

IN THE HIGH COURT OF JUSTICE OF THE F.C.T.

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ZUBA, ABUJA

ON FRIDAY THE 2ND DAY OF JUNE, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE K. N. OGBONNAYA

JUDGE

SUIT NO.: FCT/HC/CV/2533/2020

BETWEEN:

OLUWASOGO ADEUJA

CLAIMANT

AND

1. IVIE OMOROGBE

2. IZED UMAIGBA

3. VUNUS MOHAMMED

FREDDY POLAND BEUTCHA

(Trading under the name and style

LAVENDER LIGHT POULTRY FARM LTD)

DEFENDANTS

RULING

In an Amended Writ filed on the 7th day of February, 2020 the Claimant, Oluwasogo Adeuja instituted this action against the Defendants, Ivie Omorogbo, Ized Umaigba and Vunus Mohammed Freddy Poland Beutcha (Trading under

the name and style ***Lavender Light Poultry Farm Limited.***

In the Writ the Claimant claims the following against the Defendants:

- (A) A Declaration that the Defendants are jointly indebted to the Claimant in the total sum of One Hundred and Ninety Four Million, Six Hundred and Seven Thousand, Five Hundred and Forty Five Naira (₦194, 607,545.00) only being the sum outstanding from the total sum paid to the Defendants for onward transfer to the Claimant's partners offshore.**
- (B) An Order of the Honourable Court directing the 1st Defendant to refund to the Claimant forthwith the total sum of One Hundred and Nineteen Million, Five Hundred Thousand Naira (₦119, 500,000.00) only being the sum outstanding from the total sum paid to the 1st Defendant for onward transfer to the Claimant's partners offshore.**
- (C) An Order of the Honourable Court directing the 2nd Defendant to refund to the Claimant forthwith the total sum of Forty Six Million, Two Hundred and Thirty Two Thousand, Five Hundred and Forty Five Naira (₦46, 232,545.00) only being the sum outstanding from the total**

sum paid to the 2nd Defendant for onward transfer to the Claimant's partners offshore.

(D) An Order of the Honourable Court directing the 2nd Defendant to refund to the Claimant forthwith the total sum of Twenty Eight Million, Eight Hundred and Seventy Five Thousand Naira (N28, 875,000.00) only being the sum outstanding from the total sum paid to the 3rd Defendant for onward transfer to the Claimant's partners offshore.

Because the claim is predicated on Debt Liquidated Money Demand, the Suit was marked "Undefended" by the Court. The Defendants were served as evidenced in the Affidavit of the Bailiff of the Court at Edo State High Court which was based on the subsisting Order for service by pasting made by this Court on 21st June, 2022. The 1st Defendant was served on the 1st of November, 2022 while the 2nd Defendant was served the same day. The evidence of service – pictures showing that the Defendants were served refers. The Court also refers to the Affidavit of the Bailiff and the Certificate of Compliance as per **S. 84 of the Evidence Act 2011**. There is also evidence of service on the 3rd Defendant.

The Claimant supported the Writ with an Affidavit of 52 paragraphs and documents attached and marked as **EXH 1 – 9**.

All the Defendants were served and the 2nd & 3rd Defendants filed Notice of Intention to Defend on the 13th day of February, 2023 and 30th day of March, 2023 respectively. Both the 2nd & 3rd Defendants also filed Affidavit to support and defend on merit on the same days respectively, stating that they have prima facie defence on merit. The 1st Defendant did not file any Intention to Defend or Notice to Defend on Merit.

As stated in the Affidavit of the Claimant, it is the believe of the Claimant that the 1st – 3rd Defendants have no prima facie Defence on merit and as such his Suit is unchallenged and that Court should therefore enter Judgment summarily on his behalf and in his interest. The Claimant supported that assertion by the fact in his Affidavit of 52 paragraphs.

The Claimant had in the said 52 paragraphs Affidavit stated that he had an Agreement with 1st – 2nd Defendants to transfer several amount of money at various times spacing from May 2020 to August of the same year. The Agreement was that the Claimant will and actually credited the money directly into the Accounts of the 1st & 2nd Defendants and the Defendants promised to send the Dollar equivalent of the money to his partners. The Claimant provided the Bank details of his partners where the Defendants will pay the money – US Dollars into. The Claimant fulfilled his own obligation by paying into the Defendants' Accounts the Naira equivalent. But the Defendants failed to pay in the Dollars. They had sent to

the Claimant documents evidencing payment of the various Dollars equivalent. But to the Claimant's shock, it turned out that; (1) the Defendants did not transfer the exact Dollars equivalent as claimed. (2) That the little they paid was done through a 3rd party's Account – the 3rd Defendant. The Claimant raised alarm but the Defendants made promises that they will pay, but they never did. There were several phone calls, meetings and chats in the WhatsApp. At a time the Defendants started avoiding the Claimant's calls. Meanwhile, the partners of the Claimant were at his neck. They started seeing him as a fraudulent person. Meanwhile, the 1st Defendant had made promises and had undertaken to pay. They were several correspondence and evidence of payment of the various sums by the Claimant attached as **EXH 1 – 9**. These include Bank Statements showing transfers of the money from the Claimant's Account to the Defendants. The 1st & 2nd Defendants encouraged the Claimant to pay money into the Account of the 3rd Defendant. The Claimant wrote letters to the Defendants. There was also letter from Abiodun Odulami demanding payment of the money from the Claimant requesting him to transfer the total of \$441, 079.50 which is the sum in issue as at 29th April, 2020.

In summary the indebtedness of the 1st – 3rd Defendants to the Claimant are as follows:

1st Defendant – **One Hundred and Nineteen Million, Five Hundred Thousand Naira (₦119, 500,000.00) only.**

2nd Defendant – Forty Six Million, Two Hundred and Thirty Two Thousand, Five Hundred and Forty Five Naira (N46, 232,545.00) only.

3rd Defendant – Twenty Eight Million, Eight Hundred and Seventy Five Thousand Naira (N28, 875,000.00) only.

According to the Claimant all these monies were paid into the accounts of the 1st – 3rd Defendants at different times with the understanding and Agreement that the Defendants have paid or agreed to pay the Dollars equivalent to the Claimant's partners Account as instructed and as they promised. But to his shock the Defendants did not do so till date. He made several demands and letters for them to return the money to him but they were all abortive. Left with no other option and loosing face before his foreign partners, he had no choice but instituted this action urging Court to Order the 1st – 3rd Defendants to pay him what they owe which is a debt and money had and received. To him the Defendants have no Defence to the Suit and as such he urged the Court to enter Judgment summarily as the Defendants have no prima facie defence on merit.

The Defendants were served with the Writ which was duly marked Undefended. The 2nd Defendant filed a Notice to Defend on the 13th day of February, 2023. He also filed an Affidavit of 13 paragraphs. He did not attach any document.

The 3rd Defendant also filed a Notice of Intention to Defend. He also filed an Affidavit of 44 paragraphs which he sworn to personally. He attached several documents including Petition written against the Claimant and all the Defendants dated 15th May, 2020. Surprisingly, the 1st Defendant did not file any Notice to Defend and Affidavit.

It is imperative to state that facts unchallenged, uncontroverted and unrebutted are deemed and are actually admitted. That is more so where the person was given all the judicial leverages to do so but failed to do so. In this case, since the 1st Defendant did not challenge the case of the Claimant, having not filed any Notice of Intention to Defend, this Court deems it and holds that he has no intention to defend this Suit and has actually admitted his indebtedness to the Claimant as alleged. So this Court holds.

In the 2nd and 3rd Defendants' Affidavit they urged the Court to transfer the case to the General Cause List and not to grant the Claimant Summary Judgment as sought. To the said 2nd and 3rd Defendants they have prima facie defence to the Suit and that it will be in the best interest of justice to all parties to call evidence to defend the case. But granting summary Judgment will jeopardize and prejudice them.

According to the 2nd Defendant, going by the fact in his Affidavit, the 2nd Defendant is willing and able and in position to sell and transfer the sum of \$541, 000.00 which the Claimant agreed to purchase in March 2020.

That between 10th March, 2020 to 12th March, 2020 he instructed the Claimant to credit the Naira equivalent of the sum of \$541, 000.00. That the basis of receiving the Naira is to sell to the Claimant the said Dollars - \$541, 000.00. That he agreed with the Claimant that he will remit the said sum into designated Account upon receipt of the Naira equivalent into his Account. The Account details were as detailedly stated in paragraph 7 of the Affidavit in support of Notice to Defend.

The 2nd Defendant confirmed that he received the said payment for the purchase of the \$541, 000.00 from the Claimant. That the money was paid into the Claimant's GTB Account No: 0171612085. That the Claimant is not owing him any money. He also confirmed that contrary to the 2nd Defendant's Agreement with the Claimant, he, the 2nd Defendant had only paid to the Claimant the sum of \$134, 740.80 rather than the \$541, 000.00 the Claimant purchased from him. In paragraph 10 of his Affidavit the 2nd Defendant undertake to pay the Claimant and discharge the outstanding balance/sum - \$406, 259.20. That he undertake to make the payment to the Claimant by way of Direct transfer of money to the Barclays Bank Account which is detailedly stated in the paragraph 11 of the Affidavit in support of the Notice of Intention to Defend. That the Claimant and the 1st & 3rd Defendants will not be prejudiced if the 2nd Defendant is afforded opportunity to enter Defence in this Suit.

On their part the 3rd Defendant filed as stated earlier Affidavit of 44 paragraphs. It was deposed to by Vunus Mohammed trading under the name and style of ***Lavender Light Poultry Farm Limited***. It was filed on the 30th of March, 2022. He submitted that the 3rd Defendant's Account at FCMB was used by the Claimant, the 1st and 2nd Defendants and one Freddy Beutcha in the deal. Vunus Mohammed, the Chairman of ***Lavender Light Poultry Farm Limited*** claimed that he and his company do not know the said Freddy Beutcha. He attached CTC of documents from CAC to prove so. That the said Poland Beutcha is an agent to Abiodun Odunlami, the principal of the Claimant, the 1st & 2nd Defendants in respect of the Forex transaction in this case. He referred to the letter of Abiodun O. Odunlami dated 29th April, 2020 which is attached as **EXH mail 4**.

That the case is premised on Forex transaction for purchase of Forex entered into by the Claimant and the 1st – 2nd Defendants. That it was between the companies **Sagg Couture and SF Designs & Co. Ltd.** That the Claimant represents the 2 companies. That the company contracted the 1st & 2nd Defendants to source for Forex whenever it is requested by their customers. That as Agent of the companies, they contracted the 2nd Defendant, Poland Freddy Beutcha and one Robert Chukwunyere Uchenna who resides in Dubai UAE to source for Forex when needed. They contacted one Adamu Mohammed who also resides in Dubai to help find Bank Accounts which is operated in Lagos where their Agents and customers can

deposit Naira amount which is required to be used to purchase Forex. That Adamu Mohammed contacted the 3rd Defendant and his company and he donated and authorized that his company's Account can be used for the purchase of Forex from Adamu Mohammed.

It was agreed that the Naira paid into the firm Account was paid directly to Adamu Mohammed and that Adamu Mohammed would pay the money directly and as directed by Robert Chukwunyere Uchenna who lives in Dubai UAE. That the 3rd Defendant and his company - ***Lavender Light Poultry Farm Limited*** were not parties to the Agreement between the Claimant as an Agent of Sagg Couture and SF Designs Co. Ltd or their Agents or customers.

That none of them had ever contacted the 3rd Defendant or its company except by making deposits into the said Account without prior notification to them. That all transactions by Adamu Mohammed on the Account in the Agreement with the 2 companies were all done in the 3rd Defendant company's address in Lagos and not in Abuja, FCT. That all monies paid into the 3rd Defendant Company's Account by the Claimant and the 2 companies were all paid to Robert Chukwunyere Uchenna as agreed with Adamu Mohammed. That the total sum of **Two Hundred and Forty One Million, Three Hundred and Fifty Six Thousand Naira (₦241, 356,000.00)** paid into the company's Account were all Robert Chukwunyere Uchenna and that he acknowledged receipt of same both orally and in writing in the statement made to the Police

on 11th June, 2020 which he attached as **EXH YM 1**. That Adamu Mohammed also acknowledged and confirmed that fact in his own statement to the Police on the same 11th June, 2020. That Adamu Mohammed confirmed that the said money paid into the 3rd Defendant company's Account were paid to the said Robert Chukwunyere Uchenna as agreed. He attached the statement as **EXH YM 2**.

That Agreement to purchase Forex was between the SF Design & Co. Ltd and the 1st – 2nd Defendant. That the 3rd Defendant and his company were not privy to the contract and the Claimant has no legal basis to enforce contract against them – 3rd Defendant and his company. That the Claimant has no locus standi to institute action against them and Adamu Mohammed in contract between the 3rd Defendant and his company and Adamu Mohammed. That this Court has no competency and jurisdiction to entertain the Suit against them too. That by **S. 270 and 272 (1) of the 1999 Constitution of the Federal Republic of Nigeria** (as amended) it is only the High Court in Lagos that has the jurisdiction to entertain the Suit relating his contract between Adamu Mohammed and the 3rd Defendant.

That Court should strike the Suit out in limine. That the 3rd Defendant/his company are not in any way indebted to the Claimant. That the 3rd Defendant never transacted any business with the Claimant, the 2 companies – Saggs and SF Designs or with the 1st & 2nd Defendants on behalf of the Claimant.

That all monies paid into the 3rd Defendant Account at FCMB by Sagg and SF Designs Ltd or any other Agent including the Claimant on instruction of Robert Chukwunyere Uchenna on basis of the Agreement between Adamu and the 3rd Defendant have been fully paid to Robert Chukwunyere Uchenna by Adamu from the 3rd Defendant.

That the Claimant on behalf of the 2 companies and 2nd Defendant contracted Robert Chukwunyere Uchenna who resides in Dubai. That Robert was instructed by Adamu who gave the Account of the 3rd Defendant to the 2 companies, Sagg and SF Designs Ltd and to the 2nd Defendant.

That the payments into the 3rd Defendant's Account were made in Naira in exchange for US Dollars and Dirhams which Robert Chukwunyere Uchenna collected on behalf of their 2 companies as their Agent in Dubai.

That the 3rd Defendant is not involved in allegation in respect of transaction between the Claimant (Sagg and SF Designs Ltd and the 1st & 2nd Defendants. That the 3rd Defendant never transacted any business with the 1st & 2nd Defendants on behalf of the Claimant. That all those transactions were done through their Agent – Freddy Beutcha and Robert Chukwunyere both of who resides in Dubai.

That the undertaking referred to in paragraph 35 of the Affidavit in support of the Writ marked as **EXH Moh 6** is

not binding on the 3rd Defendant as he is not a party to the document and did not benefit from it too. That he is not aware and not a party to the transaction in paragraph 36 – 39 of the Affidavit in support of the claim.

That contrary to paragraph 41 – 44 of the Affidavit in support of the Writ, that the 3rd Defendant never transacted with the Claimant, the 2 companies and never received any instruction orally or in writing from the 2nd Defendant who he never had any contact with.

That going by the transaction, that it was the 1st & 2nd Defendants who through their Agents in Dubai collected the Bank details of the 3rd Defendant's company, ***Lavender Light Poultry Farm Limited*** and caused their Agent, Sagg and SF Designs Ltd. to pay the equivalent in Naira in exchange for the sum in foreign currencies.

That the **Twenty Eight Million, Eight Hundred and Seventy Five Thousand Naira (N28, 875,000.00)** only referred to in paragraph 45 is only part of the total sum of **Two Hundred and Forty One Million, Three Hundred and Fifty Six Thousand Naira (N241, 356,000.00)** which was deposited into the ***Lavender Light Poultry Farm Limited*** Account by the Agent of the 2 companies – Sagg and SF Designs Co. Ltd. including the Claimant. That all the sum of **Two Hundred and Forty Million, Three Hundred and Fifty Six Thousand Naira (N240, 356,000.00)** has been paid to Robert Chukwunyere in US Dollar and Dirhams from Adamu Mohammed. That Adamu Mohammed made the 3rd Defendant to make available the

Bank Account of the 3rd Defendant to the Claimant's companies for the deposit of the Naira equivalent of the foreign currencies as required by the customers of the 2 companies.

That the 3rd Defendant is not indebted to the Claimant or the 2 companies in respect of the lodgments made into the 3rd Defendant's Accounts by the 2 companies and their Agents as alleged in paragraphs 46 – 49 of the Affidavit in support of the Writ. That the Claimant had never made any demand on 3rd Defendant as the 3rd Defendant do not owe him or the 2 companies.

Based on the allegation of Agents of Claimant, the 2 companies, the Claimant caused a petition to be written against the 3rd Defendant at the Police office at AIG Zone II Headquarters alleging conspiracy obtaining money by false pretence and stealing the amount in issue. That after investigation the Police cleared the 3rd Defendant of any involvement in any crime as it relates to the transaction between the Claimant's Agent and Adamu Mohammed. That they wrote the said Petition against the Claimant to AIG FCIID at Alagbon Close Ikoyi, Lagos. The 3rd Defendant attached copies of the Statement of Adamu Mohammed and Robert Chukwunyere Uchenna made at the Police in Lagos – **EXH YM 1 & 2.**

That in both Statement they exonerated the 3rd Defendant in that it has nothing to do with the Forex contract between the 2 men and the report of investigation exonerated the 3rd Defendant and its company. That the

letter of 25th June, 2022 was written to FCMB to vacate the Post No Debit placed on the Account of the 3rd Defendant's company.

The 3rd Defendant therefore urged Court to strike out his name from the Suit as he has no business or contract with the Claimant and was never involved in the Forex transaction with the Claimant at any time. Again, that in the alternate, if the Court is mindful of retaining his name as a party the Court should transfer the matter to the General Cause List as that will afford him time to defend himself in the Suit.

COURT

As had already stated, the 1st Defendant was duly served with both the Originating Process and the Notice to Defend filed by the 3rd Defendant as per Order of this Court. The Court had also ordered the 2nd Defendant to serve the 1st Defendant with its Process but the 2nd Defendant failed to do so. The 1st Defendant NEVER entered appearance in person or in paper. It never had Counsel representation. He never filed any Process in defence of the Suit. He neglected, ignored and refused to respond to the Processes served on him. He gave no reason for doing so. This Court holds that the 1st Defendant – Ivie Omorogie had admitted all the claims and allegation made against him by the Claimant in this case as regards the claims of the Claimant. After all, fact undenied, uncontroverted, un rebutted and unchallenged is deemed admitted. That is

more so where the party was, as in this case, given all the judicial leverages to be heard and to respond but failed to do so. This is exactly the fate of the 1st Defendant in this case. He was given all the chance to exercise his right to fair-hearing but he failed to do so in this case as can be seen in the Record of Proceeding of this Court in this case.

It is the law that where the action took place or where one (1) of the key parties to a contract took place is the place where an action for redress can be taken up. That is that the Court where the action or transaction took place is the Court that has the territory jurisdiction to hear the case.

In this case, the Claimant by his address is staying in Abuja. The transaction as it were took place as claimed by the 3rd Defendant's Counsel in Lagos and the 1st & 2nd Defendants initially resided in Lagos. But since the issue in dispute or the Res is predicated on monetary transaction which spanned over several days and weeks in various Banks and given the fact that by the advent of E-money transaction, ATM, Electronic Money Transfer, BVN and the like that anyone can access money from the comfort of his home from his phone, such person can do transaction even along the road, in his bathroom, at a bar, in the swimming pool or in a party where he has gone to do "owambe." These days monetary transactions have no territorial boundaries in a country like ours and even globally. That means that money transaction can be done in a branch of a bank in Lagos by someone staying in Sokoto at a tourbaning ceremony or at Argungu festival.

So also financial transaction can be done by a person domiciled in Awka in his Account in Lagos while attending “Offala or Iwa ji” Festival. That is why this Court holds that though the transaction, as it where, took place in various Banks – GTB, Zenith Bank, Access Bank etc they are all majorly done by electronic transfer.

Again, there is only one GTB, Access Bank and Zenith Bank and all others are their branches. All the Bank papers attached in this case by the Claimant are all electronically generated in line with **S. 84 of the Evidence Act 2011** as amended. So given to that fact this Court holds that since Bank transaction are now nationally, this Court holds that it has the jurisdiction to entertain this Suit. After all, all the documents never showed the location where the money were released from or received. So the submission of the 3rd Defendant on issue of jurisdiction and competence of this Court in that regard is **dismissed**. This Court has the jurisdiction to entertain this Suit. So this Court holds.

A closer look at the submission of the 2nd Defendant which this Court had detailedly summarized above shows that he did not deny being indebted to the Claimant to the tune of **\$406, 259.20**.

Again, the 2nd Defendant agreed that he received the Naira equivalent of **\$541, 000.00** from the Claimant. He had in paragraph 4 of the Affidavit in support of the Notice of Intention to Defend averred that he is willing and able to transfer and sell the said amount of **\$541, 000.00** which

the Claimant agreed to purchase in March 2020. In paragraph 5 he averred that he had between 10th – 12th March, 2020 he had instructed the Claimant to receive the said amount – its Naira equivalent. He confirmed that the said instruction was for the sale of the sum of **\$541, 000.00** to Claimant. He also confirmed that he was to serve the US Dollars upon receipt of the said Naira equivalent of the US Dollar - **\$541, 000.00**. He confirmed receiving the money which was paid into his GTB Account No. 0171612085 and that the Claimant is not in any way indebted to him. In paragraph 8 he averred thus:

“That 2nd Defendant (Ized Umaigba) confirmed that indeed he received payment for the purchase of Five Hundred and Forty One Thousand United State Dollars (\$541, 000.00) from Mr. Oluwasogo Adeuja (Claimant in this case) into his Guarantee Trust Bank Account No. 0171612085 and no money whatsoever is owed to (him) 2nd Defendant by the Claimant in respect of this transaction.”

From the above it is clear that there was a contract of Forex transaction between the Claimant and the 2nd Defendant.

The above averment need no further elucidation as far as the issue in dispute in this case is concerned in that regard. The 2nd Defendant confirmed there was. Of interest also is the averment in paragraph 9. In the said paragraph 9 the 2nd Defendant averred also thus:

Paragraph 9 Notice of Intention to Defend states thus:

“That the 2nd Defendant (Ized Umaigba) also confirmed that contrary to 2nd Defendant’s agreement with the Claimant that (he, the 2nd Defendant) have only paid Claimant till date the sum of One Hundred and Forty Thousand, Seven Hundred and Forty United State Dollars (\$140, 740.00). ... rather than the Five Hundred and Forty One Thousand United State Dollars (\$541, 000.00) the Claimant purchased from the 2nd Defendant (Ized Umaigba). {All emphasis mine}.

From the above it is clear that there was a contract of Forex between the 2nd Defendant and the Claimant. It is also clear and confirmed that the Claimant transferred the Naira equivalent into the Account of the 2nd Defendant and that the 2nd Defendant received that Naira equivalent of **Five Hundred and Forty One Thousand United State Dollars (\$541, 000.00)** as agreed. It is equally confirmed by the 2nd Defendant that he reneged in fulfilling his obligation to the Claimant under the Agreement by not remitting to Claimant the complete amount of Forex in that he only remitted **One Hundred and Forty Thousand, Seven Hundred and Forty United State Dollars (\$140, 740.00)** instead of **Five Hundred and Forty One Thousand United State Dollars (\$541, 000.00)** as agreed which the Claimant had purchased from him. By this averment in paragraph 9, the indebtedness of the 2nd Defendant to the Claimant is clear, confirmed and

unambiguous. This was confirmed on Oath in the averment in paragraph 9 of the Affidavit in support filed by the 2nd Defendant.

Again of utmost importance and clarity is the averment in paragraph 10 of the said 2nd Defendant's Affidavit. In it the 2nd Defendant stated thus:

“The 2nd Defendant undertake to pay the amount and discharge forthwith the outstanding sum of Four Hundred and Six Thousand, Two Hundred and Fifty Nine United State Dollars, Twenty Cents (\$461, 249.20).”

In paragraph 11 the 2nd Defendant averred thus:

“That the 2nd Defendant undertake to make payment to the Claimant forthwith by way of direct transfer of the money to his Barclays Bank Account.”

He concluded that the 1st & 3rd Defendants will not be prejudiced if he enters Defence in this Suit.

From the totality of the Affidavit of the 2nd Defendant there are fundamental disparity in the amount the Claimant claims against the 2nd Defendant which according to the Claimant in his Amended Writ stands at **Forty Six Million, Two Hundred and Thirty Two Thousand, Five Hundred and Forty Five United State Dollars (\$46, 232,545.00)**. But in the Affidavit the 2nd Defendant had claimed to be owing the Claimant about **Four Hundred**

and Six Thousand, Two Hundred and Fifty Nine United State Dollars, Twenty Cent (\$406, 259.20) having paid the Claimant the sum of **One Hundred and Forty Thousand, Seven Hundred and Forty United State Dollars (\$140, 740.00)**. But there is disparity in the figures which the 2nd Defendant stated in the paragraph 9 of the Affidavit. The 2nd Defendant wrote “**(\$134, 740.80).**”

Again there is also disparity in the total figures claimed by the Claimant in this Suit with the above figure as stated in the averment of the 2nd Defendant. From the totality of the averment of the 2nd Defendant he claims to be the only person owing the Claimant hence, exonerating the 1st & 3rd Defendants. Yet the Claimant himself had claimed that the 1st & 3rd Defendants are owing him too – **One Hundred and Nineteen Million, Five Hundred Thousand Naira (N119, 500,000.00)** only and **Twenty Eight Million, Eight Hundred and Seventy Five Thousand Naira (N28, 875,000.00)** only respectively. While the 2nd Defendant is owing the Claimant **Forty Six Million, Two Hundred and Thirty Two Thousand, Five Hundred and Forty Five Naira (N46, 232,545.00)**.

All the above amount came up to the sum in issue which is **One Hundred and Ninety Four Million, Six Hundred and Seven Thousand, Five Hundred and Forty Five Naira (N194, 607,545.00)**. A simple mathematical calculation using the rate of **Four Hundred and Sixty Naira (N460.00)** per United Stated Dollar as the Claimant

had done in his Affidavit shows that the total US Dollars agreed to be owed by the 2nd Defendant comes up approximately a total of the said **Four Hundred and Six Thousand, Two Hundred and Fifty Nine United State Dollars, Twenty Cent (\$406, 259.20)**. Notwithstanding the disparity pointed out above and going by the said averment of the 2nd Defendant, it is evidently clear that the 2nd Defendant having confirmed that he is owing the Claimant and had undertaken to pay him as averred in paragraph 11 of his Affidavit, has no prima facie defence to the Suit of the Claimant. This is so because he confirmed receiving the said Naira equivalent of the money from the Claimant and failing to remit to the Claimant the US Dollar equivalent. Having so agreed, he has no Defence to the Suit of the Claimant. So this Court holds. There is no merit in his Notice of Intention to Defend this Suit. So this Court holds too, having admitted severally his indebtedness to the Claimant.

This Court also holds that since the 1st Defendant did not file any Notice to Defend and any Affidavit to Defend on merit, this Court holds that he also has no Defence to the Suit of the Claimant and as such he is liable to pay the Claimant what he is alleged he owes, having admitted that. So this Court holds too.

This Court therefore holds that the 1st & 2nd Defendants have no prima facie Defence to the case of the Claimant. This case is retained under the Undefended List Procedure.

On the part of the 3rd Defendant, it is evidently clear that money were paid into his company's Account but were never paid to him as a person. These money were paid through and by Ahmed who he claimed he gave his Account details to. There is no evidence before this Court that any money was paid to the 3rd Defendant who is a party in this case. From all indication, he was never part of the Forex transaction. He had no business with the Claimant orally or in writing. Again all the people whose name had appeared in the document like Ahmed Mohammed, Roland Chukwunyere Uchenna and Beutcha all exonerated the 3rd Defendant stating that he has no contract with the Claimant and was not involved in the money deal. Besides, he had tendered documents to prove and establish that fact especially YM 1 & 2 as statements of Roland Chukwunyere Uchenna and Adamu Mohammed which were made to the Police. Even in the Petition written by Biodun Odunlami, the Principal of the Claimant, it shows that the 3rd Defendant was NEVER mentioned among the persons to be investigated. In the letter the writer stated that the 1st & 2nd Defendant as well as Roland, Freddy, Beutcha be investigated. From the documents attached and Affidavit in support of the Writ, they are the persons who have business deal with in Forex with the Claimant. That being the case, the name of the 3rd Defendant ought not to be there as a party in this Suit, though the Claimant has a claim against him. So this Court holds. Going by the documents attached by the Claimant in support of his claim, there is none that shows

that the Claimant transferred any amount of money to the 3rd Defendant personally. There is no evidence that money transferred to his company's Account was given to him. There is no evidence to show that there was any oral or written Agreement between the Claimant and the 3rd Defendant in relation to the issue in dispute. The Claimant has no Locus Standi to include the 3rd Defendant as a party in this Suit since the 3rd Defendant, Vunus Mohammed, is not privy to the contract of Forex trading with the Claimant. So this Court holds that his name should be immediately removed as a party in this Suit and the matter against him struck out and his name also should be removed and is hereby REMOVED. He, the 3rd Defendant has no case to answer in this Suit. So this Court Orders.

In conclusion, having summarized the case as it were, it is evidently clear that the 1st & 2nd Defendants have no prima facie Defence to the Suit of the Claimant. It is therefore clear that the Claimant has with his facts in the 52 paragraphs Affidavit and the document submitted established his case and shown that the 1st & 2nd Defendants has no prima facie Defence and as such the Court will and hereby retain the Suit under the Undefended List against the 1st & 2nd Defendants.

This Court therefore dismisses the Notice of Intention to Defend filed by the 2nd Defendant in this Suit. The Court also holds that the 1st Defendant having not filed any

Notice of Intention to Defend, this Court holds that he has no Defence on merit.

The Suit is therefore retained under the Undefended List as there is no prima facie Defence to it.

This is the Ruling of this Court.

**Delivered today the ____ day of _____ 2023 by
me.**

K.N. OGBONNAYA
HON. JUDGE