

**IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, COMMERCIAL DIVISION, HELD IN ACCRA ON TUESDAY, THE 8<sup>TH</sup> DAY OF AUGUST, 2023 BEFORE HIS LORDSHIP FRANCIS OBIRI 'J'.**

**SUIT NO. CM/RPC/0205/2023**

**PETER ATADJA**

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**PLAINTIFF**

**VS**

**AFADJATO SPECIALIST & 2 ORS**

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**DEFENDANTS**

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**RULING**

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I have listened to the submission by counsel for the Plaintiff/Applicant (hereinafter called the Applicant). I have gone through the documents filed in this application for a forensic audit to be conducted of the financial activities of the 1<sup>st</sup> and 2<sup>nd</sup> Defendants herein since their incorporation. The motion is also asking for the following other reliefs:

1. An order to produce a financial statement for the 1<sup>st</sup> and 2<sup>nd</sup> Defendants and related entities.
2. An order to make a determination of the true value of the level of investment vis a vis of the percentage allotted to the shareholders of the 1<sup>st</sup> Defendant at the commencement of the business.

The motion was filed on 5<sup>th</sup> July, 2023. It was served on the Defendants counsel on 6<sup>th</sup> July, 2023 as per the affidavit of service commissioned on 10<sup>th</sup> July, 2023. There is no affidavit in opposition. Counsel for the Applicant informs the court that the cost for

the audit if granted by the court is to be borne solely by the 1<sup>st</sup> and 2<sup>nd</sup> Defendants/Respondents (hereinafter called the Respondents)

Meanwhile, the Respondents have not filed any application in respect of the Applicant's prayer in this Application. The Respondents are separate legal entities which are separate from the 3<sup>rd</sup> Defendant and the Applicant.

The Applicant ancillary relief '2' in the motion paper can only be ascertain upon both oral and documentary evidence being taken and not through an application of this nature.

I do not think it will be fair and just to saddle the Respondents with the entire cost of the purported forensic audit the Applicant is praying for it to be conducted.

I also do not think it will be fair and just to make a determination on the Applicant investment through such an application. Such a determination should be proved by both oral and documentary evidence by the Applicant who has sued in that respect.

Even though, there is no affidavit in opposition, however, a court is not to grant even a one-sided application hook, line, and sinker on the basis that there is no affidavit in opposition.

**See: AMIDU (NO. 1) v ATTORNEY-GENERAL, WATERVILLE HOLDINGS (BVI) LTD & WOYOME (NO.1) [2013-2014] 1 SCGLR 112**

I do not think the jurisdiction of this court has been properly invoked to grant the application. I am therefore not inclined to grant same, and same is dismissed. No order as to cost.

**SGD.**

**FRANCIS OBIRI**

**(JUSTICE OF THE HIGH COURT)**

**COUNSEL**

**KWAME ADUABENG YANKYERA FOR THE PLAINTIFF/APPLICANT**

**COUNSEL FOR THE DEFENDANTS/RESPONDENTS – ABSENT**

**AUTHORITY**

**AMIDU (NO. 1) v ATTORNEY-GENERAL, WATERVILLE HOLDINGS (BVI) LTD  
& WOYOME (NO.1) [2013-2014] 1 SCGLR 112**