

O-214-17

ORDER under the Companies Act 2006

In the matter of application

No. 1313 by C.O.F. Developments Limited

For a change of company name of registration

No. 10091996

DECISION

The company name C.O.F. Developments Impex Limited has been registered since 30 March 2016 under number 10091996.

An application, originally filed on 11 November 2016, was made for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act). This application was filed in the name of an individual, namely, Manuel Valina-Lopez. Following receipt of an amended application, a copy was sent to the primary respondent's registered office on 20 December 2016, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. On the same date, the Tribunal wrote to Amar Bashir to inform him that the applicant had requested that he be joined to the proceedings. These were both sent by Royal Mail special delivery but returned marked "Return to Sender". These letters were then both resent by regular post. These were also returned as "Return to Sender". By letter of 6 February 2017, a letter was sent to the respondent recording that no defence had been filed and allowing 14 days to request a hearing. By separate letter on the same date, Mr Bashir was informed that he was joined as a co-respondent to the proceedings. Once again both letters were returned, marked "Return to Sender".

Subsequently, the tribunal informed the applicant that before the proceedings could continue it was necessary to further amend the application by recording the name of the entity that had the claimed goodwill/reputation. On the 9 March 2017, a further copy of the application form was received recording C.O.F. Developments Limited as the applicant. This amended form was sent to the respondent on 15 March 2017. Again it was returned marked "Return to Sender".

As no defence was received the adjudicator may treat the application as not being opposed. The parties were granted a period of 14 days to request a hearing in relation to this matter, if they so wished. No request for a hearing was made.

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) C.O.F. Developments Impex Limited shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) C.O.F. Developments Impex Limited shall:
 - (i) take such steps as are within its power to make, or facilitate the making, of that change;
 - (ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

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 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.*

C.O.F. Developments Limited, having been successful, is entitled to a contribution towards its costs. I order C.O.F. Developments Impex Limited and Mr Bashir, being jointly liable, to pay 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 5TH day of May 2017

Mark Bryant
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.