

ANTIGUA AND BARBUDA

IN THE INDUSTRIAL COURT

REFERENCE NO. 28 of 2024

BETWEEN

ANDRE KNIGHT

Employee

and

STATE INSURANCE COMPANY LIMITED

Employer

Before:

The Hon. Judith A. Dublin

Member

The Hon. Charlene Selkridge

Member

The Hon. Alando Michael

Member

Appearances:

Mr. Justin L. Simon KC of Simon Rogers Murdoch, Attorneys-at-Law for the Employee

Ms. Samantha N. Marshall with Ms. Talia N. DaCosta of Stapleton Chambers and Ms.

Adonna Greenaway-Mussington of State Insurance Company Limited, Attorneys-at-Law for the Employer

2025: October 27

2026: April 10

Unfair Dismissal- Section C10(1) of the Antigua and Barbuda Labour Code Cap 27- Requirement for Employer to provide precise reasons for the dismissal- Section C56 Just Cause- Procedural Fairness- Fiduciary duty of the Employee as Chief Financial Officer- Section 173 of the Companies Act 1995- Employment benefits- Medical Insurance- Compensation if any

JUDGMENT

The Proceedings

1. The Employee commenced this Reference on July 3, 2024. He claims to have been dismissed summarily on November 13, 2023 by the Employer. He claims that his dismissal was unfair, without just cause, and procedurally defective. The Employer contends that the dismissal was justified on grounds of financial



mismanagement, regulatory non-compliance, failure to discharge fiduciary duties, and a sustained pattern of underperformance.

2. The Court heard the oral testimony of the Employee in addition to his evidence in a written witness statement which was accepted as his evidence in chief. For the Employer, Ms. Leslie-Ann Yearwood-Board Chair, and Ms. Arion Nicholas-Chief Executive Officer, gave evidence; both having submitted written witness statements which were also admitted as their evidence in chief.
3. The Court has carefully, thoroughly, and impartially considered all pleadings, witness statements, documentary exhibits, legal submissions and the oral testimony of the witnesses. The Court approaches this judgment with full recognition that this is a genuinely complex case in which both parties have advanced arguable contentions.

The Parties

4. The Employee, Mr. Andre Knight, is a qualified accounting and financial management professional holding the designations MSc, BSc, CPA, and CMA. He commenced employment with the State Insurance Corporation on August 1, 2002 as an Accountant. He was confirmed as Chief Financial Officer on July 1, 2005 having acted in that capacity from March 1, 2005. He served as Deputy General Manager from May 2015 and acted as Chief Executive Officer during the vacancy in that position in 2022. At the date of termination his monthly salary was EC\$16,154.52 and his monthly aggregate allowances were EC\$3,100.00, giving gross monthly remuneration of EC\$19,254.52. He is currently employed by ABI Insurance Company Limited as Acting General Manager from July 2025, having commenced there as Manager of Finance and Accounting in November 2024 at an initial salary of EC\$13,000.00 plus \$120.00 telephone allowance per month, and a current salary of \$14,250.00.
5. The Employer, State Insurance Company Limited, is a regulated insurance company incorporated under the laws of Antigua and Barbuda. It was established in 1977 as a Department of Government, became a Statutory Corporation under the State Insurance Corporation Act Cap. 413, and was formally transitioned to a limited liability company on June 15, 2018. It is governed by a Board of Directors pursuant to the Companies Act 1995 No. 18 of 1995 and regulated by the Financial Services Regulatory Commission under the Insurance Act 2007 No. 13 of 2007. Its primary business is the provision of insurance products and services to the public of Antigua and Barbuda.

The Issues

6. The main issues requiring determination are:

- (i) Whether the termination letter satisfies the requirement for the Employer to provide a precise reason for dismissal in its letter dated November 13, 2023, as required by Section C10 of the Antigua and Barbuda Labour Code;
- (ii) Whether the Employee was dismissed for just cause within the meaning of Section C56 of the Antigua and Barbuda Labour Code; and
- (iii) Whether the Employee is entitled to compensation.

Findings of Fact

Employment Relationship and Organisational Structure

- 7. The Employee served the Employer for twenty-one years and three months without any formal disciplinary record relating to financial management. The one formal reprimand on file concerns an administrative matter involving an air conditioning unit and is entirely unrelated to the grounds relied upon to justify dismissal.
- 8. The Court accepts the evidence of all witnesses as to the organisational structure of the Company, confirmed by both the Employee and Ms. Yearwood and reflected in the organisational chart admitted in evidence: the Board of Directors at the apex of governance; the Chief Executive Officer reporting to the Board; four Executive Managers at the same hierarchical level, each reporting to the CEO independently: the CFO; Chief Risk Officer; Executive Manager for General Insurance; and Executive Manager for Life and Medical.
- 9. The Life and Medical Department was managed by Ms. Janice Hodge as Executive Manager. The Employee did not manage that department. He had no line management authority over it and could not direct its operations. Any concern arising in one department had to be communicated to the CEO.
- 10. The Court accepts the Employee's unchallenged testimony: *"Any issues resulting from one department had to go through the CEO; I could not go directly into the Life Department and take action. If I had an issue with liabilities, I brought it up at a management meeting, and the CEO would communicate to the relevant department what needed to be done."*

The Actuarial Relationship

- 11. Ms. Yearwood confirmed in cross-examination that actuaries are appointed by the Board on the recommendation of management and that the termination of the actuary is an act of the Board. The Employee confirmed it was not his responsibility as CFO to engage the services of an actuary and no input from him was required.

12. Ms. Nicholas confirmed under the Court's questioning that the CFO and CEO receive the actuarial report simultaneously and that quarterly valuations form part of the regulatory reporting presented to the Board. The Court finds that the CFO received the actuarial report after finalisation; it was not sent to him for review before it was finalised.
13. The Employee provided expense information for the Life Department to the Actuary. Policy count data came from the Life and Medical Department. The Court finds the Employee's role in the actuarial process was limited to the provision of expense information.
14. The Employee testified that he was not under a duty to review the actuarial report as to its accuracy. He stated, "*I was not in a position to confirm or deny the accuracy of the actuary's work.*" This is consistent with the CEO's own February 2021 email acknowledging the Employee was not in a position to review and verify the actuarial data. The Court accepts this evidence in full.
15. The Employee's department used the Life and Medical system only to produce receipts and transactional reports. He could not identify which specific policies were lapsed. An effective review of policy count data would have required a complete audit of the Life Insurance Department, which was outside his remit and authority. This evidence was not effectively challenged.

Actuarial Issues

16. The Court finds as fact that there were two separate and distinct actuarial issues as described by the Employee in re-examination and confirmed in various respects by the Employer's witnesses. The first issue concerned growing liabilities from whole life policies and a methodological difference between the Company and Mr. Nagai as to which policies should be considered lapsed. Mr. Nagai kept policies with cash surrender values as active through an automatic premium loan mechanism. The Company was lapsing them because premiums were not being paid and the software was not capturing the cash value component.
17. Ms. Yearwood confirmed in cross-examination that the concerns raised at the July 2020 Finance and Audit Committee (FAC) meeting related to the increase in the insurance fund, and she expressly stated those concerns did not have anything to do with erroneous data specific to life policies. This concession by the most senior Employer witness directly undermines the Employer's case that the Employee was aware of erroneous policy data as early as 2020.
18. The Hodge email exhibit LY5 expressly states that "*in various executive meetings, the CFO expressed concerns with the quantum growth of whole life policies.*" Ms. Yearwood acknowledged she became aware of this document only upon reviewing the Employee's file. This document directly and materially

contradicts her examination-in-chief statement that the Employee raised no issues at Finance and Audit Committee meetings.

19. The second and distinct issue arose in 2022 when Eckler came on board and found a discrepancy between Mr. Nagai's database and the Company's data in the number of active policies, resulting in an estimated EC\$9.8 million exposure. The Employee gave an honest account to the Court that this discrepancy arose from operational failure in the processes of the Life and Medical Department's systems and the records maintained by Mr. Nagai. The Court accepts that this was not the failure of the Employee.
20. The Court finds as fact, on the unchallenged testimony of the Employee confirmed in part by Ms. Yearwood, that it was the Employee who identified the EC\$9.8 million change as material under IFRS standards and who insisted on the restatement. He testified: *"I was of the opinion nine million dollars was material; approximately ten percent of our balance sheet. I insisted on the restatement."* He confirmed discussions with the external auditors, the Finance and Audit Committee, and the General Manager.
21. Ms. Yearwood confirmed in cross-examination that at the April 2023 Board meeting, Mr. Knight indicated he felt only the opening balances would need to be addressed, with discussion as to whether that constituted a restatement. This confirms the Employee was actively and professionally engaged in the restatement process.

Assessment of Ms. Yearwood's Evidence

22. The Court has carefully assessed Ms. Yearwood's testimony across all stages of questioning. On the raising of issues at committee meetings, Ms. Yearwood stated in examination-in-chief that Mr. Knight did not raise any issue at the FAC related to discrepancies in life and medical policies. The Court does not accept this evidence for the following reasons:
 - (i) The Hodge email expressly states the CFO raised concerns in various executive meetings. Ms. Yearwood only became aware of this document upon file review.
 - (ii) Ms. Yearwood herself found responses from Mr. Knight in the LY2 extracts; including a September 2019 entry; directly contradicting her examination-in-chief.
 - (iii) The FAC minutes were not produced. The Court draws an adverse inference from this non-production. Had those minutes shown the Employee raised no concerns, they would have been produced as the Employer's strongest evidence. Their absence supports the Employee's account.
 - (iv) Ms. Yearwood confirmed that no minutes of the Board or sub-committee were produced in evidence; an inexcusable failure of disclosure on the central factual dispute, given that the Employer is the keeper of those records.

23. Ms. Yearwood confirmed the Employee received warning letters, but none were specifically related to a failure to advise of errors in financial statements, which was a primary ground of dismissal. She could not recall whether any letter specifically drew his attention to those errors and requested his explanation. This is a fatal admission for the Employer's case.
24. Ms. Yearwood confirmed that minutes were taken at the April 2023 meeting and that the meeting was recorded, yet neither the minutes nor the recording was produced. If those materials had supported the Employer's case, they would have been produced.
25. On the question of the Employee's daughter's surgery, Ms. Yearwood confirmed the Board was not aware of the surgery, gave no instructions to terminate the Employee's insurance coverage, and characterised the conversion option as being for retirement only. This directly contradicts the evidence of Ms. Nicholas, who confirmed under oath that a conversion option for terminated employees exists and was never offered to Mr. Knight.

Assessment of Ms. Nicholas's Evidence

26. On the question of due process, the Court inquired of Ms. Nicholas directly whether she would have advised the Board that due process required a warning letter or suspension before termination. Her response was that, given the significance of the matter, such a step was not considered necessary. The Court finds this response reveals a fundamental institutional misunderstanding of the requirements of the Labour Code. The gravity of an alleged misconduct is not a licence to bypass due process. On the contrary, the more serious the allegation, the more imperative it is that the employee be formally warned and given a genuine opportunity to respond.
27. Concerning the Employee's daughter's surgery and insurance conversion, Ms. Nicholas confirmed the following critical facts under cross-examination:
- (i) She was not aware the Company had approved surgery for Mr. Knight's daughter in Atlanta, Georgia;
 - (ii) Upon termination, all coverage ceases as standard protocol;
 - (iii) The Employee was given no notice that his coverage was being cancelled;
 - (iv) A provision exists for a terminated employee to convert to an individual medical policy and continue benefits;
 - (v) This option was not offered to Mr. Knight, either verbally or in writing; and
 - (vi) The medical card was returned at the time of termination.
28. Ms. Nicholas confirmed she was present at the November 13, 2023- termination meeting when Mr. Knight was handed his termination letter, a fact omitted from her witness statement. The CEO's attendance at the moment of a CFO's

termination is not incidental. Its omission from the witness statement diminishes the reliability of her evidence on the events surrounding the termination.

29. Regarding the written exchanges concerning the Employee's performance, Ms. Nicholas confirmed she sent letters to the Employee requesting information and received written responses, yet these exchanges were omitted from her witness statement and the Employer's exhibits without adequate explanation. These exchanges are directly relevant to whether the Employee was given a genuine opportunity to respond.

The Employee's Daughter's Surgery

30. Group medical insurance was a contractual term of the Employee's employment, covering himself and his dependants, as confirmed by payslip exhibit AK16 and by Ms. Nicholas's testimony that coverage ceases upon termination, which by necessary implication confirms it subsisted throughout employment. The Employee's daughter had surgery scheduled at Scottish Rite Hospital for November 30, 2023 at an estimated cost of US\$67,488.56. The surgery was scheduled seventeen days after the Employee's summary dismissal on November 13, 2023. Had proper notice been given, his employment and all contractual benefits, including medical insurance, would have remained in force on November 30, 2023 and the surgical costs would have been covered. A conversion option allowing the Employee to continue medical coverage at his own cost existed but was never offered, as confirmed by Ms. Nicholas under oath. The Employee was given no notice that his coverage was cancelled.

The Termination Process

31. In relation to the September 7, 2023 letter, Ms. Yearwood confirmed it did not identify inaccuracies or late submissions specifically. It did not constitute a disciplinary charge. It did not put allegations to the Employee. The Employee sought a meeting to discuss the Board's concerns. No meeting was arranged in response.
32. The November 7, 2023 meeting was convened on the same day as the invitation. The Employee was given no time to prepare or to obtain legal representation. The Employee testified that when he attempted to respond to statements being made about him, he was told the meeting was not to be a discussion. Ms. Yearwood disputed this. The Court prefers the Employee's account because: it is specific and credible; the sequence of events is consistent with a predetermined conclusion; Ms. Nicholas's confirmed but undisclosed presence at the November 13 termination suggests the process was coordinated; and no minutes of the November 7 meeting were produced.

33. On November 13, 2023, the Employee was summoned at 4:13 pm, handed a termination letter, and asked to surrender all Company property immediately. No prior warning that dismissal was imminent had been given. Ms. Nicholas was present, a fact omitted from her witness statement.
34. No formal disciplinary investigation was ever conducted specific to the misstatement issue. No formal written warning specific to the ground of dismissal was ever given. No charges were put to the Employee in writing before his termination. The Employee confirmed he was never written to about underperformance and was never formally notified in writing about non-compliance with regulatory requirements in terms constituting a formal warning.

Assessment of the Witnesses

35. The Court finds the Employee to be a credible, measured, and professionally competent witness. His testimony was internally consistent throughout examination-in-chief, cross-examination, re-examination, and questioning from the Court, and was consistent with the documentary evidence. His candid acknowledgment that it would have been more prudent to put concerns in writing reflects the honesty of a reliable witness rather than evasion. His insistence on the restatement is the conduct of a person of professional integrity. The Court accepts his testimony in all material respects.
36. The Court finds Ms. Yearwood to be a witness whose examination-in-chief evidence on the central factual disputes was not reliable. Her categorical denial that the Employee raised concerns was directly contradicted by documents she acknowledged reviewing and by her own cross-examination answers. Her evidence on warning letters confirmed the absence of any warning specific to the ground of dismissal. The Court accepts her evidence only where corroborated by independent evidence.
37. The Court finds Ms. Nicholas to be a witness whose admissions under cross-examination and the Court's questioning materially strengthened the Employee's case. Her confirmation of the conversion option that was never offered, her confirmation of the absence of a warning letter specific to the misstatement, and her statement that due process was not considered necessary given the significance of the matter together constitute admissions that are damaging to the Employer's case on every material issue. The Court accepts her testimony on those factual matters it has identified as having been confirmed.
38. The Court further notes that the Employer is itself an insurance company whose entire institutional purpose is the provision of insurance products and the management of insurance risk. It understood, better than most employers, the value and purpose of medical insurance coverage. Its failure to offer the available conversion option upon dismissal, given its institutional expertise and the

existence of that option within its own policies, is particularly difficult to justify and the Court takes account of it accordingly.

Legal Framework

39. Section C56 of the Labour Code states:

"Every Employee whose probationary period with an employer has ended shall have the right not to be unfairly dismissed by his employer without just cause."

40. Section C58(1) sets out what constitutes good cause for dismissal, including misconduct on the part of an employee. The section provides:

"(1) A dismissal shall not be unfair if the reason assigned by the employer therefor, (a) relates to misconduct of the employee on the job, within the limitations of section C59(1) and (2); ... Provided, however, that there is a factual basis for the assigned reason."

"(2) The test, generally, for deciding whether or not a dismissal was unfair is whether or not, under the circumstances, the employer acted unreasonably or reasonably but, even though he acted reasonably, if he is mistaken as to the factual basis for the dismissal, the reasonableness of the dismissal shall be no defence, and the test shall be whether the actual circumstances which existed, if known to the employer, would have reasonably led to the employee's dismissal."

41. Section C59(1) reads:

"An employer may terminate the employment of an employee where the employee has been guilty of misconduct in or in relation to his employment so serious that the Employer cannot reasonably be expected to take any course other than termination. Such misconduct includes, but is not limited to situations in which the Employee has (a) conducted himself in such a manner as to clearly demonstrate that the employment relationship cannot be reasonably expected to continue ..."

42. **The Companies Act No. 18 of 1995**, Section 173, imposes a duty on company officers to notify the audit committee and auditors upon becoming aware of financial misstatements.

43. **The Insurance Act No. 13 of 2007**, Section 50, imposes an identical duty to that under Section 173 of the Companies Act.

44. **The Industrial Court Act Cap. 214, Section 22**, establishes the Court's jurisdiction and its power to make awards that are just and equitable in all the circumstances.

Analysis

Section C10(1)

45. Section C10(1) of the Labour Code requires that a dismissal letter contain the precise reasons for dismissal. The word "precise" is the Legislature's deliberate choice and it sets a high standard. The provision does not require reasons in a general sense, a broad explanation, or an indication of the Employer's concerns; it requires a precise reason.
46. The Court has examined the termination letter of November 13, 2023 against this standard with the full benefit of the oral testimony. In doing so, the Court sought to identify the particular act, omission or conduct relied upon, not merely a category of behaviour; when the conduct occurred and in what circumstances; what the Employee failed to do; and how the Employee's specific conduct connected to the grounds stated in the dismissal letter. The Court assessed whether, on the face of the dismissal letter, the Employee could know the full case against him.
47. Applying the precision standard to the dismissal letter of November 13, 2023, the Court examined each stated ground to determine whether it identified a specific act or omission by the Employee, the date on which it occurred, and the manner in which it connected to his personal culpability. The grounds as stated in the letter were: the financial restatement; a pattern of underperformance; regulatory non-compliance; failure to comply with Board decisions; extended leniency; and a breach of Section 173 of the Companies Act. The Court applies the precision standard to each in turn.
48. The dismissal letter states that the Company experienced a misstatement of EC\$9.8 million resulting in a restatement of the year-end 2021 Financial Statements, which it describes as the primary catalyst for the decision. In that regard, however, the letter failed to identify: what the Employee did or failed to do that caused or contributed to the misstatement; when the Employee became aware of the error; what specific action was required of him and was not taken; and how a restatement that was professionally required constitutes his personal misconduct.
49. The letter describes an outcome. It describes what happened to the financial statements. It does not identify the Employee's specific culpable act or omission. It does not state when he knew, what he did, or what he should have done differently.

50. Ms. Yearwood articulated the precise reason for termination in cross-examination as the Employee's failure to advise of errors in the financial statements and a breach of his duty of care. She stated that the Employee failed as an officer of the Company to advise of the error in the financial statements and that he had a duty of care to disclose that error which he breached. These reasons do not appear in the termination letter. The letter instead speaks in general terms of a pattern of underperformance, regulatory non-compliance, and failure to comply with Board decisions. None of these grounds specifically identifies the duty of care breach now relied upon as the primary ground.
51. The allegation of a pattern of underperformance was asserted without identifying a single specific incident, date, or prior warning. This allegation fails the precision test entirely. The allegation of regulatory non-compliance was asserted without identifying specific filings, dates, or the precise nature of the inaccuracies. The allegation of failure to comply with Board decisions was asserted without identifying a single Board decision, its date, what was required, or what was not done. Extended leniency was implied without identifying any specific warning or its date.
52. The financial restatement and Section 173 of the Companies Act constitute the most specific allegation, yet even here the Employer failed to identify the Employee's particular culpable act or omission. The Employee must not merely know the nature of the duty alleged to have been breached; he must know precisely when and how it is alleged he breached it.
53. The Court relies on the landmark decision of **Margaret Berridge and Dave Edwards v Benjies Business Centre (Privy Council Civil Appeal No. 51 of 1995)**, in which their Lordships agreed with the dictum of Justice Byron (as he then was) that: *"...the purpose of section C10 is not merely to ensure that the employee is given reasons for termination of the employment. It requires those reasons to be given in a form which can be readily identified for the purpose of subsequent proceedings testing the fairness of the dismissal."*
54. The Court therefore finds that the termination letter does not satisfy Section C10(1) of the Labour Code.

Was the Employee dismissed for just cause within the meaning of Section C56 of the Antigua and Barbuda Labour Code?

55. The Court has given full, careful, and impartial consideration to the Employer's case on just cause and acknowledges the following legitimate propositions:
- (i) The Employee held a senior fiduciary position carrying real legal obligations beyond his written job description;
 - (ii) Section 173 of the Companies Act imposed a real statutory duty upon him;

- (iii) As CFO he was, as Ms. Nicholas described, the interpreter between raw data and the Company's financial standing;
 - (iv) There were persistent regulatory queries during his tenure; and
 - (v) The financial restatement caused genuine reputational and financial harm to the Company.
56. However, the Court finds that just cause for summary dismissal has not been established for the following cumulative reasons, each of which is independently sufficient:
- (i) The primary ground, failure to advise of errors, has not been proven. The Employee raised concerns through management and committee channels. The committee minutes, if they showed otherwise, would have been produced. They were not. The adverse inference stands.
 - (ii) The Employee insisted on the restatement. He cannot simultaneously be found to have failed to advise of errors and be found to have insisted on restating the financial statements to correct those very errors.
 - (iii) The CEO's own February 2021 email acknowledged the Employee was not in a position to verify the actuarial data. The Employer cannot now contend otherwise.
 - (iv) The data error originated in the Life and Medical Department's operational systems, confirmed by Ms. Nicholas's reading of the Eckler report finding of near-zero expertise among Life Department staff. This was not a failure of the Finance and Accounting Department.
 - (v) No formal warning was ever given specific to the ground of dismissal.
 - (vi) No formal disciplinary process was ever followed
 - (vii) Twenty-one years of service produced no substantive disciplinary record relating to financial management.
 - (viii) The termination letter does not satisfy Section C10(1).
57. The Court finds that the dismissal was without just cause within the meaning of Section C56 of the Labour Code.
58. Moreover, the Court finds that the following requirements of procedural fairness applicable to a long-serving senior employee were not met:
- (i) No formal disciplinary charges were put to the Employee in writing specific to the misstatement issue;
 - (ii) No formal warning letter specific to the ground of dismissal was ever issued;
 - (iii) The November 7 meeting afforded the Employee no adequate time to prepare and denied him a genuine opportunity to respond;
 - (iv) The termination on November 13 was summary, with no prior indication that dismissal was imminent; and
 - (v) The termination letter did not satisfy Section C10(1).
59. Ms. Nicholas's confirmation that due process was not considered necessary given the gravity of the matter is not merely an admission against interest. It discloses

an institutional approach to dismissal that is fundamentally incompatible with the Labour Code. Section C59(1) does not create an exception for serious misconduct; it sets a higher threshold for dismissal, which by necessary implication requires a more rigorous, not less rigorous, procedural foundation. The procedural failures identified at paragraph 59 above are therefore not incidental defects but the direct consequence of a deliberate institutional decision to bypass the Code's requirements.

60. In **Universal Caribbean Establishment and James Harrison [Appeal Suit No. 21 of 1993]**, Byron CJ (Ag.) (as he then was) stated, inter alia: "*The Labour Code was an innovative and important enactment, which made substantial changes to the industrial law of Antigua. In particular, it created a new right not to be unfairly dismissed. This right has not been known to common law.*"
61. This right not to be unfairly dismissed is protected by statute. In **Brenda Albert & Laurie Marsh v Woods Development Ltd (Reference No. 5 of 1998)**, the then President of this Court stated: "*Repeatedly this Court has stated that summary dismissal should be the ultimate punishment by an employer and, except in an extreme case, should be applied only where all else failed.*"
62. In **Jupiter General Insurance Co. Ltd v Schroff [1937] 3 All ER 67**, the Privy Council made two observations material to the present determination. First, summary dismissal is a strong measure that may be justified only in exceptional circumstances. Second, the test to be applied in determining whether a summary dismissal was warranted must vary with the nature of the business: see *Industrial Law (2nd edition)*, Butterworths, p. 174.
63. The Court finds that the process followed by the Employer was fundamentally and irremediably procedurally unfair.

Is the Employee Entitled to Compensation?

64. The overriding principle is that the Employee should be placed, as nearly as money can achieve, in the position he would have been in but for the unfair dismissal. The Employee is entitled to full compensation on each head assessed below. All figures are expressed in Eastern Caribbean dollars unless otherwise stated.

Loss of Protection

65. This head of compensation is analogous to severance pay and, for a monthly-paid employee, is assessed at one month's pay per year of service. The Employee worked for the Employer from August 1, 2002 to November 13, 2023, a total of 21.28 years (21 years and 3 months). His entitlement under this head is therefore **\$343,768.19** (21.28 x \$16,154.52).

Immediate Loss

66. Immediate loss is the loss suffered by an unfairly dismissed employee between the date of dismissal and the date of assessment, subject always to the employee's duty to mitigate. The relevant period is from November 13, 2023 to October 30, 2025, approximately 23 months.
67. In **Elliot Streete v Caribbean Star Airlines (No. 19 of 2005)**, Pilgrim P., the then President of this Court, held at paragraph 136: *"No such guidelines for the establishment of a judicial cap in an area where there is no statutory cap have been articulated by this Court for awards to be limited to a cut-off point at 24 weeks. Since no guidelines have ever been established it stands to reason a fortiori that this Court is not bound by any prior decisions of this Court which seek to establish such a cut-off point during which time all or any employees irrespective of their standing, skill, training, professionalism and or experience and personal history are all expected to obtain suitable alternative employment within a period of 24 weeks."*
68. The Employee gave evidence that he applied for employment at numerous institutions, including Flow, Eastern Caribbean Asset Management, LIAT (2020) Limited, Blue Diamonds Resort, and Jumby Bay Resorts, as well as ABI Insurance for the position of Financial Controller and lesser positions. He secured employment at ABI Insurance on November 1, 2024 as Manager of Finance and Accounting at a salary of \$13,000.00 per month plus \$120.00 telephone allowance, giving a gross monthly salary of \$13,120.00. He occupied that position until June 2025, experiencing a monthly shortfall of \$6,134.52 (\$19,254.52- \$13,120.00).
69. By the date of trial on October 29 and 30, 2025, the Employee had been appointed Acting General Manager, earning a gross monthly salary of \$14,250.00 from July 2025, representing a monthly shortfall of \$5,004.52 (\$19,254.52- \$14,250.00) from July 2025 until October 30, 2025.
70. The Court is satisfied that the Employee took reasonable steps to mitigate his loss. Having regard to his background, skills, and qualifications, the period of twelve months to find alternative employment was reasonable in the circumstances.
71. Having regard to the salary payment of December 2023, the Employee is awarded:
- (i) Eleven months' pay in the sum of \$211,799.72 (\$16,154.52 basic pay + \$3,100.00 allowances x 11) for the period December 2023 to October 2024;
 - (ii) Additional immediate loss in the sum of \$42,941.64 (\$6,134.52 x 7) for the period November 2024 to June 2025; and

- (i) (iii) A further sum of \$15,013.56 (\$5,004.52 x 3) for the period July 2025 to September 2025.

72. The Employee is entitled to compensation in the sum of **\$269,754.92** under this head.

Future Loss

73. Future loss runs from the date of assessment, October 30, 2025, to the date of this judgment. The Employee continues to experience a shortfall in wages to the date of this award. The period from October 30, 2025 to April 2026 is approximately six months. The Court accordingly awards the Employee the sum of **\$30,027.12** (\$5,004.52 x 6 months) as future loss.

Exemplary Damages

74. Sections 10(3) and 10(5) of the Industrial Court Act empower the Court to award exemplary damages where it is of the opinion that the Employee was dismissed in circumstances that are harsh and oppressive or not in accordance with the principles of good industrial relations practice. Exemplary damages under this provision are penal and not compensatory to deter similar conduct in the future as provided in *Antigua and Barbuda Transport Board v Anderson Carty* [2025] UKPC 38. In that case the Judicial Committee of the Privy Council, on appeal from this Court, confirmed that the statutory test in Section 10(5) is satisfied by a finding of harsh and oppressive treatment and that the Industrial Court is not required to meet any additional threshold beyond the statutory language. The Court is satisfied that both limbs of Section 10(5) are engaged in this case. The dismissal was harsh and oppressive for the following cumulative reasons, each of which independently supports that finding; and the totality of the conduct, as particularised below, was not in accordance with the principles of good industrial relations practice:

- (a) The duration of the employment relationship; twenty-one years of service, the predetermined and staged nature of the Employee's dismissal on the evidence, the deliberate denial to the Employee of a genuine opportunity to respond, the complete absence of disciplinary proceedings, the Employer's failure to consider due process all speak to the dismissal being harsh and oppressive and against industrial relation practices.
- (b) Additionally, the deliberate termination of the coverage regarding the pre-approved cost of surgery for the Employee's daughter without notice and the deliberate termination of the Employee's medical insurance coverage also without notice without offering the available conversion option reflects a conscious choice, not an oversight; and the Employer's position as an

insurance company with unique institutional knowledge of the consequences of cancelling medical coverage without notice also demonstrated the harshness and oppressiveness of the dismissal.

75. These cumulative factors, taken together, satisfy both limbs of Section 10(5). The dismissal was not merely procedurally flawed; it was carried out in a manner that reflects a deliberate institutional decision to bypass the protections of the Labour Code. The Court also notes by way of comparison that in *Antigua and Barbuda Transport Board v Anderson Carty* [2025] UKPC 38, this Court awarded EC\$25,000 in exemplary damages in respect of a senior employee whose dismissal, while harsh and oppressive, involved fewer cumulative aggravating factors than are present in this case.
76. The Court is also guided by **Lesley Hoffman v Stanford Financial Group Limited, Reference No. 4 of 1999**, Maundy P awarded US\$30,000.00 in exemplary damages where a dismissal was found to be “harsh, crude and without just cause” and had “a grave and disturbing effect on the Employee”, the President observing that the employee “testified of the stress, shock and humiliation she had to suffer and all through no fault of her own.”
77. This Court is satisfied that an award within the range of the awards mentioned in both of these cases is justified to give effect to the punitive and deterrent objective of Section 10 (5). The Court is the view that an award \$50,000.00 approximately two months wages is proportionate based on the circumstances of this case.
78. Having regard to all of these considerations, the Employee is accordingly awarded the sum of **\$50,000.00**.

Loss of Insurance Coverage

79. The Court is particularly concerned about the termination of medical coverage seventeen days before a scheduled surgery for the Employee's ten-year-old daughter. Ms. Nicholas confirmed under oath that a conversion option for terminated employees exists within the Company's own policies and was never offered to the Employee, either verbally or in writing. This is not a disputed fact; it is a confirmed admission by the Employer's own CEO.
80. The Court considered the remoteness argument advanced by the Employer. However, the Employer is an insurance company that, better than most employers, appreciates that terminating medical insurance can result in dependent medical costs. This is precisely what medical insurance is designed to cover. The Court also notes that it would have been practically impossible for the Employee to secure replacement coverage from another provider, having regard to the fact that the Employer itself failed to offer the conversion option available under its own policies. The seventeen-day window was, in any event, entirely insufficient to obtain replacement coverage for a pre-existing condition requiring imminent major surgery.

81. The Employee submits hospital estimates in the sum of US\$67,488.56 which, at an exchange rate of EC\$2.7169, gives an equivalent of **EC\$183,359.67** conditional upon the Employee providing evidence that the surgical procedure was performed on and the final cost of the surgery.
82. The Employee is also entitled to the benefit of the Employer's contribution towards medical bills incurred prior to his termination for his daughter's visits at Children's Healthcare of Atlanta on September 8, 2023, October 14, 2023, and October 16, 2023. However, as these invoices totaling US\$12,690.79 or its equivalent EC\$34,479.60 were not admitted into evidence beforehand with an opportunity to be agreed to, objected to or scrutinised, the Court makes no award under this head without prejudice to the Employee's right to seek compensation in another Court of competent jurisdiction.

Costs

83. The Court finds the convergence of the multiple extraordinary circumstances identified under the heading of Exemplary Damages above; each of which would individually be serious but which together produce a case standing apart from the ordinary unfair dismissal matter justifies an order as to costs. The Court accordingly makes an Order for costs in the sum of **\$10,000.00**.

Observations

84. Before setting out the final Order, the Court makes the following observations. Mr. Knight impressed the Court as a professional and honest witness. He found himself in an institutionally impossible position in that he was not the manager of the department in which the data error occurred; he did not appoint the actuary who prepared the valuations; and when the magnitude of the discrepancy became clear, he insisted on restatement of the financial statements, which was the professionally correct response. He raised concerns through the channels available to him. He was then dismissed for the outcome of a process over which he had limited control and for which he bears no primary responsibility.
85. The Board had genuine concerns about financial governance in a regulated entity, and those concerns were not unreasonable. However, having legitimate concerns is not the same as having established grounds for the summary dismissal of a senior employee with twenty-one years of service. The Labour Code requires that concerns be formally documented, formally communicated, and that employees be formally warned before the ultimate sanction of dismissal is imposed. None of those steps were taken with respect to the specific ground ultimately relied upon.
86. Finally, evidence was placed before the Court, including press reports referencing statements attributed to the Honourable Prime Minister, Mr. Gaston Browne. The Court has considered those materials. However, statements reported in the

press, without more, do not constitute evidence of sufficient weight to sustain a finding that the Employer was influenced by the purported statements of the Prime Minister, and the Court therefore makes no such finding. The Court nonetheless repeats, as it has in related proceedings, that decisions affecting employees' employment particularly in State-linked institutions must be made on genuinely operational grounds, properly documented, and pursued through lawful processes, regardless of the context in which they arise.

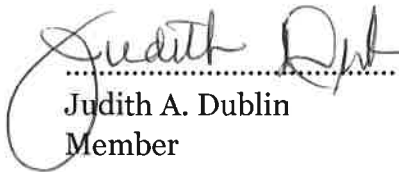
ORDER

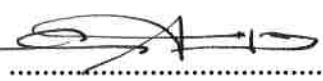
87. The Court orders:

- (i) That the Employer pays compensation to the Employee as follows:

Loss of Protection	\$ 343,768.19
Immediate Loss	\$ 269,754.92
Future Loss	\$ 30,027.12
Exemplary Damages	\$ 50,000.00
Loss of Insurance Coverage	\$ 183,359.67
Costs	<u>\$ 10,000.00</u>
TOTAL	\$886,909.90
- (ii) The Employer shall pay the Employee the said sum of **\$886,909.90** in monthly instalments of **\$295,636.53** on May 31, 2026, the sum of **\$295,636.53** on June 30, 2026 and the sum of **\$295,636.63** on July 31, 2026 in satisfaction of the entire judgment debt.
- (iii) The payment of sum of \$183,359.67 shall be condition upon the Employee filing into Court on or before the June 30, 2026 Exhibit "AK15(b)" as referred in his Witness Statement evidencing his obligation to repay the hospital the sum of US\$67,488.56 or it is EC equivalent of \$183,359.67.

Dated the 10th day of April 2026


Judith A. Dublin
Member


Charlene Selkridge
Member


Alando Michael
Member

Judgment delivered by Judith A. Dublin