

**IN THE MATTER OF the Criminal Justice
(International Co-operation) Act, Chapter 105**

AND

**IN THE MATTER OF the Banks and Trust
Companies Regulation Act, 2020 (No. 22 of 2020)**

AND

**IN THE MATTER OF a Request for Legal Assistance from
The Public Prosecutor's Office of the Canton, Geneva, Switzerland**

AND

**IN THE MATTER OF an Application by the Competent Authority of
the Commonwealth of The Bahamas, i.e., the Attorney General**

BETWEEN

THE ATTORNEY GENERAL

Applicant

AND

JOCELYN BENNETT

First Respondent

GEORGE MOLYVIATUS

Second Respondent

TRISTAR MANAGEMENT LIMITED

Third Respondent

Before: The Hon. Madame Justice Donna D. Newton

Appearances: Deirdre Clarke-Maycock for the Applicant
Sophia Rolle- Kapousouzoglou, with Valdere Murphy for the First and
Third Respondent

Hearing Date: 4th March 2022

RULING

Civil - Disclosure Order - Letter for Request - Variation of an Ex-parte Order - Respondents filing summons to discharge order - Criminal Justice (International co-operation) Ch. 105 - Blue Pencil Rule – Fishing Expedition

On 25th November 2020, the Attorney-General by way of an Ex-parte Originating Summons and Supporting Affidavit made an application for an Order pursuant to the Criminal Justice (International Co-operation) Act (“CJIC”). The application was made pursuant to a Letter of Request (“LOR”) dated 19th February, 2020 regarding a criminal investigation against the First and Second Respondents on charges of misappropriation, criminal mismanagement and fraud. The Disclosure Order was granted on 18th February, 2021 (“the Disclosure Order”).

The First and Third Respondents filed an application on 10th June, 2021 to have the Order varied on the grounds, inter alia, that the Order is too expansive and resembles a fishing expedition. The Respondents seek to redact confidential and privileged documents and information relating to the identity of Third Parties and to limit the time frame for disclosure.

Introduction

1. This is an application on behalf of the First and Third Respondent (“the Respondents”) by way of an Amended Summons filed 10th June 2021 seeking to vary a Disclosure Order granted by this court to the Attorney General (“the Applicant”) in response to a request for International Legal Assistance from the Public Prosecutor’s Office of the Canton of Geneva, Switzerland.

2. The Amended Summons seeks the following relief pursuant to **Articles 20 (9) and (10) of the Constitution of The Bahamas, Section 77 of the Bank and Trust Companies Regulation Act, 2020** and/or the inherent jurisdiction of the Court:

- (i) That the Disclosure Order is varied so that the documents (“the Account Documents”) which Ansbacher (Bahamas) Limited (“ABL”) is required to produce to the Applicant relative to Account #2003319 (“the Account”) in the name of Tristar Management Limited (“Tristar”) and Joycelyn Bennet in accordance with paragraphs (1) and (2) of the Disclosure Order are redacted to preserve the identities of any Third Parties referred to in the Account Documents.

(ii) An order that the Disclosure Order be varied on the basis that the time period for which the disclosure has been ordered is excessive in that it falls beyond the scope and period of time of the alleged wrongdoing within which documents should be disclosed and the period should be narrowed to the time frame of between September 2016-October 2016.

(iii) An order that these proceedings be heard in camera and that the Court's file be sealed so that all documents filed of record and orders made shall not be accessible by anyone other than the Applicant, his legal representatives, the Respondents and their legal representatives or anyone else acting under a court order.

(iv) An order that the documents relied on and referred to in the Affidavit of Jocelyn Bennett to be filed herein are not to be used in any foreign proceedings.

(v) An order that the Applicant shall not remit any Account Documents obtained from ABL relative to the Account to the Embassy of Switzerland and/or the Public Prosecutor's Office of Geneva, Switzerland ("the Foreign Authority") without the express written agreement, acknowledgment and consent of Counsel for the First and Third Respondents herein. That the Account Documents to be disclosed by the Applicant to the Foreign Authority are properly and adequately redacted and that any confidential information and documents pertaining to third parties have been removed in accordance with any Order of the Court which may be made and Costs.

Procedural Background:

3. The LOR relates to criminal proceedings ("The Swiss Proceedings") which were launched against the Respondents who are beneficial owners of Tristar Management Limited ("Tristar") in Switzerland. Tristar is a company that provides trust services and holds assets in its bank account at ABL on behalf of its beneficiaries.

4. The Affidavit of Tamika Davis dated 25th November, 2020 sets out the background to the LOR at Paragraph 5:

(i) Jocelyn Bennett and George Molyviatis received instructions from the complainants to hold their assets on their behalf through an offshore asset holding structure. The complainants are accusing the Respondents of acting contrary to those instructions by misappropriating those assets and using them for personal enrichment.

(ii) The complainants are completely unaware of the actual location and destination of their assets. It is being pointed out that, on the basis of the elements set out in the procedure, other clients would also be similarly prejudiced for a total loss of about USD 25 million.

(iii) The accused, Jocelyn Bennett and George Molyviatis, would seem to expect that the other presumably aggrieved clients would not come forward in the criminal proceedings because of their position of indelicacy towards their fiscal authorities.

(iv) The three complainants, at the stage of the proceedings, namely Allard Ritmesster Van Der Kamp, Ghislain Dillians and Beatrice Du Chastel De La Howarderie submitted, in support of their criminal complaint, that in 2016 while their custodian bank no longer offered the expected guarantees of confidentiality and discretion with regard to the offshore holding of their assets, they were proposed by Tristar Management Limited, a company incorporated in Labuan (Malaysia), of which Jocelyn Bennett is the beneficial owner and is associated together with George Molyviatis, for the establishment of a structure, under the jurisdiction of Labuan (Malaysia) which involved:

(i) To set up a Trust for the client;

(ii) To transfer the assets of the client to the accounts of Tristar Management Limited with the banks Malayan Banking Berhad (Maybank) Kuala Lumpur in Malaysia, and Ansbacher (Bahamas) Limited in Nassau (The Bahamas), in the latter case for onward transfer to the Malayan Banking Berhad (Maybank) Kuala Lumpur in Malaysia; and

(iii) To obtain Malaysian nationality for the client.

(v) As they were convinced and reassured by the presentations received of the new offshore holding structure of their assets, the complainants, in full confidence, accepted

and undertook the necessary steps to transfer their assets to the bank accounts of Tristar Management Limited with ABL and with the Malayan Kuala Lumpur.

(vi) The analysis of the banking elements in the proceedings showed that the transfer of the assets of the complainants and of other customers, to the accounts of Tristar Management Limited with ABL and with the Malayan Banking Berhad (Maybank) Kuala Lumpur, took place between September 2016 and December 2016.

(vii) In 2019, for the purpose of regularizing his situation with the taxation authorities of his domicile, the complainant, Allard Ritmeester Van Der Kemp requested, in particular from Jocelyn Bennett and George Molyviatis, full accountability about the state of his holdings and the management that had taken place over the years through the above-mentioned offshore holding structure of his assets. Jocelyn Bennett and George Molyviatis, refused to provide any information. Jocelyn Bennett even asserted that she had not entered into a contractual relationship with Allard Ritmeester Van Der Kemp.

(viii) Ghislain Dillies and Beatrice Du Chastel De La Howarderie, as well as presumably other clients of Tristar Management Limited, are in the same situation, namely the absence of any information on the destination and current status of their assets and of a possible return to their hands.

(ix) There is thus a suspicion that George Molyviatus and Jocelyn Bennett notably, misappropriated the assets entrusted to them and, presumably, by other clients, contrary to the original agreed purpose, in order to obtain a corresponding unlawful enrichment of about EUR 2,126,000.

5. On 18th February 2021, after hearing the application this Court granted the Disclosure Order which, as it relates to Tristar, provided for the disclosure of authentic documents from ABL with respect to all accounts in the name of Tristar and or for the benefit of Jocelyn Bennett.

6. As a result of the Disclosure Order, the First and Third Respondents filed a Summons on 4th March 2021 seeking inter alia, to vary the Order. An Amended Summons was filed on 10th June, 2021.

The Respondent's Application

7. Both sides provided the Court with lengthy submissions on the variation application. The grounds for the variation of the Disclosure Order may be summarized as follows:

1. The letter of request is too wide in scope and amounts to a fishing expedition which should not be permitted;
2. The court should utilize the 'blue pencil rule' and order a redaction of the information to be produced to preserve the identities of any third parties referred to in the Account Documents;
3. The confidentiality of the matter should be preserved and such proceedings be held in camera and the file sealed as the documents referred to and exhibited contain sensitive information relating to customers' assets and may have public policy implications for Bank and Trust companies in The Bahamas; and
4. The Applicant in obtaining the Disclosure Order has failed to discharge the duties placed on an Ex-Parte Applicant.

The Law

8. **Section 6 of the Criminal Justice (International Cooperation) Act, Chapter 105, ("CJIC")** provides as far as relevant that:

- 6. (1) This section has effect where the Attorney General receives –**
- (a) from a court or tribunal exercising criminal jurisdiction in a country outside The Bahamas or a prosecuting authority in such a country; or**
 - (b) -----**

a request for assistance in obtaining evidence in The Bahamas in connection with criminal proceedings that have been instituted, or a criminal investigation that is being carried on, in that country.

- (2) If the Attorney-General is satisfied –**
- (a) that an offence has been committed or reasonably suspected of being committed in the foreign country under the law of the country in question has**

been committed or that there are reasonable grounds for suspecting that such an offence has been committed; and

(b) that proceedings in respect of that offence have been instituted in that country or that an investigation into that offence is being carried on in that country,

he may cause an application to be made ex parte to the Supreme Court by an originating summons for an order to give effect to the request.

(3) A court to which an application is made pursuant to subsection (2) shall have jurisdiction to entertain the application and to make such order as it sees fit to give effect to the request.

Fishing Expedition

9. The essence of the Respondents' application is that the Disclosure Order is too wide in scope and lacks specification and thus embodies an attempt at a fishing expedition on behalf of the Applicant.

10. Counsel for the Respondents explained that in order to appreciate why the scope of the request amounts to a fishing expedition, one must consider the Disclosure Order itself: ***“Ansbacher (Bahamas) Limited 4th Floor, 308 East Bay Street, P.O. Box N-7768, New Providence, The Bahamas do provide to the Attorney-General, all authenticated and complete copies of documentation in relation to Account Number 2003319 in the name of and for the benefit of Tristar Management Limited and or for the benefit of Jocelyn Bennett.”***

11. She further pointed out that The Disclosure Order states that:

“The aforementioned records shall be from January 1, 2016 to the date of the Order and shall include, but not limited to:

a. Account holdings, investments and safe

- b. Standard opening documents*
- c. Statements of account and securities filed*
- d. All transaction receipts ... with no limit on the amount, debited and credited to the account, making it possible to understand the economic background of the transactions that have taken place*
- e. A statement of assets as at the date of attachment; and*
- f. All documents (customer's instruction, debit advice, swift, internal notes, etc) to assist with:

 - a. Understand the circumstances of the possible termination of the banking relationship and the reasons given by the customer in this respect; and*
 - b. Identify the destination of the funds following the possible closure of the banking relationship”**

12. This she argued is not limited in scope and does not seek specific documents. It is their submission that the wide disclosure could lead to breaches of confidentiality and litigation against Tristar as a result, especially since clients of Tristar have already voiced their objection to disclosure.

13. I wish to note that it has been indicated throughout the Respondents' submissions that it is their intention to cooperate with the Swiss authorities as they do not object wholly to the disclosure of the account documents. Rather, the objection is directed to the disclosure of information which they say is not relevant to the Swiss Proceedings.

14. Counsel for the Respondents relied on the decision of Kerr, LJ, in the case of **Re State of Norway [1987] QB 433 at page 482** for an explanation of 'fishing expedition', where he said that:

“.... although "fishing" has become a term of art for the purposes of many of our procedural rules dealing with applications for particulars of pleadings, interrogatories and discovery, illustrations of the concept are more easily recognised than defined. It arises in cases where what is sought is not evidence

as such, but information which may lead to a line of inquiry which would disclose evidence. It is the search for material in the hope of being able to raise allegations of fact, as opposed to the elicitation of evidence to support allegations of fact, which have been raised bona fide with adequate particularisation. In the present context fishing may occur in two ways. First, the "evidence" may be sought for a preliminary purpose, such as the process of pre-trial discovery in the United States. The fact that this is clearly impermissible for the purposes of the Act of 1975 is established in the Westinghouse case [1978] A.C. 547, and was equally so held by this court in relation to the Foreign Tribunals Evidence Act 1856 in *Radio Corporation of America v. Rauland Corporation* [1956] 1 Q.B. 618. This is irrelevant in the present context, since the "evidence" is required for the trial itself. But fishing is in my view also relevant in another sense in the present context, as McNeill J. rightly indicated. It is perhaps best described as a roving inquiry, by means of the examination and cross-examination of witnesses, which is not designed to establish by means of their evidence allegations of fact which have been raised bona fide with adequate particulars, but to obtain information which may lead to obtaining evidence in general support of a party's case."

15. Counsel for the Respondents also referred the court to the case of *Re Asbestos Insurance Coverage Cases* [1985] 1 All ER 716 and to Lord Fraser's further description of a fishing expedition at page 721 where he said:

"If I may borrow (and slightly amplify) the apt illustration given by Slade LJ in the present case, an order for production of the respondents' 'monthly bank statements for the year 1984 relating to his current account' with a named bank would satisfy the requirements of the paragraph, provided that the evidence showed that regular monthly statements had been sent to the respondent during the year and were likely to be still in his possession. But a general request for 'all the respondent's bank statements in 1984' would in my view refer to a class of documents and would not be admissible."

16. Additionally, Counsel for the Respondents also supported her submissions by citing the case of **Panayiotou and Others v Sony Music Entertainment (UK) Ltd. 1994 1 All ER 755**, where the principle was confirmed that to be permissible the scope of the disclosure orders must be sufficiently specific. In that case, it was explained that:

“The court had inherent jurisdiction to issue a letter of request to the judicial authorities of a foreign country seeking the production of documents belonging to a company and in its possession which, had they been in England, could properly have been made the subject of a subpoena issued by the English court. However, the letter of request had to be confined to particular documents, although those might be described compendiously, and ought not to be issued for the purpose of obtaining pre-trial discovery of documents. Moreover, the court would be astute to see that what was essentially a discovery exercise was not disguised as an application to produce particular documents.”

17. The initial request from the Swiss Authorities concerns a criminal investigation against the Respondents, on charges of misappropriation, criminal mismanagement and fraud. The purpose of the LOR is to obtain evidence, in the form of banking records of Tristar to assist in the ongoing investigation. As such, it is the Respondents’ contention that there is no basis for documents to be provided in relation to innocent third parties if the investigation is against the Respondents.

18. The Respondents requested the court to utilize the blue pencil rule to preserve the confidentiality of their clients. In **Genira Trade & Finance and another v Refco Capital Markets Ltd and another [2001] EWCA Civ 1733** the Court noted at page 30 that it can adopt a blue pencil approach to amend a letter of request:

“The court, so far as documents are concerned, can by application of the blue pencil identify particular documents, and so far as oral testimony is concerned make it subject to terms that for example “the examination of witnesses shall be for the purpose only of eliciting and recording testimony appropriate to be given at trial” and that “no question may be asked of the witness that in the opinion of the examiner is not a question of the nature that could properly be

asked by counsel examining a witness-in-chief at a trial before the High Court of England and Wales”.

19. Counsel for the Applicant denied that it is a fishing expedient. She explained that the account of Tristar and Ms. Bennett are being investigated in its entirety as the funds of the complainants and potentially injured clients were presumably mixed in the same account, without segregation. Accordingly, the Swiss Prosecutor cannot at this stage of the investigation rule out the possibility of other potential Swiss nationals that may be victims of the fraud.

20. The Applicant contends that the information in the custody and control of ABL should be produced without any redaction as the request was related to a specific account and not necessarily for specific individuals.

21. Counsel for the Applicant stated that the bank documents were needed to investigate the illegal activity of the First and Second Respondents. They submitted further that the documents required to be produced should not be limited to documents relative to the virtual complainants but all the documents on the account so that the Swiss Prosecution may be able to conduct a proper investigation into the allegations of fraud as there may be **“potential victims/complainants”**.

22. The Applicant went on to explain that if the documents to be released are limited in any further manner the Swiss requesting authority will not be able to identify the destination of the funds of the complaining and potentially injured clients.

23. Counsel for the Applicant argued that on the explanation above, the request does not amount to a fishing expedition, the LOR is specific, it refers to the activity of one account, Tristar Management. The LOR indicates that Tristar received the assets of the complainants between September 2016 and December 2016. Three years later one of the complainants requested full accountability of the state of his holdings and the management that has taken place over time. The complaint is that Jocelyn Bennett and George

Molyviatus refused to provide any information in this regard. The evidence from the Swiss Authorities indicates that the complainants in the Swiss proceedings are unaware of the actual location and destination of their assets and that other clients would be similarly prejudiced.

24. While the Applicants have identified the connection between Tristar Management Limited and the complainants, I do not agree that the LOR can be used to build a case for **“other potential victims”**, as they are referred to. The request ought to be specific. To say that it is seeking other potential victims is too vague and goes against the nature of the exercise.

25. Fishing, as explained by Kerr,LJ, in **Re State of Norway** summarized is, that which is being sought is not evidence but information which may lead to a line of enquiry which will disclose evidence.

26. I think that this is the type of request that Kerr, LJ was referring to in **Re State of Norway at page 487**, that ought not to be allowed when he said:

“The request is in the nature of a roving investigation which may affect the private financial affairs of unknown persons who were and are entitled to expect that a highly reputable merchant bank in London, whom they entrusted with their affairs, would never be compelled to disclose these by an English court except in circumstances of allegations of fraud or crime on their part”

27. Applying **Fraser LJ’s** explanation in the **Asbestos Insurance** case and that of **Kerr, LJ in Re State of Norway**. I find that the request amounts to a fishing exercise. I do believe that if other victims were to come forward then a separate LOR should be issued in that regard. Further, at this stage the Swiss Authorities are merely trying to substantiate their current case by seeking all of the documents of Tristar. It would be unfair to provide every document to build a case against the Respondents involving potential victims.

Scope of Period for Disclosure

28. Counsel for the Respondents submitted that the LOR lacks specification, its range is broad, and it does not relate to a specific time period but instead a general period. She argued that the LOR is too expansive in terms of the documents and time period. She pointed out that the Applicant appeared to have conceded that the request is wide ranging.

29. She submitted that the court should not allow disclosure in the current form but rather the period should be limited to September 2016 - December 2016.

30. The Applicant argued that the present case is not a matter of disclosing information “*carte blanche*” but rather an aid in allowing the Swiss Requesting Authority to make progress in its criminal investigation.

31. The Applicant further submitted that although the period requested for the production of bank documents may seem excessive, the bank records for the period stated in the LOR are necessary as the investigation is ongoing, with new victims being identified or discovered. The identity of the complainants, namely Allard Ritmeester Van Der Kamp, Ghislain Dillies and Beatrice Du Chastel De La Howarderie, should not prevent or limit the Swiss Prosecution from having access to all the account documents of Tristar Limited for the period set out in the Order.

32. She argued that the period for disclosure should not be altered. She explained that the **Bank and Trusts Act** allows for a person to receive information for a period of up to 5 years. Also of note is the factual evidence within the LOR which alleges that the fraudulent activities commenced in 2016.

33. The Applicant said that despite the Respondents’ position, the period is not too excessive and by limiting the period for the provision of documents to September 2016 to December 2016 would be to limit a proper investigation aimed specifically at identifying and understanding the inflow and outflows of funds from Tristar’s account and the activity in the account relative to the three complainants. Full access to the bank records at ABL is necessary to identify the fees received by Tristar Limited in the management of the complainants and potential injured clients’ assets with Tristar.

34. While the Applicant may appear to concede that the application is wide ranging, I do not agree that they have actually conceded. They say that while it may “**seem excessive**”, it is necessary for the ongoing investigations.

35. I accept the submission of the Applicant on this point, that the scope of the period is not excessive. It allows the Swiss Authorities, in addition to obtaining a true appreciation of the activities of the account, it also allows them to trace the assets of the complainants from inception in order to identify the true destination and status of the assets. Limiting the time period for disclosure in this case would only create further constraints for the Swiss Authorities. The period for disclosure will stand as from January 2016 until the date of the Order.

Hearing in Camera and Sealing of Proceedings

36. Counsel for the Respondents submitted that it is necessary that confidentiality should be preserved in this matter and such proceedings be held in camera and the file sealed as the documents referred to and exhibited to the unfiled Affidavits of Jocelyn Bennett contain sensitive information relating to customer assets. She added that disclosure of the information could have public policy implications in that customers may not be inclined to conduct business in this jurisdiction for fear that their private affairs may become public. She supports her position by the decision of **Gonsalves-Sabola, CJ, in the case of Bank of America NT& SA (Re) 1993 BHS5 No 135** where it was stated that confidentiality is a factor of major importance to the clients.

37. Both parties accurately set out that the concept of having matters dispensed with in public as enshrined in **Article 20(9) of the Constitution of the Commonwealth of The Bahamas.**

“(9) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.”

38. There are exceptions to this, and one is where it is considered “necessary or expedient in circumstances where publicity would prejudice the interest of justice”: **Article 20(10)(a) of the Constitution of The Bahamas.**

39. **Section 77(3) of the Banks and Trust Companies Regulation Act 2020** provides: **“In any civil proceedings where information is likely to be disclosed in relation to a customer’s bank account, those proceedings may, if the court, of its own motion or on the application of a party to the proceedings, so orders, be held in camera and the information shall be confidential as between the court and the parties thereto.”**

40. Counsel for the Applicant objected to this matter being heard in camera stating that this is not a case for which an exception ought to be exercised, considering a thorough review of the documents and the fact that all of the entities involved in the allegations are foreign in nature

41. Additionally, she submitted that banking information is not immune from being disclosed within a public hearing as the **Bank and Trust Companies Act** provides that where there is a civil proceeding where bank account information will be disclosed that even in those circumstances it is to be held in open Court unless the court on its own motion or on an application being made for an order to have the matter heard in camera: **Section 3 of the Banks and Trust and Companies Regulation Act, 2020 (NO.22 of 2020).**

42. Counsel for the Applicant relies in support of her position on the Court of Appeal’s decision in the case of **Hot Pancakes Limited vs Amber Murphy, SCCivApp. 95 of 2020**, where the Court of Appeal stated that the mere fact that the action discloses information about the financial affairs of a party is not sufficient to justify the exercise of a discretion to hear an action in private or to anonymize a judgment which should otherwise be made in public.

43. The Applicants are of the view, that the Respondents’ application is premature as all Supreme Court files relative to applications made pursuant to CJIC Act, are heard in camera by their very nature.

44. The Applicant correctly stated that applications of this nature are typically sealed and held in camera. Thus, I am not prepared, at this stage, to seal the file to any greater extent.

Redaction

45. It is the primary submission of the Respondents that the documents mentioned in the Disclosure Order should be redacted to preserve the confidentiality of their clients.

46. The Respondents pointed out that the courts have allowed redactions to preserve confidential information and referred the court to the Privy Council decision of **Singularis Holdings Ltd v ProcewaterhouseCoopers [2014] 2 BCLC 597**, it was held that redactions were necessary to protect confidential information belonging to third parties under a Letter of Request.

“Redaction was only to be permitted where necessary to protect information of a confidential nature belonging to third parties.

47. The Respondents therefore seek to have all privileged and confidential information redacted relating to third parties such as correspondences, transactions, and invoices. They argued that if the Swiss Authorities require assistance for any other aspect of their investigation (insofar as it does not relate to the Swiss Plaintiffs) as against the Respondents, they must seek further assistance by a separate Letter of Request which would identify the specific investigation(s) that is being carried out. However, at this stage they say the ‘carte blanche’ disclosure is wholly unjustifiable.

48. On the contrary, the Applicant argued that the information in the custody and control of the ABL should be produced and thereafter forwarded to the Swiss Authorities without any redaction therein as the request for assistance related to a specific account wherein it is alleged that proceeds of crime were deposited not necessarily disclosure for specific individuals related to the account.

49. They submitted that the authority has clearly demonstrated that Tristar’s account at ABL did receive funds from the complainant and potential injured clients. It is therefore not a question

of disclosing information “carte blanche” but of allowing the Swiss requesting authority to make progress in its criminal investigation. In the absence of the requested documents the Swiss requesting authority will not be able to identify the destination of the funds of the complaining and potentially injured clients, due to the lack of cooperation from Mrs. Bennett in Switzerland and in The Bahamas.

50. The Applicant asserted that the production of the records requested would show the pattern of the alleged activity in which the Respondents were involved and whether they were engaged in the offences being investigated.

51. Glidewell, **LJ in the Re State of Norway** case, at page 491 referring to the Westinghouse case, explained that

“...where a court can by excising inappropriate material, produce a request which is acceptable and proper, it should adopt this course and make the order sought”.

52. Accordingly, I will utilize the blue pencil rule as applied in the case of **Genira Trade & Finance and another v Refco Capital Markets Ltd** and another and locally by **Justice Ian Winder** (as he then was) in **General v Costa and others [2017] 1 BHS J. No. 135** and vary the Disclosure Order to limit disclosure to all documents relating only to the complainants of the Swiss Authorities, namely; Allard Ritmeester Van Der Kamp. Ghislain Dillies and Beatrice Du Chastel De La Howarderie.

53. I do not agree with the Applicants that disclosure is required of all the documents relative to the account in the event there “are other potential victims/complainants”. This appears to be a fishing exercise. It would seem to me that the intent is to search the account not only to discover evidence relative to the complainants, but to see what other information is contained therein.

Conclusion

54. The Disclosure Order is varied to the extent that disclosure is limited to all documents relating only to the complainants of the Swiss Authorities, namely; Allard

Ritmeester Van Der Kamp. Ghislain Dillies and Beatrice Du Chastel De La Howarderie in the subject account at ABL.

55. The period for disclosure will stand as from January 2016 until the date of the Order.

56. No part of the information contained in the unfiled affidavit of Joycelyn Bennet is to be used in any proceedings without the leave of the Court in order to preserve the confidentiality of the information contained therein.

57. I make no order as to costs.

Dated 25th August, 2022.

DONNA D. NEWTON
Justice