THE LABOUR COURT OF SOUTH AFRICA

AT CAPE TOWN

Of interest to other judges

Case lines Case no:C2024-116445

In the matter between:

BEARING MAN GROUP (PTY) LTD Applicant

and

MARINA ISABEL HERHOLDT First Respondent

BEARING WAREHOUSE (PTY) LTD Second Respondent

Heard: 6 November 2024

Delivered: 15 November 2024

Summary: (Urgent – Restraint of trade – Employee having worked for competitors with common client pool - Confidential information worthy of protection – historic interactions with client in six months prior to termination – Partial enforcement of restraint)

JUDGMENT

LAGRANGE, J

Introduction

[1] This is an urgent application brought by the applicant ('BM Group') against its now former employee, Ms M Herholdt ('Herholdt') and the company she intends to work for, the second respondent ('BM Warehouse'), to enforce a restraint of trade agreement.

[2] Bearing Group followed the time frames provided for launching restraint applications under Rule 39 of the Labour Court Rules. Both Herholdt and Bearing Warehouse opposed the application, but the urgency of the application is not in dispute.

[3] The respondents raised a few preliminary objections pertaining to the authority of Bearing Group's deponent to launch the application, the regularity of the founding affidavit and an allegation that a certain conversation referred to in the affidavit was not within the deponent's knowledge and amounted to hearsay. The first two points were prudently abandoned and the third was dealt with in argument, though nothing ultimately turned on it.

Relief sought

[4] Aside from urgency and seeking a cost order, the substantive relief Bearing Group asks the court to grant is the following:

4.1 to interdict Herholdt from breaching her contractual and legal obligations in terms of her contract of employment with Bearing Group by

4.1.1 being employed by, or otherwise providing services to, Bearing Warehouse or any other competitor of Bearing Group in the Garden Route District Municipality;

4.1.2 inducing or attempting to induce any customer of Bearing Group in the Garden Route District Municipality to do business with Bearing Warehouse or any other competitor of Bearing Group, and

4.2 to direct that the interdict be enforceable until 31 October 2026, or such earlier date as the Court deems appropriate.

Brief chronology and background

[5] Herholdt first worked for Bearing Group from 2007 until 2019. Initially, she was employed as a 'storeman' and after a while was made an internal sales representative. Although Herholdt disputed that she worked as an external sales representative during that time, she did not deny that by the time she left in 2019, she was one of two external sales representatives at the George branch.

[6] Thereafter, she then joined Bearing Warehouse as a sales representative between 2019 and 2023, after which she returned to work for Bearing Group as an external sales person in June 2023. Herholdt remained in this position until she resigned from Bearing Group with effect from the end of October 2024 to rejoin Bearing Warehouse .

[7] During her first period of employment with Bearing Group she was not bound by a restraint of trade agreement, but when she was re-employed in 2019 as an external sales representative based in George, her contract included the following restraint provision:

> *"20 RESTRAINTS*
>
> *20.1 For the purposes of this clause 20, any reference to the Company will be deemed to include any of its subsidiaries, associates or any other division, business, undertaking or operation that falls under the direct or indirect control of the Employee or the Company. The Employee undertakes in favour of the Company that, without the prior written consent of the Company,*
>
> *he/she shall not:*
>
> *20.1.1 be interested or engaged, directly or indirectly (including but not limited to being a proprietor, partner, director, shareholder, member of a syndicate or close corporation, employee, agent or other representative, consultant or advisor) in any way in or with any firm, business, company, close corporation or other undertaking which in any way carries on business similar or identical to the business of the Company and/or competes with the business of the Company;*

20.1.2 induce or attempt to induce any person who has been a customer of the Company, to take its custom away from the Company; nor

20.1.3 induce or attempt to induce any Employee of the Company, to leave the employ of the Company

20.2 The restraints imposed in 20.1 are imposed for the following periods and in the following territory:

20.2.1 for a period of 24 (twenty-four) months from the date on which the Employee ceases to be an Employee of the Company for any reason other than operational requirements; or

20.2.2 in the area or territory within which the Company presently conducts its business.

20.3 The Employee has considered the restraints contained in this agreement and acknowledges that:

20.3.1 the restraints set out in this clause 20 are reasonable as to the activities restricted and the area and duration for which these re restrained, to protect the proprietary interests of the Company/ including their goodwill and business;

20.3.2 the restraints set out in this clause will not cause the Employee hardship which he/she is not willing to bear in return for the benefits to it arising directly or indirectly, out of this agreement;

20.3.3 each of the restraints set out in this clause is separate and divisible from all the other restraints, including as to each area forming part of the territory of the restraint;

20.3.4 if any one or more of the separate and divisible restraints set out above is or are invalid or unenforceable for any reasons, the validity of the other restraints shall not be affected; and

20.3.5 each of the separate and divisible restraints set out above may, if it goes too far to be enforceable, nonetheless be enforced to such lesser extent as may reasonably be required by the Company and may be transferred without the prior written consent to any patty to whom the Company may sell its business or undertaking, and it shall be interpreted accordingly.

> *20.4 The restrains provided for herein are stipulated to be for the benefit of the Company, which has a proprietary interest in the enforcement of the restraints.*
>
> *20.5 The undertakings of the Employee in terms of this clause are severable, inter alia,*
>
> *20.5.1 nature of interest, acts or activities;*
>
> *20.5.2. each month forming part of the duration of the restraint;*
>
> *2.5.3 each activity falling within the ambit of the restraint;*
>
> *2.5.4 each separate area falling within the territory of the restraint."*

(emphasis added)

[8] On 19 September 2024, Herholdt gave notice of her resignation to take effect on 31 October 2024. Whether or not she conveyed her intention of joining Bearing Warehouse, Bearing Group decided to pay her in lieu of notice and she ceased work on 19 September. Although she did not dispute conveying her intention of joining Bearing Warehouse, she claimed that she was motivated by the prospect of being retrenched at Bearing Group and that staff had been put on forced leave in an effort to avoid retrenchment. Bearing Group does not dispute the financial difficulties it was facing or that it took such a measure but denies that it would have retrenched Herholdt.

[9] On 25 September 2024, Bearing Group's attorneys reminded Herholdt of her obligations under the restraint provisions in her contract, noting she had joined Bearing Warehouse, and accusing her of targeting Bearing Group's clients using its confidential information. It called on her to give an unqualified undertaking to abide by restraint by 27 September. Herholdt, responding through her attorneys on 30 September, denied targeting Bearing Group or that she threatened its commercial interests. She argued the restraint was unreasonable, and expressed the view that since she had only worked around fifteen months for the firm since her return from Bearing Warehouse, a restraint of 24 months was excessive.

[10] Bearing Group then launched this application a fortnight later on 16 October 2024.

[11] It is common cause that Herholdt had concluded the contract containing the restraint even though she somewhat implausibly claims she did not notice the restraint provision. It is also common cause that Bearing Warehouse is a direct competitor of Bearing Group. Consequently, by going to work for Bearing Warehouse Herholdt will be in breach of clause 21.1.1 of the restraint provision in her contract. The substantive question is whether the restraint should be enforced.

Legal principles

[12] The prevailing legal policy on the enforceability of restraint of trade agreements was laid down in *Reddy v Siemens Telecommunications (Pty) Ltd*[1]. In terms thereof contracts in restraint of trade are enforceable unless the person seeking to escape being bound by such a provision can show that it would be unreasonable to do so.[2] The determination of the reasonableness of enforcing the restraint, entails a court making a value judgment considering the proven facts.[3]

[13] The test for determining if it would be unreasonable to enforce the restraint is well known. In *Reddy*, the Supreme Court of Appeal reaffirmed the test enunciated by its predecessor in *Basson v Chilwan and Others*[4]:

> *"[15] A court must make a value judgment with two principal policy considerations in mind in determining the reasonableness of a restraint. The first is that the public interest requires that parties should comply with their contractual obligations, a notion expressed by the maxim pacta servanda sunt. The second is that all persons should in the interests of society be productive and be permitted to engage in trade and commerce or the professions. Both considerations reflect not only common-law but also constitutional values. Contractual autonomy is part of freedom*

[1] 2007 (2) SA 486 (SCA)

[2] *Reddy* at paragraph [14]. In the pre-constitutional era, the courts had adopted the view that the value attached by the law to the enforceability of contracts was greater than the value attached to the freedom to trade (see *Roffey v Catterall, Edwards & Goudré (Pty) Ltd* 1977 (4) SA 494 (N) at 505D–H and *Magna Alloys and Research (SA) (Pty) Ltd v Ellis* 1984 (4) SA 874 (A) at 893C–D).

[3] *Reddy* at paragraph [14].

[4] 1993 (3) SA 742 (A)

informing the constitutional value of dignity, and it is by entering into contracts that an individual takes part in economic life. In this sense, freedom to contract is an integral part of the fundamental right referred to in s 22. Section 22 of the Constitution guarantees '[e]very citizen . . . the right to choose their trade, occupation or profession freely' reflecting the closeness of the relationship between the freedom to choose a vocation and the nature of a society based on human dignity as contemplated by the Constitution. It is also an incident of the right to property to the extent that s 25 protects the acquisition, use, enjoyment and exploitation of property, and of the fundamental rights in respect of freedom of association (s 18), labour relations (s 23) and cultural, religious and linguistic communities (s 31).

[16] In applying these two principal considerations, the particular interests must be examined. A restraint would be unenforceable if it prevents a party after termination of his or her employment from partaking in trade or commerce without a corresponding interest of the other party deserving of protection. Such a restraint is not in the public interest. Moreover, a restraint which is reasonable as between the parties may for some other reason be contrary to the public interest. In Basson v Chilwan and Others, Nienaber JA identified four questions that should be asked when considering the reasonableness of a restraint: (a) Does the one party have an interest that deserves protection after termination of the agreement? (b) If so, is that interest threatened by the other party? (c) In that case, does such interest weigh qualitatively and quantitatively against the interest of the other party not to be economically inactive and unproductive? (d) Is there an aspect of public policy having nothing to do with the relationship between the parties that requires that the restraint be maintained or rejected? Where the interest of the party sought to be restrained weighs more than the interest to be protected, the restraint is unreasonable and consequently unenforceable. The enquiry which is undertaken at the time of enforcement covers a wide field and includes the nature, extent and duration of the restraint and factors peculiar to the parties and their respective bargaining powers and interests."

(emphasis added)

Factors bearing on the enforceability of the restraint.

[14] To evaluate the enforceability of the restraint, it is necessary to consider the nature of the businesses, the market they compete in, the confidential information and trade connections of Bearing Group Herholdt had access to, and Herholdt's employment history with the two firms.

The nature of the business and the market

[15] Bearing Group is based in Johannesburg and distributes its products nationally through 72 retail branches. It is a leading distributor of consumable engineering products, technical solutions and related products which it sources locally and internationally for clients. It claims it has a knowledge base of foreign suppliers, which is forms part of its confidential proprietary information.

[16] Bearing Group claims Bearing Warehouse is its main competitor, and both sell standard generic products. However, Herholdt averred that other competitors, namely Bearing & Allied, Bearing International and CSM Bearings amongst others hold a similar market shares in the area of the George branch. Bearing Group disputes this only to the extent it conflicts with its claim that Bearing Warehouse is its 'main' competitor, which is a claim it did not confine to the area serviced by its George branch. However, it did not specifically deny that Herholdt's claim holds true for the area served by its George Branch.

[17] Bearing Group alleges that because there is nothing to distinguish the standardised items sold by one firm from those supplied by others, confidential information on customer histories, pricing, and sales relationships, which representatives have with customers, become advantageous factors in maintaining customers.

Herholdt's employment history.

[18] As mentioned, Herholdt rejoined Bearing Group after a four-year stint at Bearing Warehouse selling to customers in the same market.

[19] Herholdt's re-employment by Bearing Group arose because the company had experienced a drop in revenue. As a result it 'head-hunted' Herholdt and

offered her a premium monthly salary of approximately R 47,000 per month which compared with an average monthly salary for a Bearing Group sales representative of approximately R 26,000. This was because of the 'value' it attached to her. Bearing Group describes Herholdt as *"a talented salesperson"* having *"the personality and demeanour to build strong relationships with customers"*. Further, *"(s)he lives in the same community and area as many customers and over the years have had the opportunity to build meaningful personal relationships with the contact persons at the various customers"*. Bearing Group notes that since her return she was able to *"…leverage her customer relations and the confidential information in such a successful matter that, at the time of her resignation, she was at 139,5 % of budget"*.

[20] It was her relationships with customers in the region which was one of the reasons Bearing Group had approached her. Bearing Group said it experienced a significant decline in sales from R 2021 to 2023 from R 7.2 million to R 5.6 million, which it attributed in part to Herholdt's role in expanding Bearing Warehouse's business in George. Herholdt baldly denies this, but is not really in a position to dispute it. Since she recommenced working for Bearing Group, the George branch performance had jumped from R 5.6 million in 2023 to R 8.4 million, 42 % of which was made from Herholdt's sales. Herholdt admits these achievements but attributes them to her own work ethic, experience, knowledge and people skills.

Confidential information and customer relations

[21] While not claiming that Herholdt had actually acquired or copied information on the Customer Relations Management system ('CRM'), Bearing Group stated that Herholdt had access to the pricing structures of supplier and special commercial arrangements with them. Bearing Group stated that the system includes a unique method of identifying suppliers to enable an offering to be made to a customer. Herholdt denied any knowledge of this or Bearing Group's arrangements with suppliers. She admitted to having access to the CRM system but said she only used it to make a sale to a customer and never made use of all system functions except to check stock availability. However,

from working for both companies, she had come to know that they use the same suppliers, so knowledge of suppliers was common to both firms.

[22] In addition, Bearing Group averred that Herholdt had done business with 80 of its customers since her return to it. At the hearing of the application *Mr Geldenhuys,* its attorney, handed up a 36 page list of her dealings with customers over the last six months, having approximately 30 line entries per page, giving brief details of any interaction with a customer. In its founding affidavit, Bearing Group had claimed that this buying history was of critical importance to salespersons and Herholdt had access to it. It also claimed there was information on the system showing buying margins of purchases and national and regional contracts with customers, though none of this information, even in redacted form, appears in the document submitted in court.

[23] Herholdt denied having access to national and regional contracts and maintained that Bearing Warehouse already did business with the client base of Bearing Group in the region she worked in. Any special discounts to customers had to be approved by her manager. She also pointed out that she spent most of her time on the road and used the Customer Relations Management system principally to log her client visits as proof of which ones she had visited on any day.

[24] For illustrative purposes an extract of the first 26 entries on the second page of the list provided, which shows Herholdt's dealings with various customers, is set out below, with customer names and other name details excised[5]. Although no dates of entries appear on the list, the court was advised that the document covered the last six months of Herholdt's employment, so the details appearing on the second page must date back to the beginning of that period and are less current. It does bear out Herholdt's claim that she used the system to log her customer calls.

[5] See table headed "Redacted List Extract"

Redacted List Exract	
Customer	**Dealing with Customer**[6]
1	Did visit S, there were a sample coupling we needed to quote on. T weren't in yet when I stopped there.
2	Did deliver 130m belt that D ordered, also picked up cylinders the customer needs, did send to Gt.
3	Delivered stock to K they ordered, he also inquired about chain, airpipe and fitting, we did quote
4	Delivered pto ect to customer that they ordered.
5	Delivered belt and fasteners to customer that he ordered.
6	Spoke to E, she is bit quiet now, did deliver seals she ordered.
7	Visited J, he did order 3 winches and welding goods.
8	Visited L she said they have been quiet for a month, but it will pick up now cause spray season is starting
8	Visited N, he was on Skype meeting, but did tell me quick that he will start next week with maintenance
9	Visited O, he did order a pto and washers, will deliver next time.
10	Delivered bearings to J that they ordered, he did order more bearings and circlips. They are very busy
11	Did speak to K, he ordered more pto gaurds
12	Visited K, they are not packing unit January again, they did not need anything at the moment.
13	Visited O P he said they will start with there spray season and will advise as soon as they need anything.
14	Visited K to follow up on quotes we did, he said he is awaiting approval. He will advise
15	Checked in with Land N to see how is business, they are running but the fish is still small.
16	Delivered sprocket customer ordered and needed urgently. J were off for the day.
17	Checked in on customer to see how is business, they are busy, he will advise as soon as they need anything.
18	Delivered screens to customer that he ordered, he will be needing more he just have to measure it. He will also be placing order for rollers just waiting for approval. He also mentioned that it would be good if we had somebody who can do splice work on site.
19	Wanted to visit N but he weren't there.
20	Spoke to W, awaiting pulley he ordered, also delivered stock he ordered.
21	Visited customer to see how is business, they are very busy, but waiting for there customers to pay.
22	Delivered stock customer ordered.
23	Delivered seals that the customer ordered.
24	Delivered bearings to R that he ordered, He also needs assistance with hydraulic pump, G will be

[6] Court designated heading

	visiting next month then we will go
25	Delivered urgent stock to O
26	Did speak to A to see if they needed anything, he said not at the moment but will ask as soon as he needs anything, G were busy

Over the six month period, the document indicates approximately 1300 interactions Herholdt had with clients, which is an average about 210 per month. At least half of the interactions appeared to be visits to client's premises and the sales enquiry sometimes accompanied a delivery to the client. It reveals a pattern of close contact with customers. It must be stressed that Bearing Man claimed that Herholdt had contact with 80 clients during her fifteen month spell, so if the number of interactions for the last six months is extrapolated for the whole fifteen months it is clear that, on average, she would have had multiple interactions with each client.

[25] Herholdt disputes that a knowledge of customer histories confers an advantage, because the customers normally phoned other distributors to see where they could get the lowest price. Moreover, she claimed the majority of clients she dealt with since her return to Bearing Group were the same customers she had dealt with at Bearing Warehouse during her stint there from 2019 to 2023, which Bearing Group does not dispute. It claims that when she moved to Bearing Warehouse the first time, she continued to deal with Bearing Group's customers.

Evaluation

Existence of a protectable interest deserving of protection

[26] There is no dispute that Herholdt had direct dealings with Bearing Group's customers of its George branch and she had good relationships with them. Her close links to customers are obviously ones she can use to the benefit of Bearing Warehouse. The real difficulty is that no clear line can be drawn up between the relations she developed with clients of Bearing Group and clients of Bearing Warehouse. It is not a matter of dispute that the clients she approached were neither uniquely, nor even predominantly, customers of

Bearing Group. She had worked at least four years prior to that for Bearing Warehouse, developing sales relationships with the same customers while employed by it. It is also common cause that it was her personal talent and effectiveness as a salesperson in dealing with an existing client base that Bearing Group wanted to harness. It was her ability to generate greater sale volumes from that common client pool which made her valuable. There was no evidence to the effect that she had expanded the existing client base of Bearing Group since her return. In the somewhat unusual circumstances of this case, it cannot be said that Bearing Group had acquired a well-defined group of customers that mostly, if not exclusively, dealt with it, which it was entitled to try and preserve against encroachment by a competitor. Moreover, Herholdt's undisputed evidence that customers did not hesitate to approach other suppliers to obtain a better price demonstrated that the customers did not consider themselves committed to maintain a commercial relationship with Bearing Group as such.

[27] Despite this, it is obvious that Bearing Warehouse would not necessarily have knowledge of the recent dealings Herholdt had with common customers before she left Bearing Group. Only Bearing Group and Herholdt would be privy to a complete knowledge of those dealings. Information of the kind captured in the confidential document, would obviously be information about a common client that would be of value to Bearing Warehouse and is clearly forms part of Bearing Group's confidential commercially valuable knowledge, which it has a legitimate interest in protecting.

[28] On the question of other information on the CRM system, I am not persuaded that the mere fact Herholdt had access to the system, means that she acquired knowledge of the all the various forms of data it contained. There is also no evidence to suggest she copied that information or has somehow retained it. Everything points to her using the tool primarily as a way of keeping track of her interactions with customers and demonstrating the work she was doing. There is also nothing in the document to suggest that it was a feature of her work to engage in haggling over special discounts with clients. Her focus was being out in the field soliciting orders, providing quotes and sometimes also delivering products. It also appears that she did not require

the other information to achieve success as a salesperson, because she clearly was successful at Bearing Warehouse too, without there being any evidence that her achievements there were somehow attained because she had access to an extensive database containing the kind of information available on Bearing Group's CRM system.

Threat to the protectable interest

[29] To some extent this issue is foreshadowed in the discussion above. The protectable interest Bearing Group has is in the information pertaining to Herholdt's recent interactions with its customers. It stands to reason that she would be in a position to exploit her knowledge of that in the interests of Bearing Warehouse. Accordingly, it should be afforded protection against that.

Weighing up the competing interest of the parties

[30] Bearing Group argues that Herholdt's interest in exercising her right to freely choose to engage in economic activity, it not threatened by the restraint. She was engaged as a salesperson with it, and it was her choice to leave. The enforcement of the restraint did not, and does not, threaten her right to engage in economic activity. She is free to take up a sales position in another sector or other employment. Moreover, it is only seeking to enforce the restraint in the area served by its George branch, where she worked and for the limited period of two years. It argues further that she was in a good bargaining position when she was offered re-employment by it, given her valuable skills. She ought to be held to the bargain she concluded.

[31] Against this Herholdt argues that she would not be able to find similar employment at the age of 43 in the George area which has limited job opportunities and given that her sales experience is confined to the bearing sales industry. She also details the severe financial ramifications for her family and dependents of being unemployed. However, she does not provide any reason why Bearing Group would have no reason to feel its legitimate protectable interests are adequately protected if she is allowed to work for its close competitor without any restriction.

[32] If it was a complete answer to an employee's right to choose to move to another job that they already had one, then an enquiry into the reasonableness of enforcing the restraint would be foreclosed as soon as that answer is proffered. It must always be a question of whether the employer's protectible interest can be adequately safeguarded and the employee's right to exercise their right to choose how to engage in economic activity will not be unreasonably restricted by doing so.. In *Sunshine Records (Pty) Ltd v Frohling and Others*[7] the Appellate Division put it thus:

> *"I turn now to the law applicable to contracts in restraint of trade. This branch of the law was recently re-examined by this Court in Magna Alloys and Research (SA) (Pty) Ltd v Ellis 1984 (4) SA 874 (A). For present purposes the effect of this judgment may be summarised as follows (vide at 893 - 4). In determining whether a restriction on the freedom to trade or to practise a profession is enforceable, a court should have regard to two main considerations. The first is that the public interest requires, in general, that parties should comply with their contractual obligations even if these are unreasonable or unfair. The second consideration is that all persons should, in the interests of society, be permitted as far as possible to engage in commerce or the professions or, expressing this dfferently, that it is detrimental to society if an unreasonable fetter is placed on a person's freedom of trade or to pursue a profession. In applying these two main considerations a court will obviously have regard to the circumstances of the case before it. In general, however, it will be contrary to the public interest to enforce an unreasonable restriction on a person's freedom to trade."*[8]

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[7] 1990 (4) SA 782 (A). See also *Epic Outdoor Media Sales (Pty) Ltd v Paterson* (2024/024081) [2024] ZAGPJHC 254 (18 March 2024) at paragraphs 18 and 19, viz:

> *"18. Every restraint of trade embodies a tension between two principles of public policy. The first is that, where it has been freely agreed, a restraint of trade is, just like any other contract, enforceable even if it results in some unfairness. The second is that individuals should generally be free to choose their trade or occupation. Both these principles enjoy at least some constitutional recognition. Freedom of contract – and accordingly the importance of enforcing contracts freely entered into – is an incident of the right to dignity (see Brisley v Drotsky 2002 (4) SA 1 (SCA), paragraph 94). The right to choose a trade or profession is entrenched in section 22 of the Constitution, 1996.*
>
> *19. The enforcement of every restraint of trade requires the reconciliation of these two principles in the context of a particular case (Sunshine Records (Pty) Ltd v Frohling ("Sunshine Records") 1990 (4) SA 782 (A) 794C-E)"*

[8] At 794B-E.

[33] In a case where the interests of both parties can be adequately achieved by severability of the restraint, and curtailment of its ambit to what is necessary to preserve the protectible interest without preventing an employee from taking up other work, it should be possible to strike the desired balance.

Partial enforcement of the restraint

[34] MBG's vulnerability lies in Herholdt being able to use her recent interactions and knowledge of its customer needs derived from those interactions if she is free to approach them wearing her new hat as a Bearing Warehouse's salesperson. The ability to commercially exploit knowledge gained from those interactions contained in the confidential document will diminish with the passage of time. As mentioned, it is evident that a significant number of customers appearing on the list were approached more than once during the six month period it covered. It is fair to infer from the nature of those interactions that regular updates of the needs of customers are necessary for the list to retain its value. The longer the gap between Herholdt's knowledge of her last interaction with a client and the next one, the less valuable her knowledge of that last transaction will be.

[35] In the circumstances, it seems to me that a balance can be struck that will largely protect Bearing Group from Herholdt exploiting her knowledge of recent details of client interactions by without subjecting her to a lengthy period during which she is prevented from resuming employment with Bearing Warehouse.

Costs

[36] As both parties are partially successful, this is a matter where both parties should bear their own costs.

Order

1. The application is dealt with as one of urgency, and any non-compliance with forms and service provided for in the Rules of the Labour Court is condoned.

2. Until 1 January 2025, the First Respondent is interdicted and restrained from being interested or engaged, directly or indirectly (including, but not limited to, being a proprietor, partner, director, shareholder, member of a syndicate or close corporation, employee, agent or other representative, consultant or advisor) in any way in the Second Respondent.

3. Until 31 March 2025, the First Respondent may not induce, or attempt to induce, any party whose name appears on the confidential list of the Applicant's customers the First Respondent interacted with, which was handed up in court at the hearing of the application, to take its custom away from the Applicant.

4. Each party must pay their own costs.

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R Lagrange

Judge of the Labour Court of South Africa.

Representatives:

For the Applicant:	E Geldenhuys from Macgregor Erasmus Attorneys
For the First respondent:	M Garces
Instructed by:	DP Bezuidenhout Attorneys Inc.