

TRADE MARKS ACT 1994

**IN THE MATTER OF Application by Kehar Singh
Dosanjh under No 2063336A to register a trade mark
in Class 25**

**AND IN THE MATTER OF Opposition thereto by
addidas-Salomon A.G. under No 49444**

1. On 21 March 1996, Kehar Singh Dosanjh applied to register the trade mark shown below:



The mark consists of two equally spaced stripes, applied to the exterior of the goods covered by the specification, the stripes running down substantially the whole length of the outer lateral surface of the sleeves, legs and/or trunks of the goods, the stripes contrasting with the colour of that part of the goods to which the stripes are applied, as illustrated on the form of application.

2. The application was subsequently divided and the section accorded the number 2063336A was accepted for registration and published for opposition purposes. The goods listed in application No 2063336A are “baby clothes”.

3. On 4 February 1999, addidas-Salomon A.G. filed Notice of Opposition. The grounds of opposition are, in summary, that:

- (i) The opponent is the proprietor of an earlier trade mark registered under No 1240808, which is registered in respect of various items of clothing included in Class 25;
- (ii) The earlier trade mark is represented in identical terms to those used in the application except that the opponents mark consists of three equally spaced stripes rather than two;
- (iii) The opponent’s mark has acquired a substantial reputation and is well known as denoting the opponent’s goods;
- (iv) The applicant’s mark is similar to the opponent’s mark and is to be registered for goods which are identical or similar to those for which the earlier trade mark is protected and there exists a likelihood of confusion on the part of the

public;

- (v) Registration of the applicant's mark would therefore be contrary to Sections 5(2) and 5(4)(a) of the Trade Marks Act 1994;
- (vi) In the event that the respective goods are found to be dissimilar, registration would be contrary to Section 5(3) of the Act;
- (vii) The application was made in bad faith and should be refused under Section 3(6) of the Act.

4. The applicant denies the grounds of opposition.

5. Both sides seek an award of costs.

6. The matter came to be heard on 28 September 2001 when the applicant was represented by Mr Caddigan of Counsel, instructed by Saunders & Dollymore, and the opponent was represented by Mr M Vanhegan of Counsel, instructed by J A Kemp & Co.

Section 5(2)(b)

7. Sections 5(1) and (2) of the Act are as follows:

“5-(1) A trade mark shall not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is applied for are identical with the goods or services for which the earlier trade mark is protected.

5.-(2) A trade mark shall not be registered if because -

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, or*
- (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,*

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.”

8. I approach the matter taking account of the following guidance from the European Court of Justice (ECJ) in Sabel BV v Puma AG (1998 RPC 199 at 224), Canon v MGM (1999 ETMR 1) and Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel BV (1999 ETMR 690 at 698) and Marca Mode CV v Addidas AG & Others (2000 ETMR 723):

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v. Puma AG*, paragraph 22;

- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v. Puma AG*, paragraph 23, who is deemed to be reasonably well informed and reasonably circumspect and observant - but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind; *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* paragraph 27;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23;
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, paragraph 23;
- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17;
- (f) there must be evidence of similarity between the respective goods or services and objective factors such as those set out in *British Sugar PLC v James Robertson & Sons Limited* [1996] RPC 281 are relevant in assessing such similarity; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraphs 22 & 23;
- (g) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either per se or because of the use that has been made of it; *Sabel BV v. Puma AG*, paragraph 24;
- (h) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, paragraph 26;
- (i) further, the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; *Marca Mode CV v. Adidas AG*, paragraph 41;
- (j) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.
 - a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors;

Similarity of Goods

9. The opponent's mark is registered in Class 25 for:

“Articles of sports clothing; T-shirts and track-suits; anoraks and windcheater's; but not including footwear”.

10. Mr Vanhegan submitted that the opponent's Three Stripe mark is not limited to adults clothing, and includes babies clothes. He submitted that *“as a matter of linguistic construction “baby clothes” include articles of sports clothes, (eg mini-kits) and t-shirts and track-suits (eg baby joggers) and anoraks and windcheater's”*. Consequently, he submitted that the respective goods are identical.

11. Mr Caddigan submitted that the opponent's goods could not naturally be described as “baby clothing”. He argued that “baby clothing” denotes clothing designed specially for babies, such as romper suits. He contended that the respective goods are not similar.

12. Words in specifications should be given a meaning consistent with the ordinary use of the language: Beautimatic v Mitchell [2000] FSR 267. In my view, any clothing that is suitable for babies would naturally be described as “baby clothes”. Indeed, as Mr Vanhegan pointed out, the applicant has submitted a statutory declaration in which he himself presents (at Exhibit KSD 1) a sweatshirt-like article as an example of baby clothes. I am therefore prepared to accept that there is some overlap between the respective specifications of goods. In particular, I believe that a t-shirt for a baby would fall within both specifications.

13. The opponent has provided evidence in the form of a statutory declaration by P A Suchoparek, Financial Director of addidas (UK) Limited, who says that the opponent sells a range of football replica “mini-kits” and what it calls “baby joggers”, for infants ages six months upwards. It is sufficient for present purposes to note that, although the date of the first such use is disputed, the opponent has offered these goods for sale as suitable for children as young as 6-9 months.

14. The opponent contends that these goods are all within the terms “sports clothing” and/or “track-suits in its specification, and “baby clothes” in the applicant's specification.

15. I do not believe that replica mini-kits naturally fall within the description “baby clothes”. Further, although “baby joggers” may fall within this term, I do not believe it naturally falls within the descriptions “sports clothing” or “track-suits”. Those terms would naturally be used to describe goods designed for use in sports or physical exercise. As babies are incapable of such activities, I do not believe that the terms would naturally be applied to goods designed for them.

16. Nevertheless, I believe that the opponent's specification covers similar goods, taking into account the guidance on such matters given by Jacob J in TREAT [1996] RPC 281. In particular, the opponent's specification plainly covers children's sports clothing, anoraks, track-suits etc, and probably extends to toddlers clothing falling within these descriptions. The channels of trade and physical nature of these goods are likely to be the same as baby

clothes, and although the latter are not for use in sports, there is some similarity in the purposes of all clothing.

17. I conclude that there is a partial overlap in the respective specifications, and that the remaining goods are similar.

Distinctive Character of Earlier Trade Mark

18. It is clear from the guidance of the ECJ that the distinctive character of the earlier mark is a relevant factor in assessing the likelihood of confusion. The opponent claims that its mark has a highly distinctive character as a result of its use across the full breadth of the specification of goods for which it is registered.

19. The applicant accepts that the opponent has made very substantial use of the mark on adult sportswear. It disputes that this use extends to clothes for children, infants or babies.

20. The opponent's evidence is contained in the statutory declaration of P.A Suchoparek referred to above. Mr Suchoparek says that the opponent's Three Stripe mark has been in use since 1967 on clothing for adults, children and infants. He provides sales figures which indicate that in 1995, the last full year preceding the filing date of the application, the opponent sold over two million items in the UK under the Three Stripe mark.

21. Mr Suchoparek is not very forthcoming as to the nature of the clothing sold under the mark. He exhibits (at PAS1) a number of brochures showing use of the mark on apparel. A number of these brochures are dated after the relevant date in these proceedings and/or appear to be directed at the American market. The clothing shown in the promotional material is predominantly sportswear, with some leisure-wear, such as t-shirts and lightweight all-weather gear. Most of the goods appear to be directed at the adult market, although there are some examples of children's clothing.

22. Mr Suchoparek explains that:

“adidas promotes its products principally through its sponsorship of athletes and teams, who wear adidas products when training for and competing in sporting events. This enables us to achieve very high visibility for our products in association with the athletes and teams we sponsor. Many millions of consumers watch sporting events, whether by attending them, or watching them on the television, or seeing photographs of them in the press (including specialised sporting press). ”

23. The opponent's products are also promoted through advertising. It spent over £2m on this in 1995. Mr Suchoparek claims that the Three Stripe mark has been promoted through:

- (i) advertisements in Journals and magazines, such as Sports Update, Runners World and Sports Trader;
- (ii) Television advertising on ITV and Sky TV;

(iii) Displaying its goods at clothing exhibitions.

24. Exhibits PAS 8, 12, 13, 14, and 15 to Mr Suchoparek's declaration bear out these claims. They show that the promotion of the mark has been predominantly in relation to sportswear and/or in a sporting context.

25. The opponent further claims that the Three Stripe mark has acquired a "cult" status, such apparel often being worn by celebrities. Exhibit PAS 17 consists of press cuttings which bear this out, but they are all after the relevant date or are undated.

26. On the basis of this evidence, I find that the opponent's mark had a highly distinctive character for sportswear at the relevant date. This reputation is highly likely to have extended to leisurewear and all-weather gear, although the evidence is less compelling in this respect. The reputation of the Three Stripe mark for sportswear would naturally have extended to sportswear for children as well as for adults. This is not, however, the same as saying that the Three Stripe mark had a reputation for children's clothing as such. I do not believe that the evidence establishes that the reputation of the mark extended to "baby clothes" in March 1996. Even if, as Mr Suchoparek claims, some baby clothes had been offered for sale in the UK under the Three Stripe mark by 1995, there is no evidence that the opponent had acquired a reputation for such goods by the relevant date.

Similarity of Marks

27. Mr Vanhegan emphasised that the similarity between the respective marks is not limited to the idea of parallel stripes, but specifically parallel stripes appearing in the same place on articles of clothing. He submitted that the respective marks are very similar from a visual, aural and conceptual perspective.

28. Mr Cuddigan submitted that the respective marks are not similar within the meaning of Section 5(2). He argued that to hold otherwise would be to cast doubt on the average consumer's ability to count to three. He accepted that there was some conceptual similarity between the marks but submitted that this was not material in this case.

29. In my view the respective marks share a degree of visual similarity to the eye. However, the difference in the number of stripes is a strong distinguishing feature.

30. I do not believe that aural similarity can be of great importance when one is considering marks which are, by their very nature, visual in character. Mr Vanhegan suggested that the average consumer would refer to both marks as "*the (articles of clothing) with stripes down the arms/legs etc*". The opponent's evidence (Exhibit PAS 9) includes a notice it placed in a trade publication in 1994 warning other traders about using the "*Three stripe*" mark. All the opponent's evidence is consistent with this description of the mark. In these circumstances the opponent's suggestion that the average consumer would describe its mark differently is simply untenable. I find there is no aural similarity between the respective marks.

31. There is, as the applicant accepts, some conceptual similarity between the marks. However, the concept of applying stripes to clothing, even in a particular location, is not

inherently distinctive. This is borne out by the fact that both marks have proceeded to registration and publication, respectively, on the basis of distinctiveness acquired through use. The significance of the conceptual similarity of the marks is reduced when the concept in question is not inherently distinctive.

Likelihood of Confusion

32. The applicant submitted a statutory declaration in which he claims to have used his mark since 1975 in relation to “nightwear”, and since 1984 in respect of outer-clothing, including clothes for babies. Mr Dosanjh provides sales figures for 1985-1999, which reveal that his business had a turnover of around £370K in 1995. He also provides estimates of the proportion of his goods that are baby clothes. In 1995/6 this was 60%. Strangely, despite having said that he only introduced a range of baby clothes in 1984, he provides figures for the proportion of his business based on baby clothes going back to 1975.

33. Mr Dosanjh says that he does not promote his goods to the public. He appears to sell to the trade. He exhibits copies of four letters and four statutory declarations from persons in the trade who claim to be familiar with his two stripe mark. None of these mention any use in relation to baby clothes.

34. The applicant appears to rely on this evidence to show that despite concurrent use there has been no confusion. I attach no weight to it because:

- (i) The evidence is internally inconsistent;
- (ii) There are no supporting documents, such as invoices or advertisements;
- (iii) There is insufficient evidence that the average consumer of Mr Dosanjh’s products has come to regard the Two Stripe device as an indication of trade source rather than a mere embellishment of the goods.

35. I consider first the case where the respective goods are identical (T-shirts for babies). I have already found that the reputation of the opponent’s mark does not extend to these goods.

36. I believe that there is force in Mr Cuddigan’s point that the average consumer for baby clothes (being an adult selecting goods for a baby) would have no difficulty distinguishing between two stripes and three.

37. Mr Vanhegan drew my attention to a statement in Mr Suchoparek’s evidence to the effect that confusion could arise at the point of sale where apparel is typically hung or folded. There is no evidence before me as to the typical conditions in which baby clothes are presented to the public for sale. I bear in mind that the average consumer is deemed to be reasonably observant and circumspect. Baby clothes are unlikely to be casual purchases to which little attention is given. Consequently, I would expect the average consumer to examine the goods with reasonable care before attaching a trade origin significance to any of the markings appearing on the goods.

38. There is, of course, the possibility of defective recollection, but given the simple nature of the earlier mark I find it unlikely that the average consumer would fail to recollect the number of stripes in a Three Stripe mark.

39. The opponent also points out that confusion can arise after the point of sale, when the products are worn, and may be seen from a distance from which it will be more difficult to tell if there are two stripes or three. In this connection, Mr Vanhegan referred me to a picture (in exhibit PAS2) of a child in a replica football strip bearing the opponent's Three Strip mark. The child is running and the shirt is at such an angle that only two of the three stripes are visible. However, as Mr Cuddigan pointed out, this picture is only a snap shot. It does not follow that anyone watching the child running would have difficulty discerning the number of stripes on the clothing.

40. I note that Mr Suchoparek states in paragraph 9 of his declaration that:

“The Three Stripe trade mark was specifically designed to be visible to spectators at sporting events where adidas products are being worn. The trade mark is particularly striking on apparel, where it can be seen and immediately recognised at a considerable distance, from which the adidas name on the apparel may not be visible.”

41. If that is the case where sports clothing worn at sporting events is concerned, it cannot be any less true when one comes to consider the use of the mark in relation to babies clothes. I find that there is no likelihood of confusion.

42. The opponent's case based upon its registration for sports clothing is less strong in that these goods are similar but not identical to baby clothes. However, according to the ECJ in Canon v MGM the stronger the distinctive character of the earlier trade mark the less similarity may be necessary between the respective goods in order to give rise to a likelihood of confusion. I have already found that the opponent's mark is highly distinctive for sports clothing and that this repute would naturally extend to sports clothing for children.

43. If the applicant's mark was a Three Stripe mark applied to baby clothes in a similar manner to that envisaged in the representation of the earlier trade mark, the opponent may well have a case under Section 5(2)(b). However, I do not believe that the reputation of the earlier mark for similar goods means that the applicant's use of his Two Stripe mark in the form applied for, in relation to baby clothes, is likely to result in confusion with the opponent's Three Stripe mark.

44. Use of the applicant's mark would, at most, merely bring the earlier trade mark to mind. The ECJ has indicated in Sabel v Puma, and again in addidas v Marca Mode, that association in the strict sense is insufficient to support an objection under Article 5(1) of the Directive, which is equivalent to Section 5(2) of the Act. Further, in the latter case the court decided that it was not sufficient to find that because of association in the strict sense, the possibility of confusion cannot be excluded.

45. In my view, that is as far as the opponent is able to take its case. There is no proper basis

for concluding that there was a likelihood of confusion at the material date. The Section 5(2)(b) objection fails accordingly.

46. The opponent claims that its Three Stripe trade mark was entitled to protection in the UK under the Paris Convention on the grounds that it was a “well known” trade mark at the material date. The result of such a finding would be that the mark qualifies as an “earlier trade mark” under Section 6(1)(c) of the Act. However, as the Three Stripe mark was registered in the UK at the relevant date it qualifies in any event by virtue of Section 6(1)(a) of the Act. I have already considered the opponent’s mark to be an “earlier trade mark” for the purpose of Section 5(2)(b). Consequently, the opponent’s claim that its mark was entitled to protection under the Paris Convention adds nothing to its case.

Section 5(4)(a)

47. The opponent claims to have been the proprietor of an earlier right at the material date. It claims that use of the applicant’s mark was liable to have been prevented by the law of passing off. Consequently, it claims that registration should be refused under Section 5(4)(a) of the Act.

48. Mr Vanhegan relied upon the law as set out in the *Jif Lemon* case: [1990] RPC 340. The elements of a passing off claim are goodwill, misrepresentation and damage.

49. Mr Suchoparek claims that since 1995 the opponent has produced a range of “baby joggers” and replica football “mini-kits” bearing the Three Stripe mark. No separate sales figures are provided for such goods. Mr Suchoparek says that examples of such garments are shown in addidas’ Licensed Soccer Replica catalogues from 1995 to 1999, which he exhibits at PAS2.

50. The material date in these proceedings is 21 March 1996. The opponent’s earlier right must have existed at that time in order to be relevant. The opponent’s 1996/97 catalogue includes both “baby joggers” (for 1½ year olds) and “mini-kits” (for 2-3 year olds). However, it is unlikely to represent the position at the material date. The 1995 catalogue does not include “baby joggers”. It does include “mini-kits” (for 2-3 year olds), but these are not “baby clothes.”

51. Mr Suchoparek claims that “baby joggers” have been sold through a retail outlet called Footlocker “since 1995”. However, there is no corroboration of this claim and no details of the volume of such sales prior to the material date.

52. In South Cone Incorporated v Jack Bessant, Dominic Green-Smith, Kenwy Gary Stringer (16 May 2001), Pumfrey J. stated that:

“There is one major problem in assessing a passing-off claim on paper, as will normally happen in the Registry. This is the cogency of the evidence of reputation and its extent. It seems to me that in any case where this ground of opposition is raised the Registrar is entitled to be presented with evidence which should at least raise as a prima facie case that the opponent’s reputation extends to the goods

comprised in the applicant's specification of goods. The requirements of the objection itself are considerably more stringent than the enquiry under Section 11 of the 1938 Act (see Smith Hayden (OVAX) [1946] 63 RPC 97 as qualified by BALI [1969] RPC 472). Thus the evidence will include evidence from the trade as to reputation; evidence as to the manner in which the goods are traded or the services supplied; and so on."

53. The opponent's evidence is, in my judgement insufficient to establish that the opponent's goodwill and reputation extended to a trade in baby clothes prior to the material date.

54. The objection under Section 5(4)(a) therefore adds nothing of substance to the opponent's case under Section 5(2)(b). The opponent clearly had a goodwill under the mark in respect of the goods for which it is registered, particularly sports clothes and leisure wear. But use of the applicant's mark in respect of baby clothes would not have amounted to a misrepresentation for the reasons given in relation to the Section 5(2)(b) objection: There was no likelihood of confusion or deception. The Section 5(4)(a) objection must therefore also fail.

Section 5(3)

55. Mr Vanhegan only sought to rely upon the Section 5(3) ground in the event that I found any of the opponent's goods to be dissimilar to the applicant's goods. I have found all the respective goods to be either identical or similar. The Section 5(3) objection cannot therefore be entertained. In any event a resemblance between two marks that is insufficient to support a Section 5(2) objection even when the respective goods are identical, cannot be sufficient to support a Section 5(3) objection where the goods are dissimilar. This ground also fails.

Section 3(6) - Bad Faith

56. Mr Vanhegan put the opponent's case like this in his skeleton argument:

"The Two Stripe mark was applied for in the knowledge of the Three Stripe mark. The applicant had previously used the Three Stripe mark. This was as close as the applicant could get to the Three Stripe mark without being identical. The result of its application to clothing is that at the point of sale the marks appear identical. This mark is akin to an instrument of deception, and one which the applicant so knew at all material times."

57. The background to this submission is that the applicant was visited on 4 October 1994 by a Mr Trevor Jeynes of Wolverhampton Trading Standards Authority, who found the applicant to be producing track-suit trousers with three stripes running down the side of the leg. Mr Jeynes (whose witness statement is exhibit PAS18 to Mr Suchoparek's declaration) told the applicant that the Three Stripe mark was a registered trade mark of addidas. Mr Jeynes recalls that the applicant told him that he had been using a Three Stripe mark prior to addidas.

58. Mr Dosanjh's evidence does not directly dispute the opponent's evidence. He asserts that the Trading Standards Officer was not concerned about his use of a Two Stripe mark and that

his application for registration of that mark was intended to prevent what he regards as harassment from addidas. Mr Dosanjh states that he believed and was advised by his Trade Mark Attorney, that his Two Stripe mark was not an infringement of the addidas Three Stripe mark. He says that the choice of wording for the application was that of his Trade Mark Attorneys.

59. It appears that the applicant has used a number of stripe marks in the past, one of which was plainly an infringement of the opponent's mark. However, Mr Dosanjh is entitled to take steps to protect any mark he believed avoided infringing the opponent's registration. I have found that there is no likelihood of confusion between the applicant's Two Stripe mark for baby clothes, and the opponent's Three Stripe mark for the goods for which it is protected. In these circumstances the applicant's mark cannot be regarded as an "instrument of deception".

60. The fact that the applicant's mark is, apart from the critical difference of the number of stripes, expressed in identical terms to the opponent's mark merely confirms that (a) the applicant's stripes are applied to garments in the same place as the opponent places its stripes, and (b) that the applicant and his advisors were aware of how the opponent's mark had been represented when making the application for the Two Stripe mark.

61. I see nothing dishonest in the applicant's decision to apply its Two Stripe mark in the same location on garments as the opponent places its Three Stripe mark. The outside of the arms, legs or trunk of garments is not an unnatural location for stripes, whether they perform the role of an indication of origin or act as a mere embellishment. In either case this location ensures that the stripes are highly visible when the garments are in use. The decision to represent the applicant's mark for the purposes of registration in the same way that the opponent had earlier chosen to represent its mark is merely evidence of the adoption of a tried and tested method of representing such marks.

62. In Eicher Ltd v David Matthew Scott Holder (Case 0/363/01 dated 27 July 2001) Mr Simon Thorley QC, sitting as the Appointed Person on appeal from a decision of the Registrar, said that:

"An allegation that a trade mark has been applied for in bad faith is a serious allegation. It is an allegation of a form of commercial fraud. A plea of fraud should not lightly be made (see Lord Denning MR in Associated Leisure v Associated Newspapers (1970) 2 QB 450 at 456) and if made should be distinctly alleged and distinctly proved. It is not permissible to leave fraud to be inferred from the facts (see Davy v Garrett (1878) 7 Ch. D, 473 at 489). In my judgment precisely the same considerations apply to an allegation of lack of bad faith made under Section 3(6). It should not be made unless it can be fully and properly pleaded and should not be upheld unless it is distinctly proved and this will rarely be possible by a process of inference. Further I do not believe that it is right that an attack based upon Section 3(6) should be relied on as an adjunct to a case raised under another section of the Act. If bad faith is being alleged, it should be alleged up front as a primary argument or not at all."

63. I believe that I am being asked to reach a finding of bad faith based upon a process of

inference - even speculation. I decline to do so. The Section 3(6) objection also fails.

Costs

64. The opposition having failed the applicant is entitled to an award of costs. I order the opponent to pay the applicant the sum of **£1200** as a contribution towards his costs. This sum to be paid within seven days of the end of the period allowed for appeal.

Dated this 18 Day of December 2001

**Allan James
For the Registrar**