

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION



Cause No. 116 of 2020

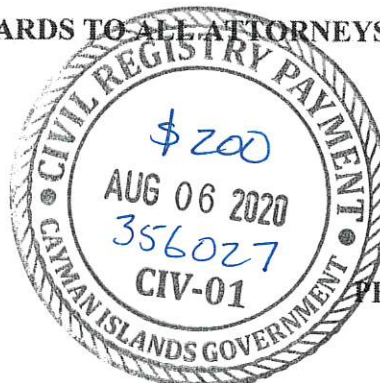
IN THE MATTER OF AN APPLICATION UNDER SECTION 26 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER, 2009

AND IN THE MATTER OF GRAND COURT RULES, ORDER 9, RULES 2 AND 4, ORDER 77A, RULES 1, 3 AND 4

AND IN THE MATTER OF SECTIONS 7, 9, 12, 15, 19, 23, 24 AND 27 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER 2009 AND SECTION 11(2) OF THE GRAND COURT LAW (2015 REVISION)

AND IN THE MATTER OF THE PROCEEDS OF CRIME LAW (2020 REVISION) AND THE ANTI-MONEY LAUNDERING REGULATIONS (2020 REVISION)

AND IN THE MATTER OF THE ASSIGNMENT BY THE CABINET OF THE CAYMAN ISLANDS OF THE FUNCTION OF SUPERVISORY AUTHORITY TO THE CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION FOR THE PURPOSE OF MONITORING COMPLIANCE WITH REGARD TO THE ANTI-MONEY LAUNDERING REGULATIONS WITH REGARDS TO ALL ATTORNEYS-AT-LAW IN THE CAYMAN ISLANDS



BETWEEN: (1) ETIENNE BLAKE  
(2) J. SAMUEL JACKSON

PETITIONERS

AND: (1) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS  
(2) THE CABINET OF THE CAYMAN ISLANDS

(3) CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION

(4) CAYMAN ATTORNEYS REGULATION AUTHORITY

RESPONDENTS

---

PETITION

---

To the Grand Court

The humble petition of:

1. Etienne Blake of P.O. Box 2496, Grand Cayman KY1-1104, Cayman Islands, and;
2. J. Samuel Jackson of P.O. Box 10638, Grand Cayman KY1-1006, Cayman Islands; (hereinafter together the "Petitioners"),

shows that:

**Introduction**

1. The First Petitioner is an independent locally based law firm licenced to practice Cayman Islands Law.
2. The Second Petitioner is an attorney-at-law duly registered to practice law in the Cayman Islands, being the sole principal of the legal business styled "JacksonLaw", and who is a member of the Association of Legal Professionals and Advocates ("ALPA"), a registered company limited by guarantee, which was incorporated on 8<sup>th</sup> March 2019 as "Association of Legal Professionals and Advocates (Cayman) Ltd." which entity represents the interests (and seeks to protect the rights, freedoms and interests) of sole legal practitioners and small

independent locally owned firms of less than five practitioners that practice Cayman Islands law.

3. Neither of the principals of the First Petitioner nor the Second Petitioner have ever been members of the Third Respondent.
4. The First Respondent is the Attorney General of the Cayman Islands and is *ex officio* the chief legal advisor of and to the Second Respondent.
5. The Second Respondent is the Executive arm of the Government of the Cayman Islands as defined by section 43 and 44 of Schedule 2 to the Cayman Islands Constitution Order, 2009 (the "Constitution").
6. The Third Respondent is a private company limited by guarantee and incorporated on 2<sup>nd</sup> October 2018<sup>1</sup>. By the objects of its Memorandum the Third Respondent's remit in terms of Anti Money Laundering, at inception and until 16<sup>th</sup> December 2019 was limited to its members only.
7. The Fourth Respondent does not possess its own separate legal personality, although it holds itself out as some form of regulatory authority, which purportedly exists in the form of a bifurcated committee of the Third Respondent, according to various documents published and disclosed by the Third Respondent.
8. Whilst not required to, the Third Respondent at incorporation filed a Memorandum which detailed, at object 4 (m) the following:

(m)

*"to act as a "supervisory authority"-(as defined in the Anti-Money Laundering (Designated Non Financial Business and Professions) (No.1) Regulations 2017) for firms of attorneys at-law who are also members of CILPA, being an authority which CILPA must cause to be supported by a suitably-financed supervisory executive."*

---

<sup>1</sup> The Third Respondent is a private sector association pursuant to Schedule 3 of the Monetary Authority Law (2020 Revision).

9. At the hearing of this Petition, the Petitioners will rely on the preclusionary effect of Object 4 (m) of the Third Respondent's Memorandum of Association.
10. By a decision dated 19<sup>th</sup> February 2019 and notified in writing, by the First Respondent to the Third Respondent on 1<sup>st</sup> April 2019, the Second Respondent exercised a power granted to it by section 4 (9) of the Proceeds of Crime Law (2017 Revision) (the "PCL")<sup>2</sup> to designate the Third Respondent as the authority for monitoring compliance by firms of attorneys of the regulations stipulated by the Anti Money Laundering Regulations (2020 Revision) (the "AMLR's").
11. By a letter dated 1<sup>st</sup> April 2019 the First Respondent wrote to the Third Respondent, whereby the First Respondent expressly refers to the Third Respondent's appointment pursuant to Regulation 55B (c) which at that time stipulated as follows:

"The following bodies are designated as Supervisory Authorities of the following DNEFBPs for the purposes of this Part —

a public body or self-regulatory body assigned by Cabinet by Order - for firms of attorneys at law that engage in or assist other persons in the planning or execution of relevant

---

<sup>2</sup> The PCL was enacted 30 June 2008 with the objective of establishing a legislative framework for the prevention of money laundering. The Financial Reporting Authority (hereinafter "the FRA") is the statutory authority constituted under the PCL to serve as the central regulator of all relevant financial service providers and businesses under the PCL. Subsequently, the Legislative Assembly of the Cayman Islands (hereinafter "the LA") amended section 4 (9) of the PCL thereby empowering auxiliary monitoring bodies, termed "Supervisory Authorities", to assist the FRA by "monitoring compliance" of persons within the specific relevant sector or industry. The PCL is bereft of any express power of assignment by the FRA of its core functions as regulator for AML or other such matters stipulated by the PCL, to any Supervisory Authority. In the round, a public body or "*self-regulatory body*" may only be appointed to monitor compliance. The term "Self Regulatory Body" was not defined in PCL or by the AMLR's or in any further revisions of the PCL.

*financial business, or otherwise act for or on behalf of such persons in relevant financial business*<sup>3</sup>

12. The First Respondent's 1<sup>st</sup> April 2019 letter and the Extraordinary Gazette published on 9<sup>th</sup> April 2019, to like effect, are the only documents issued by the First and Second Respondents purportedly authorising the Third Respondent as a Supervisory Authority for AML purposes.
13. The Petitioners aver that the neither the LAMAL nor the Extraordinary Gazette contains any express provision that the Third Respondent would become either the regulator or supervisory authority for *all* attorneys-at-law. The Petitioners would therefore contend that, given that at the time of the promulgation of the LAMAL and the publication of the Extraordinary Gazette notice, the Third Respondent's constitutional documents expressly only provided for the Third Respondent to regulate its own members, it must be presumed that the Legislative Assembly and the Second Respondent intended for the Third Respondent to provide such regulatory or supervisory functions only in regards to members of the Third Respondent, as neither the Legislative Assembly or the Second Respondent could thereby, in either instance, licence or authorize the Third Respondent to regulate or supervise persons outside its membership and/or beyond its legal remit and/or control.
14. The Petitioners aver, further and in the alternative to the averments contained in paragraph 14 herein, that if it was the intention of the Legislative Assembly, by way of section 22A of the LPL, to provide for the Third Respondent to regulate AML compliance for *all* attorneys-at-law, then the Legislative Assembly must have intended that the power exercised by the Second Respondent appointing the Third Respondent was at all material times:
  - (i) Subject to the fulfilment, by the Third Respondent, alone, of the condition precedent imposed by the Legislative Assembly (the "LA") pursuant to its passage of The Legal Associations (Miscellaneous Amendments Law, 2018 ("LAMAL")) passed on 16<sup>th</sup> November 2018 which, by Schedule 2 amended

---

<sup>3</sup> The underlined and italicized provisions were deleted by amendment of the AMLRs in June 2019, after the Fourth Respondent was "established" by the Third Respondent, although the 2020 Revision of the AMLR does not reflect this deletion.

the Legal Practitioners Law (2015 Revision) by inserting the following provision:

“22A. The objects of the Cayman Islands Legal Practitioners Association shall include the regulation of attorneys-at-law to ensure their compliance with anti-money laundering and counter-terrorism legislation.”

- (i) Subject to the Third Respondent lawfully gaining voluntary membership of *all* attorneys-at-law registered to practice Cayman Islands Law;
- (ii) Subject to the Third Respondent satisfying the Second Respondent of compliance with the statutory condition precedent, anterior to the exercise by the Second Respondent of its appointment power as aforesaid; and,
- (iv) Subject, at all events, to ensuring that in exercising its powers it did not infringe the Petitioners’ fundamental rights protected by the Constitution and the Bill of Rights, Freedoms and Responsibilities (the “BOR”) namely, section 12 (freedom of association), section 19 (lawful administration) as read together with section 16 (non-discrimination).

15. The Petitioners aver that the condition precedent imposed by section 22A as aforementioned was:

- (i) On the basis that the LA was cognizant of the restrictions imposed by object (m) the effect of which was to limit the scope Third Respondent’s AML supervision to its members only;
- (ii) In part, to prevent a breach of Section 12 of the BOR, by inadvertently sanctioning membership, by compulsion, of the Third Respondent, of attorneys of all attorneys admitted and licenced to practice Cayman Islands Law.

- (iii) On the basis that the LA was cognizant of the fact that compulsory membership of predecessor organisations, such as the Cayman Bar Association or the Cayman Islands Law Society formed no part, hitherto, for the admission and licensing of attorneys-at-law to practice Cayman Islands Law.
- (iv) On the basis that the Third Respondent, by agreement, obtained voluntary membership of all Cayman Islands based practicing attorneys-at-law.

16. The Petitioners aver that notwithstanding the omission, by the Third Respondent, to fulfil the statutory condition precedent as aforesaid, the Second Respondent purported to exercise, unlawfully, in breach of section 19 and 24 of the BOR, its power of designation pursuant to section 4 (9) of the PCL. By so doing, the Petitioner aver that the Second Respondent subverted the clear intention of the legislature as stipulated by section 22A of the LPL.
17. The Petitioners further aver that the Second Respondent's power of designation, under section 4 (9) of the PCL, is circumscribed by and limited to monitoring compliance with AML and precludes any roles by a supervisory authority with respect to monitoring compliance with counter terrorism financing, CTF. The First Respondent's 1<sup>st</sup> April 2019 letter and the exorbitant mandate claimed by the Third and Fourth Respondents, namely the supervision of attorneys-at-law in the context of CTF is thereby asserted to be unlawful and in breach of section 19 and 24 of the BOR.
18. The Third Respondent's failure to take the necessary steps to comply with the statutory precedent remained until 16<sup>th</sup> December 2019, thirteen months (13) after the LA's prescription, at which time the Third Respondent attempted to satisfy that statutory mandate by simply amending its Memorandum of Association so as to include all attorneys-at-law, which the Petitioners assert it is not lawfully permitted to do. In the period intervening and in an effort to remedy the Third Respondent's failure as aforesaid, the First and Second Respondents, on 10<sup>th</sup> October 2019, tabled the Legal Practitioners (Amendment) Bill, 2019 ("the LPAB"), which Bill proposed to provide for the compulsory membership by all

attorneys-at-law in the Third Respondent for the purposes of AML regulation, by deeming all attorneys to be members of the Third Respondent.

19. Implicit in the First and Second Respondents' actions was their recognition that the Third Respondent had failed, despite the passage of 11 months since LPAM had received His Excellency the Governor's Assent, to comply with section 22A of the LPL.
20. The Petitioners aver that it was unlawful and in breach of section 19 and 24 of the BOR, for the Second Respondent to subvert the clear intention of the legislature which required the Third Respondent to give effect to the section 22A condition precedent by having concomitantly fulfilled its corollary obligation to obtain the consent/voluntary membership of all attorneys at law licenced to practice Cayman Islands Law.
21. Further or alternatively, by tabling the Bill to amend the LPL as aforesaid, the First and Second Respondents conceded:
  - (i) That the Third Respondent could not fulfil the condition precedent; and,
  - (ii) That the alternative of compelling membership, by all Cayman Islands attorneys-at-law, of the Third Respondent, engaged important points of constitutional principle (*not the least of which was section 12 of the BOR as aforesaid*) which required considered debate and deliberation by the Legislative Assembly.
22. This strong constitutional imperative notwithstanding, the First and Second Respondent again neglected, at best, to meaningfully engage and or consult the Petitioners in circumstances where they ought, appropriately, to have been consulted; this failure, prior to the tabling of the Bill, as aforesaid, was contrary to the Petitioners' lawful administration rights prescribed by section 19 of the BOR as aforesaid.
23. As a matter of record, the First and Second Respondent's proposed amendment of the LPL was strongly opposed by the Petitioners. Having been presented to the LA by the First Respondent, it was summarily "deferred" on or around 6<sup>th</sup> December 2019.

24. Anterior to this purported "deferral", on 2<sup>nd</sup> December 2019, ALPA sent a detailed memorandum (with cover letter and authorities) to the First Respondent (copied to members of the LA) highlighting the vice of the proposed amendment to the LPL namely, that membership by compulsion of the Third Respondent and its consequential submission to the Fourth Respondent was an infringement of the ALPA's members and the Petitioners' constitutional right to freedom of association or non-association (under s.12, of the BOR) as aforesaid.

25. The Fourth Respondent is not, by its own admission, a legal entity<sup>4</sup>. It claims, without more, to be the lawful delegatee, by the Third Respondent, of the powers assigned by the Second Respondent pursuant to section 4 (9) of the PCL as aforesaid. The Fourth Respondents Terms of Reference as stipulated by the Third Respondent in its "**Regulations in respect of CARA dated 29<sup>th</sup> May 2019 as amended on 27<sup>th</sup> January 2020**" state, *inter alia*, as follows:

*"7 The terms of reference of the CARA Board ("the Board") are*

*(1) In relation to Anti-Money Laundering and related fields, in respect of firms of attorneys, to exercise educational, monitoring, regulatory, investigative, adjudication, disciplinary, enforcement, supervisory, civil litigation and cost recovery powers and functions vested in CILPA or the Council under regulation 55B(c) Anti-Money Laundering Regulations (2020 Revision), as amended, in its capacity as designated supervisory authority for AML;*

*(2) To exercise the following other functions -*

*(a) consenting on behalf of CILPA in its approved regulator capacity, and*

*(b) making any application that relates to regulatory functions delegated to the Board or to regulatory arrangements relating to the discharge of those functions and providing the application is not -*

*(i) to regulate persons not presently regulated or to cease to regulate persons; or*

---

<sup>4</sup> See Third Respondent's Minute of Meeting dated 29<sup>th</sup> May 2019 where the following Resolution was effected:

"IT WAS RESOLVED that CARA be established as a subcommittee of CILPA and the Regulations adopted ..."

See Further CILPA Regulations in respect of CARA dated 29<sup>th</sup> May 2019 as amended on 27<sup>th</sup> January 2020.

*(ii) to change CILPA's position as an approved regulator." [Our emphasis]*

26. The Petitioners aver that, at all material times proximate to the Fourth Respondent's purported Regulation 55F Registration Notice<sup>5</sup>, neither the Third nor the Fourth Respondents had any legal capacity to regulate non-members of the Third Respondent.
27. Without prejudice to the Petitioners' averment that the Third Respondent lacked capacity to delegate and or assign its statutory powers to the Fourth Respondent, the issuance by the Fourth Respondent of Registration Notices to the Petitioners on 18<sup>th</sup> November 2019 was *ultra vires* the Third and Fourth Respondent's own Regulations as hereinbefore pleaded.
28. Further, subject to the issue of lawful delegation, the Third and Fourth Respondents capacity to act on their Regulations was subject to the fulfilment, by the Third Respondent of the section 22A LPL condition precedent.
29. The Petitioners aver that the Third and Fourth Respondents Regulations were first issued on 29<sup>th</sup> May 2019; between that date and 18<sup>th</sup> November 2019 and in circumstances where the Third Respondent had failed to comply with the condition precedent as aforesaid, any and all Regulation 55F Registration Notice issued to non-members were of no effect and a nullity.
30. In the premises any subsequent Breach Notices and / or Discretionary Fine Notices premised on the purported exercise by the Third and Fourth Respondents' Regulation 55F Registration Notice power was unlawful and *ultra vires*.
31. The Petitioners aver that notwithstanding the matters pleaded at paragraphs 26 to 31 of this Petition, neither the First Respondent's 1<sup>st</sup> April 2019 letter, the 9<sup>th</sup> April 2019 Extraordinary Gazette or the AMLR's expressly convey any supervisory authority powers to the Fourth Respondent. The Petitioners put the Third and Fourth Respondents to proof of the basis upon which they contend that they had lawful authority to act, specifically by reason of the failure

---

<sup>5</sup> 18<sup>th</sup> November 2019

to fulfill the section 22A LPL condition precedent and / or generally, as a matter of public law the basis upon which a private entity (*which the Third Respondent was as, up to and until 16<sup>th</sup> December 2019*) is able to delegate statutory powers to a sub-committee contrary to primary legislation.

32. This paucity of specific statutory authorisation notwithstanding, the Fourth Respondent asserts that it is unrestrained from:

- (i) Holding itself out as a Supervisory Authority for the purposes of Part XIA of the AMLR's with powers to effect and enforce compliance by a Designated Non-Financial Services Businesses ("DNFB's") with the AMLR's;
- (ii) Claiming, in its enforcement capacity, the ability (without the consent or waiver of rights) to levy "administrative fines" (a penalty) pursuant to Regulation 55R to 55Z of the AMLR;
- (iii) Levying a minimum administrative fine of CI\$50,000 with respect to any breaches of the AMLR's in respect of which it shall be prosecutor judge jury and executioner, contrary to the *nemo iudex* principle;
- (iv) Asserting a power to levy fines, administratively broader, than permitted of a Judge of the Summary Court, with established due process protections) under the applicable law;
- (v) Having the sole authority to determine whether and in what context it will make a reference to the Director of Public Prosecutions of the Cayman Islands for further action including prosecutions of DNFB's in breach of the AMLR's;
- (vi) Having the sole power under section 55G to cancel the registration of DNFBP.

33. Additionally, neither the PCL, LAMAL, the AMLR's nor the First Respondent's notice to the Third Respondent, as aforesaid, make any explicit reference to the specific designation of the Fourth Respondent as the Supervisory Authority empowered to supervise and or issue administrative fines in the circumstances stipulated in the AMLR's.

34. The Petitioners hereby repeat paragraphs 26 to 35 and challenge:

- (i) The constitutionality of the “Administrative Fine” regime stipulated by Regulations 55R to 55Z of the AMLR, as well as the “Discretionary Fine” process provided by Regulations 55ZA to 55ZJ of the AMLR, which, whether individually or collectively, are a gross and unjustifiable infringement of section 7 (1)<sup>6</sup> of the BOR;
- (ii) Further or alternatively, the rationality and proportionality of the magnitude of fines provided by the AMLR for even the most minor of strict liability offences thereby provided, as well as the inherent procedural unfairness mandated by such process, in light of section 19 (1) of the BOR;
- (iii) Further or alternatively, the severity of the minimum “fining power” permitted by the Regulations, as aforesaid, which is of such severity as to contravene settled precedent namely *Engel v Netherlands* a decision of the European Court of Human Rights; and,
- (iv) The absence of objectively justifiable reasons, by reference to express agreement / waiver of due process rights and or on the administrative efficiency justifying the egregious breach of the Petitioner’s section 7 BOR rights whether in subsidiary legislation or at all.

35. The Petitioners assert, as against the Third and Fourth Respondents, that the breaches identified in paragraph 33 *ante*, are a severe encroachment of their rights to due process under section 7 as read together with section 19 of the BOR and by this Petition, seek redress.

36. Further or alternatively, with respect to the Registration Notices, the Petitioners claim that the Third and Fourth Respondents acted unlawfully in circumstances where they knew that they had no warrant to issue a requirement to each of the Petitioners to comply with Regulation 55A of the AMLR’s.

37. The Registration Notices were issued under the hand of one Clair Guile in her purported capacity as Head of Supervision of the Fourth Respondent. Citing the 2018 AMLR’s, the Registration Notices claimed:

---

<sup>6</sup> Fair trial 7.—(1) Every one has the right to a fair and public hearing in the determination of his or her legal rights and obligations by an independent and impartial court within a reasonable time.

- (i) Each of the Petitioners was required to register with the Fourth Respondent pursuant to Regulation 55F of the AMLR's;
- (ii) That an extended deadline for registration was close of business Friday 29<sup>th</sup> November 2019;
- (iii) Failure to register, as aforesaid would be a breach of Schedule 2 of the AMLR's resulting in the invocation, by the Fourth Respondent of the administrative fine regime prescribed by the AMLR's.

38. When the purported Head of Supervision of the Fourth Respondent issued the Notice on the Fourth Respondent's behalf, she and the Fourth Respondent knew or must be taken to have known that they had no authority to issue the Notice and/ or that it had no legal effect by reason of the fact that the section 22A LPL condition precedent had not been complied with. The Petitioners aver that by so doing, the Fifth and Fourth Respondents acted unlawfully and in breach of section 19 and 24 of the BOR.

39. On 2<sup>nd</sup> December 2019, the First Petitioner wrote to the purported Head of Supervision of the Fourth Respondent chasing responses to correspondence that had been outstanding since 28<sup>th</sup> August 2019 as aforesaid. Once again there was silence. The Petitioners will, on the hearing of the Petition, rely on this unanswered correspondence for its full terms and effect, not least by way of rebuttal of the Fourth Respondent's assertion that they received no correspondence in connection with the issue of the Notice and with respect to the issuance Discretionary Fine.

40. On 21<sup>st</sup> January 2020 a Breach Notice under the hand of one Jodie Woodward, holding herself out as the purported Head of Enforcement of the Fourth Respondent was issued to each of the Petitioners, <sup>7</sup> on the Fourth Respondent's behalf. In each of those Breach Notices the following was stated:

*"Registration with CARA however is a distinct and separate process which is mandatory and required by law.*

---

<sup>7</sup> In the instance of the Second Petitioner, the party was incorrectly named in the Fine Notice as being the unregistered and unincorporated tradename of the Second Petitioner's legal services practice, namely "Jackson Law".

*CARA has carried out the registration process in accordance with the Cayman Islands Anti-Money Laundering Regulations (2018 Revision) (as amended) and you were requested to register by the deadline, 29 November 2019.1 The deadline has passed, and our records show we have not received your registration.*

***Breach Notice***

*Due to your failure to register we attach a Breach Notice.*

*If you rectify the breach by registering with CARA within thirty days from the date of the Breach Notice, and provide written representations outlining the reason for the failure to register, we may not issue a fine, or any fine imposed may be discounted as appropriate.*

*Please note that you are not obliged to provide written representations.*

*We have enclosed our Enforcement Policy for your reference. You will find the section regarding how we exercise our discretionary powers when imposing an administrative fine in the Assessment of Fines and Penalties section (section 14) of the policy.”*

41. On 16<sup>th</sup> March 2020, under the hand of the purported Head of Enforcement of the Fourth Respondent, the Fourth Respondent issued a Discretionary Fine Notice as against the First and Second Petitioners. In substance, *via* this document, predicated on an alleged failure to comply by the Petitioners to comply with the Fourth Respondent’s Notice of 18<sup>th</sup> November 2019, the Fourth Respondent asserted the following:

*“Firms are therefore required to register with CARA, as the designated Anti-Money Laundering Supervisory Authority for firms of attorneys-at-law within the Cayman Islands.*

*Registration with the Authority was required by 29 November 2019.*

*8. Despite correspondence with the party, and the issuance of a Breach Notice on 21 January 2020, the party has failed to register with the Authority to date, as required by the Anti-Money Laundering Regulations (2020 Revision).*

The Authority views this as evidence of the party having failed to register. Therefore, the Authority is satisfied that the party is in breach of **Regulation 55F of the Anti-Money Laundering Regulations (2020 Revision)** due to this failure.

10. Moreover, as per the party's website, the party appears to be conducting relevant financial business...<sup>8</sup>”

42. By these Discretionary Fine Notices, Discretionary fines were purportedly imposed in the amount of CI\$78,000, on the First Petitioner and in the amount of CI\$52,000.00 on the Second Petitioner respectively. Each of the Petitioners have obtained leave to judicially review the decision to issue the Fine Notices and to collaterally thereby pursue an appeal pursuant to Regulation 55ZK of the AMLR in relation their respective Fine Notices.

43. As stated at paragraph 35 (*ante*) the Petitioners challenge the constitutionality and lawfulness of the Discretionary Fine Notices issued against each of the Petitioners by the Fourth Respondent, issued under the hand of the Purported Head of Enforcement of the Fourth Respondent.

44. In addition to the breaches hereinbefore particularised, the Petitioners aver that the Breach Notices and the Discretionary Fine Notices, purportedly imposed on the Petitioners pursuant to regulation 55R, and the exercise of the concomitant provisions of regulation 55S, 55V and 55Y, provide a process which constitutes a breach of section 7 of the BOR by reason of the fact that:

- (i) The Fourth Respondent is not neither a court nor is it independent and impartial<sup>9</sup> as prescribed by section 7 of the BOR;

---

<sup>8</sup> There is no clear, intelligible reasoning provided for such conclusion.

<sup>9</sup> CILPA Regulations in respect of CARA dated 29<sup>th</sup> May 2019 as amended on 27<sup>th</sup> January 2020

*“10 The CARA Board shall comply with a direction by the Council, within the time specified for compliance in the direction where such a time is specified, as to the exercise of any functions delegated to it under these Regulations if, and to the extent that, the exercise of the functions concerned in the manner specified in the direction is in the opinion of the Council reasonably necessary in order to-*

- (ii) The fact that the Fourth Respondent purportedly relies on an opaque Chinese Wall between itself and the Third Respondent is conclusive of its lack of independence from the Third Respondent;
- (iii) The existence of the device of a Chinese Wall is, *a fortiori*, conclusive of the lack of independence of the Fourth Respondent;
- (iv) Cumulatively, with respect to (i) to (iii) above, any derogation from the due process obligations, hereinbefore particularised and as mandated by section 7 of the BOR is subject to the requirement of an agreement in writing by which each of the Petitioners expressly waive their rights as guaranteed by section 7 of the BOR; and,
- (v) There are no explicit constitutionally justified reasons that justify the abrogation, by secondary legislation, of the Petitioner's due process rights protected by section 7 of the BOR;
- (vi) Regulation 55R to 55Z are, *prima facie*, contrary to section 7 and 19 of the BOR and should be struck; alternatively, Regulation 55R to 55Z should be read as being subject to section 7 of the BOR.

45. In the premises the Petitioners aver that that the Breach Notice and the Discretionary Fine Notice should be struck on the grounds that they are respectively a breach of sections 7 and 19 of the BOR.

46. The Petitioners further aver that in issuing the Breach Notice and subsequently the Discretionary Fine Notice, the Third and Fourth Respondents acted unlawfully and expressly contrary to and in breach of the duty in sections 19 and 24 of the BOR.

---

(1) Comply with, or avoid breaching, any specific or general rules or other requirements imposed on CILPA by

(a) the law and regulations from time to time in force; or

(b) any other body having statutory power to issue directions or impose requirements on CILPA in the exercise of any of its functions;

(2) Prevent the imposition of, or reduce the amount of, any fine or any other financial or non-financial penalty by any of the bodies referred to in (1); or

(3) Comply with the directions of any court or tribunal.”

47. In addition to the matters aforesaid, at the hearing of this Petition, the Petitioners will rely on the Third and Fourth Respondents breach of regulations 7 and 10 of the Third Respondent's Regulations as evidence of the named Respondents' breach of sections 7, 12, 15, 19 and 24 of the BOR.

48. The Petitioners repeat paragraph 48 hereinbefore pleaded and aver that:

(i) The Respondent's breaches were intentional and or alternatively reckless; and,

(ii) In targeting the Petitioners, the Respondents deliberately contravened the Petitioners rights under section 15 of the BOR, such action being predicated on a breach of Section 16 of the BOR.

49. In response to these Breach Notice, on 11<sup>th</sup> February 2020, the Second Petitioner jointly with other members of ALPA issued a letter before action which was served on the Respondents. (the "ALPA LBA")

50. On 12<sup>th</sup> February 2020, anterior to the issuance by the Fourth Respondent of its Discretionary Fine Notice, a letter before action (the "EB LBA") issued by the Second Petitioner, was served on the Respondents.

51. The Petitioners will, at the hearing of this Petition, rely on the LBA's for their full terms and effect.

52. On 17<sup>th</sup> February 2020, counsel in the First Respondent's Chambers made a request, for an extension of time to respond to all LBA's from all Petitioners until 6<sup>th</sup> March 2020 i.e. an extraordinary 25 days). On the same day, the First Petitioner responded to such request, noting that, given the serious nature of public interest involved and because the Fourth Respondent was proceeding, unabated, any extension of time required by the First Respondent would be conditioned on the provision of undertakings, *inter alia*, the enforcement action to

cease. However, neither the First Respondent nor (nor any other Respondents) replied to the First Petitioner prior to the timelines indicated in the LBA's; when these timelines had expired, counsel in the First Respondent's Chambers informed the First Petitioner that the First Respondent was off Island and would not return prior to 27<sup>th</sup> February 2020.

53. On 25<sup>th</sup> February 2020, the Fourth Respondent provided its response to Second Respondent and the other ALPA members.

54. Further in an undated letter addressed to the First Petitioner, the Fourth Respondent purported to provide a response to the EB LBA. In that letter, under the hand of the purported Head of Supervision of the Fourth Respondent, who is not as far as the Petitioners are aware, a qualified attorney, the Fourth Respondent purports to opine on Cayman Islands law and justifies its existence by stating the following:

- (i) The Fourth Respondent is not a separate legal entity from the Third Respondent;
- (ii) It is a lawfully constituted subcommittee of the Third Respondent;
- (iii) It is operationally independent; albeit, as a matter of fact, all its activities are funded via a Purchase Agreement entered into between the Second and Third Respondent;
- (iv) The fact that it is a subcommittee of the Third Respondent is justified by the fact that the adopted bifurcated model obtains in the UK (*sic*) which arrangement, it is asserted, received a positive Mutual Evaluation Report from the Financial Action Task Force;
- (v) That Supervisory Authorities (which the Fourth Respondent is not) have powers to impose fines by virtue of Regulation 55R et seq.;
- (vi) The Breach Notice represent the Fourth Respondent's predetermination<sup>10</sup> of the seriousness of the breach of a particular Regulation (55F) and the maximum level of fine to be imposed;

---

<sup>10</sup> Expressly contrary to Sections 7 and 19 of the BOR.

55. The Petitioners will, at the hearing of this Petition, rely on the Fourth and Fifth Respondent's response to the LBA as conclusive of:

- (i) The Third, Fourth and Fifth Respondents' failure to consider the duties prescribed by sections 19 and 24 of the BOR;
- (ii) The Third and Fourth Respondent relying on an irrelevant fact, namely the statutory construct for the governance and regulation of solicitors and allied legal professions in England and Wales as justification for their breaches of their section 19 and 24 BOR duties;
- (iii) The Third and Fourth Respondents concerted effort to breach the Petitioners fundamental rights, namely section 7 and 16 of the BOR.

56. Also on 25<sup>th</sup> February 2020, the president of the Third Respondent (David Collins) wrote to the Second Petitioner and the other ALPA members who issued the ALPA LBA to explain that the Third Respondent would require a short extension of time.

57. By a letter dated 2<sup>nd</sup> March 2020, the Third Respondent, through its Chairman Mr. David Collins purported to respond to the EB LBA. In its response, the Third Respondent confined itself to what is describes as issue 2 namely:

"CILPA's authority to delegate its function under the AMLR to a committee such as CARA;"

58. The Petitioners repeat paragraphs 27 to 58 as hereinbefore pleaded. Further the Petitioners will rely on the Third Respondents response to each of the Petitioners' LBAs which fails to address:

- (i) The Third Respondent's failure to fulfil the statutory condition precedent, the statutory predicate for which any claim for authorisation is founded;
- (ii) Notwithstanding (i) above, the breaches of regulations 7 and 10 of the Third Respondents Regulations as aforesaid;

(iii) Its failure to observe the Cayman Islands Constitution as aforesaid and in particular the specific protected rights heretofore pleaded as rights and fundamental freedoms pursuant to the BOR.

59. The Petitioners aver that the Third Respondent whether directly or as principal for the Fourth Respondent and its officers and agents, namely the purported Head of Supervision of the Fourth Respondent and the purported Head of Enforcement of the Fourth Respondent breached the Petitioners BOR rights and acted unlawfully contrary to section 24 of the BOR.
60. Each of the Petitioners is a person aggrieved by the identified breaches of his / its rights, as particularised, and claims damages against the Third Respondent to Fourth Respondents, inclusive.
61. By a letter dated 6<sup>th</sup> March 2020, the First Respondent replied to the EB LBA. The Petitioners will, at the hearing of this Petition rely on the contents of the First Respondent's letter. In any event, the Petitioners aver that the First Respondent has failed to address:
62. As regards the First and Second Respondents, a letter from the former, dated 6<sup>th</sup> March 2020 was sent in response to the EB LBA. Insofar as is it material, the First Respondent made the following assertions:
- (i) Cabinet's designation of the Third Respondent pursuant to section 4 (9) of the PCL was lawful;
  - (ii) The AMLR as approved by Cabinet was lawful pursuant to section 145 (1) of the PCL.
63. As to power of designation as aforesaid, the Petitioners aver:
- (i) The exercise by the Second Respondent of the statutory power is subject to section 24 of the BOR;

- (ii) The exercise by the Second Respondent of the statutory power is subject to established principles of legality;
- (iii) The exercise by the Second Respondent of the statutory power was, at all material times circumscribed by the fulfillment by the Third Respondent of the condition precedent mandated by section 22A of the LPL;
- (iv) As of the time of the designation, the 1<sup>st</sup> April 2019 letter and the publication of the 9<sup>th</sup> April 2019 Extraordinary Gazette, the Third Respondent had failed to fulfil the condition precedent as aforesaid;
- (v) The condition precedent, specifically mandated by the LA, following a bill promoted by the First and Second Respondent, had the effect of ousting the Second Respondent's section 4 (9) PCL power as aforesaid;
- (vi) The Second Respondent's attempt (despite the clear terms of the condition precedent as aforesaid) to compel membership of the Third Respondent, the object of the October 2019 Bill, was unlawful and contrary to section 24 of the BOR;
- (vii) The Second Respondent acted unlawfully by attempting to subvert the Petitioners freedom of association rights contrary to section 12 and 24 of the BOR;
- (viii) Further or alternatively the Second Respondent acted unlawfully and by reason of the matters aforesaid, and contrary to section 16 of the BOR, discriminated against each of the Petitioners.

64. As to the legality of the AMLR's, the Petitioners aver that the section 145 PCL power was subject to:

- (i) The principle of legality expressed by section 24 of the BOR;
- (ii) The duty to ensure that the AMLR's were consistent with established principles of administration of justice, particularly, in this context, the preservation of attorney client privilege;
- (iii) Concomitantly with (i) and (ii) above the duty to ensure that the right to privacy guaranteed by section 9 of the BOR was preserved;

(iv) In relation to the exercise of any enforcement and adjudicatory powers stipulated in the AMLR subject, the Second Respondent was obliged to ensure that any such subsidiary legislation was consistent with section 7 and 19 of the BOR.

65. In the premises, the Petitioners aver that the Second Respondent by failing to ensure that its section 145 PCL authority was exercised consistently with the matters pleaded at paragraph 65 above breached the Petitioners' rights by reason of which the Petitioners specifically challenge the constitutionality of Regulations 55M and 55R to 55ZJ as hereinbefore pleaded, *mutatis mutandis* at paragraph 45 above.

#### **Relevant Chronological Facts**

66. On 16<sup>th</sup> November 2018, the LA passed the LAMAL as aforesaid; this received His Excellency the Governor's Assent on 17<sup>th</sup> December 2018 and came into effect on 21<sup>st</sup> February 2019. In substance, the LAMAL amended, *inter alia*, the Legal Practitioners Law (2015) (the "LPL") and by section 22A, inserted into the LPL the fulfillment, by the Third Respondent, of the following condition precedent namely:

"the objects of the Cayman Islands Legal Practitioners Association shall include the regulation of attorneys-at-law to ensure their compliance with anti-money laundering and counter-terrorism legislation."

67. The Third Respondent was incorporated on 2<sup>nd</sup> October 2018, a matter of weeks before the passage by the LA of the LAMAL.

68. By letter dated 1<sup>st</sup> April 2019, the First Respondent informed the Third Respondent of the Second Respondent's decision (dated 19<sup>th</sup> February 2019), to appoint the Third Respondent as a "Supervisory Authority" pursuant to section 4 (9) of the PCL. The Third Respondent's purported appointment was Gazetted on 9<sup>th</sup> April 2019.

69. In the period intervening namely, between the Second Respondent's decision and the First Respondent's confirmation as aforesaid, ALPA was incorporated as aforesaid; its primary objective being the protection of Caymanian and Cayman Islands based attorneys-at-law and small firms whose principle focus is the conduct of local legal advisory and representative engagements.
70. On the 27<sup>th</sup> March 2019, ALPA notified in writing, *inter alia*, the Second Respondent and all members of the Legislative Assembly, of the fact of its formation, and thereby requested that ALPA should be informed and consulted on all matters affecting the legal profession.
71. These notifications notwithstanding and prior to the First Respondent's letter of 1<sup>st</sup> April 2019 to the Third Respondent, the First and Second Respondent continually ignored the entreaties of ALPA about the Petitioners' constitutional rights and regardless:
- (i) effected the designation of the Third Respondent on 9<sup>th</sup> April 2019 regardless of and contrary to the interests of ALPA and its members as well as other non-members of the Third Respondent;
  - (ii) When the Third Respondent failed to comply with the LA's section 22A LPL condition precedent, the First and Second Respondents tabled legislation before the LA to attempt to remedy the Third Respondent's lack of legal capacity over non-members, knowing full well that such proposed legislation was contrary to ALPA Members' rights under section 12 of the BOR;
  - (iii) When the First and Second Respondent encountered significant resistance from ALPA regarding the threatened breach of section 12 of the BOR, and abandoned their endeavor to achieve the legislative amendment particularised at (ii) above, the First Respondent, on the instruction of the Second Respondent by the device of "deferring" and subsequently "withdrawing" the proposed legislation procured circumstances which provoked the Third Respondent to amend object 4 (m) of its Memorandum of Association to the following effect:

~~(m) if so authorised by the Cayman Islands Government, to act as a~~  
"supervisory authority" as defined in the Anti-Money Laundering

~~Regulations (Revised) (as amended from time to time) for firms of attorneys-at-law (including individuals) licensed to practise law in the Cayman Islands, (as defined in the Anti-Money Laundering (Designated Non-Financial Business and Professions) (No. 1) Regulations 2017) for firms of attorneys-at-law who are also members of CILPA, being an authority which CILPA must cause to be supported by a suitably financed supervisory executive~~

72. These facts notwithstanding, the Petitioners aver that the Second Respondent purported to empower the Third Respondent with the statutory fiat to perform regulatory and enforcement functions pursuant to the Proceeds of Crime Law (hereinafter "the PCL") for all<sup>11</sup> attorneys-at-law regardless of whether or not they were members of the Third Respondent.
73. The Petitioners aver that such purported empowerment by the Second Respondent of the Third Respondent was in breach of section 12<sup>12</sup> of the BOR as read together with section 16<sup>13</sup> and section 19<sup>14</sup> of the BOR as aforesaid and for reasons hereby particularised are contrary to the Constitution and are otherwise unlawful, capricious, discriminatory and disproportionate and undertaken without any consultation with the Petitioners, whether individually or collectively.
74. The Petitioners further specifically aver that in each instance where the Second and/or Third Respondent's actions pleaded herein as constituting the various breaches of the Petitioners' constitutional rights, such breaches were predicated on the Second Respondent's unjustifiable discrimination as against each of the Petitioners on the basis of the Petitioners' political opinion and/or national or social origin, and, as such, are in breach of Section 16 of the BOR.
75. The Petitioners aver that the Second Respondent's purported empowerment of the Third Respondent, as aforesaid, was promulgated at a time when the Third Respondent had either not fulfilled the condition precedent prescribed by section 22A of the LPL and at a time when the Third Respondent's supervisory capacity was by its own mandate, inhibited by its

---

<sup>11</sup> It should be noted that neither section 22A of the LPL or the April 9<sup>th</sup> 2019 Gazette Notice expressly provides for AML regulation for "all" attorneys-at-law.

<sup>12</sup> Freedom of Association.

<sup>13</sup> Anti-Discrimination

<sup>14</sup> Right to Lawful Administrative Action

originally stated Memorandum and Objects of incorporation which limited the scope of the Third Respondent's asserted supervisory capacity to its members only.

76. Neither of the Petitioners have ever been members of the Third Respondent. In the premises, at all times material to this Petition, as regards the Petitioners, the Third Respondent was incompetent to undertake the obligation purportedly ascribed to it by the Second Respondent, namely the performance of regulatory and enforcement functions, prescribed by the PCL; and, the Second Respondent's designation of the Third Respondent was itself unlawful by reason of the limitation of the Third Respondent's mandate and / or by reason of the Second Respondent designating the Third Respondent when the latter had failed to fulfill the condition prescribed by section 22A of the LPL as aforesaid; and, the First and Second Respondent failed to consult with and / or notify ALPA and / or the First Petitioner of the Third Respondent's designation in circumstances in which, the Petitioners, as persons directly affected, were entitled to be notified. In this context, the Petitioners underscore the following:

- (i) The heretofore written notice from ALPA to the Second Respondent;
- (ii) The fact that since time immemorial and certainly since the advent of the Legal Practitioners Law, the sole determinant of the ability of a person to lawfully practice Cayman Islands Law has been through the admission and practice certificate gateways prescribed by the LPL;
- (iii) The Second Respondent's appointment of the Third Respondent in the circumstances and with the capacity heretofore pleaded, represented a fundamental change in the *status quo* in respect of which the Petitioners were required to be consulted.

77. The Third Respondent failed to satisfy section 22A of the LPL; consequently, the First and Second Respondents on 10<sup>th</sup> October 2019, tabled the Legal Practitioners (Amendment) Bill, 2019 ("the LPAB"), which bill proposed to provide for the compulsory membership by all attorneys-at-law in the Third Respondent for the purposes of AML regulation, by deeming all attorneys to be members of the Third Respondent. Implicit in the First and Second Respondents actions was their recognition that the Third Respondent had failed, despite the passage of 11 months since LPAM had received His Excellency the Governor's Assent, to

comply with section 22A of the LPL. Further or alternatively, by this action, the First and Second Respondent conceded that the unprecedented objective of compelling membership, by all Cayman Islands attorneys-at-law, of the Third Respondent, engaged important points of constitutional principle (*not the least of which was section 12 of the BOR as aforesaid*) which required considered debate and deliberation by the Legislative Assembly. This strong constitutional imperative notwithstanding, the First and Second Respondent again neglected, at best, to meaningfully engage and or consult the Petitioners in circumstances where they ought, appropriately, to have been consulted; this failure was contrary to the Petitioners' lawful administration rights prescribed by section 19 of the BOR as aforesaid.

78. As a matter of record, the First and Second Respondent's proposed amendment of the LPL was strongly opposed by the Petitioners. Having been presented to the LA by the First Respondent, it was summarily deferred on or around 6<sup>th</sup> December 2019. Anterior to this purported "deferral", on 2<sup>nd</sup> December 2019, ALPA sent a detailed memo (with cover letter and authorities) to the First Respondent the AG (copied to members of the LA) highlighting the vice of the proposed amendment to the LPL, namely that membership by compulsion of the Third Respondent and its consequential submission to the Fourth Respondent was an infringement of ALPA's members and the Petitioners' constitutional right to freedom of association or non-association (under s.12, BOR) as aforesaid.

79. In a written response dated 11<sup>th</sup> December 2019, the First Respondent attempted to justify the Second Respondents position in relation to the purported "deferral" of the proposed amendment to the LPL. In summary he stated the following: the First Respondent, in terms, wrote to the First Respondent and summarized the Second Respondent's position:

- (i) The Second Respondent had decided to defer passage of the LPAB in order to facilitate further dialogue;
- (ii) If the Second Respondent deemed it necessary, it would proceed with the LPAB in 2020;

- (iii) As the Third Respondent had been designated as a self-regulatory supervisory authority for attorneys (pursuant to s.4(9), PCL and AMLRs), ALPA's members may wish to consider whether there is an existing obligation for all attorneys to comply with r.55F of the AMLR, until such time as any further policy decisions are taken by the Second Respondent for regulating the legal profession;
- (iv) Such matters would be further ventilated during planned discussion between Second Respondent and the legal profession on the proposed Legal Services Bill;
- (v) The Second Respondent appreciated the meeting on 22<sup>nd</sup> October 2019 between ALPA and the Second Respondent which the Premier, a Cabinet Minister and the First Respondent found to be an extremely productive first meeting;
- (vi) The intent was for there to be an early meeting between the Second Respondent, ALPA and the Third Respondent with the aim of ensuring that all views were properly taken into consideration; and
- (vii) The First and Second Respondent would issue the necessary invitation in due course.

80. No subsequent invitation ever ensued from the First or Second Respondent. At all events, the Petitioners, having been informed through the Second Petitioner's membership with ALPA, relied on the First Respondent's representation for further engagement as having created a legitimate expectation of constructive engagement on the proposed amendment to section 22A of the LPL and its substantive encroachment on their constitutional rights as aforesaid; which legitimate expectation has not been fulfilled. As of the date of this Petition, no intelligible written reasons have been provided to the Petitioners for such failure on the part of First or Second Respondents; consequently, as events have unfolded and contrary to sections 12 and 19 of the BOR, the First and Second Respondents have infringed the Petitioners constitutional rights with adverse consequences.

81. In the interim, by a letter dated 20<sup>th</sup> December 2019, the purported Head of Supervision of the Fourth Respondent wrote to ALPA by email to the effect that the Fourth Respondent had:

- (a) Received its copy of ALPA's letter to the First Respondent dated 2<sup>nd</sup> December 2019 and the Fourth Respondent noted that ALPA opposed the LPAB;

- (b) Confirmed that the LPAB would not be proceeding and it would not be compulsory for attorneys in the Cayman Islands to be members of the Third Respondent;
- (c) Indicated that a resolution had been passed at a special general meeting of the Third Respondent to amend and restate Respondent's Memorandum and Articles of Association;
- (d) Wished to explore how best to address remaining concerns ALPA raised in connection with Fourth Respondent authority and remit; and
- (e) Wanted to meet with representatives of ALPA on 3rd January 2020.

82. The letter of the purported Head of Supervision of the Fourth Respondent of 20<sup>th</sup> December 2019 raises a number of issues namely:

- (i) In light of the asserted Chinese Wall provisions, the appropriateness of the purported Head of Supervision of the Fourth Respondent, whether acting by herself or on behalf the Fourth Respondent informing ALPA's members, including the Second Petitioner, of the arrangements that the Third Respondent had unilaterally undertaken to amend its object clause to include the supervision of non-members;
- (ii) When the First Respondent came to know of the Third Respondent's decision to amend its object clause to include the supervision for AML purposes of non-members;
- (iii) Whether the First Respondent was aware of the Third Respondent's intention when he informed the LA that the Second Respondent was deferring its objective to pass the amendment to the LPB as aforesaid;
- (iv) Whether he was informed, on or about 16<sup>th</sup> December 2019 that the Third Respondent had in fact amended its object clauses as stated in (ii) above;
- (v) Whether his knowledge of (ii) and (iv) above provoked his silence and / or his failure to respond to the Petitioner's correspondence despite his undertaking to constructively engage with the Petitioners as stated in his letter of 11<sup>th</sup> December 2019;
- (vi) Given the Petitioners' broader concerns about the legality of the Second and Third Respondent's actions, why the First Respondent did not, at the first available

opportunity after 16<sup>th</sup> December 2019, inform the Petitioners of the fact that the Third Respondent had effected a change of its objects clause as aforesaid;

(vii) When, between 16<sup>th</sup> December 2019 and 22<sup>nd</sup> December 2019, the First Respondent communicated to the purported Head of Supervision of the Fourth Respondent the fact that Second Respondent had determined to withdraw its proposed amendment to the LPB.

83. The Petitioners aver that the subsequent decisions and/or actions and/or omissions of the First and Second Respondents, the Third and Fourth Respondents are direct breaches of substantive and procedural rights protected by the BOR. In the premises, the Petitioners aver that collectively, the First to Fourth Respondents, aided and abetted by their servants or agents, namely the purported Head of Supervision of the Fourth Respondent and the purported Head of Enforcement of the Fourth Respondent, have, in diverse ways subverted the BOR and Common Law by unlawful, irrational and discriminatory decisions and actions in breach of the Petitioners' rights guaranteed by the BOR and or the Common Law by diverse unlawful, irrational, discriminatory, disproportionate means to the prejudice of the Petitioners..
84. The Petitioners assert that the intent of the LA was to permit existing and established self-regulatory bodies within specific industries in the financial sector, for example the Cayman Islands Institute of Professional Accountants (hereinafter referred to as "CIIPA") to be assigned the duties of "*monitoring compliance*" with anti-money laundering regulations made under the PCL "*by persons conducting relevant financial business*". The Petitioners contend that any entity or person assigned with such powers and duties would consequently become, pursuant to section 28 of the BOR, "a public official" for the purposes of enforcement of the BOR and therefore are bound by the provisions of the BOR, insofar as they carry out or attempt to carry out such powers and duties.
85. The Petitioners assert that Section 4(9) of the PCL explicitly limits the remit for the duties thereby assigned to all supervisory authorities to "*monitoring compliance with anti-money laundering regulations*" and any purported expansion of such duties of a supervisory authority that exceeds such scope is *ultra vires* and may not be exceeded by way of subsidiary legislation, contract or corporate restructuring.

86. The Petitioners therefore contend that actions and/or decisions and/or omissions of the Respondents as set out in this Petition amount to the purported expansion of the remit of the PCL beyond the scope of "monitoring compliance".
87. In the premises, the Petitioners seek to ensure that the rights and freedoms stipulated by BOR as hereinbefore particularised are upheld.

**FULL PARTICULARS OF BREACHES AND THREATS OF BREACH AS AGAINST  
THE PETITIONERS  
(GCR O. 77A, r.4(1))**

88. The Petitioners assert that the Second Respondent's current proposition, namely, that the Third Respondent, which represents a select segment of the legal profession, is to be deemed to be the sole regulator of the legal profession for anti-money laundering compliance, without any appropriate statutory underpinning, without properly consulting or obtaining input from the local minority segment of the legal profession, which segment includes the Petitioners, is neither lawful, rational, proportionate nor procedurally fair, and it therefore in breach of Section 19 of the BOR. The Petitioners also contend that Third Respondent's further delegation of its purported authority and the support of the same by the Second Respondent is also in breach of Section 19 of the BOR.
89. The Petitioners further contend that given that there was a lack of consultation with the Petitioners, as well as a number of other legal practitioners from other small local legal businesses, and given that the Third Respondent did not, prior to the 1<sup>st</sup> August 2019, assert, through the Fourth Respondent, its purported authority to regulate the Petitioners, the Petitioners would contend that for the purposes of section 26 (4) of the BOR, such date is the first day on which the breaches and/or threatened breaches of the Petitioners constitutional rights could have been reasonably known to the Petitioners, and the Petitioners therefore assert that they are entitled to bring this action as if such date (1<sup>st</sup> August 2019) was the day on

which their cause of action first accrued in respect of all of the breaches and/or threatened breaches alleged in this Petition. The Petitioners therefore further contend that, on that basis, any breaches of the Petitioners' constitutional rights which occurred anterior to one year before the filing of this Petition are still actionable as of right pursuant to section 26 (4), as given the failure on the part of the Respondents to inform or consult with the Petitioners prior to asserting such authority for the first time on the 1<sup>st</sup> August 2019, the Petitioners could not reasonably have known that the Third Respondent, let alone the Fourth Respondent, would be asserting regulatory control or supervisory functions over the Petitioners, as they were not members of the Third Respondent and had no knowledge of the Third Respondent's intention to establish the Fourth Respondent as the *de facto* supervisory authority.

90. On 18th of June 2019, the Second Respondent promulgated various amendments to the AMLR, in the form of the Anti-Money Laundering (Amendment) (No. 2) Regulations, 2019 (hereinafter "the AMLAR"), thereby providing for, inter alia, the expansion of the scope and remit of all supervisory authorities. One such amendment was Section 15 of the AMLAR, which amended Regulation 55B of the AMLR, which regulation defined the functions of a supervisory authority with regard to regulating "DNFBPs", by deleting the words "the engage in the planning or execution of relevant financial business, or otherwise act for or on behalf of such persons in relevant financial business". This amendment was clearly intended to allow for supervisory authorities to, from that point henceforth, regulate not only DNFBP's that were engaged in or assisting others who engaged in relevant financial business, but all DNFBPs. The Petitioners contend, firstly that insofar as any supervisory authority appointed under Section 4(9) of the PCL purports to regulate any person or entity who does not conduct relevant financial business, such regulation is unlawful, as the same is ultra vires Section 4 (9) of the PCL itself. The Petitioners further contend that Section 15 of the AMLAR is ultra vires, as it attempts to expand the statutorily defined function of supervisory authorities beyond the scope defined by the principal legislation. The Petitioners further assert that the decision of the Second Respondent to promulgate such an amendment is unlawful and irrational, as it appears to be a deliberate decision by the Second Respondent to expand the scope of supervision beyond what is prescribed by Section 4 (9) of the PCL. It is therefore contended by the Petitioners that the Second Respondent's decision to promulgate such

amendment was in breach of Section 19 (1) of the BOR and that such decision and its resulting subordinate legislation has adversely affected the interests of the Petitioners by creating an unlawful regulatory regime that purports to have authority to regulate all members of the legal profession, including the Petitioners, in such manner and form as if all members of the legal profession were deemed to be conducting relevant financial business, regardless of whether they were actually engaged in relevant financial business or not, and based on the assumption that all attorneys should be required to be regulated for AML in the same manner and to the same degree regardless of the extent to which they may or may not have been engaged in relevant financial business.

91. The Petitioners further contend that the Second Respondent's decision to promulgate the AMLR in such form, without implementing any form of balanced risk-evaluation based process that was fair and proportionate in terms of the actual extent and magnitude of risk with regards to the potential for money laundering, instead creating a legislative regime that presumed that all members of the legal profession posed the same risk profile for money laundering, is, in and of itself, irrational and disproportionate, and the process from which it was derived is procedurally unfair and, consequently, the Second Respondent's decision to promulgate the AMLR in such form is in breach of Section 19(1) of the BOR. The Petitioners therefore contend that in so doing, the Second Respondent thereby created a legislative regime that adversely affects the interests of all small local practitioners, such as the Petitioners, by subjecting them to the same regulatory regime as applies to large commercial law firms who pose a much larger risk in regards to money laundering, which large commercial firms pose a far greater risk of money laundering activities and are much better equipped to afford and manage such regulation, since their businesses already cater to the financial services sector. The Petitioners therefore contend that the imposition of the same level and magnitude of AML regulation required for such large firms on the small legal businesses such as the Petitioners' is unfair and disproportionate and Second and Third Respondent's lack of regard for the significant adverse impact on all small local practices and practitioners is discriminatory and oppressive and therefore the Second Respondent's decision to promulgate the AMLAR was in breach of Sections 16 and 19 of the BOR. The Petitioners contend that this was compounded by the Second Respondent's collaborative enterprise with the Third Respondent.

who in turn similarly discriminated against the Petitioners and, as the subsequent actions of the Second, Third and Fourth Respondents clearly confirm, those Respondents appear to fully intend to implement the full force and effect of the AMLR against the Petitioners, thereby breaching the Petitioners' constitutional rights of privacy and enjoyment of property, as well as their rights to a fair and public hearing by an impartial court, before adjudicating against and punishing them, without any concern as to the adverse impact on Petitioners interests or regard for the Petitioners' professional obligations vis-à-vis protection of attorney/client privilege and other property and privacy rights of clients of the Petitioners as set out in Sections 7, 9, 12, 15, 16 and 19 of the BOR.

92. The Petitioners assert that they have a right to not be treated in a discriminatory manner in respect of any other right and freedoms as provided by section 16 of the BOR, including with respect to right of privacy (under s.9, BOR) and freedom of association (under s.12, BOR). The Petitioners assert that this failure by the Second Respondent and Third Respondent to consult any of the Petitioners and/or the profession and/or to publish the Second Respondent's intent to appoint Third Respondent as a purported self-regulatory supervisory authority and to purportedly vest it with wide regulatory functions which could be used adversely against the Petitioners or any of them, is indicative of Second Respondent's discriminatory position towards the Petitioners and other small local law practices and sole practitioners, who the First and Second Respondents were aware or ought to have been aware were not members of Third Respondent. It is contended by the Petitioners that such discrimination has resulted in harm to the interests of the Petitioners and will result in an encroachment upon their constitutional rights to privacy and enjoyment of their property pursuant to Sections 9 and 15 of the BOR.
  
93. The Petitioners contend that the First, Second and Third Respondents' failure to engage with and/or consult with one or any of them prior to creating the legal framework whereby the Third Respondent was empowered and the Fourth Respondent was conceived, for the purpose of not only regulating compliance by members of the Third Respondent, but to extend such regulation to the entire legal profession, as well as the bold and aggressive manner in which the Fourth Respondent has taken action against the Petitioners and other Caymanian practitioners who have chosen to not associate themselves with the Third Respondent,

including the levying of massively draconian fines, clearly demonstrates all of the Respondents' lack of regard for the interests of small local law practices and Caymanian sole practitioners. All of the persons, including the Petitioners, who received Breach Notices and Fine Notices are Caymanian attorneys who are either sole practitioners or from small firms which are Caymanian owned. This group represents a minority in the Cayman Legal Profession, as the vast majority of attorneys registered with the Third Respondent are non-Caymanian who are employed by the large multinational and medium sized firms which formed and have control over the Third Respondent, which firms, it is averred, thereby have indirect control of the Fourth Respondent through the Third Respondent.

94. The Petitioners assert that the failure by the Second Respondent and the Third Respondent to acknowledge the existence or consider the interests represented by ALPA and their failure to consult ALPA or any other small local firms and Caymanian sole practitioners outside of ALPA, including the Petitioners is unjustifiable treatment to that sector of the legal profession comprising the Caymanian minority, and is, in and of itself, discriminatory. The bias and prejudice against the Petitioners appear to be based on their nationality and/or the small size of their individual practices and/or their political opinions regarding many issues affecting the Cayman legal profession. The Petitioners assert that the actions of the Respondents are grounded on such discrimination, which has deprived the Petitioners of their right to be informed and to be heard with respect to Third Respondent's appointment and the Fourth Respondent's apparent regulatory oversight, and which has now culminated in harm to the Petitioners. Acts and or omissions by the Respondents based on their apparent discriminatory policies against the interests of the Petitioners are consequently in breach of Sections 16 and 19 of the BOR respectively.
95. The Petitioners aver that discriminatory attitudes of the Second Respondent went as far as to threaten their right to associate pursuant to Section 12 of the BOR. On the 10 October 2019, the Second Respondent proposed the Legal Practitioners (Amendment) Bill, 2019 ("the LPAB"), which bill proposed to provide for the compulsory membership of all attorneys-at-law in Third Respondent for the purposes of AML regulation, by deeming all attorneys to be members of Third Respondent for such purposes.

96. The Petitioners aver that during the first week of August 2019 each of the Petitioners received an email, at their work email addresses, from an unknown articulated clerk / legal assistant working at two of the large law firms, which firms, together with a number of other large law firms, it is asserted by the Petitioners, formed and control the Third Respondent. Such emails were copied to members of the executive of the Third Respondent at their work addresses at each of their respective firms. Such emails indicated that the sender of the same was voluntarily assisting "CARA" with regard to the process of registration of all firms of attorneys and sole practitioners in the Cayman Islands. Attached to such emails was a document bearing a logo styled "CARA" as well as the fictional and misleading name "Cayman Attorneys Regulation Authority". Such emails were captioned as "Email Blast" "Registration with CARA". The text of this document explained that the Third Respondent had "established" the Fourth Respondent to discharge its duty as the professional supervisory body for lawyers. Also attached was a form which requested extensive disclosure of information, which information was to be submitted via email to an address entitled info@cara.ky. This was the first time that the Third Respondent asserted its intention to exercise AML supervisory authority over non-members of the Third Respondent such as the Petitioners, and was also the first time any of the Petitioners learned of the creation or "establishment" of the Fourth Respondent. The Petitioners contend that the assertion by the Third Respondent that each of the Petitioners must register with either the Third Respondent or the Fourth Respondent represents a threatened breach of Section 12 of the BOR, and that the Third and/or Fourth Respondents' demand for the disclosure of the requested information was a threatened breach of Section 9 of the BOR and further that the decision by the Third Respondent, acting in its capacity as a public official, as defined by the BOR, was unlawful, irrational, disproportionate and procedurally unfair, and therefore was in breach of Section 19 (1) of the BOR.

97. Further and in the alternative, the Petitioners contend that if in fact it was the case that the Fourth Respondent enjoys separate legal personality or identity from Third Respondent, which it does not, then it would, *ipso facto*, have no rights whatsoever to do any of the things

which Third Respondent may be authorized to do as a supervisory authority under Section 4(9) of the PCL and that therefore the actions of done purportedly on behalf of the entity named as the Fourth Respondent, are unlawful, unenforceable and, insofar as the same can be attributed to the authorization and/or direction of either Second or Third Respondents, constitute a breach of Petitioners' rights by the Second Respondent and/or Third Respondent.

98. The Petitioners contend that given The Fourth Respondent's legal status and the obvious conflicts of interest that arise in regards to the Third Respondent's own structure and by way of its ownership and control of the Fourth Respondent, the Fourth Respondent did not and still does not have any legal right to require such disclosures, and the Petitioners further contend that any lawyer or firm who submits such information or submit to such registration process could potentially breach their professional and fiduciary duty to their clients, by disclosing legally privileged information, as well as potentially breaching the provisions of the Data Protection Law.
99. The Petitioners therefore contend that insofar as either of the Third or Fourth Respondents is deemed to be a "public official" then, the decision by any or all of them to require registration with the Fourth Respondent of persons outside of the membership of the Third Respondent and, on such nebulous basis, to find that the Petitioners are legally culpable for failing to register with the Fourth Respondent and to thereupon decide to issue the Breach Notices and Fine Notices, is an unlawful, irrational, disproportionate and procedurally unfair decision and is therefore in breach of Section 19 (1) of the BOR. The Petitioners further assert that such decision has and will continue to adversely affect the interests of the Petitioners, by requiring the Petitioners, who have legal and ethical obligations to their clients, to submit to an invasive and draconian regime pursuant to the AMLR, which would cause the Petitioners to breach their professional obligations to their clients by being required to disclose information which is privileged and commercially sensitive, to a committee of an entity which has no statutory responsibility or remit to request, demand or protect .
100. The Petitioners aver that the Anti-Money Laundering (Amendment) (No. 2) Regulations, 2019 (hereinafter "the AMLAR"), which effectively expanded the scope and remit of all

supervisory authorities is a breach of Section 19 of the BOR. One such amendment was Section 15 of the AMLR's, which amended Regulation 55B of the AMLR, which regulation defined the functions of a supervisory authority with regard to regulating "DNFBPs", by deleting the words "*the engage in the planning or execution of relevant financial business, or otherwise act for or on behalf of such persons in relevant financial business*". This amendment was clearly intended to allow for supervisory authorities to, from that point henceforth, regulate not only DNFBP's that were engaged in or assisting others who engaged in relevant financial business, but all DNFBPs.

101. The Petitioners contend, firstly that insofar as any supervisory authority appointed under Section 4(9) of the PCL, the primary legislation, purports to regulate any person or entity who does not conduct relevant financial business, such regulation is unlawful, as the same is *ultra vires* Section 4 (9) of the PCL itself.
102. The Petitioners further contend that Section 15 of the AMLAR is *ultra vires*, as it attempts to expand the statutorily defined function of supervisory authorities beyond the scope defined by the principal legislation. The Petitioners further assert that the decision of the Second Respondent to promulgate such an amendment is unlawful and irrational. It is therefore contended by the Petitioners that the Second Respondent's decision to promulgate such amendment was in breach of Section 19 (1) of the BOR and that such decision has adversely affected the interests of the Petitioners by creating an unlawful regulatory regime that would regulate all members of the legal profession, including the Petitioners, in such manner and form as if they were all deemed to be conducting relevant financial business, regardless of whether they were actually engaged in relevant financial business and on the assumption that all attorneys should be required to be regulated for AML in the same manner.
103. The Petitioners further contend that the Second Respondent's decision to promulgate the AMLR in such form, without considering the creation of fair, balanced legislation that was proportionate in terms of the actual extent and magnitude of risk with regards to the potential for money laundering, but instead creating a legislative regime that presumed that all members of the legal profession posed the same risk profile for money laundering, is, in and of itself,

irrational and disproportionate, and is therefore in breach of Section 19(1) of the BOR. The Petitioners therefore contend that in so doing, the Second Respondent thereby created a disproportionate legislative regime that adversely affects the interests of all small local practitioners, such as the Petitioners, by subjecting them to the same regulatory regime as applies to large commercial law firms who pose a much larger risk in regards to money laundering, which large commercial firms are much better equipped to afford and manage such regulation, since their businesses already cater to the financial services sector.

104. The Petitioners therefore contend that the imposition of the same level and magnitude of AML regulations required for such large firms on the small legal businesses of the Petitioners is unfair and disproportionate and Respondent's lack of regard for the significant adverse impact on all small local practices and practitioners is discriminatory and oppressive and therefore the Second Respondent's decision to promulgate the AMLAR was in breach of Sections 16 and 19 of the BOR.

105. The Petitioners contend that this was further compounded by The Second Respondent's collaborative enterprise with the Third Respondent, who in turn similarly discriminated against the Petitioners and, as their subsequent actions clearly confirm, fully intend to implement the full force and effect of the AMLR against the Petitioners, thereby breaching the Petitioners' constitutional rights of privacy and enjoyment of property, without any concern as to the adverse impact on Petitioners interests or regard for the Petitioners' professional obligations vis-à-vis protection of attorney/client privilege and other property and privacy rights of clients of the Petitioners.

106. The Petitioners contend that given the Fourth Respondent's legal status and the obvious conflicts of interest that arise in regards to the Third Respondent's own structure and by way of its ownership and control of the Fourth Respondent, The Fourth Respondent did not and still does not have any legal right to require such disclosures, and the Petitioners further contend that any lawyer or firm who submits such information or submit to such registration process could potentially breach their professional and fiduciary duty to their clients, by disclosing legally privileged information, as well as potentially breaching the provisions of

the Data Protection Law, The Petitioners therefore contend that insofar as either of the Third or Fourth Respondent is deemed to be a "public official" then, such decision to require registration with the Fourth Respondent of persons outside of the membership of the Third Respondent is unlawful, irrational, disproportionate and procedurally unfair and therefore is in breach of Section 19 (1) of the BOR and such decision has and will continue to adversely affect the interests of the Petitioners, by requiring the Petitioners, who have legal and ethical obligations to their clients, to submit to an invasive and draconian regime pursuant to the AMLR, which would cause the Petitioners to breach their professional obligations to their clients by being required to disclose information which is privileged and commercially sensitive. The Petitioners further contend that insofar as the Third and/or Fourth Respondent purport to have the authority to enter the business premises of the Petitioners and to search such premises and seize files or documents belonging to clients of the relevant Petitioners, such search and seizure is derived from the unlawful and irrational empowerment of the Third Respondent and Fourth Respondent by The Second Respondent, contrary to Section 19 (1) of the BOR and such entry, search and seizure would both be *ultra vires* the PCL itself, as well as it would constitute a breach of Sections 9 and 15 of the BOR.

**Your Petitioners therefore humbly pray that:-**

1. This Honourable Court make declarations to the effect:
  - a. That the Petitioners are not bound by the objects in the Third Respondent's memorandum of association as they are not members of that company and therefore cannot be subject to regulation by the Third Respondent;
  - b. That the assignment by the Second Respondent to the Third Respondent, pursuant to Section 4 (9) of the PCL, of the responsibility of monitoring compliance with anti-money laundering regulations was unlawful, irrational, disproportionate and procedurally unfair, and is therefore in breach of Section 19 (1) of the BOR;
  - c. Alternatively, if the assignment by the Second Respondent to the Third Respondent , pursuant to Section 4 (9) of the PCL of the responsibility of monitoring compliance with anti-money laundering regulations made under the PCL was lawful:

- i. That such assignment is confined to actions which can only be described as “monitoring” and therefore any part of the AMLR that exceeds the scope of monitoring compliance is *ultra vires*;
  - ii. That any of the provisions of the Anti-Money Laundering Regulations which purport to empower a supervisory authority to do anything that falls outside the scope and remit of conducting relevant financial business is *ultra vires*;
  - iii. d. That the purported creation or establishment of a sub-committee by the Third Respondent and the holding out of such sub-committee as the “Cayman Attorneys Regulation Authority” is repugnant to the public interest and good governance and is unlawful, as the same gives the misleading impression that it is a lawfully created statutory authority, created in accordance with the Public Authorities Law, 2017;
  - iv. The purported delegation of the Third Respondent’s duties as supervisory authority to CARA is unlawful, as, on the basis of *delegatus non potest delegare*, the Third Respondent does not enjoy the legal ability to assign its own assigned duties to anyone, and;
  - v. The regulations created by the Third Respondent on the 29<sup>th</sup> of May 2019, including any subsequent amendment, is unlawful and *ultra vires* and are of no legal effect.
- d. That the assignment of the duties of supervisory authority to the Third Respondent does not conform and is repugnant to the provisions of the Public Authorities Law, 2017 and therefore the continuation of such assignment beyond the 1<sup>st</sup> of June 2019 is unlawful;
  - e. That the failure by the Second Respondent to properly take into account the interests of the Petitioners was discriminatory action based on the adverse political position taken in the past by some of the Petitioners as against the Second Respondent and on that basis the Second Respondent was not concerned about the breach or threatened breach of Sections 9, 12 and 15 of the BOR, and in this regard the Second Respondent’s actions promoted, procured and/or permitted such breaches or threatened breaches based on discrimination, contrary to Section 16 of the BOR;

- f. That the actions of the Third Respondent in breaching or attempting to breach their constitutional rights under Sections 9, 12, 15 and 19 was based on their discrimination against the Petitioners or at least some of them, contrary to Section 16 of the BOR;
- g. That the various Breach Notices and associated correspondence issued by the purported Head of Supervision and the purported Head of Enforcement of the Fourth Respondent on behalf of on behalf the purported entity named as the Fourth Respondent are unlawful and cannot be enforced;
- h. That the Enforcement Policy served by the purported Head of Enforcement of the Fourth Respondent on the Petitioners is unlawful and/or *ultra vires* and is a nullity and cannot be enforced;
- i. That the purported imposition of "discretionary fines" by the purported entity named as the Fourth Respondent is unlawful and is a legal nullity;
- j. That insofar as the Fourth Respondent or any person acting ostensibly on its behalf may have been acting as an agent on behalf of the Third Respondent or, alternatively if the Fourth Respondent was entitled to act as a public official, such actions are unlawful, irrational, disproportionate and procedurally unfair and are in breach of Section 19(1) of the BOR;
- k. That the purported authority which either the Third Respondent or the purported entity named as the Fourth Respondent may claim to enjoy under the AMLR to enter and search the premises of any of the Petitioners without their consent would constitute a breach of Section 99A of the PCL and would be in breach of Section 9 of the BOR;
- l. That the purported authority which either the Third Respondent or the purported entity named as the Fourth Respondent may claim to enjoy under the AMLR to seize, take or confiscate any of the Petitioners files, documents or other property without their consent would be a breach of Section 99A of the PCL and would be in breach of Section 15 of the BOR;
- m. That any action or attempted action by any of the Respondents to obtain information which is privileged information would be unlawful and cannot be enforced, as legal professional privilege is a "fundamental human right" which is absolute, unless disclosure is authorized by consent or by order of the Court order, as provided by Section 9(1) of the BOR;
- n. That the following regulations of the AMLR go far beyond the legislative scope of the PCL and are incompatible with the Constitution, to wit:

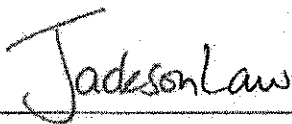
- i. Regulation 55M of the AMLR is incompatible with the Constitutional right to privacy as provide in Section 9 of the BOR and in particular where any such right to privacy is based on legal privilege;
  - ii. Regulation 55H of the AMLR purport to usurp the disciplinary role of the Grand Court as provided by Section 7 of the Legal Practitioners Law and is in any event incompatible with the Constitutional right to a fair trial as provided by Section 7 of the BOR, and;
  - iii. Regulation 55B of the AMLR, as amended, purports to extend the authority of supervisory authorities to persons regardless of whether they engaged in in relevant financial business, or otherwise act for or on behalf of such persons in relevant financial business, and is therefore *ultra vires* the PCL and therefore cannot be lawfully used to enter any premises or conduct a search or seize any property pursuant to the exemption provisions to Sections 9 or 15 of the BOR;
  - iv. Regulations 55R, 55S, 55U, 55V, 55W, 55X, 55Y, 55Z, 55ZA, 55ZB, 55ZC, 55ZD, 55ZE, 55ZF, 55ZG, 55ZH, 55ZI and 55ZJ, purport to create a discretionary fine regime that involves a process which is in breach of sections 7 and section 19 (1) of the BOR,
  - o. That an attorney-at-law's files, documents and records are the property of that attorney-at-law, and, consequently, any interference by government or any public official can only be permitted in accordance with Section 15 of the BOR;
  - p. That any entry or search, including any inspection, and any seizure of property by a supervisory authority of any person governed by the PCL must be done strictly in accordance with Section 99A of the PCL and must not infringe Section 9 or 15 of the BOR;
2. The Petitioners are also asking this Honourable Court to prohibit:-
- a. The Second Respondent from pursuing passage of the deferred LPAB in its present form or in any form which would violate the Petitioners' rights and freedoms under the Section 12 of the BOR or otherwise in contravention of the Constitution; and
  - b. The Respondents or any of them from exercising any further unlawful enforcement action, including, but not limited to, any and all demands for registration or forced membership with either of the Third or Fourth Respondents, requests for information to be provided by the Petitioners to either of the Third or Fourth Respondents, any entry, searches and seizures

of attorneys' premises and property, the issuance and enforcement of any and all penal sanctions and/or any and all discretionary fines in contravention of Sections 7, 9, 12, 15, 16 of the BOR and/or in contravention of Section 99A of the PCL.

3. The Petitioners would further humbly ask this Honourable Court:
- a. to order an injunction against the Respondents pending the determination of this cause of action, so to prevent any further breaches and/or further threats to breach the Petitioners' Constitutional rights and freedoms;
  - b. to make an order for the protection of the Petitioners in respect of costs being awarded against any one or more of them in this matter owing to the public interests that are at issue herein;
  - c. to award the Petitioners an order for costs on an indemnity basis against the Respondents; and
  - d. to grant such other relief or remedy or make such order, including an award of damages as against the Respondents as it may deem just and appropriate pursuant to Section 27 of BOR and/or within the inherent jurisdiction of the Court.

**AND your Petitioners will ever pray.**

Dated the 31<sup>st</sup> day of July 2020



JacksonLaw on behalf of Petitioners

**NOTE:** This Petition is intended to be served on:

1. The Honourable Attorney General of the Cayman Islands on behalf of the Cayman Islands Government (including the Cabinet thereof) c/o the Attorney General's Chambers, Government Administration Building, George Town, Grand Cayman, Cayman Islands.

2. Cayman Islands Legal Practitioners Association, c/o: Ogier Global (Cayman) Limited, 89 Nexus Way, Camana Bay, Box KYI-9009, George Town, Grand Cayman, Cayman Islands.
3. Cayman Attorneys Regulation Authority, 2<sup>nd</sup> Floor, Century Yard, Cricket Square, Box 12236, KY1-1010, George Town, Grand Cayman, Cayman Islands.

**THIS PETITION WAS FILED BY** JacksonLaw on behalf of the Petitioners, whose address for service is Unit 1D, Landmark Square, 64 Earth Close, P.O. Box 10638, Grand Cayman, KYI-1006, Cayman Islands