

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

Claim No. **CV2021-01644**

BETWEEN

**RICHARD P. YOUNG**

Claimant

AND

**(1) TRINIDAD EXPRESS NEWSPAPERS LIMITED**

**(2) OMATIE LYDER**

**(3) DOUGLAS WILSON**

**(4) ANNA RAMDASS**

Defendants

**Before the Honourable Mme. Justice Jacqueline Wilson KC**

**Date of Delivery: March 14, 2025**

**APPEARANCES:**

Mr. Kerwyn Garcia SC instructed by Ms. Marcelle Ferdinand Attorneys at law for the Claimant  
Mr. John Frederick Gilkes instructed by Mr. Farees Hosein Attorneys at law for the 2nd, 3<sup>rd</sup>  
& 4th Defendants

**JUDGMENT**

1. The claimant alleges that an article published in the Trinidad Express Newspaper on 1 August 2020 under the heading “Al-Rawi, Young recused from Cabinet 94 times” is defamatory. He seeks an order for damages, including aggravated damages, and an injunction restraining the defendants from further publication.

2. The defendants deny that the words complained of by the claimant are defamatory and assert that the publication of the article was in the public interest and that they had acted responsibly in publishing it.
3. The questions that arise for determination are whether the words used in the article are defamatory and, if so, whether the defendants may successfully rely on the defence of **Reynolds** privilege.

#### **THE CLAIMANT'S CASE**

4. In his statement of case the claimant states that he is a prominent citizen who has developed an extensive reputation in the financial services industry locally, regionally and internationally. He is the father of Mr. Stuart Young, a Member of Parliament and Cabinet Minister, and Mr. Angus Young, who is also engaged in the financial services industry. At the time the article was published Mr. Stuart Young was the Minister of National Security and Minister in the Office of the Prime Minister and Mr. Faris Al-Rawi was the Attorney General and Minister of Legal Affairs of Trinidad and Tobago.
5. The first defendant is the printer and publisher of a daily newspaper known as the Daily Express and a weekly newspaper known as the Sunday Express and operates a website with the address [www.trinidadexpress.com](http://www.trinidadexpress.com) on which certain articles and features of the printed newspaper are published. At all material times, the second defendant was the Editor-in-Chief of the newspaper and the third defendant was its General Manager. The fourth defendant was a Senior Political Journalist employed by the first defendant and the author of the article.
6. The article stated as follows:

***Al-Rawi, Young recused from Cabinet 94 times***

*Attorney General Faris Al-Rawi and National Security Minister Stuart Young collectively recused themselves 94 times from Cabinet meetings from 2016 to 2020.*

*This was because of family ties and conflict of interest in the award of multi-million contracts and the procuring of loans, among other financial activities.*

*Detailed information on the number of meetings they recused themselves from and for which matters were provided on July 7, 2020 to Attorney Che N Dindial of Freedom Law Chambers by the Cabinet secretariat.*

*Dindial had made a Freedom of Information Request on behalf of activist Ravi Balgobin Maharaj for copies of all Cabinet Notes and Minutes for matters in respect of which either Al-Rawi and Young recused themselves. According to the documents, Young recused himself 57 times from Cabinet meetings whilst the AG recused himself 37 times.*

*Over the past two years – 2019-2020 – Young recused himself 38 of the 57 times.*

*Young recused himself from matters which dealt with his father Richard Young and brother Angus Young, Chief Executive Officer (CEO) NCB Global Finance.*

*In 2018, the Government appointed an Implementation Committee chaired by businessman Christian Mouttet and Richard Young as vice chair.*

*The committee was formed to liaise with the private sector to assess the businesses and projects which are most likely to stimulate the economy.*

*Young (R) is also the Chairman of the International Financial Centre.*

*The documents show that between 2016 to 2020 Young (S) recused himself 30 times from the Cabinet when the matter involved his father who acted as a broker to the transaction or matter was under consideration (sic).*

*It stated that Young (S) recused himself six times from the Cabinet in matters relating to NCB Global which his brother heads. From 2018 to 2020 NCB Global Finance was responsible for approximately \$2.5 billion in transactions.*

*This year several transactions were listed, including NCB Global Finance being awarded the mandate to arrange a fixed rate bond in the amount of to \$1.5 billion for the purpose of providing budgetary support for the fiscal year 2020.*

*It was also awarded the mandate to provide loans to WASA to the tune of \$1.25 million.*

*Young (S) recused himself from several Cabinet meetings that discussed transactions where his father acted as broker to the transaction. These include the award of a mandate to Republic Bank Ltd to arrange loans from several banks such as Republic Bank and ANSA Merchant Bank.*

*One transaction was the award of a mandate to ANSA Merchant Bank Ltd to arrange a ten-year Fixed Rate Bullet Loan Facility to Caribbean Airlines to facilitate the refinancing of the existing US\$64,200,000 short term loan.*

*Another was for the ratification of approval for the award of a mandate to First Citizens Bank Ltd and Republic Bank Ltd to arrange and fully underwrite a US\$102,392,000 three year 6.30 per cent fixed rate bond to facilitate the redemption of existing notes.*

*Young also recused himself from other matters where there was a conflict of interest such as the provision granting of Type 5 Concession to Synergy Entertainment network Ltd for the Provision of a Television Broadcasting Service via a Public Domestic Fixed Telecommunications Network on a National Geographic Scale.*

### ***Al-Rawi's property recusals***

*The Cabinet documents show that the majority of times the AG recused himself dealt with property matters.*

*The documents stated that between 2016 and 2020 Al-Rawi recused himself 17 times from the Cabinet when the matter involved his family having an interest in the lease/rental of the property under consideration.*

*Some of these properties include:*

- *Office space rented from Chepstow House located at 56 Frederick Street, Port of Spain to accommodate the Ministry of Community Development.*
- *Office space rented at 5 Gray Street, St. Clair, Port of Spain to accommodate the Fire Service.*

*Al-Rawi also recused himself from a meeting to discuss the rental of office space in a building located in Estate Trace in Barataria to accommodate the Valuation Division of the Ministry of Finance as well as rental of office space at a building located at 3 Alexandra Street, St. Clair to accommodate the Ministry of Labour and Small Enterprise Development as well as the rental of office space at 3 Alexandra Street, St. Clair to accommodate the Personnel Department.*

*Al-Rawi also recused himself from discussions in the award of contracts where his family had an interest.*

*This included a contract proposal for the continued engagement of private healthcare institutions for the provision of surgical, radiological and laboratory services for hospital patients. Log on to [www.trinidadexpress.com](http://www.trinidadexpress.com) for the full list of Cabinet Notes/ Matters in which Al-Rawi and Young recused themselves from Cabinet Meetings for the period 2016-2020.*

7. Adjacent to the article, and on the same page, were the four tables shown below:

Table 1:

Number of Cabinet Notes/Matters in which Stuart Young/Farris Al-Rawi Recused Themselves from the Meeting, 2016/2020

Year	Stuart Young	Faris Al Rawi
2016	6	1
2017	6	9
2018	7	15
2019	20	10
2020	18	2
	57	37

Table 2:

Number of Cabinet Notes/Matters By Nature of Conflict of Interest in which Stuart Young Recused Himself from the Cabinet Meeting, 2016-2020

Year	Father, Richard Young is Chairman of State Entity/Committee	Father, Richard Young acting as broker to the transaction	Brother, Angus Young Is CEO of MCB Global Finance	Young family, a shareholder in company involved in transaction	Total
2016	2	3	0	1	6
2017	0	2	0	4	6
2018	1	0	1	5	7
2019	2	14	2	2	20
2020	1	11	3	3	18
	0	30	6	15	57

Table 3:

Number of Conflict of Interest in which Stuart Young Recused Himself from the Cabinet Meeting, 2016-2020  
(TT\$ million)

Year	Father, Richard Young is Chairman of State Entity/Committee	Father, Richard Young acting as broker to the transaction	Brother, Angus Young is CEO of MCB Global Finance	Young family, a shareholder in company	Total
2016	n.a.	\$8,390.0	0	n.a.	8,390.0
2017	n.a.	n.a.	0	n.a.	0
2018	n.a.	n.a.	1803	n.a.	\$1803
2019	n.a.	\$4,433.8	\$975.0	n.a.	\$5,408.8
2020	n.a.	\$6,802.1	\$1,750.0	n.a.	\$8,552.1
	n.a.	\$19,625.9	\$2,905.3	n.a.	\$22,531.2

Table 4:

Number of Cabinet Notes/Matters By Nature of Conflict of Interest in which Faris Al Rawi Recused Himself from the Cabinet Meeting, 2016-2020

Year	Family has an interest in Lease/Rental of Property	Family appointments to State entities	Family an interest in property under construction	Family is a shareholder in company involved in transaction	Ministry of Attorney General and Legal Affairs matter	Total
2016	1	0	0	0	0	1
2017	5	3	0	1	0	9
2018	5	1	4	3	2	15
2019	4	0	0	1	5	10
2020	2	0	0	0	0	2
	17	4	4	5	7	37
There is no \$ value associated with these matters						

8. The claimant alleges that the article and tables are defamatory because in their natural and ordinary meaning, or by way of innuendo, they are understood to mean that:

- a. *The claimant, as broker in multiple transactions involving public funds, personally benefitted from a significant number of Cabinet decisions during the tenure of his son Minister Stuart R. Young, as a Government Minister.*
- b. *The claimant, as broker in multiple transactions involving public funds, has obtained great financial gain as a result of the aforementioned Cabinet decisions.*
- c. *The claimant, as broker in multiple transactions involving public funds, has benefitted financially from a scheme to ensure that he and members of his family were personally enriched by reason of his son's position as a Government minister.*
- d. *The claimant, as broker in multiple transactions involving public funds, has benefitted from the Cabinet's decisions as a result of corruption and nepotism.*
- e. *The recusal of the claimant's son from the Cabinet's decisions was nothing more than a farce to give the appearance of transparency.*
- f. *The claimant, as broker in multiple transactions involving public funds, has benefitted personally from misbehavior in public office.*
- g. *The claimant has corruptly secured financial reward, as broker in multiple transactions involving public funds, out of his appointment to an Implementation Committee set up by the Government and from his appointment as Chairman of the International Financial Centre.*

- 9. The claimant further alleges that the words and their meanings were false and unjustified as he has not at any time acted as a broker in the transactions mentioned



in the article or in any of the matters considered by Cabinet. He contends that the defendants published the article without seeking to confirm its accuracy and that its publication was not in the public interest and did not meet the standard of responsible journalism. He asserts that the tone and content of the article were sensational and negative, with the intention of ridiculing him, and that he has suffered significant loss and damage, personally and professionally, by its publication.

#### **THE DEFENDANTS' CASE**

10. In their amended defence, the defendants deny that the article and the tables were capable of bearing the meaning alleged by the claimant. They assert that the publication of the article was in the public interest and that the defendants had acted responsibly in publishing it. They state that General Elections were held in Trinidad and Tobago on 10 August 2020 and that, during the election campaign, they had received documents from a reliable source comprising:
  - (i) A letter dated 7 July 2020 from the Secretary to Cabinet to Mr. Che Dindial, Attorney-at-law, in response to a request under the Freedom of Information Act made on behalf of Mr. Ravi Balgobin Maharaj. Attached to the letter at Appendix 1 was a table with a list of the cabinet notes and subject matters in which Mr. Stuart Young, the then Minister of National Security and Minister in the Office of the Prime Minister had recused himself from cabinet meetings during the period 2016 to 2020.
  - (ii) A document that appeared to provide further details of the table referred to in (i) above. This document comprised four tables, of which Table 2 and Table 3 sought to describe Minister Young's recusals by the nature and value of the conflict of interest and which described the claimant as "acting as a broker to the transaction."

- (iii) A copy of a speech to be delivered by the Leader of the Opposition bearing the caption “CABINET RECUSALS – STUART YOUNG AND FARIS AL- RAWI” that contained further material regarding the recusals and transactions in which the claimant was alleged to be acting as broker.

- 11. The defendants state that the information in the documents concerned the occasions on which Mr. Stuart Young had recused himself from deliberations and decisions of Cabinet and that the reasons for the recusals were a matter of public interest and public discourse. They contend that, in writing and publishing the article and tables, they acted neutrally, without adopting, embellishing or subscribing to a belief in the truth of any allegations made therein, and that the article and tables “did not wholesale adopt and reproduce all of the allegations contained in the excerpt of the political speech which was provided.”
- 12. The defendants assert that they have complied fully with the duty of responsible journalism and that, while the article and tables primarily concerned the recusals by Minister Young and Mr. Al-Rawi, it was wholly justifiable to include a reference to the claimant, as his involvement in the matters considered by Cabinet was the reason for certain recusals.
- 13. The letter dated 7 July 2020 by the Secretary to Cabinet to Mr. Dindial was in the following terms:

*July 7<sup>th</sup> 2020*

*Dr. Che N. Dindial*

*Attorney at Law*

*Freedom Law Chambers*

*No. 3, Harris Street*

**SAN FERNANDO**

Dear Dr. Dindial,

**Re: Freedom of Information Request pursuant to Section 13 of the Freedom of Information Act, Chap. 22:02 from Dr. Che N. Dindial on behalf of Mr. Ravi Balgobin Maharaj**

*I refer to your request for Access to Official Documents dated June 9, 2020, on the captioned subject, wherein you requested under the Freedom of Information Act, Chap. 22:02:*

*‘Copies of all Cabinet Notes and Minutes for matters in respect of which either the Attorney General and Minister of Legal Affairs, Mr. Faris Al Rawi and/or the Minister of National Security, Mr. Stuart Young has rescued themselves’.*

*As you aware, Cabinet documents are exempt under section 24(1) of the Freedom of Information Act. I have considered section 35 of the said Act, and based on your letter, I see no reason in favour of the disclosure of the said exempt Cabinet documents.*

*However, please find attached as Appendix I and Appendix II hereto, a table listing the matters for which the Hon. Stuart Young, Minister of National Security and Minister in the Office of the Prime Minister, and the Hon. Faris Al-Rawi, Attorney General and Minister of Legal Affairs, recused themselves from the proceedings of Cabinet Meetings relevant to the respective Cabinet Meetings.*

*I certify that as Custodian of all Cabinet Notes and Documents, recusals were made by the Hon. Stuart Young and the Hon. Faris Al-Rawi for the said attached Cabinet matters.*

*You are reminded that under Section 23 of the Freedom of Information Act, you have the right to apply to the High Court for judicial review on this decision. According to Section 11(1) of the Judicial Review Act, an application for judicial review shall be made promptly and within three months from the date when grounds for the application first arose.*

14. Appendix 1 to the letter was captioned “Cabinet Notes/Matters in which the Honourable Stuart Young recused himself from the Cabinet Meeting for the period 2016-2020” and comprised nine (9) pages and Appendix II was captioned “Cabinet Notes/Matters in which the Honourable Attorney General recused himself from the Cabinet Meeting for the period 2016-2020” and comprised eight (8) pages. The subject of the matter under consideration by Cabinet, including its value, was provided in each case.
15. In his reply to the amended defence, the claimant alleges that the table that was headed “CABINET RECUSALS – STUART YOUNG AND FARIS AL-RAWI” and the copy of the speech that was intended to be given by the Leader of the Opposition, in which the claimant was said to have acted as a broker to matters or transactions considered by cabinet, were political statements or documents “created by a source with a political axe to grind, and (that) the defendants were required to take reasonable steps to verify the accuracy and/or truth of the statements” and had failed to do so.

#### **THE EVIDENCE**

16. The claimant filed a witness statement and gave evidence on his behalf at trial and Ms. Omatie Lyder and Ms. Anna Ramdass filed witness statements and gave evidence on behalf of the defendants.

17. In his witness statement, the claimant states that he has worked for forty (40) years in the accounting, auditing, insurance and banking sectors and that he has held numerous leadership positions in the private and public sector. In 1992, he was appointed as the Managing Director of NEM Insurance Limited and held the position until 1995 when he was appointed as Managing Director of Scotiabank, which he held for seventeen (17) years until his retirement in 2012.
18. He was the chairman of Trinidad and Tobago Stock Exchange from May 1999 to 2001 and, thereafter, served as a director until May 2003. He was an independent director of One Caribbean Media Limited from May 2013 to October 2014, the chairman of the BDO Financial Advisory Services Limited from May 2013 to early 2015, a non-executive chairman of Massy Finance Limited from April 2013 to December 2019, an independent director of Surgical Financial Cooperation Limited from January 2014 to December 2019, and an independent director of Massy Holdings from December 2012 to September 2020.
19. In the public sector, he has served as the deputy chairman of the National Housing Authority, the chairman of a cabinet appointed committee to address the challenges and impacts of Y2K and the chairman of the Economic Development Board of Trinidad and Tobago, among other things. He is a member of several professional associations and is the chairman of the Trinidad and Tobago International Financial Centre.
20. In cross-examination, Mr. Young was questioned about the information that had been provided by the Secretary to Cabinet in response to the Freedom of Information request. He stated that he did not doubt the truthfulness of the information or that Minister Young had in fact recused himself from the matters in question. He took issue with the statement that the recusals were based on his involvement as a broker in certain transactions and stated that his description as a broker had caused him hurt and pain as he was being accused of corruption,

nepotism and misbehaviour in public office. He stated that he had not been contacted by the newspaper in order to confirm whether he had acted as a broker and that he had suffered anxiety and loss of self- esteem as a result of the publication.

21. In her witness statement, Ms. Omatie Lyder states that she has been a journalist for thirty-nine (39) years and that, on 1 May 2011, she was appointed as the Editor-in-Chief of the Trinidad Express and its publications. As Editor-in-Chief, she had reviewed and approved the article authored by Ms. Anna Ramdass before its publication. She stated that she was aware that reporters establish a network of sources who provide them with information and that, in exercising her editorial oversight, she was satisfied that in writing and publishing the article and tables the defendant had acted neutrally and without adopting or subscribing to any belief in the truth of the allegations and that there was no need to delay the publication.
22. In cross-examination, it was put to Ms. Lyder that there was no reasonable ground to believe that the claimant had acted as broker in the transactions mentioned in the article and she stated in response that there was no doubt in her mind as to the truth of the statement.
23. In her witness statement, Ms. Anna Ramdass states that she was first employed as a reporter with Trinidad Express Limited in 2004 and that in 2011 she was appointed as a senior political journalist. Her duties and responsibilities include reporting on matters relating to political government.
24. In cross-examination, Ms. Ramdass accepted that the letter of 7 July 2020 by the Secretary to Cabinet and the Appendices thereto made no mention of the term “broker” and that the term had been used in two of the tables that had been provided by her sources and the excerpt of the speech that was to be given by the Leader of the Opposition. She accepted that the speech was a political speech.

25. It was suggested to Ms. Ramdass that, in light of the distinction between the tables she had published and the documents that had been provided by the Secretary to Cabinet, she had no reason to believe that the tables had been supplied by the Secretary to Cabinet. She accepted the suggestion and the statement that the claimant was not a broker in any of the transactions mentioned in the tables. When she was asked whether she accepted that the claimant was not a broker at all she stated that she did not know. When she was asked whether she had investigated whether the claimant was a broker, she stated in response that “I trusted the information provided by the source.” She accepted that her witness statement did not state that she had made any attempt to verify whether the claimant had acted as a broker and added that, based on the documents she had received, she was led to believe that the claimant had acted as a broker.

#### LEGAL PRINCIPLES

26. In determining whether a publication is defamatory, a court must consider the “natural and ordinary meaning” of the words including any inferential meaning that they convey to the mind of the ordinary, reasonable and fair-minded reader: **Lewis v Daily Telegraph** [1964] AC 234; **Jones v Skelton** [1963] 1 WLR 1363. In **Civ App No. 118 of 2008 Kayam Mohammed and Others v Trinidad Publishing Co Ltd** at paras 11 to 14, Justice of Appeal Mendonca, as he then was, expounded upon the principle as follows:

*“11. The Court should therefore give the article the natural and ordinary meaning the words complained of would have conveyed to the notional ordinary reasonable reader, possessing the traits as mentioned by Lord Nicholls and reading the article once. The natural and ordinary meaning refers not only to the literal meaning of the words but also to any implication or inference that the ordinary reasonable reader would draw from the words. Thus in **Lewis v Daily Telegraph** [1964] AC 234, 258 Lord Reid stated:*

*“What the ordinary man would infer without special knowledge is generally called the natural and ordinary meaning of the words. But that expression is rather misleading in that it conceals the fact that there are two elements in it. Sometimes it is not necessary to go beyond the words themselves, as where the plaintiff has been called a thief or a murderer. But more often the sting is not so much in the words themselves as in what the ordinary man will infer from them and that is also regarded as part of the natural and ordinary meaning.”*

12. And Lord Morris in **Jones v Skelton** [1963] 1 WLR 1363, 1370-1371 stated:

*“The ordinary and natural meaning of words may be either the literal meaning or it may be implied or inferred or an indirect meaning: any meaning that does not require the support of extrinsic facts passing beyond the general knowledge but is a meaning which is capable of being detected in the language used can be part of the ordinary and natural meaning of words...The ordinary and natural meaning may therefore include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not filtered by any strict legal rules of construction would draw from the words.”*

13. ...

14. Where, as in this jurisdiction, the Judge sits without a jury, it is his function to find the one correct meaning of the words. Although when considering the defence of Reynolds privilege the court must have regard to the range of meanings the words are capable of bearing as I will mention below, it is still the function of the Judge as regards the meaning of the words complained of to find the single meaning that they do convey. That does



*not mean that where an article levels a number of allegations as is the case here, that it has only one meaning. What it does mean is that where there are possible contradictory meanings of the words, the court cannot recognize, what may be the reality, that some reasonable readers will construe the words one way and others another way. The court must determine the one correct meaning out of all the possible conflicting or contradictory interpretations.”*

27. In the Privy Council decision of **Ramadhar v Ramadhar** [2020] UKPC 7, Lady Arden re-affirmed the approach to finding the meaning of words that are alleged to be defamatory and cited the list of essential criteria stated by Sir Anthony Clarke MR in **Jeynes v News Magazines Ltd** [2008] EWCA Civ 130 at [14] and approved by Lord Kerr in **Stocker v Stocker** [2019] UKSC 17 at para 35:

*“(1) The governing principle is reasonableness. (2) The hypothetical reasonable reader is not naïve, but he is not unduly suspicious. He can read between the lines. He can read in an implication more readily than a lawyer and may indulge in a certain amount of loose thinking, but he must be treated as being a man who is not avid for scandal and someone who does not, and should not, select one bad meaning where other non-defamatory meanings are available. (3) Over-elaborate analysis is best avoided. (4) The intention of the publisher is irrelevant. (5) The article must be read as a whole, and any ‘bane and antidote’ taken together. (6) The hypothetical reader is taken to be representative of those who would read the publication in question. (7) In delimiting the range of permissible defamatory meanings, the court should rule out any meaning which, ‘can only emerge as the produce of some strained, or forced, or utterly unreasonable interpretation’: see Eady J in **Gillick v Brook Advisory Centres** approved by this court [2001] EWCA Civ 1263 at [7] and *Gatley on Libel & Slander* 10th ed, para 30.6. (8) It follows that ‘it is not enough to say that by some person or another the words might be*

*understood in a defamatory sense': Nevill v Fine Art and General Insurance Co Ltd [1897] AC 68, 73, per Lord Halsbury LC."*

## **THE SUBMISSIONS**

28. Counsel for the claimant submits that the natural and ordinary meaning of the word "broker" is "someone who conducts transactions for and/or on behalf of someone else, for compensation." The word "broker," as used in the article and in tables, means that the claimant provided services in relation to certain financial transactions, for which he was paid handsomely. By listing the value of the transactions in which it was falsely claimed that the claimant had acted as broker, the tables sought to convey that the claimant had earned substantial sums in that role and the impression was reinforced by the words of the article itself and its various references to high value transactions.
29. Counsel for the claimant accepts that the subject of the publication was a matter of public interest but denies that the publication was the product of responsible journalism. He submits that the defendants took no steps to confirm whether the claimant had acted as a broker in the transactions in question or to otherwise verify the information on which they relied. Therefore, there was no reasonable basis for the defendants to believe that the claimant had acted as a broker and their conduct fell below the standard of responsible journalism. He submits that the claimant was therefore entitled to damages for the publication and an award in the sum of \$400,000.00, inclusive of aggravated and exemplary damages, was appropriate compensation for his loss.
30. Counsel for the defendants submits that the words complained of by the claimant were not capable of bearing the meaning for which he contends. No suggestion was made in the article that Minister Young's recusal was a farce and the article reported the fact that he had recused himself on numerous occasions because of

the claimant's involvement in the matters being discussed. The suggestion that the claimant benefitted from misbehavior in public office is also far-fetched and a strained construction of the words used in the article, as no suggestion had been made in the article of criminal conduct on the part of Minister Young or anyone else. Therefore, the claimant's alleged involvement as a "broker" did not carry any imputation that was defamatory of him and the meanings he had advanced were the result of a strained, forced or unreasonable interpretation.

31. Counsel for the defendants submits further that the subject matter of the article was of significant public interest as it involved the conduct of government and political life, elections and public administration. The thrust of the article was not the nature of the claimant's involvement, but the fact that Minister Young had cause to recuse himself on numerous occasions by reason of the claimant's involvement in the matters before cabinet.

## **DISCUSSION AND FINDINGS**

32. As stated earlier, the claimant's complaint is that the use of the word "broker" in the article and tables bears a negative connotation and suggests improper conduct on his part. His evidence showed that he has taken no issue with the fact that on several occasions Minister Young had recused himself from cabinet discussions based on his (the claimant's) involvement in the matters or transactions that were under consideration. In fact, the claimant's statement of case and his witness statement both acknowledge his significant involvement in the financial services industry, locally and abroad, in the public and private sector.
33. The word "broker" has no adverse meaning *per se* and is defined in the Oxford dictionary as "an agent or intermediary." The question that arises is whether the context in which the word "broker" is used in the article and tables colours its meaning and supports the interpretation advanced by the claimant. The evidence

shows that the genesis of the article was a request made to Cabinet under the Freedom of Information Act for copies of all cabinet notes and minutes on matters in which the then Attorney General, Mr. Faris Al-Rawi, and the then Minister of National Security, Mr. Stuart Young, had recused themselves. In responding to the request, the Secretary to Cabinet provided a comprehensive list of the occasions on which Minister Young and Mr. Al-Rawi had recused themselves and the subject matter that was before Cabinet for consideration. Although the claimant's name does not feature on the list that was provided by the Secretary to Cabinet, he does not dispute his involvement in the companies or transactions in question except to deny that he has acted as a broker.

34. In my view, the fact that the word "broker" was used in the article and tables does not, without more, taint the publication in the manner that the claimant suggests. The tone of the article was neither sensational nor inflammatory and the context in which the word "broker" was used cannot be said to be an attack on the claimant's morals as the article makes no criticism of him or of the financial propriety of the transactions in question. A reading of the article and tables provides the full context in which the claimant was described as a "broker" and there is nothing to suggest that the word was used in a negative or derogatory way, nor can such an inference reasonably be drawn from the facts as reported in the article.
35. Although the defendants accept that they had taken no steps to confirm whether the claimant was a "broker," a libel is not established by reason only that a specific allegation is proven to be untrue. When the article is read as a whole, the impression that it conveys is that the claimant has a significant involvement in financial services matters and business transactions in the public and private sector, which is a fact that he readily acknowledges and from which no adverse inference may reasonably be drawn.

36. On the whole, the article makes no allegation of impropriety, corruption or nepotism in relation to the claimant and was not defamatory of him. I therefore accept the submission by Counsel for the defendants that the meaning of the words as advanced by the claimant involves reading far more into the article than its language warrants.
37. The defence of **Reynolds** privilege arises as a live issue only where the statement that is complained of is defamatory and untrue. It protects the publication of untrue and defamatory statements where it was in the public interest to make the publication and the publisher has acted reasonably.
38. I have already concluded that the word “broker” as used in the article, and the article as a whole, was not defamatory of the claimant. However, if I am wrong in that conclusion it is necessary to consider whether the defendants should succeed on the defence of **Reynolds** privilege.
39. In **Jameel v Wall Street Journal Europe** (2006) UKHL 44 at para 146 Baroness Hale described the objective of the defence of **Reynolds** privilege as follows:

*“(the defence of Reynolds privilege) ...springs from the general obligation of the press, media and other publishers to communicate important information upon matters of general public interest and the general right of the public to receive such information. The Reynolds public interest defence is designed to strike an appropriate balance between freedom of expression, freedom of the press and the right of the public to know on the one hand and the protection of a person’s reputation on the other.”*

40. In the Court of Appeal decision of **Guardian Media Limited v Ashwin Creed**, Civil Appeal No P022 of 2017, at paras 32 to 38, Justice of Appeal Mendonca, as he then was, discussed the requirements of the defence as follows:

*32....There are therefore two key questions which must both be answered in the affirmative before a court can hold that a publication is protected by the defence of Reynolds privilege. The first is whether the subject matter of the publication was a matter of public interest.*

*33. In determining whether the subject matter of the publication was a matter of public interest, consideration should be given to the publication (in this case the articles) as a whole and not only to the defamatory statements within them (see para 48 of **Jameel and another v Wall Street Journal Europe Sprl** [2006] UKHL 44).*

*36. If it is established that the publication was in the public interest, the next question that must be considered is whether the publication was the product of responsible journalism. As Lord Nicholls said in **Bonnick v Morris and others** [2003] 1 AC 300 at para 23:*

*“[23] Stated shortly, the Reynolds privilege is concerned to provide a proper degree of protection for responsible journalism when reporting matters of public concern. Responsible journalism is the point at which a fair balance is held between freedom of expression on matters of public concern and the reputations of individuals. Maintenance of this standard is in the public interest and in the interests of those whose reputations are involved. It can be regarded as the price journalists pay in return for the privilege. If they are to have the benefit of the privilege journalists must exercise due professional skill and care.”*

*37. The onus is on the publisher to establish both that the publication was in the public interest and that the publication was the product of responsible journalism.*

41. In **Reynolds**, Lord Nicholls provided the following non-exhaustive list of considerations as relevant to determining whether the test of responsible journalism is satisfied:

*“1. The seriousness of the allegation. The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true.*

*2. The nature of the information, and the extent to which the subject matter is a matter of public concern.*

*3. The source of the information. Some informants have no direct knowledge of the events. Some have their own axes to grind, or are being paid for their stories.*

*4. The steps taken to verify the information.*

*5. The status of the information. The allegation may have already been the subject of an investigation which commands respect.*

*6. The urgency of the matter. News is often a perishable commodity.*

*7. Whether comment was sought from the plaintiff. He may have information others do not possess or have not disclosed. An approach to the plaintiff will not always be necessary.*

*8. Whether the article contained the gist of the plaintiff's side of the story.*

*9. The tone of the article. A newspaper can raise queries or call for an investigation. It need not adopt allegations as statements of fact.*

*10. The circumstances of the publication, including the timing.”*

42. Lord Bingham of Cornhill described “matters of public interest” as follows:

*“By that we mean matters relating to the public life of the community and those who take part in, including within the expression ‘public life’ activities such as the conduct of government and political life, elections...and public administration, but we use the expression more broadly than that, to embrace matters such as (for instance) the governance of public bodies, institutions and companies which give rise to a public interest in disclosure, but excluding matters which are personal and private, such that there is no interest in their disclosure.”*

43. The defendants contend that the article was published during a general election campaign and that its publication was in the public interest. As is demonstrated by its terms, the focus of the article was the number of occasions on which Minister Young and Mr. Al-Rawi were required to recuse themselves from cabinet discussions. As the article related to actions that were taken by public officials in the discharge of their public duty, the defendants were entitled to full and fair latitude in making the publication, provided that they did not overstep the limits of responsible journalism: see **Panday v Gordon** 67 WIR 290 at para 21.
44. The fourth defendant’s evidence is that in making the publication she relied on information she had received from her sources, including information that was provided by the Secretary to Cabinet in response to a request made under the Freedom of Information Act. It is significant that, in responding to the request, the Secretary to Cabinet relied on section 35 of the Act, which provides for the disclosure of a document where the disclosure is “justified in the public interest having regard both to any benefit and to any damage that may arise from doing so.”
45. The fact that the Secretary to Cabinet concluded that the disclosure of the information sought in the request was in the public interest must be given significant



weight. Although the information disclosed by the Secretary made no reference to the claimant, the defendants' article and tables did not provide an exaggerated or unfair account of the information she had provided or otherwise implicate the claimant in wrongdoing, or fall outside the limits of a measured report. In cross-examination, the claimant did not seek to challenge the veracity of the information in the article but took strong objection to the use of the word "broker." As stated earlier, the defendants' failure to confirm whether the claimant had acted as a broker in any of the transactions in question does not support the conclusion that they have failed to satisfy the test of responsible journalism.

46. I have therefore concluded that, if the words used in the article were in fact defamatory of the claimant, it was in the public interest for the defendants to publish the article and that, in doing so, they have satisfied the test of responsible journalism.
47. The claimant's claim therefore fails and is hereby dismissed.
48. Having heard the parties on costs, and having assessed the value of the claim in the sum of \$150,000.00, it is ordered that the claimant do pay the prescribed costs of the claim in the sum of \$31,500.00.
49. There shall be a stay of execution of 28 days.

Jacqueline Wilson KC  
Judge