

# **PRESS RELEASE**

## **JUDGEMENT DELIVERED IN FAVOUR OF GRACEKENNEDY REMITTANCE SERVICES LIMITED IN PAYMASTER SUIT**

The Supreme Court has ruled in favour of GraceKennedy Remittance Services Limited (“GKRS”) and software developer, Paul Lowe, in the suit brought against them by Paymaster Limited (“Paymaster”).

The Court also ruled in favour of Mr. Lowe in his claim for damages against Paymaster for losses he suffered as a result of Paymaster’s actions.

In his judgment delivered today, April 30, 2010, Mr. Justice Roy Jones outlined the Court’s findings that:

- (i) Paymaster did not own the copyright in the software. Paul Lowe is the author and owner of the software at issue in this case and that he never intended to assign his ownership to Paymaster.
- (ii) ***“GKRS did not use Paymaster’s business plan, but developed Bill Express from its own efforts. The Claim for breach of confidence has not been made out.”***
- (iii) GKRS did not ‘pass-off’ its Bill Express business as that of Paymaster’s. The Judge stated that ***“There is no evidence of any confusion or deceit and so the claim for passing-off has not been proven on balance.”***
- (iv) As Paul Lowe is the owner of the copyright in the software and is entitled to license it to other persons, the cause of action for breach of contract and inducing breach of contract cannot succeed.

The Court also ordered an enquiry into damages to be paid by Paymaster to GKRS and Paul Lowe for losses they suffered as a result of the injunction granted on the application of Paymaster in 2000.

Costs in the suit were awarded to GKRS and Paul Lowe to be paid by Paymaster.

In response to the ruling in favour of the GraceKennedy subsidiary, the Group's Chairman and CEO, Mr. Douglas Orane, said *"We are pleased with the outcome of the judgment of the Court which has vindicated our position. This is a landmark judgment in the field of intellectual property law in Jamaica and is consistent with international precedents. We are particularly happy for the Co-Defendant Paul Lowe who has suffered from not being able to earn a living from the fruits of his creation for the last 10 years because of the injunction obtained by Paymaster in 2000 which has prevented him from marketing his software from then up to the present time."*

GKRS was represented in the action by B. St. Michael Hylton, Q.C. and John Vassell, Q.C. instructed by Courtney Bailey and Teri-Ann Lawson of DunnCox.

Douglas Orane  
Chairman & CEO  
GraceKennedy Limited  
April 30, 2010

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