

GKRS RESPONSE TO ARTICLE IN JAMAICA OBSERVER ON 10/7/09

On July 10, the Daily Observer carried an article under the heading "Grace Faces \$1.7B copyright claim. Court rules Audrey Marks's submission legitimate." The article refers to a case currently before the courts involving Paymaster Ltd. and GraceKennedy's subsidiary GraceKennedy Remittance Services Ltd.

While our policy is not to comment on a case which is currently in court, the newspaper report contained a number of errors which misrepresent the facts, the main ones of which we find it necessary to now correct.

Firstly the newspaper reports that the Court of Appeal has ruled that a supplemental witness statement tendered in evidence in April 2008 by Audrey Marks, Paymaster's owner, was 'legitimate, meritorious and should therefore be heard in its totality at the full trial scheduled for October.

However the Court of Appeal, in its Judgement, did not make any ruling as to the merit or legitimacy of the contents of Miss Marks' supplemental witness statement.

The matter deliberated by the Court was a procedural one as to whether the supplemental witness statement of Audrey Marks filed in the Court should properly be brought before the Court at the trial of the claim which is scheduled for hearing in October of 2009.

All that the Court stated in its judgment, was that the allegations contained in the supplemental witness statement of Audrey Marks related to the claims **already** filed by Paymaster in the court proceedings and were not new claims, and as such it was permissible for this document to be submitted for consideration by the judge at the trial of the claim.

The article also stated, incorrectly, that Mr. Justice Leighton Pusey in the initial Supreme Court hearing found that Marks's statement was legitimate.

Mr. Justice Pusey's written judgment does not in fact include any finding that Audrey Mark's supplemental witness statement is legitimate. As with the Court of Appeal, this judge was only considering a procedural question as to whether the allegations and claims contained in Audrey Mark's supplemental witness statement related to the claims Paymaster had filed in the proceedings, and as such whether a trial judge should at the trial be permitted to consider the allegations made in the supplemental witness statement.

It should also be noted that the Supreme Court has subsequently ruled that the trial of the claim should first consider whether GraceKennedy Remittance Services Limited or the other defendant, Paul Lowe are at all liable to Paymaster on the claims filed, and that only if either of the Defendants is found liable, is the Court to embark on a consideration of the quantum of damages that Paymaster can prove it is entitled to on its claim.

GraceKennedy Remittance Services Limited has denied the claim brought against it by Paymaster, and will continue to vigorously defend the claim which it considers completely unfounded.

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Joan-Marie Powell
Managing Director
GraceKennedy Remittance Services Limited
July 10, 2009