THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No CV2014-00429

BETWEEN

HARDLINES MARKETING LIMITED

Claimant

AND

REPUBLIC BANK LIMITED

Defendant

Before the Honourable Mr. Justice Robin N. Mohammed

Appearances:

Mr. Robin Montano for the Claimant

Mr. Kerwyn Garcia instructed by Ms. Marcelle Ferdinand for the Defendant

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JUDGMENT ON QUANTUM OF DAMAGES

I. Background:

[1] By Judgment dated the 24th April, 2015, this Court, after trial, determined that the Claimant had successfully established a claim of libel against the Defendant. The Claimant was adjudged to be entitled to damages, inclusive of aggravated damages, for the libellous and injurious falsehood in relation to two cheques dated the 14th

November, 2012, issued by the Claimant, stamped and returned by the Defendant to the Board of Inland Revenue ("BIR") with the notation "uncleared effects". The Court found that the effect of the notation was that it implied that the Claimant had engaged in the dishonest and unsavoury business practise known as "kiting".

[2] The Court invited the parties to file their submissions on quantum and at the hearing of the assessment of damages on the 30th September, 2015, the Court granted permission to the Defendant to file and serve a witness statement of Ms. Annette Wattie, which annexed a purported apology on behalf of the Defendant to the Claimant. As a result, the parties were then ordered to file and serve submissions in relation to the apology.

[3] The Court must now give its decision on the assessment of damages to be awarded to the Claimant.

II. Law:

[4] The dicta of Sir Thomas Bingham in **John v MGN (1997) QB 586** as adopted by the Court of Appeal in **TnT News Center Ltd v John Rahael Civ App No. 166 of 2006**, asserts that there are essentially two primary factors to consider in any assessment of damages:

> *"The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account for the distress, hurt and humiliation which the defamatory publication has caused.* ***In assessing the appropriate damages for injury to reputation, the most important factor is the gravity of the libel; the more closely it touched the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. The extent of the publication is also very relevant: a libel published to millions has greater potential to cause damage than a libel published to a handful of people."*** (Emphasis mine)

Applying these principles the Court must first ascertain the gravity of the libel and then the extent of the publication in its assessment of the damage to the Claimant's reputation.

[5] Master Alexander in her decision in **Carl Tang v Charlene Modeste CV2010-03657** also noted at paragraph 12, that in assessing the damages the Court must also take into account the Claimant's own conduct when arriving at the appropriate figure. She further stated that *"it must be borne in mind that the purpose of such damages is compensatory and not punitive, with the evidence called being critical."*

[6] In light of these principles, Mr Montano submitted that the court should take into account the following factors when assessing the damages:

i. That Mr Grant Dass, a senior manager of the Defendant was invited to apologize to the plaintiff but declined even after having lost the case;

ii. That there were two bounced cheques to the BIR and that as a result, a long and tedious VAT audit was conducted and the Claimant had to pay a penalty of $16,000.00;

iii. That the libel in the instant case was of the gravest kind;

iv. That the Claimant was subjected to a new and troublesome procedure of issuing certified cheques to pay its taxes, as a result of the bounced cheques; and

v. That the Defendant's cross-examination of the Claimant's two witnesses were prolonged and hostile.

[7] In response, the Defendant stated that-

vi. The Claimant has provided no evidence that the subsequent VAT audit was as a result of the bounced cheques;

vii. The words "uncleared effects" were determined to be less disparaging than the words "return to drawer" in **Budget Hardware Supplies Limited v First Citizen's Bank Limited Civ. Appeal No. 59 of 2005** and therefore,

this cannot be considered the gravest of defamatory statements a bank could make in relation to customer's cheques;

viii. At paragraph 80 of the Judgment, the Court correctly rejected the contention that the BIR insisted that the Claimant pay all its taxes by certified or manager's cheques as the evidence put forward by the Defendant showed this to be untrue; and

ix. That this was a "one-off" libel that was published to an extremely narrow audience and therefore the damages should reflect this limited publication.

[8] The Defendant did not address its refusal to issue an apology nor did it address the alleged hostile and prolonged cross-examination of the Claimant's witnesses.

Does the Court consider the libel to be the gravest of libels?

[9] The Defendant relied on the case of **Budget Hardware Supplies Limited v First Citizens Bank Limited Civ App No. 59 of 2005** to argue that the words "uncleared effects" marked on the cheques were not the gravest form of libel that the bank can occasion on a customer when dishonouring a cheque. He relied on the following dicta at paragraph 7:

> ***"From the tenor of the evidence, the appellant may not have been quite as aggrieved, had the cheque been endorsed with the words 'uncleared effects' or some other banking term which was not as disparaging as the words 'refer to drawer'."***

At paragraph 11, their Lordships set out the evidence of the appellant's witness as follows:

> *"Tara Persad, the appellant's witness testified that if a cheque was endorsed with the words uncleared effects it meant that there were insufficient funds in the account but 'on hold'. When the funds were released, the cheque would be honoured. She further stated that from her experience, when a decision is taken to dishonour a cheque and to endorse*

it with the words 'refer to drawer', there was a discretion to grant an unsecured loan, which was exercised at managerial level."

[10] In **Paget's Law of Banking** Part 6 at 22.115, it is stated that the term *'refer to drawer'* often stated as *"R/D"* usually connotes an insufficiency of funds:

"Today, it is generally accepted that the term is capable of a defamatory meaning because they connote insufficiency of funds."

I am therefore inclined to agree with the Defendant's Counsel that the term *"uncleared effects"* is not the "gravest kind" of libel as argued by the Claimant[1].

[11] The Defendant's Counsel also submitted that the Claimant, in its pleadings, set out the particular defamatory meaning which he contended was the natural and ordinary meaning of the words, that being, *"that there was not enough money in the said account to clear either or both of the said cheques."*[2] As such, the Claimant cannot now attempt to impute a more injurious meaning, i.e. that the Defendant was engaged in the unsavoury business practice of *"Kiting"*, at the stage of assessing damages. In support, the Counsel relied on the dicta of Lord Diplock in **Slim v Daily Telegraph (1968) 2 QB 157**, the relevant passage being as follows:

"That the judge could plausibly pose himself the second and supererogatory question at all resulted from a further technicality in the law of libel and the curious course which this particular case took at the trial. Any defamatory imputation upon the plaintiffs' characters or conduct conveyed by the words was mainly, at any rate, dependent upon inferences which the readers would themselves draw from them. ***The plaintiffs, as they were entitled to do, chose to set out in their statement of claim the particular defamatory meaning which they contended was the natural and ordinary meaning of the words. Where this manner of pleading is adopted, the defamatory meaning so averred is treated at the trial as the most injurious meaning which the words are capable of bearing, and the***

[1] At paragraph 10 of the Claimant's Submissions on Quantum.
[2] At paragraph 8 of the Statement of Case.

> ***plaintiff is, in effect, estopped from contending that the words do bear a more injurious meaning and claiming damages on that basis.*** *But the averment does not of itself prevent the plaintiff from contending at the trial that even if the words do not bear the defamatory meaning alleged in the statement of claim to be the natural and ordinary meaning of the words, they nevertheless bear some other meaning less injurious to the plaintiff's reputation but still defamatory of him, nor does it relieve the adjudicator of the duty of determining what is the right natural and ordinary meaning of the words, though nice questions may arise as to whether one meaning is more or less injurious than another."*[3] (Emphasis mine)

I am inclined to agree with the Defendant. The Court cannot be persuaded by the Claimant to now take a more injurious meaning of the words than what was pleaded. Accordingly, the Court will consider the extent of the damage to the Claimant's reputation effected by words that indicate that the Claimant did not have enough money in its account to cover both cheques sent to the BIR.

[12] Such a meaning is certainly not the gravest form of libel that can be occasioned on the Claimant in the circumstances.

Was the VAT audit evidence of damage to the Claimant's reputation?

[13] The Claimant pleaded that it was audited after the bounced cheques by the BIR and that it had never been audited before[4]. Further, it was pleaded that one of the VAT auditors told the Claimant's accountant that the audit was caused by the bounced cheques. The Defendant denied that the audit was caused by the bounced cheques and put the Claimant to strict proof thereof.[5]

[14] Mr Kenny Thomas, Managing Director of the Claimant, stated that by letter dated the 25th January, 2013, the VAT department of the BIR launched an audit of the Claimant Company as a result of the bounced cheques. He also stated that the company had to

[3] Page 175 D - G per Diplock L.J.
[4] At paragraph 10 of his Statement of case.
[5] At paragraph 8 of the Defence.

pay $16,000.00 in fines and claims[6]. This evidence was corroborated by Mr Haroon Mohammed, the Claimant's accountant, who stated that the audit was conducted at his accounting firm and caused great disruption of the Claimant's business and lasted for about 6 months. He stated, in his witness statement, that he was certain that the audit was caused directly by the bounced cheques[7]. Under cross-examination, Mr Mohammed admitted that his "certain knowledge" that the audit was caused directly by the bounce cheques was based on what someone at the BIR told him[8]. He further admitted that there is no witness statement from anyone in the BIR to confirm this. This notwithstanding, the Court notes that the Defendant's sole witness in the matter, Mr Grant Dass, did not address the issue of the audit in his witness statement and therefore, this evidence remains unchallenged.

[15] Accordingly, the submission of the Defendant's Counsel at paragraph 7(f) that *"there was no evidence that the subsequent auditing of the claimant was as a consequence of the cheques being returned to the Board of Inland Revenue with the words 'uncleared effects' on them*" is misconceived. The Claimant has provided evidence by two corroborating witness statements, which have not been addressed in the Defendant's evidence. Taking all the relevant evidence on this issue into account, that is, that the Claimant which had been operational since 2007 was never audited before until the libel, and that a new procedure was put in place for the Claimant to pay its taxes, namely, by manager's or certified cheques, after the libel, it seems to this Court more probable that the audit of the Claimant was instituted by the Board of Inland Revenue because of the dishonoured cheques.

Did the BIR insist that the Claimant pay its taxes by certified cheques?

[16] This submission by the Claimant was not only refuted by the trial Judge at paragraph 80 of the Judgment but also by the Claimant's own witness, Haroon Mohammed, where he stated *"As a result of the meeting I was able to get the agreement of the BIR that it*

[6] At paragraphs 29 & 30 of his witness statement.
[7] At paragraphs 26 & 27 of his witness statement.
[8] At 11:12 am of the audio recording of the trial held on the 2nd October, 2014 in POS 16.

would remove the requirement for cash or a certified cheque from HML's future payments."[9]

[17] Having concluded that (i) the libel occasioned by the Defendant, while serious is not the gravest form of libel capable in this instance; (ii) that the VAT audit was as a result of the bounced cheques and therefore is evidence of the damage to the Claimant's reputation; and (iii) that the Claimant was no longer required to pay by certified cheques, the Court must now address the weight to be ascribed to the apology as a mitigating or aggravating factor.

Should the Court consider the Apology to be a mitigating factor?

[18] The Claimant submitted that-

i. The apology was not prompt and the timing of its submission to the Court was an attempt at manipulation;

ii. Nowhere in the contents of the apology did the Bank admit that it was wrong or admit that the finding of the Judge was true. Therefore, there was no admission or withdrawal of its mistake;

iii. There was no explanation of what systems the bank uses to dishonour cheques nor any explanation as to what has been done to prevent reoccurrence;

iv. The apology should be given similar publicity to the original libel and therefore, the apology should have been sent to the BIR;

v. The parties should have agreed on the content of the apology but this did not happen.

[19] The Defendant submitted that-

[9] At paragraph 25 of his witness statement.

i. It is the Court's discretion to determine whether the apology was sincere or an attempt at manipulation and asked the Court to construe it in the former context;

ii. The apology should be given some weight in appeasing the Claimant's injured feelings and undoing the harm to the Claimant's reputation;

iii. The apology is an open apology and the Claimant is free to publish it to anybody and everybody.

[20] The Claimant's issue with the apology can be summarised under the following heads: (i) the contents of the apology; (ii) the timing of the apology; and (iii) the publication of the apology.

Were the contents of the Apology sufficient?

[21] **Gatley on Libel and Slander 12th edition at para 29.2** states as follows with respect to the nature of an apology:

> *"Its terms will depend upon the nature of the defamatory statement, but it should invariably* ***include a full and frank withdrawal of the charges or suggestions conveyed. Further, the apology would be unlikely to be regarded as adequate without some expression of regret that such charges or suggestions were ever published****. A hypothetical apology e.g. if that is how my words were understood, then I apologize, may be sufficient, provided it is admitted that the defamatory charge is regarded as a proper withdrawal or apology. The sufficiency of an apology is a matter to be decided at trial."* (Emphasis mine)

[22] The relevant extracts from the Defendant's apology in the letter dated the 29th September, 2015 are as follows:

> *"We have considered the findings of fact made by the honourable judge in the Judgment. In light of those findings we deeply regret that the bank returned the cheques stamped 'Uncleared Effects'. We unreservedly*

apologize for the defamatory meaning found by the Honourable Judge to have arisen form the Bank's use of the words 'Uncleared Effects'"

[23] In a dated English case of **Malcolm v Moore (1901) 4 F 23**, the defendant denied any recollection of having uttered the statement complained of but on the assumption that he had uttered it, offered an apology in which he expressed regret for, and unreservedly withdrew, and admitted that there were no grounds for, what had been said, at the same time tendering a sum of £51.

Lord President Kinross in his judgment stated:

"It is true that if a person is charged with having made a calumnious statement, and by way of tender or retraction only says, 'I withdraw it,' or 'I regret that I made it,' that will not suffice, because such an expression of regret or retraction is quite consistent with his continuing to believe what he had said, and the person against whom the calumny was uttered is not placed in the same position as if it never had been uttered. ***But when a man not only unreservedly withdraws what he has said, but expresses his regret for having said it, and admits that there was no ground for it, the position is wholly different, because when it is admitted that there is no ground for the statement, or in other words, that it is untrue,*** *the person injured is put, in so far as the person who made the statement can do it, in the same position as if the statement had never been made."* (Emphasis mine)

[24] In **Janet Jagan v Burnham (1973) 20 WIR 96**, a Guyanese Court of Appeal case, the respondent, who was the Prime Minister of Guyana, sued the appellant, who was the editor of a daily newspaper called *The Mirror*, and the printers and publishers for libel contained in an issue of that newspaper, and was awarded damages. The offending publication was to the effect that the respondent had caused a wire fence which was installed around his farm to be electrified with the object of warding off prowlers and thieves, and that a cow had stepped on the wire and had been electrocuted. After the writ was served upon them, the appellants caused an apology to be published in a subsequent issue of *The Mirror*, and deposited a certain sum of money into court.

The trial judge found against the appellants on all grounds and on appeal, the court affirmed the decision of the trial judge.

The Court of Appeal addressed the issue of the apology in some detail, much of which I find useful and relevant to this matter. In particular, they commented on its timeliness, noting that the defendant's persistence in justifying their defamatory comments at trial was an aggravating factor and further suggests that there was a lack of sincerity in the apology:

> *"In this case, if the falsity of the news item was known at the time of publication, or realised very shortly afterwards, the retraction should have been made promptly. The sub-editor admitted that he was seized of the defamatory nature of the publication from the beginning."*
>
> *"…Even at trial the appellants (at least at one stage) were prepared to persist in their original allegations and virtually sought to justify what was admittedly false.* ***This is undoubtedly a deeply aggravating factor and shows that there could not have been a sincere intention to repent of the libel, and that their apology was not seriously meant****. The evidence that, "Until this moment I believed what the reporter wrote was true as regards the whole article…", makes but a sham of the apology, for to say in one breath there was regret, and in the next there was belief in what was said renders the retraction farcical and no more than a course adopted for expediency."* (Emphasis mine)
>
> *"…In all the circumstances examined, the retraction could therefore hardly have possessed the value counsel has sought to place on it."*[10]

[25] On a reading of the apology submitted by the Defendant, I am not convinced that it meets the criteria of a full and frank apology nor was it a sincere retraction of the libel. There are words that express that the Defendant regrets stamping the cheques with the notation "uncleared effects" but there is no admission that there were no grounds for

[10] At page 112.

the notation or any admission that the notation was untrue. Further, the fact that the Defendant persisted in its justification of the notation during and well beyond the conclusion of the trial is to be considered an aggravating factor that I take into account. I therefore agree with the Claimant that the contents of the apology were not sufficient.

Was the Apology made in a timely manner?

[26] **Section 4 of the Libel and Defamation Act Chap 11:16** of the Laws of Trinidad and Tobago states:

> "*In any action for defamation, the defendant may (after notice in writing of his intention to do so duly given to the plaintiff at the time of filing or delivering the plea in the action) give in evidence in mitigation of damages,* ***that he made or offered an apology to the plaintiff for the defamation before the commencement of the action or as soon afterwards as he had an opportunity of doing so in case the action was commenced before there was an opportunity of making or offering the apology****."* (Emphasis mine)

[27] The Court must determine whether the submission of the apology dated the 29th September, 2015, in a matter that was commenced by claim dated the 4th February, 2014 and/or where the Defence was filed on the 28th March, 2014, could fall into the category of being offered *"as soon afterwards as he had an opportunity."* The time-lapse amounts to well over a year after the action commenced. Further, the apology was offered some 5 months after the Judgment in the matter was delivered on the 24th April, 2015. I do not think that this apology could be considered to have been offered as soon as possible after the action commenced.

Was the Apology sufficiently published?

[28] **Gatley** supra at **paragraph 29.3** states that-

> *"The apology should be given similar publicity to the original libel, so that it is likely to come to the attention of those who read the libel. Thus if the*

libel appeared in a newspaper, the apology should be inserted in the same newspaper…"

[29] The libel in this instant matter was published on two cheques that were addressed to and came into the hands of the BIR. It seems therefore that any apology should likewise be published to the particular BIR department that would have seen the cheques. Bramwell B in **Lafone v Smith (1858) 3 H & N 735** stated:

"Inserting an apology means effectually inserting it; not so that people would not be likely to see it; but in such manner as to counteract as far as possible the mischief done by the libel."

[30] The mischief occasioned by the libel is the damage to the reputation to the Claimant particularly in the eyes of the BIR. Therefore, the apology should be sent to the BIR in addition to the Claimant.

[31] Considering that I find that the apology was: not a full and frank withdrawal; not sufficiently published so as to counteract the mischief of the libel; and not a prompt apology nor offered as soon as possible after proceedings commenced, the apology will not be taken into account as a mitigating factor when assessing damages.

The libel was published to a very limited audience

[32] The Defendant's submission that the libel was published to a very narrow audience was not challenged by the Claimant in its submissions. Further, the facts suggest that the Defendant's contention is correct in that the libel was only published to certain personnel in the BIR. Accordingly, the damages should reflect this limited publication.

Aggravated Damages:

[33] According to **Gatley on Libel and Slander** (supra), in seeking an award of aggravated damages, a Claimant may rely upon the defendant's conduct, the defendant's conduct of the case and the defendant's state of mind to the extent that such conduct and state of mind cause injury to him. **Paragraph 9.18** continues:

> *"It is very well established that in cases where the damages are at large the jury (or the judge if the award is left to him) can take into account the motives and conduct of the defendant where they aggravate the injury done to the plaintiff…*
>
> *The conduct of a defendant which may often be regarded as aggravating the injury to the plaintiff's feelings, so as to support a claim for 'aggravated' damages includes* ***a failure to make any or any sufficient apology and withdrawal****; a repetition of the libel;* ***conduct calculated to deter the claimant from proceeding; persistence, by way of a prolonged or hostile cross-examination of the claimant****…; the general conduct either of the preliminaries or of the trial itself in a manner calculated to attract wide publicity; and persecution of the plaintiff by other means."* (Emphasis mine)

The Claimant has submitted that aggravated damages should be awarded due to (i) the failure to make any sufficient apology or withdrawal and (ii) the prolonged and hostile cross-examination of the Claimant's two witnesses.

The Court having already found that the apology to be neither sincere nor prompt, will consider this aggravating factor in its assessment of damages.

With respect to the cross-examination of the Claimant's two witnesses, Mr Kenny Thomas and Mr Haroon Mohammed, the Court does not agree that counsel for the Defendant engaged in any prolonged or hostile line of questioning. Mr Kenny Thomas was questioned for no more than approximately 36 minutes or from 10:14 am to 10:51 am. Further, 6 of those minutes were devoted to a very lengthy objection from counsel for the Claimant, which amounted to a speech that occurred from approximately 10:22 am to 10:28 am. Similarly, the examination of Mr Haroon Mohammed lasted for a mere 15 minutes between 10:57 am until 11:12 am and at all times, I find that Mr Garcia's approach was polite and gracious to both witnesses.

III. **Authorities:**

[40] It is settled law that, notwithstanding the Claimant starts out with a presumption of damage when he or she is defamed, evidence of the damages should still be presented since a claimant offering no evidence at all may find himself with a small award of damages.[11]

The Claimant's sole evidence of damage to its reputation is the fact that the BIR subjected it to a long and tedious VAT audit, which caused embarrassment and disruption to the Claimant's business. There is no evidence before the Court that persons outside the BIR had knowledge of the libel or that the Claimant's reputation was adversely affected in the eyes of the public.

[41] The Claimant relied on the case of **TnT News Centre** v **John Rahael** (supra) where the trial judge awarded **$400,000.00** in damages. This case involved libel against the Respondent, John Rahael, that he was involved in the drug trade, which was no doubt a very serious libel. However, the Court of Appeal reduced the award of damages to **$250,000.00** as there was no direct evidence as to the full extent of the injury to the respondent's feelings and reputation. In **TnT News Centre**, the libel was publicly displayed in the *TnT Mirror* newspaper.

I do not find the case at bar to be comparable with **TnT News Centre** as the libel in the instant matter was less heinous and the publication of the libel was to a far more limited audience.

[42] I also find that the case of **Conrad Aleong Civ App No. 122 of 2009**, relied on by the Claimant, to be distinguishable from the instant case and not at all helpful.

In **Conrad Aleong**, the trial judge and the Court of Appeal both found the libel to be of a serious nature and that the libel occurred in several articles which amounted to repeated publication for "over a five week period". The Court of Appeal stated: *"…there were serious doubts as to whether the respondent could ever reclaim its reputation which had been significantly damaged…the libel took place over a five week*

[11] At para 13 of TnT News Centre v John Rahael supra.

period in which the same allegations were repeated again and again." Rajnauth-Lee J.A. went on to state that *"…although I recognize the libels in TnT News Centre Ltd… were of a serious nature, I am of the view that the gravity of this libel and the impact and devastation on the respondent far outweigh those cases."*[12]

I find that the gravity of the libel in the instant case was far less heinous and damaging to the Claimant and that the publication was far more limited and narrow as compared to **Conrad Aleong**.

[43] The Defendant in response relied on cases such as **Carl Tang v Modeste HCA No. 3657 of 2010**, where the court awarded **$18,000.00** in damages. In **Tang**, both the claimant and defendant were school teachers at Trinity College. The defendant sent a defamatory letter to the claimant and copied the principal, vice principal and the head of department of business studies where she made allegations of sexual harassment against the Claimant and claimed damages. Master Martha Alexander found that the publication was limited to a select group of people within the school and that there was no evidence of irreparable damage to Mr. Tang's professional reputation or fall out in his career advancement and position, although, based on the nature of the allegations, some damage to Mr Tang's reputation can be presumed. She also noted that the libel was of a serious nature. Finally, she viewed that, while vindication required more than an award of nominal damages, it did not require an overly substantial award. As such, Master Alexander awarded general damages in the sum of **$18,000.00**.

[44] I find this case and the reasoning for the decision given by Master Alexander to be relevant but the award substantially on the low end of the imaginary scale. The libel in the instant matter was also published to a select group of people at the BIR and there was no evidence of irreparable damage to the Claimant's reputation although there was some damage done as evidenced by the VAT audit. Further, the libel in this matter was of a serious nature and gravity, similar to **Tang** (but as I have said earlier, the award was, in this Court's opinion, surprisingly low).

[12] At paragraph 102 of the Judgment.

[45] Both parties relied on the case of **Pan Trinbago Inc. T.C. HCA No. 1071 of 1995** where an award of **$90,000.00** was given by the Court. However, I find that the gravity of the libel in the instant case was less damaging than allegations of racism in **Pan Trinbago**. Further, the publication in **Pan Trinbago** was far more extensive as the libel was contained in an article in the *Bomb* newspaper, which the trial judge considered to be a newspaper of *"relatively wide circulation."*

[46] I have also found assistance from the case of **Indra Roopnarine** v **Kamahit Bhola CV2006-1863** dated 10th November, 2010. In **Roopnarine**, the claimant claimed against the defendant for slander committed at the Divali Nagar and an injunction from publishing the slander. The claimant said she had been subjected to abuse and harassment from the defendant and one occasion the defendant had said to her "*the hardware close, why you ere bring Byron Gopaul tonight, you jamette."* Justice Tiwari-Reddy found that the attack on the claimant's reputation was not as serious as in other cases and the circulation of the slander was to some 50 persons at a public function and awarded judgment for the claimant in the sum of **$25,000.00**.

[47] I find that the gravity of the libel and the damage to the Claimant in the instant case are most analogous to **Tang** and **Roopnarine**. Given the age of those cases coupled with the fact that the Claimant is a company of repute and that the award in **Tang** was, in this Court's opinion, too low, I will include an appropriate increase in the award of damages in the case at bar.

IV. Disposition:

[48] The Court has found that the libel was aggravated by the Defendant's persistence in its defence throughout the matter and its failure to offer a sufficient and prompt apology. However, the libel was published to a very small audience which significantly reduced the damage to the Claimant's reputation. Accordingly, having reviewed the authorities, I find that an appropriate award for general damages, inclusive of aggravated damages, would be in the sum of **$55,000.00**.

[49] In light of the above analyses and findings, the order of the Court is as follows:

ORDER:

I. **The Defendant shall pay to the Claimant damages, inclusive of aggravated damages, in the sum of $55,000.00.**

II. **Costs of the Claim shall be paid by the Defendant to the Claimant quantified on the Prescribed Scale of Costs in accordance with CPR 1998 Part 67 Appendix B in the sum of $15,000.00.**

Dated this 23rd day of January, 2017

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Robin N Mohammed
Judge