IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN ITS OCTOBER TERM, A.D. 2018.

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.............................CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEH ....ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.............ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH..................ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH . NAGBE ....ASSOCIATE JUSTICE

Project Concern International (PCI), represented by its Country Director of the City of Monrovia, Montserrado County, Republic of Liberia ....APPELLANT VERSUS Big Car Star Rental, represented by and thru Its authorized representative Ali Hamze of the City of Monrovia, Montserrado County, Republic of Liberia...........................APPELLEE	APPEAL
GROWING OUT OF THE CASE: Big Car Star Rental, represented by and thru Its authorized representative Ali Hamze of the City of Monrovia, Montserrado County, Republic of Liberia...........................PLAINTIFF VERSUS Project Concern International (PCI), represented by its Country Director of the City of Monrovia, Montserrado County, Republic of Liberia ....APPELLANT	ACTION OF DEBT

HEARD: April 20, 2017 DECIDED: December 20, 2018

MADAME JUSTICE YUOH DELIVERED THE OPINION FOR THE COURT

On January 4, 2016, the Big Car Star Rental, the appellee herein instituted an action of debt in the Commercial Court sitting in its January Term A.D. 2016, against a non-governmental charitable organization, the Project Concern International (PCI), the appellant herein. The appellee claimed the amount of US $153,420.50 (One Hundred Fifty Three Thousand Four Hundred Twenty United States Dollars Fifty Cents) representing money owed under two (2) separate car rental contracts plus the amount of US$45,000.00 (Forty Five Thousand United States Dollars) representing attorney fees. The total amount sued for was US$198, 420.50 (One Hundred Ninety Eight Thousand Four Hundred Twenty United States Dollars Fifty Cents).

The appellee in a six (6) count complaint alleged that it is a car rental company; that it entered into two separate car rental contracts with the appellant; the first contract was for the period November 3, 2014 to March 31, 2015 while the second contract was for the period July 28, 2015, to October 28, 2015; that according to the provision of the first contract, the appellant agreed to pay to the appellee the amount of US$150.00 (One Hundred Fifty United States Dollars) per day for the utilization of its' Land Cruiser Jeep from Monrovia to Bong County, and the amount of US$175.00 (One Hundred Seventy Five United States Dollars) from Monrovia to Nimba County; that the appellant did utilize the appellee's vehicle for the entire period of the first contract, a total of four (4) months, twenty-eight (28) days or 148 days, accruing a debt of US$58,500.00 (Fifty Eight Thousand Five Hundred United States Dollars); that under the second car rental contract the appellant rented two (2) vehicles at the price of US$175.00 (One Hundred Seventy Five United States Dollars) per day from Monrovia to Bong County and is indebted under this contract in the amount of US$32,550.00 (Thirty Two Thousand Five Hundred Fifty United States Dollars) for the period of three (3) months or ninety-two (92) days.

The appellee further alleged that pursuant to the terms and conditions of these two (2) contracts, the appellant was responsible to fuel the vehicles but failed to perform this obligation; that as a result thereof, the appellee expended the amount US$10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) for fueling the vehicles; that although the contracts did not authorize the appellant to pay with-holding tax of ten percent (10%) to the Liberia Revenue Authority (LRA), the appellant unilaterally deducted the amount of US$44,360.00 (Forty-Four Thousand Three Hundred Sixty United States Dollars) as with-holding tax from the contract amount.

The appellee's prayer to the trial court was that the appellant be adjudged liable in the amount of US $153,420.50 (One Fifty Three Thousand Four Hundred Thirty United States Dollars) representing total amount of indebtedness under the two contracts to include the amount of US$10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) for fuel; order the appellant to pay the amount US $45,000.00 (Forty-Five Thousand United States Dollars) as counsel fees and grant the appellee all relief that is just and equitable. The six (6) count complaint reads thus:

"PLAINTIFF'S COMPLAINT

And now the Plaintiff in the above entitled cause of action and most respectfully prays court and Your Honor to judge the defendant liable to Plaintiff in the amount of United States Dollars One Hundred Fifty Three Thousand Four Hundred Twenty Fifty Cents) plus a statutory interest of 6% for reasons as showeth to wit:

1. The Plaintiff hereinafter referred to as (THE PLAINTIFF) the owner of a car rental corporation called Big Star Car Rental, based in Monrovia, Montserrado County, and engages in the business of renting out vehicles to would be customers at reasonable fees, and has some of most excellent and enviable car rental-customer relation spanning over a period of a decade. Plaintiff as chair of the board has the legal capacity to bring this action is demonstrably shown by the board resolution authorizing Plaintiff to do so and is attached hereto and marked as **Exhibit "P/1"**

2. That Defendant hereinafter referred to as (THE DEFENDANT) is called Project Concern International (PCI), a body corporate, and a customer who

became indebted to Plaintiff after contracts for a car rental services which are expressly described as follows:

a. That under first car service rental contract which began November 3, 2014 and ended 31 March 2015, the defendant agreed to pay United States Dollars One Hundred Fifty (US$150.00) per day for Bong County and United States Dollars One Hundred Seventy Five (US$175.00) per day for Nimba County for the use of a land cruiser and throughout the duration of the contract did use Plaintiff's vehicles and is indebted to Plaintiff in the amount of United States Dollars Fifty Eight Thousand Five Hundred (US$58,500.00) but woefully failed to settle its legitimate debt obligation up to and including the date of the expiration of the contract. Attached hereto and marked as **Exhibit "P/2"** is a copy of the contract.

b. That under the second car service rental contract for ninety-three (93) days which began on July 28, 2015 and ended October 28, 2015, the defendant agreed to pay Plaintiff United States Dollars One Hundred Seventy Five (US$175.00) per day for Bong and Nimba counties and indeed used and rented two vehicles from Plaintiff for the period in review, incurring a total debt obligation to Plaintiff in the amount of United States Dollars Thirty Two Thousand Five Hundred Fifty (US$32,500.00). Attached hereto and marked as **Exhibit "P/3"** is a copy of the second contract.

3. Plaintiff submits that under the two contractual agreements, specifically clause two (2) of each, the defendant was required to pay for fuel and gasoline for the use of Plaintiff's vehicles but failed to do so and Plaintiff had to bear singlehandedly such responsibility, thus Plaintiff has extra expenses in the amount of United States Dollars Ten Thousand Three Hundred Seventy (US$10,370.00) in providing car rental services which now constitute part of the legitimate debt defendant owes Plaintiff but which the selfsame defendant has woefully failed to pay despite a number of letter demands. Plaintiff gives notice to court that it will pray for a writ of subpoena duces tecum to compel the defendant to produce the receipts and copies of the credit invoices of fuel/gasoline pre-financed and provided the defendant during the course of the contract.

4. Further to count two (2) above, Plaintiff submits that there is no provision in the two contracts where the defendant was required to pay 10% taxes on behalf of Plaintiff and at no time did Plaintiff ever suggest or hold discussion with the defendant on such matter, instead, the defendant without any color of right, or advice or instruction whatsoever, chose to illegally withhold or purportedly paid on behalf of Plaintiff the amount of United States Dollars Forty Four Three Hundred Sixty (US$44,360.00) which in fact is part of the money that the defendant owes Plaintiff. Plaintiff says the defendant is also indebted to it in the aforesaid amount United States Dollars Forty Four Three Hundred Sixty (US$44,360.00) because Plaintiff did not instruct the selfsame defendant to make such decision. Attached hereto and marked as **Exhibit "P/4"** is a copy of the manifest showing the United States Dollars Forty Four Three Hundred Sixty (US$44,360.00) which the defendant allegedly paid on behalf of Plaintiff.

5. Plaintiff says an action of debt is a proper remedy at law and will surely lie because there is a sum certain, and the defendant itself has admitted his indebtedness to Plaintiff as demonstrably shown in the barrage of documents which have been proffered to this complaint as valid and incontrovertible evidence.

6. Plaintiff says the enforcement of any order or judgment against the would-be judgment-debtor herein based on the quantum of evidence provided certainly should not, and will not be a problem because the defendant owns valuable assets including but not limited to fabulous bank accounts which can be auctioned in an open market to satisfy a future judgment and if that is not sufficient, this court has the wherewithal to hold the defendant accountable until the judgment is satisfy including but not limited to an attorney fee of United States Dollars Forty Five Thousand (US$45,000.00).

WHEREFORE AND IN VIEW OF THE FOREGOING, Plaintiff prays court and Your Honor for the following relief:

a. Adjudged the liable in the amount of United States Dollars One Hundred Fifty Three Thousand Four Hundred Twenty Fifty Cents (US$153,420.50) representing the sum total of the money defendant owes Plaintiff;

b. Issued any order that will compel the defendant to pay to Plaintiff the amount of United States Dollars Forty Five Thousand (US$45,000.00) as fees paid by Plaintiff to his attorney to prosecute this cause of action;

c. Grant unto the Plaintiff all and any further relief that Your Honor may deem just and equitable in the premises.

RESPECTFULLY SUBMITTED:
PLAINTIFF by and thru it legal counsels
CEMAR LAW OFFICES
Benson Street, Monrovia
+231-886586464/886513547

Signed: Sayma Syrenius Cephus
COUNSELLOR-AT-LAW
Signed: Edwin K. Martin
ATTORNEY-AT-LAW

Dated this ___ day of January A.D. 2016"

On January 15, 2016, the appellant filed a twenty-five (25) count answer to the complaint denying all the allegations therein and alleging *inter alia*, that the two (2) car rental contracts are products of fraud, in that the appellant regular course of dealings entails the renting of vehicles under short-term contracts which duration are always less than thirty (30) days; that the appellee always submitted invoices and log-sheets to the appellant for payment; that the log sheets are then verified by the appellant for discrepancy and thereafter the requisite vouchers are prepared along with the checks from the appellant for the amount indicated and the invoices; that checks are issued by the appellant in the name of the appellee who received same, sign and issue receipts therefor to the appellant.

The appellant also asserted, that it did enter into several short-term contracts with the appellee but that the appellee always over-stated the amount owed on the contracts and same had to be reconciled and reduced to the actual service perform; that it is indebted to appellee for fuel expenses but however alleged that the amount of US $10,370.00 (Ten Thousand Three Hundred Seventy United States

Dollars) prayed for as fuel expenses were inflated by the appellee; that the appellant will produce evidence at trial showing the actual cost of fuel; that the appellant acted within the pale of the law when it deducted 10% from the money due the appellee under the two (2) contracts in the amount of US $44,360.00 (Forty-Four Thousand Three Hundred Sixty United States Dollars) as with-holding taxes due to the appellee's failure to pay lawful taxes to the Government of Liberia. Like the appellee's complaint quoted herein above, we also quote the appellant's 25 count answer which reads thus:

"DEFENDANT'S ANSWER

AND NOW COMES THE DEFENDANT IN THE ABOVE CAUSE OF ACTION AND RESPECTFULLY PRAYS YOUR HONOR TO DENY AND DISMISS THE BASELESS AND FRAUDULENT COMPLAINT OF THE PLAINTIFF FOR THE FOLLOWING LEGAL AND FACTUAL REASONS TO WIT:

1. That Defendant submits and says that it is an International and Accredited American Based Non-Governmental Organization implementing Projects in this Country, Liberia and acting upon its mandate and authority, the Defendant implements humanitarian projects in basically, Montserrado County and the rural parts of Liberia, to include, Bong and Nimba Counties respectively.

2. That because Defendant continues that in the pursuance of its implementation of various projects as stated above, it financially empowered local businesses by hiring vehicles, to include Suv's and other trucks for the purpose of conveying personals and materials to points of work and other activities. That other than the Plaintiff's institution herein, it hired the services from other vehicle rental institutions.

3. That Defendant says that indeed, one of those institutions it hired vehicles from to enable it carry out its activities included the Vehicles of the Plaintiff, Big Star Vehicle Services who at the time, indicated its address was on 20th Street, Sinkor, Monrovia.

4. That because Defendant continues that its mode of operation provides that a short term written contract not to exceed a month is entered with any prospective vendor/institution for a specified period and for a specified amount, with terms and conditions stipulated in the agreement. That one of those modes of dealings is that at the end of any service period, the Vendor/Institution would submit an invoice and a log sheet to the Defendant's management for payment and that after the submission of such documents, same will be duly verified to identify any discrepancies and after which, the necessary vouchers would be prepared and check will be prepared and then, the vendor will be informed. That after the receipt of said payment by the vendor, the representative of said institution would sign for and affixed seal to the payment, thus acknowledging payment and after which a receipt would be demanded for the record.

5. That because Defendant says that to the best of its recollection, it began vehicle rental contract with the Plaintiff in August 2014 during the height of

the EBOLA situation in Liberia and during all the periods of their dealings in 2014, payments were made based on accepted procedures and policies and these payments were attested to by the Plaintiff's verification of placing of stamp bearing its institution on the payment document and issuance of receipt.

6. That further to count 5 above, Defendant denies count 2(a) of the Plaintiff's complaint asserting that both themselves and the Defendant entered into a contract for vehicle rental from November 3, 2014 to March 31, 2015 wherein the Defendant agreed to pay the Plaintiff an amount of US$150.00 and US$175.00 respectively for the number of days for which the Defendant would use the Plaintiff's vehicles, thus summing up to US$58,500.00 which the Defendant woefully failed to settled.

7. That still as to count 6 above, Defendant says that the Plaintiff's instrument, P/2 purporting to be a contract between itself and the Defendant constituting a basis for the aforesaid claim is a product of fraud in that at no time did the Plaintiff and the Defendant management enter into a five (5) month contract as the Plaintiff is attempting to show this court. The signature on the instrument is a product of fraud and the Defendant challenges the Plaintiff to produce the original copy of the allege contract. Defendant says as stated infra, that all payments between the Plaintiff and the Management of the Defendant were fully settled for 2014 as per statement that carries the bold stamp of the Plaintiff. Attached as D/1 in bulk are the contracts for the period, credit invoices submitted by the Plaintiff to the Defendant for services rendered and statement record that show adjusted and full settlement to the Plaintiff.

8. That because Defendant says that on the Statement bearing the authentic stamp and signature of the Plaintiff, at the upper portion it is stated, name of supplier and on the right side, the name of the Plaintiff is stated as "Big Star Car Rental" the inner portion of the statement is provided; balance due as per statement: amount is US$198,270.00. Just beneath it are deductions for the discrepancies made in the statement sent by the Plaintiff to the Defendant for payment which was reconciled and it was found that the total amount of overstatement was US$10,325.00. This amount represented the amount previously paid by the Defendant but yet included in the statement invoice. In the statement column is a 10% Government tax rate and this tax withholding is applied against the amount of US$187,945.00, thus bringing the GOL tax to US$18,794.50.

9. That still as to count 8 above, Defendant says that in the year 2014 the Defendant paid the total amount of US$453,730.00 for all of the vehicles rented from the Plaintiff and all payments were made. Interestingly, the Plaintiff did not show any evidence of surrendering to the GOL of its 10% tax liabilities. The GOL through LRA quizzed the Defendant and urged it to ensure that before any payment to vendors is made, the 10% withholding should be ensured. It was in this vein that Defendant, as a law abiding entity, reconciled the total amount that Defendant had paid to the Plaintiff in the amount of US$453,730.00 for the year 2014 but without deducting

taxes for 2014 and being that in 2015, the accumulated payment due the Plaintiff was US$187,945.00, the two amounts were added and applied against the 10% tax rate thus making the tax liabilities owed the Government by the Plaintiff to US$62,123.00 which is herewith attached. Additionally, Defendant made full settlement of US$105,337.00 to the Plaintiff; dated December 18, 2015, and obtained a written receipt from the Plaintiff. Attached as D/2 are PCI Liberia payment request in favor of Plaintiff dated December 18, 2015, UBA check in the name of Plaintiff and LRA payment of US$62,123.00 of withheld all dated January 8, 2016.

10. That because as to count 2(b) of the Plaintiff's complaint, Defendant again objects to entering into any contract with the Plaintiff for the period mentioned and therefore owes nothing to the Plaintiff. Count 2(b) of the Plaintiff's complaint is a product of fraud as there has not been any time wherein Plaintiff and the Defendant entered into a vehicle rental contract from July 28, 2015 to October 28, 2015. The signature as appeared purporting to be that of Mme. Jolene Mullins, Country Representative of PCI in Monrovia is a broad day fraud attempting to be perpetrated against the Defendant Management by the Plaintiff. Moreover, at no time has Defendant management signed contract spanning over more than a month with any of those it hired to provide vehicles, to include the Plaintiff, Big Star. This court is requested to take a review of all of the contracts and other instruments that involves the Defendant and other entities touching on the subject of this case.

11. That because Defendant says that as to count 3 of the Plaintiff's complaint, and as to the amount US$10,370.00 for gasoline, indeed it is true that under the limited contract signed between themselves, the Defendant was obligated to settle for gasoline. Defendant says that it acknowledges withholding the amount for gasoline on the basis that because it has been the regular practice of the Plaintiff to overstate the amount for gasoline even when no services was being rendered nor expenses incurred. The Plaintiff would submit a bill far more than the actual amount of gasoline used. Defendant says that as soon as reconciliation is completed, any adjusted amount for gasoline will be settled, in effect, this would not constitute debt against the Defendant.

12. That because as to count 4 of the Plaintiff's complaint, Defendant says that as to the issue of the 10% withholding has already been discussed in previous counts, but for the benefit of clarity, Defendant says that the payment of 10% by an entity in favor of vendors need not meet the approval of the vendors but same is provided by law. That Defendant says that it welcomes the subpoena duces tecum to be issued for the attendance of the authority of the LRA to establish that indeed other than exhibiting to this Defendant's Answer a copy of the Revenue receipt if a subpoena is further necessary. Defendant holds that its act of deducting 10% taxes in the form of withholding is legal and appropriate in keeping with law.

13. That because Defendant says that in order to clearly give a forensic picture as to how the amount was arrived at, the below is necessary to paint a clear

and logical pictures of the transaction which the Plaintiff authenticated and approved for payment with an attestation of its seal stamp, date and signature:

a) The Plaintiff submitted an invoice of US$198,270.00. This figure included an amount of US$10,370.00 representing gasoline payment. Because the entire transaction/voucher needed to be authenticated, the amount of US$10,370.00 was deducted and the resulting figure was US$187,900.00 Going further, it was determined that there was an overstatement of US$10,325.00 apparently made by the Plaintiff as is indicated in the statement he sent to the Defendant for payment. This amount, when deducted from US$187,900.00 brings the total amount to US$177,575.00. It is this amount the 10% withholding tax was applied against, thus bringing the amount to US$17,757.50 as tax withholding. This tax constituted taxes for the year 2015.

b) For the year 2014, the gross amount due and paid to the Plaintiff without deducting the 10% was US$453,730.00, less the US$10,125.00 representing gasoline and the balance was put at US$443,605.00. Applying the 10% withholding tax brings the total amount to US$44,360.50. This means that the total withholding taxes that the Defendant deducted from the two periods, 2014/2015 is US$62,118.00 or 62,123.00. Attached hereunto is a copy of said Manager's Check request from the UBA to evidence the withholding taxes withheld and paid against the two years payments due to the Plaintiff for the years, 2014/2015.

c) Further, on the 18th day of December, 2015, the Defendant raised a payment memorandum in the form of payment request in favor of the Plaintiff for the final lump sum payment in the amount of US$105,337.00. On the 19th day of December, 2015, the Defendant prepared a check for the amount of US$105,337.00 against UBA. On the 19th day of December, Plaintiff received the check and prepared a receipt bearing its letter head, "Big Star Car Rental", which its representative signed and affixed its seal thereon. Still further, the analysis for the transactions were taken from a Statement signed and seal by the Plaintiff and in the far left hand corner of this statement is written, the above is full and final payment of all due to: below same is indicated the supplier's name and signature.

d) The Plaintiff submitted its financial statement but with an overstatement of US$10,325.00 stamped bearing date of December 16, 2015. After Defendant identified the overstatement, a correction was made and then the same Plaintiff sent a corrected statement dated December 17, 2015, again affixing its seal and signature thereon. How then after reconciling and coming clear with Plaintiff's final payment would it make this kind of claim against the Defendant?

e) The invoice amount as stated in the verified statement is US$187,900.00. This amount less all of the deductions to include, US$10,325.00 (overstatement), US$17,757.50 (10% tax withholding for 2015), US$44,360.50 (10% withholding taxes for the year 2014), US$10,125.00

(gasoline undergoing reconciliation) a US$105,337.00 (final payment made to the Plaintiff with receipt attached).

14. That still further as to count 2(b) of Plaintiff's Complaint but specifically to the assertion of an alleged contract entered into by and between Plaintiff and the Defendant Company that began July 28, 2015 and ended October 28, 2015 (three months). Defendant says that never at any time did it and the Plaintiff entered into any such arrangement for three months. The maximum period had always been for at least thirty (30) days. To further prove the deception and fraud that the Plaintiff is attempting to perpetrate against the Defendant for services they have never rendered and for money they falsely want to claim from the defendant, it is necessary that this court takes keen judicial notice of this fact below:

On the 23rd day of September 2015, the Defendant's management sent out notices to all of its car vendors, informing them of the following:
Hi Ali,
"This is to bring to the notice of all car rental companies who have sent cars to PCI. We want to stop all cars from our services from the 30th of September 2015. This notice shall remain in effect till we further inform you. Thank you in advance for anticipated cooperation. We remain committed to our vendors and our work in Liberia".
This communication was signed and approved by the authorities of Defendant's management. Interestingly, on September 25, 2015, the Plaintiff's representative indicated receipt of this communication by affixing onto a copy of the said instrument its signature and name of its company "Big Star". Attached as D/3 is a copy of the said instrument to form a significant portion of this Defendant's Answer.

15. Defendant says that in view of the above count 14, was it possible that a contract was entered between the Plaintiff and the Defendant in the month of July 28 to October 28, 2015 when the Defendant has given notice of halting all activities until further notice was served or is the Plaintiff telling this court that prior to the notice being served from the Defendant's management, a contract was already in place? No, from July to October, the month of October is inclusive. A contract could not have been entered between the parties starting from July 28, 2015 when the same management had given notice of halting all of its activities to include the month of October.

16. That because Defendant says that contrary to this assertion of contract being signed by and between the parties starting July 28, 2015 and ending on October 28, 2015; and as it is a part of the dealings of the parties, at the end of every contracting period, the vendors would submit an invoice stating all of the activities for the period to justify payment. The Plaintiff submitted to the Defendant an invoice bearing its seal and signature for the period of 2015, amounting to US$198,270.00, including gasoline they alleged was used. In the invoice, the month of October is not indicated. The omission of the month of October in a document presented by the Plaintiff for payment signified that indeed and in truth, there was no contract extending to the period so indicated and as per Plaintiff's Exhibit P/3. This court is to take

judicial notice of the Plaintiff own invoice submitted to the Defendant which was scrutinized and deductions for overstatements were considered as well as the US$410,270.00 was deducted.

17. That because Defendant avers that while it is true that it entered into contracts with the Plaintiff to provide vehicles of various types to implement projects in Liberia, same was at all times in the minds of the Defendant done with transparency and good business dealings and never could harbor any belief that the Plaintiff would try to manipulate and manufacture instruments with the prime aim of defrauding the Government of Liberia and the People of the United States of America whose taxes are being used in the implementation of these projects in Liberia.

18. That because Defendant contends that at some time during their interaction with the Plaintiff, Defendant began to get skeptical of the Plaintiff in that the Plaintiff registered three (3) companies but bearing various names and addresses. For instance, the Plaintiff registered other than Big Star Rental in 2014, with specifications, #051250818 and TIN# 500078471 but with place of address on 20th Street, Sinkor, Monrovia, other companies but basically in the same name. The Plaintiff re-registered Big Star Car Rental on October 8, 2014 with specifications #051250818 and with a new name of Frank Cooper, address Paynesville, GSA Road, Rock Hill, and also Capital Car Rental Services, with proprietor being Beyan Williams address at Somalia Drive, Gardnersville, date of registration, March 10, 2015, TIN#500078471; communication was prepared through the Offices of Taylor & Associates, Inc. and is part and parcel of the exhibits which conforms to Ali Hamze's turning over Big Star to Frank Cooper.

19. That because Defendant says that for a company to register but under three (3) different names and addresses indicates that the entity doing so has a dubious intent to either defraud the Government of Liberia in taxes or engage into money laundering or for criminal purposes to support terrorist activities since indeed and in fact no company exist in Somalia Drive name Capital Car Rental nor in Rock Hill Community in Paynesville.

20. That because Defendant continues that perhaps the Plaintiff has forgotten that Ali Hamze is no longer owner of Big Star Rental Services in that on September 25, 2014, Ali Hamze, transferred the management to one Frank Cooper as owner. This was the authority given by Ali Hamze to Frank cooper as follows:

Big Star Car Rental Services
20th Street, Sinkor
Monrovia, Liberia

I, Ali Hamze had turned over the car rental service, Big Star to Mr. Frank Cooper as owner.
This is due to my travelling abroad (United States of America) and will not be returning soon, so is the reason.
Please accord him all necessary assistance that he may seek.
Thanks for your usual understanding and consideration.

Kind regard.

Signed:
Ali Hamze

21. That because Defendant says that attached to Plaintiff's complaint was a purported Board Resolution even though rather than same being signed by the Secretary of the Board, Ali Hamze who turned ownership of the company to a new management signed. What a joke.

22. That because Defendant contends also and says that if Ali Hamze by his own conduct turned over the ownership of Big Star Car Rental to a new management, could he again come to file an action in his own name without a formal communication directing otherwise?

23. That further to the above, Defendant request your Honor and this Honorable Court to Launch an investigation into this fraudulent act meted out against the Defendant, as defendant management had never seen such a dishonest and corrupt behavior as it is done by the Plaintiff.

24. That because Defendant says that several exhibits evidencing transactions between the Plaintiff and the Defendant for the periods under review.

25. That defendant denies all and singular the allegation of both law and facts as contained in the Plaintiff's complaint and as to those matters that were not specifically traversed in Defendant's answer.

Wherefore and in view of the foregoing, Defendant prays your Honor and this Honorable Court to deny and dismiss Plaintiff's Complaint as if it never existed, investigate Plaintiff and his lawyers for their fraudulent acts and grant unto Defendant any and all reliefs you may deem legal, just and equitable in these premises."

On January 22, 2016, the appellee filed a Twenty (20) count reply wherein it denied the appellant's averments set forth in the answer and maintained the allegations stated in its complaint.

On February 15, 2016, the Associate Judge of the Commercial Court, His Honor Judge Chan-Chan A. Paegar convened several pretrial conferences between the lawyers representing the parties, which were disposed of and following the disposition of law issues on March 17, 2016, the case was ruled to trial.

When trial commenced, the appellee, Big Star Rental produced two regular witnesses in persons of its authorized representative, Ali Hamze and one Augustine Lomax. Under direct examination, witness Ali Hamze in general, alluded to two (2) car rental agreements and the amounts owed under both contracts, the amount owed for gasoline and the amount of withholding taxes which the appellant claimed to have paid to the LRA on behalf of the appellee. We note that this witness, the authorized representative of the appellee made no specific mention, mathematically or otherwise of the method by which it derived the amounts allegedly owed under the two agreements, except to restate the averments in count one, (a) and (b) its complaint and identified the two contracts, copy of revenue receipt received from the appellant as to payment of withholding taxes allegedly paid to the LRA.

The appellee's second witness, Augustine Lomax was only introduced as an employee of the appellee , but did not state in what capacity he was employed or his position with the appellee's company, in order to establish his knowledge of the transactions regarding the two (2) car rental agreements, fuel, withholding taxes, among others. (citations) We also note that witness Lomax entire testimony in chief was based on generalities regarding the alleged amounts owed on the two (2) contracts, the issue of the amount owed the appellee for gasoline and payment of withholding taxes to the LRA. In order to grasp the full picture of the trend of the witness's testimony, we deem it expedient to quote same verbatim, to wit:

"Direct Examination of Plaintiff's 2nd Witness

Question: Mr. Witness, for the benefit of this Court and the hearing of these proceeding would you please state your name?

Answer: I am Augustine Lomax.

Question: Mr. Witness, are your employed if yes by whom?

Answer: Yes, I am employed by Big Star Cars Rental.

Question: Mr. Witness, where do you live?

Answer: I live Paynesville, Gbengba Town, Liberia.

Question: Mr. Witness, the institution you work for Big Star Cars Rental by and thru its authorized representative Ali Hamze of the City of Monrovia filed an action against the defendant PCI in the debt action for the amount of US$153, 420.50 (One Hundred Fifty-Three Thousand Four Hundred Twenty Dollar Fifty Cents United States Dollars). My Question Mr. Witness, do you know the defendant in these proceedings?

Answer: Yes.

Question: Mr. Witness, can you please tell this Court and His Honor in brief as To the debt action of US$153,420.50 (One Hundred Fifty-Three Thousand Four Hundred Twenty Dollar Fifty Cents United States Dollars) filed by the plaintiff in these proceedings?

Answer: Mr. Ali Hamze who I know. The financial transaction in this case based on two outstanding contracts and gasoline involved based on fueling vehicles of PCI for their field operations. My knowledge of this transaction is that one of the contracts was filed November 3, 2014 and ran up to March 31, 2015 the amount of the first is US$58,500.00, the second contract was signed July 28, 2015 and it ran up to October 28, 2015 and the value of this contract is US$32, 550.00. The amount for the gasoline for fueling PCI vehicles is in the Total of US$10,370.00. During the process of operation for PCI, Big Star Cars Rental service used her physical cash to fuel all PCI vehicles that were used on the field when invoices were sent to PCI including the amount for the vehicles and the gasoline on one invoice. Big Star was informed to make a different invoice covering the entire operation to cover PCI vehicles which came up to US$10,370.00. At that point, it was submitted to the finance section of PCI. When we requested for this amount and all other amount due Big Star Cars Rental, PCI made Big Star Cars Rental to understand that based upon the agreement and the amount owed Big Star, LRA has sent in a letter to PCI instructing them to pay taxes owed the Liberian Government by Big

Star Cars Rental, PCI should underwrite the payment of those taxes. When the letter came in, Big Star Cars Rental was called and was told by the auditors of PCI but to the our outmost surprise they went as far back deducting taxes that had been passed. I also aid myself along with the auditors when they were carrying the auditing for PCI. This is how far my knowledge can carry me concerning this case."

In order to prove that it did incur the cost of fuel purchased on behalf of the appellant, the appellee requested and the trial court granted the issuance of a writ of *subpoena duces tecum* to be served on the appellant, commanding the latter to produce receipts and vouchers for fuel which was allegedly submitted to the appellant. The appellant in obedience to the *subpoena* introduced one of its employees, Madam Karen Romano who testified that the appellant's management did not receive any fuel receipts or vouchers from the appellee and as such the appellant was not in possession of the said documents. The appellee then rested with the production of evidence, with the reservation to recall a witness when necessary.

When the appellant took the witness stand, it firstly also requested the trial court for the issuance of a writ of *subpoena duces tecum* to be served on the Liberia Revenue Authority (LRA) to produce official LRA receipt(s) showing withholding taxes paid by the appellant on behalf of the appellee. In obedience to the *subpoena,* an Assistant Commissioner of the LRA appeared and produced an official revenue receipt showing that the appellant paid the amount of US $5,495.00 (Five Thousand Four Hundred Ninety Five United States Dollars) into Government's revenue as withholding tax and not the amount of US $44,360.00 (Forty-Four Thousand Three Hundred Sixty United States Dollars) as alleged in the appellant's answer. We observed that the revenue receipt for the US $5,495.00 (Five Thousand Four Hundred Ninety Five United States Dollars) as withholding tax produced by the LRA were marked and admitted into evidence without any objection from the appellant and the appellee.

Subsequently, on March 28, 2016, the appellant filed a motion for newly discovered evidence for the purpose of establishing its allegation of fraud as regards the two car rental agreements upon which the appellee based its complaint, especially the amounts claimed by the appellee. The appellant alleged that it recently discovered in its offices one of the car rental contracts, specifically the contract of November 3, 2014; that the agreed contract amount was actually US $51,540.00 (Fifty One Thousand Five Hundred Forty United States Dollars) instead of the US $58,500.00 (Fifty Eight Thousand Five Hundred United States Dollars) alleged in the complaint; that it discovered invoices showing that it already paid the said amount of US $51,540.00 (Fifty One Thousand Five Hundred Forty United States Dollars) on the contracts; that additional invoices were also discovered showing that the appellant paid the appellee for the use of its vehicle under the second contract of July 28, 2015.

"MOVANT'S MOTION FOR NEWLY DISCOVERED EVIDENCE

And now comes the Movant in the above captioned cause of action and says the following to wit:

1. That because Movant says that it is before your honor and this honorable court as Defendant in an action of Debt filed by the Respondent/Plaintiff at this Court;

2. That because Movant the Respondent herein filed a six count Action of Debt alleging amongst other things that the Movant owes its institution an aggregate amount of US$153,420.50, specifically growing out of two contracts, dated November 3, 2014 to March 31, 2015 for US$58,500, and July 28, 2015 to October 28, 2015, for US$32,550.00.

3. That because Movant says that predicated upon the complaint filed and the allegations as contained therein, it filed an Answer to the Plaintiff's complaint thus denying the existence of such contracts.

4. That because Movant says that to its utmost surprise, the Management of PCI, the Movant herein on Thursday, March 24, 2016 at about 12:30 PM called the Movant Counsels and alerted them to the effect that Mme. Julene Mullins, the immediate past Country Director of PCI, disclosed to the incoming Management, now headed by Karen Romano that during her tenure as Country Director, she remembered entering into contract with the Respondent for the period covered in one of the Contracts, specifically, November 3, 2014 and up to March 31, 2015 but for the amount of US$51,450.00, and that 25% be paid upon the signing of the contract, but instead of US$58,500.00 as contained in the Respondent/Plaintiff's Complaint. That she affirmed that full payments for the aforesaid contract has since been paid over the period. Attached as **M/1 in bulk** are copies of the contract dated November 3, 2014 to March 31, 2015 with attached payment invoices and other accompanying instruments which should form a genuine.

5. That because also Movant says that invoice evidencing services rendered by the Respondent (Big Star) for the period of October 2015 as submitted to the Management of PCI was also found which Movant has duty to disclose to this Court. Attached as **M/2 in bulk** is a statement invoice which clearly shows, invoice number, per day rate, number of vehicle, number of days, total amount, start and end dates, that were submitted to the Movant's Management by the Respondent for the month of October 2015 which will also form a relevant component of this Motion for Newly Discovered Evidence.

6. That because Movant says that at the time of the Plaintiff/Respondent's Action, Mme. Julene Mullins, the Country Director at the time was not present to give any information to the Movant relative to the transactions between themselves and the Plaintiff/Respondent. Also, persons who worked on the project who were clothed with information contracts expired and have left the jurisdiction of Liberia and therefore, the answer filed by the Movant to the Plaintiff's complaint was based upon the little information available to it.

7. That because Movant asserts that this Motion is consistent with Chapter 9, subsection 9.11 of 1LCLR which provides that at any time before submission of the case to the court or jury, the court may, on Motion with Notice grant to a party permission introduce new evidence in addition to the allegation of his pleading.

8. That because Movant says that this Motion is not intended to delay and baffle these proceedings but is in line with adequate disclosure of additional evidence based upon valid transactions between the Movant and the Respondent which have just come to the knowledge of the Movant through a diligent effort which was primarily due to the change in management of the Movant's Institution.

   Wherefore and in view of the foregoing, Movant therefore prays unto your honor and this honorable court to kindly allow the admission of this Newly discovery so as to form a cogent part of Movant/Defendant exhibit and that your honor should and must grant unto the Movant any and all other reliefs as your honor and this Honorable Court may deem just, legal and equitable. Movant so prays."

In response to the motion for newly discovered evidence, the appellee filed resistance alleging that the motion did not meet the requirement of the law applicable to said motion, because the appellant did not attach a separate affidavit attesting to the newly discovered evidence. Hence, the motion should be denied.

On April 4, 2016, the trial court listened to arguments on the motion and the resistance thereto, and rendered its ruling denying the appellant's motion for newly discovered evidence. The trial court relied on section 9.11 of the Civil Procedure Law as the legal basis for the denial of the motion, stating that the appellant had sufficient knowledge of the newly discovered evidence, as same was always in possession of the appellant.

The Civil Procedure Law and case laws on motion for newly discovered evidence provide thus:

> "...at any time before submission of the case to the court or jury, the court may, on motion with notice, grant to a party permission to introduce new evidence in addition to the allegation of his pleading. A motion under this section shall be granted only if the moving party shows to the satisfaction of the court by affidavit that at the time of service of the pleading he did not know and could not with reasonable diligence have known of the facts as to which such evidence is offered. If the motion is granted, the former pleading shall be withdrawn and a new one filed which shall conform to the evidence introduced." The Civil Procedure Law, Rev Code 1:9.11; *Stubblefield v. Nassah,* 25LLR, 164-165 (1976); *American Life insurance Company (ALICO) v. Koroma,* 30LLR 61, 66 (1982); *Eleanor Harriet Taylor-Cooper v. J. Nyema Baker, et al,* Supreme Court Opinion March Term, A.D. 2016

A careful review of the motion for newly discovered evidence specifically counts 4 and 5 show that there was a change in the management structure of appellant's organization; that the appellant alleged that it was only upon revelation and information from the former country director who had participated in the transactions with the appellee, that the new country director become knowledgeable of the car rental agreements, which it claimed were not available at the time of filing of the appellant's answer. The trial court denied the motion on grounds that the evidence sought to be introduced was always in the appellant's possession, which included the car rental contracts and the invoices sought to be introduced into evidence by the appellant. More besides, the records show that the appellant in its answer had initially denied the appellee's claims as to the existence of the car rental contracts, that same were products of fraud; therefore, this is sufficient grounds to conclude that in order to sustain such defense, the appellant had sufficient knowledge of the existence of these documents to prove its allegation of fraud and that these newly discovered evidence should have been attached to its answer to substantiate the averment stated therein, as in the motion for newly discovered evidence, the appellant clearly stated that these documents were found in its offices. Also, the appellant failed to have its former country director who allegedly supplied the information to appear to testify to the assertions and to be crossed examined. We are in agreement with the trial judge, that the evidence intended to be introduced was always in the possession of the appellant and that the facts and circumstances of this case show that the appellant had sufficient knowledge of and the existence of these documents hence, they do not suffice as newly discovered evidence. Even more so, the appellant still had the opportunity to take the witness to produce evidence in support of the allegations contained in its pleadings and to rebut the appellee's allegations by the required evidence. Accordingly, the trial court committed no error when it denied the appellant's motion for newly discovered evidence and we so hold.

Thereafter, the records show that in addition to the subpoena witness from the LRA, the appellant produced two regular witnesses in persons of its Country Director, Jolene Mullin and its Director of Internal Audit, Arun Sharma. The witnesses testified that the appellant did enter into several car rental contracts with the appellee; that the appellant and the appellee's agent, Mr. Ali Hamze collectively vetted and scrutinized all invoices for discrepancies; that thereafter, the appellee was accordingly paid for services rendered; that 10% of all the appellee's earnings on the contracts was then deducted and paid to the Liberian Government as withholding taxes. Witness Arun Sharma testified that the appellee's initial demand for US$ 198,270.00 prompted a reconciliation and verification process; that after the vetting and reconciliation the parties agreed that the amount owed the appellee was US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars). The witness also testified that a check for this amount was issued in the name of the appellee's corporation and that the appellee's agent, Mr. Ali Hamze signed for same and tendered a receipt in favor of the appellant. This document was admitted into evidence without any objection by the appellee. Thus, the appellant maintained that by December 19, 2015, it had settled all its obligations to the appellee under the two car rental contracts. The receipt that was admitted into evidence showing alleged payment on the car rental contracts is reproduced as follow:

"BIG STAR CAR RENTAL
20TH STREET, SINKOR
1000 MONROVIA, 10 LIBERIA
CELL #0886-998-888/0880422-166

No: 176

RECEIPT Date: Dec 19, 2015

Received From: PCI
The Sum of One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars
Amount Paid $: 105,337.00 Cheque #: 60106939
Balance Due $

Authorized Signature"

Also admitted into evidence without any objection by the appellee, were copies of sundry invoices; copy of a payment order issued by the appellant in favor of the appellee for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) representing payment made on the car rental contracts and; a facsimile of a United Bank of Africa (UBA) check dated December 18, 2015, for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) in the name of the appellee's corporation, Big Star Car Rental.

Following the appellant's resting in *toto* with the production of both testamentary and documentary evidence, the appellee recalled to the witness stand, its authorized representative, Ali Hamze for the purpose of disproving or rebutting the appellant's evidence, particularly, the evidence regarding final payment to the appellee on the two car rental contracts. We observed from the records that although this recalled witness, Mr. Ali Hamze, was specifically named and identified by the appellant as the appellee's agent who allegedly received the check for the final payment and who also issued receipt for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) on behalf of the appellee; and which the appellant's witness testified, constituted payment of the total indebtedness to the appellee, this recalled witness, Ali Hamze when testifying for the second time failed to deny or controvert the said payment, but only again give general testimony as to the events surrounding the appellant's alleged indebtedness to the appellee on the two car rental agreements, gasoline, withholding taxes and attorney's fees, as contained in the complaint and in his testimony in chief.

When both parties rested with the production of evidence, the trial court listened to arguments and reserved its final ruling.

Interestingly, on May 26, 2016, pending rendition of final judgment by the trial court the LRA transmitted a letter, addressed to Judge Paegar who had presided over the matter, stating therein, that the appellant had paid withholding taxes in the amount of US $62,000.00 (Sixty Two Thousand United States Dollars) on January 18, 2016. The said letter from the LRA is quoted herein below to wit:

"Dear Judge Paegar

ADDITITIONAL INFORMATION OF PCI WITHHOLDING TAX PAYMENT ON BEHALF OF BIG STAR RENTAL

May It Please Your Honor:

Your Honor, we write to provide the Commercial Court with additional information as directed in the Writ of Subpoena Deuces Tecum, to provide copies of receipts issued to Project Concern International (PCI) for payments made by the said PCI as withholding Agents for and on behalf of the Government of

Liberia with respect to contracts made, entered into and executed between Big Star Car Rental and PCI for the period 2014 to 2015.

Your Honor, as the Court was earlier informed, the taxpayer is normally provided the original copy of the payment Flag receipt. Notwithstanding, the LRA keeps a computerized Revenue Collection Detailed Report from where we furnished the Court with the first information for the period mentioned, but to our outmost surprise, the Lawyers for Project Concern International provided us a copy of a 10% withholding tax payment receipt # 17437, dated January 18, 2016 in the amount of US $ 62,118.00.
A breakdown of the payment mentioned is US $53, 694 80.00 representing part payment of 10% withholding on US $600,000.00 and including Administrative Penalties for Residents in the amount of US $6,832.98, plus Administrative Interest on withholding for residents in the amount of US $1,590.22. The accurate 10% of US $600,000.00 not US $53,694.80 leaving an understated difference of US $6,305.20.

Your Honor, the information that was provided to the Commercial Court earlier was for the period mentioned in the *subpoena deuces tecum* request 2014 to 2015, not 2016. The part payment was made late in another tax year 2016. We have derived the authenticated information through the Tax Administration System (TAS) and are now in the position to answer and submit the request from the court. Attached are copies of the Automated Revenue Collection Report of Project Concern international withholding payment on behalf of Big Star Car Rental and Revenue Flag Receipt.

Very Truly Yours
Atty. Gabriel Johnson
Associate Chief Counsel/ Civil Litigation"

This communication from the LRA was not considered by the trial judge, for reasons as set forth in his final judgment rendered on June 7, 2016, and which we shall address later in this Opinion. The trial judge's final judgment awarded the appellee diver amounts as follow, to wit:

1) An amount of US$91,050.00 (Ninety One Thousand Fifty United States Dollars), for the appellant's indebtedness to the appellee on the two contracts;
2) An amount of US$10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) representing the total cost of gasoline/fuel purchased by the appellee; and
3) An amount of US$57,628.00 (Fifty Seven Thousand Six Hundred Twenty Eight United States Dollars) representing the difference between the amount of US$62,123.00 which the appellant alleged it paid to the LRA as with-holding tax and US$5,495.00 the amount received by the LRA for the period 2014-2015.

The amount prayed for as attorney fees by the appellee were denied by the trial court. Relevant portion of the trial court's ruling on these awards read as follow:

"...The facts and averments as contained in the pleadings of the parties present for consideration by this court the following issues:

1) Whether or not the allegation of fraud in a pleading is sufficient to absolve the alleging party of obligations under a contract.

2) Whether or not the admission(s) by a party or its agent can be used as evidence against the admitting party.

3) Whether or not the documentary evidence which is admitted by court without opposition by the adverse party can be used as the basis of a judgment against the adverse party.

The question as to whether or not the allegation of fraud in a pleading is sufficient to absolve the alleging party of obligations under a contract is answered in the negative. In series of Opinions, the Supreme Court of Liberia has held that 'allegations of fraud must be proven in order to serve as a basis for relief and that upon an allegation that a party has committed fraud every species of evidence tending to establish said allegation should be adduced at trial.' *Francis v. The Mesurado Fishing Company Ltd.*, 20LLR 542(1971), *Henrichsen v. Moore*, 5LLR 60 (1936) In the instant case, the defendant which had alleged the perpetration of fraud by the plaintiff failed to prove the allegation of fraud. In fact, in the testimonies of its witnesses, the defendant made no mention of the fraudulent contract since the defendant had challenged the existence of the contracts. Moreover, when the plaintiff's counsel attempted to have the defendant's witness address the issue of the alleged fraud, the attempt was objected to by the defendant's counsel...In view of these facts and the Supreme Court's Opinion *Multinational Gas & Petrochemical Company v. Crystal Steamship Company,* 27LLR 198 (1978), which states that, 'it is error for a judge to uphold allegations of fraud where no evidence is adduced to establish it,' the defendant prayer for relief based on fraud is denied.

We now turn our attention to the second query which is whether or not admission by a party or its agent(s) can be used as evidence against the admitting party.

Chapter 25, Section 25.8 of the Civil Procedure Law provides 'all admissions made by a party himself or by his agent acting within the scope of his authority are admissible. Every agent for the conduct of a cause shall have the authority to make admissions in that cause. The admission of every other agent in any matter under his control as agent shall be admissible.

In the instant case, two basic admissions were made by the defendant. In its answer to the plaintiff's complaint, the defendant admitted at count 11, [by stating thus] 'that because defendant says that as to count 3 of the plaintiff complaint, and as to the amount of US $10,370.00 for gasoline, indeed it is true that under the limited contract signed between themselves the defendant is obligated to settle for gasoline. Defendant says that it acknowledges withholding the amount for gasoline the basis that has been the regular practice of the plaintiff to overstate the amount for gasoline even when no services were being rendered nor expenses incurred. The plaintiff would submit a bill far more than the actual amount of gasoline used. Defendant says that as soon as reconciliation is completed, any adjusted amount for gasoline will be settled, in effect this would not constitute debt against the defendant.' As can be seen, the defendant admits to its obligation under the contract to reimburse the plaintiff for the cost of gasoline/fuel and to withholding of the amount of US $10,370.00 which it would pay to the plaintiff after reconciliation. This admission is sufficient to rule the defendant liable to the plaintiff for the said amount. Further, although the defendant had denied ever entering any contract with the plaintiff for the duration of five months, the witness testified that there was indeed a contract for that period, but that it was an error on her part when it averred that no such contract for that period was executed. Not only that, the witness [also] testified that the two contracts were vetted and submitted for payment. Whether payment was made we do not know, as the defendant had the burden of proving its allegations. A review of the file reveals that although the defendant had submitted documents in support of its claim of payments made to the plaintiff, none of those documents referenced the two contracts based on which this action was instituted. The burden of proof rests on the party who alleges a fact. Thus, every party alleging the existence of a fact is required to prove it by the preponderance of evidence. *Forestry Development Authority v. Walters and the Board of General Appeals*, 41LLR 205 (2002). The defendant having admitted (in part) to the averments contained in the plaintiff's complaint, and failed to prove its own claims of payment on the contracts in dispute, and in view of the laws cited, this court [hereby] declines to give into the defendant relief prayed for in its answer.

Finally we shall now discuss the issue of whether or not documentary evidence which is admitted in court without opposition by the adverse party can be used as the basis of a judgment against the adverse party. On this issue, we consider the claims and counter-claims of the parties with respect to the withholding and remittance of taxes by the defendant to the Government of Liberia by and through the Liberia Revenue Authority on behalf of the plaintiff. On the averment and testimonies of the defendant that it had withheld from payments made to the plaintiff the amount of US $62, 123.00 and paid same to the GOL, the plaintiff challenged this claim and prayed court for the issuance of a writ of subpoena *duce tecum* to be served on the LRA directing the LRA to produce the records of all taxes remitted by the defendant for and on behalf of the plaintiff. The records of the LRA were testified to by a representative of the LRA and duly admitted into evidence upon application of the plaintiff's counsel without any resistance from the defendant counsel. Analysis of the documents submitted by the LRA reveals that payments remitted by the defendant as withholding taxes on behalf of the plaintiff totaled US 5,495.00(Five Thousand Four Hundred Ninety Five United States Dollars). We note at this point that notwithstanding that the records of the LRA, were neither objected to nor challenged by the defendant, the defendant through its counsel addressed a letter to the LRA calling on the LRA to correct the information which the defendant claimed did not represent the true picture of the transactions between the parties with regards to the taxes remitted on behalf of the plaintiff. In response to the letter sent by the defendant, the LRA on May 26, 2016, after final arguments had been had, addressed a letter to this court in which it sought to provide additional information on the matter. However, because the letter from the defendant to the LRA and the LRA's response abrogate the rules of evidence in vogue in this jurisdiction, the content thereof will not impact this ruling as to do so will be a violation of the Supreme Court Opinions which state that 'it is incumbent upon the parties in litigation to present the best evidence available to them at the trial of the case; that the reason for requiring sufficient evidence identification of documentary evidence in any legal proceedings is to avoid the admission of false and deceptive writing that may tend to distort the truth.' Sirleaf v. Saba, 21LLR 22 (1972); Cheng and American International Underwriter v. Tokpa 29LLR 22, (1981). The exclusion of the LRA letter of May 26, 2016 and the conclusion by us that the subpoena documents provided by the LRA which were testified to in open court as being true and correct leaves us to conclude that the only amount remitted to the LRA by the defendant as withheld taxes on behalf of the plaintiff is US $5,495.00 (Five Thousand Four Hundred Ninety-Five United States Dollars).

WHEREFORE AND IN VIEW OF ALL THE FACTS AND LAWS STATED ABOVE, it is the ruling of this court that the defendant is liable to the plaintiff as follows:

1. For the amount of US $91,050.00 (Ninety-One Thousand Fifty United States Dollars) representing the total cost of the two contracts.

2. For the amount of US $10, 370.00 (Ten Thousand Three Hundred Seventy United States Dollars) representing the amount withheld for fuel/gasoline expenses.

3. For the amount of US $57, 628.00 (Fifty Seven Thousand Six Hundred Twenty-Eight United States Dollars) representing the difference between the amount admittedly withheld from the plaintiff by the defendant and allegedly paid to the LRA and amount actually paid.

4. There being no agreement between the parties with respect to the payment of attorney fees, the plaintiff prayer for the award of US $45,000.00 as attorney fees is denied.

5. The cost of these proceedings is ruled against the defendant."

The appellant excepted to this final judgment; announced and perfected its appeal and subsequently on July 13, 2016, filed a thirty (30) count bill of exceptions which was approved by the trial judge. A careful review of the appellant's 30 count bill of exceptions reveals that same is repetitive and in contrast with the principles of law governing bill of exceptions. Counts 1-5 essentially centered on the description of the parties and their business relationship; counts 6-9 present expression that the appellee was fully paid for service rendered and that a 10% withholding tax was deducted from payments made to the appellee and remitted to the LRA; counts 11-18 show a restatement of the facts contained in the appellee's complaint; counts 19-28 were simply a recitation of the relevance of the motion for newly discovered evidence and the judge's alleged error in denying same; and count 29 centered on the alleged error of the trial judge in imposing a court cost of US$45,000.00. Thus the entire thirty (30) counts bill of exceptions could have been reduced to at most five (5) counts.

The Civil Procedure Law, Supreme Court Opinions and the Revised Rules of the Supreme Court have all stated that:

> "The appellant must state in its bill of exceptions the point of law to be especially relied upon in support of its appeal; the bill of exceptions must contain only such statements of facts and only such papers as may be necessary to explain the rulings on the issues or question involved, and the appellant is also required to state distinctly the several matters of law in the charge of the court to which it excepted to." The Civil Procedure Law Rev Code 1:51.7; The Revised Rule of the Supreme Court, V part 1 [Citations]

Pursuant to the above, lawyers appearing before this Court are again cautioned in the strongest of terms, to refrain from unnecessary repetitions in preparing a bill of exceptions and that they should be more meticulous and cognizant of the applicable rules in preparing their bill of exceptions. The danger of non-compliance to this basic rule is aptly espoused in an Opinion rendered by this Court when it held "*where the bill of exceptions is unintelligible, confused, or conflicting, it will be interpreted against the appellant and in support of the judgment.*" *Wiah v. Republic* 38 LLR 385, 389 (1997). This Court will therefore only address those issues in the bill of exceptions that are germane to the appeal. This is in consonance with long standing principle that this Court need not pass on every issue raised in the bill of exceptions, but address only those issues which will bring finality to the matter before it. *Cisco et al., v. R. L*, Supreme Court Opinion, October Term 2015; *CBL v. TRADEVCO*, Supreme Court Opinion, October Term 2012; *Knuckles v. TRADEVCO*, 40 LLR 49, 53 (2000); *Vargas v. Morns*, 39 LLR 18, 24 (1998).

Having said this, and upon careful review of those relevant issues contained in the appellant's thirty (30) count bill of exceptions, the appellee's returns and the facts and the evidence contained in the records certified to this Court, we have culled four (4) issues dispositive of this appeal, which are:

1) The existence and the monetary terms of the two car rental contracts.

2) Whether or not the appellant is liable for the amount of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) representing fuel/gasoline reimbursement to the appellee.

3) Whether or not the appellant's payment of 10% withholding tax to the Liberia Revenue Authority on the car rental contracts was legal, although same were not provided for in the contract.

4) Whether or not the appellee sufficiently proved its entitlement to the amount of US$91,050.00 (Ninety-One Thousand Fifty United States Dollars) as the debt owed by the appellant on the two car rental contracts?

The Court shall answer these issues in their order of presentment. Regarding the first issue as to the existence of the two car rental contracts between the appellant and the appellee, we observed that while initially the appellant in its answer challenged the execution of the two contracts on the basis of fraud contending that the terms and conditions of the said contracts violated the appellant's regular mode of contractual execution, as it never entered into any contract for a period exceeding 30 days and that the appellee allegedly always inflated the monetary amounts on invoices submitted to the appellant for payment.

We observed that as the trial progressed, the appellant however recanted this previous position by acknowledging the existence of the two contracts when its country director and internal auditor both testified and by documentary evidence that indeed the contracts were executed, but was only contesting the amounts being claimed by the appellee.

Hence, this Court says that the admissions by the appellant by acknowledging the contracts, clearly disproves the appellant's initial claim that the two contracts were products of fraud. We hold therefore, that the two car rental contracts were duly executed, thus constituting valid agreements between the appellant and the appellee.

We shall now address the second issue which is whether or not the appellant is liable for the payment of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) representing fuel/gasoline reimbursement allegedly incurred by the appellee during the life of the contracts.

We observed from the records that the appellee claimed it incurred expense of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) for fueling the rental vehicles which should have been borne by the appellant as per the terms of the contract. The appellant on the other hand in traversing this issue in its answer did not deny owing the appellee for gas. In count 11 of its answer the appellant admitted to retaining the amount claimed by the appellee, pending the submission of and reconciliation of invoices from the appellee, for according to the appellant, the appellee always inflated the amounts on said invoices. Count 11 of the appellant's answer admitting to this obligation reads thus:

> 'that because defendant says that as to count 3 of the plaintiff complaint, and as to the amount of US$10,370.00 for gasoline, indeed it is true that under the limited contract signed between themselves the defendant is obligated to settle for gasoline. Defendant says that it acknowledges withholding the amount for gasoline the basis that has been the regular practice of the plaintiff to overstate the amount for gasoline even when no services was being rendered nor expenses incurred. The plaintiff would submit a bill far more than the actual amount of gasoline used. Defendant says that as soon as reconciliation is completed, any

adjusted amount for gasoline will be settled, in effect this would not constitute debt against the defendant.'

It is trite law that all admissions made by a party himself or by his agent acting within the scope of his authority are admissible against the party making the said admission. *The Civil Procedure* Law Rev Code 1:25.8; *Nyumah and Freeman v. Kontoe and Payne*, 40LLR 14, 18 (2000); *Pentee v. Tulay*, 40LLR 207, 215 (2000). This admission on the part of the appellant regarding the issue of gas shifted the burden of proof from the appellee to the appellant who now had the burden of showing that the amount of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) stated in the complaint was inflated and to prove with supporting evidence what it considered as the actual amount owed the appellee. But the appellant failed to produce any said evidence during the trial to reconcile the amount of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) even when it was subpoena to produce invoices submitted by the appellee.

We hold that the appellant having admitted in Count 11 of its answer to reconcile and settle its obligation for gas but then failed to produce supporting evidence to reconcile or mitigate the alleged amount of US $10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) this Court will accept the said amount as true based upon the appellant's own admission and the appellant in this regard is liable to reimburse the appellee the stated amount.

As per the third issue relating to the payment of 10% withholding tax, the records show that as per the appellee's assertion, the contracts made no provision that the appellant pay withholding tax to the Liberia Revenue Authority neither is there any showing that the appellee authorized the appellant to pay withholding tax to the Liberia Revenue Authority from its income. The appellee stated that the omission from the contracts of said provision, the appellant pay withholding tax to the Government, coupled with the law that parties to a contract are bound by the terms and conditions stated therein, the appellant was in breach of the contracts when it paid withholding taxes to the Liberia Revenue Authority. This Court disagrees with this trend of reasoning by the appellee for the following reasons stated herein below.

Firstly, the Revised Revenue Code of 2011 compels the appellant to serve as a withholding agent for the Government of Liberia and then pay withholding tax in manner and form prescribed by the said code. Section 905(a) of the Revenue Code which speaks on the authority of the appellant in this capacity provides as follow:

> "a person listed in this subsection who makes a payment of the kind specified in this section is required to withhold tax at the rate specified in this section. The payor is treated as a withholding agent for all purposes of this Code. This subsection applies to the following types of persons:
>
> 1. a resident legal or natural person;
> 2. a nonresident with a branch in Liberia or doing business in Liberia;
> 3. a government agency; or
> 4. unless expressly exempted by international agreement or treaty, a nongovernmental organization operating in Liberia or a diplomatic mission to Liberia."

Given the fact that the appellant is by law a withholding agent, paying for services rendered by the appellee, the appellant pursuant to Section 905(f) of the Revenue

Code if failing to remit withholding taxes to the Government of Liberia run the risk of being penalized in keeping with the Section 905(m) of the said Code.

Section 905(f) of the Code which mandates and compels the appellant to withhold taxes for services rendered to its corporation by persons holding no employment contract with the said corporation provides thus:

> "(f) *Payments for Services Rendered.*
>
> (a) If a payor makes a payment to a resident for services rendered, and the services are not the subject of a contract of employment, the payor is required to withhold tax at the rate of 10 percent of the amount of the payment.
>
> (b) This subsection applies only if—
>
> (1) the payment is of a sort includible in gross income under Section 201 including Board fees, management fees, commissions, and the like); and
>
> (2) the payment is $100,000 or more (or of any amount if the total amount of payments made to the payee is (or is expected to be) $1,000,000 or more for the payer's tax year)."

Section 905(m) of the Code provides the penalty for noncompliance to the above quoted provision of the Code as stated thus:

> "A person who has a withholding obligation under this section and fails to withhold and remit the amount of tax required to be withheld is subject to penalty [prescribed in Section 52] for late payment and failure to pay. For the purpose of applying the penalty to a failure to withhold and remit tax, references in Section 52 to the "payment due date" are to be understood as referring to the remittance due date under this section. A person who fails to provide the tax authorities with a required statement under subsection (l) is subject to a fine of $10,000 for each required statement not provided."

We observed from the records and the counsels' argument before this Court that the appellee throughout the entire proceedings has not challenged the validity of the law authorizing the appellant to serve as withholding agent of the Government in the matter of withholding and payment of taxes for services rendered, nor has it challenged the provision of Section 905 that authorize the appellant to withhold 10% of its income or run the risk of being penalized. The appellee's main contention is that the parties as per the car rental contracts never agreed for the appellant to deduct 10% of its income and pay same to the Liberia Revenue Authority as withholding taxes and that the deduction by the appellant was unilateral and a violation of the terms and conditions of the contracts.

This argument of the appellee is legally untenable because, had the parties inserted such a clause in the agreement that contravenes the law, in this case, the Revenue Code and allowed for the appellant to pay the entire contractual money to the appellee without deducting the lawful taxes owed the Government, the said clause will be illegal and void on grounds of public policy. The Supreme Court in addressing the issue of a contract that contravenes public policy has held as follow:

> "Public policy is defined as the principle of law which declares that no person can lawfully do that which has the tendency to be injurious to the public or against the public good, and which may be designated as the policy of the law or policy in relation to the administration of the law... that although the law and public policy permit and require the outmost freedom of contract between parties, an agreement which violates the provisions of the Constitution or the statute or which cannot be performed without violation of the law [and public policy] will be stricken as illegal and void." *Liberia Realty Management Corporation v. Montgomery,*

33LLR 11, 14-15(1985); *Insurance Company of North America v. Intrusco Corporation*, 35LLR 191, 206 (1988)

We hold then, that given the fact that the appellant designated by law, a withholding agent of the Government of Liberia mandated to withhold 10% of the appellee's income and pay same to the Liberia Revenue Authority as withholding taxes any agreement contrary to the provisions of the Revenue Code cited herein would be illegal and void.

In his final judgment, the trial judge stated, *"that the only amount remitted to the LRA by the defendant as withheld taxes on behalf of the plaintiff is US $5,495.00 (Five Thousand Four Hundred Ninety-Five United States Dollars),"* but proceeded to award to the appellee, the amount of US$57,628.00 (Fifty Seven Thousand Six Hundred Twenty Eight United States Dollars) being the difference between the amount of US$62,123.00 (Sixty Two Thousand One Hundred Twenty Three United States Dollars) which the appellant alleged it paid to the LRA and US$5,495.00 (Five Thousand Four Hundred Ninety-Five United States Dollars) the amount indicated on the record subpoenaed from and testified to by the LRA for the period 2014-2015. We have already stated herein, that in consonance with the provisions of the Revenue Code, the 10% withholding tax is for the Government and not the parties, particularly, the appellee. The trial judge was therefore in error when he made the said tax part of the award to the appellee.

We now proceed to address the May 26, 2016, letter from the Liberia Revenue Authority, the agency solely responsible for the collection of all lawful revenue on behalf of the Government of Liberia, informing the court that the appellant had made additional payment of US$53,694 80.00 representing payment of 10% withholding on US$600,000.00 under its contract with the appellee. We will not be repetitious to again quote that aspect of the trial judge's final judgment regarding this letter:

> "On the averment and testimonies of the defendant that it had withheld from payments made to the plaintiff the amount of US $62,123.00 and paid same to the GOL, the plaintiff challenged this claim and prayed court for the issuance of a writ of subpoena *duce tecum* to be served on the LRA directing the LRA to produce the records of all taxes remitted by the defendant for and on behalf of the plaintiff. The records of the LRA were testified to by a representative of the LRA and duly admitted into evidence upon application of the plaintiff's counsel without any resistance from the defendant counsel. Analysis of the documents submitted by the LRA reveals that payments remitted by the defendant as withholding taxes on behalf of the plaintiff totaled US 5,495.00(Five Thousand Four Hundred Ninety Five United States Dollars). We note at this point that notwithstanding that the records of the LRA, were neither objected to nor challenged by the defendant, the defendant through its counsel addressed a letter to the LRA calling on the LRA to correct the information which the defendant claimed did not represent the true picture of the transactions between the parties with regards to the taxes remitted on behalf of the plaintiff. In response to the letter sent by the defendant, the LRA on May 26, 2016, after final arguments had been had, addressed a letter to this court in which it sought to provide additional information on the matter. However, because the letter from the defendant to the LRA and the LRA's response abrogate the rules of evidence in vogue in this jurisdiction, the content thereof will not impact this ruling as to do so will be a violation of the Supreme Court Opinions which state that 'it is incumbent upon the parties in litigation to present the best evidence available to them at the trial of the case; that the reason for requiring sufficient evidence identification of documentary evidence in any legal proceedings is to avoid the admission of false and deceptive writing that may tend to distort the truth.' Sirleaf v. Saba, 21LLR 22 (1972); Cheng and American International Underwriter v. Tokpa 29LLR 22,

(1981). The exclusion of the LRA letter of May 26, 2016 and the conclusion by us that the subpoena documents provided by the LRA which were testified to in open court as being true and correct leaves us to conclude that the only amount remitted to the LRA by the defendant as withheld taxes on behalf of the plaintiff is US $5,495.00 (Five Thousand Four Hundred Ninety-Five United States Dollars)."

Firstly, we make the following observations regarding the subject letter:

1) That the letter was transmitted to the trial court after the parties had concluded both testamentary and documentary evidence and final arguments had and trial ended, albeit, awaiting final judgment;
2) That the period alluded to in the letter was subsequent to the period not only mentioned in the subpoena to the LRA, but also when the period of the contracts ended; and by the appellant's own admissions and evidence, it had already paid to the appellee the entire amount due under the contracts, that is, a United Bank of Africa (UBA) check dated December 18, 2015, for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) and a receipt dated December 19, 2015, issued by the appellee's authorized representative, Ali Hamze, the latter, whom we observed, failed to controvert or to rebut same when recalled to the witness stand;
3) That the appellants made this latter payment in 2016. This is how the LRA letter alludes to the payment: "Your Honor, the information that was provided to the Commercial Court earlier was for the period mentioned in the *subpoena deuces tecum* request 2014 to 2015, not 2016. The part payment was made late in another tax year 2016."

Given all of these facts confirmed by the certified records before this Court, we are in agreement with the trial judge, that were he to have given consideration to the LRA's letter in his final judgment, same would indeed have been in violation of the rule of evidence. This is because, according to the law regarding the submission of documents as evidence, said documents should be pleaded, testified to, confirmed and ordered admitted into evidence by the trial court. The LRA's letter coming after the close of all the evidence and arguments by the parties, the trial judge could not *sua sponte* consider same without proper notice to the parties, particularly, the appellee to be accorded the right to traverse same in order to ascertain its authenticity, specifically that the amount was actually paid to the LRA; and this will be through the appropriate LRA again subpoena to testify to the assertions indicated in its letter and the parties accorded the exercise of their rights in such circumstances. This is important, seeing that the amount stated in the LRA's letter as withholding taxes allegedly paid by the appellant was without the requisite receipt(s) therefor and the letter was transmitted after the expiry of the contracts. Also, it was at the request of the appellant that the LRA was now updating the trial court on subsequent payment *vis a vis* its previous record submitted and testified to under oath in open court and same was without notice to the appellee. We therefore hold that the trial judge acted within the pale of the law when he did not consider the May 26, 2016, letter from the LRA.

We shall now address the fourth issue of this appeal which is whether or not the appellee by the preponderance of evidence is entitled to the amount of US $91,050.00 (Ninety-One Thousand Fifty United States Dollars) awarded by the trial court as debt owed on the two car rental contracts. A quick review of pertinent facts is essential to the disposition of this issue.

As earlier mentioned herein, during the trial, the appellee produced two witnesses in persons of Ali Hamze the authorized representative and Augustine Lomax who both basically testified *inter alia* that the appellant was indebted to the appellee on the two car-rental contracts in the amount of US $91,050.00 (Ninety-One Thousand Fifty United States Dollars). After the appellee rested with the production of evidence the appellant also produced two witnesses in persons of its Country Director and Internal Auditor who testified that the appellant and the appellee's agent, Mr. Ali Hamze collectively vetted and scrutinized all invoices for discrepancies; that after the vetting and reconciliation process, the parties agreed that the amount owed the appellee was US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars); that a check for this amount was issued in the appellee's corporation name and in return, the appellee's agent Mr. Ali Hamze signed and tendered a receipt in favor of the appellant thus, by December 19, 2015, the appellant had settled all its obligations to the appellee.

As also stated earlier, the records show that in addition to the receipt signed by Mr. Ali Hamze, the appellee's authorized representative, there is a facsimile of a payment order issued by the appellant in favor of the appellee for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) representing payment made on the car rental contracts; and a facsimile of a United Bank of Africa (UBA) check dated December 18, 2015, for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) in the name of the appellee's corporation.

In the face of all of these evidence, the appellee re-called witness, Mr. Ali Hamze, upon taking the stand for the second time failed to deny the allegations that a payment order for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) was issued in favor of the appellee; that a United Bank of Africa (UBA) check dated December 18, 2015, for the amount of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) was thereafter issued in the name of the appellee's corporation and that he, Mr. Ali Hamze, the authorized representative issued a receipt therefor to the appellant.

This Court says that the failure of the appellee to have its witness, Mr. Ali Hamze deny or controvert the facts surrounding the payment of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) and the receipt issued inconsonance thereto are tantamount to admission. This assertion is premised on the principle of law which states that "he who should speak and remains silent assents; that the failure of a party to deny those averments of an adverse party which are known or believed by him to be untrue amounts to an admission." *Kamara & Kollie v. Kindi et al.*, 39LLR 102, 108 (1998); *Constance et al., v. Ajavon et al.*, 40LLR 295, 304 (2000); *Bent v. Coleman,* 2LLR 210, 214 (1915). The Supreme Court has held that "when statements or evidence presented in the pleading or by witnesses on the stand, which are damaging to a party and needs to be rebutted, and the party fails to produce rebutting witnesses or other evidence, the evidence presented will be deemed to be true." *Cole v. Cole,* Supreme Court Opinion, March Term, 2013; *Brumskine et al., v. National Elections Commission*, Supreme Court Opinion, October Term A.D. 2017. We hold here that there being no evidence rebutting or denying the payment of the US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) and the corresponding receipt thereto, especially after the purported recipient, Mr. Ali Hamze was re-called to the witness stand, the said allegation and attending evidence are accepted as true. In fact, we are taken aback with the trial judge's reasoning that the appellant having failed to proffer any evidence as to the purpose of the payment of US$105,337.00 to the appellee and that the absence of any indication on the receipt signed by the appellee's authorized representative stating that the payment was in settlement of the amounts owed on the two contracts, same could not be applied against the debt. We then ask the question, what was the purpose for this payment? Was it a magnanimous gesture by the appellant to the appellee? Then why did the appellee not address the reason and purpose for said payment when it had the second opportunity as a recalled witness to traverse same or rebut the appellant's testimony?

Hence, we hold that given the evidence adduced, the US$91,050.00 (Ninety-One Thousand Fifty United States Dollars) awarded by the trial court as debt owed on the two car rental contracts is hereby reversed.

Given the fact that the no exceptions were taken by the appellee to the portion of the trial court's ruling disallowing attorney fees to the appellee, we will not disturb nor delve into same.

WHEREFORE, AND IN VIEW OF THE FOREGOING, that as per by the appellant's own admissions that it did not make payment to the appellee for gasoline as agreed in the contracts between the parties, the trial court's award of the amount of US$10,370.00 (Ten Thousand Three Hundred Seventy United States Dollars) to the appellee is hereby affirmed.

That the trial court's award of US$159,048.00 (One Hundred Fifty Nine Thousand Forty-Eight United States Dollars) is reversed due to undisputed proof by the appellant that its payment of US $105,337.00 (One Hundred Five Thousand Three Hundred Thirty Seven United States Dollars) evidenced by a receipt dated December 19, 2015, issued by the appellee's authorized representative, Ali Hamze, constituted full payment of the indebtedness to the appellee.

That the trial court's final judgment awarding Government's withholding taxes in the amount of US $57, 628.00 (Fifty Seven Thousand Six Hundred Twenty-Eight United States Dollars) to the appellee is reversed and remanded with instruction to the trial court to conduct a hearing for the purpose of allowing the parties to authenticate the payment of taxes to Government.

The Clerk of this Court is ordered to send a mandate to the Commercial Court to resume jurisdiction over this case and give effect to this Opinion. Costs are ruled against the appellant. It is so ordered.

Appeal affirmed with modification.

When this case was called for hearing, Counsellors Milton D. Taylor and Mark M.M. Mavey of Law Offices of Taylor and Associates, Inc., in association with the Heritage Partners and Associates, represented the Appellant. Counsellor Sayma Syrenius Cephus of the CEMAR Law Offices represented the Appellee.