“the Act”) states:

“(1) A person (“the applicant”) may object to a company's registered name on the ground—

(a) that it is the same as a name associated with the applicant in which he has goodwill, or

(b) that it is sufficiently similar to such a name that its use in the United Kingdom would be likely to mislead by suggesting a connection between the company and the applicant.

(2) The objection must be made by application to a company names adjudicator (see section 70).

(3) The company concerned shall be the primary respondent to the application.

Any of its members or directors may be joined as respondents.

(4) If the ground specified in subsection (1)(a) or (b) is established, it is for the respondents to show—

(a) that the name was registered before the commencement of the activities on which the applicant relies to show goodwill; or

(b) that the company—

(i) is operating under the name, or

(ii) is proposing to do so and has incurred substantial start-up costs in preparation, or

(iii) was formerly operating under the name and is now dormant; or

(c) that the name was registered in the ordinary course of a company formation business and the company is available for sale to the applicant on the standard terms of that business; or

(d) that the name was adopted in good faith; or

(e) that the interests of the applicant are not adversely affected to any significant extent.

If none of those is shown, the objection shall be upheld.

(5) If the facts mentioned in subsection (4)(a), (b) or (c) are established, the objection shall nevertheless be upheld if the applicant shows that the main purpose of the respondents (or any of them) in registering the name was to obtain money (or other consideration) from the applicant or prevent him from registering the name.

(6) If the objection is not upheld under subsection (4) or (5), it shall be dismissed.

(7) In this section “goodwill” includes reputation of any description.”

2. The company name PETER POPOFF MINISTRIES UK LTD (hereafter “PPMUKL”) has been registered since 22 March 2013.

3. By an application filed on 17 May 2013, Rev. Peter George Popoff, People United for Christ, Inc and Word for the World Ministries UK Limited (hereafter “the applicants”) applied for a change of name of this registration under the provisions of section 69(1) of the Act. Rule 3 of The Company Names Adjudicator Rules 2008 (“the rules”) reads:

“3.—(1) An application under section 69(2) shall—

(a) be made on the appropriate form;

(b) include a concise statement of the grounds on which the application is made;

(c) include an address for service in the United Kingdom; and

(d) be filed at the Office.

(2) The adjudicator shall send a copy of the appropriate form to the primary respondent.

(3) The adjudicator shall specify a period within which the primary respondent must file its defence.

(4) The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator

may treat it as not opposing the application and may make an order under section 73(1).

(5) In its counter-statement the primary respondent shall—

(a) include an address for service in the United Kingdom;

(b) include a concise statement of the grounds on which it relies;

(c) state which of the allegations in the statement of grounds of the applicant it admits and which it denies; and

(d) state which of the allegations it is unable to admit or deny, but which it requires the applicant to prove.

(6) Any member or director of the primary respondent who is joined as a respondent to the application must be joined before the end of a period specified by the adjudicator.

(7) The adjudicator shall send a copy of the appropriate form referred to in paragraph (4) to the applicant.”

4. The application was accompanied by two annexes. The first annex consists of a range of correspondence between the applicants’ professional representatives in these proceedings, Wedlake Bell (“hereafter WB”), and, inter alia, PPMUKL. The second annex consists of a range of Community trade mark registrations including no. 9876699 for the mark “Peter Popoff Ministries” which was applied for on 7 April 2011 and which stands registered in the name of the first applicant.

5. In its application, the applicants asked for Ms Eunjung No, the sole director and sole shareholder of PPMUKL, to be joined to the proceedings. The applicants stated, inter alia:

“15.1.2.3 On the basis of the foregoing, Ms No is not only intimately and actively involved in [PPMUKL], but is the controlling mind of [PPMUKL].”

6. Following a request from the Tribunal for clarification, a copy of the application was sent to PPMUKL at its registered office on 24 July 2013, in accordance with rule 3(2) and a period expiring on 24 August 2013 was allowed for a defence to be filed. The copy of the application was sent by Royal Mail special delivery. On the same day, the Tribunal sent a letter to Ms No at PPMUKL’s registered office and at the address in Claremont, California held for her on the records of Companies House. That letter advised Ms No of the applicant’s request to join her to the proceedings and a period expiring on 24 August 2013 was allowed for Ms No to comment upon the request.

7. On 22 August 2013, Ms No wrote to the Tribunal. The relevant part of that letter reads as follows:

“I have just received your letter in regards to LLP Registration Number 08457122 in the name of [PPMUKL].

However, the correspondence was sent to an address... that I no longer reside in and have not resided in for over 2 months. If not for the kindness of a neighbour who has forwarded me your letter, I would not have received it yesterday.

In consideration of this delay, I kindly request an extension to respond so I may carefully review the application that [the applicants] have filed with your office regarding this matter.”

8. Following a further exchange of correspondence between the Tribunal and WB regarding the scope of the order the applicants were seeking, I directed a Case Management Conference (“CMC”) be held to discuss the further conduct of the proceedings. In an official letter dated 25 October 2013 (sent by post) to PPMUKL, WB and Ms No (at her new address in Claremont, California) and by e-mail to Ms No and WB, the parties were advised that the CMC would be held by telephone on 13 November 2013 at 4pm (to allow for the time difference between the UK and the west coast of the United States). That letter included the following paragraph:

“If within 5 days of the date of this letter either party provides the Hearings Clerk with exceptional reasons as to why it cannot make, or make arrangements to be represented at, the date/time in question, then another date/time may be appointed for the Case Management Conference, which will be within 7 days of the first date.”

9. In a letter dated 28 October 2013, Ms No responded to that letter, the relevant part of which reads:

“I am presently on legal maternity leave until 31 January 2014 as I have welcomed a baby just 4 weeks ago. Therefore, I kindly request that the [CMC] be rescheduled at a later date when my maternity leave ends and I can adequately be back in the office working and can apply proper due attention to this matter.

Please do not hesitate to contact me at the above address or at the email address...where I will be checking emails periodically.”

10. In a letter dated 1 November 2013, WB objected to Ms No’s request on the basis that it did not constitute “exceptional reasons”, the application had already been delayed, and that, in the applicants’ view, Ms No’s request was a mere delaying tactic. There then followed an exchange of e-mails between WB and Ms No (copied to the Tribunal) regarding, inter alia, the nature of Ms No’s maternity leave and the impact it may have on her ability to attend the CMC.

11. In an e-mail dated 5 November 2013, the Tribunal responded to Ms No (copied to WB) in the following terms:

“The exchange of e-mails between the parties and the Tribunal (commencing with your request dated 28 October for a postponement of the CMC scheduled for 13 November) have been considered by the hearing officer. He has asked me to explain that as the purpose of the CMC is to clarify the basis of the application, and as the proceedings have not yet been joined (either by the primary respondent or yourself) there is no necessity for you to attend the CMC.

As a consequence, the CMC will proceed as scheduled; if you or a representative do wish to attend by telephone please let me know by Friday 8 November and confirm the telephone number on which you or your representative can be contacted.

At the conclusion of the CMC, the hearing officer will write to the parties giving directions for the further conduct of the proceedings.”

12. The CMC took place as scheduled. My letter of 14 November 2013, addressed to Mr Cornthwaite of WB, read as follows:

“I refer to the Case Management Conference (“CMC”) which took place before me yesterday, by telephone. At the CMC, you represented the applicants; neither PPMUKL nor Ms Eunjung No was represented at the CMC.

As I explained, the CMC was appointed to discuss, inter alia, the progress of the case to date and the scope of the request of the order the applicants seek should they be successful (paragraphs 14 and 15 of the Form CNA1 refer).

Having explained that further applications to the Tribunal would be necessary if the respondent changes its name to one which is the same as or sufficiently similar to “People United for Christ” (“PUFC”) or “Word for the World” (“WFTW”), **I allowed 7 days from the date of this letter for you to amend and re-file the Form CNA1 in the manner discussed.**

As to the further conduct of the proceedings, I am, of course, aware of Ms No’s comments regarding her maternity leave. However, I am also conscious that in her e-mail of 4 November 2013 she states that it is her: *“personal thought that it is best to respond by e-mail to the very few pressing items that arise.”* As I am not prepared to allow this matter to drag on until Ms No formally returns to work in February 2014, this matter appears to me to fall into the “pressing item” category Ms No describes. In those circumstances, the amended Form CNA1 will, if acceptable, be served on the primary respondent and a period of 1 month allowed for the filing of a defence; a copy will also be sent to Ms

No and a period of 1 month (to run concurrently) will be allowed for her to comment on the applicant's request to join her to the proceedings.

If nothing is heard from the primary respondent/Ms No by the conclusion of this period, and subject to the primary respondent's/Ms No's right to be heard, I will issue an order directing the company to change its name. If no action is taken within the period allowed, I will, as per section 73(4) of the Act, determine a new name.

It is clear from the contents of the existing Form CNA1 that should the primary respondent change its name to one that is the same as or sufficiently similar to either PUFCL or WFTW, further applications to the Tribunal will ensue.

A copy of this letter goes to PPMUKL and Ms No; the letters have been initially sent by e-mail; the originals (to be sent by post) will follow shortly."

A copy of my letter was sent to PPMUKL by special delivery, and to Ms No by international special delivery (copies were also sent to Ms No and WB by e-mail).

13. On 18 November 2013, the applicants filed an amended form CNA1. The amended form was considered acceptable, and it was, on 22 November 2013, served upon PPMUKL (by both special delivery and ordinary post) and a copy was sent to Ms No by international special delivery. A period expiring on 22 December 2013 was allowed for a defence to be filed. In a letter to Ms No of the same date and sent by the same delivery method and by e-mail, the Tribunal allowed Ms No until 22 December 2013 to comment upon the applicants' request to join her to the proceedings.

14. In a letter dated 23 January 2014, the Tribunal wrote to PPMUKL indicating that as no defence had been filed in the period allowed, the adjudicator may, in accordance with rule 3(4) of the rules, treat the application as not being opposed. The parties were allowed until 6 February 2014 to request a hearing. In a letter of the same date sent to Ms No by international special delivery and e-mail, Ms No was informed that she had been joined to the proceedings and she was allowed until 6 February 2014 to request a hearing. Neither PPMUKL nor Ms No responded to any of the letters mentioned within the timescale allowed, nor, I should add, has any response been received from either PPMUKL or Ms No up to the date of this order.

15. PPMUKL has not filed a defence within the period specified under rule 3(3), and despite the provisions of rule 3(4) which states:

"The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1)",

I can, in the circumstances described above in which PPMUKL/Ms No has been given more than ample opportunity to defend its company name registration/comment on the joining request but has chosen not to do so, see no reason to exercise such discretion and, therefore, decline to do so.

16. As PPMUKL has chosen not to file a defence, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act, I make the following order:

(a) PETER POPOFF MINISTRIES UK LIMITED shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;

(b) PETER POPOFF MINISTRIES UK LIMITED and Ms Eunjung No shall:

(i) take such steps as are within their power to make, or facilitate the making, of that change;

(ii) not cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

17. If no such change is made within one month of the date of this order, I will determine a new company name as per section 73(4) of the Act and will give notice of that change under section 73(5) of the Act.

18. All respondents, including individual co-respondents, have a legal duty under Section 73(1)(b)(ii) of the Companies Act 2006 not to cause or permit any steps to be taken calculated to result in another company being registered with an offending name; this includes the current company. Non-compliance may result in an action being brought for contempt of court and may result in a custodial sentence.

19. The applicants having been successful are entitled to a contribution towards their costs. I order PETER POPOFF MINISTRIES UK LTD and Ms Eunjung No, being jointly and severally liable, to pay to Rev. Peter George Popoff, People United for Christ, Inc and Word for the World Ministries UK Limited, jointly, costs on the following basis:

Fee for application: £400

Statement of case: £400

Total: £800

20. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

21. Any notice of appeal against this decision to order a change of name must be given within one month of the date of this order. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

22. The company adjudicator must be advised if an appeal is lodged, so that implementation of the order is suspended.

Dated this 26th day of March 2014

Christopher Bowen
Company Names Adjudicator

ⁱAn “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely— to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or to give rise to a further application under section 69.