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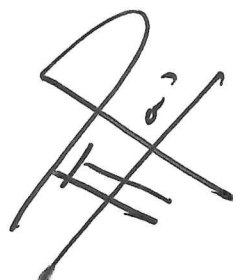


A. Introduction

1. The Applicants filed Company Cause No. 30603 of 2023, in their capacity as Directors and Subscribers in the aforementioned company, Kawempe Division Veteran Vendors And Traders Association Limited; against the Respondents jointly and severally seeking the intervention of the Registrar of Companies to rectify the register of Kawempe Division Veteran Vendors and Traders Association Limited by expunging the resolution filed by the Respondents on the 17th day of October 2023 and all subsequent company documents. The Respondents jointly and severally denied the contents of the Application.

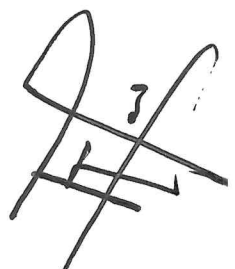
B. Background

2. Kawempe Division Veteran Vendors and Traders Association Limited, the company herein was incorporated on 17th November, 2006 with 16 members. In 2010, 8 members left the company, and as a result, only 8 members remained in the Company. The Applicants are founder members of Kawempe Division Veteran Vendors and Traders Association Limited and have been serving as Chairman, Vice Chairman and General Secretary respectively.
3. On the 25th day of September 2023, the Respondents held a meeting and resolved to remove the Applicants from the company, change office designations, and admit new members into the Company. The Applicants contend that they learnt of this by a document titled

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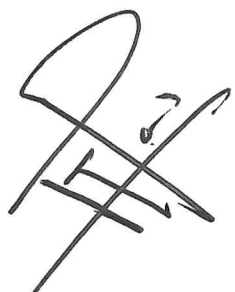
"Special resolution" filed with the Uganda Registration Services Bureau on 17th October 2023. The Applicants contend that the Respondent's actions were ultra vires to which they seek rectification of the register of Kawempe Division Veteran Vendors and Traders Association Limited by expunging the resolution filed on 17th October 2023 and all subsequent company documents.

4. On the 29th day of November 2023, the Applicants filed this Application seeking the intervention of the Registrar of Companies to rectify the register of Kawempe Division Veteran Vendors and Traders Association Limited by expunging the resolution filed on 17th October 2023 and all company documents filed thereafter.
5. On the 19th day of February, 2024 Counsel for the Respondents M/S MNA Advocates wrote a letter to the Registrar of Companies GEN: KDVAT/03/24 informing this good office that on the 2nd day of February 2024, a meeting was held at the Company's offices where resolutions were passed to wit; the special resolution passed on 25/09/23 and filed with Uganda Registration Services Bureau on 17th/10/2023 was recalled, all members whose particulars were not captured in the new URSB System were instructed to send their identifications to the Board so that they are included on the company register, any matter filed in any court of law or tribunal on behalf of the company was withdrawn and a fresh process was to be initiated, all conflicts between members arising from the resolution passed on

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25/09/2023 vide company Cause No. 30603 of 2023 be returned to the members for reconciliation and the Amended Memorandum and Articles of Association be filled upon completion of updating the company register capturing all old and new members.

6. However, on the 29th day of February 2023, the Applicants filed their submissions and scheduling memorandum. They further informed this good office that the Counsel for the Respondent neglected to include their input in the scheduling memorandum.
7. On the 1st day of March 2024, Counsel for the Respondents wrote a letter to the Registrar of Companies vide GEN: KD VAT04/24 informing the Registrar that the dispute that formed the basis of company Cause No. 30603 of 2023 was internally and formally resolved in accordance with the Articles of Association of the company and therefore there is no need for litigation.
8. Conversely, on the 5th day of March 2024, Counsel for the Applicants M/S Credo Advocates wrote a letter to the Registrar of Companies Ref; KW DV/URSB/01/2024 informing the Registrar that the Respondents' Counsel was trying to hoodwink the Registrar into believing there was a consent between the Applicants and the Respondents about the matters in dispute whereas not.
9. On 4th April 2024, through a response to the respondents' letter dated 1st March 2024, I directed the parties to avail a signed consent agreement for endorsement and substantive closure of the matter not

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later than 12th April 2024 and if none, the respondents to file their written submissions by 16th April 2024, any rejoinder by the applicants on 19th March 2024. No signed consent was availed and the respondents did not comply with the directive to file their written submissions within the stipulated time.

C. Representation

10. The Applicants were represented by **M/S Credo Advocates** whereas **M/S MNA Advocates** and **M/S Xander Advocates** represented the Respondents.

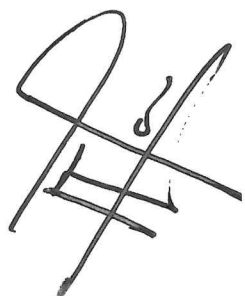
D. Issues for determination

- i) Whether the meeting of 25th September 2023 was validly convened and held in accordance with the law and the resolutions passed pursuant to that meeting were lawful?*
- ii) What remedies are available to the parties?*

E. Submission of Counsel for the Applicants

Issue 1: Whether the meeting of 25th September 2023 was validly convened and held in accordance with the law and the resolutions passed pursuant to that meeting were lawful?

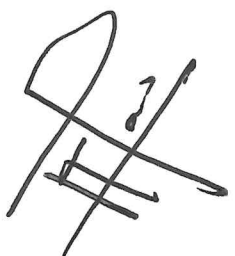
11. M/S Credo Advocates, Counsel for the Applicants relied on **Article 13.6** of the Articles of Association of Kawempe Division Veteran Vendors and Traders Association Limited to submit that there are only two modes of convening an extra-ordinary general meeting of the company. The meeting can be convened by the executive committee

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either on its own motion or upon requisition by the members. Counsel argued that, under paragraph 6 (a) of the Application, the Applicants aver that, as the Executive Committee, which is essentially the Board of Directors under **Article 4.1** of the Company's Articles of Association, they never caused the holding of the alleged extraordinary meeting on the 25th day of September 2023.

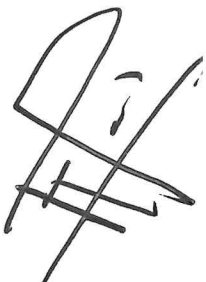
12. Counsel further argued that regarding the second mode, which is by members' requisition, the Respondents still fell short of fulfilling the requirements under this mode. Counsel relied on **Sections 139 (1) and (2) of the Companies Act, 2012 (As Amended)** to state that whereas members can requisition for an extraordinary meeting, the power to convene one is still a preserve of the board. Counsel argued that the requisition must be in writing, stating the purpose of the meeting, signed by the requisitionists and served at the company's registered office.

13. Counsel contended that the Respondents in their Statutory Declaration have not presented any evidence to show that the members requisitioned to the Executive Committee for the meeting that was held on 25th September 2023 and whether the same was convened by the Board which is the only organ of the company with powers to convene meetings. Counsel argued that the Respondents did not attach a copy of the requisition the members relied on (if any) for the meeting held on 25th September, 2023 showing the objects of the

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meeting and the members that signed the same. Counsel stated that there is no confirmation that the requisition was ever deposited at the company's registered office as required by **Section 139 (2) of the Companies Act 2012 (As Amended)**. Therefore, this shows that the meeting held on 25th September, 2023 was never requisitioned for by the members as required by law. Counsel further submitted that under paragraph 6(c) of the Application, the Applicants stated that the purported meeting was not presided over by the Chairman or the Vice Chairman as required under the company's Articles and neither was the Secretary-General present. Counsel relied on **Section 139 (4) of the Companies Act, 2012 as amended** to emphasize that a meeting convened under section 139 shall be convened in the same manner as a meeting convened by the directors who in this case, are the executive committee members as per **Article 4.1** of the Company's Articles.

14. Counsel contended that **Article 5.1** of the Articles of Association of the Company requires notice of annual and regular meetings to be given at least twenty-one days before the date of the meeting and it should specify the place, day and hour of the meeting. Counsel argued that under paragraph 6 (d) of the Application, the Applicants state that a notification did not precede the meeting held on 25th September 2023 because they were never served with any notice. Counsel argued that the Respondents in their Statutory Declaration did not dispute this allegation. However, under paragraph 11 of Wasswa Juma Sekyanzi's

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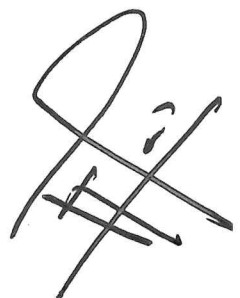
Statutory Declaration in defence, he contended that the 1st and 3rd Applicants are not members of the Company because the Company's register did not contain them as members of the company. Therefore they aren't entitled to notice. Counsel submitted that **Section 47 (1) of the Companies Act, 2012 as Amended** and **Article 11 (2)** of the Articles of Association of Kawempe Division Veteran Vendors and Traders Association Limited grant membership status to subscribers to the Company's Memorandum and Articles and therefore, the Applicants, by being subscribers to the memorandum are members of the company and were entitled to notice of meetings held by the company. Counsel prayed that in the absence of proof that the Applicants were served with notice of the meeting held on 25th September 2023, this good office should find that the Applicants were not notified of the said meeting.

15. Counsel further argued that whereas the Respondents claim that the resolutions from the meeting were sent the 2nd Applicant for signing, he categorically denies ever appending his signature on the said documents as stated in paragraph 9 of his Statutory Declaration implying that his signature was forged by the Respondents. Counsel invited this good office to consider **Justice Madrama's decision in Mawanda & Anor v Kubit Uganda Limited, Civil Suit No: 350 of 2008** to the effect that forgery of a signature on a document renders the same null and void.

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16. Counsel relied on **Article 11.10.2** of the Company's Articles of Association, to argue that whereas the Executive Committee has the authority to cancel membership this has to be preceded by a disciplinary hearing. Counsel submitted that the Respondents have not presented evidence to show that the 1st and 3rd Applicants were notified about the meeting held on 25th September 2023 at which they were stripped of their membership status. Furthermore, Counsel argued that the Respondents have not adduced any evidence to show that the 1st and 3rd Applicants were granted a fair hearing prior to their unceremonious dismissal from the company. Therefore, as a result the removal of the 1st and 3rd Applicants as members of the company was illegal.

17. Counsel informed this good office that during the meeting held on 25th September 2023, the Respondents added new members to the company to wit; Kiseke Charles and Zikusooka Hussein whom they also appointed as Secretary and Mobiliser. Counsel further informed this good office that the Respondents also changed office designations by appointing Waswa Juma Sekyanzi as Chairman, Kamya Ahmed Nkalubo as Vice Chairman, Senjonjo Henry as finance, Nsereko Swaibu Kiwalabye as Security and Zikusooka Hussein as in charge of Discipline. Counsel contended that the said appointments are illegal since the meeting that resulted in the appointments was neither legally summoned nor were the Chairman, Secretary and Vice Chairman

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present in the same to be heard. Counsel prayed that that this good office finds that the meeting held on 25th September 2023 was never validly convened and that the resolutions passed pursuant to that meeting are of no consequence since the Respondents had no power to pass the same. Counsel invited this good office to consider the case of **Fang Min v Uganda HuiNeng Mining Ltd (2019] UG CommC 29**, wherein it was held that:

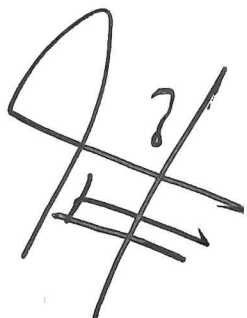
"Resolutions passed by people devoid of authority to do so and meetings held without notifying the relevant members are null and void. Since those meetings are null and void they render the outcome worthless."

Issue 2; What remedies are available to the parties?

18. On the issue of remedies, the Applicants prayed that the register of Kawempe Division Veteran Vendors and Traders Association Limited be rectified by expunging the resolution filed on 17th October 2023 and all other company decisions and transactions made in the absence of the Applicants upon being ultra vires removed from the company and costs of the application.

F. Submissions of Counsel for the Respondents

19. The parties were directed to file their respective written submissions. The respondents were supposed to file their written submissions by 16th April 2024 and counsel for the Respondents M/s MNA Advocates and M/s Xander Advocates did not comply.

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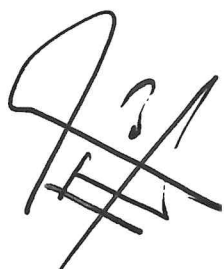
G. Determination by the Registrar

Issue 1: Whether the meeting of 25th September was validly convened and held in accordance with the law and the resolutions passed pursuant to that meeting were lawful?

20. While resolving this issue it is pertinent to analyse whether the meeting at which these resolutions were passed was properly convened.

21. On the 25th day of September 2023, the Respondents held an extraordinary general meeting and passed a Special Resolution removing the Applicants from the company, admitting new members and changing office designations; subsequently the resolution was filed with Uganda Registration Services Bureau on 17th October 2023. The Applicants contend that the Respondent's actions were ultra vires. An extraordinary general meeting is held on the requisition of members of the company representing not less than one tenth of the total voting rights of all the members having that date a right to vote at general meetings of the company. The requisition must state the objects of the meeting and must be signed by the requisitionist.

22. **Section 139(4) of the Companies Act, 2012 (As Amended)** stipulates that a meeting which is convened as an extraordinary meeting shall be in the same manner as nearly as possible as that in which meetings are to be convened by the Directors. **Section 139(6) of the Companies Act, 2012(As Amended)**, further makes it mandatory for notice to be given,

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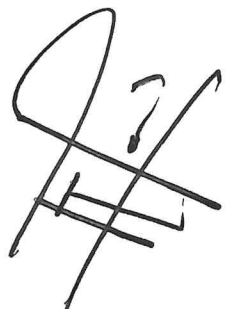
and in a meeting at which a resolution is to be proposed as a special resolution, it will be declared not to have taken place if the time spans provided for under section 149 are not adhered to.

Section 149(1) provides for special notices in cases of meetings, which will end in resolutions.

“149. Resolution requiring special notice

(1) Where by any provision of this Act special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the company not less than twenty-eight days before the meeting at which it is moved.”

This notice will be given at the same time and in the same manner as it does of the meeting and where it cannot do so it shall give notice through an advertisement in a newspaper with wide circulation or any other mode allowed by the company Articles not less than 21 days. It is also important to note that, **Section 150 of the Companies Act, 2012 (As Amended)** stipulates that the resolutions that emerge shall be delivered to the registrar for registration within 30 days from the date of the resolution. I want to add that minutes of proceedings of any general meeting of a company shall be taken down and entered in books that are specifically for that purpose since it is a prerequisite under **section 153 of the Companies Act, 2012 (As Amended)**.

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23. Section 140(1) of the Companies Act 2012 (As Amended) controls the length of notice for calling meetings and prescribes the minimum length of notice.

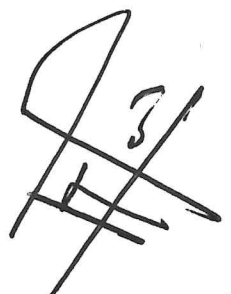
“140. Length of notice for calling meetings

- 1) Any provision of a company's articles shall be void in so far as it provides for the calling of a meeting of the company other than an adjourned meeting by a shorter notice than twenty one days.*
- 2) The notice under subsection (1) shall be in writing.”*

The length can however be shortened if all the members entitled to attend and vote at that meeting agreed to a shorter notice or by a majority who together hold not less than 95% of the total voting rights at the meeting of all members. It is a requirement that the notices should be served on members and of the company as provided for in Table C of the Companies Act, section 141 or as the Articles of the Company provide. The Articles of Association of the Company in this case provided for service under Article 5.1 as follows;

“5.1. Notice of meetings

- a) Notice of annual and regular meetings shall be given at least twenty-one (21) days prior to the date thereof.*
- b) Notice in all cases shall specify the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes thereof, provided that these by laws may be neither amended nor appealed nor new Bylaws be adopted at*



any meeting unless the notice of such meeting shall contain a description of the proposed changes."

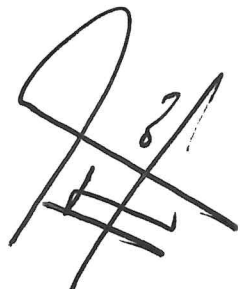
It is clear from the pleadings that the Applicants contend that the meeting that passed the resolutions removing the Applicants from the company, admitting new members and changing office designations was held without notifying them.

24. For this meeting to take place the Executive Committee which in this case was constituted by the Applicants had to be given ample notification of the meeting. **Regulation 7 of Table C of the Companies Act 2012 (As Amended)** states that the time and venue of the meeting were to be specified in the notice.

Regulation 7 provides;

- (1) An annual general meeting and a meeting called for the passing of a special resolution shall be called by at least twenty-one days' notice in writing.*
- (2) The notice shall be exclusive of the day on which it is served or taken to be served and of the day for which it is given, and shall specify the place, the date and the hour of meeting and, in case of special business, the general nature of that business and shall be given, in the manner mentioned in this article or in any other manner, if any, prescribed by the company in general meeting, to such persons as are, under the articles of the company, entitled to receive such notices from the company.*

The Respondents have not adduced a single iota of evidence to this effect. As a result, I am inclined to draw an adverse inference against

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the Respondents in the particular circumstances and find that no notice of the meeting was ever served on the Applicants and therefore the resolutions passed on 25th September 2023 are null and void.

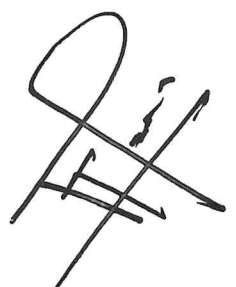
There is no evidence on record to prove that the Applicants were served with the notice for this meeting. In the absence of proof of service of notice, the only conclusion one can come up with is that the Applicants were not notified of this meeting.

25. The High Court in *Ms. Fang Min v Uganda Hui Neng Mining Limited & 5 Others HCCS No. 318 of 2005* clearly noted that failure to give notice to a shareholder in respect of a company meeting would render the proceedings void and the resolutions passed a nullity. It stated thus:

"It is clear from these proceedings that one of the contentions of the Plaintiff is that the meetings that passed the resolution that led to the transfer of the Exploration license was done without notifying her. As we have seen in this judgment, there were only two people qualified to call meetings, meet and pass resolutions. These were the Plaintiff and the 3rd Defendant. It follows that any meetings that would be conducted without notice to either party would be void rendering the resolutions a nullity."

(Emphasis Mine)

On the strength of that authority and findings herein, I find that the removal of the Applicants from the company, admitting new members

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and changing of office designations was done based on a resolution that was a result of a meeting held without notifying the Applicants who were subscribers and members of the Executive committee. Therefore, all the proceedings and resolutions passed during the meeting held on 25th September 2023 are null and void.

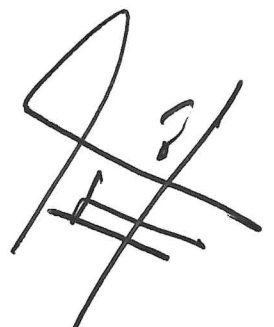
Issue 2: What remedies are available to the parties?

26. The Companies (Power of Registrar) Regulations, 2016 mandate the Registrar to rectify the Register. Under **Regulation 3(i)** it is provided that; *“In the exercise of the functions under the Act or any Regulations made under the Act, the registrar—; (i) may correct or amend the register; And Regulation 8* provides as follows:

“8. Rectification of register. (1) The registrar may rectify and update the register to ensure that the register is accurate.

(2) For the purposes of this regulation, the registrar may expunge from the register, any information or document included in the register, which—

(a) is misleading; (b) is inaccurate; (c) is issued in error; (d) contains an entry or endorsement made in error; (e) contains an illegal endorsement; (f) is illegally or wrongfully obtained; or (g) which a court has ordered the registrar to expunge from the register.”

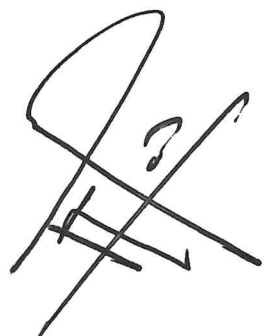
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27. I have already determined that the special resolution purportedly arising from a meeting of 25th September 2023 and registered on 17th October 2023, and all the resultant and further documents filed in reliance on that resolution, including Form 20, Resolution was issued in error, contain an illegal endorsement, were illegally and wrongfully executed within the meaning of **Regulation 8 (2) of the Companies (Power of the Registrar) Regulations, 2016**. The remedy available in these circumstances is to rectify the register by expunging the illegally executed documents.

28. Therefore, pursuant to **Regulation 32 of the Companies (Powers of Registrar) Regulations, 2016**, I make the following orders;

29. A special resolution dated 25th September 2023, and registered on 17th October 2023 is misleading, inaccurate, issued in error, containing an illegal endorsement and is wrongfully obtained within the meaning of regulation 8 of the Companies (Powers of the Registrar) Regulations, 2016 and is hereby expunged from the register;

30. A Form 20 filed on 17th October 2023 is misleading, inaccurate, issued in error, containing an illegal endorsement and is wrongfully obtained within the meaning of regulation 8 of the Companies (Power of the Registrar) Regulations, 2016 and is hereby by expunged;

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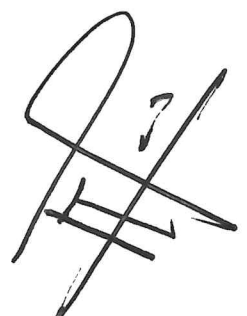
31.A Special Resolution dated 18th November 2023 and registered on 05th December 2023 is misleading, inaccurate, issued in error, containing an illegal endorsement and is wrongfully obtained within the meaning of regulation 8 of the Companies (Powers of the Registrar) Regulations, 2016 and are hereby expunged;

32.A Special Resolution dated 2nd February 2024 and registered on 09th February 2024 is misleading, inaccurate, issued in error, containing an illegal endorsement and is wrongfully obtained within the meaning of regulation 8 of the Companies (Powers of the Registrar) Regulations, 2016 and is hereby expunged;

33.A Form 20 registered on 09th February 2024 is misleading, inaccurate, issued in error, containing an illegal endorsement and is wrongfully obtained within the meaning of regulation 8 of the Companies (Powers of the Registrar) Regulations, 2016 and is hereby expunged;

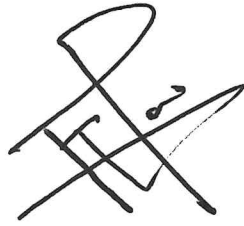
34.The directorship and membership of the company be restored to the state it was.

35.Each party to bear its own costs.

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I so order.

Right of appeal explained

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Muliisa Solomon

Registrar

3/7/2024