

**SUPREME COURT OF SEYCHELLES**

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**Not Reportable**  
[2021] SCSC ...  
MC 31/2022

In the Ex-Parte matter of:

**TARUN ARONA**

**1<sup>st</sup> Applicant**

**CHANDLER KISHORE**  
(rep. by Clifford Andre)

**2<sup>nd</sup> Applicant**

In the matter between:

**TARUN ARONA**

**1<sup>st</sup> Applicant**

**CHANDLER KISHORE**

**2<sup>nd</sup> Applicant**

and

**FINANCIAL SERVICES AUTHORITY**

**1<sup>st</sup> Respondent**

**FINANCIAL CRIMES INVESTIGATION UNIT**

**2<sup>nd</sup> Respondent**

**FINANCIAL INVESTIGATION UNIT**

**3<sup>rd</sup> Respondent**

**OKX**

**4<sup>th</sup> Respondent**

**APPLEBY**

**5<sup>th</sup> Respondent**

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**Neutral Citation:** *ExParte Tarun Arona & Anor* (MC31/2022) [2022] SCSC ..... (15 June 2022).

**Before:** E. Carolus J

**Summary:** Application for Norwich Pharmacal Order.

**Heard:** 30 May 2022

**Delivered:** 15 June 2022

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**ORDER**

**The Application for a Norwich Pharmacal Order is dismissed**

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**ORDER**

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## CAROLUS J

### The Application

- [1] This Order arises from an ex parte application for a Norwich Pharmacal Order for the respondents to disclose certain documents and information to the applicants. The application is made by way of a Notice of Motion supported by two affidavits sworn by the 1<sup>st</sup> applicant Tarun Arora and two affidavits sworn by the 2<sup>nd</sup> applicant Chandler Kishore all dated 28<sup>th</sup> April 2022 and attested to by Notary Joel Camille. Exhibited are a number of supporting documents. The respondents are the Financial Services Authority (“FSA”), the Financial Crimes Investigation Unit (“FCIU”), the Financial Investigation Unit (“FIU”), OKX and Appleby. I note that neither the application nor the supporting affidavits contain any information as to what types of entity OKX and Appleby are, although it can be gathered that OKX is registered with the FSA and therefore must be an entity under its regulatory control as specified under Schedule 1 of the Financial Services Authority Act, 2013 as amended (“the FSA Act”).
- [2] The 1<sup>st</sup> applicant Tarun Arora avers in his original affidavit that he created a cryptocurrency wallet with Trust Wallet on 3<sup>rd</sup> August 2021 which he was using for business transactions. He had a cryptocurrency balance worth USDT6,697,029 of which USDT5,850,000 was transferred without his authority from the wallet to OKX Crypto Exchange (“OKX”) registered in Seychelles, which he noticed on 25<sup>th</sup> March 2022 whilst checking his balance for 23<sup>rd</sup> March 2022. He avers that “*OKX Exchange had stolen money from my wallet without my consent or authorisation*”. Mr. Arora further avers that on 26<sup>th</sup> March 2022 he attempted to contact OKX but received no response; that on the same day he registered a formal complaint with the Indian police and Mr. Chandler reported the matter to the Financial Investigation Unit in Seychelles (“FIU”) by phone; that 27<sup>th</sup> March 2022 the Indian police reported the matter to FIU by email; and that receiving no response from either OKX or the FIU, Mr. Chandler came to Seychelles on 4<sup>th</sup> April 2022 to make enquiries into the matter.
- [3] In his additional affidavit, Mr. Arora avers that since OKX is registered with the FSA, the latter should be in possession of “*all the documentation of the registered directors,*

*shareholders and beneficial ownership of the said company*". Further that he seeks a Norwich Pharmacal Order for the disclosure of the KYC, the beneficial owners, directors and shareholders of OKX so that the money which has been transferred without the proper authority to OKX and subsequently transferred from OKX *"to another wallet or company"* may be recovered. In addition he avers that the matter is one of urgency as it involves a huge amount of money which was stolen from him and for which the perpetrator should be punished by law.

[4] In his original affidavit the 2<sup>nd</sup> applicant Chandler Kishore averred that on 25<sup>th</sup> March 2022, Mr. Arora informed him of the theft from his cryptocurrency wallet which had occurred on 23<sup>rd</sup> March 2022; that on that same day i.e. 25<sup>th</sup> March 2022 he reported the matter to the FIU by phone; that on 26<sup>th</sup> March 2022 they got to know that these funds were moved to OKX Exchange whereupon they attempted to contact the latter through their webchat but received no response; that on 27<sup>th</sup> March 2022 the Indian Police reported the matter to the FIU by email; and that there being no response from either the FIU or OKX he travelled to Seychelles on 4<sup>th</sup> April 2022 to make enquiries. Mr. Kishore avers that he met with the FIU and FCIU team on 5<sup>th</sup> April 2022 when the FCIU formally took over the case. He also visited OKX's office at Eden Plaza on Eden Island where he found no one from OKX but met Ms Jyotsana Kaurik who claimed to be from Appleby and informed him that Appleby and OKX were partners. She advised him to make any requests via email at two email addresses she provided him with namely [jkaushik@appleby.com](mailto:jkaushik@appleby.com) and [mmoller@appleby.com](mailto:mmoller@appleby.com), but when the Indian Police emailed them they never responded.

[5] Mr. Kishore avers that he returned to India, and that despite following up with the FCIU he never received any response regarding any developments in the case. According to him *"the funds stolen were our clients holding as an agreement to the business and they started putting pressure on the company to have this matter sorted as soon as possible"*. Mr. Kishore avers that they returned to Seychelles, although he does not specify who accompanied him, to follow up on the matter. They met with the FCIU team on 25<sup>th</sup> April 2022, who assured them that they would follow up with the matter. On 26<sup>th</sup> April 2022, the FCIU informed them by email that they could not help them further since

the funds were no longer with OKX. He expressed the belief that FCIU'S slow action resulted in OKX being able to move the funds elsewhere, and that prompt action on its part could have prevented the same. He further avers that the FCIU never tried to check the KYC information and other details of the persons who moved the funds from OKX which would have been vital in solving the case. Mr. Kishore further avers that OKX has never replied to their enquiries, those of the Indian Police or the FIU regarding ownership of the accounts held with OKX where the cryptocurrency was initially moved.

[6] Mr. Kishore states that he seeks an Order for OKX to disclose the KYC due diligence conducted if any on the persons and/or company who authorised the transfer from Mr. Arora's wallet to any other person/company/other wallet, which transfer they believe was organised by OKX with the aim of stealing the said money from Mr. Arora's wallet. Further that it is contrary to AML policy for OKX to allow a wallet holder to receive, move or transfer any amount of cryptocurrency "*without doing due diligence of his documents and verifying source of funds*". He avers that "*some foreign company is using Seychelles as an instrument for laundering money or supporting such malpractices ... The OKX owner Mr. Star Xu has been arrested in the recent for such malpractices ...*"

[7] In his additional affidavit, Mr. Kishore avers that since the cryptocurrency had been transferred to OKX which is a company registered in Seychelles with the Financial Services Authority, all directors, shareholders and beneficial owners of the company should be registered with the Authority. He is therefore requesting that "*full details of OKX be disclosed to us so that we can file a case against the company, its director and the perpetrator who stole the said funds ...*". He further avers that this matter is one of urgency as the money can be further transferred and all trace of it would be lost.

[8] The applicants seek disclosure of the following documents and information:

(a) *The names and addresses of the shareholders, directors and beneficial owners of OKX;*

(b) *The KYC done by OKX or any of the Respondents in relation to the money transferred from the Trust Wallet to OKX and onward by OKX to any other Wallet or persons;*

- (c) *The physical and correspondence address of OKX as registered with FSA or any other Respondents;*
- (d) *The Register kept by FIU, FCIU and FSA in relation to OKX;*
- (e) *All documents submitted for registration of OKX to trade using Seychelles for its platform;*
- (f) *Location of the trading platform and the names and addresses of the person(s) responsible for the said trading platform;*
- (g) *All and any other relevant documentation which will assist in identifying the thief(ves) or any company(ies) that may be involved in such legal activity (sic);*
- (h) *Any other order that this Honourable Court deems fit under the circumstances.*

### **Analysis**

[9] Norwich Pharmacal Orders are grounded in equity and emanate from the case of *Norwich Pharmacal v Commissioners of Customs and Excise* (1974) AC 133. The conditions which must be satisfied before an application for a Norwich Pharmacal order may be granted were summarised by Lightman J in *Mitsui & Co Ltd v Nexen Petroleum UK Ltd* [2005] EWHC 625 (Ch), [2005] 3 All ER 511 at 21 as follows:

- (i) *a wrong must have been carried out, or arguably carried out, by an ultimate wrongdoer;*
- (ii) *there must be the need for an order to enable action to be brought against the ultimate wrongdoer; and*
- (iii) *the person against whom the order is sought must:*
  - (a) *be mixed up in so as to have facilitated the wrongdoing; and*
  - (b) *be able or likely to be able to provide the information necessary to enable the ultimate wrongdoer to be sued.*

[10] The first condition to be satisfied for a Norwich Pharmacal Order to be made is that “*a wrong must have been carried out, or arguably carried out, by an ultimate wrongdoer*”. The wrong allegedly carried out in this case is the unauthorised transfer of funds from a cryptocurrency wallet to OKX.

[11] However, it is unclear from the affidavits of the applicant and the exhibited documents who the funds belonged to and consequently against whom the wrong was done. Mr Arora the 1<sup>st</sup> applicant avers in his affidavit that USDT 5,850,000 was transferred without authorisation from the trust wallet registered by him and which he was using for business transactions. Mr Kishore the 2<sup>nd</sup> applicant avers that he was informed of the theft by Mr Arora. His relationship to Mr. Arora is unclear as is his connection to the wrong alleged to have been committed. In paragraph 11 of his original affidavit in support he states “[t]hat the funds stolen were our clients holding as an agreement to the business ...”. Needless to say that this hardly sheds any light as to his connection to the “stolen funds” or alleged wrong or to Mr Arora. More confusion is added by the emails exhibited to Mr Kishore’s affidavit in support of his averment at paragraph 6 that the matter was reported to the FIU by the Indian Police via email (Exhibit CK2) and his averment at paragraph 12 that an email was received from the FCIU informing them that they could not provide further assistance as the funds were no longer with OKX (Exhibit CK4). These exhibits consist of an exchange of emails between one Mukesh Chawla and the FCIU. In his email Exhibit CK2 Mr Chawla states that:

*I am Mukesh Chawala. This email is to report a crime that has recently occurred and **\$7 million** worth of Cryptocurrency in the form of USDT have been stolen from **my wallet** and transferred to OKX Exchange, a company registered in Seychelles.*

*Funds have been hacked from **my Crypto Wallet** and hacker has transferred the funds to OKX Crypto Exchange that operated under the Seychelles Financial Policies and Regulations. We have already filed an official Police Complaint from the New Delhi, India Cyber crime department and the complaint is attached in the email.*

*We have also reported the same to OKX Exchange and would like FCIU to intervene and support us with the needful in order to recover funds and also to prevent such mishappenings. Emphasis added.*

[12] Attached to Mr Chawla’s email is another email from SHO Saket Delhi Police to OKX Exchange giving details of the complaint from Mr. Chawla about funds hacked from his crypto wallet and giving details/number of the crypto wallet from which the funds were

transferred (complainant wallet). It also gives details/number of the wallets to which the funds were transferred – first to Hacker wallet-1 and subsequently to Hacker wallets 2 and 3 belonging to OKX – and, finally the wallet to which all the funds were transferred i.e. OKX hot wallet. A request was also made for any transactions originating from the complainant wallet to be traced and blocked, for blacklisting any funds incoming or outgoing from the aforementioned wallets, and for information to assist with the investigation such as KYC of the wallets, IP address of the transactions and names of parties involved.

[13] In the email from the FCIU Exhibit CK4, the FCIU informs Mr Chawla that they “received a delegation of two, one Mr Arora and your legal advisor at our offices” to whom they had explained that they had not yet received any feedback from OKX. They further informed him that following the meeting, the FIU had forwarded certain information which it had received from OKX to the FCIU, which revealed that “*the funds were moved immediately after having been credited onto OKX’s exchange ... that there is no funds in possession of OKX. We found that the funds were moved on the 24<sup>th</sup> March, 2022, the same that it was deposited*”. The FCIU informed Mr Chawla that the funds are currently sitting in three non-custodial wallets for which they gave the addresses/ numbers and that the only way to secure the funds is if it is deposited onto an exchange. Further that the information had been disseminated to FIU India and the New Delhi Police and that it was now up to the latter to monitor the movement of the funds as it had already left the FCIU’s jurisdiction as a result of which they could not assist any further. They further pointed out that they could not have assisted more as the funds had already left OKX even before they received the complaint.

[14] Is not clear to this Court who Mr Chawla is and whether the funds alleged to have been stolen are his or Mr Arora’s or whether both of them have had their funds stolen. Mr Arora stated in his Affidavit that USDT 5,850,000 was transferred from his wallet whereas Mr. Chawla claims that “*\$7 million worth of Cryptocurrency in the form of USDT*” had been stolen from his wallet. I also note that the details of the three wallets in which FCIU says the funds are sitting differ from those referred to in the email from SHO Saket Delhi Police to OKX Exchange both of which relate to Mr. Chawla’s complaint. To

add to the confusion the relationship between Mr Arora, Mr Chawla and Mr Kishore is far from clear.

[15] In regards to the wrong alleged to have been carried out, no documents have been exhibited identifying the cryptocurrency wallet from which it is alleged funds were transferred without authority (except for what was referred to as the “complainant wallet” in in the email from SHO Saket Delhi Police to OKX Exchange which I note concerns Mr. Chawla’s complaint in Exhibit CK2). Neither is any document exhibited showing ownership of such wallet by any of the applicants or linking either of them to it. The Court, if it were minded to grant the application for a Norwich Pharmacal Order would find itself faced with the practical difficulty of how to order disclosure of information regarding funds the ownership and source of which it is unable to properly identify or describe.

[16] It may be argued that since investigations were conducted by the Indian Police (as shown by Exhibit CK2), the FIU and FCIU (as shown by Exhibit CK4), the identity and the ownership of the wallet must have been established by the Indian Police and/or FIU and they were satisfied that a wrong has been committed. That may well be but the fact remains that not only is it not clear from the documents exhibited whose funds were stolen, but furthermore the identity of the cryptocurrency wallet from which it was stolen and evidence of ownership of the wallet was not provided in this application, all of which are essential for the Court to make a proper determination of this application.

[17] In *Ramkalawan v The Agency of Social Protection* (MC 8/2016) [2016] SCSC 88 (15 February 2016) the Court stated the following:

*“One of basic tenets of a Norwich Pharmacal Order is that full and frank disclosure of all facts pertaining to the applicant's case must be made. This is one of the traditional safe guards the courts have put in place for the protection of respondents. **The applicant also has to show an extremely strong case given the draconian nature of the remedy.**”* Emphasis added.

[18] In the same vein in *Ex-parte: “ALFA-Bank” Joint Stock Company Limited (Seychelles) v Crystal (Seychelles) Limited* (MA 106/2021) [2021] SCSC 670 (19 October 2021)the Court stated the following:



[51] *The court will consider the following factors on an application for Norwich relief:*

- i. ***Whether the applicant has provided evidence sufficient to raise a valid, bona fide or reasonable claim;***
- ii. *Whether the applicant has established a relationship with the third party from whom the information is sought such that it establishes that the third party is somehow involved in the acts complained of;*
- iii. *Whether the third party is the only practicable source of the information available;*
- iv. *Whether the third party can be indemnified for costs to which the third party may be exposed because of the disclosure, some refer to the associated expenses of complying with the orders, while others speak of damages; and*
- v. *Whether the interests of justice favour the obtaining of the disclosure.”*  
Emphasis added.

[19] Given the deficiencies identified in regards to the application and evidence in support thereof, it is my view that full and frank disclosure was not made in this application which does not make for a strong case for the applicant. Crucial evidence was not presented and the evidence that was not only lacks of clarity but also creates confusion. A minimum of diligence on the part of Counsels in drafting the application and supporting affidavits and ensuring that proper explanations were given in regards to the exhibits would have made a significant difference and eliminated a lot of the confusion that now exists. As it is the evidence on record is insufficient to raise a valid claim.

[20] This brings us to the second condition required for a Norwich Pharmacal Order to be made namely that “*there must be the need for an order to enable action to be brought against the ultimate wrongdoer*”. The identity of the ultimate wrongdoer in the present case is not known and the information sought is to enable him/her to be identified so that an action can be brought against him/her.

[21] As noted in regards to Mr. Chawla’s complaint the FIU after investigating the said complaint informed the FCIU who in turn informed Mr. Chawla of the result of their investigations namely that the funds had been moved from OKX on the same day it was deposited and that the funds current location was in three non-custodial wallets of which they gave the addresses/ numbers. The FCIU further informed him that they could not

assist the applicants further as the funds had already left the jurisdiction and that it was up to the New Delhi Police to monitor movement of the funds. It is to be noted that the FIU had disseminated the information gathered from their investigation to FIU India and the FCIU undertook to do the same with the New Delhi Police. It is also to be noted from Exhibit CK3 that the New Delhi Police are in contact with the FIU and the FCIU for assistance and information regarding the case. It is pertinent to note that avenues exist for cooperation between enforcement agencies, regulatory authorities and intelligence gathering agencies within different jurisdictions.

[22] In that regard, the FIU, which is created under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, has as its objectives under section 12(1) of that Act *“to serve as the national center for the receipt and analysis of information relevant to money laundering and terrorist financing in an effort to detect financial crime, promote compliance by reporting entities and deter the use of any persons, structures and institutions in Seychelles for financial crime, through the dissemination of financial intelligence reports and any other necessary information, on its own or on request from any other organisation, both domestically and internationally, in relation to money laundering and terrorist financing activities”*. Emphasis is mine. The powers of the FIU under section 13 of the Act also include the following:

- (f) *provide information relating to the suspected commission of an offence to any foreign financial intelligence unit, law enforcement and other relevant authorities, subject to such conditions as may be considered appropriate by the Director of FIU;*
- (g) *collaborate with foreign financial intelligence units, on the basis of mutual agreement and reciprocity, for the discharge of the functions of the FIU ...*

[23] In addition Section 29 of that Act contains provisions relating to cooperation with foreign counterpart agencies.

[24] The FCIU for its part is the unit within the Seychelles Police Force mandated with the investigation of financial crimes and as such also cooperates with foreign enforcement agencies by providing them with information.

[25] In *Ramkalawan v The Agency of Social Protection* (supra) the Court after explaining that that full and frank disclosure of all facts pertaining to the applicant's case is one of the traditional safeguards that Courts have put in place for the protection of the respondents given the draconian nature of the remedy, stated that:

*"Firstly, in dismissing the application for a disclosure order in Mitsui & Co Ltd (supra) Lightman J stated that since the Norwich Pharmacal Order is a remedy of last resort there must be a necessity to grant the order, in that :*

*"[t]he necessity required to justify exercise of this intrusive jurisdiction is a necessity arising from the absence of any other practicable means of obtaining the essential information."*

[26] In dismissing the application, the court found *inter alia* that the applicant had alternative avenues to obtain the information, which was not done and stated that:

*"Given these alternatives and others, the application for a Norwich Pharmacal Order in this case may be akin to using a sledgehammer to crack a nut, a precedent which if set will result in the court being flooded with such applications where parties simply absolve themselves of the need for pre-litigation work".*

[27] As stated, it would appear, that the information which is being sought from the FIU and the FCIU through this application may still be obtained by other means namely by cooperation among the various agencies concerned. In any event, given the nature of the work of both the FIU and the FCIU and the sensitive and confidential nature of the information that they deal with as shown in the confidentiality requirements in the legislation that govern them,, it would set a dangerous precedent to compel them by a Court Order to disclose all information relating to an investigation carried out by them, when the same result could be obtained by cooperation between them and the Indian enforcement and regulatory authorities.

[28] The third condition is that the person against whom the order is sought must:

*(a) be mixed up in so as to have facilitated the wrongdoing; and  
(b) be able or likely to be able to provide the information necessary to enable the ultimate wrongdoer to be sued.*

[29] It is clear that the FIU, FCIU and the FSA can by no stretch of the imagination be said to be "mixed up in the wrongdoing". The only involvement of the FCIU and FIU are that

they conducted an investigation upon a complaint being made to them. The FSA established under section 3 of the Financial Services Authority Act 2013 as amended, is the regulatory Authority for the financial services industry and also issues licences to certain entities under its regulatory authority. In *Brickhill Capital (NZ) Limited v Vistra (Seychelles) Limited* (MA 40/2017) [2017] SCSC (27 July 2017) it was noted that the Court may, on application by the Applicant, “*order an innocent third party to disclose any information relevant to the case, when there has been wrongdoing and the Plaintiff is unable to find out the wrongdoers*”.

[30] It would appear therefore that the FIU, FCIU and the FSA could as innocent third parties who have relevant information be ordered to disclose such information. However, as previously stated such information could be obtained by other means. Furthermore, although the FIU/FCIU could have certain relevant information acquired during the course of their investigation, they may not necessarily have the information sought by the applicants in terms of the Notice of Motion as they are not required to keep them. For instance the KYC documents in relation to IBCs, assuming that OKX is an IBC as no information was provided in that regard, are required to be kept by the IBCs themselves and their Registered Agents which would be better suited to provide such information.

[31] Similarly the FSA as the regulatory Authority is required to keep certain information in respect of its licencees. Some but not all of this information may be obtained by requesting the same from the FSA. For example information regarding the identity of Registered Agents and the registered address of IBCs among others, may be obtained from the FSA by making a request to them for an official company search and paying the prescribed fee under section 352 of the IBC Act. Information required to be kept by such Registered Agents may then be obtained from that Registered Agent. This is also another alternative means of obtaining the information open to the applicants.

[32] The Order is also being sought against OKX and Appleby. Since the funds were transferred to OKX and subsequently transferred from it, it could be viewed as being mixed up in the wrongdoing and would likely be able to provide most if not all the requested information, some of which the Registered Agent may not be required to keep.

This is made clear in *Ramkalawan v The Agency of Social Protection* (supra) in which the Court stated:

“[35] . . . *The courts have however been very flexible in granting such orders and case development has resulted in the approach now being that the third party from whom information sought not necessarily being an innocent third party: **he may be a wrongdoer himself** (see *CHC Software Care v. Hopkins and Wood* [1993] FSR 241, *Arsenal Football Club PLC v Elite Sports* [2003] FSR 26)”. Emphasis added.*

[33] With regard to Appleby, Mr. Kishore at paragraph 9 of his affidavit stated that when he visited OKX office at Suite 202, 2<sup>nd</sup> Floor, Eden Plaza there was no one from OKX but he met Ms Jyotsana Kaurik who claimed to be from Appleby and informed him that Appleby and OKX were partners and advised him to make any requests via email at two email addresses she provided. The only other reference to Appleby is in the letter attached to the email from the Station House Officer Insp. Rajnish Chaudhary, Police Station Tigri, South District, New Delhi requesting assistance in obtaining information requested from Mr. Moller from Appleby as he had not responded to their request. The letter signed by SI Mahipal Singh, Police Station Tigri, is addressed to Mr. Moller, Owner of the OKEX Office, at Suite 202, 2<sup>nd</sup> Floor, Eden Plaza, Eden Island, Victoria, Mahe Seychelles, and has as its subject line: Notice: Order to produce documents and Articles. It starts with a brief summary of the complaint received from Mr Chawla and states that “*From our resources, we have found that they [OKEX] are using your premises (Suite 202 2<sup>nd</sup> Floor Eden Plaza, Eden Island Victoria, Mahe, Seychelles) as their local address in Seychelles. Please help us to connect with legal and risk department of OKEX*”. It is not known where the address for OKX was obtained and the Court is left guessing as to the relationship between Appleby and OKX, if any, except that it appears that Appleby may be the owner of the office which the Indian authorities believe is the registered address of OKX.

[34] The Court in *Ramkalawan v The Agency of Social Protection* (supra) stated the following in relation to the extent to which a party can be considered to be engaged or mixed up in ‘facilitating wrongdoing’:

*“Although Lightman J’s formulation of the test refers to ‘facilitation’ of the wrongdoing, Mann J held in Various Claimants v News Group Newspapers Ltd [2014] 2 WLR 756., after a detailed review of the authorities, that the true principle is that the third party’s engagement with the wrongdoing must have been such as to make him more than a mere witness, and that facilitation of the wrongdoing is just one way in which that test might be satisfied.”*

[35] Further in *Ex-parte: “ALFA-Bank” Joint Stock Company Limited (Seychelles) v Crystal (Seychelles) Limited* (supra) the Court stated the following:

*“[48] . . .The Norwich Pharmacal case was first heard in 1974 and in granting the first NPO Lord Reid summarised the principle of the Norwich Pharmacal jurisdiction in the judgement as follows:*

*“...that if through no fault of his own a person gets mixed up in the tortious acts of others so as to facilitate their wrongdoing he may incur no personal liability but he comes under a duty to assist the person who has been wronged by giving him full information and disclosing the identity of the wrongdoers.”*

[36] However there is no evidence that Appleby was more than a mere witness or for that matter that it facilitated the wrongdoing in any way even inadvertently. Even if it were to be considered to be an innocent third party, there is nothing to show the Court that it may have the information which is sought to be disclosed. Except for OKX possibly using its premises as its registered office, its relationship to OKX is not even known.

## **Decision**

[37] For the reasons given above it appears that a Norwich Pharmacal Order could only be made against OKX itself for disclosure of the information sought and not against the other defendants. However in view of the deficiencies in the application as identified above and for the other reasons given, this Court declines to make such Order. Accordingly the application is dismissed.

Signed, dated and delivered at Ile du Port on 15 June 2021

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E. Carolus J