



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 101/CR/Nov2012

In the matter between:

IAN WALTER BUCHANAN

Complainant/Applicant

and

**THE HEALTH PROFESSIONAL COUNCIL
OF SOUTH AFRICA**

First Respondent

**THE PROFESSIONAL BOARD FOR
OPTOMETRY**

Second Respondent

ORDER

KINDLY TAKE NOTICE that after perusal of the documents filed in the file herein, it is ordered:

1. That the Applicant may proceed to effect the following amendment to the Applicant's Form CT1 (2):
 - 1.1 By firstly deleting the description of relief set out in the relevant

text box providing for a description of relief;

1.2 By inserting, instead, the following description of relief sought: -

1.2.1 I pray for an order: -

1.2.1.1 *declaring the adoption by and enforcement of Rule 8 of the Ethical Rules to constitute a contravention of s 4(1)(a) of the Competition Act 1998 ("the Act") insofar as the Rule prohibits or improperly restricts corporate investment and/or corporate involvement in optometric practices;*

1.2.1.2 *declaring the adoption and enforcement of the Policy Document on Undesirable Business Practices as applicable to the practice of optometry to constitute a contravention of s 4(1)(a) of the Competition Act to the extent that the Policy Document improperly restricts*

corporate investment and/or corporate involvement in optometric practices;

1.2.1.3

interdicting the respondents from enforcing, in respect of the practice of the optometric professions, those aspects of Rule 8 and/or the Policy Document on Undesirable Business Practices that prohibit and/or improperly restrict corporate investment and/or corporate involvement in such practices;

1.2.1.4

interdicting the respondents from engaging in any conduct or adopting any rule or policy that unduly restricts or prevents lay ownership and/or corporate investment and/or corporate involvement in optometric practices;

1.2.1.5

directing the respondents to amend the Policy Document on Undesirable Business Practices to make provision for lay ownership in optometric practices, including corporate ownership and/or corporate investment;

- 1.3 That the Applicant may proceed to deliver a supplementary affidavit, in order to rectify the contents of paragraph 78 of his founding affidavit, in so far as there being referred to Section 4(1)(b)(i) of the Act instead of referring to Section 4(1)(a) of the Act, and in order to bring the relief sought in the said paragraph 78 in accordance with the amendment as contained in paragraph 1.2 and the sub paragraphs thereto of this order;
- 1.4 That the Applicant shall deliver the above mentioned amendment and the delivery of the mentioned supplementary affidavit within a period of 10 days from date of this order;
- 1.5 That the Respondents shall then proceed to serve and file their supplementary answering affidavit within a period of 20 days after the Applicant has complied with paragraph 1.4 above;
- 1.6 That the Applicant shall then be entitled to serve and file his replying affidavit within a period of 10 days after the Respondents have complied with paragraph 1.5 above;

1.7 That each party shall pay his/its own costs occasioned by the amendment and matters flowing from the amendment by the Applicant.

1.8 That the Respondents withdraw their answering affidavit in the Amendment application.

1.9 That the Applicant withdraws his Replying affidavit in the Amendment application.

DATED AT PRETORIA ON THIS 2ND DAY OF MAY 2013.



Presiding Member:

N Manoim

Concurring: Y Carrim and A Wessels