The **Management of Alan L. Grant Company** and **C-T Commodity Trading Company** APPELLANT Versus **Rudolphus Brown**, Assistant Minister for Labor Standards / Hearing Officer, Ministry of Labor; and **S. Tasha Brown**, of the City of Monrovia, Liberia APPELLEES

LRSC 2

APPEAL. JUDGMENT CONFIRMED

Heard: November 25, 2009 Decided: January 21, 2010

MRS. JUSTICE JOHNSON DELIVERED THE OPINION OF THE COURT

Co-appellant Alan L. Grant Company was incorporated in Liberia in 1972, according to the record certified to this court from the court below. The company was engaged in the rubber processing and exporting business with facilities located in Weala, Margibi County. The records reveal also that Alan L. Grant Company operated its business from 1972 when it was incorporated up to 1990 when the Charles Taylor war swept through the nation leading to the cessation of most, if not all business operations in the country, including that of co-appellant, Alan L. Grant Company. The said company was assigned to Keene Industries, Inc. a United States Company located in Connecticut, under a "licensee agreement" as alleged by the appellants herein. It is stated further in the records that Keene Industries, Inc. of Connecticut is the parent company of Liberia Agricultural Company (LAC) located in Grand Bassa County. Keene Industries, Inc. while operating under a licensee agreement with Alan L. Grant, and as the parent company of LAC, organized and incorporated a new company called America-Liberia Getah Company for the purpose of rehabilitating and revamping the rubber processing operation at Weala. This company also, like Alan L. Grant Company before it, was forced out of business due to the devastating event named octopus during which the Taylor warriors bombed indiscriminately at anything in their path. The foregoing is a summary of events subsequent to the closure of Alan L. Grant Company May 1990 and the Company's current status in Liberia.

One of the undisputed facts in this case is that when Alan L. Grant Company ceased operations because of war, Richard Taylor, who was the general manager of Alan L. Grant Company, and John Curtis, the technical manager, fled to Ghana in 1990. These two former managers of Alan L. Grant Company decided to establish their own business in Liberia. They incorporated a business and named it C-T Commodity Trading Company, meaning, Curtis and Taylor Commodity Trading Company. Messrs

Taylor and Curtis contacted a former workmate from the Alan L. Grant Company days, Mr. Isaac Brown, former administrative manager of Alan L. Grant Company, and employed him to manage their new Company in Monrovia while they remained in exile in Ghana.

Another undisputed fact in this case is that Alan L. Grant had a lone shareholder M. V. Dela, a national of the Netherlands. It is also a fact that Richard Taylor and John Curtis were the only signatories to the Alan L. Grant Company's United States' dollar account at the International Trust Company (ITC) in Monrovia. It would seem that the owners of the newly formed company, Richard Taylor and John Curtis, were experiencing liquidity problems. They therefore conceived the bright idea of using funds from the ITC Bank account of Alan L. Grant Company to do their commodity buying and exporting business, committing themselves to refunding the principal amounts borrowed back into the Alan. L. Grant Company's ITC Bank account, and investing the profits in their new business. For easy access to the said account, Richard Taylor and John Curtis used Alan L. Grant Company checks and introduced Mr. Isaac Brown, manager of C-T Commodity Trading Company, to the authorities at ITC Bank as an authorized signatory to the account, and issued him Alan L. Grant Company identification card for the purpose of making withdrawals from the account. The propriety or impropriety of these transactions are not in issue before us.

Another former employee of Alan L. Grant Company, Rev. S. Tosha Brown sought and found employment in C-TCTC in the position of financial officer and was offered, and he accepted, the sum of US$300.00 a month as salary. Rev. S. Tosha Brown worked for Alan L. Brant Company from October 25, 1989, as per his employment letter, in the position of accounts supervisor earning US$550.00 for the probation period of six months to be increased to US$650.00. The civil war however interrupted the operation leading to the involuntary abandonment of the facilities in Weala and the fleeing of all the workers and management. So when Rev. S. Tosha Brown joined the new company, he was also introduced to the ITC Bank authorities as a signatory to the Alan L. Grant account and furnished with Alan L. Grant Company identification card, facilitating his easy access to said account.

C-T Commodity Trading Company had a few regulations or policies that were binding on its employees, especially those employees who handled financial matters. Two of these policies were, according to the records, that only the manager could keep custody of corporate funds and that no corporate funds should be kept on the corporate premises overnight.

It came a time in 1998 that the Director General of C-TCTC informed the manager, Isaac Brown, that they should pay off their liabilities as soon as possible because of the oblique financial standing of the company that could lead to a closure of the business. Upon hearing this bad news, Mr. Isaac Brown, the manager, called Rev. S. Tosha Brown and instructed him to proceed to ITC bank and withdraw or encash a check in the amount of US$10,200.00 from the Alan L. Grant Company account.

Now, because there are varying versions, actually three, to what followed next, we shall state each as the record indicates. According to the manager, Isaac Brown, he instructed Rev. S. Tosha Brown to proceed to the bank and cash a check drawn on the account of Alan L. Grant Company. Subsequent to the withdrawal, Rev. S. Tosha Brown was to proceed to the Ministry of Finance and pay government taxes in the amount of US$4000.00. From there, he should proceed to an insurance company and pay US$350.00 as premium for the company vehicle. The balance, which when correctly calculated should be US$5,850.00 and not US$6850.00 as was wrongly stated in the records, was to be taken to the manager at the office for payment of some unspecified bills by him, the manager. According to the manager, Rev. S. Tosha Brown did not pay the bills, he instead took the whole amount to him in the office. He therefore took the US$5,850.00 and gave the balance US$4350.00 to Rev. S. Tosha Brown so he could have it available on him to pay the bills on the following day.

On the other hand is the version of Rev. S. Tosha Brown. According to him he was instructed to go to ITC Bank and make a withdrawal from the Alan L. Grant Company's account, "as usual," and take the money to the manager in the office. When he got back to the office, the manager had not arrived. He therefore sent the driver for him. When the manager arrived, he Rev. Tosha Brown gave him the US$10,200.00. The manager took US$5,850 and told Rev. S. Tosha Brown to take the US$4,350.00 to go and pay the bills. Rev. Tosha Brown looked at his watch and said it was already late to meet those offices opened. He told the manager to keep the money till the next day, but he said no. He, Rev. S. Tosha Brown, refused to keep the money because to do so would be against the company policy. He, Rev. S. Tosha Brown, then suggested that the manager could give the money to the cashier if he so desired. He called the cashier, Milton Gahr, who came to the manager's office and gave the manager a receipt. That receipt is one of the exhibits on the case file. On the following day, S. Tosha Brown asked the cashier for the money in order that he could go and pay the bills, but the cashier said he had no money; that he did not give him the money. So he Rev. Tosha Brown reported the incident to the manager.

There is a third version, however, the cashier's version. He said that the manager gave

him, the cashier, the money and he issued the manager a receipt, but when he and Rev. S. Tosha Brown left the manager's office, Rev. S. Tosha Brown took the money from him, but gave him no receipt, and that it was not the first time his bossman, Rev. S. Tosha Brown had taken money from him without a receipt.

After some preliminary unsuccessful investigations, management of C-TCTC dismissed Rev. S. Tosha Brown and the cashier charging Rev. S. Tosha Brown with serious breach of duty. The Ministry of Justice investigated and arrested the cashier charging him with the crime of property theft. Rev. S. Tosha Brown was served a letter of dismissal for serious breach of duty. The acts that constituted the serious breach of duty were that he failed to carry out the instruction that was given by the manager which was to withdraw the money and pay two bills; appellant argued that had he paid the bills, the money would not have been stolen. Subsequent to his dismissal, he was turned over to the Ministry of Justice for further probe to determine if any criminality was involved in the disappearance of the money and if the reverend played a role in same. So while the reverend was being examined at the Ministry of Justice, a senator from his county walked in and whisked him away saying he was taking his pastor away; that intervention or interception of the process to determine Rev. Tosha Brown's role in the disappearance of the US$4,350.00 was halted and remains in limbo, while the cashier remained in until he was let off on bail.

Rev. S. Tosha Brown, not accepting the reason for his dismissal decided to seek redress. On May 27, 2000 he wrote a letter of complaint to the Labor Ministry for wrongful dismissal and sought to recover from both Alan L. Grant Company and C-T Commodity Trading Company contending that the two were in reality, one and the same. He claimed in his letter of complaint that he was employed by Alan L. Grant Company/C-T Commodity Trading Company on October 25, 1989 as account's supervisor with a salary of US$650.00 per month and accommodation allowance of US$150.00 per month; that in 1996 he was elevated to the position of controller but with a lower salary-US$300.00 per month due to financial constraints the company was experiencing; that he was therefore demanding the difference, US$350.00 for each month he was paid the reduced salary of US$300.00.

At the conclusion of the investigation at the Ministry of Labor, the hearing officer ruled in essence that:

1. That appellee did not breach his duty to warrant his dismissal

2. That Alan L. Grant Company and C-T Commodity Trading Company were one and

the same company

3. That the company C-TCTC/Alan L. Grant was liable to the appellee in the sum of US$13,500 broken down as follows:

a. Salary for May, 1990	US$650.00
b. Severance pay for 9 years	US$5,200.00
c. Under payment from 1996-1998 (20 months)	US$7,000.00
d. Notice pay	US$650.0

Appellants Alan L. Grant Company and C-T Commodity Trading Company appealed to the National Labor Court for a review of said ruling. The National Labor Court confirmed the ruling. Appellants excepted and announced an appeal for a final determination of the contentions raised in the bill of exceptions.

In count one of the bill of exceptions appellants defended an employer's right to fire an employee for serious breach of duty such as happened in this case: appellants say that it was a serious breach of duty when appellee S. Tosha Brown refused, failed and neglected to carry out the specific instruction to pay the sum of US$4000.00 to government for taxes and US$350.00 for insurance premium, but instead that he took the total cash US$10,200.00 to the office and delivered same to the manager; that had he paid the bills, appellants would not have sustained the financial loss: that nevertheless that gross breach of duty, the Hearing Officer ruled, and the Labor Court Judge confirmed, that appellee did not breach his duty, and to this ruling the appellants assigned error. Counsel for appellants went further to state what constitutes a breach of duty. He said that, "under the law any violation or omission of a moral or legal duty is a breach, more particularly, the neglect or failure to fulfill, in a just and proper manner, the duties of an office or fiduciary employment." We are in agreement with the definition. We must however take recourse to the trial/hearing records to determine whether the actions complained of by the appellants constitute serious breach of duty on the part of the appelle to justify his dismissal for said cause.

We hold that the role of Mr. S. Tosha Brown in this drama did not rise up to a breach of duty to warrant his dismissal. We hold further that the fact that the two bills were not paid on that day caused appellants any harm or injury; that there was no urgency to pay the bills on that particular day. Government collectors were not threatening to shut down appellants' doors. As for the vehicle insurance it is strange that C-TCTC, which was about to cease its operations because of financial deficiencies was at the same time anxious to have the company car insured, using Alan L. Grant Company's

money. We shall only ask in passing this question. How was C-TCTC planning to refund Alan L. Grant's US$10,200.00 withdrawn to pay its bills in view of the foreseeable possibility to close down because of financial difficulties? But coming back to the dismissal of S. Tosha Brown because of an alleged serious breach of duty we have to determine which of the trio, the manager, Isaac Brown, the financial officer, Rev. S. Tosha Brown, and the cashier Milton Gahr breached his duty that led to the financial loss complained of. Would it be just to hold as did the manager that because the financial officer did not pay the bills, even though he delivered the full sum of money to the manager, he was liable for the subsequent disappearance of the money? We do not think so. We believe the financial officer's statement that when the manager returned to the office, time had run out to catch the Finance Ministry accessible for business and also the offices of the insurance company. We believe him because if time had been on their side, the manager would not have taken a receipt and allowed either the financial officer or the cashier to keep the money overnight. He would have told the financial officer to go out and pay the bills. Also, granted that the financial officer went about his own business until time ran out and therefore could not make the bill payment on that particular day, the fact is that up to that point, the money was safe and in whole when it was given to the manager. There was yet no loss sustained. The manager had taken custody and control of the amount. But then he decided to take a portion of it and leave the rest in the custody of one of the other two men, to keep overnight. The manager chose to protect and guard a receipt than the money. Was that not a breach of his duty as the manager who ought to keep in his custody all corporate funds? Was it also not a breach of the policy not to have corporate funds overnight on the premises when he allowed the cashier to keep the money overnight? Our answer to both questions is yes. We are also baffled why the manager could not have kept the total amount in his custody overnight, he who was the authorized custodian of all corporate funds? To argue that had the appellee paid the bills as he was instructed, the money would not have gotten lost, raises another question and that is, let's suppose the manager had also lost the amount he kept, would the argument be the same, that had Tosha Brown not brought the money to the office and given it to the manager, it would not have gotten lost and that therefore he was liable? Certainly not. The point, which is also the law, is that the proximate cause of the loss sustained is usually where the liability attaches. We believe that the proximate cause of the loss was the failure of the manager to perform his duty of protecting the corporate funds that were delivered to him. Had he adhered to the corporate policy of keeping all corporate funds that were out of the bank, the amount would not have disappeared. The proof to that assertion is that the US$5880.00 which the manager retained was not reported stolen, as far as our review of the records have shown. The act of Rev. Brown was a cause, of course, but a remote cause. The proximate cause led to the loss. It was the manager's breach

of duty that led to the loss. Had the manager kept the US$5350 in the same safe place he kept the US$5,850 till the next day, said loss would not have occurred.

The term proximate cause according to Black's Law Dictionary, Eighth Edition, is defined as "a cause that is legally sufficient to result in liability; an act or omission that is considered in law to result in a consequence so that liability can be imposed on the actor. Proximate case is further defined as a cause that directly produces an event and without which the event would not have occurred." Taking the first part of this definition, which defines proximate cause as a cause that is legally sufficient to result in liability, can we say that because appellee did not carry out his manager's instruction to pay the bills but took the whole amount to the said manager who refused to take custody himself but delegated his corporate responsibility to safeguard all corporate funds, that that act on part of the appellee was legally sufficient to result in liability? If we say yes then why shouldn't we also say that if Alan L. Grant had not opened an account at ITC Bank, and made Taylor and Curtis signatories, thereby enabling S. Tosha Brown to make the withdrawal, this event would not have occurred and by said rationalization hold Alan L. Grant company liable for the event, the loss of the money? We cannot say yes because there is a difference between a cause and a proximate cause. A cause as defined by Black's Law Dictionary, same edition, is something that produces an effect or result. The above suggestions are all causes which produced their individual or selective effects or results. But not all cases necessarily establish legal liability. The act that causes the occurrence of the event leading to the loss is the cause sufficient in law to attach liability. In the case at bar the cutoff point in the chain of causes, the approximate act that led to the loss of the money, that point, we hold, was where the manager went against the company policy and surrendered custody of the corporate funds to his subordinates keeping only a portion of the amount, and between those two subordinates, US$4,350.00 vanished. It was that delegation of his responsibility that led to the loss.

It is stated in the common law of the United States and England "that in all cases where proximate cause is in issue, the first step is to determine whether the defendant's conduct in point of fact was factor in causing the plaintiff's damage. If the inquiry as to cause in fact shows that the defendant's conduct was not a factor in causing a plaintiff's damage, the matter ends there, but if it shows that his or her conduct was a factor in causing such damage, then the further question is whether his or her conduct played such a part in causing the damage as makes him or her the author of such damage and liable therefore in the eyes of the law." 57A AM Jur. 2nd Section 446 Para. 2, Page 446.

In view of the cited passage and all we have said touching this issue, it is our considered opinion that the conduct of the appellee by not paying the bills but delivering the money to the manager of the company did not play such a part in causing the damage as makes him the author of such loss and liable therefore...

We have already dealt with count two of the bill of exceptions when we passed on count one. We shall now address count three of the bill of exceptions which raises the issue of whether Alan L. Grant Company and C-T Commodity Trading Company are one and the same. We hold they are no According to the records before us, Alan L. Grant Company was established in Liberia in 1972 with location at Weala, Margibi County. The corporation was engaged in the business of buying, processing and exporting rubber. The records further reveal that this company was foreign owned with a single shareholder, a Dutch national named M. V. Dela. The company operated it's processing plants in Weala until 1990 when war broke out in Liberia. It is stated in the records that Alan L. Grant Company ceased operations on May 26, 1990, management as well as employees fleeing for their lives. The then general manager Richard Taylor and the Technical manager John Curtis both of them British nationals, fled to Ghana and while in Ghana in exile, they decided to establish their own business entity in Liberia which came into effect in 1995 and was named C-T Commodity Trading Company (C-TCTC). It is stated by the incorporator of C-TCTC, Counsellor Varney Sherman of Sherman and Sherman that the line of business of these two business entities were dissimilar. While Alan L. Grant Company engaged exclusively in rubber processing and exporting with its facilities located in Weala Margibi County, C-TCTC engaged in the buying and exporting of palm oil, rubber and other commodities with offices located in Monrovia, Montserrado County, not in Weala, Margibi County. The two companies had different shareholders. Two business entities become one and the same by creating a merger, having same shareholders and same line of business; shared assets. The fact that the owners or shareholders of C-TCTC were once senior executives of Alan L. Grant Company and were signatories to the company's account at ITC, and were making withdrawals from said account and using Alan L. Grant identification card, did not and could not have bestowed on said former senior executives the right to accede to the corporate rights of Alan L. Grant Company, that is, the rights of shareholder(s) and the board of directors. Corporate executives, such as managers are not necessarily owners of corporations. They are in fact employees except in cases where the owner or owners of a company are also managing their own business. In the case at bar, we saw no record indicating that Taylor and Curtis, besides been managers, were also shareholders in Alan L. Grant Company. There is no record that Alan L. Grant Company sold its assets, liabilities and goodwill to C-TCTC, or that they formed a merger. It is stated in the records that out of what could be termed as

desperation for funds, Richard Taylor and John Curtis, former employees of Alan L. Grant Company, living in exile, decided that the way out of their financial slum was to "unauthorizedly," perhaps and more likely so, borrow from Alan L. Grant Company accounts to fund their newly formed company. That action cannot constitute a resurrection of Alan L. Grant Company in Monrovia. We hold that the two companies are (were) separate and distinct. Said count three of the bill of exceptions is therefore sustained.

In count four of the bill of exceptions appellant contends that complainant, while in the employ of Alan L. Grant, was paid in Liberian dollars. His pay at that time was stated as $650.00 per month. This was the year 1989. According to the complainant he was paid US$650.00 per month. Appellants on the other hand argued his pay was in Liberian dollars pursuant to a certain government regulation that employers should pay their Liberian employees in Liberian dollars. During the trial or hearing of this complaint, both sides to the controversy produced witnesses to testify to their point of view. The complainant produced testimony that as a senior staff member he was paid in United States Dollars. Appellant on the other hand produced a witness who testified and said that all Liberian nationals, regardless of their positions received their pay in Liberian dollars. We have failed to see the relevance of this issue to the wrongful dismissal complaint, especially when raised by the appellants. The appellants have contended that Alan L. Grant Company and C-TCTC were separate and distinct. Does it really matter in the determination of the case at bar whether Alan L. Grant Company paid in US or Liberian dollars when it employed the complainant from October 1989 to May of 1990? To argue in this manner is to give validity to complainant's assertion that C-TCTC and Alan L. Grant are one and that C-TCTC is vouching for payment to be made in Liberian dollars and not in US dollars to the claimant in this wrongful dismissal case. Appellants should not in one instance deny the claim and in the other instance challenge the accuracy of the amount claimed; This is called denial and a justification which according to this court in The Cavalla River Company, Ltd. v. E. S. Prince Pepple, 3LLR 436, (1933) held, is "evasive and contradictory."

There have been arguments in support of the financial institution act which promulgates that business transactions be done in Liberian currency. There ought not to be a problem with the idea since it is a way of promoting our national currency. Howbeit, such a national policy should not be manipulated to the detriment or disadvantage of the citizens or employees. It is often said that a contract is a contract, and that the legislature should make no law that impedes or abrogates contractual obligations. In the view of this court, when a contract is concluded between parties the covenants contained therein do not change with the tides. When the parties agree on

the terms, those terms remain transfixed throughout the duration of the contract period. Using the contract that existed between S. Tosha Brown and Alan L. Grant as an example, when in 1989 Alan L. Grant Company agreed to pay Mr. S. Tosha Brown $550.00 to be increased to$650.00 after his probation period, that term remained fixed, and unchanged up to the time circumstances beyond the control of the contracting parties, Alan L. Grant Company and S. Tosha Brown, prevented further fulfillment of their obligations under the contract. We must state further that, if at the time this contract was entered into, the Liberian dollar was on par with the U.S. dollar, then in that case the payment whether made in U.S. or Liberian dollars would remain constant. The standard would be the U.S. dollar. But should the Liberian dollar fall below the U.S. dollar standard the Liberian figure will have to change to equate the value of the Liberian dollar to the US dollar amount, in other words the U.S. dollar equivalent in Liberian dollars will be the equitable amount of the payment. The government regulation relied on by some lawyers who advocate for its implementation was not intended to benefit employers and exploit Liberian workers. When the policy or regulation was promulgated the intention was to encourage the circulation of the Liberian currency into the economy. At that time the Liberian dollar in circulation was equal in value, to the U.S. dollar. To now say that an employee such as the appellee who was the accounts supervisor of Alan L. Grant Company receiving $650.00 in 1990, if payment were to be made to him today by Alan L. Grant, that is, if said company were to be restored, that the said employee would be paid the current Liberian dollar, $650.00, would not only be unthinkable but absurd because $650.00 Liberian dollars today is US$10.00. We doubt whether Alan L. Grant in its right mind would offer as salary US$10.00 to its accounts supervisor or that anyone would accept such an amount for services expected to be rendered by him as an accounts supervisor. The affordsaid is all but a dictum, the issue having been irrelevant to a determination of this case.

In count five of the bill of exceptions appellants argued, relying on the force-majeure clause, e.g. war and insurrection, that during war the employer — employee relationship terminates, and that such was the case herein; that when war broke out in Liberia, Alan L. Grant Company ceased all operations in 1990, and has remained closed since then. It was therefore error for the Hearing Officer to rule and the Labor Court Judge to confirm that Alan L. Grant Company and C-TCTC are jointly liable to complainant in the sum of US$13,500.00. We must again revisit the complainant's appointment letter from Alan L. Grant Company for curiosity purposes only of establishing the duration of his employment before the war. The letter of employment is dated 25th October 1989. So from October 25th 1989 to May 26, 1990 when the company's facilities were attacked and it ceased operations, is seven (7) months. Except complainant claimed that the company owed him arrears, and for what period, we are of the opinion that the

only payment that could be pending between Alan L. Grant and the complainant would be for the month of May 1990. We have said this to say that when the company ceased operations due to no fault of their own, the relationship between the company and the employees, including the complainant herein, ceased to exist, and will remain so until formally restored, and that would happen only if Alan L. Grant Company were to return and restore its facilities and rehire the complainant herein. Said complainant, who has not worked for the company since 1990, cannot now claim that the company still exists and that it in fact owes him money. We hold that it is not Alan L. Grant, the defunct company, that rehired the complainant in 1996. The company that hired him and offered him the sum of US$300.00 and he accepted same was C-TCTC. It was C-TCTC that fired him, as we have earlier said, wrongfully. His employment with said company began in August 1996 and ended on March 12, 1998, one year, seven months. Alan L. Grant Company can therefore not be held jointly with C-TCTC for wrongfully dismissing the complainant. There is therefore no joint liability for wrongful dismissal. Having said that appellee was wrongfully dismissed, we must clarify that by so saying we are by no means holding, not even impliedly, that appellee is innocent, that he told the truth about how US$4,350.00 disappeared between him and the cashier. Whatever happened to the money subsequent to the manager, Isaac Brown relinquishing his duty to keep it to Rev. S. Tosha Brown or the cashier, Milton Gahr, is a fit subject for a criminal probe and prosecution if C-TCTC so desires. That issue is not cognizable in the determination of this wrongful dismissal case for serious breach of duty.

In count six appellants excepted to the award of 9 years severance pay when the complainant had worked for Alan L. Grant for 7 months only and C-TCTC for one year seven months only. We have held that Alan L. Grant and C-TCTC are separate and distinct. We have also held in this opinion that Alan L. Grant ceased all its Weala Rubber processing and exporting business on May 26, 1990. We have said also that it was a separate and distinct company, C-TCTC, that hired complainant and that that company was not an extension, brain child, or a subsidiary of Alan L. Grant Company. Therefore it is error for the Hearing Officer and the National Labor Court Judge to rule that the two companies were one, that Alan L. Grant Company still existed in Liberia up to 1998 and that complainant's employment from 1989 continued to the time of his dismissal in 1998. The award of 9 years severance pay to the complainant is not supported by the facts and the law. Said count of the exceptions is therefore sustained.

In count seven of the bill of exceptions, appellants excepted to the award of US$7000.00 to the appellee which amount represented his claim that when he worked for C-TCTC and was paid US$300.00 per month, he should have been paid US$650.00

instead, but because of the financial situation of C-TCTC he accepted the US$300.00. This claim was based on the assumption that C-TCTC and Alan L. Grant were one and the same, meaning that C-TCTC was a reincarnation of Alan L. Grant, and that the US$300.00 was a reduction in his Alan L. Grant US$650.00 salary. The Hearing Officer having decided that Alan L. Grant and C-TCTC were one and the same, and since Alan L. Grant was paying appellee US$650.00 up to the year 1990, and the said Alan L. Grant had been restored, he was entitled to the difference, US$350.00 for 20 months, that is from 1996 when he took up employment with C-TCTC up to 1998 when he was wrongfully dismissed. But based on our previous holding that Alan L. Grant Company and C-TCTC were separate and distinct, there is no basis for the US$7000.00 award. Appellee was employed by C-TCTC, and was paid US$300.00 per month with no showing on the records that the US$300.00 paid or offered him would be increased to US$650.00 but that C-TCTC reneged on its promise until the complainant's wrongful dismissal and that he was therefore been rewarded his just pay for twenty months. There was also no showing on the records that appellee was called to work in the C-TCTC in his former position and that the US$300.00 paid him was a reduction; that his actual pay should have been US$650.00. There was no basis for this award. The exception is therefore sustained.

In count eight of the bill of exceptions the Hearing Officer awarded and the Labor Court Judge confirmed US$650.00 as notice pay and US$650.00 as pay for May 1990 salary. These awards appellant excepted to in this count of the bill of exceptions. The Liberian Labor Practices Law Section 1508 provides that "No employer may dismiss any employee with whom he is bound by a contract for a definite period before the end of that period unless it is shown that the employee has been guilty of a gross breach of duty or a total lack of capability to perform. Where this has not been proven, the dismissed employee shall be entitled to claim full remuneration for the unexpired portion of the contractual period." Section 1508 (3) states: "Where the contract is concluded between the employer and employee for an indefinite period, the employer shall have the right to dismiss the employee on condition that he gives him two weeks written notice in case of non-salaried employee and four weeks written notice in the case of salaried employee." Section 1508 (5) provides that: "Notwithstanding, the provision of section 1508 of this chapter an employer may dismiss an employee engaged for an indefinite period without notice, subject to payment only of wages due, where it is shown that the employee has been guilty of a serious breach of duty."

There is no showing that appellant C-TCTC employed appellee for a definite or indefinite period. In the absence of such showing, we can conclude that appellee's employment was for an indefinite duration or period. As such he must benefit under

section 1508 (3) of our Labor Law. The one month pay in lieu of notice for his wrongful dismissal was not erroneous. However, the amount of US$650.00 has no foundation in law and fact. The statute provides for one month pay in lieu of notice. In this case, the claimant/appellee's salary was US$300.00 per month. That amount should have been his entitlement as notice pay, and not US$650.00.

As to the award of US$650.00 as salary for May, 1990 that award does not find support in this case. We have held that Alan L. Grant Company and C-TCTC are not one and the same. The wrongful dismissal complaint was or ought to have been against C-TCTC and not Alan L. Grant because it was C-TCTC that hired appellee in 1996 and fired him in 1998. Appellee cannot claim and recover US$650.00 salary for May of 1990 against C-TCTC in this wrongful dismissal complaint because when appellee earned that amount, C-TCTC had not even been established and is not a creature of Alan L. Grant. Therefore in our opinion, appellee cannot be awarded US$650.00 and appellant made to pay. Appellee may have a claim against Alan L. Grant for his May 1990 salary but said claim has no place in this wrongful dismissal case which is against C-TCTC and not Alan L. Grant Company.

We have exhausted the issues raised in appellants' bill of exceptions. In so doing we ruled that (1) Alan L. Grant Company and C-T Commodity Trading Company are separate and distinct (2) that Alan L. Grant Company ceased its rubber processing and exporting business in Liberia since May 26, 1990 because of the war (3) that C-T Commodity Trading Company (C-TCTC) hired appellee, Rev. S. Tosha Brown in August 1996, six years after the closure of Alan L. Grant Company, and terminated his services in March 1998 (4) that the dismissal of Rev. S. Tosha Brown on the ground of serious breach of duty was wrongful. We also ruled that Alan L. Grant Company and C-TCTC do not have joint liability for the wrongful dismissal of the appellee.

In view of the foregoing it is the opinion of this Court that the final judgment from which appellants appealed be, and the same is hereby confirmed with the following modification in the awards granted:

Awards

(a) Salary for May, 1990 US$650.00 is disallowed, no basis in fact.

(b) Severance pay for 9 years US$5,200.00 disallowed, no basis in law and fact.

(c) Under payment from 1996-1998 (20 months) at US$350.00 US$7000.00 disallowed,

no basis in fact.

(d) Notice pay US$650.00 disallowed, no basis in fact.

Modification

a) Salary for March, 1998 US$300.00

b) Notice pay US$300.00

c) Severance pay (1996-1998) awarded for 10 months---US$3000.00 for wrongful dismissal.

The total award allowed to be made to the appellant is US$3,600.00.

The Clerk of this Court is ordered to send a mandate to the Judge of the court below to resume jurisdiction and proceed according to this judgment. It is hereby so order.
Judgment confirmed with modification.

Counsellor J. Johnny Momoh of the Sherman & Sherman Law Firm appeared for the Appellants while Counsellor Scheaplor R. Dunber of the Pierre, Tweh and Associates appeared for the Appellee.