

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 453 of 2005

BETWEEN:

P D P INTERNATIONAL BANK LTD

Appellant

V

INTERNATIONAL FINANCIAL SERVICES AUTHORITY

Respondent

Appearances:

Mr. J.A. Delves for the Appellant

Mr. J.O.R. Martin for the Respondent

2007: November 5

JUDGMENT

- [1] **MATTHEW J (Ag.) (In Chambers):** The substantive issue between the Parties follows upon a decision made by the Respondent on September 6, 2005 to revoke the Class I Licence it had granted to the Appellant on August 9, 2004 to conduct international banking business in Saint Vincent and the Grenadines.
- [2] This ruling is based on an application by the Appellant that because the Respondent did not comply with two earlier orders of the Court; and had only filed its only witness statement and its bundle of documents on November 2, 2007, the Appellant much as it desired to do so, was unable to proceed with the substantive matter today, and therefore requested an adjournment with costs in the amount of \$5,000.

- [3] On December 16, 2005 a Judge of the High Court ordered disclosure to be made by the Parties on or before January 27, 2006; and on March 3, 2006 another Judge of the High Court ordered that the time to file witness statements was extended to April 7, 2006.
- [4] As indicated above the Respondent failed to comply with the two orders of the Court. Learned Counsel for the Respondent explained that the failure was because Counsel was unsure whether his firm still represented the Respondent; and it was not until October 23, 2007 when the Trial Bundle was filed that his firm received instructions to proceed with the matter. Counsel could not resist the application for an adjournment although he could not agree on a figure for costs.
- [5] Counsel for Respondent on the said November 2, 2007 made an application for relief from sanctions for the late filing of the only witness statement and the list of documents. The application was supported by an affidavit of Patricia Huggins filed on the same day which sought to show that a change in the management of the Respondent was the cause of lack of communication between the Respondent and Counsel, thus resulting in the delay.
- [6] Part 26.8 of the Civil Procedure Rules 2000 deals with relief from sanctions and permits a Judge to grant relief if it is satisfied that
- “(a) the failure to comply was not intentional;
 - (b) there is a good explanation for the failure; and
 - (c) the party in default has generally complied with all other relevant rules, practice directions, orders and directions.”
- [7] I am satisfied that the failure to comply was not intentional and was due mainly to the failure of the Respondent to give adequate and timely instructions to its Counsel. The default has now been remedied and the substantive matter cannot be dealt before the coming New Year. I note as well that the Appellant took a long time before filing the Trial Bundle.

- [8] In the circumstances I grant to the Respondent relief from sanctions in not filing its witness statement and list of documents in the time stipulated; and I direct the Registrar to reschedule this matter to a convenient date in the year 2008.
- [9] I order the Respondent to pay the Appellant's costs in the amount of \$5,000.00.



Albert N. J. Matthew
HIGH COURT JUDGE (Ag.)