

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

IN THE MATTER OF SECTION 11A OF THE GRAND COURT LAW (2015 REVISION)

FSD CAUSE NO 172 OF 2016 (IMJ)

BEFORE MADAM JUSTICE MANGATAL  
IN CHAMBERS

BETWEEN:

- (1) MERIDIAN TRUST COMPANY LIMITED
- (2) AMERICAN ASSOCIATED GROUP, LTD.

Applicants

- and -

- (1) EIKE FUHRKEN BATISTA (AKA EIKE FUHRKEN BATISTA DA SILVA)
- (2) 63X INVESTMENTS LTD.
- (3) 63X FUND
- (4) 63X MASTER FUND

Respondents



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INJUNCTION PROHIBITING  
DISPOSAL OF ASSETS WORLDWIDE

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PENAL NOTICE

IF YOU EIKE FUHRKEN BATISTA (AKA EIKE FUHRKEN BATISTA DA SILVA) DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.

IF YOU 63X INVESTMENTS LTD., 63X FUND, OR 63X MASTER FUND DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO BE FINED OR TO HAVE YOUR ASSETS SEIZED AND ANY OF YOUR DIRECTORS MAY ALSO BE LIABLE TO IMPRISONMENT OR TO BE FINED OR TO HAVE THEIR ASSETS SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.



**IMPORTANT:**

**FURTHER NOTICE TO THE RESPONDENTS**

- (1) This Order prohibits **EIKE FUHRKEN BATISTA (AKA EIKE FUHRKEN BATISTA DA SILVA), 63X INVESTMENTS LTD., 63X FUND, and 63X MASTER FUND** ("the Respondents") from dealing with your assets up to the amount stated. The Order is subject to the exceptions at the end of the Order. You should read it all carefully. You are advised to consult an attorney as soon as possible. You have a right to ask the Court to vary or discharge this Order.
- (2) If you disobey this Order you will be guilty of contempt of Court and may be sent to prison, if you are a respondent who is an individual, and / or fined or your assets may be seized.

**THE ORDER**

An application was made on the 27<sup>th</sup> and 28<sup>th</sup> October 2016 by Counsel for **MERIDIAN TRUST COMPANY LIMITED and AMERICAN ASSOCIATED GROUP, LTD. (the Applicants)** to The Hon. Madam Justice Mangatal. Upon hearing Counsel for the Applicant, Madam Justice Mangatal heard the application and read the affidavits listed in Schedule 2 at the end of this Order.

As a result of the application **IT IS ORDERED** that:

**1. DISPOSAL OF ASSETS**

1. The Respondents must not:
  - (a) remove from the Cayman Islands any of their assets which are in the Cayman Islands up to the value of USD62,932,547 inclusive of provision for claimed costs and interest; or
  - (b) in any way dispose of, deal with or diminish the value of any of their assets whether they are in or outside the Cayman Islands up to the same value.
2. Paragraph 1 applies to all of the Respondents' assets whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order the Respondents' assets include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own (including assets of bodies corporate having no or no substantial trading activities and which are wholly owned and controlled by the Respondents). The Respondents are to be regarded as having such power if a third party holds or controls the asset in accordance with their direct or indirect instructions.
3. If the total value free of charges or other securities ("unencumbered value") of the Respondents' assets in the Cayman Islands exceeds USD62,932,547, the Respondents may remove any of those assets from the Cayman Islands or may dispose of or deal with them so long as the total unencumbered value of their assets still in the Cayman Islands remains above USD62,932,547.
4. If the total unencumbered value of the Respondents' assets in the Cayman Islands does not exceed USD62,932,547 the Respondents must not remove any of those assets from the

Cayman Islands and must not dispose of or deal with any of them. If the Respondents have other assets outside the Cayman Islands, they may dispose of or deal with those assets outside the Cayman Islands so long as the total unencumbered value of all their assets whether in or outside the Cayman Islands remains above USD62,932,547

## 2. DISCLOSURE OF INFORMATION

5. Each Respondent must inform the Applicants' attorneys in writing within 72 hours of service of this order and to the best of their ability of all their assets (save for domestic chattels worth less than USD10,000.) whether inside or outside the Cayman Islands and whether in his or its own name or not and whether solely or jointly owned, giving the value, location and details of all such assets.
6. Each Respondent must within 72 hours of service of this order and to the best of their ability inform the Applicants' attorneys in writing of:
  - (a) all their liabilities (including debts) above the value of USD10,000;
  - (b) any claims of which they have been notified above the value of USD500,000; and
  - (c) details of any pending legal proceedings or legal actions against them or legal proceedings which have been threatened against them in the previous 2 years but not yet served upon them.
7. The information in paragraph 5 and 6 must be confirmed by the First Respondent and, in the case of each corporate Respondent, a director of each corporate Respondent in his capacity as a director of a corporate Respondent, in an affidavit which must be served on the Applicants' attorneys no later than 4.30pm on the fifth clear business day after service of this Order.
8. The Respondents shall each provide to the Applicants' attorneys within 72 hours of being served with this Order either:
  - (a) The contact details of a firm of attorneys in the Cayman Islands to whom communications in respect of this order are to be addressed; or
  - (b) An email address to which communications in respect of this order should be addressed.

## 3. PRESERVATION AND DELIVERY UP OF THE ASSET DOCUMENTS

9. The Respondents must preserve and must not (save in compliance with this Order or in compliance with any other order of today's date made against the Respondents) dispose of or part with possession of any Asset Documents (as defined in paragraph 10 below).
10. Save insofar as the Respondents have already delivered up documents pursuant to any other orders made in these proceedings, the Respondents must within 4 business days of service of this Order deliver up to the Applicants' attorneys all documents ("the Asset Documents") which they have in their possession, power or control and which evidence:



- (a) the existence, location or value or details of any of their assets worth more than USD10,000; and
- (b) all bank statements in relation to all bank accounts in which the Respondents have (or had) any interest (direct or indirect, legal or beneficial, sole or joint) from [1 January 2010] onwards or copies of those documents. In the case of bank accounts, these documents must include bank statements showing the state of the account at the date of this order.

#### 4. DELIVERY UP OF ASSET DOCUMENTS HELD BY THIRD PARTIES

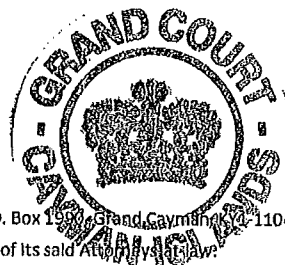
- 11. Where any Asset Documents are in the custody of third parties (including but not limited to banks, safety deposit holders, accountants, legal advisors, financial advisors, investment managers or advisors, trustees and nominees (including, for the avoidance of doubt, Maples Corporate Services Limited) and whether inside or outside the Cayman Islands) who hold such documents (including but not limited to bank statements) to the order of the Respondents or hold such documents on the Respondents' behalf or who are obliged to deliver the originals or copies to the Respondents on payment of a fee, the Respondents shall as soon as possible and in any event within one business day of service of this Order give written and (where possible) oral orders or instructions to such third parties immediately to deliver up all such documents or copies thereof to the Applicants' attorneys or to make available to the Applicants' attorneys all such documents for inspection and copying.
- 12. The Respondents shall within 2 business days of service of this Order sign and deliver up to the Applicants' attorneys letters addressed to such third parties in the forms set out in Annex A hereto (Part 1 in respect of banks and Part 2 in respect of others) including but not limited to all the banks (and/or any other deposit holding entities) with whom the Respondents hold bank accounts.

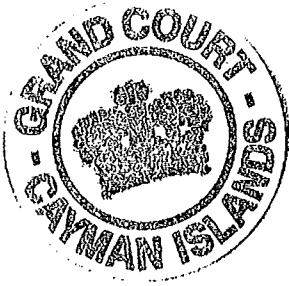
#### 5. EXCEPTIONS TO THIS ORDER

- 13. This order does not prohibit the First Respondent from spending USD10,000 a week towards his ordinary living expenses and each Respondent from spending a reasonable sum on legal advice and representation. But before spending any money each Respondent must tell the Applicants' attorneys where the money is to come from and inform the Applicants before the spending of the Respondent on legal advice or liability to pay for legal advice has reached \$200,000.
- 14. Save as provide in 14A below this order does not prohibit each Respondent from dealing with or disposing of any of their assets in the ordinary and proper course of business, provided that the Respondents shall notify the Applicants' attorneys 5 business days in advance of any such dealing or disposal worth more than USD10,000 so as to afford the Applicants a reasonable opportunity to apply for further relief from this Court.

14A. From the date of this Order to the earller of:

- a) 12 January 2017; or





- b) the date of service of this Order on the First Respondent (to be advised by the Applicants to the Sixth Respondent in writing); or
- c) the Applicants informing the Sixth Respondent that the terms of this Order have been brought to the attention of the First Respondent (to be advised by the Applicants to the Sixth Respondent in writing)

nothing in this Order shall prohibit the First to Fourth Respondents (or their associated entities) from making transfers from any account held with the Sixth Respondent located within the Cayman Islands up to a maximum aggregate amount of US\$500,000.

14B. The Sixth Respondent shall inform the Applicants as soon as practicable (and in any event within 24 hours) of the receipt of any instruction received from or on behalf of the First to Fourth Respondents (or their associated entities) to make a transfer which would, but for the provisions of paragraph 14A above, have caused the aggregate transfers from the accounts of the First to Fourth Respondents to exceed \$500,000, and the Sixth Respondent shall not act on such instructions without further Order of this Court or agreement in writing from the Applicants."

15. The Respondents may agree with the Applicants' attorneys that the above spending limits should be increased or that this order should be varied in any other respect, but any agreement must be in writing.

16. The Order will cease to have effect if the Respondents:

- (a) provides security by paying the sum of USD62,932,547 into court, to be held to the order of the court; or
- (b) makes provision for security in that sum by another method agreed with the Applicants' attorneys.

#### 6. EFFECT OF THIS ORDER

17. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement, and this Order is effective against any Respondent on whom it is served or who is given notice of it.

18. A Respondent which is not an individual and which is ordered not to do something must not do it itself or by its directors, officers, employees, partners, or agents, or in any other way.

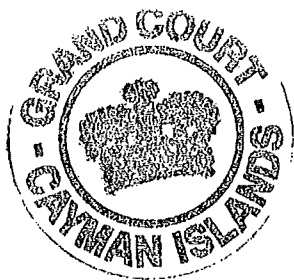
#### 7. THIRD PARTIES

19. Effect of this Order - It is a contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of the Order. Any person doing so may be sent to prison, fined, or have his assets seized.

20. Effect of this Order outside the Cayman Islands - The terms of this Order do not affect or concern anyone outside the jurisdiction of this Court until it is declared enforceable or is enforced by a court in the relevant country and then they are to affect him only to the extent they have been declared enforceable or have been enforced UNLESS such person is:
- (a) a person to whom this Order is addressed or an officer or an agent appointed by power of attorney of such a person; or
  - (b) a person who is subject to the jurisdiction of this Court and (i) has been given written notice of this Order at his residence or place of business within the jurisdiction of this Court and (ii) is able to prevent acts or omissions outside the jurisdiction of this Court which constitute or assist in a breach of the terms of this Order.

20A. Nothing in this order shall, in respect of assets located outside the Cayman Islands, prevent any third party from complying with:

- a) what it reasonably believes to be its obligations, contractual or otherwise under the laws and obligations of the country or state in which those assets are situated or under the proper law of any contract between the third party and the Respondents; and
- b) (any orders of the courts of that country or state, provided reasonable notice of any application for such an order (to the extent such notice is permitted by the law of such country or state) is given to the Applicants' Cayman Islands attorneys.



21. Set off by Banks - This injunction does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the Respondents before it was notified of the Order.
22. Withdrawals by the Respondents - No bank need enquire as to the application or proposed application of any money withdrawn by the Respondents if the withdrawal appears to be permitted by this Order.

#### 8. SERVICE OUT OF THE JURISDICTION

23. The Applicants may serve the Originating Summons and a Summons seeking the continuation of this Order, and this Order, on the First Respondent out of the jurisdiction pursuant to Grand Court Rules, Order 11, r.1(n).

#### 9. UNDERTAKINGS

24. The Applicants give to the Court the undertakings set out in Schedule 1 to this Order.

#### 10. DURATION OF THIS ORDER

25. The Applicants have liberty to return to this Court 10 business days after the effecting of service of this Order on the Respondents ("the Return Date"). This Order will remain in force up to and including the Return Date, unless before then it is varied or discharged by a further Order of the

Court. The Return Date shall be listed for 30 minutes for directions on the determination of the substantive issues on the application, unless a party considers that more than 30 minutes is required for the return date and has given notice of the same to the Court and the other party no less than 2 business days before the Return Date.

#### **11. VARIATION OR DISCHARGE OF THIS ORDER**

26. The Respondents (or anyone notified of this Order) may apply to the Court at any time to vary or discharge this Order (or so much of it as affects that person), but anyone wishing to do so must first inform the Applicants' attorneys in writing on not less than 2 business days notice. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Applicants' attorneys in advance at the same time as the written notice of the intention to vary or discharge the Order.

#### **12. COSTS**

27. The costs of this application are reserved to the judge hearing the application on the return date.

#### **13. NAME AND ADDRESS OF APPLICANTS' ATTORNEYS**

28. The Applicants' attorneys are:

Solomon Harris (Attn: Laura Hatfield/Jamie McGee)

3rd Floor

First Caribbean House

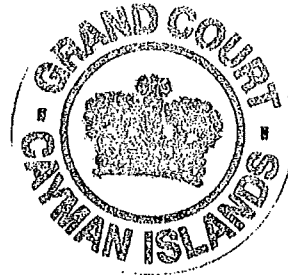
P.O. Box 1990

Grand Cayman

KY1-1104

Cayman Islands

Tel: +1345 949 0488



#### **14. INTERPRETATION OF THIS ORDER**

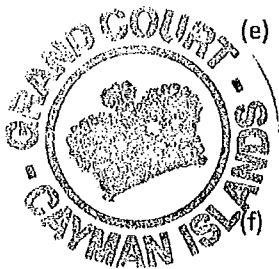
29. In this Order "he", "him" or "his" include "she" or "her" and "it" or "its".
30. Where there are two or more Respondents then (unless the context indicates differently) (a) references to "the Respondents" mean both or all of them; (b) an Order requiring "the Respondents" to do or not to do anything requires each Respondent to do or not to do it; (c) a requirement relating to service of this Order, or of any legal proceedings, on "the Respondents" means on each of them.
31. The term "assets" shall include (but not be limited to):

00648263-1 THIS ORDER was FILED by SOLOMON HARRIS of 3<sup>rd</sup> Floor, FirstCaribbean Bank, P.O. Box 1990, Grand Cayman, KY1-1104, Cayman Islands, Attorneys-at-law for and on behalf of the Applicants whose address for service is that of its said Attorneys-at-law.

- (a) any right whether contractual or under a trust or otherwise to receive or to be paid money or property, whether unconditional or contingent or present or future;
- (b) any interest in any trust, foundation, anstalt, stichting or similar legal structure (together herein collectively referred to as a trust) including any interest in any discretionary trust or any right or expectation to be considered for a payment or advance under any discretionary private trust;
- (c) any right or power to deal with any property, whether through nominees, power of attorney, or by instructing another person who habitually obeys instructions;
- (d) any property held by or in the name of a third party or company who habitually obeys the Respondent's instructions in relation to dealings with such property;
- (e) any bank account (whether in the name of the Respondents or not and irrespective of whether its balance is zero, positive or negative) and in respect of which the Respondents are an authorised signatory or in respect of which the Respondents are a signatory on the mandate or in respect of which the signatory habitually obeys the instruction of a Respondent or over which the Respondents exercise de facto control;
- (f) any interest in a pension fund or life insurance policy;
- (g) all chattels save for domestic chattels worth less than USD10,000;
- (h) any and all interests held (whether legally, beneficially or otherwise) in any company, limited liability corporation, partnership, limited partnership or joint venture; and

32. For the purposes of this order "details" of assets shall include but not be limited to:

- (a) in respect of bank accounts or similar accounts, the name or names in which the account is held; the name of the bank, building society or similar institution, the address of the relevant branch, the number of the account and the balance;
- (b) in respect of debit and credit cards, the name, number, and dates of validity of the card and the name of the issuing company.
- (c) in respect of real property, the address, the purchase price, the present approximate value and details of any encumbrances, charges or similar;
- (d) in respect of shares, the number of shares held, their purchase price, and their approximate actual value;
- (e) in respect of any interest held in any partnership or joint venture, the identity of the other partners or co-venturers, and the nature and value of the business and property held by the partnership or joint venture;
- (f) the nature, amount and date of any charges or encumbrances on any assets and the name of the persons entitled to such charges or encumbrances, including without limitation all mortgage agreements and/or tenancy agreements;



- (g) the value of any pension fund or life insurance entitlement whether present or future, including the value of the fund and the value of any right to withdraw a lump sum; and
- (h) details of all trusts including discretionary trusts in respect of which the Respondent, directly or indirectly, is a settlor, trustee, protector, enforcer or beneficiary or is entitled to be considered by the trustees for advancement or in respect of which the trustees habitually obey his instructions or to which the Respondent has directly or indirectly provided loans or paid monies whether by way of loan or otherwise. Such details to include:
  - (i) the name and contact details of all trustees, beneficiaries, classes of beneficiaries, settlors and protectors;
  - (ii) the value and nature and location of all property subject to such trusts;
  - (iii) the trust deed and any amendments thereto; and any letter of wishes and any amendments thereto.

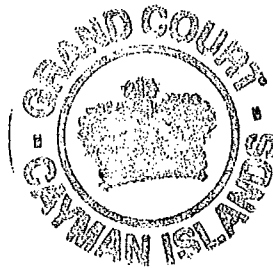
DATED this 28 day of October 2016

FILED this 28 day of October 2016

Amended 16 November 2016

Amended 14 December 2016

Amended 22 December 2016



A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "M. Mangatal".

THE HONOURABLE MADAM JUSTICE MANGATAL  
JUDGE OF THE GRAND COURT



SCHEDULE 1

Undertakings given to the Court by the Applicants

- (1) If the court later finds that this order has caused loss to the Respondents, and decides that the Respondents should be compensated for that loss, the Applicants will comply with any order the court may make but, vis-à-vis the First Applicant, any order for compensation will be limited to the amount of assets held in its capacity as Trustee of the Chrisly Trust.
- (2) The Applicants will cause to be transferred to the Court account the sum of USD1,500,000 no less than 3 business days from the date of this order for the purposes of fortification of the undertaking given at (1) above.
- (3) As soon as practicable after any and all applications for interim relief in the Bahamas, and in any event no later than ~~25 November 2016~~ ~~20 business days~~ 12 January 2017 after the date of this Order (or, in circumstances where the Applicants have sought and obtained an extension of time in which to serve this order in accordance with paragraph 26 of this Order, no later than the extended date) the Applicants will:
  - a) Serve on the Respondents this Order;
  - b) Serve on the Respondents the Originating Summons in these Proceedings claiming appropriate relief;
  - c) Serve on the Respondents:
    - i) copies of the affidavits and exhibits containing the evidence relied upon by the Applicants, and any other documents provided to the court on the making of the application;
    - ii) a draft application notice for the continuation of the Order;
    - iii) a transcript of the recording of this hearing; and
    - iv) a copy of the skeleton argument produced to the court by the Applicants' counsel.
- (4) As soon as practicable after the service of this Order the Applicants shall:
  - a) issue proceedings in the Courts of Florida United States including a Complaint substantially in the form shown to the Court on the hearing of this application; and
  - b) take steps to serve the said proceedings on the Respondents.
- (5) Anyone notified of this Order will be given a copy of it by the Applicants' attorneys.
- (6) The Applicants will pay the reasonable costs of anyone other than the Respondent which have been incurred as a result of this Order including the costs of ascertaining whether that person holds any of the Respondents' assets and that if the Court later finds that this Order has caused such a person loss, and decides that the person should be compensated for that loss, the Applicants will comply with any

Order the Court may make save always that vis-à-vis the First Applicant any order for compensation will be limited to the amount of assets held in its capacity as trustee of the Chrisly Trust.

- (7) The Applicants will not without the leave of the Court use information obtained as a result of an Order of the Court in this jurisdiction for the purpose of civil or criminal proceedings in any other jurisdiction other than the proposed proceedings in the United States and any Interim applications for relief in the Bahamas related to the proposed proceedings in the United States.
- (8) Save for any application for interim relief against the Respondents in the Bahamas, the Applicants will not without the leave of the Court seek to enforce this order in any country outside the Cayman Islands or seek an order of a similar nature including orders conferring a charge or other security against the Respondents or the Respondent's assets.
- (9) The First Applicant, in its capacity as Trustee of the Chrisly Trust, shall not act on any instruction received from any party which would have the effect, if acted upon, of revoking the Chrisly Trust in whole or in part. If such an instruction is received by the First Applicant, then it shall within 7 business days apply to the Cayman Court for directions in relation thereto.



SCHEDULE 2

Affidavit(s)



The Judge read the following affidavits before making this Order:

1. The first affidavit of Mr Thomas Antonio de Araujo dated 18 October 2016
2. The first affidavit of Mr Ernest Patrick Dover dated 20 October 2016
3. The first affidavit of Mr Brian Thomas Windham dated 20 October 2016
4. The first affidavit of Mr Richard Edmund Blaksley dated 17 October 2016
5. The first affidavit of Ms Judith Ellen Neiwirth dated 13 October 2016
6. The first affidavit of Mr Marcello Augusto Lima De Oliveira dated 18 October 2016
7. The first affidavit of Mr Kevin John Murray dated 20 October 2016
8. The second affidavit of Mr Thomas Antonio de Araujo dated 26 October 2016
9. The second affidavit of Mr Ernest Patrick Dover dated 26 October 2016

**ANNEX A**

**PART 1**

**[Bank]**

For the attention of [ ]

[Date]

**By Fax, By Email and By Post**

Dear Sirs

**Urgent - Asset Disclosure Request Pursuant to a Freezing Order dated [x] October 2016**

**Account Holder:**

**Account No:**

I refer to the above Account Holder and to any and all bank accounts (whether they be current accounts, savings accounts or otherwise, including, without limitation, those set out above) held at [ ] or any other financial institutions for which you are responsible that are in the name of the Account Holder (the "Accounts").

I hereby authorise and request you immediately to supply copies of all records in your possession relating to the Accounts and to the operation of the Accounts for the period from 1 January 2012 to date (including without limitation details of the balances of the Accounts, copies of bank ledgers, mandates, bank statements, cheques, paying in slips, payment orders and all other records which identify the source and destination of monies passing through the account) which are requested by Solomon Harris (Attn: Laura Hatfield / Jamie McGee), 3rd Floor, First Caribbean House, P.O. Box 1990, Grand Cayman, KY1-1104, Cayman Islands. I authorise you to have contact with Solomon & Harris in order to obtain their instructions and to deliver the copy documents requested and to answer their questions about the Accounts. I further authorise and instruct you to send to the said Solomon & Harris (Attn: Laura Hatfield) copies of all future bank statements and other records prepared by you in respect of the Accounts until further instruction from Solomon & Harris.

Solomon & Harris will meet your reasonable charges for supplying these documents and this information.

Yours faithfully,

**ANNEX A**

**PART 2**

For the attention of [ ]

[Date]

**By Fax, By Email and By Post**

Dear Sirs

**Urgent - Asset Disclosure Request Pursuant to a Freezing Order dated [x] October 2016**

I hereby authorise and request you immediately to supply copies of all documents in your possession which are requested by Solomon Harris (Attn: Laura Hatfield / Jamie McGee), 3rd Floor, First Caribbean House, P.O. Box 1990, Grand Cayman, KY1-1104, Cayman Islands, relating to the existence, location, value and details of all of my assets (whether held by me directly or indirectly, legally and/or beneficially) worth more than USD1,000 including (but not limited to) any interest and/or shareholding in a company, partnership, joint venture, trust, bank account, credit facilities, property, motorised vehicles, pension or other saving account.

I authorise you to have contact with Solomon Harris in order to obtain their instructions and to deliver the copy documents requested (Attn: Laura Hatfield) and to answer any questions they may have about my assets and financial affairs.

Solomon Harris will meet your reasonable charges for supplying these documents and information.

Yours faithfully,