IN THE SUPREME COURT OF BELIZE, A.D. 2005

CLAIM NO. 468

(ALF INGE CHRISTENSEN AND OTHERS

CLAIMANTS

(AND

(INTERNATIONAL CORPORATE SERVICES LTD.

DEFENDANT

APPEARANCE:

Ms. Ashanti Arthurs for the Claimants

DECISION

This is an Application Without Notice by the Applicants to the Court for an Order that International Corporate Services Limited, (the "Defendant"), be compelled to disclose and furnish forthwith various documentation and information to the Claimants or to the Claimants Solicitors, by way of a Norwich Pharmacal/Bankers Trust Discovery.

Having listened carefully to learned counsel, Ms. Ashanti Arthurs in moving this Application, I must confess that this is a novel area of the law for the jurisdiction in Belize. The substance of the application she seeks is grounded in the old Bill of discovery in Chancery which enable the party to security disclosure of documents even before action. This jurisdiction has now been shaped by modern decisions which this court finds persuasive, in particular the decision of the House of Lords in the *Norwich Pharmacal Co. and others v. The Commissioners of Customs and Excise*, 1973, 2 All E.R. 943 and the Bankers Trust Co. v. Shapira and others, 1980 Vol. 3 All E.R. and subsequent cases such as Arab Monetary Fund v. Ashim and Others No. 5 1992 2 All E.R. 911, Omar and Others v. Omar and others 1995 3 All E.R. 571 and Ashworth Hospital Authority v. MGN Ltd. 2002 4 All E.R. 193. All these cases affirm the jurisdiction of the Court to order Discovery where it is necessary to advance or refute a Claim or Defence by parties

to a litigation or even against a non-party to a litigation. All this is intended, in my view, to facilitate the proper administration of justice by ensuring that no obstacle shall be put in the way of a litigant to prove or rebut a claim. Our own local *Supreme Court Civil Procedure Rules*, 2005 provide for Specific Disclosure in Part 28 in particular rules 5 and 6 thereof.

Having regard to all these considerations, I feel able to grant the Orders sought on behalf of the Applicants.

I appreciate the Draft Order the Applicants filed in this matter but I am unable to accede to the whole of paragraph 6 of the Draft Order and accordingly I will strike out the part thereof which states:

"That the Claimants shall be relieved of their implies undertaking of confidentiality in respect of their use of any confidential documents or materials that are produced to them pursuant to the terms of this Order."

And the rest,

"PROVIDED THAT, the Claimants may only use such confidential documentation or material in furtherance of their asset tracing, breach of fiduciary duty, fraud and associated claims which gave rise to these proceedings and the related proceedings pending before the Spanish Court and such other actions as may be necessary in other jurisdictions,"

Also, I will strike paragraph 8 of the Draft Order.

I am persuaded, having read the affidavit of Mr. Kenny on behalf of the Applicant that the Defendant is likely to have crucial, relevant information directly related to the establishment, management, operation, ownership, control, transaction and ongoing activities of Lloyd & Associates, a Belizean Company, which would enable the Claimants to establish the identity of those who use this

corporate vehicle in the perpetration of the alleged multi-jurisdictional fraud against the Claimants.

Accordingly I grant the Orders sought as amended above and that the Costs of the Defendant in providing any information shall be born by the Applicants.

DATED this 22nd day of December, 2005

ABDULAI CONTEH Chief Justice