NA HARD-CHÚIRTE
THE HIGH COURT

RECORD No. 2012 / 612JR

JUDICIAL REVIEW

Between

Arnaud D. GAULTIER

Applicant

and

The Registrar of Companies,
Companies Acts 1963-2009

Respondent(s)

and

Loire Valley Limited

Notice Parties

LEGAL SUBMISSIONS

I. PROLOGUE

1. I, Arnaud D. Gaultier, applicant in this matter, representing myself, solemnly declares that all submissions brought before this Honourable Court are made in good faith and believed to be true. The same applies to any evidence brought before this Honourable Court.
As a lay-litigant, all the below expressions in those submissions are referring to myself: "the applicant", "I", "my", "our", "ours". Loire Valley Limited, notice party in these proceedings, would be referred as the Company.

2. As a lay litigant, I have to outline that since the beginning of these proceedings, my knowledge and understanding of the rules of the Superior Courts have increased continuously. In this instance, I have lately been made fully aware that an affidavit is not supposed to contain any Legal Submission and/or Legal Authority. However, my affidavits to date may have included such.
With the view of avoiding as much as possible duplication and repetition of information, such submission and authority may be quoted in the current submissions. This is concurrently made in view to present this Honourable Court, the level and timeframe of awareness of the Counsel for the Respondent on the argumentation and the basis of the Applicant's claims.

II. INTRODUCTION

3. The main issue in these proceedings is to weigh the Companies Acts 1963-2009 versus the **Human Rights and Fundamental Freedoms** of the applicant. I feel oblige to insist on the notion of **Fundamental** Freedoms which, by definition, are related to the "foundation or base" [of the Law].

Such references to Human Rights and Fundamental Freedoms were first made in my letter to the Respondent of the 23/05/12 (paragraph b of the Appendix) (shown as Exhibit S of the Applicant's affidavit of the 3rd July 2012 – ***Tab 2****) as well as in Exhibit G of the same affidavit.*

4. It might be of interest to outline at this early stage that this matter is not related to the assessment or imposition of any tax. This is evidenced by the withdrawal of both Revenue Commissioners and Minister for Finance from those proceedings, interim orders showed in **Tab 4**. Therefore, the Article 6.1 of the said Convention should apply with due regard to Ferrazzini v. Italy (2002) 34 E.H.R.R. 45, paragraph 27: "[…] *This has led the Court to find that procedures classified under national law as being part of «public law» could come within the purview of Article 6 under its «civil» head if the outcome was decisive for private rights and obligations, in regard to such matters as, to give some examples, the sale of land, the running of a private clinic, property interests, the granting of administrative authorisations relating to the conditions of professional practice or of a licence to serve alcoholic beverages* […]".

5. A analogy for this matter has been designed in order to illustrate that all the decisions of the Respondent fly in the face of fundamental justice and common sense, infringing several Human Rights and Fundamental Freedoms of the applicant. This was first presented in my Responding Affidavit sworn on 11/12/12 (**Tab 7**). Below is an amended cleared version:

"*This is the story of a man[1] who was just completing the construction of a state-of-the-art five storeys building[2]. While fully qualified for doing so, this man was also very well introduced and well advised.*

Unfortunately, at the due time of completion, some nearby road works, directed and supervised by the Department of Transport[3] damaged seriously and irreversibly the foundations of the said building. After refusing any liability for almost two years, the said Department has acknowledged full liability in the damage and made an offer to compensate the man for the rebuilding of the said foundations.

But the said Department refuse to compensate the man neither for the loss of any rental income that the said building would have generated nor for the rebuilding costs of the five storeys, extensively damaged as result of the two years delay in offering compensation for the damaged foundations.

As the man was refused any further compensation and the said above offer was presented as final in this matter if accepted, the man was left with no option but to refuse the said offer. Having put all his resources and savings in the construction of the building, this man had a very hard time to get in a position to bring proceedings before the expiry of the statute of limitations of the above matter. After considering different avenues, less than a year before the expiry of the statute of limitations, this man finally decided to bring those proceedings without solicitor or barrister, and starting to learn how to do so.

Meanwhile, the Department of Environment initiated administrative actions to penalise the same man, on the ground that the said building was unsafe, and in the view of expropriate him without compensation for failure to comply with his duties with regard to safety.

From the start of this administrative action, the man feel obliged to outline to the Department of Environment[4] that, while he fully agreed on the building being unsafe, all responsibilities in the current state of the building lies with the Department of Transport, presenting elements of acknowledgement of its responsibility. In addition, he demonstrated that he took the greatest care in personally erecting at his own expense, a fence far exceeding the legal requirements, with relevant safety warning signs to fully enclose the said building and prevent anyone to access it.

But whatever, the expropriation took place and the Department of Environment expressed his intention to destroy the building and charge the man for the costs of the said destruction, with further penalties for not ensuring the destruction by himself while under notice of doing so.

Finally, the Department for Environment was surprisingly amazed that such decision being contested… by way of Judicial Review[5]!

(1) Arnaud D. Gaultier, the Applicant & author of this Analogy
(2) Loire Valley Limited, Notice Party in this Judicial Review
(3) The Department of Transport stands for the Revenue Commissioners.
(4) The Department of Environment stands for the Companies Registration Office.
(5) It is noticeable than on the Continent, such matter could be brought before an Administrative Tribunal for a cost of as little as €35, thirty five, with no requirement for any representation".

6. The above analogy describes exactly the situations and matters of these proceedings with two omissions:
a) the Respondent first accepted the worthiness of the explanation and refrain from any action in 2008;
b) in 2012, in the exact same circumstances, the Respondent refused to give due regard to the explanation and situation;
c) the Respondent was aware of the fast approaching statute of limitation in the matter against the Revenue.
Now, the hardest part, it is to try to understand how someone can make such decision or how anyone can assert that such decision does not fly in the face of fundamental justice and common sense.

III. SUITABILITY OF PROCEEDINGS BY JUDICIAL REVIEW

A. Statutory provisions

1. Criteria for Judicial Review

7. In the Judicial Review of *Ryanair v Flynn & Anor, [2000] 3I.R.*, Mr. Justice Kearns (as he was then) outlined the criteria and limits for proceedings by way of Judicial Review.

First, Mr Justice Kearns cites Murtagh v Board of Management of St Emer's National School [1991] 1I.R. 482:

> "*Judicial review is a legal remedy available on application to the High Court, when any body or tribunal having legal authority to determine rights or impose liabilities and having a duty to act judicially in accordance with the law and the Constitution* ***acts in excess of legal authority or contrary to its duty****."*

8. Then, Mr. Justice Kearns goes on, "[…] two other requirements which must be fulfilled before the court can intervene by way of judicial review, namely, there must be a decision, act or determination and it must affect some legally enforceable right of the applicant."

Finally, in a section about the "limits to judicial review", Mr. Justice Kearns quote Murphy J. in Devlin v. Minister for Arts [1999]:

> "*Judicial review is a valuable legal process […] to correct some misunderstandings and occasional abuses in the exercise of statutory powers. […] The requirement that statutory powers (among others), even those expressed to be absolute, must be exercised in accordance with the requirements of* ***natural and constitutional justice*** *is well known and generally understood. Likewise it must be widely appreciated that the only function of the courts in relation to the exercise of such powers* ***is to review the procedures in which they are exercised.*** *In the absence of* ***express statutory provision****, the courts do not have an appellate role by which they can reverse or review the actual decision taken.*

2. Human Rights & Fundamental Freedoms

9. As stated in the introduction, some Human Rights and Fundamental Freedoms of the applicant seems to have [been] infringed. Those rights can be found in the (European) Convention for the Protection of Human Rights and Fundamental Freedoms, 1950-2010 put into Irish Law by European Convention on Human Rights Act 2003 (including Protocol 1, 4, 6 & 7) and the Charter of Fundamental Rights of the European Union 2000 ratified by Ireland as part of the Lisbon Treaty, which came into force on 1st December 2009 and the Constitution of Ireland. This was first outlined to the Respondent as far as the 23/05/12 (paragraph b of the Appendix) (shown as Exhibit S of the Applicant's affidavit of the 3rd July 2012 – **Tab 2.**
Some later mentions were made in my affidavits (Exhibit G of affidavit sworn on the 3/07/12 – Tab. 2 and paragraph 34 of the affidavit sworn on the 11/12/12) and my letter to the Counsel for the Respondent of the 10/12/12.

Convention for the Protection of Human Rights and Fundamental Freedoms, 1950-2010

Main Act - Rome, 4.XI.1950

"*Article 6 - Right to a fair trial. 1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*

Article 13 - Right to an effective remedy. Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

Protocol of Paris, 20.III.1952

"*Article 1 - Protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."*

Charter of Fundamental Rights of the European Union, 2000

"*Article 16 - Freedom to conduct a business. The freedom to conduct a business in accordance with Community law and national laws and practices is recognised.*

Article 17 - Right to property. 1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. ***No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.*** *2. Intellectual property shall be protected.*

Article 20 - Equality before the Law. Everyone is equal before the Law."

Irish Constitution

"Article 40.3.2: The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen[1]*."*

[1] It is believed that this last article is owed to be extended to any citizen of the European Union, as the applicant is.

10. As mentioned in the introduction of this submission, it seems important to consider the decision of the European Court of Human Rights given in Ferrazzini v. Italy (2002) 34 E.H.R.R. 45 which says in paragraph 27:

> "*[…] This has led the Court to find that procedures classified under national law as being part of «public law» could come within the purview of Article 6 under its «civil» head if the outcome was decisive for private rights and obligations, in regard to such matters as, to give some examples, the sale of land, the running of a private clinic, property interests, the granting of administrative authorisations relating to the conditions of professional practice or of a licence to serve alcoholic beverages […]*"

B. Evidences & Conclusion

1. Irrationality of Decision

11. It is difficult to address how much the **decisions of striking-off and dissolving** the Company were irrational. More especially, when the dissolution of a company results in the assets of the Company being vested into the Minister for Finance. This was first mentioned to the Respondent in my email of the 12/02/12, with simultaneous reference to the coming Statute of Limitations of the matter against Revenue (Exhibit J of grounding affidavit – Tab. 2).

12. It is undeniable that the Respondent has acted contrary to her duties, considering that the Respondent's duties includes full compliance with the Constitution and full due respect to Human Rights and Fundamental Freedoms according to relevant Laws & Conventions.

2. Public Interest

13. The notion of Public Interest has been fully explained in the paragraphs 6 to 8 of my affidavit sworn on the 11/12/12 quoted below.

> *"The "Public Interest" is mentioned in the paragraph 15(c) of the Respondent's affidavit sworn on the 20th November 2012: "The rationale behind the legislation is that the public interest requires annual returns to be made."*
>
> *It is hard to say that the Respondent seems to have a misconceived idea of the public interest. Indeed, a company an entity well known for its bounds, interactions and liabilities towards the tax man, its suppliers and creditors, its employees and its members (or shareholders). This is outlined in the Notice 2011 from the Office of the Director of Corporate Enforcement [Exhibit A]. Therefore, once the tax man has no objection to the restoration of a company on the Register (which is the case in this matter), I can not see how the dissolution of a company may benefit any member of the public, either suppliers, creditors, financial institutions, employees and / or shareholders.*
>
> *Without a doubt, the Public Interest would be fully satisfied with and only with unlimiting the liability of the Company to its directors and / or members. And this is already a natural consequence of the strike-off as shown in Exhibit J of the Respondent's first affidavit: "The protection of limited liability will be lost with effect from the date of strike off". In addition, it is important to outline that the Company is not taking on any business, as advertised on its websites [Exhibit B]."*

This refutes fully the allegation of the Respondent in paragraph 15.c of her affidavit of the 20/11/12.

C. <u>Failure of the Respondent to apply on notice to continue these proceedings as if originated by Plenary Summoons</u>

14. Counsel for the Respondent submitted last November that the Judicial Review was not a suitable way to pursue the matter of these proceedings. Since then, no motion has been made in order to pursue this matter by way of plenary summons. This was a relief offered in our Statement of Grounds dated 5th July 2012 (Relief V) which we would have not objected.

15. However, in the interest of Justice, this Honourable Court may share our considerations that to continue these proceedings as if originated by Plenary Summons at this late stage would be an improper use of the Judiciary, by requiring more of its most precious time.

IV. DECLARATIONS ON POINTS OF LAW

16. In our Statement of Grounds, four declarations are sought regarding the Companies Acts 1963-2009. Those declarations F, G, H, I have been drafted based on two general principles: (I) "a law can not be unjust" in other words, a law can not infringe any of the rights defined by the Constitution, the (European) Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union; (II) "any high given power owes to be balanced with high level of leeway" mirroring the famous quote from Voltaire: "with great power comes great responsibility".

A. Declaration F on the Leeway in the Companies Acts

17. The Declaration (F) on the extent of the leeway of the Respondent in using subsections 18(1) and 18(3) of the CAA 1982 including precision on the meaning of the expression "unless cause shown to the contrary" in subsection 18(3)

1. Definitions

18. By reason of research of clarity, it is much unlikely that the Oireachtas has used any word or expression in the same act with different meanings.

a) 'may'

19. The word "may" is widely use in the Companies Acts 1963-2009. Does this word imply any obligation? Looking at the sections 125(3) & 127(3) of the principal Act relating to time for completion of annual returns, which both states:

> "*Proceedings in relation to an offence under this section **may** be brought and prosecuted by the registrar of companies.*"

As the Respondent does not prosecute every offender under that section, we may consider that, the word 'may' is considered by the Registrar of Companies as not implying any statutory obligation, but indicate action left at the discretion of the Registrar..

Therefore, it is submitted that the use of the auxiliary "may" in section 12(1) of the CAA 1982 implies that the use of this section is not compulsory but left at the discretion of the Respondent;

b) 'unless cause shown to the contrary'

20. As stated in paragraph 32 of our Grounding affidavit, the expression "Unless cause shown to the contrary" is widely used such as in section 311(2) of the Principal Act and in sections 12(3), 12A(3), 12B(5) of its CAA 1982.

21. The section 12B(5) of CAA 1982 states as follow:

> *"(5) The court shall, **unless cause is shown to the contrary**, include in an order under subsection (3) of this section, being an order made on the application of a member or officer of the company, a provision that the order shall not have effect unless, within 1 month from the date of the court's order—*
> *(a) if the order relates to a company that has been struck-off the register under section 12(3) of this Act, all outstanding annual returns required by section 125or 126 of the Principal Act are delivered to the registrar of companies, […]."*

Therefore, it can not be disputed that '*unless cause shown to the contrary*' does not relate to the strict compliance with section 125 of the Principal Act, as alleged by the Respondent.

2. Conclusion: Existence of Leeway in the Companies Acts

22. Therefore, it is undeniable that in the Companies Acts 1963-2009; the Oireachtas has given a fair amount of leeway to the Registrar of Companies in the realisation of her duties with due regard to her obligations and duties towards the Constitution, Human Rights and Fundamental Freedoms.

B. Declaration G: Limitation on applicability of section 12(3)

23. The Declaration G sought on the non-applicability of the mention "*the company shall be dissolved*" within the section 12(3) of CAA 1982 whenever Directors share the membership of a said company,

C. Declaration H: Application under section 310 *Ex Parte* or by JR

24. The Declaration H sought first needs to be rephrased as follow: "On the possibility of using either 'Judicial Review' or '*Ex Parte* application' for an application under "section 310 of the Companies Act 1963-2009" by, whenever applicable, especially for dissolution under section 18(3) of the CAA 1982. This was fully detailed in the paragraph 35 & 36 of our Grounding affidavit **Tab. 2**.

25. The reasons beyond such an application is that having endured the refusal of the Respondent of using such leeway, I had come to the conclusion of a need for such declaration in order to (re-)establish and preserved the balance of power in the Public and General interest.

D. Declaration I on 12 months before Dissolution

26. The Declaration I sought requiring a delay of 12 months in practise between struck-off and dissolution of a company.

1. The Companies Acts 1963-2009

27. The section 311A(1) of the Companies Act 1963-2009 allows a "company" to make an application for a period of 12 months after its name being struck-off the register.

2. Evidence

28. The Respondent has confirmed that a Dissolved Company has NO STANDING in a Court of Law (paragraph 10 of her affidavit of the 15/10/12 – Tab. 3). In addition, the presentation made in paragraphs 37 to 38 of our affidavit of the 5/07/12 has to be taken in full consideration.

3. Conclusion

29. The above suggestion seems in contradictions with sections 12(3) and 12A(3) of CAA 1982. However, overall, this could be construed as a mean to balance the excess of the Companies Acts as mentioned in paragraphs 37 to 41 of my first affidavit (Tab. 2), which could be currently considered as allowing someone to lose their assets (their company and its assets) while being made liable for all company's liabilities without any interest to the General Public.

V. UNEXPLAINED REFUSAL OF THE USE OF SUCH LEEWAY BY THE [2]RESPONDENT & REFUSAL TO EXPLAIN SUCH REFUSAL

30. As mentioned in section VII.C of this submission, the Respondent has made what is believed to be some wrong allegation, contradictory allegation in order to cover up the motivation for her decision. Some of those have been laid in our affidavit sworn on the 11/12/12 which outlined paragraphs 23 and 24, the need for the motivation of such refusal to be explained.

31. In a letter dated 8/01/2013, the Chief State Solicitor expressed the view that the Respondent is not willing to reply to our former affidavit. While this letter states that this absence of response is not construed as an acceptance of our affidavit, the absence of such reply leaves the question unanswered: "what had been the motivation of the Respondent in refusing to use the leeway given by the Companies, leeway which she used at a earlier stage in the exact same circumstances. **This question has to be answered in order for this Court to be in a position to make the declarations A to E requested in our Statement of Ground.**

A. Declarations sought

32. The Declarations sought are about Misfeasance, Malfeasance, Nonfeasance, Obstruction to the Administration of Justice and Denial of Justice, all of those acts committed with or without collusion with the Revenue Commissioners.

B. Evidences & Findings

1. Direct Evidences

33. The Respondent has acknowledged being aware at all time, that a dissolved company has no standing in a Court of Law. The Respondent has been made that Statute of Limitations were imminent on an important matter for the Company, for which due evidences was made available.

34. Reference to Human Rights and Fundamental Freedoms of the applicant were dully made to the Respondent, and the decision she was considering to take (strike-off and dissolution of the Company) would infringe those rights.

2. Indirect Evidences

35. The allegation of collusion between the Revenue Commissioners and the Minister for Finance and the Respondent, has been denied by the Respondent. However, the fact that both the Revenue Commissioners and the Minister for Finance withdraws from these proceedings without answering our grounding affidavit presenting those allegation ascertain the allegation of collusion.

C. Rules of Evidences and Logical principal

36. In order this Honourable Court to be in a position to make a objective and impartial regarding the Declarations sought, it is important / primordial (as outlined in our affidavits sworn on the 11/12/12 and 17/01/13), that the Respondent answers the question on her motivations in taking the said contested decisions.

37. Once this will be answered, it would be to this Court to consider to value her answer against our above-mentioned evidences, with due regard to their degree of certainty , probability, Beyond a reasonable doubt. Even if the Applicant's evidences are found not be clear and convincing, those should be tested against the evidence of the Respondent (if any given ones), and put to the test of Preponderance of evidence.

This relates to the principle of apagoge (which is a rigorous reasoning) which states that, among a set of contradictory assertions (A, B, C…), an assertion A is proven if all others are refuted. This principle applies only if the assertions are contradictory.

D. Conclusion

38. Therefore, in the absence of Evidence by the Respondent answering the motivation of her action and decisions object of these proceedings, this Court may chose the most probable one among the available ones.

VI. LAWFULNESS OF ORDERS THOUGHT

A. Orders sought

39. Overall, in this Judicial Review, the main orders (J to P) sought to reinstate the Company by all means, at all costs as soon as possible, and to protect it.

B. Relevant Statutory Provisions

1. Acts

40. The Companies Act give to the Court discretion to place the Companies and its officer back into the position where they should be if the strike-off and dissolution has not taken place.

41. Considering section 12B5 of the CAA1982, it is refuted that those order will put the Company in an unlawful situation.

C. Conclusion

42. As a lay litigant, this Court may amend the wordings of any order or relief sought in the view of restoring and protecting the Company, according to paragraph W of our Statement of Ground.

VII. GENERAL CONSIDERATIONS

A. Respondent's Affidavits

43. As part of these proceedings, the Respondent has sworn two affidavits, respectively on the 15/10/12 and the 20/11/12. In the paragraph 6 of my affidavit sworn on the 17/01/13, grounding for notice of motion for cross-examination of the Respondent, I outlined the following:

"*a) Eight wrong assertions in the Respondent's affidavit sworn on the 15/10/12;*
b) Two contradictions in the Respondent's affidavit sworn on the 15/10/12;
c) Four wrong assertions in the Respondent's affidavit sworn on the 20/11/12."

1. Wrong & Misleading Allegation in the Respondent's Affidavit sworn on the 15/10/12

44. Our affidavit of the 11/12/12 (page 5, Tab. 7) outlines two of those alleged wrong or misleading assertions regarding the paragraphs 8 and 23. In addition,

45. In addition, the said paragraph 8 mentioned a letter by Revenue which did not exist at the time. It wrongfully states that "*The temporary enforcement block was lifted by CRO on the 11th July 2008*". Indeed, Exhibits A & F of the Respondent's affidavit clearly show that enforcement block was lifted on the 31st October 2008.

46. In paragraph 8, it is untrue to state that "*The temporary enforcement block was lifted by CRO on the 11th July 2008*". Indeed, Exhibits A & F of the Respondent's affidavit clearly show that enforcement block was lifted on the 31st October 2008.

47. The paragraph 12 is in contradiction with the Exhibit H, mentioned in paragraph 10, confirms that no mention of the possibility of application to this Honourable Court for extension of time for filing Annual Returns is mentioned in any of the Next Annual Return Date notice letter.

48. The paragraph 12 presents a non-linearity in the cause / consequence relation of the no filing / strike-off by referring to Exhibit J, where the Respondent states: "in the event that your company is selected for strike-off".

49. In paragraph 15, the sentence "[the applicant's email of 17th February 2012 – Tab 2 – Exhibit L] did not set out **ANY** reason why it was not possible for the Company to file the outstanding annual returns for 2011 and 2012." is untrue.

50. The paragraph 21 confirmed that once a company is late, and have lost the audit exemption, the Respondent made the said company that it could have applied for extension to filed such. This is most amazing considering the respondent acknowledgement in the paragraph 10 "*that [such] loss could entail considerable expense for affected companies*".

51. Paragraph 11 contradicts statement 6J & 6K of the Statement of Grounds of the 5th July.

2. Contradictions in the Respondent's Affidavit Sworn on the 15/10/12

52. Our affidavit of the 11/12/12 (page 6, Tab. 7) outlines two of those wrong assertions regarding the paragraph 15(e). In addition,

53. In paragraph 6, it is stated "CRO considers "cause to the contrary" as having been established where the company either files all outstanding annual returns or notifies CRO that it is a party to litigation and the issues that are being litigated are preventing it from filing its annual returns […] CRO looks for copies of the relevant

Court papers in order to verify the existence of such litigation". This comes in contradiction with the paragraph 8, which relates that CRO uses its leeway temporarily blocking enforcement measures because the Applicant had an "on-going dispute with the Revenue" despite the absence of any legal proceedings at the time.

3. Wrong Assertions in the Respondent's Affidavit Sworn on the 20/11/12

54. Our affidavit of the 11/12/12 (page 6, Tab. 7) outlines two of those wrong assertions regarding its paragraphs 9, 14, 13 & 15(d) and 15(e).

1. The paragraph 12 is in contradiction with the Exhibit H, mentioned in paragraph 10, confirms that no mention of the possibility of application to this Honourable Court for extension of time for filing Annual Returns is mentioned in any of the Next Annual Return Date notice letter.

4. Vilify and / or attack on the reputability

55. As stated in paragraph 8 of my affidavit sworn on the 17/01/13, the two affidavits of the Respondent seems to some extent to vilify and / or attack the reputability of the Applicant. As a representative of the State, this is an infringement of the State obligation as defined by the Article 40 of the Constitution of Ireland and more especially its section 3(2): "*The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen*."

56. In addition, in paragraph 15.b, the Respondent allegations about my motivation in those proceedings are considered insulting. Referring to the Respondent's constitutional obligation to vindicate my good name, I would appreciate a clear amendment of such. Content of the said paragraph is fully denied.

B. Representation of the Respondent

57. It is believe that Counsel has felt short in several occasion of his obligations his obligations and duties as defined by the Code of Conduct of the Bar. Evidences of such can be found in the submissions presented at the hearing of the 21/11/12 shown in **Tab. 5**. Such evidences have been shared with the Respondent with my letter of the 10/12/12, shown in Tab. 6. This same letter put the Counsel on notice to fulfil his obligation towards the Court by making any relevant application to correct his erroneous submissions. The above letter mentioned erroneous citations in paragraph 33 & 34 of the said submission. Similar mistaken and misleading allegations are shown in its paragraphs 16, 19, 20, 39 & 40.

58. In addition, numerous submissions such as in paragraph 10 of Statement of opposition and in paragraph 30 of legal submission for hearing of the 21/11/12, can be not qualified of less than distorted logic. The good faith of the Counsel is therefore very much questionable.

VIII. GENERAL CONCLUSION

59. The suitability of proceedings by Judicial Review is considered undeniable especially as the Respondent has made no motion to proceed by way of Plenary Summons.

60. As stated in paragraph 7 of my affidavit sworn on the 5/07/12, "*Revenue can be considered as having infringed my "right to property" (in this instance, the Company & the goods put in my name), my "right to conduct a business" and my "right to an effective remedy" as define by the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950-1952*. **It has been clearly demonstrated that the Respondent in this matter has infringed the same rights of mine by the excessive use of a statutory power.**

61. The first set of Declarations sought have been requested in the view to clarify points of law and help entrepreneur against any such abuse of power.

62. The second set of Declarations is to assess or define the motivation of the Respondent, and if so proven to the satisfaction of this Court, the collusion between the Respondent with the Revenue Commissioners and / or the Minister for Finance.

63. All other orders sought are believed to be in accordance with the discretion of the Court given by the Companies Act to place the Companies and its officer back to the position where they should be if the strike-off and dissolution has not taken place.

64. The order referring to apologies are of the uppermost importance to comply with the Constitution, regarding vindication of my good name.

A. Request for a fair redress

65. It is to be noticed that it has 12 months since the beginning of correspondence between Respondent and Applicant, 12 months since the Respondent has been giving full explanations on the exceptional circumstances encountered by the Company, first notice party in these proceedings. It is almost since the Company has been pronounced successively the strike-off and dissolved by the Respondent.

66. Therefore, beyond the orders stated in the Statement of Ground, in lieu of my Cost, I beg this Court to consider as relief under the item W of our Statement of Ground a order for payment of €30,000 by the Respondent (as stated in paragraph 49 of my affidavit sworn on 11/12/12) within seven days of that order, sum to be construed as my Costs for these proceedings and General damage regarding this matter.