



"ATTESTED COPY"
ORDER ON NOTICE OF APPLICATION FOR COURT ORDERS

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO.

2014 HCV 04772

BYMONE M. MAYE
RECEIVED

SIGNATURE

DATE

TITLE

IN THE MATTER OF the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011 (the Charter)

A N D

IN THE MATTER OF the Proceeds of Crime Act and Regulations and consequential amendments to the Legal Professional Act and Canons and the General Legal Council of Jamaica, Anti-Money Laundering Guidance for the Legal Profession.

BETWEEN	THE JAMAICAN BAR ASSOCIATION	CLAIMANT
A N D	THE ATTORNEY GENERAL	FIRST DEFENDANT
A N D	THE GENERAL LEGAL COUNCIL	SECOND DEFENDANT

**IN CHAMBERS AND
IN OPEN COURT
BEFORE THE HONOURABLE: MR. JUSTICE SYKES**

THE 28TH DAY OF OCTOBER 2014 AND THE 4TH DAY OF NOVEMBER 2014

UPON THE NOTICE OF APPLICATION FOR COURT ORDERS dated October 13, 2014 and coming on for hearing this day and **UPON** hearing Mrs. M. Georgia Gibson Henlin, Mr. M. Maurice Manning, Ms. Catherine Minto and Mrs. Shawn Wilkinson instructed by Wilkinson and Co. Attorneys-at-Law for the Claimant and Mrs. Nicole Foster Pusey Q. C., Ms. Carlene Larmond and Ms. Tamara Dickenson instructed by

the Director of State Proceedings for the First Defendant and Mr. Allan Wood Q. C. and Mrs. Symone Mayhew instructed by Symone M. Mayhew for the Second Defendant, **IT IS HEREBY ORDERED AS FOLLOWS:-**

1. Attorneys-at-Law to whom the Proceeds of Crime Act was extended by reason of Proceeds of Crime (Designated Non-Financial Institution) Attorneys (Order), 2013 (DNFI Order) are exempted from and/or are otherwise not required to comply with the following Acts, Regulations, Orders or Guidance pending the outcome of the Constitutional Motion herein:
 - 1.1. The Proceeds of Crime Act and the Proceeds of Crime (Money Laundering Prevention) Regulations) 2007 as extended by the (DNFI Order);
 - 1.2. The General Legal Council of Jamaica Anti-Money Laundering Guidance for the Legal Profession that was published in The Jamaica Gazette Extraordinary of Thursday May 22, 2014, No 2;
 - 1.3. Chapter IV sections 94 and 95 of the Proceeds of Crime Act in so far as it requires attorneys-at-law to report suspicious transactions (STRs) directly to the Financial Investigations Division;
 - 1.4. The amendment to The Legal Profession Act to insert in section 5(3C) any regulation(s) issued or made pursuant thereto including The Legal Profession (Annual Declaration of Annual Activities) Regulations, 2014, July 10, 2014;
 - 1.5. The amendments to the Canons of the Legal Profession Act by the Legal Professions (Canons of Professional Ethics) (Amendment) Rules, 2014, 2nd July 2014 requiring the Attorney-at-Law to certify to the 2nd Defendant by the 31st January 2015 whether the Attorney-at-Law engaged in the matters set out in the Order of the 15th November 2013, and
 - 1.6. The amendment to Canon IV of The Legal Profession Act (Canons of Professional Ethics) to remove the proviso that enjoined the Attorney's ethical obligation to protect client confidences and permit client confidences to be revealed in compliance with the Proceeds of Crime Act.
2. The 2nd Defendant is restrained from exercising the functions conferred on it under section 91A(2) of the Proceeds of Crime Act including the power to examine and take copies of information or documents in the possession or control of any of the

businesses concerned, **and** relating to the operations of attorneys to whom the Proceeds of Crime Act was extended by the DNFI Order under section 91A (2) (c) of the Proceeds of Crime Act or to establish such measures including carrying out or directing third parties to carry out inspections or verifications in order to determine whether the Attorneys-at-Law are complying with the Proceeds of Crime Act under section 91A (2) (a).

3. This interlocutory injunction is granted on condition that the Registrar of the Supreme Court is able to convene a hearing commencing no later than February 2, 2015. The Attorneys-at-Law must be available for those days.
4. The Hearing of the Constitutional Motion as embodied in the Fixed Date Claim Form filed herein on October 13, 2014 is to take place on **February 2, 3 and 4, 2015** for three days.
5. All affidavits must be filed and served not later than **November 28, 2014**.
6. Any affidavit in reply must be filed and served not later than **December 19, 2014**.
7. Written submissions to be exchanged but not filed not later than **January 16, 2015**.
8. Parties to exchange list of authorities, including treatises and articles not later than **January 9, 2015**.
9. Respondents to provide claimant with actual copies of cases, treatises and articles, being relied on by the respondents that are not being relied on by the claimant not later than **January 16, 2015**.
10. Claimant to file bundles, which includes copies of cases, treatises and articles being relied on by the respondents not later than **January 20, 2015**.
11. The bundles (including bundles with affidavits, submissions, cases, treatises) are to be paginated in the following manner:
 - i. the core bundle (bundle with pleadings and affidavits) shall be the first bundle and it shall be numbered in numerical sequence beginning on page one and going through consecutively to the last page;
 - ii. the first page of the next succeeding bundle (bundle with written submissions) shall commence with the next succeeding number from the last page of the core bundle and each page is numbered consecutively to the last page of that bundle;
 - iii. the first page of the bundle after the one mentioned is numbered consecutively after the last page of the bundle mentioned at 8 (ii) above. This bundle shall be the bundle with authorities/treatises and articles, and
 - iv. other bundles should be paginated accordingly after these three bundles.

12. Costs of this application reserved until final disposition of this matter in the Supreme Court.
13. Claimant's Attorneys-at-Law to prepare, file and serve order.



JUDGE

NB. This interim relief does not exempt attorneys-at-law from prosecution for money laundering offences under the Proceeds of Crime Act and the anti-money laundering regulations.

FILED by **WILKINSON & CO.**, Attorneys-at-Law, **Attention: Shawn Wilkinson, Attorney No. 3573** of No. 10 Swallowfield Road, Kingston 5 whose telephone numbers are 968-8984, 960-4798, 968-0454, Fax: 960-4797 and e-mail: igwco@wilkinsonlawja.com and on behalf of the Claimant herein.