

**CASE BY THE UNIBANK GHANA LIMITED (IN RECEIVERSHIP) AGAINST SHAREHOLDERS AND DIRECTORS OF THE ERSTWHILE UNIBANK**

**UNIBANK GHANA LIMITED (IN RECEIVERSHIP)**

**1. Nii Amanor Dodoo (suing as receiver of uniBank Ghana Ltd) v Dr Kwabena Duffuor & 16 Others**

The Receiver commenced the suit on 4 September 2018 against 17 shareholders and directors of uniBank Ghana Limited ('uniBank') for the recovery of GH¢5.7 billion. The suit was struck out on 4 July 2019 as having been brought in the wrong capacity. A new case was filed on 9 July 2019 for the recovery of GH¢5.7 billion from some shareholders and directors. Aspects of the case that was struck out were referred to a sole arbitrator pursuant to an order of the court dated 17 May 2019 ordering the parties to go for arbitration on matters relating to the revocation of the licence of the Bank. The sole arbitrator made a ruling on the preliminary issue of the jurisdiction and competence of the tribunal and held that the tribunal did not have the jurisdiction to hear the matter due to the manner in which the appointment was made. Following this ruling, the Defendants, filed an originating motion on notice before the High Court to determine the jurisdiction of the arbitral tribunal on 31 October 2019. The court in determining the matter, ordered both parties to return to arbitration even though the Plaintiff had appealed the earlier order for the parties to go to arbitration.

The 17 defendants in the old suit were as follows:

1. Dr Kwabena Duffuor
2. HODA Holding Limited
3. HODA Properties Limited
4. Integrated Properties Limited
5. Alban Logistics Limited
6. StarLife Assurance
7. Bolton Portfolio Limited
8. Dr. Kwabena Duffuor II
9. Opoku-Gyamfi Boateng
10. Prof. Newman Kwadwo-Kusi
11. Owusu Ansah Awere
12. Ekow Nyarko Dadzie-Dennis
13. Clifford Duke Mettle\*\*
14. Boatemaa Kakra Duffuor-Nyarko
15. Kofi Kyereh Darkwah
16. Nana Boakye Asafu-Adjaye
17. Alex Gaddiel Buabeng

*\*\* The court on 24 September 2018 granted the application by lawyers for the 13th Defendant (Clifford Duke Mettle) to remove him as a party to the case on the basis of misjoinder. This, therefore, brought the list of shareholders and directors sued by the Receiver to 16 persons.*

The Defendants are yet to take any steps regarding the court-ordered arbitration.

**2. uniBank Ghana Limited (In Receivership) (under the receivership of Nii Amanor Dodoo) v. Dr. Kwabena Duffuor & 9 Others; Suit No. CM/RPC/1061/2019**

The Receiver filed a new suit on 9 July 2019 in the name of uniBank Ghana Limited (in receivership) subsequent to the dismissal of the suit brought by the Receiver in the case of “Nii Amanor Dodoo (suing as receiver of uniBank Ghana Ltd) v Dr. Kwabena Duffuor & 16 Others”. The substance of the new suit, however, remains the same i.e. for the repayment of a GH¢5.7 billion debt owed by shareholders and directors of the defunct bank and for the preservation of assets acquired by the defendants through the unlawful use of uniBank’s funds, return and/or transfer of assets to the Receiver and the repayment of amounts owed by the shareholders, related and connected parties. Six defendants named in the previous case were excluded in order to focus the suit on directors and entities identified as centrally responsible for losses to the bank. The following were named as Defendants in this new suit;

1. Dr Kwabena Duffuor
2. HODA Holdings Ltd
3. HODA Properties Ltd
4. Integrated Properties Ltd
5. Alban Logistics Ltd
6. StarLife Assurance
7. Bolton Portfolio Ltd
8. Dr Kwabena Duffuor II
9. Ekow Nyarko Dadzie-Dennis
10. Boatemaa Kakra Duffuor-Nyarko

The case was struck out by the court on 24 June 2021. The Receiver filed a Notice of Appeal, on 28 June 2021, challenging the decision of the court. The Appeal was heard on 27 July 2022 and judgement was delivered on 1 December 2022. Prior to hearing the Appeal, the Appeals Court granted an earlier application made by the Receiver, on 28 July 2021, for stay of execution of the High Court’s ruling pending the determination of the Appeal.

By a unanimous decision the Court of Appeal held, on 1 December 2022, that the trial judge, misconceived, misinterpreted and misapplied the law in her interpretation of Section 122(8) of the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930) as well as other relevant provisions of the law. The Court of Appeal thus found merit in the Plaintiff’s appeal and reversed the order of the trial court, thereby reinstating the suit at the High Court together with all pending applications filed by the Plaintiff in the High Court.

**3. Horizon Royal Diamonds DMCC v Adewoye Olorunfemi Adetunji, Just Gold Limited & 10 Others**

A lawsuit titled Horizon Royal Diamonds DMCC v Just Gold Limited & 10 Others was initiated in the Dubai Court of First Instance on 16 April 2019. Horizon Royal Diamonds DMCC, the Plaintiff, contended, in the suit, that the erstwhile uniBank failed to perform due diligence on Adewoye Olorunfemi Adetunji, the 1st Defendant and Just Gold Limited, the 2nd Defendant (of which the 1st Defendant is an Executive Director), prior to disbursing an amount of GH¢144.5 million (the Ghana Cedi equivalent of US\$32.5 million) that was remitted by Horizon Royal Diamonds DMCC to Just Gold Limited on 4 February 2018. The remittance was credited to the bank account of the 2nd Defendant held with uniBank on 6 February 2018, out of which GH¢144.4 million was disbursed to various beneficiaries, including the 1st Defendant, between 7 and 13 February 2018 on the instructions of the 1st Defendant.

The remittance by Horizon Royal Diamonds DMCC to Just Gold Limited was for the purchase of 2,500kg of gold from Ghana, that was to be exported from Ghana to Dubai under an agreement between the Plaintiff and the 1st Defendant dated 9 January 2018. The gold had, up to the date of the Court's judgement, not been supplied by Just Gold Limited.

The transfer and withdrawal of the funds occurred before uniBank was placed in Official Administration on 20 March 2018 and subsequently in Receivership on 1 August 2018. The Receiver was served with the writ of summons on 24 May 2019.

The Emirati Courts cleared uniBank of any liabilities in connection with the disbursement of GH¢144.5 million (the Ghana Cedi equivalent of US\$32.5 million) that was remitted by Horizon Royal Diamonds DMCC to Just Gold Limited and Adewoye Olorunfemi Adetunji on 4 February 2018. The courts found that uniBank complied with all the relevant Ghanaian laws in disbursing the amount and thus was not liable to refund the amount.