

SOUTH AFRICA / JUDGMENT

K2021134577 (South Africa) (Pty) Ltd v Emerald Safari Resort (Pty) Ltd t/a Emerald Hotel Resort & Casino South Africa (LM191Mar22) [2022] ZACT 21; [2022] 2 CPLR 34 (CT) (27 July 2022) [2022] ZACT 21

COURT

Competition Tribunal

BEFORE

L Mncube, Y Carrim, T Vilakazi

CASE / FILE NUMBER

LM191Mar22

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM191Mar22

In the matter between:

K2021134577 (South Africa) (Pty) Ltd

Primary Acquiring Firm

And

Emerald Safari Resort (Pty) Ltd t/a

Emerald Hotel Resort & Casino South Africa

Primary Target Firm

Panel:

L Mncube (Presiding Member)

Y Carrim (Tribunal Panel Member)

T Vilakazi (Tribunal Panel Member)

Heard on:

21 July 2022

Order Issued on: 27 July 2022

Order

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that-

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act subject to the conditions attached hereto as Annexure A; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal rule 35(5)(a).

Presiding Member Prof. Liberty Mncube

Date: 27 July 2022

Concurring: Ms Yasmin Carrim and Dr Thando Vilakazi

Merger Clearance Certificate

Date : 27 July 2022

To : Nortons Attorneys

Case Number: LM191Mar22

K2021134577 (South Africa) (Pty) Ltd And Emerald Safari Resort (Pty) Ltd t/a Emerald Hotel Resort & Casino South Africa

You applied to the Competition Commission on 08 March 2022 for merger approval in accordance with Chapter 3 of the Competition Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal

approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to: no conditions. the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

The Registrar, Competition Tribunal

This form is prescribed by the Minister of Trade and Industry in terms of section 27 (2) of the Competition Act 1998 (Act No. 89 of 1998).

ANNEXUREA

K2021134577 (SOUTH AFRICA) (PTY) LTD AND

EMERALD SAFARI RESORT (PTY) LTD

CASE NUMBER: LM191Mar22

CONDITIONS

1. DEFINITIONS

The following terms have the meaning assigned to them below, and cognate expressions have corresponding meanings -

1.1 "Acquiring Firm" means K2021134577 (South Africa) (Pty) Ltd, a private company incorporated in accordance with the laws of South Africa;

1.2 "Approval Date" means the date on which the Tribunal issues a Clearance Certificate (Notice CT10) in terms of the Competition Act>;

1.3 "Commission" means the Competition Commission of South Africa;

1.4 "Commission Rules" means the Rules for the Conduct of Proceedings in the Competition Commission issued in terms of section 21 of the Competition Act;

1.6 "Conditions" means these conditions;

1.7 "Days" means business days, being any day other than a Saturday, Sunday or official public holiday in South Africa;

1.8 "Implementation Date" means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties;

1.9 "Labour Relations Act" means the Labour Relations Act 66 of 1995 (as amended);

1.10 "Merger" means the acquisition of sole control over the Target Firm by the Acquiring Firm;

1.11 "Merger Parties" means the Acquiring Firm and the Target Firm;

1.12 "South Africa" means the Republic of South Africa;

1.13 "Target Firm" means Emerald Safari Resort (Pty) Ltd;

1.14 "Tribunal" means the Competition Tribunal of South Africa; and

1.15 "Tribunal Rules" means the Rules for the Conduct of Proceedings in the Competition Tribunal, issued in terms of section 27 of the Competition Act.

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