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ORDER under the Companies Act 2006

In the matter of application No. 945

By Spink and Son Limited

for a change of company name of registration

No. 09259901

DECISION

The company name SPINK CURRENCY GRADING SERVICES LTD has been registered since 13 October 2014.

By an application filed on 27 April 2015, Spink and Son Limited applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's office on 27 May 2015, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The copy of the application was sent by Royal Mail special delivery. On the same date, the tribunal wrote to Margitta Mihelic and Gary Mihelic to inform them that the applicant had requested that they be joined to the proceedings.

Unfortunately, the letters issued by the tribunal contained a number of errors. The correct address for the primary respondent and for the potential co-respondents is "4 Ampere Way, Croydon, CR0 4WT". The letter sent to the primary respondent was, however, addressed to "4 Ampere Road, Croydon, CR0 4WT" (i.e. "Road" not "Way", although the postcode was correct), whereas the letters sent to the potential co-respondents were sent to "4 Ampere Way, Croydon, CR0 4WJ" (i.e. the correct road but the wrong postcode).

However, these letters were not returned to the tribunal, and a review of the Royal Mail's "Track-your-item" website indicates that all of the letters were safely delivered on 28 May 2015 at 10.08am and 10.09am respectively. In addition, the "Proof of delivery" indicates that the printed name is "SPINK". Thus on the basis of the above evidence, I was satisfied that notwithstanding the errors in the letters issued by the tribunal, they were safely delivered to both the primary respondent and the potential co-respondents.

No comments were received from Ms Mihelic or Mr Mihelic in relation to the applicant's request. On 7 August 2015, Ms Mihelic and Mr Mihelic were joined as co-respondents. On the same date, the primary respondent and applicant were advised that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. Those letters contained the following paragraph:

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“On review of the file, the tribunal notes an error in our letter of 27 June 2015 in which your address was given as 4 Ampere Road. However, due to the contents of the “Track your items” printouts (copies of which are attached) we are proceeding on the basis that the letter has been safely received.”

The parties were granted a period of 14 days to request a hearing in relation to all these matters, if they so wished. No request for a hearing was received from any of the parties.

The primary respondent did not file a defence within the one month period specified by the adjudicator under rule 3(3). Rule 3(4) 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).”

Under the provisions of this rule, the adjudicator may exercise discretion so as to treat the respondent as opposing the application. In this case I can see no reason to exercise such discretion and, therefore, decline to do so.

As the primary respondent has not responded to the allegations made, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) SPINK CURRENCY GRADING SERVICES LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) SPINK CURRENCY GRADING SERVICES LTD, Margitta Mihelic and Gary Mihelic 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.

In accordance with s.73(3) of the Act, this order may be enforced in the same way as an order of the High Court or, in Scotland, the Court of Session.

In any event, 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.

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

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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.*

Spink and Son Limited having been successful is entitled to a contribution towards its costs. I order SPINK CURRENCY GRADING SERVICES LTD, Margitta Mihelic and Gary Mihelic being jointly and severally liable to pay to Spink and Son Limited costs on the following basis:

Fee for application: £400

Statement of case: £400

Total: £800

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.

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.

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

Dated this 15th day of September 2015

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.