IN THE GRAND COURT OF THE CAYMAN ISLANDS

FSD CAUSE NO. 143 of 2010

BETWEEN

OPPORTUNITY EQUITY PARTNERS LIMITED

Plaintiff

And

LUIS ROBERTO DEMARCO ALMEIDA

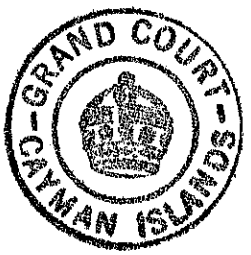
Defendant

Ms. L. Clemens for the Plaintiff

Ms. D. Owen for the Defendant

Henderson, J.

Judgment: January 6, 2015



ASSESSMENT OF COSTS

1. In my Ruling given on September 24, 2014 I confirmed that the Plaintiff is to pay the Defendant's costs of the cross-applications for review by a Judge up to and including June 6, 2013, to be assessed by the Court. I also said I would make no order as to costs for that part of the review conducted after June 6, 2013.

2. The Defendant says that during the relevant period he has actually incurred costs in the amount of $42,775.00 plus disbursements in the amount of $1,597.00, for a total of $44,372.00.

3. An assessment of costs is now governed by Order 62 rule 8 of the *Grand Court Rules, 1995*, which reads in part:

> *(3) Subject to paragraph (4), where the Court is required to assess costs the Judge shall make his own summary assessment of the amount of legal fees and disbursements which he considers that a reasonable litigant is likely to have incurred and award that amount.*
>
> *(4) The amount of costs payable by any party pursuant to an order for costs to be assessed shall not exceed –*
>
> *(a) $1,000 where the order relates to the costs of an interlocutory application; or*
>
> *(b) $10,000 where the order relates to the costs of an entire proceeding, together with the court fees which have been paid by the successful party.*

4. Order 62 rule 3(3) is also material here:

> *(3) References to costs shall be construed as including references to fees, charges, disbursements, expenses and remuneration in relation to proceedings (including taxation proceedings) and shall include references to costs of or incidental to those proceedings.*

5. The review I have conducted was not an interlocutory application; it was in essence an appeal from a decision of the Taxing Officer. Any summary assessment I might make under rule 8(3) is therefore subject to the cap of $10,000 provided for in rule 8(4)(b). Moreover, the $10,000 cap must include

disbursements by application of O. 62 r. 3(3); the sole exception is a claim for reimbursement of court fees, but there is no claim for those here.

6. I am satisfied that a reasonable litigant in the position of this Defendant is likely to have incurred costs and disbursements of at least $10,000 so I award that amount now to the Defendant.

GRAND COURT - CAYMAN ISLANDS

Henderson, J.

Henderson, J.