

IN THE SUPREME COURT OF SEYCHELLES

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**Reportable**

[2019] SCSC 426

MA 127/2018

Arising in CA 34/2013

**INTERSHORE BANKING CORPORATION LTD**

*(rep. by Philippe Boulle)*

**Appellant**

and

**CENTRAL BANK OF SEYCHELLES**

*(rep. by George Thatchett)*

**Respondent**

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**Neutral Citation:** *Intershore Banking Corporation Ltd v Central Bank of Seychelles* (MA 127/2018) [2019] SCSC 426 29 May 2019).

**Before:** Vidot J

**Summary:** Appeal against refusal to grant a banking licence. Confidential information. Alleged breaches of the Financial Institutions Act

**Heard:** 01<sup>st</sup> April 2019

**Delivered:** 29 May 2019

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**JUDGMENT**

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**VIDOT J**

- [1] The Appellant had applied to the Central Bank of Seychelles (hereafter “CBS”) for a banking licence pursuant to section 5 of the Financial Institutions Act 2004 (hereafter “the Act”). This was by application dated 12th June 2012. The application was refused by CBS and communicated to the Appellant by letter dated 17th July 2013. Therefore feeling

aggrieved by such decision the Appellant appealed the CBS decision to the Board of the Central Bank pursuant to section 16(1) of the Act. The Board denied the appeal and communicated the reasons for its decision in a letter dated 18th October 2013.

- [2] As a result of the decision by the Board of the CBS, the Appellant appealed to the Supreme Court pursuant to section 16(3) of the Act. Section 16(3) of that Act provides that "*If an aggrieved party is not satisfied with the final decision of the Central Bank under this section, the aggrieved party may appeal to the Supreme Court within the time in accordance with the procedures applicable to civil appeals to that court.*" That appeal was in case number 34 of 2013.
- [3] However after the Memorandum of Appeal had been filed, the Appellant also filed an application under case MA 249 of 2014 before the Supreme Court praying for an order compelling the Respondent to release confidential information relied upon by the Board of CBS in terms with sections 6(1)(d) and 6(1)(j) of the Act or otherwise requesting that the matter be referred to the Constitutional Court to determine the constitutional issue relating to the Appellant Constitutional rights to information under Article 28, to equal protection under the law under Article 27 and under Article 19(7) of the Constitution. The matters were heard and the appeal rejected by the Supreme Court which held that the confidential information should remain confidential. The Appellant appealed to the Court of Appeal against the decision of that Supreme Court and the court ordered that the confidential information should not be released to the Appellant
- [4] In refusing to release the confidential information the Supreme Court relied on section 6(3)(b)(ii) of the Financial Institutions Act, which reads;
- (3) *within 90 days after the receipt of a complete application, the Central Bank shall-*
- (a) *grant a licence, or*
- (b) *informed the applicant that it has been refused to grant a licence giving the reasons for the refusal:*
- Provided that the Central Bank shall be under no duty to give reasons where-*
- i. *It is precluded by law;*

- ii. *Information has been disclosed to the Central Bank under conditions of confidentiality between the Central Bank and any public sector agency or law enforcement agency; or*
- iii. *Information had been disclosed to the Central Bank under condition of confidentiality between the Central Bank and any other foreign regulatory agency pursuant to a memorandum of understanding, an agreement or treaty entered into by the Central Bank of the Republic of Seychelles.*

[5] The Supreme Court found that pursuant to section 6(3)(b)(ii) the Central Bank was empowered to refuse the grant of a licence without giving reasons, if the information which is in their possession has been disclosed to the Central Bank under conditions of confidentiality between the Central Bank and a public sector agency or law enforcement agency.

[6] However, the Court of Appeal did not pronounce on the merit of the grounds of appeal, but after consideration of that appeal, the Court remitted the case to the Supreme Court for rehearing. As already stated, the Court of Appeal ruled that the confidential information be made available to the Appellant. It is this Appeal that this judgment addresses.

[7] The Central Bank refused the application on the 17<sup>th</sup> July 2013. Their reasons for refusal are;

- i. Pursuant to section 69(1) (a) of the Financial Institutions Act, the Appellant failed to fully disclose information necessary to meet the criteria of completeness in terms of information for necessary for the issuance of a licence;
- ii. That under section 6(1)(b) of the said Act, the disclosed amount of liquidity available was not sufficient to meet unexpected losses should these arise;
- iii. That pursuant to section 6(1) (d) of the Act and based on the confidential information received and identity and character of individuals holding a substantial interest in the Appellant company did not fulfil the requirements necessary for a banking licence;

- iv. That under section 6(1)(j) of the Act and based on confidential information received, the corporate activities within the Appellant group posed a risk or might affect the international standing or good repute of Seychelles; and
- v. That pursuant to section 6(1)(k) it was not possible to fully assess the financial soundness of the Appellant as the Appellant's director was also a beneficial owner of Intershore Aviation Ltd.

### **Further Application**

[8] Prior to the hearing of the appeal the Appellant filed case MA 169 of 2018. This was an application to amend the Memorandum of Appeal. This principally was because the confidential letter had been disclosed to the Appellant. The Respondent raised no objection to the application and having considered the same and the amendment made in light of that letter, the Court allowed the application. Further, the Appellant filed case MA170 of 2018 in which he sought leave to produce further evidence set out in an attached affidavit be admitted for the just and proper determination of the appeal. Again, the Respondent did not raise objections and the application was allowed.

### **The Grounds of Appeal**

[9] The Amended Memorandum of Appeal filed on 03<sup>rd</sup> July 2018, raises 6 grounds of appeal. They are quite extensive in nature and for the sake of completeness shall be reproduced in extenso herein. They are;

#### **Ground 1**

##### **Section 6 (3) of the Financial Institutions Act**

[10] The statement of the Respondent that *"any objection or concerns regarding the request for supplemental information that was requested post this deadline could have been raised by the Applicant"* lacks juridical reasoning in that;

- i. Stating that the Appellant could have done an obvious and simple act is not a rational that can support any position on the law applicable.

- ii. Fails to address the legal argument raised by the Appellant in its appeal statement.
- i. All the supplementary information was nothing but a deceitful manoeuvre to get information that would serve as an excuse to refuse the licence as no valid reason could be found in the main and substantial material that forms part of the application, which is evident in the fact that the refusal was not based on the substance of the statutory application.

## **Ground 2**

### **Section 6 (1) (a) of the Financial Institutions Act**

[11] The finding of the Respondent that under the above mentioned section *"the criteria has not been met due to the non-disclosure of two companies, namely, Lazare Financial Services Ltd and Lazare Properties Ltd for which Mr Boule is a director"* is not reasonable and justifiable as it fails to take into consideration most important and relevant facts that would attract a difficult conclusion in favour of the Appellant as follows;

- i. The directorships in the two companies were in fact disclosed to the Respondent by the Appellant.
- ii. The two companies were incorporated in Seychelles under the Companies Act 1972 in respect of which the names of the directors were thus on a public register at the Registrar of Companies.
- iii. The appellant had disclosed the directorships and beneficial ownerships of Philippe Boule in sixteen companies and two law firms including 12 companies registered overseas with no public registers.
- iv. The explanation of the Appellant to the effect that the two companies had escape the attention of Philippe Boule due to the fact that he had absolutely no pecuniary interest in the said companies which were owned by third parties and were dormant non-trading companies.

[12] All the above facts taken together point to a genuine mistake with no ill intent but which falls within the normal realm of expected and acceptable human error in such a complex application requiring a tremendous amount of factual information to be collated, which is thus excusable and should not attract any doubt on the integrity of the application.

### **Ground 3**

#### **Section 6 (1) (b) (i) of the Financial Institutions Act**

[13] The finding of the Respondent that the criteria under the abovementioned section relating to the financial status has not been satisfied because the *"liquid capital remains a concern especially as in times of financial hardship, capital will have to be available immediately, whereas liquidating assets or raising capital against unencumbered assets will not provide immediate funds"*, weighs against the appellant in a draconian and unjustifiable manner, unexpected future events as a reason to refuse a licence which is verging on the irrational, in the light of the known and expected fact that the Appellant will commence operation with share capital of Rs 27,000,000.00 which is 1/3 more than the statutory capital requirement of Rs 20,000,000.00.

### **Ground 4**

#### **Section 6 (1) (d) of the Financial Institutions Act**

[14] The use of confidential information allegedly disclosed to the Respondent under conditions of confidentiality is devoid of any merit or legal basis for the following reasons;

- i. There does not exist in any public sector or law enforcement agency any confidential information as against the person to which the information relates.
- ii. The law does not permit the Respondent to have access to any confidential information on conditions of confidentiality from any public agency or law enforcement agency.

- iii. The Constitution does not permit any public sector or law enforcement agency to maintain information confidential as against the person concerned by the information, by virtue of a constitutional right to information under Article 28 of the Constitution.
- iv. Basing the decision on information kept secret denies the appellant of a fair hearing, is against the law of natural justice and violates the Appellant's right to equal protection of the law.
- v. The argument in the appeal statement is ignored with a vague assertion "*that the fit and proper analysis is an ongoing exercise and new information that may arise at any time has to be considered*" which is totally meaningless in a process of adjudication when no new information is identified as having arisen at any time.

## **Ground 5**

### **Section 6 (1) (j) of the Financial Institutions Act**

- [15] The finding under the abovementioned section based on confidential information is without juridical foundation for the reasons set out under Ground 4 above.
- [16] To suggest "*that the corporate activities within the applicant group pose a risk and may affect the applicant and the international standing and good repute of Seychelles*" is absurd and meaningless viewed in the light of the fact that these activities have been carried on for over 19 years and the companies in the group are still licensed to carry on such business in Seychelles and overseas.
- [17] Furthermore the statement of the Respondent that the criteria "*also foresees the impact of risks in future on the international standing and good repute of Seychelles*" is inconceivable and fanciful in terms of the capacity Central Bank Board to foresee the future in an area of business under a completely different regulatory body, namely, the Financial Services Commission which licenses the corporate activities of the

Applicant referred to by the Respondent and has the mandate to ensure that the business of licensees do not pose a risk on the international standing and good reputation of Seychelles.

- [18] The references required as part of the application which were very relevant in respect of the above were completely and erroneously overlooked.

## **Ground 6**

### **Section 6 (1) (k) of the Financial Institutions Act**

- [19] The ground under this section for refusing the licence is so frivolous and devoid of rational reasoning that it only needs to be read to fall on its irrationality in the sphere of human expectation and understanding of a reason for a decision by an appellate authority

- [20] The grounds of appeal have been couched in a non-conventional manner in which grounds of appeal are not normally drafted or formulated. I expect that I have addressed them in a way that gives meaning to them and in a way that justice would be done.

## **The Appeal**

### **The Confidential letter**

- [21] The confidential letter that the CBS is strongly reliant upon is deemed to emanate from the Financial Intelligence Unit ("the FIU"). It is addressed to the Governor of CBS. The letter made some damning accusations against one of the Directors of the Appellant company. It attacks the character of Mr. Boule who is an Attorney-at-Law by profession but is heavily involved in the financial and offshore industry. I shall not herein refer to these accusations as they are most strenuously refuted by the Mr. Boule, but save to say that it states that Mr. Boule is involved in some business activity and that such activity is injurious to



Seychelles particularly as a financial business jurisdiction and that Mr. Boulle was inter alia involved in tax evasion and further that he advocated a number of points against provisions of the Anti Money Laundering Act and generally made defamatory remarks against the FIU and its personnel. It talks on “ongoing investigation” by the FIU against the Appellant Company. However, in the last paragraph of the confidential letter states that *“while none of the above approached a criminal threshold of proof, the aggregate of these individual risk indicators is I believe enough grounds for assessing the granting of this licence is undesirable on the grounds that as it represents an increased and unacceptable risk of anti money laundering in the jurisdiction and an ownership structure that is firmly at odds with international anti money laundering / terrorist-financing standards and with the intent of the Seychelles legislation.*

[22] These statements are serious and if could be established, would be reasonable cause for denying the grant of a licence. Mr. Boulle appearing for the Appellant Company completely rejects these accusations. In fact he rejects the letter in its entirety. He attacked the letter as being fake and a fraud. He further submits that the letter did not emanate from the FIU. He challenges the letter head of the letter and the signature of its maker, allegedly Liam Hogan, who was formerly the Deputy Director of the FIU. In fact the FIU presented no evidence at all of such allegations and they remain totally unsubstantiated.

[23] Mr. Thachett representing the Respondent stated that there was no reason for the Governor of the Central Bank to doubt the authenticity of the letter of 8<sup>th</sup> April 2013. He explained the letter head which merely showed what appears to be a photocopy of a logo of the FIU and the word “FIU” and “confidential” typewritten on it as being an internal paper used for circulating internal memos. I might concede to that even if I would expect that FIU being an independent entity albeit under the watch of the CBS would have used a more formal headed paper in releasing such letter to the CBS. In an affidavit dated 12<sup>th</sup> September 2018, in response to the Appellant’s affidavit adducing further evidence on appeal, the Governor of the CBS stated that she received the letter of the 08<sup>th</sup> April 2013 from the FIU. I will not doubt the Governor for that position. However, she should have been more attentive to the letter head and the signature of the maker of the letter. In fact the letter is challenged on

the ground that it is alleged not to have been signed by Liam Hogan. Indeed, I believe that the Governor would have had interactions with FIU and Mr. Hogan as Deputy Director whereby she would have been accustomed to Mr. Hogan's signature and should have noted that the signature on the letter of the 08<sup>th</sup> April 2013 is totally different from his genuine signature.

- [24] I find that serious doubt exists as to the authenticity the signature of the letter. The Appellant produced several specimen of Liam Hogan's signature as appeared on several official letters he signed. These were marked A(1), A(2), A(3) and A(4). It is difficult to find a handwriting expert in the Seychelles. In the absence of such an expert, the Court nonetheless is granted jurisdiction to compare the impugn signature with an admitted signature, vide **Joudan De Commarmond v Jules D'Arc Dubal [1982] SLR 122** and **Didon and Another v Léveill  [1983 – 1987] 3 SCAR (Vol 1) 164**. I find that the impugned signature allegedly made by Liam Hogan differs significantly from those signatures which appear on several official letters produced to show the difference. I note that normally Liam Hogan's signature is slanted to the right and the impugned one slants to the left or is very straight. The genuine signature of Liam Hogan shows a "g" where the lower loop is elongated. The letter shows a letter "g" that is more round and totally different. The "L" and "H" appear to be different from that in the impugned letter. Indeed, I can safely conclude that the all the letters of the original signature shows a stark difference from that of the impugn letter and I can safely state that that confidential letter was not signed by Liam Hogan and should be totally disregarded. In fact an expert is not needed to observe such difference. It is indeed a bad forgery.

### **Ground 1**

- [25] This ground of appeal deals with section 6(3) of the Act. That section provides that once an application for a banking licence has been received in terms with section 5, the CBS shall within 90 days after receipt of the application (a) grant a licence; or (b) inform the applicant that it has refused to grant the licence giving reasons for such refusal. However the section provides for circumstance when the CBS is under no duty to give reasons. This could be (i) if precluded by law, (ii) information has been disclosed to CBS under the

condition of confidentiality between the Central Bank and any public sector agency or law enforcement agency and (iii) information has been disclosed to the CBS under confidentiality. The Appellant is saying that since no reply was received from the CBS within 90 days that it was right for them to conclude that the application has been successful. They claim that CBS failed to respect its obligation under the law. That is the position it adopted in its written appeal to CBS.

- [26] In response, Counsel for the Respondent argued that within 90 days CBS would have acted on a "*complete application*". So if they received an incomplete application then they could not have acted on it. It referred to the fact that the Appellant was always being asked for further information as the same was necessary before considering approval of the licence. It was due to these deficiencies in the application that the Respondent could not process the application. The Appellant refutes that position.
- [27] On 18<sup>th</sup> July 2012, the Respondent had responded to the application stating that the application was not complete stipulating several information were missing. Intershore replied to that letter on 25<sup>th</sup> July 2012 and provided the requested information. By letter dated 17<sup>th</sup> August 2012, CBS requested for additional information which again was provided by Intershore. After a few further queries, which information the Appellant provided the Respondent by letter dated 26<sup>th</sup> September 2012 advised "*that the application is now complete and that we will now start a substantive consideration of the application*". Yet by letter dated 4<sup>th</sup> October 2012 CBS asked for further information and the same was provided. Again requests for additional information kept coming on 11<sup>th</sup> October 2012, 20<sup>th</sup> November 2012, 14<sup>th</sup> December 2012, 17<sup>th</sup> December 2012, 24<sup>th</sup> December 2012, and 18<sup>th</sup> April 2013. In fact it took nearly one year before the Appellant was informed that their application had been rejected.
- [28] It is possible that the Respondent decision not to reject the application outright was due to additional information that was required as well that they wanted to ensure that all was in order so that a licence would be granted. However, I would have expected CBS to have a checklist where once an application is received, they would ensure that everything is in

order before consideration, rather than going on a fishing expedition for additional information. I do not share the Appellant position that after 90 days the Respondent had to approve or that when they failed to receive a letter of approval within 90 days that they would assume that the application had been approved. It could well be that the application was not approved and the Respondent was granting the Appellant sufficient opportunity to provide additional and information in order that the application be approved. This would mean that in a way the Respondent was extending time, albeit that the Act does not make provision for that, but I cannot state that this was case here. The Respondent seemed to be on a fishing expedition to find something detrimental to the Applicant that would allow them not to grant the licence.

[29] However, when the letter of 26<sup>th</sup> September 2012 was issued stating that the application was then complete, then the legitimate conclusion would be that the licence was approved and that there was no need for additional information. Indeed, I agree that in failing to communicate an answer after expiration of 90 days the Respondent was acting contrary to section 6 (3). After the 90 days the refusal of a licence was based almost entirely on the impugned letter. Further, the Applicant could not have objected to the request of additional information because the Respondent would most certainly have rejected the application and the Respondent at that time had the damaging information contained in the letter which at that point was confidential.

[30] In acting in that manner I consider CBS to have been very deceitful. They were at that point acting the damaging information allegedly obtained through confidentiality after the 90 day deadline. I agree the Appellant that the Respondent obtained the so called confidential information after the 90 day deadline, believing that they could keep the information confidential and deceitfully hide it from the Appellant. In fact not revealing the information was so prejudicial to the Appellant. That being said, I therefore, have to allow this ground of Appeal.

## **Ground 2**

- [31] That ground deals with section 6(a) of the Act. This concerns statements made in the letter of 17<sup>th</sup> July 2013, wherein it was stipulated that a ground for refusing the licence was because the Appellant had not disclosed 2 companies, namely Lazare Financial Services and Lazare Property Ltd for which Mr. Boulle was director. By the letter of 17<sup>th</sup> November 2013, the Respondent stated that the non-disclosure of directorship of such companies “*raises concern as to completeness of information submitted to CBS.*”
- [32] The Appellant disputes that and states that under section 5(1) of the Act, there was no requirement to disclose the directorship of Philippe Boulle or anyone else in the company whatsoever, except the directorship of the applicant company Intershore Banking Corporation Limited. Counsel for the Respondent disputes such position. They referred court to section 5(1)(o) which states a company incorporated under the Companies Act or financial institution incorporated outside Seychelles seeking to apply for a banking licence in Seychelles shall state in such application the type of licence requested in such manner as the Central Bank may specify and shall include “*such other information as the bank may require*”.
- [33] I note that under section 5(1)(e) the requirements for list of shareholders and beneficial owners of shares and section 5(1)(j) list of companies that the applicant hold shares specifying the number of shares and the registered address of these companies. That has specific application to the applicant company and not individuals such as Mr. Boulle as Director of the Respondent. I also had sight of the application form and again the shareholdings and beneficial owners of shares is specific to the applicant company. Therefore, I cannot follow Counsel for the Respondent’s submission in that Intershore Consultant group’s organization chart; Mr. Boulle is the beneficial owner of the entire group. That has nothing to do with the application for a banking licence. At the end of the day anyhow CBS had to rule whether it is satisfied or not whether the documents are complete and as such a licence is granted. As correctly put forward by Mr. Boulle, if CBS states that it has a concerns, then it should address those concerns that would render them satisfied or not satisfied. That is a statutory obligation.

- [34] It is correct that under section 5(1)(o) CBS may request for any additional information it requires. However, that information about Mr. Boulle's directorship of those companies were subsequently revealed. Unless that request is made Mr. Boulle was not under obligation to disclose the same. In terms with section 5(1) and the application form, that was not information needed to be provided unless pursuant to section 5(1)(o), the same was requested. Once requested such information was subsequently revealed to the Respondent. In any case as pointed out by Mr. Boulle, I believe this to have been an accepted human error and should not have attracted doubt from CBS, particularly when Mr. Boulle had no interest in these companies that were fully owned by 3<sup>rd</sup> parties. These were companies existing under the Companies Act and there is nothing to suggest that these companies were engaged any illegal activities that could be injurious to our jurisdiction. So, these companies were totally harmless and therefore cannot be a reason for denying the grant of a licence.
- [35] However, by letter of 26<sup>th</sup> September 2012, the Respondent had declared that the application was complete. It cannot now use incompleteness of application as a ground for refusing the grant of a licence and the requested information was made available upon requests. This means that the Appellant complied with section 5(1)(o).
- [36] I do not find any breach of sections 6(1) and 5(1) of the Act. As already stated there is no obligation to reveal the directorship of Mr. Boulle in any companies; that obligation is on the applicant company.

### **Ground 3**

- [37] Ground 3 refers to refusal of a licence on the premise that liquid capital of the applicant remained a concern to CBS especially in times of financial hardship, capital will have to be made available immediately, whereas liquidating assets or raising capital against unencumbered assets will not provide immediate funds. CBS had said that it was not satisfied with the capital structure of Intershore Banking Corporation.

- [38] This deals with sections 6(1)(b)(i) and 6(1)(e). These provide respectively for financial status and adequacy of capital structure. They are 2 different criteria that the applicant company had to satisfy CBS of.
- [39] I agree with Counsel for the Respondent that pursuant to the Financial Institution Regulations 2010 that at all times any bank being set up needs a paid share capital of SR20,000,000.00. However, Counsel went on to refer to the minutes of meeting of 19<sup>th</sup> March 2013, and submitted that that the bank was taking a loan of SR7,000,000.00 and that Mr. Boulle would take a loan and buy his personal assets because he wanted to strengthen the group, so he sold SR7M worth of assets to the group and he got cash in which he invested in the bank. From the minutes of the said meeting with the Board of CBS, Mr. Boulle had stated in no uncertain terms that that was incorrect.
- [40] Under the Financial Institutions Regulations 2010, a bank needs a startup capital of SR20M. The applicant company was offering SR27M. The Respondent had also queried about lines of unexpected financial hardship capital that will have to be made available immediately and that liquidating assets or raising capital against unencumbered assets will not provide immediate funds. However, by letter dated 26<sup>th</sup> July 2016, the Appellant had indicated that the beneficial owner had additional unencumbered assets worth SR139M to raise funds in addition to other revenue streams of the Intershore Group which would assist in the event of financial hardship.
- [41] Section 6(1) (b) of the Act provides that *“in considering an application for a licence received under section 5, the Central Bank shall conduct an investigation as it may deem necessary and shall grant a licence on being satisfied as to (b) the financial status a history of the applicant where the applicant is an established financial institution.”* This is read with subsection (c) that provides that the CBS need to consider the character and professional experiences of its administrators. Therefore, the CBS when considering the application merely had to state whether it was satisfied or not satisfied that the Appellant met these criteria. Does this mean that CBS was ambivalent about the Applicant meeting these criteria? Does it mean that they were satisfied but held certain points of concerns?

The use of the words “remains a concern” as appeared in its letter dated 18<sup>th</sup> October 2013, is totally ambiguous. Such ambiguity shows, as put forward by Mr. Boulle for the Applicant, a careless discharge of a most serious duty. I therefore find it impossible to hold the with CBS in regards to the financial soundness of the Applicant company and have already found that contrary to position put forward by the bank the Applicant had SR27M as start up capital which is way above what is required.

#### **Grounds 4 and 5**

[42] These grounds deal with “*confidential information*” which was conveyed in a letter allegedly from Liam Hogan, Deputy Director, relied upon by CBS in making its assessment as whether or not a licence should be granted. It refers to the right to information as provided for under Article 28 of the Constitution and the right to a fair hearing as it is against the law of natural justice and violates the Appellant’s equal protection under the law as provided for under Article 27 of the Constitution. The Appellant refers to the letter of the 8<sup>th</sup> April 2013 letter as a fake and a fraud and therefore the allegations are baseless and derogatory.

[43] However, we have been superseded by events. The Court of Appeal has made a pronouncement on the letter and I have already dismissed that letter. I have ruled that that impugn letter was never signed by Liam Hogan as is purported to have been. Therefore, the signature being fake and a forgery it cannot be relied upon as should be disregarded and rejected completely.

[44] That being the case, I see no reason to address these grounds of appeal save to state that they are upheld and succeed.

#### **Ground 6**

[45] This ground of appeal arises based on a letter from CBS dated 17<sup>th</sup> July 2017, it states that one of the reasons for refusing the licence was because Mr. Boulle is also the beneficial



owner of Intershore Aviation Ltd. That according to CBS poses more uncertainty in assessing the financial soundness of the Applicant.

[46] I find that this cannot be a ground sufficient to reject application for a licence. The companies are separated entities and since as submitted by Mr. Boulle, Intershore Aviation Ltd. has no assets and business bank account, I cannot find the connection with the directorship of the latter company impacting on the Appellant financial soundness. It has not been shown that Intershore Aviation Ltd was involved in any criminal activity. It is just an absurdity that requires no more consideration, save to add that this ground of appeal succeeds.

[47] I therefore allow the appeal in its entirety and the decision of the CBS and that of its Board are quashed and rejected.

Signed, dated and delivered at Ile du Port on 29<sup>th</sup> May 2019.

