

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT GUDU - ABUJA**  
**ON THURSDAY THE 8<sup>TH</sup> DAY OF JUNE, 2023.**  
**BEFORE HIS LORDSHIP; HON. JUSTICE MODUPE OSHO-ADEBIYI**  
**SUIT NO. CV/153/2023**

**BETWEEN**

1. SA'ADU YAHAYA } ..... CLAIMANTS  
2. HABIBU MUSTAPHA ANGO }

AND

1. THE CHARTERED INSTITUTE OF PROJECT MANAGERS OF NIGERIA }  
2. DR. (MRS) VICTORIA OKORONKWO } .....DEFENDANTS  
3. PROF. CYPRAIN F. EDWARD-EKPO }  
(Practicing under the name and style of law ICONS)  
4. MULTI-INTELLIGENCE DEVELOPMENT COMPANY LIMITED }

**JUDGMENT**

By an Originating Summons filed on 17/2/2023, the Claimants are seeking for the determination of the following questions;

1. WHETHER upon proper interpretation and construction of the combined effect of Section 11 of the Interpretation Act and Section 2(a) and (b), Sections 3 and 4 of the Chartered Institute of Project Managers of Nigeria Act (hereinafter referred to as "the Act") that established the 1<sup>st</sup> Defendant, the 2<sup>nd</sup> Defendant can combine the position/office of the Chairman of the 1<sup>st</sup> Defendant's Council as well as the position/office of the President of the 1<sup>st</sup> Defendant to herself without any legal and lawful justification having regard to the entire provisions of the Act.
2. WHETHER upon proper interpretation and construction of the provisions of Section 2(1) of the Act, Paragraph 2 of the First Schedule of the Act and paragraph 3(4) of the First Schedule of the Act, the 2<sup>nd</sup> Defendant has the powers to take decisions unilaterally and arbitrarily regarding the administration and management of the 1<sup>st</sup> Defendant to act on behalf of the 1<sup>st</sup> Defendant's Council and to take decisions, including but not limited, to the purported appointment of the 3<sup>rd</sup> Defendant as the external solicitor of the 1<sup>st</sup> Defendant ab-

- initio, without the consent and approval of the Council of the 1st Defendant.
3. WHETHER looking at the unambiguous provisions of Section 42 (1) (a) & (b) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, and Section 4 and Section 5 of the Act, it can be constitutional, legal and democratic for the 2nd Defendant to be given a life-time tenure by section 3 of the Act thereby disenfranchising the Claimants and other members of the 1st Defendant.
  4. WHETHER upon proper interpretation and construction of the provisions of Paragraph 5 (1) (3) of the First Schedule of the Act 2017 and also Paragraph 3(4) of the First Schedule of the Act, the 1st and 2nd Defendants can lawfully or legally engage a Consultant/Person without the approval of the Council of the 1st Defendant ab-initio and to pay the 4<sup>th</sup> Defendant remuneration by virtue of Paragraph 5(1)(3) of the First Schedule of the Act, 2017, other than the Consultant/Person engaged.
  5. WHETHER upon proper interpretation and construction of the provisions of Section 2 (1) (2) of the 1st Defendant's Establishment Act 2017, Paragraph 3 (4) and Paragraph (4) of the First Schedule to the Act 2017, the 2nd Defendant Can Lawfully or Legally hold the 1<sup>st</sup> Defendant's Annual General Meeting (ACM), from 12<sup>th</sup> — 16<sup>th</sup> December 2022 in Port Harcourt, Rivers State, without the Statutory Quorum as envisaged under Section 2(1)(2) of the 1st Defendant's Establishment Act 2017, Paragraph 3(4) and Paragraph (4) of the First Schedule to the Act 2017.

**UPON THE DETERMINATION OF THE FOLLOWING QUESTIONS, THE CLAIMANTS SEEKS THE FOLLOWING RELIEFS:**

1. A DECLARATION that by the combined effect of Section 11 of the Interpretation Act, Laws of the Federation, 2004 and Section 2(a) and (b), Sections 3 and 4 of the Chartered Institute of Project Managers of Nigeria Act (hereinafter referred to as "the Act") that established the 1<sup>st</sup> Defendant, the 2<sup>nd</sup> Defendant cannot combine the position/office of the Chairman of the 1<sup>st</sup> Defendant's Council as well as the position/office of the President of the 1<sup>st</sup> Defendant to herself without any legal and lawful justification having regard to the entire provisions of the Act.
2. A DECLARATION that by virtue of the provisions of Section 2(1) of the Act, Paragraph 2 of the First Schedule of the Act and also

Paragraph 3(4) of the First Schedule of the Act, the 2<sup>nd</sup> Defendant has no statutory powers under the Act to take decisions unilaterally and arbitrarily regarding the administration and management of the 1<sup>st</sup> Defendant to act on behalf of the 1<sup>st</sup> Defendant's Council and to take decisions, including but not limited, to the purported appointment of the 3<sup>rd</sup> Defendant as the external solicitor of the 1<sup>st</sup> Defendant ab-initio, without the consent and approval of the Council of the 1<sup>st</sup> Defendant.

3. A DECLARATION that from the unambiguous provisions of Section 42 (1)(a)&(b) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, and Section 11 of the Interpretation Act, Laws of the Federation, 2004, Section 4 and Section 5 of the Act, establishing the 1<sup>st</sup> Defendant, it is a violation of the provisions of Section 42 of the 1999 Constitution, as amended, unconstitutional, illegal and undemocratic for the 2<sup>nd</sup> Defendant to be given a life-time tenure by Section 3 of the Act thereby disenfranchising the Claimants and other Members of the 1<sup>st</sup> Defendant.

4. A DECLARATION that in view of the provisions of Section 2(1) of the Act, Paragraph 2 of the First Schedule of the Act and Paragraph 3(4) of the First Schedule of the Act, the 1<sup>st</sup> and 2<sup>nd</sup> Defendants cannot lawfully or legally engage a Consultant/Person without the approval of the Council of the 1<sup>st</sup> Defendant ab-initio, and to pay the 4<sup>th</sup> Defendant remuneration by virtue of Paragraph of the First Schedule of the Act, 201 7, other than the Consultant/Person engaged.

5. A DECLARATION that in view of the provisions of Section 2(1)(2) of the 1<sup>st</sup> Defendant's Establishment Act 2017, Paragraph 3(4) and Paragraph (4) of the First Schedule to the Act 201 7, the 2<sup>nd</sup> Defendants Cannot Lawfully or Legally held the 1<sup>st</sup> Defendant's Annual General Meeting (ACM), from 1 2<sup>th</sup> — 1 6<sup>th</sup> December 2022 in Port Harcourt, Rivers State, without the Statutory Quorum as envisaged under Section 2(1)(2) of the 1<sup>st</sup> Defendant's Establishment Act 201 7, Paragraph 3(4) and Paragraph (4) of the First Schedule to the Act 2017.

6. AN ORDER of court setting aside all decisions, actions, steps and other commitments carried out by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants ab-initio on behalf of the 1<sup>st</sup> Defendant which were done in clear violation of the provisions of Section 2(1) of the Act, Paragraph 2 of the First Schedule of the Act, Paragraph 3(4) of the First Schedule of the Act,

Paragraph) (3) of the First Schedule of the Act 2017 and other provisions of the Act establishing the 1<sup>st</sup> Defendant.

7. AN ORDER OF MANDATORY INJUNCTION restraining the 2<sup>nd</sup> to 4<sup>th</sup> Defendants from further violating and circumventing the provisions of Section 42 of the 1999 Constitution, as amended, Section 2(1) and Section 2(2) of the Act, Paragraph 2 of the First Schedule of the Act, Paragraph 3(4) of the First Schedule of the Act, Paragraph of the First Schedule of the Act 201 7, and other provisions of the Act establishing the 1st Defendant.

8. AN ORDER DIRECTING the 3rd Defendant to desist or cease to act or continue to act as external solicitor of the 1st Defendant without any Retainership Agreement approved by the Council of the 1st Defendant or specific instructions in writing as approved by the Council of the 1st Defendant pursuant to Paragraphs 5(3) and 3(4) of the First Schedule to the Act establishing the 1<sup>st</sup> Defendant.

9. A CONSEQUENTIAL ORDER DIRECTING the 4th Defendant to refund the sum of N3,820,000.00 (Three Million, Eight Hundred and Twenty Thousand Naira) only to the 1<sup>st</sup> Defendant paid in violation of the provisions of paragraph 5(1)(3) of the First Schedule of the Act.

10. A CONSEQUENTIAL ORDER declaring the 2nd Defendant having been suspended as Chairman/President of the 1st defendant is legally unfit and improper for the 2nd Defendant to continue to act or OCCUPY the office of the Chairman/President of the 1st Defendant, AND A FURTHER ORDER, directing the most Senior in the Fellow Membership Category between the two Vice Presidents in the 1st Defendant's Council to take over all the affairs of the 1st Defendant immediately in accordance with the provisions of Section 2(2) of the Act and in line with Paragraph 1 (4b) and Paragraph 5(2) of the First schedule to the Act establishing the 1<sup>st</sup> Defendant.

11. AN ORDER OF PERPETUAL INJUNCTION restraining the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants from taking further or carrying out any Official, Financial, Procurement, Administrative and Managerial Functions of the 1<sup>st</sup> Defendant.

12. The Cost of the proceedings.

13. AND SUCH FURTHER or other consequential Reliefs as the Honourable Court may deem fit to make in the circumstance of this suit.

Sequel to this application the 1<sup>st</sup> and 2<sup>nd</sup> defendants filed a preliminary objection challenging the jurisdiction of this court to determine this Suit. It is therefore necessary in line with the law and judicial precedents, to determine this issue of jurisdiction first before proceeding to determine the originating summons.

The Applicant in the preliminary objection is praying the court to dismiss/strike out the substantive application on the following points;

1. The issue of the interpretation and application of the Establishment Act of the 1<sup>st</sup> Defendant as it affects the functions of the 2<sup>nd</sup> Defendant, upon which this application is founded, is outside the jurisdiction of this Honourable Court.
2. That consequent on the above, this Honourable Court lacks the jurisdiction to entertain and determine this application.

In the affidavit in support the deponent Michael Msenge, Chief Litigation Secretary in the law office of S.T. Hon (SAN) & Co., counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants averred that the Claimants filed this Originating Summons on 17/2/2023 wherein they are challenging the powers given to the 2<sup>nd</sup> Defendant by the 1<sup>st</sup> Defendant's Establishment to carry out functions as the Chairman of the Governing Council and President of the Institute. That the jurisdiction of court is clearly stated in the 1999 Constitution of the Federal Republic of Nigeria as amended. That it is in the interest of justice to grant this Application. Attached is a written address wherein counsel raised a sole issue for determination to wit:

“Whether this Honourable Court has the jurisdiction to entertain and determine the claims of the Claimants which are grounded on the Acts of the National Assembly in relation to the powers given to the 2<sup>nd</sup> Defendant”

Summarily Learned counsel submitted that the main relief of the Claimants falls within the jurisdiction of the Federal High Court as provided under **Section 251 (1) (p) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)**. Counsel relied on **Seamarine Int'l Ltd. vs. Ayetoro Bay Agency (2016) 4 NWLR (Pt.1502) 313 at 334 paras C-G and T.C.N., P.H.C.N. vs. A.S.B.I.R. (2021) 1 NWLR (Pt. 1757) 207 at 223 paras E-G** amongst others.

The Claimants in opposition filed a reply to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' preliminary objection wherein counsel submitted summarily that Counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants got it very wrong when he submitted that 1<sup>st</sup> Defendant is a Federal Government agency. That the 1<sup>st</sup> Defendant is a professional body which members are registered by paying certain amount of fees before enrolment into membership of the professional body and that this professional body cannot be under the meaning of **Section 251 (l)(p)(r) of the 1999 Constitution (as amended)**. That court has to look into the cause of action of a suit and not to be carried away by **Section 251 (l)(p)(r) of the 1999 Constitution (as amended)**. Counsel relied on **ADENGBERO V NEPA & ORS (2002) LPELR 1957 (SC); NIPOST & ANOR V MOKWENE (2014) LPELR 2449 CA and NURTW & ANOR V RTEAN & ORS (2012) LPELR - 7840(SC)** amongst others.

It is well settled that the jurisdiction of the court in this country is derived from the constitution and statute as no court is permitted to grant itself power to hear a matter where it is not so endowed, if it does so, the judgment and proceedings amounts to a nullity, as held in **NNPC & ANOR V. ORHIOWASELE & ORS (2013) LPELR 24710 (SC)**.

Now, it is not in doubt and counsel to both parties are in agreement that this court does not have the jurisdiction over matters within the specific jurisdiction of the Federal High Court as enshrined in **Section 251(1) (p) (q) and (r) of the constitution of the Federal Republic of Nigeria**. The contention of the 1<sup>st</sup> and 2<sup>nd</sup> defendants are that the 1<sup>st</sup> Defendant is an agency of the Federal government and for it being an agency of the federal government this suit ought to be filed at the federal high court instead of this court. While the Claimants are of the view that counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendant got it wrong when he submitted that 1<sup>st</sup> Defendant is a Federal Government agency. The Claimant on the other hand is of the view that the 1<sup>st</sup> Defendant is a professional body which members are registered by paying certain amount of fees before enrolment into membership of the professional body and that this professional body cannot be under the meaning of **Section 251 (l)(p)(r) of the 1999 Constitution (as amended)**.

There are two (2) issues for determination to wit;

1. Whether the 1<sup>st</sup> Defendant is a Federal Government agency

2. Whether the Federal High Court should have jurisdiction over the subject matter of this suit or not.

On the first issue, the law as it is presently is that where any matter involves the federal government or its agency, such matter will lie within the jurisdiction of the Federal High Court. **Section 251(1)(p) of the 1999 Constitution (as amended)** relied upon by the 1<sup>st</sup> and 2<sup>nd</sup> Defendant provides as follows;

*251(1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil causes and matters-*

*(p) the administration or the management and control of the Federal Government or any of its agencies.*

The questions to be answered here are; What then clothes a body with the status of a Federal Government Agency? Does the fact that a body is set up by a Federal Government conclusively make that body an agency of the Federal Government? ADEKEYE JCA (as she then was) in clarifying this point in **Nigerian Reinsurance Corp V. Cudjoe (2008) All FWLR Pt 414 Pg.1455 at 1551 Para E-F** held that:

*"An agency can be seen as an organ of the Federal Government. The factors which determine whether an organization is an agent of the Federal Government are: (1) control or (2) whether the functions of the organization are aimed at affecting the policy of the Federal Government".*

What is material is whether the body in question was created solely to further the cause of or give effect to a policy of the Federal Government and is subject to the control of the Federal Government.

In the instant case, the preamble to the 1st Defendant Act states as follows;

**“AN ACT TO ESTABLISH THE CHARTERED INSTITUTE OF PROJECT MANAGERS OF NIGERIA CHARGED WITH THE RESPONSIBILITY FOR REGISTRATION AND DISCIPLINE OF ITS MEMBERS; AND FOR RELATED MATTERS”**

**Section 1(1) of the Chartered Institute of Project Managers of Nigeria (Establishment) Act 2017** also provides thus;

*(1) There is established the Chartered Institute of Project Managers of Nigeria (in this Act referred to as "the Institute") which shall be*

*a body corporate under that name and be charged with the general duty of-*

*(a) determining and reviewing, from time to time, the academic standards, knowledge and skills that shall be attained by persons seeking to qualify as registered members of the Chartered Institute of Project Managers of Nigeria (in this Act referred to as "the Professional");*

*(b) ensuring that its members maintain a reputable and high standard behavior expected of any professional project management or related management function in Nigeria and other parts of the world;*

*(c) providing for the training, education and examination of persons desiring to become professional project managers or consultants according to the provisions of this Act whether in Nigeria or abroad;*

*(d) regulating the discipline and professional conduct of its members;*

*(e) promoting and projecting the welfare of its members both in Nigeria and abroad;*

*(f) arranging conferences, seminars, symposia and meetings for discussion of supplies and related matters, reading of papers and delivery of lectures, publishing copies of abridgement of papers, books, lectures, records and other memoranda instilling high standard of professional ability and knowledge by means of periodic issue of journals of the Institute and to organise post qualification courses for its members; and*

*(g) performing such functions as are incidental to the objects or as the Council may deem necessary for the attainment of all or any of these objects.*

Flowing from the above preamble, the 1<sup>st</sup> Defendant though a creation of the National Assembly does not give effect to a policy of the Federal Government, is not subject to the control of the federal government, all its actions are not subject to the administrative control of the Federal government and its functions as stated in Section 1 (1) of the Act above are not aimed at affecting any policy of the Federal government. Therefore the 1<sup>st</sup> Defendant is not a Federal Government agency. Having determined that



the 1<sup>st</sup> Defendant is not an agency of the federal government, going into the 2<sup>nd</sup> limb of the issues for determination becomes an academic exercise and a waste of the time of this Honourable Court.

Based on the foregoing consideration, I hold the view that this court has the jurisdiction to entertain this suit, and to that effect the objection of the learned counsel to the 1<sup>st</sup> and 2<sup>nd</sup> defendant is hereby overruled accordingly. Now, I will determine the substantive matter.

In support of the originating Summons is a 25 Paragraphs affidavit deposed to by Sa'adu Yahaya 1<sup>st</sup> Claimant wherein deponent averred that the 2<sup>nd</sup> Defendant serves as the Chairman of the 1<sup>st</sup> Defendant's Council and the President of the 1<sup>st</sup> Defendant and in several instances the 2<sup>nd</sup> Defendant signed official correspondences/letters and memo as Chairman/President of the 1<sup>st</sup> Defendant. That the payment of the Legal Fees of the sum of N3,820,000.00 (Three Million, Eight Hundred and Twenty Thousand Naira) only was paid to the 4<sup>th</sup> Defendant's Bank Account instead of the 3<sup>rd</sup> Defendant's Bank Account. That despite the absence of existence of a Retainership Agreement or Specific written instruction by the 1<sup>st</sup> Defendant's Council, the 3<sup>rd</sup> Defendant continues to act as external solicitor to the 1<sup>st</sup> Defendant. That the 2<sup>nd</sup> Defendant has been managing the 1<sup>st</sup> Defendant in a manner which shows that the 1<sup>st</sup> Defendant has become the personal property of the 2<sup>nd</sup> Defendant of which the 2<sup>nd</sup> Defendant has not been consulting anyone in taking Decisions regarding the Administration and Management of the 1<sup>st</sup> Defendant. That on the 19<sup>th</sup> of March 2021, the Members of the Council invited the 2<sup>nd</sup> Defendant to appear before the Council to defend her actions and unilateral decisions. That the 2<sup>nd</sup> Defendant refused or ignored the invitation to appear before the Council and after the Meeting of the Council, the 2<sup>nd</sup> Defendant was Suspended as President/Chairman of the 1<sup>st</sup> Defendant on the 23<sup>rd</sup> March 2021, and communicated the Decision of the Council to the Supervisory Minister of Industry, Trade and Investment of the 1<sup>st</sup> Defendant. That despite the Suspension by the Council, the 2<sup>nd</sup> Defendant continues to act and manage the affairs of the 1<sup>st</sup> Defendant as President/Chairman up till now. That the provisions of the Act have vested the Council of the 1<sup>st</sup> Defendant with the Administrative and Management powers as regards the 1<sup>st</sup> Defendant. That the provisions of the Act make it Mandatory that all Decisions affecting the Administration and Affairs of

the 1st Defendant's council shall be taken by the Council in session with a Quorum of 10. That the 2nd Defendant has been taking Decisions without Quorum, but based on what and when she pleases. That even the appointment of the 3rd Defendant as External Solicitor to the 1<sup>st</sup> Defendant was done by the 2nd Defendant unilaterally and without a Quorum. That the 2<sup>nd</sup> Defendant Unilaterally appointed the Registrar and Secretary to the Council on behalf of the Council of which the said Registrar and Secretary is being paid from the Funds of the 1<sup>st</sup> Defendant and no deliberation and approval by the Council for the appointment. That the 2nd Defendant was never appointed as the Council's Chairman pursuant to Section 3 of the Act, rather, the 2nd Defendant appointed herself as the Council's Chairman. That the 2nd Defendant has never submitted the Yearly Audited Account of the 1st Defendant to the Honourable Minister of Industry, Trade and Investment as envisaged by Section 9 of the Act. That other Members of the 1<sup>st</sup> Defendant, especially Chartered Members and Fellows have Rights to contest for elections in the offices of the 1<sup>st</sup> Defendant, except the office of the 2<sup>nd</sup> Defendant which Section 3 of the Act gives an undue privilege and advantage to the 2<sup>nd</sup> Defendant to the detriment of other members. That in the absence of the Quorum in the Council Meeting of the 25th of October 2022 and Subsequent to other Council Meetings held on the 1st of December 2022 and 11<sup>th</sup> of December 2022, the 2nd Defendant yet proceeded to take a Decision to hold the Second Annual General Meeting (ACM) of the 1st Defendant in Port Harcourt, Rivers State, from the 12<sup>th</sup> - 16<sup>th</sup> December 2022.

Attached to the affidavit are 19 Exhibits marked as follows:

1. Exhibit Exhibits A1 – A2 (Chartered institute of Project Managers certificate of memberships of the 1<sup>st</sup> and 2<sup>nd</sup> Claimants).
2. Exhibit B1 (CAC status report on Institute of project managers LTD/GTE).
3. Exhibit B2 (official gazette of Chartered Institute of Project Managers of Nigeria Act).
4. Exhibit C (CAC status report on LAW ICON).
5. Exhibit D (CAC status report on Multi-Intelligence Development Company Ltd).
6. Exhibit D1 (Cyprain Edward-Ekpo LinkedIn account page).
7. Exhibit D2 (Zenith Bank Plc statement of account of Institute of project managers).

8. Exhibit E1 (letter titled “CRIMINAL DEFAMATION, LIBEL, AND MISINFORMATION PERPETUATED AGAINST OUR FIRM BY CIPMN’S GOVERNING COUNCIL/INSTITUTE THROUGH ITS MEMBER AND OFFICIAL, DR. JAMILU YANKWASHI” dated August 25, 2022).
9. Exhibit E2(letter in LAWICONS’ letter head titled “STATUS REPORT” dated July 19, 2022).
10. Exhibit F1 (Letter title “INVITATION TO APPEAR BEFORE COUNCIL” dated 19/3/2021).
11. Exhibit F2(letter titled “REQUEST FOR RATIFICATION OF THE IMMEDIATE SUSPENSION OF (DR. MRS. VICTORIA OKORONKWO) PRESIDENT/CHAIRMAN OF CIPMN AND OTHER MATTERS” dated 23/3/2021).
12. Exhibit G (Minutes of emergency council meeting of the Chartered Institute of Project Managers of Nigeria (CIPMN)).
13. Exhibit H (Letter titled “RE:APPOINTMENT OF HAJIA (MRS) HAJARA YUSUF AS ADJUNCT REGISTRAR OF CIPMN” dated 23<sup>rd</sup> March, 2021).
14. Exhibit I (Letter titled “RE:HELP IN ENFORCING THE RULE OF LAW” dated 4<sup>th</sup> March, 2021).
15. ExhibitJ (Federal Ministry of Industry, Trade and Investment profile).
16. ExhibitK & K1 (Notice of emergency Council meeting).
17. ExhibitK2 (Schedule of activities).

Also filed is a 3 paragraph further and better affidavit in support of the Originating Summons deposed to by Musa Abdullahi, the litigation Secretary to the Claimants counsel. Attached are 5 Exhibits marked Exhibit L1 (Chartered institute of Project Managers certificate of training for 28<sup>th</sup> – 29<sup>th</sup> September, 2022, Exhibit L2 (Annual License to practice as a project manager of the 2<sup>nd</sup> Claimant), Exhibit L3 (Receipt from Chartered institute of Project Managers of Nigeria in the sum of N575,000.00 & N230,000.00), Exhibit M (letter addressed to the Chairperson/President dated 18/8/2022 and Exhibit N (Minutes of emergency meeting for 11/11/2021).

Also attached is a Written Address and reply on points of law. In the written address the Claimant adopted the Questions for Determination contained in the Originating Summons as the issues for Determination in this Written Addresswherein counsel in summary submittedthat Sections 3 and 4 of the Act are very clear that the Act does not merge the position of Council Chairman and the position of the President of the Institute in one

person. That the 2<sup>nd</sup> Defendant's combining the two offices to herself is illegal and it is a violation of the Act establishing the Institute. That looking at the unambiguous provisions **Section 42 (1)(a)&(b) of the 1999 Constitution of the Federal Republic of Nigeria, (as amended)**, and Section 4 and Section 5 of the Act, it cannot be constitutional, legal and democratic for the 2<sup>nd</sup> Defendant to be given a lifetime tenure by Section 3 of the Act thereby disenfranchising the Claimants and other members of the 1<sup>st</sup> Defendant. Section 3 of the Act is discriminatory and unconstitutional because the section gives a privilege and advantage to the 2<sup>nd</sup> Defendant to the detriment of the Claimants and other members of the 1<sup>st</sup> Defendant. This is owing to the fact that the Claimants have the right to vote and be voted for in respect of other positions or offices in the 1<sup>st</sup> Defendant but they cannot exercise the same right in respect of the 2<sup>nd</sup> Defendant's office. Counsel submitted that by virtue of the provisions of Section 2(1) of the Act and paragraph 2 of the First Schedule of the Act, the 2<sup>nd</sup> Defendant does not have the power to take decisions unilaterally and arbitrarily regarding the administration and management of the 1<sup>st</sup> Defendant or to act on behalf of the Defendant's Council and to take decisions, including but not limited, to the purported appointment of the 3<sup>rd</sup> Defendant as the external solicitor of the 1<sup>st</sup> Defendant. That the failure and neglect of the 2<sup>nd</sup> Defendant to submit the Yearly Audited Account shows the 2<sup>nd</sup> Defendant's absence of transparency in the financial affairs of the 1<sup>st</sup> Defendant. Counsel submitted that the 2<sup>nd</sup> Defendant having been suspended has no right to claim any position in the 1<sup>st</sup> Defendant and there is need for the Honourable Court to grant an order of perpetual injunction and consequential order. Counsel submitted that the Statutory Provision which gave the Composition of the Council Cannot by any imagination be reduce or enlarge in the Management and Affairs of the 1<sup>st</sup> Defendant Institute by any Organ or Person within the 1<sup>st</sup> Defendant Institute and urged the court to grant all reliefs in favour of the Claimants. Counsel relied on the following authorities amongst others; **A. T. LTD V A. DH Ltd 2007 15 NWLR Pt.1056, Page 118; ESIAGA V UNIVERSITY OF CALABAR & ORS (2004) LPELR -1169 (SC); NJC & ORS VS ALADEJANA & ORS (2014) LPELR - 24134 (CA); EMEKA VS OKOROAFOR & ORS (2017) LPELR - 41738 (SC); OJO v. AKINSANOYE (2014) LPELR-22736(CA); UKEJE V. UKEJE (2014) 11 NWLR (PT.1418) 384 @ 408, PARAS. A-F.**

The 1<sup>st</sup> and 2<sup>nd</sup> Defendant's Counsel, filed their 36 paragraph counter affidavit in opposition to the originating summons deposed to by Dr. Victoria I. Okoronkwo wherein deponent averred that before the 1<sup>st</sup> Defendant was established in 2017, she had caused to be incorporated, a Company known as the INSTITUTE OF PROJECT MANAGERS LTD/GTE in 2007 with three Directors of the Company namely; Godwin Ochiabutor Okoronkwo, Ojukwu Elechi Ndubuisi and herself, Mrs. Victoria Ihekerenma Okoronkwo. That sometime in December 2017, the 1<sup>st</sup> Defendant's Establishment Act was passed by the National Assembly and it was assented to by Mr. President in January 2018. That she is the Chairman of the Governing Council of the 1<sup>st</sup> Defendant and President of the 1<sup>st</sup> Defendant acting in that dual capacity as provided for by Section 3 of the Establishment Act of the 1<sup>st</sup> Defendant. That the Governing Council of the 1<sup>st</sup> Defendant was not constituted immediately because it needed the collaboration of the Federal Ministries of Finance, Works and Housing and Education to nominate a representative each, the Nigeria Association of Chambers of Commerce, Industry, Mines and Agriculture to nominate two representatives, and a coordinator from each geopolitical zone of the Federation in compliance with Section 2 of the 1<sup>st</sup> Defendant's Establishment Act. That the services of the 3<sup>rd</sup> Defendant were engaged and a letter of instruction for coordination of legal services of the Institute was given to the 3<sup>rd</sup> Defendant on 1<sup>st</sup> August, 2018. That the appointment of the 3<sup>rd</sup> Defendant as external solicitor was approved by the second Governing Council in 2021. That the legal issues the 1<sup>st</sup> Defendant was faced with increased in 2021 and as a result, the Governing Council decided and agreed that a Retainer be entered into between the 1<sup>st</sup> Defendant and the 3<sup>rd</sup> defendant. That she wrote to the Honourable Minister of Industry, Trade and Investment notifying him of the expiration of tenure of office of some members of the Governing Council and requesting for a representative from the Ministry. That the Registrar that signed Exhibit F1 attached to the originating summons Henry Ifeanyi Mbadiwe, had been suspended indefinitely on 17<sup>th</sup> March, 2021. That at the time Exhibit F1 attached to the Claimants' Affidavit was made, the second Governing Council members had been appointed or elected. That the 1<sup>st</sup> Defendant does not have a supervisory Minister overseeing its affairs. That she was not suspended by the Council. That the people who purportedly suspended her were not members of council at the time of the purported suspension. That the establishing Act requires that the Governing Council has a membership of Seventeen (17) people and that the Quorum of

Seventeen is Ten (10). That the members who were consistently attending Governing Council meetings were Thirteen (13) as listed in paragraph 10 of the Claimants' affidavit, the Council by a standing order, determined that the quorum for meetings of the Governing Council will be eight (8) for the Council to take decisions. That decisions affecting the 1st Defendant have been taken with Quorum and not unilaterally. That the appointment of the adjunct Registrar who also acts as the Secretary of the Council was not a unilateral decision but a decision of the Governing Council. That Section 3 of the Act did not make provision for the Chairman of the Governing Council to be appointed and she did not appoint herself as the chairman of the 1st Defendant's Governing Council but had already been appointed as the Chairman of the incorporated company. That the yearly Audited Account of the 1st Defendant have been submitted to the office of the Honourable Minister Trade and Investment. That she was informed that Dr. Mrs. Mimi Abu, a Deputy Director in the office of the Ministry of Trade and Investment had been appointed as sole administrator to oversee the affairs of the 1st Defendant. That the 3rd Defendant on their instruction, instituted an action challenging the act and obtained an interlocutory injunction pending the determination of the substantive Suit filed before the Federal High Court Abuja Division with SUIT NO.: FHC/ABJ/CS/253/2022 BETWEEN CHARTERED INSTITUTE OF PROJECT MANAGERS OF NIGERIA (CIPMN) & 1 OTHER VS. DR. (MRS.) MIMI ABU & 3 OTHERS. That the 1st and 2nd Defendants have acted in compliance with the provisions of the Chartered Institute of Project Managers of Nigeria Act. Annexed the counter affidavits are 27 exhibits marked as follows;

1. Letter to Registrar General of CAC dated 24/5/2013 as Exhibit CPM 1.
2. Letter title "Acknowledgement of Award" dated 23/7/2013 as Exhibit CPM 2
3. letter of instruction to the 3rd Defendant as Exhibit CPM 3.
4. letters of appointment of Engr. Shittu A. Ariyo, Alh. Atiku Ibrahim, Chief Afolayan Emmanuel Olabode and the letter of acceptance of Bala Barde to the first Governing Council of the Institute as EXHIBIT CPM4, CPM5, CPM6 and CPM7.
5. Retainer Agreement as EXHIBIT CPM8
6. Letter title "NOTIFICATION OF EXPIRATION OF TENURE OF OFFICE OF SOME COUNCIL MEMBERS, OF 2010-2020 TENURE" dated 18/3/2021 as EXHIBIT CPM 9
7. Letter of indefinite suspension as Exhibit CPM 10

8. Letters of appointment and certificates of election of some of the members of the second Governing Council - EXHIBIT CPMII, CPM12, CPM13, CPM14, CPM15, CPM16, CPM17 and EXHIBIT CPM18.
9. OFFER OF APPOINTMENT AS ADJUNCT REGISTRAR letter and remuneration dated 22nd March, 2021 as EXHIBITS CPM19.
10. Resolution of the Board appointing the 2<sup>nd</sup> Defendant as the company's chairman as EXHIBIT CPM 20
11. Copies of the cover letters together with Yearly Audited Account of 2018,2019, 2020, and 2021 hereto as CPM 21, CPM22, CPM23 and CPM24.
12. Two receipts of IFEX EXPRESS LIMITED is attached hereto as EXHIBIT CPM25 and CPM26.
13. A Certified True Copy of the Order of injunction of the Federal High Court is attached hereto as EXHIBIT CPM 27.

Attached also to the counter affidavit is a written address wherein counsel raised two (2) issues for determination to wit;

1. The 1st and 2nd Defendants submit, without waste of any precious judicial time, that, from the facts deposed to in the Claimants' Affidavit, this Honourable Court ought to, and should, resolve all the Issues raised in the Claimants' Originating Summons (OS) against the Claimants and to consequently, refuse all the Reliefs sought by them.
2. We first of all rely on the Preliminary Objection (PO) filed along with these substantive processes, which PO has already urged a peremptory dismissal at the threshold of the Claimants' Suit for lack of jurisdiction of the Honourable Court.

Summarily, learned counsel submitted that the Claimants' Originating Summons has no competent Supporting Affidavit, as the said Affidavit is deposed to by the 1<sup>st</sup> Claimant who is a fellow of the 1<sup>st</sup> Defendant but not a member of its Governing Council, neither was he a staff of the 1st Defendant when it was an incorporated company and has not stated the source of his information. That the entire Supporting Affidavit to the Originating Summons is incompetent and should, with respect, be struck out; and if struck out, the Claimants' Suit be dismissed for having no supporting Affidavit as mandatorily required by **Order 2 Rule 3 (5) (a) of the Federal Capital Territory High Court (Civil Procedure) Rules, 2018**. Counsel submitted that the words in Section 3 of the Act are clear and precise that the Chairman of the Council "SHALL be the pioneer

President of the institute to be appointed on that sole basis..." and that clear and unambiguous provisions of a statute must be given their ordinary grammatical meaning. That the use of the word SHALL in Section 3 implies a mandatory mandate and urged the court to hold that the provisions of **Section 3 of the Act** not being ambiguous, 2nd defendant has not acted illegally nor violated the Act establishing the institute. Counsel further submitted that the Claimants not being staff of the incorporated company are merely expressing an opinion and or is making conjectures as to what may or may not have taken place at the time the 1st Defendant was an incorporated company. That it is trite that the Court cannot make conjectures. Courts of law are forbidden strongly from making orders based on speculation. That the Claimants have not shown the Honourable Court any part of the Act that gives the Honourable Minister powers to appoint any principal officer in the 1st Defendant, neither have they shown any part of the Act that has made the Minister of Industry, Trade and Investment, as having a supervisory role over the 1<sup>st</sup> Defendant. Counsel urged the court to discountenance the submissions of the Claimants on **Section 42 of the Constitution**. In conclusion counsel submitted that the Claimants originating summons are not grantable in law and should be dismissed with cost. Counsel relied on the following authorities amongst others. **Dematic (Nig.) Ltd. vs. Utuk (2022) 8 NWLR (Pt. 1831) 71 at page 95, para A, SC**; **Adams vs. Umar (2009) 5 NWLR (Pt. 1113) 41 at 109, Para H, CA**; **Onochie v. Odogwu (2006) 6 NWLR (Pt.975) at 90, paras. C-E**; **Agip (Nig.) Ltd. vs. Agip Petroli International (2010) All FWLR (Pt. 520) 1198 at 1249A-B S. C.** and **Sheriff vs. P.D.P. (2017) 14 NWLR (Pt.1585) 212 at 310 PARAS D-F, CA.**

On the other hand, the 3<sup>rd</sup> and 4<sup>th</sup> Defendants were served with the Originating Summons and relevant processes on the 10/3/2023. They entered conditional appearance on 18/4/2023 but did not file any other process in this suit. In this instance, the averments of the Claimants remains unchallenged and uncontroverted by the 3<sup>rd</sup> and 4<sup>th</sup> Defendants who refused to file any process before this Court. The law has long been settled that where depositions in an affidavit are not denied by way of a counter affidavit, they are generally deemed admitted and the Court is to act thereon as held in **Micah & Ors. vs. Hon. Minister of FCT & Anor (2018) LPELR – 44917 (CA)**. This notwithstanding, the court held in **Egbuche vs. Egbuche (2013) LPELR – 22512 (CA)** that the Claimants must succeed on



the strength of their case and not on the weakness of the defence. On the 30<sup>th</sup> of May, 2023, the matter was heard and argued by the Claimants Counsel. The case was then adjourned for judgment.

Before going into the substance of this suit, the 1<sup>st</sup> and 2<sup>nd</sup> Defendant's Counsel raised an issue that the originating summons has no competent supporting affidavit on the grounds that the 1<sup>st</sup> claimant is simply a fellow of the institute and not a member of the governing council neither is he a staff of the 1<sup>st</sup> defendant when it was an incorporated company; that 1<sup>st</sup> Claimant failed to state the source of his information. A cursory look at paragraph 1 of the affidavit in support of the originating summons of the 1<sup>st</sup> claimant is hereby reproduced below:

*“That I am the 1<sup>st</sup> Claimant in this suit and I am a fellow of the 1<sup>st</sup> defendant thus I am conversant with the facts I deposed to in this affidavit. And that the facts I depose to in this affidavit are facts within my knowledge acquired as a fellow of the 1<sup>st</sup> defendant in the exercise of my right as a fellow thereof”*

Section 107-120 Evidence Act, 2011 provides the general rules of affidavit as follows:

- (1) Every Affidavit used in court shall contain statements of fact and circumstances to which the witnesses deposes, either of his personal knowledge or from information which he believes to be true.
- (2) No affidavit shall contain extraneous matter.
- (3) A person that deposes to his belief and that belief is derived from any source other than his personal knowledge; he shall set forth such facts and circumstances forming the basis of his belief.
- (4) Where the deponents belief is received from another person, the name of such person shall be stated and particulars of the person given.

Going the above 1<sup>st</sup> claimant has stated that being a fellow of the 1<sup>st</sup> defendant exposed him to all the information stated in the affidavit. Deponent has stated that the facts he deposed to in the affidavit are facts within his personal knowledge derived from being a fellow of the 1<sup>st</sup> defendant. It is trite that he who asserts must prove and Defendant has not been able to prove that a fellow of the institute is not privy to the decisions reached at the meetings of the governing council of the Institute. Also, defendant counsel raised an issue in his written address that

claimants not being staff of the incorporated company that migrated into the institute were merely making conjectures and opinions as to their evidence regarding happenstances when the institute was an incorporated company. I have read the averments in the affidavit and the exhibits attached and it is apparent that the claimants also relied on the Corporate Affairs Commission status report of the Institute of Project Managers' LTD/GTE which is a public document. It is trite that access to public documents are at the instance of a simple application to the office concerned and in this case, the Corporate Affairs Commission had furnished the claimants with information regarding the said company. I am of the opinion that claimants do not have to be staff of any incorporated body in Nigeria before getting information through the Corporate Affairs Commission.

Going into the substance of this suit, this Honourable court will adopt the Questions for Determination raised in the Originating Summons as the issues for Determination in this suit. The Issue No. 1 is;

**“WHETHER upon proper interpretation and construction of the combined effect of Section 11 of the Interpretation Act and Section 2(a) and (b), Sections 3 and 4 of the Chartered Institute of Project Managers of Nigeria Act (hereinafter referred to as "the Act") that established the 1<sup>st</sup> Defendant, the 2<sup>nd</sup> Defendant can combine the position/office of the Chairman of the 1<sup>st</sup> Defendant's Council as well as the position/office of the President of the 1<sup>st</sup> Defendant to herself without any legal and lawful justification having regard to the entire provisions of the Act”.**

In dealing with the above first issue the provisions of the Act in question will be reproduced for better understanding. **Section 11 of the Interpretation Act** provides;

*11. (1) Where an enactment confers a power to appoint a person either to an office or to exercise any functions, whether for a specified period or not, the power includes-*

*(a) power to appoint a person by name or to appoint the holder from time to time of a particular office;*

*(b) power to remove or suspend him;*

*(c) power, exercisable in the manner and subject to the limitations and conditions (if any) applicable to the power to appoint, - (i) to reappoint or reinstate him, (ii) to appoint a person to act in his place, either generally or in regard to*

*specified functions, during such time as is considered expedient by the authority in whom the power of appointment in question is vested.*

*(2) A reference in an enactment to the holder of an office shall be construed as including a reference to a person for the time being appointed to act in his place, either as respects the functions of the office generally or the functions in regards to which he is appointed, as the case may be.*

**Sections 2(a) (b), 3 and 4 of the Chartered Institute of Project Managers of Nigeria (Establishment) Act** provides thus;

*(2) The Council shall consist of the following members, who are Fellows and Chartered Members of the Institute-*

*(a) Chairman of the Council of the Institute;*

*(b) President of the Institute;*

*3. The Institute shall have a Chairman of the Council who shall be the pioneer President of the Institute to be appointed on that sole basis and shall hold office for an unlimited period except otherwise resigned, dead or permanently incapacitated.*

*4. The Institute shall have a President and two Vice-Presidents, who shall be Chartered Members or Fellows of the Institute, to be elected by the Chartered Members at an annual general meeting and hold office each for a term of two years from the date of election and shall not be eligible for re-election after two terms of two years each.*

The counsel to the Claimants contend that the above sections are very clear that the Act does not merge the position of Council Chairman and the position of the President of the Institute in one person. That it is also not in doubt that being a pioneer Chairman of the Council does not in any way automatically give the 2<sup>nd</sup> Defendant the position of the President of the Institute. The counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants in his written address also made reference to the above Section 3 and submitted that the use of the word SHALL in Section 3 implies a mandatory mandate and urged the court to hold that the provisions of **Section 3 of the Act** are not ambiguous.

I agree with the counsel to the 1<sup>st</sup> and 2<sup>nd</sup> Defendant that when interpreting the provisions of a statute, the courts must ascribe its clear, plain and unambiguous meaning. See the case of **Saraki V. F.R.N. (2016) All FWLR (pt 836) p. 432 at 492, para. C.**

Now, in interpreting the above sections, I have read as a whole the provisions of the **Chartered Institute of Project Managers of Nigeria (Establishment) Act, 2017** in determining the object of the above quoted sections. To this regard, a combined reading of **Section 2 (3), Section 3 and paragraph 1 of the first schedule of the Establishment Act** is required and same is reproduced below:

**Section 2 (3) of the Chartered Institute of Project Managers of Nigeria (Establishment) Act** provides thus;

*(3) The provisions set out in the First Schedule to this Act shall have effect with respect to the qualifications and tenure of office of members of the Council and other matters mentioned in it.*

**Section 3 of the Chartered Institute of Project Managers of Nigeria (Establishment) Act** provides thus

*3. The Institute shall have a Chairman of the Council who shall be the pioneer President of the Institute to be appointed on that sole basis and shall hold office for an unlimited period except otherwise resigned, dead or permanently incapacitated.*

**Paragraph 1 (1) of the first schedule to the Act** provides;

*Subject to the provisions of this paragraph, a member of the Council shall hold office for a period of two years beginning from the date of his appointment or election.*

From the above, **Section 2 (3) of the Chartered Institute of Project Managers of Nigeria (Establishment) Act** states that with respect to qualification and tenure of members of the council, the provisions of the first schedule to the Act SHALL have effect. The First Schedule to the Act paragraph 1 provides that a member of the council SHALL hold office for a period of 2 years, beginning from the date of his appointment or election. To determine whether the Chairman is a member of the institute, **Section 2(2) of the Chartered Institute of Project Managers of Nigeria (Establishment) Act** clearly referred to the Chairman, the president, the two vice presidents etc as members of the Council. However, Section 3 of the Act states that the Chairman of the council Shall be the pioneer president of the institute TO BE APPOINTED on that sole basis and SHALL hold office for an unlimited period.

First and foremost, I am mindful that both sections uses the word “SHALL” which imposes an imperative duty. I am also mindful that the Apex Court

has held in a number of cases that in the interpretation of a statute, it is not at every use of the word ‘SHALL’ that imposes a mandatory duty, rather the court is enjoined to take a holistic view of the statute as a whole and decide on which purpose best suits the citizens or as in this case the majority of the members of the Institute.

In **FIDELITY BANK PLC VS MONYE (2012) ALL FWLR (PT.631) Pg. 1431, para F-G** where Mohammad JSC held that “*it is not always that a court of law will interpret the word “MUST” or “SHALL” as mandatory. The courts must examine the context within which the word is used*” Also, in **KATO VS CBN (Supra)** the Apex Court held per AKPATA JSC that there is no universal rule laid down for the construction of statute as to whether mandatory enactments shall be constructed as directory only or obligatory with an implied nullification for disobedience.

The 2<sup>nd</sup> defendant has stated in their paragraph 27 of the 1<sup>st</sup> and 2<sup>nd</sup> defendant counter affidavit that she was appointed as the chairman of the incorporated company by virtue of Exhibit CPM 20 which is a Board resolution appointing the 2<sup>nd</sup> defendant as the company chairman of the Board of Institute of Project Managers Ltd\Guarantee on the 12<sup>th</sup> day March, 2012. That going by paragraph 2 of the second schedule to the Act establishing the 1<sup>st</sup> defendant, it specifically empowers the 2<sup>nd</sup> defendant who was chairman of the incorporated company prior to it migrating into the 1<sup>st</sup> defendant to hold a corresponding appointment in the 1<sup>st</sup> defendant on the same terms and condition as to tenure upon the commencement of the Act establishing the Institute (1<sup>st</sup> defendant). The Act establishing the 1<sup>st</sup> defendant commenced on the 24<sup>th</sup> day of January, 2018. For ease of reference I have reproduced the said paragraph 2 of the 2<sup>nd</sup> schedule of the 1<sup>st</sup> defendant below.

*“On the commencement of this Act, any person holding any paid appointment in the incorporated Institute shall hold corresponding appointment in the Institute on the same terms and conditions as to tenure and otherwise but shall not be entitled to receive remuneration both from incorporated Institute in respect of the same period of services”.*

The claimants on the other hand have tendered Exhibit B1 which is a printout from Corporate Affairs Commission stating that defendant was only a director of the incorporated company that migrated into the Institute and not the chairman. The arguments of the claimants is that going by paragraph 2 of the second schedule to the Act, the 2<sup>nd</sup> defendant can only

become the chairman/president of the 1<sup>st</sup> defendant if and only if she occupied the same position of chairman when the Institute was an incorporated body. It is worthy to note that prior to metamorphosing into the 1<sup>st</sup> defendant, it was a company limited by Guarantee and the applicable law at that time was the Companies and Allied Matters Act, 1990. It is instructive for me to reproduce certain sections of the CAMA 1990.

Section 255 CAMA 1990 *“A person may be appointed a director for life, provided that he shall be removable under Section 262 of this Act”*.

Section 262(1) CAMA 1990 states that a company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its article or in any agreement between it and him.

Section 262 (2) goes on to state the required steps to be taken in removing director.

From the above, provision of CAMA 1990, it is a contravention of the CAMA 1990 for a director who has a life appointment to hang unto a provision in its article that such director cannot be removed. This provision is premised upon the Section 11 of Interpretation Act.

*“Where enactment confers a power to appoint a person either to an office or to exercise any functions, either for a specific period or not, the power includes:*

- (a) Power to appoint a person by name or to appoint the holder from time to time of a particular office.*
- (b) Power to remove or suspend him;*
- (c) Power, exercisable in the manner subject to the limitations and condition (if any) applicable to the power to appoint-*
  - (i) To reappoint or reinstate him;*
  - (ii) To appoint a person to act in his place, either generally or in regard to specified functions, during such time as it is considered expedient by the authority to whom the power of appointment in question is vested.”*

Going through the exhibits before me Exhibit CPM 9 is a letter to the Hon. Minister of Federal Ministry of Industry, Trade and Investment dated 18<sup>th</sup> March, 2021 from the office of the 1<sup>st</sup> defendant and signed by the 2<sup>nd</sup> defendant. In the said letter, it was stated therein that the tenure of certain members of the Governing Council had elapsed but a new appointment had yet to take place. The letter sought for the minister to appoint representatives on or before the 25<sup>th</sup> March, 2021. In essence as at 25<sup>th</sup> March, 2021 there was yet to be appointed new members into the Governing Council. The sitting Governing Council had suspended the 2<sup>nd</sup> defendant from office on 23<sup>rd</sup> March, 2021. It is my view that as at the 23<sup>rd</sup> March, 2021 when the 2<sup>nd</sup> defendant was suspended by the Governing Council of the 1<sup>st</sup> defendant, there had yet to be in place a new Governing Council, and going by the provision of Section 255 CAMA 1990 and Section 11 of the Interpretation Act of the Constitution a director appointed for life can be removed by an ordinary resolution of the council.

Be that as it may, the crucial question that comes to fore is whether the 2<sup>nd</sup> defendant was indeed appointed as the Chairman/President of the Institution after the commencement of the Act on the 24<sup>th</sup> January, 2018.

By paragraph 27 of the defendant counter affidavit; the 2<sup>nd</sup> defendant was appointed as chairman of the incorporated company by a resolution of the board. From the status report Exhibit B1 the directors of the incorporated company are Godwin Okoronkwo, Ojukwu Elechi Ndubuisi and 2<sup>nd</sup> defendant.

Section 263(8) CAMA 1990 provides that a resolution in writing signed by all directors shall be valid and effective. In essence a written resolution of the board which is not signed by all directors is invalid.

From Exhibit CPM 20, the board resolution appointing 2<sup>nd</sup> defendant was signed by a director and secretary on the 12<sup>th</sup> March, 2012. Where there are 3 directors under the CAMA 1990, quorum to be formed shall be 2(two). See Section 264(1) CAMA 1990. In essence the minimum requirement for the board resolution under the CAMA 1990 was 2 directors to sign the resolution which is not the situation in Exhibit CPM20.

From the above, it is apparent that the provision that a life chairman cannot be removed by members of the council is in contravention of CAMA and also the Interpretation Act of the Constitution of the Federal Republic of Nigeria 1990 and I so hold.

Further Exhibit CPM 20 which is a board resolution appointing the 2<sup>nd</sup> defendant as chairman of the incorporated company cannot avail the defendant as it falls short of the signatories as provided under section 263 CAMA 1990.

In effect, the chairman (2<sup>nd</sup> defendant) of the council was never appointed nor elected at the commencement date of the Act in on 24<sup>th</sup> January, 2018. I have read through the affidavit evidence of parties before me and I find out that the chairman simply assumed office upon the commencement of the Act in 2018 without being appointed nor elected. In essence the 2<sup>nd</sup> defendant is not by any aspect of the Act clothed with the authority to continue to be addressed as the chairman/president of the council and I so hold. It goes without saying that all decisions, actions, steps and other commitments carried out by the 2<sup>nd</sup> defendant as the chairman of the council were done in clear violation of the Act establishing the 1<sup>st</sup> defendant and I so Hold.

From the above, going into other issues raised would be an academic exercise in futility.

1. It is hereby ordered that the 2<sup>nd</sup> to 4<sup>th</sup> defendants are hereby restrained from further violating the provisions of the Act establishing the 1<sup>st</sup> defendant and also restrained from taking further or carrying out any official, financial, procurement, administrative or managerial functions of the 1<sup>st</sup> defendant.
2. It is further ordered that the most senior in the fellow membership category between the two vice presidents in the 1<sup>st</sup> defendant council to take over all the affairs of the 1<sup>st</sup> defendant immediately in accordance with the provisions of Section 2(2) of the Act and in line with paragraph 1(4b) and paragraph 5(2) of the first schedule to the Act establishing the 1<sup>st</sup> defendant.



3. Cost in the sum of N500,000.00 (Five Hundred Thousand Naira) Only is hereby issued against the 2<sup>nd</sup> defendant

**Parties:**Absent

**Appearance:** Nura Abdurrahman appearing for the Claimants. Chief S. T. Hon appearing with Joshua T. Adi for the 1<sup>st</sup> and 2<sup>nd</sup> defendants.

**HON. JUSTICE M. OSHO-ADEBIYI**  
**JUDGE**  
**8<sup>TH</sup>JUNE, 2023**