IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Case no: CCT 132/22

In the matter between:

BLISS BRANDS (PTY) LTD	Applicant
and	
ADVERTISING REGULATORY BOARD NPC	First Respondent
COLGATE – PALMOLIVE (PTY) LTD	Second Respondent
COLGATE PALMOLIVE COMPANY	Third Respondent

FILING SHEET

BE PLEASED TO TAKE NOTICE that the applicant hereby files a Supplementary Affidavit.

SIGNED at **Johannesburg** on this the 3rd day of **June 2022**

EVERSHEDS SUTHERLAND (SA) INC
Attorneys for the Applicant
3rd Floor, 54 Melrose Boulevard
Melrose Arch, Melrose North
P O Box 782244
Docex 58, Sandton Square
Tel: (010) 003 1470
Email: sarajanepluke@eversheds-sutherland.co.za
Ref: BBR/LIT/005/MAT30036

TO: **THE REGISTRAR OF THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

FILING BY WAY OF EMAIL

RECEIVED BY FAIRBRIDGES WERTHEIM BECKER EST. 1912
03 JUN 2022 10:02 am
WITHOUT PREJUDICE

AND TO: **FAIRBRIDGES WERTHEIM BECKER ATTORNEYS**
Attorneys for the First Respondent
2 Pybus Road, Sandton
Tel: (011) 268- 0250
E-mail: mvdwant@fwbattorneys.co.za
tdetoit@fwbattorneys.co.za
Ref : ADV15/0001 M van der Want

AND TO: **KISCH AFRICA INC.**
Attorneys for the Second and Third Respondent
5 Inanda Greens Business Park
54 Wierda Road West
Wierda Valley, Sandton
Tel: (011) 324-3012
E-mail: andrewp@kisch-ip.com
tammip@kisch-ip.com
Ref : R4717ZA04/AP/TP
Ref: KIS3/0011 | J LE RICHE | BIANCA STRYDOM

Received this the 03rd day of June 2022. Time 10.20
B. Simpson.
KISCH IP
WITHOUT PREJUDICE

CONSTITUTIONAL COURT OF SOUTH AFRICA

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COLGATE - PALMOLIVE COMPANY	Third Respondent

SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

LIEZEL VERONICA BYGATE

do hereby make oath and say that:

1. I am the Marketing Director of Bliss Brands (Pty) Limited ('the Applicant') with my place of employment at 66 Springbok Road, Longdale, Johannesburg.

2. Bliss has duly authorised Eversheds Sutherland (SA) Incorporated to launch this application on behalf of the applicant.

3. The facts contained in this affidavit are within my personal knowledge, unless otherwise stated or the contrary appears from the context and are to the best of my knowledge and belief both true and correct.

4. The above Honourable Court ('the Court') is hereby requested to permit the filing of this Supplementary Affidavit due to it having come to the attention of the Applicant's attorneys of record that my Founding Affidavit, filed with the Court on **9 May 2022,** in support of the Applicant's application for leave to appeal, contains several typographical errors which I would like to bring to the Court's attention.

5. Upon receiving the Founding Affidavit from counsel, the Applicant's attorneys of record identified an error in the citation of the appeal court judgment in paragraph 5 of my Founding Affidavit, which was referred to as the '*Advertising Regulatory Authority*', when it should have been referred to as the '*Advertising Regulatory Board*'.

6. Shortly before my signature of the Founding Affidavit, Mrs Malese Mashishi, a candidate attorney employed by the Applicant's attorneys of record, appears to have erroneously changed the word "AUTHORITY" to "BOARD" throughout the entire Founding Affidavit, when she should only have changed the word in the citations of the appeal court judgement. This error has resulted in the wording of several paragraphs of the Founding Affidavit not making sense.

7. The relevant paragraphs in the Founding Affidavit, are as follows:

7.1. **paragraphs 20, 75, 92, and 96** – '...*Advertising Standards Board*...', to read '...Advertising Standards Authority...';

7.2. **paragraph 74** – '...*in Sanparks is not Board for the SCA finding*...', to read '...in *Sanparks* is not authority for the SCA finding...';

7.3. **paragraph 75 (under Section 55(1) of the ECA)** – '...*prescribed by the Board in respect of scheduling adverts*...', to read '...prescribed by the Authority in respect of scheduling adverts...';

7.4. **paragraph 86** – '...*Independent Broadcasting Board Act*...', to read '...Independent Broadcasting Authority Act...';

7.5. **paragraph 98** – '...*Herbex High Court refers to this Board as Board for finding*...', to read '...Herbex High Court refers to this Board as authority for the finding...';

7.6. **paragraph 129** – '*Metcash is not Board for this finding*', to read 'Metcash is not authority for this finding';

7.7. **paragraph 137** – '*None of these paragraphs nor the footnote is Board for finding…*', to read 'None of these paragraphs nor the footnote is authority for the finding…'; and

7.8. **paragraph 154** – '*Nestle is not Board for the finding…',* to read 'Nestle is not authority for the finding…'.

8. I attach marked "SA1", a Confirmatory Affidavit deposed by Mrs Malese Mashishi confirming her error.

L Bygate.

LIEZEL VERONICA BYGATE

The Deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me at Ferndale, Johannesburg on this the 30th day of **June 2022**. The deponent having acknowledged knowing and understanding the content of this affidavit, and that such content is true and correct, and having no objection to taking the oath and considering that oath binding on the deponent's conscience.

COMMISSIONER OF OATHS

Full names:

Business address:

Designation:

Capacity:

JONATHAN GRAHAM LIEVAART
Commissioner of Oaths
Ex Officio Practising Attorney
Republic of South Africa
Second Floor Longpoint, Bradfield Drive, Fourways
011 029 6050

"SA1"

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COLGATE – PALMOLIVE COMPANY	Third Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

MALESE MASHISHI

do hereby make oath and say that:

M·M

1. I am an adult female candidate attorney employed by Eversheds Sutherland (SA) Inc., situated at 3rd Floor, 54 Melrose Boulevard, Melrose Arch, Johannesburg.

2. The facts contained in this affidavit fall within my personal knowledge, save where otherwise stated or where the contrary appears from the content, and are to the best of my belief both true and correct.

3. I have read the Supplementary Affidavit deposed to by Liezel Veronica Bygate on behalf of the Applicant ("**the affidavit**") and confirm the allegations therein contained insofar as they pertain to me.

4. In particular, I confirm the contents of paragraph 6 of the affidavit, stating that I erroneously changed the word "AUTHORITY" to "BOARD" throughout the entire Founding Affidavit, when I should have only changed the word in the citations of the appeal court judgment.

MALESE MASHISHI

I hereby certify that the deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn to before me at FOURWAYS - JHB on the 3rd day of **June 2022**. The deponent having acknowledged knowing and understanding the content of this affidavit, and that such content is true and correct, and having no objection to taking the oath and considering that oath binding on the deponent's conscience.

M.M

COMMISSIONER OF OATHS

Full Names:

Business Address:

Designation:

Capacity:

JONATHAN GRAHAM LIEVAART
Commissioner of Oaths
Ex Officio Practising Attorney
Republic of South Africa
Second Floor Longpoint, Bradfield Drive, Fourways
011 629 6050

M·M