

**THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**Claim No: CV2016-02614**

**IN THE MATTER OF THE INKJ INVESTMENT**

**COMPANIES LIMITED**

**AND**

**IN THE MATTER OF THE COMPANIES ACT CHAPTER 81:01**

**AND**

**IN THE MATTER OF AN APPLICATION BY THE CLAIMANT PURSUANT TO  
SECTION 242 OF THE COMPANIES ACT 81:01 ALLEGING OPPRESSIVE AND/OR  
UNFAIRLY PREJUDICIAL CONDUCT ON THE PART OF THE FIRST NAMED  
RESPONDENT**

**BETWEEN**

**JANETTE LEWIS KATZ**

Applicant/ Complainant

**AND**

**KENNETH LEWIS**

1<sup>st</sup> Respondent

**INKJ INVESTMENT COMPANY LIMITED  
(JOINED NOMINALLY AS A PARTY)**

2<sup>nd</sup> Respondent

**Before The Honourable Mr. Justice Frank Seepersad**

**Date of Delivery: 27<sup>th</sup> July, 2018**

**Appearances:**

1. Mr. Hannays for the Claimant
2. Mrs. Deborah More- Miggins for the 1<sup>st</sup> Respondent

### **REASONS**

1. By way of fixed date claim form filed on July 27, 2016, the Claimant commenced an oppression claim. From the first hearing of the fixed date claim form, the parties agreed that the matter should be resolved given that the shareholders in the company INKJ Investment Companies Limited were all advanced in age and are siblings.
2. The Applicant and 1<sup>st</sup> Respondent each had a ¼ share interest in the company, their brother who is not a party to this action also owns a ¼ share and the last quarter share was owned by their deceased mother and her interest devolved to her estate.
3. Mrs Miggins applied for a grant of letters of administration with will annexed with respect to their deceased mother's estate. In its management of the matter, the Court dealt with several issues: the 1<sup>st</sup> Respondent was relieved as the Corporate Secretary and Mr. Hannays was appointed by the Court to act as Corporate Secretary. Permission was given for the filing of a Defence and affidavits and the Court facilitated the entry into a new mortgage arrangement with respect to a Main Road Scarborough property which is the 2<sup>nd</sup> Respondent's most valuable asset and also supervised the entry into a new lease arrangement for the property. The parties also agreed to appoint an accountant to review the company's financial records and to determine the debts of the company. A new company bank account was set up and the lease rent was deposited into same, with the lawyers being the signatories to the said account.

4. On June 8, 2017 it was agreed by consent that an auditor was to be appointed to determine the nature and extent of the company's debt and a report was subsequently obtained.
5. On June 8, 2017 it was further agreed by consent that the money generated from the lease would repay the mortgage and all utility bills and VAT. It was agreed that all legitimate debts of the company would be paid from the remaining funds in the new account. It was further agreed by consent that the lawyers' fees including the fees associated with the obtaining of the grant in the estate of their mother Harriet Lewis (now deceased) would be paid to the lawyers from the said account.
6. On July 20, 2018 it was agreed that the property at Main Street would be valued and the lawyers indicated to the Court that it was agreed that the sum of \$46,000.00 would be paid from the new account, to Mrs Miggins as her fees for the obtaining of the grant in the deceased's estate.
7. By application filed July 26, 2018 Mrs Miggins argued that contrary to the agreement made on the June 8, 2017, her fees have not been paid and the Court issued an order dated July 27, 2018 directing that the sum of \$46,000.00 was to be paid to Mrs Miggins from the escrow lease account.
8. By application dated September 3, 2018 Mr Hannays sought to have the order of the July 27, 2018 set aside. On the October 19, 2018, the Court heard the application. Mr Hannays argued that the payment of the estate fees was contingent upon the transfer of the deceased shares in the 2<sup>nd</sup> Respondent to the beneficiaries. Mr Hannays however accepted that the Court was never informed of any such preconditions on June 8, 2017 or on the July 20, 2018 when the consent orders in relation to the payment of fees were made. The Court also expressed its view that the obtaining

of the grant in the deceased's estate facilitated the attempt to resolve the matter.

9. The Court formed the view that the parties had consented to the payment of fees in the agreed sum of \$46,000.00, noted that Ms Lewis-Katz had not attended Court in over a year and was not present on July 8, 2017 nor was she present on July 20, 2018 and found that the application to set aside the order dated July 27, 2018 lacked merit.

10. Accordingly, the said application was dismissed with no order as to costs.

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**FRANK SEEPERSAD**

**JUDGE**