
ORDER ON MOTION

Adeline, J

[1] This is an application, made by way of notice of motion supported by an affidavit, duly sworn by one Richard, Jacques, Rampal, the Director of the Financial Intelligence Unit (“the FIU”), made pursuant to Section 27 (g) of the Anti-Money Laundering and Countering, the Financing of Terrorism Act, 2020 (“the AML/CFT Act) as amended by Act 7 of 2021.

[2] The application is made within the background of a direction issued by the FIU pursuant to Section 27 (1) (d) and Section 27 (1) (e) of the AML/CFT Act 2020, as amended, which limitation period as regards to the validity of the direction is about to lapse and therefore necessitates an extension of the period. For ease of reference, Section 27(1) (d) and (e) is couched in the following terms;

“27 (1) The functions of the FIU are

(d) to direct any reporting entity or person to refrain from completing any transaction for a period not exceeding five working days, if the FIU finds that there are reasonable grounds to believe that a transaction or activity reported to it involves a criminal conduct, money laundering or terrorist financing activity

(e) in addition to directing a reporting entity or person under sub-clause (d), instruct the reporting entity to freeze the banking or similar account of the entity or a person in respect of whom any report has been submitted for a period not exceeding five working days”

[3] Also for ease of reference, Section 27 (1) (g) as amended by Act 7 of 2021 (Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2021), is couched in the following terms;

“27 (1) The functions of the FIU are;

(g) to apply to the court for extension of the period referred to in clause (e) for a further period of ten days, on good cause shown". Underline emphasis is mine.

[4] Now, therefore, the following orders are being sought;

1. An order pursuant to Section 27 (1) (g) of the AML/CFT Act, extending the direction issued by the FIU on July 8th 2022, in relation to the amount of USD 1, 763, 040.31, Euro 5, 165.1, G B P 499.25 and SCR 50, 809.34 standing to credit in the accounts collectively held in the name of Mena Group Holdings Ltd, and Associated Companies, at the S.I.M.B.C (Nouvobanq) and Al Salam Bank Seychelles Limited ("Al Salam") for a period of 10 days with effect from July 22 2022.

2. Such further or other orders as the court shall deem just and proper, and

3. An order providing costs of this application

[5] In his supporting affidavit to the motion, inter alia, the deponent makes the following averments, amongst others:

Paragraphs

5. On June 22nd, 2022, the FIU received a Suspicious Transaction Report ("STR") from Nouvobanq – S.I.M.B.C ("NVB"), a reporting entity as specified in the First Schedule of the AML/CFT Act, pertaining to a company identified as Mena Group Holdings Ltd ("MENA"), an International Business Company incorporated on April 3rd, 2017 in the Marshall Island, holding NVB USD account **32002069388014**. It was identified that an individual named **Salim Bahadurali Hussein Sjiwan Hirji ("Salim")** was associated to several corporate accounts held with NVB, including Mena Group Holdings Ltd ("MENA").

6. As per bank documents Salim was born on May 13th, 1968 and is a British Citizen holding passport No 099261525, and currently residing in the United Arab Emirates ("UAE") and was disclosed as the Director/Shareholder of MENA.

7. An analysis of MENA's USD account revealed that there had been a schedule of payments including an outward transaction involving **USD 325,000**, which was to be transferred to an entity identified as **Luxeria Apartments Limited** with beneficiary address being Nyerere Avenue, Po Box 98341 – 80100, Mombassa, Kenya with IBAN: GAFRKENAXXX on June 20th 2022.

8. As per the supporting documents for this specific transaction, MENA provided a loan agreement as purpose of the transaction to NVB. I beg to refer to a true copy of the schedule of payments and loan agreement upon which marked "**RJR2**". I have signed my name prior to the swearing hereof.

9. Upon receipt of the STR, the FIU advised the bank to delay this transaction of **USD 325,000** until a decision could be made as to whether to place restrictions on the identified accounts. The FIU was informed by NVB that an individual identified as **Noor Ali Piyar Ali ("Ali")**, born on September 13th, 1979 of Pakistani nationality, residing in the UAE had contacted the bank **six (6)** times during the day of June 22nd 2022, enquiring about the outward transfer.

10. The bank confirmed that Ali had no association to the account of MENA and it was unclear as to why he was enquiring about the scheduled transfer of USD325,000. I beg to refer to a true copy of Noor Ali Piyar Ali's passport upon which marked "**RJR3**". I have signed my name prior to the swearing hereof.

11. Analysis also identified two (2) other individuals that appeared to be interlinked to the accounts:

- Bahadurali Hussein Jiwan Hirji ("Jiwan") – D.O.B: 23.07.1943
- Nadim Bhadurali Hussein Hirji ("Nadim") – D.O.B: 04.03.1971

12. As can be observed, the two individuals shared the same last name of Hirji as Salim. Their association will be set out further within this affidavit.

Smithfield Properties Ltd & Global Projects Ltd

13. Based on its analysis, the FIU uncovered that Salim and Ali mentioned were linked to two previous reported STRs received by Al Salam Bank Seychelles Limited (“Al Salam”), on November 24th, 2020 and April 19th, 2022, respectively. The two STRs related to suspicious activity on the accounts of **Smithfield Properties Ltd (“Smithfield”)** holding Al Salam USD account number **500000005005** and **GFI Global Projects Ltd (“GFI”)**, holding Al Salam USD account number **5000000023728**.
14. The mentioned STR dated November 24th, 2020 and April 19th 2022, revealed that Smithfield is trading in property investment and building construction such as warehouses/commercial buildings. It was also revealed that GIF’s business activity is to provide strategic and management consulting and procurement services for clients in the field of oil and gas, engineering, building construction, printing and related products sector.
15. Further analysis revealed that both Smithfield and GFI shared operating address of **Suite 1305 Level 13, Sheikh Rashid Tower World Trade Centre Dubai**.
16. It was also observed that Smithfield held address of C/O **Equator Trustees Ltd (“Equator”)**, a Seychelles International Corporate Service Provider (“ICSP”). As per information obtained by the FIU, the Beneficial Owner (“BO”) of Equator is Bahadurali Hussein Jiwan Hirji (“Jiwan”) – D.O.B: 23.07.1943.
17. Further, it was identified that Salim, Jiwan, Nadim and an individual identified as Marie Alexandra Sherlaine Marandel (“Alexandra”), born on September 15th, 1969, held both Seychellois and Mauritian nationality and identified as a signatory on three NVB accounts belonging to Equator Trustees Limited (“Equator”) accounts; **EUR 07002051239040, EUR 21002051239037 and USD 32002051239021** appear as the directors of the Equator Trustees Limited.
18. As per information obtained, Smithfield’s director, shareholder and BO is Bahadurali Hussein Jiwan Hirji (“Jiwan”). Additionally, GFI had director, shareholder and BO as Noor Ali Piyar Ali (“Ali”).

19. As per STR which relates to Smithfield, a suspicious inward transaction of **USD 770,000** was received on the specified Smithfield account on October 22nd, 2020 which was from an entity identified as Cresta Holdings Limited. As per Al Salam bank, the transfer related to a loan towards the purchase of property. As per remittance instruction from...., dated 22 October 2022, the **USD 700,000** towards the purchase and transfer of a property known as Town House Number M10 Seychelles with property land reference Number 3734/1455.
20. On November 3rd, 2020, Smithfield contacted Al Salam bank to proceed with an outward wire transfer of USD 743,000 to be transferred to Kimani and Michuki Advocates (“Kimani”), Equity Bank (Kenya) Limited, account No 0010293129807. Al Salam bank then received a letter to finalize the sale transaction which was signed for by Kimani along with a loan agreement of USD 743,000 between Smithfield and an individual revealed as Aluol Dut Kon Dut (“Dut”) – a South Sudanese student born on January 1st, 1999 with passport number R00457845.
21. Al Salam bank then requested ID documents for Dut however received an expired Tourist Visa which then resulted Al Salam bank to decline the transfer and resulted in the funds being transferred back to Cresta Holdings Limited on November 4th, 2020.
22. The STR pertaining to GFI was raised based on two transactions, one which occurred on March 14th, 2022 as a transfer of **USD 58,500** from GFI’s account to the account of GIF Africa Ltd’s account number 32002068897012 (NVB Account) – address being Office No 1305, Level 13, Dubai World Trade Center, Sheikh Zayed Road, P.O Box 29103, subsequently, on April 6th, 2022, whereby Al Salam bank received another payment instruction to transfer **USD 52,600** from GFI’s account to the account of GIF Africa Ltd with purpose disclosed as “Management and Professional Fees vide Invoice No Nc GFI/13932022 dated March 25th, 2022.
23. Al Salam bank further advised the customer to provide supporting documents to process the transfer since the transaction was quite substantial to act upon only the invoice. The BO did not revert to Al Salam bank within a reasonable time therefore Al

Salam bank found reasonable grounds to file the STR as there were strong suspicious by Al Salam that the accounts might have been used to channel illicit funds.

International Business Companies

24. The FIU notes that to date one hundred and thirty-eight **(138) IBCs** have been identified as being associated to the above-mentioned individuals. The FIU has also identified **twenty-nine (29)** local bank accounts connecting to the Hirjis and Ali. Additionally, the FIU has also issued directives to banks to exercise enhanced monitoring over other accounts identified. I beg to refer to the register of identified entities upon which marked **“RJR4”**. I have signed my name prior to the swearing hereof.

25. FIUs preliminary analysis of the local accounts identified, revealed a pattern in which funds are transferred to the Seychelles banks and moved between the identified domestic accounts, mainly as loans and/or consultancy fees. The FIU also identified that the bulk of the funds are then transferred out mainly to Kenya and the UAE.

26. It is the experience of the Seychelles FIU that this exemplifies the “layering: process of money laundering, where transactions are affected through a number of bank accounts to conceal the original remitter and to create distance between the remitter and the person benefiting from the proceeds of the criminal conduct.

27. The FIU analysis revealed the main identified entities namely, Riverglades International Limited, Spearhead International Limited, Cathedral Group Limited, Alphatec Engineering Ltd, GFI Africa Ltd, Stormhill Investments, Equator Trustees Limited, GFI Global Projects Ltd, Sohar Petroleum Ltd, GIW Consulting and others.

28. As per recently obtained intelligence, the FIU has confirmed that most if the IBCs identified are registered under Equator.

Relief Requested

Following analysis of the materials received, the FIU is of the view that the individuals;

- i. Salim Bahadurli Hussein Jiwan Hirji (“Salim”), D.O.B: 13.05.1963, Passport Number: 099261525,
- ii. Bahudurali Hussein Jiwan Hirji (“Jiwan”), D.O.B: 23.07.1943, Passport Number: 099267306,
- iii. Noor Ali Piyar Ali (“Ali”), D.O.B: 13.09.1979, Passport Number: AD3122563,
- iv. Nadim Bhadurali Hussein Hirji (“Nadim”) D.O.B: 04.03.1971, Passport Number: 099264785;

are engaged in a money laundering scheme based on the below:

- i. History of STR submissions received from two respective local banks.
- ii. Lack of timely response from account owners following request from Al Salam bank which resulted in STR submissions.
- iii. Loans and Consultancy agreements consistent with the red flag of money laundering, and used as a means to move illicit funds (modus operandi).
- vi. The volume of entries involved and associated to the above-mentioned individuals.
- v. Common persons of interest and country of operation.
- vi. The repetitive calls received from NVB for processing of the payment of USD 325, 000 in favour of Luxeria Apartments Limited, Kenya, by Noor Ali Priyar Ali.
- vii. Lack of correspondence between account owners and Nouvobanq following the account restrictions.
- viii. Movement of funds between accounts and the lack of commercial reality in transactions.

- ix. Most IBCs identified are registered under Equator Trustees. To note, the most entities identified share the same BO as Equator.
- x. Identification of Norr Ali Priyar Ali, Alexandra Marandel, Bahadurali Hussein Jiwan Hirji, and the address of Suite 1305 Level 13, Sheikh Rashid Tower World Trade Centre Dubai, on the International Consortium of Investigative Journalists (“ICIJ”) website, which may indicate links to the Panama Papers leak, involving the firm Mossack-Fonseca.

That as a result of all the information received and analyzed, the FIU found that there were reasonable grounds to believe that the activity reported to it involved suspected criminal conduct.

Since the said accounts were restricted in June 2022, the FIU has made contact with a number of international counterparts in the course of its analysis. The FIU has several responses pending from counterparts.

That consequently, the intelligence received by the FIU was disseminated to the Financial Crimes Investigation Unit (“FCIU”) on July 13th, 2022.

[6] I have scrutinised the averments in the supporting affidavit to the motion, and given due consideration to the veracity of the affidavit evidence as a whole. I am satisfied, that the basis upon which the order is being sought has been well established, and that there are good cause has been shown for an extension of the direction dated 23rd June 2022, issued by the FIU to one Ms. Sandra Hall, Head of Compliance, of the Nouvobanq (SIMBC), and to one Ms. Sarifa Balette, Compliance Officer of the Al Salam Bank, Seychelles which direction is founded on the following grounds;

(i) that there are reasonable grounds to suspect that the property specified in RJR1 represents the proceeds of criminal conduct including an offence of money laundering, or may be related to money or property that is or represents the benefit from criminal conduct.

(ii) that there are reasonable grounds to suspect that the service or transaction will constitute or assist in the commission of criminal conduct, including an offence of money laundering

(iii) that the unfreezing of the accounts would allow the suspects to continue to freely apply the modus operandi, and enjoy the illicit profits from criminal activities,

(iv) that investigation by other enforcement agencies are underway.

(v) that the FIU has issued request for information to international counterparts and exchanges of information is ongoing and therefore more time is needed to complete analysis of information obtained from counter parties.

[7] For the reasons stated in the preceding paragraphs of his order, and in accordance with the statutory provisions of Section 27 (1) (g) of the AML/CFT Act, 2020 as amended, I therefore make the following orders;

1. an order extending the FIU's direction issued by letter dated 23rd June 2022 reference FIU/06-2022/098 H, for the freezing of the 18 accounts as per the accounts name and corresponding account numbers in relation to the amount of USD 1, 1763040.31, EUR 5,165.1, GBP 499.25 and SCR 50, 809.34 collectively held in the name of Merna Group Holding Ltd and Associated Companies, at the S.I.M.B.C, Nouvobanq, and one account held at the Al Salam Bank Seychelles Limited for a period of 10 days from the 22nd of July 2022.

2. an order for cost of this application in favour of the Applicant.

Signed, dated and delivered at Ile du 21st July 2022.

Adeline J