COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

Claim No. 2023/CLE/gen/00949

IN THE MATTER of Part 49 of the Supreme Court Civil Procedure Rules, 2022

AND IN THE MATTER of an application by Pictet Bank & Trust Limited for Interpleader relief concerning claims by Edelweiss Investments Inc. (Panama) of the one part, Hemaren Stiftung (a Panamanian Foundation) of the second part, and Loudmila and Veronica Bourlakova of the third and fourth part, respectively, in respect of assets contained in an account maintained at Pictet Bank & Trust Limited

B E T W E E N

PICTET BANK & TRUST LIMITED

Applicant

AND

EDELWEISS INVESTMENTS INC. (PANAMA)

First Defendant

AND

HEMAREN STIFTUNG (a Panamanian Foundation)

Second Defendant

AND

LOUDMILA BOURLAKOVA

Third Defendant

AND

VERONICA BOURLAKOVA

Fourth Defendant

Before the Honourable Justice Simone I Fitzcharles

Appearances: Mr Sean Moree KC with Mrs. Erin Hill for the Applicant

Mr Frederick Smith KC with Mrs. Pearline Ingraham-Wood for the First and Second Defendants

Mr Christopher Jenkins KC with Mr Valdere Murphy for the Third and Fourth Defendants

Hearing: 21 May 2026

RULING

FITZCHARLES, J.

Introduction

1. This is my brief Ruling on an application filed on 19 December 2025 by the First Defendant, Edelweiss Investments Inc (Panama) ("**Edelweiss**") and the Second Defendant, Hemaren Stiftung (a Liechtenstein Foundation) ("**Hemaren**"). The application is made in the context of interpleader proceedings which have been brought by the Applicant, Pictet Bank & Trust Limited (the "**Applicant**" or the "**Bank**") by a Claim Form filed on 24 October 2023 (the "**Bahamian Proceedings**").

2. The application before the Court also relates to an application filed on 22 December 2023 by the Third and Fourth Defendants, Loudmila Bourlakova ("**LB**") and Veronica Bourlakova ("**VB**") (collectively, the "**Bourlakovas**") by which they seek an order that the Bahamian Proceedings be stayed (the "**Stay Application**") in favour of and pending the determination of Case BL-2020-001050 (inclusive of appeals therefrom) before the High Court of Justice (Business & Property Courts) of England and Wales (the "**English Proceedings**"). The order in the Stay Application is sought on the basis that England is the proper jurisdiction for the determination of the ownership of Edelweiss and/or the assets that are the subject matter of the Bahamian Proceedings.

3. Edelweiss and Hemaren now seek an initial order for, amongst other relief, permission to reopen and adduce new evidence in the Stay Application. They also seek an order for directions as to the continued Stay Application and costs. Hemaren and Edelweiss assert that there have been new and material developments arising out of two Panamanian judgments and an English judgment which ought to be considered to ensure the protection of their rights under Article 20 (8) of the Constitution. They argue that pursuant to Rules 1.1 and 26.1(2)(v) of the Supreme Court Civil Procedure Rules 2022 (the "CPR") and/or the inherent jurisdiction of the Court and/or pursuant to Article 28(1) regarding Article 20(8) of the Constitution the hearing of the Stay Application should be reopened. To support the application of Edelweiss and Hemaren to adduce new evidence, they have filed on 10 April 2026 a Notice of Intention to Adduce Evidence of Foreign Law. Further, upon a preliminary objection by the Bourlakovas that the Court's permission is required before expert evidence in the form of foreign law evidence can be adduced, Edelweiss and Hemaren took out an application on 19 May 2026 for permission to rely on further expert evidence of Marisol T

Ellis (the "Ellis Affidavit"). The judgments which Edelweiss and Hemaren apply to put before the Court in the Stay Application are:

(1) Judgment of the Panamanian First Superior Court of The First Judicial District dated 30 January 2025 delivered by Judge Melina E. Robinson Oro, entry no. 24SA ("Judgment No. 52 Appeal");

(2) Judgment dated 18 July 2025 of Mr Justice Richard Smith of the High Court of England delivered in the English Proceedings; and

(3) Judgment dated 16 September 2025 delivered by Judge Angela Russo De Cedeno in the Panama Proceedings in entry no. 638442025 ("Cassation Appeal").

4. An order on directions was made by this Court on 12 March 2024 (the "**Directions Order**"), by which, inter alia, assets held on a bank account in the name of Edelweiss ("**the Account**") at the Bank were made subject to a freezing-style order (the "**Preservation Order**"). By the Preservation Order (which is paragraph 2 of the Directions Order) the assets on the Account are allowed to be paid by the Bank to satisfy expenses related to the Account and the administration thereof, but otherwise any payment made in favour of any of the Defendants or any third party shall require the express written agreement of all parties or an order of the Court. Edelweiss and Hemaren seek the variation of the Directions Order so as to make the same consistent with certain undertakings given by Edelweiss and Hemaren in relation to a proprietary injunction granted in the English Proceedings in July 2025. Edelweiss and Hemaren assert that the variation they propose would be less restrictive than the terms of the current Bahamian Preservation Order, and would allow them to meet current and future financial obligations.

5. The Bourlakovas oppose the reopening of their application to stay these proceedings pending the determination of the English Proceedings. They also oppose the application of Edelweiss and Hemaren to vary the Directions Order given by the Court on 12 March 2023 which restricts all Defendants' use of the assets on the Account. However, the Bourlakovas would wish for the Court to take into consideration evidence of foreign law given in the First Expert Report of Jorge Federico Lee dated 1 May 2026 prepared for the Bahamian Proceedings and the Fifth Expert Report of Mr Lee prepared for the English Proceedings (the "Lee Reports"), in the event the Court decides to consider the Affidavit of Marisol T. Ellis filed on 13 April 2026 and the First Affidavit of Miquel L. Cleare filed on 19 December 2025. In this regard, the Bourlakovas have caused to be filed on 01 May 2026, a Notice of Application seeking permission to rely on foreign law evidence and a Notice of Intention to Adduce Evidence on Questions of Foreign Law.

6. The Court acknowledges that on 30 June 2025, Counsel for the Bourlakovas brought to the Court's attention a decision of the Honourable Judge Thomas J. Rebull of the Circuit Court of the 11th Judicial Circuit for Miami-Dade County, Florida, USA (the "Florida Decision"), handed down in Florida proceedings (the "Florida Proceedings") involving the Bourlakovas and other persons who are not parties to the Bahamian Proceedings, but who are parties to the related large, complex, multi-jurisdictional fraud dispute which is ongoing. The Florida Decision dealt with a similar issue

for a stay of proceedings pending the outcome of the English Proceedings. In that regard, Counsel for the Bourlakovas filed the First Affidavit of Takeio Frazer filed on 30 June 2025. While the Bourlakovas did not make a formal application for the Court to take the Florida Decision into consideration, they felt it appropriate to inform the Court of that development which they considered to be material to the Stay Application in the Bahamian Proceedings. Edelweiss and Hemaren differed with this view as to the materiality of the Florida Decision.

7. This Ruling also concerns an application by the Bank for its costs to date in the Bahamian Proceedings. The Bank maintains a neutral position and has stated it colludes with no party. The Bank's application for its costs of the Bahamian proceedings to date, is opposed by Edelweiss and Hemaren.

The Stay Application

8. The Stay Application was heard on 15 October 2024. At that hearing Edelweiss and Hemaren opposed the Stay Application. In summary, the position of Edelweiss and Hemaren taken at that hearing is encapsulated in the points set out immediately below from (1) through (6).

(1) The Bahamas and not England is the appropriate forum to decide the Interpleader Application.

(2) The answer to the question whether the legal directors of Edelweiss are those appointed by Hemaren, or alternatively, at the behest of VB, will assist the Bahamian Court in deciding the Interpleader Application. This is because only the properly appointed directors of Edelweiss can give instructions to the Bank.

(3) The question as to whether VB is the legal or beneficial owner of the shares in Edelweiss and entitled to a declaration to that effect will take years to be decided and is not relevant in determining the Interpleader Application.

(4) There is therefore no reason for the Interpleader Application to await the resolution of who owns the shares of Edelweiss.

(5) There are no case management grounds for a stay because there is no real risk of prejudice to the Bourlakovas of the Interpleader Application being decided before the question as to who owns the shares of Edelweiss. On the other hand, there is a real risk of prejudice in a stay being ordered because its effect would be to give the Bourlakovas a freezing order on the Account at the Bank for an uncertain and lengthy period without requiring them to satisfy the usual criteria for obtaining one.

(6) In all the circumstances, the Stay Application is an abuse of process.

9. At the hearing of the Stay Application, the Bourlakovas took the position summarized in the points set out immediately below from (1) through (7).

(1) The English Proceedings would determine the dispute between Bourlakovas on the one hand and Edelweiss and Hemaren on the other, including the issue of the ownership of Edelweiss and the control of its assets (inclusive of assets held in the Account at Pictet Bank & Trust Limited) which form the subject matter of the Interpleader Proceedings.

(2) A stay would avoid unnecessary duplication of proceedings, costs and judicial resources across multiple jurisdictions, particularly given that substantially the same issue of ownership, control and Panamanian law are already being litigated extensively in England. This includes a 15-week trial due to start in October 2027.

(3) A stay would mitigate the risk of inconsistent or irreconcilable judgments being issued by different courts in relation to substantially the same issues, including conflicting determinations concerning the ownership of Edelweiss and control of its assets.

(4) The English Proceedings involve all relevant parties to the broader dispute, including the Kazakovs and other individuals alleged to be involved in the wider international fraud dispute, whereas not all such parties are before the Bahamian Court.

(5) England is the forum with the most real and substantial connection to the underlying dispute and is the single jurisdiction in which all claims arising out of the alleged international fraud can most suitably be determined together. Richard Smith J held in his 8 September 2023 judgment in the English Proceedings that the English Court had jurisdiction and that England was the appropriate forum to determine VB's claim to a declaration as to the ownership of Edelweiss.

(6) There would be no material prejudice to Edelweiss or Hemaren arising from the grant of a temporary stay pending the determination of the English Proceedings, particularly given (i) the undertakings already given by Edelweiss and Hemaren in England restricting the dissipation of assets and (ii) the absence of evidence that Edelweiss requires access to the Pictet Bahamas funds (as opposed to other funds in other accounts in other jurisdictions) for any legitimate trading or business purpose.

(7) The orderly and efficient administration of justice favours permitting the English Court to determine the underlying issues first, after which the parties can return to the Bahamian Court if necessary, in relation to any outstanding issues in these proceedings.

Reopening the Stay Application

10. The purpose of adducing the new Panamanian judgments at this point appear to be not dissimilar to when (in the Stay Application hearing) the First and Second Defendants adduced in

evidence Judgment No. 52 and Judgment No. 48 at their then current stage in the Panamanian court system. Mr Smith KC contended that the Stay, on the basis of the Panamanian evidence ought to be refused and that the Bourlakovas position on the Interpleader is hopeless. Edelweiss and Hemaren continue to submit that the issue before the Bahamian Court is a narrower one than the issue of who owns the shares in Edelweiss. It is contended that the Bahamian Court should not grant a stay of proceedings and should hear the Interpleader because the English Court is not determining the question of from whom the Bank can accept instructions in the operation of the Account, or who is the current Board of Edelweiss. The English Court, it is submitted, is hearing the separate question of who owns Edelweiss. Moreover, it is submitted that the new evidence will be dispositive of the Stay Application. The Court has received the Affidavit of Miquel Cleare in support of the Notice of Application to reopen the hearing of the Stay Application filed on 19 December 2025, amongst other evidence.

11. The Court takes into consideration also the contentions of the Bourlakovas. Mr Jenkins KC contends that the answer to the question on whether the legal directors of Edelweiss are those appointed by Hemaren or alternatively those appointed by VB turns on whether VB was the shareholder in Edelweiss. If VB was the owner of Edelweiss, the directors she appointed will be Edelweiss' legitimate directors. The Bourlakovas contend that it is for that reason that the outcome of the Bahamian proceedings turns directly on the Share Ownership issue, which is before the English Court and in a more advanced stage. Further, several arguments are made to the effect that the Panamanian judgments sought by Hemaren and Edelweiss to be adduced as new evidence are not material developments. Amongst other arguments advanced, Mr Jenkins KC asserts that the Panamanian judgments are not material developments primarily because Hemaren and Edelweiss have previously conceded that, in determining the Stay Application, this Court was not being asked to determine the effect of the Panamanian judgments previously submitted as evidence. Now, Hemaren and Edelweiss seek to resile from that concession.

12. Additionally, for the Bourlakovas, Counsel contends that it is not necessary for this Court to assess the effects of the Panamanian judgments, as these Bahamian proceedings should be stayed in favour of the English Proceedings. In the English Proceedings, the English Court has decided that the effects of the various Panamanian judgments are to be considered at a trial commencing in October 2027. It would be an abuse of process for Edelweiss and/or Hemaren to argue, and/or they would be estopped from arguing, that this Court should summarily determine in their favour matters which the English Court refused to determine summarily. Allowing Edelweiss and Hemaren to reopen the Stay Application would undermine finality, disrupt coherent case management, and defeat the purpose of the Stay Application, which is to allow the English court to determine first the issue as to Edelweiss' ownership, which will determine the identity of Edelweiss' directors from whom the Bank should take instructions.

13. Without prejudice to their primary position that the Panamanian judgments ought not to be admitted on the basis they are not material developments to the Stay Application, in the event the Court were minded to reopen the Stay Application and consider the Ellis Affidavit, the Bourlakovas submit that the Court should consider the Lee Reports in the Bahamian Proceedings.

The Court has received, amongst others, the Third Affidavit of Victoria Pigott filed on 5 May 2026 and the First Affidavit of Tinarje Moxey filed on 1 May 2026.

14. The Court considers that the decision remains pending on the Stay Application and in the meantime the factual or legal landscape has progressed in Panama and England. Further, generally while parties are expected to adduce all the evidence on which they intend to rely before closing their respective cases, the developments in relation to which Edelweiss and Hemaren seek to adduce further evidence (and in fact the developments brought to the Court's attention by the Bourlakovas in the Florida Proceedings) all occurred within a few short months after the closure of the hearing of the Stay Application in The Bahamas.

15. Regard must be had to the CPR and the Overriding Objective to deal with cases justly. The Court must also consider whether the evidence sought to be adduced is new, material, credible, promptly raised and, if allowed, may not prejudice the other parties or that any unfairness may be sufficiently neutralized by appropriate directions.

16. Judgment on the Stay Application has been reserved but not yet delivered. The Court is urged to accept that given the delay in receiving a ruling on the Stay Application, without having the benefit of hearing the new evidence which came to light after the Stay Applicaton, any decision may be unfair to the parties. The Court considers that, to be clear, we are not in a post-judgment situation. As such, there is still a possibility to reopen the hearing of the Stay Application. Further, the Court accepts that the well-rehearsed principles in **Ladd v Marshall** [1954] 3 All ER 745 are usually applied in situations such as is presented in the instant case, although flexibly, and with regard to the principle of finality in litigation and the overriding objective. However, the temporary Stay Application in this matter is not equivalent to a full trial or, if granted, will not result in a final disposal of the matter on its substantive merits. As such, the finality concern is not as strong as it would be in the case where a final judgment has been delivered, or where a trial on the merits has occurred. Both sides appear to accept that the Court has a discretion to reopen the Stay hearing.

17. I consider that any reopening of the Stay Application must accord with justice. Further to this, fairness would prompt that any evidence which is permitted to be adduced by the First and Second Defendant (the nature of which the Court has seen in the Ellis Affidavit) must be balanced by receiving evidence from the Third and Fourth Defendants (which the Court has also seen in the Lee Reports). This Court is told that in the English Proceedings, extensive expert evidence has been filed as to the effects of the Panamanian judgments and the English Court has refused summary judgment and/or a strike out of the claims of VB for a declaration that she owns and is the sole shareholder of Edelweiss.

18. I was urged not to permit a collateral attack upon a recent English judgment in which the English Court refused to summarily determine issues pending before that court which must now go to trial. The Court is cautious as it would seem disproportionate and unfair for the parties to be made to repeat all that has transpired already in the English Proceedings or to be "twice vexed" in

having to relitigate the same repackaged issues in The Bahamas where the applications have been refused in another jurisdiction. The balance which must be struck in the interest of fairness would provide that no wholesale rehearing of the Stay Application can be permitted in these circumstances.

19. Having considered the evidence and submissions of the parties, the Court is willing to consider the new evidence of both sides – that is – new evidence presented to support the position of the First and Second Defendants on the one hand and in response, evidence presented in support of the position of the Third and Fourth Defendants on the other. However, in my opinion, fairness requires limited submissions. The Court will admit the post-hearing foreign judgments (as enumerated in paragraph 3(1), 3(2) and 3(3) above for the limited purpose of determining the pending Stay Application.

20. The parties in filing the evidence of Mrs Ellis and Mr Lee have had an opportunity to apprise the Court of the expert evidence they seek to rely upon. Some submissions have been laid over in respect of each of these. The Court is amenable to holding a hearing to give directions as to a date for oral argument and any additional short submissions the parties would wish to file. The Court will hear the Stay Application only. If it is unsuccessful, then directions will be given for the hearing of the Interpleader Application. If the Stay Application is successful, appropriate Orders shall be entered as necessary in relation to the Bahamian Proceedings and the Account.

Variation of the Directions Order

21. Hemaren and Edelweiss seek a variation of the Preservation Order embodied in paragraph 2 of the Directions Order. The Court, having reviewed the evidence and submissions in full, requires a further audience with Counsel for the parties for the purposes of clarification of the parties' positions on certain facts and issues. The Court finds this course appropriate to assist with formulating any appropriate preservatory relief, if it is decided the current order need be adjusted. As such, the decision in relation to the variation of the Preservation Order in the Directions Order shall be rendered following a further hearing to be convened as soon as practicable to deal with the variation issue.

Costs of the Bank

22. The Bank's application by which this cause was commenced is in the nature of an interpleader action. Mr Moree KC applied for the costs of the Bank. On 24 February 2026 at a hearing for directions, Mr Smith KC indicated that he would seek his client's instructions as they had not indicated agreement to have the costs of the Bank paid out of the Account. At a previous hearing the issue of the Bank's costs had arisen but at that time Mr Smith KC indicated he had only recently been instructed and therefore did not have instructions on the issue of the costs of the Bank. At the 24 February 2026 hearing, the Court set 21 May 2026 to hear the parties on the issue of the costs of the Bank. On that date, Mr Smith indicated that his instructions were to object to the payment of the costs of the Bank from the assets on the Account.

23. The Court entertained brief submissions from Mr Moree KC and Mr Smith KC. Mr Smith KC argued that even in 2023 it was clear, (based upon the Affidavit of Rosa Perez which was first filed as an exhibit to the Affidavit of Nicholas Pennerman on 22 December 2023), who the official officers and directors of Edelweiss were. Mr Smith KC contended that Edelweiss owns the Account and as such the Bank should not have been concerned with that question. The Bank ought to have been advised to discontinue the interpleader proceedings. Mr Moree KC contended that in 2023 when the action was brought there was a live dispute as to who could instruct the Bank. He stated that an order was made in the interpleader proceedings on 12 March 2024, which was not appealed. Counsel further argued that the submissions of Hemaren and Edelweiss filed on 18 May 2026 to the effect that "there is no justification for the Interpleader continuing" suggests that the filing in 2023 was correct. Counsel also contended that there remains a significant dispute between the parties and the English Proceedings cannot be ignored. Finally, he submitted that if Edelweiss and Hemaren lose the action in the UK, and the Bank in the meantime failed to take the steps in The Bahamas that it has, the Bank would be exposed to significant liability. Mr Moree KC argued that, in these circumstances, it would be an untenable situation if it were true that the Bank is not qualified to bring the interpleader action.

24. By the Affidavit of Shawn A Forbes filed on 9 November 2023 (the "Forbes Affidavit"), Mr Forbes as Head of the Legal Department of the Bank explained that as a result of ongoing litigation in various jurisdictions amongst the Defendants, the Bank received conflicting instructions and information regarding the ownership of Edelweiss and the assets it holds in the Account, as well as from whom the Bank should accept instructions.

25. According to the evidence filed on behalf of the Bank, Edelweiss and Hemaren placed the Bank on notice that should it not accept their instructions, Edelweiss could suffer irreparable harm and it may seek to hold the Bank liable. Mr Forbes also stated that the Bourlakovas have placed the Bank on notice that any payment made in favour of Edelweiss or Hemaren will be contested and the Bourlakovas may seek to hold the Bank liable for the same.

26. In paragraph 18 of its Amended Statement of Claim filed on 24 May 2023 the Bank pleaded:

> "Due to the ongoing dispute between the Defendants, specifically the ongoing litigation in various jurisdictions, and as well as their competing views in relation to the ownership of the Account, the Applicant seeks the assistance of the Court. The Bank maintains its willingness to pay or transfer the assets on the Account into Court or to dispose of it as the Court may direct."

27. Further, at paragraph 36 of the Forbes Affidavit, Mr Forbes indicated again that due to the dispute between the Defendants, their ongoing litigation and competing views in relation to ownership of the Account, the Bank seeks the assistance of the Court as to from whom it should accept instructions. This language becomes important as it highlights the divide between Hemaren and Edelweiss on the one hand, and the Bourlakovas on the other hand, on the question of what is

the interpleader question which this Court is asked to determine. For Hemaren and Edelweiss it is contended that the question as to who owns the Account and assets of Edelweiss does not determine the interpleader question of from whom the Bank should accept instructions. For the Bourlakovas, the question of the ownership of Edelweiss and its assets is bound up with who has control of the Account and therefore who may instruct the Bank. The Bourlakovas allege, inter alia, that Hemaren and others have wrested control of Edelweiss and its assets by fraud and that cause is before the English Court. If fraud is found, it shall unravel all, contends Mr Jenkins KC.

28. Weighing all of the circumstances brought to the attention of the Court by the parties to date and their respective submissions, the Court is of the view that the Bank has been faced with conflicting instructions and a live dispute over control of the Account. It was therefore justifiable for the Bank to have brought the Bahamian Proceedings. In such circumstances, I find it reasonable for the Bank to seek its reasonable costs to date, and to have the same paid out of the Account.

29. In the circumstances, the Court orders that:

(1) the costs of the Applicant, Pictet Bank & Trust Limited be paid from the Account of Edelweiss Investments Inc (Panama);

(2) The hearing of the application for the variation of Paragraph 2 of the Directions Order (namely, the Preservation Order) filed in these Interpleader Proceedings on 14 March 2024 shall continue on a date to be fixed; and

(3) The Court will permit the reopening of the application for a stay of these proceedings in order to admit the post-hearing foreign judgments enumerated in paragraph 3(1), 3(2) and 3(3) of this Ruling, the Ellis Affidavit, the Lee Reports and short submissions on the same for the limited purpose of determining the pending Stay Application.

30. As previously stated, this Ruling is a brief one. I reserve the right to give fuller reasons if necessary.

Dated 08 June 2026

Simone I Fitzcharles

Justice