EASTERN CARIBBEAN SUPREME COURT
SAINT LUCIA

IN THE HIGH COURT OF JUSTICE
(CIVIL)

SLUHCV2013/0515

BETWEEN:

FIRST CARIBBEAN INTERNATIONAL
BANK (BARBADOS) LIMITED

Claimant

and

PAUL THOMPSON
(In his capacity as Director of the Financial Intelligence Authority)

Defendant

Appearances:
Mrs. Sardia Cenac-Prospere for the Claimant
Mrs. Brender Portland-Reynolds for the Defendant

2018: July 27.

JUDGMENT

[1] WILKINSON J.: On 17th February 2014, First Caribbean International Bank (Barbados) Limited ("the Bank") filed its fixed date claim form supported by the affidavit of Mrs. Portia Compton-James, the money laundering reporting officer, seeking judicial review of 3 requests received from Mr. Thompson as Director ("the Director") of the Financial Intelligence Authority ("the Authority") and contained in 2 letters issued 18th February 2013, and a third undated correspondence received on 5th March 2013. The relief sought: (a) an order and/or declaration that the Director's requests contained in 2 letters of 18th February 2013, and further correspondence of 5th March 2013, were ultra vires the Money Laundering

(Prevention) Act No. 8 of 2010, and therefore illegal and unlawful, (b) an order quashing the Director's requests contained in the said 2 letters and further correspondence requiring the Bank to provide the Director without a court order, with confidential banking information of customers of the Bank, (c) further or other relief as the court deems fit, and (d) costs.

Issues

[2] The first issue is whether the Bank has sufficient interest in the subject matter of the application for judicial review.

[3] The second issue is whether the Director's requests were ultra vires the Money Laundering (Prevention) Act.

The Evidence

[4] The evidence was by way of affidavits filed by Mrs. Portia Compton-James for the Bank and the Director of the Authority. It was largely uncontested, there was no cross-examination. Counsel stated that the issue arising was on a point of law.

[5] The Bank is a company incorporated pursuant to the Companies Act of Barbados and registered as an external company under the Companies Act Cap 13.01 of Saint Lucia as Company No.F006/2001. It has its principal office of business at Bridge Street in the City of Castries. The Bank is licence to carry on banking business under the Banking Act Cap 12.01 and is a financial institution within the meaning of the Money Laundering (Prevention) Act Cap. 12.20.

[6] The Authority is a statutory body established pursuant to the Money Laundering (Prevention) Act. Its functions include inter alia receiving, analyzing, obtaining, investigating and disseminating information which relates to or may relate to the proceeds of the offences under the said Act and the Proceeds of Crime Act Cap. 3.04. The Proceeds of Crime Act provides for the forfeiture or confiscation of the proceeds of certain crimes and connected matters.

[7] In the exercise of the obligations under the 2 Acts the Authority may inter alia collect, receive and analyze reports submitted to it by a financial institution. Pursuant to section 4 (3) of the Money Laundering (Prevention) Act there is a director who is the chief executive officer of the Authority. Mr. Paul Thompson holds the office of director.

[8] On 18th February, 2013, Mrs. Portia Compton-James received a letter on the Bank's behalf from the Director requesting her assistance in identifying whether 5 persons named therein were conducting business with the Bank. A redacted copy of the Director's letter was disclosed. The letter read as follows:

> ""February 18th 2013
>
> Mrs. Portia Compton-James
> Compliance Officer
> First Caribbean International Ltd.
> Bridge Street
> Castries
>
> Dear Madam
>
> RE: REQUEST FOR INFORMATION
>
> The Financial Intelligence Authority (F.I.A) is conducting a money laundering enquiry involving some individuals who may or may not be conducting business with your Institution. Should the subjects of the enquiry form part of your database, the F.I.A request your assistance in providing the information listed below. This information is requested in accordance with the provisions of section 6 of the Money Laundering (Prevention) Act, Act 8 of 2010 of the Revised Laws of St. Lucia and in particular subsection 6(1) (b) of that section.
>
> The subjects of the enquiry are:
>
> * names, date of birth and passport details were all redacted. All persons were identified as unemployed.
>
> Information requested
> Information is requested on the details of these accounts to include the following:
> (a) Type of accounts;
> (b) Details of all account holder(s) and/or signatories on the accounts;

(c) In relation to items 1 to 5 above bank account history from the 1st January 2010 to 31st December 2010;
(d) Incoming and outgoing wire-transfers in the names of the subjects for the period 1st January 2010 to 31st December 2012;
(e) Information on any bank drafts or manager's cheques dealt with by the subjects for the period 1st January 2010 to 31st December 2012;
(f) Loan application and loan accounts in the names of the subjects.

This information would assist in the furtherance of our enquiries and as such your co-operation would be greatly appreciated.

Yours truly

(signed)
DIRECTOR"

[9] On said 18th February 2013, Mrs. Portia Compton-James received a second letter from the Director requesting her assistance in relation to 43 persons named in the attached list. A redacted copy of the Director's letter was disclosed. The letter read as follows:

"February 18th 2013

Mrs. Portia Compton-James
Money Laundering Reporting Officer
CIBC First Caribbean International Ltd.
Bridge Street
Castries

REQUEST FOR EVIDENCE

Dear Mrs. Compton-James,

The Financial Intelligence Authority request in accordance with section 6(1)(b) of the Money Laundering Prevention Act No.8 of 2010 your assistance (in) identifying whether the persons on the attached list maintain or maintained, possessed or possesses any accounts or other financial products or conducted any business transactions with your institution (inclusive of currency exchanges).

Should your institution have any financial records please provide details for the past twelve months.

Thank you for your continued co-operation.

Yours sincerely,

(signed)
DIRECTOR

NAMES CHECK
21-01-2013

The Financial Intelligence Authority requires your assistance in identifying whether the following persons maintained or maintains, possessed or possesses any accounts or other financial products or conducted or conducts any business transactions with your institution (inclusive or currency exchanges). Should your institution have any financial records INCLUDING ACCOUNT OPENING AND ID INFORMATION pertaining to them please provide details for the past 12 months."

*Names, dates of birth, national insurance cards and addresses were all redacted."

[10] On 5th March 2013, Mrs. Compton-James received from the Director a third item of correspondence. It was an undated, unsigned and not on the Director's letterhead, a list containing 12 names of which disclosure was sought. A redacted copy of the Director's list was exhibited.

[11] Mrs. Compton-James said that she was aware of Belle J's decision in SLUHCV 2010/1109 FirstCaribbean International Bank (Barbados) Limited v Attorney General of Saint Lucia and the Bank sought Counsel's advice on whether the Bank was authorized to disclose the information requested without a court order.

[12] The Bank's Counsel wrote to the Director on behalf of the Bank as follows:

"8th April, 2013

Mr. Paul Thompson
Director
Financial Intelligence Authority
PO Box GM585
Sunny Acres
CASTRIES

Dear Sir,

Re: Request for Information

We continue to act on behalf of First Caribbean International Bank (Barbados) Limited (hereafter the "Bank").

We are instructed that by two letters dated 18th February, 2013 and by a further letter dated 5th March, 2013, the Financial Intelligence Authority (hereafter the "Authority") requested that the Bank disclose banking information in relation to 60 named individuals.

Further and pursuant to its obligations under the Money Laundering (Prevention) Act No. 8 of 2010 and in consideration of the guidance by Belle J. in First Caribbean International Bank (Barbados) Limited v Attorney General of Saint Lucia SLUHCV 2010 / 1109 (hereafter the "Decision"), the Bank disclosed information held for 2 customers in respect of whom the Bank had made suspicious transaction reports.

In light of the Decision however, it is our view that the Bank is not authorised to disclose information to the Financial Intelligence Authority, pursuant to a section 6 request and without a court order, where no suspicious transaction report has been made by the Bank.

In the circumstances, the Bank cannot lawfully disclose the information requested in respect of the customers who were not the subject of a suspicious transaction report.

We are aware, in consideration of our previous discussions and exchanges on the subject, that the Authority and the Attorney General of Saint Lucia have adopted a contrary interpretation of the Decision, whilst acknowledging that there is some inherent ambiguity therein. The Bank therefore proposes to seek judicial review of the requests with a view to resolving any ambiguity in the Decision.

We wish to reaffirm the Bank's commitment to complying with its statutory obligations; and therefore anticipate and solicit your co-operation as we seek to resolve these matters in a timely and efficient manner.

Yours faithfully
FLOISSAC FLEMING & ASSOCIATES

(signed)
SARDIA CENAC-PROSPERE"

[13] Mrs. Compton-James said that based on the premise in Belle J's decision she undertook internal checks and confirmed that the Bank had not made any suspicious transactions reports in respect of 58 of the individuals named in the 3 requests. She duly disclosed information with respect to only 2 customers who had previously been the subject of a suspicious transaction report issued by the Bank to the Director.

[14] The Director filed his affidavit in reply on 18th March 2014. He deposed that he as Director of the Financial Intelligence Authority was acquainted with all requests made to financial institutions for disclosure of information which related to or may relate to the proceeds acquired pursuant to offences under the Money Laundering (Prevention) Act and the Proceeds of Crime Act.

[15] The Director stated that from his understanding of the law, a request for information from a financial institution was not limited to the procedure of first, the filing of a suspicious transaction report by the said financial institution and or second, by presentation of a court order to support the request. According to him, the Money Laundering (Prevention) Act provides him with the authority and the mechanism for the obtaining of information from a financial institution without a court order. He was therefore of the view that he had acted properly in making the requests for the information without a court order.

[16] The Director said that he had been advised by the State's Counsel on a number of matters. First, pursuant to section 8 of the Money Laundering (Prevention) Act, the Authority was empowered to conduct investigations into a financial institution whether or not a suspicious transaction report was made by the financial institution, and second, section 41 of the Money Laundering (Prevention) Act to which the Bank referred, was repealed by virtue of the Money Laundering (Prevention) Act No.9 of 2011.

[17] The Director was also familiar with SLUHCV 2010/1109 First Caribbean International Bank (Barbados) Limited v. Attorney General and where he said the Bank had sought a declaration that section 6 of the Money Laundering (Prevention) Act was unconstitutional to the extent that it does not authorize the Authority to request and obtain confidential information relating to depositors and/or customers, without a court order and Belle J. held that section 6 was not unconstitutional. Belle J's decision was not challenged by way of an appeal.

Law

[18] The Bank takes the position as seen in Counsel's letter dated 8th April 2013, to the Director that (a) where it has previously made a suspicious report to the Director, then in such circumstances it can disclose information on a request from the Director, and (b) in any other instance, a court order is required for the disclosure of information about any of its customers. The Director holds a contrary view, that being that he needs no such court order as his authority for such request lies in section 6(1)(b) of the Money Laundering (Prevention) Act.

[19] The preliminary issue raised was whether the Bank had a sufficient interest in the subject matter of the application. CPR 2000 rule 56.2(1) provides that an application for judicial review may be made by any persons, group or body which has sufficient interest in the subject matter of the application. The rule further provides a number of instances where a person, group or body would be deemed to have sufficient interest. These instances include amongst several others (a) any person who has been adversely affected by the decision which is the subject matter of the application, (b) anybody or group that can show that the matter is of public interest and that the body or group possesses expertise in the subject matter of the application; and (c) any other person or body who has a right to be heard under the terms of any relevant enactment or Constitution. The Court does not believe that the list is exhaustive.

[20] As to how the Court should approach the "sufficient interest" test, in the Judicial Review Handbook[1] it is stated:

> "38.1.2 Sufficient interest: a special broad test. R. v. Inland Revenue Commissioner, ex.p National Federation of Self-Employed and Small Businesses Ltd. [1982] AC 617, 642 B-E (Lord Diplock: "the draftsman … avoided using the expression 'a person aggrieved', although it lay ready to his hand. He chose instead … ordinary English words which, on the face of them, leave the court an unfettered discretion to decide what in its own good judgment it considers to be 'a sufficient interest' on the part of [a claimant] in the particular circumstances of the case before it. For my part I would not strain to give any narrower meaning");
>
> 38.2 The approach to sufficient interest. The approach to standing is liberal. Financial interest is sufficient but not necessary. Public interest consideration favours the testing of the legality of executive action, it being contrary to the public interest for the public law wrongs to go unchecked because no person has standing. It is relevant to consider whether the claimant is a "busybody" and whether there is an obviously better-placed challenger choosing not to complain."

[21] In regard to the requests being challenged, historically at common law there has been recognized an implied duty of secrecy on the Bank's part in regard to any information received or gathered or becoming available due to or arising from the Bank – customer relationship. In Tournier v. National Provincial and Union Bank of England [1924] 1 K.B. 461 the customer secured an overdraft facility and was to repay it by monthly installments from his initial 3 month employment contract. He failed to pay the installments and the bank contacted his employer. The bank disclosed to his employer the facts of the overdraft, the promised repayment plan, an opinion that he was betting heavily due to a payment it traced to a bookmaker. As a result of the conversation, the customer's employment contract was not renewed. The customer sued the bank for slander, and also for breach of an implied contract that they would not disclose to third persons the state of his account or transactions in relation to his account.

[1] 5th Edition, Michael Fordham Q.C.

At first instance judgment was entered for the bank. On appeal the court of appeal allowed the appeal and ordered a new trial. There Bankes L.J said:

> "At the present day I think it may be asserted with confidence that the duty [of non-disclosure] is a legal one arising out of contract, and that the duty is not absolute, but qualified. It is not possible to frame any exhaustive definition of the duty…. On principle, I think that the qualifications can be classified under four heads: (a) where disclosure is under compulsion by law: (b) where there is a duty to the public to disclose; (c) where the interests of the bank require disclosure; (d) where the disclosure is made by the express or implied consent of the customer."

[22] The common law implied duty of secrecy has been captured in statute and is found in the Banking Act Cap. 12.01 at section 32 and which provides:

> **"**32. Secrecy of information
> No person who has acquired knowledge in his capacity as director, manager, secretary, officer, employee or agent of any financial institution or as its auditor or receiver or official liquidator or as director, officer, employee or agent of the Central Bank, shall disclose to any person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a depositor or customer of a financial institution except—
>
> (a) with the written authorization of the depositor or customer or of his heirs or legal personal representatives; or
> (b) for the purpose of the performance of his duties within the scope of his employment in conformity with the provisions of this Act; or
> (c) when lawfully required to make disclosure by any court of competent jurisdiction within Saint Lucia; or
> (d) under the provisions of any law of Saint Lucia or agreement among the participating Governments:
>
> Except that nothing herein shall prevent—
>
> (i) a financial institution from providing to a person, upon a legitimate business request, a general credit rating, a summary of which will be provided to the depositor or customer upon request,
> (ii) the Central Bank from—
>
> (a) sharing any information received or any report prepared by the Central Bank in the performance of its duties under this Act, with any local or foreign authority responsible for the supervision or regulation of a financial institution, or for maintaining the integrity of the financial system; or
> (b) providing access, to any officer of a foreign authority responsible for the supervision or regulation of financial institutions in order to assess the safety and soundness of a

foreign financial institution,on a reciprocal basis, and subject to an agreement of confidentiality and a Memorandum of Understanding between the Central Bank and such authorities.

[23] This brings the Court to the Money Laundering (Prevention) Act pursuant to which the Director says he is authorized to call for the information without a court order pursuant to section 32 (d) of the Banking Act. The Money Laundering (Prevention) Act provides:

> "5. Functions of the Authority
> (1) In the exercise of its functions under subsection (2), the Authority shall act as the agency responsible for receiving, analyzing, obtaining, investigating and disseminating information which relates to or may relate to the proceeds of criminal conduct under this Act and offences under the Proceeds of Crime Act or any enactment replacing it.
> (2) Without limiting the provisions of subsection (1) and despite any other law to the contrary, the Authority—
> (a) shall collect, receive and analyze reports and information submitted to the Authority by a financial institution and a person engaged in other business activity under this Act and the Proceeds of Crime Act from the Customs and Excise Department, Inland Revenue Department, from the Royal Saint Lucia Police Force and from a Foreign Financial Intelligence Unit;
> (b) …;
> (m) may do any other matter incidental to its functions under this section.
>
> 6. Powers of the Authority
> (1) For purposes of carrying out its function under section 5, the Authority has the power to—
> (a) enter into the premises of a financial institution or person engaged in other business activity during normal working hours and inspect a transaction record kept by the financial institution or person engaged in other business activity;
> (b) require from any person, institution or organization the production of any information that the Authority considers relevant for the fulfilment of its functions;
> (c) ask questions relevant to a transaction record inspected under paragraph (a);
> (d) …;
> (2) Any person failing or refusing to provide the information as is required under subsection (1)(b) commits an offence and is liable

on summary conviction, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 10 years or both.

7. ....

8. Investigation

(1) The Authority shall not conduct an investigation into a financial institution or a person engaged in other business activity other than for the purpose of ensuring compliance by the financial institution or the person engaged in other business activity with this Act.

(2) The Authority may conduct an investigation into a financial institution or a person engaged in other business activity if the Authority has reasonable grounds to suspect that a transaction involves the proceeds of criminal conduct or attempted transaction involves the proceeds of criminal conduct regardless of the amount of the transaction whether or not a suspicious transaction report is made by the financial institution or person engaged in other business activity.

....

38. Confidentiality

(1) A person who obtains information in any form as a result of his or her connection with the Authority shall not disclose that information to any person except as far as it is required or permitted under this Act or other enactment.

(2) Any person who wilfully discloses information to any person in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 10 years or both."

[24] As to interpretation of the Money Laundering (Prevention) Act, for assistance on the first principles of interpretation of the Act under consideration, the Court could do no better than to adopt Byron CJ in Civil Appeal No. 7 of 2001 The Attorney General v. The Barbuda Council where he said:

[25] I would adopt the expression of the principle stated by Sir Vincent Floissac, C.J. in the Dominica case of Charles Savarin v. John Williams Civil Appeal 3 of 1995:

> "In order to resolve the fundamental issue in this appeal, I start with the basic principle that the interpretation of every word or phrase of a statutory provision is derived from the legislative intention in regard to the meaning which that word or phrase should bear. That legislative intention is an inference drawn from the primary meaning of the word or phrase with

such modifications to that meaning as may be necessary to make it concordant with the statutory context. In this regard, the statutory context comprises every other word or phrase used in the statute, all implications therefore and all relevant surrounding circumstances which may properly be regarded as indications of the legislative intention.

[11] The Mischief Rule, when properly applied, involves the use of an aspect of the statutory context to indicate the statutory intention. It is of ancient vintage. It was succinctly explained by Lindley M.R. in the case of Bartlette v. Mayfair Property Company [1898] 2 Ch.28 at 35:

> "In order properly to interpret any statute it is as necessary now as it was when Lord Cooke reported Heydon's Case to consider how the law stood when the statute to be construed was passed, what the mischief was for which the old law did not provide, and the remedy provided by the statute to cure that mischief. "

[12] The Mischief Rule is an important aid to construction, when there is a lack of clarity, or ambiguity in the language in which the statute is expressed. But if the words of the statute are clear and unambiguous there is a real danger that in applying the mischief rule subjective perceptions on the mischief and the remedy may influence the interpretation to be applied by substituting a perceived remedy for the meaning which the legislature intended. A properly drafted statute is capable of conveying its meaning through the actual words used in the statue. It is obvious that in many cases the perception of the mischief, the relevant historical context and what constitutes a desirable solution or remedy is capable of wide variance. And this case was no exception to that concept." (My emphasis)

Findings and Analysis

[26] Addressing the first issue, that of whether the Bank has a sufficient interest in the subject matter, the Court bears in mind that it is not limited to looking to see if the Bank is a party aggrieved by the 3 requests. In the Court's view the answer is a resounding "Yes" as to whether the Bank has a sufficient interest. As the Court sees it, given the historical and now statutory duty on the Bank not to disclose information gathered during its course of dealings with its customer and it is a duty which continues even after a customer has ceased to be a customer, then the question of a request for information must give the Bank an interest in the subject matter.

[27] The Court also agrees with Counsel for the Bank when she says that while the Bank is not the subject of a request, it is the only entity with the knowledge of the request, and with an interest in ensuring that its disclosure pursuant to the request are lawfully made in accordance with the Money Laundering (Prevention) Act.

[28] Finally, at the end of the day, it is from the Bank that a customer will seek redress if of the view that the implied and statutory duty of secrecy has been breached.

[29] Moving on to the substantive matter of the application and that being whether the Director's 3 requests were ultra vires the Money Laundering (Prevention) Act, the Court starts with the duty of secrecy.

[30] It is public knowledge that the world is a changed placed. Many matters appear before courts today in relation to fraud of various kinds, many new in nature, proceeds of crime transactions passing thru banks, financing of criminal activities thru transfers via banks, Ponzi schemes and so forth. More entities than in the past and outside of the Police or usual authorities are now involved in policing crime. It appears that the Authority created pursuant to the Money Laundering (Prevention) Act is just one such entity as it seeks to target primarily the financial proceeds of criminal activities and connected offences thereto. Such attack on the financial proceeds of certain criminal activities seeks to make participation in them unprofitable.

[31] The historical implied and now statutory duty of secrecy is undoubtedly a clear burden on the Bank. According to the Banking Act, there are a limited number of instances where the Bank may disclose information and they are (a) with the customer's written authorization, (b) if necessary for the performance of the Bank's duties, (c) pursuant to a court order, (d) pursuant to any law or agreement with participating Governments. The further exceptions are: (a) disclosure required for the giving of a general credit rating of which a summary is provided to the customer, and (b) to the Central Bank as required for it to carry out of its duties.

[32] The question of whether the Director's request were ultra vires or not calls for interpretation of section 32 of the Banking Act and sections 5 and 6 of the Money Laundering (Prevention) Act. It is the Court's view upon reviewing both Acts that nothing within them takes the Court out of applying the literal or plain meaning interpretation rule.

[33] In the first instance the Court observes that the Banking Act and the Money Laundering (Prevention) Act are both ordinary Acts of Parliament and as such bear no particular distinguishing features of one over the other when they are interpreted. A contrast would of course be The Constitution.

[34] An overall review of the Banking Act finds that whilst it imposes a duty of secrecy on a Bank in relation to its customer, the duty of secrecy is not absolute even in the Banking Act. The very exception to the Eastern Caribbean Central Bank, means (a) disclosure without the customer's consent, and further (b) such disclosure can be shared with a wide number of person or bodies once it leaves the Bank. Thus the Bank in such a case loses control of the information and is reliant that into whosesoever hands the disclosure falls that they will keep the information secret.

[35] The Court further observes that within the Banking Act at the said section 32, the language used to forbid and reinforce secrecy by the Bank's director, employees etc. is "No person who has acquired knowledge … shall disclose…." Very similar language found at section 38 of the Money Laundering (Prevention) Act which reads "A person who obtains information…. shall not disclose…" It therefore appears that persons who come into information by way of disclosure under either of the Acts is bound to secrecy. There is nothing before the Court to convince it that one or the other of the requirement for secrecy is more binding on directors and employees than the next.

[36] The Banking Act provides at section 32 several exceptions as to when disclosure can occur. It appears to the Court that the relevant exception for consideration of the Money Laundering (Prevention) Act is (d), that disclosure can be made "under the provisions of any law of Saint Lucia". It is uncontested that the Money Laundering (Prevention) Act is a law of Saint Lucia and so it fits squarely under the exception at section 32 (d). To the Court (d) opens the gate for other statutes to make provision for exceptions to the secrecy requirement.

[37] There appeared to be some argument by the Bank that in looking at section 5 of the Money Laundering (Prevention) Act, that the functions at 5 (1) and (2) set up that information without a court order any process by the Authority was to initiated by the Bank delivering (the Authority receiving) before it goes on to analyze and so forth. The Court is not convinced that the order of the activities show that the Bank must be the initiator, and failing which a court order is required. It appears to be a list of activities that the Authority may undertake. If Parliament wanted an order of priority, the Court believes that would have been stated.

[38] This brings the Court to section 6(1) of Money Laundering (Prevention) Act. The first observation of the Court is that there is nowhere in the Act a caveat that an order is required to carry out either (a) or (b) functions described in the section.

[39] While there is no question before the Court on section 6(1) (a), the Court does not believe that it can be left out of its analysis. As to section 6(1) (a), the Director can enter the Bank during normal working hours and inspect a transaction record. Such activity could be by way of surprise of course, and obviously discloses information. So information can be gathered under this provision without an order.

[40] The Court is unable to in light of its position on section 6(1) (a) to make a distinction on the operation of section 6(1) (b) and say that section 6(1) (b)

requires an order before the Director can make a request for information. In both instances the Director can gather the very same information.

[41] While the Court understands and appreciates the concern of the Bank, the Money Laundering (Prevention) Act seeks to prevent a "fishing expedition" by way of section 8 which requires that no investigation be conducted except for the purpose of ensuring compliance by a financial institution, and the other side of that coin is that such an investigation may be conducted where there are reasonable grounds to suspect a transaction involves the proceeds of criminal conduct. These are burdens on the Authority. The Court believes that in bearing in mind the general purpose of the Act and in light of these 2 provisions that the Authority would be hard pressed to satisfy the Court with any other reason for entering the Bank or making a request.

[42] The Court therefore in answering the second issue, is not prepared to find that an order is required before a section 6(1)(b) request can be made and finds that the Director had the authority pursuant to section 6(1) (b) to make the 3 requests. His actions were intra vires the Money Laundering (Prevention) Act. The application will be struck out.

[43] **Court's** Order

1. The application is struck out.
2. No order for costs.

Rosalyn E. Wilkinson
High Court Judge

By the Court

Registrar