

SOUTH AFRICA / JUDGMENT

National Consumer Regulator v Ferreira (NCT/166/2008/57 (1)(P)) [2010] ZANCT 51 (10 March 2010) [2010] ZANCT 51

COURT

National Consumer Tribunal

BEFORE

Y Carrim, B Dumisa, X May

CASE / FILE NUMBER

NCT/166/2008/57 (1)(P)

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IN

THE NATIONAL CONSUMER TRIBUNAL

(HELD

AT CENTUTION)

Case

no. NCT/166/2008/57 (1)(P)

Date:10/03/2010

In

the matter between:

NATIONAL
CONSUMER
REGULATOR.....
Applicant
and
PETRUS
MARTIN US
FERREIRA.....
Respondent

JUDGMENT

Introduction

1. This matter concerns an application brought by the National Credit Regulator (NCR) against Mr. Petrus Martinus Ferreira in which the NCR sought inter alia cancellation of Mr. Ferreira's registration as a debt counsellor and the imposition of an administrative penalty by this Tribunal. The NCR alleged that Ferreira had repeatedly contravened the provisions of the National Credit Act ("the

Act"), pertaining to the application for debt review provided for in section 86 and regulation 24 of the Act.

Procedural history

2. The applicant had served its application on the respondent on 27 July 2009 and again on 29 July 2009, by email and by registered post. The respondent did not file
24 August 2009 he directed a letter to the Registrar advising her that he had been ill and would file his answer by 14 September
2009. The NCR did not oppose this request for late filing, nor did it seek a default judgment. The respondent's answer was eventually received by the Registrar on 14 September 2009. The NCR filed its reply on 29 September 2009 and the matter was eventually set down for hearing on 18 November 2009.
3. The applicant was represented by Mr. Louw from the Bloemfontein Bar, instructed by Honey Attorneys. The respondent represented himself, assisted by his wife. At the hearing the respondent requested this Tribunal to condone the late filing of the answering affidavit. Mr. Louw submitted that Ferreira had not made out a proper case for the condonation of the late filing of his answer and had also not complied with the rules by filing a "reply" on 12 October 2009 to the NCR's reply. But since the answer did not affect the matter in any way Mr. Louw indicated that he was not going to oppose the application. The respondent's late filing of the answering affidavit is accordingly condoned.
4. Because Mr. Ferreira was representing himself, at the commencement of the hearing the presiding member advised him about the procedures that were to be followed by the Tribunal in the hearings.

NCR's case

5. The following facts and averments were put up by the NCR and were not denied by Mr. Ferreira in his answering affidavit. Prior to January 2008, the respondent had started providing debt counselling services through a separate legal entity and was doing so without being registered as such. It appears that the NCR had at some stage brought to the respondent's attention that he was in contravention of the Act in rendered through natural persons who are registered as such.

Respondent then sought registration as a debt counsellor and was granted this on 31 January 2008. At the time of the application, and as at date of hearing, Mr. Ferreira was the sole member of Ferreira Debt Counsellor CC ("FDC" or "FDC CC").¹ FDC advertised itself as "Financial Rehabilitators, Alternative Dispute Resolution Agents & Debt Counsellors".² Mr. Ferreira was employed as its CEO or managing member. While he Ferreira was registered as a debt counsellor, the services of debt counselling were provided through FDC CC. A consumer who sought the advertised services was required to sign an agreement with FDC, not Ferreira. It was FDC and not Ferreira who charged the consumer fees for the services rendered.

6. During October 2008, the NCR conducted an investigation into the business of Ferreira. Mr. Whale, an inspector appointed by the NCR,³ attended at Ferreira's premises in Port Elizabeth and inspected ten files, being a random sample, of clients being serviced by Ferreira. These clients had approached Ferreira for debt review interms of section 86 of the Act.
7. The investigation revealed several contraventions of the Act in respect of each file. By way of summary, the NCR alleged that

Ferreira had -

7.1. Repeatedly contravened section 86(4) of the Act, read together with regulation 24(2) in that the Form 17.2 was not delivered to all relevant credit providers and to all credit bureaus within five business days from receipt of the application.

7.2. Repeatedly contravened section 86(6) read together with regulations 24(6) and 24(10) of the act in that he did not make the

determination

contemplated in section 86(6) in the prescribed manner and within the prescribed time. In terms of regulation 24(6) this determination should be made within thirty (30) business days after receiving an application for debt review. A Form 17.2 should be sent to the all credit providers as well as all registered credit bureaus within five

(5) business days after completion of the assessment in terms of regulation 24(10).

7.3. Repeatedly contravened section 86(3) and the prescribed fees in that he recovered fees in excess of that from consumers. Section 86(3) provides that a debt counsellor may only require a consumer to pay an application fee not exceeding the prescribed amount. The NCR submits that the prescribed application fee is R50.00⁴ and that the respondent was in contravention of the fees approved by the NCR.⁵

7.4. Repeatedly contravened clause 2 of his conditions of registration. Clause 2 of his conditions of registration provide that the debt counsellor the "debt counsellor must perform debt counselling in a manner that is consistent with the purpose and requirements of the act" and "the debt counsellor must in all instances act professionally and reasonably in providing debt counselling services to consumers and provide such services in a manner that is timely, fair and non-discriminatory and does not bring the NCR or debt counselling into disrepute".

7.5. Repeatedly contravened clause 1 of his conditions of registration. Clause 1 of the conditions provide that "the debt counsellor

must comply with all legislation applicable to the operation of the business of a debt counsellor, including but not limited to the Act, regulation and any subsequent amendment or substitution of the applicable legislation and regulations."

76. Repeatedly contravened clause 1 of his specific conditions of registration which provide that "the debt counsellor may not receive payments from consumers who have applied for debt review payments in respect of debt obligations that were re-arranged in terms of the Act or distribute such payments to credit providers". This contravention arises from the fact that Ferreira makes use of the close corporation, Ferreira Debt Counsellor CC as a payment distributing agent. FDC had not been approved as a payment distribution agent by the NCR. The company registration documents reveal that, at the time of the application, the respondent was the sole member of the CC.

7.7. Repeatedly contravened section 44(2) of the Act in that in four of the files perused by Whale, he was found to offer debt counselling

services without being registered as a debt counsellor. Respondent had not been registered as a debt counsellor at that time.

7.8. Respondent has repeatedly contravened clause 11 of his conditions of registration which provides that he must "maintain adequate records and keep relevant copies of documentation in order to demonstrate compliance with the act. The NCR submits that it is an obligation of Respondent to maintain and keep relevant copies of documentation which demonstrate compliance with the Act for a period of five years. In the six instances referred to in Whale's report there were three instances where no correspondence was on file after the Form

17.1 was sent to creditors and in fact also no documentation and in the other three instances there were no copies of the Form 17.1.

8. The list of the consumer files perused by Mr. Whale is contained in annexure A to these reasons. For the sake of brevity and at the request of the Tribunal the alleged contraventions were put in tabular form by the NCR and are attached hereto as follows -

8.1. Annexure B.1. Schedule of contraventions on relation to section 86(4) and regulation 24(2) of the Act;

8.2. Annexure B.2. Schedule of contraventions in relation to section 86(6) and regulations 24(6) and 24(10) of the Act;

8.3. Annexure B.3. Schedule of contraventions in relation to section 44(2) of the Act

8.4. Annexure B.4. Schedule of contraventions of clause 1 of respondent's conditions of registration;

8.5. Annexure B.5. Schedule of contraventions of clause 2 of respondent's conditions of registration;

8.6. Annexure B.6. Schedule of contraventions of clause 1 of respondent's specific conditions of registration;

8.7. Annexure B.7. Schedule of contraventions of clause 11 of respondent's conditions of registration; and

8.8. Annexure C. Schedule of fees recovered by respondent as opposed to prescribed fees and fees approved by the NCR.

9. Mr. Louw on behalf of the NCR submitted that Ferreira had structured this business in such a manner that he sought to avoid the provisions of the NCA and the remit of the NCR. He had utilised a separate legal entity namely FDC through which to avoid the provisions of the law. FDC acted through Ferreira. Whatever benefit devolved upon FDC devolved upon Ferreira. Accordingly this Tribunal ought to pierce the corporate veil and to sanction both Ferreira and FDC as prayed by the NCR in its Notice of Motion.

Respondent's

submissions

10. At the hearing, Ferreira confirmed that he conducted his business through FDC in the following manner. A consumer, Mrs X would approach FDC for debt review services. The consumer was asked to sign an agreement with FDC in terms of which FDC would provide her with a range of services including alternative dispute resolution. In return the consumer would be charged a number of fees calculated on the basis of whether or not she was seeking debt review only for her own debts (single) or for debts of both her and her spouse (married). All of these fees would be paid over to FDC. FDC (through persons employed by it) would then do a debt review and calculate a monthly repayment. Without obtaining the consent of any of the creditors (section 86(8) requires the consent of all creditors) FDC would simply send out a letter to those creditors that had been disclosed to it by the consumer, without doing any further investigation, stating that the debt re-arrangement or the debt review had been "accepted" and the stipulated monthly instalments would be paid. FDC then required the consumer to make payments to it and commenced with payments to the credit providers without having the re-arrangement confirmed either as a consent order at the Tribunal or in the Magistrate's Court.⁶ In the event that a credit provider asked

questions about FDC's procedure or lack of compliance with the Act and regulations it appears that FDC responded to such inquiry by sending another form or document in which the impression was created that the re-arrangement of payments had been "confirmed" by a court. The cost to the consumer, at a minimum was 35.9 percent of the total debt owed. 7

11. Ferreira's submissions in his answering affidavit and at the hearing included two central legal points and a host of what we have termed as "justification grounds".
12. First he accepted that he was bound in his personal capacity to the conditions of his registration. But while the conditions of registration and the provisions of section 44 and 86 applied to him personally, it was not him, in law, but FDC who rendered these services to the consumer. He was a mere employee of FDC. Although he was the sole member of FDC, FDC enjoyed a separate legal personality from him. The consumer had contracted with FDC for the provision of these services and it was FDC, a separate legal entity, and not Ferreira who was liable. Because the NCR had not joined FDC as a respondent it could not seek relief against it. Mr. Ferreira indicated further that he had been advised that it was permissible for him to conduct his business in this manner.

13. The second legal point raised by Ferreira pertained to the issue of PDAs. The first basis of his challenge in this regard was one of ultra vires. He submitted that the Act was silent on the issue of PDAs and that the NCR could not through regulation confer on itself powers it did not enjoy under the Act.⁸ Second, even if we are to accept that the conditions are valid, the conditions of his registration read differently from the current

conditions on which the NCR has relied and did not require him to obtain the approval of the NCR.⁹ The new conditions of registration could not apply to him retrospectively.

14. As far as the fees were concerned, Ferreira's defence was that he was charging exactly what he was required to do in law but that this was done in 'instalments' and was not in contravention of the Act.

Evaluation

15. As we have stated above the respondent did not deny any of the allegations put up by the NCR. He simply relied upon the NCR's

failure to join FDC as a basis for resisting the application and that his conditions of registration, which were imposed sometime in June 2007, did not prohibit him from utilising the services of FDC as a PDA. So confident was Ferreira on this issue that he went as far as conceding that even if FDC contravened the Act on several occasions as alleged by the NCR, no relief could be granted against it.¹⁰ Moreover, it was clear from his submissions that he understood his obligations under the Act and the provisions of section 44 and 86 sufficiently enough to know that he was in contravention thereof.

16. For example in relation to the alleged contravention of sections 86, and in response to a question posed by members of the panel Ferreira acknowledges -

16.1. "MR. FERREIRA: Chairperson, if a credit provider agrees to what I am going to pay on behalf of that client of mine, if the credit provider accepts, are you saying now sir I must still go to court to have whatever? If my client has decided I don't want to be listed, I don't want to be ... can I put it the other way around?

PROF DUMISA: No, but Mr. Ferreira, what I am saying is you have said you sent a letter to the credit provider and then you started doing your own thing and you don't wait for them to respond to that one and then you take it as accepted. I'm simply saying there is no business logic to that.

MR FERREIRA: Chairperson, I understand your fear about that. You know, a CC cannot be protected. A company cannot be protected, yet they come to us. We don't protect them under the Act. We cannot. The Act says we cannot, but we do debt counselling for them. We help them. We pay monies over to the credit providers and they are happy with that. We are paying monies since, like I said, 4 years before the Act came into being. Madam, we've got a full office handling these things.

CHAIRPERSON: Okay, so what hear you saying is that if you come to an month to them, then in your view there is no need to go to court and rubber stamp that.

MR FERREIRA: There is a need to go to court, but look what you have in front of you. Madam Chair. What must Gabriel Pavel say about the pileup at courts? We are paving in the meantime. We carry on and we pay."¹¹

17. In relation to his obligations under the Act and that FDC was in contravention he states -
17.1.

"The Act says we cannot, but we do debt counselling for them."¹²

18. Ferreira maintained, defiantly, that even if he was de-registered "FDC would continue doing business as is" and that he had obtained legal opinion to this effect-

18.1. "If I am deregistered, you are not going to stop FDC " ¹³and

18.2. "CHAIRPERSON: Have you got a legal opinion to that effect or is that your own view?

MR FERREIRA: No ma'am, a legal opinion."¹⁴

19. However when faced by the NCR's request that we pierce the corporate veil and find against both Ferreira and FDC, Mr. Ferreira sought to justify the contraventions by alleging inter alia that he and FDC were still trying to acquaint themselves with the provisions of the Act and that even where there may have been contraventions these were minor in comparison to the extent to which the consumer had been assisted.

20. It is trite law that a registered company or close corporation is a legal persona distinct from its members, enjoying rights and obligations, perpetual succession and conferring limited liability to its members and employees¹⁵. Equally trite is the principle that a court would be justified in certain circumstances in disregarding a corporation's separate legal personality in order to fix liability on its members. The separate existence of a corporation has been conceived of as a "veil" separating the company from its members, concealing them from those who deal with it. The veil is said to be pierced when in exceptional circumstances the court either ignores the company or treats its members as if they were the owners of its assets and were conducting business in their personal capacities.¹⁶ A court has no general discretion simply to disregard a company's separate legal personality whenever it considers it just to do so.¹⁷ Elements such as fraud, improper conduct in the use of the company or the conduct of its affairs and dishonesty must be present before a court will consider piercing the veil.¹⁸ If a company is established or used as a "device", "stratagem", "cloak" or "sham" then it would be justifiable to lift the veil. Each case is to be considered on its own merits and requires a close examination of the

relationship between the member and the company. ¹⁹ Moreover, while a corporation may enjoy separate legal personality, it acts through its directors and members.

21. If ever there was a case justifying piercing the corporate veil this was it. Mr. Ferreira himself provided insights into the relationship between him and FDC CC. He was the founding and at the time of the application, the sole member, of FDC CC. He had provided debt counselling services prior to the enactment of the NCA through an earlier entity called JSHD. That entity was liquidated and somehow re-incarnated into the present day FDC CC. The fact that he understood the relevant provisions of the Act and conditions of registration was demonstrated by the way in which he had structured the business of the FDC. The consumer was legally bound to the FDC, fees were charged by the FDC and services were rendered in its name. Moreover when a credit provider instituted action against a consumer it was FDC that rendered legal assistance, albeit at a cost. The total fees charged by FDC consisted of fees that would have otherwise been charged separately by a debt counsellor, a PDA and a law firm or consultant. In explaining his business model to us, Ferreira maintained with a touch of arrogance that both consumers and credit providers alike were happy with his procedures and chosen method. According to him none of the credit providers had raised objections because they were receiving a monthly payment. The consumers raised no objection because the fact of their debt review had not been reported to a credit bureau and they did not run the risk of being blacklisted. Despite being in contravention of the provisions of the NCA, in his view he had achieved much more than the courts or even the NCR itself.²⁰ He had assisted countless consumers out of the mire of over-indebtedness. In his hubris, he nevertheless conceded that he was the alter ego of FDC. He himself could not hold onto the distinction he sought to make between him and FDC.

22. Moreover he demonstrated his determination to pursue this model in future, throwing down the gauntlet to the NCR -

22.1. " I sought legal advice and they said to me forget about it, carry on, Ferreira debt counsellor had got the bank accounts in place, everything is happening, its run by Ferreira Debt Counsellors and at that point in time already we started to put people on to start expanding that, because we are planning Madam Chair. We are planning (to expand) still. Like I'm saying we got 13 branches, including the internet and there are young people involved and its going beyond. It will still be moving."21

23. Vagueness followed hubris when asked what would happen if any of those credit providers, who had clearly not granted their consent to a re-arrangement, took legal action against that consumer. Ferreira admitted that in such a case the FDC would assist the consumer in that legal action. When pressed about who would bear the costs of that process Ferreira conceded that the consumer would have to pay initially and that he had some kind of understanding with a law firm engaged by the FDC. Shrewd enough to anticipate a follow on question he hurried to assure us that not only this firm would be used in such cases but other law firms would also be instructed. However it appears from the agreement that the consumer was required to sign with FDC that such costs, if they were to arise, would also be for the consumer's account.

24. This was the respondent before us. A wily fox if ever there was one. Mr. Ferreira, who was a debt counsellor was not providing the service, FDC was. The FDC as a separate legal entity was not permitted to provide debt counselling services. FDC however was not a party to these proceedings.

25. However a difficulty created by the NCR for itself was that it had failed to join FDC CC as a party to the proceedings. Mr. Louw requested the Tribunal to entertain an

application for joinder of FDC at a late stage in the course of the proceedings. Mr. Ferreira predictably opposed such application and submitted that if such application was permitted he would seek a postponement in order to properly prepare a response. The Tribunal ruled that in the event the NCR sought to bring such an application it should do so formally and serve it on the respondent. Given this ruling, and in order to avoid the matter being postponed further, the NCR did not persist with its application for joinder but nevertheless asked this Tribunal to grant the relief against Mr. Ferreira, both in his personal capacity and in his capacity as the

26. In terms of section 48 of the Act the NCR is entitled to impose conditions on the registration of debt counsellors. It has become the practice of the NCR to issue general and special conditions in relation to each registrant. Mr. Ferreira's conditions are attached

hereto as Annexure D. Of relevance to us are the general conditions 1,2, -

"A. General Conditions

1. The debt counsellor must comply with all legislation applicable to the operation of the business of a debt counsellor, including but not limited to the Act, the Regulations and any subsequent amendment or substitution of the applicable legislation and regulations.

2. The debt counsellor must perform debt counselling in a manner that is consistent with the purpose of and requirements of the Act. The debt counsellor must in all instances act professionally and reasonably in providing debt counselling services to consumers and provide such services in a manner that is timely, fair and non-discriminatory and does not bring the NCR or debt counselling

into disrepute....

3. The debt counsellor must not engage in any activity which could be in conflict with the interest of the consumers to whom debt counselling services are provided, or which may lead to such conflict. The debt counsellor should not enter into any agreements which may prevent him or her from acting in the best interest of the consumers to whom debt counselling services are provided.
27. In terms of section 44(1), only natural persons may apply to be registered as debt counsellors. In terms of section 44(2) a person must not offer or engage in the services of a debt counsellor in terms of this Act or hold themselves out to the public as being authorised to offer any such service, unless that person is registered as such. Section 44(1) and (2) read together create the following regime. No person may provide or hold themselves as being authorised to provide debt counselling services. Only natural persons may be registered as debt counsellors. Section 47(1) provides that a registered credit provider, a juristic person or an association of persons may not be registered as a debt counsellor. There are no qualifications to section 47(1). Ergo only natural persons may provide these services. Once registered as a debt counsellor that person must provide those services in accordance with the provisions of the Act and in accordance with the conditions of his registration. 22 A debt counsellor is precluded from receiving monies or making payments on behalf of the consumer to credit providers. The underlying rationale of the framework established by the provisions of the Act is obvious. An over-indebted consumer is on the one hand at risk of losing everything he owns and on the other vulnerable to entities who may offer them assistance in reducing their debt. Such a consumer is also vulnerable to unscrupulous credit providers who may extend further credit at exorbitant rates to the consumer in order for them to pay off pressing obligations such as school fees and food expenses. At the same time an over-indebted consumer, were he to continue incurring debt, poses a risk to a prospective credit provider. In order to provide relief to such a consumer, certainty to the current credit provider and protection to the prospective credit provider, this framework requires debt counsellors to be persons who can be held personally liable for their actions, strives to remove perverse incentives by separating the process of advice from the process of payments and requires the consent of all credit providers for a debt restructuring.
28. Mr. Ferreira, as a registered debt counsellor, by his own admission, had knowledge of the provisions. After all he had taken his exams and had qualified to be registered as a debt counsellor. Yet, in full knowledge of the law, he elected to provide these services through a legal entity which he owned. Moreover it was he who caused FDC to be in contravention of section 47(1). FDC CC was nothing more than an empty vessel for him to implement his

scheme. He was the sole member. He was its managing member or CEO. He employed himself. He was the one seeking legal opinions. It was he who had plans for expansion and it was he who signed off on letters sent to credit providers. He had demonstrated that he had sole control over the affairs of FDC. FDC had no mind of its own, no separate will.

29. The legal entity FDC CC was nothing more than an empty vessel through which Mr. Ferreira sought to implement his scheme and that Mr. Ferreira had utilised it as a device or a stratagem through which he could implement his scheme. The elaborate scheme he had constructed was one that allowed him to keep all the margins to himself. The obvious and far reaching danger inherent in a scheme such as Ferreira's is that it robs both consumers and credit providers of the protection of the Act. Because credit providers had not consented to the debt re-arrangement any one of them could still institute legal action against the consumer for the recovery of the assets underlying the debt or the outstanding monies. Hence a creditor could obtain judgment against a consumer despite the fact that the consumer was under

the impression that he or she had entered into debt review to avoid precisely that eventuality. This action could place in jeopardy not only the consumer's assets such as a home or a motor vehicle but also the interests of other creditors who would be put out of pocket by the actions of the creditor who had obtained judgment. A potential creditor on the other hand, because the information about a debtor's debt review process was not in the public domain, either at the Tribunal, at a court or at a credit bureau, was at risk of extending credit to a consumer who was already over-indebted and unable to pay his or her debts. What protection also for the over-impunity?

30. When this proposition was put to Mr. Ferreira, no convincing explanation was forthcoming. Instead he demonstrated his willingness

to feed off vulnerable consumers, a vulnerability which his scheme no doubt contributed to by not providing them with the protection of the Act which they were entitled to, by charging them legal fees in the event that a credit provider instituted legal proceedings.

Considerations of affordability or even possible loss of security, in the form of a foreclosure of a home, for the consumer did not enter Mr. Ferreira's scheme at this stage.

31. Because FDC CC is not a party to the proceedings we are unable to grant relief against it. However we are not precluded from granting relief against Mr. Ferreira himself, who has clearly established a scheme in contravention of the Act and in contravention of his licence conditions.
32. He has not complied with all the legislation applicable to the operation of a business of a debt counsellor. Instead of providing

the services himself, in his personal capacity, he has caused the services to be provided through a juristic person in contravention of section 44(1) and 44(2). The scheme that he has established is in contravention of the purpose and requirements of the Act. Instead of providing certainty and protection he has increased the risk of over-indebtedness, reckless granting of credit and loss of

security to both consumers and credit providers. Moreover by being employed as CEO by FDC which, as a separate legal personality puts both consumer and credit provider at risk, Mr. Ferreira qua debt counsellor is not acting in the interests of consumers to whom debt counselling services are being rendered.

33. We have no doubt that Mr. Ferreira, if he is not stopped, will continue with his scheme, possibly with amendments introduced to stay ahead of the legislative framework, whether he chose to do this through FDC or another legal entity. He had demonstrated both an awareness of the law and dexterity in how to avoid its reach. How the NCR chooses to deal with him in future remains to be seen. For purposes of this decision, we find that the appropriate penalty would be to order a cancellation of Ferreira's registration. While this may not necessarily prevent another legal entity under his control to flout the provisions of the Act, at the very least Mr. Ferreira will not be able to offer these services to unsuspecting consumers and creditor providers, under the guise of a registration properly acquired.

34. We make the following order:

34.1. Mr. P M Ferreira's registration as a debt counsellor is hereby cancelled with effect from the date of this order;

34.2. Mr. P M Ferreira as the controlling member and managing director/CEO of FDC CC is ordered to within 10 days of date hereof deliver to the NCR, a list of all his past and current clients ;

34.3. There is no order as to costs.

Dated at Centurion on this 10th Day of March 2010

Ms Y Carrim

Presiding Memb&.

Concurring:

Prof B Dumisa Mr X May

Panel Member Panel Member

1 See letterhead of FDC CC and Ferreira's submissions

2See letterhead dated 12 October 2009.

3 In terms of section 25(l)of the National Credit Act

4 REGULATION REF

5 See Annexure C

6As required by section 86{8}.

7See Transcript and documents contained in exhibits (NUMBER OF EXHIBITS CONTAINING FDC DOCS)

8Referring to regulation 11

9It appears that the NCR amended its conditions of registration in relation to PDA round about the time when the 500th registration was issued.

10See his answering affidavit and transcript.

11Transcript page 125 line 22- page 126 line 23

12 supra

13T page 135 line 1

14T page 136

15 See Dadoo Ltd v Krugersdorp Municipal Council 1920 AD 530 at 550. See also TEXT BOOK ON COMPANY LAW

16Atlas Marine Co SA v Avalon Maritime Ltd (No

1) 19914 ALL ER 769 (CA) 779

17Botha v Van Niekerk en 'n Ander 1983

(3) SA 513 (W) at 524A.

18The Shipping Corporation of India Ltd v Evdomon Corporation and Another 1994

(1) SA 550 (A)

19Domanski: " Piercing the Corporate Veil - A new direction" SAU (1986) 224

20 Ferreira pointed to newspaper reports of XX which reported on the extent of the backlog at magistrate's courts in relation to debt review processes.

21Transcript 137

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