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21st September, 1987.

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| BETWEEN | Jersey International Leisure Activities Limited | PLAINTIFF |
| AND | Drew Taylor Holdings Limited | DEFENDANT |

Before the Judicial Greffier

By Act of Court dated the 6th March, 1987, the Royal Court confirmed the Order of Justice in the above action and referred to me the assessment of general damages to be paid by the defendant to the plaintiff, and the hearing today was in pursuance of that order.

The facts are set out in the Order of Justice and are as follows:

1. The plaintiff is and at all material times was in the business, inter alia, of producing and staging theatrical performances at The Opera House Theatre, Gloucester Street, in the Parish of St. Helier.
2. At all material times the defendant was in the business of promoting theatrical performances.
3. By an agreement made on the 12th February, 1985, the defendant agreed to provide to the plaintiff a show called "The White Heather Show", starring Andy Stewart, for the nights of the 18th, 19th and 20th April, 1985.
4. It was a term of the agreement that the engagement would commence on the 18th April, 1985.
5. By a letter dated the 13th April, 1985, from the defendant to the plaintiff,

the defendant gave notice of its intention to withdraw from the agreement.

6. The said withdrawal by the defendant was in breach of the agreement.

7. As a result of the said breach, the plaintiff was unable to stage any performances on the nights of the 18th, 19th and 20th April, 1985, and has suffered loss and damage.

By its Act of the 6th March, 1987, the Court condemned the defendant (who was in default) to pay the sum of £765.89 by way of special damages together with interest at ten per cent per annum both on that sum and on the sum to be assessed by way of general damages from the 18th April, 1985, to the date of the Act.

At today's hearing, therefore, I was asked to assess damages in respect of the loss of (a) door receipts paid by the public for admission to the Opera House Theatre on the three nights in question and (b) profits from the sale of confectionery, refreshments etc. during those performances.

Advocate D.F. Le Quesne appeared for the plaintiff. The defendant, a company whose registered office is in Scotland, did not appear but Advocate Le Quesne advised me of the steps that he had taken to notify the defendant (which had until about May, 1987, been represented by Mr. P.W. Luce, Solicitor) of the hearing.

I heard Mr. Richard Ray Marks (known professionally as Dick Ray), a director of the plaintiff company, ^{on} oath. He verified the figures shown on a number of nightly returns for the theatre for the period between the 26th March and the 8th June, 1985, that is to say before and after the intended performances on the 18th, 19th and 20th April. These performances covered a diversity of shows including the Bournemouth Sinfonietta, a Gilbert and Sullivan Evening and the Northern Ballet. Seat prices for these performances varied from £10 and £7.50 for the Bournemouth Sinfonietta to £5 and £3.50 for a show called "A Bit on the Side" starring Rodney Bewes and Fred Feast.

Mr. Ray told me that Andy Stewart was, and is, a very popular Scottish entertainer, broadcaster and recording artiste who appears frequently on television - he always stars nationally on television on New Year's Eve. Mr. Ray said that he

would have expected a greater than average demand for seats because (a) Mr. Stewart is so well known; (b) there is a substantial local Scottish population and (c) his type of entertainment would appeal particularly to the older folk, who tend to predominate amongst the tourists normally in the island at that time of the year. Finally, Mr. Ray informed me that tickets for the White Heather Show were to have been £5, £4 and £3.50.

With regard to profits from the sale of confectionery etc., Mr. Ray told me that the nightly takings were fairly constant at £90 to £100 per night for a reasonably full house, from which the management would reap a profit of approximately one third.

Advocate Le Quesne submitted that his client company could have expected to have a total box office taking for each of the three nights on which the show should have taken place of at least £2000, making a gross figure of £6000. From this figure should be deducted an amount for commissions paid to agents in respect of the sale of tickets, which Mr. Ray put (according to him, very generously) at £150 per night, giving a net figure of £5,550. The agreement between the parties provided that the plaintiff should retain 25% of the net figure, the balance being payable to the defendant. Advocate Le Quesne therefore suggested that I should award the plaintiff (a) the sum of £1387.50 in respect of the loss of door receipts, and (b) the sum of £90 in respect of the loss of profits from the sale of confectionery, etc. He did not pursue the claim in the Order of Justice for an award in respect of the damage done to the plaintiff's reputation.

Having taken time to study the figures provided by Mr. Ray, I am satisfied that those figures represent the takings that the plaintiff company could reasonably have expected had the defendant not withdrawn from the agreement. I am satisfied that by receiving notice of the defendant's withdrawal only on the 13th April, the plaintiff was given no opportunity to mitigate its loss. Accordingly the defendant is ordered to pay to the plaintiff the sum of £1477.50 by way of general damages.

The matter of interest on that award and of costs has already been dealt with by the Court as is recorded in the Act of Court of the 6th March, 1987.

Judicial Greffier.