**COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Common Law and Equity Division**

**2017/CLE/gen/1266**

**BETWEEN**

**DRAMISTON LTD.**
**CARLOS PAREJA CORDERO**
**CARLOS PAREJA DASSUM**

**Plaintiffs/Applicants**

**AND**

**FINANCIAL INTELLIGENCE UNIT**

**Defendant/Respondent**

**Before:** The Honourable Madam Justice Indra H. Charles

**Appearances:** Mrs. Courtney Pearce-Hanna of Callenders & Co for the Plaintiffs/Applicants
Mr. Loren Klein with him Mrs. Darcel Smith-Williamson and Ms. Hyacinth Smith for the Defendant/Respondent

**Hearing Date:** 21 November 2017

**Practice and Procedure – Interlocutory Injunction - Preliminary Objections – Procedural defects and irregularities – Action commenced by Originating Summons – Can it be converted to Judicial Review – Non-compliance with Rules - No valid cause of action – No free-standing injunction**

**Financial Intelligence Unit Act, Ch. 367 – Sections 3, 4, 6, 7 and 8 – Impugned section 7 – Non suit provision**

The Plaintiffs filed an Originating Summons seeking several relief. At the same time, they filed an *ex parte* Summons for an interlocutory injunction to prevent the Defendant from disclosing any information in relation to the Plaintiffs and any entity of the Plaintiffs. The *ex parte* Summons contained no grounds for the relief sought and accompanied by a certificate of urgency, which discloses no reason for an *ex parte* application.

Before the hearing of the interlocutory injunction got off the ground, the Defendant raised some preliminary objections. The first is that the *ex parte* Summons is defective and irregular on the grounds that it does not comply with Order 7 r. 3(1) as it fails to identify any cause (s) of action in respect of which the Plaintiffs claim the injunction, or any grounds on which the relief is claimed.

Further, there is no reason disclosed in the certificate of urgency, or indeed, in the application which justified an ex parte application to the Court.

The Defendant also reserved its rights to apply to strike out the Originating Summons under Order 18 rule 19 and/or under the inherent jurisdiction of the Court, on the grounds that it does not disclose a reasonable cause of action.

The next preliminary objection raised by the Defendant is that section 7 of the Financial Intelligence Unit Act ("the Act") precludes any suit being brought against the Defendant.

The Plaintiffs submitted that any procedural defects could be cured and even though the action should have been brought as a Judicial Review, it was not fatal as the Court has the general powers to correct procedural defects. The Plaintiffs next submitted that the Defendant is not immunized from any suit and that the Judiciary is invested with the powers to provide checks and balances on the Defendant.

**HELD:** refusing to maintain the status quo which was previously granted at an ex parte hearing because there is effectively no substantive cause of action

1. Even if an application is defective and/or irregular, the Court still retains the inherent power to remedy such defects particularly at an early stage of the proceedings: **Texan Management Limited v Pacific Electric Wire & Cable Company Limited** [2009] UKPC 46 applied.

2. The Court also has the power to convert an originating summons to a judicial review and vice versa: **Attorney General of Trinidad & Tobago v Dumas** [2017] 1 WLR 1978. However, an applicant must comply with the applicable rules. Non-compliance may be fatal.

3. Since there is no substantive cause of action, the Court cannot grant a free-standing injunction which is unknown to the laws of The Bahamas: **Meespierson (Bahamas) Ltd v Grupo Torras S.A.** (No. 41 of 1998) and **Bimini Blue Coalition Limited v Rt. Hon. Perry Christie Prime Minister et al** (SCCivApp Side No. 35 of 2014) applied. The cases of **Solvalub Ltd. V Match Investments Ltd** (1997) 1 O.F.L.R. 152; **Krohn Gmbh v Varna** (No. 2)(1997/1998) 1 O.F.L.R. 482 and **Re Petition of Securities and Investment Board v Michael Ivor Braff** (1997/98) 1 O.F.L.R. 553 are distinguished.

4. Section 7 of the Financial Intelligence Unit Act, Chapter 367 precludes any suit being brought against the Defendant (or any of its individuals associated with it) in respect of its actions.

5. The Defendant is a body corporate with the power to receive, analyze, obtain and disseminate information relating to the proceeds of crime under the drug trafficking offences, money laundering offences and other kindred offences contained in and created by the Proceeds of Crime Act, 2000. It was set up to carry out its mandate in

such a way that it would be vested with constitutional and legal powers which are beyond reproach: **Attorney General of the Commonwealth of The Bahamas v Financial Clearing Corp.** [2002] BHS J. No. 35 and **Paradise Games & Ors. v The Attorney-General of the Bahamas** (2013/CLE/gen/00150/50 & 2013/CLE/gen/001510) applied.

6. Effectively, the Defendant is an intelligence conduit for information which it receives, analyzes, obtains and disseminates.

## RULING

**CHARLES J:**

### Introduction

[1] On 9 November 2017, Dramiston Ltd and its principals, the Second and Third Plaintiffs (collectively "the Plaintiffs") filed an Originating Summons seeking a number of relief. At the same time, they filed an *ex-parte* summons seeking an interlocutory injunction to restrain the Defendant, the Financial Intelligence Unit ("the FIU") whether by themselves or by their agents or servants or otherwise from "disclosing any information in relation to the Plaintiffs and any entity of the Plaintiffs". The application was brought by *ex parte* summons filed on 9 November 2017.

[2] The matter came before me on 10 November 2017. At the *ex parte* hearing, the Court ordered that the matter be adjourned for an *inter partes* hearing on Monday 13 November 2017 at 10.00 a.m. and that the status quo be maintained pending the *inter partes* hearing. On 13 November 2017, the FIU did not appear as it was not personally served but served by electronic means. The Court then ordered personal service and at the same time, for the status quo to be maintained.

[3] On 16 November 2017, the FIU appeared and, after hearing both parties, I refused to maintain the status quo and orally stated, at page 24 of the transcript of proceedings, that the arguments advanced by learned Counsel for the FIU, Mr. Klein were more compelling. At lines 27-31, I reiterated that I found favour with Mr. Klein's submissions and the written judgment will reflect exactly that. I

understood that the Plaintiffs have appealed this oral ruling. I apologize for the inordinate delay in rendering the written ruling which I had promised. I do so now.

[4] Learned Counsel Mr. Klein correctly pointed out that the application for an interlocutory injunction contained no grounds for the relief sought. The application was accompanied by a certificate of urgency which disclosed no reason for an *ex parte* application.

**Procedural objections**

[5] As a result of the deficiencies, the FIU raised some preliminary objections. The first objection is that the *ex parte* summons is defective and irregular on the grounds that it does not comply with Order 7, r. 3(1), as it fails to identify any cause(s) of action in respect of which the Plaintiffs' claim the injunction, or any grounds on which the relief is claimed.

[6] Further, says the FIU, there is no reason disclosed in the certificate of urgency, or in the application, which justified an *ex parte* application to the Court. Mr. Klein cited the Privy Council case of **National Commercial Bank (Jamaica Ltd.) v Olint Corp Ltd. (Jamaica)** [2009] UKPC 16. At [13], the Board gave the following admonition:

> **"[A] judge should not entertain an application of which no notice has been given unless either giving notice would enable the defendant to take steps to defeat the purpose of the injunction (as in the case of a Mareva or Anton Piller order) or there has been literally not time to give notice before the injunction is required to prevent the threatened wrongful act."**

[7] Mr. Klein submitted that although the hearing of the injunction was adjourned to Thursday, 16 November 2017 for the injunction to be heard *inter partes*, the Court did in fact issue an order to maintain the "status quo" pending the hearing, without hearing from the FIU.

[8] Mr. Klein submitted that there is nothing in the instant case which brought it within any of the exceptions identified by their Lordships for dispensing with notice.

[9] Learned Counsel Mrs. Pearce-Hanna submitted that the Plaintiffs initiated the instant proceedings by way of an Originating Summons. The application for an interlocutory injunction was made by an *ex parte* summons. According to her, the *ex parte* summons is not a form of the originating process and does not fall under Order 7.

[10] I agree with Mrs. Pearce-Hanna that Order 7 of the Rules of the Supreme Court ("the RSC") deals with Originating Summons as a form of originating process. It does not extend to interlocutory summonses. The learned author of Stroud's Judicial Dictionary of Words and Phrases (Fifth Edition) states:

> **"An "originating summons" means "a summons by which an action is commenced otherwise than by "writ" (per Esher M.R., *Re Holloway* [1894] 2 Q.B. 163); accordingly it was there held that a summons under Solicitors Act 1843 (c. 73, s.37), to a solicitor to deliver up papers, was not an originating summons…", and it unaffected by R.S.C., Ord. 54…."**

[11] The learned author defines a "Summons" as

> "**(1) A Summons is the process by which a proceeding is commenced or by which (generally) a step therein is taken, e.g. a chamber summons, a county summons, a magistrate's summons.…**
>
> **(2) "Summons" by itself, will probably not include a writ of summons (*Towne v Limerick S.S. Co.* 5 C.B.N.S. 730)."**

[12] Interlocutory Injunctions falls under Order 29 and not Order 7 which distinguish them from Originating Summons and other originating process.

[13] Attractive though the arguments advanced by the FIU are, I am not persuaded that the *ex parte* summons is defective and/or irregular. It is true that the Certificate of Urgency disclosed no reason for the *ex parte* summons. However, a review of my manuscript on 10 November 2017 reflected that the Court inquired as to the reason for proceeding *ex parte*. Learned Counsel Mrs. Pearce-

Hanna stated that once disclosure was made, it cannot be clawed back. Consequently, the Court ordered that the status quo be maintained until the *inter partes* hearing.

[14] I will go a step further. Even if the *ex parte* summons was defective and/or irregular, such defect and/or irregularity could be remedied by an amendment particularly at such an early stage in the proceedings. While the Court should not countenance bad procedural practice, it will be draconian to dismiss this matter for the reasons proffered by Mr. Klein. Once more, I am reminded of Lord Collins' judicious words in **Texan Management Limited v Pacific Electric Wire & Cable Company Limited** [2009] UKPC 46. At paragraph 1, he stated:

> **"It has often been said that, in the pursuit of justice, procedure is a servant and not a master."**

[15] For these reasons, I find that the *ex parte summons* is not defective and/or irregular.

**Originating Summons as Originating Process**

[16] The FIU alleges that the Plaintiffs' action is stillborn as the originating summons discloses no reasonable cause of action against it.

[17] The Plaintiffs accepts that the action may have been properly brought as a judicial review but submits that any procedural error that may exist as a result of the Plaintiffs' proceeding by way of originating summons over initiating judicial review proceedings may be remedied by the Plaintiffs. According to the Plaintiffs, the Court, in the exercise of its own discretion, may do so. The case of **Attorney General of Trinidad & Tobago v Dumas** [2017] 1 WLR 1978 specifically canvassed the issue of whether other originating process could be converted to a judicial review. The Board emphatically answered this question with a resounding yes.

[18] The Plaintiffs also rely on Order 31A, Rule 26 of the RSC which clothes the Court with the general power to rectify matters where there has been a procedural error. Order 31 A Rule 26(1) provides:

> **"(1) This rule applies only where the consequence of failure to comply with a rule, practice direction of Court order has not been specified by any rule, practice direction or Court order.**
>
> **(2) An error of procedure or failure to comply with a rule, practice direction or Court order does not invalidate any step taken in the proceedings, unless the Court so orders.**
>
> **(3) Where there has been an error or procedure or failure to comply with a rule, practice direction, Court order or direction, the Court may make such order as it deems necessary.**
>
> **(4) The Court may make such an order on or without an application by a party."**

[19] I am generally sympathetic to applicants who approach the Court improperly particularly when they are overwhelmed, as this case suggests. Instead of driving them from the judgment seat, the Court has the inherent power to put things right. Infrequently, I have converted originating summonses into judicial reviews and vice versa provided that they conform to the Rules. Take an example, if this action is to be converted to a judicial review, the Plaintiffs would have had to obtain leave of the Court to bring judicial review proceedings. Before obtaining leave, the Plaintiffs (applicants) must comply with Order 53 rule 3(2) by filing in the Registry –(a) a notice in Form A in the Schedule to this Order containing a statement of – (i) the name and description of the applicant; (ii) the relief sought and **the grounds upon which it is sought** (emphasis added).

[20] Now, having commenced this action by originating summons, the Plaintiffs must satisfy the requirements of Order 7 (3) which speaks to the contents of the summons. It states:

> **"Every originating summons must include a statement of the questions on which the plaintiff seeks the determination or direction of the Supreme Court or, as the case may be, a concise statement of the relief or remedy claimed in the proceedings begun by the originating summons with**

**sufficient particulars to identify the cause or causes of action in respect of which the plaintiff claims that relief or remedy."**

[21] Learned Counsel Mrs. Pearce-Hanna submits that the originating summons seeks to prevent the disclosure of certain information on the ground that the FIU breached its statutory duty because it made its decision to order the disclosure on the basis of misinformation. She further submits that although traditionally reserved for judicial review proceedings, the Plaintiffs' originating summons sets out a valid cause of action, properly identified and grounded in law, and the remedies claimed. That said, learned Counsel did not assist the Court as to what was the valid cause of action.

[22] Whether an action is commenced by originating summons or by judicial review, a plaintiff/applicant must satisfy the requirements of the rule. In the case of an application to bring judicial review proceedings, the Plaintiffs must state the grounds upon which leave is sought. In the case of an originating summons, the application must contain sufficient particulars to identify the cause or causes of action in respect of which the plaintiff claims that relief or remedy.

[23] As I scrutinized the originating summons, I agree with learned Counsel Mr. Klein that the originating summons is bad in law since it does not disclose any cause of action, reasonable or otherwise, against the FIU. If converted to an application for judicial review, it suffers the same fate. It is bad in law since it contains no grounds.

[24] Either way, the Plaintiffs have not satisfied the requirements of the Rules which, in my opinion, is fatal. Indeed, there is no action for which the Court needs to grant an injunction maintaining the status quo. "Action" is described by the Supreme Court Act to mean "*a civil proceeding commenced by writ or in such other manner, as may be prescribed by rules, excepting for criminal proceedings by the Crown*."

[25] Suffice it to say and not exploring too far into the law on injunctions since it was not argued before me, there is nothing called a "free-standing" injunction in the Bahamas. In **Meespierson (Bahamas) Ltd v Grupo Torras S.A.** (No. 41 of 1998), Counsel fought hard to persuade the court to grant the plaintiffs a free-standing *Mareva* injunction where there was no substantive cause of action against the defendants in The Bahamas. Indeed, the plaintiffs had no claim against the defendants anywhere in the world –not even a tracing claim – but alleged that it was in aid of foreign proceedings in the Commercial Court of London. The six defendants who were impleaded in The Bahamas for *Mareva* relief were locally incorporated Trust Companies but were not among the defendants in the English proceedings.

[26] At the hearing in the court below, the court ruled that "*as the court had territorial jurisdiction over the defendants and as it was arguable whether the court also had the power to grant a Mareva injunction in support of foreign proceedings even where, as here, there is no cause of action, the court would entertain the application which it granted with ancillary discovery*."

[27] On appeal to the Court of Appeal and after referring to a litany of cases including the Jersey cases of **Solvalub Ltd. V Match Investments Ltd** (1997) 1 O.F.L.R. 152; **Krohn Gmbh v Varna** (No. 2)(1997/1998) 1 O.F.L.R. 482 and **Re Petition of Securities and Investment Board v Michael Ivor Braff** (1997/98) 1 O.F.L.R. 553 **–** all of which held that a free standing Mareva type injunction could be granted in aid of foreign proceedings, the learned President had this to say:

> **"I do not perceive a public policy in The Bahamas, standing as a sovereign state, which drives the Bahamian judge to be creative to the extent of making a serendipitous discovery of a common law principle equivalent to the provisions of section 25 of the Civil Jurisdiction and Judgments Act 1982 which the English Parliament saw it fit to enact to empower free-standing interim relief to be given in aid of foreign proceedings brought or to be brought in the Contracting State to the Brussels or Lugano Convention."**

[28] In **Bimini Blue Coalition Limited v Rt. Hon. Perry Christie Prime Minister et al** (SCCivApp Side No. 35 of 2014), Adderley JA stated at para 29 of the judgment:

> **"The learned judge also correctly made the observation in accordance with jurisprudence in The Bahamas that a free standing injunction should not be granted, and if granted should not be allowed to stand."**

[29] For all of these reasons, I refuse to maintain the status quo as effectively, there is no action against the FIU.

**Non-suit provision**

[30] Unquestionably, the more important preliminary objection concerns section 7 of the Financial Intelligence Unit Act, Chapter 367 ("the Act"). Learned Counsel Mr. Klein argues that section 7 precludes any suit being brought against the FIU (or any of its individuals associated with it) in respect of its actions.

[31] The Plaintiffs hold a contrary view. They say that this is belied by the fact that the FIU cannot only sue but be sued as evidenced by the case of **Financial Intelligence Unit v Royal Bank of Canada [2002]** BHS J. No. 2. To be succinct, the case is not authority for the proposition that the FIU could be sued. The FIU sought a production order against Royal Bank of Canada. It could sue. The question still remains unanswered as to whether or not the FIU could be sued in respect of its actions?

[32] The Plaintiffs also submit that section 6 of the Act clearly makes a distinction between FIU (the entity) and the individuals that make up its separate components. Learned Counsel Mrs. Pearce-Hanna submitted that if Parliament intended to similarly ensure that the FIU had no liability for actions taken in its name, it would have duplicated the descriptive language of section 6 in the following section.

[33] Additionally, Mrs. Pearce-Hanna submits that such an allegation is fundamentally flawed as it proposes that the FIU is outside the scope of the law. According to

her, the FIU has an obligation to execute its duties fairly, reasonably and responsibly. She posits that, if a question is raised as to whether it has done so, by the submissions advanced by the FIU, it cannot be asked. Mrs. Pearce-Hanna argued that it is egregious to suggest that the FIU is not subject to the checks and balances provided by the Judiciary on review or challenge to acts taken in pursuance of its statutory duty.

**The legislative framework**

[34] A convenient starting point is section 3(1) of the Act which establishes the FIU as a body corporate with perpetual succession. Subsection (2) spells out the composition of the FIU.

[35] Section 4 addresses the functions of the FIU. Subsection (1) states that *"[i]n the exercise of its functions under subsection (2), the Financial Intelligence Unit shall act as the agency responsible for receiving, analyzing, obtaining and disseminating information which relates to or may relate to the proceeds of the offences specified in the Second Schedule*." The Second Schedule identifies the offences as (a) offences under the Proceeds of Crime Act and (b) Offences under the Anti-Terrorism Act.

[36] Subsection (2) provides as follows:

> **"Without limiting the foregoing and notwithstanding any other law to the contrary the Financial Intelligence Unit –**
>
> **(a) shall receive all disclosures of information such as are required to be made pursuant to the Proceeds of Crime Act which are relevant to its functions, including information from any Foreign Financial Intelligence Unit;**
>
> **(b) may upon receipt of such disclosures as are referred to in paragraph (a), order in writing any person to refrain from completing any transaction for a period not exceeding seventy-two hours;**
>
> **(c) may upon receipt of a request from a Foreign Financial Intelligence Unit or law enforcement authority including the Commissioner of Police of The Bahamas order any person to freeze a person's bank account for a period not exceeding**

**five days if satisfied that the request relates to the proceeds of any of the offences specified in the Second Schedule:**

**Provided that an aggrieved person may apply to a judge in chambers to discharge the order of the Financial Intelligence Unit and shall serve notice on the Financial Intelligence Unit to join in the proceedings but such order shall remain in full force and effect until the judge determines otherwise;**

**(d) …..;**

**(e) ……;**

**(f) …..;**

**(g) may provide information relating to the commission of an offence specified in the Second Schedule to any Foreign Financial Intelligence Unit, subject to any conditions as may be considered appropriate by the Director;**

**(h) may enter into any agreement or arrangement, in writing, with a Foreign Intelligence Unit which the Director considers necessary or desirable for the discharge or performance of the functions of the Financial Intelligence Unit;** [Emphasis added]

**(i) ……."**

[37] Section 6 provides as follows:

**"Notwithstanding the provisions of any other Act, no order for the provision of information, documents or evidence may be issued in respect of the Financial Intelligence Unit or against the Minister, Director, officers or personnel of the Financial Intelligence Unit or any person engaged pursuant to this Act."**

[38] Section 7 states as follows:

**"No action shall lie against the Minister, Director, officers or personnel of the Financial Intelligence Unit or any person acting under the direction of the Director for anything done or omitted to be done in good faith and for the administration or discharge of any functions, duties or powers under this Act."**

[39] Section 8 is also important. The marginal notes read "No criminal or civil liability for information."

**Analysis and disposition**

[40] Parliament enacted the FIU for a purpose. It is a body responsible and with power to receive, analyse, obtain and disseminate information relating to the proceeds of crime under the drug trafficking offences, money laundering offences and other kindred offences contained in and created by the Proceeds of Crime Act, 2000. In **Attorney General of the Commonwealth of The Bahamas v Financial Clearing Corp.** [2002] BHS J. No. 35, at paragraph 23, Churaman J.A. stated the purpose of the FIU in this manner:

> **"The purpose of the Act, taken in conjunction with the Proceeds of Crime Act 2000 and allied legislative measures is not aimed intrinsically at apprehending drug-traffickers and money-launderers. In most instances they are from investigations on-going or concluded already known to law enforcement agencies: the purpose under the Act is to confiscate their proceeds. Parliament has set up the FIU pursuant to Article 27(2)(j) as the precursor in the form of a statutory body possessed of administrative and investigative powers (obviously to be exercised fairly and reasonably) to act with speed, potency and efficaciousness "for so long only as may be necessary" until a judge, and ultimately the court of trial, is called upon to exercise the judicial power aimed at attaining and achieving the purpose and object of the Act, that is to say, to distrain the suspect funds unless otherwise determined by a Judge, pending determination by a court of law as to whether or not a confiscation order may lawfully and properly be made. The investigation and prosecution of crime were never the functions of the Judiciary, only the Executive. When Parliament gave the FIU the power, as an incident of the power of investigation, to refrain and to freeze, it was investing an arm of the executive with a power that was essential to the purpose and object of the legislation…. It does not seem to me that the FIU in this context is exercising anything other than an investigative power (thus executive) while the Judge exercises the Judicial power."** [Emphasis added]

[41] At paragraph 32, his Lordship continued:

> **"The nature of its responsibilities would suggest that the FIU is an intelligence conduit for information which it receives, analyses, obtains and disseminates. A reading of Section 4(2) (f) indicates that there is a duty to bring all information concerning questionable transactions to the attention of the Commissioner of Police for possible criminal investigation…."** [Emphasis added]

[42] The impugned section is section 7. Its marginal notes read "No liability." It provides that no action shall lie against the Minister, Director, officers or personnel of the Financial Intelligence Unit or any person acting under the direction of the Director. Mrs. Perace-Hanna, in her submissions, argues that there is a palpable distinction between the FIU (the entity) and the individuals that make up the FIU. Yet, she sought an Order "*that the Respondent ("FIU") whether by themselves or by their agents or servants or otherwise be restrained from disclosing any information in relation to the Plaintiffs and any entity of the Plaintiffs*…."

[43] So, on the one hand, Mrs. Pearce-Hanna submits that the entity could be sued but not its individuals and, on the other hand, she is seeking injunctive relief against the very individuals who make up the FIU. I am afraid that the submissions advanced by learned Counsel Mrs. Pearce-Hanna's are illogical.

[44] When one looks at the Act, it is plain that the FIU was set up to carry out its mandate in such a way that it would be vested with constitutional and legal powers which are beyond reproach. This issue was clarified by Churaman JA in **Financial Clearing Corp.**[supra]. At paragraph 27, he stated:

> **"So when section 4(2) of the Act says, as it does, "...and notwithstanding any other law to the contrary, the FIU....may require the production of such information..." it is in fact a free-standing power conferred by Parliament, and it is a power that is unconditional in the sense that it requires no pre-authorization by any court of law; and when combined with the provisions of section 15 of *The Banks and Trust Companies Regulations Act 2000* to the effect that the Bank "shall disclose...when it is required to do so under the provisions of any law of The Bahamas..." then any vestigial doubt as to the legality of the power of the FIU to require information dissipates."** [Emphasis added]

[45] No doubt, there is an overriding interest in ensuring that the FIU is able to discharge its statutory functions to require the production of information considered necessary to fulfil its function of "receiving, analysing, obtaining and disseminating information" relating to specified offences as detailed in Schedule 2.

[46] Another helpful authority is the case of **Paradise Games & Ors. v The Attorney-General of the Bahamas** (2013/CLE/gen/00150/50 & 2013/CLE/gen/001510) where, in an application for an injunction to prevent the police from taking any action to prevent the Plaintiffs continuing with their "web-shops" businesses, which the Defendants alleged were contrary to statute, Sir Michael Barnett, CJ, held that (para. 50):

> **"[...] I am far from persuaded that the balance of convenience lies in restraining the police from enforcing the law whilst the claim based upon legitimate expectation is being adjudicated."**

[47] I therefore accept the preliminary objection canvassed by learned Counsel Mr. Klein that section 7 of the Act precludes any suit being brought against the FIU in respect of its actions.

[48] For all of these reasons, I refuse to maintain the status quo. The action was stillborn from its inception. The Defendant is to have its costs of this action to be taxed if not agreed.

**Dated this 26th day of September, A.D., 2018**

**Indra H. Charles**

**Justice**