



Your ref: TDM/CKU/LT5594

Our ref: E Jonker / G4001-09

20 November 2024

To: **ADAMS & ADAMS**

Attention: Mr T Manentsa

Dear Sir,

**RE: OASIS WATER (PTY) LTD / FORMER FRANCHISEES- VARIOUS HIGH COURT ACTIONS**

We refer to the abovementioned and to your letter dated 11 November 2024. We hold instructions to advise as follows:

1. We noted that your firm has taken over as the new attorneys of record regarding the High Court actions instituted by Oasis Water (Pty) Ltd against a number of former franchisees.
2. We considered the comments regarding your client's response to the Rule 35(3) notices and draw your attention to the following:
  - 2.1 Our clients (the Defendants), issued the Rule 35(3) notices on 18 June 2024 - more than 5 (five) months ago.
  - 2.2 Your client instituted various actions against the former franchisees and could have reasonably expected that the franchisees would have requested discovery of the marketing fund bank statements, especially in view of the fact that that the marketing fund was a prominent factor regarding the termination of the franchise agreements and relates to the heart of the dispute between the parties.
  - 2.3 Your client's attention is drawn to the provisions of the Consumer Protection Act, in particular as listed and elaborated upon in our clients' pleas.
  - 2.4 Our clients do not believe that the disclosure of the marketing fund bank statements would result in any disclosure of proprietary information. In any event, your client previously disclosed and

provided financial information regarding such fund, which is compulsory in terms of the Consumer Protection Act.

- 2.5 It is not unreasonable to expect a Plaintiff to respond to a Rule 35(3) notice within the prescribed time as per the court rules, especially in as far as it relates to a franchise marketing fund which is regulated by statute.
3. Your client's previous attorneys of record confirmed in no uncertain terms that the necessary information will be provided no later than 11 November 2024, which your client failed to do. The date of 11 November 2024 was not an agreed upon extension between the parties. Our client nevertheless relied upon your client's undertaking to provide the relevant information.
4. Despite the sentiments conveyed in your letter dated 11 November 2024, your client's actual conduct to date hereof, is regarded as obstructive and purely with an intention to delay matters and/or to cause frustration to our clients.
5. Our clients shall nevertheless accommodate your client and agree to your request to respond to the Rule 35(3) notices no later than **Friday 06 December 2024**.
6. The actual bank statements should be provided, failing which, our clients shall rely upon all available remedies in terms of the court rules, which may include applications to compel without any further notice, accompanied by punitive cost orders in view of your client's obstructiveness and unreasonable delay tactics.
7. Our clients' rights remain reserved.

Yours faithfully,

**SMIT & VAN WYK INC.**

  
**E JONKER**