

3. a Declaration that, as a consequence of paragraph 1 of this Order, (a) the award of the Labour Tribunal dated 7 March 2001 is a valid, binding and enforceable award, (b) that, subject to any appeal to the Labour Appeal Tribunal as hereinafter provided for by this Order, the Appellants were entitled, and continue to be entitled, to enforce the said award of the Labour Tribunal pursuant to the Labour Law (2001 Revision) s. 76(2) in like manner to a judgment of the Grand Court for the payment of a sum of money and (c) the said award may, therefore, be enforced by the service of a statutory demand in respect of the amount so awarded;
4. an Order that, in the event that the 1st Respondent is given leave so to do despite paragraph 5 of the Grounds of Appeal and elects to appeal the award of the Labour Tribunal dated 7 March 2001 pursuant to the Labour Law (2001 Revision) s. 78(1) that the 1st Respondent do file a Notice of Appeal in accordance with the said Law s. 78(2) within 14 days of the date of this Order;
5. an Order that the Labour Appeals Tribunal do rehear the appeal of the Respondent such appeal to be heard within 60 days of the date of the filing of any Notice of Appeal in accordance with paragraph 4 of this Order and that judgment therein be given by the Labour Appeals Tribunal not more than 28 days after the date of the said hearing;
6. an Order that the hearing of the appeal referred to in paragraph 5 of this Order be heard by a differently constituted Labour Appeals Tribunal; and
7. an Order that the costs of and incidental to this appeal be paid by the Respondents.

AND FURTHER TAKE NOTICE that the grounds of this appeal are:

1. Illegality: The 2nd Respondent failed to comply with the Labour Law (2001 Revision) s. 78(8) and as a consequence the proceedings and the judgment of the Labour Appeals Tribunal are a nullity.
2. Illegality: The failure of the 2nd Respondent to give proper reasons at the time of the making of the decision renders the proceedings and the decision illegal and void in accordance with the “Nash” principles (*R (Nash) v Chelsea College of Art and Design* [2001] EWHC Admin 538).
3. Procedural Impropriety: The Appellants repeat the allegation in Ground 2 in support of the ground that the failure and/or refusal of the 2nd Respondent to render a decision and reasons therefore as required by the said s. 78(8) renders the proceedings and the judgment void by reason of procedural impropriety;
4. Unreasonableness and/or irrationality: The decision of the 2nd Respondent dated 28 March 2006 was unreasonable and/or irrational in that:
 - a. No reasonable Labour Appeal Tribunal could have found, on the evidence heard by the Labour Tribunal, that the Labour Tribunal was wrong to have concluded that the Appellants were wrongly dismissed;
 - b. No reasonable Labour Appeals Tribunal could have held, on the evidence heard by the Labour Tribunal, that the Appellants were properly dismissed under section 51(2) of the Labour Law.
5. Error of law: The Labour Appeal Tribunal erred in law in that:
 - a. It held that any agreement and/or consent as to the levels of salary and bonuses which the Appellants were to be paid was required to be in writing;

- b. It improperly reversed the Labour Tribunal in the exercise of its discretion and applied the wrong test in law in as to whether it was entitled so to do; and
- c. It wrongly applied the test as to what the Labour Tribunal was entitled to hold in determining whether the Labour Tribunal properly exercised its discretion.
6. Failure of 1st Respondent to prosecute appeal: The 1st Respondent failed and or neglected to prosecute its appeal before the Labour Appeal Tribunal either properly or at all and by reason of such failure and/or neglect the 1st Respondent is deemed to have abandoned its appeal. The Appellants aver that the 1st Respondent failed to ensure that the Labour Appeal Tribunal complied with s. 78(8) of the said Law by compelling the said Labour Appeals Tribunal to render a decision and give reasons in accordance with the said section. By reason of such failure/neglect/laches the 1st Respondent should be held to have abandoned its appeal and should be barred from further appealing the decision of the Labour Tribunal dated 7 March 2001.

Dated: 24 April 2006.

DIAMOND LAW ASSOCIATES
DIAMOND LAW ASSOCIATES

TO: The Clerk of the Court

AND TO: The Labour Appeals Tribunal
Government Administration Building
Elgin Avenue
George Town
Cayman Islands

AND TO: Truman Bodden & Co – Attorneys for the 1st Respondent

This Originating Notice of Motion was filed by DIAMOND LAW ASSOCIATES, Attorneys for the Appellants whose address for service is 4th Floor Cardinal Plaza, Cardinal Avenue, George Town, Grand Cayman, Cayman Islands (Ref:DLA/SND).