

SUPREME COURT OF SEYCHELLES

Reportable
[2025] SCSC ...
MC 88/24

In the matter between:

JENS ASMUS PETERSEN
(rep. by Serge Rouillon)

Petitioner

and

**REGISTRAR OF INTERNATIONAL
BUSINESS COMPANIES**
(rep. by Basil Hoareau)

Respondent

Neutral Citation	<i>Petersen v Registrar of International Business Companies (MC 88/24) [2025]</i> SCSC April 2025
Before:	Pillay J
Summary:	Reinstatement of company on Register of International Business Companies
Heard:	26 th February 2025
Delivered:	17 th April 2025

ORDER

[1] I Order that the Company **FINCH S. A.** be restored to the Register of International Business Companies subject to compliance with the following conditions under the International Business Companies Act 2016:

(1) payment to the Registrar of all outstanding annual fees and any penalty or other fees payable in relation to the company;

(2) the Petitioner satisfies the Registrar that the company is in compliance of its obligations —

(a) under this Act relating to accounting records, register of members and register of director; and

(b) under the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners.

- [2] Following its restoration to the Register, pursuant to subsection (9) above, the company is deemed to have continued in existence as if it had not been dissolved or struck off the Register.
- [3] A copy of the Order to be served on the Registrar of International Business Companies.
- [4] I make no order for costs.

JUDGMENT

PILLAY J

- [1] The Petitioner seeks the restoration of the name of **FINCH S. A.** bearing International Business Company Number 099906 on the Register of International Business Companies upon payment of all outstanding fees and penalties payable by the Company to the Respondent under the International Business Companies Act 2016.
- [2] The Petition is supported by the affidavit of Jen Asmus Petersen who averred that he is the Executor of the estate of the late Gunther Adolf Wilhelm Albert (“the deceased”) who died intestate on 28th May 2015 at Weilburg, Germany. He averred that prior to his death, the deceased was the beneficial owner of shares in a company incorporated on 25th November 2011 under the International Business Companies Act 1994 with IBC number 099906 and was automatically re-registered under the 2016 Act when it repealed and replaced the 1994 Act on 1st December 2016, as Finch S.A. with company number 099906.
- [3] He further averred that on 1st January 2017, the Company was dissolved and removed from the Register. He averred that it has come to his attention that the heirs of the estate of the deceased have an interest in the Company which can only materialise if the Company is restore to the Register. He averred that the Company owns assets which it is unable to deal with unless its prior status as a registered company is restored.
- [4] He undertook and confirmed that he is ready, willing and able prior to restoration of the Company name to the Register, to pay to the Respondent all fees payable by virtue of

section 277 of the Act, including the restoration fees and the filing of a sealed copy to the Registrar under section 277 payable under paragraphs (x) (ii) and (y) of Part II of the Second Schedule to the Act, and all annual licence fees payable by virtue of section 12 and any late payments penalty payable thereon under the Act.

- [5] The Petitioner now asks the Court to order the Respondent to restore the company, **FINCH S. A.** to the Register of Companies conditional upon payment to the Respondent of all outstanding fees and penalties payable by the Petitioner to the Respondent under the International Business Companies Act 2016.
- [6] The Respondent has no objection in principle to the restoration of the company provided that the company is ordered to comply with its obligations relating to accounting of records, register of members and register of directors and also its obligation under the Beneficial Ownership Act relating to each register of beneficial ownership.
- [7] It is noted that the Petitioner seeks restoration under section 277 of the International Business Companies Act 2016.
- [8] Pursuant to the 2016 Act restoration of International Business Companies to the Register by the Court is provided for in the Section 277 of the Act as amended by Act 32 of 2021 which reads as follows:

(1) Subject to subsection (2), where of the name of the company has been struck off the Register for any reason, an application to restore the name of the struck off or dissolved company to the Register may be made to the Court by,

- (a) a creditor, member, former member, director, former director, liquidator or former liquidator of the company; or*
- (b) any other person who can establish an interest in having the company restored to the Register.*

(2) An application to restore the name of the struck off or dissolved company to the Register under subsection (1) may be made to the Court –

- (a) within one year of the date of the striking-off notice published in the Gazette under section 272 (4); or*

- (b) *within 3 years of the date of dissolution under Sub-Part II, III or IV of the Part XVII of this Act.*

(3) Notice of the application shall be served on the Registrar, who is entitled to appear and be heard on the hearing of the application.

(4) On an application under subsection (1) and subject to subsections (4A), (4B) and (5), the Court may –

- (a) restore the company to the Register subject to such conditions as it considers appropriate; and*
- (b) give such directions or make such orders as it considers necessary or desirable for the purpose of placing the company and any other persons as nearly as possible in the same position as if the company had not been dissolved or struck off the Register.*

(4A) The Court shall not restore the name of a struck off or dissolved company if the Registrar is not satisfied that the company is in compliance of its obligations —

- (a) under this Act relating to accounting records, register of members and register of director; and*
- (b) under the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners.*

(4B) In the case of a company whose name was struck off the Register —

- (a) for failing to have members due to all its shares becoming void under the former Act; or*
- (b) for any other reason and all its shares becoming void under the former Act,*

the Court shall only restore the name of the company if it is satisfied that the new member is identical to a member registered in the register of members as an owner of the shares at the date prior to the shares becoming void:

Provided that the Court shall not restore a company if it is satisfied that there is no member registered in the register of members as an owner of the shares at the date prior to the shares becoming void

(5) Where the Court makes an order restoring the company to the Register, the applicant under subsection (1) shall engage a person who is licensed to provide

international corporate services under the International Corporate Services Providers Act (Cap 275) to act as the restored company's registered agent and who shall file a sealed copy of the restoration order on the applicant's behalf with the Registrar.

(6) On receiving a filed copy of a sealed restoration order filed under subsection (5) but subject to subsection (7), the Registrar shall restore the company to the Register with effect from the date and time that the copy of the sealed order was filed.

(7) Notwithstanding its receipt of a copy of the sealed restoration order, the Registrar shall not restore the company to the Register until –

(a) payment to it of all outstanding annual fees and any penalty or other fees payable under this Act in relation to the company; and

(b) if the proposed registered agent of the company was not the company's registered agent when it was struck off the Registrar (the "outgoing registered agent"), the Registrar receives a written consent to the change of registered agent by the outgoing registered agent (who must provide such consent unless any fees due and payable to it have not been paid).

(8) A dissolved company restored under this section is restored to the Register with the name that it had immediately before it was dissolved, provided that if the name of the company has been reused in accordance with the Fifth Schedule the company is restored to the Register with its name consisting of its company number followed by the word "Limited".

(9) A company that is restored to the Register under this section is deemed to have continued in existence as it had not been dissolved or struck off the Register.

[9] It is noted that the Petition has been filed over 7 years after dissolution. However, the Respondent has not objected to such fact. It is further noted that section 277 (2) (b) is not framed in mandatory form.

[10] In the circumstances and having considered the Petition, the Affidavit as well as attached documents, in addition to the fact that the Respondent has no objections to the Petition other than the conditions it wishes imposed prior to restoration, I find that it is just and

necessary that the Company **FINCH S. A.** be restored to the Register of International Business Companies.

[11] I therefore Order that the Company **FINCH S. A.** be restored to the Register of International Business Companies subject to compliance with the following conditions under the International Business Companies Act 2016:

(1) payment to the Registrar of all outstanding annual fees and any penalty or other fees payable in relation to the company;

(2) the Applicant satisfies the Registrar that the company is in compliance of its obligations

(a) under this Act relating to accounting records, register of members and register of director; and

(b) under the Beneficial Ownership Act, 2020 (Act 4 of 2020) relating to register of beneficial owners.

[12] Following its restoration to the Register, pursuant to subsection (9) above, the company is deemed to have continued in existence as if it had not been dissolved or struck off the Register.

[13] A copy of the Order to be served on the Registrar of International Business Companies.

[14] I make no order for costs.

Signed, dated and delivered at Ile du Port

17th April 2025

