

ORDER under the Companies Act 2006

In the matter of application No 44

by Desmo Enterprises Limited and Nectar International Limited

for a change of the company name of registration

No 05918180

DECISION

The company name Nectar Beauty Shops Limited has been registered since 29 August 2006 under number 05918180.

By an application filed on 27 March 2009 Desmo Enterprises Limited and Nectar International Limited applied for a change of name of this registration under the provisions of section 69(1)(b) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 8 April 2009, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008.

The primary respondent did not file a defence within the 2 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).”

However, on 4 June 2009, within the two month period, a letter was received from Mr Mohammed Shafique, who is a director of the company. Mr Shafique states in his letter:

“Please note that I was not given reasonable notice beforehand of the tribunal application, if the applicant had I would have changed the company name.

In the circumstances. I do not intend to defend the application and I will agree to change the name to the company registration number.”

There is clearly no defence to the application, or disputation of the facts claimed in the application; indeed Mr Shafique accepts that the company name should be changed. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) Nectar Beauty Shops Limited shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) Nectar Beauty Shops Limited shall:
 - (i) take such steps as are within its 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.

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.

Mr Shafique refers to an absence of notice of the application. In most circumstances the adjudicator will not award costs in relation to an undefended application where notice has not been issued. However, in this case the applicants have made unrebutted claims in relation to the actions of a Dr Al-Swayeh and Nectar Beauty Shops Limited and to the actions of Dr Al-Swayeh generally. These actions have given rise to a long running conflict with Dr Al-Swayeh. Mr Shafique makes no comment on the claims in relation to Dr Al-Swayeh, it would have been easy enough for him to state that there was no relationship between Dr Al-Swayeh and Nectar Beauty Shops Limited. In these circumstances I consider that it is appropriate to make an award of costs. As there are joint applicants I will make an award of costs in relation to the first named applicant, Desmo Enterprises Limited.

I order Nectar Beauty Shops Limited to pay Desmo Enterprises Limited costs on the following basis:

Fee for application:	£400
Statement of case:	£300
Total:	£700

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 2nd day of July 2009

David Landau
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.