

David Josland



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From: David Josland
Sent: Wednesday, 21 June 2006 2:05 p.m.
To: 'neil.wells@waitakere.govt.nz'
Subject: Companies Office - Animal Welfare Institute of New Zealand - 1809454

Dear Mr Wells,

I have received on behalf of the Registrar of Incorporated Societies ("the Registrar") your facsimile concerning the registration of the Animal Welfare Institute of New Zealand - 1809454 ("the trust").

I have considered your submission that the trust's application was in breach of section 15 of the Charitable Trusts Act 1957 ("the Act") because Ms Haden used "a name that is identical with that of...a body [corporate] established in New Zealand".

Although your organisation (also called the Animal Welfare Institute of New Zealand) is an "approved organisation" under section 121 of the Animal Welfare Act 1999 the Registrar is of the opinion that this has not conferred "body corporate" status on your organisation for the purposes of section 15 of the Charitable Trusts Act. Even if your organisation was a body corporate the Act does not give the Registrar the power to direct a trust to change its name.

You have invited the Registrar to use his powers under section 26 of the Act to dissolve the Board of the Animal Welfare Institute of New Zealand. The Registrar is not of the opinion that the trust has been registered by reason of a mistake of fact or law and therefore is not prepared to dissolve the Board. The application to incorporate the trust was accepted in good faith by the Registrar and finding that the application was in registrable form he duly registered the trust.

I note that your organisation is in the process of issuing proceedings in the High Court for an interim injunction restraining Haden and another party from passing off and publishing defamatory statements on their Internet site.

You may also wish to consider section 25 of the Charitable Trusts Act which states that "a Board may be wound up by the Court if the Court is satisfied that it is just and equitable that the Board should be wound up". Under section 25(2)(f) an application to wind up the Board may be made by "any...person who adduces proof of circumstances which in the opinion of the Court make it proper that he should make the application". The circumstances that you have outlined to the Registrar in your facsimile may bring your organisation within this section of the Act.

I am happy to accept documents on behalf of the Registrar if you wish to bring anything further concerning this matter to the Registrar's attention.

My postal address is:

David Josland
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Yours faithfully,

David Josland | Solicitor | Northern Business Centre – Business Services Branch | Ministry of Economic Development

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