

**IN THE HIGH COURT OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(CRIMINAL DIVISION)**

**MISC. NO. 9/18**

IN THE MATTER of section 50 of the Proceeds of Crime  
Act 2003

AND

IN THE MATTER of the Mutual Assistance in Criminal  
Matters Act 2003

BETWEEN **SOLICITOR-GENERAL** of the Cook  
Islands

Applicant

AND

**CAPITAL SECURITY BANK  
LIMITED**, Rarotonga, Cook Islands

First Respondent

AND

**ORA FIDUCIARY COOK ISLANDS  
LIMITED**, Rarotonga, Cook Islands

Second Respondent

**PLAINT NO. 23/18**

IN THE MATTER of section 50B Judicature Act 1980-81,  
and the High Court's equitable  
jurisdiction

AND

IN THE MATTER of an application for judicial review of a  
decision under the Mutual Assistance in  
Criminal Matters Act 2003

BETWEEN **ORA FIDUCIARY COOK ISLANDS  
LIMITED**, Rarotonga, Cook Islands

Applicant

AND

**ATTORNEY-GENERAL** of the Cook  
Islands

First Respondent

AND

**FINANCIAL INTELLIGENCE UNIT**  
of the Cook Islands

Second Respondent

Date of Hearing: 31 May 2018

Date of Judgment (No.1): 7 December 2018

Date of s 61 Judgment (No.2): 11 March 2019

Date of this Judgment (No.3): 15 April 2019

Counsel: Mr S C Baker, Solicitor-General and Ms Kathy Bell for Attorney General and the Financial Intelligence Unit  
No appearance for First Respondent in Misc No. 9/18  
Messrs N R Williams and D McNair & Ms Olivia Klaassen for Ora Fiduciary Cook Islands Limited

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**JUDGMENT (NO.3) OF HUGH WILLIAMS, CJ**  
**(Re. distribution of Judgment)**

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[WILL0557.dss]

**Redactions and Distribution of Substantive Judgment, and Ancillary Matters**

[1] Following delivery on 11 March 2019 of the Court’s Judgment concerning s 61 of the Mutual Assistance in Criminal Matters Act 2003<sup>1</sup>, counsel for the applicant and second respondent have conferred and, sensibly, agreed on redactions from the substantive judgment in Misc. 9/18, distribution of the redacted judgment and consequential matters, including the future of the undertakings filed in Court.

[2] As a result of counsel’s agreement, circulated with this judgment are amended pages 1-6 of the substantive judgment in Misc. 9/18 for checking by counsel and advice if these pages correctly reflect the parties’ agreement<sup>2</sup>.

[3] With the agreement of counsel for the applicant and second respondent, once the amendments have been confirmed by counsel, it is agreed that the judgment as so redacted can, in addition to the previous directions as to distribution – be made available in its redacted form to the authorities in the Russian Federation who lodged the original MACMA request and to Mr Leontiev and his American counsel and solicitors, Mr Reich and the partners and employees of Kobre & Kim who have provided undertakings to the Court. While it would be futile to attempt to bar Mr Leontiev from distributing copies of the judgment as so redacted to members of his family, any copying or distribution of the redacted judgment beyond those persons is to be the subject of further directions.

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<sup>1</sup> “MACMA”

<sup>2</sup> pp 7ff of the substantive judgment not being affected by the redactions, it is unnecessary to circulate those pages to counsel.

[4] The confidentiality undertakings filed in Court by Mr Leontiev, Mr Reich and on behalf of Kobre & Kim are now largely spent and counsel suggest they should be dissolved because the judgment will then “be made public”.

[5] However, as counsel have yet to address the possibility of the redacted judgment being distributed more widely, including being published on PacLII and in view of the observations in paragraph 2 of this judgment, the undertakings will remain in force until all issues concerning publication of the redacted judgment have been dealt with, including the confidentiality orders still in place in relation to both proceedings. Counsel are invited to file memoranda covering those issues.

[6] The Court notes the observations of counsel that the use of the substantive judgment in the Austrian proceedings mentioned in the judgment of 11 March 2019 are no longer relevant. The Court agrees with that observation.

#### **Costs**

[7] The Court issued a costs minute on 7 March 2019.

[8] In relation to paragraphs 5-8 of the minute, advice has been received from counsel for the first respondent in Misc. 9/18 that CSB seeks no order for costs in that matter.

[9] The Solicitor General responded to the costs minute on 18 March 2019.

[10] However, the Court notes that counsel for Ora have yet to comply with paragraphs 9-12 of the costs minute.

A handwritten signature in black ink, appearing to read 'H Williams', written over a horizontal line. The signature is fluid and cursive.

**Hugh Williams, CJ**