

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Port of Spain

Claim No: CV2017-04051

BETWEEN

JERWYN BALTHAZAR

BEVON BASS

RICARDO BENNETT

RONALD BRERETON

DWAYNE CALLISTE

KEVAUGHN CONNELL

JAMAL CREIGHTON

ISHMAEL DANIEL

BRENT ELDER

CYRANO GLEN

KEVIN GRAHAM

KESTON GUY

COLIN JOSEPH

KERRY JOSEPH

CURTIS JULIEN

JAMAL LEWIS

PERRY MARTIN

CLAYTON MORRIS

JAMEEL NEPTUNE

STERLIN O'BRIEN

KAREEM PERRY

ADRIAN PIRTHYSINGH

AKEEN ROACH

ANTHONY SMALL

CONRAD SMITH

RONALD ST LOUIS

NOEL WILLIAMS

CLAIMANTS

AND

THE TRINIDAD AND TOBAGO FOOTBALL ASSOCIATION

DEFENDANT

Before the Honourable Madam Justice Margaret Y Mohammed

Date of delivery: December 13, 2018

APPEARANCES:

Mr. Keston McQuilkin instructed by Ms. Melissa Keisha Roberts-John Attorneys at law for the Claimants.

Mr. Annand Misir instructed by Ms. Janelle Ganness Attorneys at law for the Defendant.

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JUDGMENT

1. The Claimants in this matter were either members of the Technical Staff or players of the National Futsal Team (“the Team”) which represented Trinidad and Tobago at a CFU Qualifiers and CONCACAF Championship in 2016. They have brought this action against the Defendant, the body¹ with the responsibility for football in this country, for funds due and owing to them for their work, training, coaching, playing and representing Trinidad and Tobago at the aforesaid tournaments.

2. The Claimants seek the following orders against the Defendant:
 - (i) Damages for breach of contract in the sum of TTD\$306,272.00 together with the sum of US\$29,231.00;
 - (ii) Interest thereon pursuant to Section 25 of the Supreme Court of Judicature Act² at a rate of 5% per annum;
 - (iii) Costs;
 - (iv) Further and/or other reliefs as the Court deems fit.

THE CLAIMANTS’ CASE

3. The Claimants case is that the Defendant’s then President Mr. Raymond Tim Kee instructed an Interim Steering Committee (“the Interim Steering Committee”) set up by his administration to organize the screening and selection of players for the Team. The Defendant appointed Mr. Clayton Morris the coach of the Team and approved the persons recommended to form the Technical Staff, which included Mr. Ronald Brereton, Mr. Brent Elder, Mr. Sterlin O’Brian and Mr. Perry Martin.

4. The Defendant in or around March 2015, published an advertisement in the local newspapers with the respective dates and locations of the screening sessions for the selection of players to the Team. Thereafter, in the months of March, April and

¹ Trinidad and Tobago Football Association (Incorporation) Act 1982

² Chapter 4:01

May 2015, Mr. Morris and the Technical Staff again with the approval of the Defendant conducted screening sessions throughout Trinidad and selected players. The cost of the facilities utilized for these sessions was borne by Mr. Morris.

5. Those players were then used to form teams to compete in a Futsal League (“the League”) held throughout Trinidad in July and August 2015. The players who were selected and participated in that League were then selected to form the training squad for the Team. A list of the selected players was submitted to the Defendant who again approved and raised no objection.
6. The Team engaged in training sessions with the Technical Staff in January 2016 in preparation for the CFU Qualifiers to be held in Cuba later in that month. By that time the administration of the Defendant had changed hands at the election held in November 2015 and a new President Mr. David John-Williams was elected.
7. All six training sessions were held before the departure of the Team without objection from the Defendant. No attempt was made by the Defendant to change the scope of engagement of the Technical Staff and the Players on the Team that existed with the past administration. The engagement with the Technical Staff and the Players continued uninterrupted. Further, the airfare, accommodation, uniform and expenses for the CFU Qualifiers in Cuba were paid for by the Defendant’s new administration.
8. The CFU Qualifiers in Cuba was held between 20-26 January 2016 and the Team placed third giving them automatic qualification to the CONCACAF Championship to be held in Costa Rica in April and May 2016. Upon return to Trinidad and Tobago the Team commenced training sessions in February 2016, four times per week, until their departure for the CONCACAF Championship in Costa Rica from 26 April to 6 May 2016.

9. The training sessions were done with the full knowledge of the Defendant and the Team's expenses, uniforms, and airfare were all paid for by the Defendant. However, the Defendant failed to make proper arrangements and provide sufficient funds so that the members of the Team were unfortunately put out of their hotel rooms until Mr. Brereton expended personal funds to have them restored to their rooms.
10. The Claimants case is that the Defendant through its then President Mr. Tim Kee agreed to provide remuneration to both the Technical Staff and the Players. The agreement provided that the Technical Staff would be paid as follows; Head Coach Clayton Morris \$12,000.00 per month; Team Manager Ronald Brereton \$8,000.00 per month; Assistant Coach Sterlin O'Brian \$6,000.00 per month; Goalkeeper Coach Perry Martin \$6,000.00 per month; and Trainer/Therapist Brent Elder \$7,000.00 per month.
11. The Claimants also pleaded that the Defendant agreed to pay the Players \$50.00 per day for their attendance at training sessions; a match fee of USD \$200.00 per day for the CFU Qualifiers and CONCACAF Championship; per diem of US \$40.00 per day for their participation in the CFU Qualifiers and CONCACAF Championship; and with respect to the Technical Staff that they would be paid a per diem of US \$40.00 per day for their participation in the CFU Qualifiers and CONCACAF Championship.
12. The Defendant paid a per diem of US \$20.00 for the CFU Qualifiers and US \$10.00 for the CONCACAF Championship to the Players instead of the agreed sum of US \$40.00, leaving an outstanding balance.
13. The Defendant also paid a per diem of US \$20.00 for the CONCACAF Championship to the Technical Staff instead of the agreed sum of US \$40.00 also leaving an outstanding balance.

14. The Technical Staff were never paid their stipends. No match fees were paid to the Players for either the CFU Qualifiers or CONCACAF Championship and the Players were not paid their stipends for attending training sessions.

15. The Claimants contended that the Defendant breached the agreement in that they:
 - (a) Failed and/or refused and/or neglected to pay the stipends of Mr. Ronald Brereton, Mr. Brent Elder, Mr. Sterlin O'Brian, Mr. Perry Martin and Mr. Clayton Morris;

 - (b) Failed to pay the Claimants a per diem for the CFU Qualifiers and CONCACAF Championship commensurate with the time and effort in preparing for and participating in same consistent with internationally accepted standards in that they received US \$20.00 for the CFU Qualifier and US \$10.00 per day for the CONCACAF Championship respectively instead of US \$40.00 per day for the respective campaigns;

 - (c) Failed to pay the Claimants a match fee for the CFU Qualifier and CONCACAF Championship consistent with internationally accepted standards in the sum of US \$200.00;

 - (d) Failed to make any payments to the Claimants for attendance at training sessions consistent with internationally accepted standards.

16. The Claimants asserted that as a result of the Defendant's breach, they have suffered loss and damages in the following amounts:
 - (i) Unpaid stipends- July-August 2015 and January-May 2016- TT\$273,000.00

 - (ii) Unpaid per diem to Players (CFU Qualifiers)- US\$1,400.00

- (iii) Unpaid per diem to Technical Staff (CONCACAF Championship)- US\$880.00
- (iv) Unpaid per diem to Players (CONCACAF Championship)- US\$4,730.00
- (v) Unpaid match fees (CFU Qualifiers)- US\$8,000.00
- (vi) Unpaid match fees (CONCACAF Championship)- US\$14,000.00
- (vii) Unpaid stipend training sessions 2016- TT\$27,450.00

17. The aforesaid sums were particularised in the Claimant's Statement of Case as:

UNPAID STIPENDS (TTD)

July-August' 15 and Jan.-May' 16

- | | |
|--|--------------|
| • Head Coach Clayton Morris \$12,000.00 per mth | \$ 84,000.00 |
| • Team Manager Ronald Brereton \$8,000.00 per mth | \$ 56,000.00 |
| • Assistant Coach Sterlin O'Brian \$6,000.00 per mth | \$ 42,000.00 |
| • Goalkeeper Coach Perry Martin \$6,000.00 per mth | \$ 42,000.00 |
| • Trainer/Therapist Brent Elder \$7,000.00 per mth | \$ 49,000.00 |

Total: \$273,000.00

UNPAID PER DIEM TO PLAYERS

(Each Claimant was in receipt of US \$20.00 per diem in the CFU campaign leaving an outstanding balance of US \$20.00 x 7 days = US\$140.00)

CFU CAMPAIGN CUBA JANUARY 20 2016 TO JANUARY 26 2016

PLAYERS	PER DIEM OWED
1. Kevin Graham (GK)	US\$ 140.00
2. Adrian Pirthysingh (GK)	US\$ 140.00
3. Jerwyn Balthazar	US\$ 140.00
4. Colin Joseph	US\$ 140.00

5. Kerry Joseph	US\$ 140.00
6. Jameel Neptune	US\$ 140.00
7. Cyrano Glen	US\$ 140.00
8. Ishmael Daniel	US\$ 140.00
9. Anthony Small	US\$ 140.00
10. Bevon Bass	US\$ 140.00
	Total: US\$ 1,400.00

UNPAID PER DIEM TO STAFF

(Each staff member was in receipt of US\$20.00 per diem in the CONCACAF campaign leaving an outstanding balance of US\$20.00 x 11 days = US\$220.00)

CONCACAF CAMPAIGN COSTA RICA APRIL 26 2016 TO MAY 06 2016

TECHNICAL STAFF	PER DIEM OWED
1. Ronald Brereton - Team Manager	US\$220.00
2. Clayton Morris - Head Coach	US\$220.00
3. Sterlin O'Brian - Assistant Coach	US\$220.00
4. Brent Elder - Trainer/Physiotherapist	US\$220.00
	Total: US\$880.00

UNPAID PER DIEM TO PLAYERS

(Each player was in receipt of US \$10.00 per diem in the CONCACAF campaign leaving an outstanding balance of US\$30.00 x 11 days = US\$330.00)

CONCACAF CAMPAIGN COSTA RICA APRIL 26, 2016 TO MAY 06, 2016

PLAYERS	PER DIEM OWED
1. Kevin Graham (GK)	US\$ 440.00*
2. Adrian Pirthysingh (GK)	US\$ 330.00
3. Jerwyn Balthazar	US\$ 330.00
4. Colin Joseph	US\$ 330.00
5. Kerry Joseph	US\$ 330.00
6. Jameel Neptune	US\$ 330.00
7. Cyrano Glen	US\$ 330.00
8. Ishmael Daniel	US\$ 330.00
9. Kevaghn Connell	US\$ 330.00
10. Jamel Lewis	US\$ 330.00
11. Keston Guy (GK)	US\$ 330.00
12. Kareem Perry	US\$ 330.00
13. Noel Williams	US\$ 330.00
14. Bevon Bass	US\$ 330.00
Total: US\$ 4,730.00	

*That Mr. Graham had refused the per diem offered by the Defendant to him so the entire sum of US \$440.00 is due and owing to him or alternatively the per diem sum paid to the other Claimants.

UNPAID MATCH FEES
CFU QUALIFIERS FOUR (4) MATCHES WERE PLAYED

PLAYERS	MATCH FEE OWED
1. Kevin Graham (GK)	US\$ 800.00
2. Adrian Pirthisingh (GK)	US\$ 800.00
3. Jerwyn Balthazar	US\$ 800.00
4. Colin Joseph	US\$ 800.00
5. Kerry Joseph	US\$ 800.00
6. Jameel Neptune	US\$ 800.00
7. Cyrano Glen	US\$ 800.00
8. Ishmael Daniel	US\$ 800.00
9. Anthony Small	US\$ 800.00
10. Bevon Bass	US\$ 800.00
	Total: US\$ 8,000.00

CONCACAF OUALIFIERS FIVE (5) MATCHES WERE PLAYED

PLAYERS	MATCH FEE OWED
1. Kevin Graham (GK)	US\$ 1,000.00
2. Adrian Pirthisingh (GK)	US\$ 1,000.00
3. Jerwyn Balthazar	US\$ 1,000.00
4. Colin Joseph	US\$ 1,000.00
5. Kerry Joseph	US\$ 1,000.00
6. Jameel Neptune	US\$ 1,000.00

7. Cyrano Glen	US\$	1,000.00
8. Ishmael Daniel	US\$	1,000.00
9. Kevaughn Connell	US\$	1,000.00
10. Jamel Lewis	US\$	1,000.00
11. Keston Guy (GK)	US\$	1,000.00
12. Kareem Perry	US\$	1,000.00
13. Noel Williams	US\$	1,000.00
14. Bevon Bass	US\$	1,000.00
Total:		US\$ 14,000.00

UNPAID TRAINING SESSIONS ATTENDANCE 2016

Players	Jan	Feb	Mar	Apr	Total Days	Reimbursement
1. Kevin Graham (GK)	6	4	12	12	34	\$ 1,700.00
2. Adrian Pirthysingh (GK)	6	3	14	12	35	\$ 1,750.00
3. Keston Guy (GK)	5	2	15	12	34	\$ 1,700.00
4. Curtis Julien (GK)	0	0	7	10	17	\$ 850.00
5. Jerwyn Balthazar	61	6	8	8	21	\$ 1,050.00
6. Ricardo Bennett	5	5	0	9	27	\$ 1,350.00
7. Kerry Joseph	6	2	8	9	25	\$ 1,250.00
8. Anthony Small	6	0	10	5	21	\$ 1,050.00
9. Cyrano Glen	6	5	17	12	40	\$ 2,000.00

10. Dwayne Calliste	5	3	8	9	25	\$ 1,250.00
11. Kevaughn Connell	0	3	12	12	27	\$ 1,350.00
12. Ishmael Daniel	6	3	12	11	32	\$ 1,600.00
13. Noel Williams	0	3	6	8	17	\$ 850.00
14. Iamel Lewis	5	4	11	11	31	\$ 1,550.00
15. Jameel Neptune	6	4	10	11	31	\$ 1,550.00
16. Bevon Bass	6	1	10	10	27	\$ 1,350.00
17. Ronald St. Louis	5	2	9	2	18	\$ 900.00
18. Kareem Perry	5	5	12	13	35	\$ 1,750.00
19. Jamal Creighton	0	2	7	5	14	\$ 700.00
20. Akeem Roach	0	1	5	5	11	\$ 550.00
21. Colin Joseph	6	3	10	8	27	\$ 1,350.00
22. Conrad Smith	0	3	13	8	24	\$ 1,200.00
Total:						TT \$27,450.00

18. It was also the Claimants' case that Mr. Brereton should be reimbursed US \$221.00 out of pocket expenses which he paid to cover the Team's additional expenses at the CONCACAF Championship after being removed from their hotel accommodation and Mr. Morris should be reimbursed the sum of TT\$5,822.00 as out of pocket expenses for the conducting/running of training sessions through the months of January to April 2016.

19. The Claimants claimed that they received several acknowledgments and admissions from the Defendant that the sums claimed are outstanding and that they would receive compensation, however, to date the sums have remained unpaid.

THE DEFENDANT'S CASE

20. In response, the Defendant referred to Articles, 7, 36(j) and 55 of the Defendant's Constitution ("the Constitution") as the basis for avoiding the claim, in that the agreement entered into between the Claimants and the Defendant was inconsistent with those Articles of the Constitution.
21. The Defendant case was that the appointments of Technical Staff is vested in the Board of Directors pursuant to Article 36(j) of the Constitution and as such the entire Board of Directors must meet and decide on the appointment of the Technical Staff, since this authority is not vested solely in the President of the Defendant.
22. Further, Article 55 of the said Constitution mandates that a chairman, deputy chairman and an appropriate number of members of a committee must be appointed by the Board. The President of the Defendant is not empowered under the Constitution to appoint any committees and any such appointment, if done, is void ab initio.
23. The Defendant denied that the Claimants were selected as the Technical Staff and Players of the Team. It also denied that it ever selected the Claimants as the Technical Staff and/or authorised them to stage the League.
24. The Defendant denied that it entered into any oral agreement with the Claimants as it related to stipends, per diem and match fees. The Defendant contended that

pursuant to Article 7 of the Constitution and in keeping with international standards, it is against the Defendant's policy to enter into oral contracts.

25. The Defendant contended that the proper procedure for the appointment of Technical Staff pursuant to Articles 36 and 55 of the Constitution was not followed and as such any decisions are null and void ab initio. The Defendant further contends that as a consequence of the failure to follow due process and there being no valid contract, it does not owe the Claimants any monies.
26. The Defendant averred that it is a stranger to the claim for monies being claimed by the Claimants and has no knowledge of any out of pocket expenses of Mr. Brereton or Mr. Morris.
27. The Defendant denied that it admitted or acknowledged any debt owing to the Claimants and reiterates that no legally binding contract was ever made between itself and the Claimants and so the allegations of breach are denied.

THE CLAIMANTS' REPLY

28. The Claimants responded that the Constitution upon which the Defendant relied was adopted and ratified on 12 July 2015 after the appointment of the Interim Committee and the agreement between the Claimants and the Defendant. Therefore, the Defendant cannot place any reliance on the provisions of the Constitution in particular Articles 36 and 55 as it relates to acts done by the Defendant prior to the Constitution's adoption and ratification and acts continued after its adoption and ratification which began prior thereto.
29. The Claimant further stated that after the adoption and ratification of the Constitution, the present administration of the Defendant ratified and adopted the decision of the previous administration by inter alia supporting the Team financially

and otherwise. In particular the Claimants pleaded at paragraph 3 of the Reply that the Defendant:

- “a. Never attempted to stop the National Futsal League;
- b. Through its Acting General Secretary, Azaad Mohammed-Khan provided the Futsal League with isotonic refreshments and equipment;
- c. Instructed the Technical Staff to select and prepare a team for the CFU CONCACAF Futsal Championships in CUBA and COSTA RICA respectively and provided Training uniforms, equipment and isotonic refreshments;
- d. Purchased airline tickets and provided cash for internal expenses;
- e. Purchased the National Team Kits, during the trip to Cuba and Costa Rica respectively;
- f. Arranged a pre-tournament camp in Costa Rica, where the Trinidad & Tobago National Men’s FUTSAL Team were guests of the Costa Rican Football Federation;
- g. Advised both CFU and CONCACAF of the Trinidad & Tobago’s National Men’s FUTSAL Team selected for both tournaments; and
- h. Advised CONCACAF that Head Coach Clayton Morris and Team Manager Ronald Brereton would be representing the TTFA at the pre-Tournament meeting in Costa Rica where the draw was conducted, and the tournament rules was issued.”

THE ISSUES

30. The sole issue for determination in this judgment is whether there was a valid oral agreement between the Claimants and the Defendant through its former President, Tim Kee as alleged by the Claimants and if so, have the Claimants proven that the Defendant breached the terms of the said agreement.

THE WITNESSES

31. At the trial the following Claimants gave evidence to prove their case namely Mr. Clayton Morris, Mr. Ronald Brereton, Mr. Sterlin O'Brian, Mr. Brent Elder, Mr. Perry Martin and Mr. Jerwyn Balthazar. The Defendant's sole witness was its present President, Mr. David John-Williams.

SUBMISSIONS

32. It was submitted on behalf of the Claimants that there was an oral agreement between the Claimants and the Defendant. Counsel argued that the terms of the agreement was that Mr. Raymond Tim Kee the then President of the Defendant agreed to provide remuneration to the Technical Staff namely Mr. Clayton Morris in the sum of \$12,000.00 per month as Head Coach; Team Manager Mr. Ronald Brereton in the sum \$8,000.00 per month as Team Manager; Mr. Sterlin O'Brian in the sum of \$6,000.00 per month as Assistant Coach; Mr. Perry Martin in the sum of \$6,000.00 per month as Goalkeeper Coach; and Mr. Brent Elder in the sum of \$7,000.00 per month as Trainer/Therapist.
33. It was also submitted on behalf of the Claimants that the Defendant also agreed to pay the Players a match fee of US \$200.00 per day for the CFU Qualifiers and CONCACAF Championship; a per diem of US \$40.00 per day for their participation in the CFU Qualifiers and CONCACAF Championship and the Players would be paid for their attendance at training sessions in the sum of \$50.00 per day. With respect to the Technical Staff, it was agreed that they would be paid per diem of US \$40.00 per day for their participation in the CFU Qualifiers and CONCACAF Championship.
34. Counsel for the Defendant submitted that, Mr. Raymond Tim Kee did not have the capacity to enter into any contracts as alleged by the Claimants or at all. In this regard the Defendant relied on Article 36 (j) and Article 55 of the Constitution. Counsel for the Defendant also submitted that Mr. Morris did not have the capacity

to enter into any agreement with the other Technical Staff and the members of the Team on behalf of the Defendant since he was not expressly appointed by the Defendant and that there were no pleaded facts of any implied agency by Mr. Morris on behalf of the Defendant with respect to the alleged oral agreement. Counsel also argued that the onus was on the Claimants to prove to the satisfaction of the Court the terms of the offer; the duration of the agreement; and that there was an intention to create a binding agreement.

THE LAW ON ORAL AGREEMENTS

35. Four basic elements must be in existence before a contract can become legally binding and enforceable. In summary, the parties must have the capacity to contract, there must be an intention to create legal relations, there must be the consent of the parties coupled with offer and acceptance and there must be valuable consideration.³ These elements apply to a contract that is oral or written, or both. The main elements summarised here are discussed below.

36. According to Halsbury's Laws of England⁴ an offer is an expression by one person or a group of persons, or by agents on his behalf, made to another, of his willingness to be bound to a contract with that other on terms either certain or capable of being rendered certain. An offer may be made to an individual or a group of persons.

37. Halsbury's goes on to state at Paragraph 251:

"An acceptance of an offer is an indication, express or implied, by the offeree made whilst the offer remains open and in the manner requested in that offer of the offerees willingness to be bound unconditionally to a contract with the offer or on the terms stated in the offer. The offer may request that the

³ Halsbury's Laws of England Volume 22 (2012) Para. 231

⁴ Volume 22 (2012) Para. 234

declaration by the offeree take the form of a promise or an act...if the offer requests an act, no contract is formed unless and until the act is performed.”

38. Halsbury describes the consideration as:

“Consideration consist in either some benefit conferred on the promisor, or detriment suffered by the promisee, or both. On the other hand, that benefit or detriment can only amount to consideration sufficient to support a binding promise where it is casually linked to that promise. It is not necessary that the promisor should benefit by the consideration. It is sufficient if the promisee does some act from which a third person benefits, and which he would not have done but for the promise.”⁵

39. As it relates to the intention to create legal relations, at paragraph 301⁶ Halsbury’s goes on to state:

“In the case of agreements regulating business relations, it follows almost as a matter of course that the parties intend legal consequences to follow. Ordinarily, such an implication will be deduced from the existence of consideration.”

40. Toulson LJ observed in **Durham Tees Valley Airport v bmibaby**⁷ at paragraph 88:

"Where parties intend to create a contractual obligation, the court will try to give it legal effect. The court will only hold that the contract, or some part of it, is void for uncertainty if it is legally or practically impossible to give to the agreement (or that part of it) any sensible content." (citing *Scammell v Dicker* [2005] EWCA Civ 405 , para 30, Rix LJ)."

⁵ Halsbury’s Laws of England Volume 22 (2012) Para. 309

⁶ Halsbury’s Laws of England Volume 22 (2012)

⁷ [2010] EWCA Civ 485, [2011] 1 Lloyd’s Rep 68

41. The test to be applied in determining whether an agreement has been made is an objective one. As stated by Lord Clarke in **RTS Flexible Systems Ltd v Molkerei Alois Muller GmbH and Co KG**⁸ :

"The general principles are not in doubt. Whether there is a binding contract between the parties and, if so, upon what terms depends upon what they have agreed. It depends not upon their subjective state of mind, but upon a consideration of what was communicated between them by words or conduct, and whether that leads objectively to a conclusion that they intended to create legal relations and had agreed upon all the terms which they regarded or the law requires as essential for the formation of legally binding relations."

42. As with all questions of meaning in the law of contract, the touchstone is how the words used, in their context, would be understood by a reasonable person. For this purpose the context includes all relevant matters of background fact known to both parties.⁹
43. The burden was therefore on the Claimants to provide sufficient evidence to demonstrate that there was a valid oral agreement meeting the requirements above, between the Claimants and Defendant as alleged; that the Defendant breached the oral agreement and as a result the Claimants suffered loss. In the instant case the burden on the Claimants was greater since the agreement they seek to prove was oral.

⁸ [2010] UKSC 14; [2010] 1 WLR 753

⁹ Blue v Ashley [2017] EWHC 1928 (Comm)

CAPACITY OF MR. TIM KEE TO ENTER INTO AGREEMENT

44. The first limb of the Defendant's defence was that it disputed the capacity/ authority of its then President, Mr. Tim Kee to take certain action as alleged by the Claimants.

45. The evidence of Mr Morris was that around 2013 the Defendant under the administration of Mr. Tim Kee appointed him as a member of the Interim Steering Committee. The selection of the Interim Steering Committee was done by Mr. Tim Kee and he asked both Mr. Morris and Mr. Brereton to be part of the Interim Steering Committee in order to set up a proper association for Futsal due to their experience in national football. Mr Morris also testified that he was appointed by the Defendant to oversee the screening and selection of players for the Team. He was also appointed by the Defendant as Head Coach and given the additional responsibility of selecting the Technical Staff. Mr. Morris said that he selected Ronald Brereton, Sterlin O'Brien, Perry Martin and Brent Elder as the Technical Staff.

46. Mr. Morris' evidence was unshaken in cross-examination. He stated that was interviewed by Mr. Tim Kee in March 2013 at the Defendant's office on Ana Street, Woodbrook. He was unaware if the positions for the Interim Steering Committee were advertised or whether other persons were interviewed. He stated that he was appointed a selector in February 2015 and that his terms and conditions as a selector were not in writing.

47. Mr. Brereton' evidence in chief also stated that in or around 2013 he was appointed to the Interim Steering Committee of the Futsal Association of Trinidad and Tobago by the Defendant under the administration of Mr. Tim Kee. In or around 2015 the Interim Steering Committee was directed by the Defendant to conduct a national

screening for selection of players for the Team. He was selected by Mr. Morris as the Team Manager.

48. In cross-examination, Mr. Brereton's evidence was also unshaken that he was appointed by Mr. Tim Kee to the Interim Steering Committee in 2013. He stated that he was not certain of the process of his appointment but he said that he was asked to sit, and he accepted. He confirmed that his position was not advertised and that he was not appointed by a letter. He said that he was appointed orally by Mr. Tim Kee.
49. Based on the credible evidence of Mr. Morris and Mr. Brereton, they were verbally appointed to the Interim Steering Committee by Mr. Tim Kee the then President of the Defendant in 2013. Mr. Tim Kee appointed Mr. Morris as Head Coach and Mr. Tim Kee authorised Mr. Morris to select persons for the Technical Staff. Mr. Tim Kee also authorised the Interim Steering Committee of which Mr. Morris and Mr. Brereton were members to oversee the League, the screening, and selection of the Team.
50. The Defendant relied on Articles 36 (j) and 55 of the Constitution to dispute the capacity of Mr Tim Kee to enter into any agreement on behalf of the Defendant. Article 36 (j) provides that:
 - "36. The Board of Directors:
 - ... (j) shall appoint the coaches for the representative teams and other technical staff:"
51. Article 55 of the Constitution states:
 - "55. Ad hoc committees:

The Board of Directors may, if necessary, create ad hoc committees for special duties and a limited period of time. The Board of Directors shall appoint a chairman, a deputy chairman and an appropriate number of members. The duties and functions are defined in special regulations drawn up by the Board of Directors. An ad-hoc committee shall report directly to the Board of Directors.”

52. Mr. John-Williams’ evidence in chief was that he has been the President of the Defendant since the 29 November 2015. According to Mr. John-Williams, the procedure to hire the Technical Staff of a national football team is set out in articles 36(j) and 55 of the Constitution and that the procedure was not followed. He testified that the Defendant did not appoint a Technical Staff to stage the League in 29 November 2015. He stated that the Defendant did not elect, appoint or select players or Technical Staff in 29 November 2015 and that any committee established without the Board of Directors of the Defendant is contrary to the Constitution and consequently any such appointments are null and void.

53. In cross-examination Mr. John-Williams evidence on this issue was entirely discredited. Mr. John-Williams accepted that his evidence in his witness statement essentially stated that the selection of the Interim Steering Committee, Technical Staff and the selection and appointment of the players to the Team were inconsistent with Articles 35 and 56 of the Constitution. He stated that he was familiar with Article 83 of the Constitution which stated that it came into effect on 12 July 2015. He accepted that the appointment of the Interim Steering Committee, the selection and hiring of Technical Staff, the selection of players to the Team and the agreement to pay Technical Staff and players took place prior to 12 July 2015. When questioned about him challenging the evidence on the basis of a Constitution that came into effect on 12 July, 2015, he mentioned a previous Constitution but

he could not point out any paragraph in his witness statement which referred to the previous Constitution and then agreed that it was not there.

54. Mr. John-Williams also admitted in cross-examination that the appointment of the Technical Staff, selection of the Interim Steering Committee, the screening and selection of players, the agreement to pay players and the Technical Staff were all done under Mr. Tim Kee. He agreed that he could not point to any evidence which stated that Mr. Tim Kee could not enter into an agreement for Technical Staff for the Team or to any rule which stated that Mr. Tim Kee could not have appointed on behalf of the Defendant an Interim Steering Committee. He also could not point to any evidence which stated that Mr. Tim Kee could not on behalf of the Defendant agree to salaries or stipends payable to the Technical Staff or that he could not have agreed to the establishment of the Team.
55. Mr. John-Williams accepted that he failed to provide evidence of any rule or procedure which was breached by Mr. Tim Kee in the appointment of the Steering Committee, the Technical Staff and for agreeing to the process for the selection of the Team. He also accepted that he failed to provide evidence that denied that there was an agreement between the Defendant and the Claimants for the appointment of the Technical Staff for the Team. Mr. John-Williams also admitted that he failed to provide any evidence that the appointments of the Technical Staff needed to be in writing.
56. Therefore, based on the aforesaid Articles in the Constitution and the totality of Mr. John Williams evidence, there was no basis for the Defendant denying Mr. Tim Kee's capacity as the then President of the Defendant to appoint the members of the Interim Steering Committee, to sanction the appointment of the Technical Staff, to sanction and approve the League and to sanction and approve the selection of the Team. Consistent with these powers Mr. Tim Kee was authorised as the then

President of the Defendant in 2015 to appoint on behalf of the Defendant, the Interim Steering Committee and the Technical Staff. Mr. Tim Kee was also authorised on behalf of the Defendant to agree the establishment of the League and the Team and to agree to stipends, pier diem and match fees payable to the Technical Staff and the players.

MR. MORRIS' CAPACITY TO ENTER INTO ALLEGED ORAL AGREEMENT ON BEHALF OF THE DEFENDANT

57. The second hurdle which the Claimants must overcome is the Defendant's challenge that Mr. Morris was not expressly or impliedly authorised to enter any oral agreement on behalf of the Defendant.
58. Mr. Morris' evidence was that he was authorised by Mr. Tim Kee to hire Technical Staff for the Team, to organise a national screening of players for the Team and to select the Team for the CFU Qualifiers and the CONCACAF Championship.
59. According to Mr. Morris in or around 2015 under the direction of the Defendant, the Interim Steering Committee organised a national screening and selection process for players. This specific task was to be done by Mr. Geoffrey Edwards but as it was not done by him, he (Mr. Morris) was appointed by the Defendant to oversee the screening and selection of players. He was also appointed by the Defendant as Head Coach and given the additional responsibility of selecting Technical Staff.
60. Mr. Morris testified that he selected Ronald Brereton, Sterlin O'Brien, Perry Martin and Brent Elder as the Technical Staff. The Technical Staff was to be paid a monthly stipend of \$12,000.00 for Head coach, \$8000.00 for Team Manager, \$6000.00 for Assistant Coach and Goalkeeper Coach; and \$7000.00 for the Trainer/Therapist.

61. In cross-examination, Mr. Morris reiterated that he was given the responsibility of selecting the Technical Staff on behalf of the Defendant. The Defendant informed him of the positions which he should recommend. As far as he was aware none of the positions was not advertised and he was not given any instrument of appointment from the Defendant. Mr. Morris testified that he recommended persons and the Defendant, specifically Mr. Tim Kee, selected them. The Defendant's role was the confirmation of his selection and there were no documents to confirm appointment of the Technical Staff.
62. According to Mr. Morris' evidence in chief in or around March 2015, the Defendant published the dates and locations for the screening of prospective players. During March to May 2015 the Technical Staff conducted the national screening. Upon conducting the screening, players were selected without objection by the Defendant. In July- August 2015 the Technical Staff oversaw without objection from the Defendant, the first annual League in Trinidad.
63. Mr. Morris' evidence in cross-examination was that he was authorized by Mr. Tim Kee in a meeting, to conduct the League but this was not in writing. He admitted that the Defendant did not issue written guidelines for operating or overseeing the League but it was discussed in committee meetings. The League was to select the Team and it ran between March and May 2015. He was responsible for overseeing the League and he was being paid to do so by the Defendant.
64. Mr. Morris also stated in cross-examination that after the League was completed the players were selected for the Team around May 2015. The Defendant did not have any input in the selection of the Team since this was the responsibility of the coach and the Interim Steering Committee which reported directly to Mr. Tim Kee. The process used for selecting players was the ability they showed in the League and adaptation to the rules of the new sport.

65. Mr. Morris admitted that at the screening sessions he informed members of public that he was the Head Coach appointed by the Defendant and he was the authorized agent of the Defendant although this appointment was not in writing.
66. Mr. Morris confirmed that he had to arrange facilities because he was responsible for conducting the screening and selection of players. He did not use the Defendant's facilities because it did not have indoor facilities which met the requirements. He admitted that he did not have any evidence in writing of the instruction to rent facilities.
67. Based on the evidence of Mr. Morris he was authorised by the then President of the Defendant, Mr. Tim Kee to select the Technical Staff for the Team. He was also authorised by Mr. Tim Kee to conduct the League as the basis for selecting and screening players for the Team.
68. Mr. Brereton's evidence in chief on this issue mirrored that of Mr. Morris. He testified that in or around March 2015, the Defendant published dates and locations for the screening of prospective players. During March to May 2015 the Technical Staff conducted the national screening. Upon completion, the Technical Staff selected the players. The Defendant was informed of the players selected and it did not disapprove or indicate any disagreement. In July- August 2015 the Technical Staff oversaw without objection from the Defendant, the League in Trinidad.
69. In cross-examination Mr. Brereton confirmed that he was not aware of the Board of the Defendant issuing any guidelines or regulations for the selection and screening of the Team. He said that the same process was used in 2004 and 2008 to select the best possible team.

70. Mr. Brereton also stated that he was present at all sessions when screening took place since he was a part of the Interim Screening Committee. He stated that the directive was that the Technical Staff engage the general public in a screening exercise to select a training squad followed by the selection of the Team. He testified that he worked with the Defendant since 1990 and as far as he was aware that is the process for selecting players. He could not state if any members of the Defendant were present at the screening. The only guideline issued by the Defendant with respect to the screening was unwritten and from Mr. Tim Kee which was to get the best possible Team. There were no written guidelines for selection of players in March 2015 and there was no written authorization from the Defendant to select persons.
71. However, Mr. Brereton testified that Mr Khan the then Acting General Secretary of the Defendant gave instructions to select players for training for the CFU Qualifiers in Cuba and the Defendant registered the Team for the CFU Qualifiers. He said that the Defendant approved the players but it was not part of the selection process and that the Defendant was aware of the League since it assisted in providing referees for the League. In re-examination he stated that Mr. Khan and Mr. Quan Chang were the members of the Defendant who were present at the screening or selection of the players.
72. The evidence in chief of Mr. Brent Elder was in or around 2015 he was selected by the agent or servant of the Defendant, Mr. Morris to form part of the Technical Staff as trainer/therapist for a monthly stipend of \$7000.00 for his services which was agreed with the Defendant. He testified that in July – August 2015 he participated in the League.
73. In cross-examination, Mr. Elder admitted that he did not apply for the position and he was unable to state if the position was advertised. He said that he believed that

Mr Morris was the Defendant's agent when he was interviewed. He admitted that Mr. Morris did not show him any documentation to confirm that he (Mr. Morris) was authorised by the Defendant and he admitted that he was not given any terms and conditions in writing confirming his appointment by the Defendant. When questioned if he had an agreement with the Defendant, he stated that he meant Mr. Morris or whoever represented the Defendant. He later stated that he had an oral agreement with the Defendant to be paid his stipend and the per diem. He stated that usually when a person is contacted by an agent of the Defendant to represent a national team it is understood that arrangements are being made on behalf of the sporting organisation. As such he did not take steps to verify what was told to him by Mr. Morris since he had never done this before.

74. According to Mr. Perry Martin he was part of the Technical Staff of the Team. He was selected by the agent of the Defendant, Mr. Morris in or around January 2015 to form part of the Technical Staff at a monthly stipend of \$6000.00. He too stated that he participated in the League in July- August 2015.
75. In cross-examination, Mr. Martin stated that he did not apply for the position of goalkeeper coach and he was not interviewed by the Defendant for this position. He did not receive any instrument of appointment from the Defendant and he never met anyone from the Defendant. Mr. Martin confirmed that he never met anyone from the Defendant and he volunteered that he had an agreement with Mr. Morris and not with the Defendant and he had no claim against the Defendant.
76. Mr. O' Brian was an Assistant Coach of the National Futsal Team. According to Mr. O'Brian, in or around 2015 he was selected by the Defendant's agent or servant Mr. Morris to form part of the Technical Staff for the Team. He was selected to perform the duties of Assistant Coach and he would have been paid a monthly stipend of

\$6000.00 for his services as agreed with the Defendant. He also stated that he participated in the League and that it was approved by the Defendant.

77. In cross-examination Mr. O' Brian confirmed that he did not apply for the position of assistant coach and as far as he was aware the position was not advertised. He said he reported to Mr. Morris. He never received any notification in writing of his appointment or the terms and conditions of his appointment. He also never had any meeting with the Defendant with respect to his appointment. Mr. O' Brian was asked whether he had an agreement with the Defendant for a per diem or a stipend and he said no. He also stated that he did not have any agreement with the Defendant and no claim against the Defendant.
78. Mr. Balthazar was one of the players on the Team. His evidence in chief was that on or around March 2015 the Defendant under the administration of Mr. Tim Kee published the dates and locations for screening and election of players for the Team. In March to May 2015, he attended screening sessions in Woodbrook and Chaguanas. Upon completion of screening he was informed by Mr. Morris that he was selected as a player. In July-August 2015 he participated in the League held in Trinidad.
79. In cross-examination Mr. Balthazar was unable to recall when and in which newspapers the advertisements for the screening were published. He explained that at the screening he attended the players were broken up into teams and they performed and were selected from there. He did not have to register when he attended and entered the facility. He was not required to present any identification. He could not recall how many sessions he attended but he went to Woodbrook and Chaguanas. He could not recall exactly when he was notified that he was selected. Mr. Balthazar stated that Mr. Brereton told the Players the sums they would be paid. He stated that he had no dealings with the Defendant and he

had no agreement with the Defendant for a match fee and a per diem. He confirmed that his agreement was with Mr. Morris and Mr. Brereton. He also stated that he had no claim against the Defendant.

80. Mr. John-Williams' evidence to challenge Mr. Morris capacity to act as the agent for the Defendant was that the Defendant did not sanction the screening and selection of the Team. In cross-examination he insisted that he was relying on the Constitution which was in existence. He agreed that he provided no evidence which stated that guidelines needed to be provided for the League; or that the Defendant must have a representative present at the screening for the Team or that the Defendant had to be part of the selection of players or that guidelines needed to be prepared in writing for the validity League.
81. In the absence of any evidence by the Defendant to demonstrate that Mr. Tim Kee was unable to and did not authorise Mr. Morris to act as the Defendant's agent, it is very plausible that the steps which Mr. Morris took in selecting the Technical Staff, organising the League, the selection of the Team, and indicating the stipends, match fees and per diem fee to the Technical Staff and the Players, he did so with the implied consent and approval of Mr. Tim Kee who was authorised to do so by the Defendant.
82. It was submitted on behalf of the Defendant that the evidence elicited in cross-examination by Mr. Martin, Mr. O'Brian and Mr. Balthazar that they did not have any agreement with the Defendant, but that their agreement was with Mr. Morris means that this is an end to their respective claims.
83. In my opinion these responses since they cannot be taken in isolation but must be considered in the context of all the evidence in particular that of Mr. Morris and Mr. Brereton that Mr. Morris was authorised by Mr. Tim Kee to act on behalf of the

Defendant. Therefore, it was reasonable for the said witnesses to state that they had an agreement with Mr. Morris since he was the person who was interacting with them on behalf of the Defendant. However, he was acting as the Defendant's agent and not in his personal capacity since all the said persons knew that the purpose was for a National Team for the CFU Qualifiers and the CONCACAF Championship.

THE TERMS OF THE ORAL AGREEMENT

Mr. Morris

84. Mr. Morris testified that he was appointed by the Defendant to be Head Coach of the Team and he was given the additional responsibilities of selecting the Technical Staff for the Team. He was to be paid a monthly stipend of \$12,000.00 for his services as Head Coach. This payment also included his duties of overseeing the League. In cross-examination Mr. Morris stated that he had asked Mr. Tim Kee to put in writing the approvals and appointments, but he did not receive anything. In 2015 with the direction of the Defendant the Interim Steering Committee organised a national screening and selection process for players who would subsequently be selected to form the Team.

85. Mr. Morris testified that in March, April and May 2015 screening sessions took place. He paid the costs for the use of the facilities since the Defendant had agreed to reimburse him for those expenses but he has not been paid. He incurred the costs of \$5,822.00. In cross-examination he confirmed that that he paid the costs of the rental of the facilities in order to fulfil the commitment which was given to him by the Defendant that he was required to pay it out of his pocket. He said that he submitted his expenses around April 2016 which was before the CONCACAF Championship since the agreement was that the Defendant would reimburse him before the CONCACAF Championship.

86. According to Mr. Morris upon conducting the screening, the players to form the Team were selected. The Team Manager submitted the names of the players to the Defendant without objection from the Defendant. In July and August 2015 the League was held and it was overseen by the Technical Staff with the authorization from the Defendant. In January 2016 the Technical Staff, including Mr. Morris commenced training sessions with the players for the CFU Qualifiers. There were six training sessions. In January 2016 the Team travelled to Cuba to participate in the CFU Qualifiers and the Team qualified for a place in the CONCACAF Championship since it placed third in the Qualifiers in Cuba.
87. In February 2016 the Team resumed training sessions with the Technical Staff in preparation for the CONCACAF Championship. Training was held four times per week. On 25 April 2016 the Team and the Technical Staff travelled to Costa Rica for the CONCACAF Championship which ran from April-May 2016.
88. Mr. Morris also testified that as part of the travelling delegation, the Defendant agreed to pay him as the Head coach and a member of the Technical Staff a per diem allowance of US \$40.00 which was consistent with internationally accepted standards. He said that notwithstanding this agreement he was only paid a per diem of US \$20.00 for the CONCACAF Championship.
89. According to Mr. Morris, he participated in the League in July and August 2015. He also participated in the training sessions which took place in the months of January to April 2016 and he was part of the delegation which travelled with the Team to both the CFU Qualifiers and the CONCACAF Championship. He testified that he was not paid the monthly stipend of \$12,000.00 for 7 months of service and he is also owed the sum of US \$220.00 unpaid per diem for the CONCACAF Championship.

90. In cross-examination Mr. Morris confirmed that he did not receive anything in writing appointing him Team Manager. Mr. Morris testified that in order to attend the CFU Qualifiers a list of the players who were selected was presented to the Defendant and the application to participate was signed by the General Secretary of the Defendant. The Defendant sanctioned the Team's participation in the CFU Qualifiers by accepting players selected and the General Secretary of the Defendant had forwarded the names to the CFU. He stated that he had seen emails confirming this. He also stated that only the Press Officer Mr. Shaun Fuentes of the Defendant accompanied the Team to the CONCACAF Championship in Costa Rica.
91. Based on Mr. Morris' evidence his contract with the Defendant was as Head Coach to the Team. His monthly stipend was for the months the League was run which were July and August 2015 and the period the Team was in training for and participating in the CFU Qualifiers and the CONCACAF Championship which was January to May 2016. His duties as Head Coach of the Team was the screening and selection of players for the Team which was to be done during the League which took place in July and August 2015. He had the additional duties of selecting the other Technical Staff. He was also responsible for the preparation of the Team for the CFU Qualifiers and the CONCACAF Championship. He was to be reimbursed for any out of pocket expenses for rental of training facilities.

The Other Technical Staff

92. The evidence with respect to the other Technical staff came from Mr. Morris and the said persons who comprised the Technical Staff.
93. According to Mr. Morris, he selected Ronald Brereton, Sterlin O'Brien, Perry Martin and Brent Elder as the Technical Staff. The Technical Staff was to be paid a monthly stipend of \$8000.00 to Mr. Brereton as the Team Manager; \$6000.00 to Mr. O'Brian as Assistant Coach; \$6,000.00 to Mr. Martin as the Goalkeeper Coach and \$7000.00

to Mr. Elder as the Trainer/Therapist. The evidence in chief of Mr. Brereton, Mr. O' Brian, Mr. Martin and Mr. Elder corroborated Mr. Morris' evidence on their selection as the Technical Staff and the respective monthly stipend which the Defendant agreed to pay them.

94. Mr. Brereton testified that he was appointed the Team Manager and his monthly stipend was \$8,000.00. In July and August 2015 he participated in the League without objection from the Defendant. In January 2016 the Technical Staff commenced training sessions with the Team in preparation for the CFU Qualifiers which were to be held in Cuba from the 20-27 January 2016.
95. Mr. Brereton also testified that in January 2016 the Technical Staff commenced training sessions with the players for the CFU Qualifiers and as Team Manager he provided the Defendant with the names of the staff and players to travel to the CFU Qualifiers. In or around January 2016, the Defendant wrote Mr. Anthony Creed, Executive Manager of SPORTT advising him of the Futsal delegation from Trinidad and Tobago travelling to Cuba to compete in the CFU Qualifiers. He annexed a copy of the said letter to his witness statement. The said letter is dated the 18 January 2016 from Mr. Azzard Mohammed-Khan the Interim General Secretary to Mr. Creed with the said information.
96. According to Mr. Brereton, in or around January 2016 the Defendant through their brokers, Trinidad and Tobago Insurance Consultants purchased travel insurance for the delegation traveling to Cuba. He annexed a copy of the Invoice from the Trinidad and Tobago Insurance Consultants to the said Interim General Secretary, Mr. Azzard Mohammed-Khan for the group insurance for the delegation.
97. Mr. Brereton testified that the Team came third in the CFU Qualifiers in Cuba and it qualified for a place in the CONCACAF Championship. Due to the Team's

qualification to the championship, Ms. Sharon O'Brien of the Defendant submitted to CONCACAF the final roster of the players and officials who were attending the CONCACAF Championship to represent Trinidad and Tobago. He annexed a copy of the final roster dated the 25 April 2016 to his witness statement from Ms. O'Brien.

98. Mr. Brereton stated that on or around 25 April 2016, the Defendant presented him with a cheque for \$25,440.00 to cover travel expenses for the delegation to CONCACAF Championship in Costa Rica. He annexed to his witness statement a copy of the said cheque. From the 25 April 2016 to the 7 May 2016 the Team and the Technical Staff travelled to Costa Rica and participated in the CONCACAF Championship, the Defendant purchased travel insurance for them for the return trip to Trinidad. He attached a copy of the Invoice of Atlas Group Travel dated 6 May 2016 to his witness statement.
99. According to Mr. Brereton, the funding was insufficient, and the Team was put out of the hotel in Costa Rica at the CONCACAF Championship. As a result, he paid USD\$221.00 out of his personal finances for extra accommodation for the Team.
100. Mr. Brereton testified that he participated in the League in July and August 2015. He also participated in the training sessions which took place in January 2016 to April 2016. He was part of the Technical Staff which travelled from 20 January to 27 January 2016 to Cuba to participate in the CFU Qualifiers and the CONCACAF Championship that was scheduled to take place in Costa Rica in April/ May 2016.
101. Mr. Brereton also testified that even after the adoption and ratification of the Constitution, the present administration of the Defendant ratified and adopted the decision of the previous administration since it:
 - a. Never attempted to stop the League;

- b. Through its Secretary Azard Khan provided the League with isotonic refreshments and equipment;
 - c. Instructed the Technical Staff to select and prepare a team for the CFU Caribbean FUTSAL Championships in CUBA and provided Training uniforms, equipment and isotonic refreshments;
 - d. Purchased airline tickets and provided cash for internal expenses;
 - e. Purchased the National Team Kits, during the trip to Cuba and Costa Rica;
 - f. Arranged a pre-tournament camp in Costa Rica, where the Trinidad & Tobago National Men's FUTSAL Team were guests of the Costa Rican Football Federation;
 - g. Advised both CFU and CONCACAF of the Trinidad & Tobago's National Men's FUTSAL Team selected for both tournaments; and
 - h. Advised CONCACAF that Head Coach Clayton Morris and Team Manager Ronald Brereton would be representing the TTFA at the pre-Tournament meeting in Costa Rica where the draw was conducted and the tournament rules was issued.
102. According to Mr. Brereton the Defendant did not pay him for the services which he performed since he was not paid the stipend of \$8000.00 per month for the seven months (\$56,000.00) since he participated in the League held in the months of July and August 2015; he participated in the training session that took place during the months January to April 2016 as well as he formed part of the delegation that travelled to both the CFU Qualifiers and the CONCACAF Championship respectively. The Defendant owes him \$56000.00 as well as US\$220.00 in unpaid per diem for the CONCACAF Championship and reimbursement in the sum of US \$221.00.

103. In cross-examination, Mr. Brereton explained that the Defendant gave him a cheque to cover travel/internal expenses for the Team on the trip to the CONCACAF Championship in Costa Rica. He said he had submitted a pre-tour budget which anticipated the expenses for the Team for the said tournament and he assumed that was the basis for the sum in the cheque. He stated that the per diem was part of the sum, he did not receive the sum requested and he did not receive any additional funds.
104. Mr. O' Brian, Mr. Martin and Mr. Elder gave similar evidence with respect to the work they did and which they were not paid for by the Defendant. They all testified that in the months of July and August 2015 they participated in the League and they participated in the training sessions during the months of January to April 2016.
105. According to the evidence of Messrs, Elder, O'Brian and Martin in January 2016 they commenced training sessions with the Team in preparation for the CFU Qualifiers that were held in Cuba. The Team had six training sessions prior to the departure to Cuba. From 20 January to 27 January 2016 they formed part of the Futsal delegation which travelled to Cuba to participate in the CFU Qualifiers. At the CFU Qualifiers the Team played a total of 4 matches and placed third overall whereby it qualified for a place in the CONCACAF Championship that was scheduled to take place in Costa Rica in April/ May 2016.
106. In or around February 2016 they resumed training sessions with the Team in preparation for the CONCACAF Championship. Training was held four times a week and from April-May 2016 they travelled to the CONCACAF Championship where the Team played five matches.
107. According to Mr. Elder the Defendant did not pay him the stipend of \$7000.00 per month for the seven months of service since he participated in the League held in

the months of July and August 2015; he participated in the training session that took place during the months January to April 2016 as well as he formed part of the delegation that travelled to both the CFU Qualifiers and the CONCACAF Championship respectively. The Defendant owes him \$49000.00 as well as US \$220.00 in unpaid per diem for the CONCACAF Championship. In cross-examination Mr. Elder explained that he accepted the per diem of US \$20.00 at the CONCACAF Championship since the Team was being put out of the hotel in Costa Rica during the tournament.

108. Mr. O' Brian testified that he was only paid US \$20.00 per diem for the CONCACAF Championship instead of US \$40.00 per diem. The Defendant did not pay him the stipend of \$6000.00 per month since he also participated in the League in the months of July and August 2015 and as well as he formed part of the delegation that travelled to both the CFU Qualifiers and the CONCACAF Championship respectively. As such the Defendant owes him \$42000.00 as well as USD\$220.00 in unpaid per diem for the CONCACAF Championship.
109. Mr. Martin testified that he also participated in the League in the months of July and August 2015 and as well as he formed part of the delegation that travelled to both the CFU Qualifiers and the CONCACAF Championship respectively. He was only paid US \$20.00 per diem for the CONCACAF Championship instead of US \$40.00 per diem. The Defendant did not pay him the stipend of \$6000.00 per month. As such the Defendant owes him \$42000.00 as well as US\$220.00 in unpaid per diem for the CONCACAF Championship.
110. Messrs Elder, O' Brian and Mr. Martin's evidence on their work at the League, the training sessions for the CFU Qualifiers and the CONCACAF Championship and their attendance at the said tournaments were unchallenged in cross-examination.

111. Based on the evidence of Mr. Elder, Mr. O' Brian and Mr. Martin, they agreed to perform services as members of the Technical Staff at specific monthly stipends and they agreed to also be paid a per diem when they travelled with the Team. They performed their duties and the Defendant failed to honour the commitment by failing to pay them.

The Players

112. The evidence in support of the terms of the agreement between the Players and the Defendant was from Mr. Morris, Mr. Brereton and Mr. Balthazar.
113. Mr. Morris stated that the Defendant had orally agreed that each player would receive a per diem and match fee for the Cuba Qualifier and the Costa Rica Championship. These payments were consistent with payments made to national team players and in line with international standards of US \$40.00 per diem and US \$200.00 per match fee.
114. In cross-examination Mr. Morris testified that the Interim Steering Committee discussed the terms and conditions with the selected players with respect to remuneration. The players were informed that it is a national team and once they travelled there is a per diem allowance of US \$40.00 and also a match fee of US \$200.00 and that these fees were not for training which was normal. He stated that his basis for indicating these terms and conditions to the players was because he was orally informed by the Defendant that he had the authority to do so. He testified that the Defendant agreed with the Interim Steering Committee to make this payment to the players and the Interim Steering Committee represented this to the players. There was no agreement in writing. The Defendant is responsible for paying the players and the Defendant wrote letters to the employers of the players to get time off from work to represent the country in the tournaments.

115. Notably silent in Mr. Morris' witness statement was any evidence that the Defendant agreed to pay the Players a fee for training.
116. Mr Brereton testified that the Defendant had agreed orally to pay each player a per diem of US \$ 40.00 and a match fee of US \$200.00 for the campaigns in accordance with international standards. Instead, the Defendant paid the players US \$20.00 for the CFU Qualifier and US \$10.00 for the CONCACAF Championship instead of the US \$40.00 and it failed to pay the match fees.
117. Mr. Brereton corroborated the evidence of Mr. Morris that there was an oral agreement with Mr. Tim Kee for the Defendant to pay the per diem and the match fee. He stated that he was present at one of the meetings when that agreement was made. He said that he was aware that it was normal to get per diem and match fee. He was unable to indicate if the players had any direct agreement with the Defendant but he admitted that there was no discussion with players either collectively or on an individual basis.
118. Mr. Jerwyn Balthazar was one of the players. The Court permitted him to give evidence on his behalf and on behalf of all the players who were all Claimants. In March to May 2015, he attended screening sessions in Woodbrook and Chaguanas. Upon completion of screening he was informed by Mr. Morris that he was selected as a player. In July-August 2015 he participated in the League held in Trinidad. In January 2016, he commenced training with the Technical Staff in preparation for the CFU Qualifiers to be held in Cuba. The Team had six training sessions before leaving for Cuba in January 2016 where the Team played four games. He received team kits from the Defendant.
119. In February 2016 Mr. Balthazar resumed training with the Team in preparation for the CONCACAF Championship. Training was held four times per week from

February 2016 to the Teams' departure in April 2016. He was part of the Team delegation to Costa Rica in April 2016 for the CONCACAF Championship where the Team played five games.

120. Mr. Balthazar stated that he was told by Mr. Brereton and Mr. Morris that each player would receive a match fee of US \$40.00 and a per diem of US \$200.00 per match for both the CFU Qualifiers and CONCACAF Championship. However, he was only paid a per diem of US \$20.00 for the CFU Qualifiers and US \$20.00 for the CONCACAF Championship.
121. According to Mr. Balthazar, the Defendant owes him US \$140.00 and US \$330.00 respectively in unpaid per diem and US \$1800.00 in unpaid match fees. He also stated that the total sum owed by the Defendant to him and the other Claimants are the sums of US \$1,400.00 and US \$4,730.00 respectively in unpaid per diem and the sums of US \$8,000.00 and US \$14,000.00 respectively in unpaid match fees.
122. Mr. Balthazar also testified that he attended twenty one training sessions in Trinidad in preparation for the CFU Qualifiers and CONCACAF Championship. The sum of \$50.00 is fair and reasonable for said attendance, therefore the total of \$1050.00 is unpaid training fees owed by the Defendant to him and the total sum of unpaid training fees owed by the Defendant to he and the other players is TT \$27,450.00.
123. In cross-examination Mr. Balthazar testified that he could not recall when the players were informed that they would be paid the per diem and the match fee, but he knew that they were told as Team. He testified that he received a payment which he accepted. Mr. Balthazar could not recall the number of sessions he attended. He stated that he was picked by the Technical Staff and he received instructions from the coach, Clayton Morris. He also testified that the players

received letters from the Defendant in order to get time off from work. In cross-examination Mr. Balthazar stated that they had received national team kits from the Manager but he could not state if it came from the Defendant.

124. The consistent evidence of Mr. Morris, Mr. Brereton and Mr. Balthazar was that the Defendant through Mr. Morris and Mr. Brereton agreed to pay the players a per diem of US \$40.00 and US \$200.00 per match fee respectively. The unshaken evidence of Mr. Balthazar was that he and the players were not paid all the per diem and the match fees for the CFU Qualifiers and the CONCACAF Championship.
125. However, there was no evidence from Mr. Morris and/or Mr. Brereton that the Defendant promised to pay the players any sum for the attendance at training sessions. Therefore there is no evidence to corroborate the assertion made by Mr. Balthazar on behalf of himself and the players for payment for attending training sessions.
126. The evidence to dispute the terms of the oral agreement between the Defendant and Mr. Morris, the Technical Staff and the players was from Mr. John-Williams.
127. Mr. John-Williams in his witness statement stated that the Defendant did not enter into any oral agreement with the Claimants. He also stated that the Defendant never agreed to pay any per diem or match fees to the Claimants and that any payments which were made were ex gratia and without prejudice. Therefore the Defendant is not responsible for the establishment of any committees for the purpose of appointing Technical Staff and as a consequence it does not owe any stipends.
128. However, in cross-examination, Mr. John-Williams' evidence was discredited. He admitted that the Defendant failed to provide any evidence which denied the

agreement between the Defendant and the Claimants for a per diem and match fee. Mr. John-Williams indicated that a cheque was issued which indicated what the Technical Staff was paid for the per diem but that he could not state if it was consistent with what was agreed. He agreed that he did not provide evidence that he paid the Technical Staff a monthly stipend. He also did not deny that they were put out of their hotel or that Mr. Brereton had to make out of pocket expenses.

129. Mr. John-Williams' witness statement was silent on this issue of training sessions, but it was the Defendant's position that any training session of the Technical Staff for the Team were not sanctioned or approved by the Defendant. However, in cross-examination Mr. John-Williams agreed that national coaches are all paid for services which include payment for all work they do for preparation for respective national teams and payments to coaches and Technical Staff would include the process for selection of players. He also agreed that part of selection was screening and that payment included training, preparation for a tournament and travel abroad.
130. Mr. John-Williams also agreed in cross-examination that after the Team qualified for the CONCACAF Championship, upon their return they would have continued to prepare for that tournament and that would have included training sessions.
131. He testified that he was aware of the Teams training and participation in the CFU Qualifiers and CONCACAF Championship as the President of the Defendant and he did not give any objection. He agreed that the training when the Team returned would have been under the guidance of Technical Staff.
132. Mr. John-Williams' witness statement was noticeably silent on this issue of the Teams' participation in the CFU Qualifiers and the CONCACAF Championship. He accepted that he did not provide any evidence that he objected on the grounds of constitutionality or illegality to the participation of the Team and Technical Staff in

the CFU Qualifiers and CONCACAF Championship. He agreed that he never objected on those grounds to training of Team and Technical Staff for participation in those tournaments.

133. In cross-examination Mr. John-Williams admitted to Counsel for the Claimants that he was aware that the Team travelled to the CFU Qualifiers in Cuba and that neither he nor the Defendant raised any objection to this.
134. Mr. John-Williams was shown the letter dated 18 January 2016 after he was elected President, and which was written on the Defendant's letterhead and signed by interim General Secretary of the Defendant. The letter listed the names of the members of the National Futsal delegation to Cuba. He accepted that on the 18 January 2016 the Defendant was under his stewardship and at that time neither he nor the Defendant objected to paying the travel expenses for the team to travel to Cuba. He indicated that the Defendant provided the Claimants with uniforms and paid for accommodation and other travel expenses. Mr. John-Williams also accepted that the then Acting General secretary of the Defendant signed the document for travel insurance that was paid for by the Defendant.
135. Mr. John-Williams also agreed that the Defendant without objection paid the travel expenses for the Claimants to attend the CONCACAF Championship in Costa Rica; the Defendant wrote a cheque to Mr. Brereton to participate in that Championship; it provided the teams with uniforms, accommodation and facilitated a pre-tournament camp in Costa Rica for the Team; and it sent the Team Manager and the Head Coach to the draw .
136. The Defendant provided no credible evidence to challenge or rebut the Claimants' testimony on the terms of the oral agreement which they had with the Defendant as set out in their pleadings. Indeed, the evidence elicited from Mr. John Williams

supported the Claimants' evidence that they participated in the CFU Qualifiers and in the CONCACAF Championship with the sanction and approval of the Defendant. The Claimants engaged in training prior to both the CFU Qualifiers and the CONCACAF Championship.

137. The evidence of Mr. John-Williams was that after November 2015 when he became the President of the Defendant the latter ratified and approved the decisions of the previous administration by its conduct. There was no evidence that the Defendant attempted to stop the League. The Defendant's evidence was that it purchased airline tickets and travel insurance for the Claimants; it instructed the Technical Staff to select and prepare a team for the CFU Qualifiers in CUBA and the CONCACAF Championship; it provided cash for internal expenses; it purchased the National Team Kits, during the trip to Cuba and Costa Rica; and it advised both CFU and CONCACAF of the Team selected for both tournaments.
138. In my opinion it was disingenuous for the Defendant to adopt the position it took with respect the payment of the monthly stipends, per diem and match fees to the Technical Staff and the players respectively since based on the Defendant's conduct it actively lead the Claimants to believe that nothing had changed and that the Defendant would have honoured the oral agreement made by Mr. Tim Kee on behalf of the Defendant with the Claimants.
139. I have concluded that the Claimants provided credible evidence to demonstrate that the Defendant agreed to pay the Technical Staff the monthly stipends which they pleaded and the per diem allowances. The Defendants failed to pay all the sums claimed without any basis for doing so. The Claimants who were players also provided credible evidence that the Defendant agreed to pay certain sums as pleaded as per diem and match fees and the Defendant failed to honour the terms of the said agreement to pay them all the said sums.

140. However, I was not satisfied that the players were able to prove that one of the terms of the oral agreement was that the Defendant agreed to pay the fee for training. The evidence for this was only from Mr. Balthazar and it was not corroborated by Mr. Morris or Mr Brereton.
141. I have also concluded that both Mr. Morris and Mr. Brereton have satisfied the court that they are entitled to be reimbursed for the sums of TT \$5822.00 and US \$ 221.00 respectively spent as out of pocket expenses since this was also part of the oral agreement.

CONCLUSION

142. The Court is satisfied from the unshaken evidence of the Claimants, and the evidence elicited from Mr. John-Williams, the present President of the Defendant, that there was an oral agreement between the Claimants and Mr. Tim Kee which provided for the selection, training and compensation of the Technical Staff and the players who formed the Team.
143. It was not disputed by the Defendant that the Claimants participated in the CFU Qualifiers and CONCACAF Championship and in so doing represented Trinidad and Tobago. This was supported by the evidence from Mr. John-Williams, who also stated that the Defendant supported the Technical Staff and the Team financially and otherwise, thereby sanctioning the agreement made by Mr. Tim Kee.
144. The Court is therefore of the opinion that based on an analysis of all the evidence provided by the Claimants and the Defendant, the agreement between the Claimants and Mr. Tim Kee was breached by the Defendant leaving the Claimants in a disadvantageous and unfair position.

145. The Claimants have successfully proven their case for monies due and owing for monthly stipends and per diem to the Technical Staff and per diem and match fees to the players and as such are entitled to receive same. However, they have failed to prove that the Defendant had agreed to pay the players a fee of \$50.00 for each training session. The Court is also satisfied that Mr Morris is to be reimbursed by the Defendant in the sum of TT \$5,822.00 as out of pocket expenses for conducting/running training sessions and the Defendant is to pay Mr Brereton the sum of US \$221.00 to as out of pocket expenses.

ORDER

146. Judgment for the Claimants.

147. The Defendant to pay the Claimants the following sums as damages for breach of contract:

- (a) The sum of TT \$273,000.00 to the Technical Staff as unpaid stipends.
- (b) The sum of US \$880.00 to the Technical Staff as unpaid per diem allowance.
- (c) The sum of US \$1,400.00 to the players as unpaid per diem for the CFU Qualifier 20-26 January 2016.
- (d) The sum of US \$4,730.00 to the players as unpaid per diem for the CONCACAF Championship 26 April 2016 – 6 May 2016.
- (e) The sum of US \$22,000.00 to the players as unpaid match fees for the CFU Qualifiers and the CONCACAF Championship.
- (f) The sum of TT \$5,822.00 to Mr. Morris as out of pocket expenses for conducting / running training sessions.
- (g) The sum of US \$221.00 to Mr. Brereton as out of pocket expenses.

148. The Defendant to pay the Claimants interest at the rate of 3 % per annum on the aforesaid sums from the 6 May 2016 until judgment.
149. The Defendant to pay the Claimants prescribed costs Pursuant to Rule 67.5 CPR assessed in the sum of \$69,200.82.

Margaret Y Mohammed
Judge