

Nature of case: (Application for an administrative order: Application for Judicial Review)

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**THE REPUBLIC OF TRINIDAD AND TOBAGO:**  
**IN THE HIGH COURT OF JUSTICE**  
Port of Spain

CLAIM NO. CV-2013 – 01162

**BETWEEN**

AFRA RAYMOND

**CLAIMANT**

AND

THE MINISTER OF FINANCE AND THE ECONOMY

**DEFENDANT**



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### **AFFIDAVIT OF AFRA RAYMOND**

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I, **AFRA RAYMOND**, of Emrond House, #111 Oxford Street, Port of Spain, Chartered Surveyor, do make oath and say as follows:-

1. The facts deposed to herein are true and correct and within my personal knowledge and/or belief except where otherwise stated to be based on information in which case I verily believe same to be true.

2. I swear to this affidavit further to my principal affidavit filed on the 20<sup>th</sup> March, 2013 and to my supplemental affidavit filed on the 10<sup>th</sup> April, 2013 and in response to the affidavit of Kimi Rochard filed on the 12<sup>th</sup> July, 2013 in these proceedings ("the said affidavit.")
3. At the second sentence of Paragraph 14 of the said affidavit Kimi Rochard states that *"In any event CL Financial Ltd is a private company and is not a public authority under the provisions of the Freedom of Information Act."*
4. In response to same I say as follows:-

5.1) The Defendant is a public body that falls under the purview of the Freedom of Information Act No. 26 of 1999 ("the Act") and has a duty under the Act to give access to official documents or information is in its possession unless it is able to establish that the information is exempted under the grounds stated under the Act. Even in circumstances where the information may otherwise be exempted the Defendant is still required under Section 35 of the Act to conduct a public interest override and assessment before it refuses to provide the said information

5.2) That my request for the outstanding information and the refused information contained in my Freedom of Information application dated the 8<sup>th</sup> May, 2012 was made directly to the Defendant and not to CL Financial Limited. I applied to the Defendant as a public authority that is subject to the provisions of the Act and the Defendant has not denied that it is currently in possession of the outstanding and the refused information.

5.2) In any event, the statement that CL Financial Limited is a private company is not in itself a ground under the Act that entitles the Defendant to withhold the information which I have requested pursuant to the said Act. The Defendant has failed to state in the said affidavit upon which Section(s) and Sub-section(s) of the Act it is relying as a ground(s) to refuse to provide me with the requested and the outstanding information that I seek. If it wishes to claim that the outstanding and the requested information is exempt it is still required under Section 23(1)(a) of the Act to inform me of the findings on any material question of fact, referring to the material on which those findings were based and the reasons for the decision which I say includes

informing me of the specific grounds and sections and sub-sections of the Act that the Defendant is relying upon to refuse my request.

5.3) That the Refused Information namely the presentation made to Members of Parliament in September 2011 as a briefing for the debate on The Central Bank (Amendment) bill & The Purchase of Rights and Validation Bill 2011 including copies of all slides, power-point slides, tables, charts, schedules, text or other information which comprised that presentation is not information generated or held by CL Financial Limited and is in the possession of the Defendant. No reason has been provided by the Defendant in the said affidavit for failing to provide me with this information. Furthermore, I still do not know the specific sub-section of Section 33 of the Act upon which the Defendant is relying as a basis to refuse to provide me the refused information.

5.4) That in respect of both the outstanding information and the refused information the Defendant has failed to conduct a Section 35 public interest override assessment and analysis before refusing to provide me with the said information. If such an exercise had been conducted I say that the Respondent would have been bound under Section 35 of the Act to provide the said information notwithstanding that it may have been exempt.

6) In the circumstances, I seek the relief sought my Fixed Date Claim Form filed on the 10<sup>th</sup> April, 2013.

Sworn at #1A Lord Street }  
San Fernando }  
this 14<sup>th</sup> day of October, 2013 }



Before me

Commissioner of Affidavits

**HEMAWATIE BOODHAI**  
Commissioner of Affidavits