

**BETWEEN:**           **SILAS CHARLES HAKWA**  
  Enforcement Creditor

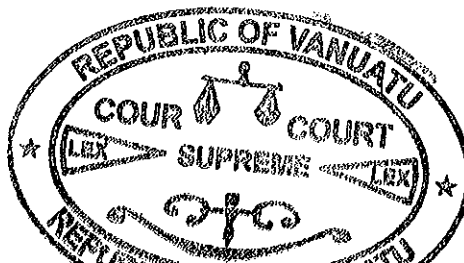
**AND:**                  **DOMINIQUE GOVAN**  
  Enforcement Debtor

**Coram:**                Chief Justice Vincent Lunabek

**Counsel:**            Mr Silas Charles Hakwa for the Claimant  
                                  Mr Kiel Loughman for the Defendant

## **RULING**

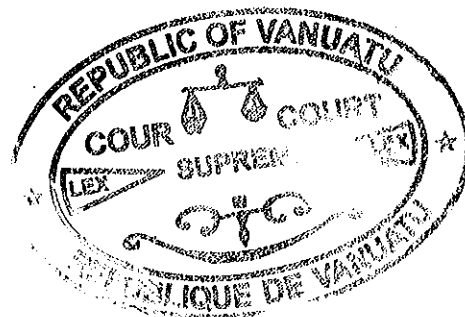
- The Master of the Supreme Court made a cost determination in this proceeding on 25 November 2009 against the Enforcement Debtor.
- The Enforcement Debtor was represented by various different counsel. Currently he is represented by Mr Kiel Loughman.
- On 10 February 2010, one of the Enforcement Debtors' former solicitors filed an application to set aside "Default Judgment" of the Master dated 25 November 2009 (sic).
- On 14 June 2010, the Court issued an Enforcement Order against the Enforcement Debtor.
- On 24 June 2010, the Enforcement Debtor applied for an Order to suspend the Enforcement Order of 14 June 2010 and the Enforcement Debtor filed a sworn statement to support his application on the same date.
- The application was listed for hearing on 9 September 2010 at 2.45pm.
- On 9 September 2010, the Enforcement Creditor filed an Urgent Application for order to strike out the Enforcement Debtor's application and among other matters, seek for an Enforcement Warrant against the Enforcement Debtor. The Enforcement Creditor filed two sworn statements on same date in support of the application (Statements of Silas Charles Hakwa and Kevlyn David).
- The Court hears and deals with all applications today 9 September 2010.
- I hear arguments and submissions of Mr Kiel Loughman on behalf of the Enforcement Debtor and I also hear arguments and submissions of Mr Silas Hakwa on behalf of the Enforcement Creditor. I further read and considered the sworn statements filed in support of the applications.



- I note that the determination of the Master dated 25 November 2009 is a final determination of award of costs in favour of the Enforcement Creditor. That determination is not interlocutory in nature.
- I note that the Enforcement Debtor through counsel challenges the determination of the Master by filing an application "to set aside Default Judgment".
- The application is misconceived. The challenge should be by review or appeal. This is not such a case.
- As to an order to stay the Enforcement Order of 14 June 2010, the Enforcement Debtor fails to provide the basis upon which the Court could stay the Enforcement Order.
- The Enforcement Debtor complained that he was not given opportunity to be heard prior to final determination by the Master. The material evidence through sworn statements filed reveal the opposite. The Enforcement Debtor had legal representation by different solicitors throughout the management of the claim against him until the determination dated 25 November 2009 by the Master.
- During submissions counsel of the Enforcement Debtor conceded that the so called "Application to aside Default Judgment..." filed on behalf of the Enforcement Debtor is misconceived.
- The ground advanced by the Enforcement Debtor in his applications to stay the Enforcement Order dated 14 June 2010 that his previous lawyer did not properly represent him, is not a good ground for seeking a stay.
- For the reasons set out above and reasons contained in the material evidence (sworn statements filed), the Court makes the following Orders:-

## ORDERS

1. The application of the Enforcement Debtor to stay the determination of the Master dated 25 November 2009, is refused and struck out.
2. The Enforcement Debtor's Application to aside Default Judgment dated 25 November 2009, is misconceived.
3. The Court is satisfied and grants the Enforcement Creditor's application for an Enforcement Warrant against the Enforcement Debtor and the Court directed counsel for the Enforcement Creditor to file the relevant documents for the enforcement warrant pursuant to the relevant provisions of the Civil Procedure Rules.

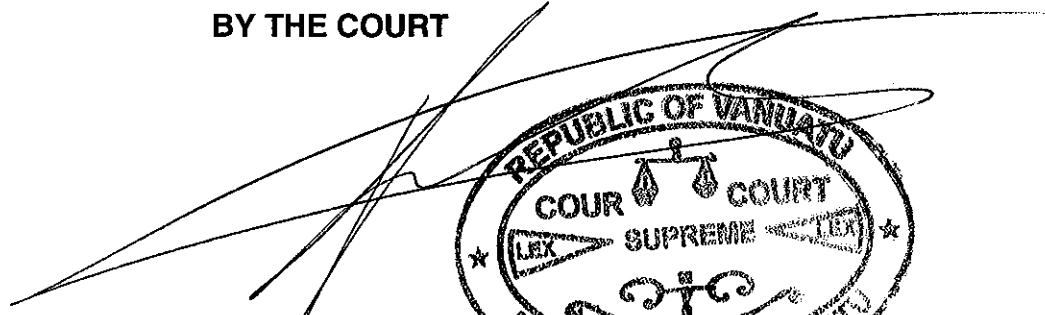


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4. The Enforcement Creditor is entitled to his costs assessed at Vatu 30,000 against the Enforcement Debtor.

**DATED at Port-Vila this 9<sup>th</sup> day of September 2010**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**

