MAGISTRAT INKWIRENTI

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20 ta' Lulju 2018

FL-ATTI TAL-INKJESTA

EGRANTINC.

Ossija jekk:

1. Is-Sinjura Michelle Muscat allegatament hijiex 1-ultimate beneficial owner ta' *E grant Inc.;*
2. Jekk il-Prim Ministru jew membri tal-familja tieghu jew John Dalli, Keith Schembri u Conrad Mizzi ghandhomx kontijiet bankarji fil-Pilatus Bank;
3. Jekk kienux involuti f'xi transazzjonijiet finanzjarji suspettuzi fi hdan il-Pilatus Bank jew f'atti ta' korruzzjoni jew hasil ta' flus ma' persuni mill-Azerbaijan fil-Pilatus Bank.

PROCES VERBAL

L-Inkjesta Magisterjali

Qabel xejn, fid-dawl ta' dak li sehh matul il-kors ta' din 1-inkjesta, inhasset il-htiega li ghandu jigi ccarat x'inhi inkjesta magisterjali u x'inhu 1-iskop principali warajha.

Inkjesta magisterjali tinkludi u timporta fiha forma ta' "investigazzjoni", stharrig bl-ghinuna tal-esperti teknici biex:

(a) qabel xejn jigi determinat il-fatt jew id-delitt allegat - ossija t-tiftix, kemm ikun possibbli, tal-verita storika - billi jigu mistharga u stabbiliti 1-effetti jew tracci li jkunu jezistu wara li jkun sehh il-fatt jew id-delitt. Ghalkemm it-test Malti tal-Kodici Kriminali fl-artikolu 546 jirreferi ghall-inkjesta magisterjali bhala *il-"Prova tal-in genere"*, it-test Ingliz jirreferi ghaliha bhala *"Investigation relating to the* 'in genere"'. Ghalkemm in-nota fil-margini ma ghandhiex sahha legali, b'mod partikolari fit-test Ingliz, hija xorta wahda indikattiva tat-tifsira.

(b) Stabbilita *l-prova ingenere* imbaghad, fil-kazijiet kongruwi, 1-Magistrat Inkwirenti jghaddi biex jipprova jistabbilixxi *l-prova in specie* jew *il-prova specifica.* Din tkun diretta biex jigi mikxuf min ikun wettaq il-fatt jew id-delitt in kwistjoni biex b'hekk tkun tista' tigi ezercitata 1-azzjoni penali kontra tieghu jekk u meta jkun il-kaz.

Il-prova specifika trid tigi stabbilita bil-mezz ta' dokumenti, xhieda, jew b'evidenza ohra, diretta jew indiretta skont ma jkun il-kaz.

Skont il-gurisprudenza lokali,[1] il-Magistrat Inkwirenti, fil-kapacita personali professjonali tieghu, bhala parti integrali mir-rwol, funzjoni u setgha tieghu ta' Magistrat (b'differenza ta' meta jkun jippresjedi 1-Qorti tal-Magistrati f'kawza jew procediment kriminali) iwettaq dan kollu billi:

(a) fil-kazijiet previsti mill-Ligi jinvestiga r-reatjew il-fatt rapportat lilu u/jew izomm access li 1-Ligi tipprevedi;

(b) jaghmel ricerka ghall-verita' (storika, aktar milli wahda gudizzjarja) billi jigbor u jipprezerva 1-provi *tal-in genere* kollha, diretti jew indiretti, li jkunu jezistu u li 1-Magistrat jimexxielu jidentifika bhala pertinent ghall-fatt jew reat li jkun qieghed jinvestiga relattivi ghal dik *in-notitia criminis* li tkun giet raportata lilu;

(c) biex wara li jkun gabar u prezerva dawn il-provi kollha identifikati minnu u disponibbli fic-cirkostanzi, u cjoe jistabbilixxi jekk fuq bazi *prima faciae* jkunx hemm stabbilit 1-ezistenza ta' xi reat jew reati kriminalment rilevanti u persegwibbli u

(d) f'kaz pozittiv jipprova jasal ghall-in *specie,* u cjoe jara jekk ikunx hemm sufficjenza probatorja *prima faciae* li - indipendentement mill-apprezzament tal-provi migbura u prizervati - tista' twassal

[1] Principalment dak deciz mill-Qorti tal-Appell Kriminali Superjuri fil-kawza *Ir-Repubblika ta' Malta vs Jason Grima,* tat-3 ta' Lulju 1997.

biex tigi identifikata persuna li setghet wetqet dak jew dawk ir-reati kriminali stabiliti fl-inkjesta biex b'hekk tkun tista tigi mibdija l-azzjoni penali kontra taghha;

(e) li fl-ahli.amett dak kollu li jkun irriskontra 1-Magistrat jigi migbur £'rapport imsejjah *iI-Proces Verbal* skont kif regolat mill-Ligi u dan il-Proces *Verbal* li jkollu sahli.a ta' prova f'Qorti kriminali u jista' jingieb b'evidenza fil-kors ta' kull procediment kriminali li jiskatta in bazi ghall-konkluzjonijiet milhuqa fih.

Din il-funzjoni tal-Magistrat fil-vesti tieghu ta' Magistrat Inkwirenti issib diga 1-gheruq taghha lura ferm fis-snin u tirrifletti 1-posizzjoni legali kontenuta f'diversi Kodici ta' Procedura Penali ta' diversi Renji u Dukati Kontinentali. Lokalment, dan il-metodu ta' stharrig gudizzjarju kien diga jezisti, f'forma £tit differenti, *fid-Diritto Municipale di Malta, Nuova Compilazione con Diverse Altre Costituzioni* tal-1784, aktar komunement maghruf bhala *I-Cadice de Rohan. Mill-Libra I, Capo III, Para. Vet seq* ta' dan *il-Codice de Rohan,* wiehed jintebah li s-setghat u 1-funzjonijiet principali li ghandhom il-Magistrati Maltin tal-lum (kif regolati bil-Kodid Kriminali attwali) kienu jigu mwetqin mill-Imhallef maghruf bhala *il-giudice Criminale della Gran Corte della Castellania.* Dawn is-setghat kienu, u ghadhom, jinkludu s-setgha:-

(a) li jiddededu kawzi;

(b) Ii jistruwixxu 1-provi ghall-processi kriminali;

(c) li jaghmlu inkjesti biex jistabbilixxu jekk sehli.x fatt jew delitt denunzjat jew kwerelat lilhom u f'kaz pozittiv jiddeterminaw min kien is-suspettat li wettaq il-fatt jew id-delitt biex jinbdew proceduri penali kontrih.

Din hija riflessjoni tas-sistema ta' Gustizzja Inkwizitorja li kienet predominanti f'dawn il-Gzejjer fi zmien 1-0rdni ta' San Gwann u li kienet ukoll ispirata mill-Kodici Kontinentali Ewropej. Dan 1-Imhallef kellu poteri wiesa' biex jinvestiga u jistabbilixxi 1-verita storika, ghalkemm dak i.z-zmien ix-xoghol tieghu kien aktar ristrett minn dak tal-lum in kwantu kien aktar limitat fin-numru tar-reati serji li kienu jigu kommessi kif ukoll fil-kwalita ossija n-natura tar-reati li kien mehtieg li jistharreg. Ir-reati li kien jistharreg direttament kienu principalment 1-omicidji, offizi gravi fuq il-persuna u reati serji ohra, li pero ma kienux jinkludu reati sofistikati li zviluppaw fiz-zmien aktar ricenti. Dan 1-Imhallef kellu s-setgha li jordna li jitqabdu esperti biex jghlnuh fl-Investigazzjoni tieghu kif ukoll li jircievi r-relazzjonijiet teknici taghhom. Dawn ir-relazzjonijiet ma setghux jigu impunjati mid-Difiza sakemm il-Prosekutur jkunx qabel ghal dan. F'dak il-ka.z ir-relazzjoni setghet tigi mistharga minn *Periti* ohra, li kienu jkunu esperti fil-materja u li skont il-prassi kellhom ikunu mahtura f'numru farradi.

L-accessi fuq il-post tal-allegat reat kien jikkonducihom 1-istess Imhallef, li kien imur personalment izur ix-xena tad-delitt

> e procurera' di usare tutte le possibili diligenze tanto per verificare il corpo del delitto, di qualunque specie fosse, come rispetto alla scoperta dei delinquenti, e rnettera' tutto in chiaro ...

Din is-sitwazzjoni procedurali bdiet tinbidel £tit wara li 1-Kuruna tar-Renju Unit bdiet tiehu 1-kontroll shih tal-Gzejjer Maltin u tat-tmexxija taghhom. Permezz ta' Notifikazzjoni mahruga nhar 1-24 ta' Lulju 1812, il-Makkiem il-Gdid iddedda li jitrasferixxi certi setghat u responsabbiltajiet li qabel kienu ezerdtati *mill-giudice Criminale della Gran Corte della Castallania* u *mill-Castellano* lil figura guridika gdida li giet mahluqa (mhux minghajr kontroversji) u maghrufa bhala *Magistrate,* jew bil-Malti, Magistrat.

Dan kien zmien ta' riformi kontinwi u qawwija fil-qasam Gudizzjarju Malti, xprunat minn Sir Thomas Maitland, li bil-Proklama xxii tal-ewwel (1) ta' Lulju 1814 ordna li 1-poteri ta' inkjesti li qabel kienu ezerdtati mill-*giudice Criminale della Gran Corte della Castallania* issa kellhom jigu trasferiti lil u assunti *mill-Magistrati.* Din kienet dedzjoni li kienet tbiddel ix-xenarju gudizzjarju lokali in kwantu taht id-Dominazzjoni Britannika, il-Magistrati kienu meqjusa bhala ufficjali gudizzjarji li kienu gew moghtija s-setgha tat-tmexxija tal-Qrati tal-Pulizija Gudizzjarja *(Court of Magistrates ofJudicial Police)* b'kompetenzi t'aggudikazzjoni limitati hafna kemm fil-qasam dvili kif ukoll fil-qasam kriminali meta mqabblin ma dawk moghtija lil Magistrati Maltin tal-lum. Biss f'dak iz-zmien,

b'differenza għall-dak li jiġri illum il-ġurnata, l-Maġistrati kienu jmexxu huma l-Pulizija Ġudizzjarja u kien hemm distinzjoni bejn din il-Pulizija Ġudizzjarja u l-Pulizija Eżekuttiva li kienet immexxija mill-Ispettur Ġenerali tal-Pulizija.

Maż-żmien pero il-poter tal-Maġistrati fuq il-Pulizija Ġudizzjarja ċkien u maż-żmien il-kunċett ta' Pulizija Ġudizzjarja tneħħa mill-Liġi. Il-poteri ta' investigazzjoni ġew mgħoddija lil Pulizija Eżekuttiva u dan anke sa mill-Proklama I tal-10 ta' Marzu 1854 li biha ġie fis-seħħ il-Kodiċi Kriminali.

Biss reminixxenza ta' dawn is-setgħat li kienu jgawdu l-Maġistrati baqgħu jeżistu fit-Taqsima li titratta l-*in genere*. Il-Liġi tistabbilixxi l-ħtieġa ta' interazzjoni qawwija bejn il-Maġistrati u l-Pulizija, illum il-Pulizija Eżekuttiva, u mhux aktar Pulizija Ġudizzjarja, fil-qadi tad-doveri tagħhom fl-inkjesti dwar l-*in genere*.

Il-Maġistrat għandhom setgħat li jassiguraw ix-xena tad-delitt u li jippriżervaw l-evidenza, inkluż li jaħtru esperti forensiċi. Biss illum il-ġurnata, il-Maġistrati ma għadhomx aktar jistgħu imexxu l-Pulizija Ġudizzjarja, għax din ma għadhiex teżisti. Huma jistgħu jagħtu direzzjoni u ordnijiet lill-Pulizija Eżekuttiva fil-kors t'inkjesta dwar l-in

genere. Iżda l-Korp tal-Pulizija Eżekuttiva, li huwa l-unika qawwa taż-żamma tal-ordni f'Malta, li hija mmexxija tal-Kummissarju tal-Pulizija. Bil-Kodiċi Kriminali viġenti il-Pulizija Eżekuttiva għandha s-setgħat ġenerali ta' prevenzjoni, investigazzjoni u l-prosekuzzjoni tal-azzjoni kriminali u dan id-dover jibqa' fis-seħħ anke meta jkun hemm inkjesta maġisterjali.

Fil-prattika preżenti il-maġġoranza assoluta tal-każijiet ta' fatti jew delitti kriminali jiġu denunzjati jew kwerelati lil Pulizija Eżekuttiva u mhux lil Maġistrat. Dan peress li l-Kodiċi Kriminali sa mill-1854 kien jipprevedi li denunzji jew kwereli kellhom isiru minn persuni, *in primis,* lil Pulizija Eżekuttiva. Biss il-ħsieb ġuridiku li l-Maġistrat ikun involut mill-bidu nett fl-interazzjoni mal-Pulizija ma mietx bis-soppressjoni tal-Pulizija Ġudizzjarja għax l-Artikolu 540 tal-Kodiċi Kriminali għadu jipprevedi li meta l-Pulizija Ezekuttiva tkun irċeviet denunzja jew kwerela, li fuqhom għandhom jittieħdu proċeduri, huma għandhom jgħarfu mill-aktar fis lill-Qorti tal-Maġistrati jew lil maġistrat, skont il-każ, biex jieħdu minn għandu l-ordnijiet meħtieġa għal dawk il-proċeduri u fil-każijiet kongruwi l-Pulizija Eżekuttiva tista' tgħaddi wkoll għall-arrest ta' dik il-persuna li għandha tiġi mħarka.

Reminixxenza oħra taż-żmien meta l-Maġistrati kienu jmexxu l-Pulizija Ġudizzjarja għadha tinstab ukoll fil-Kodiċi Kriminali attwali fil-fatt li

huwa possibbli li ssir denunzja ta' fatt jew delitt lil Maġistrat minn persuna li ma tkunx uffiċjal tal-Pulizija jew l-Avukat Ġenerali. Din hija possibilita mogħtija mill-Liġi lil persuni f'Malta li rarament tiġi mħadma. Iżda meta jiġri hekk, il-Maġistrat irid isegwi proċeduri speċjali qabel ma jiddeċiedi li jvara inkjesta b'mod li l-Liġi illum teżiġi li titħaddem proċedura speċjali li tassigura li ma jkunx hemm *forum shopping*. Matul il-kors ta' din l-inkjesta *Egrant Inc.*, kif wieħed jista' jara mill-atti ta' din l-inkjesta, din il-proċedura speċjali kellha tiġi mħaddma għal darbtejn fuq żewġ rikorsi differenti li kienu saru mill-Kap tal-Opposizzjoni ta' dak iż-żmien Dr. Simon Busuttil.

Fil-każijiet normali għalhekk ikunu l-Pulizija (fil-prassi jkun Fizzjal fil-grad mhux anqas minn Spettur) li jinfurmaw lil Maġistrat bl-aħbar ta' fatt jew delitt li jkun, fil-fehma tagħhom jeħtieġ li għalih tinfetaħ inkjesta. Imbagħad ikun jispetta lil Maġistrat li jiddeċiedi jekk ikunx hemm il-prerekwiżiti meħtieġa biex tibda inkjesta jew le skont jekk ikunx ġew soddisfatti o meno d-dettami tal-artikolu 546 tal-Kodiċi Kriminali.

Fil-każ li l-Maġistrat jiddeċiedi li ma jiftaħx inkjesta, il-Pulizija Eżekuttiva xorta waħda tibqa' obbligata li tinvestiga dak li jkun ġie rapurtat lilha, in kwantu l-obbligu legali ġenerali t'investigazzjoni u prosekuzzjoni fdat fil-Pulizija xorta jibqa' fis-seħħ. F'dak il-każ ikunu l-Pulizija li jiddeċiedu x'azzjoni tkun tispetta li tittieħed skont il-każ.

Mill-banda l-oħra meta l-Maġistrat jiddeċiedi li hemm lok t'inkjesta maġisterjali għax ikunu soddisfatti l-prerekwiżiti skont l-artikolu 546 tal-Kodiċi Kriminali, imbagħad ikun jispetta lilu li jieħu d-deċiżjonijiet skont il-każ. Huwa jkun irid jikkordina l-isforzi tiegħu mal-Pulizija Eżekuttiva biex dawn ikunu jistgħu itwetqu l-miżuri u l-ordnijiet li jidhirlu xierqa li jittieħdu skont il-każ. F'din l-eventwalita, il-Pulizija Eżekuttiva ma jsirux Pulizija Ġudizzjarja, għax din ma għadhiex teżisti aktar. Il-Pulizija Eżekuttiva pero tkun trid tirrispondi għall-ordnijiet tal-Maġistrat Inkwirenti u twettaqhom mingħajr dewmien. Il-Pulizija Eżekuttiva għalhekk issir l-id il-leminija tal-Maġistrat Inkwirenti. Biss għad-differenza ta' dak li kien jiġri fi żmien meta Sir Thomas Maitland kien daħħal il-figura tal-Maġistrat f'Malta, it-tmexxija tal-Pulizja Eżekuttiva xorta waħda tibqa' f'idejn il-Kummissarju tal-Pulizija anke f'dawn il-każijiet. Il-Maġistrat Inkwirenti tal-lum ma għandux Pulizija Ġudizzjarja li tirrispondi direttament lilu f'kollox, iżda il-Liġi hija mfasla b'mod li tkun trid issir kollaborazzjoni stretta bejn il-Pulizija Eżekuttiva u l-Maġistrat li jkun ordna li ssir inkjesta biex it-tnejn li huma jkunu jistgħu jaqdu d-doveri rispettivi tagħhom.

Il-Maġistrat Inkwirenti jagħti l-ordnijiet u d-direzzjonijiet tiegħu lill-Pulizija Eżekuttiva li jkunu qegħdin isegwu din l-aħbar ta' fatt jew delitt (aktar l-isfel magħrufa bħala *notitia criminis*), u dawn iridu jwetqu dak

ordnat mill-Maġistrat, inkluż li jieħdu ħsieb l-aspetti loġistiċi u l-kuntatti mal-esperti maħtura biex l-inkjesta tkun tista' ssir skont il-Liġi.

Fil-prattika, fil-maġġoranza tal-każijiet, l-ordnijiet u l-konklużjonijiet tal-Maġistrat Inkwirenti jkunu soddisfaċenti biżżejjed għall-Kummissarju tal-Pulizija biex dan ikun jista' jaġixxi skont dak ordnat mill-Maġistrat Inkwirenti fil-*Proces Verbal* tiegħu. B'hekk normalment jekk Maġistrat fil-*Proces Verbal* tiegħu jordna li persuna tiġi mresqa l-Qorti fuq xi akkuża li jsemmi, il-Kummissarju tal-Pulizija għandu d-dmir legali li jipproċedi skont dik l-ordni tal-Maġistrat.

Iżda peress li l-Maġistrat u l-Kummissarju tal-Pulizija (minkejja l-kollaborazzjoni ta' bejniethom) jibqgħu indipendenti minn xulxin, jista' jkun li l-Kummissarju tal-Pulizija jkollu dubju dwar dak dekretat mill-Maġistrat Inkwirenti fir-rigward tal-azzjoni li jkun ordna li tittieħed. F'dan il-każ, il-Liġi tipprovdi li l-Kummissarju tal-Pulizija jista' jikkonsulta ruħu mal-Avukat Ġenerali. F'din l-eventwalita, id-deċiżjoni tal-Avukat Ġenerali dwar x'jiġri mill-ordni tal-Maġistrat tista' tkun l-istess daqskemm tista' tkun differenti in parti jew għal kollox minn dik dekretata mill-Maġistrat. Fi kwalunkwe każ, id-deċiżjoni tal-Avukat Ġenerali hija finali. Fil-każ li l-Avukat Ġenerali jagħżel li jmur kontra dak li jkun ordna fid-digriet tal-Maġistrat fil-*Proces Verbal* tiegħu fejn ikun ordna li jittieħdu proċeduri kriminali kontra persuna għal reati

partikolari, huwa għandu jagħmel rapport bil-miktub lill-President tar-Repubblika li fih jispjega r-raġunijiet li jkunu wasluh għal din id-deċiżjoni.

Altrimenti, fil-qadi tad-dmirijiet "investigattivi" tiegħu matul l-*in genere*, il-Maġistrat għandu diversi poteri li jrid juża b'għaqal, qies u attenzjoni. Fosthom hemm is-setgħa tal-arrest, qbid, dħul fi proprjeta, li jordna li jsiru testijiet, esperimenti u miżurazzjoni fuq persuni jew il-ħwejjeġ tagħhom, fejn meħtieġ bl-għajnuna t'esperti. Fit-twettieq tad-doveri tal-inkjesti, il-Maġistrati għandhom ukoll is-setgħat mogħtija lil Qorti tal-Maġistrati bħala Qorti istruttorja, u li għalhekk jistgħu jordnaw li persuni jiġu nġunti bħala xiehda, jew li tiġi prodotta dik l-evidenza li jidhrilhom xierqa, jistgħu joħorġu taħrikiet lil xhieda jew jarrestaw lil min jirriżultalhom li huwa suspettat li wettaq reati kriminali, kif ukoll li jieħdu kull miżura jew ħaġa oħra li tinħtieġ biex il-ġabra tal-provi tkun kompluta minn kollox. Fi kwalunkwe każ, dawk li jridu jwettqu l-ordnijiet tal-Maġistrat jibqgħu il- Pulizija Eżekuttiva.

Kif ser ikun spjegat aktar il-quddiem il-Maġistrat Inkwirenti, minkejja dawn is-setgħat wiesa' li jgawdi xorta waħda jibqa' serv tad-Dritt u ma jistgħax jirrombla fuq il-jeddijiet tan-nies. Dawn is-setgħat iġorru magħhom responsabbiltajiet kbar - mhux l-anqas li l-Maġistrat Inkwirenti jeżerċitahom skont il-prinċipji Kostituzzjonali u

Konvenzjonali, skont il-Kodiċi Kriminali u fl-aħħar iżda mhux l-inqas, skont il-kuxjenza.

In-notitia criminis

Illi permezz ta' rapport verbali tal-Kummissarju tal-Pulizija Lawrence Cutajar magħmul telefonikament lill-Maġistrat Inkwirenti għall-ħabta tal-23:15 tal-20 t'April 2017 (liema rapport ġie kkonfermat permezz ta' rapport bil-miktub fis-26 t'April, 2017), il-Maġistrat Inkwirenti ġie nfurmat bis-segwenti : -

> Illi illum 20 ta' April 2017, il-Kumissarju tal-Pulizija ircieva rapport minghand Dr. Edward Gatt LL.D u Dr. Pawlu Lia LL.D ghan-nom u in rapresentanza ta' l-Onorevoli Prim Ministru Dr. Joseph Muscat, fejn dawn talbu lill-Kummissarju tal-Pulizija jinvestiga allegazzjonijiet li saru mill-gurnalista Daphne Caruana Galizia fin-newsblog taghha f'artikolu intitolat *"Declarations of trust in Pilatus Bank safe: Egrant Inc shares held far Michelle Muscat"*;
>
> f'dan l-imsemmi artikolu, qed jigi allegat illi s-Sinjura Michelle Muscat hija l- *Ultimate Beneficial Owner* ta' Egrant Inc; u li l-Prim Ministru jew membri tal-familja tieghu jew *Politically-Exposed Persons* ohra (u cioe' John Dalli, Keith Schembri, u Konrad Mizzi) setghu kienu involuti f'xi forma ta' korruzzjoni, u/jew hasil ta' flus, u/jew transazjonijiet finanzjarji suspetti, provenjenti minn kontijiet ta' *Politically-Exposed Persons* mill-Azerbaijan, u dan tramite kontijiet fil-Pilatus Bank.
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> Illi dawn l-allegazzjonijiet serji jimminaw kemm l-amministrazzjoni tal-pajjiz, kif wkoll l-industrija finanzjarja ta' Malta;
>
> Illi f'dan l-istadju l-Pulizija qieghdha titlob lill-Magistrat Inkwerenti sabiex tiftah inkjesta halli dawn l-allegazzjonijiet jigu investigati, anki bl-assistenza ta' esperti li jistghu jigu mahtura tul din l-investigazzjoni; u sabiex jigu ippriservati u analizati d-dokumenti kollha relativi ma' din l-investigazzjoni;

In sostenn għal dan ir-rapport, il-Kummissarju tal-Pulizija eżebixxa fl-atti ta' din l-inkjesta il-kwerela magħmula lilu bil-miktub fl-istess jum u skont

kif imsemmi fir-rapport tiegħu minn fejn jirriżulta li Dr. Joseph Muscat u l-mara tiegħu Michelle Muscat kienu ħassewhom aggravati minħabba allegazzjonijiet kontenuti f'artiklu ippublikat aktar kmieni fil-blog *Running Commentary* miktub minn Daphne Caruana Galizia u dan peress li qiesu d-diversi allegazzjonijiet kontenuti f'dan l-artiklu bħala kalunjużi u msejsa fuq fabbrikazzjonijiet. F'din il-kwerela huma talbu li tinżamm inkjesta:

> "bl-ingenere" halli jigu pprezervati l-provi ezistenti u jaghti direzzjoni lill-Avukat Generali u l-Kummissarju tal-Pulizija u l-pariri mehtiega skond il-ligi meta l-istess tigi maghluqa u dan fis-sens illi ;
>
> Il-Prim Ministru jew membri tal-familia tieghu jew *politically exposes persons* ohra setghu kienu nvoluti f'xi forma ta' korruzzjoni u/jew hasil ta' flus kif dettaljat fl-istess artkolu.

Illi wara din it-telefonata, il-Maġistrat Inkwirenti immedjatament mar personalment fl-Uffiċju tal-Kummissarju tal-Pulizija fil-Kwartieri Ġenerali tal-Pulizija l-Floriana sabiex ikun jista' jitkellem f'dettall wiċċ imb wiċċ mal-ogħla Uffiċjali tal-Korp tal-Pulizija inkarigati minn dan il-każ.

Hemmhekk, il-Maġistrat Inkwirenti ġie mogħti aktar informazzjoni dwar l-iżviluppi li kienu seħħew matul il-jum u dik il-lejla u li allegatament kienu għadhom qegħdin iseħħu dak il-ħin. Ġie mogħti wkoll l-informazzjoni li aktar kmieni matul dak il-lejl, kienu deheru filmati miġbura minn crew ta' NET TV li kien juri li xi persuni (aktar tard identifikati bħala ċ-*Chairman* tal-Bank Pilatus Ali Sadr Hasheminejad

flimkien mar-*Risk Manager* tal-istess Bank Antonella Gauci) kienu ħarġu minn bieb laterali tal-Uffiċini tal- Bank Pilatus fejn ġew interċettati minn xi ġurnalisti li kienu fuq il-post. Ġie rappurtat li Ali Sadr Hasheminejad kien qiegħed iġorr miegħu żewġ bagalji li allegatament li fihom kien hemm dokumenti sensittivi li kienu qegħdin jiġu maħruġa klandestinament mill-istess Bank għal desintazzjoni oħra.

Ġie rappurtat ukoll li f'dawk is-sigħat ta' bil-lejl kien għad hemm xi nies li kienu għadhom fl-uffiċji ta' Nexia BT fejn kien għad hemm xi dwal mixgħula, minkejja li kien sar ħafna ħin wara l-ħinijiet tal-egħluq normali ta' dawn l-uffiċini.

Il-Maġistrat Inkwirenti deherlu li minn dak spejgat u muri lilu mill-Pulizija kien hemm il-prerekwiżiti meħtieġa sabiex tinfetah inkjesta maġisterjali dwar il-prova tal-*in genere* u ordna biex jiġu mibgħuta immedjatament żewġ aġenti tal-Pulizija mal-Uffiċji tal-Bank Pilatus f'Ta' Xbiex kif ukoll mal-Uffiċji ta' Nexia BT f'San Ġwann u dan sabiex jiġi assikurat li dawn iż-żewġt fondi jiġu ssiġillati u ebda persuna ma tkun tista' tidħol jew toħroġ minn dawn iż-żewġt Uffiċji mingħajr l-ordni tal-Maġistrat Inkwirenti. Ordna wkoll li ssir perkwiżizzjoni fuq il-persuna ta' u fir-residenza fejn kien qiegħed jirrisjedi Ali Sadr Hasheminejad.

L-"Artiklu" li jifforma l-bażi tal-kwerela u li l-fatti dwarhom qegħdin jiġu mistħarġa

Kif joħroġ ċar mir-rapport tal-Kummissarju tal-Pulizija, l-bażi tar-rapport li sar minnu titnissel mis-serje t'allegazzjonijiet li saru fl-artiklu intitolat : ***Declarations of trust in Pilatus Bank safe: Egrant Inc shares held far Michelle Muscat*** pubblikat minn Daphne Caruana Galizia nhar l-20 t'April 2017 fit-7:59pm fil-*blog* tagħha intitolat ***Running Commentary.*** Biss irriżulta li l-ispekulazzjonijiet dwar min kien is-sid aħħari tal-kumpanija *Egrant Inc.* kienu ilhom għaddejjin għal diversi xhur f'diversi artikli miktuba minn Caruana Galizia u ġurnalisti oħra. Iżda qatt qabel l-20 t'April 2017 ma kien hemm kitba speċifika u espliċita li kienet tisħaq li s-sid aħħarija ta' din il-kumpanija kienet il-mara tal-Prim Ministru Joseph Muscat, Michelle Muscat. Dan kien il-pern ta' dan l-istħarriġ li ġie mitlub mill-Kummissarju tal-Pulizija fir-rapport tiegħu u dan peress li dan l-artiklu kien jikkontjeni fih kemm l-allegazzjoni serja li mart il-Prim Ministru Malti kienet is-sid aħħari ta' kumpanija imwaqfa fil-Panama b'mod li isimha ma jkunx jidher – u dan għax ġie allegat li l-ishma tagħha kienu miżmuma minn Mossack Fonseca bħala *nominees*, kif ukoll li fil-Bank Pilatus kien hemm transazzjonijiet li kienu suspettużi immens u li kienu jinvolvu lic-Chief of Staff tal-Prim Ministru Keith Schembri ma persuni mill-Ażerbajġan. Dan minbarra l-allegazzjoni l-oħra li *Egrant Inc* kien jidher isimha mhux biss fuq id-declarations of trust imsemmija, iżda wkoll fuq bank account opening forms – intiżi naturalment biex jinfetaħ

kont bankarju f'isem *Egrant Inc* mal-Bank Pilatus. It-test ta' dan l-artiklu jaqra hekk :-

Declarations of trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat

In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEP, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

Dan l-artiklu pero ma kienx l-uniku wieħed li kien ippubblikat minn Caruana Galizia fil-*blog* tagħha matul dik il-ġurnata għax kien preċedut minn ieħor li kien intitolat *US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.* Dan peress li skont dan l-artiklu, Michelle Muscat kienet il-benefiċjarja ta' ħlasijiet miljunarji li allegatament saru lill-kumpanija *Egrant Inc.* f'kont bankarju li allegatament kien jinsab f'Dubai, minn kumpanija li kienet rapurtata li tappartjeni lil Leyla Aliyeva, bint il-PresidentAżerbajġani Ilham Aliyev minn kont li din il-kumpanija t'Aliyeva kellha fil-Bank Pilatus ta' Ta' Xbiex.

It-test ta' dan l-artiklu huwa s-segwenti :

US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc

In March last year, Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

> The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.
>
> Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country.
>
> The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through.
>
> Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up.
>
> This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.
>
> The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta.
>
> Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

Dan kien akkumpanjat minn ritratt ta' riċevuta tal-*Visa Credit Card* fl-ammont ta' Eur 11014.15. Din hija l-istess riċevuta li l-ġurnalista Caruana Galizia kienet ippubblikat f'artiklu preċedenti fl-istess *blog* nhar l-14 ta' Marzu 2017 fit-3:59pm u li turi li nhar id-29 ta' Marzu 2016 fil-05:02 kien sar ħlas fl-ammont imsemmi lil "Atlantis The Palm" ta' Crescent Road, The Palm, Dubai liema ħlas kien sar mill-Prim Ministru għall-kont għas-

servizzi ta' alloġġar f'din il-lukanda wara li kien qatta' xi jiem fil-btajjel tal-Għid tal-2016 f'din il-lukanda f'Dubai mal-familja tiegħu. Mill-banda l-oħra l-artiklu *Declarations of trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat* kien akkumpanjat minn ritratt li juri lis-Sinjura Michelle Muscat fil-preżenza ta' Leyla Aliyeva, bint il-PresidentAżerbajġani Ilham Aliyev waqt żjara li din tal-aħħar kienet għamlet f'Malta fl-2014.

Dawn iż-żewġt artikli fl-istess jum kienu jibnu wieħed fuq l-ieħor u kienu jikkontjenu allegazzjonijiet li, jekk veri, kienu jfissru li mart il-Prim Ministru mhux biss kienet sid aħħarija ta' kumpanija miftuħa fil-Panama fejn isimha kien moħbi iżda li kienet ukoll il-benefiċjarja ta' ammonti ta' flejjes enormi li s-sors tagħhom kien wieħed li għalih tkun trid tagħti spjegazzjoni. Għalkemm dawn l-artikli kienu jikkonċentraw fuq il-persuna tal-konjuġi Muscat, kien hemm ukoll allegazzjonijiet oħra li jinvolvu lill-Ministru Konrad Mizzi kif ukoll lil Keith Schembri, *chief of staff* tal-Prim Ministru nonche lil John Dalli, li kien Kummissarju Ewropew, u li għal xi żmien serva ta' konsulent partikolari tal-Prim Ministru.

Meta wieħed iqis li dawn iż-żewġt artikli inkitbu fl-istess jum b'distakk ta' ftit siegħat wieħed mill-ieħor, kellhom effett kumulattiv li kien ilu

jinbena għal diversi xhur, iżda li kien il-qofol ta' *crescendo* fuq dawn l-allegazzjonijiet li kien beda matul ix-xahar t'April 2017.

Irriżulta li kien l-effett kumulattiv ta' dawn iż-żewġt artikli xprunaw lill-Dr. Joseph Muscat u lil martu Michelle sabiex jagħmlu l-kwerela aktar il-fuq imsemmija. Ir-rapport, bħall-kwerela huwa ċar f'dak li huma l-parametri tal-istħarriġ ta' din l-inkjesta – u ċjoe stħarriġ tal-allegazzjonijiet li jitnisslu minn dak li kien pubblikat fl-20 t'April 2017 minn Daphne Caruana Galizia fir-*Running Commentary*.

Is-serjeta ta' dawn l-allegazzjonijiet kienet teżisti kemm jekk l-allegazzjonijiet kienu jirriżultaw fondati u bażati fuq il-provi, kemm ukoll jekk dawn ma kienux. L-inkjesta ma setgħet tassumi xejn u ma setgħetx tieħu b'verita kemm dak pubblikat minn Caruana Galizia daqskemm ma setgħetx tieħu b'verita ċ-ċaħda tal-kwerelanti. Anzi riedet tipprova tistabbilixxi liema fost dawn il-posizzjonijiet kienu l-aktar joqorbu lejn il-verita storika mil-provi li setgħu jinġabru.

L-inkjesta għalhekk telqet mill-presunzjoni tal-innoċenza ta' Caruana Galizia fir-rigward ta' dak li kitbet u ta' dawk il-persuni li fornewha bl-informazzjoni, kif ukoll mill-preżunzjoni tal-innoċenza fir-rigward ta' dawk li kienu fil-mira tal-allegazzjonijiet fil-kitbiet tagħha. L-inkjesta

żammet ekwidistanza bejn dawn l-antipodi billi l-ewwel tibda tiġbor, tippriżerva u tanalizza dik l-evidenza li kienet teżisti u li setgħet tiġi misjuba imbagħad wara, bl-għajnuna tal-esperti maħtura, tgħaddi biex tara fejn din l-evidenza setgħet twassal fil-qafas tar-rapport tal-Kummissarju tal-Pulizija u li sawwar din l-istess inkjesta maġisterjali kif spjegat aktar il-fuq. Fi kliem sempliċi, din l-inkjesta ma setgħetx fuq l-allegazzjonijiet tal-artiklu tal-20 t'April 2017 tqis lill-persuni fil-mira tal-kitbiet kienu suspettati li wetqu reati kriminali, daqskemm ma setgħetx fuq il-kwerela u r-rapport tikkonkludi li l-kittieba u min kien qiegħed itiha l-informazzjoni kienu in *mala fede,* malafami, kalunjaturi u ħallieqa ta' stejjer jew dokumenti fabbrikati. Kien biss wara li dak miktub u pubblikat kien ikun verifikat bil-provi li imbagħad l-inkjesta setgħet tibda tara x'direzzjoni din tkun tista' tieħu, u mhux qabel.

<u>Ir-rabta bejn ir-rapport u l-kwerela li fuqhom hija msejsa din l-inkjesta Maġisterjali</u>

Illi t-talba għal ftugħ ta' din l-inkjesta mill-Kummissarju tal-Pulizija saret fi sfond ta' ċirkostanzi partikolari ħafna. Hekk kif il-Kummissarju tal-Pulizija irċieva l-kwerela ta' Dr. Joseph Muscat u martu Michelle, (aktar l-isfel magħrufa bħala "il-Kwerelanti") huwa rraporta lil Maġistrat Inkwirenti u għamel dan ir-rapport tiegħu b'riferenza għal dak li kien qiegħed jiġi mitlub fil-kwerela tal-kwerelanti.

Il-kwerelanti għamlu l-kwerela għax ħassewhom aggravati minn allegazzjonijiet misjuba f'artiklu pubblikat fl-20 t'April 2017 minn Daphne Caruana Galizia fil-konfront tagħhom. Fil-kwerela tagħhom jgħidu li dawn kienu allegazzjonijiet kalunjużi u frott ta' fabbrikazzjonijiet u ċaħdu l-allegazzjonijiet magħmula minn Caruana Galizia fil-konfront tagħhom. Dak mistqarr mill-kwerelanti ma jistax jitqies bħala xi forma t'ammissjoni da parti tagħhom li kienu involuti f'xi atti ta' korruzzjoni jew ta' ħasil ta' flus kif allegat minn Caruana Galizia; iżda għall-kuntrarju għamlu talba biex jiġi mistħarreġ kemm l-allegazzjonijiet kif miġjuba fil-konfront tagħhom kienu inveritjieri għax skonthom, kienu bażati fuq allegazzjonijiet kalunjużi u frott ta' fabbrikazzjoni.

F'dan l-isfond fattwali u in bażi għal din il-kwerela, il-Kummissarju tal-Pulizija talab lill-Maġistrat Inkwirenti sabiex l-allegazzjonijiet f'dan l-artiklu, u ċjoe' li :

> s-Sinjura Michelle Muscat hija l-*Ultimate Beneficial Owner* ta' Egrant Inc; u li l-Prim Ministru jew membri tal-familja tieghu jew *Politically-Exposed Persons* ohra (u cioe' John Dalli, Keith Schembri, u Konrad Mizzi) setghu kienu involuti f'xi forma ta' korruzzjoni, u/jew hasil ta' flus, u/jew transazjonijiet finanzjarji suspetti, provenjenti minn kontijiet ta' *Politically-Exposed Persons* mill-Azerbaijan, u dan tramite kontijiet fil-Pilatus Bank.

jiġu mistħarġa permezz t'inkjesta dwar l-*in genere* u in sostenn għal dan ir-rapport tiegħu eżebixxa wkoll il-kwerela li kien irċieva mingħand il-Konsulenti Legali tal-kwerelanti. Din il-kwerela filwaqt li kienet qed titlob li ssir inkjesta biex l-allegazzjonijiet dwar korruzzjoni u ħasil ta' flus kif dettaljati fl-artiklu jiġu mistħarġa, tali talba kienet bażata fuq il-

premessa bażi taċ-ċaħda reżoluta tal-kwerelanti dwar l-allegat involviment tagħhom f'dak li kien qiegħed jiġi allegat. Fis-sustanza għalhekk dan ir-rapport kien jippreżenta xenarju partikolari ħafna li ried jiġi meqjuż b'attenzjoni partikolari. Il-Maġistrat Inkwirenti kien marbut bir-rapport tal-Kummissarju tal-Pulizija. Iżda dan ir-rapport ma setgħax jitqies fl-astratt. L-effett kumulattiv tar-rapport u l-kwerela li fuqu huwa msejjes kien ifisser li l-Kummissarju tal-Pulizija kien qiegħed jagħmel talba biex l-allegazzjonijiet magħmula fl-artiklu ta' Caruana Galizia tal-20 t'April 2017 (li skont il-kwerelanti kienu infondati, kalunjużi u bażati fuq fabbrikazzjoni), jiġu mistħarġa. Iżda dawn l-allegazzjonijiet li kellhom jiġu mistħarġa - setgħu jwaslu għal konklużjonijiet u effetti li probabbilment kienu ser ikunu, fl-aspetti l-aktar important tagħhom, dijametrikament opposti għal xulxin u fl-istess ħin it-tnejn li huma setgħu jagħtu lok għal xenarji li setgħu kienu penalment rilevanti – dipendenti fuq jekk jinstabx li dawn l-allegazzjonijiet kienux fondati fuq provi oġġettivi jew le.

B'mod aktar konkret, jekk mill-*in genere* kien ser jiġi stabbilit li dawk l-allegazzjonijiet serjissimi fl-artiklu ta' Daphne Caruana Galizia kienu jirriżultaw *prima faciae* bażati fuq provi legalment ammissibbli allura dawn setgħu jagħtu lok għall-investigazzjoni u eventwali prosekuzzjoni tal-azzjoni kriminali fil-konfront tal-persuni imsemmija fl-artiklu jew min minnhom għal xi fatti li setgħu jitqiesu li jammontaw għal reati kriminali.

Mill-banda l-oħra, jekk dawk l-allegazzjonijiet serjissimi kienu jirriżultaw mhux bażati fuq provi legalment ammissibbli almenu sal-grad *prima faciae* dawn setgħu ukoll jagħtu lok għal investigazzjoni u eventwali prosekuzzjoni tal-azzjoni kriminali fil-konfront tal-persuna jew persuni li ppubblikaw u/jew fornew l-informazzjoni li fuqhom dawn l-allegazzjonijiet kienu bażati.

Fiż-żewġ xenarji, il-piena applikabbli għad-delitti l-aktar serji ipotizzabbli setgħet taqbeż it-tliet snin priġunerija u dan kien ifisser li l-prerekwiżiti meħtieġa għall-bidu tal-inkjesta maġisterjali kienu jeżistu.

Il-Metodoloġija adottata

Il-Metodoloġija adottata kienet speċifika għal din it-tip partikolari t'inkjesta. Kienet teħtieġ li tinġabar informazzjoni kemm jista' jkun malajr permezz ta' diversi xhieda okulari nonche li jinġabru dokumenti kemm stampati kif ukoll diġitali, kemm f'Malta kif ukoll barra minn Malta. L-informazzjoni stampata ġiet miġbura mill-Pulizija Eżekuttiva filwaqt li dik diġitali kellha tiġi miġbura u priżervata minn esperti tekniċi u b'mod forensiku bl-għajnuna tal-Pulizija Eżekuttiva. Parti mill-informazzjoni inġiebet minn barra minn Malta permezz t'ittri rogatorjali kif ukoll permezz ta' mandat t'investigazzjoni Ewropew.

L-informazzjoni kollha kemm stampata kif ukoll diġitali kellha imbagħad tiġi mgħoddija lil esperti tekniċi oħra sabiex ikunu jistgħu jagħmlu l-analiżi teknika tagħhom u jirraportaw lil Maġistrat Inkwirenti dwar ir-riżultanzi u l-pariri tekniċi tagħhom. Ix-xiehda kollha miġbura f'dan il-każ, ħlief għal dawk li ġew miġbura bil-mezz tal-ittri rogatorji ġew mismugħa personalment mill-Maġistrat Inkwirenti. Ix-xiehda tagħhom ġiet debitament reġistrata, fejn possibbli b'mezzi awdjo viżivi, iżda f'kull każ ġiet traskritta u tifforma parti mill-faxxikolu tat-traskrizzjoni tax-xiehda tax-xhieda u dokumenti formanti parti minn dan il-Proces Verbal.

Kien meħtieġ li jsir ukoll kuntatt u qsim t'informazzjoni ma' Maġistrati Inkwirenti f'Malta u li kienu involuti f'inkjesti oħra li tnisslu wkoll fil-kors ta' din l-inkjesta. Fil-fatt f'dan is-sens ġiet skambjata mhux biss informazzjoni li setgħet kienet rilevanti għall-fini tal-inkjesti li tnisslu minn proċeduri speċjali li saru matul il-kors ta' din l-inkjesta, u li huma spejgati fil-qosor fit-taqsima li titratta lilhom f'dan il-*Proces Verbal*; iżda ġiet ukoll skambjata u ottjenuta evidenza li kienet ta' rilevanza komuni sabiex din tkun tista' tiġi analizzata mill-*Forensic Accountants* li ġew maħtura biex dawn ikunu jistgħu iwetqu xogħolhom bl-aqwa mod possibbli u bl-aktar mod komprensiv skont il-Liġi.

Saru wkoll diversi kuntatti ma' Awtoritajiet Ġudizzjarji barranin kif ukoll ġew eżegwiti ittri rogatorji mal-Awtoritajiet Ġudizzjarji tal-Panama u tal-Belġju, mandat t'investigazzjoni Ewropew mal-Ġermanja. Saret ukoll ittra rogatorja lill-Awtorita Ġudizzjarja ta' Dubai, li pero sal-jum ta' meta ġie pubblikat dan il-Proces Verbal baqgħet mhux imwieġba.

Fuq suġġerimenti tal-*Forensic Accountants,* sar ukoll kuntatt mal-Korp għall-Analiżi t'Informazzjoni Finanzjarja (*FIAU*) kif ukoll mal-Awtorita ta' Malta għas-Servizzi Finanzjarji ta' Malta għall-fini ta' ġbir t'informazzjoni. L-inkjesta laqgħet ukoll ix-xiehda bil-ġurament ta' diversi funzjonarji ma' dawn il-Korpi.

Din l-inkjesta saret b'kollaborazzjoni sħiħa mal-Pulizija Eżekuttiva, li hija l-id li biha l-Maġistrat Inkwirenti jista' jwettaq l-ordnijiet tiegħu. F'dan il-każ il-kuntatt dirett kien mat-Taqsima tal-Iskwadra kontra r-Reati Ekonomiċi kapeġġjata mill-Assistent Kummissarju Ian-Joseph Abdilla, l-Uffiċjali u l-Aġenti tiegħu, kif ukoll mal-Ispettur Timothy Zammit mit-Taqsima tas-*Cybercrime* u l-Aġenti tiegħu.

Il-ġbir tal-informazzjoni

Il-ġbir tal-informazzjoni u l-evidenza saru prinċipalment bil-modi segwenti:

1. **Dħul, perkwiżizzjoni, qbid u żamma ta' dokumenti stampati u diġitali mill-Uffiċini tad-Ditta Nexia BT kif ukoll tal-Bank Pilatus.**

Wara li fis-sigħat bikrin tal-21 t'April 2017 tajt struzzjonijiet biex jiġu ssiġillati l-Uffiċini ta' Nexia BT u tal-Bank Pilatus, sad-09:00 tal-istess jum kienu ġew kostitwiti skwadri tal-Pulizija, ilkoll kapeġġjati minn Spetturi tal-Pulizija li x-xogħol tagħhom kien li jagħmlu perkwiżizzjonijiet saru simultanji u qbid ta' dokumenti fil-Bank Pilatus u l-Uffiċini ta' Nexia BT. Matul il-perkwiżizzjonijiet fl-Uffiċini ta' dawn iż-żewġt operaturi, kien

meqjuż ukoll li wħud mill-allegazzjonijiet li kienu jolqtu lil *PEP* meritu tal-artikoli kienu diġa ilhom li ġew żvelati l-fuq minn sena qabel u għalhekk riedet tittieħed attenzjoni partikolari għal postijiet kollha fejn setgħa kien hemm dokumenti stampati u diġitali kif ukoll għal traċċi fuq id-dokumenti infushom. Dawn l-iskwadri kienu mit-Taqsima tar-Reati Ekonomiċi – li kellhom jieħdu ħsieb li jfitxu għal dokumenti stampati u diġitali u kif ukoll mit-Taqsima tas-*Cybercrime* li kellhom jieħdu ħsieb esklussivament li jiġbru l-informazzjoni diġitali disponibbli.

L-iskwadra mit-Taqsima kontra r-reati Ekonomiċi li marret tagħmel il-perkwiżizzjoni u qbid fil-Bank Pilatus kienet immexxija mill-Ispetturi Anne Marie Xuereb u Rennie Stivala. L-iskwadra l-oħra mill-istess Taqsima li marret tagħmel il-perkwiżizzjoni u qbid mill-Uffiċini tan-Nexia BT kienet immexxija mill-Ispetturi Yvonne Farrugia, Matthew Vella u Doriette Cuschieri. Naturalment ħadu parti essenzjali l-Aġenti tal-Pulizija adetti mal-Iskwadri tagħhom. L-Assistent Kummissarju Ian Joseph Abdilla wkoll kien preżenti għal dawn il-prekwisizzjonijiet.

Minn naħa tat-Taqsima tas-*Cybercrime*, l-operazzjonijiet ġew immexxija mill-Ispettur Timothy Zammit u mill-Aġenti tal-Pulizija adetti ma din it-Taqsima. Dawn ħadmu taħt id-direzzjoni tal-espert tekniku nominat Dr. Godwin Caruana.

lx-xiehda ta' dawn l-Uffiċjali u Aġenti tal-Pulizija tinsab inkluża f'dan il-Proces Verbal.

Il-mod kif saret il-perkwiżizzjoni kienet billi ġiet stabbilita lista ta' *keywords* li fiha kienet tinkludi l-ismijiet ta' persuni u kumpaniji jew entitajiet kummerċjali li f'dak l-istadju bikri kienu dehru rilevanti għal din l-inkjesta. Għalkemm dan mhux metodu infallibbli, huwa wieħed prattiku u fattibbli meta jiqties il-volum enormi t'informazzjoni li l-perkwisizzjoni kienet riedet taffronta fir-rigward ta' dawn iż-żewġt operaturi, b'mod partikolari meta l-Aġenti tal-Pulizija riedu jagħmlu tiftix *file file,* karta karta għall-informazzjoni li setgħet kienet rilevanti. Biex jagħmlu dan riedu jkunu jafu għal xiex riedu jfitxu. Il-lista tal-keywords oriġinali kienet tinkludi l-ismijiet prinċipali li għalihom saret riferenza fl-artiklu meritu ta' din l-inkjesta :-

1. Al Sahra FZCO
2. Tillgate Inc (ubo Keith Schembri)
3. Hearnville Inc (ubo Konrad Mizzi)
4. Egrant Inc
5. Negarin London
6. Michelle Muscat nee Tanti
7. Joseph Muscat
8. Konrad Mizzi
9. Sai Mizzi Liang
10. Keith Schembri

11. Josette Schembri Vella
12. Leyla Aliyeva
13. Ilham Aliyev
14. Negarin Sadr Hasheminejad
15. Michelle Buttigieg
16. John Dalli.

Matul il-kors ta' din l-inkjesta, żdiedu ismijiet oħra jew numri (kif jixhed il-Mandat t'Investigazzjoni Ewropew mibgħut lill-Awtoritajiet Ġermaniżi u li jifforma parti minn din l-inkjesta) u li kienu meħtieġa għal analiżi aktar wiesa' fuq il-meritu ta' din l-inkjesta. Eżempju ċkejken f'dan l-istadju huwa r-riferenza għal kumpanija *Al Sahra FZCO*. Fil-Bank Pilatus ma nstabu ebda dokumenti f'isem din il-kumpanija. Biss il-Pulizija iltaqgħu ma *files* li kienu jġibu l-isem *Sahra FZCO* u oħra *Shams Al Sahra FZCO*. F'dan il-każ, huma ġabru l-*files* ta' dawn iż-żewġt kumpaniji, anke jekk ebda waħda minnhom ma kienet imsemmija minn Daphne Caruana Galizia fl-artiklu tagħha meritu ta' din l-inkjesta.

B'hekk id-dokumenti stampati fil-*files* ta' Nexia BT u l-Bank Pilatus ġew setaċċjati wieħed wieħed mill-Pulizija li ġew assenjati għal dawn il-perkwiżizzjonijiet in bażi għall-lista ta' *keywords*. Il-proċedura adottata fiż-żewġt perkwiżizzjonijiet, u kif tirriżulta mix-xiehda tal-Pulizija li kienu involuti, kienet li Aġent tal-Pulizija munit bil-lista tal-*keywords* iduru file file, karta karta, u jaraw jekk jiltaqgħux ma xi isem indikat jew

relatat ma dawk imsemmija fil-lista tal-*keywords*. Meta jiltaqgħu ma xi riferenza, imbagħad jinfurmaw lill-Ispettur Inkarigat biex jara safejn dan id-dokument setgħa jkun rilevanti. Jekk ikun rilevanti, il-*file* jerġa jitqiegħed fil-post minn fejn inġieb biex jiġi fotografat fil-post minn fejn ikun ġie maqlugħ. Imbagħad jerġa jinħareġ u jsiru l-fotokopji tal-*file*, b'dan li l-oriġinal jittieħed mill-Pulizija għall-fini tal-Inkjesta filwaqt li l-kopji jiġu ffirmati mill-Pulizija u mir-rappreżentant tal-Bank Pilatus jew Nexia BT, u kopja tingħatalhom għas-sodisfazzjon tagħhom. Wara il-*files* oriġinali ġew meħuda mill-Pulizija u eventwalment ġew depożitati l-Qorti fejn kienu wkoll depożitati riċevuti relattivi. Dawn id-dokumenti imbagħad ġew mgħoddija lill-*Forensic Accountant* Miroslava Milenovic għall-analiżi eventwali tagħha. Il-frott tal-analiżi u r-riżultanzi tagħha sejrin jiġu analizzati aktar il-quddiem.

Ix-xiehda tal-persuni kollha involuti f'dawn il-perkwiżizzjonijiet tifforma parti minn din l-inkjesta. Il-volum ta' informazzjoni miġbur mingħand Nexia BT kien jirrifletti l-fatt li din il-perkwiżizzjoni kienet magħmula b'mod aktar wiesa' li tolqot l-informazzjoni kollha diġitali li kellhom fuq is-*servers* u l-*computers* li huma msemmija fir-relazzjonijiet ta' Dr. Godwin Caruana u l-Ispettur Timothy Zammit. Rendikont tal-informazzjoni kollha miġbura tinsab imsemmija fix-xiehda tal-Uffiċjali tal-Pulizija fl-atti tal-Inkjesta nonche mir-relazzjonijiet tal-*Forensic Accountants* u tal-espert tekniku Dr. Godwin Caruana u l-Ispettur Timothy Zammit.

Ir-relazzjoni ta' Dr. Godwin Caruana

In-nomina ta' Dr. Gordon Caruana

Nhar il-21 t'April 2017 Dr. Godwin Caruana, bħala espert tekniku fil-qasam tal-informatika ġie nominat sabiex :

> jagħmel dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus u lid-Ditta Nexia BT u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus u d-Ditta Nexia BT u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT tkun tista tiġi prodotta b'evidenza f'din l-inkjesta.
>
> L-espert qiegħed jiġi mogħti l-fakulta espressa li jkun jista' jagħmel kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmel dak l-iskambju t'informazzjoni li jidhirlu meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tiegħu.
>
> Għal dan il-għan ġie ordnat li jirrelata proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tiegħu u sabiex l-istess espert tekniku jkun jista' jwettaq l-inkarigu tiegħu b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tiegħu huwa ġie mogħti wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Dr. Godwin Caruana huwa l-uniku espert tekniku Malti li ġie maħtur biex bl-għajnuna tat-Taqsima tas-*Cybercrime*, b'mod partikolari l-Ispettur Timothy Zammit, imexxi x-xogħol kollu meħtieġ sabiex l-informazzjoni diġitali rilevanti minn Nexia BT u l-Bank Pilatus tiġi maħżuna biex eventwalment tiġi mgħoddija lil *Forensic Accountants* sabiex tkun tista' tiġi *indexed* u analizzata.

Il-ġbir u l-ħażna tal-informazzjoni diġitali ta' dawn iż-żewġt operaturi irriżultat li kienet kumplessa kemm minħabba n-natura tal-apparat li kellhom, kif ukoll minħabba n-natura tal-operazzjonijiet professjonali tagħhom. Fil-każ tal-Bank Pilatus is-sitwazzjoni kienet aktar delikata minħabba obbligi li l-Bank kellu biex ikun jista' jżomm l-*operating licence*. Għalhekk wara li ġie stabbilit liema kien l-apparat varju li fuqu kienet maħżuna l-informazzjoni diġitali ta' dawn l-operaturi u li din kienet verament infrastruttura diġitali li kienet isservi għall-ħażna tal-informazzjoni diġitali ta' dawn iż-żewġt operaturi, kif ukoll ġie stabbilit il-mod ta' kif l-informazzjoni diġitali varja kienet qegħda tiġi maħżuna, nonche l-apparat li fuqu kienet qegħda tiġi maħżuna, saru l-arranġamenti kollha meħtieġa, wara d-debita konferma tac-*chain of custody* biex isir *sequencing* ta' dan l-apparat u d-data rilevanti sabiex tiġi priżervata u maħżuna skont l-aħjar prattiċi tekniċi u professjonali fiċ-ċirkostanzi.

Ġie assikurat li l-mod kif l-informazzjoni diġitali tiġi maħżuna tkun waħda li tirrispetta r-regoli forensiċi u tassigura li din l-istess identika informazzjoni tkun trasferita fuq mezzi elettroniċi li bihom l-istess informazzjoni tkun tista' tiġi analizzata b'aktar faċilita. Fil-fatt dan l-eżerċizzju ta' *backups* u *snapshots* sar waqt li s-servizzi tan-Nexia BT u l-Bank Pilatus kienu operattivi. Dan setgħa jwassal għal diffikultajiet tekniċi fir-rigward tar-rikorstruzzjoni tagħhom. Biss minkejja dawn id-diffikultajiet irriżulta li r-rikostruzzjoni setgħet issir skont l-*Option B* u dan wassal biex l-esperti Forensici *Ansec IA Limited* setgħu jagħmlu x-xogħol meħtieġ biex jieħdu magħhom fir-Renju Unit id-data diġitali kollha elevata u li fuqha setgħet tibda ssir l-analiżi mill-*Forensic Accountants Harbinson Forensics*. Minn naħa l-oħra, din kienet ukoll meħtieġa biex l-esperti tal-*Oracle Flexcube* ikunu jistgħu jagħmlu l-analiżi meħtieġa dwar l-integrita u l-awtentiċita' tas-sistema bankarja tal-Bank Pilatus għaliex qabel ma din setgħet tkun verifikata b'eżitu pożittiv, ma kienx ikun possibbli għall-*Forensic Accountant Miroslava Milenovic* tibda bl-analiżi tad-dokumenti bankarji kollha maqbuda sa' dak il-punt.

Fir-relazzjoni miktuba tiegħu u maħlufa fl-4 ta' Lulju 2018 l-espert Godwin Caruana jiddeskrivi l-operat tiegħu bil-mod segwenti :-

> This report is being presented for the Courts as directed by Magistrate Dr Aaron Bugeja with respect to Case/File reference XXXXXX. This refers to data preservation of Pilatus Bank Core Banking System and Nexia Office Automation, non-intrusively.
>
> Throughout this text:

- **Mgr. Dr Aaron Bugeja** is referenced as the **inquiring Magistrate**
- **Superintendent. Ian Abdilla** is referenced as the **Superintendent**
- **Inspector. Timothy Zammit** is referenced as the **Inspector**

At all times, all decisions have been taken after discussion and agreement with the above stakeholders.

Subsequent to the analysis of the information made available, the following are believed to be the more salient observations and outcomes:

Pilatus Bank:

1. **Pilatus Bank** operates an **Enterprise Class** core banking system which is hosted at **Melita** (*Primary Site*) and **Computime** (*Disaster Recovery Site*).
2. The **Primary** and **Disaster Recovery** site are **exact replicas** (see Appendix) of each other in terms of the core banking system (defined latent delay in terms of synchronization).
3. **Primary (not sole)** access to the core banking system is via remote desktop thin client terminals.
4. The **focus** of the data gathering exercise focused on the **core banking system** as indicated by Pilatus Bank officials and as directed.
5. A number of **laptops** are in use for daily office automation work and potentially to access the core banking system via **remote desktop** type interaction.
6. The **elevation** of evidence for Laptops/Desktops from all sites was performed by the **Cyber Crimes Unit**.

Nexia BT:

1. The **focus** of the data gathering exercise focused on the core **office automation** repository as indicated by Nexia BT officials and did not look into whether there are other systems in use.
2. Terminals (*PC's, Laptops etc.*) are employed for local processing and storage as well as make use of a centralized repository for storing of information. Centralized storage is however not **mandated** nor **enforced** by technical controls.
3. The centralised storage infrastructure is **replicated**. There were two storage elements (*network attached storage devices, but NEXIA IT stated that they are exact replicas of each others*).

4. The **elevation** of evidence for Laptops/Desktops from all sites was performed by the **Cyber Crimes Unit.**

02 Key timeline/events.

The following table summarizes key dates and times of the exercise from start to closure.

Date Event

21/04/2017 The original, verbal arrangement to perform this assessment. Meeting at Malta Police Depot with Magistrate, Superintendent and Deputy Police Commissioner as well as D4NSIC representative

21/04/2017 Briefing at Malta Police force - scope is to **non-intrusively preserve data.**

21/04/2017 Pilatus Bank briefing. Advised that Core Banking System is hosted at Melita (*Primary Site*) and Computime (*Disaster Recovery*). These are exact replicas (*see Appendix*). Core Banking system is based on Oracle FlexiCube. Support for the application software (FlexiCube) is via third party contractor.

21/04/2017 Met with IT Manager for NEXIA BT. Sealed secondary Network Attached Storage (NAS) (*exact replica of primary*) used for centralised storage at NEXIA BT. (*see Appendix*) 21/04/2017 Melita are primary facilities/hosting provider - support for infrastructure is performed by Computime. Computime facilities are also the disaster recovery site.

21/04/2017 Instructed Computime to:

1. Perform a full system (*core banking system)* backup to tape.
2. Perform a Physical to Virtual (P2V) conversion of key operating environment (*Physical Server hosting core banking system*).
3. Perform an operating environment, with system state and data, copy.

22/04/2017 NEXIA BT Desktop Searches as performed by CyberCrime unit Removal of storage disks on Laptops/Desktops for persons of interests - disks taken under custody of CyberCrime unit Simple searches based on Windows search for keywords for rest of machines - this is beyond the scope of this assignment

26/04/2017 Considerations for reconstruction discussed with exercise stakeholders. Was directed to explore leasing compute elements from a local company.

28/04/2017 Contacted BMIT and got specs for a server, to be leased for 1500 Euros excluding of VAT - waiting for confirmation from exercise stakeholders where to deploy.

29/04/2017 Started the drafting of the exercise report.

Informed the exercise stakeholders that in order to establish whether there are any other 'parallel/hidden' systems, one needs to consider:

1. Gaining access to Layer 2 / Layer 3 network information logs. These may or may not be available.
2. Gain access to Internet Service Provider logging information. This may or may not be possible.
3. To gain insight from the day of discussion onward, logging measures need to be introduced at Layer 2/Layer 3 immediately.
4. Irrespective of the above, if a third party connectivity approach (e.g. 3G/4G Internet dongle) was employed, this use case will not be covered.

29/04/2017 Confirmed (*and advised exercise stakeholders*) a number of external systems and services in use at Pilatus Bank, more specifically :

1. Sharepoint Online
(*http://pilatuscap.sharepoint.com & http://pilatusbank.sharepoint.com*).
2. Outlook / Web App (*mail.pilatusbank.com) & (mail.pilatusbank.com*).
3. CARTA (*http://cartaworldwide.com/*).
4. TAS Group (*http://www.tasgroup.eu/*).

It was recommended that for 1 and 2, we engage with Pilatus IT to seek and further clarifications require. It was recommended that for 3 and 4, clarification is sought with Oracle Flexcube /Financial Systems Experts or Pilatus of how these are employed.

05/05/2017 Server Delivered

12/05/2017 Copied Pilatus Virtual Machines (VM's) which were created via the P2V (Physical to Virtual) process to Server.

15/05/2017 Started Core Virtual Machines (VM's) successfully

18-19/05/2017 Oracle Personnel extracted data from respective data sources.

25/05/2017 Oracle Personnel extracted more data - saved data to Pen Drives provided.

29/05/2017 Handed NexiaBT Nas to Police.

01/06/2017 Mounted Nexia Network Attached Storage (NAS) at Police - all works

01/07/2017 Preservation exercise complete.

03/07/2017 BMIT collected Server from Courts of Law.

24/7/2017 Handed External NexiaBT backup external USB HD to CyberCrime Unit.

03 Preservation Approach and Process

The focus of this exercise was to preserve data whilst ensuring that there was no or minimal disruption to the respective stakeholders. There are 2 key (*not sole*) stakeholders that need to be taken into consideration, namely Pilatus Bank and Nexia BT.

03.1 Pilatus Bank

03.1.1 Head office

The core elements considered in this construct where Laptops and Desktops. A third element, namely the PRAIM thin clients were not. In general, ' *thin clients* ' as regular PCs, but normally lack some elements such as hard drives and typically do not have extra Input / Output ports or other 'unnecessary' features (*or are disabled*). Since they do not typically have hard drives, thin clients do not have any software installed on them. Instead, they run programs and access data from a server. For this reason, thin clients must have a network connection and are sometimes referred to as "network computers" or "NCs." This was with agreement with the exercise stakeholders in the balance of relevance/time/cost and disruption.

For laptops/desktops, via the Cyber Crime Unit, all storage elements where relieved from site to be analyzed off-site. A search for additional potential compute/storage devices was also performed by the Cyber Crime Unit and

where such devices were found, these where relieved for further off-site analysis of required.

03.1.2 Melita - Primary Site

Melita PLC host the primary infrastructure for the back-office operation of Pilatus Bank including the core banking System. However, they are only providing facilities - infrastructure element management is performed by Computime. Based on the exercise parameters, i.e. making sure that any decisions/operations will not interfere with the Banks operation, as well as the design of the core banking system architecture working in an active-passive setup which is fully replicated, it was decided with the exercise stakeholders that the infrastructure at the primary site will not be touched.

03.1.2 Computime - Secondary DR Site

Initially, it was recommended that the DR infrastructure elements will be taken off the network for further consideration of how to best perform data preservation and information gathering. However, after consultation with the exercise stakeholders, the decision was not to take this approach because it was advised (*via Malta Financial Services Authority personnel*) that this will put the operation of the Bank at risk in terms of its operating license obligations. At this stage, the following approach was adopted,in agreement with the exercise stakeholders with respect to attempting to backup the complex banking setup.

BACKUP APPROACH A.

- Perform a non-intrusive backup to tape of the core back-office elements.
- This was performed using Linear Tape-Open 5 technology available at Computime.
- 5x3 TB tapes where employed.

BACKUP APPROACH B.

- Perform a virtual disk copy of the core back-office elements - see Appendix
- A 3TB disk was procured - Transcend - Volume Serial Number is901E-DFDC.
- Windows HyperV Hypervisor virtual disks pertaining to core back-office elements where copied to the disk.

• A Physical to Virtual image of a single machine which hosts the Oracle Flexcube application/database was performed and copied to the disk as well.

BACKUP APPROACH C.

• An operating environment system backup of Oracle FlexCube was performed.
• Backup of Windows Server System State.
• Copy of storage spaces / file-system.
• Operating Environment configuration specification - see Appendix - also detailed document available separately " *pltsrv-dr-dbs01info.txt* ".

Documentation of current configuration in terms of the overall set-up was also solicited from Computime and made available. This is available separately via the document "*Managed Services Preventive Maintenance for Pilatus Bank* ". A full list of artifacts backed up is available in a separate document " *Drive E Police.pdf* ".

03.2 Nexia BT

Nexia BT setup is based on various laptops/desktops with a centralized, redundant, network storage for storing office productivity artifacts. Local storage (*Laptop etc.*) is still however possible, but this was considered beyond the immediate scope of the exercise. The primary Storage Facility (*IBM Storewize v3700*) is backed up onto a secondary facility (*Synology DS415*) for recovery purposes. Extended administration of the NEXIA setup is performed by Access Point. With respect to the end user terminals (*laptops etc.*), in agreement with the exercise stakeholders, it was decided that for terminals of persons of interest (*criteria established with exercise stakeholders*), the Cyber Crime Unit will relieve the respective storage elements for off-site inspection and for the rest, a simple keyword search will be performed manually on the relevant terminals using the underlying operating system search capabilities.

With respect to the centralized storage, based on the direction and acknowledgement of NEXIA IT administrators that the 2 storage elements are replicas (*hourly snapshots*), the secondary (*backup*) device was sealed and relieved from site for subsequent off-site analysis.

04 Reconstruction Options

It is imperative to clarify from the outset that the backups and snapshots where taken whilst the services where running. Specifically with respect to the Oracle Application - Flexicube – there were no software agents which enable online backup capabilities. This implies that there was no guarantee that the application can be restored and reconstructed successfully at the point of the undertaking. This was made clear from the outset to the exercise stakeholders. Having said this, three approaches for backup were undertake to try to increase the opportunity to successfully reconstruct the operating environment of Pilatus Bank.

Pilatus Bank

For the compute elements/terminals that were relieved of respective storage element (e.g.laptops/desktops), the reconstruction was to be based on:
1. Copying, at bit level, of the original disk to a respective copy
2. 'Encase' used to analyse the data as deemed appropriate by the exercise stakeholders

For the Core Banking System, the reconstruction was to be based on:

FOR BACKUP APPROACH **A**

1. A tape library compatible with the Linear Tape-Open 5 technology needs to be accessible
2. Restore the backup tapes onto a infrastructure that is compatible able to host the entire environment(Compute/Store/Network)
3. Analyze the data as deemed appropriate by the exercise stakeholders

FOR BACKUP APPROACH B (ADOPTED APPROACH) - This approach was used for Oracle Experts to analyse data

1. **A Vmware ESX environment that is compatible able to host the respective virtual machines**
2. **Copied/Loaded the respective virtual environments onto this environment**
3. **Started the relevant Virtual Machines and configure to ensure execution (E.g. Oracle Flexcube)**
4. **Analyze the data as deemed appropriate by the exercise stakeholders – not performed by the undersigned as per agreement with Magistrate.**

FOR BACKUP APPROACH C

1. Install a fresh copy of Windows 2012 R2.
2. Restore the backup up of the Windows System State to this installation.
3. Copy the backup of the file systems containing the data to this installation.
4. Configure and ensure appropriate execution of relevant services (E.g. Oracle Flexcube).
5. Analyze the data as deemed appropriate by the exercise stakeholders - not performed by the undersigned as per agreement with Magistrate.

NEXIA BT

For the compute elements/terminals that were relieved of respective storage element (e.g.laptops/desktops), the reconstruction is to be based on:

1. Copying, at bit level, of the original disk to a respective copy.
2. *'Encase'* used to analyse the data as deemed appropriate by the exercise stakeholders.

For the centralized storage:
1. Install Veeam Backup and Replication 9.0 on an available environment.
2. Attached the replica Network Attached Storage (NAS) to an available and appropriately configured compute environment.
3. Analyzes of the data as deemed appropriate by the exercise stakeholders - not performed by the undersigned as per agreement with Magistrate.

BMIT's involvement in the the reconstruction process

In agreement with stakeholders, it was established to look into the possibility to procure/lease a server for attempting to reconstruct the core Pilatus Bank environment elements. This was required due to the workload/compute/store requirements.

1. 27'th Engaged with BMIT for potential leasing of server.
2. 28'th Potential Server found.
3. Agreed with stakeholders to lease the server for 5 weeks for Eur 1500 Excluding of VAT.
4. Delivered on 5'th of May.
5. Installed and configured on the 8th of May.
6. Copy process issues - large size - USB 2.0.

7. Moved server to server room to kick of long copy process - Friday 12th.
8. Agreed with the stakeholders that due to size/time challenges, third party expert for the scrutiny of data will be performed on the VHDX's directly rather than running the virtual machines - this does not include the FlexCube analysis. This VM was started and Oracle Experts actually worked on the application data directly.
9. On 03/07/2017 BMIT collected Server from Courts of Law.

05 Closure

The scope of this work was to **preserve** data **in a non-intrusive fashion** . It is thus imperative to re-iterate that whilst multiple approaches where taken in an attempt to preserve data non-intrusively, there was no guarantee that any specific reconstruction will be successful for those elements which were 'backed' while in operation. However, as reported, the selected reconstruction approach, more specifically approach B, the reconstruction of the key virtualized compute elements was successful and allowed for the subsequent analysis by third parties.

There was no involvement from the undersigned with respect to the forensic analysis of the data/information gathered.

Dr Godwin Caruana, PHD, CITP
Court Expert
...

06 Appendices

REF01: Confirmation of Production/Replica set-ups
--- Forwarded message---
From: Stephen Vella<svella@ct.com.mt>
Date: 22 April 201713:58:10
Subject: Pilatus Bank backups
To: Caruana Godwin at MITA<Godwin.V.Caruana@gov.mt>,godwin.carauana@gmail.com

Attn: Godwin Caruana

We hereby confirm that the backup of Pilatus data being handed over is being taken off the Pilatus DR system hosted at Computime. This DR system is an exact replica of the live system hosted at Melita Data Centre.

Regards
Ing Stephen Vella
CTO
Computime Technology Ltd

REF02: Base backups of virtualised storage at NEXIABT
--- Forwarded message---
From: Earl Vella - Nexia BT< earl.vella@nexiabt.com >
Date: 22 April 2017 17:20:12
Subject: NAS Drive Backup
To: Godwin.caruana@gmail.com , Godwin.v.caruana@gmail.com

Hi Godwin

This email is to confirm that the base backup and the various incremental backups are all located on the NAS Drive provided.
Regards
Earl Vella
IT Manager | ITDepartment
Nexia BT | The Penthouse, Suite 2, CapitalBusiness Centre, Entrance C, Triq taz-Zwejt, San
Gwann SGN 3000,Malta
T: +356 2163 7778 | F: +356 21634383
earl.vella@nexiabt.com | www.nexiabt.com
NEXIA BT Snapshot Replica's
Backups
General setup

REF03: Copies of Virtual Machines

REF04: Physical Machine for FlexCube SystemInformation
System Information report written at: 04/22/17 10:06:41
System Name: PLTSRV-DR-DBS01
[System Summary]
Item Value
OS Name Microsoft Windows Server 2012 R2 Standard
Version 6.3.9600 Build 9600
Other OS Description Not Available
OS Manufacturer Microsoft Corporation
System Name PLTSRV-DR-DBS01

System Manufacturer HP
System Model ProLiant DL360p Gen8
System Type x64-based PC
System SKU 654081-B21
Processor Intel(R) Xeon(R) CPU E5-2643 0 @ 3.30GHz, 3292 Mhz, 4 Core(s), 8 Logical Processor(s)
BIOS Version/Date HP P71, 14/11/2013
SMBIOS Version 2.8
Embedded Controller Version 1.30
BIOS Mode Legacy
Platform Role Desktop
Secure Boot State Unsupported
PCR7 Configuration Not Available
Windows Directory C:\Windows
System Directory C:\Windows\system32
Boot Device \Device\HarddiskVolume1
Locale United Kingdom
Hardware Abstraction Layer Version = "6.3.9600.16408"
User Name PILATUS\administrator
Time Zone W. Europe Daylight Time
Installed Physical Memory (RAM) 16.0 GB
Total Physical Memory 16.0 GB
Available Physical Memory 7.70 GB
Total Virtual Memory 19.4 GB
Available Virtual Memory 2.85 GB
Page File Space 3.39 GB
Page File C:\pagefile.sys
Hyper-V - VM Monitor Mode Extensions Yes
Hyper-V - Second Level Address Translation Extensions Yes
Hyper-V - Virtualization Enabled in Firmware Yes
Hyper-V - Data Execution Protection Yes

REF05: - FlexCube 2012 R2 ServerCredentials
Domain: Pilatus.Local
Account: Administrator
Password: pa55w0rd123!

With respect to the centralized storage,based on the direction and acknowledge of NEXIA IT administrators that the 2 storage elements are replicas (hourly snapshots), the secondary (backup) device was sealed and relieved from site for subsequent off-site analysis.

REF06: - Nexia BT Credentials
Account: administrator
Password: BtAccEss2016!

REF07: -REF Nexia Admins

REF08: DR Replica confirmation

REF09: - Servers and Data

The following is a list of 'systems' identified at Pilatus and Nexia which where backed up in different ways. It is imperative to understand that Pilatus systems are enterprise class information systems which were copied, from the DR site (not primary - as per agreement) using 3 different approaches as indicated on the respective report sections Pilatus Bank (approximately 3 Terabytes) :

Virtual Disk Images (HyperV)
PLTSRV-DR-MHV01 - Physical Host
PLTSRV-DR-VMM01- VMM - 33 GB - GuestVM
PLTSRV-DR-VMM01-Data- VMM - 33 GB - Guest VM
PLTSRV-DR-DC01- Domain Controller - 18GB - GuestVM
PLTSRV-DR-AHV01
PLTSRV-FXA01.VHDX- Oracle Flexcube Application Server- 130GB - Guest VM
PLTSRV-DR-BHV01
PLTSRV-APP01- Application Server - 40GB - Guest VM
PLTSRV-APP02 - ApplicationServer - 23 GB - Guest VM
PLTSRV-CRS01- Carta Registration Server- 20GB - Guest VM
PLTSRV-DR-DC02 - DomainController - 19 GB - Guest VM
PLTSRV-DR-DFA02- Dual Factor Authentication Server- 18GB - Guest VM
PLTSRV-DR-DFS01 - Distributed FileSystem Server - 18 GB - Guest VM
PLTSRV-DR-DFS01- Data- Distributed File System ServerData - 420 MB - Guest VM
PLTSRV-RDS02 - Remote DesktopServer - 135 GB - Guest VM
PLTSRV-DR-RHV01
PLTSRV-FXR01 - Oracle Flexcube Reporting Server- 137 GB - Guest VM
PLTSRV-DR-DBS01 -P2V
Physical to Virtual Image -Oracle Flexicube (http://www.oracle.com/us/products/applications/financial-services/flexcube/index.html)- 320 GB

PHYSICAL-ORACLE
Physical Machine Windows SystemState Backup and File System copy – Oracle Flexicube

(http://www.oracle.com/us/products/applications/financial-services/flexcube/index.html)- 275 GB
Ultrium Backup Set of entire lot as indicated by Computime
5xLTO-5 3 TB each - 15 TB

OTHERS
Sharepoint Online (http://pilatuscap.sharepoint.com & http://pilatusbank.sharepoint.com)-
Web Site - Collaboration - No backups
Outlook / Web App (mail.pilatusbank.com) & (mail.pilatusbank.com) - Email -Online - No
Backup
CARTA (http://cartaworldwide.com/) -Digital Payments Platform - Need to check whether this is used interactively or in a programmatic fashion - Nobackups. It was recommended that clarification is sought with Oracle Flexcube / Financial Systems Experts or Pilatus of how these are employed
TAS Group (http://www.tasgroup.eu/) - Electronic Payments, Capital Markets and ERP - Need to check whether this is used interactively or in a programmatic fashion - No backups – It is recommended that clarification is sought with Oracle Flexcube / Financial Systems Experts or Pilatus of how these are employed Nexia BT (approximately 5 Terabytes) :
Nexia SRV001 - Windows Server File Server - 1.7 TB
NexiaSRV04 - Windows Server Domain Controller - 120 GB
NexiaSRV03 - MS SQL Server - 400 GB
NexiaSRV02 - MS Exchange - 2.5 TB
REF 010: - Admin Computime Infrastructure Management - Administrator password employed
REF 011: - Veam Version at Nexia
REF 100: - AtoZ invoices
REF 101: - KVH Invoice

Mill-banda l-oħra minbarra Dr. Godwin Caruana, ħadmet ukoll fuq il-ġabra u ħażna tal-informazzjoni diġitali it-Taqsima tas-*Cybercrime* tal-Pulizija Maltija, kapeġġjata mill-Ispettur Timothy Zammit. Fil-fatt din l-iskwards ħadmet taħt id-direzzjoni ta' Dr. Godwin Caruana u reżokont tax-xogħol ta' din it-Taqsima jinsab inkluż f'rapport preżentat mill-

Ispettur Timothy Zammit li qiegħed jiġi inkluż f'din il-parti tal-Proces Verbal għall-aħjar istruzzjoni tiegħu.

In-nomina tal-Ispettur Timothy Zammit, bħala l-Ispettur Inkarigat mit-Taqsima tas-*Cybercrime* tal-Pulizija tal-21 t'April 2017.

L-Ispettur Timothy Zammit, bħala l-Ispettur Inkarigat mit-Taqsima tas-*Cybercrime* tal-Pulizija qiegħed jiġi maħtur sabiex :

> taħt id-direzzjoni u l-ordnijiet tal-espert tekniku Dr. Godwin Caruana, jassistih fl-eżekuzzjoni tax-xogħol meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus u lid-Ditta Nexia BT u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus u d-Ditta Nexia BT u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT tkun tista tiġi prodotta b'evidenza f'din l-inkjesta. Għal dan il-għan ġie ordnat li jirrelata proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tiegħu.

Mit-test tar-rapporti tal-Ispettur tal-Pulizija Timothy Zammit mit-Taqsima Ċibernetika tal-Pulizija Eżekuttiva li huma prodotti bħala parti minn dan il-*Proces Verbal* jirriżulta pass pass il-*modus operandi* adoperat

fir-rigward tal-preżervazzjoni u ħażna ta' *hardware* u *software* kemm minn naħa tan-Nexia BT kif ukoll da parti tal-Bank Pilatus.

Peress li d-data diġitali miġjuba mingħand l-Awtoritajiet Ġudizzjarji Ġermaniżi kienet teħtieġ li ssir kopja tagħha, l-Ispettur Zammit ġie ordnat sabiex jagħmel kopja forensika tal-*external hard disk drive* li ġiet mogħtija mill-Awtoritajiet Ġermaniżi lil din l-inkjesta. Wara li saret il-kopja forensika, l- *external hard disk drive* oriġinali ġiet konsenjata lil rappreżentanti tal-*Ansec IA Limited* sabiex huma jkunu jistgħu jaħdmu minn fuq l-oriġinal.

Il-konklużjonijiet tal-ispettur Zammit huma misjuba f'rapport miktub u konfermat nhar il- ta' Ġunju 2018 huma s-segwenti : -

Nexia BT

Conclusion

Preservation of the data stored on all digital devices collected from Nexia BT was successful. The preserved data is contained in the CCU Evidence Disks being exhibited together with this report as per list in Pages 5 and 6 of this report.

All hard disk drives and computer systems collected from Nexia BT were returned to Nexia BT after being successfully imaged by the Cyber Crime Unit, as documented in this report. Release Receipts numbered 887, 890, 891, 892, 901 and 902 were signed by Nexia BT employees confirming receipt of the items being returned to same. Copies of these receipts are attached and marked as Appendix F of this report.

The three (3) USB sticks which were seized following an onsite preview carried out by Cyber Crime Unit personnel were also successfully imaged. These devices - marked as 'USB01', 'USB02' and 'USB03' – were not returned to Nexia BT but are being exhibited together with this report as per list in Pages 5 and 6 of this report. It must be pointed out that Nexia BT have been provided copies of the content stored on these devices as documented in this report.

Copies of the data preserved by the Cyber Crime Unit were passed on to Computer Forensic Analysts from ANSEC IA Limited (Ireland) as per the directions received from the Inquiring Magistrate. The transfer of data was carried out at the Cyber Crime Unit laboratory between the 19th and 28th July 2017. The ANSEC IA Limited representative who received the data previously preserved by the Cyber Crime Unit was Mr. Gary Edgeworth. ANSEC IA Limited representatives were at all times accompanyied by Inspector Timothy Zammit whilst they were at the Cyber Crime Unit laboratory.

Il-Bank Pilatus

Conclusion

Preservation of the data stored on all but two digital devices collected from Pilatus Bank Limited was successful. The preserved data is contained in the CCU Evidence Disks being exhibited together with this report as per list in Pages 5 and 6 of this report.

The devices collected from Pilatus Bank Limited which were successfully imaged by the Cyber Crime Unit, as documented in this report, were returned to Pilatus Bank Limited.

Release Receipts numbered 886, 888, 889, 893, 943 and 944 were signed by Pilatus Bank Limited employees confirming receipt of the items being returned to same. Copies of these receipts are attached and marked as Appendix J of this report.

The two digital devices which were not successfully imaged by the Cyber Crime Unit are the devices marked as 'PC06HD01' and 'USB07'. These two items are being exhibited together with this report as per list in Pages 5 and 6 of this report.

Copies of the data preserved by the Cyber Crime Unit were passed on to Computer Forensic Analysts from ANSEC IA Limited (Ireland) as per the directions received from the Inquiring Magistrate. The transfer of data was carried out at the Cyber Crime Unit laboratory between the 19th and 28th July 2017. The ANSEC IA Limited representative who received the data previously preserved by the Cyber Crime Unit was Mr. Gary Edgeworth. ANSEC IA Limited representatives were at all times accompanied by Inspector Timothy Zammit whilst they were at the Cyber Crime Unit laboratory.

The preservation of information stored on the Office 365 and Sharepoint systems used by Pilatus Bank Limited was not possible through the authorities of the United States of America.

Kopji tal-external hard drive provduta mill-Awtoritajiet Ġudizzjarji tal-Ġermanja kontenenti informazzjoni meħuda mill-Panana Papers Cache

Summary of Events

On the 16th April 2018, Inspector Timothy ZAMMIT (Cyber Crime Unit) was informed by Duty Magistrate Dr. Aaron BUGEJA LL.D that the technical assistance of the Cyber Crime Unit was being sought in the processing of digital evidence in relation to an ongoing Magisterial Inquiry initiated in relation to allegations of money laundering.

Inspector Zammit was informed that the Cyber Crime Unit was required to create copies of the content stored an external hard disk which was in the possession of the Inquiring Magistrate.

The following report outlines the digital evidence handled by the Cyber Crime Unit and the processes carried out upon same.

All processes documented in this report were carried out by Inspector Timothy J. Zammit at the Cyber Crime Unit laboratory.

Device brought to the Cyber Crime Unit

Hard Disk marked as USB01

External Hard Disk Drive make Western Digital, capacity 500Gb, bearing serial number WXP1A77J4SK4 was brought to the Cyber Crime Unit by the Inquiring Magistrate, Magt. Dr. Aaron BUGEJA LL.D, on the 16th April 2018 at around 13:40hrs. This device was marked as **USB01**.

This item was retained at the Cyber Crime Unit for processing.

All processes were carried out at the Cyber Crime Unit by Inspector Timothy Zammit.

1) The Inquiring Magistrate directed the Cyber Crime Unit to create three (3) copies of an archive file stored onto three separate hard disk drives. The hard disk drives used to store these copies were provided by the Courts of Justice.
2) External hard disk drive marked as 'USB01' was connected to CCU Forensic Workstation named "CCU-001" directly via the forensic workstation's USB port.
3) A new case was created within Encase Forensic Edition Version 6.19.7.2 Software1. The device was, then, added to the case.
4) Upon viewing the content of this device, it was observed that the only data stored on the hard disk drive was a '.zip' archive file – named "Malta.zip" - found in the root folder of this hard disk drive. The only other files present on this device were the factory installed drivers stored on such devices.
5) The hash value of file named "Malta.zip" was generated through the use of EnCase Forensic Software. Technical details pertaining to this file are the following:

Name Logical Size Hash Value Full Path
Malta.zip 120,613,976,433 94bc88dd58be1e814fa779c0c9e29b76 C\Malta.zip

6) File named "Malta.zip" was copied to a CCU Evidence Hard Disk Drive, numbered "CCU-HDD-093", through the use of the copy/ paste functionality provided within Windows operating system. This process, carried out in the presence of the Inquiring Magistrate, was successfully completed on the 16th April 2018 at around 15:30hrs.
7) Upon completion of the copying process from the device marked as USB01 to CCU Evidence Disk named "CCU-HDD-093", device marked as USB01 was disconnected from the CCU Forensic Workstation. Device

marked as USB01 was, then, returned to the Inquiring Magistrate on the same day.
8) The contents of file named "Malta.zip", stored on CCU Evidence Disk named "CCU-HDD-093" were extracted to a folder stored on the same CCU Evidence Disk. This process was carried out through the use of application named "7-Zip File Manager".
9) Once this process was completed, the Inquiring Magistrate was given the opportunity of previewing the content of these files.
10) As directed by the Inquiring Magistrate, three (3) working copies of the content of file named "Malta.zip" had to be made onto separate hard disk drives provided for this purpose by the Courts of Justice.
11) The working copies were created by copying file named "Malta.zip" onto the hard disk drives provided by the Courts of Justice through the use of the copy/ paste function provided within Windows Operating System.
12) Once the file was successfully completed to each individual hard disk drive, its content was extracted onto the same hard disk drives through the use of application named "7 Zip file Manager".
13) The process of creating the three (3) working copies for the Inquiring Magistrate's perusal was successfully concluded on the 17th April 2018 at around 21:00hrs.
14) The three (3) hard disk drives containing the working copies of the content stored on USB01 were sealed in an envelope and passed on to the Inquiring Magistrate through Asst. Commissioner Ian Joseph Abdilla (Economic Crimes Unit).
15) Following instructions received from the Inquiring Magistrate, the content of CCU Evidence Disk named "CCU-HDD-093" was destroyed in order to ensure that there are no unaccounted copies of file named "Malta.zip" which was stored on device marked as USB01. This process was carried out through the use of the "Wipe Drive" function provided within EnCase Forensic Software.

In-nomina ta' *ANSEC IA Limited*

Peress li din l-informazzjoni diġitali miġbura mingħand Nexia BT u l-Bank Pilatus riedet tiġi analizzata mill-*Forensic Accountants Miroslava Milenovic* u mid-ditta tal-Irlanda ta' Fuq *Harbinson Forensics* ġja *Harbinson*

Mulholland, kien hemm ħtieġa li din id-data diġitali estensiva meħuda tiġi trasferita għal medium li jkun jista' jittieħed b'mod forensiku barra minn Malta għall-fini t'analiżi forensika minn *Harbinson Forensics.* Kienu *Harbinson Forensics* stess li talbu li din id-data tiġi meħuda b'mod forensiku bil-ħidma ta' esperti tal-fiduċja tagħhom ukoll. Għal dan il-għan ġie maqbul li tiġi nominate d-ditta *ANSEC IA Limited,* kumpanija reġistrata fl-Irlanda ta' Fuq, bin-numru tar-reġistrazzjoni NI 064909 bl-uffiċju reġistrat f'Unit E4, Plasketts Close, Kilbegs Business Park, Antrim, County Antrim, BT41 4LY, Irlanda ta' Fuq, Renju Unit.

B'digriet tal-11 ta' Lulju 2017 ġew nominati Stephen Clarke, Gary Edgeworth, Rodger Trotter, Jeffrey Nelson u Malcolm Mc Cully ġew maħtura sabiex bħala esperti tekniċi fil-qasam tal-informatika u operanti taħt l-isem tad-ditta *ANSEC IA Limited,* u l-istess *ANSEC IA Limited* kumpanija reġistrata fl-Irlanda ta' Fuq, bin-numru tar-reġistrazzjoni NI 064909 bl-uffiċju reġistrat f'Unit E4, Plasketts Close, Kilbegs Business Park, Antrim, County Antrim, BT41 4LY, Irlanda ta' Fuq, Renju Unit, jagħmlu dak ix-xogħol kollu meħtieġ ta *Digital Forensic Services* sabiex

a. l-informazzjoni diġitali kollha miġbura u priżervata minn Dr. Gordon Caruana u t-Taqsima tas-*Cybercrime* tal-Pulizija Eżekuttiva Maltija (mill-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus u lid-Ditta Nexia BT u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi) tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju tad-Ditta

ANSEC IA Limited fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra li magħha l-*Forensic Accountants* u *Forensic Analysts* maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic*,

b. li jagħmlu dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonducibbli għall-Bank Pilatus u lid-Ditta Nexia BT u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus u d-Ditta Nexia BT u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta Nexia BT tkun tista tiġi prodotta b'evidenza f'din l-inkjesta u dan skont kif ikun dirett lilhom mill-Maġistrat Inkwirenti u dan billi kull tali informazzjoni diġitali tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju tad-Ditta *ANSEC IA Limited* fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra li magħha l-*Forensic Accountants* u *Forensic Analysts* maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic*,

c. li jagħmlu dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li biex tkun tista tiġi prodotta b'evidenza f'din l-inkjesta kwalunkwe *hardware* jew *software* jew informazzjoni diġitali ta' kwalunkwe xorta u natura li tista' minn żmien għal żmien tiġi mogħtija lilhom mill-Maġistrat Inkwirenti jew xi ħadd mill-esperti maħtura jew persuna indikata lilhom mill-Maġistrat Inkwirenti u dan billi kull tali informazzjoni diġitali tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju tad-Ditta *ANSEC IA Limited* fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra

li magħha l-*Forensic Accountants* u *Forensic Analysts* maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic*.

d. L-esperti qiegħedin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmlu dak l-iskambju t'informazzjoni li jidhirlhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom.

e. Għal dan il-għan l-esperti ġew ordnati li jirrelataw proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw il-konklużjonijiet tagħhom u sabiex l-istess esperti tekniċi jkunu jistgħu iwettqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom huma ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Fil-kors tal-qadi tan-nomina tagħhom, l-esperti tekniċi adetti ma *ANSEC IA Limited* ġabru l-informazzjoni diġitali imsemmija f'din in-nomina fl-atti ta' din l-inkjesta. Iżda fil-mori ta' din l-inkjesta, l-istess esperti tekniċi kienu wkoll ġew nominati f'żewġ inkjesti oħra kondotti mill-Maġistrat Dr. Natasha Galea Sciberras (inkesta *"Willerby"*) u mill-Maġistrat Dr. Josette Demicoli (inkjesta *"Hillman"*) sabiex ikunu jistgħu iwetqu inkarigi simili għal dawk magħmula fl-atti ta' din l-inkjesta fir-rigward ta' persuni oħra.

Peress illi l-informazzjoni miġbura fil-kors ta' din l-inkjesta setgħet tkun ta' utilita għal dawn l-inkjesti, wara li kienet saret talba appożita mill-Maġistrati Inkwirenti rispettivi sabiex l-informazzjoni u l-evidenza maqbuda u analizzata fl-atti ta' din l-inkjesta tkun tista' tiġi imqegħda għad-disposizzjoni tagħhom kif ukoll li formalment tkun tifforma parti

mill-inkjesti kondotti minnhom. Din it-talba kienet ġiet milqugħa kif jidher mir-rikorsi u d-digrieti eżibiti fl-atti ta' din l-Inkjesta.

Mill-banda l-oħra peress li l-informazzjoni miġbura fil-kors ta' dawk l-inkjesti setgħet tkun ta' utilita għal din l-inkjesta, wara li kienet saret talba appożita mill-Maġistrat Inkwirenti lill-Maġistrati Inkwirenti rispettivi fl-inkjesta *Willerby* u l-inkjesta *Hillman,* sabiex l-informazzjoni u l-evidenza maqbuda u analizzata fl-atti ta' dawn l-inkjesti tkun tista' tiġi imqegħda għad-disposizzjoni ta' din l-inkjesta kif ukoll li formalment tkun tifforma parti mill-atti ta' din l-inkjesta, kif ukoll li l-esperti f'dawk l-inkjesti jkunu formalment ritenuti wkoll esperti nominati f'din l-inkjesta. Din it-talba kienet ġiet milqugħa kif jidher mir-rikorsi u d-digrieti eżibiti fl-atti ta' din l-Inkjesta.

Dawn l-esperti tekniċi, ippreżentaw u ħalfu r-relazzjoni finali tagħhom permezz ta' *video-conference* nhar l-4 ta' Lulju 2018 fejn ikkonkludew is-segwenti : -

Document Information

[redacted]	Report for the delivery of Digital Forensic Services
[redacted]	Ministry of Justice, Culture & Local Government, Malta
[redacted]	Dr Aaron M Bugeja

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Declaration of Truth

I declare that this report is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence at any preliminary enquiry, the trial of any person or other legal proceedings, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true. I understand that my duty in providing this written report and giving evidence is to assist the Court; and that this duty overrides any obligation to the party by whom I am engaged, or the person who has paid, or is liable to pay me. I confirm that I have complied, and will continue to comply with my duty in this respect.

[redacted]

Gary Edgeworth

[redacted] 4th July 2018

ANSEC Staff Involved

The following members of ANSEC's digital forensic staff were utilised during this process.

[redacted]	Mr Stephen Clarke
[redacted]	Mr Gary Edgeworth
[redacted]	Mr Rodger Trotter
[redacted]	Mr Jeffrey Nelson
[redacted]	Mr Malcolm McCully

Declaration of Truth

Table of Contents

1 Introduction 5

2 Forensic Acquisition Process 8

3 Data Extraction & Processing Methodology 16

4 Password Recovery 27

5 Summary of Data Extracted 31

6 Appendix A - Summary of Data Acquired 42

1 Introduction

1.1 ANSEC have been instructed by Magistrate Aaron Bugeja, Maltese Ministry for Justice, Culture & Local Government in relation to an ongoing Magisterial Inquiry currently being conducted in relation to alleged money laundering.

1.2 ANSEC have been requested to obtain a forensic copy of data that has been acquired from a number computer systems by the Maltese Police Service's Cyber Crime Unit and a Court appointed expert Dr Godwin Caruana. This data had been obtained from two separate companies, which are listed in table 1.2.1 below:

[redacted]	Description
[redacted]	PILATUS BANK, TA' XBIEX, MALTA
[redacted]	NEXIA BT, SAN GWANN, MALTA

Table 1.2.1

1.3 It was proposed by ANSEC that the data would be copied to a Network Attached Storage device as this would provide a single storage location from which all subsequent processes could be run and also a degree of redundancy for the stored data. The data extracted from the device would then be processed and provided to Harbinson Mulholland for examination by their investigation team.

1.4 Mr Stephen Clark, ANSEC Digital Forensics Manager, Mr Gary Edgeworth ANSEC Senior Digital Forensic Examiner travelled to Malta on 18/07/17. They were joined Mr Rodger Trotter Senior Digital Forensic Examiner on 23/07/17. Between 19/07/17 and 29/07/17 Mr Edgeworth and Mr Trotter carried out the forensic copying process. Full details of this process are included in the remainder of this report.

1.5 Whilst in Malta it was requested that additional data from another location, shown below, was also copied. This data had previously been

acquired by a Court appointed expert, Mr Keith Cutajar, and is listed in table 1.5.1 below:

	Description
1	MFSP, MALTA

Table 1.5.1

1.6 Mr Jeffrey Nelson, Senior Digital Forensic Examiner, ANSEC travelled to Malta on 17/01/18 and copied data that he received from Mr Keith Cutajar, Court appointed expert and PS 422 Neil G Caruana, Mobile Device Forensic Examiner. These items are the subject of a separate report prepared by Mr Nelson for Magistrate Natasha Galea Sciberras. These items are listed in table 1.6.1 below:

[redacted]	[redacted]
[redacted]	LHD01 Image of Western Digital External Drive
[redacted]	MB02 Extracted data from Apple iPad Mini 3G
[redacted]	PC01-HD01 Image of Apple MacBook Air A1369
[redacted]	PC03-HD01 Image of Dell Vostro 15 3000 series laptop
[redacted]	17 CEU 201 Extracted data from Apple Iphone 6 A1586 mobile phone
[redacted]	17 CEU 201A Extracted data from GoMobile Sim Card
[redacted]	17 CEU 202 Extracted data from Apple Iphone 7 A1778 mobile phone
[redacted]	17 CEU 202A Extracted data from GoMobile Sim Card
[redacted]	17 CEU 203 Extracted data from Sony Xperia E5633 mobile phone
[redacted]	17 CEU 203A Extracted data from Etisalat Sim Card
[redacted]	17 CEU 203B Extracted data from Forbesfone Sim Card
[redacted]	PC02 - HD01 Dell Inspiron 910 Mini Service Tag: 28R66H1

Table 1.6.1

1.7 In addition Mr Rodger Trotter and Mr Jeffrey Nelson, Senior Digital Forensic Examiner, ANSEC travelled to Malta on 25/04/18 and received a portable hard drive from Magistrate Bugeja containing files that had been acquired from the German Authorities relating to elements of the Panama Papers that were believed to be relevant to this investigation. This is listed in table 1.7.1 below.

[redacted]

RDT6 - Malta.zip, Panama Papers

Table 1.7.1

1.8 A summary of all data acquired is outlined at Appendix A below.

1.9 The full methodology used in the forensic acquisition process is outlined in Section 2 below.

2 Forensic Acquisition Process

2.1 The examination of all items referred to in this report have been carried out in accordance with the ACPO Good Practice Guide for Digital Evidence and current forensic computing standards and best practices. All records in relation to the examination of this equipment have been retained at ANSEC and are available for disclosure if required.

2.2 Data can be copied on computer systems using a number of different methods, such as drag and drop, copy and paste or even by typing commands. However in a forensic copying process, a procedure is required to give confidence that the data copied is no more or no less than when it was first taken into possession (ACPO England, Wales & Northern Ireland, Good Practice Guide for Digital Evidence, 2012). In this case three separate types of data were identified and were required to be copied.

2.3 Firstly, EnCase forensic image files (EO1)[2], which are an exact binary copy of the data, that had been acquired from several standalone computers and storage devices by the Maltese Police Cyber Crime Unit and Court appointed experts.

2.4 Secondly, restored copies of several standalone computers created by the Maltese Police Cyber Crime Unit. This process uses Encase forensic software to acquire the data and restore an exact copy of it to a bare hard disk drive. This is often referred to as a "clone". In this case the cloned disks were acquired by ANSEC to produce forensic image files (E01) that could be verified.

2.5 At the end of the process the files produced are also subjected to a verification process, known as hashing. This process ensures the integrity

[2] Forensic Image - An image in this context is an exact bit stream copy that is acquired from digital devices such as a hard disks other digital media. A key part of the acquisition stage is to perform a verification of the image. During the creation of the original image, a calculation is made (Cyclical Redundancy Check) on the data being copied. A value is created for each 'block' of data that make up the forensic image and a checksum is calculated to ensure that the content of each block has not changed. At the end of the process the files produced are also subjected to a verification process, known as an MD5 or SHA-1 hash. This process ensures the integrity of the image files created and can be repeated at any time to verify the content has not changed.

of the image files created and can be repeated at any time to verify the content has not changed.

2.6 Thirdly, copies of data from the large scale server systems at Pilatus had been made by a Court appointed expert, Dr Godwin Caruana. These files were in the Microsoft Hyper-V format (VHDX). In addition a Network Attached Storage (NAS) device containing Veeam virtualisation backup files (VBK & VIB) and Microsoft Exchange Email personal storage archives (PST) was seized from Nexia BT.

2.7 In order to verify the forensic copy of these files, a process was used that copies the files, calculates a hash value for the copied file and compares this to the hash value for the original file. Only if both hash values match can it be said that the copy has been verified.

2.8 This copying and verification process is shown in figure 2.8.1 below.

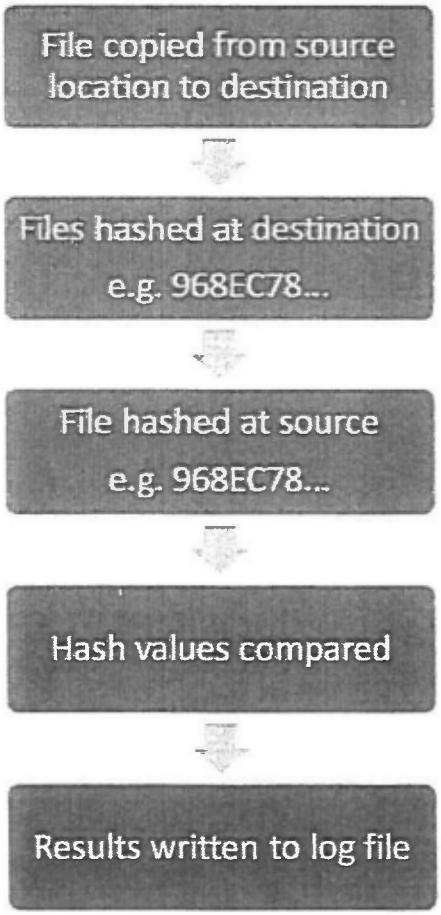


Figure 2.8.1

2.9 All data from the Pilatus computers, USB devices, servers and Nexia computers and USB devices was copied from the source devices to a Synology Network Attached Storage device and verified using the methodology outlined above.

2.10 All data from the Nexia network attached storage device was copied from the source device to the Synology network attached storage and also verified by comparing the hash values on the source device with those copied to the Synology NAS.

2.11 The NAS was then conveyed by hand to ANSEC's premises, where it was placed into secure storage pending further examination of the data. Details of the data acquired was entered into ANSEC's electronic case management system, known as LIMA.

Data obtained from Pilatus Bank

2.12 The data acquired from the standalone devices at Pilatus Bank by the Maltese Police Cyber Crime Unit is listed in table 2.12.1 below with the internal Cyber Crime Unit reference number and a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr G Edgeworth.

PC01	HP pro-book 450Go	Imaged & Verified
PC02	HP pro-desk 490 G1 MT	Imaged & Verified
PC03	Lenovo Think Pad E560	Imaged & Verified
PC04	Dell Opti Plex 390	Copied & Verified
PC05	Asus Notebook Pc X551c	Imaged & Verified
PC07	Dell Opti Plex 390	Imaged & Verified
PC08	Apple MacBook Air	Copied & Verified
PC09	Apple MacBook Air	Copied & Verified
PC10	Lenovo Think Pad E440	Copied & Verified
PC11	Lenovo Think Pad E540	Copied & Verified
PC12	Lenovo Think Pad E450	Copied & Verified
PC13	Acer Aspire E1 Series	Copied & Verified
USB01	Hitachi External Hard Disk	Copied & Verified
USB02	USB Stick labelled "Mehmet"	Copied & Verified
USB03	Samsung External Hard Disk	Copied & Verified

USB04	USB Stick branded "www.cdds.eu"	Copied & Verified
USB05	USB Stick branded "Paysafe"	Copied & Verified
USB06	Loose Hard Disk Drive	Copied & Verified
USB08	USB stick, colour chrome	Copied & Verified
USB09	USB stick branded "Equitativa"	Copied & Verified
USB10	USB stick branded "FIAU 2015"	Copied & Verified
USB11	USB stick, branded "MIA"	Copied & Verified
USB12	USB Stick branded "FIAU 2014"	Copied & Verified

Table 2.12.1

2.13 It was noted that data had not been acquired from two other items identified as PC06 – Acer Aspire X3450 laptop and USB07 – Apple iPad Mini. The hard disk from PC06 was reported as being defective. This was confirmed by ANSEC Digital Forensic Examiners who were also unable to acquire the device.

2.14 The data acquired from the server systems at Pilatus Bank by Dr Godwin Caruana is listed in table 2.14.1 below with a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr R Trotter.

[redacted]	
PLTSRV-DR-MHV01 - PLTSRV-DR-VMM01 - VMM	Copied & Verified
PLTSRV-DR-MHV01 - PLTSRV-DR-VMM01 - Data VMM	Copied & Verified
PLTSRV-DR-MHV01 - PLTSRV-DR-DC01 - Data VMM	Copied & Verified

PLTSRV-DR-AHV01 - PLTSRV-FXA01.VHDX	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-APP01	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-APP02	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-CRS01	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-DR_DC02	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-DR-DFA02	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-DR-DFS01	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-DR-DFS01	Copied & Verified
PLTSRV-DR-BHV01 - PLTSRV-RDS02	Copied & Verified
PLTSRV-DR-RHV01 - PLTRSRV-FXR01	Copied & Verified
PLTSRV-DR-DBS01-P2V - Physical to Virtual Image	Copied & Verified
PHYSICAL ORACLE	Copied & Verified

Table 2.14.1

Data obtained from Nexia BT

2.15 The data acquired from the standalone devices at Nexia BT by the Maltese Police Cyber Crime Unit is listed in table 2.15.1 below with the internal Cyber Crime Unit reference number and a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr G Edgeworth.

Standalone Devices Acquired from Nexia BT		
Reference	Description	Result
PC01	HP 350G2	Imaged & Verified
PC02	Dell Latitude E7470	Copied & Verified

PC03	Dell Vostro15 3000 Series	Imaged & Verified
PC04	Dell Vostro15 3000 Series	Imaged & Verified
PC05	Acer Travelmate P256	Copied & Verified
PC06	Dell Latitude E7450	Copied & Verified
PC07	Dell Latitude E7470	Copied & Verified
PC08	Dell Inspiron 17	Copied & Verified
PC09	Dell Vostro15 3000 Series	Copied & Verified
PC10	Dell Latitude E7440	Copied & Verified
PC11	Dell Latitude E7470	Copied & Verified
PC12	HP 350G2	Copied & Verified
PC13	Dell Vostro15 3000 Series	Copied & Verified
PC14	Dell Vostro15 3000 Series	Copied & Verified
PC15	Dell Vostro15 3000 Series	Copied & Verified
PC16	Acer Travelmate P246	Copied & Verified
PC17	HP 350G2	Copied & Verified
PC18	Dell Latitude E7450	Copied & Verified
PC19	Dell Latitude E7440	Copied & Verified
PC20	Dell Latitude E7470	Copied & Verified
PC21	Lenovo ThinkPad Edge	Copied & Verified
PC22	PC labelled "Amanda Darmanin Payroll"	Copied & Verified
USB01	USB Stick branded "Finance Malta"	Copied & Verified
USB02	SanDisk Cruzer Blade	Copied & Verified

USB03	Media Range	Copied & Verified

Table 2.15.1

2.16 The data acquired from the large scale server systems at NEXIA BT by Dr Godwin Caruana is listed in table 2.16.1 below with a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr R Trotter.

Large Scale Server Systems Acquired from NEXIA BT	
Description	**Result**
Backup – Nexia Servers Clone	Copied & Verified
PST Archives	Copied & Verified
Replicas	Copied & Verified
Backup - Nexia Servers Local2017-04-20T080144	Copied & Verified

Table 2.16.1

Data obtained from MFSP Malta

2.17 The data acquired from MFSP Malta by Mr Keith Cutajar is listed in table 2.17.1 below with a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr G Edgeworth.

Data Acquired from MFSP	
Description	Result
LHD01-2TB External	Copied & Verified
SRV01-HD01	Copied & Verified

PC01-HD01_MatthewAcerPC	Copied & Verified

Table 2.17.1

2.18 The Network Attached Storage device containing the copied data was transported by Mr Edgeworth and Mr Trotter to ANSEC's premises, where it was placed in their secure store. ANSEC's premises are a Police Approved Secure Facility.

2.19 It was then connected to ANSEC's forensic network. This network is a secure standalone network with no connection to any other networks, including the Internet. Having secured a forensic copy of the data it was now available for the next stage of the investigation. This included processing and extraction of the data in a format that could be examined by the Harbinson Mulholland investigation team.

Data obtained January 2018 in Malta

2.20 The data acquired in January 2018 from Mr Keith Cutajar and PS 422 Neil G Caruana is listed in table 2.20.1 below with a description of the item from which the data was acquired. All items were imaged or copied and verified by ANSEC's Mr J Nelson.



LHD01 Image of Western Digital External Drive	Copied & Verified
MB02 Extracted data from Apple iPad Mini 3G	Acquired & Verified
PC01-HD01 Image of Apple MacBook Air A1369	Copied & Verified
PC03-HD01 Image of Dell Vostro 15 3000 series laptop	Copied & Verified
17 CEU 201 Extracted data from Apple Iphone 6 A1586 mobile phone	Copied & Verified
17 CEU 201A Extracted data from GoMobile Sim Card	Copied & Verified

17 CEU 202 Extracted data from Apple Iphone 7 A1778 mobile phone	Copied & Verified
17 CEU 202A Extracted data from GoMobile Sim Card	Copied & Verified
17 CEU 203 Extracted data from Sony Xperia E5633 mobile phone	Copied & Verified
17 CEU 203A Extracted data from Etisalat Sim Card	Copied & Verified
17 CEU 203B Extracted data from Forbesfone Sim Card	Copied & Verified
PC02 - HD01 Dell Inspiron 910 Mini Service Tag: 28R66H1	Acquired & Verified

Table 2.20.1

2.21 The methodology used for the extraction and processing of the data is outlined at Section 3 below.

3 Data Extraction & Processing Methodology

3.1 In the first stage of this process the EnCase E01 image[1] files were loaded into EnCase forensic software and verified to ensure the integrity of the files had not been compromised during their move.

3.2 The virtual machine files that make up the bulk of the server data were mounted using the appropriate software; and once mounted the file systems were acquired to produce EnCase E01 image[1] files for examination.

3.3 The first stage of the examination involved the processing of the image files. This is largely an automated process that prepares the data for initial examination by the forensic examiner. Processing involves the following:

- Recovery of deleted files and folders.
- Hash & Signature Analysis to identify file types and known[3] files.
- Expanding compound files such as ZIP, RAR and other compressed formats for examination.
- Analysing and identification of protected or encrypted files.
- Identification of email containers and process email for examination.
- Identification of system and registry files to establish information about the operating system installed and its user accounts.

3.4 Once processed the file system was examined by the forensic examiner to identify relevant files for examination by the Harbinson Mullholland investigation team. This examination focused on the main file types required by the investigators.

3.5 In order to facilitate the examination of extracted material, ANSEC created a storage and analysis solution for the investigators. This involved the

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[3] Known files are files that have been identified by their cryptographic hash function, often referred to as their "digital fingerprint". ANSEC use a database containing several million hash values for known files. These files are typically from operating systems and software packages that are widely distributed. The hash values of all files on the target system can be compared against the database of known files and; provided the content of these files have not changed, they can be considered an exact match and can be ignored during the investigation.

provision of a file server for the storage of data and laptop computers for subsequent analysis. All hardware was secured with full disk encryption and was installed with no Internet or external network capability.

3.6 The following paragraphs deal with the major file types extracted and the appropriate strategy for their examination.

Documents

3.7 This category included user created documents in formats such as DOC, DOCX, PAGES, RTF, etc. It also included open source document formats, less common formats and legacy formats that are no longer in common use, such as Lotus Word Pro. Also included in this category were Adobe Portable Document files (PDFs). This category also included other common "office" file types such as Spreadsheets, desktop publishing and PowerPoint files.

3.8 Visual examination of these files can be carried out using the preview option built into Windows 10 where available, or by opening the file in the appropriate software package. In addition specialist viewing software known as Quick View Plus was also provided to assist with the examination.

3.9 Due to the quantity of documents to be examined, a requirement to search the material for known keywords was identified. To facilitate this DtSearch software was provided. This software creates an index within searchable file types; and allows them to be searched using keywords that can be modified using regular expressions. Instructions were provided to the Investigators in the use of this software.

3.10 It should be noted that not all content in documents can be indexed. This is most commonly encountered in PDF documents containing various elements such as text graphics, scans and photographs. In some cases it is possible to use optical character recognition (OCR) software to convert files to searchable text (see below). However some may still require manual examination.

Pictures

3.11 Image and graphic file formats were examined by the forensic examiners to determine which, if any contained written material. These are normally divided into three types. Scanned documents that have been saved as a graphic file format such as JPG, TIFF, etc. Photographs of documents that have been taken using digital cameras or smartphones and screen captures taken from digital files.

3.12 It should be noted that these files cannot be indexed as they contain pictures and not font based text. As with PDF files it may be possible to use optical character recognition (OCR) software to convert some graphics to searchable text. Ultimately some may also require manual examination.

3.13 Manual examination of pictures can be time consuming. One option to increase the speed of analysis is previewing the images as small thumbnails to exclude non-relevant files. To facilitate this Irfanview picture viewing software was provided and instruction given in its use.

Multimedia Files

3.14 Multimedia files such as those containing audio and video were also examined. Files that may be relevant to the investigation were identified and extracted for examination by the investigators.

Protected Files

3.15 Protected files are files that are secured by encryption and require a password to open. These files were identified and extracted for examination. In order to examine these files the investigators will need to obtain the password.

3.16 If it is not possible to obtain the password from the owner of creator of the file, attempts can be made to recover the password using software designed for this purpose. It should be noted that, depending on the complexity of the passwords used, this can be a time consuming process with no guarantee of success within a reasonable time period. The password recovery process used is outlined in Section 4 below:

Email

3.17 Email messages can be divided into two main categories. Firstly, email that is stored locally on the computer or server. These emails are often stored in "containers", the most common of which are Microsoft Exchange Database (EDB), offline storage files (OST) and Personal Storage Files (PST). In addition individual email messages can often be saved in other common formats such as MSG, EML and EMLX files.

3.18 Secondly, email that is stored remotely and is only accessible when online. This is often referred to as web or cloud based email. The most common web based mail providers are Microsoft Outlook.com (previously known as Hotmail and Windows Live mail), Google Mail and Yahoo! Mail. In addition within many

business environments cloud based email solutions such as Microsoft 365 are replacing Exchange Database email solutions.

3.19 The examination of web and cloud based email will be limited to messages that have been saved locally. This may be all messages or limited to only a few messages; or indeed none at all.

The forensic examiner will recover stored email messages and extract these for examination in the common MSG message format which will include any attachments. These files can also be indexed and searched. Email from exchange database files will be converted to individual PST files for each user.

Mobile Device Backups

3.20 Another area of investigation results from the process that occurs when a user connects a smartphone or tablet device to a computer. In these cases a backup of the data stored on the mobile device may be copied to the computer. Often it is possible to examine these backup files and obtain data that existed on the mobile device. In some cases these backups will be encrypted and will require the password or PIN number to unlock them. Where present these backups will be extracted for examination by the investigation team.

Internet Artifacts

3.21 One of the largest sources of files on computers are Internet artifacts. This is a broad term used to describe files and records that are stored on the system when a user goes online. There are hundreds of artifacts that can be retrieved from a user's online history. Some of the most common are web browsing artifacts (including records of terms entered into search engines), communications artifacts (such as webmail, Skype and other chat activity), file sharing and file transfer activity.

3.22 In this case Skype Chat activity was identified by the investigators as being of particular relevance. Where present, Skype artifacts have been recovered from each device and provided to the investigators for examination.

3.23 During the extraction of Skype artifacts, ANSEC forensic examiners noted a chat conversation between two employees of BT Nexia that appeared

relevant to a separate ongoing investigation in Malta. This information was reported directly to Magistrate Bugeja by ANSEC's Director of Public Safety, Mr Stephen Clarke.

Unallocated Clusters

3.24 The above files have been extracted from the live file system on their respective device and includes deleted files that can be recovered. This does not address the issue of what is often referred to as unallocated clusters, also known as unallocated space.

3.25 Unallocated clusters are the areas of the file system that do not currently have files allocated to them. However, they can contain the remains of deleted files that have not yet been overwritten. Due to the nature of material recovered from unallocated clusters is not always possible to attribute file names or other properties such as dates and times to them.

3.26 Unallocated space can be examined by attempting to recover complete or partial files from it. This is a process known as data carving. This is particularly common in relation to picture and video files. Unallocated clusters can also be indexed and searched using keywords, although this will not be successful when dealing with graphic file formats.

3.27 For text based files indexing and keyword searching has the advantage that even where a complete file cannot be recovered, partial or fragments of the file may still be found.

3.28 ANSEC have indexed the unallocated clusters on all devices and have carried out keyword searches based on information provided by the investigators. No additional relevant information has been identified to date.

Specialist or Bespoke Software Packages

3.29 The material extracted from the devices examined, are created by software applications commonly found in many environments and are widely used throughout the world. In this case there may be other specialist or bespoke software applications for specific requirements; for example Accountancy or Banking software. These applications require specialist examination.

3.30 It is understood that the core banking systems for Pilatus bank have been examined by Oracle experts. The data obtained has been analysed in conjunction with a forensic accountant in Malta.

3.31 ANSEC has identified accounting software on the BT Nexia devices known as APEX for Windows. This software was present on several laptops being run on Windows XP virtual machines. This appears to be due to the age of the software. ANSEC were able to run the software in a virtual environment but noted that the software was licensed using a dongle. In order to run the software a valid licensed dongle would be required.

Statement of Uncertainty

3.32 Two areas of uncertainty have been identified in the above process. These areas relate to the creation of long file paths when data is being extracted

and data that cannot be completely indexed. ANSEC have attempted to minimise the level of uncertainty by using the following processes.

3.33 Firstly, when exporting files from the email containers and copying them to removable media. An issue exits whereby files containing long file paths, i.e. over 260 characters, cannot be copied due to the limitations of the windows operating system. This results in an incomplete data set for searching.

3.34 ANSEC have developed an application that will check the data set for files where this issue is likely to arise; and truncate these files to a shorter file name with a unique reference number (URN) appended. A log file is also be created to cross reference the original file with its new file name and URN. Secondly, an issue exists in relation to indexing (see above), whereby not all content in a document can be indexed.

3.35 ANSEC have developed an application that will read the log file produced by the indexing software dtSearch; and extract all files that could not be indexed or that were only partially indexed. These files will be presented in three folders:

1) Protected Files
2) Unreadable Files
3) Image Only PDF Files

3.36 These files have also been subjected to an optical character recognition (OCR) process to create searchable data to be indexed. This process will reduce the level of uncertainty by enabling the majority of these files to be subjected to the indexing process. However, the OCR process will not be successful with all files. ANSEC have developed an application that will compare the original data with the OCR output and identify those files that failed the OCR process. These have been extracted for manual examination.

3.37 A summary of the index search process is shown in Figure 3.37.1 below:

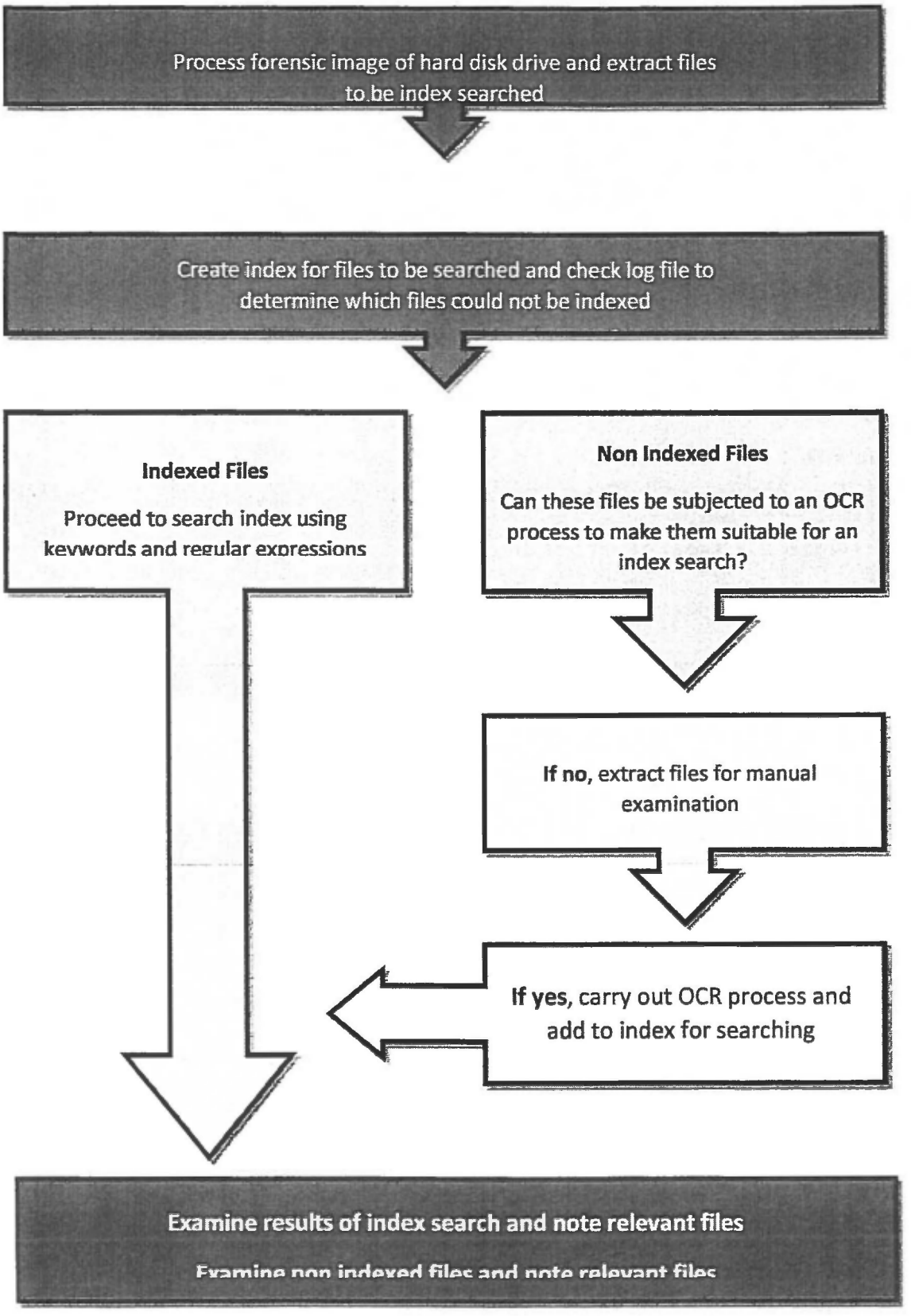

Process forensic image of hard disk drive and extract files to be index searched
Create index for files to be searched and check log file to determine which files could not be indexed
Indexed Files
Proceed to search index using keywords and regular expressions
Non Indexed Files
Can these files be subjected to an OCR process to make them suitable for an index search?
If no, extract files for manual examination
If yes, carry out OCR process and add to index for searching
Examine results of index search and note relevant files
Examine non indexed files and note relevant files

Figure 3.37.1

3.38 Tables 3.37.1 to 3.37.4 below summarises the results of this process.

Nexia Server 2017	11,914	11,429	485
Nexia Server 2016	42,421	42,220	201
Nexia Server 2015	41,407	35,784	5,603
Nexia Server 2014	26,154	23,785	2,369
Nexia Server 2013	13,895	13,867	28
Nexia Server 2012	7,376	7,365	11
Nexia Server 2011	5,557	5,552	5
Nexia Server 2010	2,912	2,908	4
Nexia Server up to 2009	3,098	3,096	2

Table 3.37.1

Nexia PC01 Farrugia	1229	1229	0
Nexia PC02 Castagna	526	526	0
Nexia PC03 D Bugeja	224	224	0
Nexia PC04 A Bugeja	1115	1115	0
Nexia PC05 Spiteri	2106	2105	1
Nexia PC06 Alosio	554	545	9
Nexia PC07 Cann	13	13	0
Nexia PC08 R Zammit	136	132	4
Nexia PC09 Magri	321	320	1
Nexia PC10 Dabruskas	157	46	111

	Nexia PC12 Grech	25	25	0
	Nexia PC13 Doublet	60	60	0
	Nexia PC14 Scerri	340	340	0
	Nexia PC15 Tonna	415	415	0
	Nexia PC16 Anastasi	22	22	0
	Nexia PC17 Pisani	18	18	0
	Nexia PC18 Vella	59	59	0
	Nexia PC19 Zammit	712	706	6
	Nexia PC20 Cini	203	194	9
	Nexia PC21 Muscat	2	2	0
	Nexia PC22 Archives	61	61	0
	Nexia USB01-03	300	299	1

Table 3.37.2

	Pilatus Server DFS01	10,561	10,542	19
	Pilatus Server RDS02	5,586	5,583	3
	Pilatus PC01 Camilleri	124	124	0
	Pilatus PC02 Treasury	5	5	0
	Pilatus PC04 LZammit	272	272	0
	Pilatus PC05 LZammit	78	78	0
	Pilatus PC07	51	0	51
	Pilatus PC08-USB Ganbari	166	162	4

[redacted]	Pilatus PC09&10 S Fournier	44	44	0
[redacted]	Pilatus PC11 Gauci	25	25	0
[redacted]	Pilatus PC12 TZammit	1	1	0
[redacted]	Pilatus USB01 Gaerty	358	356	2
[redacted]	Pilatus USB02 Tasli	4	4	0
[redacted]	Pilatus USB03 Tasli	559	559	0
[redacted]	Pilatus USB06 LZammit	8	8	0
[redacted]	Pilatus USB11-12 S Fournier	3	3	0
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Table 3.37.3

[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	Jan 2018 Data	4	3	1

Table 3.37.4

Panama Papers Zip File

3.39 The zip file containing data from the so called Panama Papers has been provided to Harbinson Mulholland in its raw format in order that they could search it directly. Those files that could not be indexed were subjected to the OCR process outlined above to create searchable files. Files that could not be subjected to the OCR process were provided separately for manual examination. Table 3.39.1 below summarises the results of this process.

OCR of Non-Indexed Data on Panama Papers			
Item	Total	OCR	Failed
1 Panama Papers	32,310	29,598	2,712

Table 3.39.1

Summary of OCR Data

3.40 Table 3.40.1 below summarises the results of the OCR process for all devices.

1				
	Nexia Devices	163,332	154,462	8,870
	Pilatus Devices	17,845	17,766	79
	Jan 2018 Data	4	3	1
	Panama Papers	32,310	29,598	2,712

Table 3.40.1

4 Password Recovery

4.1 A number of encrypted files, that require a password to open and examine their contents, were found during the examination of these items.

4.2 Encryption is the process of encoding information in such a way that only authorised persons can gain access to it. A typical encryption scheme will involve readable information, known as *plaintext*, being subjected to an encryption algorithm that will generate unreadable information, known as *ciphertext*. With strong encryption it should only be possible to decrypt the *ciphertext* using the encryption key, which is usually generated from a password.

4.3 For the vast majority of users, it is not possible to break the algorithms used in strong encryption. Therefore the only practical technique is to recover the password used to encrypt the data in order to facilitate decryption and subsequent examination.

4.4 Recovering the password can be achieved using a number of different methods:

- Requesting the password from the owner or a trusted third party.
- Obtaining the password from other sources such as notebooks.
- Using password recovery software.
- Using Legislation or Court Orders if appropriate.

4.5 ANSEC use Passware Forensic software to attempt the recovery of passwords from encrypted files. Passware is one of the leading tools for the recovery of encrypted electronic evidence and is used by many organisations worldwide.

4.6 In this case it has been requested that password recovery software is used in an attempt to access the files. Although there are many different techniques, password recovery can be divided into two broad categories; dictionary attacks and brute-force attacks.

4.7 Dictionary attacks use a list of known words in an attempt to recover the password. Dictionaries can be provided by the software vendor or can be custom made by the forensic examiner using information available from known sources. Dictionary attacks can also use additional techniques such

as changing between upper and lower case and reversing the order of the words.

4.8 Dictionary attacks are usually the fastest method of password recovery but rely on relatively weak passwords being used by the owner; and the quality of the information available to compile the dictionary.

4.9 Brute force attacks rely on calculating every possible combination that could be used to make up a password and checking to see if it is correct. Clearly this will take much longer than a dictionary attack and success will be dependent on the complexity of the password and the speed of the computers used.

4.10 Other more advanced techniques, such as Xieve attacks, have been developed to refine brute force attacks in an attempt to increase their chances of success. In practice most password recovery software will use a combination of attacks in an attempt to recover the password, as this can increase the chance of success.

4.11 One common question in relation to password recovery is often "how long will it take". There is no standard answer to this question as many variables are involved such as the length, complexity and unpredictability of the password used. This is often referred to as the strength of the password. In addition the software and hardware used to attack the password will also have an impact on the time taken.

4.12 Passware, the manufacturer of the password recovery software used by ANSEC, state that, using an average computer system, an 8 character password, using only letters, would take around 10 hours to recover using brute-force techniques.

4.13 However, increasing the length of the password and adding other characters will greatly increase the length of time to recover the password using a brute-force attack[4]. For example; a password with the characters

[4] This assumes a brute-force attack where all combinations are tested and not a dictionary attack where both these passwords are likely to be included in any list of common passwords and could potentially be recovered in a few minutes.

password could be recovered within a few hours. Whereas using the characters *P@ssw0rd!1234* could take months or even years.

4.14 In view of this it is unlikely that a strong password will be recovered in a reasonable time period. ANSEC forensic examiners have liaised with Harbinson & Mulholland and initially it was decided to carry out a dictionary attack to recover as many passwords as possible. This was then followed by a request by Magistrate Bugeja to the owners of certain documents for them to provide the passwords.

4.15 Finally, all passwords recovered by the password recovery software and provided by the document owners were added to the password recovery dictionary and another dictionary attack was applied to the encrypted files.

4.16 A full list of all encrypted files, including those for which passwords have been recovered have been provided to Harbinson Mulholland. In addition, where possible, the encryption has been removed from the files and plaintext copies have been provided in order that these files can be subjected to the same examination process outlined previously.

4.17 Tables 3.57.1 to 3.57.3 below summarises the total number of encrypted documents found and the number of passwords recovered by this process.

DFS01 Pilatus server	30	7	23
RDS02 Pilatus server	43	26	17
PC04 Pilatus computer	3	0	3
PC08 Pilatus computer	5	4	1
USB01 Pilatus USB	29	4	25

Table 3.57.1

000094
000092

SVR001 Nexia BT Server	3419	1893	2082
PC01 Nexia BT computer	6	1	5
PC02 Nexia BT computer	164	117	47
PC03 Nexia BT computer	7	0	7
PC04 Nexia BT computer	3	1	2
PC05 Nexia BT computer	123	0	123
PC06 Nexia BT computer	121	39	82
PC07 Nexia BT computer	7	5	2
PC08 Nexia BT computer	61	42	19
PC09 Nexia BT computer	16	14	2
PC11 Nexia BT computer	290	238	52
PC12 Nexia BT computer	13	2	11
PC13 Nexia BT computer	93	76	17
PC14 Nexia BT computer	14	1	13
PC15 Nexia BT computer	15	7	8
PC16 Nexia BT computer	1	1	0
PC17 Nexia BT computer	1	1	0
PC18 Nexia BT computer	1	0	1
PC19 Nexia BT computer	47	1	46
PC20 Nexia BT computer	3	0	3
PC21 Nexia BT computer	1	1	0
All Nexia USB devices	9	9	0

Table 3.57.2

MFSP Protected Files			
Device	Protected Files	Recovered	Remaining
SVR01 MFSP Server	8	1	7
HDD01 MFSP Hard Disk	157	48	109
PC01 MFSP computer	6	1	5
Total:	171	50	121

Table 3.57.3

5 Summary of Data Extracted

5.1 All processed data has been provided to The Harbinson Mulholland investigation team for analysis.

5.2 Tables 4.1.1 to 4.4.9 below summarises the data extracted from each device and includes the name of the ANSEC forensic examiner responsible for the extraction and the date on which it was delivered to Harbinson Mulholland. The data extracted has been divided into categorises that include Documents, Email Messages, Pictures, Protected Files, Phone Backups and Skype Chat.

[redacted]										
[redacted]	Nexia NAS	Nexia Server SVR001	R Trotter	622,543	0	10311	4489	0	No	02/10/17
[redacted]	Nexia NAS	Nexia Server SVR02	R Trotter	0	EDB*	0	0	0	No	See Table Below*
[redacted]	Nexia NAS	Nexia Server SVR03	R Trotter	12,815	0	0	0	0	No	02/10/17
[redacted]	Nexia NAS	Nexia Server SVR04	R Trotter	0	0	0	0	0	No	N/A

[redacted]	Nexia NAS	Nexia Email Archive	R Trotter	0	PST*	0	0	0	No	See Table Below*

Table 4.4.1

*Nexia Exchange Database (EDB) & Email Archive (PST)				
Item	Account Name	Examiner	Emails Extracted for Examination	Delivered
[redacted]	Partners EDB	Brian Tonna	G Edgeworth	38,714 unique emails extracted from review from EDB & PST Archives	09/10/17
[redacted]	Partners EDB	Karl Cini	G Edgeworth	178,450 unique emails extracted from review form EDB & PST Archives	09/10/17
3	Partners EDB	Manuel Castagna	G Edgeworth	86,043 unique emails extracted from review form EDB & PST Archives	18/10/17
4	Partners EDB	Tim Dambrauskas	G Edgeworth	45,949 unique emails extracted from review form EDB & PST Archives	18/10/17
5	Partners EDB	Anita Alosio	G Edgeworth	113,744 unique emails extracted from review form EDB & PST Archives	07/12/17
[redacted]	MBD2b	Luke Cann	G Edgeworth	28,505 unique emails extracted from review form EDB & PST Archives	10/05/18
[redacted]	MBD3b	Caroline Dingli	G Edgeworth	75,193 unique emails extracted from review form EDB & PST Archives	14/05/18

MBD2b	Katrin Bondin Carter	G Edgeworth	80,281 unique emails extracted from review form EDB & PST Archives	14/05/18
MBD2b	Gordon Cordina	G Edgeworth	4,180 unique emails extracted from review form PST Archives	14/05/18

Table 4.4.2

PC01 Nexia	HP350G2	R Trotter	3199	151232	70	7	0	No	16/11/17
PC02 Nexia	Dell Latitude E7440	G Edgeworth	2958	40	42	164	IOS x 2	Yes	02/10/17
PC03 Nexia	Dell Vostro15	R Trotter	1980	1	19	3	0	No	16/11/17
PC04 Nexia	Dell Vostro15	J Nelson	4110	0	3	3	0	Yes	07/12/17
PC05 Nexia	Acer Travelmate P256	R Trotter	8142	341	0	15	0	Yes	16/11/17
PC06 Nexia	Dell Latitude E7450	R Trotter	5478	78	159	121	IOS & Blackberry	Yes	16/11/17

	PC07 Nexia	Dell Latitude E7450	R Trotter	331	4	0	7	0	Yes	16/11/17
	PC08 Nexia	Dell Inspiron 17	G Edgeworth	4582	24	58	61	IOS x 1	Yes	29/09/17
	PC09 Nexia	Dell Vostro15 3000	R Trotter	1482	9	549	16	0	Yes	22/11/17
	PC10 Nexia	Dell Latitude E7440	J Nelson	1310	164421	410	0	0	Yes	29/09/17
	PC11 Nexia	Dell Latitude E7470	R Trotter	218	3077	0	203	0	Yes	22/11/17
	PC12 Nexia	HP 350G2	R Trotter	1042	0	1	13	0	Yes	22/11/17
	PC13 Nexia	Dell Vostro 15	G Edgeworth	820	1218	135	93	0	Yes	22/11/17
	PC14 Nexia	Dell Vostro 15	G Edgeworth	1733	37339	19	14	0	Yes	29/09/17
	PC15 Nexia	Dell Vostro 15	G Edgeworth	2052	32	17	15	0	No	29/09/17
	PC16 Nexia	Acer Travelmate P256	R Trotter	460	1394	0	1	0	Yes	07/12/17
	PC17 Nexia	HP350G2	R Trotter	490	94597	0	1	IOS x 1	No	07/12/17

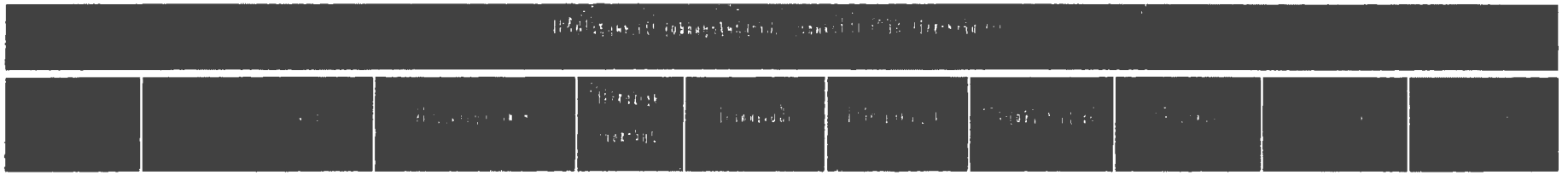
	PC18 Nexia	Dell latitude E7450	J Nelson	976	0	0	1	0	Yes	07/12/17
	PC19 Nexia	Dell Latitude E7440	G Edgeworth	6384	19	549	47	IOS x 4	Yes	29/09/17
	PC20 Nexia	Dell Latitude E7470	G Edgeworth	1623	58291	77	3	0	Yes	29/09/17
	PC21 Nexia	Lenovo ThinkPad Edge	R Trotter	288	1	0	1	0	No	07/12/17
	PC22 Nexia	PC labelled "Amanda Darmanin Payroll"	J Nelson	988	53388	6	0	IOS x 2	Yes	07/12/17
	USB 01-03 Nexia	3 x USB Devices	G Edgeworth	1398	1937	36	9	0	No	02/10/17

Table 4.4.3

	VMM01	VMM Guest VM	R Trotter	0	0	0	0	0	No	N/A
	VMM01 data	VMM Guest VM	R Trotter	0	0	0	0	0	No	N/A
	DC01	Domain Controller	R Trotter	0	0	0	0	0	No	N/A

[redacted]	FXA01	Application Server	R Trotter	3	0	0	0	0	No	09/10/2017
[redacted]	APP01	Application Server	R Trotter	0	0	0	0	0	No	N/A
[redacted]	APP02	Application Server	R Trotter	0	0	0	0	0	No	N/A
[redacted]	CRS01	Carta Registration	R Trotter	0	0	0	0	0	No	N/A
[redacted]	DBS01	Oracle Flexcube	R Trotter	0	0	0	0	0	No	N/A
[redacted]	DC02	Domain Controller	R Trotter	0	0	0	0	0	No	N/A
[redacted]	DFA02	Authentication Server	R Trotter	0	0	0	0	0	No	N/A
[redacted]	DFS01	Distributed File System	R Trotter	0	0	0	0	0	No	N/A
[redacted]	DFS01	Data	R Trotter	64690	11550	500	19	0	No	09/10/2017
[redacted]	RDS02	Remote Desktop Server	R Trotter	19152	3583	1240	31	0	No	18/10/2017

Table 4.4.4



[redacted]	PC01 Pilatus	HP ProBook 450 G0	G Edgeworth	1365	0	61	0	0	Yes	02/10/2017
[redacted]	PC02 Pilatus	HP ProDesk 490 G1	G Edgeworth	331	29	19	0	IOS Encrypted	Yes	02/10/2017
[redacted]	PC03 Pilatus	Lenovo E560	G Edgeworth	0	0	0	0	0	No	N/A
[redacted]	PC04 Pilatus	Dell OptiPlex 390	G Edgeworth	3530	7	9	3	0	No	02/10/2017
[redacted]	PC05 Pilatus	Notebook PC X551c	G Edgeworth	432	11018	184	0	0	Yes	02/10/2017
[redacted]	PC07 Pilatus	Dell OptiPlex 390	G Edgeworth	577	6177	35	0	0	Yes	02/10/2017
[redacted]	PC08 Pilatus	MAC Book Air	G Edgeworth	1407	0	1225	5	IOS x 1 & 1 x ENC	Yes	02/10/2017
[redacted]	PC09 Pilatus	MacBook Air	G Edgeworth	0	84	0	0	IOS x 1	No	02/10/2017
[redacted]	PC10 Pilatus	ThinkPad E440	G Edgeworth	0	106	170	0	IOS x 1	No	02/10/2017
[redacted]	PC11 Pilatus	ThinkPad E540	G Edgeworth	573	0	38	0	0	No	18/10/2017
[redacted]	PC12 Pilatus	ThinkPad T450	G Edgeworth	225	0	0	0	0	No	18/10/2017

[redacted]	PC13 Pilatus	Acer Aspire E1	G Edgeworth	71	0	0	0	IOS - iPod	No	02/10/2017
[redacted]	USB01 Pilatus	External HDD	G Edgeworth	15179	132027	0	29	0	No	31/10/2017
[redacted]	USB02 Pilatus	USB stick marked "Mehmet"	G Edgeworth	43	0	0	0	0	No	18/10/2017
[redacted]	USB03 Pilatus	External HDD	G Edgeworth	12694	442453	57	0	0	No	16/11/2017
[redacted]	USB04 Pilatus	USB stick marked "www.cdds.eu"	G Edgeworth	9	0	0	0	0	No	18/10/2017
[redacted]	USB05 Pilatus	USB stick marked "Paysafe"	G Edgeworth	0	0	0	0	0	No	N/A
[redacted]	USB06 Pilatus	Loose HDD	G Edgeworth	83	0	157	0	IOS x1	No	02/10/2017
[redacted]	USB08-10 Pilatus	3 x USB Devices	G Edgeworth	5	0	0	0	0	No	02/10/2017
[redacted]	USB11-12 Pilatus	USB sticks marked "MIA" & "FIAU 2014"	G Edgeworth	53	0	0	0	0	No	02/10/2017

Table 4.4.5

[redacted]

[redacted]	PC01 Pilatus	Mehmet Tasli	G Edgeworth	7,187 emails extracted for review from OST file	07/12/17
[redacted]	PC01 Pilatus	Mark Camilleri	G Edgeworth	472 emails extracted for review from OST file	07/12/17
[redacted]	PC04 Pilatus	Armin Eckermann	G Edgeworth	10,682 emails extracted for review from 2 x OST files	07/12/17
[redacted]	PC04 Pilatus	Louis Zammit	G Edgeworth	600 emails extracted for review from OST file	07/12/17
[redacted]	PC04 Pilatus	Tatiana Zammit	G Edgeworth	642 emails extracted for review from OST file	07/12/17
[redacted]	PC10 Pilatus	Claudienne Sant Fournier	G Edgeworth	23,688 emails extracted for review from OST file	07/12/17
[redacted]	PC11 Pilatus	Antoniella Gauci	G Edgeworth	27,254 emails extracted for review from OST file	07/12/17
[redacted]	PC11 Pilatus	Mehmet Tasli	G Edgeworth	25,115 emails extracted for review from OST file	07/12/17
[redacted]	PC11 Pilatus	Tatiana Zammit	G Edgeworth	7,322 emails extracted for review from OST file	07/12/17
[redacted]	PC12 Pilatus	Tatiana Zammit	G Edgeworth	10,546 emails extracted for review from OST file	07/12/17
[redacted]	USB06 Pilatus	Claudienne Sant Fournier	G Edgeworth	22,272 emails extracted for review from OST file	07/12/17

Table 4.4.6

	LHD01	2 TB External HDD	M McCully	64924	2803	163738	157	0	No	02/10/2017
	SRV01	MFSP Server	M McCully	322	4	513	10	0	No	31/10/2017
	PC01	Acer Computer	M McCully	1832	242624	1846	6	0	No	31/10/2017

Table 4.4.7

	LHD01	Western Digital HDD	G Edgeworth	0	0	0	0	0	No	21/02/2018
	PC01 HD01	Apple Mac Book Air	G Edgeworth	0	33	449	0	IOS x 4	No	21/02/2018
	PC02 HD01	Dell Min	J Nelson	4	0	0	0	0	Yes	21/02/2018

[redacted]	PC03 HD01	Dell Vostro 15 laptop	J Nelson	5	43,326	12	0	0	No	21/02/2018
[redacted]	MB02	Apple iPad Mini	J Nelson	0	2,964	14,836	0	0	No	21/02/2018
[redacted]	17 CEU 201	Apple iPhone 6	J Nelson	6	0	76	0	0	No	21/02/2018
[redacted]	17 CEU 201a	Go Mobile SIM card	J Nelson	1	0	0	0	0	No	21/02/2018
[redacted]	17 CEU202	Apple iPhone 7	J Nelson	1	111	32	0	0	No	21/02/2018
[redacted]	17 CEU 202a	Go Mobile SIM Card	J Nelson	1	0	0	0	0	No	21/02/2018
[redacted]	17 CEU 203	Sony Xperia Mobile	J Nelson	0	59	0	0	0	No	21/02/2018
[redacted]	17 CEU 203a	Etisalat SIM Card	J Nelson	1	0	0	0	0	No	21/02/2018
[redacted]	17 CEU 203b	Forbesfone SIM Card	J Nelson	1	0	0	0	0	No	21/02/2018

Table 4.4.8

Panama Papers				
Item	Description	Examiner	Contents	
RDT6	Western Digital HDD	R Trotter	Single 112 GB Zip file containing files from Panama Papers	10/04/18

Table 4.4.9

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6 Appendix A – Summary of Data Acquired

1	[redacted]	[redacted]	[redacted]
[redacted]	Pilatus Servers	15 VHDX Files & physical backup	1200
[redacted]	Pilatus Computers	12 laptops	5515
[redacted]	Pilatus USB Devices	12 USB Devices	3049
[redacted]	Nexia Servers	Nexia servers	2000
[redacted]	Nexia Servers	PST Archives	380
[redacted]	Nexia Computers	22 laptops/computers	9856
[redacted]	Nexia USB Devices	3 USB Devices	24
[redacted]	MFSP Server	Server and external storage	2156
[redacted]	MFSP-Computers	1 laptop–	500
[redacted]	January 2018 Data	3 laptops & 1 USB HDD	2609
[redacted]	January 2018 Data	4 Mobile devices & SIM cards	26
[redacted]	Panama Papers Data	1 zip file contained on USB HDD	112
		[redacted]	[redacted]

Table 6.1

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2. **Smiegħ ta' xiehda ta' diversi persuni involuti direttament jew indirettament mal-allegazzjonijiet meritu ta' din l-inkjesta.**

Minbarra l-ġbir tad-dokumenti inġabret 477 il-testimonjanza ta' persuni li tinsab kollha reġistrata fl-atti ta' din l-Inkjesta. Dik ix-xiehda li kienet l-aktar tolqot il-fini ta' din l-inkjesta ġiet riassunta fil-Kapitolu li jittratta l-analiżi tax-xiehda. Dawk ix-xiehda li għalkemm instemgħu pero ma kienux determinanti għall-istħarriġ li sar, għalkemm ma ġewx inklużi fil-Kapitoli dwar l-analiżi tax-xiehda, ix-xiehda tagħhom xorta waħda ġiet reġistrata u tinsab formanti parti minn dan il-*Proces Verbal*. Kien meħtieġ li, għall-fini ta' ekonomija ta' ħin jiġu kkonċentrati l-isforzi fuq dak li l-aktar kien jolqot il-meritu ta' din l-inkjesta.

Biss minbarra l-ġbir tal-informazzjoni mingħand Nexia BT u l-Bank Pilatus, din l-inkjesta ġabret ukoll informazzjoni oħra mis-sorsi aktar il-fuq imsemmija, fosthom ix-xhieda prinċipali infushom – Daphne Caruana Galizia, Maria Efimova, Dr. Joseph Muscat, Michelle Muscat, Keith Schembri, Dr. Konrad Mizzi, John Dalli, Brian Tonna, Karl Cini, Ali Sadr Hasheminejad, Hamidreza Ghanbari, Claude-Ann Sant Fournier, Antoniella Gauci, kif ukoll xiehda oħra bħal Pierre Portelli li fornew informazzjoni utli għal din l-inkjesta. Dan minbarra x-xiehda tal-Kummissarju tal-Pulizija u l-

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ogħola uffiċjali tal-Korp, kif ukoll dawk direttament involuti fl-investigazzjonijiet. Apparti hekk inġabret l-informazzjoni miġjuba mill-eżekuzzjoni tal-ittri rogatorji, fosthom dawk mill-Panama fejn xehdu Jaqueline Alexander, Verna de Nelson, Luis Quiel kif ukoll Juergen Mossack, kif ukoll l-informazzjoni l-oħra kollha li tinsab inkluża f'dan il-*Proces Verbal*. Matul il-kors ta' din l-inkjesta inġabret il-fuq minn erbgħa mija u sebgħin testimonjanza, inkluż ta' xiehda li xehdu aktar minn darba, uħud xehdu darba waħda filwaqt li kien hemm drabi fejn persuni issottomettew xi informazzjoni jew dokument. Mhux ix-xiehda ta' dawn ix-xhieda kollha tat informazzjoni li setgħet kienet utli għal din l-inkjesta. Kien hemm xiehda li xehdu fl-atti ta' xi wieħed mill-ħafna rikorsi minn persuni differenti li ġew preżentati matul il-kors ta' din l-inkjesta. Hemm oħrajn li xehdu fuq aspetti inċidentali ta' din l-inkjesta. Dan il-*Proces Verbal* ġabar fih sunt tax-xiehda l-aktar determinanti dwar l-aspetti l-aktar fundamentali fir-rigward tal-allegazzjonijiet li huma soġġetti għal din l-inkjesta skont ir-rapport li sar mill-Kummissarju tal-Pulizija.

Kull xhud li xehed ġie mismugħ personalment mill-Maġistrat Inkwirenti u x-xiehda tiegħu hija reġistrata u traskritta u tifforma parti minn dan il-*Proces Verbal*. Biss mhux kull xhud forna informazzjoni li setgħet kienet rilevanti għall-fini ta' din l-inkjesta. Dawk ix-xiehda li kienu l-aktar importanti u li taw verżjonijiet li direttament jolqtu u jinċidu fuq il-meritu tal-inkjesta mhux

biss ġew analizzati iżda siltiet mix-xiehda tagħhom ġew ukoll riprodotti f'dan il-*Proces Verbal* biex il-konklużjonijiet ikunu aktar ċari. Kienu ftit dawk ix-xiehda li ma ġewx rintraċċati minkejja t-talbiet ripetuti tal-Maġistrat Inkwirenti lill-Pulizija u l-isforzi li saru minnhom biex jinstabu. Dawn kienu Adrian Dixon minn Mossack Fonseca, u Gabriele Stucchi, Dina Stankovic, Linet Estiroti mill-Bank Pilatus. Biss l-inkjesta kellha biżżejjed informazzjoni biex tkun tista' tmexxi l-istħarriġ tagħha, għalkemm kien ikun aktar desiderabbli li tisma' wkoll il-verżjoni ta' dawn il-persuni.

Skont il-ġurisprudenza il-Maġistrat Inkwirenti fl-*in genere* jiġbor u jippriżerva l-provi li jinstabu. F'dan il-każ li kien jittratta aċċertament t'allegazzjonijiet misjuba f'artiklu miktub minn ġurnalista li spiċċa l-bażi tar-rapport tal-Kummissarju tal-Pulizija, l-eżerċizzju rriżulta li kien aktar kumpless minn hekk. F'dan il-każ il-Maġistrat Inkwirenti ġie adit biex jistħarreġ jekk dawn l-allegazzjonijiet kienux fondati fuq provi, (u allura mitlub li jistħarreġ "fatti" qabel ma jasal jekk kienx hemm "delitti"). Għalhekk il-Maġistrat Inkwirenti bilfors ried li jifli x-xiehda li ġiet miġbura u maħżuna biex ikun jista' jara jekk u sa fejn allegazzjoni kienetx fondata fuq provi jew le. Altrimenti kien ikun impossibbli għalih jiddetermina jekk setgħax ikun hemm l-estremi ta' reat kriminali o meno bażati fuq allegazzjonijiet mingħajr ma tali allegazzjonijiet ikunu mgħarbla dwar kemm huma sorretti minn provi o meno. Biex tifhem jekk hemmx l-estremi

ta' delitt trid qabel xejn tifhem u tagħrbel x'inhuma l-fatti li fuqhom l-aħbar tal-allegat delitt ikunu bażati. Din l-inkjesta kellha bilfors tagħmel dan l-eżerċizzju biex tkun tista' tasal għall-konklużjonijiet tagħha.

Minħabba n-numru kbir ta' xhieda mismugħa, kellu jsir eżerċizzju li bih ix-xiehda tiġi analizzata u l-Maġistrat Inkwirenti jislet liema minn dik ix-xiehda kienet marbuta mal-allegazzjonjiet u liema ma kienetx. Dik ix-xiehda li ma kienetx direttament marbuta mal-allegazzjonijiet jew li minnha ma ħareġ xejn ta' sugu għal din l-inkjesta, għalkemm xorta waħda tifforma parti mill-atti tal-Inkjesta u l-istess xiehda ġiet reġistrata u traskritta u ġiet kunsidrata mill-Maġistrat Inkwirenti meta ġie biex jagħmel il-konklużjonijiet tiegħu ma ġietx inkluża fis-sunt tax-xiehda f'dan il-*Proces Verbal*.

Dan il-*Proces Verbal* jiġbor fih is-sustanza ta' dak li ġie miġbur u analizzat. Il-provi miġbura huma parti mill-atti tal-inkjesta u dan il-*Proces Verbal*. Dan il-*Proces Verbal* jiġbor fih is-sustanza ta' dawk il-provi ammissibbli u rilevanti għal din l-inkejsta li ġew miġbura u jitlaq mill-presuppost li, bħal Maġistrat Inkwirenti, l-qarrej ikun qara u analizza l-evidenza kollha li kienet ġiet miġbura fih. Ix-xiehda tax-xhieda prinċipali ġiet inkluża f'dan il-*Proces Verbal* f'sunt li jiġbor is-sustanza ta' dak li qalu fl-inkjesta u dan sabiex jiġi spjegat aħjar dak li instab. Qabel xejn hemm ix-xiehda tal-ġurnalista Daphne Caruana Galizia, li xehdet darbtejn. Ma dawn hemm ukoll l-artiklu meritu

ta' din l-inkjesta u li jrid jiġi moqri mhux biss fil-kontenut tiegħu, iżda wkoll irid jittieħed fl-isfond ta' dak li Caruana Galizia xehdet f'din l-inkjesta. Peress li fix-xiehda tagħha Daphne Caruana Galizia qalet li hija kienet ġabet l-informazzjoni mingħand Maria Efimova, u li fi kwalunkwe każ, anke informazzjoni oħra li kienet ġabet mingħand terzi kienet rikunduċibbli lill-istess Efimova, l-inkjesta semgħet lil Maria Efimova tixhed għal erba' darbiet. Hemm ukoll ix-xiehda ta' Pierre Portelli, ġurnalist priminenti ieħor li ġie l-quddiem fl-inkjesta b'informazzjoni importanti għal aktar minn darba u kien l-uniku wieħed fost Caruana Galizia u Efimova li forna kopji ta' dokumenti flimkien ma dikjarazzjoni tiegħu. Huwa ferm interessanti li x-xiehda ta' dawn it-tliet persuni tinqara' flimkien u tiġi mistħarġa waħda ħdejn l-oħra. L-effetti u l-konsegwenzi li joħorġu minn din ix-xiehda flimkien hija importanti ħafna għall-konklużjonijiet ta' din l-inkjesta.

Mill-banda l-oħra f'dan il-*Proces Verbal* hemm ukoll sunt tax-xhieda tal-kwerelanti Joseph Muscat u martu Michelle Muscat li jtennu ċ-ċaħda kategorika għall-allegazzjonjiet li ġew minnhom deskritti bħala li huma kalunjużi u frott ta' fabbrikazzjoni. Hemm ukoll sunt tad-deposizzjoni ta' Keith Schembri, Konrad Mizzi (li xehed darbtejn), kif ukoll John Dalli, (li xehed darbtejn) fejn huma jistqarru wkoll id-dissens tagħhom fuq il-parti l-kbira tal-allegazzjonijiet ta' Caruana Galizia fl-artiklu tagħha fil-konfront tagħhom. Din ix-xiehda hija importanti wkoll biex jiġi mifhum safejn dawn

ix-xiehda jikkonfermaw parti żgħira mill-allegazzjonijiet ta' Caruana Galizia u l-istqarrijiet lilha minn Efimova u fejn huma ma jaqblux u jiċħdu. Din ix-xiehda trid tittieħed ukoll fl-isfond u fil-kuntest tal-kumplament tal-provi miġbura u tal-analiżi tal-*Forensic Accountants* li daħlu f'ħafna dettall dwar dan. Id-dettalji dwar l-analiżi tal-*Forensic Accountants* ġiet magħmula separatament f'Taqsima għaliha.

F'dan is-sunt ta' xiehda fil-*Proces Verbal,* ġew inklużi wkoll id-deposizzjonijiet tad-diriġenti tal-Bank Pilatus fosthom Ali Sadr Hasheminejad, Hamiderza Ghanbari, u l-kumplament tal-impjegati u ex impjegati li ġew rintraċċjati madwar id-dinja. Peress li l-Bank Pilatus kellu numru relattivament żgħir ta' diriġenti u impjegati fiż-żmien rilevanti għal dan il-każ (ċjoe meta skont Efimova seħħew l-allegazzjonijiet li kienu jinvolvu lil Bank Pilatus – bejn Jannar u Marzu tal-2016) kien allura aktar faċli li l-dawk l-impjegati setgħu ikunu involuti fl-aspetti varji tal-operazzjonijiet tal-Bank u għalhekk setgħu ġew f'kuntatt dirett ma xi dokumenti, struzzjonjiet, jew transazzjonijiet li Efimova semmiet fir-rivelazzjonijiet tagħha lil Caruana Galizi kif ukoll fix-xiehda tagħha. Għalhekk f'dan il-Proces Verbal ġie inkluż ukoll sunt tax-xiehda ta' dawn ix-xhieda li turi kull wieħed u waħda minnhom x'kellu xi jgħid dwar l-allegazzjonijiet magħmula minn Efimova u li kienu jinvolvu lil Bank Pilatus. Anke din ix-xiehda trid tittieħed fl-isfond tar-riżultanzi oġġettivi li nsatbu

fil-kors ta' din l-inkjesta, mhux l-inqas l-analiżi tal-*Forensic Accountants* dwar ir-*records* diġitali u stampati tal-Bank Pilatus li ġew analizzati. Anke dawn kienu determinanti għall-konklużjonijiet ta' din l-inkjesta.

Minbarra dawn xehdu wkoll id-Diriġenti kollha, l-impjegati u l-ex impjegati tad-Ditta Nexia BT. Dawn kienu f'numru ferm ogħla mill-impjegati tal-Bank Pilatus. Mix-xiehda ta' dawn l-impjegati jirriżulta li l-maġġoranza assoluta tagħhom ma kellhomx x'jaqsmu mal-allegazzjonijiet, ma kienux involuti jew ma kienu jafu xejn dwar dawn l-allegazzjonijiet għax qatt ma kienu ħadmu għal xi wieħed mill-peruni involuti jew fuq xi parti minn dawn l-allegazzjonijiet. L-aktar li ħareġ ċar minn din ix-xiehda huwa li fir-rigward ta' dak li kellhom x'jaqsmu l-allegazzjonijiet meritu ta' din l-inkjesta, il-persuna li kienet l-aktar involuta direttament u li setgħa kien jaf x'kien qiegħed jiġri u li setgħa jforni informazzjoni kien Karl Cini. Brian Tonna, minn naħa tiegħu, għalkemm kien il-*Managing Partner* tad-Ditta jixhed li kien iħalli l-affarijiet li kellhom x'jaqsmu mal-klijenti internazzjonali prinċipalment f'idejn Karl Cini. Ħareġ ċar li kienu Karl Cini u Brian Tonna li kienu dawk li l-aktar setgħu jagħtu ħjiel dwar jekk u safejn l-allegazzjonijiet kienux minnhom. Michael Satariano, li ssemma wkoll fl-allegazzjonijiet ta' Caruana Galizia jinsab inkluż fis-sunt tax-xiehda għax anke dan forna sfond interessanti għal dak miktub.

Mill-banda l-oħra, l-kumplament tal-impjegati ta' din id-Ditta jikkonfermaw li kienu konxji li d-Ditta Nexia BT kienet tagħti servizzi t'*accountancy* u *audit* lil kumpaniji jew negozji li kienu rikonduċibbli għal Keith Schembri jew martu Josette Schembri Vella, u dan fil-maġġoranza assoluta tagħhom dwar negozji jew kumpaniji lokali kif ukoll li Nexia BT kienet tagħti diversi servizzi lil Entitajiet Pubbliċi u Ministeri tal-Gvern. Ix-xiehda ta' dawn l-impjegati kollha ġiet reġistrata u traskritta. Iżda f'din l-inkjesta l-enfażi riedet issir fuq il-meritu tagħha, u ċjoe l-allegazzjonijiet meritu tar-rapport tal-Kummissarju tal-Pulizija u b'hekk ma kienx possibbli għal din l-inkjesta tidħol fuq aspetti oħra li ma kienux jaqgħu fil-parametri tar-rapport. Biss l-inkjesta ħadet in konsiderazzjoni wkoll li matul il-kors tal-analiżi tagħha, ħarġu diversi allegazzjonijiet oħra li wħud minnhom kienu wkoll jinsabu taħt l-iskrutinju ġudizzjarju f'inkjesti separati jew oħrajn li kienu għadhom jeħtieġu l-awtorizzazzjoni biex jinbdew.

F'dan il-*Proces Verbal* għalhekk ġiet inkluża x-xiehda ta' dawk l-impjegati li mix-xiehda tagħhom ħarġet informazzjoni utli għal din l-inkjesta. Dawk li wieġbu li ma kienux involuti jew li ma jafu xejn ma ġewx inklużi fis-sunt iżda x-xiehda tagħhom xorta ġiet reġistrata u traskritta u meħuda in konsiderazzjoni għall-fini tal-konklużjonijiet in kwantu l-fatt li l-maġġoranza ta' dawn l-impjegati jixhdu li ma kienux jafu xejn jew ma kienux involuti għandu sinjifikat importanti fih innifsu.

Apparti minn hekk, f'dan il-*Proces Verbal* ġie inkluż ukoll sunt tax-xiehda tal-Awdituri Esterni tal-Bank Pilatus, id-Ditta *KPMG* kif ukoll l-Awdituri Interni tal-istess Bank *PriceWaterhouse Coopers* li minn naħa tagħhom ukoll taw sfond importanti għall-kxif tal-verita f'dan il-każ. Inoltre ġiet miġbura wkoll ix-xiehda ta' rappreżentant tad-Ditta *Deloitte Malta* li kienu għamlu wkoll rapport dwar ir-riskju lil Bank Pilatus.

Jiġi mtenni li dawn riportati aktar l-isfel fis-sunt tax-xiehda huma dawk ix-xiehda li ġew meqjusa bħala l-aktar taw informazzjoni li kienet torbot mal-meritu ta' din l-inkjesta; iżda l-konklużjonijiet tal-Maġistrat Inkwirenti mhix bażata biss fuq ix-xiehda tagħhom. Il-konklużjonijiet huma milħuqa fuq l-analiżi tax-xiehda u d-dokumenti voluminużi kollha miġbura matul il-kors ta' din l-inkjesta inkluż, u b'mod partikolari x-xiehda miġbura permezz tal-ittri rogatorji, dik tal-esperti tekniċi eċċetra. Il-konkluzjonijiet ta' din l-inkjesta għalhekk huma l-ġabra sħiħa tal-verżjonijiet u dokumenti kollha miġbura nonche l-analiżi teknika li saret fuqhom b'riferenza għall-meritu tar-rapport tal-Kummissarju tal-Pulizija.

3. **Ezekuzzjoni t'ittri rogatorjali lejn diversi pajjiżi li kellhom x'jaqsmu mal-allegazzjonijiet meritu ta' din l-inkjesta.**

Parti minn mill-evidenza ġiet ottjenuta bil-mezz ta' ittri rogatorji. Matul il-kors tal-inkjesta saru diversi konsultazzjonijiet anke mal-*Forensic Accountants* nominati sabiex ikun stabbilit ukoll jekk u safejn kien hemm il-ħtieġa li informazzjoni tiġi mitluba jew ottjenuta b'mod formali u dan in kwantu mhux kull biċċa informazzjoni li tkun waslet għand l-inkjesta setgħet kienet rilevanti għall-fini ta' din l-inkjesta. Dawn l-ittri rogatorji kienu intiżi li :

(a) jibdlu f'evidenza informazzjoni li ġiet għall-attenzjoni tal-inkjesta;

(b) jiġu aċċertati ċerti allegazzjonijiet b'mod li jkun determinat jekk l-allegazzjonijiet ikunux fattwali u pruvabbli jew jibqgħux fir-relm tal-allegazzjoni;

(c) isaħħu evidenza ottjenuta mill-inkjesta minn sorsi varji fosthom dokumenti diġitali jew stampati elevati fil-kors tal-inkjesta nnifisha.

Intbagħtu ittri rogatorji jew talbiet għal assistenza lejn is-segwenti pajjiżi : -

A. Ir-Repubblika tal-Panama;

B. Ir-Renju tal-Belġju;

C. L-Emirati Għarab Magħquda; u

D. Ir-Repubblika tal-Ġermanja – fil-forma ta' Mandat t'Investigazzjoni Ewropew.

E. Stati Uniti tal-Amerika

A.1. Ittra rogatorja mibgħuta lill-Awtoritajiet tar-Repubblika tal-Panama

Il-Panama kienet ġurisdizzjoni importanti ħafna għall-fini ta' din l-inkjesta inkwantu kienet allegata bħala l-ġurisdizzjoni li kienet tikkostitwixxi s-sede ta' *Egrant Inc* (nonche *Tillgate Inc* u *Hearnville Inc*). Inoltre, dan il-pajjiż kien rilevanti biex ġew stabbiliti diversi fatti li taw dawl fuq l-allegazzjonijiet meritu tal-inkjesta.

Ġew mibgħuta żewġt ittri rogatorjali – waħda oriġinali u l-oħra supplimentari. L-ittra oriġinali kienet intbagħtet tramite l-Avukat Ġenerali b'ittra datata 5 ta' Mejju 2017 filwaqt li ittra rogatorja supplimentari kienet ġiet mibgħuta fit-30 t'Awissu 2017.

Il-*focus* prinċipali tal-ittra rogatorjali oriġinali kien bażat fuq l-allegazzjoni li l-ismha ta' *Egrant Inc* kienu miżmuma minn *Mossack Fonseca Nominees* għal Michelle Muscat. L-ittra rogatorja supplimentari kienet magħmula wara informazzjoni ulterjuri li ġiet riċevuta mill-inkjesta fejn fosthom din daħlet aktar fil-fond fir-rigward tal-allegati żewġt *declarations of trust* li fuqhom

kienet tistrieh gran parti tal-allegazzjoni magħmula minn Daphne Caruana Galizia li *Egrant Inc.* kienet proprjeta ta' Michelle Muscat bl-ishma tagħha miżmuma minn *nominees* tad-ditta Mossack Fonseca.

Fil-mument meta kienet mibgħuta l-ittra rogatorja oriġinali l-inkjesta kien għad għandha informazzjoni limitata ħafna u għalhekk diversi mistoqsijiet kienu saru biex jiġu stabbiliti xi fatti, li maż-żmien, bosta minnhom, kienu bdew jiġu ċċarati minn sorsi oħra u evidenza ġdida li kienet laħqet inġabret. Għalhekk ċerti mistoqsijiet li kienu dehru importanti li jiġu mistoqsija fil-bidu, ma baqgħux daqshekk importanti malli l-inkjesta bdiet tistabbilixxi dejjem aktar fatti minn evidenza dejjem aktar kopjuża. Dan il-Proċess Verbal sejjer ikun qiegħed jiffoka fuq il-konklużjonijiet l-aktar rilevanti u importanti li tnisslu minn dawn l-ittri rogatorji għall-fini ta' din l-inkjesta.

Id-dokumenti li kienu ġew mehmuża mal-ittra rogatorja oriġinali tal-5 ta' Mejju 2017 għajr ħlief għad-dokumenti 1 sa 3, kienu meħuda mill-faxxiklu intestat f'isem il-kumpanija *Egrant Inc* li kien ġie elevat mill-Uffiċji tad-Ditta Nexia BT. Kien meħtieġ għalhekk li qabel xejn sabiex jiġi stabbilit, kemm jista' jkun b'evidenza indipendenti, mhux biss l-awtentiċita ta' dawn id-dokumenti, iżda wkoll it-tifsira ta' kull wieħed minnhom u kif kull dokument setgħa jagħti dawl fuq l-allegazzjonijiet li kienu qegħdin isiru. Dan b'mod partikolari fid-dawl tal-konflitt fil-verżjonijiet bejn dak li kien

qiegħed jiġi rapurtat mistqarr minn Brian Tonna (li l-kumpanija *Egrant Inc* kienet kumpanija tiegħu), dak li kien qiegħed jiġi allegat fl-artikli (li *Egrant Inc.* proprjeta ta' Michelle Muscat) u ċ-ċaħda kategorika ta' Michelle u Joseph konjuġi Muscat li huma ma kellhom xejn x'jaqsmu ma din il-kumpanija, u li qatt ma rċevew il-flejjes allegati minn Daphne Caruana Galizia fl-artiklu tagħha.

Minn dawn id-dokumenti misjuba fil-faxxiklu kustodit fl-Uffiċji ta' Nexia BT ġiet traċċjata *timeline* ta' parti mill-istorja ta' *Egrant Inc.*, riflessa fid-dokumenti li kienu jinstabu f'dan il-faxxiklu. Sadattant minn parti oħra tad-dokumenti stampati prelevati mill-Uffiċini ta' Nexia BT u mill-analiżi li kienet bdiet issir mill-*Forensic Accountant* Miroslava Milenovic instabu wkoll id-dokumenti relattivi għal *Egrant Inc* li ġew indikati bħala doc. 21 sa doc. 23. Minn dawn id-dokumenti flimkien setgħa joħroġ is-segwenti *timeline* :

Data	Dokument u materja
4 ta' Lulju 2013	L-att tal-inkorporazzjoni ta' *Egrant Inc.* minn Dubro Limited S.A. u Aliator S.A.
8 ta' Lulju 2013	*Assignment of subscription* ta' żewġt ishma *to bearer* minn *Dubro Limited S.A.* u *Aliator S.A.*
9 ta' Lulju 2013	Minuti tal-Bord tad-Diretturi ta' *Egrant Inc* fejn ġie *issued* sehem wieħed favur *ATC Administrators Inc.* għal *nominal value* ta' mitt dollaru Amerikan (US$100) u fejn il-President ta' Egrant Inc. Ricardo Samaniego u d-Direttriċi Yadira de Boutaud setgħu jiffirmaw u joħorġu *share certificates*.

9 ta' Lulju 2013	Kopja tas-*share register* li kien juri li sehem waħdieni *nominative* bil-valur ta' mitt dollaru Amerikan (US$100) kien ġie maħruġ f'isem *ATC Administrators Inc.* bħala azzjonist ta' dan is-sehem waħdieni.
19 ta' Lulju 2013	Ittra mingħand Yakeline Perez (Viċi President u Teżorier ta' *Egrant Inc*) lil BTI Management Limited li permezz tagħha din ikkonfermat li *Egrant Inc* qatt ma għamlet negozju, ikkontrattat jew daħlet f'obbligazzjonijiet jew li kellha d-Diretturi tagħha attivi. Iċċertifikat ukoll li sa dak iż-żmien *Egrant Inc* ma kellhiex assi jew djun.
7 t'Awissu 2013	*MF Legal Services* fil-kwalita tagħhom ta' *Registered Agents* ta' *Egrant Inc* ħarġu "Certificate of Incumbency" li permezz tiegħu iċċertifikaw li *Egrant Inc* kienet kumpanija reġistrata fil-Panama, d-data tar-reġistrazzjoni, min huwa l-aġent reġistrat tagħha, kemm huwa l-kapital awtorizzat, li *Egrant Inc* kienet kumpanija *in good standing*, nonche provdew lista tad-diretturi tagħha.
8 t'Awissu 2013	*Order form* għall-akkwist tal-kumpanija *Egrant Inc* iffirmata minn Brian Tonna nhar it-8 t'Awissu 2013 fejn l-i*special billing address* mogħti kien BTI Managment Limited, Suite 2, The Penthouse, Capital Business Centre, Entrance C, Triq taz-Zwejt, San Gwann, SGN3000.
9 t'Awissu 2013	*ATC Administrators Inc* għamlu dikjarazzjoni li huma kienu s-sidien u kienu qegħdin iżommu azzjoni waħda (*hold ownership and beneficial interest in one share*) f'*Egrant Inc* li kienu *exclusively vested in favour of Brian Tonna "the client"* kif ukoll li dan is-sehem jew ishma oħra li setgħu jiġu *issued to us* fir-rigward ta' dawn l-ishma kienu sejrin jinżammu f'kull waqt f'isimhom *upon trust for the client* u ddikjaraw ukoll li huma kienu lesti li jħalsu lill-klijent kull dividend u dues li għalihom setgħu ikunu intitolati bis-saħħa tal-fatt li huma kienu sidien ta' dawn l-ishma u qablu wkoll li jeżegwixxu trasferiment ta' dawn l-ishma jew jeżerċitaw is-setgħat tal-vot jew li jagħmlu minn dawn l-ishma skont kif ikunu diretti mill-klijent. Din id-dikjarazzjoni kienet iffirmata minn Letitia Montoya, Yvette Rogers u Luis Quiel.
9 t'Awissu 2013	*Invoice* maħruġa minn Mossack Fonseca lil BTI Management Limited, l-għada 9 t'Awissu 2013, indirizzata lil Karl Cini fil-indirizz BTI Managment Limited, Suite 2, The Penthouse, Capital Business Centre, Entrance C, Triq taz-Zwejt, San Gwann, SGN3000, ***Malta Island***, Malta għas-servizzi ordnati fl-*order form* tal-jum ta' qabel iffirmata minn Brian Tonna.
12 t'Awissu 2013	*BTI Management Limited* ħarġet dikjarazzjoni dwar *Egrant Inc* fis-sens li ladarba *MF Legal Services* kienu sejrin jipprovdu s-servizzi ta' *directorship* għal *Egrant Inc, BTI Management Limited* kienet qablet li tindennizza lil MF Legal Services għal kull *claims, costs, expenses*, eċċetra fir-rigward ta' kull

	membru, impjegat, persuna jew kumpanija assoċjata, holding office, direttorat jew azzjonista fil-kumpanija fir-rigward ta' kull deċiżjoni meħuda minn tali persuna in konnessjoni mal-amministrazzjoni jew maneġġjar tal-kumpanija *Egrant Inc.*
12 t'Awissu 2013	Minuti tal-Bord tad-Diretturi ta' *Egrant Inc* li permezz tagħhom Brian Tonna u Karl Ċini, individwalment, ġew mogħtija prokura ġenerali b'poteri wiesa ħafna fuq il-kumpanija *Egrant Inc.*
15 t'Awissu 2013	*Invoice* maħruġa minn Mossack Fonseca lil BTI Management Limited, fil-15 t'Awissu 2013, indirizzata lil Karl Cini fil-indirizz BTI Managment Limited, Suite 2, The Penthouse, Capital Business Centre, Entrance C, Triq taz-Zwejt, San Gwann, SGN3000, ***Malta Island***, Malta għas-servizzi ta' *power of attorney* u notarizzazzjoni tagħha.
15 ta' Marzu 2016	Ittra minn Brian Tonna lil Mossack Fonseca Head Office li permezz tagħha Tonna talabhom biex jistralċjaw lil kumpanija Egrant Inc. Tonna talabhom jagħmlu kuntatt ma *BTI Management Limited* għal dan.
19 ta' Jannar 2017	Ittra minn Brian Tonna li permezz tagħha reġgħa talab lil Mossack Fonseca sabiex jistralċjaw lil kumpanija *Egrant Inc.*
19 ta' Jannar 2017	Prokura iffirmata minn Brian Tonna li permezz tagħha Leticia Montoya, Luis Quiel u Frances Perez or *any other lawyer or officer at Mossack Fonseca* ġew mogħtija s-setgħa jirrapreżentaw lil Brian Tonna fil-laqgħa għall-fini ta' stralċ tal-kumpanija *Egrant Inc.*
15 ta' Frar 2017	Kopja tal-kuntratt li permezz tiegħu quddiem in-Nutar Victor Manuel Aldana Aparicio kien deher Luis Quiel f'isem Bufete MF & Co li permezz tiegħu ġiet preżentata r-resoluzzjoni tal-azzjonisti ta' *Egrant Inc.* datata 19 ta' Jannar 2017 f'11:45 fejn il-President tal-kumpanija *Egrant Inc* Ricardo Samaniego u Yakeline Perez bħala Segretarju tal-kumpanija *Egrant Inc.* (*in lieu* tas-segretarju l-proprja Yadira de Boutaud) iddikjaraw li r-raġuni ta' din il-laqgħa kienet l-istralċ tal-kumpanija *Egrant Inc* b'effett mit-terminazzjoni ta' dik l-istess laqgħa.
16 ta' Frar 2017	Ittra mibgħuta minn Ricardo Samaniego li permezz tagħha informa li *Egrant Inc* kienet ġiet stralċjata.

Għalhekk inħasset il-ħtieġa li qabel xejn jiġu verifikati dawn id-dokumenti sabiex jiġi stabbilit jekk kellhomx mis-sewwa. Dan beda jsir billi matul l-

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eżekuzzjoni tal-ittra rogatorja lill-Awtoritajiet Ġudizzjarji tal-Panama, fost affarijiet oħra, ċerti mistoqsijiet lil persuni li deheru li setgħu kienu direttament jew indirettament involuti fit-twaqqif u tħaddim ta' *Egrant Inc* ġew ukoll riferiti għad-dokumenti indikati. Għall-fini ta' kjarezza, it-test ta' din l-ittra rogatorja qiegħed jiġi riprodott:-

Request for Mutual Assistance in Criminal Matters to the Competent Judicial Authorities of the Republic of Panama in connection with the Magisterial Inquiry regarding the company Egrant Inc. incorporated in Panama and its relevant operations and transactions.

Inquiring Magistrate Dr. Aaron Bugeja LL.D., who is presently conducting the above-captioned inquiry regarding the Panamanian company 'Egrant Inc.' and its relevant operations, respectfully requests assistance from the competent Judicial Authorities in the Republic of Panama in relation to this same criminal investigation.

This letter of request is being made on an urgent basis in view of the sensitive nature of the same inquiry and also in view of the short legal time frame of sixty days in which the Inquiring Magistrate has to conclude the same Inquiry.

Facts

The Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media against the Honourable Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons. These allegations concern mainly the following facts:

i. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc, which is a company incorporated in the Republic of Panama; and
ii. the back accounts of this same company, Egrant Inc., were in receipt of considerable sums of money from Al Sahra FZCO, a company belonging to Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Local media is claiming that Egrant Inc. belongs to Mrs. Michelle Muscat, the Honourable Prime minister's wife, on the strength of two declarations of trust allegedly provided to

Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust allegedly show that the shares in Egrant Inc., a Panamanian company are held by Mossack Fonseca as nominees for Mrs. Michelle Muscat.

Transcripts allegedly purporting to be the contents of these declarations of trust can be found in 'DOC. 1 and DOC. 2' enclosed with this Letter of Request.

With regards to the alleged transactions, it is being claimed that during the months of January, February and March 2016 there were several transactions of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc. in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment', as per DOC. 3.

In the event that these allegations are proven, in terms of Maltese Law and the United Nations Convention against Transnational Organized Crime and the Protocols thereto (the Palermo Convention) they will constitute the crime of participating in a criminal organisation of at least three people and also the serious crimes of Corruption and Money Laundering, both punishable by more than four years imprisonment in terms of Maltese law.

The Offences

In view of the above, the Inquiring Magistrate is investigating this as a case of participation in a criminal organisation, corruption and money laundering in terms of Chapters 9 and 373 of the Laws of Malta. The relevant legal articles are being reproduced hereunder:

Organised Crime, Article 83A of Chapter 9 (Criminal Code) of the Laws of Malta

83A. (1) Any person who –

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members, shall be guilty of an offence and shall liable, on conviction, to the punishment of imprisonment for a term from four to nine years.

(2) Any person who belongs to an organisation referred to in subarticle (1) shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years.

(3) Where the number of persons in the organisation is ten or more the punishment in the preceding subarticles shall be increased form one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:

(a) where the offence of which the person was found guilty is the offence in subarticle (1), to the payment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);

(b) where the offence of which the person was found guilty is the offence in subarticle (2), to the payment of a fine (multa) of not less than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20);

(c) where the offence of which the person was found guilty is punishable as provided in subarticle (3) of this article –

(i) where the offence is that provided in subarticle (1), to the punishment of a fine (multa) of not less than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70);

(ii) where the offence is that provided in subarticle (2), to the punishment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67).

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the organization of persons is based or pursues its criminal activities outside Malta.

Corruption, Articles 112, 114, 115, 118, 119 and 120 of Chapter 9 (Criminal Code) of the Laws of Malta

112. Any officer or person employed in any public administration, or any person employed by or under the Government, whether authorized or not to receive moneys or effects, either by way of salary for his own services, or on account of the Government, or of any public establishment, who shall, under colour of his office, exact that which is not allowed by law, or more than is allowed by law, or before it is due according to law, shall, on conviction, be liable to imprisonment for a term from three months to one year.

114. Where the crimes referred to in the last two preceding articles are accompanied with circumstances which render such crimes liable also to other punishments, the higher punishment shall be applied with an increase of one degree.

115. (1) Any public officer or servant who, in connection with his office or employment, requests, receives or accepts for himself or for any other person, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage to which he is not entitled, shall, on conviction, be liable to punishment as follows:

(a) where the object of the reward, promise or offer, be to induce the officer or servant to do what he is in duty bound to do, the punishment shall be imprisonment for a term from six months to three years;

(b) where the object be to induce the officer or servant to forbear from doing what he is in duty bound to do, the punishment shall, for the mere acceptance of the reward, promise or offer, be imprisonment for a term from nine months to five years;

(c) where, besides accepting the reward, promise, or offer, the officer or servant actually fails to do what he is in duty bound to do, the punishment shall be imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply to the said person or to any accomplice.

118. (1) Any member of the House of Representatives who requests, receives or accepts, for himself or for any other per son, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage given or made with the object

of influencing him in his conduct as a member of the House shall, on conviction, be liable to imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law the provisions of Title VI of Part III of Book Second of this Code shall not apply to an offence under this article in respect of the said Member of the House of Representatives or any accomplice.

119. The punishment of perpetual general interdiction or perpetual special interdiction, or both, as the case may be, shall be added to the punishments established in the preceding articles of this sub-title when the maximum of such punishments exceeds two years' imprisonment; when the maximum of the said punishments does not exceed two years' imprisonment, then the punishment of temporary general interdiction or temporary special interdiction, or both, as the case may be, shall be added.

120. (1) In the cases referred to in articles 115, 116, 117 and 118, the person who bribes the public officer or servant or the member of the House of Representatives, or the person to whom any of the said articles applies in accordance with any provision under this Code or under any other law, as the case may be, shall be deemed to be an accomplice.

(2) Where the public officer or servant or other person does not commit the crime, the person who attempts to induce such officer or servant or other person to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to three years:

Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment.

(3) Where the member of the House of Representatives does not commit the crime, the person who attempts to induce such member to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to four years.

Money Laundering, Articles 2 and 3 of Chapter 373 (Money Laundering Act) of the Laws of Malta

"Money laundering" means –

(i) the conversion or transfer of property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

(vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and (v).

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two million and five hundred thousand euro (€2,500,000), or to imprisonment for a period not exceeding eighteen years, or to both such fine and imprisonment.

Assistance Requested

The Inquiring Magistrate consequently respectfully requests the competent authorities of the Republic of Panama to take the following investigative actions:

1. To hear as witness **a representative of the competent Companies' Regulatory Authority** in Panama with the aim of providing all the documentation concerning the

incorporation and registration of the following companies including information about the relative company shareholders, subscribers, directors, company secretaries, officers vested with legal representation of the said companies and whether there were any changes in these positions from the 1st January 2013 to date:

- **Egrant Inc.** a Panamanian company duly registered at Microjacket 807956, document 2421806 of the Public Registry's Mercantile Section;
- **Dubro Limited S.A**, a Panamanian company duly registered at Microjacket 765891, document 2154239 of the Public Registry's Mercantile Section;
- **Aliator S.A**, a Panamanian company duly registered at Microjacket 765831, document 2153822 of the Public Registry's Mercantile Section;
- **ATC Administrators Inc.**

2. To hear as witness, a representative of **Mossack Fonseca,** having their head office at Mossfon Building, 54th Street, Marbella, Panama, Republic of Panama with the aim of providing all the documentation in their possession concerning the company Egrant Inc.

   The witness should be shown all documents from DOC. 4, DOC. 5, DOC. 6, DOC. 7, DOC. 8, DOC. 9, DOC. 10, DOC. 11, DOC. 12, DOC. 13, DOC. 14, DOC. 15, DOC. 16, DOC. 17, DOC. 18, DOC. 19, DOC. 20, DOC. 21, DOC. 22 and DOC. 23 and confirm whether these documents are authentic or otherwise;

   In the event that such documentation has been seized by the competent authorities of the Republic of Panama, the competent Maltese Judicial Authorities are hereby respectfully requesting that they are granted access to such documentation and a copy of same submitted in the proceedings of this request;

3. To hear as witness **Jaqueline Alexander**, bearer of the Panamanian Identity Card with number 8-729-1090, with the aim of:

   - providing all information concerning Egrant Inc., including any information she may have about the structure of the company and who are the involved parties and who the Ultimate Beneficial Owner of Egrant Inc. were from incorporation (4th July 2013) to date of dissolution (15th February 2017) and information relating to activities of the said company including transactions made or received by the said company;
   - confirming or otherwise the fact that she wrote and signed the text in 'DOC. 1';
   - confirming or otherwise the contents of the said 'DOC. 1' and if possible provide any supporting documentation to this effect;
   - the witness should be shown all documents from DOC. 4, DOC. 5, DOC. 6, DOC. 7, DOC. 8, DOC. 9, DOC. 10, DOC. 11, DOC. 12, DOC. 13, DOC. 14, DOC. 15, DOC. 16, DOC. 17, DOC. 18,

DOC. 19 and DOC. 20 and, confirm whether she has any knowledge about these documents and to confirm whether she had been involved or otherwise;

4. To hear as witness **Verna de Nelson**, bearer of the Panamanian Identity Card with number 8-272-518, with the aim of providing all information concerning Egrant Inc. And information relating to activities of the said company including transactions made or received by the said company;

- witness should be shown all documents from DOC. 4, DOC. 5, DOC. 6, DOC. 7, DOC. 8, DOC. 9, DOC. 10, DOC. 11, DOC. 12, DOC. 13, DOC. 14, DOC. 15, DOC. 16, DOC. 17, DOC. 18, DOC. 19 and DOC. 20 and, confirm whether she has any knowledge about these documents and to confirm whether she had been involved or otherwise;

5. To hear as witnesses and in their capacity of involved parties in Egrant Inc. as directors and company officers: **Ricardo Samaniego; Yadira Boutaud; Yakeline Perez; Yenny Martinez; and Hercibelle Gonzalez** with the aim of:

- providing all the information they have concerning **Egrant Inc.** (including information about who the Ultimate Beneficial Owners were since date of incorporation (4th July 2013) to date of dissolution (15th February 2017) and any transactions concerning the said company);

- witness should state whether Egrant Inc. holds and/or held any financial relationship with local and international credit financial institutions and if in the affirmative, witness is kindly requested to provide details of same providing information and documentation about any bank accounts Egrant Inc. may hold (and/or have held) and about possible transactions concerning same;

- from whom were they receiving instructions regarding Egrant Inc.;

- providing information about any possible knowledge regarding ATC Administrators Inc. (a Panamanian Company incorporated on 16th January 2002) and any possible subscription of shares or involvement that the said company – ATC Administrators Inc. could have in Egrant Inc.;

- to confirm or otherwise the documents enclosed to this letter of request that is from DOC. 4, DOC. 5, DOC. 6, DOC. 7, DOC. 8, DOC. 9, DOC. 10, DOC. 11, DOC. 12, DOC. 13, DOC. 14, DOC. 15, DOC. 16, DOC. 17, DOC. 18, DOC. 19 and DOC. 20;

6. To hear as witnesses **Leticia Montoya** and **Yvette Rogers** as representatives of **ATC Administrators Inc.** and other Officers of this company in order to:

a. providing all the information they have concerning **Egrant Inc.** (including information about who the Ultimate Beneficial Owners were since date of incorporation (4th July 2013) to date of dissolution (15th February 2017) and any transactions concerning the said company);

b. providing information and documentation about any bank accounts Egrant Inc. may hold and about possible transactions concerning Egrant Inc.;

c. from whom were they receiving instructions regarding Egrant Inc.;

d. to confirm or otherwise the documents enclosed to this letter of request that is from DOC. 4, DOC. 5, DOC. 6, DOC. 7, DOC. 8, DOC. 9, DOC. 10, DOC. 11, DOC. 12, DOC. 13, DOC. 14, DOC. 15, DOC. 16, DOC. 17, DOC. 18, DOC. 19 and DOC. 20;

7. To hear as witnesses **Diomedes Edgardo Cerrud Ayala**, Public Notary of the Quinto del Circuito Notarial de Panama bearer of Panamanian identity card number 8-171-301 and the witnesses **Jessica Chiu** bearer of Panamanian identity card number 8-388-889 and **Enma Rojas** bearer of identity card number 8-741-2103 with the aim of confirming or otherwise the enclosed public deed which incorporates the company **Egrant Inc** marked as 'DOC. 5';

8. To hear as witness **Public Notary Josette Roquebert** with the aim of confirming or otherwise the documents enclosed with this letter of request marked as 'DOC. 10';

9. To hear as witness **Yadinel Orteca**, or a representative of the Public Registry of Panama with the aim of confirming the enclosed documents issued by the Public Registry marked as 'DOC. 4', 'DOC. 5', 'DOC. 9', 'DOC. 15'and 'DOC. 20';

10. To hear as witnesses, **Public Notary Victor Manuel Aldana Aparicio** and **Luis Alcibiades Quiel Gonzalez** (bearer of identity card number 8-460-791), a lawyer at Bufete MF&Co (C-003957) with the aim of confirming the enclosed instrument of dissolution concerning **Egrant Inc.** ('DOC. 20') and also to provide any further information they may have and upon whose instructions did they proceed to file the said company liquidation request;

Luis Alcibiades Quiel Gonzalez (bearer of identity card number 8-460-791) attorney, should also be heard as a witness in relation to the attached declaration of ultimate beneficial ownership dated 9th August 2013 marked as 'DOC. 8';

11. To hear as witnesses **Ms Leticia Montoya and Miss Francis Perez** with the aim of declaring if they knew or otherwise of the enclosed proxy dated 19th January 2017 signed by Mr. Brian Tonna ('DOC. 18'), if they appeared on the public deed dealing with the liquidation of **Egrant Inc.** and in the event that they did not appear personally, who did appear as such in their stead;

12. If **Egrant Inc.** holds or held any accounts in any financial institution in Panama (as per replies to Request 5) then representatives of these financial institutions should be heard as witnesses, and present the following documentation:

a. the opening mandates for all these accounts, listing clearly who the ultimate beneficial owners and the signatories on these accounts were;

b. the full statement of accounts from the date the accounts were opened to date;

c. all supporting documentation regarding all the transactions in these accounts;

d. any other relevant information, including email correspondence, instructions etc.;

13. To perform additional ancillary investigative questions/actions, which appear necessary during the execution of this Letter of Request;

The competent judicial authorities of the Republic of Panama are respectfully requested to execute this letter of request with urgency and to inform the Maltese Authorities with the dates on which the letter of request will be executed since the undersigned Inquiring Magistrate and representatives of the Commissioner of Police would like to be present during the execution of the said Letter of Request;

In this regard kindly note the following contact details:

Inquiring Magistrate Dr. Aaron Bugeja:

e-mail - aaron.bugeja@gov.mt

tel – 00356 25902450

Police Superintendent Ian Abdilla:

e-mail - ian-joseph.abdilla@gov.mt

tel – 00356 21224001

That the competent authorities of the Republic of Panama are respectfully requested to put the documents gathered in the execution of this request, as well as any documents seized or photocopies thereof, at the Maltese authorities' disposal as soon as possible.

The evidence may be used in any criminal prosecution or other judicial proceedings connected with the above matter.

(Iffirmat)

_____

Magistrate Dr. Aaron Bugeja

Inquiring Magistrate

Index

DOC. 1 Running Commentary Daphne Caruana Galizia Notebook published April 21, 2017 at 10.02p.m. entitled "This is the text of the two declarations of Trust which were in the kitchen-safe at Pilatus Bank";

DOC. 2 Running Commentary Daphne Caruana Galizia Notebook published April 20, 2017 at 7.59p.m. entitled "Declaration of Trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat";

DOC. 3 Running Commentary Daphne Caruana Galizia Notebook published April 20, 2017 at 4.41p.m. entitled "US$1.017 million in single transaction from Azerbaijan-owned company to Engrant Inc.";

DOC. 4 Republica de Panama-Registro Publico de Panama no. 374677 dated 07 August 2013;

DOC. 5 Assignment of subscription of two shares in Egrant Inc. to bearer dated 6 July 2013 with attached copy of Public Deed Notaria Publica Quinta no. 17935 dated 4 July 2013;

DOC. 6 Minutes of a meeting of the Board of Directors of Egrant Inc. dated 12 August 2013 and attached Power of Attorney by Yakueline Perez dated 12 August 2013 in favour of Brian Tonna and Karl Cini;

DOC. 7 Letter to Messrs. MF Legal Services by Karl Cini dated 12 August 2013;

DOC. 8 Letter by ATC Administrators Inc. to Brian Tonna dated August 9, 2013;

DOC. 9 Translation from the Public Registry of Panama no. 374677 being a certificate of Good Standing by Egrant Inc. request number 13-50827 dated 8 August 2013;

DOC. 10 Certificate of Incumbency by MF Legal Services dated 7 August 2013;

DOC. 11 Letter by Egrant Inc. to Messrs. BTI Management Limited (Malta) dated 19 July 2013;

DOC. 12 Egrant Inc. share certificate dated 9 July 2013;

DOC. 13 Egrant Inc. share register as at 9 July 2013;

DOC. 14 Minutes of a meeting of the Board of Directors of Egrant Inc. dated 9 July 2013;

DOC. 15 Articles of Incorporation of Egrant Inc. by Jaqueline Alexander of behalf of Dubro Limited SA and Verna De Nelson on behalf Aliator SA dated 4 July 2013;

DOC. 16 Letter by Riccardo Samaniego on behalf of Mossack Fonseca dated 16 February 2017;

DOC. 17 Letter by Mr. Brian Tonna to the Director Mossack Fonseca dated 19 January 2017;

DOC. 18 Proxy of Brian Tonna as beneficial owner to Mossack Fonseca dated 19 January 2017;

DOC. 19 Letter by Mr. Brian Tonna to the Director Mossack Fonseca dated 15 March 2016;

DOC. 20 Republica de Panama-Notaria Octava Del Circuito De Panama no. 2377 dated 19 February 2017;

DOC. 21 Invoice no. 4177709 issued by Mossack Fonseca to Egrant Inc. on the 15 August 2013;

DOC. 22 Invoice no. 4177561 issued by Mossack Fonseca to Egrant Inc. on the 9 August 2013;

DOC. 23 Order Form new formation purchase request to Mossack Fonseca by Brian Tonna dated 4/8/2013.

Fl-istadju ta' meta saret l-ewwel talba rogatorja l-inkjesta kien għad ma kellhiex informazzjoni suffiċjenti dwar xi rwol setgħa sewwasew kellhom il-kumpaniji *Aliator S.A., Dubro Limited S.A.* u *ATC Administrators Inc.* u b'mod partikolari ma kienx ċar jekk Brian Tonna, Karl Cini jew Nexia BT bħala ditta jew xi kumpanija appartennti lilhom kellhomx xi involviment dirett jew indirett f' *Aliator S.A., Dubro Limited S.A.* u *ATC Administrators Inc.*

Din l-ittra rogatorja ġiet eżegwita mill-Awtoritajiet tar-Repubblika tal-Panama u r-risposti jinsabu eżibiti mal-atti ta' din l-inkjesta u li għal risposta sħiħa ssir riferenza għalihom. Dawn ir-risposti jinsabu inkluzi fit-taqsima li tittratta l-analiżi tax-xiehda importanti.

A.2. Ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet tar-Repubblika tal-Panama

Minħabba żviluppi fil-kors tal-ġbir tal-provi fl-inkjesta li seħħew bejn Ġunju u Lulju 2017, fosthom il-fatt li kont irċevejt dokumenti ġodda u informazzjoni oħra dwar dan il-każ, mhux l-anqas kopja ta' żewġt *declarations of trust* mogħtija lili minn Pierre Portelli flimkien ma dikjarazzjoni miktuba li huwa preżentali, inħasset il-ħtieġa li jerġgħu isiru sett ta' mistoqsijiet oħra lil diversi xhieda fil-Panama u li kienu involuti f'dan il-każ. Dan wassal għat-tfassil u l-eżekuzzjoni tal-ittra rogatorja supplimentari lill-Awtoritajiet Ġudizzjari tal-Panama f'Awissu 2017. F'dak il-punt, kont għadni ma rċevejtx it-tweġibiet għall-ittra rogatorjali oriġinali, iżda xorta rajt li kien hemm lok li tittieħed azzjoni ulterjuri mingħajr aktar telf ta' żmien. It-test ta' din l-ittra rogatorja qiegħed jiġi riprodott hawnhekk għal aktar faċilita :

Supplementary Request for Mutual Assistance in Criminal Matters to the Competent Judicial Authorities of the Republic of Panama in connection with the Magisterial Inquiry regarding the company Egrant Inc incorporated in Panama and its relevant operations and transactions.

Inquiring Magistrate Dr. Aaron Bugeja LL.D., who is presently conducting the above-captioned inquiry regarding the Panamanian company 'Egrant Inc' and its relevant

operations, respectfully requests further assistance from the competent Judicial Authorities in the Republic of Panama in relation to this same criminal investigation and in furtherance to the letter of request dated 5th May 2017 which was sent to the competent Judicial Authorities in the Republic of Panama.

This supplementary letter of request is being made on an urgent basis in view of the sensitive nature of the same inquiry and also in view of the short legal time frame of sixty days in which the Inquiring Magistrate has to conclude the same Inquiry.

Facts

Reference is hereby made to the facts as outlined in the letter of request dated 5th May 2017, wherein it was explained that the Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media against the Honourable Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons. These allegations concern mainly the following facts:

ii. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc, which is a company incorporated in the Republic of Panama; and

iii. the back accounts of this same company, Egrant Inc, were in receipt of a considerable sums of money from Al Sahra FZCO, a company belonging to the Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Local media is claiming that Egrant Inc. belongs to Mrs. Michelle Muscat, the Honourable Prime minister's wife, on the strength of two declarations of trust allegedly provided to Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust (enclosed with the present supplementary letter of request and marked 'Doc. 1') allegedly show that the shares in Egrant Inc, a Panamanian company are held by Mossack Fonseca nominees for Mrs. Michelle Muscat.

With regards to the alleged transactions, it is being claimed that during the months of January, February and March 2016 there were several transactions of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment'.

In the event that these allegations are proven, in terms of Maltese Law and the United Nations Convention against Transnational Organized Crime and the Protocols thereto (the Palermo Convention) they will constitute the crime of participating in a criminal organisation of at least three people and also the serious crimes of Corruption and Money Laundering, both punishable by more than four years imprisonment in terms of Maltese law.

During the course of the captioned inquiry the Inquiring Magistrate received the following important documents in relation to the aforementioned inquiry.

i. The first two documents, herewith enclosed and marked as 'Doc. 1' are two 'declarations of trust' that are allegedly signed by Jaqueline Alexander as Director of both Dubro Limited S.A. and Aliator S.A. These documents were received from Mr. Pierre Portelli who is a journalist and who is claiming journalistic privilege and hence is not willing to reveal the source of his information particularly with regards to the aforementioned documents.
ii. The certificate issued by the registered agent of Egrant Inc (MF Legal Services) confirming that the share register is a true and full copy of the original share Register of the Company issued on 9th July 2013, and the valid version existing on 19th January, 2017, when the company's dissolution was resolved, herewith enclosed and marked as 'Doc. 2';
iii. The share register copy, herewith enclosed and marked as 'Doc. 3';
iv. The declaration of Edilberto Reyes and Olga Londofio, acting on behalf of ATC Administrators Inc. certifying that ATC Administrators Inc. have always been the sole shareholder of Egrant Inc., a company registered in the Mercantile Section of the Public Registry in Panama on the 8th July 2013 by means of a Public Deed No. 17, 935 issued on 4th July 2013 by the Fifth Notary. That the beneficial interest and ownership of such share was vested in favour of Mr. Brian Tonna and no transfer of beneficial ownership was ever registered from Brian Tonna. That the company Egrant Inc. has been dissolved through a Shareholders Resolution dated 19th January 2017, duly filed at the Panamanian Public Registry at Page 807956 as of 6th April, 2017. This document is herewith enclosed and marked as 'Doc. 4';

The Offences

In view of the contents of the facts as outlined in the letter of request dated 5th May 2017 and in view of this supplementary request the Inquiring Magistrate is investigating this as a case of participation in a criminal organisation, corruption and money laundering in terms of Chapters 9 and 373 of the Laws of Malta. The relevant legal articles are being reproduced hereunder:

Organised Crime, Article 83A of Chapter 9 of the Laws of Malta

83A. (1) Any person who -

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members, shall be guilty of an offence and shall liable, on conviction, to the punishment of imprisonment for a term from four to nine years.

(2) Any person who belongs to an organisation referred to in subarticle (1) shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years.

(3) Where the number of persons in the organisation is ten or more the punishment in the preceding subarticles shall be increased form one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:

(a) where the offence of which the person was found guilty is the offence in subarticle (1), to the payment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);

(b) where the offence of which the person was found guilty is the offence in subarticle (2), to the payment of a fine (multa) of not less than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20);

(c) where the offence of which the person was found guilty is punishable as provided in subarticle (3) of this article -

(i) where the offence is that provided in subarticle (1), to the punishment of a fine (multa) of not less than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70);

(ii) where the offence is that provided in subarticle (2), to the punishment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67).

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the organization of persons is based or pursues its criminal activities outside Malta.

Corruption, Articles 112, 114, 115, 118, 119 and 120 of Chapter 9 of the Laws of Malta

112. Any officer or person employed in any public administration, or any person employed by or under the Government, whether authorized or not to receive moneys or effects, either by way of salary for his own services, or on account of the Government, or of any public establishment, who shall, under colour of his office, exact that which is not allowed by law, or more than is allowed by law, or before it is due according to law, shall, on conviction, be liable to imprisonment for a term from three months to one year.

114. Where the crimes referred to in the last two preceding articles are accompanied with circumstances which render such crimes liable also to other punishments, the higher punishment shall be applied with an increase of one degree.

115. (1) Any public officer or servant who, in connection with his office or employment, requests, receives or accepts for himself or for any other person, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage to which he is not entitled, shall, on conviction, be liable to punishment as follows:

(a) where the object of the reward, promise or offer, be to induce the officer or servant to do what he is in duty bound to do, the punishment shall be imprisonment for a term from six months to three years;

(b) where the object be to induce the officer or servant to forbear from doing what he is in duty bound to do, the punishment shall, for the mere acceptance of the reward, promise or offer, be imprisonment for a term from nine months to five years;

(c) where, besides accepting the reward, promise, or offer, the officer or servant actually fails to do what he is in duty bound to do, the punishment shall be imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply to the said person or to any accomplice.

118. (1) Any member of the House of Representatives who requests, receives or accepts, for himself or for any other per son, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage given or made with the object of influencing him in his conduct as a member of the House shall, on conviction, be liable to imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law the provisions of Title VI of Part III of Book Second of this Code shall not apply to an offence under this article in respect of the said Member of the House of Representatives or any accomplice.

119. The punishment of perpetual general interdiction or perpetual special interdiction, or both, as the case may be, shall be added to the punishments established in the preceding articles of this sub-title when the maximum of such punishments exceeds two years' imprisonment; when the maximum of the said punishments does not exceed two years' imprisonment, then the punishment of temporary general interdiction or temporary special interdiction, or both, as the case may be, shall be added.

120. (1) In the cases referred to in articles 115, 116, 117 and 118, the person who bribes the public officer or servant or the member of the House of Representatives, or the person to whom any of the said articles applies in accordance with any provision under this Code or under any other law, as the case may be, shall be deemed to be an accomplice.

(2) Where the public officer or servant or other person does not commit the crime, the person who attempts to induce such officer or servant or other person to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to three years:

Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment.

(3) Where the member of the House of Representatives does not commit the crime, the person who attempts to induce such member to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to four years.

Money Laundering, Articles 2 and 3 of Chapter 373 of the Laws of Malta

"money laundering" means –

(i) the conversion or transfer of property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

(vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and (v).

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two million and five hundred thousand euro (€2,500,000), or to imprisonment for a period not exceeding eighteen years, or to both such fine and imprisonment.

Assistance Requested

By means of this supplementary letter of request, the Inquiring Magistrate respectfully requests the competent authorities of the Republic of Panama to take the following investigative actions:

i. To hear as witness **Jaqueline Alexander**, bearer of the Panamanian identity card with number 8-729-1090, with the aim of:

- confirming or otherwise the fact that she wrote and signed the original documents shown in copy in Annex 'Doc. 1';
- confirming or otherwise the contents of the said Annex 'Doc. 1' and if possible to provide any supporting documentation to this effect;
- confirming whether, and in which capacity, in August 2015 she could act and sign both on behalf of Aliator S.A. and Dubro Limited S.A.;
- confirming or otherwise whether Ms. Alexander was a director for Dubro Limited S.A. and whether she acted in such capacity;
- confirming or otherwise whether Ms. Alexander signed any other declarations of trust with similar format and wording;
- to provide a specimen of her signature (for Maltese Law it is necessary to provide a minimum of ten signatures);

ii. to hear as witness **a representative of the competent Companies' Regulatory Authority** in Panama :

- with the aim of and with reference to Annex 'Doc. 1' establishing whether the micro-jacket number for Egrant Inc. is '807956S' or '807956' and to explain what the letter 'S' is indicative of in light of the fact that the same 'S' does not transpire in the original Egrant Inc incorporation documents;
- with the aim of confirming or otherwise Annex 'Doc. 3' and the contents thereof;

iii. to hear as witness a representative of **Mossack Fonseca,** having their head office at Mossfon Building, 54th Street, Marbella, Panama, Republic of Panama, with reference to Annex 1, and in light of the fact that the registered address of Egrant Inc mentioned in the two declarations forming Annex 1 is the office of Nexia BT in San Gwann, Malta and not an address in the Republic of Panama, to explain whether it is normal practice for Mossack Fonseca to use addresses other than the company address as indicated in the incorporation documents;

iv. To hear as witness **Josette Roquebert,** Attorney at law within MF Legal Services in order to confirm or otherwise the document marked as Annex 'Doc. 2';

v. To hear as witnesses **Edilberto Reyes and Olga Londono** to confirm or otherwise the document marked as Annex 'Doc. 4' signed by them on behalf of ATC Administrators Inc. and to confirm or otherwise the contents of the said document as being true;

vi. To perform additional ancillary investigative questions/actions, which appear necessary during the execution of this Letter of Request;

The competent judicial authorities of the Republic of Panama are respectfully requested to execute this letter of request with urgency and to inform the Maltese Authorities with the dates on which the letter of request will be executed since the undersigned Inquiring Magistrate would like to be present during the execution of the said Letter of Request;

In this regard kindly note the following contact details:

Inquiring Magistrate Dr. Aaron Bugeja:

e-mail : aaron.bugeja@gov.mt

tel : 00356 2590 2450

Assistant Police Commissioner Ian Abdilla:

e-mail : ian-joseph.abdilla@gov.mt

tel : 00356 2122 4001

That the competent authorities of the Republic of Panama are respectfully requested to put the documents gathered in the execution of this request, as well as any documents seized or photocopies thereof, at the Maltese authorities' disposal as soon as possible.

The evidence may be used in any criminal prosecution or other judicial proceedings connected with the above matter.

Magistrate Dr. Aaron Bugeja

Inquiring Magistrate

Index

Doc. 1 The first two documents, herewith attached and marked as 'AMB 1' are two 'declarations of trust' that are allegedly signed by Jacqueline Alexander as Director of both Dubro Limited S.A. and Aliator S.A.

Doc. 2 The certificate issued by the registered agent of Egrant Inc (MF Legal Services) confirming that the share register is a true and full copy of the original share Register of the Company issued on 9th July 2013, and the valid version existing on 19th January, 2017, when the company's dissolution was resolved;

Doc. 3 The share register copy;

Doc. 4 The declaration of Edilberto Reyes and Olga Londofio, acting on behalf of ATC Administrators Inc. certifying that ATC Administrators Inc. have always been the sole shareholder of Egrant Inc., a company registered in the Mercantile Section of the Public Registry in Panama on the 8th July 2013 by means of a Public Deed No. 17, 935 issued on 4th July 2013 by the Fifth Notary. That the beneficial interest and ownership of such share was vested in favour of Mr. Brian Tonna and no transfer of beneficial ownership was ever registered from Brian Tonna. That the company Egrant Inc. has been dissolved through a Shareholders Resolution dated 19th January 2017, duly filed at the Panamanian Public Registry at Page 807956 as of 6th April, 2017.

L-informazzjoni ottjenuta tinsab inkluża fil-parti li titratta l-analiżi tax-xiehda l-aktar importanti.

B. Ittra rogatorja mibgħuta lill-Awtoritajiet tar-Renju tal-Belġju

L-ittra rogatrjali magħmula lill-Awtoritajiet Ġudizzjarji tar-Renju tal-Belġju kienet tirrigwarda dik il-parti tal-artikolu ta' Daphne Caruana Galizia u li kienet tittratta l-allegazzjoni li l-kumpanija *Al Sahra FZCO* kienet fuq medda ta' tliet xhur bejn Jannar u Marzu tal-2016 għamlet ħlasijiet miljonarji mill-kont tagħha fil-Bank Pilatus lil *Egrant Inc* fil-kont bankarju ta' din il-kumpanija f'Dubai. L-artikolu ta' Caruana Galizia ma kien fih ebda riferiment la għan-numru tal-kont bankarju li allegatament *Egrant Inc* kellha f'Dubai u anqas almenu l-isem tal-Bank li fih kien hemm dan il-kont bankarju. Kien deher għalhekk li jsir eżerċizzju ieħor f'tentattiv biex tiġi ottjenuta evidenza bil-mezz tal-ittra rogatorja lejn ir-Renju tal-Belġju u l-Emirati Għarab Magħquda.

Dan l-eżerċizzju kien intiż li possibilment jolqot żewġt għasafar b'ġebla waħda. L-ewwelnett fl-interess tal-kompletezza ta' din l-inkjesta billi possibilment jintefa' aktar dawl fuq jekk verament kienux saru t-

transazzjonijiet imsemmija fl-artiklu u li kienet xehdet dwarhom Maria Efimova. Fid-dawl tal-karenza t'informazzjoni utli disponibbli fl-artiklu fir-rigward tad-dettaji speċifiċi tal-allegati transazzjonijiet bankarji, biex kemm jista' jkun jiġi evitat li l-ittri rogatorji jiġu meqjusa bħala sajda għal informazzjoni, aktar milli mezzi biex informazzjoni tiġi kristallizzata f'evidenza, dawn l-ittri rogatorji kellhom isiru waħda wara l-oħra dipendenti mir-riżultati li setgħu jiġu miġjuba.

L-ewwel ittra rogatorja intbagħtet lejn ir-Renju tal-Belġju fejn l-Awtoritajiet Ġudizzjarji ta' dan ir-Renju jiġu mitluba sabiex isejħu lil rappreżentant ta' *"Society for Worldwide Interbank Financial Telecommunications"* (*SWIFT*) sabiex jixhed dwar jekk verament kienx hemm transazzjonijiet li ġew allegati minn Maria Efimova u riportati minn Daphne Caruana Galizia. Skont Maria Efimova il-Bank Pilatus kien juża l-mezz ta' *SWIFT* sabiex ikun jista' jagħmel il-pagamenti fl-esteru u safejn kienet taf hi il-pagamenti allegati minnha kienu saru bl-*iSWIFT*. B'hekk jekk *SWIFT* setgħu jagħtu l-informazzjoni dwar dawn l-allegati pagamenti, possibilment l-anqas kien ikun hemm il-ħtieġa li wieħed jipprova jirrikorri lejn ittri rogatorjali fl-Emirati Għarab Magħquda.

Għalhekk bl-għajnuna tal-*Eurojust desk* Malti u dak Belġjan sar stħarriġ preliminari biex jiġi analizzat kemm kienet verosimili l-possibilita li tiġi

ottjenuta l-informazzjoni meħtieġa mingħand *SWIFT*. Għall-bidu kien hemm rispons pożittiv (kif rapurtat mill-Uffiċju tal-Avukat Ġenerali dwar dan). B'hekk saret l-ittra rogatorjali lejn ir-Renju tal-Belġju li kienet taqra :-

Request for Mutual Assistance in Criminal Matters to the Competent Judicial Authorities of the Kingdom of Belgium in connection with the Magisterial Inquiry regarding the company Egrant Inc incorporated in Panama and its relevant operations and transactions.

Inquiring Magistrate Dr. Aaron Bugeja LL.D., who is presently conducting the above-captioned inquiry regarding the Panamanian company 'Egrant Inc' and its relevant operations, respectfully requests assistance from the competent Judicial Authorities in the Kingdom of Belgium in relation to this same criminal investigation.

This letter of request is being made on an urgent basis in view of the sensitive nature of the same inquiry and also in view of the short legal time frame of sixty days in which the Inquiring Magistrate has to conclude the same Inquiry.

Facts

The Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media against the Honourable Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons. These allegations concern mainly the following facts:

iv. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc. It is established that the same Egrant Inc. is a company incorporated in the Republic of Panama with Microjacket number 2421806 of the Public Registry's Mercantile Section; and

v. the back accounts of this same company, Egrant Inc, were in receipt of a considerable sums of money from Al Sahra FZCO, a company belonging to the Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Local media is claiming that Egrant Inc. belongs to Mrs. Michelle Muscat, the Honourable Prime minister's wife, on the strength of two declarations of trust allegedly provided to Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust allegedly show that the shares in Egrant Inc, a Panamanian company are held by Mossack Fonseca nominees for Mrs. Michelle Muscat.

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With regards to the alleged transactions, it is being claimed that during the months of January, February and March 2016 there were several transactions of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment'.

Preliminary investigations within Pilatus Bank gave rise to serious suspicions that such transactions, if they were ever carried out, might have been executed through other banks, possibly even outside the Maltese Jurisdiction. In this same context, it was also being alleged that two senior government officials, namely the then Minister for Energy (Konrad Mizzi) and the Prime Minister's Chief of Staff (Keith Schembri) were the UBO's of two other sister companies Hearnville Inc. (microjacket number 808074) and Tillgate Inc. (microjacket number 808516) both set up in Panama by Mossack Fonseca in July 2013 through the intermediary services of Maltese Accountants Brian Tonna and Karl Cini of firm Nexia BT. It transpired that Keith Schembri was an account holder with Pilatus Bank.

In the event that these allegations are proven, in terms of Maltese Law they will constitute the serious crimes of organised crime; corruption and money laundering.

The Offences

In view of the above the Inquiring Magistrate is investigating this as a case of participation in a criminal organisation, corruption and money laundering in terms of Chapters 9 and 373 of the Laws of Malta. The relevant legal articles are being reproduced hereunder:

Organised Crime, Article 83A of Chapter 9 of the Laws of Malta

83A. (1) Any person who –

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members, shall be guilty of an offence and shall liable, on conviction, to the punishment of imprisonment for a term from four to nine years.

(2) Any person who belongs to an organisation referred to in subarticle (1) shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years.

(3) Where the number of persons in the organisation is ten or more the punishment in the preceding subarticles shall be increased form one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:

(a) where the offence of which the person was found guilty is the offence in subarticle (1), to the payment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);

(b) where the offence of which the person was found guilty is the offence in subarticle (2), to the payment of a fine (multa) of not less than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20);

(c) where the offence of which the person was found guilty is punishable as provided in subarticle (3) of this article -

(i) where the offence is that provided in subarticle (1), to the punishment of a fine (multa) of not less than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70);

(ii) where the offence is that provided in subarticle (2), to the punishment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67).

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the organization of persons is based or pursues its criminal activities outside Malta.

Corruption, Articles 112, 114, 115, 118, 119 and 120 of Chapter 9 of the Laws of Malta

112. Any officer or person employed in any public administration, or any person employed by or under the Government, whether authorized or not to receive moneys or effects, either by way of salary for his own services, or on account of the Government, or of any public establishment, who shall, under colour of his office, exact that which is not allowed by law, or more than is allowed by law, or before it is due according to law, shall, on conviction, be liable to imprisonment for a term from three months to one year.

114. Where the crimes referred to in the last two preceding articles are accompanied with circumstances which render such crimes liable also to other punishments, the higher punishment shall be applied with an increase of one degree.

115. (1) Any public officer or servant who, in connection with his office or employment, requests, receives or accepts for himself or for any other person, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage to which he is not entitled, shall, on conviction, be liable to punishment as follows:

(a) where the object of the reward, promise or offer, be to induce the officer or servant to do what he is in duty bound to do, the punishment shall be imprisonment for a term from six months to three years;

(b) where the object be to induce the officer or servant to forbear from doing what he is in duty bound to do, the punishment shall, for the mere acceptance of the reward, promise or offer, be imprisonment for a term from nine months to five years;

(c) where, besides accepting the reward, promise, or offer, the officer or servant actually fails to do what he is in duty bound to do, the punishment shall be imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply to the said person or to any accomplice.

118. (1) Any member of the House of Representatives who requests, receives or accepts, for himself or for any other per son, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage given or made with the object of influencing him in his conduct as a member of the House shall, on conviction, be liable to imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law the provisions of Title VI of Part III of Book Second of this Code shall not apply to an offence under this article in respect of the said Member of the House of Representatives or any accomplice.

119. The punishment of perpetual general interdiction or perpetual special interdiction, or both, as the case may be, shall be added to the punishments established in the preceding articles of this sub-title when the maximum of such punishments exceeds two years' imprisonment; when the maximum of the said punishments does not exceed two years' imprisonment, then the punishment of temporary general interdiction or temporary special interdiction, or both, as the case may be, shall be added.

120. (1) In the cases referred to in articles 115, 116, 117 and 118, the person who bribes the public officer or servant or the member of the House of Representatives, or the person to whom any of the said articles applies in accordance with any provision under this Code or under any other law, as the case may be, shall be deemed to be an accomplice.

(2) Where the public officer or servant or other person does not commit the crime, the person who attempts to induce such officer or servant or other person to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to three years:

Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment.

(3) Where the member of the House of Representatives does not commit the crime, the person who attempts to induce such member to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to four years.

Money Laundering, Articles 2 and 3 of Chapter 373 of the Laws of Malta

"money laundering" means –

(i) the conversion or transfer of property knowing or suspecting that such property is derived

directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of

participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal

activity;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs

(i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

(vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and (v).

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two million and five hundred thousand euro (€2,500,000), or to imprisonment for a period not exceeding eighteen years, or to both such fine and imprisonment.

Assistance Requested

The Inquiring Magistrate consequently respectfully requests the competent judicial authorities of the Kingdom of Belgium to take the following investigative actions:

1. To hear as witness **a representative of S.W.I.F.T. SCRL** (having their headquarters at Avenue Adele 1; B-1310 La Hulpe, Belgium) with the aim of providing information and documentation about all transactions carried out using the Swift system between 1st December 2015 and 30th April 2016 by reference to Egrant Inc., Hearnville Inc. and/or Tillgate Inc. appearing as ordering customers, beneficiary customers or any other remittance information originating from any financial institution or financial intermediary anywhere in the world destined to any financial institution or financial intermediary in the United Arab Emirates; or where there is any reference to the same Egrant Inc. Hearnville Inc. and/or Tillgate Inc. in any swift message;

2. To perform additional ancillary investigative questions/actions, which appear necessary during the execution of this Letter of Request;

The competent judicial authorities of the Kingdom of Belgium are respectfully requested to execute this letter of request with urgency and to inform the Maltese Authorities with the dates on which the letter of request will be executed since, if needed the undersigned Inquiring Magistrate can also be present during the execution of the said Letter of Request;

In this regard kindly note the following contact details:

Inquiring Magistrate Dr. Aaron Bugeja: aaron.bugeja@gov.mt

Police Superintendent Ian Abdilla: ian-joseph.abdilla@gov.mt

That the competent authorities of the Kingdom of Belgium are respectfully requested to put the documents gathered in the execution of this request, as well as any documents seized or photocopies thereof, at the Maltese authorities' disposal as soon as possible.

The evidence may be used in any criminal prosecution or other judicial proceedings connected with the above matter.

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Magistrate Dr. Aaron Bugeja

Inquiring Magistrate

Għalhekk kien ġie wkoll mobilitat il-*Eurojust Desk* ta' Malta u dak tal-Belġju għall-fini wkoll tal-eżekuzzjoni ta' din l-ittra rogatorjali mingħajr ħafna dewmien, u dan grazzi għas-servizzi tal-Uffiċju tal-Avukat Ġenerali.

Il-kweżiti prinċipali kienu sabiex rappreżentanti ta' SWIFT jipprovdu informazzjoni u dokumentazzjoni dwar it-transazzjonijiet kollha li kienu saru tramite s-sistema SWIFT bejn l-1 ta' Diċembru 2015 u t-30 t'April 2016 f'isem il-kumpaniji *Egrant Inc, Hearnville Inc* u *Tillgate Inc* kull fejn dawn kienu jidhru li huma dawk li jordnaw ħlasijiet, benefiċċjarji ta' ħlasijiet kif ukoll kull informazzjoni oħra li setgħa kellhom dwar ammonti ta' flus li dawn il-kumpaniji setgħu irċevew u li kienu joriġinaw minn kwalunkwe istituzzjoni finanzjarja jew intermedjarju finanzjarju madwar id-dinja u li kienu destinati lejn kwalunkwe istituzzjoni finanzjarja jew intermedjarju finanzjarju fl-Emirati Għarab Magħquda; jew kull fejn kien hemm riferenza lejn isem il-kumpanija Egrant Inc, Heanville Inc u/jew Tillgate Inc fi kwalunkwe messaġġ SWIFT.

Ir-risposta għal din l-ittra rogatorjali kienet ġiet mgħoddija mill-*Eurojust Desk* Belga lil dak Malti permezz t'ittra datata 13 ta' Marzu 2018. Din sussegwentement ġiet depożitata fl-atti tal-inkjesta mill-Avukat Ġenerali u l-faxxiklu kollu jifforma parti minn din l-inkjesta.

Ir-risposta mogħtija minn *SWIFT,* bl-ilsien Franċiż, debitament tradott mill-Interpretu Uffiċjali Dr. Anthony Licari kienet tgħid is-segwenti :

Re: request 6 CRI 18 addressed to SWIFT

Dear Ms Rousseau,

We refer to your above mentioned request which we received on the date of 30 th January 2018.

The company "Society for Worldwide Interbank Financial Telecommunications" (SWIFT) is a cooperative company governed by Belgian law and whose head quarters is established in Belgium. SWIFT provides a service of financial communication that is standardised and secured, to its clients, that is financial institutions and companies and on average transmits 25 million messages on each working day. SWIFT is not a financial institution; we do not open or hold accounts, we do not transfer funds and we do not accept funds for transfer. SWIFT is rather a provider of services for financial institutions and companies (only corporations) allowing them to transfer in a secured way confidential and personal messages. The clients of SWIFT may, for example, exchange messages regarding transactions related bank accounts of physical persons, but the latter are clients of financial institutions corresponding, but not of SWIFT. SWIFT is in no way involved in the drafting of contents of messages of its users and has no personal interest in these same messages.

Besides, SWIFT has defined detailed procedures and policies re the protection of data and security and this, so as to protect the integrity of its services and data of its clients. Apart from this, due to the very way that its services of communication are conceived, there are inherent limits re the quantity of data that SWIFT messages conserves and re access of SWIFT to this data. More particularly (1) SWIFT archives the messages of

its clients for a limited period of time (124 days), after which the messages are irremediably destroyed, and (2) the data of archived messages for this period are stocked in such a format that does not allow one to do research on the basis of their contents. For example, it is not possible to search in the SWIFT messages archived info such as names of beneficiaries or authors, bank account numbers or other details re the financial transaction in question wfihin the SWIFT message.

For these reasons, we are in the impossibility of replying positively to your request.

Respectful regards,

Patrick Krekels

General Advisor

Jirriżulta għalhekk li l-informazzjoni mitluba mill-inkjesta ma setgħetx tiġi mogħtija minn *SWIFT*.

C. Ittra rogatorja mibgħuta lill-Awtoritajiet tal-Emirati Għarab Magħquda

In segwitu għall-eżitu negattiv tal-ittra rogatorja mibgħuta lir-Renju tal-Belġju, ġie deċiż li jsir tentattiv biex l-informazzjoni tiġi ottjenuta bil-mezz ta' ittri rogatorjali lejn l-Emirati Għarab Magħquda li l-belt ta' Dubai tifforma parti minnhom. Sadattant il-*Forensic Accountants* Harbinson Forensics kienu diġa għamlu stħarriġ minn sorsi bankarji internazzjonali dwar parti mill-meritu ta' din it-talba rogatorjali. Kien meqjus meħtieġ pero li jsir tentattiv biex ċertu risposti jingħataw b'mezzi Uffiċjali, minkejja li kollegi esteri li sar kuntatt magħhom u esperti f'dan il-qasam kienu wissew li kien ser ikun diffiċli li din l-ittra rogatorja kienet sejra tiġi mwieġba kemm minħabba minħabba n-nuqqas ta' dettalji suffiċjenti disponibbli għall-inkjesta kif ukoll minħabba ċerti liġijiet ta' kunfidenzjalita' stretta renjanti fl-Emirati Għarab Magħquda f'materji simili għal dawk meritu tal-istess ittra.[5] Mhux mistenni minn Awtoritajiet Ġudizzjarji Esteri li jilqgħu talba għal ittra rogatorjali li ma tkunx ċara fir-rigward x'informazzjoni trid tiġi stabbilita u mingħand min jew li tkun aktar ta' natura esplorativa. F'dan il-każ ġew rintraċċjati l-banek kollha li kienu operattivi fl-Emirati Għarab Magħquda mill-Maġistrat Inkwirenti u t-talba għall-informazzjoni mingħandhom kellha ssir skont l-

[5] Irid jiġi mfakkar li l-allegazzjoni kienet issemmi biss li saru diversi pagamenti mill-kont t'*Al Sahra FZCO* fil-Bank Pilatus lejn il-kont t'Egrant Inc f'Dubai bejn Jannar u Marzu 2016. La l-isem tal-kumpanija *Al Sahra FZCO*, la l-kont tagħha, la min kien il-Bank t'*Egrant Inc* f'Dubai, la n-numru tal-kont ta' *Egrant Inc* f'Dubai, la transazzjonijiet – anke f'isem *Sahra FZCO* jew *Shams Al Sahra FZCO* ma nstabu fil-Bank Pilatus b'riferenza għal *Egrant Inc*. Biex tkompli żżid id-doża ta' diffikulta, l-anqas Maria Efimova ma kienet ċara dwar min kien dak il-Bank li kien is-suppost riċevitur tal-pagamenti minn *Sahra FZCO* lil *Egrant Inc* f'Dubai dan peress li ma kienetx ċerta dwar l-isem – semmiet isem ta' bank – *Bank of Baroda or Badora* iżda ma kienetx ċerta. B'hekk l-inkjesta ma kellhiex informazzjoni suffiċjenti li bihom setgħet tipproċedi permezz t'ittra rogatorja mingħajr ma tidher li qegħda tagħmel sajda għal sejbien ta' provi minn dik il-ġurisdizzjoni li għandha l-fuq minn ħamsin bank kummerċjali – li ġustament mhux l-għan ta' talba rogatorjali normali – aħseb u ara waħda bħal din in disamina.

informazzjoni skarna li kienet disponibbli. Il-Banek kummerċjali misjuba operanti fil-jum li fih kienet qegħda ssir l-ittra rogatorja u l-ismijiet ta' dan il-Banek ġew mehmuża ma Annex li hija parti minn din l-ittra rogatorja, li t-test tagħha huwa s-segwenti : -

Request for Mutual Assistance in Criminal Matters to the Competent Judicial Authorities of the United Arab Emirates in connection with the Magisterial Inquiry regarding the company Egrant Inc incorporated in Panama and its relevant operations and transactions.

Inquiring Magistrate Dr. Aaron Bugeja LL.D., who is presently conducting the above-captioned inquiry regarding the Panamanian company 'Egrant Inc' and its relevant operations, respectfully requests assistance from the competent Judicial Authorities in the United Arab Emirates in relation to this same criminal investigation.

This letter of request is being made on an urgent basis in view of the sensitive nature of the same inquiry and also in view of the short legal time frame of sixty days in which the Inquiring Magistrate has to conclude the same Inquiry.

Facts

The Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media against the Honourable Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons. These allegations concern mainly the following facts:

vi. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc. It is established that the same Egrant Inc. is a company incorporated in the Republic of Panama with Microjacket number 807956 of the Public Registry's Mercantile Section; and

vii. the back accounts of this same company, Egrant Inc, were in receipt of a considerable sums of money from Al Sahra FZCO, a company belonging to the Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Local media is claiming that Egrant Inc. belongs to Mrs. Michelle Muscat, the Honourable Prime minister's wife, on the strength of two declarations of trust allegedly provided to Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust allegedly show that the shares in Egrant Inc, a Panamanian company are held by Mossack Fonseca nominees for Mrs. Michelle Muscat.

With regards to the alleged transactions, it is being claimed that during the months of January, February and March 2016 there were several transactions of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment'.

Preliminary investigations within Pilatus Bank gave rise to serious suspicions that such transactions, if they were ever carried out, might have been executed through other banks, possibly even outside the Maltese Jurisdiction. In this same context, it was also being alleged that two senior government officials, namely the then Minister for Energy (Konrad Mizzi) and the Prime Minister's Chief of Staff (Keith Schembri) were the UBO's of two other sister companies Hearnville Inc. (microjacket number 808074) and Tillgate Inc. (microjacket number 808516) both set up in Panama by Mossack Fonseca in July 2013 through the intermediary services of Maltese Accountants Brian Tonna and Karl Cini of firm Nexia BT. It transpired that Keith Schembri was an account holder with Pilatus Bank.

In the event that these allegations are proven, in terms of Maltese Law and the United Nations Convention against Transnational Organized Crime and the Protocols thereto (the Palermo Convention) they will constitute the crime of participating in a criminal organisation of at least three people and also the serious crimes of Corruption and Money Laundering, both punishable by more than four years imprisonment in terms of Maltese law.

<u>The Offences</u>

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In view of the above the Inquiring Magistrate is investigating this as a case of participation in a criminal organisation, corruption and money laundering in terms of Chapters 9 and 373 of the Laws of Malta. The relevant legal articles are being reproduced hereunder:

Organised Crime, Article 83A of Chapter 9 of the Laws of Malta

83A. (1) Any person who -

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members, shall be guilty of an offence and shall liable, on conviction, to the punishment of imprisonment for a term from four to nine years.

(2) Any person who belongs to an organisation referred to in subarticle (1) shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years.

(3) Where the number of persons in the organisation is ten or more the punishment in the preceding subarticles shall be increased form one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:

(a) where the offence of which the person was found guilty is the offence in subarticle (1), to the payment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);

(b) where the offence of which the person was found guilty is the offence in subarticle (2), to the payment of a fine (multa) of not less than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20);

(c) where the offence of which the person was found guilty is punishable as provided in subarticle (3) of this article -

(i) where the offence is that provided in subarticle (1), to the punishment of a fine (multa) of not less than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70);

(ii) where the offence is that provided in subarticle (2), to the punishment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67).

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the organization of persons is based or pursues its criminal activities outside Malta.

Corruption, Articles 112, 114, 115, 118, 119 and 120 of Chapter 9 of the Laws of Malta

112. Any officer or person employed in any public administration, or any person employed by or under the Government, whether authorized or not to receive moneys or effects, either by way of salary for his own services, or on account of the

Government, or of any public establishment, who shall, under colour of his office, exact that which is not allowed by law, or more than is allowed by law, or before it is due according to law, shall, on conviction, be liable to imprisonment for a term from three months to one year.

114. Where the crimes referred to in the last two preceding articles are accompanied with circumstances which render such crimes liable also to other punishments, the higher punishment shall be applied with an increase of one degree.

115. (1) Any public officer or servant who, in connection with his office or employment, requests, receives or accepts for himself or for any other person, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage to which he is not entitled, shall, on conviction, be liable to punishment as follows:

(a) where the object of the reward, promise or offer, be to induce the officer or servant to do what he is in duty bound to do, the punishment shall be imprisonment for a term from six months to three years;

(b) where the object be to induce the officer or servant to forbear from doing what he is in duty bound to do, the punishment shall, for the mere acceptance of the reward, promise or offer, be imprisonment for a term from nine months to five years;

(c) where, besides accepting the reward, promise, or offer, the officer or servant actually fails to do what he is in duty bound to do, the punishment shall be imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply to the said person or to any accomplice.

118. (1) Any member of the House of Representatives who requests, receives or accepts, for himself or for any other per son, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage given or

made with the object of influencing him in his conduct as a member of the House shall, on conviction, be liable to imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law the provisions of Title VI of Part III of Book Second of this Code shall not apply to an offence under this article in respect of the said Member of the House of Representatives or any accomplice.

119. The punishment of perpetual general interdiction or perpetual special interdiction, or both, as the case may be, shall be added to the punishments established in the preceding articles of this sub-title when the maximum of such punishments exceeds two years' imprisonment; when the maximum of the said punishments does not exceed two years' imprisonment, then the punishment of temporary general interdiction or temporary special interdiction, or both, as the case may be, shall be added.

120. (1) In the cases referred to in articles 115, 116, 117 and 118, the person who bribes the public officer or servant or the member of the House of Representatives, or the person to whom any of the said articles applies in accordance with any provision under this Code or under any other law, as the case may be, shall be deemed to be an accomplice.

(2) Where the public officer or servant or other person does not commit the crime, the person who attempts to induce such officer or servant or other person to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to three years:

Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment.

(3) Where the member of the House of Representatives does not commit the crime, the person who attempts to induce such member to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to four years.

Money Laundering, Articles 2 and 3 of Chapter 373 of the Laws of Malta

"money laundering" means –

(i) the conversion or transfer of property knowing or suspecting that such property is derived

directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of

participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal

activity;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs

(i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

(vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii), (iv) and (v).

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two million and five hundred thousand euro (€2,500,000), or to imprisonment for a period not exceeding eighteen years, or to both such fine and imprisonment.

Assistance Requested

The Inquiring Magistrate consequently respectfully requests the competent judicial authorities of the United Arab Emirates to take the following investigative actions:

1. To hear as witness **a representative of the Banks Listed in Annex "A"** with the aim of :

a. providing information and documentation about whether ***Egrant Inc.*** has a bank account with any one of the said Banks and if positive to provide all the relevant documentation realting to the setting up of the company, including but not limited to who are the ultimate beneficial owners, directors and signatories for this company as well as all documents and statements of account relating to any financial transactions carried out by this company; and

b. In particular to testify whether ***Egrant Inc.*** or ***Tillgate Inc.*** or ***Heanville Inc.*** received any monies in any bank account the said three companies, or any one of them, might have with the respective bank, from the companies ***Al Sahra FZCO***, ***Shams Al Sahra FZCO*** or ***Sahra FZCO***, duly registered in the Dubai Free Zone Area, between the 1st December 2015 and 30th April 2016, originating from Pilatus Bank Limited, a bank incorporated and licensed as a banking institution in Malta, giving all remittance information, if any;

c. To perform additional ancillary investigative questions/actions, which appear necessary during the execution of this Letter of Request;

The competent judicial authorities of the United Arab Emirates are respectfully requested to execute this letter of request with urgency and to inform the Maltese Authorities with the dates on which the letter of request will be executed since, if needed the undersigned Inquiring Magistrate can also be present during the execution of the said Letter of Request;

In this regard kindly note the following contact details:

Inquiring Magistrate Dr. Aaron Bugeja: aaron.bugeja@gov.mt

Police Assistant Commissioner Ian Abdilla: ian-joseph.abdilla@gov.mt

That the competent authorities of the United Arab Emirates are respectfully requested to put the documents gathered in the execution of this request, as well as any

documents seized or photocopies thereof, at the Maltese authorities' disposal as soon as possible.

The evidence may be used in any criminal prosecution or other judicial proceedings connected with the above matter.

Magistrate Dr. Aaron Bugeja

Inquiring Magistrate

Annex A

ABN AMRO Bank N.V.
Currency House, Level 6, #601
Dubai International Financial Centre
Dubai
P.O. Box 506507
United Arab Emirates

or

ABN AMRO Bank N.V.,

Representative Office, Almas Tower, Unit 15 –

Jumeirah Lakes Towers,

Dubai , PO Box 340586, UAE

LGT (Middle East) Limited

Unit Office 2 , Level 2, Gate Building,

Dubai International Financial Centre,

Dubai, 506793, United Arab Emirates

Abu Dhabi Commercial Bank

Trade Center Road, Bur Dubai, Next to ADCB Metro Station,

Dubai – UAE

Abu Dhabi Islamic Bank

Deira, Near City Center,

Dubai - UAE

Al Ahli Bank of Kuwait

Abu Baker Al Siddique Rd,

Dubai - UAE

Al Rafidain Bank

Ground Floor, Khalid Al Bahari Building,

Al Nasser Street, Al Hosn,

Abu Dhabi – UAE

Banque Misr (Banque du Caire)

Khalifa St., Deena Buliding,

Abu Dhabi – UAE

Bank of Bahrain & Kuwait BSC

Baniyas Rd,

Dubai - UAE

National Bank of Bahrain

Al Otaiba Tower - Hamdan Bin Mohammed St,

Abu Dhabi - UAE

Al Ahli Bank of Kuwait

Abu Baker Al Siddique Street,

Deira, P.O.Box 1719, Dubai – UAE

Al Hilal Bank

Jumeira Beach Road, Umm Suqeim,

Dubai - UAE

Arab African International Bank

Al Mina Rd, Opp. Dubai Customs, Bur Dubai,

Dubai – UAE

Arab Bank for Investment and Foreign Trade (Al Masraf)

Al Masraf Tower, Baniyas Street,

Deira, P.O.Box: 5549,

Dubai – UAE

Arab Bank UAE

Al Gurg Tower 3, Baniyas Street,

Deira, Dubai - UAE;

Or

The Galleries, Downtown Jabal Ali,

P.O. Box: 126443,

Dubai - UAE;

Or

Sheikh Zayed Road Branch

P.O. Box:1650

Dubai, UAE

A

Bank Melli Iran

Bank Melli Iran Bldg,
P.O. Box: 1894,Baniyas Street,
Deira, Dubai, UAE

Bank of Baroda Dubai

Sheikh Khalifa Bin Sayed, Trade Centre,

Dubai - UAE

Bank of Sharjah

Al Garhoud Street,
P.O. Box 27141
Dubai - UAE

Or

Al Falak Street,
Dubai - UAE

Or

Dubai Media City,
P.O. Box 502360 DMC 7
Dubai – UAE

Or

Dubai Motor City
P.O. Box 478316
Dubai - UAE.

Bank Saderat Iran

Sheikh Sayed, 1

Dubai - UAE

Blom Bank France

Prime Tower, Burj Khalifa Street Area, Business Bay,

Dubai - UAE

Calyon Bank – Credit Agricole Corporate and Investment Bank

Tower 2 Sheikh Zayed Rd,

Dubai - UAE

Al Khaliji France

Al Maidan Tower,

Al Maktoum Street,

Deira, PO Box 4207,

Dubai - UAE

BNP Paribas

Building # 1

Mohammed Bin Rashid Boulevard,

Dubai - UAE

HSBC Bank Middle East Limited

Building #5, Emaar Square,

Downtown Dubai,

Dubai – UAE

Citibank NA Global Markets

Building 2, Floor 3&7,

Dubai International Financial Centre,

Dubai – UAE

Commercial Bank International PSC

Financial Center Rd,

Dubai – UAE

Commercial Bank of Dubai P.S.C

Commercial Bank of Dubai P.S.C. Building
Al Ittihad Street, Deira Area 2668,
Dubai - UAE

Dubai Islamic Bank,

Head Office

Al Maktoom Road,

Dubai – UAE

Dubai Bank PJSC

PO Box 65555

Dubai - UAE

El Nilein Bank

Off 3rd Street, Abu Dhabi, UAE

Emirates NBD

Za'abeel Rd, Near General Post Office,

Dubai – UAE

Emirates Islamic Bank

Atrium Centre, Khalid Bin Walid Road

Showroom # 6 & 7, Al Mankool, Bur Dubai

Dubai – UAE

First Gulf Bank

The Dubai Mall,

Downtown - Dubai – UAE

Habib Bank Limited (HBL)

Al Zarooni Building, Ground Floor,

27th Al Mussalla St, Naif Road,

Deira, - Dubai – UAE

Habib Bank AG Zurich

Sheikh Zayed Road, 4th Interchange,

Dubai – UAE

Invest Bank

Al Maktoum Street, Next to Al Khaleej Palace,

Al Rigga, Dubai – UAE

Janata Bank Limited

1a Al Maktoum Rd –

Dubai – UAE

Lloyds TSB Bank PLC
Al Wasl Road, Jumeirah 2,

Jumeirah, Dubai – UAE

Mashreq Bank

Dubai (Head Office) Al Ghurair Head Office, 6th Floor,
Deira, Dubai – UAE

National Bank of Abu Dhabi

Bank Street, near Burjuman Centre,

Dubai – UAE

National Bank of Fujairah

Shop #14, The Curve Bldg.,
Next to Audi Showroom
Sheikh Zayed Road
Al Quoz,
PO Box 126565,
Dubai - UAE

National Bank of Oman

PO BOX 66106,

Dubai – UAE

National Bank of Ras Al-Khaimah

PO Box 1531, Sultan Business Centre,

Dubai – UAE

National Bank of Umm Al Quwain,

Road off Dubaj – Sharjah Highway,

Dubai – UAE

Noor Bank PJSC

Dubai Mall, Lower Ground Floor,

Shaikh Zayed Road, Dubai – UAE

Or

Building 1
Sheikh Zayed Road, 8th Floor
Emaar Square, Business Bay Area, 8822
Dubai - UAE

Sharjah Islamic Bank

1 Sheikh Zayed Rd,

Dubai – UAE

Standard Chartered Bank

Unit No.165, Dubai Mall, Lower Ground,

Dubai – UAE

Union National Bank

Building # 33, near Dubai Creek Park, Garhoud,

Dubai – UAE

United Arab Bank

Mall of the Emirates, Metro Footbridge,

Dubai – UAE

United Bank Limited

Mohamed & Obaid Almulla Building,

Murshid Bazaar, Al Kabeer Street,

Dubai – UAE

Barclays Bank

First Floor, Building 6, Emaar Square,

Downtown, Sheikh Zayed Road,

Dubai – UAE

Doha Bank

2 Sheikh Zayed Rd,

Dubai – UAE

E D & F Man Investments Products Limited

P.O.Box No.39085,

Dubai, UAE

ICICI Bank Limited

Business Center Building, Office No 404,

4th Floor, Khalid Bin Al Waleed Road, Bur Dubai,

Dubai – UAE

Korea Exchange Bank

P.O.Box: 14535,
Dubai – UAE

KEB Hana Bank Dubai Branch

2nd Floor Office 202, Block A,

Concorde Complex Building, Plot 125-30,

Dubai - UAE

Standard Bank London Limited

P.O. Box: 504904
Dubai – UAE

Commercial Bank International PSC

Financial Center Rd,

Dubai – UAE

000178 000180

Union Bancaire Privée, UBP SA

Gate Precinct 5, International Financial Center,

Dubai, UAE

Westdeutsche Landesbank

Sheikh Zayed Road, POBox: 30012
Dubai – UAE

Kif jidher mit-test ta' din l-ittra rogatorjali, l-iskop ta' din l-ittra kien li jiġi mismugħ rappreżentant tal-Bank indikat fl-Annex "A" ma' din l-ittra sabiex jagħti informazzjoni u dokumentazzjoni disponibbli għalihex dwar jekk il-kumpanija *Egrant Inc* kellhiex kont bankarju mal-bank de quo u f'każ pożittiv sabiex jipprovdi id-dokumentazzjoni rilevanti kollha dwar din il-kumpanija fosthom l-istatut tal-kumpanija, min huma l-*UBO*, diretturi u firmatarji ta' din il-kumpanija nonche d-dokumenti u rendikonti finanzjarji kollha li kellhom x'jaqsmu mat-transazzjonijiet finanzjarji li setgħu saru minn jew lejn din il-kumpanija.

Inoltre b'mod partikolari sabiex jixhed dwar jekk *Egrant Inc, Tillgate Inc* u *Hearnville Inc* irċevewx flejjes f'xi kont bankarju li dawn il-kumpaniji jew min minnhom setgħa kellhom mal-Bank rispettiv u li setgħu irċevew mingħand il-kumpaniji *Al Sahra FZCO, Shams Al Sahra FZCO* jew *Sahra*

FZCO, bejn l-1 ta' Diċembru 2015 u t-30 t'April 2016 u liema ħlasijiet kienu joriġinaw mill-Bank Pilatus, billi jipprovdi l-informazzjoni kollha relattiva għal dawn il-pagamenti.

Sal-ġurnata ta' meta qiegħed jiġi redatt dan il-proċess verbal ma kienet intbagħtet ebda tweġiba għal din l-ittra rogatorja mill-Awtoritajiet tal-Emirati Għarab Magħquda.

D. <u>Ir-Repubblika tal-Ġermanja – fil-forma ta' Mandat t'Investigazzjoni Ewropew.</u>

Fl-24 ta' Novembru 2017 kien deher l-artiklu : *Nach dem Beben* fuq il-ġurnal Ġermaniż online *Suddeutsche Zeitung*. Din l-informazzjoni li l-*Federal Crime Office* Germaniż (BKA) kien ottjena mill-*Panama Papers* setgħet tkun utli għall-inkjesta *Egrant* u dan peress li huwa importanti li l-inkjesta tkun f'qagħda li jkollha għad-disposizzjoni tagħha kull informazzjoni li tista' tixħet dawl fuq il-meritu ta' din l-inkjesta. L-iskop għal dan kien li jkun jista' jiġi konfermat jekk evidenza stampata u diġitali li kienet ġie miġbura mill-uffiċini ta' Nexia BT setgħetx tkun imsaħħa minn dan is-sors. B'hekk sar kuntatt mal-Assistent Kummissarju tal-Pulizija Ian Joseph Abdilla li

infurmani li kienu saru kuntatti mal-Awtoritajiet Ġudizzjarji Ġermanizi mill-Avukat Ġenerali u mill-Maġistrat Dottor Anthony Vella in konnessjoni mal-inkjesta maġisterjali li qed tistħarreġ l-omiċidju ta' Daphne Caruana Galizia.

Sar tentattiv biex jiġi stabbilit kuntatt b'effett immedjat mal-Awtoritajiet Ġermaniżi sabiex ikun hemm aċċess għall-din l-informazzjoni u immedjatament bdew isiru l-arranġamenti sabiex minn nhar it-Tnejn 27 ta' Novembru 2017 jibda dan il-proċess. Ġara pero li nhar it-28 ta' Novembru 2017 Dr. Simon Busuttil għamel rikors li permezz tiegħu ippremetta : -

> Illi fl-24 ta' November 2017 fis-6.06pm il-gurnal influwenti u awtorevoli tedesk Suddeutsche Zeitung ippublika artiklu dwar il-Panama Papers intitolat "Nach dem Beben" (Wara t-terremot) (hawn anness bhala Dok. A), u fih inghatat l-ahbar li l-Ufficju tal-Prosekutur Federali Germaniz ghadu kemm baghat jew jinsab fil-process li jibghat lill-Pulizija f'Malta kull informazzjoni mill-Panama Papers li jikkoncemaw lill-Malta;
>
> Illi f'dan l-artiklu jinghad li l-Ufficju tal-Prosekutur Federali fi Munich nefaq iktar minn zewg miljun euro biex xtara l-informazzjoni kollha tal-Panama Papers migjuba mis-servers tad-ditta Mossack Fonseca tal-Panama, u parti minn din l-informazzjoni tikkoncema lil Malta u persuni Maltin li huma msemmijin fil-Panama Papers;
>
> Illi d-ditta Mossack Fonseca kienet rapprezentata f'Malta mid-ditta ta' Brian Tonna, Nexia BT, liema ditta kienet responsabbli biex twaqqfu u gew registrati fil-Panama kumpaniji sigrieti jumejn biss wara l-elezzjoni generali tal-2013, wahda ghall-Ministru Konrad Mizzi, l-ohra ghac-Chief of Staff tal-Prim Ministru, s-Sur Keith Schembri u l-ohra ghal xi hadd iktar importanti minn

dawn it-tnejn peress li isem il-beneficcjarju kien inghata permezz ta' Skype minn Karl Cini ta' Nexia BT lil Mossack Fonseca fil-Panama;

Illi matul l-ahhar xhur is-sidien ta' Mossack Fonseca gew arrestati fil-Panama mill-Pulizija tal-Panama taht investigazzjoni fuq hasil ta' flejjes u korruzzjoni ingenti;

Illi din l-informazzjoni li l-gurnal Tedesk qal li intbaghtet jew tinsab fil-process imminenti li tintbaghat Malta ghand il-Pulizija Maltija tikkoncerna u tikkomprendi kumpaniji proprjeta ta' imwaqqfa, jew imhaddma fuq struzzjonijiet ta' Brian Tonna, Karl Cini, Adrian Dixon (cittadin mill-Panama impjegat ta' Brian Tonna f'Malta), is-Sur Keith Schembri (Chief of Staff tal-Ufficju tal-Prim Ministru), il-Ministru l-On. Konrad Mizzi, Malcolm Scerri, Pierre Sladden, Adrian Hillman, is-Sinjura Sai Mizzi, Cheng Chen (cittadin Ciniz detentur ta' passaport Ciniz bin-numru G32458221 involut fin-negozjati biex Shanghai Electric akkwistat 33% tal-Enemalta u x-xiri tal-power station ta' Delimara u li ghandu kumpanija sigrieta fil-British Virgin Islands (Torbridge Services Inc) imwaqqfa ghalih minn Brian Tonna ft-2013), Andre Micallef, Lorraine Falzon, Mathew Pace

(dawn it-tlieta lkoll rapprezentanti ta' MFSP, ditta li tipprovdi servizzi finanzjarji), Rita Mizzi, Carmen Mizzi u Emanuel Mizzi minn Haz-Zabbar;

Illi din l-informazzjoni tinkludi emails, dokumenti PDF, ritratti, Office documents u hafna iktar;

Illi peress li din l-informazzjoni tinsab f'format digitali, ir-riskju li kif tasal Malta din l-informazzjoni tkun manipulata jew imbaghbsa huwa kbir;

Illi huwa impellenti li l-Magistrat Inkwirenti jkollu **kopja** ta' dak kollu li l-awtoritajiet Germanizi baghtu jew ser jibghatu lill-Pulizija Maltija originanti mis-servers tal-Mossack Fonseca u biex din il-kopja tigi parti integrali mill-atti tal-Inkjesta *de quo;*

Illi huwa impellenti ghas-serhan il-mohh tal-integrita tal-investigazzjoni mertu ta' din l-inkjesta u ghar-ricerka tal-verita li l-Magistrat Inkwirenti jkollu **huwa wkoll, apparti l-Pulizija**, taht il-kontroll tieghu u ghad-disposizzjoni tieghu l-informazzjoni kollha, li hija f'ammonti kbar hafna, u dan mill-iktar fis biex ikun evitat kull tbaghbis jew intralc tal-provi inkluzi f' din l-informazzjoni u biex jigi evitat kull tkaxkir tas-saqajn jew aghar mill-Pulizija stante r-rifjut tal-Pulizija Maltija li jagixxu fuq rapporti mimlija evidenza, inkluz dokumentarja, tal-Financial Intelligence Analysis Unit fl-ahhar xhur fil-konfront ta' Maltin msemmijin hawn fuq, inkluz ufficjali pubblici u politici involuti fkorruzzjoni u hasil ta' flus;

Ghaldaqstant l-esponenti umilment jitlob lil Magistrat Inkwirenti sabiex jordna u jaghti dawk l-ordnijiet immedjati kollha necessarji u impellenti biex kopja awtentika tal-informazzjoni mill-Panama Papers u mis-servers tal-Mossack Fonseca li l-Pulizija Maltija irceviet jew hija fil-process li tircievi mill-Ufficju tal-Prosekutur Federali Germaniz tkun ippreservata taht l-awtorita tal-Magistrat Inkwirenti u tkun inserita fl-atti tal-Inkjesta Magisterjali, u dan prevja kull talba mill-Magistrat Inkwirenti lill-Ufficju tal-Prosekutur Federali Germaniz biex dan jipprovdi *"checksum 'files"* ghal kull digital file li l-awtoritajiet Germanizi baghtu jew jinsabu fil-process li jibghatu lill-Pulizija f'Malta biex l-integrita tal-files digitali kollha tkun ippreservata u tkun tista' tkun verifikata fil-mori tal-Inkjesta, u dan dejjem taht kull provvediment iehor li l-Magistrat Inkwirenti jrid jordna fl-ahjar amministrazzjoni tal-Gustizzja u ghar-ricerka tal-vera verita shiha.

In segwitu għal dan ir-rikors ġie mismugħ Dr. Simon Busuttil jixhed bil-ġurament. Fil-frattemp pero bil-għan li jkun hemm kordinazzjoni aħjar tal-azzjoni li riedet tittieħed interament mill-Awtoritajiet Ġudizzjarji Maltin relattivament għall-inkjesti li kienu minnhom kondotti sar kuntatt mal-ġja Maġistrat Dottor Anthony Vella sabiex tiġi determinata x'azzjoni kienet

laħqet ittieħdet minn naħa tiegħu fid-dawl ta' dak imsemmi fl-artiklu *Nach dem Beben* bil-għan li ma jiġux duplikati sforzi u spejjeż.

It-talba ta' Dr. Busuttil kienet taqa' fil-parametri ta' dak li kien diġa previst li jsir mill-inkjesta qabel il-preżentata tar-rikors tiegħu u it-talba ta' Dr. Simon Busuttil ġiet milqugħa.

Għall-bidu, sakemm sar kuntatt dirett mal-Prosekutur Ġermaniż il-komunikazzjonijiet preliminari kienu saru bil-mezz tal-*email* mill-Assistent Kummissarju Ian-Joseph Abdilla li nhar l-1 ta' Diċembru 2017 kiteb lir-rappreżentant tal-BKA Holger Miltenberger biex jinfurmah bl-interess li kien hemm minn naħa tal-Pulizija Maltija u l-Maġistrati Inkwirenti (Aaron Bugeja – Egrant Inc; Natasha Galea Sciberras – Schembri – Tonna - Willerby; Josette Demicoli – Schembri – Hillman – et;) biex jottjenu l-informazzjoni relattiva mill-Panama Papers.

Fis-6 ta' Diċembru 2017 ġew mgħoddija d-dettalji ta' Ralph Riegel, *Head of Division, International Criminal Law, European and Multilateral Co-operation in Criminal Matters* fil-*Federal Ministry for Justice and Consumer Protection* tar-Repubblika tal-Ġermanja u Dakinhar stess intbagħtitlu rendikont dettaljat dwar l-informazzjoni li kienet meħtieġa relattivament għall-inkjesta *Egrant*

Inc. Kont ġejt infurmat li fil-każ ta' informazzjoni mgħoddija mill-BKA lil Maġistrat Inkwirenti Dr. Anthony Vella, l-Awtoritajiet Ġermaniżi kienu ddeċidew li jimxu in bażi għal informazzjoni spontaneja – li kienet waħda mill-opzjonijiet li kellhom taħt il-Konvenzjoni ta' Palermo. Kien maħsub li l-Awtoritajiet Ġermaniżi setgħu jipproċedu fl-inkjesta *Egrant Inc* in bażi għall-istess prinċipju.

Fl-14 ta' Diċembru 2017 intbagħtet risposta mingħand l-Avukat Natalia Spitz li kienet tgħid hekk : -

III1 – 9352E – M12 – B5 3356/2017

Dear Mr. Bugeja,

Mr. Riegel informed me about your request and forwarded your request dated December 6, 2017.

My name is Natalia Spitz and I am the public prosecutor, seconded to the German Federal Office of Justice which is handling with individual cases on the field of mutual legal assistance in criminal matters. So I am responsible for your case.

Regarding your request below I would like kindly ask you to notice that Germany has already implemented the Directive regarding the European Investigation Order in criminal matters of 3 April 2014. The Maltese authorities did same as well. In the light of the above the German authorities need your request made according to the Form of the European Investigation Order as you can see in Annex A of the Directive regarding the European Investigation Order in criminal matters of 3 April 2014.

I kindly ask you to use this form and to send your request direct to the German public prosecutor office which is responsible for executing of your request.

Please note that according to German law the public prosecutor office in Wiesbaden would be responsible for executing of your request:

Staatsanwaltschaft Wiesbaden

Mainzer Straße 124

65189 Wiesbaden, GERMANY

Phone: 0611 32610

Fax: 0611 327061600

e-mail: verwaltung@sta-wiesbaden.justiz.hessen.de

www.sta-wiesbaden.justiz.hessen.de

I hope that this explanations are useful for you. If your have further questions or need any other assistance, please do not hesitate to contact me.

Best regards,

Natalia Spitz

Dan kien ifisser li għall-din it-talba l-inkjesta kienet kostretta tipproċedi b'Mandat t'Investigazzjoni Ewropew – l-ewwel wieħed ta' din ix-xorta li kien ser isir f'Malta. Dan il-*modus operandi* f'dan il-każ kien differenti minn dak adottat preċedentement mill-istess Awtoritajiet fil-każ tal-inkjesta relattiva għall-omiċidju ta' Daphne Caruana Galizia. Stante li din l-informazzjoni kienet meħtieġa u kienet fil-pussess tal-Awtoritajiet Ġermaniżi ġie deċiż li r-rikjesta proċedurali tagħha tiġi adottata. Għalhekk sar il-Mandat t'Investigazzjoni Ewropew mingħajr aktar dewmien.

Fis-27 ta' Diċembru 2017 kiteb lura Ralph Riegel li stqarr li kienu qegħdin jeħtieġu li jiġi mwettaq il-Mandat t'Investigazzjoni Ewropew *which should make it easier for us to handle the request on a firm legal basis.* Fit-tweġiba mibgħuta lilu l-għada, ġie notat li l-Maġistrat Inkwirenti kien kemxejn sorpriż b'dan il-pass meħud minnhom in kwantu fl-inkjesta kondotta mill-Maġisrtat Vella l-Awtoritajiet Ġermanizi kienu mxew bi proċedura aktar sempliċi u diretta. Iżda xorta waħda t-talba tal-Awtoritajiet Ġermaniżi għal ħruġ ta' Mandat t'Investigazzjoni Ewropew ġiet sodisfatta. Fit-tweġiba tiegħu l-għada huwa informa li dan il-*modus operandi* kien meħtieġ ukoll fil-każ li din l-informazzjoni li setgħu jagħtu kienet tiġi wżata bħala evidenza fil-Qorti.

Il-Mandat t'Investigazzjoni Ewropew, li jifforma parti minn din l-inkjestaġie mibgħut lill-Awtoritajiet Ġudizzjarji Ġermaniżi wara li ġie ffirmat mill-Avukat Ġenerali Dr. Peter Grech nhar it-12 ta' Jannar 2018.

It-talba li kienet qegħda ssir kienet sabiex l-Awtoritajiet Ġudizzjarji Maltin ikollhom aċċess għall-informazzjoni kontenuta fil-*Panama Papers cache* u *checksum files* fil-pussess tal-Awtoritajiet kompetenti Ġermanizi. Il-modalita' tat-tiftix kellha tkun bażata fuq sett ta' *keywords* u filtri numeriċi li kienu rilevanti għal din l-inkjesta u li lista tagħhom ġiet provduta f'annex A mal-

Mandat t'Investigazzjoni Ewropew innifsu. Dan l-annex kien jinkludi s-segwenti

Annex A

1. Individuals: -

Muscat Joseph
Muscat Michelle
Tanti Michelle
Muscat Etoille Ella
Muscat Soleil Sophie
Keith Schembri or *Keith Allen Schembri*
Josette Schembri Vella
Konrad Mizzi
Liang Mizzi Sai
John Dalli
Karl Cini
Brian Tonna
Seyed Ali Sadr Hasheminejad
Negarin Sadat Sadrhasheminejad *or Negarin Sadr or Negarin Sadr Hashemi Nejad*
Arzu Aliyeva
Leyla Aliyeva
Robert John Baker
Farnoush Farsiar
Jaqueline Jasine Alexander Parrales or *Jaqueline Alexander*
Giselle Yajaira Ocampo Fonseca
Michelle Buttigieg
William Buttigieg
Maria Efimova
Seyed Mohsen Torabi

2. Companies:

Egrant Inc
Tillgate Inc
Hearnville Inc
Dubro Limited SA, Panama
Aliator SA, Panama
ATC Administrators Inc, Panama
Orion Trust
Haast Trust New Zealand
Rotoura Trust
Mossack Fonseca
Pilatus
Pilatus Bank
Sahra
Sahra FZCO
Al Sahra
Al Sahra FZCO
Shams Al Sahra
Shams Al Sahra FZCO
BTI Management Limited, Malta
BT International Limited
NEXIA BT, Malta
Dubro Limited SA, Panama
Aliator Limited SA, Panama
Buttardi
Jewellery
Colson Services Limited
Colson
Exir
SMT Pistachio Ranch and Management LLC

3. Key words:

"Non-resident account" relative to Egrant, Hearnville, Tillgate;

"Declaration of trust";

"Declarations of trust";

"*Bank account*" relative to Egrant, Hearnville, Tillgate;

"Bearer shares" relative to Egrant, Hearnville, Tillgate

"Rabat, Malta"

4. Numerical filters : -

"USD 1.017 million";

"USD 1,017,000";

" USD 100,000";

"USD 400,000"

"807956S"

"16/05/1974"

Annex B

Involved person : 1

Name : Muscat

First name : Joseph

Sex : Male

Nationality : Maltese

Identity card number:110274M

Date of birth : 22/01/1974

Place of birth : Pieta', Malta

Residence : 52, San Pawl Milqi, Burmarrad, San Pawl il-Baħar, Malta

Languages spoken : Maltese, English, Italian

Involved person : 2

Name : Muscat

First name : Michelle nee' Tanti

Sex : Female

Nationality : Maltese

Identity card number:260174M

Date of birth : 16/05/1974

Place of birth : Rabat, Malta

Residence : 52, San Pawl Milqi, Burmarrad, San Pawl il-Baħar, Malta

Languages spoken : Maltese, English

Even though not being in the main focus of this inquiry, certain facts affecting other PEPs mentioned in the said blogposts are also being investigated. The PEPs in question are : -

Involved person 3 : -

Name : Mizzi

First name : Konrad

Sex : Male

Nationality : Maltese

Identity card number:521577M

Date of birth : 04/11/1977

Place of birth : Malta

Residence : (Last known) Flat 4, 46 Avril, Ix-Xatt ta' Tigne', Sliema, SLM3011, Malta.

Languages spoken : Maltese, English

Involved person 4 : -

Name : Mizzi-Liang

First name : Sai

Sex : Female

Nationality : Chinese

Identity card number:24625A

Date of birth : 03/04/1977

Place of birth : China

Residence : (Last known) Flat 4, 46 Avril, Ix-Xatt ta' Tigne',

Sliema, SLM3011, Malta.

Languages spoken : Chinese, English

Involved person 5 : -

Name : Schembri

First name : Keith (Keith-Allen)

Sex : Male

Nationality : Maltese

Identity card number:331975M

Date of birth : 26/07/1975

Place of birth : Malta

Residence : Villa Abelia, Santa Marija Gardens, Unit C4, Triq iż-Żebbuġ, Mellieħa.

Languages spoken : Maltese, English

Involved person 6 : -

Name : Schembri-Vella

First name : Josette

Sex : Female

Nationality : Maltese

Identity card number:177876M

Date of birth : _____

Place of birth : Malta

Residence : Villa Abelia, Santa Marija Gardens, Unit C4, Triq iż-Żebbuġ, Mellieħa.

Languages spoken : Maltese, English

Involved person 7 : -

Name : Dalli

First name : John

Sex : Male

Nationality : Maltese

Identity card number: 851948M

Date of birth : _____

Place of birth : Malta

Residence : 1400, Block 14, Portomaso, St. Julians, PTM01

Languages spoken : Maltese, English

Secondary investigation

Involved person 8 : -

Name : Buttigieg

First name : Michelle

Sex : Female

Nationality : Maltese

Social Security no. : 068-88-4337

Date of birth : _____

Place of birth : Malta

Residence : 402 East 74th Street, #1E, New York, NY10021,

United States of America.

Languages spoken : Maltese, English

(Additional information) - telephone number 001-212-737-3944;

cell 001-646-309-8398; email buttigieg_michelle@hotmail.com.

Ms. Buttigieg has a business enterprise called "Buttardi". The business address of Buttardi is 334 East 78 Street, New York, NY10021, United States of America. The Employer ID number is 20-5107989.

Involved person 8 : -

Name : Sadrhasheminejad or Sadr Hasheminejad

First name : Negarin or Negarin Sadat

Sex : Female

Nationality : _____

Passport no. : RE011834

Date of birth : _____

Place of birth : _____

Residence : 7117 Natelli Woods LN, 20817 Bethesda,

Maryland, United States of America

Languages spoken : English

Additional info : His father is Mohammad Sadr Hasheminejad, who is, or used to be chairman of the Eghtesad Novin Bank in Tehran, Iran.

Legal persons involved

Legal Persons involved : 1

Name : Egrant Inc.

Registered seat : Marbella, 54th East Street #3A, City of Panama, Republic of Panama, incorporated on the 9th July 2013 and dissolved on the 19th January 2017.

Registration number: Microjacket number 2421806 of the Public Registry's Mercantile Section.

Address (Agent): MF Legal Services, Mossfon Building, 2nd Floor, East Street, P.O. Box 0832-0886 W.T.C., Republic of Panama.

Legal Persons involved : 2

Name : Tillgate Inc.

Registered seat : Marbella, 54th East Street #3A, City of Panama, Republic of Panama, incorporated on the 9th July 2013.

Registration number: Microjacket number 808516 of the Public Registry's Mercantile Section.

Address (Agent): MF Legal Services, Mossfon Building, 2nd Floor,

East Street, P.O. Box 0832-0886 W.T.C., Republic of Panama.

Linked entity - HAAST Trust created by means of a declaration of trust dated 22nd July 2015. The Trustee is Orion Trust (New Zealand) Limited, a company having its registered office at Bentleys Chartered Accountants, 13th Floor, DLA Piper Tower, 205, Queen Street, Auckland 1010, New Zealand.

Legal Persons involved : 3

Name : Hearnville Inc.

Registered seat : Marbella, 54th East Street #3A, City of Panama,

Republic of Panama, incorporated on the 4th July

2013.

Registration number: Microjacket number 808074 of the Public Registry's Mercantile Section.

Address (Agent): MF Legal Services, Mossfon Building, 2nd Floor, East Street, P.O. Box 0832-0886 W.T.C., Republic of Panama.

Linked entity - Rotorua Trust created by means of a declaration of trust dated 22nd July 2015. The Trustee is Orion Trust (New Zealand) Limited, a company having its registered office at Bentleys Chartered Accountants, 13th Floor, DLA Piper Tower, 205, Queen Street, Auckland 1010, New Zealand.

Annex C

The facts giving rise for the issue of the EIO

The Maltese Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media, principally by the recently murdered Maltese journalist Daphne Caruana Galizia against the Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons (hereinafter for ease of reference this is being referred to as the "Egrant Investigation"). Dr. Muscat himself had lodged a request for this investigation following publication of these allegations. Dr. Muscat is claiming that these allegations are totally unfounded.

The **principal allegations** originating from two blogposts published on the 20th April 2017 entitled :

(a) "US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc." published at 4:41pm;

(b) "Declarations of trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat" published at 19:59, namely that –

i. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc., which is a company incorporated in the Republic of Panama; and

ii. the back accounts of this same company, Egrant Inc., were in receipt of considerable sums of money from Al Sahra FZCO, a company belonging to Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Ms. Galizia claimed that Egrant Inc. belongs to Mrs. Michelle Muscat, the Prime Minister's wife, on the strength of two declarations of trust allegedly provided to Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust allegedly show that the shares in Egrant Inc., a Panamanian company are held by Mossack Fonseca as nominees for Mrs. Michelle Muscat. This inquiry is also investigating the existence and authenticity of these documents.

Ms Galizia claimed that during the months of January, February and March 2016 there were several financial transfers of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc. in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment'.

Apart from these principal allegations that the Inquiring Magistrate was tasked to investigate, during the course of this inquiry, another blog post was posted by Galizia wherein certain serious allegations were made and that required verification. In this blogpost published on the 21st April 2017 at 00:04 entitled "US$400,000 "loan payment" to Michelle Muscat jewellery business partner from sister of Pilatus Bank owner", Galizia claimed that Mrs. Michelle Muscat, has a friend called Michelle Buttigieg, who in 2014, was appointed "Malta's tourism representative". Buttardi is a costume jewellery business that Ms. Buttigieg set up in 2003. Ms. Michelle Muscat, nee Tanti is still mentioned on the company website as the contact person for the European market.

Galizia alleged that in March 2016 Ms. Buttigieg received US$400,000 from a certain Negarin Sadrhasheminejad (or Negarin Sadr Hasheminejad, who is also known by the shorter form of Negarin Sadr or a longer form as Negarin Sadat Sadr Hasheminejad). The latter has a fashion business called "Negarin London". "Negarin London" has a website wherein it is stated that the brand

has been established by Negarin Sadr in 2011. Negarin Sadr has a brother named Seyed Ali Sadr Hasheminejad, 36, who is the chairman and allegedly the ultimate beneficial owner of a bank registered in Malta called "Pilatus Bank", headquartered in Whitehall Mansions at Ta' Xbiex.

The blogger stated that Seyed Ali Sadr Hasheminejad is Iranian, but has four passports issued to him by St Kitts & Nevis. His father is Mohammad Sadr Hasheminejad, who is, or used to be chairman of the Eghtesad Novin Bank in Tehran, Iran.

The blogger also alleged that in March 2016 Pilatus Bank had received urgent instructions in order to open an account for Negarin Sadr. These instructions came late in the evening, but bank officials were instructed that this transaction could not wait until the next day. The account was immediately opened and according to the blogger a loan of US$1 million were granted there and then to Negarin Sadr for her fashion business. However then another instruction was received that is as soon as the loan was processed, approximately US$400,000 – were to be paid out from Negarin Sadr's loan account to a bank account held by "a Maltese woman who lives in New York and has a jewellery business called Buttardi". This woman, referred to by this blogger is Michelle Buttigieg.

The Inquiring Magistrate heard Michelle Buttigieg, on oath who stated that she does not know Negarin Sadr and she has never ever conducted any business with her or received any monies from her. She completely rejected the claims made by the blogger. However the blogger claimed that this story was related

to her by an ex-employee of Pilatus Bank. This ex-employee of Pilatus Bank testified in the records of the investigation and confirmed the story mentioned by the blogger in her blog post.

In the course of the inquiry it transpired that it was true that Negarin Sadr took out a loan from Pilatus Bank. However various important details relating to this loan were different from the ones mentioned in the blog post. The Bank's records show that Negarin Sadr's bank account was opened on the 2nd February 2016. On the 3rd February 2016 Pilatus bank provided Negarin Sadr with a loan of US$ 1.5 million (and not US$1 million as claimed by the blogger) for the purchase of 12.375% interest in "SMT Pistacho Ranch and Management LLC". The inquiry received information showing that as at **1st June 2015,** the shareholder structure of "SMT Pistacho Ranch and Management LLC" was already as follows:

- Seyed Mohsen Torabi: 50.50%
- Hanza LLC (Pegah Sadrhasheminejad): 12.375%
- Altitude Capital LLC: 24.750%
- Negarin Sadrhasheminejad: 12.375%

The investigation establised that this loan that was taken by Negarin Sadr from Pilatus Bank for the amount of US$1.5 million were remitted directly and in whole to Seyed Mohsen Torabi through correspondent bank called "Bank of Valletta plc" to Torabi's bank being "Wells Fargo Bank, N.A. WFBIUS6SXXX,

San Francisco, CA, United States of America, bank account number 3675175735. Banking records show that the purpose for this remittance was the "purchase of 12.375pct interest in SMT Pistachio Ranch and Management LLC".

These allegations have to be analysed further, because if proven, both the principal as well as the secondary allegations will constitute the crime of participating in a criminal organisation of at least three people and also the serious crimes of Corruption and Money Laundering, both punishable by more than four years imprisonment in terms of Maltese law.

The focus of the "Egrant Inc." Inquiry is on Dr. Joseph Muscat and his wife Ms. Michelle Muscat nee Tanti and the alleged ultimate beneficial ownership of shares in Egrant Inc. held for Ms. Michelle Muscat by Mossack Fonseca nominees as well as the alleged transfers of monies as detailed above.

Dawn id-dettalji kollha ġew maqbula wkoll mal-*Forensic Accountants*. Dan il-Mandat t'Arrest Ewropew ġie mwassal mid-Desk Malti tal-*Eurojust* lid-desk Ġermaniż (*Prosecution*) sabiex jiġi mgħoddi lill-Prosekutur ta' Wiesbaden. Minn dakinhar il-quddiem, għajr ħlief għall-komunikazzjoni minn Ralph Riegel, il-kumplament tal-komunikazzjonijiet tal-Prosekutur ta' Wiesbaden ma din l-inkjesta, minn naħa Ġermaniża, saru bil-Ġermaniż biss.

Fil-frattemp fuq talba tal-Awtoritajiet Ġermaniżi il-Mandat ġie wkoll tradott għall-ilsien Ġermaniż.

Fit-8 ta' Marzu 2018 ġiet riċevuta informazzjoni permezz ta' email mill-Prosekutur Tanja Altmann li, tradotta għall-ilsien Ingliż, kienet tgħid hekk:-

Dear Mr Bugeja,

Within the framework of checking the recognition and execution of the EIO dated 12.01.2018 there are some points which I still need to clarify. For the time being only a partial recognition is possible.

We know that there was a meeting of Federal Criminal Police Office Wiesbaden, already on the 29.11.2017, with a judicial representative of the Maltese authorities and a leading investigator in the murder case of the journalist Galizia, in the course of which data contents from the database of the so-called Panama Papers were handed over by a representative of the Federal Ministry for Justice and Consumer Protection.

Part of the data requested in the EIO is identical with the ones contained on the data carrier, so it seems that an approval for using them for judicial purposes is in so far sufficient from our side, unless your authority does not have in hand the data carrier already handed over, since, as far as we know here, there are said to be several investigative procedures by the Maltese authorities in connection with the Panama Papers.

The key words to be searched contained in the appendix of the EIO are only covered in part by the described circumstances, which might be criminally

relevant. Some of the listed persons and companies do however have no base in Appendix C, so we cannot assess, for the time being, whether and in how far these persons or companies might be involved in a criminally relevant manner. The content of the EIO in so far does not contain the required description of the criminal offence.

Further information is missing regarding the following persons or companies:

-Keith Schembri

-Josette Schembri Vella

- Konrad Mizzi

-Liang Mizzi Sai

- John Dalli

- Robert John Baker

- Famoush Farsiar

-Jaqueline Jasine Alexander Parrales or Jaqueline Alexander

- Giselle Yajaira Ocampa Fonseca

-Tillgate Inc.

-Hearnville Inc.

- Dubro Limited SA

- Aliatro SAlAliator Limited SA ATC Administrators

-Orion Trust

- Haast Trust

- Rotoura Trust

- BTI Management

-NexiaBT

- Colson Services Limited

- Exir

- Rabat, Malta

-8079565

The search terms Pilatus, Mossack Fonseca, Jewellery are too indefinite for a search. Because of the large data material more concrete details are required in order to allow a more targeted search.

Please let us know whether you have in hand the data carrier which was handed over and whether an approval for judiciary use would be sufficient. Regarding the key words listed above please amend and flesh out the EIO, so that this can also be recognized and executed.

Din il-lista ta' *keywords* u *numerical filters* kienet ġiet miġbura fuq pariri tal-*Forensic Accountants*. Biss deher li l-operazzjoni kienet ser tkun aktar komplikata jekk uħud minnhom ma jkunux riveduti u parti mill-fatti kjarifikata.

Din l-email ġiet imwieġba b'email segwenti (fis-13:09) :

Dear Madam, many thanks for your e-mail the contents of which were noted.

I am also referring this matter the Office of the Attorney General (being the Competent Authority for Judicial Co-operation in criminal matters for Malta) for their comments.

However, I would like to make some preliminary observations.

First of all I would like to express my gratitude for your help and the fact that you are considering our EIO. My role is that of a judicial investigative authority and I am indeed carrying out an inquiry in terms of the Maltese Criminal Code in relation to certain allegations made by Journalist Galizia in respect of Michelle Muscat, the wife of Dr. Joseph Muscat. I am sending an informal summary of the allegations as well as the provisions of criminal law that could form the basis for an investigation if the allegations made by journalist Caruana Galizia in relation to Michelle Muscat are found to be founded on evidence. Following your request, the summary of these allegations are going to be supplemented formally, but I decided to send them to your Office spontaneously and informally in order for you to be able to take any action you may deem necessary in furtherance to our request for co-operation even at this stage.

I understand that certain keywords, like Pilatus, Mossack Fonseca, Jewellery, Rabat, Malta are too vague. These keywords may be left aside and ought not halt the process at this stage.

The number 807956S is relevant on its own as it is the distinctive micro-jacket number for the company Egrant Inc, attributed to it only in 2014 by the Panama Public Registry after certain regulatory changes made by that Office in 2014. The letter S was not originally attributed to the company's micro-jacket number on its incorporation in July 2013. Hence any reference to this number ending with "S" in the data cache in your possession will give us a clear indication about developments taking place since 2014.

It is also true that we did not supply further details to you for Robert John Baker, Farnoush Farsiar, Jaqueline Jasine Alexander Parrales or Jaqueline Alexander, Giselle Yajaira Ocampa Fonseca, Dubro Limited S.A., Aliator S.A., ATC Administrators, BTI Management, Nexia BT, Colson Services Limited,

and Exir. I shall try to see what other details can be gathered and supplied. We thought that at this stage a preliminary search could have been sufficient to see if there would have been any hits against any one of these keywords. If positive then we would carry out our assessment accordingly. But I understand that you require more precise details and parameters, which after all is right.

In this spirit however, I note that in your list of persons or companies lacking further information you include the names of :-

a. Keith Schembri,
b. Josette Schembri Vella,
c. Konrad Mizzi,
d. Sai Mizzi Liang and
e. John Dalli
f. Tillgate Inc.
g. Hearnville Inc.
h. Orion Trust
i. Haast Trust
j. Rotorua Trust.

Please note that as far as the physical persons are concerned, we have already supplied you their full personal details, including their dates of birth and Maltese Identity card numbers, apart from their addresses etc. As for the companies Tillgate Inc and Hearnville Inc, we have already provided to you all the details of their incorporation in Panama, including the microjacket number as well as their registered addresses and dates of incorporation. We have also provided you with the available details for Orion Trust, Haast Trust and Rotorua Trust too.

All this information is contained in **Annex B** to the EIO.

These are the most important persons in our investigation, along with Joseph Muscat, Michelle Muscat and Egrant Inc, (whose details were also likewise

supplied to you in Annex B, and in relation to who you requested no further details).

In order to avoid any misunderstanding, can you kindly indicate what further details do you require from us in relation to the list of persons or companies that you highlighted as lacking further information in order for us to be able to take immediate action and possibly to supply them to you as soon as possible.

Please note that in order to expedite procedures and ease co-operation in this matter, I am prepared to follow this request not only by formal supplementary EIO, but also by visiting your Offices so as to illustrate and explain better to you the focus of our investigation. I undertand that this will also help you with your assessment in relation to our request for co-operation.

While I await your kind reply to the above, I once again thank you and send you my best regards,

Aaron M. Bugeja

Magistrate.

Ma din l-email ġiet inkluża wkoll il-*Fact sheet and criminal provisions guide* li kienet taqra hekk : -

Facts

The Inquiring Magistrate is currently investigating allegations of a criminal nature made by local media against the Prime Minister of Malta, Dr. Joseph Muscat and other Politically Exposed Persons. These allegations concern mainly the following facts:

i. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person', is the ultimate beneficial owner of Egrant Inc. It is established that the same Egrant Inc. is a company incorporated in the Republic of Panama with Microjacket number 2421806 of the Public Registry's Mercantile Section; and
ii.the back accounts of this same company, Egrant Inc, were in receipt of a considerable sums of money from Al Sahra FZCO, a company belonging to the Leyla Aliyeva, daughter of the President of Azerbaijan (hence another 'Politically Exposed Person').

Local media is claiming that Egrant Inc. belongs to Mrs. Michelle Muscat, the Honourable Prime minister's wife, on the strength of two declarations of trust allegedly provided to Pilatus Bank as a prerequisite for the opening of an account for Egrant Inc. with the same Bank. These declarations of trust allegedly show that the shares in Egrant Inc, a Panamanian company are held by Mossack Fonseca nominees for Mrs. Michelle Muscat.

With regards to the alleged transactions, it is being claimed that during the months of January, February and March 2016 there were several transactions of around US$100,000 each made twice a week over several weeks in the aforementioned months from the bank accounts of the company Al Sahra FZCO held with Pilatus Bank in Malta to bank accounts held by Egrant Inc in Dubai. Moreover in March 2016, in the same fashion, it is being alleged that there was a single transaction of US$1.017 million from Al Sahra FZCO to Egrant Inc.. These transactions were allegedly all described as 'loan payment'.

Preliminary investigations within Pilatus Bank gave rise to serious suspicions that such transactions, if they were ever carried out, might have been executed through other banks, possibly even outside the Maltese Jurisdiction. In this same context, it was also being alleged that two senior government officials, namely the then Minister for Energy (Konrad Mizzi) and the Prime Minister's Chief of Staff (Keith Schembri) were the UBO's of two other sister companies Hearnville Inc. (microjacket number 808074) and Tillgate Inc. (microjacket number 808516) both set up in Panama by Mossack Fonseca in July 2013 through the intermediary services of Maltese Accountants Brian Tonna and

Karl Cini of firm Nexia BT. It transpired that Keith Schembri was an account holder with Pilatus Bank.

In the event that these allegations are proven, in terms of Maltese Law and the United Nations Convention against Transnational Organized Crime and the Protocols thereto (the Palermo Convention) they will constitute the crime of participating in a criminal organisation of at least three people and also the serious crimes of Corruption and Money Laundering, both punishable by more than four years imprisonment in terms of Maltese law.

The Offences

In view of the above the Inquiring Magistrate is investigating these allegations which, if founded, could lead to an investigation for participation in a criminal organisation, corruption and money laundering in terms of Chapters 9 and 373 of the Laws of Malta. The relevant legal articles are being reproduced hereunder:

Organised Crime, Article 83A of Chapter 9 of the Laws of Malta

83A. (1) Any person who -

(a) promotes, constitutes, organises or finances an organization with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more; or

(b) knowing or having reasonable cause to suspect the aim or general activity of the organization set up for the purpose mentioned in paragraph (a), actively takes part in the organisation's criminal activities, including but not limited to the provision of information or material means or the recruitment of new members, shall be guilty of an offence and shall liable, on conviction, to the punishment of imprisonment for a term from four to nine years.

(2) Any person who belongs to an organisation referred to in subarticle (1) shall for that mere fact be liable to the punishment of imprisonment for a term from two to seven years.

(3) Where the number of persons in the organisation is ten or more the punishment in the preceding subarticles shall be increased form one to two degrees.

(4) Where the person found guilty of an offence under this title is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate, the said person shall for the purposes of this title be deemed to be vested with the legal representation of the same body corporate which shall be liable as follows:

(a) where the offence of which the person was found guilty is the offence in subarticle (1), to the payment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);

(b) where the offence of which the person was found guilty is the offence in subarticle (2), to the payment of a fine (multa) of not less than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73) and not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20);

(c) where the offence of which the person was found guilty is punishable as provided in subarticle (3) of this article -

(i) where the offence is that provided in subarticle (1), to the punishment of a fine (multa) of not less than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47) and not more than one million and one hundred and sixty-four thousand and six hundred and eighty-six euro and seventy cents (1,164,686.70);

(ii) where the offence is that provided in subarticle (2), to the punishment of a fine (multa) of not less than thirty-four thousand and nine hundred and forty euro and sixty cents (34,940.60) and not more than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67).

(5) The criminal action for an offence against the provisions of this article may be prosecuted in Malta notwithstanding that the organization of persons is based or pursues its criminal activities outside Malta.

Corruption, Articles 112, 114, 115, 118, 119 and 120 of Chapter 9 of the Laws of Malta

112. Any officer or person employed in any public administration, or any person employed by or under the Government, whether authorized or not to receive moneys or effects, either by way of salary for his own services, or on account of the Government, or of any public establishment, who shall, under colour of his office, exact that which is not allowed by law, or more than is allowed by law, or before it is due according to law, shall, on conviction, be liable to imprisonment for a term from three months to one year.

114. Where the crimes referred to in the last two preceding articles are accompanied with circumstances which render such crimes liable also to other punishments, the higher punishment shall be applied with an increase of one degree.

115. (1) Any public officer or servant who, in connection with his office or employment, requests, receives or accepts for himself or for any other person, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage to which he is not entitled, shall, on conviction, be liable to punishment as follows:

(a) where the object of the reward, promise or offer, be to induce the officer or servant to do what he is in duty bound to do, the punishment shall be imprisonment for a term from six months to three years;

(b) where the object be to induce the officer or servant to forbear from doing what he is in duty bound to do, the punishment shall, for the mere acceptance of the reward, promise or offer, be imprisonment for a term from nine months to five years;

(c) where, besides accepting the reward, promise, or offer, the officer or servant actually fails to do what he is in duty bound to do, the punishment shall be imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law, when the offence against the provisions of this article is committed by a person who, at the time when the offence was committed, held the office of Minister, Parliamentary Secretary, Member of the House of Representatives, Mayor or Local Councillor and the offence involved the abuse of such office, the provisions of Title VI of Part III of Book Second of this Code shall not apply to the said person or to any accomplice.

118. (1) Any member of the House of Representatives who requests, receives or accepts, for himself or for any other per son, any reward or promise or offer of any reward in money or other valuable consideration or of any other advantage given or made with the object of influencing him in his conduct as a member of the House shall, on conviction, be liable to imprisonment for a term from one year to eight years.

(2) Notwithstanding any other provision of this Code or of any other law the provisions of Title VI of Part III of Book Second of this Code shall not apply to

an offence under this article in respect of the said Member of the House of Representatives or any accomplice.

119. The punishment of perpetual general interdiction or perpetual special interdiction, or both, as the case may be, shall be added to the punishments established in the preceding articles of this sub-title when the maximum of such punishments exceeds two years' imprisonment; when the maximum of the said punishments does not exceed two years' imprisonment, then the punishment of temporary general interdiction or temporary special interdiction, or both, as the case may be, shall be added.

120. (1) In the cases referred to in articles 115, 116, 117 and 118, the person who bribes the public officer or servant or the member of the House of Representatives, or the person to whom any of the said articles applies in accordance with any provision under this Code or under any other law, as the case may be, shall be deemed to be an accomplice.

(2) Where the public officer or servant or other person does not commit the crime, the person who attempts to induce such officer or servant or other person to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to three years:

Provided that when the crime is that referred to in article 117(c), the punishment shall not exceed eighteen months imprisonment.

(3) Where the member of the House of Representatives does not commit the crime, the person who attempts to induce such member to commit the crime shall, on conviction, be liable to imprisonment for a term from six months to four years.

Money Laundering, Articles 2 and 3 of Chapter 373 of the Laws of Malta

"money laundering" means –

(i) the conversion or transfer of property knowing or suspecting that such property is derived

directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of

participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal

activity;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property is derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iii) the acquisition, possession or use of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(iv) retention without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;

(v) attempting any of the matters or activities defined in the above foregoing sub-paragraphs

(i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;

(vi) acting as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub- paragraphs (i), (ii), (iii), (iv) and (v).

3. (1) Any person committing any act of money laundering shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding two

million and five hundred thousand euro (€2,500,000), or to imprisonment for a period not exceeding eighteen years, or to both such fine and imprisonment.

Għalhekk wara din l-*email*, nhar it-12 ta' Marzu 2018, dik l-istess *email* kienet ukoll imwieġba lura bis-segwenti informazzjoni ulterjuri: -

Further to your email of the 8th March 2018 at 11:33 and to my reply of the same date at 13:09, you wish to note the following.

I can confirm that part of the documents that are relevant to the captioned investigation have been requested to Magistrate Dr. Anthony Vella who is conducting the inquiry in relation to the assassination of Daphne Caruana Galizia and they have been referred to me and were found to be relevant and helpful. However given that the inquiry I have been charged with specifically concentrates on various allegations made by Daphne Caruana Galizia in her various articles relating to Maltese PEP mentioned in the EIO, a more specific search in the database is being requested.

Further to the facts mentioned in Annex C to the main EIO, please note that the main allegations being investigated are as follows :

i. that Mrs. Michelle Muscat, the Prime Minister's wife and hence a 'Politically Exposed Person' (*PEP*), is the ultimate beneficial owner (*UBO*) of *Egrant Inc.* a company incorporated in the Republic of Panama with Microjacket number 807956 of the Public Registry's Mercantile Section and Document number 2421806; and

ii. the bank accounts of this same company, *Egrant Inc*, were in receipt of considerable sums of money from *Al Sahra FZCO*, a company belonging to the Leyla Aliyeva, daughter of the President of Azerbaijan (hence another *PEP*).

Daphne Caruana Galizia claimed that *Egrant Inc.* belongs to Mrs. Michelle Muscat, on the strength of two declarations of trust allegedly provided to Pilatus Bank in Malta as a prerequisite for the opening of an account for *Egrant Inc.* with the same Bank. These declarations of trust allegedly show that the shares in *Egrant Inc.* are held by Mossack Fonseca nominees for Mrs. Michelle Muscat. The text of her articles, which form part of the facts that are being investigated, are as follows : -

US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc

In March last year (*2016*), Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year (*2016*).

The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.

Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country.

The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through.

Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up.

This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.

The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta.

Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

Declarations of trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat

In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEPs, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

This is the text of the two declarations of trust which were in the kitchen-safe at Pilatus Bank

The first Declaration of Trust is issued by a company called DUBRO LIMITED S.A.

Dubro Limited S.A.
P.O. Box 0832-0886 W.T.C. PANAMA
REPUBLIC OF PANAMA

DECLARATION OF TRUST

The document states that Dubro Limited S.A., in its capacity as subscriber, acknowledges that it holds a share of:

EGRANT INC.
807956S
of The Penthouse, Suite 2, Capital Business Centre, Entrance C,
Triq taz-Zwejt, San Gwann, SGN3000, MALTA

and that this share is being held as Nominee of and Trustee for Ms Michelle Muscat nee Tanti; Date of Birth: 16/05/1974; Place of Birth: Rabat, Malta

The declaration of trust is dated 20 August 2015 and is signed by Jaqueline Alexander as director of Dubro Limited S.A.

The second Declaration of Trust is issued by a company called ALIATOR S.A.

ALIATOR S.A.
P.O. Box 0832-0886 W.T.C. PANAMA
REPUBLIC OF PANAMA

DECLARATION OF TRUST

The document states that Aliator S.A., in its capacity as subscriber, acknowledges that it holds a share of:

EGRANT INC.
807956S
of The Penthouse, Suite 2, Capital Business Centre, Entrance C,
Triq taz-Zwejt, San Gwann, SGN3000, MALTA

and that this share is being held as Nominee of and Trustee for Ms Michelle Muscat nee Tanti; Date of Birth: 16/05/1974; Place of Birth: Rabat, Malta

This declaration of trust is also dated 20 August 2015 and signed by Jaqueline Alexander as director of Aliator S.A.

Apart from these blog posts, Ms Galizia published another blog post on the 21st April 2017 that is also being reproduced for ease of reference.

US$400,000 "loan payment" to Michelle Muscat jewellery business partner from sister of Pilatus Bank owner

Seyed Ali Sadr Hasheminejad, 36, is the chairman and ultimate beneficial owner of Pilatus Bank, which is headquartered in Whitehall Mansions at Ta' Xbiex. He is Iranian, but has four passports issued to him by St Kitts & Nevis. His father is Mohammad Sadr Hasheminejad, who is chairman of the Eghtesad Novin Bank in Tehran, Iran.

Seyed Ali Sadr Hasheminejad has a sister, Negarin Sadr Hasheminejad – known by the shorter form of Negarin Sadr – who has a fashion business called Negarin London. Both siblings live between London and the US.

In March last year, Pilatus Bank received urgent instructions to open an account for Negarin Sadr, the chairman's sister. It was late in the evening, but bank officials were told that it couldn't wait until the next day.

The account had to be opened immediately and a loan of US$1 million granted there and then to Negarin Sadr for her fashion business.

Then another instruction came in: as soon as the loan was processed, a significant proportion of it – approximately US$400,000 – was to be paid out from Negarin Sadr's loan account to a bank account held by "a Maltese woman who lives in New York and has a jewellery business called Buttardi".

The woman in question is Michelle Buttigieg and Buttardi is a costume jewellery business she set up in partnership with Michelle

> Muscat (formerly Tanti) in 2003. Mrs Muscat is still in business with her and is listed on the company website as the contact person for the European market.
>
> In 2014, Michelle Buttigieg was appointed "Malta's tourism representative" in the United States, on a salaried basis with perks. She has no tourism or related experience, and there was no open call for the post. The government has refused to publish her contract.

In this same context, it was also being alleged that two senior government officials, namely the then Minister for Energy (Konrad Mizzi) and the Prime Minister's Chief of Staff (Keith Schembri – who holds a personal bank account with Pilatus Bank Limited) were the ultimate beneficial owners of two other companies *Hearnville Inc.* (microjacket number 808074) and *Tillgate Inc.* (microjacket number 808516) that like *Egrant Inc.* were also set up in Panama by Mossack Fonseca in July 2013 through the intermediary services of Maltese Accountants Brian Tonna and Karl Cini of firm *Nexia BT* through the firm *BTI Management Limited* which forms part of the *Nexia BT* accountancy firm and on the 22nd July 2015 Konrad Mizzi, UBO of *Hearnville Inc.* set up a New Zealand trust called *Rotorua Trust* while Keith Schembri, UBO of *Tillgate Inc.* set up *Haast Trust.* Both trusts were set up with *Orion Trust (New Zealand) Limited* standing as trustee. This can also be confirmed in part from some of the data that you have available in the database in your possession.

The original micro jacket number of *Egrant Inc* is 807956. However as can be seen in the text of the declaration of trust published by Daphne Caruana Galizia, the microjacket number mentioned is 807956**S.** This number is relevant on its own as it is the distinctive micro-jacket number for *Egrant Inc,* attributed to it only in 2014 by the Panama Public Registry after certain regulatory changes made by that Office in 2014. The letter S was not originally attributed to the company's micro-jacket number on its incorporation on the 4th July 2013 when *Egrant Inc* was incorporated. Hence any reference to this number ending with "**S**" in the database in your possession will give us a clear indication about developments taking place since 2014.

At this stage, in order to try to expedite procedures and to avoid any further complications, as much as possible, we are willing to concentrate our request for co-operation in relation to the following :

5. Individuals: -

- Muscat Joseph
- Muscat Michelle
- Tanti Michelle (Michelle Muscat's maiden surname)
- Muscat Etoille Ella (daughter of Joseph Muscat and Michelle Muscat)
- Muscat Soleil Sophie (daughter of Joseph Muscat and Michelle Muscat)
- Keith Schembri or Keith Allen Schembri
- Josette Schembri Vella (wife of Keith Schembri)
- Konrad Mizzi
- Liang Mizzi Sai (wife of Konrad Mizzi)
- John Dalli
- Negarin Sadat Sadrhasheminejad or Negarin Sadr or Negarin Sadr Hashemi Nejad
- Michelle Buttigieg

6. Companies:

- Egrant Inc
- Tillgate Inc
- Hearnville Inc
- Orion Trust (New Zealand) Limited
- Haast Trust, New Zealand
- Rotorua Trust, New Zealand
- Sahra FZCO
- Al Sahra FZCO
- Shams Al Sahra FZCO
- Buttardi

7. Numeric Filter

- *"807956S"*

Kindly note that we supplied all pertinent details available to us in Annex B to the original request. I hope that this satisfies your query and that progress can be registered in this case.

Thanks and best regards,

Aaron M. Bugeja

Magistrate

In segwitu għal din l-ittra ġie maqbul li biex ma jkunx hemm aktar dewmien fl-eżekuzzjoni ta' dan il-Mandat t'Investigazzjoni Ewropew issir żjara lill-Prosekutur ta' Wiesbaden. Ġiet maqbula d-data tat-12 u 13 t'April 2018.

Fit-12 t'April 2018 saret laqgħa fl-Uffiċju tal-*BKA* f'Wiesbaden. Preżenti għal din il-laqgħa kien hemm il-Maġistrat Inkwirenti flimkien mal-Assistent Kummissarju Ian Joseph Abdilla. Minn naħa Ġermaniża kien hemm il-Prosekutur Tanja Altmann flimkien mad-Diriġent tal-*BKA* f'Wiesbaden, nonche l-Kummissarju tal-Pulizija Frauke Goldschmidt u interpretu mill-ilsien Ingliż għal dak Ġermaniż u vice versa. Hemmhekk wara li saret presentazzjoni dwar il-mod ta' kif kienu ħadmu l-*BKA* ġiet mgħoddija *extrenal hard disk drive* tal-marka **WD Elements bis-serial number WXP1A77J4SK4** li fiha kien hemm l-informazzjoni li l-*BKA* kienu ġabru mill-*Panama Papers Cache* skont il-lista ta' *keywords* u *numerical filters* li dehru fuq

lista li qed tiġi wkoll annessa flimkien mal-faxxiklu relattiv għal dan il-Mandat t'Investigazzjoni Ewropew iffirmat minni u minn Tanja Altmann nhar it-12 t'April 2018.

Minn naħa Maltija tiegħi għaddejt lill-Awtoritajiet Ġudizzjarji u Polizjeski Ġermaniżi informazzjoni kunfidenzjali li kont għadni kif irċevejt nhar l-10 t'April 2018 u li kellha x'taqsam ma parti mill-*Panama Papers Cache* li kienet relattiva għall-informazzjoni meħuda mis-*servers* ta' Mossack Fonseca fl-2017. Irriżulta li din l-informazzjoni kienet diġa disponibbli għall-dawn l-Awtoritajiet li wkoll żiedu ma dak li kienu ppreparaw billi għaddew ukoll din l-informazzjoni li kienet disponibbli għalihom dwarhom.

Sussegwentement, din l-informazzjoni miġbura in segwitu għal dan il-Mandat t'Investigazzjoni Ewropew kienet ġiet mgħoddija lil rappreżentanti ta' *ANSEC IA Limited* sabiex ikunu jistgħu jagħmlu *clone* ta' din l-informazzjoni biex wara li tiġi pproċessata minnhom bħala *IT Forensic Experts*, wara l-informazzjoni indexed u f'format li jkun jista' jiġi moqri u analizzat tiġi mgħoddija lil *Forensic Accountants* Harbinson Forensics għall-analiżi tagħhom. Fil-fatt ir-rappreżentanti ta' *ANSEC IA Limited* Rodger Trotter u Jeffrey Nelson ġew Malta u fis-26 t'April 2018 ħadu din l-*external hard drive* biex jagħmlu l-*clone* tagħha. L-għada din ġiet ritornata lura u issa

tinsab parti minn dawn l-atti flimkien mal-faxxiklu relattiv għall-Mandat t'Investigazzjoni Ewropew de quo.

Suġġeriment għal talba għal estensjoni tal-Mandat t'Investigazzjoni Ewropew mill-Awtoritajiet Ġudizzjarji Ġermaniżi – *laptops* u *hard disk drives* allegatament ta' Daphne Caruana Galizia

Nhar it-18 ta' Mejju 2018 ġiet riċevuta *email* mingħand il-Prosekutriċi Tanja Altmann li kienet tgħid hekk : -

1190 AR 3276/18

Sehr geehrter Herr Bugeja,

ich bedanke mich zunächst für Ihre Mail vom 09.05.2018.

Zwischenzeitlich wurde hier weiteres mutmaßliches Beweismaterial über eine Anwaltskanzlei in Frankfurt am Main gewonnen, das für Sie möglicherweise von Relevanz sein kann.

Es handelt sich hierbei um die Arbeitslaptops aus dem Nachlass der ermordeten Frau Daphne Caruana Galizia, die an das BKA übergeben und dort sichergestellt worden sind.

Unter Bezugnahme auf den beigefügten Vermerk des Bundeskriminalamts Wiesbadens vom 15.05.2018 rege ich ein ergänzendes Ersuchen um Übergabe von Sicherungskopien der sichergestellten Festplatten an, damit Ihnen eine justizielle Auswertung der vorhandenen Daten ermöglicht wird.

Sofern Sie Ihre Europäische Ermittlungsanordnung auf diese Sicherungskopien erweitern, können wir uns hinsichtlich der Modalitäten der Übergabe noch verständigen.

Mit freundlichen Grüßen

gez. Altmann

Staatsanwältin

---

gesendet von:

Anette Rzymski

Amtsinspektorin

Staatsanwaltschaft Wiesbaden

- Verwaltung -

Mainzer Str. 124, 65189 Wiesbaden

Tel.: + 49 (0) 611 / 3261 6069

Fax: + 49 (0) 611 / 3270 61710

1190 AR 3276/18

Dear Mr. Bugeja,

I thank you first for your mail from 09.05.2018.

In the meantime, further suspected evidence about a law firm in Frankfurt am Main has been obtained that may be relevant to you.

These are the work laptops from the estate of the murdered Mrs. Daphne Caruana Galizia, which were handed over to the BKA and secured there.

With reference to the attached note of the Federal Criminal Investigation Office of Wiesbaden from 15.05.2018 I suggest a supplementary request for the transfer of backup copies of the seized hard disks, so that a judicial evaluation of the existing data is possible.

If you extend your European Investigation Order to these backup copies, we can still agree on the modalities of the transfer.

Best regards

signed Altmann

public prosecutor

sent by:

Anette Rzymski

Amtsinspektorin

Staatsanwaltschaft Wiesbaden

- Verwaltung -

Mainzer Str. 124, 65189 Wiesbaden

Tel.: + 49 (0) 611 / 3261 6069

Fax: + 49 (0) 611 / 3270 61710

From: Rechtshilfe@sta-wiesbaden.justiz.hessen.de
Sent: 18 May 2018 11:54
To: Bugeja Aaron at Judiciary
Subject: Mutual Assistance Correspondence in the Criminal Matters, EEA of the General Attorney's Office dated 12.01.2018 concerning Panama Papers
Attachments: Note BKA v. 15.05.2018.pdf

1190 AR 3276/18

Dear Mr Bugeja,

First, I would like to thank you for your Email dated 09.05.2018.
In the meantime, here in Frankfurt am Main, further suspected evidence was obtained through a law firm that could possibly be of relevance.

It is about the work laptops from the estate of the murdered Ms. Daphne Caruana Galizia, that have been handed over to the BKA and are secured there.

With reference to the attached note of the Federal Criminal Police Office Wiesbaden dated 15.05.2018, I request an additional request for the transfer of backup copies of the secured hard drives, so that they will provide you a judicial evaluation of the existing data.

If you extend your European Investigation Order to the backup copies, we can still agree on the modalities of the transfer.

Best Regards
signed. Altmann
Prosecutor

---

sent from
Anette Rzymski
Office Inspector
Public Prosecutor's Office Wiesbaden
Administration
Mainzer str 124, 65189 Wiesbaden
Tel: +49(0) 611/3261 6069
Fax: +49(0) 611/3270 61710

Email Correspondence
It is not allowed by the Hessian's Courts and Judicial Authorities to lodge a claim, to appeal or lodge an appeal etc. by email.
On the website of the Hessian Ministry of Justice (http://justizministerium.hessen.de/service/electronischer-rechtsverkehr-0) you can enquire about the electronic exchanges and the possibilities to file electronic documents.

In the Ordinary Court proceedings, the online reminder is introduced. Furthermore, please use the letter post or - if permitted - Telefax

Federal Criminal Police Office
BAO Olet / SO 33 Wiesbaden,

15.05.2018
Tgb.-Nr.: SO-E-008/18

Mutual Assistance correspondence in Criminal Matters with the Republic of Malta European Investigation Order of the `` Office of the Attorney General `` dated 12.01.2018 in connection with the so-called `` Panama Papers``, Reference Nr. Public Prosecutor's Office Wiesbaden: 1190 AR 3276/18

NOTE

On the 17th KW the Frankfurt's Law Firm Feigen Graf contacted BKA and, on behalf of unspecified clientele announced the short-term handover of two work laptops as well as three hard disks from the estate of Ms. Daphne Caruana Galizia. By appointment, the following laptops and Data carriers were taken over and secured by the BKA on the 27.04.2018:

Number	Amount	Description of the objects	Remarks
1	1	Aspire 7530-G-754G32Bn, SN LXARG0X01093403AA82525 (Computer Acer) charging cable	both hard drive slots empty; optical drive empty; No further data carriers detected in the BIOS
2	1	Aspire E5-772-7980, S/N NXMVBEK037528108A66600 (Computer Acer,) charging cable	drive bay empty; optical drive empty; PC does not boot even if the power supply is connected
3	1	Model: HN-M160MBB, S/N: S2SY J9DB602776, P/N: C7132-G12A-A2LKZ (Hard disk, Samsung) 160 GB	
4	1	Model: HM250HI S/N: SI RUJ90Z607041 P/N: 34972-F121-AC0VY (hard disk, Samsung) 250GB	
5	1	Model: W05000LPVX-22VOT, S/N: WD-WX11A35D4L44, (hard drive, Western Digital) 500GB	

4

Local IT forensics made the following findings:

Asservat 2, the Acer Aspire E5-772-7980 with the serial number NXMVBEK0375281 08A66600, left not "boot" even with connected power supply.

Asservat 3, the Samsung hard drive with Model: HN-M160MBB, S/N: S2SY J9DB602776, P/N: C7132-G12A-A2LKZ (Hard disk, Samsung) 160 GB has a physical defect. A total of 8192 bytes are unreadable. Of the
Rest of the data on the disk, but could be backed up.

Miltenberger, EKHK

Din l-email ġiet imwieġba nhar l-24 ta' Mejju 2018, 17:26, bis-segwenti:-

Dear Ms. Altmann, many thanks for your email the contents of which were noted. I did not reply earlier as I am still making a round of consultations with colleagues involved in the Daphne Caruana Galizia murder inquiry and other investigations as well as with local expert witnesses. I shall be in a position to give you a detailed reply, hopefully, by tomorrow.

However till then, please note that Maltese Law of Criminal Procedure follows the best evidence rule. Therefore it is of utmost importance that these hard disks and computers remain in possession of the BKA for the time being and that they are not delivered back to the persons who handed them over to the BKA or to other third parties, as this could further prejudice local investigations and inquiries.

I shall contact you with a more detailed reply soon.

Thanks and best regards,

Aaron M. Bugeja
Magistrate

A

Minħabba li din l-informazzjoni, jekk verament kienet korretta, kellha implikazzjonijiet importanti u serji fir-rigward tal-inkjesti l-oħra pendenti, mhux l-anqas dwar il-qtil ta' Caruana Galizia innifisha, ġie infurmat ukoll id-Deputat Kummissarju tal-Pulizija Silvio Valletta, nonche l-ġja Maġistrat Dr. Anthony Vella biha.

L-għada, l-Ħamis, 25 ta' Mejju 2018, 17:55, intbagħtet *email* lil Prosekutur Tanja Altmann fejn ġew mistqarra l-implikazzjonijiet legali li din il-proposta kellha nonche t-talbiet tal-Awtoritajiet Maltin.

Dear Ms. Altmann,

I thank you once again for your email of the 18th instant and for sharing this information with me in the course of the European Investigation Order currently in execution.

I had to take some time to evaluate the situation not only by reference to the inquiry that I am conducting but also by reference to other investigations that are being carried out by the Malta Police as well as inquiries carried out by other Magistrates on various issues that were also the subject matter of the writings of Ms Caruana Galizia as well as the one inquiring the murder of Ms Caruana Galizia herself. Potentially, the documents in your possession may be relevant not only for my inquiry but also, and if not more so, in relation to other pending inquiries by the other Magistrates.

From your last letter I understand that more than six months following the murder of Ms Caruana Galizia, two (empty) laptops and three hard drives

(one of which was partially damaged) allegedly belonging to the late Ms Daphne Caruana Galizia, ended up in the hands of a firm of Frankfurt Lawyers (from undisclosed sources) who delivered them to the German Federal Police for a short period of time, in the state and condition described by the German Federal Police in their letter that was copied to us.

This current situation described above relating to these laptops and hard drives is particularly serious. Despite various efforts that were made by the Malta Police and the Inquiring Magistrate to trace these laptops and hard disks (which resulted only in dead ends), these laptops and hard disks have been left untraced for more than six months and (as it has been reported) nobody, including family members of Ms. Caruana Galizia, claimed to know anything about their whereabouts. This despite the fact that the data contained in the original working laptops and hard drives of Ms Caruana Galizia could have constituted extremely important evidence in the inquiries conducted by the Maltese Magistrates and the Maltese Police, not least in relation to the murder, in Malta, of Ms. Caruana Galizia.

This situation may have already prejudiced the probatory value of these documents as it now presents Maltese Judicial Authorities with a plethora of legal problems in relation to admitting these laptops, hard disks and the data contained therein as evidence in criminal proceedings.

Maltese Law requires proof of an uninterrupted and untainted chain of custody of documents (including computer hardware, software and digital data). In this particular case this may have already been compromised given that there is a six month vacuum that no one can now credibly account for. It will be very difficult, if at all possible, to prove an uninterrupted and untainted chain of custody. The*sequencing* of the chain of evidence was compromised as for six whole months as there was no proper identification and collection, analysis, storage, preservation, transportation and presentation of the same to the Inquiring Magistrate. Maltese Law requires clear evidence to establish who obtained the documents, who secured the documents, as well as where and when these documents were obtained and last but not least who had the effective possession and control of these documents. This is not just a formality. In such a scenario, any Defence lawyer worth his salt can easily shoot down at once these documents during the course of a trial by jury.

Secondly, Maltese Law requires Inquiring Magistrates to collect, preserve and present evidence to the Public Prosecutor (Attorney General) in order for him to be able to make a thorough assessment whether, on the basis of legally admissible evidence, he can proceed with the exercise of the criminal action. Inquiring Magistrates are not investigators and they are not prosecutors. Without prejudice to the above, in the circumstances of this case "best evidence" (if they can be considered as such) can only be deemed to be the original laptops and hard disks in your possession, and not merely a "backup copy".

Third, Maltese Law requires proof of authenticity of documents (including computer hardware, software and digital data). We must be sure that these laptops, hard disks and data really were Ms Caruana Galizia's. This analysis may still partially be carried out through interviews and also technically by Forensic IT Specialists. However it is imperative for the necessary tests and analysis to be carried out by Forensic IT Specialists on the original documents themselves in order for some degree of success to be registered in this field.

Moreover, if, for argument sake, all these legal hurdles are overcome, and these documents or data contained therein or any part thereof satisfy the legal requirements above mentioned, then the original documents themselves will still be needed to form part of the record of the proceedings in order for them to be deemed to be an integral part of a criminal prosecution.

You appreciate that this is a very delicate and complex scenario that already presents numerous challenges. But in order to reduce any further prejudice to these various investigations and inquiries, for the reasons abovementioned, we kindly request your Offices to hand over to us the actual original laptops and hard disks in your possession rather than "back up copies".

Despite the above caveats relating to the probatory value of these documents, at this stage, we are still interested in obtaining the data contained in these documents, at least to be treated as intelligence in the course of the criminal inquiries. After due ascertainment of the data, we can still try to see whether anything from this data can lead the investigators to ascertain facts or obtain evidence from other legal sources.

In order to facilitate the best use possible in the circumstances and to expedite the process of analysis of these documents as detailed above, I suggest that the UK Forensic IT Specialists (appointed by me during the course of my inquiry) repair to your Offices in order that, together with your Forensic IT Specialists, they make "clones" of the hard drives in your possession. Thus while we request that the originals will be handed over to us, the BKA will be in a position to retain one of the clones for safe keeping, while the UK Forensic IT Specialists, on our behalf, will be in a position to take possession of the original documents in order for them to make their analyses and assessments on the original documents themselves.

Kindly advise if you are in agreement with the above and when this can take place in order for me to be able to make all the necessary arrangements including with the said UK Forensic IT Specialists.

Furthermore, as I have advised you earlier, there are other Magisterial Inquiries underway and that may be interested in information retrieved from the documents in your possession as may be relevant to them, and as subject to the caveats mentioned above. If the original documents are handed over to me in the course of my inquiry, I would like to know whether you would find any objection if I share the data contained in the documents received with the other Magistrates conducting inquiries in relation to and following allegations published by Ms Caruana Galizia as well as the Magistrate conducting the inquiry on the murder of Ms. Caruana Galizia.

I thank you for your kind attention to the above and request your expedient reply to the same.

Best regards,

Aaron M. Bugeja,

Magistrate

Nhar id-29 ta' Mejju 2018, 15:41 intbagħat reminder sabiex din l-email tiġi mwieġba kemm jista' jkun malajr. It-tweġiba waslet fl-4 ta' Ġunju 2018 fl-15:39 fejn ġie mistqarr : -

Sehr geehrter Herr Bugeja,

leider ist es aufgrund der Komplexität und Schwierigkeit der aufgetauchten rechtlichen Probleme nicht möglich, Ihnen auf Ihre E-Mail vom 25.05.2018 sehr zeitnah eine Antwort zukommen zu lassen, da hier zunächst eine Prüfung stattfinden muss, welche Beweismittel und in welchem Umfang Ihnen diese im Rahmen eines Rechtshilfeverfahrens überlassen werden können.

Ihr großes Interesse an einer zeitnahen Erledigung ist mir natürlich bewusst und die Bedeutung der Beweismittel für die maltesischen Behörden ebenso, nichtsdestotrotz müssen hier die rechtlichen Grundlagen für Ihr Ansinnen nach Aushändigung der Originale geprüft werden, das so ohne weiteres nicht erfüllt werden kann.

Da wir aber jede Möglichkeit, die maltesischen Behörden in den dortigen Ermittlungen zu unterstützen, nutzen wollen, versuche ich nun, diesen unterschiedlichen Interessen im Rahmen des rechtlich Möglichen gerecht zu werden.

Sobald wie möglich werde ich wieder auf Sie zukommen und Ihnen die weitere Vorgehensweise unterbreiten.

Mit freundlichen Grüßen

Tanja Altmann

(Staatsanwältin)

From: Rechthilfe@sta-wiesbaden.justiz.hessen.de
Sent: 04 June 2018 15:39
To: Bugeja Aaron at Judiciary
Subject: AW: Mutual assistance in Criminal Matters; EEA of the General Attorney's Office dated 12.01.2018 concerning Panama Papers

Dear Mr Bugeja,

Due to the complexity and difficulty of the arisen legal problems, unfortunately it is not possible to send you a very prompt reply to your Email dated 25.05.2018. For, an examination must first take place over here, on which evidence and to what extent this can be provided to you within the framework of a mutual assistance.

Of course, I am aware of your great interest in a prompt conclusion and even the importance of evidence for the Maltese Authorities, nevertheless the legal bases for your request after the handing over of the originals must be examined here, that cannot be fulfilled so easily.

Since we want to use every possibility, to support the Maltese Authorities in the local investigations, I now try to satisfy these different interests to the extent of legally possible.

I will get back to you as soon as possible and I will submit you the further procedure.

Best Regards
Tanja Altmann
(Prosecutor)

Fis-6 ta' Ġunju 2018 fil-10:55 din l-*email* ġiet imwieġba hekk : -

Dear Ms Altmann, many thanks for your reply.

I appreciate that you have noted the seriousness of the situation we have been facing all along and the delicate and urgent nature of the matters at hand.

I explained to you in detail the reasons why the Maltese Magistrates and Police require the original documents. But I also understand that this may require more time for you to process this request.

At this stage, time is completely against the Maltese inquiries.

While retaining firm our request for the original documents, and our preliminary position in relation to the probatory value of the equipment and data in possession of the BKA, but in order to try to save some time and at least get to know what information there might be on these hard drives that could, after due authentication procedures and assessment possibly serve as information of interest to the Maltese inquiries, please advise whether at this stage you can deliver to us **clones** of the hard drives in possession of the BKA.

If you agree with this proposal, we would be in a position to see whether and to what extent data on the hard drives, (always subject to the caveats mentioned in my email of the 25th May), might be of interest to the different Maltese inquiries and which aspects each and every one of them might be interested to follow up in more detail possibly from separate sources that could lead to evidence in criminal inquiries.

This present request is therefore being made :

(a) **without renouncing** to the first request made on the 24th and 25th May 2018 for the original items of equipment and digital data in possession of the BKA and subject to the various caveats mentioned therein; and

(b) to be treated with **extreme urgency** due to the short time frames involved, especially in order to secure and obtain data and information

from other sources that might be subject to strict retention periods etc etc. I have also conferred with my colleague conducting the inquiry in relation to the murder of Ms. Caruana Galizia and he confirmed to me that in his case time is also of the essence.

If you agree with this latest request, then please advise me in order to make the necessary arrangements with the inquiry's Forensic IT experts to obtain these clones as soon as possible.

I await your esteemed reply.

Best regards,

Aaron M. Bugeja,

Magistrate.

Fis-7 ta' Ġunju f'11:41 Altmann reġgħet wieġbet bis-segwenti mod : -

Sehr geehrter Herr Bugeja,

vielen Dank für Ihre E-Mails vom 06.06.2018.

Im Hinblick auf die komplizierte Rechtslage möchte ich Ihnen vorweg zunächst die hier bestehende Problematik in Bezug auf die beim BKA befindlichen Laptops aus dem Nachlass von Frau Daphne Caruana Galizia darlegen:

Die Laptops befinden sich aufgrund einer freiwilligen Übergabe beim Bundeskriminalamt Wiesbaden und sind nicht Gegenstand eines deutschen Ermittlungsverfahrens. Die hiesige Staatsanwaltschaft hat keine rechtliche

Grundlage für eine Beschlagnahme dieser Laptops als Beweismittel, so dass die hiesige Behörde auch nicht frei darüber verfügen kann, da nach wie vor Rechte der Eigentümer der Laptops bestehen. Solange in Deutschland kein Ermittlungsverfahren geführt wird, im Rahmen dessen eine Beschlagnahme dieser Laptops erfolgt, stehen uns keine Befugnisse über diese Laptops zu. Aus diesem Grund kommt auch keine Übergabe der Laptops oder der Festplatten in Betracht.

Da die Staatsanwaltschaft Wiesbaden nur aufgrund der EEA der maltesischen Behörden in Bezug auf die Panama Papers involviert ist, gehen meine Befugnisse auch nicht darüber hinaus.

Wie bereits im vorhergehenden E-Mailverkehr dargelegt, kann die Staatsanwaltschaft Wiesbaden Ihnen daher nur aufgrund eines erneuten Rechtshilfeersuchens in Form einer EEA Beweismittel die in hiesigem Zuständigkeitsbereich befindlich sind, zugänglich machen und verschaffen.

Ebenso wie bei Ihrer EEA hinsichtlich der Auswertung der Panama Papers für das bei Ihnen geführte Ermittlungsverfahren durch Angabe genauer Suchkriterien rege ich auch hier an, eine weitere EEA zu übersenden, die durch Angabe genauer Schlüsselwörter hinreichend konkret eine Recherche im Datenbestand der Laptops zulässt.

Insoweit müsste ebenfalls dargelegt werden, ob und in welchem Zusammenhang die Daten recherchiert werden sollen, d. h. welcher konkrete strafrechtliche Sachverhalt Ihnen Anlass für die erbetenen Recherchen gibt . Hier wäre zu unterscheiden zwischen dem von Ihnen geführten Ermittlungsverfahren (Komplex Egrant/Muscat und andere) und dem weiteren von einem anderen Magistrat bearbeiteten Ermittlungsverfahren im Zusammenhang mit dem Tötungsdelikt zum Nachteil Galizia.

Sinnvoll wäre daher ebenso wie in der Vergangenheit geschehen eine Liste mit Schlüsselwörtern bzw. Suchbegriffen, aufgrund dessen das

Bundeskriminalamt eine Recherche auf den Laptops durchführen kann. Sofern relevante Daten für die maltesischen Ermittlungsverfahren gefunden werden, könnten Ihnen diese wiederum in Form eines Datenträgers übergeben werden.

Ich bitte um Verständnis, dass eine andere Vorgehensweise hier aufgrund der oben geschilderten Sach- und Rechtslage leider nicht in Betracht kommt.

Nach Eingang Ihrer weiteren EEA werde ich hier einen neuen Rechtshilfevorgang einleiten.

Mit freundlichen Grüßen

Tanja Altmann

(Staatsanwältin)

From: Rechtshilfe@sta-wiesbaden.justiz.hessen.de
Sent: 07 June 2018 11:40
To: Bugeja Aaron at Judiciary
Subject: 1190 AR 3276/18

Dear Mr Bugeja,

Thank you very much for your Email dated 06.06.2018.

With regard to the complicated legal situation, initially I would like to present beforehand the existing problem in relation to the laptops from the estate of Ms. Daphne Caruana Galizia located at the BKA:

The laptops are situated at the Federal Criminal Police Office Wiesbaden on the basis of a voluntary transfer and are not subject of a German Investigation procedure. The local prosecution has no legal basis for a

seizure of these laptops as evidence, therefore the local authority cannot freely dispose of them, as there are still rights of the owners of the laptops. As long as in Germany no investigation procedure is carried out, under which these laptops are seized, we have no authority over these laptops. It is for this reason that no transfer of laptops or hard drives is considered. Since the prosecution Wiesbaden is only involved on the grounds of the EEA of the Maltese Authorities in relation to the Panama Papers, my power cannot even go beyond.

As already stated in the former email correspondence, the prosecution Wiesbaden can therefore only make them available on the grounds of a renewed rogatory letter in form of an EEA evidence, that are located in local competence.

As well as in your EEA regarding the evaluation of the Panama Papers for the investigation procedures led by you, by providing precise search criteria, I request you to send us another EEA, that allows you a research in the database of the laptops by specifying the exact keywords.

In this respect it must also be stated, whether and to what context the Data should be researched, that means which concrete criminal fact gives you reason for the requested researches. Here it would be distinguished between the investigation procedures led by you (Komplex Egrant / Muscat and others) and that of another investigation procedures in connection with the homicide to the detriment of Galizia, proceeded by another Magistrate.

Therefore, as it happened in the past, a list with keywords or search words would make sense so that the Federal Criminal Police Office can perform a research on the laptops. If relevant Data are found for the Maltese Investigation procedures, these could be handed over again to you in form of a Data carrier.

Please understand that, another procedure here cannot be taken into consideration due to the above depicted legal and factual situation.

Upon receipt of another EEA, I will initiate a new legal assistance process.

Best Regards
Tanja Altmann

(Prosecutor)

Email Correspondence
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In the Ordinary Court proceedings, the online reminder is introduced. Furthermore, please use the letter post or - if permitted - Telefax

Din l-*email* kienet turi li s-sitwazzjoni kienet inbidlet mill-proposta oriġinali magħmula. Għalhekk l-għada, 8 ta' Ġunju 2018 intbagħtet *email* oħra fejn ġie spjegat lilha l-posizzjoni minn naħa Maltija: -

Dear Ms. Altmann,

Kindly note that this morning I held a meeting with my other colleagues engaged on various inquiries relating to matters emerging from the Panama Papers revelations on which Ms Caruana Galizia wrote about or was involved, including the Magistrate holding the inquiry into the murder of Ms Caruana Galizia herself, Magistrate Dr. Anthony Vella. Please note that I am taking the freedom to pass on to Dr. Vella the correspondence exchanged so far, given the relevance of this subject to his inquiry, and for him to follow up the matter.

I thank you for your latest reply and proposal, the contents of which were noted. I also noted the difference from the original proposal made on the 18th May 2018.

From a Maltese Legal perspective, the position in relation to the equipment in possession of the BKA (if really belonging to Ms Caruana Galizia, a Maltese, murdered in Malta) is radically different from that obtaining in relation to the Panama Papers Cache that eventually came in possession of the BKA. It is not possible to put them on the same level and therefore adopt the same *modus operandi* in relation to the searches to be carried out and in relation to the analysis that will have to be made. Unlike the Panama Papers Cache, Malta has full jurisdiction to investigate the murder of Ms Caruana Galizia, a Maltese, brutally killed in Malta.

The Maltese Judicial and Police Authorities had jurisdiction and legal basis to obtain and investigate her personal belongings and work equipment that could provide information and possibly leads as to who could have commissioned her killing. I presume that the position would be similar at German Law too. As I explained to you already in my email of the 25th May 2018, efforts in this sense were carried out but this equipment was not found and it was not handed over to the competent Maltese Judicial or Police Authorities involved. I presume that in a case falling within their jurisdiction German Prosecutors would also require these original documents in order to be able to investigate a murder case.

You confirm that there is no investigation in Germany that could justify the local German Prosecutor to retain and hold on to the laptops as evidence; and that the local German Judicial Authority cannot freely dispose of them due to laptop owners' rights, and hence the reason why it is not possible for your Offices to deliver the original equipment to the Maltese Authorities.

I do sincerely appreciate the difficulties that your Office was led into. But with due respect, your latest reply and proposal are particularly serious and disconcerting since they confront Maltese Judicial Authorities with implications that go well beyond the legal or procedural.

In my email of the 25th May 2018 I have already explained to you the various legal and procedural reasons why the Maltese Authorities require the original devices and data detailing why this is not just a formality but an essential requirement.

Following your reply of the 4th June 2018, I understood that you had to follow certain procedures in order to process my request for the delivery of the original devices and data. In my email of the 6th instant, while I retained my original request firm and valid, I felt that it could have been easier for your Office to consider handing over to me "clones" of the hard drives in your possession, pending the determination of my request for the original devices and data.

Your latest reply and proposal seems to close the door on this request on the grounds of lack of investigative and jurisdictional basis on the one hand and the rights of the owners of these devices and data (who submitted them on a voluntary basis). But with all due respect, the lack of jurisdictional basis and investigative grounds existed already on the 27th April 2018 when the devices and the data were delivered, and accepted by the German Police, and on the 18th May 2018 when I was first contacted on this matter. I now find it difficult to see how it could have been possible for them to establish legal basis in order :

(a) for these IT devices and data to be received and kept by them;

(b) for the hardware, software and the data contained therein to be inspected and analysed by local IT Specialists; and now

(c) for searches to be made from data contained in these devices

when there were no jurisdictional grounds or current investigative procedures in Germany that could justify the action being taken in relation to these devices and data.

Please do not get me wrong, as I understand the absurd situation you have been placed in; and I do appreciate that your proposal was meant to be practical. But on the other hand please do realise that I have certain legal constraints and procedural safeguards that I cannot ignore.

Accepting your latest proposal would, for all legal intents and purposes mean that the Maltese Magistrates (who are the competent Judicial Authorities having jurisdiction to investigate the murder of Ms Caruana Galizia and other crimes):

1. will be deprived of their duty and power to receive the original devices and data for their independent verification, ascertainment, authentication, assessment and analysis despite being independent and impartial European Union Judicial Authorities enjoying jurisdiction and legal basis for these devices and data;
2. despite being competent to investigate fully and independently, they are being obliged to rely on the ascertainment, authentication, assessment and analysis processes by the Agents of another State who does not have jurisdiction neither on the subject matter being investigated nor on the devices and data themselves;
3. instead they are being requested to submit a list of specific keywords and queries in their inquiries to be first assessed by the Authorities of this other State; and
4. submit themselves and their queries to searches made by the Authorities of this other State from documents and data that the competent Judicial Authorities would not have had the possibility to verify, authenticate, assess and ascertain independently in the first place.

You will understand that under these circumstances I am forced to decline your latest proposal and feel duty bound to request your Office to reconsider its position mentioned in your letter of the 7th instant. I have to reiterate my requests made on the 25th May 2018 and subsequently on the 6th June 2018.

While thanking you for your kind attention, I remain,

Respectfully Yours,

Aaron M. Bugeja,

Magistrate

Din l-email ġiet imwieġba permezz ta' email oħra datata 22 ta' Ġunju 2018 taħt il-firma ta' Anette Rzymski li pero kienet tikkontjeni u tagħmel riferenza

għal ittra datata 21 ta' Ġunju 2018 iffirmata minn Dr. Thoma li kienet taqra bil-mod segwenti : -

Sehr Geehrter Herr Bugeja,

iche nehme bezug auf den bisher zwischen ihnen und frau altmann gefuhrten emailverkehr und das hier unter dem o. a. aktenzeichen anhangige rechtshilfeverfahren aufgrund der EEA der maltesischen behorden vom 12.01.2018 im zusammenhang mit den sog. panama papers.

frau altmann hat mir den vorgang vorgelegt im Hinblick auf die noch ungeklarte weitere vorgehensweise in Bezug auf die beim BKA befindlichen laptops aus dem nachlass der emordeten journalistin DCG.

wie ihnen bereits mit e-mail vom 16.05.2018 und 07.06.2018 mitgeteilt, sind strafpozessuale massnahmen im Hinblick auf die ubergebenen laptops von hiesiger Seite aus bei der bestehenden Rechtslage nicht moglich. eine ubergabe der laptops wurde daher bislang zu Recht abgelehnt.

auch ich rege an, eine neue eea einzureichen, aus der Anlass und Hintergrund eines strafrechtlich relevanten Sachverhalts, der zugrunde liegende Tatvorwurf und die erbetenen Rechtshilfehandlungen hervorgehen.

Gegebenenfals kame auch eine Erganzung der EEA vom 12.01.2018 in betracht. Nach Eingang der EEA wird hier uber eine Umsetzung der erbetenen massnahmen auf der grundlage der deutschen Strafprozessordnung zeitnah entsschieden werden. inhaltlich wurden ihnen mit e-mail vom 07.06.2018 bereits denkbare massnahmen unterbreitet.

selbstverstandlich ist es uns, wie in der Vergangenheit auch bereits im Zusammenhang mit den Panama Papers erfolgreich geschehen, ein Anliegen, erbetene Rechtshilfehandlungen vorzunehmen, dies kann allerdings nur unter Beachtung der hiesigen rechtslage geschehen.

Wir seher daher dem eingang einer weiteren EEA der maltesischen Behorden entegen.

Mit freundlichen Grussen

Dr. Thoma.

Public Prosecutor Wiesbaden
Senior Public Prosecutor
Postal Address: Staatsanwalt, Postfach SS69, 650
Reference: 1190 AR3276/18

Mr Aaron M. Bugeja Editor: Altmann, Public Prosecutor
Phone Ext: 616016
Fax: 7061710
Email: verwaltung@sta-wiesbaden.justiz.hessen.de

Date: 21.06.2018

By email: aaron.bugeja@gov.mt

Mutual assistance correspondence in criminal matters with the Republic of Malta. European investigation order dated 12.01.2018 in connection with the so-called Panama Papers.

Dear Mr Bugeja,

I refer to the previous email correspondence between you and public prosecutor Ms. Altmann and the pending legal assistance proceedings, under the above stated reference, due to the EEAof the Maltese Authorities dated 12.01.2018 in connection with the so-called Panama Papers.

In view of the laptops from the estate of the murdered journalist Oaphne Caruana Galizia, located at the Federal Criminal Police office, public prosecutor Ms. Altmann submitted me the file with regard to the still unclarified procedure.

As already communicated to you by email dated 16.05.2018 and 07.06.2018, with regard to the handed-over laptops, criminal procedure measures in the existing legal situation are not possible from the local side. Therefore, a handing-over of the laptops was rightly rejected.

I also suggest you to submit a new EEA based upon the reason and background of a criminally relevant fact, the underlying criminal charge and the requested legal assistance.

If necessary, a supplement of the EEAfrom 12.01.2018 would also be considered.

Upon receipt of the EEA, decisions will be taken on a promptly implementation of the requested measures on the basis of the German criminal procedure code.

In view of content, possible measures were already submitted to you by email dated 07.06.2018.

Of course, as it has already happened in the past, it is a matter for us of requesting successfully legal assistance in connection with the Panama Papers. However, this can only be done in compliance with the local legal situation.

Therefore, we look forward to the receipt of another EEAof the Maltese Authorities.

Best Regards,
Dr. Thoma

Dakinhar stess intbagħatet email lil Anette Rzymski fejn ġiet infurmata bis-segwenti : -

Dear Madam,

Many thanks for your e-mail the contents of which were noted.

I shall assess the matter and revert back shortly.

Best regards,

Aaron M. Bugeja
Magistrate

Sadattant intbagħtet email fit-22 ta' Ġunju 2018 fil-11:34 lil Maġistrati li kienu qegħdin jikkonduċu inkjesti li setgħu kellhom interess f'din il-vertenza u ċjoe l-Maġistrati Dr. Anthony Vella, Dr. Josette Demicoli, Dr. Natasha Galea Sciberras u Dr. Monica Vella fejn dawn ġew infurmati b'din l-email li kienet mibgħuta minn Dr. Thoma u fejn ġew infurmati bis-segwenti : -

Ġentilment nitlobkom sabiex tanalizzaw din l-ittra u tgħiduli ftit x'taħsbu.

Din l-ittra hija kważi replika ta' dak li kienet kitbet qablu l-Prosekurtiċi Altmann. Ma jiena nara xejn ġdid għajr ħlief li Dr. Thoma qiegħed jikkonferma li posizzjoni li kienu diġa ħadu li t-trasferiment ta' dawn il-laptops u hard drives ġie "rightly rejected so far". L-Awtoritajiet Ġermaniżi qegħdin jgħidu li qegħdin iżommuhom f'idejhom in konnessjoni mal-*"Panama Papers" investigation* li huma għandhom miftuħa. Nifhem li dan huwa minħabba li ma għandhomx ġurisdizzjoni fuq l-omiċidju ta' Caruana Galizia. Dr. Thoma jikkonferma li ma għandhomx bażi legali u penali biex ikunu jistgħu jitrasferixxu dawn id-*devices* oriġinali lill-Awtoritajiet Maltin.

Il-kwistjoni li nitlobkom taħsbu fuqha hija jekk għandhiex issir talba *ad hoc* permezz ta' EIO għal dawn il-*laptops* u l-*hard drives* u f'każ pożittiv minn min fostna. Huma jidhru li lesti jagħtu l-kontenut ta' dak li għandhom skont l-ittra tal-Prosekutriċi Altmann tas-7 ta' Ġunju 2018 - jiġifieri billi jagħmlu s-*searches* huma minn fuq dawn id-*devices*. Il-Prosekutriċi

Altmann fl-email tas-7 ta' Ġunju 2018 (u li għaliha jagħmel riferenza Dr. Thoma fl-email tiegħu) tgħid hekk:

> As with your EEA with regard to the evaluation of the Panama Papers for the preliminary investigation conducted by you by specifying exact search criteria, I also suggest that you send another EEA, which allows sufficiently precise research into the database of laptops by specifying exact keywords.
>
> In that regard, it should also be stated whether and in what context the data should be searched, ie. H. which concrete criminal facts give you cause for the requested searches. Here it would be necessary to differentiate between the preliminary investigation you are conducting (complex Egrant / Muscat and others) and the further investigation by another magistrate in relation to the homicide to the detriment of Galizia.
>
> It would therefore make sense as well as in the past done a list of keywords or keywords, due to which the Federal Criminal Police Office can carry out a search on the laptops. If relevant data for the Maltese investigation are found, they could be handed over to you again in the form of a data medium.
>
> I ask for your understanding that a different approach is unfortunately not possible here due to the factual and legal situation described above.

Il-posizzjoni tiegħi dwar dan diġa għamiltha ċara inkluż dwar il-ħtieġa tad-*devices* oriġinali li ġiet diġa spjegajta lill-Prosekutriċi Altmann fil-korrispondenza dettaljata preċedenti tiegħi.

Id-deċiżjoni li trid tittieħed hija jekk in-natura tal-koperazzjoni li qegħdin joffru l-Awtoritajiet Ġermaniżi hix legalment konformi mal-Liġi proċedurali Maltija o meno. Jekk intom lesti li taċċettaw il-proposti li qegħdin isiru mill-Awtoritajiet Ġudizzjarji Ġermaniżi allura tistgħu tagħmlulhom talba permezz ta' EIO skont dak li huma lesti li jagħtu huma skont dak li qed jgħidu tippermettilhom il-Liġi tagħhom. Dan ifisser li jagħmlu s-searches huma fuq materjal li l-Awtoritajiet Maltin kellhom ġurisdizzjoni fuqu. Għalkemm tista' tkun soluzzjoni "prattika" nitlobkom taħsbu wkoll fuq il-preċedent perikoluż li din il-*prattika* u *pratticita*' tista' toħloq. Ma naħsibx li għandi għalfejn noqgħod nelabora f'din l-ittra.

Żewġ prosekuturi differenti diġa qaluli ċar li mhux ser jibgħatu l-oriġinal għax din it-talba ġiet "rightly rejected so far". Ladarba anke Dr. Thoma eskluda li jibgħatu d-dokumenti oriġinali għax ma għandhomx bażi legali, allura jekk isir EIO b'talba biex jibgħatu dawn l-oriġinali għandi nifhem li

(1) dan jiġi mifhum bħala affront lejhom u

(2) probabbli jkun ħela ta' ħin għax jekk ma għandhomx bażi legali biex jibgħatuhom, probabbilment mhux ser jibdlu l-idea bl-EIO b'talba għall-oriġinal.

Naturalment xejn ma jżomm lil min fostkom iħoss li għandu jagħmel dan milli jagħmlu. Biss naħseb li jkun aktar għaqli li jkun hemm posizzjoni ko-ordinata bejn il-Maġistrati Inkwirenti f'dawn il-każijiet.

Nitlobkom tgħarfuni kemm jista' jkun malajr bil-ħsibijiet tagħkom u nfakkarkom li din il-korrispondenza tifforma parti mill-atti tal-inkjesta.

Aaron M. Bugeja

Fil-frattemp, nhar il-25 ta' Ġunju 2018 Dr. Anthony Vella ġie elevat għal Imħallef. L-inkjesta ġiet riassenjata lil Maġistrat Dr. Neville Camilleri. Nhar il-11 ta' Lulju 2018 saret laqgħa oħra bejn il-Maġistrati Dr. Neville Camilleri, Dr. Josette Demicoli, Dr. Natasha Galea Sciberras, Dr. Monica Vella u l-Maġistrat Inkwirenti fejn Dr. Demicoli u Galea Sciberras stqarrew li minn naħa tagħhom ma kellhomx ħtieġa ta' dawn id-devices. Dr. Monica Vella stqarret li kienet ser tikkonsidra toroq alternattivi. Dr. Neville Camilleri kien jeħtieġ aktar żmien sabiex ikun jista' jieħu konjiżżjoni tal-atti tal-inkjesta riassenjata lilu. Ġie maqbul li l-Maġistrat Inkwirenti jagħmel kuntatt bl-email ma Dr. Thoma biex jispjegalu li kien ser ikun hemm posizzjoni minn naħa Maltija fi żmien qasir.

Nhar it-12 ta' Lulju 2018 il-Maġistrat Inkwirenti bagħat e-mail lil Dr. Thoma li kienet taqra hekk : -

Dear Dr. Thoma,

I excuse myself for not writing earlier.

However the Magistrate conducting the inquiry into Daphne Caruana Galizia's murder, Dr. Anthony Vella, has since our last communication been promoted to judge of the superior courts on the 25th June 2018 and another Magistrate, Dr. Neville Camilleri was re-assigned with his inquiry.

You will appreciate that this is a delicate inquiry that needs careful study, and Dr. Camilleri needs more time to be able to make his thorough assessment of the situation.

Kindly note that your proposals need to be assessed by Magistrate Camilleri too. He has been fully briefed with the past correspondence that was exchanged between me and Ms. Tanja Altmann, as well as with your goodself. Dr. Camilleri is also being copied with this *email*.

In the circumstances, I kindly request you to continue this correspondence with Dr. Neville Camilleri directly.

While thanking you for your kind attention to the above, I remain,

Yours truly

Aaron M. Bugeja,

Magistrate

E. **<u>Talba għall-informazzjoni mingħand Awtoritajiet mill-Istati Uniti tal-Amerika</u>**

Mix-xiehda miġbura fil-bidu ta' din l-inkjesta irriżulta li l-impjegati tal-Bank Pilatus kienu bdew jużaw ukoll il-programm *Sharepoint* u *Microsoft Office 365* wara li kienu seħħew l-allegazzjonijiet imsemmija minn Daphne Caruana Galizia u dan peress li fiż-żminijiet ta' meta allegatament kienu saru t-

transazzjonijiet finanzjarji msemmija minn Caruana Galizia fl-artikli tagħha l-implimentazzjoni ta' dawn is-sistemi kienet għadha fi stadju sperimentali – skont kif irriżulta kemm mix-xiehda ta' Louis Zammit, kif ukoll minn dik ta' Maria Efimova innifisha.

Ċerta informazzjoni kienet maħżuna fuq is-*servers* u l-*computers*,[6] bħala miżura ta' prekawzjoni, kont tajt struzzjonijiet lil Dr. Godwin Caruana u lill-Ispettur Timothy Zammit sabiex jagħmlu kuntatt, tramite l-kanali uffiċjali tramite l-*US Department of Justice* u b'mod partikolari t-*24/7 Point-of Contact for Cybercrime and Electronic Evidence.* Kif wieħed jista' jara mir-rapport tal-Ispettur Timothy Zammit anness ma dan il-*Proces Verbal*, kienet saret l-ewwel komunikazzjoni mal-*US Department of Justice* nhar it-3 ta' Mejju 2017 u dan wara li kien l-ewwel sar kuntatt telefoniku għal dan il-għan.

It talba kienet is-segwenti : -

> 1) Preservation of subscriber data for "Sharepoint" System and "E-mail services" provided by Microsoft Corporation to **PILATUS BANK** of Whitehall Mansions, Level 2, Ta' Xbiex Wharf, Ta' Xbiex XBX1026, Malta. According to the information available at present, these services are associated with internet domains 'pilatusbank.com' AND 'pilatuscap.com'.
>
> 2) Preservation of positive and negative access logs for "Sharepoint" System and "Email services" provided by Microsoft Corporation to **PILATUS BANK** of Whitehall Mansions, Level 2, Ta' Xbiex Wharf, Ta' Xbiex XBX1026, Malta. According to the

[6] Dwar il-proċess ta' prekwisizzjoni u teħid ta' hardware u software mingħand il-Bank Pilatus ara r-relazzjonijiet ta' Dr. Godwin Caruana u l-Ispettur Timothy Zammit annessi ma' dan il-Proces Verbal.

information available at present, these services are associated with internet domains 'pilatusbank.com' AND 'pilatuscap.com'.

3) Preservation of content stored within the "Sharepoint" System provided by Microsoft Corporation to **PILATUS BANK** of Whitehall Mansions, Level 2, Ta' Xbiex Wharf, Ta' Xbiex XBX1026, Malta. According to the information available at present, this service is associated with internet domains 'pilatusbank.com' AND 'pilatuscap.com'.

4) Preservation of content stored within the mailboxes being provided through "E-mail Services" provided by Microsoft Corporation to **PILATUS BANK** of Whitehall Mansions, Level 2, Ta' Xbiex Wharf, Ta' Xbiex XBX1026, Malta. According to the information available at present, this service is associated with internet domains 'pilatusbank.com' AND 'pilatuscap.com'.

5) Confirmation of the exact wording to be included in the Mutual Legal Assistance Request being drawn up by the Maltese authorities in relation to the Subscriber, Traffic and Content Data being requested from Microsoft Corporation as per the above. We would be grateful if any templates available to request the abovementioned information be made available to the Maltese Authorities to facilitate the drawing up of the necessary MLA Requests.

Dawn l-Awtoritajiet kienu kkonfermaw li rċevew l-informazzjoni u kienu għamlu wkoll preservation request lil *Microsoft Corporation* (USA). Iżda fit-8 ta Ġunju 2017, dawn l-Awtoritajiet wieġbu li *to ensure this request is fulfilled in a timely manner and consistent with any rights or privileges applicable to the data, please direct your request for any Enterprise accounts to the customer.* Minn naħa tagħha *Microsoft Corporation* (USA), tramite l-*US Department of Justice*, ikkonfermat li *any customer that users our enterprise cloud service has access to, and control over, its own data.*

Kien hemm ukoll tentattiv biex isir kuntatt mad-*Department of Justice* Amerikan tramite s-servizzi tal-Avukat Ġenerali iżda t-tweġiba kienet simili għal dik diġa mogħtija lill-Ispettur Timothy Zammit.

4. **L-operat ta' *Forensic Accountants* u esperti tekniċi oħra.**

Biex din l-inkjesta setgħa jkollha eżitu, kien meħtieġ li jiġu maħtura diversi esperti. F'dan il-każ, ġew magħżula esperti tekniċi barranin (għajr ħlief lil Dr. Godwin Caruana, u dan minħabba li ma kienx possibbli li l-ġbir tal-informazzjoni diġitali ddum tistenna l-wasla ta' esperti barranin li kienet tieħu ħafna żmien minħabba raġunijiet loġistiċi) u dan sabiex, f'inkjesta dwar allegazzjonijiet b'toni politiċi qawwija bħal din, jiġu evitati r-riskju ta' kunflitti t'interess jew *bias* politiku. L-aspetti tekniċi kienu jvarjaw minn dawk informatiċi, għal dawk ta' kontabbilta, minn dawk t'analiżi forensika, għal dik t'analiżi ta' firem fuq dokumenti, minn analiżi ta' software bankarju għal analiżi legali skont il-Liġi tal-Panama.

Dawn ir-relazzjonijiet tekniċi jgħaqdu l-istampa kollha, jagħtu aktar informazzjoni li fuqha jkunu jistgħu isiru kunsiderazzjonijiet u jsaħħu dak li ġie miksub bix-xiehda tax-xhieda okulari. F'dan il-każ l-informazzjoni diġitali kollha relattiva (inkluż l-*e-mails*) ġew meħuda għall-analiżi tal-

Forensic Accountants Harbinson Forensics[7] filwaqt li d-dokumenti stampati ġew mgħoddija għall-analiżi tal-*Forensic Accountant Miroslava Milenovic.* Iż-żewġt timijiet ta' *Forensic Accountants,* li ma humiex relatati ma xulxin, ingħatatilhom il-fakulta li jikkomunikaw ma xulxin u jiskambjaw informazzjoni liberament sabiex ikunu jistgħu ukoll jikkordinaw xogħolhom aħjar.

Fir-rigward tal-Bank Pilatus l-analiżi tal-*Forensic Accountants* saret b'enfażi fuq it-transazzjonijiet li effettivament ġew effettwati mill-Bank Pilatus sa' mill-ewwel jum li beda jopera bħala Bank u ċjoe mill-ewwel transazzjoni il-quddiem sal-jum meta inbdiet l-inkjesta. L-enfażi kienet fuq it-transazzjonijiet bankarji infushom għaliex dawn jikkostitwixxu l-aqwa prova jekk pagament ikunx veru ġie ordnat, awtorizzat u mwettaq. Jekk pagament jew trasferiment jiġi ordnat u ma jsirx ma jkunx hemm trapass ta' flus. U għalhekk kwalunkwe dokument ieħor ma jkollux dik is-saħħa ta' prova daqskemm ikollha d-dokumentazzjoni li turi t-transazzjoni innifisha. Jekk it-transazzjoni ma tkunx saret jew ma tkunx ġiet awtorizzata ma jkunx hemm pagament jew trasferiment ta' flus. Transazzjonijiet bankarji approvati u mwetqa jridu jħallu xi forma ta' traċċa diġitali u/jew stampata.

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[7] Fil-fatt fil-mument meta dan il-*Proces Verbal* kien qiegħed jiġi redatt l-isem korrett tad-ditta Mir-Renju Unit li kienet nominata bħala *Forensic Accountant* kie jisimha *Harbinson Forensics.* Biss matul din l-inkjesta hemm riferenzi għaliha wkoll bħala *Harbinson Mulholland.* Id-ditta Harbinson Mulholland hija ditta ta' *accountants u awdituri* fl-Irlanda ta' Fuq u li *Harbinson Forensics* kienet parti minnha. Għall-fini ta' din l-inkjesta kull riferenza li tinstab li ssir għal *Harbinson Mulholland* għandha titqies li hija riferenza għal *Harbinson Forensics.*

Din l-inkjesta iffukat b'mod partikolari fuq dan l-aspett, tenut kont tas-serjeta tal-allegazzjonijiet magħmula minn Daphne Caruana Galizia fl-artiklu tagħha.

Il-Kriterja li fuqhom issawwar il-proċess ta' ġbir u l-preservazzjoni

Din hija inkjesta Maġisterjali immexxija mil-Liġi Kriminali, Kostituzzjonali u Konvenzjonali. Għalhekk, kif dejjem jiġri f'dawn il-każijiet, ried jiġi assigurat li l-miżuri li kienu ser jittieħdu fil-kors ta' din l-inkjesta, inkluż ordnijiet restrittivi jew ta' koerċitivi, u kull interferenza oħra fl-operat jew fil-ħajja tal-persuni u l-operaturi kollha involuti :

(1) jkunu proporzjonati mal-għan leġittimu li l-inkjesta riedet tilħaq;

(2) jkunu meħtieġa għall-ġbir t'informazzjoni u evidenza legalment ammissibbli; u

(3) jkunu magħmula b'mod adegwat fir-rigward tal-informazzjoni li tinġabar, tal-mod kif tinġabar, minn fejn tinġabar u l-mod ta' kif tiġi priżervata u miżmuma.

F'dan il-każ l-informazzjoni kollha li kellha tiġi miġbura kienet għal raġuni jew għal oħra, sensittiva, jew ta' natura kummerċjali jew b'xi mod ieħor kunfidenzjali ħafna. Bħala eżempju konkret, fl-istadju inizjali tal-inkjesta, Nexia BT, il-Bank Pilatus u d-diriġenti u impjegati tagħhom kienu meqjusa

bħala persuni li setgħu kienu infurmati fuq il-fatti li setgħu jirriżultaw mill-analiżi tal-allegazzjonijiet. Ma kienx għad hemm l-estremi legali biex f'dak l-istadju l-operazzjonijiet ta' dawn iż-żewġt operaturi jiġu mrażnin jew mwaqfin u dan għax l-allegazzjonijiet serjissimi li kienu qegħdin isiru riedu qabel xejn jiġu verifikati ġudizjalment – ħaġa li sa dak il-punt kienet għadha ma saretx. Biex din il-verifika setgħet issir, riedet tittieħed informazzjoni mingħandhom kemm jista' jkun malajr; iżda mill-banda l-oħra kemm jista' jkun mingħajr ħsara għall-jeddijiet tagħhom, tal-persuni involuti u ta' terzi persuni mhux relatati mal-meritu tal-inkjesta – u dan biex jitnaqqas ir-riskju li l-Istat Malti jkun passibbli għall-ksur tad-drittijiet tal-partijiet involuti.

L-informazzjoni li l-persuni kollha involuti f'din l-inkjesta (il-ġurnalista Caruana Galizia, il-*PEP* imsemmija minnha, id-diriġenti u l-impjegati tal-Bank Pilatus kif ukoll tad-Ditta Nexia BT u li setgħa kellhom fil-pussess tagħhom, inkluż il-*hardware*, *software*, u mkejjen oħra fejn l-informazzjoni li kellhom setgħet kienet maħżuna jew miżmuma), kienet tista' titqies, min għal raġuni, u min għal oħra, bħala informazzjoni sensittiva ħafna għaliex kienet ta' natura kunfidenzjali, jew kummerċjali jew ta' natura statali. L-informazzjoni li setgħet tiġi ottjenuta kienet tikkonċerna mhux biss informazzjoni dwar il-persuni direttament involuti f'din l-inkjesta, iżda wkoll kienet tikkonċerna lil terzi persuni li ma kienux involuti u li kienu kompletament estraneji.

Ittieħed ukoll in konsiderazzjoni l-fatt li daqskemm il-ġurnalista Caruana Galizia kellha informazzjoni ġurnalistika imwassla lilha minn sorsi li l-anonimita tagħhom kienet lesta tissalvagwarda b'saħħitha kollha, mill-banda l-oħra l-*PEP* involuti setgħa kellhom ukoll informazzjoni kunfidenzjali tal-Gvern, nonche sigrieti statali u materji sensittivi ħafna oħra. Il-mod ta' kif l-informazzjoni kellha tiġi miġbura, ta' mnejn, meta u kif kellha tiġi ottjenuta u pproċessata kellu jsir b'attenzjoni partikolari. Il-miżuri ta' dħul, perkwiżizzjoni, qbid, żamma, arrest, detenzjoni eċċetra li setgħu jittieħdu fil-konfront ta' dawn il-persuni kollha riedu jsiru b'mod li l-inkjesta tkun tista' timxi l-quddiem u ma tiġix imxekla minn banda iżda b'rispett lejn il-jeddijiet, inkluż dawk proċedurali tal-persuni kollha involuti u terzi li m'għandhomx x'jaqsmu mal-inkjesta, mill-banda l-oħra.

F'dan l-isfond, il-ġbir tal-informazzjoni f'din l-inkjesta segwa proċess kontinwu ta' *cost-benefit analysis* li ħa in konsiderazzjoni ċ-ċirkostanzi kollha partikolari ta' dan il-każ, mhux l-anqas is-sensittivita' tal-allegazzjonijiet u s-serjeta tagħhom fl-isfond pero tal-kunfidenzjalita' u segretezza tal-informazzjoni kollha inkluż dik kummerċjali, finanzjarja u bankarja li l-operaturi kienu jippossjedu. L-evidenza bdiet tinġabar biċċa biċċa, skont dak li kien meħtieġ minn żmien għal żmien, minn dawk is-sorsi li dehru l-aktar li jistgħu jirrenduha malajr, bl-anqas impatt.

L-ewwel żewġ entitajiet li ġew meqjusa bħala sorsi ta' prijorita għall-ġbir t'informazzjoni t'interess għal din l-inkjesta kienu d-Ditta Nexia BT u l-Bank Pilatus - iż-żewġt operaturi li skont Caruana Galizia kienu direttament involuti, għalkemm f'livell ta' parteċipazzjoni differenti. Il-miżuri mittieħda fil-konfront tagħhom kienu bażati fuq il-prinċipji tal-ħtieġa, raġonevolezza, adegwatezz u proporzjonalita imsemmija aktar il-fuq.

Fil-għodwa tal-21 t'April 2017 il-Maġistrat Inkwirenti l-ewwel għamel aċċess fil-Bank Pilatus, filwaqt li wara pproċeda għal aċċess fl-Uffiċini ta' Nexia BT. Waqt li kien qed jagħmel l-aċċess fil-Bank Pilatus, l-Uffiċini ta' Nexia BT inżammew issiġillati mill-Pulizija li kienu ilhom hemm minn matul il-lejl fuq ordni tal-Maġistrat Inkwirenti.

Matul dan l-aċċess il-Maġistrat Inkwirenti spjega lid-Diriġenti ta' dawn iż-żewġt operaturi l-għan ta' din l-inkjesta u l-istatus legali tagħhom f'dak il-punt partikolari tal-inkjesta, li kienet għadha fil-bidu tagħha. Ġie assikurat element ta' kollaborazzjoni minn naħa tagħhom tant li għamlu disponibbli kwantita kbira t'informazzjoni diġitali u miktuba għall-fini ta' din l-inkjesta bl-anqas applikazzjoni ta' miżuri restrittivi possibbli.

Għal dan l-istess għan saret ukoll distinzjoni bejn il-grad t'involviment ta' dawn iż-żewġt operaturi proporzjonata man-natura tal-allegati involvimenti tagħhom f'dawn l-allegazzjonijiet magħmula minn Caruana Galizia.

Id-Ditta Nexia BT ġiet meqjusa bħala s-sors t'informazzjoni primarju ċjoe dik minn fejn kellha tinġabar l-aktar informazzjoni - u dan peress li skont l-allegazzjonijiet din id-Ditta kienet il-moħħ u l-id wara l-istrateġiji finanzjarji, kummerċjali u korporativi li kienu jinvolvu lil *PEP* mira ta' dan l-artiklu, inkluż bl-allegati ftugħ tal-kumpaniji fil-Panama, bil-ftugħ tal-kontijiet bankarji, it-trasferimenti tal-flejjes mill-Bank Pilatus nonche l-ipproċessar tad-dokumenti, il-komunikazzjonijiet u l-arranġamenti kollha relattivi biex jirrendu dawn l-allegati transazzjonijiet possibbli.

Il-perkwiżizzjoni magħmula fl-Uffiċini u fil-mezzi ta' komunikazzjoni ta' Nexia BT kienet intiża li tolqot il-mezzi li fihom setgħa kien hemm informazzjoni maħżuna ta' din id-Ditta u l-Membri tagħha. Dan kien ġustifikat bil-fatt li skont l-allegazzjonijiet li kienu saru fl-artikoli ta' Caruana Galizia din id-ditta kienet involuta f'kull aspett tat-transazzjonijiet finanzjarji u korporativi li kienu saru għall-*PEP* involuti u għalhekk proporzjonata mal-allegat involviment ta' Nexia BT fit-twettieq tal-allegazzjonijiet imsemmija minn Caruana Galizia. Jekk dak li Caruana

Galizia kienet qegħda tallega setgħa jiġi verifikat bil-fatti, il-persuni li l-aktar li setgħa kellhom informazzjoni kienu mistennija li jkunu dawk direttament involuti fin-Nexia BT – Karl Cini u Brian Tonna *in primis*. Għalhekk jekk kien hemm komunikazzjonijiet li saru bejnhom u bejn Mossack Fonseca, jew bejnhom u d-Diriġenti jew impjegati tal-Bank Pilatus, kien raġonevolment mistenni li dawn kellhom jirriżultaw mill-informazzjoni maħżuna fid-dokumenti miktuba u stampati tagħhom kif ukoll mill-informazzjoni diġitali li kellhom fuq il-computers, servers u hardward ieħor fil-pussess tagħhom. Għalhekk kien meħtieġ u proporzjonat li t-tiftix għall-informazzjoni minn din id-Ditta Nexia BT ikun mill-aktar wiesa għal kull informazzjoni u traċċa li setgħa kien hemm u li setgħet titfa' dawl fuq kemm u safejn l-allegazzjonijiet *de quo* kienu joħorġu mill-provi. Nexia BT ġew soġġettati għal perkwiżizzjoni ġenerali u tiftix in bażi għal *keyword list* fir-records stampati u diġitali, li l-Aġenti tal-Pulizija li xehdu jikkonfermaw li għamluha *file file*, karta karta, ittieħdu għadd ta' *files* u *records* fl-oriġinali tagħhom fejn kienu disponibbli u li kienu rilevanti għal din l-inkjesta, inkluż il-files tal-kumpaniji *Egrant Inc*, *Tillgate Inc* u *Hearnville Inc*. Ġew mismugħa l-impjegati kollha preżenti u passati li kienu rintraċċjabbli.

Sussegwentement, f'Settembru 2017 ġie maqbul li ssir perkwiżizzjoni mill-Maġistrat Dottor Natasha Galea Sciberras fl-inkjesta kondotta minnha (dwar allegati involvimenti ta' Brian Tonna u Karl Cini fl-affari *Willerby Trading Inc*

– *Keith Schembri*) u ġiet ottenuta l-awtorizzazzjoni biex din l-informazzjoni li tinstab f'dawn il-mezzi, tkun tista' tiġi użata wkoll għall-fini ta' din l-inkjesta wara li l-Maġistrat Galea Sciberras kienet għamlet qbid tal-istess mezzi u ssottomettiethom għall-analiżi tal-*Forensic Accountants Harbinson Forensics* fl-atti tal-inkjesta kondotta minnha.

Il-Bank Pilatus kien meqjus bħala t-tieni sors minfejn l-inkjesta setgħet iġġib l-informazzjoni. Skont Caruana Galizia, il-Bank Pilatus kien l-istrument li serva ta' depożitarju ta' kontijiet bankarji f'isem il-kumpaniji *Egrant Inc*, *Tillgate Inc* u *Hearnville Inc* nonche wħud mill-*PEP* involuti (ħlief għal Konrad Mizzi); li allegatament kien id-depożitarju tad-*declarations of trust* li kienu jattestaw li Michelle Muscat kienet is-sid aħħarija tal-ismha fl-*Egrant Inc* miżmuma għaliha minn Mossack Fonseca, u mhux l-inqas li allegatament kien il-Bank li minnu transitaw il-flejjes meritu tal-allegazzjonijiet mill-kont bankarju tal-kumpanija *Al Sahra FZCO* lejn il-kont ta' *Egrant Inc* f'Dubai.

Għalhekk l-approċ adottat fil-konfront tal-Bank Pilatus kien għalhekk immirat li jottjeni l-informazzjoni dwar l-involviment speċifiku tiegħu fl-allegazzjonijiet tal-Caruana Galizia meritu ta' din l-inkjesta u li kienu joħorġu prinċipalment mill-artiklu meritu ta' din l-inkjesta u ċjoe li :-

(a) l-Bank Pilatus kien allegatament intuża biex fih *Egrant Inc, Tillgate Inc, Hearnville Inc,* Keith Schembri u John Dalli jkollhom kont bankarju;

(b) b'Keith Schembri u *Egrant Inc* ikollhom l-involviment u transazzjonijiet ma persuni mill-Ażerbajġan;

(c) li sabiex infetaħ il-kont bankarju t'*Egrant Inc* kienu ġew ukoll depożitati fis-*safe* tiegħu id-*declarations of trust* li allegatament kienu juru li Michelle Muscat kienet is-sid aħħarija tal-ishma fl-*Egrant Inc;*

(d) kien il-Bank li ntuża biex mill-kont tal-kumpanija *Al Sahra FZCO* mal-istess Bank allegatament saru versamenti miljunarji diretti lejn il-kont ta' *Egrant Inc* f'Dubai.

F'dak l-istadju il-miżuri koerċitivi fil-konfront ta' dan il-Bank kienu jeħtieġu aktar attenzjoni kemm minħabba n-natura sensittiva tal-operat tal-istess Bank,[8] kif ukoll peress li l-allegat involviment tiegħu kien speċifiku għal dawn l-allegazzjonijiet imsemmija. Ġie deċiż li, f'dak l-istadju, dawn l-allegazzjonijiet jiġu verifikati minn tliet sorsi prinċipali t'informazzjoni fi ħdan dan il-Bank, li ġew meqjusa bħala *priority areas* ċjoe'–

(a) mix-xiehda diretta tad-Diriġenti operattivi attwali u tal-impjegati preżenti u passati rintraċċabbli tal-Bank;

[8] ċjoe bank kummerċjali speċjalizzat fil-*Private Banking*, kunċett ta' bank li kien kemxejn innovattiv għal Malta, u li kien intiż għal *ultra-high net worth individuals* b'informazzjoni li dan il-Bank kien jippossjedi kienet finanzjarjament u kummerċjalment sensittiva ħafna,

(b) mill-informazzjoni stampata kollha li l-Bank kellu fl-Uffiċini tiegħu u li kienet rilevanti għal din l-inkjesta magħmula in bażi tal-lista ta' *keywords* aktar il-fuq imsemmija;

(c) mill-informazzjoni diġitali li kienet tinsab fuq is-*servers* u l-*computers*, b'mod partikolari tal-persuni fil-karigi l-aktar għoljin tal-Bank, speċjalment il-*core banking system* tal-Bank inkluż is-servizzi tat-*TAS Platform* li biha jitħaddem l-*iSwift*.

Il-parti l-kbira tal-informazzjoni li setgħet issaħħaħ jew ixxejjen l-allegazzjonijiet kienet mistennija li toħroġ minn dawn is-sorsi, għax :

(a) Jekk il-kopji tad-*declarations of trust* kienu (jew għadhom) jeżistu fil-Bank, dawk kellhom ikunu stampati u maħżuna f'xi *safe* jew *filing cabinet* fil-Bank Pilatus u kien mistenni li xi impjegati jkunu ġew f'kuntatt magħhom. Caruana Galizia ma kitbitx li dawn id-dokumenti kienu maħżuna fis-sistemi diġitali tal-Bank innifsu, iżda ġew maħżuna fil-*cloud* minn terzi biex il-Bank ma jkunx jista' jeqridhom – jiġifieri l-*cloud* ma kienx tal-Bank għax altrimenti kien ikollu xorta kontroll fuqhom u, skont dak li kitbet, setgħa jeqridhom. Anzi kitbet li dawn kien stampati u kienu jinsabu *f'safe* fil-kċina tal-Bank.

(b) Jekk il-*PEP* jew il-kumpaniji *Tillgate Inc*, *Hearnville Inc* u *Egrant Inc* kellhom kontijiet mal-Bank Pilatus, kien mistenni li dawn il-kontijiet

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kienu miftuħin minn xi impjegati tal-Bank Pilatus li imbagħad ħadu ħsieb li jirreġistrawhom fil-*core banking system* tal-Bank fost il-lista tal-klijenti li tkun ġenerata minn din is-sistema bankarja.

(c) Jekk dawn kellhom kontijiet bankarji miftuħa, kien mistenni li l-impjegati tal-Bank ikun ħejjew ukoll il-*bank account opening forms* ta' dawn il-*PEP* u ta' *Tillgate Inc, Hearville Inc* u *Egrant Inc,* u li kellhom ikunu stampati jew b'xi mod ieħor jinstabu fir-*records* tal-Bank Pilatus.

(d) Jekk kien hemm it-transazzjonijiet finanzjarji li allegatament saru mill-kont t'*Al Sahra FZCO* lejn il-kont t'*Egrant Inc* f'Dubai, kien mistenni li xi impjegati tal-Bank kienu involuti fix-xogħol meħtieġ biex dawn it-transazzjonijiet, miljunarji fit-totalita' tagħhom, ikunu ġew proċessati u eventwalment reġistrati fil-*core banking system* kif ukoll fil-mezzi diġitali li jippermettu trasferimenti ta' flejjes f'valuti barranin lejn Banek barranin (bħal pjattaforma ta' trasferiment tal-messaġġi finanzjarji bħal *SWIFT messaging system*) kif ukoll li jkun hemm użu minn xi *Correspondent Bank* skont il-prattika bankarja internazzjonali;

(e) Jekk kien hemm dawn il-versamenti miljunarji, dawn riedu b'xi mod iħallu traċċa stampata jew diġitali permezz ta' *payment instructions* kif ukoll dawk relattivi għall-użu tas-servizzi tal-*Correspondent Banks*.[9]

[9] Wara li bdiet l-inkjesta irriżulta li l-Bank Pilatus kien jipproċessa pagamenti permezz ta' struzzjonijiet bil-miktub, li kienu jiġu verifikati minn impjegati tal-Bank permezz ta' telefonati fuq linji telefoniċi riżervati u

Dawn kienu s-sorsi primarji tal-informazzjoni mill-Bank Pilatus li minnhom kellhom kellha tirriżulta l-aqwa prova dwar jekk l-allegazzjonijiet de quo kienux minnhom. Kif issemma' aktar il-fuq, l-analiżi tal-*Forensic Accountants* iffukat b'mod partikolari fuq it-transazzjonijiet li effettivament ġew effettwati mill-Bank Pilatus sa' mill-ewwel jum li beda jopera bħala Bank u ċjoe mill-ewwel transazzjoni il-quddiem sal-jum meta inbdiet l-inkjesta. L-enfażi kienet fuq it-transazzjonijiet bankarji infushom għaliex dawn jikkostitwixxu l-aqwa prova jekk pagament ikunx veru ġie ordnat, awtorizzat u mwettaq.

Minħabba l-kwantita enormi ta' informazzjoni li kienet qegħda tiġi miġbura u li riedet tiġi analizzata f'dak l-istadju ġie deċiż li ssir prijoritizzazzjoni dwar liema informazzjoni tkun meħuda u analizzata l-ewwel. Sorsi t'informazzjoni sekondarja u temi li ma kienux prioritarji fil-qafas tar-rapport li sawwar l-inkjesta, kellhom jiġu meħuda u analizzati jekk ikun il-każ, wara li l-informazzjoni miġbura mis-sorsi prinċipali tibda tiġi pproċessata u analizzata u tibda tagħti direzzjoni dwar jekk u kemm mill-allegazzjonijiet magħmula kienux *prima faciae* fondati; u f'każ pożittiv

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li dawn it-telefonati verifikatorji kienu wkoll jiġu reġistrati. Apparti minn hekk irriżulta wkoll li skont il-prassi bankarja internazzjonali, il-Bank Pilatus kien jagħmel użu minn servizzi ta' *SWIFT* għat-transazzjonijiet esterni tiegħu kif ukoll li kellu network ta' Correspondence Banks biex ikunu jistgħu isiru dawn it-trasferimenti minn klijenti tal-Bank Pilatus lejn kontijiet ta' persuni oħra ma banek madwar id-dinja.

imbagħad jittieħdu deċiżjonijiet oħra jekk dawn is-sorsi t'informazzjoni oħra u sekondarja li l-Bank Pilatus setgħa kellu jiġux mistħarġa wkoll. Dan sar għal ammont limitat t'informazzjoni li ma kienetx tolqot is-sorsi prinċipali li minnhom din l-inkjesta setgħet tieħu l-aqwa prova u li setgħet għalhekk tkun jew superfluwa jew tieħu l-ħin u r-riżorsi għalxejn.

Per eżempju, f'dak l-istadju, għall-fini ta' din l-inkjesta, l-aspett finanzjarju tal-Bank innifsu, il-proċess tal-ħruġ tal-liċenza tiegħu, eċċetra ma kienux meqjusa bħala area ta' prijorita minħabba li kienu jmorru lil hinn mill-parametri tal-inkjesta.

Peress li l-impjegati kollha tal-Bank preżenti u passati rintraċċabbli kienu sejrin jiġu kollha mismugħa bil-ġurament, l-analiżi tal-*e-mail accounts* kollha tagħhom b'mod ġenerali u indiskriminat, f'dak l-istadju, ġie deċiż li jkun postpost sakemm issir l-analiżi tal-informazzjoni meħuda mill-*priority areas*. Wara kollox kien hemm parti sostanzjali mill-*e-mails* tagħhom li rriżultaw diġa misjuba fuq il-*hardware* li kien ġie kkupjat. Fi kwalunkwe każ, stante li skont l-artiklu ta' Caruana Galizia dwar l-allegati kontijiet bankarji u transazzjonijiet finanzjarji li qalet li kienu saru kienu jinvolvu wkoll l-involviment dirett ta' impjegati ta' Nexia BT (li wkoll ġew mismugħa kollha bil-ġurament), jekk kien hemm struzzjonijiet li ingħataw b'*emails* minn Nexia BT lill-impjegati tal-Bank Pilatus, din l-informazzjoni, jekk kienet

teżisti, kienet mistennija li tkun tinstab ukoll fir-*records* u *hardware* ta' Nexia BT – għax meta tintbagħat *email* din tħalli traċċi kemm fuq il-mezzi ta' min ikun bagħta kif ukoll ta' dak li jkun irċeviha. Għalhekk jekk email ma tkunx ġiet maqbuda mis-sistema tal-Bank Pilatus, kienet mistennija li tiġi maqbuda mis-sistema tan-Nexia BT.[10]

Software ieħor sekondarju u li rriżulta li ma kienx għadu beda jiġi mħaddem fiż-żmien meta kienu twettqu l-allegazzjonijiet ta' Caruana Galizia u b'hekk meta Maria Efimova kienet għadha taħdem mal-Bank Pilatus, kienu l-*Microsoft Office 365* u s-*Sharepoint*. Mill-provi irriżulta li l-*Microsoft 365* kien dak iż-żmien għadu fi stadju sperimentali u mix-xiehda t'Efimova rriżulta li fi żmienha s-*Sharepoint* kien għadu mhux operattiv. Dan ifisser li dak li kienet tenniet Caruana Galizia fl-artiklu tagħha ma kienx mistenni li jkun jinsab f'informazzjoni maħżuna bl-użu ta' dan is-*software* għax Efimova dak li qalet li rat ma ratux fuq informazzjoni relattiva għal dan is-*software*. F'dak l-istadju inizjali tal-inkjesta ġie deċiż li t-teħid tal-informazzjoni proċessata b'dan is-*software*, li allura deher li beda jiġi wżat wara li Efimova kienet laħqet ġiet imkeċċija mill-Bank Pilatus, u għalhekk wara li l-allegazzjonijiet kienu suppost seħħew, ma jsirx b'mod ġenerali, iżda li jiġu analizzati dawk

[10] Aktar il-quddiem fl-inkjesta dan fil-fatt tant irriżulta minnu li mill-informazzjoni meħuda mill-*hardware* ta' Nexia BT ġew ukoll rintraċċjati *emails* li kienu ġew skambjati bejn Maria Efimova u Michael Satariano u li jiffurmaw ukoll parti mill-analiżi u kummenti li għamlu dwarhom il-*Forensic Accountants Harbinson Forensics* kif jirriżulta wkoll mir-relazzjoni tagħhom.

il-*files* li ġew użati jew kreati b'dak is-*software* u li jkunu jistabu li kienu fuq il-*computers* tal-impjegati.[11]

Dan l-approċ strateġiku ma' dawn iż-żewġt operaturi u sorsi prinċipali t'informazzjoni assikura li nġabret mingħandhom l-informazzjoni kollha primarja disponibbli fil-jum ta' meta saret il-perkwiżizzjoni u li minnha setgħat tiġi rikavata l-aqwa evidenza possibbli li bl-analiżi tagħha setgħa jiġi determinat jekk l-allegazzjonijiet fl-artiklu kienux veritjieri u fondati fuq provi konkreti u oġġettivi mis-sorsi diretti li kienu involuti fl-allegati twaqqif ta' kumpaniji Panamensi, ftugħ ta' kontijiet bankarji mal-Bank Pilatus u trasferimenti miljunarji mill-kont t'*Al Sahra FZCO* fil-Bank Pilatus lejn il-kont t'*Egrant Inc* f'Dubai. Din l-informazzjoni kollha tant kienet estensiva u voluminuża li l-*Forensic Accountants Harbinson Forensics* jgħidu li:-

> The digital evidence made available to us over this period of around 10 months was extremely voluminous and represented over 30 terabytes of data. If printed, we estimate it would fill several Empire State buildings.

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[11] Il-fatt li dawn il-programmi kienu għadhom fi stadju sperimentali u mhux imħadma fiż-żminijiet rilevanti meta allegatament seħħew l-avvenimenti miktuba minn Caruana Galizia ġie konfermat aktar tard mhux biss minn Maria Efimova iżda wkoll minn Louis Zammit, impjegat fuq l-IT mal-Bank Pilatus, kif ukoll l-impjegati ta' *ICT Solutions Limited* li kienu inkarigati minn xogħolijiet marbuta mat-tħaddim eventwali tagħhom. Louis Zammit jixhed ukoll li l-informazzjoni maħżuna f'dak is-software xorta waħda kienet baqgħet fuq is-server. Għalhekk, fi kwalunkwe każ setgħet tiġi maqbuda meta ġew magħmula *forensic copies/virtual images* tal-*hardware* tal-Bank Pilatus. Minkejja dan, kienet saret talba lil *Microsoft Corporation* mill-Pulizija Maltija tramite d-Department of Justice tal-Istati Uniti tal-Amerika biex l-informazzjoni maħżuna fuq il-*Microsoft 365* tiġi priżervata, li pero l-inkjesta ġiet riferita lura lejn il-Bank Pilatus.

L-Analiżi tal-Evidenza

Ix-xhieda ta' Daphne Caruana Galizia, Maria Efimova u Pierre Portelli

Ix-xiehda ta' Daphne Caruana Galizia

Daphne Caruana Galizia xehdet darbtejn fl-atti ta' din l-inkjesta. Daphne Caruana Galizia tgħid li hi tkelmet ma' ex impjegata tal-Bank Pilatus (li fit-tieni xhieda tagħha rriżulta li kienet Maria Efimova) u ġiet murija dokumenti li kienu ġew *scanned*. Hi qatt ma rat dawn id-dokumenti fl-oriġinal tagħhom għax dawn kienu *f'safe*. L-impjegata ma ħadithomx mis-*safe*. Il-kopja li rat Daphne Caruana Galizia kienet fuq *A4 paper,* font normali u kien hemm firma ta' xi ħadd. Mistoqsija mill-ġja Supretendent Ian Joseph Abdilla : *"Dan id-dokument li inti rajt kopja tiegħu għal li jista' jkun żammejt jew għaddhietlek kopja tiegħu din il-persuna"*, Daphne Caruana Galizia wieġbet : *"għandi kopja iva"*.

Mistoqsija jekk hi kienetx qegħda f'posizzjoni li dan id-dokument tgħaddih jekk jitlobha l-Maġistrat, Daphne Caruana Galizia wieġbet : *"le għax ma rridx hux daqs hekk għax kieku kont ippubblikajtu, għandi ċertu raġuni għaliex le."*

Il-firma li kien hemm fuq dan id-dokument kienet dik ta' Jaqueline Alexander, li kienet taħdem bħala *nominee* ma Mossack Fonseca. Il-kopja *scanned* li rat hi kienet tad-*declarations of trust*. Fuq dawn id-dokumenti ma kienx hemm il-firem ta' Michelle Muscat għax dawn kienu *declarations of trust*. Daphne Caruana Galizia ikkonfermat li hija kitbet l-Artikolu ***Declarations of Trust in Pilatus Bank safe : Egrant Inc shares held for Michelle Muscat***. Minbarra li kitbet dan l-artikolu hija ppubblikat ukoll traskrizzjoni ta' dawn iż-żewġt *declarations of trust* li hija rat. Daphne Caruana Galizia tgħid li hija għamlet traskrizzjoni eżatta ta' dak li kien hemm miktub.

Din l-informazzjoni li hija ppubblikat kienet meħuda mis-sors tagħha li kienet l-ex impjegata tal-Bank Pilatus (li fit-tieni xiehda li tat wara Caruana Galizia ġie stabbilit li din l-ex impjegata tal-Bank Pilatus kienet Maria Efimova). Din l-impjegata kienet sabithom fis-*safe* li l-Bank Pilatus kellu fil-kċina. Dak iż-żmien kien Marzu 2016 u s-*safe* kien fil-kċina. Kien hemm impjegati ta' *Western Union Money Transfer* li kienu marru għamlu xi xogħol fil-Bank Pilatus u kienu kkonfermawlha dan. Dan is-*safe* kien *document safe*

biċ-ċavetta – ma kienx is-*safe* għal *cash* jew *gold bars*. Daphne Caruana Galizia ma kienetx ratu, iżda Maria Efimova qaltilha li kien jingħalaq biċ-ċavetta. Ma tafx id-daqs tiegħu kemm kien. Dan is-*safe* setgħa jitressaq għax Maria Efimova qaltilha li qabel kien fl-uffiċju tas-*CEO* imbagħad wara kienu ċaqalquh. Fil-kċina ma kienx hemm *CCTV camera* fuq dan is-*safe*.[12]

Mix-xiehda ta' Daphne Caruana Galizia jirriżulta li hija kienet emnet l-istorja li fornieha biha Maria Efimova u timplika li r-raġuni għal dan kienet minħabba li meta Maria Efimova kienet qaltilha li sabet dan id-dokument rigwardanti *Egrant Inc.* ir-rivelazzjonijiet dwar il-*Panama Papers* kienu għadhom ma ġewx pubblikati minn Daphne Caruana Galizia, peress li dik l-istorja kienet ħarġet xit-3 t'April 2016. Meta Maria Efimova kienet qaltilha li sabet il-karti, l-isem ta' *Egrant Inc.*, skont Caruana Galizia kien għadu mhux importanti. Caruana Galizia tgħid li Maria Efimova ma kienetx taf li

[12] Fix-xiehda tas-6 ta' Mejju 2017 Maria Efimova tgħid li "**no I don't remember if it was**" ċjoe **ma tiftakarx** jekk kienx hemm CCTV camera fil-kċina. Din ma taqbilx mar-rendikont li tat Daphne Caruana Galizia fix-xiehda tagħha dwar dak li suppost qaltilha Maria Efimova fuq dil-*camera*. Ir-rendikont ta' Daphne Caruana Galizia l-anqas jaqbel max-xiehda ta' Emilia Maria Vacaru li tgħid li l-kmamar kollha, minbarra l-"*washrooms*" kellhom *camera* installata. Dan kien jinkludi l-passaġġi. Dwar jekk kienx veru li l-*camera* fis-*server room* kienet ġiet imneħħija, Vacaru tgħid li ma kienetx taf b'dan. Dwar il-*camera* taf li ftit qabel ma telqet, kienu qasmu l-uffiċju ta' Hamidreza Ghanbari fi tnejn u li kienu għamlu *extra camera* biex ikun hemm *camera* oħra fil-kamra l-ġdida. Biss qatt ma semgħet li kienu neħħew xi *camera* minn x'imkien. Biss hi qatt ma daħlet fis-*server room*. Vacaru żżid li mhux veru li fil-Bank Pilatus kien joqgħodu jitfu u jixgħelu l-*cameras* jew jaqilgħuhom u l-ewwel darba li kienet semgħhet din l-allegazzjoni kienet meta kont stqasejtha dwarha matul l-eżami tagħha. L-istess jgħid Louis Zammit li jikkonferma li fil-kċina kien hemm camera li kienet ilha installata żgur minn Settembru 2015 meta daħal jaħdem fil-Bank Pilatus. Fatt li jista' wkoll jiġi konfermat huwa li fl-20 t'April 2017 żgur li fil-kċina kien hemm camera minħabba l-fatt li l-inkjesta ġabret il-footage tiegħu.

din kienet kumpanija fil-Panama u Maria Efimova kienet ħadet il-karti għax kienet rat l-isem "Michelle Muscat". Maria Efimova ma kienetx marret tfittex il-karti biex tara *Egrant* min hu jew mhux.

Daphne Caruana Galizia kitbet li "*this document has been scanned and uploaded to the cloud*"[13] u qalet li hija kienet qed tagħmel riferenza għall-*cloud account* ta' Maria Efimova u mhux tal-Bank Pilatus.[14]

Maria Efimova kienet taħdem il-Pilatus Bank fi żmien meta kienet saret investigazzjoni tal-Bank Pilatus mill-*FIAU* f'Marzu 2016. Il-*Head of Compliance* Claude-Ann Sant Fournier

> staqsietha biex tgħinha taħbi il-files mill-investigaturi tal-FIAU, taħbi ċertu files u tiġbed il-karti minn ċertu files oħrajn u kellha ċ-ċavetta tas-safe għax Dr. Sant Fournier tatha ċ-ċavetta tas-safe u qaltilha biex tmur tiġbed ċertu files mis-safe fi żmien l-

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[13] Fil-paragrafu 293 tar-relazzjoni ta' Harbinson Forensics jingħad li

> The data seized does not caontain any trace, either in files or in snippets of files remaining in the "unallocated clusters" data, of these files being scanned or uploaded to the internet. Our searches therefore have not found any digital records to suggest that such documents were ever in the banks possession or uploaded.

[14] Dan huwa interessanti għax filwaqt li Maria Efimova tiċħad li hija għamlet dan, mit-tielet xiehda ta' Pierre Portelli jirriżulta li wara li huwa kien reġgħa ltaqgħa ma Maria Efimova, hu u Efimova kienu laħqu intiża li Efimova li tgħaddilu kopja ta' dawn id-dokumenti. Din l-intiża intlaħqet bejniethom wara li kien intervistaha u talabha hu stess għal dawn id-dokumenti. Maria Efimova ma kienetx qaltlu li ma setgħetx titkellem fuq il-każ għaliex kienet miżmuma mill-Maġistrat Inkwirenti milli tiżvela fatti li xehdet dwarhom fl-inkjesta. Jidher pero li dawn id-dokumenti Maria Efimova kellha aċċess għalihom fuq l-*iCloud* tagħha li pero, skont Pierre Portelli, riedet taċċedi għalih bl'użu tal-VPN. Dwar l-intiża li Efimova kienet laħqet intiża miegħu biex ittih kopja ta' dawn id-dokumenti, Pierre Portelli jgħid li:

> Later on konna qisna wasalna biex dawn id-dokumenti tghaddihomli u fil-fatt qaltli : Mhux hawnhekk, qaltli : ghax jiena ma rridx nipprintja xejn, ma rrid ingib xejn, pero' qaltli : ejja hdejn l-ufficcju tieghi, x' imkien vicin Paceville. Qaltli : Jien nidhol bil-VPN fuq l-I Cloud, qaltli : u nkun nista nghaddilek il-kopja. Imbaghad kelli kuntatt ftit jiem wara mir-ragel . . .

investigazzjonijiet u meta kienet qiegħda fis-safe telgħala ċertu suspett għax kien hemm ħafna taħwid u li fil-fatt dak ix-xahar telqet stess, ħafna, ħafna taħwid kienu qiegħdin jgħidulha biex taħbi files, tneħħi l-karti u hekk u bdiet tfittex fis-safe u b'hekk sabithom il-karti u din importanti li ngħidha għax naf illi...għax il-head of compliance kien jisimha Maria insejt kunjomha imma nista' nsibha, waħda Rumena, kienet head of compliance meta l-FIAU kitbu lill-bank biex jgħidu li ser jiġu għal investigazzjoni għax taf inti jiktbu minn qabel, tliet ijiem wara li rċevew l-ittra l-bank she resigned, il-head of compliance without serving her notice, qabdet u telqet u l-bank mhux staff enormi jiġifieri, jiġifieri anki fl-investigazzjoni tal-FIAU ma għandhomx kollox għax ħbewlhom ċertu affarijiet.[15]

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[15] Dwar l-element tat-"taħwid" li jingħad li kien hemm fil-Bank Pilatus jirriżulta li hemm verżjonijiet konfliġġenti – bosta drabi jiddependi minn min ikunu l-impjegati u jekk ikunx għadhom jaħdmu l-Bank Pilatus jew inkella jkunu m'għadhomx jaħdmu mal-Bank iżda spiċċaw mill-Bank fuq nota pożittiva jew newtrali għal dawk li kienu spiċċaw jaħdmu minn mal-Bank Pilatus u spiċċaw għax tkeċċew jew xort'oħra spiċċaw fuq nota ħażina. Ekmel Gilingir kien l-ewwel *CEO* tal-Bank Pilatus u jgħid li huwa kien ħadem biex dan il-Bank jiżviluppa sistema bankarja perfetta. Fil-fatt jixhed li huwa ried li jagħżel l-aqwa strutturi u sistemi bankarji disponibbli għal dan il-Bank meta kien għadu fil-bidu tiegħu, inkluż u b'mod partikolari il-*core banking system* tiegħu, li huwa l-*Oracle Flexcube*, u li hu kien issuġġerixxa lil Bord tad-Diretturi biex jiġi akkwistat għall-operazzjonijiet tal-Bank Pilatus. Biss huwa għamel bejn is-6 ta' Diċembru 2013 u Settembru 2014 bħala *CEO*, għalkemm wara li rriżenja minn *CEO* baqgħa bħala direttur tal-Bank Pilatus sa' Diċembru 2015. Huwa jgħid li rriżenja għaliex ma kienx hemm impjegati biżżejjed għall-operazzjonijiet bankarji li kienu qegħdin jaspiraw għalihom u kien qiegħed jara li kien hemm *operational risk* minħabba f'dan. Huwa jgħid li kien diġa qiegħed jara *operational risks* u *fraud risks* lill-Board tad-Diretturi, iżda jidher li għal xi raġuni ma kienux emnuħ. Huwa jgħid li kien minħabba f'hekk li rriżenja u li din kienet ukoll ir-raġuni għaliex Brenda Calleja Smith telqet minn hemmhekk ukoll. Mill-banda l-oħra, Philip Mercieca li kien direttur tal-Bank Pilatus kif ukoll *Chairman* tal-*Audit Committee*, jgħid li l-Bank Pilatus kien iżomm dokumentazzjoni tajba ħafna u kopjuża u kien ukoll kritiku għall-operat ta' Ekmel Gilingir. Biss minbarra Gilingir, kien hemm impjegati li jgħidu li kien ikun hemm nuqqasijiet fid-dokumentazzjoni u fl-operazzjonijiet (bħal Denica Cebova u Kamila Anna Lis) u hemm impjegati oħra li jisħqu li l-Bank Pilatus kien attent ħafna fir-rigward tal-proċeduri li jadotta u l-mod kif kien iżomm id-dokumenti. Għal mistoqsija jekk xi transazzjonijiet kienux *"not properly recorded"* Kamila Anna Lis tgħid li *"I wouldn't say not properly recorded, not properly documented"*.

Ahmed Tawfik Bugaighis, li għamel anqas minn xahar jaħdem mal-Bank Pilatus jgħid li kien hemm nuqqasijiet fl-organizzazzjoni strutturali tal-Bank Pilatus, possibilment dovuta għall-fatt li dan kien Bank żgħir. Kien hemm l-inkompetenza tal-*Finance Manager* għax kien hemm kwistjonijiet fuq delegazzjoni u distribuzzjoni ta' xogħol u wkoll għaliex lilu ma tawhx xogħol ta *Financial Analyst*, iżda xogħol li gradwat novizz setgħa jirrikopri. Ma kienx ċar x'tip t'operazzjonijiet dan il-Bank kien intiż għalihom filwaqt li l-komunikazzjoni fi ħdan il-Bank bejn il-management u l-impjegati kienet inadegwata. Is-Superjuri ma kienux jgħidu x'direzzjoni l-Bank kien intiż li jieħu. Minbarra n-nuqqasijiet fil-*Finance Department* ma kienx jaf jekk kienx hemm *Compliance issues*.

Mill-banda l-oħra Katarina Kostialova tgħid li l-proċessi ta' analiżi u riċerka tal-Bank Pilatus fuq kull transazzjoni li ssir huma vera stretti u jidħlu fil-fond għal kull transazzjoni. Mhux tal-istess opinjoni kienet

Maria Efimova qaltilha li kienu jneħħu u jżarmaw il-*cameras* bl-addoċċ u għalhekk kienu għamlu *safe* fejn ma kienx hemm *cameras* u ċjoe fil-kċina, kif ukoll li kienu neħħew il-*cameras* minn fuq is-server. Daphne Caruana Galizia tgħid li l-anqas is-*CCTV cameras* ma tista' tafda.

Wara li inqarlha l-Artikolu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** Daphne Caruana Galizia qalet li xogħol Maria Efimova kien li tieħu ħsieb il-*payment transactions* u b'hekk kienet taf dawk id-dettalji kollha.

Michaela Krajcikova li kienet taħdem fil-Bank Pilatus bejn Ġunju u Novembru 2015. Din tgħid li kienu jqabduha tagħmel xogħol li ma kienetx tifhem fih u ma kienetx tagħmel xogħol ta' *Office Manager* kif kien suppost li kellha tagħmel. Anzi kienu jqabduha tagħmel minn kollox – bosta drabi inkluż xogħol mhux ta' *Office Manager*. Anzi darba qabel ma kien hemm l-ispezzjoni tal-*MFSA* f'Ottubru (proprjament f'Settembru) 2015 kien hemm ħafna tensjoni, paniku u kulħadd kien nervuż. Iżda dix-xhud kellha toqgħod iddur bihom u ttihom il-cafe u l-ikel filwaqt li kulħadd kellu joqgħod bil-bibien magħluqin, meta s-soltu kienu jkunu bil-bibien miftuħin. Darb'oħra kienu qabduha tagħmel xogħol tal-*Legal Department* u fosthom Claude-Ann Sant Fournier kienet tagħtha ċ-ċavetta tal-file cabinet biex iġġibilha *something*. Biss din kien ġieli jkun hemm *KYC* forms li ma kienux ikunu ffirmati minn Claude-Ann Sant Fournier u dan mhux suppost li kien isir għax mingħajr dik il-firma il-proċess ta' *KYC* ma kienx ikun komplut. U għalhekk qabel ma kienu għamlu l-ispezzjoni l-*MFSA* kellha toqgħod tfittex dawn id-dokumenti mingħajr firem u ġġibhomlha biex tiffirmaħhom. Ġieli nnutat li kien hemm xi pagamenti li kien wierd kif kienu jgħaddu. Anzi żżid tgħid li fis-sajf tal-2015 kienet innutat li kien hemm persuni Libjani jew Iranjani li dwarhom Hamidreza Ghanbari *with this woman from Legal Department* ħarġu lista u li dwar dawn in-nies *they were arranging some things and I am sure that, and I knew that some of these have the companies which were still doing payments for, so I wold not understand how is it possible if I am seeing everywhere, I mean the news that this was not supposed to be done.* Apparti minn hekk tgħid ukoll li kien hemm *KYC forms* li ma kienux ikunu iffirmati minn Claude-Ann Sant Fournier meta dan ma kienx suppost għax mingħajr dik il-firma l-proċess tal-*KYC* ma jkunx komplut.

Maria Efimova kienet taf bl-ismijiet ta' *Egrant, Tillgate, Hearnville* eċċetra għax kienet mogħtija lista ta' xi għaxar ismijiet ta' kumpaniji u ta' nies li kellhom jingħataw trattament speċjali. Meta kienu jidħlu u joħorġu pagamenti lil dawn il-kumpaniji jew nies, hija riedet tgħid mill-ewwel lil-Claude-Ann Sant Fournier u kellha tagħtihom attenzjoni speċjali. Fuq il-lista ta' Maria Efimova kien hemm *Egrant, Tillgate, Hearnville* kif ukoll *Al Sahra.* Maria Efimova ma writhiex *statements* tagħhom għax *"ma tistax turini statements għax statements il-bank hux".*[16]

Daphne Caruana Galizia tgħid li hija irċeviet din l-informazzjoni b'mod verbali u hija straħet fuq din l-informazzjoni mogħtija lilha minn Maria Efimova. Mistoqsija mill-ġja Supretendent Ian Joseph Abdilla : *"id-dokumenti Sinjura oħra apparti din id-declaration of trust, din il-persuna għaddietlek?"* Daphne Caruana Galizia wieġbet *"bank account opening forms".* Skont Daphne Caruana Galizia, Maria Efimova kienet fil-pussess ta' żewġ *declarations of trust* kif ukoll żewġ *bank account opening forms* u *"the other bank account opening form l-oħra ta' Al Sahra FZCO".*

[16] Biss ħareġ mix-xiehda ta' Emilia Maria Vacaru li statements kienu jsiru għal diversi klijenti b'mod manwali. Anzi Maria Efimova kienet mitluba tkompli tagħmilhom wara li telqet Emilia Maria Vacaru, iżda Maria Efimova irrifjutat tagħmel dan. Dawn l-i*statements* għalhekk setgħu kienu faċilment fil-pussess ta' Maria Efimova, u b'hekk kien għal kollox possibbli li jiġu kkupjati jew jiġu *scanned.*

Daphne Caruana Galizia tgħid li hija ma ratx il-*client's list* jew *client's register* jew *ledger*. Hi kienet rat żewġ *bank account opening forms*. Dawn kienu ta' *Al Sahra FZCO* u l-oħra kienet ta' *Egrant Inc.*[17] Minbarra dawn id-dokumenti Maria Efimova ma għaddithiliex jew urietha dokumenti oħrajn.

Daphne Caruana Galizia tgħid li hija saret taf dwar il-kontijiet ta' John Dalli u Keith Schembri mhux mingħand Maria Efimova iżda mingħand sors ieħor jiġifieri mhux mill-Bank stess.[18] Maria Efimova ma kienetx taf dwar John Dalli għax meta ċċekjat magħha Maria Efimova qalet li hija kienet taf biss dwar dawk li kienet tieħu ħsieb hi.[19] Maria Efimova qaltilha li Keith

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[17] Daphne Caruana Galizia tgħid li kienet rat dawn il-*bank account opening forms* ta' *Al Sahra FZCO* u *Egrant Inc.* Biss ġie stabbilit mill-provi u dokumenti miġbura nonche mill-analiżi tal-*Forensic Accountants* li *Al Sahra FZCO* ma tirriżultax li kienet klijenta tal-Bank Pilatus. U l-anqas instabu dokumenti jew *bank account opening forms* għal *Egrant Inc* fil-Bank Pilatus jew imkien ieħor. Fi kwalunkwe każ Maria Efimova tgħid li hi kienet **rat** il-*bank account opening form* ta' *Sahra FZCO*, iżda mhux t'*Al Sahra FZCO*. Maria Efimova tgħid li hija ma kellhiex kopja ta' dawn id-dokumenti, għalkemm tgħid li rathom fil-Pilatus Bank.

[18] Minbarra impjegati tal-Bank Pilatus, nies oħra li mill-inkjesta irriżulta li kienu jafu b'dawn il-kontijiet kienu l-impjegati tal-*FIAU* u tal-*MFSA* li kienu involuti fl-ispezzjonijiet li kienu għamlu lil Bank, nonche l-Awdituri interni u esterni tal-Bank Pilatus.

[19] Mix-xiehda miġbura jirriżulta li John Dalli kellu kont mal-Bank Pilatus. Dal-kont infetaħ fl-2014 u ġie magħluq fl-2015. Hamidreza Ghanbari kien ir-*relationship manager* għal John Dalli u kien hu li fetaħlu l-kont. L-uniċi transazzjonijiet li kien hemm fih kienu dawk biex jitħalsu l-ispejjeż tal-kont bankarju għax ma kienx qed jiġi wżat u waqgħa *dormant account*. Hamidreza Ghanbari jgħid li jidhirlu li John Dalli kien ġab il-flus mingħand l-*HSBC* u wara li tħaslu l-ispejjeż bankarji għalqulu l-kont. L-*opening balance* tiegħu kien żero, bagħat madwar elfejn euro. Wara l-*fees* ġew *offset*. Il-*closing balance* tiegħu kien żero wara ħruġ ta' cheque għal sebgħin euro. L-ammont ta' flus li għadda mill-Bank Pilatus fil-każ ta' John Dalli kien wieħed żgħir ħafna. Dan kien kont personali għal John Dalli. Arienne Gaerty wkoll tikkonferma li John Dalli kellu kont mal-Bank Pilatus għalkemm hi tiftakar li dan kien magħluq. Mehmet Tasli jgħid li dan

Schembri kellu kont f'isem *Tillgate Inc.*, iżda ma writhiex dokumenti dwar *Tillgate Inc.*[20] Sa fejn kienet taf Daphne Caruana Galizia, Konrad Mizzi ma kellux kont f'ismu personali mal-Bank Pilatus.[21]

L-informazzjoni kontenuta fl-Artiklu tal-***US$1.017 million transfer*** kienet ġiet mogħtija lil Daphne Caruana Galizia minn Maria Efimova. Mistoqsija mill-ġja Supretendent Abdilla jekk Maria Efimova kienetx urietha xi *statements* jew xi *swift transfers* Daphne Caruana Galizia wieġbet li Maria Efimova ma setgħetx turiha *swift transfers*. Fuq kumment li għamel il-ġja Supretendent Abdilla li Maria Efimova setgħet urietha *print out* tagħhom Daphne Caruana Galizia wieġbet li ma kienetx taf li sar *Swift transfer*, hi qalet li taħseb li kien *bank to bank.* Skont Daphne Caruana Galizia mhux neċessarjament isir bl-i *swift*.[22]

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kien kont kurrenti u ftit li xejn ġie użat.

[20] Mix-xiehda miġbura, inkluż dik tal-Awdituri tal-Bank, nonche d-dokumenti bankarji infushom, il-lista tal-klijenti tal-Bank Pilatus, mit-transazzjonijiet tal-*Oracle Flexcube* kif ukoll mix-xiehda ta' Hamidreza Ghanbari jirriżulta li ma kien hemm ebda tali kont bankjarju miftuħ mal-Bank Pilatus f'isem *Tillgate Inc.*

[21] Dan id-dettall ġie wkoll konfermat minn Hamidreza Ghanbari fix-xiehda tiegħu. Apparti minn hekk ma jirriżultax li Konrad Mizzi kellu xi kont bankarju għax ma jidherx fil-lista tal-klijenti u transazzjonijiet tal-Bank Pilatus.

[22] Skont Maria Efimova, dan mhux minnu u hi ma qalitx hekk :

> Ins: You said that the Bank could not be involved. It could be a direct payment.
>
> Wit: Of course the Bank is involved. I mean if the money are leaving Pilatus Bank and going to another Bank, and it is USD it is swift, we don't have any other,
>
> Ins: So it always has to be in swift form?

Wit: Yes, it had to be.

Brenda Calleja Smith tgħid li sa mill-bidu nett tal-operazzjonijiet tal-Bank Pilatus, il-*core banking system* kien mixtri u kien il-*Flexcube* tal-*Oracle*. Dan kien inxtara bħala *package* u kien ġie implimentat minn *Facilization*, kumpanija mill-Albanija. Tiftakar ukoll li sa dak iż-żmien kienu nstallaw ukoll is-sistema *TAS*. Ekmel Gilingir jgħid li fi żmienu żgur li dan ma setgħax isir għaliex kienu għamlu protocol li bih il-pagamenti kienu jiġu pproċessati bil-*Flexcube* u l-messaġġ *swift* ried jiġi wkoll awtorizzat mit-*TAS* u b'hekk ried ikun hemm kemm il-*Flexcube* kif ukoll it-*TAS* użati flimkien biex messaġġ swift ikun jista' jgħaddi b'mod validu. Iżid jgħid li

> The Court : But let us take the worst-case scenario. Let us take the worst-case scenario, and I am not referring to your time. And I am not necessarily referring to Pilatus to be clear. But if one were to affect a payment by-passing the Swift system, how would one go about it?
>
> The Witness : By-passing Swift system? No, it is impossible.
>
> The Court : Impossible.
>
> The Witness : I thought that we were only talking about core banking system.
>
> The Court : Core banking system.
>
> The Witness : No it is impossible.
>
> The Court : You would have to pass through Swift just the same.
>
> The Witness : Of course. I mean you can send for instance, I am exagerating, you can send an instruction like a normal company to your correspondent bank, but they never execute your transaction. They definitely ask Swift message. I mean it is impossible.
>
> The Court : And probably the higher the amount,
>
> The Witness : Exactly!
>
> The Court : The stricter the controls would be.
>
> The Witness : I mean I am not exagerating, I believe even for one thousand euro (€1,000) they nobody does this transaction because I mean it is direct alert I mean, you are using Swift, you have Swift connection to send instructions by Swift you should have a key between those two banks. Without key you cannot send authenticated message. You have this key as well but we are not sending your instruction by Swift you are sending by fax let me say, and it is impossible I mean even perhaps my example is a bit exagerated I mean.

Emilia Maria Vacaru tgħid li l-pagamenti fil-Bank Pilatus kienu dejjem proċessati tramite l-*core banking system* tal-Pilatus, ċjoe *Flexcube*. Hi qatt ma ingħatat struzzjonijiet biex teffettwa pagamenti tramite persuni oħra jew kumpaniji oħra jew banek oħra. Hija kienet tibgħat *email* lill-*Operations Department* sabiex dawn ikunu jistgħu jipproċessaw il-pagamenti huma u ma kienet tibgħat struzzjonijiet lil ebda persuna oħra. Il-*Legal Department* u Hamidreza Ghanbari kienu dejjem jiġu *cc'd* b'dawn l-istruzzjonijiet għall-pagamenti. Mistoqsija dwar jekk kienx hemm pagamenti lil persuni mill-Bank Pilatus lil Banek oħra **mhux tramite *Swift*** hi tgħid li hi ma tafx li qatt sar dan. Kienu jużaw biss *Flexcube* u l-*payment instructions* kienu jiġu proċessati minnu u jgħaddu tramite *swift*. Kollox kien jgħaddi mill-*Flexcube*. Kienet tiċċekkja li l-klijenti għandhom flus fil-bank u jekk id-dettalji tal-i *swift* kienux korretti. Imbagħad kienet tgħaddi kollox lill-*Operations Department*. Hi kienet tivverifika l-*Flexcube* biex tara li kellhom flus fil-kont. Hi qatt ma tiftakar jew rat transazzjoni bankarja magħmula mill-Pilatus Bank li kienet saret mhux tramite *Flexcube* u *swift*. Dan peress li kien ikun hemm l-*Intermediate Bank* li jkun jeħtieġ dan l-*i swift code*.

Ix-xiehda ta' Hamidreza Ghanbari hija ċara li kull transazzjoni bankarju fil-Bank Pilatus kienet tgħaddi mis-sistema tal-*Oracle Flexcube* u tiġi wkoll użata l-portal *TAS* nonche li jiġu wkoll involuti l-*Correspondent Banks* relattivi għal-dawn it-transazzjonijiet Bankarji. Luis Felipe Rivera minn naħa tiegħu spjega dettaljatament kif is-sistema Bankarja tal-Bank Pilatus hija formulata u bażata fuq *Flexcube* bħala *core banking system* magħquda mas-servizz tat-*TAS* għall-*Swift*. Spjega wkoll il-features li huma inbuilt fis-sistema biex jiġi evitat frodi – bil-ħtieġa obbligatorja ta' aktar minn persuna waħda li jkollha aċċess għal-amministrazzjoni tas-sistema, kif ukoll fit-twettieq tat-transazzjonijiet. Jikkonferma wkoll li l-*Flexcube* hija waħda mill-aqwa sistemi bankarji eżistenti fis-suq. Fil-fatt iżid li dan is-*software* huwa mibni b'tali mod li ma tistax tħassar informazzjoni minn fuqu u fl-istess waqt ma tħallix traċċa. Għandhom protezzjoni addizjonali jisimha *Advanced Security* provduta mill-Oracle li permeżż tagħha hemm sistema t'awditjar u *logs* għal kull attivita. Dawn l-attivitajiet tal-Bank Pilatus ikunu wkoll suġġetti għal awditjar kontinwu kemm mill-*internal auditors* kif ukoll mill-*external auditors*. Parti mix-xogħol li jagħmlu l-awdituri huwa *technical audit* b'mod li jaraw il-logs u jagħmlu review ta' dak li jkunu sabu fit-transazzjonijiet bankarji. Fi kwalunkwe każ, il-pagamenti minn kontijiet ta' klijenti lil terzi xorta waħda jrid ikollhom numru IBAN għaliex altrimenti ma jkunx jista' jsir il-pagament u dan in-numru tal-benefiċjarju wkoll ikun reġistrat fuq il-*Flexcube*.

Luis Felipe Rivera jsemmi wkoll li l-*BIP - Business Information Publisher* huwa *reporting tool* li jiġġenera rapporti mill-*Flexcube*. Il-*Flexcube* jinqasam fi tnejn – l-*Oracle database* li jużaw l-*Operations Department* għat-transazzjonijiet bankarji u *Flexcube Direct Banking* – li hija pjattaforma diġitali li biha l-klijenti jkunu jistgħu jaraw il-bilanċi fil-kontijiet tagħhom nonche t-transazzjonijiet li jkunu għamlu, għalkemm ma jistgħux jużawh biex jagħmlu transazzjonijiet mill-*internet*. Meta kont jiġi debitat, it-transazzjoni bilfors trid tiġi inserita fil-*Flexcube* iżda mbagħad jista jiġi ġenerat rapport mill-*BIP* u tinħareġ *debit advice* f'pfd file – simili għall-proċedura ta' ħruġ ta' riċevuta ta' ATM.

Għalkemm Luis Felipe Rivera jsemmi l-possibilita ta' *bank to bank transfer* fir-rigward tan-*Nostro account* tal-Pilatus Bank ma banek oħra li għandhom *Correspondent Bank relationships* mill-analiżi magħmula mill-*Forensic Accountant* Miroslava Milenovic, ma jirriżultax li ammonti ekwivalenti għal dawk imsemmija minn Daphne Caruana Galizia fl-artiklu tagħha ġew pproċessati min-*Nostro account* tal-Bank Pilatus. Dan ifisser li l-possibilita li saru pagamenti diretti mill-Bank Pilatus bis-sistema *bank to bank* kif deskritt minn Luis Felipe Rivera fir-rigward tal-allegati trasferimenti msemmija minn Caruana Galizia u Maria Efimova ma ssibx sostenn fil-provi miġbura.

Verżjoni simili ingħatat ukoll minn Kamila Ann Lis li kienet waħda mill-ewwel impjegati tal-Bank inkarigata mill-effettwar tal-ħlasijiet permezz tal-*Flexcube*, li kien il-*core banking system* u t-transazzjonijiet u d-dettalji tal-kontijiet kienu jinżammu fih "*as per the normal banking operations*". Sakemm damet taħdem hemmhekk minbarra Flexcube il-Bank Pilatus ma kienx iħaddem programm ieħor għall-effettwar tal-pagamenti. Mistoqsija minni :

> Inquiring Magistrate: so let me put it bluntly was there a way of evading Flex Cube while performing banking transactions at the same time?
>
> Kamila Anna Lis: I honestly don't think so, I don't think so. Let's not forget that every thing that is going through swift goes to another bank no so it has to be both.
>
> Inquiring Magistrate: it has to be both.
>
> Kamila Anna Lis: I can't imagine having a swift plat form without this being connected.

L-impjegat li Daphne Caruana Galizia ssemmi fl-artiklu li kien *"the Nexia BT employee who followed up his banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc"* kien Michael Satariano.[23]

> Inquiring Magistrate: or else for example another programme running parallel to Flex Cube?
>
> Kamila Anna Lis: could be.
>
> Inquiring Magistrate: but did you ever encounter such a programme during the days you were working for Pilatus there?
>
> Kamila Anna Lis: no all the time I worked there, I operate Flex Cube, the current system, swift plat form and the online banking of Pilatus which is a part of Flex Cube itself.

Ahmed Tawfik Bugaighis, li mix-xiehda tiegħu jidher li ftit kien soddisfatt bl-esperjenza qasira tiegħu mal-Bank Pilatus jgħid li l-*core banking system* tal-Bank Pilatus kienet il-*Flexcube* li kienet *interphased* mat-TAS *Swift* u jgħid li ma kienx konxju tal-fatt li l-Bank kien juża programmi oħra li bihom jeżegwixxi pagamenti lil terzi:

> Nothing that I am aware of, and there should not be because Flexcube is a core banking system and every transaction should be recoreded through the core banking system at the end. Otherwise it would show as a missig leg, as a discrepancy.

Mistoqsi minni jekk kienx konsapevoli ta' xi mezz biex il-Bank Pilatus ikun jista' jagħmel pagamenti billi jaqbeż l-*iSwift* jew *Flexcube*, ix-xhud wieġeb fin-negattiv.

Adrian Galea li huwa dak responsabbli mill-i*Swift payments* fl-*Operations Department* sa minn Ġunju 2016, jikkonferma li l-*Flexcube* hija l-*core banking system* tal-Bank Pilatus li hija kollegata ma *TAS Swift*. Id-dettalji tal-pagamenti, kemm *incoming* kif ukoll *outgoing*, inkluż ukoll *internal payments* bejn kontijiet ta' klijenti fil-Bank Pilatus innifsu jridu l-ewwel jgħaddu mill-*Flexcube*. *Outgoing payments* jgħaddu awtomatikament mit-*TAS Swift*. Biss meta jkunu internal payments bejn kontijiet ta' klijenti fi ħdan il-Bank Pilatus innisfu t-transazzjonijiet jiġu inseriti fil-*Flexcube*, iżda ma jgħaddux mit-*TAS* – għalkemm xorta waħda r-rapporti jiġu ġenerati mill-*BIP*. Il-Bank Pilatus qatt ma pproċessa pagamenti li jgħaddu minn *TAS Swift* iżda mhux ukoll mill-*Flexcube*. Anke safejn taf Sue Lana Hedley il-Bank Pilatus ma għandux programm jew *software* ieħor għajr ħlief *Flexcube* u *TAS* sabiex isiru pagamenti minn kontijiet ta' klijenti jew tal-Bank lil terzi. Makhabbat Ellul, li kienet taħdem bħala *Specialist* tat-*Treasury* fl-*Operations Department* bejn Novembru 2015 u d-29 ta' Marzu 2016 tgħid li l-Bank Pilatus kien jeżegwixxi l-pagamenti tiegħu bl-*Oracle* u ma kellux sistema oħra biex biha jeżegwixxi pagementi. Għalkemm ma kienetx hi li tuża l-*iSwift*, taf li l-pagamenti kienu jiġu mbagħad proċessati mill-*iSwift*.

[23] Mill-provi irriżulta li ma kienx possibbli li kien Michael Satariano in kwantu dan kien spiċċa jaħdem minn man-Nexia BT; filwaqt li ma kienx għadu jaħdem man-Nexia BT meta ġiet imwaqfa l-*Egrant Inc* fil-Panama. Ġie stabbilit li kien Karl Cini dak li kien ħa ħsieb it-twaqqif ta' *Egrant Inc* tramite s-servizzi ta'

Saritilha riferenza wkoll għall-artiklu ***US$400,000 "loan payment" to Michelle Muscat jewellery business partner from sister of Pilatus Bank owner*** Daphne Caruana Galizia tikkonferma li l-informazzjoni dwar dan l-artiklu kienet ġabitha mingħand Maria Efimova, iżda din ma kienetx urietha dokumenti in sostenn għal dak mistqarr minnha. Maria Efimova kienet qaltilha l-isem ta' *Buttardi,* iżda ma kienetx qaltilha bl-isem ta' Michelle Buttigieg. Fil-fatt Maria Efimova kienet semmitilha *"a Maltese woman who lives in New York with a company called Buttardi, hi qaltli l-isem tal-jewellery business Buttardi mhux ta' Michelle Buttigieg".*[24] Daphne Caruana Galizia ma

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Mossack Fonseca fil-Panama. Interessanti pero li l-*Forensic Accountants Habrinson Forensics* jirrimarkaw li bejn Frar u Marzu 2016 kien hemm skambju ta' korrispondenza b'email bejn Michael Satariano u Maria Efimova, fejn fiha Satariano kien jidher ferm urtat bis-servizz li kien qiegħed jingħata mill-Bank Pilatus fir-rigward ta' żewġ klijenti li jidher li ma għandhomx x'jaqsmu mal-persuni involuti f'dan il-każ – *Exiat Holdings Limited* u *Privilege Limited* għal żewġ klijenti riferiti bħala Corrado u Fiore rispettivament. F'din il-korrispondenza Satariano jilmenta ħafna minħabba l-element ta' dewmien biex jinqeda mill-Bank Pilatus. Il-*Forensic Accountants* jgħidu l-istorja ta' Efimova fir-rigward ta' *Egrant Inc* kienet taqa' fil-*pattern* ta' din il-korrispondenza u taqbel ma' l-istorja pubblikata minn Caruana Galizia b'riferenza għal dak fejn ġie msemmi Michael Satariano kieku f'din il-korrispondenza email, l-isem ta' Exiat Holdings Limited jiġi mibdul b'dak t'*Egrant Inc.* u l-kunjom Corrado jiġi mibdul b'Muscat! Jiġifieri pari minn narrativa tal-istorja rakkontata minn Efimova kienet taqbel ma każ ta' klijenti oħra tan-Nexia BT li kienu jridu jużaw is-servizzi tal-Bank Pilatus – iżda li ma kellhiex x'taqsam mal-*Egrant Inc* jew ma Michelle Muscat.

[24] Analiżi tal-arkivju tal-artikli fir-*Running Commentary* li kienu jittrattaw is-suġġett *"Buttardi"*, turi li l-ewwel artiklu li Daphne Caruana Galizia kitbet dwar dan is-suġġett kien imur lura għat-22 u 23 ta' Jannar 2012, fejn Daphne Caruana Galizia kienet diġa ppubblikat informazzjoni dwar dan in-negozju kif ukoll ir-rabta bejn Michelle Muscat u Michelle Buttigieg. Artikli pubblikati wara, fis-7 t'Awissu 2012 kif ukoll tliet snin wara fl-1 ta' Marzu 2015 kif ukoll fit-23 t'Awissu 2015 jkomplu jagħtu dettalji dwar min kien hemm wara l-isem *"Buttardi"* u r-rabta bejn Muscat u Buttigieg f'dan l-isfond, inkluż il-kunjom ta' xebba ta' Michelle Muscat, cioe Tanti. Imbagħad wara dan l-aħħar artiklu tat-23 t'Awissu 2015 Daphne Caruana Galizia ippublikat l-Artiklu intitolat ***US$400,000 "loan payment" to Michelle Muscat jewellery business partner from sister of Pilatus Bank owner*** fil-21 t'April 2017. L-informazzjoni dwar *Buttardi* għalhekk kienet ilha snin pubblikata minn Caruana Galizia stess u kienet kontenuta fl-arkivju tar-*Running Commentary* u li setgħa jidħol fih min irid biex jara l-istejjer li kienet tikteb u tippubblika Daphne Caruana Galizia.

staqsietx kif dan it-trasferiment ta' US$400,000 sar – jekk hux *bank to bank* jew mod ieħor. Daphne Caruana Galizia tgħid li ma staqsithiex għax dak iż-żmien *"ma kontx qed nieħu interess f'dawn l-affarijiet, ma kontx intiża fi swift"*.

Mistoqsija minni jekk Maria Efimova qaltilhiex forsi jekk dan il-pagament kienx sar per eżempju lil xi ħadd ieħor f'isem Michelle Buttigieg, Daphne Caruana Galizia wieġbet li ma kienetx taf. Biss Daphne Caruana Galizia tgħid li Maria Efimova semmiet li kien hemm paniku kbir u li dan ir-*request* biex jinfetah il-kont lil oħt iċ-*Chairman* Ali Sadr kien forma ta' abbuż u *"goes against all banking practice"* għax Ali Sadr ċemplilhom *"biex jiftħu kont malajr imbagħad joħorġu loan mill-ewwel u jagħtu nofsu u dan kollu proċess isir hekk qishom piggy bank tagħhom jiġifieri"*.

Daphne Caruana Galizia tikkonferma li Maria Efimova qaltilha li dawn l-US$400,000 kienu parti mill-miljun dollaru Amerikan li kienu ingħataw b'self lil Negarin Sadr. Mistoqsija minni jekk kienux apparti, jiġifieri *over and above* il-miljun dollaru Amerikan Daphne Caruana Galizia twieġeb *"it was part of the one million"*. Hi tgħid li milli tista' tifhem hi, is-self sar lil Negarin preċiż biex il-flus jgħaddu lil Michelle Buttigieg u mhux għax Negarin kellha bżonn dawn il-flejjes u dan peress li Negarin Sadrhasheminejad hija bint

multi miljunarju u ma għandhiex bżonn self mill-bank. Biss Maria Efimova ma tagħthiex informazzjoni oħra dwar dan is-self.[25]

Maria Efimova ma tagħthiex informazzjoni dwar min kienu l-klijenti Russi li kellu l-Bank Pilatus.[26]

Skont Daphne Caruana Galizia, Maria Efimova ma kienetx taf min kienet *Egrant Inc.* Maria Efimova *"dawn id-dokumenti ħadithom u kkupjathom f'Marzu jiġifieri qabel l-Egrant sar famuż"*. Tgħid li f'Marzu (2016) ħadd ma kien għadu jaf b'dak l-isem. Il-motivazzjoni ta' Maria Efimova biex tikkopja dawk id-dokumenti kienet li Maria Efimova bdiet tibża li ser tiġi frejmjata mill-Bank stess u dan peress li kienu tefgħu ħafna *files* fuqha meta ġew tal-*FIAU*. Meta telqet il-kollega tagħha il-*Head of Compliance* kienu qalulha biex issib irkaptu għal dawk il-*files*. Kien hemm ħafna firem neqsin, kien hemm ħafna ittri li kienu neqsin, u bdew iżommu lil Maria Efimova responsabbli u hi ħasset li ma setgħetx tkun hi responsabbli għal dawn in-nuqqasijiet. Dan peress li ħafna minn dawn in-nuqqasijiet kienu dovuti għal fatt li ma kienetx għadha

[25] Ġie stabbilit mill-provi li verament kien ingħata self lil Negarin Sadr Hashemi Nejad, li tiġi oħt ic-Chairman tal-Bank Pilatus Ali Sadr Hasheminejad. Iżda l-ammont misluf ma kienx dak imsemmi minn Caruana Galizia. Dan is-self ġie rintraċċjat fil-kotba tal-Bank Pilatus, kien mogħti fi Frar 2016 u ġie pproċessat fi żmien qasir ħafna, pero kien jammonta għal miljun u nofs dollaru Amerikan (US$1,500,000) u tħallas fi tranche waħdanija. Dwar dan is-suġġett ser nidħol f'aktar dettall aktar il-quddiem.

[26]Maria Efimova irrifjutat li tagħti l-ismijiet tal-klijenti Russi anke fil-kors tax-xiehda tagħha fl-inkjesta.

taħdem mal-Bank dak iż-żmien. Daphne Caruana Galizia tgħid li tal-Pilatus kienu ġegħlu lil Maria Efimova biex tiffirma fuq karta in bjank. Maria Efimova bdiet tibża li l-Bank Pilatus setgħu ipoġġu l-firma tagħha fuq xi dokumenti u tiġi ffrejmata.

Daphne Caruana Galizia tgħid li Maria Efimova qaltilha li :

> Imbagħad bdejt nibża, qaltli u meta kelli cans immur ġos-safe, staqsewni biex nieħu l-files, bdejt infittix ħalli nara x'ser insib u qaltli rajt l-isem Muscat u hi ma hijiex Maltija, rajt l-isem Muscat, għaraftu bħala kunjom il-Prim Ministru għax ovvja li ma kienetx taf li Muscat kunjom komuni u ħadthom dawn iż-żewġt dokumenti ikkupjajthom b'hekk ħarġu mis-safe u dak li kien il-motivazzjoni tagħha u fil-fatt hi ilhom għandha issa sirt naf bihom jiena, wara sena u ftit, ehe. Hi speċi kkupjathom bħala insurance għax bdiet tibża li tista' tkun framed, ehe u dik kienet il-motivazzjoni għax ovvja hawn ħafna domandi fl-*press* allura qed tgħid ħarġu s-sena l-oħra, għalfejn żammejthom u jien ma nistax nirrispondi, ma nistax ngħid dawn l-affarijiet fil-pubbliku imma hi kienet qed tibża minnhom hi kienet qed tibża' li ħa tiġi framed f'nofs l-FIAU investigation għax il-kollega tagħha telqet lampa stampa.[27]

Fit-tieni deposizzjoni tagħha nhar il-31 ta' Mejju 2017, Daphne Caruana Galizia ikkonfemat li meta kienet qed titkellem fuq is-sors tagħha matul l-ewwel deposizzjoni tagħha hija kienet qed tirreferi għal Maria Efimova, li sadattant kienet xehdet fit-28 t'April 2017. Daphne Caruana Galizia tgħid li Maria Efimova ġiet tixhed minn jeddha. Mistoqsija jekk Daphne Caruana

[27] Maria Efimova konsistentement tiċħad li għamlet dan kollu, li ħadet kopji jew li ħadet xi ritratti jew *scans* ta' dokumenti bankarji!

Galizia f'dan l-istadju kellhiex dokumenti li hija setgħet tgħaddi lill-inkjesta, hija wieġbet :

> Le, jien ma għandix id-dokumenti jien rajthom imma ma humiex fil-pussess tiegħi u qatt ma kienu fil-pussess tiegħi fil-fatt, jiġifieri in-nies hekk qegħda ngħidilhom li meta jsaqsuni għaliex ma tippublikahomx ngħidilhom ok kieku xtaqt, imma na nistax għax ma għandix.

Konfrontata bil-fatt li fix-xiehda tas-27 t'April 2017, għall-mistoqsija tas-Supretendent Abdilla jekk hija kienetx żammet kopja ta' dawn id-dokumenti li hija rat kopja tagħhom jew inkella kienux ġew mgħoddija kopji lilha missors tagħha, hija kienet wieġbet *"għandi kopja iva"*, Daphne Caruana Galizia issa wieġbet :

> Ehe, jien li xtaqt infisser li naf fejn qiegħdin mhux għandi fil-pussess tiegħi, u f'dak l-istadju ma' stajtx niċċara iżjed dwar il-whistleblower għax ħadd ma kien jafha, jiġifieri jien kelli aċċess għalihom imma ma kienux fil-pussess tiegħi, fil-fatt biex nagħmel it-transcript kelli bżonnhom.

Mistoqsija minni jekk dak kienx ifisser li kienu għand u fil-pussess ta' Maria Efimova, Daphne Caruana Galizia wieġbet li kienu fil-pussess ta' Maria Efimova (*whistleblower*). Iżżid tgħid li Maria Efimova għandha l-i *scans* u Daphne Caruana Galizia rat *print out* u mhux *diġital copy* tagħhom. Iżda min ikollu *digital copy* jista' dejjem jipprintjaha. Daphne Caruana Galizia tippreċiża li dak li hi rat kienu *"soft copies jiġifieri printouts"*. Hi ma setgħetx tgħid kienux *photocopies* jew kopji stampati wara li kienu ġew *scanned*

diġitalment. Biss kienet Maria Efimova li urithom lilha. Daphne Caruana Galizia tgħid li Maria Efimova għandha l-kopji:

> u biex nibda mill-bidu xi ħadd ieħor urihomli l-ewwel darba...Maria Efimova, qaltli li għandha l-kopji tagħhom imma jien rajthom għand xi ħaddieħor..qaltli li ġabhom mingħandha. Jiena ma ġietx għandi dirett.[28]

Mistoqsija jekk is-sors pero ta' din l-informazzjoni kienetx Maria Efimova, Daphne Caruana Galizia wieġbet: *"Iva, s-sors iva 100 percent dak żgur, is-sors tal-informazzjoni kienet Efimova"*.

Inoltre Daphne Caruana Galizia ttenni li l-persuna l-oħra li rathom mingħandha kienet qaltilha li kienet ħadithom mingħand Maria Efimova. Fil-fatt tgħid hekk :

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[28] Maria Efimova mill-banda l-oħra fix-xiehda tagħha tgħid bil-kontra u ċjoe li l-ewwel kienet kelmet lil Daphne Caruana Galizia imbagħad kienet kelmet lil Pierre Portelli wara li sa fejn kienet taf hi kienet Daphne Caruana Galizia li għaddiet id-dettalji tagħha lil Pierre Portelli. Maria Efimova tgħid li hi ma għaddietx informazzjoni dwar din l-istorja lil media oħra – għalkemm darba qalet li kienet kelmet lil xi ħbieb tagħha dwar l-istorja u darb'oħra qalet li kienet kelmet lir-raġel tagħha dwar din l-istorja u lil ħadd iżjed. Maria Efimova tirribadixxi li hi qatt ma wriet dokumenti lil Daphne Caruana Galizia iżda li kienet Daphne Caruana Galizia li wrietha ż-żewġ *declarations of trust* – sa mill-ewwel laqgħa li kellhom bejniethom f'Marzu 2017 u li kienet jew qabel jew wara l-Għid (li fi kwalunkwe każ fl-2017, l-Għid kien jaħbat fis-16 t'April 2017 u mhux f'Marzu). Interessanti wkoll hawnhekk li skont Caruana Galizia, il-persuna l-oħra li mingħandha kienet ukoll rat dawn id-declarations of trust tirreferi għaliha fil-maskil u mhux fil-femminil – *qaltli li ġabhom mingħandha.* Jiġifieri anke s-sors l-ieħor li ma ġiex żvelat minn Caruana Galizia, li jidher li kien raġel, ukoll qal lil Caruana Galizia li huwa d-*declarations of trust* kien ġabhom mingħand Maria Efimova. L-unika persuna li l-inkjesta setgħet tidentifika li kienet rat dawn id-declarations of trust, minbarra Efimova u Caruana Galizia kien Pierre Portelli. Portelli fix-xiehda tiegħu jgħid li huwa kien laħaq intiża ma Efimova li din ittih kopja tagħhom billi ġġibhom mill-iCloud account tagħha wara li taċċedi bil-VPN, pero Portelli jgħid li din qatt ma tathomlu. Fi kwalunkwe każ il-verżjoni t'Efimova u Caruana Galizia dwar min kellu dawn id-dokumenti hija dijametrikament opposta.

Daphne Caruana Galizia : Xi hadtiehor kien...

Magistrat Inkwirenti : Lilek urik dan id-dokument persuna ohra?

Daphne Caruana Galizia : Ehe.

Magistrat Inkwirenti : Illi lilek qaltlek li kienet hadithom mighand Efimova.

Daphne Caruana Galizia : Iva.

Biss Daphne Caruana Galizia reġgħet tenniet li hija kopji ta' dawn l-i *scans* ma kellhiex u qatt ma kellha ħlief biex tagħmel it-traskrizzjonijiet. U mistoqsija mill-ġja Supretendent Abdilla jekk dawn il-kopji kienetx għaddhiethom lura lil min tahomlha, Daphne Caruana Galizia wieġbet "*iva*". Daphne Caruana Galizia tenniet ukoll li hija qatt ma kellha fil-pussess tagħha il-*bank account opening forms*.[29] F'dan il-każ Maria Efimova kienet **qaltilha** dwarhom. Meta ġiet mistoqsija dwar il-*bank account opening forms* ta' *Al Sahra* u jekk minbarra li semgħet lil Maria Efimova tgħidilha dwarhom, kienetx **rat** xi ħaġa bil-miktub dwar id-dokumenti, Daphne Caruana Galizia tgħid li :

> ma nistax naħlef, imma ma nistax naħlef... għax fil-fatt jiena kelli din id-domanda għax meta bdejt infittex fuq l-internet għax rajthom malajr ma nistax naħlef u meta bdejt infittex fuq l-internet dwar Al Sahra sibt ħafna informazzjoni dwar Shams Al Sahra u fil-fatt jiena assumejt li kienu l-istess u meta saqsejta qaltli le kienet Al Sahra

[29] Fix-xiehda preċedenti ta' Daphne Caruana Galizia, meta mistoqsija mill-ġja Supretendent Ian Joseph Abdilla : "*id-dokumenti Sinjura oħra apparti din id-declaration of trust, din il-persuna għaddietlek?*" Daphne Caruana Galizia wieġbet "*bank account opening forms*". Fuq domanda tal-ġja Supretendent Ian Joseph Abdilla wieġbet li Efimova kienet **urietha** il-*bank account opening form* ta' *Al Sahra*. Skont Daphne Caruana Galizia, Maria Efimova kienet fil-pussess ta' żewġ *declarations of trust* kif ukoll żewġ *bank account opening forms* u "*the other bank account opening form l-oħra ta' Al Sahra FZCO*". Fit-tieni xiehda tagħha issa qalet li Maria Efimova **qaltilha** dwarhom.

> żgur, u mbagħad meta staqsejtha iżjed viċin wara ħafna ġimgħat jiġifieri dwar Al Sahra hi qaltli le niftakar li kien hemm xi tentattivi biex din il-kumpanija Shams Al Sahra jitfħu kont hemmhekk imma jien sal frattemp kont tlaqt, u fil-fatt għandu jkun Shams Al Sahra infetħet wara li telqet hi xi April xi ħaġa hekk.[30]

Meta mistoqsija jekk meta għamlet riferenza għall-fatt li d-dokumenti ġew *uploaded* fil-*cloud* minn terzi kienetx qed tirreferi għal Maria Efimova, Daphne Caruana Galizia wieġbet li fil-fatt kien għalhekk li hija assumiet li huma *self scans* u mhux fotokopji għax bilfors li riedu jkunu diġitali biex tkun tista' tagħmel *upload* tagħhom. Kien dan li wassalha tassumi li ma kienux fotokopji *"imma printouts minn xi pdf file jew xi ħaġa hekk"*.[31]

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[30] Fit-tielet xiehda tagħha Maria Efimova terġa tgħid li hi qatt ma rat isem il-kumpanija *Al Sahra* u mistoqsija speċifikament li Daphne Caruana Galizia ssemmi espliċitament l-isem tal-kumpanija bħala *Al Sahra* Maria Efimova tgħid li *"I don't know may be it was a confusion because they had also Shams Al Sahra"*. Jiġifieri anke hawnhekk dawn iż-żewġt xiehda mhux jaqblu fil-verżjonijiet tagħhom. Li ħareġ mill-provi huwa li *Al Sahra FZCO* ma kienetx teżisti bħala klijenta tal-Bank Pilatus u ma kellhiex kont ma dan il-Bank. Iżda Caruana Galizia tinsisti li meta staqsiet lil Efimova dwar il-fatt li ma kienetx *Al Sahra*, Caruana Galizia tgħid *"meta saqsejta qaltli le kienet Al Sahra żgur"*. Din hija verżjoni inkwetanti għax bla dubju ta' xejn ħareġ li Maria Efimova kienet taf li *Al Sahra* ma kienetx teżisti tant li xehdet dan matul l-inkjesta u d-dokumenti bankarji kienu jixhdu dan. Daphne Caruana Galizia, ta' ġurnalista investigattiva kienet intebħet li kien hemm xi ħaġa li ma kienetx qegħda ddoqqilha dwar din il-kumpanija li dwarha ma sabet xejn. U meta staqsiet speċifikament lil Maria Efimova dwarha din assigurata li kienet *Al Sahra*! Il-mistoqsija leġittima hija, għaliex jekk Caruana Galizia kienet qed tgħid il-verita, Maria Efimova deliberatament assiguratha li l-isem tal-kumpanija in kwistjoni kienet *Al Sahra* u mhux *Sahra* jew *Shams Al Sahra?* u allura għaliex qaltilha ħaġa b'oħra u iddepistat lil Caruana Galizia? Jekk Daphne Caruana Galizia kienet qegħda tgħid il-verita, dan ikun ifisser li Daphne Caruana Galizia kienet qegħda temmen lil Maria Efimova f'dak li Maria Efimova kienet qegħda tgħidilha; filwaqt li Maria Efimova kienet qegħda tagħtiha informazzjoni ħażina deliberatament.

[31] Maria Efimova mill-banda l-oħra tiċħad kategorikament li hija qatt għamlet kopji jew ħadet ritratti ta' dawn id-dokumenti, għalkemm tgħid li rathom, inkluż il-*bank account opening form* ta' *Sahra FZCO* (u għalhekk mhux t'*Al Sahra FZCO* kif Caruana Galizia tgħid li Efimova qaltilha).

Daphne Caruana Galizia ikkonfermat li s-sors tal-informazzjoni wara l-allegazzjonijiet imsemmija fl-artiklu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** kienet Maria Efimova.

Mistoqsija dwar dak li kienet qalet jekk it-transazzjonijiet kienux magħmula minn *swift* u jekk ġietx murija xi dokumenti ta' *swift transfers,* Daphne Caruana Galizia qalet li hi kienet straħet fuq li qalet Maria Efimova. Daphne Caruana Galizia tgħid li kienet Maria Efimova li qaltilha li kienu *bank to bank transfer.*[32] Daphne Caruana Galizia tgħid li Maria Efimova kellha suspett li:

> Għandhom xi arrangement xi bank it-Turkija, għax hi kienet għamlet ħafna t-Turkija li kienu jgħaddu t-transactions minn hemm u naħseb hi bdiet tissuspetta li għandhom, arranġament ma' bank it-Turkija li jibgħat il-flus f'bank wieħed u jerġa jibgħatu ma nafx imma jiena ma nifhimx biżżejjed, ma nistax ngħinkom.[33]

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[32] Mix-xiehda ta' Maria Efimova jirriżulta li mhux veru li kienet qalet dan li qed tistqarr Daphne Caruana Galizia. Fil-fatt il-ġja Supretendent Abdilla għamel mistoqsija speċifika dwar dan (meta hu kien taħt l-impressjoni li din l-istqarrija ta' Daphne Caruana Galizia kienet għamlitha Maria Efimova). Minn naħa tagħha Maria Efimova twieġeb li din l-istqarrija hi ma għamlithiex u tgħid hekk : -

> Ins: Can I ask you something, you said that it would not necessary be the bank involved. You said time ago, when we were asking you, you said that it could be a direct payment.
>
> Wit No, I didn't say this.
>
> Ins: You said that the Bank could not be involved. It could be a direct payment.
>
> Wit Of course the Bank is involved. I mean if the money are leaving Pilatus Bank and going to another Bank, and it is USD it is swift, we don't have any other,
>
> Ins. So it always has to be in swift form?
>
> Wit Yes, it had to be.

[33] Mehmet Ugurluoglu, li jaħdem fil-*Front Office* mal-Bank Pilatus sa' minn Ottubru 2016 jgħid li l-Bank Pilatus ma kellux Uffiċju fit-Turkija.

Michaela Krajcikova li kienet taħdem *Office Manager* bejn Ġunju u Novembru 2015 tgħid li dik li kienet l-assistenta personali ta' Ali Sadr, ċjoe Linet Estiroti, dak iż-żmien kienet importanti ħafna u li kienet baqgħet

Kienet Maria Efimova li kienet qaltilha li kien Michael Satariano dak l-impjegat li kien issemma' fl-artiklu tal-*US$1.017 million*, għalkemm ftit wara tgħid li ma kienetx tiftakar.[34]

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taħdem remotament mit-Turkija għall-Bank Pilatus. Tgħid li kienet minn tal-bidu nett taħdem mal-Bank Pilatus u kull meta kien ikollhom xi problema jew diffikulta kienu jċemplu lilha. Kienet taħdem siegħat twal ħafna u tibgħat ħafna e-*mails*. Biss wara li kienet spiċċat taħdem mal-Bank Pilatus dix-xhud kienet saret taf li Linet Estiroti kienet spiċċat taħdem mal-Bank Pilatus jew keċċewha u ma kienetx setgħet tifhem għaliex kienu għamlulha hekk meta kienet taħdem dawk is-siegħat kollha.

Emilia Maria Vacaru tiftakar li kien hemm waħda jisimha Linet Estiroti li kienet taħdem mal-Pilatus. Hi qatt ma ltaqgħet magħha pero. Estiroti kienet taħdem mid-dar fit-Turkija. Meta Vacaru kienet *trainee*, kienet iċċempillha u tagħtiha l-pariri xi trid tagħmel biex tiftaħ kontijiet tal-bank. Taf li qabel Estiroti kienet taħdem fuq ftugħ ta' kontijiet tal-bank, pero ma tafx jekk kienetx tagħmel attivitajiet oħra. Taf li kienet taħdem għal madwar għaxar snin ma Ali Sadr. Fil-bidu meta kienet bdiet taħdem Vacaru ma Pilatus Bank, Estiroti kienet baqgħet tipproċessa pagamenti għal Pilatus Bank. Pero wara l-Bank għaddew l-ipproċessar tal-*payment instructions* lil Vacaru. Biss wara għalkemm kien għaddewlha l-*payment instructions*, hi kienet tirreferihom lura l-Bank f'Malta. Peress li ma kienet f'Malta hi ma kienetx f'qagħda li twettaq il-*payment instructions*. Emilia Maria Vacaru iżżid tgħid li l-proċess tal-pagament kien kollu jiġi reġistrat bil-miktub u tramite e-*mail*. Wara li l-pagamenti kienu jiġu pproċessati kienu jintbagħtu lil *Operations Department* u dawn kienu jeżegwixxu l-pagamenti tramite l-*Flexcube*. Sa fejn taf hi l-Bank kellu biss il-*Flexcube* li bih setgħu jsiru transazzjonijiet bankarji u ma kienx hemm xi sistema bankarja oħra. Sa fejn taf hi l-Bank dejjem kien juża l-i *swift* għat-transazzjonijiet u pagamenti li kienu jsiru. L-i *swift* kien ikun imsemmi fuq il-*payment request forms*. Huma kienu dejjem jivverifikaw li l-i *swift* code kien ikun korrett sabiex il-pagament kien jista' jsir.

[34] Fir-raba' xiehda tagħha Maria Efimova tgħid li verament kienet semmiet lil Michael Satariano lil Daphne Caruana Galizia, iżda Maria Efimova semmietu fis-sens li huwa kien wieħed mill-impjegati tan-Nexia BT li l-aktar kien iġib klijenti lill-Bank Pilatus u mhux għaliex kien b'xi mod involut fit-transazzjoni bankarja msemmija minn Daphne Caruana Galizia fl-artikolu tagħha. Għal darb'oħra meta Maria Efimova ġiet konfrontata bil-fatt li Daphne Caruana Galizia kitbet xi ħaġa differenti minn dak li kienet xehdet Maria Efimova fir-raba' xiehda tagħha, Maria Efimova qalet li dan setgħa kien dovut għall-fatt li Daphne Caruana Galizia reġgħet ħawdet dak li Maria Efimova kienet qaltilha. Maria Efimova tgħid hekk : -

> Court : Excuse me I have to repeat the question. Now going back is it true that an employee from Nexia BT called Pilatus Bank several times a day in relation to this transaction that did not go through between Sahra and Egrant?
>
> Witness: Now I remember telling to Mrs. Caruana Galizia that Michael Satariano was calling me many times in relation with - at some account openings, they were introduced to the bank and the bank was delaying to open the accounts. So I remember such situation the he was calling literally like every hour, did you open, did you open, did you open. Maybe she confused, I don't know.
>
> Court: Well she had to say that she understood you right or wrong, but was Mr. Satariano calling you in relation to this transaction that did not go through?

Daphne Caruana Galizia ssostni li l-informazzjoni li *Egrant, Tillgate* u *Hearnville* kellhom kontijiet il-Pilatus kienet tagħthielha Maria Efimova.[35] L-informazzjoni relattiva għall-artiklu dwar is-self ta' Negarin Sadr u l-allegat ħlas lil *Buttardi* kienet ukoll Maria Efimova li tagħthielha.

Witness: No.
Court: No.
Witness: No.
Court: Or did Mr. Satariano speak to you about Egrant?
Witness: To me no.
Court: No.
Witness: No he never spoke to me about Egrant.

[35] Ebda kont bankarju f'isem dawn il-kumpaniji jew bank account opening forms jew dokumenti oħra relattivi għal dawn il-kumpaniji ma nstabu fir-*records* stampati jew diġitali jew fil-*core banking system* tal-Bank Pilatus.

000296

Il-kitbiet ta' Daphne Caruana Galizia dwar *Egrant Inc.* fir-*Running Commentary* u t-triq li waslitha tippubblika tal-artiklu meritu ta' din l-inkjesta

Komponent ewlieni fil-kitbiet ta' Daphne Caruana Galizia u li jidher li kienet ibbażat ħafna mill-konklużjonijiet tagħha fil-kwisjoni *Egrant Inc* kienet tistrieh fuq ammont enormi t'informazzjoni li jirriżulta li kienet ipproċessat Daphne Caruana Galizia minn ħafna sorsi diversi. Bħala ġurnalista hi kienet ħielsa li tiġbor biċċiet t'informazzjoni partikolari u wara tiġborhom flimkien u titrasformahom f'kitba, skont dak li kienet temmen li kienet il-verita.

Biss il-mod kif tiġi proċessata l-informazzjoni mill-ġurnalista huwa differenti minn dawk li jrid jagħmel il-maġistrat. Il-maġistrat jirċievi informazzjoni u minnha jrid jislet, skont regoli ben preċiżi, dik li mill-istess informazzjoni tikkostitwixxi evidenza diretta u dik li hi evidenza indiretta jew ċirkostanzjali legalment ammissibbli.[36]

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[36] L-interpretazzjoni tal-evidenza indiretta jew ċirkostanzjali hija spjegata b'mod ċar fis-sentenza ***Il-Pulizija vs. Abderrah Berrad et*** fejn il-prinċipji regolatorji u li joħorġu mill-ġurisprudenza Maltija ġew sintetizzati hekk: -

> Huwa minnu wkoll kif rapportat aktar 'l fuq li fl-Artikolu 638(2) tal-Kap. 9 ix-xhieda ta' xhud wiehed biss, jekk emnut minn min ghandu jiggudika fuq il-fatt hija bizzejjed biex taghmel prova shiha u kompluta minn kollox, daqs kemm kieku l-fatt gie ppruvat minn zewg xhieda jew aktar. Ghalhekk jispetta lill-Qorti tara liema hija l-aktar xhieda kredibbli u vero simili fic-cirkostanzi u dan a bazi tal-possibilita'.
> Huwa veru wkoll li l-Qorti ghandha tqis provi cirkostanzjali jew indizzjarji sabiex tara jekk hemmx irbit bejn l-imputat u l-allegat reat. Dan qed jinghad ghaliex ghalkemm huwa veru li fil-kamp penali l-provi ndizzjarji hafna drabi huma aktar importanti mill-provi diretti, pero' hu veru wkoll li provi ndizzjarji jridu jigu ezaminati b'aktar attenzjoni sabiex il-gudikant jaccerta ruhu li huma univoci.

Fil-fatt il-Qorti hawnhekk taghmel referenza ghall-sentenza moghtija mill-Qorti tal-Appell Kriminali fil-hmistax (15) ta' Gunju, 1998 fil-kawza fl-ismijiet 'Il-Pulizija vs Joseph Lee Borg', fejn kien gie ritenut li provi jew indizzji cirkostanzjali ghandhom ikunu univoci, cioe' mhux ambigwi. Ghandhom ikunu ndizzji evidenti li jorbtu lill-akkuzat mar-reat u hadd iktar, anzi l-akkuzat biss, li hu l-hati u l-provi li jigu imressqa, ikunu kompatibbli mal-presunzjoni tal-innocenza tieghu.

Illi ghalhekk huwa mportanti fl-isfond ta' dan il-kaz li jigi ppruvat li kien l-imputat biss li ghamel dak li gie akkuzat bih u ghalhekk il-Qorti sejra tikkonsidra kwalunkwe prova possibilment cirkostanzjali li tista' torbot lill-imputat b'mod univoku bir-reati addebitati lilu.

Fil-fatt kif gie ritenut fis-sentenza moghtija mill-Qorti tal-Appell Kriminali fissitta (6) ta' Mejju, 1961 fil-kawza fl-ismijiet 'Il-Pulizija vs Carmelo Busuttil', "Il-prova ndizzjarja ta' spiss hija l-ahjar prova talvolta hija tali li tipprova fatt bi precizjoni matematika."

Illi huwa veru li fil-kamp penali, il-provi ndizzjarji hafna drabi huma aktar importanti mill-provi diretti. Hu veru wkoll li l-provi ndizzjarji jridu jigu ezaminati b'aktar attenzjoni sabiex wiehed jaccerta ruhu li huma univoci.

Archbold fil-ktieb tieghu Criminal Parctice (1997 edition para 10-3) b'referenza ghal dak li qal Lord Normand fil-kaz Teper vs R (1952) jghid:

"Circumstantial evidence is receivable in Criminal as well as in Civil cases; and indeed, the necessity of admitting such evidence is more obvious in the former than in the latter; for in criminal cases, the possibility of proving the matter charged by the direct and positive testimony of eye witnesses or by conclusive documents much more than in civil cases; and where such testimony is not available. The Jury is permitted to infer the facts proved other facts necessary to complete the elements of guilt or establish innocence. It must always be narrowly examined, if only because evidence of this kind may be fabricated to cast suspicion on another... It is also necessary before drawing the inference of the accused's guilt from circumstantial evidence to be sure taht there is no other co-existing circumstance which would weaken or destroy the inference."

Illi din hija ezattament il-posizzjoni hawn Malta, kif fil-fatt giet konfermata b'sentenza moghtija mill-Qorti tal-Appell Kriminali nhar d-disgha ta' Jannar, 1998 fil-kawza fl-ismijiet 'Il-Pulizija vs Emanuel Seisun'.

Din il-Qorti thoss u tghid li provi cirkostanzjali huma bhal katina li tintrabat minn tarf ghal tarf, b'sensiela ta' ghoqiedi li jaqblu ma' xulxin u li flimkien iwasslu fl-istess direzzjoni. Il-Qorti hija rinfaccjata b'zewg versjonijiet ta' kif sehhet il-grajja.....

Ghalhekk m'hemmx dubju li l-Qorti hija rinfaccjata b'zewg verzjonijiet dijametrikament opposti ghal xulxin ghalkemm inghad sa minn dan l-istadju bikri tas-sentenza jidher li l-imputati li gew investigati a tempo vegine tal-investigazzjoni baqghu konsistenti fil-verzjoni tal-fatti taghhom sa meta xehdu l-Qorti viva voce minn jeddhom hames snin wara l-incident.

Illi ghalhekk m'hemmx dubju li kollox jiddependi fuq il-kredibilita` tax-xhieda u dan billi bhala gudikant il-Qorti ghandha tqies l-imgieba, il-kondotta u l-karattru tax-xhieda, tal-fatt jekk ix-xhieda ghandhiex mis-sewwa jew hiex kostanti u ta' fatturi ohra tax-xhieda tieghu u jekk ix-xhieda hiex imsahha minn xhieda ohra u tac-cirkostanzi kollha tal-kaz u dan ai termini tal-Artikolu 637 tal-Kap. 9 tal-Ligijiet ta' Malta....

Huwa mnnu, kif gie allegat mid-difiza, li jekk il-Qorti hija rinfaccjata b'zewg verzjonijiet konflingenti ghandha tillibera, stante li tali konflitt ghandu jmur a beneficcju tal-imputat, pero' huwa veru wkoll kif gie deciz mill-Qorti tal-Appell Kriminali fid-dsatax ta' Mejju, 1997 fil-kawza fl-ismijiet 'Il-Pulizija vs Graham Charles Ducker':

"It is true that conflicting evidence per se does not necessarily mean that whoever has to judge may not come to a conclusion of guilt. Whoever has to judge may, after consideration of all circumstances of the case, dismiss one version and accept as true the opposing one." Huwa l-oneru tal-Prosekuzzjoni li tressaq l-ahjar provi sabiex tikkonvinci lill-Qorti li l-akkuzi addebitati lill-imputat huma veri u dan ghaliex kif jghid il-Manzini fil-ktieb tieghu Diritto Penale Vol III Kap IV pagna 234, Edizione 1890:-

"Il cosi` detto onero della prova, cioe` il carico di fornire, spetta a chi accusa – onus probandi incumbit qui osservit".

Il-kitbiet ta' Daphne Caruana Galizia juru li bla dubju hi kienet tirċievi informazzjoni minn sorsi varji, kemm lokali kif ukoll minn barra minn Malta, ħafna minn liema informazzjoni ma kienetx disponibbli pubblikament; u xi drabi anke meħuda minn sorsi li huma, jew li skont il-Liġi kienu kunfidenzjali u saħansitra segretati, bħal Banek, Dipartimenti Governattivi u Ministeri, Awtoritajiet Pubbliċi oħra bħal l-*FIAU*, jew inkella x-xogħol li kien qiegħed isir mill-*ICIJ*. Jidher li min kien itiha l-informazzjoni ma kienx iqis il-limitu u l-konfini bejn id-dover li jiġu mħarsa l-vinkoli ta' kunfidenzjalita u segretezza fir-rigward tal-informazzjoni kunfidenzjali u sigrieta u dik li mhix; u bejn dik mogħtija legalment u dik li ma kienetx. Il-ġurnalista kienet tirċievi informazzjoni minn kullimkien u tipproċessaha, minkejja kollox.

Daphne Caruana Galizia bdiet tikteb b'mod inekwivokabbli dwar l-*Egrant Inc.* sa minn April 2016 b'serje ta' artikli dwar min setgħa kien is-sid aħħari t'*Egrant Inc* fuq perjodu li jmur oltre sena sħiħa. Il-kitba tagħha turi li Daphne Caruana Galizia, għal menu għall-bidu, ma kellhiex l-ideat tagħha ċari dwar min setgħa kien is-sid aħħari ta' din il-kumpanija. Għalkemm sa mill-bidu nett hi wriet is-suspetti tagħha li din il-kumpanija kienet, b'xi mod jew ieħor tappartjeni jew rikonduċibbli lil Joseph Muscat, l-inċertezza tagħha

dwar dan kienet ġiet mistqarra f'artiklu pubblikat minnha fit-13 ta' Mejju 2016 f'23:43 f'artiklu intitolat ***Though he's lying low, don't forget John Dalli***:

> The third Panama company, *Egrant Inc*, set up by Brian Tonna and Karl Cini of Nexia BT alongside Konrad Mizzi's *Hearnville Inc* and Keith Schembri's *Tillgate Inc*, is not necessarily Joseph Muscat's. I think it is more likely to be John Dalli's. No details of *Egrant Inc* are available in the Panama Papers because none were sent by email. The documents in the Panama Papers, for the other two, are all either emails or documents sent by email attachment. If it wasn't in an email, then it isn't there. What we do have is an email in which Nexia BT says it will give details of *Egrant Inc*'s intended ultimate beneficial owner via Skype call.
>
> This, to me, doesn't sound like the Prime Minister. It sounds like Dalli. Don't ask me why I think that – pure instinct. Muscat, Mizzi and Schembri operate as a tight unit. If Tonna was going to Skype for Muscat, then he would have Skyped for Mizzi and Schembri too. Whoever *Egrant Inc* was for, the Skype call wasn't because he was more important. It was because he was different – with them, but separate, and also older and with a very long record in covering his tracks and protecting himself with a firewall of secrecy. Also, Dalli is known not to trust even his collaborators implicitly, which is why his henchmen are his daughters.

Dan fil-fatt kien ukoll ġie msemmi minn John Dalli fix-xiehda tiegħu, fejn wara li huwa ċaħad dak miktub, saħansitra ddenunzja lil Daphne Caruana Galizia bħala li kienet terrorista minħabba l-kitbiet tagħha. Biss ftit wara l-pubblikazzjoni ta' dan l-artiklu Daphne Caruana Galizia reġgħet lura għan-narrativa oriġinali tagħha dwar il-preżunt sid aħħari ta' *Egrant Inc*. li skontha kien Joseph Muscat. Jirriżulta wkoll mill-kitbiet tagħha li dik l-eżitazzjoni u inċertezza li kienet qegħda turi sa' madwar Ottubru 2016 bdiet tnin sew kif rifless fil-kitbiet tagħha wara Ottubru 2016, fejn Daphne Caruana Galizia

bdiet tikteb b'mod aktar assertiv dwar il-preżunt sid aħħari t'*Egrant Inc.* bħala li huwa Joseph Muscat.

Wieħed mill-ewwel artikli fejn Daphne Caruana Galizia bdiet toħloq ir-rabta bejn *Egrant Inc* u Joseph Muscat ġie pubblikat fl-10t'April 2016 fil- 10:42am intitolat ***Australian Financial Review reveals existence of third linked set-up called Egrant "without personal details". Is it the Prime Minister's?*** F'dan l-artiklu Daphne Caruana Galizia tinterroga ż-żmien meta intbagħtu l-ewwel *emails* minn Karl Cini lil kollegi tiegħu f'Mossack Fonseca (liema emails ġew mistħarġa wkoll matul il-kors ta' din l-inkjesta u jifformaw parti mir-relazzjoni tal-*Forensic Accountants Harbinson Forensics*) u stqarret : -

> This fresh evidence indicates that Egrant may well be the Prime Minister's own set-up. The timing of the emails and the confidence with which Nexia BT wrote to Mossack Fonseca just five days after Muscat became prime minister constitutes near-irrefutable evidence that setting up the Panama companies and New Zealand trusts were not ad hoc decisions taken due to temptation by graft that cropped up along the way, but that they got into power precisely to be able to make secret money out of it. It is now also impossible, given the timings, for the Prime Minister to behave as though he is not part of it and that they acted without his knowledge (he has never even actually said that).

Minn qari tal-*email* datat 14 ta' Marzu 2013 mibgħut minn Karl Cini lil Luis Quiel pero, Karl Cini ma jsemmix li ried iwaqqaf *Panama companies and New Zealand Trusts* ċjoe fil-plural, iżda jsemmi *"a Panama company and possibly a trust"* ċjoe fis-singular. Jiġifieri f'dak l-istadju t-twaqqif tat-*Trust* jidher li

kienet għadha fir-relm tal-possibilita – idea. Biss dejjem jitkellem fis-singular. Dan jirriżulta wkoll minn *emails* sussegwenti mibgħuta minn Karl Cini lil Cristina Rios fejn fil-25 ta' Marzu 2013 Cini jibgħat sensiela t'*emails* intitolati *"RE: transfer of companies"* fejn terġa tissemma' l-*"Panama company and possibly a trust"* dejjem fis-singular. Biss hawnhekk Daphne Caruana Galizia tagħżel li tirreferi għalihom fil-plural u mhux fis-singular – u dan meta mill-provi ma hemmx x'jindika li f'dak l-istadju inizzjali kien hemm il-ħsieb li jiġu mwaqfin tliet kumpaniji fil-Panama.

L-użu indiskriminat u kostanti ta' Daphne Caruana Galizia għar-riferenza għat-twaqqif ta' *kumpaniji* fil-Panama (aktar milli kumpanija waħda kif juru l-provi), huwa rifless ukoll fl-artiklu pubblikat fl-10 t'April 2016 fis-12:36 pm intitolat ***Their very first act of government was to set up Panama companies for graft***.

Pero kif jirrimarkaw il-*Forensic Accountants Harbinson Forensics* f'dak l-istadju inizjali tar-relazzjoni ta' sħubija bejn Nexia BT u Mossack Fonseca mhux faċli li jiġi determinat, bi provi u mhux konġetturi jew suspetti, għal min eżattament kien qiegħed jirreferi Karl Cini f'dawk l-*emails* tiegħu aktar il-fuq imsemmija. Ġie pruvat soddisfaċentement li f'Marzu 2013 *Egrant Inc* kienet għadha mhix inkorporata; daqs kemm ma kienux l-anqas għadhom inkorporati l-kumpaniji *Tillgate Inc.* u *Hearnville Inc.* Almenu mill-*emails* ta'

Karl Cini ma jirriżultax li kien hemm il-ħsieb għat-twaqqif ta' tliet kumpaniji f'dak l-istadju.

Li hu ċar minn dawn l-*emails* hu li Karl Cini kellu klijent f'moħħu li kien interessat f'kumpanija fil-Panama u (possibilment) fi *Trust* (mingħajr ma tissemma' ġurisdizzjoni għaliha) u li l-*UBO* għaliha ma kienetx Nexia BT u li kien ser ikellem lil Luis Quiel tramite *Skype* biex jagħtih aktar dettalji.[37] Irriżulta wkoll pruvat soddisfaċentement li din mhix l-unika okkażjoni fejn Karl Cini kien jikkomunika ma impjegati ta' Mossack Fonseca tramite *Skype*. Dan joħroġ ċar ukoll minn *emails* oħrajn li ġew analizzati fil-kors ta' din l-inkjesta, fosthom dik preċedenti tal-14 ta' Marzu 2013 intitolata *"panama company and trust"* mibgħuta lil Luis Quiel f'1:36:19PM (UTC) fejn jgħidlu :

> Hi Luis I need you to send me a formation document pack for a company in Panama and possibly a trust. If you have time today give me a call on skype for a general update and to talk about this. thanks. Karl Cini

Kjarament dawn kien jitkelmu bl-i *Skype* meta kien ikun hemm bżonn u kemm fuq affarijiet ta' natura ġenerika kif ukoll ta' natura speċifika. Mhux magħruf il-kontenut ta' dawn il-konversazzjonijiet x'kien ikun. L-uniku ħjiel kien joħroġ minn *emails* sussegwenti l-konversazzjoni fejn jew issir xi

[37] *It will be an individual and i will speak to Luis on skype to give him more details.*

riferenza għal dak li jkun ġie diskuss verbalment jew fir-rigward ta' xi azzjoni li tkun ittieħdet b'riferenza għal tali konversazzjonijiet.

Kif ġie muri mill-*emails* oħra li ġew analizzati fil-kors ta' din l-inkjesta u li jifformaw parti minnha, il-kuntest tal-*email* tal-25 ta' Marzu 2013 u dawk li jsegwuha isir dak ta' *"RE: transfer of companies"* kif tixhed l-intestatura ta' din l-*email*. Dan jidher ukoll minn *email* mibgħuta minn Karl Cini datata 15 t'April 2013 taħt l-istess intestatura fejn Karl Cini jippressa lil Mossack Fonseca għal azzjoni biex dawn jipprovdu d-diretturi u l-azzjonisti fil-forma *nominee* kemm jista' jkun malajr. Ma din l-*email* Karl Cini jehmeż kopja tac-*certificate of incorporation* ta dawn il-kumpaniji li huwa jirreferi għalihom u li kienu *Colson, Lester* u *Selson* li huma rikonduċibbli għal Keith Schembri, Adrian Hillman u Malcolm Scerri.[38]

Biss Daphne Caruana Galizia tirreferi għall-parti mill-*email* tal-21 ta' Marzu 2013 fil-11:39:33 mibgħut minn Karl Cini lil Luis Quiel intitolat *"transfer of companies"* fejn Cini jgħid lil Quiel : *"I remind you about my email of the 14th March. When you can please send me details for setting up a panama company and possibly a trust"* u tinterpretah bħala li qed jagħmel riferenza għal *Egrant Inc.* mingħajr ma tispjega kif waslet għal din il-konklużjoni meta din l-*email* ma

[38] Ara l-paragrafu 144 tar-relazzjoni tal-*Forensic Accountants Harbinson Forensics.*

kienetx *email* li kienet tittratta biss it-twaqqif ta' kumpanija Panamense u possibilment *Trust in abstracto* iżda trid tinqara' fil-kuntest tal-konversazzjoni *"RE: transfer of companies"* li ssegwi. Għal xi raġuni Daphne Caruana Galizia qisha tinjora li fil-kumplament tal-*email* tal-21 ta' Marzu 2013, Karl Cini jkompli jtenni li :

> I also have 3 companies which are registered in the BVI and managed by Mossack Fonseca in BVI. These are companies of our clients but were set up by another person in Malta, through Mossack Fonseca. From now on I need to be the person of contact for these companies (I attach the certificate of incorporation for each of them) and in addition I need that for each company a director and a nominee shareholder is appointed. Can you please assist and let me know what you need to effect this change. Regards.

F'dak l-istadju din il-korrispondenza turi li Karl Cini kellu interess prinċipali kemm fit-*"transfer of companies"* u fl-istess kuntest jitkellem ukoll fuq it-twaqqif ta' *a panama company and possibly a trust.* Għal xi raġuni Daphne Caruana Galizia ma tippublikax din is-silta dwar it-tliet kumpaniji fil-*BVI.*

Cristina Rios imbagħad wieġbet għal din l-*email* ta' Karl Cini fit-22 ta' Marzu 2013 fl-2259 (u Luis Quiel ġie kkumpjat biha) dwar l-istess suġġett ta' *"transfer of companies"* u tibgħatlu *email* dettaljata dwar x'dokumenti kienu meħtieġa li jiġu mibgħuta lilhom biex it-talba ta' Cini tiġi milqugħa. Cini wieġeb għal din l-*email* ta' Cristina Rios bl-*email* tiegħu tal-25 ta' Marzu 2013 fis-0618 (u Luis Quiel ġie kkumpjat biha). Qallha:

Dear Cristina

All is well thanks. Hope same with you and Luis.

I presume the information and documents you sent me relate to the setup of the new company in Panama and for the Trust. We will prepare the requested information but the UBO will not be Nexia BT. It will be an individual and i will speak to Luis on skype to give him more details.[39]

In respect of the transfer of the 3 companies I mentioned below and for which I attached the initial documentation, what would you require to make the transfer? As indicated that I need that :

- The current directors are replaced with a nominee director of your choice, The service of Nominee Directors have an annual cost US$450
- The shareholding is transferred to Mossfon as a nominee shareholding, still retaining the current UBOs (for which you already have the information as the companies are already set up) The service of nominee shareholders have an annual cost of US$600.00
- All future correspondence in respect of these companies is directed to me We need authorization of our client in records to proceed with the change of administration process, in the meantime we require the due diligence for NEXIA BT.

I also need to set up a new BVI Company for a client of ours. Please send me the necessary forms.

Regards

Karl Cini

L-artikli ta' Daphne Caruana Galizia juru li hi għamlet l-interpretazzjoni tagħha tal-kontenut ta' dawn l-*emails* minħabba li Cini jsemmi li:

[39] Ta' min jinnota wkoll li fil-cache ta' emails sottomessi lil din l-inkjesta fl-ewwel rikors magħmul minn Dr. Simon Busuttil, huwa jippreżenta din l-email iżda jirriżulta li dik li kienet preżentata kienet tirriproduci biss din l-email sa' din is-silta. Il-kumplament tal-email ġiet maqtugħa barra mill-kopja tal-email li forna Dr. Simon Busuttil. Dan jidher fid-dokumenti li jifformaw parti mir-rikors imsemmi li jifformaw parti mill-atti ta' din l-inkjesta.

I presume the information and documents you sent me relate to the set up of the new company in Panama and for the Trust. We will prepare the requested information but the UBO will not be Nexia BT. It will be an individual and I will speak to Luis on skype to give him more details.

Biss għal darb'oħra Daphne Caruana Galizia tħalli barra dik il-parti li jirreferi għat-twaqqif tal-BVI company il-ġdida.

Il-kitba ta' Daphne Caruana Galizia turi li r-raġunament tagħha kien li ġaladarba:

(a) Cini ma żvelax l-isem tal-*UBO* bl-email, (ħaġa li aktar tard Cini jirriżulta li għamel fl-2015 fil-konfront ta' Konrad Mizzi u Keith Schembri),

(b) Li skont l-interpretazzjoni tal-kliem ta' Karl Cini fl-*email* tiegħu tal-25 ta' Marzu 2013 huwa kien sejjer jagħti d-dettalji tal-*UBO* għal din il-kumpanija tramite *Skype* lil Luis Quiel – u b'hekk jevita li jħalli *paper trail* bl-isem ta' dan l-*UBO*,

(c) Li dan l-*UBO* kien ser ikun individwu,

(d) U ladarba individwu ma kienetx ser tkun Nexia BT (ergo Brian Tonna),

Allura dan kien ifisser li dik il-persuna li Karl Cini kien qiegħed jirreferi għaliha sa minn dak l-istadju hekk bikri ma kien ħadd ħlief Joseph Muscat minħabba li :

(i) Joseph Muscat kien aktar importanti minn Keith Schembri u Konrad Mizzi; u

(ii) Aktar tard Nexia BT *"set up"* tliet kumpaniji fil-Panama b'mod identiku : waħda minnhom kienet tappartjeni lil Keith Schembri l-oħra kienet tappartjeni lil Konrad Mizzi, u allura b'implikazzjoni u bħala konsegwenza naturali Cini, f'din l-email ta' Marzu 2013, kien qiegħed jirreferi għal *Egrant Inc* u li l-*UBO* tagħha bilfors kien Joseph Muscat.

Din tidher li kienet l-interpretazzjoni mogħtija minn Daphne Caruana Galizia skont dak li kitbet dwar dan is-suġġett.

Biss il-korrispondenza bejn Karl Cini u Cristina Rios tkompli u tiżviluppa iżjed minn hekk. Fil-25 ta Marzu 2013 fil-16:38 Cristina Rios wieġbet lil Cini u kkupjat lil Luis Quiel, fejn avżatu li kienet teħtieġ anke *due diligence* għal Nexia BT bħala l-*professional client* tagħhom kif ukoll riedet *due diligence* fuq dan l-*UBO* wkoll. Minbarra dan b'riferenza għall-*BVI company* Rios hemżet lil Cini l-*order form* tagħhom għal din il-kumpanija u *quotation* u qaltlu li meta Nexia BT ikunu lestew id-*due diligence* huma kienu f'posizzjoni li jipproċedu bit-twaqqif tal-kumpanija ġdid fil-*BVI*. Din l-inkjesta sabet li fil-fatt Mossack Fonseca kienu jbiegħu *shelf companies* lil klijenti tagħhom qishom qegħdin ibiegħu prodott *off the shelf* skont l-ordni li jagħmel il-klijent fl-*order form*. Il-

kumpanija setgħet tkun kostitwita *"made to measure"* jew inkella klijent setgħa jagħżel li jixtri kumpanija *"standard"* minn diversi li Mossack Fonseca kienet tikkostitwixxi preventivament għal klijenti li kellhom. Biss kienu jeħtieġu li jsir *due diligence exercise* ukoll.

Karl Cini jwieġeb lil Rios fil-15 t'April 2013 fis-0731 u jgħidilha li :

> I am finalising the DD for Next BT as your professional client.
>
> The most pressing and urgent matter is the setting of the directors and the nominee sharebolding for the companies that I told you about (I attache again the company details). The UBOs have accepted the fees indicated hereunder and I am waiting for your document that they need to sign in order for Nexia BT to become the point of contact between you and them. I need this urgently for them to sign.
>
> I will send you later on the scanned documents of our Due diligence. I hope you can proceed with the scanned versions in anticipation of the original s that will be sent to you via courier once you confirm everything is in order.
>
> But in the meantime please let me have that letter of notification from the UBOs (if you have any standard format), if not I will draft one and sent it to you.

Minn din il-korrispondenza, sa dak l-istadju ma jittrapela ebda isem dwar min kienu ser ikunu l-*UBO* ta' dawn il-kumpaniji Panamense u *BVI*. Biss ma' din l-email Karl Cini jehmeż *jpg file* biċ-ċertifikat tal-inkorporazzjoni ta' *Colson Services Limited, Lester Holdings Group Limited* u *Selson Holding Corp.*, liema kumpaniji huma rikonduċibbli għal Keith Schembri, Adrian Hillman u Malcolm Scerri.

B'hekk f'dak l-istadju, it-tliet kumpaniji li saret riferenza għalihom ma kienux Egrant Inc, Tillgate Inc jew Hearnville Inc, li kienu għadhom mhux kostitwiti, iżda dawn it-tliet kumpaniji *Colson Services Limited, Lester Holdings Group Limited* u *Selson Holding Corp.*, li huma rikonduċibbli għal Keith Schembri, Adrian Hillman u Malcolm Scerri.

Għalhekk mhux ċar in bażi għall-liema provi dokumentarji Daphne Caruana Galizia ikkonkludiet li l-*Panama company* imsemmija f'dan l-istadju minn Karl Cini kienet intiża għal Joseph Muscat, waqt li eskludiet li setgħet kienet intiża għal Konrad Mizzi, Keith Schembri jew xi klient ieħor milli kellhom Nexia BT. Huwa probabbli li l-konklużjoni tagħha għamlitha in bażi għall-interpretazzjoni tal-"istampa ġenerali" li kienet tara bħala ġurnalista.

Li Karl Cini u Cristina Rios kienu qegħdin jikkomunikaw fuq *Colson, Lester* u *Selson* huwa pruvat ukoll minn *email* mibgħut minn Cristina Rios lil *Mossack Fonseca & Co. (Corporations Data Update)* fis-16 t'April 2013 fis-17:45:13, bl-ispanjol, fejn tgħid hekk:

> Estimados companeros,
>
> Nuestro cliente BTI Management esta' solicitando el cambio de administracion de las companias : COLSON SERVICES LIMITED, LESTER HOLDING GROUP LIMITED, y SELSON HOLDING CORP. Todas de la jurisdiccion de BVI.

000312

Actualmente dichas companias estan bajo la administracion de **26063 – BALD EAGLE SERVICES S.A. (BVI).**

En caso lo quiseira trabajar con ustedes y mantener la comunicacion con el cliente, favor aliguien me puede orientar, queso en espera de sus comentarios.

Saludos / Kind regards,

Cristina Rios

F'dak l-istadju la Joseph Muscat u l-anqas Konrad Mizzi ma kienu ssemmew. Intant pero l-ismijiet ta' Schembri, Hillman u Scerri jkomplu jidhru f'sensiela *t'emails* minn Ġunju 2013 il-quddiem b'riferenza għal dawn il-kumpaniji hawn fuq imsemmija. Il-provi juru li f'dak l-istadju inizzjali tar-relazzjoni bejn Nexia BT u Mossack Fonseca, Karl Cini kien qiegħed jirreferi għal interessi ta' Keith Schembri, Adrian Hillman u Malcolm Scerri fir-rigward tat-*transfer of companies* filwaqt li ma hemmx provi dwar għal min kienu intiżi l-kumpanija fil-Panama u l-kumpanija fil-*BVI*.

L-isem ta' Keith Schembri imbagħad beda jidher fil-korrispondenza aktar tard fl-2015 flimkien ma dak ta' Konrad Mizzi in konnessjoni mal-kumpaniji *Tillgate Inc* u *Hearnville Inc* rispettivament u b'mod partikolari wara t-twaqqif tat-*Trusts* fi New Zealand fit-22 ta' Lulju 2015 bl-isem ta' *Haast Trust* u *Rotorua Trust* rispettivament. Minn hemm imbagħad isegwu sensiela ta'

emails bejn Karl Cini u impjegati diversi ta' Mossack Fonseca biex isiru tentattivi biex *Tillgate Inc* u *Hearnville Inc* jinstabilhom Bank biex fih ikunu jistgħu jinfetħulhom kontijiet bankarji. Pero f'din il-korrispondenza ma jissemma' xejn f'din il-konnessjoni dwar *Egrant Inc,* Dr. Joseph Muscat jew martu Michelle Muscat. Din il-korrispondenza misjuba fil-*Panama Papers* u fis-*servers* u *computers* ta' Nexia BT jew il-Bank Pilatus hija sajma minn riferenza għal tentattivi analogi fir-rigward t'*Egrant Inc.* Dwar dan pero issir riferenza għar-relazzjoni tal-*Forensic Accountants Harbinson Forensics* għal aktar dettalji fejn fost affarijiet oħra jirrimarkaw li ma nstabet ebda *email* mingħand Nexia BT jew Karl Cini minn fejn tirriżulta li saret xi talba għal tliet kumpaniji – għajr ħlief għall-*purchase orders* li saru f'Lulju 2013 u Awissu 2013. Qabel dawn l-*order forms* ma nstabet ebda *email* jew dokument miktub li bih jidher li saret xi bidla fil-ħsieb li minn kumpanija Panamense waħda u *Trust* dawn jiżdiedu għal tliet kumpaniji Panamensi. B'hekk mhux possibbli li jingħad li ġie pruvat ness ta' rabta ċirkostanzjali univoka bejn il-kumpanija Panamense u *Trust* imsemmija fl-emails ta' Marzu 2013 mal-iżvilupp sussegwenti t'inkorporazzjoni ta' tliet kumpaniji Panamensi. L-anqas ma tirriżulta rabta ċirkostanzjali univoka jew diretta li turi li l-*panama company* u *trust* kienet intiża għal Joseph Muscat.

Jirriżulta mill-provi li aktar il-quddiem, f'data li fix-xiehda tagħhom Brian Tonna u Karl Cini ma jaqblux dwarha, li d-deċiżjoni li jiġu akkwistati

mingħand Mossack Fonseca tliet kumpaniji fil-Panama (li eventwalment ġie pruvat li kienu *Egrant Inc.*, *Tillgate Inc.* u *Hearnville Inc.* liema kumpaniji ġew inkorporati f'Lulju 2013) ittieħdet wara Marzu 2013. Il-provi miġbura juru li fejn it-tliet kumpaniji *Egrant Inc.*, *Tillgate Inc.* u *Hearnville Inc.* kellhom forma u destin komuni mit-twaqqif tagħhom f'Lulju 2013 sa madwar Ġunju 2015; minn Ġunju l-quddiem *Tillgate Inc.* u *Hearnville Inc.* qabdu perkors differenti minn dak t'*Egrant Inc.* Mix-xiehda miġbura rriżulta li bejn l-2014 u l-2015 ma kien hemm kważi ebda attivita li kienet tirrigwarda lil *Egrant Inc.* Din pero bdiet tidher fil-korrispondenza u tissemma' fil-bidu tal-2017 meta Nexia BT beda' jkollhom jibdew jaffrontaw il-mistoqsijiet tal-PANA Committee tal-Parlament Ewropew u fejn tirriżulta korrispondenza fejn kienu jeħtieġu jwieġbu lil membri tal-istampa dwar l-istorja tal-*Egrant Inc.*

Irriżulta mill-provi li *Hearnville Inc.* u *Tillgate Inc.* ġew akkwistati minn Konrad Mizzi u Keith Schembri rispettivament u li fit-22 ta' Lulju 2015 ġew kostitwiti żewġ *Trusts* fi New Zealand bl-isem ta' *Rotorua* u *Haast*, u li kienu rikonduċibbli għal Konrad Mizzi u Keith Schembri rispettivament. Mill-provi ma rriżultax li *Egrant Inc.* ġiet segwita jew ġiet iwaqfa għaliha xi *Trust* simili għal dak li seħħ fil-każ ta' *Tillgate Inc.* u *Hearnville Inc.*

Mill-provi l-anqas ma jista jiġi konkluż li l-iskema korporativa li kellu f'moħħu Karl Cini sa minn qabel l-14 ta' Marzu 2013, għal klijent li l-identita

tiegħu ma ġietx pruvata, kienet tixbah lil dik li eventwalment ġiet adottata fir-rigward ta' Keith Schembri u Konrad Mizzi. Dan peress li f'dan il-kuntest tal-*emails* tal-14 ta' Marzu 2013 u 25 ta' Marzu 2013 u dawk li jsegwu, għalkemm issemmew *Panama Company* u *Trust,* Karl Cini ma jagħtix dettalji bil-miktub jekk kellux f'moħħu li dawn iż-żewġ strutturi ta' kumpanija fil-Panama u *Trust* jiġu imwaħda flimkien bħal ma ġara aktar il-quddiem fil-każ ta' *Tillgate Inc.* u *Haast Trust* minn naħa u *Hearnville Inc.* u *Rotorua Trust* minn naħa l-oħra. F'dak l-istadu l-anqas ma tirriżulta riferenza f'liema ġurisdizzjoni Karl Cini kien qiegħed jipprospetta li jikkostitwixxi dan it-*Trust*.

Pero Daphne Caruana Galizia torbot dan l-interess fil-kumpanija Panamense u *Trust* ma *Egrant Inc*. Din ir-rabta pero ma tirriżultax mill-provi prodotti. L-anqas ma hemm provi li jindikaw li l-intenzjoni ta' Karl Cini kienet li din il-kumpanija u *Trust* li jsemmi fl-*emails* tiegħu jiġu inkorporati għal Joseph Muscat.

Fil-11t'April 2016 fis-12:51 Daphne Caruana Galizia ippublikat l-artiklu ***PANAMA PAPERS: This is the third (mysterious) company associated with Schembri's and Mizzi's*** fejn stqarret li :

> *Egrant Inc* is the third (mysterious) company associated with Konrad Mizzi's *Hearnville Inc* and Keith Schembri's *Tillgate Inc.* It has the same incorporation date –

July 2013 – and when Karl Cini of Nexia BT (he is Brian Tonna's partner) emailed Mossack Fonseca to request its creation, he wrote that he would give them the name of the ultimate beneficial owner over Skype.

Għalkemm huwa minnu li *Egrant Inc, Hearnville Inc* and *Tillgate Inc* kienu lkoll inkorporati f'Lulju 2013 b'format *standard* u eventwalment ġew mixtrija mingħand Mossack Fonseca tramite s-servizzi ta' Karl Cini ta' Nexia BT, l-evidenza ma turix li

(a) Karl Cini *emailed Mossack Fonseca to request its creation, he wrote that he would give them the name of the ultimate beneficial owner over Skype.* Jekk xejn, il-kliem preċiżi ta' Karl Cini fl-*email* tiegħu tal-25 ta' Marzu 2013 lil Cristina Rios kienu : *It will be an individual and* ***i will speak to Luis on skype to give him more details***. Cini ma jiżvelax bil-miktub x'kienu d-dettalji li ried jagħti lil Luis. Wieħed jista' jassumi x'kienu dawn id-dettalji – u hekk jidher li għamlet Daphne Caruana Galizia. Iżda l-*email* ta' Karl Cini ma tgħidx dak il-kliem li kitbet Daphne Caruana Galizia.

(b) Wisq anqas ma hemm provi li f'dik l-*email* Karl Cini kien ser jagħti l-isem tal-*UBO* ta' *Egrant Inc, Tillgate Inc u Hearnville Inc* lil Luis Quiel jew li Mossack Fonseca. Apparti li f'Marzu 2013 dawn il-kumpanijiet kienu għadhom mhux inkorporati, ma hemm xejn fil-korrispondenza analizzata li tista' twassal għal konklużjonijiet miktuba minn Daphne Caruana Galizia. Il-

provi juru li l-interess muri minn Karl Cini li kien sar dwar il-*Panama Company* u *possibly a trust* f'dak l-istadju segwa fuq sensiela ta' *emails* fejn kienu qed isiru arranġamenti għal interessi ta' nies oħra fosthom Keith Schembri kif imsemmi aktar il-fuq.

Daphne Caruana Galizia żżid li: -

> Nexia BT first wrote to Mossack Fonseca to start the creation of companies in Panama on 14 March 2013, four days after Joseph Muscat took his oath of office as Prime Minister of Malta, and just one day after his cabinet – including Konrad Mizzi – took their oath of office on 13 March. They really did hit the ground running with their road map.

Kif muri aktar il-fuq hu minnu li Karl Cini jibgħat l-*email* tal-14 ta' Marzu 2013 aktar il-fuq kwotata. Iżda mhux minnu li Cini kien qiegħed jistaqsi fuq l-inkorporazzjoni ta' **kumpaniji** fil-Pamana kif kitbet Daphne Caruana Galizia, iżda kif intwera' esprima interess f'kumpanija Panamense waħda, u possibilment fi *Trust* mingħajr indikazzjoni għal min kien il-klijent. Dan apparti riferenza għal kumpanija oħra fil-*BVI*.

Fattur interessanti ieħor huwa li f'dan l-artiklu, Daphne Caruana Galizia tagħti d-dettalji ta' *Egrant Inc* bil-*microjacket number* tagħha allegatament meħud minn fuq is-sit ta' **Dato Capital** u għalhekk mingħajr dik l-"S"

distintiva li tidher fl-aħħar tal-*microjacket number* indikat fuq it-test tad-*declarations of trust*. Iżda ġie pruvat ukoll matul il-kors ta' din l-inkjesta li dan il-*microjacket number* li kien jinkludi l-"S" distintiva fl-aħħar tiegħu tinsab fuq *open source website* oħra *Opencorporates.com* fejn in-*native company number 807956S* huwa indikat li huwa dak ta' *Egrant Inc.*

F'artiklu ieħor pubblikat nhar il-21 t'April 2016 fil-23:02, intitolat ***GUEST POST/The Labour Party needs an internal coup*** allegatament miktub minn ċertu Matthew S, intqal li :

> It cannot be proven (yet) that the third company in that family of three, *Egrant Inc.*, is Joseph Muscat's company, but everyone thinks it is anyway. This makes it impossible for him to negotiate any deals without coming under grave suspicion. People think that *Egrant Inc* belongs to Muscat not just because Nexia BT refused to give the ultimate beneficial owner's name in emails but only over Skype, but also because ifMuscat hadn't been wheeling and dealing with Mizzi (the marionette) and Schembri (the puppet master), he would have fired them weeks ago – not because he has a moral compass but to save his skin.

Fl-artiklu datat 9 ta Mejju 2016 fl-22:06 imsemmi ***Nexia BT's only Panama-registered companies are Konrad Mizzi's, Keith Schembri's and Egrant Inc*** Daphne Caruana Galizia toħroġ informazzjoni li kienet meħuda mill-*ICIJ Panama Papers leak*. Hi ssemmi lista sħiħa ta' kumpaniji u tirrimarka li Nexia BT bdew ir-relazzjoni professjonali ma Mossack Fonseca fi Frar 2013 meta Karl Cini mar il-Panama biex jiltaqa' ma Mossack Fonseca.

Kif ser jirriżulta aktar tard f'din l-analiżi, Karl Cini jixhed li l-kuntatt bejnu u Mossack Fonseca kien beda fl-2011 meta kien il-Lussemburgu u ltaqgħa m'Eduardo Fonseca, t-tifel ta' Ramon Fonseca wieħed mis-sħab ewlenin ta' Mossack Fonseca. Il-*Forensic Accountants Harbinson Forensics* sabu *email* ta' Karl Cini li juri li fit-28 ta' Novembru 2012 kien *evident in an email between Sofia Johnson of Mossack Fonseca and Karl Cini that there is a close business relationship building up with a view to Mossack Fonseca setting up offices in collaboration with Nexia BT in Malta. This process continues throughout the first quarter of 2013.*

F'artiklu datat 13 ta' Mejju 2016 f'23:43 intitolat ***Though he's lying low, don't forget John Dalli,*** Daphne Caruana Galizia tgħid li:

> The third Panama company, *Egrant Inc*, set up by Brian Tonna and Karl Cini of Nexia BT alongside Konrad Mizzi's *Hearnville Inc* and Keith Schembri's *Tillgate Inc*, is not necessarily Joseph Muscat's. I think it is more likely to be John Dalli's. No details of *Egrant Inc* are available in the Panama Papers because none were sent by email. The documents in the Panama Papers, for the other two, are all either emails or documents sent by email attachment. If it wasn't in an email, then it isn't there. What we do have is an email in which Nexia BT says it will give details of *Egrant Inc*'s intended ultimate beneficial owner via Skype call.
>
> This, to me, doesn't sound like the Prime Minister. It sounds like Dalli. Don't ask me why I think that – pure instinct. Muscat, Mizzi and Schembri operate as a tight unit. If Tonna was going to Skype for Muscat, then he would have Skyped for Mizzi and Schembri too. Whoever *Egrant Inc* was for, the Skype call wasn't because he was more important. It was because he was different – with them, but separate, and also older and with a very long record in covering his tracks and protecting himself with a firewall of secrecy. Also, Dalli is known not to trust even his collaborators implicitly, which is why his henchmen are his daughters.

Dan l-artiklu li kien jistona mal-kumplament tan-narrativa ta' Daphne Caruana Galizia dwar il-proprjeta tal-ishma tal-*Egrant Inc* huwa wkoll segwit minn artiklu ieħor pubblikat nhar l-20 ta Mejju 2016 f'11:44am ***And 2% is, of course, a fifth of 10%*** fejn stqarret:

> *Egrant Inc* in Panama is the only one which Tonna set up that can't be linked by journalists to its ultimate beneficial owner, while the Prime Minister is the only one of this node of five individuals who can't be linked to a secret offshore company.

Hawnhekk Caruana Galizia jidher li kienet għamlet perjodu ttella' u tniżżel dwar il-konnessjoni *Egrant Inc* – Muscat, għalkemm tagħmel riferenza għaliha b'mod velutat. L-istess jirriżulta mill-artiklu ***Keith, Kurt, Konrad and the Prime Minister are going to organise "a media event" to tell us about the new power stationg deadlines*** pubblikat fid-19 ta' Lulju 2016 fit-15:27 fejn qalet li :

> Then he was asked a question about the Delimara power station which has yet to materialise, three and a half years after the general election and corrupt accountant Brian Tonna's initiation of the process to set up three companies in Panama (for Keith Schembri, Konrad Mizzi and Lord Egrant) and another two for himself and Shanghai Electric's negotiator, Cheng Chen, in the British Virgin Islands.

Minn dak l-artiklu l-quddiem, Daphne Caruana Galizia reġgħet bdiet tagħmel il-konnessjonijiet diretti bejn *Egrant Inc* u Muscat. Fosthom hemm

artiklu pubblikat nhar is-26 ta Lulju 2016 fit-1526 imsejjah : ***Netflix to make film about the Panama Papers*** fejn saħqet li:

> Netflix is to make a film about the Panama Papers. And what are the odds that when it is released, Konrad Mizzi will still be Energy Minister, Keith Schembri will still be the Prime Minister's chief of staff, corrupt accountant Brian Tonna will still be selling Maltese citizenship and pumping the money through a web of offshore companies, and everybody will still be wondering whether the Prime Minister is the ultimate beneficial owner of *Egrant Inc*?

Daphne Caruana Galizia, anke f'Awissu 2016 reġgħet għamlet riferenza għall-*email* ta' Karl Cini dwar il-komunikazzjoni via *Skype* li kellu jagħmel ma Luis Quiel (għalkemm issa ma ssemmix li l-isem tal-*UBO* ingħata permezz ta' *Skype*, iżda kienet aktar fidila lejn il-kliem użat fl-*email* minn Karl Cini nhar il-25 ta' Marzu 2013) f'artiklu pubblikat fl-10 t'Awissu 2016 fl-10:24am ***Prime Minister and Konrad Mizzi gave corrupt Brian Tonna €735,000 in public-money contracts*** fejn żiedet :

> Corrupt accountant Brian Tonna, who set up secret companies in Panama and the British Virgin Islands for himself, for Energy Minister Konrad Mizzi, the Prime Minister's chief of staff Keith Schembri, Shanghai Electric Power negotiator Chen Cheng and possibly also the Prime Minister himself (the mysterious *Egrant Inc*, for which details were given over Skype and not via email), has received €735,000 in public-money contracts from the Prime Minister and Energy Minister Konrad Mizzi in the last three years.
>
> Tonna received more than half a million euros in public-money payments from Konrad Mizzi alone, via his consultancy Nexia BT and other companies he owns.
>
> This shocking two-way corruption involved Tonna setting up money-laundering vehicles for the Energy Minister and the Prime Minister's chief of staff (and possibly

also the Prime Minister via *Egrant Inc*) while they gave him public-money payments totalling three-quarters of a million euros and rising.

Hawnhekk jidher ċar li l-kliem użat minnha kien fil-kondizzjonali *"possibly also the Prime Minister via Egrant Inc"*. Dan juri nuqqas ta' ċertezza tal-awtriċi dwar il-proprejta tal-ishma f'din il-kumpanija – u żżommha bħala ipoteżi – u mhux fatt. F'din l-inkjesta ġie stabbilit li d-Ditta Nexia BT ta' Brian Tonna kienet dik li waqfet il-kumpaniji imsemmija f'dak l-artiklu u ġie stabbilit (inkluż mix-xiehda tal-impjegati u diriġenti tal-istess ditta) li Nexia BT kienet ġiet aġġudikata jew ingħatat inkarigi professjonali fuq divesi kuntratti pubbliċi għal konsulenza, inkluż lil Keith Schembri kif ukoll lil Konrad Mizzi u l-Ministeru li dan tal-aħħar kien imexxi.

Il-posizzjoni ta' Caruana Galizia pero ħadet bixra differenti fil-kitbiet tagħha dwar *Egrant Inc* li bdiet tippubblika minn Ottubru 2016 il-quddiem. Il-kondizzjonali użat f'Awissu u qabel issa jispiċċa. L-possibilita' li *Egrant Inc* hija ta' Muscat, minn Ottubru il-quddiem issir kważi ċertezza fil-kitba ta' Daphne Caruana Galizia. Fil-25 t'Ottubru 2016 f'12:17am Daphne Caruana Galizia kitbet artiklu bl-isem ***Oh, look - four fossils and an egrant***. Fih ippubblikat ritratt tal-Parlament fuq in-naħa tal-Gvern fejn kienu jidhru erba' membri parlamentari anzjani tal-Partit Laburista – bil-punt fokali dirett fuq Joseph Muscat. Din l-istqarrija ta' Caruana Galizia tħalli ftit għall-

immaġinazzjoni tal-qarrej dwar min kien *egrant* f'dan ir-ritratt. B'dak ir-ritratt, Joseph Muscat ġie kristallizzat bħala *Egrant* fil-kitbiet ta' Daphne Caruana Galizia minn dakinhar il-quddiem. Minn hemmhekk Daphne Caruana Galizia ma wriet ebda dubju dwar dan.

Il-mistoqsija tqum għaliex minn Ottubru 2016 il-quddiem jidher li kien hemm din il-bidla fit-ton u l-konvinzjoni ta' Daphne Caruana Galizia. Għalkemm fix-xiehda tagħha Maria Efimova tgħid li hi kelmet lil Daphne Caruana Galizia għall-ewwel darba f'Marzu 2017 (ċjoe ħdax il-xahar wara li Daphne Caruana Galizia kienet bdiet tikteb l-istejjer tagħha dwar l-*Egrant Inc.*), hija kienet qalet ukoll li bdiet tersaq lejn il-media bl-istorja tagħha f'Ottubru 2016. Biss f'intervista pubblika li Maria Efimova tat lil Carlo Bonini mill-ġurnal *La Repubblica* fil-kuntest tad-*Daphne Project*, imsemmija diġa fl-analiżi tax-xiehda ta' Maria Efimova, jirriżulta li lil Carlo Bonini din qaltlu li :

> I first contact Ms Caruana Galizia around six months after my dismissal from the Bank. Daphne was investigating. She got some other sources as well. She was coming back to me for some clarifications from my experience in the Bank. We have discussed Egrant Company and account of this company in Pilatus Bank because it was related to PEP in Malta. In declarations of trust for this company as well as in account opening form for this company Ms Muscat was mentioned as sole and ultimate beneficiary.

A

Madwar sitt xhur wara li ġie terminat l-impjieg tagħha mill-Bank Pilatus ifisser li kien bejn Settembru u Ottubru 2016 u mhux f'Marzu 2017 jew April 2017 kif Maria Efimova xehdet f'din l-inkjesta. Dan jispjega wkoll għaliex Caruana Galizia setgħa kellha dik il-bidla fit-ton aktar deċiżiv fuq il-proprjeta tal-*Egrant Inc* minn Ottubru 2016 il-quddiem, in kwantu jirriżulta li Daphne Caruana Galizia tgħid li kienet temmen lil Maria Efimova.

Fl-artiklu ***Joseph Muscat jumps into his car and races away from a question about who owns the Panama Company Egrant Inc*** pubblikat fis-26 t'Ottubru 2016 fit-14:56 Caruana Galizia tikteb li :

> Corrupt accountant Brian Tonna of Nexia BT set up THREE companies in Panama sheltered by trusts in New Zealand in March 2013, the process having begun immediately after the announcement of the general election result....
>
> But we don't know who owns the third company, called *Egrant Inc*, because in one of those emails, Brian Tonna's business partner, Karl Cini, tells Mossack Fonseca that he will give the details of the ultimate beneficial owner by voice over Skype, so that there is no recorded instruction in writing.
>
> The natural conclusion, given how it has become clear since then that Konrad Mizzi, Keith Schembri and Joseph Muscat are operating as a triad, is that *Egrant Inc* belongs to Joseph Muscat.
>
> And he can't claim outrage or sue anybody who says as much publicly, because that would imply – by default – that Keith Schembri and Konrad Mizzi have done something very wrong in setting up those companies, when he makes believe to journalists and electors that they have not, that it's perfectly all right to get into government and, as one of your first actions, set up a secret operation in Panama.

F'dan l-artiklu Daphne Caruana Galizia tispjega r-raġuni għaliex hija kienet konvinta li *Egrant Inc* kienet tapparjteni lil Joseph Muscat – u ċjoe minħabba l-fatt li din hija l-konklużjoni naturali li setgħet tasal għaliha ġaladarba kienet konvinta li Muscat, Mizzi u Schembri kienu joperaw bħala *triade*. Per konsegwenza, ladarba *Tillgate Inc* kienet ta' Keith Schembri u *Hearnville Inc* kienet ta' Konrad Mizzi, it-tielet kumpanija identika imwaqfa wkoll minn Brian Tonna fl-istess kuntest u fl-istess żmien *Egrant Inc* bilfors kellha tkun ta' Joseph Muscat. Dik kienet il-konklużjoni li waslet għaliha Daphne Caruana Galizia.

Il-provi miġbura f'din l-inkjesta juru li verament dawn it-tliet kumpaniji *Tillgate Inc., Hearnville Inc. u Egrant Inc.* kienu imwaqfin fil-Panama minn Mossack Fonseca, li dawn it-tliet kumpaniji kienu identiċi, li kienu ġew akkwistati minn Brian Tonna tramite s-servizzi ta' Karl Cini u *BTI Management Limited* fl-istess żmien, li Brian Tonna idderieġa lil Mossack Fonseca biex jipprovdu servizzi ta' *nomineeship* għall-sehem wieħed u li kellhom jipprovdu d-diretturi, u li dawn it-tliet kumpaniji sa' Lulju 2015 kienu jidhru li żammew l-istess storja. Iżda mill-banda l-oħra l-provi miġbura ma jippruvawx dak allegat minn Daphne Caruana Galizia li *THREE companies in Panama sheltered by trusts in New Zealand in March 2013*. Ma jirriżultax li dawn il-kumpaniji ġew imwaqfa f'Marzu tal-2013 u l-anqas jirriżulta li *Egrant Inc.* segwiet l-istess destin ta' *Tillgate Inc.* u *Hearnville Inc.*

li f'Lulju 2015 ġew imwaħdin ma żewġ Trusts kostitwiti fi New Zealand. Mill-evidenza miġbura ma rriżultax li kien hemm evidenza ta' *Trust* simili kostitwita għal *Egrant Inc.* ukoll.

F'artiklu intitolat ***Stand by for some diversionary tactics in February*** Pubblikat fit-3 ta' Diċembru 2016 fis-01:13am, Daphne Caruana Galizia saħqet li :

> So February is going to be a big month for Konrad Mizzi and Keith Schembri (and their mate Lord Egrant), with the European Parliament's Panama Papers Committee planning to visit Malta to "investigate" them after members of the Maltese cabinet said at the outset that they will not accept an 'invitation' to travel to Brussels to answer questions there. So Mohammed is planning to come to the mountain.
>
> Expect some diversionary tactics by the government: they might plant a fancy wooden clock on someone, for example, or set fire to a bus.

Hawnhekk Daphne Caruana Galizia bdiet proċess ta' intensifikazzjoni tal-istorja *Egrant Inc.* billi bdiet bi progressjoni bażata fuq aspettattivi għal dak li kien sejjer iseħħ. Dan l-artiklu kien segwit b'ieħor fid-9 ta' Diċembru 2016 02:42am imsemmi ***The Prime Minister says 'he has nothing to hide'*** fejn ġie miktub li

> When speaking to the press (unshaven and distracted) in Valletta alongside Martin Schulz, president of the European Parliament, the Prime Minister said "We welcome the European Parliament's Panama Papers Committee. We have nothing to hide." So he'll be telling us who owns *Egrant Inc*, then.

Fil-15 ta' Diċembru 2016 fit-15:00 tikteb artiklu imsemmi ***So that's all right then. The Minister for the Economy will have got drunk in his hotel room on his own money*** u tgħid

> If I were the Opposition leader, I would stand up in parliament and say to the Prime Minister: "Your Economy Minister is a drunk who spends most of his time in shady bars, and your chief of staff has gone missing in action, supposedly for treatment for an illness which you refuse to tell us about. What are you planning to do about them? And that's just for starters, because we're still waiting for your fictitious audit into your pet minister's financial affairs in Central America. And we've all reached the conclusion that you're the ultimate beneficial owner of *Egrant Inc*, and nothing you say to the contrary can possibly convince."

Hawnhekk Daphne Caruana Galizia tikteb il-konvinzjoni tagħha li *Egrant Inc* hija l-proprjeta ta' Joseph Muscat u xejn u ħadd ma kien sejjer jikkonvinċiha xort'oħra. L-istess ton jirriżulta fl-artiklu ***'Joking among friends?' The hospital CEO is lying*** pubblikat nhar is-17 ta' Diċembru 2016 fl-21:55 fejn tistqarr :

> A few days ago, when Mercieca launched an assault on me in parliament because I broke the story of Keith Schembri's illness and prolonged absence from the office, there was something so odd and so personal about it that it occurred to me like a flash that Mercieca is somehow involved with the Triad, even though he has spent the past few months, since the Panama Papers story broke, telling people connected to the Nationalist Party how corrupt Keith Schembri and Konrad Mizzi are, and that Joseph Muscat obviously owns *Egrant Inc*.

000328

Issa jsir ovvju għal Daphne Caruana Galizia li Joseph Muscat huwa l-proprjetarju ta' *Egrant Inc.* Fl-20 ta' Diċembru 2016 fit-20:33 fis-silta aktar umoristika ***Ah, we're beginning to learn the fine art of bitchy risposte*** hi tgħid li

> And I would stop using their real names and begin referring to the Prime Minister, Konrad Mizzi and Keith Schembri, relentlessly, as is-Sur Egrant, is-Sur Hearnville and is-Sur Tillgate.

Din in-narrativa tikkonsolida ruħha f'Jannar 2017 fejn tippubblika tliet artikli oħra fuq l-istess vena. Fis-27 ta' Jannar 2017 fl-22:00 Daphne Caruana Galizia ippublikat l-artiklu ***14 June 2013 – three months after Labour won the general election, and the month when the Panama companies were registered*** fejn stqarret : -

> Time for a memory-refresh. Three months after Labour won the general elections, Joseph Muscat called the press to the Office of the Prime Minister and presented them with John Dalli, announcing that a man of such great talent should not go to waste and that he required Dalli's excellent skills in a decision-making position. It later emerged that this decision-making position concerned public hospitals and Dalli immediately installed himself at the state general hospital along with his daughter.
>
> This announcement (see videos below) took place on 14 June, 10 days after Konrad Mizzi's *Hearnville Inc* and Keith Schembri's *Tillgate Inc* were incorporated in Panama. *Egrant Inc,* the name of whose ultimate beneficial owner was not recorded in the Panama Papers email-cache because it was given over Skype, was incorporated on 4 July.

Hawnhekk reġgħet irrivertiet għan-narrativa li kienet warbet għal ftit żmien dwar il-konnessjoni *Egrant Inc–UBO-owner-via-Skype.* Din jidher li kienet saret in-narrativa prinċipali fuq diversi mezzi tal-media li injoraw kompletament il-kliem tal-*email* ta' Karl Cini tal-25 ta' Marzu 2013 u baqgħet tiġi ripetuta in-narrativa li l-isem tal-*UBO* ingħata bl-*iSkype* minn Karl Cini, meta dan ma jirriżultax minn dak li kien **kiteb** Karl Cini kif intwera' aktar il-fuq.

Fl-artiklu intitolat ***I thought you might want to look at these again*** pubblikat nhar it-8 ta Frar 2017 fis-13:31 Daphne Caruana Galizia terġa tirreferi għall-*emails* ta' Karl Cini lil Luis Quiel u Cristina Rios tal-14 ta' Marzu 2013, tal-21 ta' Marzu 2013 u tal-25 ta' Marzu 2013 u tippubblika biss parti minn dawn l-*emails* billi taqta barra dik il-parti tal-*emails* li kienu jittrattaw is-suġġett ta' *transfer of companies* li kif intwera' qabel kien rikonduċibbli għal Keith Schembri, Adrian Hillman u Malcolm Scerri. Tgħid hekk : -

> And also to be reminded that, whatever those crooks who govern us say, the process to set up their secret companies in Panama and trusts in New Zealand began IN MARCH 2013. In other words, they are not tied to corruption linked to a single project but are 'container vehicles' which the three of them set up immediately they got into government, to maximise the general and specific opportunities for corruption and off-the-radar deals.
>
> These are the emails in which instructions are given for the setting up of the third Panama company and trust, *Egrant Inc.* I reproduce them because sometimes, we need to have our memories refreshed with the facts in a sea of propaganda and lies.

> Karl Cini of Nexia BT tells Mossack Fonseca in Panama that the UBO – ultimate beneficial owner – is to be an individual, and that the details will be given over Skype.
>
> Details for Konrad Mizzi and Keith Schembri were given in emails, which is how the world found out about them. All the information in the Panama Papers is the contents of Mossack Fonseca's email server and any documents that are not emails are documents that were sent/received by email.
>
> The owner of Egrant is either more important or more cunning, or both, than the owners of Tillgate (Schembri) and Hearnville (Mizzi), or Karl Cini simply felt that he had to protect him more thoroughly because of his heightened status. It's so obviously Joseph Muscat, considering that it was set up in tandem with Mizzi's and Schembri's, that it's not even worth speculating any more. We can start off from that premise and assess all his actions and decisions from that basis, including the fact that he carries on protecting and operating with Schembri and Mizzi instead of kicking them downstairs and out through the door.

F'dan l-artiklu Daphne Caruana Galizia tkompli ssostni l-allegazzjoni tagħha li l-kumpanija u t-*Trust* imsemmija minn Karl Cini fl-*emails* tal-14 ta' Marzu 2013 u l-25 ta' Marzu 2013 kienu riferenza għal *Egrant Inc* filwaqt li tkompli ttenni li s-sid aħħari tagħha kien Joseph Muscat. Iċ-ċertezza assoluta tagħha fuq dan jispikka meta tgħid lill-qarrejja tagħha li *"it's not even worth speculating any more."* Il-konvinzjoni tagħha li *Egrant Inc* tappartjeni lil Joseph Muscat hija bażata fuq il-*modus operandi* adottat minn Joseph Muscat fil-konfront ta' Konrad Mizzi u Keith Schembri wara li kienu saru d-diversi rivelazzjonijiet minnha in segwitu għall-pubblikazzjoni tal-*Panama Papers*.

Fl-artiklu ***Panama's Attorney General calls Mossack Fonseca "'a criminal organisation'*** pubblikat nhar it-12 ta Frar 2017 fl-22:21 Daphne Caruana

Galizia tuża ritratt li fih jidhru Konrad Mizzi, Keith Schembri, Louis Grech u Joseph Muscat u tgħid li :

> Keith Schembri, Konrad Mizzi and their mate Egrant used the services of this "criminal organisation" which specialises in laundering and hiding money from corruption. Brian Tonna knew very well that he and his clients needed the best company around for the service they had in mind, which is why he angled successfully to acquire representation of Mossack Fonseca shortly before the general election.

Fl-artiklu ***Message to government : how about registering the names of those who own Vitals instead?*** Pubblikat nhar is-17 ta Frar 2017 fid-21:26 hi tgħid li :

> The government hides the real owners of that company by means of nominees in the British Virgin Islands, and then it comes at us with a twisted, Putin-esque law demanding transparency from those of us who are after you to reveal the real identity of those with whom it signed that corrupt contract.
>
> But it won't, because one of them is almost certainly John Dalli and there is no way that Konrad Mizzi, Keith Schembri and Dr Egrant wouldn't also have a part of that.
>
> I have an idea: let's have a register of corrupt politicians and corrupt ex politicians.
>
> #bringbacktheguillotine

"Dr Egrant" hawnhekk hija riferenza velata għal Joseph Muscat ġaladarba kien hu l-uniku wieħed li kellu dottorat apparti Konrad Mizzi li kien diġa ġie msemmi. L-appellativ *"Dr Egrant"* ġie wkoll użat minnha f'artiklu

sussegwenti tat-18 ta Frar 2017 fid-21:12 intitolat: ***A nice collection of crooked people, two of whom are heavily into hotel minibars.***

Fid-dsatax ta' Frar 2017 fis-02:12, Daphne Caruana Galizia ippublikat artiklu intitolat ***It's my guess that Brian Tonna is going to claim ownership of Egrant Inc*** fejn kitbet li:

> Brian Tonna and Karl Cini of Nexia BT have refused to appear before the European Parliament's PANA Committee, but have instead agreed to answer questions by email. One of those questions is, or so I gather from the news reports, 'Who is the owner of *Egrant Inc*?'
>
> Both accountants are prohibited at law from disclosing information about their clients (and face severe sanctions if they do). But my guess is that, rather than not reply to that question and so fuel further speculation about the company's links to the Prime Minister, either Tonna or Cini is going to claim in his replies to the PANA Committee that he himself owns *Egrant Inc*.
>
> I think that is just the sort of thing they would do, with the Prime Minister's agreement, and that it would be the very reason they agreed to take email questions in the first place. With pressure piling up on the Prime Minister about his suspected ownership of that third Panama company, all three of those crooks would see it as the smart solution: lying to the PANA Committee and getting everyone off Muscat's back.
>
> But if either Tonna or Cini (more likely Tonna) does claim to own *Egrant Inc*, it's not going to play out the way they hope it will, at all. People will read this as a transparent ploy to take the fall for the Prime Minister, which will then allow Tonna to come back for two pounds of flesh rather than just the one he has hacked off already.
>
> People will also find it impossible to believe that Karl Cini felt perfectly comfortable giving Konrad Mizzi and Keith Schembri's details to Mossack

Fonseca by email, but then felt he had to give his own partner's details (or his own) by Skype.

If Karl Cini is going to claim he owns the company, that exchange would have made no sense at all. And it wouldn't have made sense if Tonna is going to claim ownership of *Egrant Inc*, either. Tonna represented Mossack Fonseca in Malta already at that stage. Besides which, when Mossack Fonseca *did* set up a company for Brian Tonna – Willerby Inc, in the British Virgin Islands – the details were not given over Skype but by email, which is how we know about it.

Dan l-artiklu kien segwit b'ieħor fl-istess jum fl-10:11am imsemmi ***This morning, the government lies to us again, using a certificate from a criminal organisation, signed by a man implicated in Carribean bank fraud*** fejn qalet li Brian Tonna u Karl Cini kienu qegħdin iżommu *Egrant Inc* għal Joseph Muscat. Daphne Caruana Galizia iżżid li

Now that he thinks he has sorted the matter of who owns *Egrant Inc*, by getting Brian Tonna to lie to Malta Today and say that it's a shelf company which Nexia BT bought and has kept lying there awaiting the eventuality that some client might need it, you can rest assured that he is going to accept that invitation for a television debate and will now be less inclined to avoid the press.

Instead of running away from reporters, he will be running towards them to say, "See? It's not mine. Brian Tonna said so." And we will all believe him like we all believed Chris Cardona.

Last night, as I let my mind wander on the subject of why Muscat might have suddenly taken to voluntarily denying ownership of *Egrant Inc* after a year of avoiding the subject (that's how things suddenly click), it came to me that either Brian Tonna or Karl Cini is planning to take the fall for him. And I wrote a post about it.

> It wouldn't be heroics, I wrote, because lying for the Prime Minister like this would only serve to give them more leverage over him which they could then use to their advantage in creaming off countless contracts and other benefits. They are already selling Maltese residence visas all over the Middle East, with an exclusive contract from the Maltese government. And there is more besides.
>
> But I had ascribed far too much honour among thieves, because they found a way out that necessitates neither of them taking the fall for Muscat: they are claiming that Nexia BT bought *Egrant Inc* as a shelf company and that it is still sitting there on the shelf in their office – so to speak – awaiting a client who might need it, FOUR YEARS LATER.[40]

Daphne Caruana Galizia irreferiet għal rapporti mit-*Trinidad Express* u implikati lid-Diretturi t'*Egrant Inc* Ricardo Samaniego u Yadira de Boutaud fl-allegata kontraffazzjoni ta' minuti dwar investigazzjoni fl-operat ta' bank. Iżżid li : -

> The Trinidad Express reports in its coverage of that Caribbean case: "The made-up board minutes which formed part of the package of documents submitted to BOSLIL were signed by MF employees Ricardo E. Samaniego and Yadira De Boutaud, moonlighting as chairman and company secretary, respectively, of Emrith's offshore corporation."
>
> Samaniego is also a nominee director of *Hearnville Inc*, the Panama company owned by Konrad Mizzi.
>
> It is crucial to remember here that when Karl Cini contacted Mossack Fonseca *just days after the general election*, he asked for three companies to be incorporated in Panama in concert with each other, giving details for Konrad Mizzi and Keith Schembri via email

[40] Kif ser jiġi muri aktar il-quddiem kemm Karl Cini kif ukoll Brian Tonna jikkonfermaw bil-ġurament tagħhom li ma kienux qegħdin iżommu Egrant Inc għal Dr. Joseġh Muscat jew għal martu. Mistoqsi speċifikament jekk Brian Tonna kienx qiegħed jaġixxi ta' prestanome għalihom, huwa kategorikament jiċħad dan.

4

> and saying that the third company would also be "for an individual" but that the details would be given over Skype.
>
> There is another point that needs to be made: if this certificate were not another lie and forgery – just like the bank documents which Nexia BT forged on a letterhead for a Maltese bank branch that no longer existed, when restructuring companies in the British Virgin Islands for Adrian Hillman and Keith Schembri – Tonna and Muscat would have whipped it out of their hat a year ago, and not now when they are cornered by the PANA Committee.
>
> We have come to a pretty pass here in Malta when our Prime Minister uses a certificate from a criminal organisation, signed by a man implicated in forging documents for a bank investigation in the Caribbean, and transmitted to the media by a corrupt accountant, to attempt to salvage what is left of his reputation

Wara li kienet ippubblikat dawn l-artikli kollha fi żmien qasir, Daphne Caruana Galizia waqfet tikteb stejjer fuq *Egrant Inc* fuq il-blog Running Commentary għal aktar minn xahar.

Minn qari ta' dawn l-artikli kollha flimkien jirriżulta li Daphne Caruana Galizia kienet ibbażat il-konklużjonijiet tagħha dwar min kien is-sid aħħari tal-*Egrant Inc* fuq siltiet mill-*Panama Papers cache* (prinċipalment l-*emails* ta' Karl Cini lil Luis Quiel u Cristina Rios mibgħuta fl-14 ta' Marzu, 21 ta' Marzu u 25 ta' Marzu 2013) fejn torbot it-talba ta' Karl Cini għal kumpanija fil-Panama u possiblment *Trust* bħala li kienet ir-riferenza għal *Egrant Inc* – minkejja li kif instab fil-provi ma kienx hemm evidenza diretta jew evidenza ċirkostanzjali inekwivoka li fuqha setgħet issir din il-konklużjoni.

Daphne Caruana Galizia tikkonkludi dan in bażi għall-argument li ma setgħax ikun mod ieħor ġaladarba Karl Cini ma kienx lest li jiżvela l-identita tal-*UBO* ta' din il-kumpanija ħlief bi *Skype.* Biss kif intqal aktar il-fuq, għalkemm huwa minnu li Karl Cini ma żvelax l-identita tal-*UBO* fl-*emails* tiegħu, mill-banda l-oħra Daphne Caruana Galizia jidher li injorat il-kuntest li dak id-diskors kien qiegħed jiġi miktub fih, fosthom, li dik il-korrispondenza kienet qegħda ssir fil-kuntest ta' kumpaniji li fihom kellhom interess Keith Schembri, Adrian Hillman u Malcolm Scerri.

Tiġbed il-konklużjoni li *Egrant Inc* kienet bilfors tappartjeni lil Joseph Muscat minħabba l-mod kif Joseph Muscat aġixxa meta hija kienet żvelat li Keith Schembri u Konrad Mizzi kienu s-sidien aħħarija ta' kumpaniji fil-Panama u li dawn ġew wara imwaħda fi *Trust* fi New Zealand – u ċjoe billi ma illiċenzjhomx. Tgħid dan ukoll għaliex kienet konvinta li dawn it-tliet persuni kienu qegħdin jaħdmu bħala triade – ċjoe' jikkollaboraw strettament ma xulxin għall-avvanzament finanzjarju tagħhom personali minn kuntratti u opri pubbliċi tramite xibka ta' kumpaniji sigrieti kostitwiti fil-Panama u moħbija fi Trusts fi New Zealand jew madwar id-dinja.

F'dak l-istadju dawk jidhru li kienu l-provi u l-argumenti li in bażi tagħhom Daphne Caruana Galizia kellha dik il-konvinzjoni soda li *Egrant Inc* kienet tappartjeni lil Joseph Muscat. Sa dak il-punt kellha dak li forsi setgħet qieset bħala *evidenza ċirkostanzjali* li fuqha bbażat il-konvinzjonijiet tagħha. Ma kellhiex dik l-evidenza diretta u dokumentarja li biha setgħet turi inkonfutabbilment li *Egrant Inc* kienet tappartjeni lill-Joseph Muscat u li in bażi tagħha setgħet tikkonkludi din l-istorja definittivament. Meta, wara aktar minn xahar reġgħet ġiet lura bi stejjer oħra dwar min kien il-veru sid aħħari tal-kumpanija *Egrant Inc*, kienet lesta li teskala b'mod drammatiku din l-istorja tagħha li waslet għall-artiklu tal-20 t'April 2017.

Fl-artiklu intitolat ***Egrant Inc: hiding in plain sight*** ippublikat nhar il-15 t'April 2017 f'11:36 Daphne Caruana Galizia kitbet : -

> Easter is not a good time for the Prime Minister, his chief of staff and Konrad Mizzi. By yet another series of serendipitous flukes, this website has discovered who owns the third company in Panama, *Egrant Inc* – which was, incidentally, put into dissolution a few days ago, indicating that another company may have been set up to replace it.
>
> This website also has information on several movements of very large sums of money from the bank account of a company owned by politically exposed persons (PEPs) in Azerbaijan to bank accounts held by *Egrant Inc, Hearnville Inc* (ultimate beneficial owner: Konrad Mizzi, the Minister Within The Office of the Prime Minister) and *Tillgate Inc* (UBO: Keith Schembri, the Prime Minister's chief of staff).
>
> A Maltese bank, set up after 2013, was used to move the money.

> The full story will be reported next week, because several people who are unreachable over the Easter weekend have still to be contacted for comment.

Dan l-artiklu kien akkumpanjat minn ritratt ta' mart Dr. Joseph Muscat, Michelle Muscat bil-qegħda flimkien ma Leyla Aliyeva. F'artiklu pubblikat l-għada 16 t'April 2017 fis-01:32 imsejjaħ ***Doubly topical this weekend*** Daphne Caruana Galizia kitbet li :

> From a reader: Fl-ahhar kellu jkun Pilatus li sallabhom il-hallelin ta' Kastilja. (translated : Finally it had to be Pilatus to crucify the thieves in (auberge de) Castille).
>
> Meanwhile, here's the Prime Minister two months ago, denying that *Egrant Inc* is his, almost a year after we found out about it.
>
> The day before, Brian Tonna of Nexia BT issued a press statement claiming that *Egrant Inc* is a "shelf company" which Nexia BT owns.
>
> It took them almost a year to come up with this.

Fis-17 t'April 2017 fis-01:17 ippublikat l-artiklu ***And then they wonder why people don't believe them*** fejn ġew inklużi żewġ *video clips* ta' Joseph Muscat, wieħed rilaxxat f'Ottubru 2016 u l-ieħor fi Frar 2017 u żiedet : -

> This was on 26 October. The Prime Minister runs away from a journalist who asks him who owns *Egrant Inc.* While diving into his car, he says like a recalcitrant teenager: How should I know.

Aktar tard, f'artiklu ieħor mitfugħ online fis-02:18 jismu ***A cabal of crooked liars who would have us believe that Egrant Inc is a 'shelf' company*** Daphne Caruana Galizia kitbet : -

> **March 2013**: Karl Cini of Nexia BT writes to Mossack Fonseca, asking them to set up a company and trust for "an individual", and that the details of this individual would be given over Skype. The company is *Egrant Inc.*
>
> This email, which is found in the Panama Papers, makes it clear that this third individual's money-laundering structure is identical to Konrad Mizzi's and Keith Schembri's: a company *and* a trust.
>
> The trust is never talked about because we don't know the name. But we need to remember that yes, there is also a trust.
>
> **February 2017**: Just before the PANA Committee arrives in Malta, Brian Tonna of Nexia BT speaks to the press, saying that *Egrant Inc* is a shelf (ready-made) company which Nexia BT bought from Mossack Fonseca, to have it lying around just in case some client might want a company in Panama, in which case they would bring it down off the shelf, dust it off, and sell it to him.
>
> For some reason, nobody believes him. And they believe him even less when the Prime Minister, a day later, delivers a highly unconvincing 'you see, it isn't mine' speech at a Labour Party club.

Huwa minnu dak li kitbet Daphne Caruana Galizia li l-kumpaniji *Tillgate Inc* u *Hearnville Inc* kienu strutturalment identiċi għal *Egrant Inc.* Iżda kemm mill-*Panama Papers* kif ukoll mill-informazzjoni u evidenza miġbura matul il-kors ta' din l-inkjesta ma nstabet ebda evidenza li *Egrant Inc* kienet segwiet l-istess storja u destin ta' *Tillgate Inc* u *Hearnville Inc* fis-sens li ġiet ukoll imwaqfa *Trust* u eventwalment imwaħda magħha. Anzi, anke kif sabu l-

Forensic Accountants Harbinson Forensics f'Lulju 2015 *Tillgate Inc* u *Hearnville Inc* bdew isegwu perkors differenti minn *Egrant Inc.* li ma ssemmietx iktar fil-korrispondenza għajr ħlief għall-fini ta' ħlasijiet ta' spejjeż ta' żamma u manutenzjoni.

Il-konklużjoni ta' Daphne Caruana Galizia li *This email, which is found in the Panama Papers, makes it clear that this third individual's money-laundering structure is identical to Konrad Mizzi's and Keith Schembri's: a company and a trust* mhix sorretta mill-provi misjuba. Minbarra dan ġie pruvat ukoll li verament ġew kostitwiti żewġ *Trusts* fi New Zealand għal *Tillgate Inc* u *Hearnville Inc*, iżda dawn ma kienux kostitwiti f'Marzu 2013, iżda ġew kostitwiti fit-22 ta' Lulju tal-2015 – sentejn wara li dawn il-kumpaniji kienu ġew inkorporati minn Mossack Fonseca u eventwalment mixtrija minn Brian Tonna tramite Karl Cini f'isem *BTI Management Limited*.

F'artiklu pubblikat fit-18 t'April 2017 fl-20:22 intitolat ***Take note of Muscat's body language and expression on this video***, Daphne Caruana Galizia ippublikat żewġ *video-clips*. L-ewwel wieħed juri lil *reporter* ta' NET TV (Mario Frendo) jintervista lil Dr. Joseph Muscat fis-17 t'April 2017. Daphne Caruana Galizia iżżid li :

Yesterday: the Prime Minister is challenged about the ownership of *Egrant Inc.* When Mario Frendo suggests that it might belong to Muscat or to a member of his family, Muscat stops, freezes, becomes hostile and threatens him with a libel suit.

This is exactly how he reacted in February last year (see below), when he was challenged about Konrad Mizzi's company. He grinned nervously and tried to give brush-off answers with an embarrassed expression on his face, until the journalist mentioned Keith Schembri. At that point, Muscat did the same thing he did yesterday at the suggestion that a member of his family might own *Egrant Inc*: he stopped, changed his tone of voice, and issued the threat of a libel suit.

At that point, the news about Konrad Mizzi's Panama company and New Zealand trust had just broken, and nobody knew yet – and I mean nobody, not even me and certainly not the journalists in the video below – that Keith Schembri has exactly the same structure (as does a third person with them) and that he and Mizzi set them up together.

But with hindsight, Muscat clearly knew – hence his threatening reaction. Equally, you should now take note of his threatening reaction yesterday when Mario Frendo asked him whether *Egrant Inc* is owned by a member of his family.

Fil-11:18 tal-istess jum ippublikat ***Prime Minister's personal secretary wants government to grind to a halt to stop me reporting what I know*** fejn kitbet li : -

The Prime Minister's personal secretary, Sandro Craus, has written on Facebook this morning that he thinks the government should immediately stop all other business and focus on getting the Courts of Justice to stop me writing what I know about Azerbaijan, *Egrant Inc*, *Hearnville Inc* and *Tillgate Inc* – and the people involved in large money movements made from an account held at a small bank in Malta, set up after 2013, to bank accounts in Dubai.

Not only are they totally panicked, but they have forgotten that they live – technically, at least – in a democracy. You can actually feel them gagging for the days when they could provoke a mob to burn me down or have me beaten to death in a police interrogation cell and my body dumped under a bridge.

> The sooner we get rid of them and return to what passes for normality in this country, the better. There is no way that Malta can go on like this. It's become impossible: the entire systems of government and administration hijacked to protect the Prime Minister and his henchmen as they use the positions entrusted to them by the electorate for their own nefarious ends.

Hawnhekk Daphne Caruana Galizia kienet qegħda tibbaża l-kitbiet tagħha mill-anqas fuq iż-żewġ sorsi li l-inkjesta sabet li kellha – dik il-persuna jew persuni li tawha informazzjoni kunfidenzjali meħuda mir-*records* tat-Taqsima tal-*Compliance* u analiżi tal-*FIAU* kif ukoll l-informazzjoni l-oħra li sadanittant kienet għadditilha Maria Efimova.

Fl-artiklu datat 19 t'April 2017 fis-02:13 Daphne Caruana Galizia tikteb ***Egrant Inc was dissolved two weeks ago - so right now nobody owns it because it doesn't exist.***

> So obviously, nobody owns it at this point because it no longer exists. I point this out in reference to the Labour Party leader's speech at the party's annual general conference opening session, tonight.
>
> Joseph Muscat's operational hallmark has long been plausible deniability.
>
> He had said in April last year, days after the Panama Papers story broke around the world, that if proof emerges that his sidekicks Schembri and Mizzi have taken large sums of money using their Panama companies, he would not think twice about dismissing them.
>
> Yet he did not dismiss them when he found out that they'd set up Panama companies behind his back – but hey, hang on, they *didn't* set them up behind

his back. So it follows that he knew what they wanted the companies for. Nobody sets up a company in Panama for kicks, especially not days after they have been elected to government.

I'm glad he said it, though, because he painted himself into a corner that's now so tight there is no way out of it bar a series of mad attacks on those who report the news, which he hopes will take him up to the general election and beyond.

Bear in mind that this is the man who knows that there was a full investigation of Keith Schembri and Konrad Mizzi carried out by the Financial Intelligence Analysis Unit, and a request made to Police Commissioner Michael Cassar for their prosecution – and still he hasn't dismissed them.

Il-fatt li *Egrant Inc* kienet ġiet stralċjata madwar ġimgħatejn qabel dan l-artiklu ġiet konfermata minn din l-inkjesta li hi korretta.

Fl-istess jum, fit-15:25 ippublikat l-artiklu ***Keith Schembri's and Konrad Mizzi's companies put into liquidation this morning*** fejn qalet li :

Keith Schembri's and Konrad Mizzi's Panama companies, *Tillgate Inc* and *Hearnville Inc*, were today put into 'emergency' liquidation, closing them down.

The move comes after this website announced last Saturday that it has reliable information on the transfer of very large sums of money from a company owned by an Azerbaijan politically exposed person (PEP) to bank accounts held by these companies and by the third company, *Egrant Inc*, and that the story will be reported in full on the coming days.

Keith Schembri and Konrad Mizzi, who are the Prime Minister's chief of staff and his Minister Within the office of the Prime Minister, have both issued strenuous denials, even before publication of the story, and have sought to bolster their credibility through the simple act of filing a civil suit for libel.

> More about this, with names and further details, between tomorrow and Friday.
>
> *Tillgate Inc* and *Hearnville Inc* were marked as 'active' until yesterday. *Egrant Inc* was dissolved around two weeks ago.

Nhar id-19 t'April 2017 Daphne Caruana Galizia kienet f'qagħda li tippubblika stejjer oħra li, għal raġunijiet tagħha, riedet tirriżervahom għall-għada – tant li tgħid li kellha kollox lest għall-pubblikazzjoni, inkluż ismijiet u dettalji oħra li pero riedet li joħorġu bejn l-20 t'April 2017 u l-21 t'April 2017.

Dan huwa dettall interessanti u li s-sinjifikat tiegħu jispikka fl-artiklu suċċessiv ippubblikat minnha fis-19:00 Daphne Caruana Galizia ippublikat l-artiklu ***Company owned by Leyla Aliyeva of Azerbaijan made "loan payments" to Hernville, Egrant and Tillgate*** fejn qalet: -

> A company owned by Leyla Aliyeva, one of the two daughters of Ilham Aliyev, ruler of Azerbaijan, transferred very large sums of money, described as "loan payments", to *Hearnville Inc*, *Tillgate Inc* and *Egrant Inc* last year.
>
> The company, which is incorporated in Dubai's free zone, is called Al Sahra FZCO, and Ms Aliyeva is the ultimate beneficial owner.
>
> The payments were made through Al Sahra FZCO's account at Pilatus Bank.
>
> More about this tomorrow.

Il-Bank Pilatus ġie implikat direttament f'dawn it-tranżazzjonijiet fid-19 t'April 2017 fis-19:00 ċjoe lejlet il-wasla t'Ali Sadr f'Malta. Fid-19 t'Apeil 2017, Ali Sadr kien għadu ma wasalx Malta. Ali Sadr kellu jasal Malta fl-20 t'April 2017 biex ikun jista' jipprepara għall-*Board Meeting* li kellu jattendi għalih f'Malta. Minn dan l-artiklu jirriżulta ċar li l-Bank Pilatus kien sejjer jilgħab parti importanti fl-istejjer li kienet ser tippubblika Daphne Caruana Galizia l-għada; iżda għażlet li ma tfornix aktar informazzjoni – qabel ma Ali Sadr ikun preżenti f'Malta.

Fl-20 t'April 2017 Daphne Caruana Galizia ippublikat l-artiklu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** u sussegwentement id-***Declarations of trust in Pilatus Bank safe: Egrant Inc shares held far Michelle Muscat*** li huma l-meritu ta' din l-inkjesta.

Fil-għaxija tal-20 t'April 2017 ġurnalisti minn NET TV marru quddiem is-sit tal-Bank Pilatus jiffilmjaw it-twieqi tal-Bank minn barra u eventwalment inġibed il-filmat li immortala lil Ali Sadr, ħiereġ mill-bieb tal-ġenb tal-Bank Pilatus, għall-ħabta tad-disgħa u kwart ta' filgħaxija, jimxi ma'Antoniella Gauci, biż-żewġ bagalji f'idu, miġbud mill-*cameraman* Noel Zammit u intervistat mill-ġurnalist Darren Carabott. Intant aktar tard *crew* ieħor minn NET TV kien mibgħut l-Imġarr, Malta fejn intsab il-Kummissarju tal-Pulizija li kien qiegħed hemm jattendi għal attivita privata, u l-ġurnalist Mario

Frendo għamillu intervista dwar dak li kien seħħ matul dak il-jum u filgħaxija. Filgħaxija il-Prim Ministru Dr. Joseph Muscat kien għamel ukoll konferenza stampa. Dwar dawn l-episodji, l-inkjesta ġabret ix-xiehda tal-ġurnalisti u *cameramen* involuti u l-filmati relattivi.

Fil-21 t'April 2017 fis-01:45 f'artiklu ***Pilatus Bank chairman/owner and risk manager caught leaving bank tonight with bags containing documents*** Daphne Caruana Galizia starret li :

> A journalist and cameraman from Net News waited outside Whitehall Mansions in Ta' Xbiex tonight, after being tipped off that the lights were on in the windows of Pilatus Bank in that building.
>
> When the lights in the windows went off, they got ready to doorstep whoever emerged. It turned out to be a man and a woman, both carrying large bags that could not possibly have contained anything other than files and documents.
>
> The journalist and cameraman chased them down the road, but they refused to speak or say who they are or what their connection is with the bank. Immediately the footage was broadcast, they were identified as Seyed Ali Sadr Hasheminejad, the chairman of Pilatus Bank and its ultimate beneficial owner, and Antoniella Gauci, formerly of KPMG, who is now employed with the bank as its risk manager.
>
> Watch the video below: the files and documents disappearing for good in those bags are almost certainly those pertaining to the accounts held for Keith Schembri in his personal name, *Tillgate Inc, Egrant Inc, Hearnville Inc,* Leyla Aliyeva and other Azerbaijan PEPs.

Din l-inkjesta sabet, mill-provi miġbura, fuq provi miġbura u li ser jiġu analizzati aktar il-quddiem, li l-istorja dwar *a man and a woman, both carrying*

large bags that could not possibly have contained anything other than files and documents u li ġew maħruġa klandestinament mill-Bank Pilatus irriżultat li kienet mhux minnha.

Aktar tard, fit-03:25 Daphne Caruana Galizia ippublikat artiklu ieħor intitolat: ***The shiftiness kicks in: Muscat begins slithering around with word games*** fejn qalet li : -

> Muscat said tonight that the International Consortium of Investigative Journalists had no qualms about publishing the names of all politically exposed persons in the Panama Papers.
>
> "But they didn't publish my wife's name, which means that she does not own *Egrant Inc*, because if her name was there, they would have published it."
>
> What sort of mind-games is he trying to play here to manipulate the unthinking? The hunt has been on for the owner of *Egrant Inc*, for the last year, precisely *because* the owner's name was not included in the Panama Papers as it was given over Skype (voice) rather than in an email.
>
> But that doesn't mean that *Egrant Inc* had (the company was liquidated last January) no owner. It simply means that the name of the ultimate beneficial owner was recorded somewhere outside Mossack Fonseca's server, in the documents that are necessary to record ownership.
>
> There are only three places where those documents can be found: the corporate services provider office which made the arrangements (Nexia BT/Mossack Fonseca), the home or private office of the UBO, and the bank where an account is opened for the company.
>
> The Prime Minister is perfectly positioned to advise the Commissioner of Police to raid the offices of Nexia BT and Pilatus Bank – in a proper democracy the Commissioner of Police wouldn't take or need any such advice – but we all know that's not going to happen, and why.

> So instead, Muscat puts on a charade of talking about appointing a magistrate and challenging me to take the *Egrant Inc* documents to the police – as if a journalist should ever do any such thing – while the Police Commissioner himself gripes that he can't investigate without documents, and then eats rabbit while the bank chairman smuggles the documents out of the building in case the Police Commissioner decides to take a break from munching on bunnies and orders a raid on his bank.
>
> Tomorrow morning, journalists with common sense and an instinct for a story should be camped outside the offices of the Malta Financial Services Authority and the home of its long-time chief, Joe Bannister, who was instrumental in pushing the Pilatus banking licence through, to ask what they plan to do about this "bank" and its licence.
>
> They're dragging Malta through the gutter and slime, and all they care about is whether they will survive another five years to plunder even more.
>
> "My reputation", Muscat said tonight. What reputation? He should be bothered about Malta's reputation, not his. They've given financial services the biggest kick downstairs that they possibly could have.

F'dan l-artiklu Daphne Caruana Galizia tagħti dettall importanti ħafna – u ċjoe li d-*declarations of trust* u l-isem tal-*UBO* ma kienux jinstabu fis-*servers* ta' Mossack Fonseca. Ma kienux jifformaw parti mill-*Panama Papers cache*. Din l-inkjesta stabbiliet li dan kien korrett għaliex ma rriżultax li Mossack Fonseca kellhom dawn id-*declarations of trust* fil-*files* tagħhom. Din l-informazzjoni ħarġet kemm mill-*Panama Papers Cache* innifsu partikolarment l-*emails* skambjati bejn Mirzella Tunon u l-Avukat Josette Roquebert, kif ukoll indirettament mix-xiehda ta' Juergen Mossack, li ma ppreżenta ebda tali dokument mill-*folder* tal-*Egrant Inc* fl-Uffiċji tagħhom.

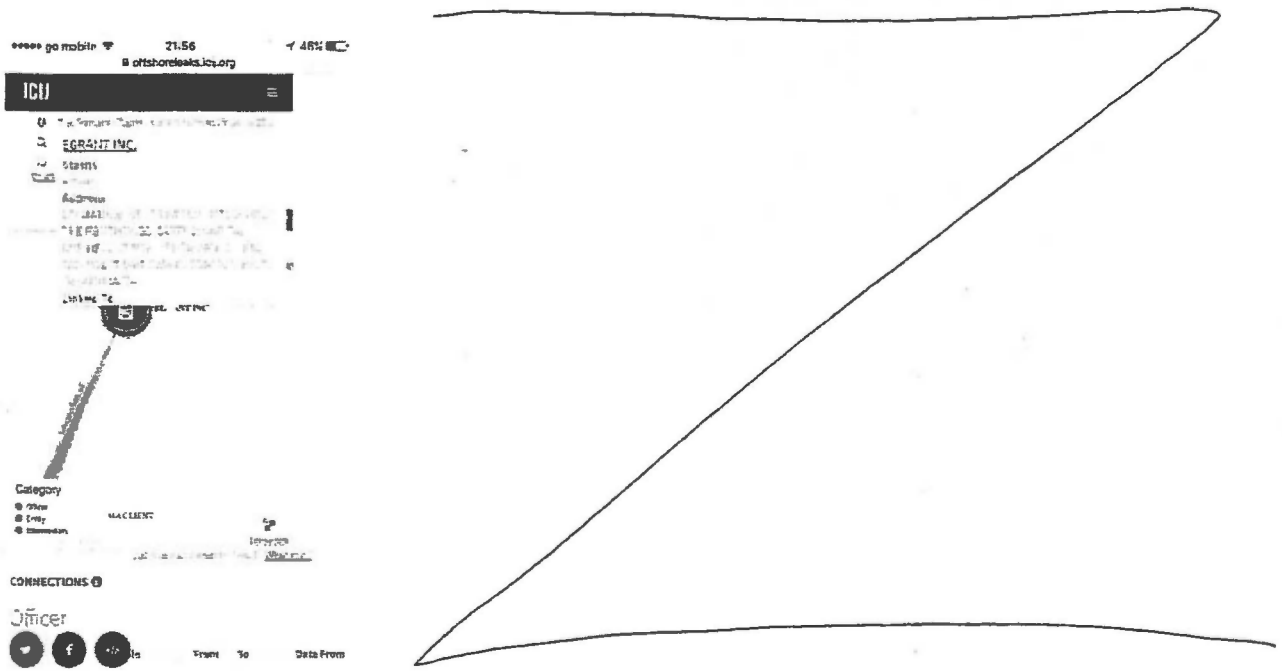
Dak li Daphne Caruana Galizia ma rnexxilhiex issib fis-*servers* u *folders* ta' Mossack Fonseca tramite l-*Panama Papers leaks*, xehdet li kienet sabithom għand Maria Efimova. Mill-banda l-oħra, munita b'din l-informazzjoni Daphne Caruana Galizia ma għamlitx denunzja formali lill-Kummissarju tal-Pulizija jew lil maġistrat inkwirenti għar-raġuni li *as if a journalist should ever do any such thing.*

Fil-21 t'April 2017 fl-22:02 ippublikat artiklu bl-isem ***This is the text of the two declarations of trust which were in the kitchen safe at Pilatus Bank.*** Daphne Caruana Galizia emnet f'dawn id-*declarations of trust* u għażlet li tiddefendi dawn id-*declarations of trust* u dak li għaliha kienu jirrapreżentaw. F'artiklu pubblikat f'23:55 imsemmi : ***Joseph Muscat has challenged the document on the basis of the address*** Daphne Caruana Galizia stqarret li

> I'm watching Xarabank. The Prime Minister has said that the text of the documents which I uploaded is 'fake' because *Egrant Inc* is a Panama company and its address is given as San Gwann.
>
> It's he who is false: he knows full well that the San Gwann office address is that of Nexia BT, and at the time also Mossack Fonseca Malta. The address given for *Egrant Inc* is at Brian Tonna's office.
>
> Brian Tonna is the one who made the arrangements for the company, and it is perfectly normal for lawyers and accountants to have client companies use their office address.
>
> Incidentally, the Prime Minister is totally out of control and looks like he is going to snap. Really unpleasant character. No wonder he gets along so well with Keith Schembri.

> And I see he is back to being unable to speak my name: the Labour disease called "We can't say Mrs Caruana Galizia".
>
> What unpleasant people: setting up companies in Panama to cheat and defraud, and then getting all outraged as they stand on the moral high ground. We really have got to whip them off into the sunset – or a prison cell.

Skont dokumenti awtentikati fl-atti ta' din l-inkjesta jirriżulta li r-*registered address* t'*Egrant Inc* huwa Mossfon Building, 3A, 54th Street, Marbella, Panama, Republic of Panama u mhux dak ta' San Gwann f'Malta li huwa l-indirizz ta' Nexia BT. Daphne Caruana Galizia kienet taf dan il-fatt għaliex l-indirizz reġistrat ta' *Egrant Inc.* kien jinstab pubblikat f'wieħed mill-artikli pubblikati minnha f'April 2016 meta għamlet riferenza għal *Dato Capital data* dwar *Egrant Inc* u li għalih ipprovdiet ukoll *link*. Daphne Caruana Galizia tiddefendi l-korrettezza tal-indirizz t'*Egrant Inc* fuq id-*declarations of trust* f'artiklu pubblikat fi-22 t'April 2017 f'12:25am intitolat : ***Muscat said the document is false because Egrant Inc's address is San Gwann not Panama.*** Hawnhekk hija tipprovdi l-evidenza li l-indirizz t'*Egrant Inc* huwa f'San Gwann billi ippostjat *screenshot* meħud mill-*website* tal-*ICIJ* li jindika l-indirizz t'*Egrant Inc* bħala :



Dak huwa l-indirizz li ġie użat fuq id-*declarations of trust*. Fost l-affarijiet interessanti fuq dawn id-*declarations of trust* kien hemm ir-riferenza tant inużwali għal Malta bħala *Malta Island Malta*. Dan l-indirizz inużwali instab minn din l-inkjesta li kien

(a) aċċessibbli kemm fuq *open source websites*,

(b) kif ukoll fil-ewwel żewġt *invoices* li Mossack Fonseca kienet bagħtet lil *BTI Management Limited* fid-9 t'Awissu 2013 u l-15 t'August 2013 b'relazzjoni għas-servizzi inizzjali reżi fit-twaqqif tal-*Egrant Inc*.

Din l-inkjesta stabbiliet ukoll li dawn id-*declarations of trust* ma kienux normalment jintużaw minn Mossack Fonseca fil-Panama. Stabbiliet li dawn ma kienux jinstabu fil-*file* t'*Egrant Inc* fl-Uffiċju ta' Mossack Fonseca.

L-artiklu suċċessiv, pubblikat minn Daphne Caruana Galizia fis-13:18 ***Point 1 : The safe in the kitchen. The documents were taken in March last year*** iqajjem aktar mistoqsijiet fir-rigward ta' għaliex u meta dawn id-*declarations of trust* kienu ġew kontraffatti.

Din l-inkjesta stabbiliet li f'xi stadju bejn Ottubru 2015 u April 2016 kien hemm xi *filing cabinet* li għal xi żmien kien maħżun fil-kċina tal-Bank Pilatus. Biss ix-xiehda tal-impjegati tal-Bank ma kienetx unanimi dwar dan u hemm verżjonijiet konfliġġenti dwaru. Iżda ġie pruvat soddisfaċentement li kien hemm *safe* jew *filing cabinet* li kienu jissakru u li fih kienu jitqiegħdu dokumenti importanti inkluż dwar *PEP* kif kienet xehdet Maria Efimova. Daphne Caruana Galizia iżżid : -

> Saviour Balzan of Malta Today tweeted yesterday evening that there is no safe in the kitchen at Pilatus Bank, and he can confirm this.
>
> First off, we have to ask what Balzan was doing in the kitchen at that particular bank, but until he tells us, we shouldn't reach any conclusions. They may have invited him in to take a look for journalistic purposes because of this story.
>
> There may well be no safe in the kitchen at Pilatus Bank *now*, when Balzan got a look at the room, but he seems to have reached the unwise conclusion that because the documents reached the press now then they were also taken from the safe now.
>
> They were not. The documents that were taken from Pilatus Bank, the text of which I published in transcript yesterday evening, *were taken from the bank in*

March last year when this website had begun to break the stories about Konrad Mizzi and Keith Schembri and their companies in Panama.

At that point, nobody except the government-level co-conspirators directly involved knew about *Egrant Inc*, the third company, because that information emerged from the worldwide publication of the Panama Papers *in the first week of April*.

When the documents were taken, they were taken not because of the significance of the name of *Egrant Inc*, which back then would have been just another offshore company registered to the San Gwann offices of Brian Tonna/Nexia BT/Mossack Fonseca Malta. They were taken because of the significance of Mrs Muscat's name.

And when they were taken, more than a year ago, the safe was in the kitchen and – as I have reported already – had been moved from the CEO's office. If Saviour Balzan didn't find it in the kitchen 13 months later, it is quite obvious that it was moved out again.

The Labour Party and its trolls like to mock me for having been trained as an archaeologist rather than studying journalism at the university. But the advantages of having trained for four years in that rigorous discipline, which shape the mind to focus first on the timeline and to avoid routes along arguments from silence and arguments from the absence of evidence, are clear.

And the Labour Party's official media are now clutching at straws and reporting on Saviour Balzan's tweet. If anything, they should have taken the initiative of asking to see the bank's kitchen for themselves, and Balzan should have asked whether the safe was ever, at any point, in the kitchen.

This is a massive story, and instinct – a woman's natural instinct and my professional instinct – tells me that we have only just begun to uncover the tip of a giant iceberg of corruption and Azerbaijan/Malta sleaze and money-laundering, that it is not straightforward, and that one or two of the co-conspirators – Tonna, Schembri, Muscat and Mizzi – may even be cheating and defrauding, possibly even blackmailing, each other.

We who work in the independent media need to remember at times of great crisis like this – and make no mistake, this is a crisis – that we are all on the

same side and that corrupt politicians are on the other side. It is our job and our duty to go after them and not after each other.

Hawnhekk Daphne Caruana Galizia tikteb li dawn id-dokumenti kienu ġew ***"taken"*** mill-Bank Pilatus f'Marzu 2016. Biss kemm mix-xiehda tagħha, kemm minn dik t'Efimova kif ukoll fil-kitbiet preċedenti tagħha Daphne Caruana Galizia qatt ma qalet qabel li dawn id-dokumenti ġew *taken*. L-anqas Maria Efimova ma tixhed dan.

Apparti mit-tifsira tal-kelma *taken* u dak li riedet tfisser biha Daphne Caruana Galizia, hi żżid li d-*declarations of trust* kienu *"taken"* mill-Bank Pilatus **f'Marzu 2016**. F'Marzu 2016 irriżulta li Daphne Caruana Galizia ma kienetx bdiet tikteb fuq *Egrant Inc*, iżda hija kienet diġa bdiet tikteb fuq informazzjoni li kienet sabet fil-Panana Papers dwar Keith Schembri u Konrad Mizzi. F'Marzu 2016, Maria Efimova kienet għadha taħdem fil-Bank Pilatus. Daphne Caruana Galizia tgħid li hi kienet emnet dak li qaltilha Maria Efimova minħabba li f'dak iż-żmien ħadd ma kien għadu jaf b'*Egrant Inc.* stante li hi bdiet tikteb fuq *Egrant Inc* f'April 2016.

Biss Maria Efimova (li skont Daphne Caruana Galizia kienet is-sors tagħha dwar l-istorja tal-Bank Pilatus mija fil-mija), tgħid li hi la ħadet dawn id-*declarations of trust* jew *bank account opening forms* t'*Egrant Inc*, la kkopjathom

u l-anqas ħadet ritratt tagħhom. Maria Efimova tgħid li hi biss rat id-*declarations of trust* fil-Bank Pilatus u kienet Daphne Caruana Galizia li wrietha kopja ta' dawn id-dokumenti meta kienet tiltaqa' magħha – bil-maqlub ta' dak li xehdet Daphne Caruana Galizia – li tgħid li kienet Maria Efimova li kienet urietha dawn id-dokumenti u li kienu fil-pussess ta' Maria Efimova u mhux tagħha.

Aktar il-quddiem fis-13:43 Daphne Caruana Galizia tippubblika artiklu ***Point 2 : the Labour Party says that Simon Busuttil should have brought "proof" on Xarabank***. Hawnhekk hi tirribadixxi l-paternita tal-istorja in kwistjoni u żżid li: -

> The Labour Party likes to spin the tale that I work for the Nationalist Party or am somehow part of it. This despite all the manifest evidence to the contrary.
>
> It's a spin they began for the express purpose of undermining my credibility – not because it's a bad thing to be associated with a political party, but because they wish to suggest that my arguments are not those of an independent-minded and intelligent woman who has reached the conclusion, of her own accord, that the Labour Party is rubbish and that you shouldn't vote for it, but somebody who is paid to hold opinions which a political party feeds her.
>
> That's by way of preamble to an important point that has to be made after last night's show, when the Prime Minister challenged the Opposition leader on live television that he hadn't "brought proof" of Mrs Muscat's ownership of *Egrant Inc* and related matters.
>
> The story, however, is mine and not the Nationalist Party's. The Labour leader cannot challenge the PN leader to "give me proof" when it is not the PN media which broke the story, but this website. The PN media are simply reporting what they read here, and then taking the story further, like other news organisations, with on-camera door-

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> stepping that has resulted in some very interesting footage, including that of the Pilatus bank chairman leaving the bank late at night with bags of documents and his risk manager.
>
> The Labour Party is now tweeting the spin that "#Simonfalz has no proof". But it's not his party media's story, it's mine. They should be challenging *me* for "proof", because the Nationalist Party media haven't got it. I do.

Fis-14:04 Daphne Caruana Galizia ippublikat l-artiklu ***Point 3: Mrs Muscat's signature is not required***. Hawnhekk targumenta li fuq dawn id-*declarations of trust* il-firma ta' l-*UBO* ma kienetx meħtieġa. Fuq dan il-punt Daphne Caruana Galizia għandha raġun għax normalment dawn id-dikjarazzjonijiet ma jkollhomx il-firma ta' *UBO*. Iżżid tgħid:

> The declaration of trust documents for Mrs Muscat bear the signature of Jaqueline Alexander, a Mossack Fonseca functionary whose name is used for nominee purposes on literally thousands of companies which MossackFonseca Panama structures for secrecy.
>
> It is a very real possibility that Mrs Muscat herself may not even know that her name is on those documents, which Brian Tonna delivered to Pilatus Bank in August 2015, when the bank had just received its banking licence from the Malta Financial Services Authority, as a prerequisite for the opening of an account for *Egrant Inc.*

Hawnhekk Daphne Caruana Galizia iżżid dettall u tgħid li kien Brian Tonna li kkonsenja dawn id-dokumenti fil-Bank Pilatus, f'Awissu 2015 – dettall li ma ħariġx mix-xiehda ta' Maria Efimova (li, *ex admissis* kienet is-sors tagħha fil-Bank Pilatus mija fil-mija). Din l-istqarrija ta' Daphne Caruana Galizia ma ssibx sostenn fil-provi miġbura. Apparti ċ-ċaħda ta' Brian Tonna, ħadd

mill-impjegati tal-Bank Pilatus li kien jaħdem f'dak il-Bank f'dak il-perjodu ma xehed li qatt ra dawn id-dokumenti fil-Bank Pilatus. Dawn id-dokumenti ma stabux fil-Bank Pilatus.

Daphne Caruana Galizia tgħid li Maria Efimova rat dawn id-dokumenti f'Marzu 2016. Iżda dettall ġdid fil-kitbiet ta' Daphne Caruana Galizia huwa li dawn id-dokumenti ġew depożitati fil-Bank Pilatus minn Brian Tonna f'Awissu 2015. L-inkjesta ma sabitx provi li jsostnu din l-allegazzjoni; iżda l-għażla ta' dan ix-xahar żgur ma kienetx kumbinazzjoni.

Fl-ewwel lok dawn id-*declarations of trust* kienu datati 20 t'Awissu 2015. Mill-*Panama Papers Cache* jirriżulta kjarament li f'dawk il-jiem t'Awissu 2015, Karl Cini kien okkupat ħafna biex jipprova jara li jiġu miftuha kontijiet bankarji għal *Tillgate Inc* u *Hearnville Inc.* barra minn Malta – inkluż f'Dubai. Iżda mill-istess *Panama Papars Cache* ma rriżulta li kien hemm ebda riferenza analoga fir-rigward t'*Egrant Inc* ukoll. Huwa għalhekk sinjifikattiv ħafna li Daphne Caruana Galizia tikkolloka d-depożitu ta' dawn id-dokumenti fil-Bank Pilatus minn Brian Tonna fl-istess żmien li l-*Panama Papers* kienu qegħdin juru attivita kbira minn Karl Cini biex jipprova jiftaħ kontijiet bankarji għal *Tillgate Inc* u *Hearnville Inc.* barra minn Malta.

B'hekk id-datazzjoni u l-kollokazzjoni tagħha għal dawn id-*declarations of trust* f'Awissu 2015 isiru sinjifikattivi immens għaliex jissuplimentaw dak li mill-*Panama Papers Cache* fil-fatt ma nstabx – u ċjoe attivita minn Nexia BT biex jinfetaħ jew jinfetħu kontijiet bankarju għal *Egrant Inc.* x'imkien madwar id-dinja fl-istess perjodu li kienu qegħdin isiru tentattivi għal ftugħ ta' kontijiet bankarji barra minn Malta għal *Tillgate Inc.* u *Hearnville Inc.* Apparti minn hekk din id-data kienet tirrendi dawn id-*declarations of trust* ferm aktar kredibbli għax tqegħdhom f'kuntest storiku u ċirkostanzjali partikolari ħafna.

Biss l-allegazzjoni fiha nnifisha li dawn id-*declarations of trust* datati 20 t'Awissu 2015 li allegatament ġew depożitati fil-Bank Pilatus minn Brian Tonna f'Awissu 2015, meta l-anqas Maria Efimova u ħadd mill-impjegati tal-Bank Pilatus ma kkonferma dan, jitfa' dawl ulterjuri fuq l-isfond tar-raġuni għaliex ġew maħluqa dawn id-*declarations of trust* u dan għaliex ikompli juri li min ħoloq dawn id-*declarations of trust* kien jaf eżattament x'kien qiegħed jiġri u dak li ġie żvelat fil-*Panama Papers*.

Biss mix-xiehda mismugħa u miġbura, inkluż mill-Awdituri interni *PWC* u dawk esterni *KPMG* tal-Bank Pilatus, u b'mod partikolari mir-*records* stampati u diġitali tal-Bank Pilatus li ġew analizzati miż-żewġ timijiet ta'

Forensic Accountants maħtura fil-kors ta' din l-inkjesta din l-allegazzjoni ta' Daphne Caruana Galizia ma tistax titqies pruvata.

Mill-banda l-oħra xorta waħda jibqa' l-interrogattiv dwar kemm kienet tkun verosimili din l-għażla li jinfetaħ kont bankarju mal-Bank Pilatus f'Malta għal *Egrant Inc* li skont Efimova kienet rat dokumenti li juru li kienet rikonduċibbli għall-Prim Ministru Malti, meta l-informazzjoni miġbura mill-*Panama Papers Cache* kienet turi li għal *Tillgate Inc* u *Hearnville Inc* kienu qegħdin isiru sforzi minn Karl Cini biex jinfetħu kontijiet bankarji barra minn Malta. Jew kemm kien għaqli li *Egrant Inc* tirċievi ħlasijiet minn klijent tal-Bank Pilatus minn kont fil-Bank Pilatus li jiġi pproċessat b'mod li jgħaddi minn *US Correspondence Banks* u bl-użu tas-servizz ta' *Swift* – b'mod li titħalla traċċa fil-perkors ta' dawn it-trasferimenti – aktar u aktar meta skont Maria Efimova tixhed li fl-istess Bank kien hemm dikjarazzjonijiet li juru bi preċiżjoni min kien is-sid aħħari ta' din il-kumpanija – Michelle Muscat. U għalhekk kont bankarju f'isem *Egrant Inc* u trasferimenti miljunarji għal din il-kumpanija taħt għajnejn l-impjegati tal-Bank Pilatus, uħud barranin, uħud Maltin, kif ukoll taħt l-iskrutinju ta' impjegati oħra adetti mad-Ditti tal-Awdituri u tal-Awtoritajiet regolatorji Maltin, *MFSA, FIAU* eċċetra li kienu jżuru dan il-Bank ta' spiss. F'pajjiż żgħir bħal Malta, polarizzat għall-aħħar, mhux faċli li tali sigrieti jinżammu, fit-tul għax mhux kull persuna li taħdem f'dawn l-istituzzjonijiet kienet ser tkun lesta li tgħatti jew taħbi nuqqasijiet

jew saħansitra illegalitajiet kommessi minn Politiċi; aktar u aktar jekk ma jkunux tal-istess fehma politika tagħhom. Ma dawn l-Awtoritajiet bħal *MFSA, FIAU,* Banek kummerċjali bħal Bank of Valletta, Ditti t'Awdituri bħal KPMG, PWC, Deloitte Malta eċċetra hemm nies tad-demm u l-laħam li huma impjegati u jaħdmu magħhom li kienu jżuru perjodikament lil Bank Pilatus. U dawn in-nies mhux kollha huma tal-istess fehma. Dawn il-punti qegħdin jiġu magħmula f'dan l-istadju biex ix-xiehda ta' Maria Efimova titqiegħed ukoll fil-kuntest proprju tagħha.

Fit-28 t'April 2017 fis-18:32 Daphne Caruana Galizia ppubblikat l-artiklu ***BREAKING/Pilatus Bank whistleblower testifies before inquiring magistrate.*** L-importanza ta' dan l-artiklu tistrieh fuq il-fatt li Daphne Caruana Galizia tistqarr li (dik li wara ġie skopert li kienet) Maria Efimova *has been the source of most of this website's reports about the activities of that bank and its clients, including the documents related to Egrant Inc and Michelle Muscat.* Dan fil-fatt Daphne Caruana Galizia stqarrithu bil-ġurament tagħha fl-atti tal-inkjesta. Iżżid hekk :

> The former employee of Pilatus Bank who has been the source of most of this website's reports about the activities of that bank and its clients, including the documents related to *Egrant Inc* and Michelle Muscat, has volunteered herself for testimony before the inquiring magistrate.
>
> She was not asked to do so, not by myself and not by the inquiring magistrate, who was unaware of her identity as I had not disclosed it during my testimony yesterday.

She has been reading everything that has been written about the escalating scandal, and all the to-and-fro debates, denials and threats of libel by those involved.

This morning I received a message from her saying that she was in Valletta, and that she had gone to court and asked to be allowed to testify, but was told by clerks – who did not realise the significance of the person – that she would have to file a formal application. She did not wish to do this.

I sent a message to the inquiring magistrate's clerk, who rang back within minutes to give her an appointment for 3pm. She spent three hours with the inquiring magistrate, and left court shortly after 6pm.

I am reporting this fact with her permission.

The proceedings of the inquiry are held behind closed doors, and those who testify are bound over not to discuss them.

Irriżulta lill-inkjesta li pero Maria Efimova mhux talli żammet mal-obbligu impost fuqha li ma titkellimx ma terzi fuq dak li kienet xehdet fl-atti tal-inkjesta talli proċediet li tagħti *video-interview* lil Pierre Portelli nonche stqarrijiet pubbliċi lil ġurnalisti lokali u barranin dwar dak li kienet xehdet fl-inkjesta *Egrant Inc.*

Ix-Xiehda ta' Maria Efimova

Maria Efimova tgħid li hija daħlet taħdem mal-Bank Pilatus mit-18 ta' Jannar 2016 u damet sat-28 ta' Marzu 2016, (jiġifieri xahrejn u għaxart ijiem). Bejn it-18 ta' Jannar 2016 u l-24 ta' Frar 2016 kienet l-assistent personali ta' Ali

Sadr.[41] Tgħid li ma ġietx Malta biex tiġi impjegata mal-Bank Pilatus. Hi kienet ġiet Malta f'Diċembru 2015 flimkien ma żewġha u wara kienet bagħtet CV tagħha lill-Bank Pilatus u dawn bagħtu għaliha għal *interview*. Fil-fatt l-ewwel kien żewġha li mar ifittex xogħol mal-Bank Pilatus. Żewġha kien ġej minn *recruitment agency* għax kien qiegħed ifittex xogħol ma Bank.

Maria Efimova tgħid li kienet tassisti lil *Customer Service Officer* Emilia Vacaru[42] u kienet tgħinha tagħmel *payment instructions* għal klijenti tal-Bank. Kienet tagħmel ukoll xogħol segretarjali u tal-uffiċju u kienet qegħda tieħu ħsieb l-organizzazzjoni ta' safra li l-impjegati kellhom jagħmlu fi Frar 2016 lejn il-Ġermanja. Testwalment, tgħid hekk : -

> Yes, for the period from 18/01 till the 24/02, my duties were to assist, to be personal assistant to the Chairman of the Bank, Mr. Said Ali Sa……., and as well, I was assisting the Customer Service Officer, shall I say the name?
>
> Court: Yes please.
>
> Wit: That time it was Emilia Maria Vaccaro. I was assisting her with presiding of payment instructions, for clients of the Bank. As well, I was performing some secretarial duties, managing office duties, organizing meetings, organizing a trip. We had a trip from 19th till 21st of February, to Germany, where the Bank went. I was in charge of organizing this trip. And Miss Emilia Maria Vaccaro resigned on the 24th of February, so I was asked to undertake her responsibilities in the Customer Service Officer to process payment

[41] Kemm Maria Efimova kif ukoll Hamidreza Ghanbari jgħidu li Maria Efimova kienet daħlet il-Bank Pilatus bħala *intern*.

[42] Din fil-fatt jisimha Emilia Maria Vacaru, hija ta' nisel Rumen, u Daphne Caruana Galizia fix-xiehda tagħha tirreferi għaliha bħala Maria, tfajla Rumena u li kienet *Head of Compliance*. Fil-fatt Efimova ma tgħidx li kienet *Head of Compliance* iżda *Customer Service Officer*. Fix-xiehda tagħha Vacaru tgħid li hija kienet taħdem bħala *Associate* fis-*Sales Department* tal-Pilatus u kienet tipproċessa pagamenti tal-klijenti u tiftaħ kontijiet lil klijenti. Is-superjuri diretti tagħha kienu Hamidreza Ghanbari u Claude-Ann Sant Fournier.

> instructions to board new clients to do filing for customer files. The CEO of the Bank, Mr. ....., he resigned. He called me to his office and he said that from now on, I will be responsible for this job. I asked him: "Will I be getting an official notification?", according to my contract, if my responsibilities were changed, the Bank had to give me a proper notification. And he told me: "No, because it will be unofficial till the Bank will find another employee for this position." So from this day, I started to do all the job related to customer service.[43]

Emilia Maria Vacaru irriżenjat fl-24 ta' Frar 2016.[44] Minn dakinhar hija bdiet tagħmel xogħol ta' *Customer Service Officer* inkluż li teffetwa l-pagamenti tal-klijenti, *onboarding* u *filing* għal klijenti. Is-*CEO* tal-Bank, li sadattant irriżenja, kien qallha li dawn id-doveri kienu temporanji u li kienu ser idaħlu lil xi ħadd ieħor, iżda sadattant ma tawhiex notifikazzjoni uffiċjali ta' din il-bidla fid-doveri skont il-kuntratt.

Maria Efimova tgħid li Emilia Maria Vacaru kienet qaltilha li l-Bank kien irċieva notifika mingħand l-*FIAU* għal *monitoring* u li s-*CEO* Hamidreza Ghanbari kien qal lil Vacaru biex tagħmel xi xogħol qabel il-*monitoring* li Emilia Maria Vacaru pero ma riedetx tagħmel. Għalhekk iddeċidiet li tirriżenja. Maria Efimova tgħid li dan qalitulha Emilia Maria Vacaru stess.[45]

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[43] Għal aktar dettalji fuq l-operat ta' Maria Efimova, ara wkoll it-Taqsima "Other Matters" fir-relazzjoni tal-Forensic Accountants Harbinson Forensics.

[44] Għalkemm verament li Vacaru rriżenjat fi Frar, ma ssemmix id-data, mentri Efimova tagħmel dan.

[45] Dwar ir-riżenja tagħha mill-Bank Pilatus, Emilia Maria Vacaru tgħid li dak li qalet fuqha Maria Efimova fir-rigward tar-ragunijiet għaliex hi rriżenjat mill-Pilatus Bank ma kienux veri. Emilia Maria Vacaru ttenni li r-raġuni tar-riżenja tagħha mill-Pilatus kienet ta' natura personali ħafna. Hi qatt ma kienet semgħet b'din

Maria Efimova ġiet imkeċċija mill-Bank Pilatus fid-29 ta' Marzu 2016. Hamidreza Ghanbari u Luis Rivera sejħulha fil-*Conference Room* u tawha *envelope* u qalulha li kienu qegħdin itemmulha l-impjieg u li rieduha titlaq mill-Bank immedjatament. Staqsiethom għar-rigward tal-ħlasijiet tagħha għax kienu għadhom ma ħalsuha xejn sa dakinhar. Staqsiethom ukoll dwar in-*notice* tagħha. Kienu qishom aggressivi u ħaduha fl-uffiċju fejn kienet taħdem u qalulha biex tiftaħ il-basket tagħha biex jaraw jekk kellhiex xi ħaġa tal-Bank. Qalulha biex titlaq immedjatament. Hi telqet. Tawha ittra li kienet tgħid li temmewlha l-impjieg; pero ma tawhiex ir-raġuni. Hi kellha kuntratt tal-impjieg, iżda kienet għadha fil-perjodu tal-*probation*. Iżda hija tenniet li riedu jtuha n-*notice period*. Hi ħasbet x'setgħet kienet ir-raġuni għat-tkeċċija, pero ma kienetx ċerta.

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l-ittra ta' notifika li qed tissemma' fix-xiehda ta' Maria Efimova u hija sorpriża ħafna li isimha ġie msemmi b'dan il-mod. F'nofs Jannar 2016 Emilia Maria Vacaru kienet tagħt ir-riżenja verbalment lil Hamidreza Ghanbari iżda dan ma riedx jaċċetta r-riżenja tagħha. Ir-raġuni kienet li kellha l-*permanent residence visa* Kanadiza fuq il-passaport tagħha li kienet ser tiskadi u riedet tiddeċiedi jekk kienetx ser tmur il-Kanada jew inkella tħalliha hemm. Dik kienet ir-raġuni għaliex riedet titlaq mill-Bank u minn Malta. Kienet ilha ħames snin tistenna biex tottjeni l-visa u ġiet Malta sakemm tistenna l-karti jiġu rranġati. Għalkemm tat ir-riżenja verbali tagħha f'Jannar 2016, Hamidreza Ghanbari m'aċċettahiex u kkonvinċiha biex tibqa minħabba li kienu *short staffed* u li ma kienx il-mument biex titlaq lil Bank. Iddeċidiet li tibqa ftit ieħor. Iżda madwar nofs Frar 2016 iddeċidiet li tirriżenja bil-miktub. Ma riedetx tieħu r-riskju li titlef il-*permanent resident visa* għall-Kanada li kellha. Hi ma kienetx qed tara li kellha futur fil-Bank għaliex l-ambjent kien kompetittiv ħafna u hi kienet tħoss li ma kienx jaqbel mal-aspettattivi għall-ħajja tagħha. Dik kienet ir-raġuni li telqet. Mhux veru li hija kienet mogħtija xi ittra jew li kienet ġiet mitluba tagħmel xi ħaġa minn Hamidreza Ghanbari jew li kellha tagħmel xi xogħol kif qalet Maria Efimova fix-xiehda tagħha.

L-*FIAU* bdew jagħmlu spezzjoni fil-Bank Pilatus mill-15 ta' Marzu 2016 u damu madwar ġimgħa.[46] Hi kienet qegħda tassisti lil tal-*FIAU* – iġġibilhom il-*files*, tagħmlilhom il-kafe etc. Fit-tieni ġimgħa li kienu hemmhekk, Hamidreza Ghanbari sejħilha fl-uffiċju tiegħu u sejjaħ ukoll lil *Compliance Officer*. Qalulha li kien hemm xi *files* ta' xi klijenti li ma kienux mimlija kif suppost u peress li kienet hi li kienet qegħda tagħmel ix-xogħol ta' *Customer Service Officer* kien dover tagħha li timlihom sew dawk il-*files* għax altrimenti il-Bank kien ser ikollu problema mal-*FIAU*. Urewha *files* ta' *corporate clients* tal-Bank li l-*UBO* tagħhom kienu *PEP*. Iżda dawn il-*files* kienu miftuha fl-2015 meta Maria Efimova kienet għadha mhix impjegata mal-Pilatus. Hi qaltilhom li ma kienetx responsabbli għal dawn in-nuqqasijiet li kienu seħħew qabel. Iżda dawn qalulha li issa ladarba kienet *Customer Officer* kienu issa jaqgħu taħt ir-responsabbilta' tagħha u jekk ma kienetx ser tirranġa dawn il-*files* huma kienu ser jgħidu lill-*FIAU* li dawn in-nuqqasijiet kienu ħtija tagħha u kienet ser tidħol f'inkwiet kbir. Maria Efimova qaltilhom li ma kienetx ser tagħmel dak ix-xogħol li riduha tagħmel.[47]

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[46] Din id-data hija korretta għaliex ġie konfermat mill-provi li l-*onsite visit* fil-Bank Pilatus kienet bejn il-15 ta' Marzu 2016 u t-22 ta' Marzu 2016. Jidher li Maria Efimova żammet *record* tajjeb ta' ċerti dati. Biss, huwa stramb kif meta ġiet għall-materji l-aktar sensittivi u importanti ta' din l-inkjesta, Maria Efimova tgħid li ma kellhiex informazzjoni jew ma ħaditx kopji tad-dokumenti l-aktar pertinenti għal din l-inkjesta. Dan minkejja li Daphne Caruana Galizia tixhed bil-maqlub ta' dak li qalet Maria Efimova fis-sens li Daphne Caruana Galizia tisħaq li Maria Efimova kellha fil-pussess tagħha d-dokumenti li huma fil-bażi ta' din l-inkjesta.

[47] Arienne Gaerty tgħid li meta kienu għamlu l-ispezzjoni l-*FIAU* f'Marzu 2016, Maria Efimova kienet għadha taħdem magħha fil-*Front Office*.

Dawn il-*files* kienu ta' *Sahra FZCO* (*UBO* Leyla Aliyeva) u *Akce Holdings* (*UBO* Heydarov). Kienu qegħdin jilmentaw li kien hemm xi firem neqsin minn fuq xi *payment instructions* u fuq *account opening forms*. Hamidreza Ghanbari u l-*Compliance Officer* qalulha li riedet issolvi din il-problema immedjatament. Hi qaltilhom li ma kellhiex kuntatt magħhom. Qalulha li dik kienet problema tagħha. Maria Efimova ċemplet lic-*Chairman* u qaltlu b'dak li ġara li kienu qegħdin jippruvaw jitfgħu ir-responsabbilta' fuqha għal nuqqasijiet li kienu saru minn ta' qabilha. Sadr qallha li kien ser jara x'inhi s-sitwazzjoni. Inzertaw kienu l-*holidays* tal-Għid u l-Bank kien magħluq għal erba' jew ħamest ijiem sħaħ. Meta reġgħa fetaħ kien id-29 ta' Marzu 2016. Dakinhar keċċewha.

Il-maġġor parti tad-dokumenti tal-klijenti kienu jkunu fl-*Operations Department*. Kien hemm *hanging files*. Kien hemm *files* ta' klijenti u *account numbers*. Fil-kċina kien hemm *safe* tal-metall, mhux imwaħħal mal-art jew il-ħajt, li kien kbir u għoli madwar it-tul tagħha. Hi ma kellhiex aċċess għalih pero kien jissakkar b'ċavetta. Claude-Ann Sant Fournier kienet responsabbli minn dan is-*safe* u kellha ċ-ċavetta u meta ma kienetx tkun hemm kienet tħalli ċ-ċavetta ma Hamidreza Ghanbari.[48]

[48] Ekmel Gilingir, li kien l-ewwel CEO tal-Bank Pilatus jgħid li huwa kien xtara *safe* li kien *second hand* u li dak iż-żmien kien jinżamm fl-*istationery room*, għalkemm ma kienx għad hemm *heavy duty metal cabinet*.

Hamidreza Ghanbari jikkonferma li kien hemm *safe* li fih kienu jaħżnu l-*cash* u kien jissakkar b'żewġ *passcodes* differenti għand żewġ persuni differenti u kien jinsab fl-*IT room*. Biss hemm *filing cabinets* kullimkien. Kien hemm ukoll *filing cabinet* kbir ieħor li kien jissakkar u li għamel xi żmien fil-kċina u li fih kienu jiġu maħżuna dokumenti relattivi għal PEP kemm barranin kif ukoll Maltin. Dan il-*filing cabinet* ftit żmien wara kien ittieħed fi *store room*. Mehmet Tasli jikkonferma li dal-*filing cabinet* ġie mmexxi lejn l-*istorage room*, iżda ma jiftakarx li qatt kien fil-kċina. Denica Cebova tixhed li kienet tiftakar l-ismijiet tal-PEP għax kienet għamlet il-lista tal-klijenti u minn liema pajjiż ġejjin. Dawn il-*PEP files* kienu jinsabu fis-*safe*. Dan is-*safe* –

> first it was in the kitchen and then while I was leaving my last days, they rearranged the offices so I am not sure but I think they placed it in, when you are entering the bank there was a big corridor and on the end of the corridor next to the board room, there was a small space and I think there was where they placed the safe ...

Minn naħa tiegħu Luis Felipe Rivera jgħid li l-uniku *safe* li jaf bih hu huwa dak li jinsab fl-*IT room* u li huwa żgħir u għandu kodiċi t'aċċess li tinstab in parti għand il-*Head of Legal* u in parti għand il-*Head of Operations* jew l-*Operations Supervisor*. Michaela Krajcikova li kienet taħdem bejn Ġunju u Novembru 2015 bħala *Office Manager* tgħid li kien hemm dan is-*safe* bil-*codes* li kien jinsab fl-*IT Room* u kienu Mehmet Tasli u Antoniella Gauci jew Hamidresa Ghanbari li kellhom il-kodiċi biex jiftħuh. Imbagħad kien hemm ukoll *magic fire cabinet* li fih kienu jaħżnu dokumenti importanti, inkluż dawk ta' *PEP* u li kien jinsab fil-kamra ħdejn il-kċina u ċ-ċavetta tiegħu kienet f'idejn Claude-Ann Sant Fournier. Sakemm kienet għadha taħdem hemmhekk hi dan il-cabinet ma kienx fil-kċina – u dan tafu sew għax kienet mogħtija struzzjonijiet biex torganizza l-kċina. Apparti minn dan Claude-Ann Sant Fournier kellha wkoll cabinet ieħor jissakkar ħdejha li fih ukoll kienet iżżomm dokumenti kundifenzjali ta' klijenti.

Emilia Maria Vacaru tgħid li ma kienx hemm *safe* fil-kċina. Kien hemm *metal locker* f'waħda mill-*Conference Rooms*, li qabel telqet kien ġie konvertit f'uffiċju. Kien hemm ukoll *safe* fis-*server room*, għalkemm hi qatt ma ratu. Il-*metal locker* kien jingħalaq u jissakkar b'ċavetta. Dan kien fil-*Legal Department* u kienet Claude-Ann Sant Fournier li kienet iżżomm iċ-ċavetta. Din il-verżjoni hija wkoll imsaħħa minn dik ta' Kamila Anna Lis li tgħid li ċerti *files* kienu jiġu maqfula *f'safe* żgħir tal-metall bil-*codes* li kien *f'fitted cabinet* li kien fl-Uffiċju tal-*Head of Legal* – Claude-Ann Sant Fournier u dawn it-tnejn kienu jissakkru. Din ma ssemmi xejn dwar li dan il-*cabinet* kien fil-kċina. Biss taf li fis-*server room* kien hemm *safe* ieħor, twil xi nofs metru.

Katarina Kostialova tikkonferma li hemm qisu *cupboard* kbir li huma jsibuh bħala s-*safe* li qiegħed f'kamra separata li ssejħilha *safe room* li fih l-MLRO Claude-Ann Sant Fournier taħżen dokumenti ta' klijenti li jkollhom element ta' riskju għola u kif ukoll PEP. Hi Sant Fournier li għandha ċ-ċavetta ta' dan is-*safe* u meta jkollhom bżonn xi ħaġa minnu tiftħilhom is-*safe* hi stess biċ-ċavetta li żżomm għandha. Din iċ-ċavetta għandha xi mekkaniżmu speċjali, iżda li ma tafx x'inhu eżatt. Arienne Gaerty tgħid li żgur ma kienx hemm *safe* fil-kċina għalkemm ma kienetx ċerta jekk kienx hemm *filing cabinet* li kien jissakkar. Kien hemm safe fil-kamra ż-żgħira ta' ħdejn il-*Boardroom* u li kellha aċċess għalih Claude-Ann Sant Fournier. L-*accounts* li għandhom xi tip ta' rabta ma' PEP ikunu f'dan il-*cabinet*. Louis Zammit jikkonferma li għal xi żmien kien hemm filing cabinet li kien jissakkar b'xi *combination* jew *lock* li kien fil-kċina. Imbagħad kienu ċaqalquh u ħaduh fl-i*store room*.

Diana Ungureanu li kienet taħdem fil-*Legal and Compliance Department* f'Marzu 2016 tgħid li hi ma tiftakarx li kien hemm *safe* fil-kċina tal-Bank Pilatus, għalkemm kien hemm *cupboard* jissakkar b'ċavetta li fih kienu jqegħdu d-dokumenti li kien fis-*supplies room*. Dan kien tal-metall u l-lock kien ikbar minn normali u ċ-ċavetta tiegħu kienet tkun għand Claude-Ann Sant Fournier. Din iċ-ċavetta kienet ġieli tgħaddiha lil xi ħadd mill-impjegati bħal Stucchi biex imur jiftaħ il-*cabinet*. Biss ma kienetx tagħti ċ-ċavetta lil kulħadd u

Ali Sadr kien ried li jixtri *safe* ieħor – wieħed żgħir bil-*codes* – il-Bank kien għad m'għandux *safe* bħal dan. Hi kienet tibgħatlu proposti; iżda sakemm telqet minn hemm ma kienx għadu konsenjat. Wara tgħid li Ali Sadr kien għadu ma għażlux. Ali Sadr riedu jkun tal-injam biex iqegħdu fil-*Conference Room* u jkun jaqbel mal-kumplament tal-għamara. Jista' jkun li kien hemm *safe* ieħor fil-kamra ta' Hamidreza Ghanbari pero mhix ċerta. Jista' jkun li kien hemm xi ħaġa fis-*server room* li kien jiftaħha Mehmet (Tasli). Mhix ċerta

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għalhekk meta Ungureanu kien ikollha bżonn xi dokument hi kienet titlob lil Stucchi u dan kien imur u jiftah il-cabinet hu u jġibilha d-dokumenti li kienet tkun talbet. B'hekk Ungureanu ma kellhiex aċċess dirett għal dan il-cabinet u l-kontenut tiegħu. Iżda meta Hamidreza Ghanbari jew Antoniella Gauci kien ikollhom bżonnha Sant Fournier kienet tagħtihielhom u ma kienetx taf b'persuni oħra li kellhom dan il-"privileġġ". Dan is-*safe* dejjem kien ikun magħluq u qatt ma kien jitħalla miftuħ għajr ħlief għal dawk il-ftit minuti li fihom kienu qed ikunu jġibu jew iġorru xi dokumenti. *Whenever I visited the supplies room it was never open. I am not aware of anyone opening the safe and just leaving it open for a period of time.* Ma tafx jekk Maria Efimova kellhiex ċavetta, iżda peress li kien hemm ċavetta waħda biex ikollha dik iċ-ċavetta bil-fors riedet teħodha mingħand Claude-Ann Sant Fournier. Ungureanu qatt ma rat lil Efimova tiftaħ dan il-*cabinet*.

Makhabbat Ellul, li kienet taħdem fl-*Operations Department* bejn Novembru 2015 u d-29 ta' Marzu 2016 qalet li tiftakar li kien hemm safe żgħir li kien ħdejn il-kċina u t-toilet f'kamra *where they recorded everything*. Dan is-safe kienu jżommu fih il-flus u kien fil-kamra tas-*server*. Biss tgħid li fil-kamra tal-*Operations* kien hemm *cabinet* tal-metall fejn fih kienu jqegħdu dokumenti. Dan kien fl-uffiċju tagħha. Mistoqsija jekk qattx rat xi *document cabinet* ieħor fil-kċina, dix-xhud qalet li din l-istqarrija kienet semgħetha mill-aħbarijiet u kienet baqgħet sorpriża meta semgħatha għax fil-kċina ma kienx hemm dan il-*cabinet*. Taf li kien hemm xi darba fejn kienu ċaqilqu xi għamara, iżda ma kienetx taf għaliex.

Sarah Buzzerio tgħid li tiftakar li kien hemm *filing cabinet* kbir tal-metall li kien fl-i*storage room* li kien jinżamm imsakkar u kien jinfetaħ b'ċavetta speċjali. Il-persuna li kellha ċ-ċavetta tiegħu kienet Claude-Ann Sant Fournier. Hi kienet aċċediet għal dan il-cabinet darba waħda biss meta Claude-Ann Sant Fournier kellha bżonn kopja ta' xi dokument. Kienet taf li dan il-cabinet fih dokumenti, pero ma kienetx taf in-natura tad-dokumenti x'kienet. Ma kienetx taf b'xi safe ieħor fil-Bank Pilatus. Mistoqsija speċifikament kienx hemm tali safe fil-kċina, Buzzerio Sarah tgħid li ma kienetx tiftakar li kien hemm safe fil-kċina.

pero dwar dan.[49] Maria Efimova **ma tiftakarx** li kien hemm CCTV camera fil-kċina.[50]

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[49] Emilia Maria Vacaru tixhed li kien fis-*server room* u dan kellu *letter passcode* li kienu jafuha tnejn minn nies. Hi taf dan għax Mehmet Tasli kien mar holiday u kellhom bżonn is-safe iżda peress li kien imsiefer, kellhom joqgħodu jistennewh. Saret taf b'dan minħabba li kienu bdew jitkelmu dwar dan. Qabel ma kienetx taf dwaru dan is-*safe*. L-eżistenza ta' dan is-*safe* hija wkoll konfermata minn Denica Cebova in kwantu tgħid li hi u Mehmet Tasli kellhom il-*codes* relattivi għal dan is-*safe* u meta telqet mill-Pilatus Claude-Ann Sant Fournier talbitha ttiha l-*code* tas-*safe* iż-żgħir. Dan kien ikun fih il-*cash*. Hi ma kienetx taf jekk riedux li jixtru *safe* ieħor minbarra dak li kien hemm.

[50] Daphne Caruana Galizia teskludi li kien hemm *camera* fil-kċina.

Mehmet Tasli għalkemm jistqarr li ma jiftakarx li kien hemm *filing cabinet* fil-kċina, jiftakar li sa mill-ewwel ġurnata kien hemm CCTV camera fil-kċina. U dan jagħmel sens għax hemmhekk hemm bieb li jagħti għal barra – il-bieb tal-ġenb. Mill-banda l-oħra Michaela Krajcikova tgħid li fil-kċina ma kienx hemm CCTV camera; għalkemm kien hemm waħda li kienet fil-kuridur li kienet tħares lejn il-kċina u ħafna drabi kienu jagħlqu l-bieb tal-kċina biex joqgħodu jieklu jew jitkelmu. Biss aktar tard meta kkonfrontajtha bil-fatt li kien hemm kitchenette iż-żgħira tgħid :

> The Witness : In the kitchen tehre wasn't. There was a cctv camera exactly in the corridor facing the direction of the kitchen but there would no be camera in the kitchen. Many times when we used to stop for food or wanted to talk we just closed the door of the kitchen.
>
> The Court : Now one other thing, do you know... the ktichen not the kitchenette
>
> The Witness : Yes it was a room with a small kitchenette, coffee machine and
>
> The Court : The small one. In the small one there was no camera. But in the larger one?
>
> The Witness : No, there was only one kitchen we had... Ahh yes sorry, there was a small room with sink also no. The camera would be in the corridor facing this room. But if you close the door nobody would see anyhting. There is no cctv inside there, from what I remember, I am sure, we used to like that room.

Louis Zammit jgħid hekk :

> Magistrat Inkwerenti: allura jekk qed nifhmek sew, jekk fil-kcina hemm il-camera, fejn kien hemm is-safe allura dak iz-zmien kien hemm camera ukoll hux hekk logikament?
>
> Louis Zammit: iva mela mela.
>
> Magistrat Inkwerenti: la kien hemm camera fil-kcina suppost li dina taqbad lis-safe ukoll għandi nifhem jien?
>
> Louis Zammit: eżatt, eżatt iva.

Diana Alexandra Ungureanu tikkonferma li definittivament kien hemm camera fil-kċina tal-Bank f'Marzu 2016. Anzi tgħid li hi taf kif CCTV camera tkun u kienet ċerta li kien hemm waħda installata fil-kċina, għalkemm, ġustament ma setgħetx tikkonferma kienetx taħdem jew le, għax dak ma kienetx tkun tafu hi, stante li ma kienetx responsabbli mit-tħaddim tas-sistema tas-CCTV.

Dwar il-preżenza tal-camera fil-kċina f'Marzu 2016 il-maġġor parti tal-impjegati u ex-impjegati tal-Bank Pilatus jikkonfermaw li kien hemm CCTV camera fil-kċina tal-Bank Pilatus. Dan jagħmel sens ukoll għax

Hi ma kienetx awtorizzata tidħol fl-uffiċju ta' Hamidreza Ghanbari sakemm ma jkunx hemm hu u jitlobha tidħol. Pero setgħet tmur kullimkien fl-uffiċju apparti hemmhekk. Ħadd ma setgħa jidħol fl-uffiċju ta' Hamidreza Ghanbari jekk ma jkunx hemm hu.

Tiftakar li kien hemm kamra żgħira u li fiha kien hemm is-*servers*, viċin tal-kċina, ta' erba' metri kwadri. F'din il-kamra kien hemm *camera* iżda wara ftit neħħewha. Kien hemm argument bejn Luis Rivera u Louis Zammit fejn Zammit qallu li kien illegali li titneħħa l-*camera*. Wara kien hemm kollega tagħha li qallha li kienu neħħew il-*camera* mill-*IT room*.[51]

Efimova ma kienetx ċerta jekk il-*filing cabinet* li kien hemm fil-kċina kienx hemmhekk diġa meta daħlet taħdem hemmhekk. Kienu jibdlu l-ħin kollu – fi żmien xaharejn u nofs kemm damet hemmhekk kien hemm mill-anqas tliet

f'din il-kamra hemm l-uniku bieb sekondarju li jagħti għal barra u għalhekk din is-CCTV camera kienet żgur aktar utli anke għal raġunijiet ta' sigurta.

[51] Emilia Maria Vacaru tgħid li mhux veru li fil-Pilatus kienu joqgħodu jitfu u jixgħelu l-*cameras* jew li kien joqgħodu jaqilgħuhom. L-allegazzjoni li għamlet Maria Efimova f'dan is-sens kienet l-ewwel darba li kienet qegħdha tismagħha. Louis Zammit spjega li darba minnhom Maria Efimova kienet qaltlu li s-COO ried li jaqla s-CCTV mis-*server room*. Biss Louis Zammit irrifjuta li jagħmel dan u l-għada kien sab li s-COO kien qala' d-DVR **u mhux is-CCTV** u d-DVR li kien ħadu miegħu is-COO biex isewwih għax kien qal li kien hemm xi ħsara fih. **Biss Louis Zammit jgħid li kienet Maria Efimova li kienet qaltlu biex ineħħi s-CCTV mis-*server room*. B'hekk mhux il-camera li riedet tinqala' iżda d-DVR**.

bidliet.[52] Dwar is-*safe*, safejn taf hi, kien prinċipalment fil-kċina. Fil-bidu mhix ċerta jekk dan is-*safe* kienx fl-uffiċju ta' Hamidreza Ghanbari. Biss kienet hi li organizzat. Kienu qasmu l-uffiċju ta' Hamidreza Ghanbari fi tnejn. Fil-parti l-ġdida daħlet taħdem hi ma żewġt impjegati oħra. Jista' jkun li dan is-*safe* tneħħa wara li kienu saru dawn ix-xogħolijiet.[53]

Maria Efimova tgħid li Denica Cebova kienet qaltilha li f'dan il-*cabinet* kienu jżommu l-aktar *files* importanti bħal dak ta' *U Group* jew (trans sic! *Trust*) *declarations*.[54] Taf dan għax darba minnhom Claude-Ann Sant Fournier

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[52] Dan id-dettall, għalkemm mhux konfermat fl-interita tiegħu, isib ċertu qbil ma dak li jgħid Hamidreza Ghanbari fis-sens li minħabba li l-Bank Pilatus kien qiegħed dejjem jespandi fl-ammont ta' ħaddiema li kien qiegħed jingaġġa miegħu, il-*layout* tal-Uffiċju tagħhom kien qiegħed jinbidel kull sena. Fil-fatt anke Denica Cebova tikkonferma li qabel ma telqet mill-Bank Pilatus kienet tiftakar li kienu qegħdin isiru xi xogħolijiet.

[53] Emilia Maria Vacaru tgħid li ma kienx hemm *safe* fil-kċina. Kien hemm *metal locker* f'waħda mill-*Conference Rooms*, li qabel telqet kien ġie konvertit f'uffiċju. Il-*metal locker* kien jingħalaq u jissakkar b'ċavetta. Dan kien fil-*Legal Department* u kienet Claude-Ann Sant Fournier li kienet iżżomm iċ-ċavetta. Kamila Anna Lis taqbel ma Emilia Maria Vacaru li l-*metal locker* li jingħalaq u jissakkar u li fih kien hemm id-dokumenti kien fl-Uffiċju Legali tal-Bank Pilatus. Denica Cebova tgħid pero li għal bidu dan is-*safe* kien fil-kċina iżda fil-jiem qabel ma hija telqet mill-Bank kien hemm xi xogħol ta' rranġar fl-Uffiċju u ma tafx fejn qegħduh, iżda jidhrilha li kien f'xi spazju ħdejn il-*Board Room*. Dan ifisser li jekk Emilia Maria Vacaru u Denica Cebova qed jgħidu s-sewwa fuq dan il-punt, f'Marzu 2016 is-*safe* ma kienx fil-kċina kif allegat minn Maria Efimova u riportat minn Daphne Caruana Galizia, iżda f'Marzu kien band'oħra fl-uffiċju tal-Pilatus Bank.

[54] Denica Cebova tgħid li għalkemm kienet taf fejn hu s-*safe* u anke għamlet l-eżami tal-klijenti kollha mill-*hard copies*, ma kienetx taf jekk Pilatus kellux klijenti Russi. Mix-xiehda, inkluż dik ta' Kamila Anna Lis jirriżulta li l-*UBO* ta' U Group kien fil-fatt klijent Russu u għalhekk huwa ferm stramb kif Denica Cebova tgħid li ma kienetx taf jekk Pilatus kellux klijenti Russi. Dan jista' jkun dovut għall-fatt li Denica Cebova ma kienetx esposta għal dan il-klijent peress li kienu qatgħu ir-relazzjoni mal-Bank qabel daħlet hi f'Ottubru 2015. Alternattivament jista' jkun li mhux minnu dak li qalet Maria Efimova dwar dak li allegatament qaltilha Denica Cebova.

kienet qed tfittex dan il-*file* li wara nstab fil-qiegħ ta' dan il-*cabinet*. Ma tafx min kien l-*UBO*. Tiftakar l-isem. Hi qatt ma rat il-*files* infushom. Kien hemm ukoll *files* ta' klijenti oħra pero ma kienetx tiftakar għax ma kellhiex il-lista tal-klijenti. Taf b'Aliyeva għax il-*bank account opening forms* kienu *in open access*.[55] Maria Efimova tifaktar li Emilia Maria Vacaru kienet qaltilha tgħinha biex tipprepara l-*forms* (*bank account opening forms*) għalhekk tiftakar ta' min kienu.[56] Qalet ukoll li kienet taf li kien hemm klijenti Russi fil-Bank pero ma riedetx issemmi min huma. Kien hemm kemm klijenti prospettivi kif ukoll oħrajn li kienu klijenti. Pero qalet li ma kienetx ċerta dwar l-ismijiet

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Arienne Gaerty tikkonferma li fil-*filing cabinet*, li pero ma tiftakarx li kien fil-kċina f'Marzu 2016, verament kienu jinżammu dokumenti li kellhom x'jaqsmu mal-UBO ta' *corporate clients* tal-Bank Pilatus u *accounts* li kellhom xi tip ta' rabta ma' *PEP*. Gaerty kienet semgħet b'dan il-*U Group* u dehrilha li l-Bank Pilatus kellu xi kawża l-Qorti magħhom.

[55] Fit-tieni xiehda tagħha, Maria Efimova tgħid li l-*bank account opening forms* ma kienux ikunu fis-*safe*, iżda kienu jkunu "*in the file with the other account opening forms*". Fir-raba xiehda tagħha Maria Efimova tgħid li d-*declarations of trust* rathom fis-*safe* filwaqt li l-*bank account opening forms* rathom "*between the client's files*". Fix-xiehda ta' Louis Zammit jirriżulta li qabel ma bdew il-proċess biex jaqilbu fuq *Sharepoint*, kif tgħid Maria Efimova stess għall-ħabta ta' Marzu 2016, id-dettalji tal-klijenti kienu jinsabu *f'folders* li kienu aċċessibbli għall-impjegati fuq is-*server*. Għalkemm minn banda dan isaħħaħ dak li qalet Maria Efimova, mill-banda l-oħra għaliex l-impjegati l-oħra, passati u preżenti ma jikkonfermawx ukoll dak li qalet Maria Efimova dwar id-dokumenti l-aktar importanti?

[56] Meta Emilia Maria Vacaru ġiet mistoqsija jekk kienetx hi li persuna responsabbli biex jiġu ppreparati d-dokumenti u l-*account opening forms* ta' *Sahra* jew *Al Sahra*, u *Akce Holdings*, Emilia Maria Vacaru tgħid li jista' jkun li kienet responsabbli mill-ftugħ ta' waħda minnhom jew tat-tnejn li huma iżda kwantu għal *Sahra* jew *Al Sahra* ma kienetx tiftakar liema waħda fosthom. Biss tiftakar li waħda minnhom kienet diġa ġiet miftuħa meta kienet bdiet taħdem Pilatus. Ma tiftakarx jekk Leyla Aliyeva kienetx il-*UBO* ta' *Sahra* jew *Al Sahra*. Safejn tiftakar dawn id-dokumenti kienu jkunu magħluqa fis-*safe* u ma kienux ikunu magħluqa mad-dokumenti l-oħra tal-klijenti regolari. Emilia Maria Vacaru ma kellhiex aċċess għal dawk il-*files*. Mistoqsija jekk l-*account opening forms* ta' *Sahra* jew *Al Sahra* kienux fiċ-ċirkolazzjoni libera fl-*Operations Department* Emilia Maria Vacaru tgħid li "*not that I am aware of*". Dwar dan il-punt, insibha ferm stramba kif jista' jkun li kien hemm dan l-element ta' segretezza kollha tiċċirkonda dawn il-files ta' dawn il-*PEP UBO's* kollha – tant li kienu jinżammu għalihom – u fl-istess waqt ikollok il-*bank account opening forms* tal-kumpanija *Sahra FZCO* li jkunu "*in open access*" kif ittenni Maria Efimova.

ta' dawn in-nies u għalhekk ma xtaqitx li tixhed dwarhom.[57] Kien hemm ukoll ismijiet ta' nies Maltin; pero ma kienetx tiftakar x'kienu. Ma setgħetx tgħid ismijiet :

> because I didn't see in the system like account or opened. I saw some account opening forms but I am not sure if they actually proceeded to an account opening or it was at initial stage.[58]

Li tiftakar li kien hemm Keith Schembri *personal account*.[59] Kien hemm ukoll *corporate account*.[60] Qatt ma rat l-*istatement of account* tiegħu. Kemm damet hi

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[57] Ġie stabbilit mir-relazzjoni ta' *Harbinson Forensics* li l-Bank Pilatus kellu diversi dokumenti li jirreferu għal klijenti Russi. Mill-banda l-oħra, Maria Efimova kienet taf b'dawn il-klijenti Russi tant li ma riedetx tixhed fl-inkjesta fir-rigward tagħhom u hi kienet taf li *U Group* kien *file* importanti għal Bank Pilatus. Biss Maria Efimova ma tikkonfermax jekk kienetx taf li *U Group* kellhom interessi Russi, u għal xi raġuni ma riedetx tixhed dwarhom u ħadet atteġġjament verament difensiv fir-rigward ta' dawn il-klijenti Russi u b'xejn ma riedet issemmi min kienu.

Hamidreza Ghanbari jixhed li safejn jaf hu il-Bank Pilatus ma kellux *portfolio* ta' klijenti Russi għalkemm kienu rċevew prospetti mingħand persuni Russi. Fl-2016 il-Bank Pilatus ma kellux klijenti Russi jew *PEP* Russi, għalkemm għandhom lista t'ismijiet ta' *PEP* Russi li m'aċċettawhomx. Arienne Gaerty tixhed li l-Bank Pilatus ma kellux klijenti Russi, għalkemm kienet semgħet bil-*U Group* u jidhrilha li kellhom xi kawża l-Qorti magħhom.

[58] Pero minkejja li tgħid hekk, kienet hi stess li aktar tard issemmi ismijiet ta' nies Maltin li skontha kienu involuti f'konnessjoni mal-Bank Pilatus, fosthom Michelle Muscat u Keith Schembri.

[59] Brenda Calleja Smith tikkonferma li sa Awissu 2014 Keith Schembri ma kienx għadu sar klijent tal-Bank Pilatus. Emilia Maria Vacaru tgħid li ma tafx jekk John Dalli jew Keith Schembri kienux klijenti tal-Bank Pilatus. Arienne Gaerty tikkonferma li Keith Schembri kellu kont personali mal-Bank Pilatus, għalkemm ma tikkonfermax li dan kellu transazzjonijiet ma persuni mill-Ażerbajġan kif allegat.

[60] Mill-lista tal-klijenti tal-Bank Pilatus u transazzjonijiet fuq *Flexcube* ma jirriżultax li *Tillgate Inc* kienet klijenta tal-Bank Pilatus jew li kellha xi transazzjonijiet li kienu jinvolvu lil dan il-Bank. Dan huwa wkoll konfermat mix-xiehda ta' Hamidreza Ghanbari u mir-relazzjoni tal-Forensic Accountant Miroslava Milenovic.

ma tiftakarx ħafna *payment instructions* iżda ma tiftakarx jekk kienx hemm għalih.[61] Ma kienetx tiftakar ismijiet ta' *account holders* Maltin oħra.

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[61] Dan jikkontrasta sew ma dak li kienet irraportat Daphne Caruana Galizia fl-artiklu tagħha ***Declarations of trust in Pilatus Bank Safe : Egrant Inc shares held for Michelle Muscat*** pubblikat minnha nhar l-20 t'April 2017 fit-7:59pm, fejn Daphne Caruana Galizia tgħid li :

> Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, *Tillgate Inc.*

Mill-analiżi tad-dokumenti bankarji tal-Bank Pilatus kemm dawk magħmula mill-Awdituri KPMG, u aktar importanti għall-fini ta' din l-inkjesta dawk intrapriżi mill-*Forensic Accountants Miroslava Milenovic* u *Harbinson Forensics*, għalkemm huwa minnu li John Dalli u Keith Schembri kellhom kontijiet bankarji mal-Bank Pilatus f'isimhom personali, ebda waħda minn dawn it-transazzjonijiet suspettużi ħafna ma persuni mill-Ażerbajġan ma tirriżulta, u l-anqas jirriżulta li Keith Schembri kien juża dan il-kont tiegħu b'mod regolari. L-anqas ma nstabu kontijiet bankarji mifuta f'isem il-kumpaniji *Tillgate Inc, Hearnville Inc* jew *Egrant Inc* kif ġie allegat jew dokumentazzjoni li b'xi mod torbot ma dawn il-kumpaniji. Dan jaqbel ma dak li jixhed Hamidreza Ghanbari li jikkonferma li kemm John Dalli kif ukoll Keith Schembri kellhom kont personali mal-Bank Pilatus. Il-kont ta' John Dalli ftit li xejn intuża u spiċċa li ttiekel bl-ispejjeż tal-Bank Pilatus u spiċċa ingħalaq fl-2015. Dak ta' Keith Schembri kien jiġi użat b'depożiti u Keith Schembri kellu wkoll *executive card*. L-ammont ta' depożiti totali li Hamidreza Ghanbari jgħid li kellu Keith Schembri ma kienux jaqbżu l-mitt elf euro. Biss ma kien hemm ebda transazzjoni bankarja li kienet tinvolvi dan il-kont u persuni mill-Ażerbajġan jew interessiAżeri. Hamidreza Ghanbari jiċħad li *Tillgate Inc* kellha xi kont bankarju mal-Bank Pilatus jew li kellha xi transazzjonijiet bankarji ma' persuni mill-Ażerbajġan. Safejn kien jaf Hamidreza Ghanbari *Tillgate Inc* qatt ma kienet involuta f'xi transazzjoni mal-Bank Pilatus. Arienne Gaerty ma kienetx ċerta jekk *Tillgate Inc* kellhiex xi kont mal-Bank Pilatus, iżda jekk kellha dan kien magħluq.

Mill-banda l-oħra Diana Alexandra Ugureanu, li kienet taħdem fil-*Legal Department* bejn Marzu 2016 u Ottubru 2016 tgħid li darba meta kienu qegħdin iġorru xi dokumenti minn filing cabinet għal cuboard ieħor kienet rat xi *file* li fuqu kien hemm miktub *Tillgate* iżda ma kienetx f'qagħda li tgħid dan *x'file* kien. Ma setgħetx tgħid jekk kienx *file* jew *bank account opening form but I say that with huge reservation because I mean it has been a veery long time, so I cannot say for sure.* Aktar il-quddiem fix-xiehda tagħha Ungureanu tgħid hekk :

> The Court : So you sound pretty sure in relation to Tillgate.
>
> The Witness : There has been a point when Tillgate cane up in the office context.
>
> The Court : Though you do not know the specifics, you do not remember
>
> The Witness : I was never in a position to know the specifics of Tillgate.
>
> Supt. Abdilla : Could it be part of the discussions that were going on at your office following all this outbreak from Panama Leaks?
>
> The Witness : It could have been. I mean it could have very much been a name that was present in the office after the Panama Leaks broke out. So that would explain why I heard the name Tillgate. However
>
> The Court : And you are putting it in the office context.

Meta ġie suġġerit lilha l-isem ta' Brian Tonna, Maria Efimova qalet li dan kellu kemm *personal account* kif ukoll *corporate account* (*Willerby*).[62] Maria

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The Witness : I am putting it in the office context.

Supt. Abdilla : Then Willerby for example?

The Witness : No. I mean Willerby was definitely one of the companies or of the files that were present in the office. I mean that is a hundred percent within reason, a hundred percent certainty.

The Court : However given that you were tasked with coming up with this Panama Papers sort of analysis, no?

The Witness : Yes.

The Court : Could it have been that, I mean you have to explain because of course we were not there with you

The Witness : Here is the thing just to put you into context what I had to do. Panama Papers the website you go in and you see the web of all the connections. Well I was asked to sit down and basically create a spreadsheet of all the names that featured, the connections and so forth. Now Panama Papers is a sixteen thousand, I mean it contains sixteen thousand (16,000) names. I did not go through all of them. I figured out the way to download in a zip file and then transposed them in an Excel sheet. So ultimately I did not go through every single name to type. I just downloaded transposed into an Excel sheet.

[62]Mill-analiżi tal-kontijiet bankarji tal-Bank Pilatus magħmula mill-*Forensic Accountant Miroslava Milenovic* jirriżulta li verament kien hemm kont bankarju fil-Bank Pilatus miftuħ f'isem *Willerby Trading Inc.* u li kien rikonduċibbli għal Brian Tonna, għalkemm ebda kont miftuħ f'isem Brian Tonna personalment ma jirriżulta mill-kotba tal-Bank Pilatus kontra dak li tenniet Maria Efimova.

Brenda Calleja Smith tikkonferma li sa' Awissu 2014 hija ma kienetx rat lil Brian Tonna fil-Bank Pilatus. Hamidreza Ghanbari jikkonferma li Nexia BT kienu *Corporate Services Providers* f'Malta li kienu jirreferu klijenti lil Bank Pilatus kif ukoll li kellhom klijenti tagħhom li kienu jidhru għalihom bħala *corporate directors* u li kellhom *corporate accounts* mal-Bank Pilatus u li kienu awtorizzati jagħmlu transazzjonijiet bankarji. Dan il-fatt huwa wkoll sa ċertu punt konfermat minn Michaela Krajcikova li kienet taħdem *Office Manager* bejn Ġunju u Novembru 2015 fejn qalet li hija kienet tirċievi ħafna telefonati minn Nexia BT u li dawn kellhom diversi klijenti mal-Bank Pilatus u kif ukoll kienu importanti ħafna għal Ali Sadr u Hamidreza Ghanbari. Biss tgħid ukoll li għalkemm kienet rat wiċċ Brian Tonna minn fuq ritratti tal-passaport hi qatt ma kienet iltaqgħet miegħu personalment, minkejja li kienet bosta drabi tkun dik li tiftaħ il-bieb u tilqa linnies.

Arienne Gaerty tgħid li lil Brian Tonna ġieli ratu l-Uffiċju tal-Bank Pilatus, għalkemm minn Marzu tal-2016 hi, li kienet taħdem fil-*Front Office*, u ċjoe f'kuntatt dirett mal-klijenti, ratu biss xi tliet darbiet għal *meetings* m'Ali Sadr. Denica Cebova tgħid li Brian Tonna tiftakru bħala wieħed mill-*business providers* tal-Bank Pilatus u kellu kont ukoll. F'Jannar 2016 tiftakar li l-Bank Pilatus kien ta' self lil Brian Tonna u Karl Cini personalment. Dan kien *loan for future business*. Biss mir-records tal-*loans* maħruġa mill-Bank Pilatus ebda wieħed minn dan is-self personali ma nstabu li ġew mogħtija mill-*Forensic Accountants*.

Efimova kienet torganizza l-laqgħat li kienu jsiru bejn Ali Sadr u Brian Tonna. Maria Efimova kienet tagħmel kuntatt mal-assistent personali ta' Brian Tonna. Ali Sadr kien ikun xi tliet jew erba' darbiet fix-xahar l-Uffiċju tal-Bank Pilatus u kull darba li Ali Sadr kien ikun il-Bank, Brian Tonna kien

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Emilia Maria Vacaru tixhed li kienet taf li Brian Tonna kien jaħdem għal Nexia BT. Għalkemm fil-bidu qalet li Brian Tonna kellu *personal account*, biss ma kienetx ċerta dwar dan. Żgur pero li kien firmatarju għal diversi kumpaniji li kellhom kont mal-Bank Pilatus. Hi tiftakar li kien hemm il-kumpanija *Willerby Trading*. Mhix ċerta jekk Brian Tonna kellux *loan* mill-Bank Pilatus. Hamidreza Ghanbari ġieli kien iħallilha *envelopes* fuq id-desk tagħha biex tkun tista' tgħaddihom lil Brian Tonna jew lis-segretarja tiegħu tiegħu u li jkunu konsenjati lura lil Hamidreza Ghanbari. Iżda ma tiftakarx sewwasew. Mistoqsija jekk hux veru li Emilia Maria Vacaru kienet involuta fl-ipproċessar ta' pagamenti mill-kumpanija *Willerby Trade Inc.* fl-ammont ta' 5 miljun sterlina bħala parti mill-prezz għax-xiri ta' immobbli (allegazzjoni oħra separata ta' Maria Efimova mhux parti mill-istħarriġ f'din l-inkjesta), Emilia Maria Vacaru tgħid li tiftakar il-kumpanija *Willerby Trade Inc*, iżda ma tiftakarx dawn il-pagamenti li saru. Għalkemm Maria Efimova tgħid li kienet Emilia Maria Vacaru li kienet ipproċessat din it-transazzjoni, Emilia Maria Vacaru tgħid li ma tiftakarx li qatt għamlet din it-transazzjoni.

Lana Sue Hedley tgħid li sa minn April 2016 hi qatt ma rat lil Brian Tonna fl-Uffiċju tal-Bank Pilatus u l-anqas qatt semgħet li mar iżurhom fil-Bank Pilatus – u dan minkejja li kienet saret taf li diversi klijenti tal-Bank Pilatus kienu wkoll jużaw is-servizzi ta' Nexia BT. Minn naħa tiegħu Mehmet Ugurluoglu jgħid li sa minn meta beda jaħdem hu mal-Bank Pilatus, jiġifieri Ottubru 2016, lil Brian Tonna qatt ma rah fil-Bank Pilatus, filwaqt li kien sar jaf dwaru mill-allegazzjonijiet li bdew ħerġin – għalkemm kien jaf li Karl Cini ġieli għamel *call back confirmation* għal xi transazzjonijiet ta' klijenti tan-Nexia BT b'mod partikolari għal *Cormia Limited*. Domenique Camilleri, mistoqsija jekk Brian Tonna għandux kont bankarju personali wieġbet *not that I know of, no*. Katarina Kostialova, li hija *Senior Lawyer*, minn Frar 2017 qatt ma ltaqgħet ma Brian Tonna jew ma Karl Cini, għalkemm kienet taf li Cini kien xi direttur jew benefiċjarju ta' xi kumpanija għax ġieli rat ismu.

Diana Alexandra Ungureanu, li kienet taħdem *intern* fil-Compliance Department bejn Marzu u Ottubru 2016 tgħid li kienet iltaqgħet mal-isem ta' Brian Tonna iżda ma kienetx taf jekk dan kienx jirreferi klijenti lil Bank Pilatus jew il-kuntest. Qalet li kienet iltaqgħet mal-isem tiegħu meta kellha tagħmel fotokopja mijiet ta' drabi tal-istess dokumenti li fosthom kien hemm il-passaport u dokumenti t'identifikazzjoni ta' Brian Tonna, liema dokumenti riedu jidħlu f'files differenti – u mhux għax hi ratu personalment fil-Bank Pilatus. Sarah Buzzerio li ħadmet bejn it-22 ta' Frar 2016 u d-29 ta' Marzu 2016 bħala *receptionist/office administrator* u li kienet tirrispondi t-telefon u tilqa' n-nies fil-bieb kienet taf min hu Brian Tonna, u li kien minn Nexia BT, iżda ma kienet tiftakar li ratu preżenti personalment fil-Bank Pilatus dak iż-żmien li għamlet taħdem hemm. Tiftakar pero li kien ikun hemm telefonati mingħand Nexia BT għax *Nexia BT was the most frequent caller*. Minn Nexia BT jidhrilha li Karl Cini kien inċempel, iżda mhux Michael Satariano.

ikun preżenti. Kienu jiltaqgħu ukoll l-uffiċju ta' Brian Tonna jew xi mkien ieħor.[63] Hi żiedet tgħid hekk : -

> So, one time when he came, to see Mr. Sadr, I put him into the conference room and I called for Mr. Sadr, I asked Mr. Brian Tonna what he would like to drink and he told me, I don't remember what, and when I came to the conference room next time, I was bringing the drink and they were discussing the transactions from Sahra to Egrant. Because they were discussing in a bit aggressive way, because I started to hear before I entered the conference room. That something was wrong, about the currency or something.

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[63] Skont l-informazzjoni maħżuna fil-*What's App account* ta' Maria Efimova, jirriżulta li hija kienet bagħtet żewġ messaġġi lil Ali Sadr biex tinfurmah li kien ser ikollu appuntament ma' Mr. Brian jew Brian Tonna. L-ewwel darba kien messaġġ ta' 22/01/2016 14:18:36 fejn qalet hekk : *Mr. Sadr, Jannette from Nexia called in order to confirm your appointment today at 4.30 with Mr. Brian.* It-tieni darba li bagħtet messaġġ lil Ali Sadr dwar laqgħa ma' Tonna kien nhar 04/03/2016 18:06:49 fejn kienet bagħtet messaġġ jaqra : *Dear Mr. Sadr, I have the following meetings for Monday, 7th of March, to be confirmed by you: 11:00am with Mr. Richard Ambery, Ganado Advocates 2:45pm with Mr. Brian Tonna, Nexia 5:00pm with Mr. Ivan Fsadni, interview.*

Mix-xiehda ta' Hamidreza Ghanbari jirriżulta li Nexia BT kienu *corporate service providers* u kienu jirreferu klijenti lil-Bank Pilatus. Brian Tonna u Karl Cini ma kellhomx kontijiet bankarji mal-Bank Pilatus f'isimhom personali għalkemm Brian Tonna kellu corporate account f'isem kumpanija *Willerby Trading Inc.* Karl Cini ma kellux kontijiet f'ismu għalkemm kien ukoll bħal Brian Tonna *corporate director* ta' diversi kumpaniji u għalhekk kienu awtorizzati jagħmlu transazzjonijiet bankarji. Ma Brian Tonna ġieli ltaqa u tkellem iżda Hamidreza Ghanbari jikkonferma li kien jagħmel kuntatti ma Karl Cini fuq negozju.

Arienne Gaerty tgħid li Brian Tonna dejjem kien ikollu attitudni professjonali ma kienx juri familjarita. Hi ratu xi tliet darbiet b'kollox kemm kienet ilha taħdem fil-Bank Pilatus.

Mix-xiehda ta' Kamila Anna Lis ma jirriżultax li, bejn Ġunju 2014 u Jannar 2015 Brian Tonna u Karl Cini kienu jkunu daqshekk ta' spiss fil-Bank Pilatus. Dan jaqbel ukoll ma dak li qalet Brenda Calleja Smith fir-rigward tal-perjodu bejn Jannar u Awissu 2014. Anzi Kamila Anna Lis tgħid li rari kienu jkunu hemm. Apparti minn hekk Kamila Anna Lis tixhed li l-attitudni ta' Brian Tonna fil-Bank Pilatus kienet tkun ta' *normal business meeting* u ma kienet tara xejn stramb fl-imġieba tiegħu.

Anke Domenique Camilleri tikkonferma li Brian Tonna kien wieħed mill-*corporate service providers* tal-Bank Pilatus, għalkemm minn Frar 2017 ma kienx irrefera ħafna klijenti. Biss taf ukoll li kien jidher għal klijenti tramite Nexia BT.

Tgħid li baqgħet tiftakar din il-konversazzjoni għax semgħet l-isem ta' *Sahra* u kemm il-kollegi tagħha kif ukoll is-*Senior Management* kienu l-ħin kollu jsemmu din il-kumpanija. It-transazzjonijiet ta' *Sahra* kellhom ikollhom *"first priority...I mean it was for immediate execution"*. Brian Tonna u Ali Sadr kienu qegħdin *actually shouting*.[64] Mistoqsija jekk kienetx tisma' ħafna għajjat fil-Bank, tgħid :

> Yes a lot of shouts, I heard because their code of behavior it was below normal. But usually they were shouting, like Louis Felipe Rivera was shouting most of all. And Mr. Sadr, usually was speaking very quiet. So it made me great impression that he was so in a much shaken behavior. And why I remember, because it was that happened in March. I don't remember if I was already there or not. But recently, from their meeting, maybe after a couple of days, I had the opportunity to see the declarations.

Għalkemm hi ma kellhiex iċ-ċavetta għal dan is-*safe*, dak iż-żmien kien hemm l-*FIAU*. Iċ-ċavetta kienet għand Claude-Ann Sant Fournier. Maria Efimova tgħid hekk –

> No, I didn't but at that time when FIU was there, she was running around bringing and collecting the files which FIU requested. And at that time, I don't remember Dentiza who had already fired her so she had only one employee, a new one but he was still, I don't remember but they took him at the end of February, so he didn't really knew the job. So she told me: "Look, safe is open, go bring me one file from the safe. Quickly." Because she was very busy. And I opened the safe, I found the file, but I was very curious to see what is in our files, why it is locked, so I opened another file and they were all declarations, and I saw, first one of Egrant...I saw two declarations, made from shareholders, I don't know because it was trans (sic! Trust) declaration

[64] Għalkemm Arienne Gaerty hija *Associate* fil-*Front Office*, hi tgħid li qatt ma semgħet xi argument jaħraq bejn Ali Sadr u Brian Tonna, għalkemm hemm ċerta distanza bejn l-uffiċju tagħha u l-*Boardroom* fejn kien ikun Ali Sadr.

always say about the share. So probably they were shareholders and I saw the names...."[65]

Claude-Ann Sant Fournier ma kienetx qegħda tfittex għal dawn il-*files*, u kienet riedet dokument ieħor. Dan l-episodju seħħ madwar jumejn wara li kien mar Brian Tonna għand Ali Sadr u kellhom l-argument jaħraq u għajjat.[66] Iżda żiedet hekk:-

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[65] Mix-xiehda ta' Diana Alexandra Ungureanu jirriżulta li f'Marzu 2016 mhux minnu li fil-*Legal and Compliance Department* kien hemm biss Claude-Ann Sant Fournier u Gabriele Stucchi biss. Dan peress li Ungureanu daħlet taħdem fil-bidu ta' Marzu 2016 u kienet adetta mal-*Legal and Compliance Department* bħala *trainee*, kif del resto qalet li kienet l-istess Efimova meta rreferiet għaliha nnifisha. Dan ifisser li Sant Fournier kellha lil Stucchi bħala Avukat u lil Ungureanu biex jgħinuha f'dak il-perjodu. Ungureanu tikkonferma li hi kienet diġa taħdem mal-Pilatus dak iż-żmien u kienet preżenti meta kien hemm l-ispezzjoni tal-*FIAU* f'Marzu 2016. Tiftakar li ma kienx hemm paniku fil-Bank, għalkemm tgħid li kienu ffukati fuq iż-żjara u kienu *all hands on deck* – Stucchi u Sant Fournier b'mod partikolari biex jaqdu lill-ispetturi. Hi wkoll kienet involuta u tgħid li ġieli kienet tara lil Efimova fil-*Legal and Compliance Department*, għalkemm ma kienetx tifhem għaliex kienet tkun hemm stante li kienet taħdem f'dipartiment ieħor.

[66] Skont Efimova, dan l-episodju meta semgħet l-għajjat bejn Ali Sadr u Brian Tonna seħħ meta kien hemm l-*FIAU*. Anke l-episodju meta bagħtitha ġġibilha file mis-*safe* kien waqt li kien hemm l-*FIAU*. Jekk dan l-episodju seħħ matul iż-żjara tal-*FIAU*, allura skont Maria Efimova dan ma setgħax isir qabel il-15 ta' Marzu 2016 – jum meta fih, skontha stess, kienu bdew l-ispezzjoni l-*FIAU*. Iżda mill-*What's App account* tagħha stess jirriżulta li hija kienet għamlet appuntament lil Brian Tonna għas-7 ta' Marzu 2016 wara nofsinhar. Madwar jumejn wara din id-data jiġi d-9 ta' Marzu – iżda f'dak il-każ l-*FIAU* kienu għadhom ma marrux fl-Uffiċju tal-Bank Pilatus, peress li dawn marru hemmhekk fil-15 ta' Marzu 2016. Jekk kif qed tgħid hi li d-*declarations of trust* rathom meta kien hemm l-ispezzjoni tal-*FIAU*, allura l-eqreb jumejn qabel ma bdiet dik l-ispezzjoni kien it-13 ta' Marzu 2016, li pero kien jaħbat f'jum il-Ħadd. Altrimenti jkun ifisser li dik il-laqgħa bejn Brian Tonna u Ali Sadr kienet saret waqt li kienet għaddejja l-ispezzjoni tal-*FIAU* – li hija inverosimili ħafna – tenut kont tal-kontenut tal-allegata konversazzjoni imqanqla bejn Brian Tonna u Ali Sadr li xehdet dwarha Maria Efimova. Kien ikun altament riskjuż li tali konversazzjoni ssir bl-ispetturi tal-*FIAU* preżenti fl-Uffiċji tal-Bank Pilatus waqt li kien hemm l-ispetturi jduru hemm..

Apparti minn hekk, irriżulta mill-provi wkoll li meta l-*MFSA* kienu bdew jagħmlu l-ispezzjoni mal-*FIAU* f'Settembru 2015, huma kienu talbu lil Bank Pilatus sabiex itihom lista tal-*PEP accounts*. Il-Bank Pilatus preżentalhom il-lista li sa dakinhar kienet tinkludi riferenza lejn *PEP* Maltin bħal Keith Schembri, kif ukoll John Dalli u dan minbarra *PEP* mill-Ażerbajġan bħall-aħwa Aliyeva u Heydarov. Dan ġibed l-attenzjoni tal-uffiċjali tal-*MFSA* li kienu infurmaw lill-*FIAU*. Imbagħad kienet l-*FIAU* li minn naħa tagħha kienet kompliet bl-ispezzjoni tagħha anke wara Settembru 2015 : tant li fil-15 ta' Marzu 2016 uffiċjali tal-*FIAU* kienu bdew spezzjoni oħra *in situ* fil-Bank Pilatus. Biss sa mill-ispezzjoni ta' Settembru 2015 jirriżulta li l-

Bank Pilatus, meta mitlub, kien forna lill-ispetturi tal-MFSA bil-lista tal-*PEP* li kellu u li kienet tinkludi kemm lil *PEP* Ażeri kif ukoll lil *PEP* Maltin – John Dalli u Keith Schembri. Il-Bank Pilatus għalhekk ma ħebhiex l-ismijiet ta' dawn il-*PEP* mill-ispetturi tal-MFSA – u kien grazzi għalhekk li d-Direttur tal-*FIAU* ta' dak iż-żmien Dr. Manfred Galdes kien ġie allertjat b'din is-sitwazzjoni u setgħa jagħmel l-ispezzjoni bin-nies tiegħu sitt xhur wara f'Marzu 2016. Jirriżulta wkoll li bejn Settembru 2015 u Marzu 2016 is-sitwazzjoni fir-rigward tad-dokumenti bankarji tal-Bank Pilatus baqgħet l-istess u ma rriżultax li kien hemm xi kambjamenti jew bdil jew tħassir fir-*records* bankarji tal-Bank Pilatus tant li meta f'Marzu 2016 saret l-ispezzjoni minn naħa tal-uffiċjali tal-*FIAU*, dawn reġgħu sabu s-sitwazzjoni tal-PEP li kienet hemm f'Settembru 2015.

F'dan l-isfond, huwa diffiċli li fl-istess żmien li kien (għadu) għaddej l-istħarriġ tal-*FIAU* fuq il-*PEP* fil-Bank Pilatus, Brian Tonna jippreżenta dawn id-*declarations of trust* ta' *Egrant Inc*, kif ukoll li jiġu proċessati jew ikunu għadhom maħżuna l-*bank account opening forms* ta' *Egrant Inc, Tillgate Inc* u *Hearnville Inc.* mingħajr ma dawn ma jiġu għall-attenzjoni tal-ispetturi tal-*FIAU* ukoll.

Minbarra l-ħaddiema barranin, bħal Maria Efimova u l-maġġoranza tal-impjegati tal-Bank Pilatus, kien hemm ftit ħaddiema Maltin li kienu jaħdmu ma' dan il-Bank, fosthom Antoniella Gauci u Claude-Ann Sant Fournier, li huma tnejn mill-ogħla uffiċjali fl-amministrazzjoni ta' dan il-Bank. Jekk forsi l-ħaddiema l-oħra setgħu ma jkunux daqshekk intiżi mix-xenarju politiku Malti, professjonisti ta' livell għoli bħal Antoniella Gauci u Claude-Ann Sant Fournier żgur li kienu sejrin ikunu jafu b'dan l-allegat involviment tal-familja Muscat fl-interessi ta' *Egrant Inc* u l-konsegwenzi li dan kollu jġib miegħu. Biss ħadd minnhom ma kkonferma li b'xi mod kien hemm dawn id-dokumenti allegati minn Efimova fil-Bank Pilatus. U l-anqas ma dawn id-dokumenti instabu hemm.

Apparti dan minbarra l-ħaddiema tal-Bank hemm ukoll diversi operaturi professjonali oħra Maltin li kienu involuti fil-pariri, kontabbilita u awditjar tal-istess Bank fosthom PWC, KPMG u Deloitte. B'xi mod jew ieħor, xi darba jew oħra, fil-qadi tad-doveri tagħhom dawn setgħa jkollhom aċċess għal informazzjoni dwar *Egrant Inc* u allegati transazzjonijiet bankarji tagħha jew li fihom setgħet kienet involuta. Iżda minbarra dawn hemm ukoll operaturi fuq livell regolatorju bħal dawk tal-MFSA li wkoll, xi darba jew oħra setgħa jkollhom aċċess għal ċerta informazzjoni sensittiva li setgħet tinvolvi wkoll lil PEP. U dan huwa fatt storikament pruvat in kwantu l-MFSA kienu talbu lil Bank Pilatus u ottjenew il-lista tal-PEP u li kien dak li xprun a lill-FIAU jagħmlu spezzjoni fuq il-post.

Ma ġiex pruvat li l-Bank Pilatus kien qiegħed jaħbi informazzjoni mill-awtoritajiet regolatorji. Anzi jekk xejn, wara li kien mitlub l-istess Bank fil-fatt provda lill-*MFSA* bil-lista tal-*PEP* Maltin u barranin – anke jekk din setgħet f'għajnejn uħud mill-uffiċjali tal-*MFSA* li kienu fuq il-post deheret li kienet sitwazzjoni kompromettenti jew almenu ta' ċerta gravita u serjeta in kwantu minn naħa tagħhom waqfu xogħolhom dak il-ħin stess u sejħu lid-Direttur tal- *FIAU* direttament sabiex jieħu l-kontroll tas-sitwazzjoni hu.

In definittiva, dan jekk dak li qalet Maria Efimova li d-*declarations of trust* u l-*bank account opening forms* ta' *Egrant Inc* verament kienu jinstabu fil-Bank Pilatus fiż-żmien ta' meta kienet diġa nbdiet l-analiżi tal-*FIAU* fuq il-*PEP* fil-Bank Pilatus, dan il-fatt kien fih innifsu estremament riskjuż kemm għall-Bank innifsu kif ukoll għal dawk il-persuni involuti.

Mill-analiżi ta' siltiet mill-*Panama Papers cache,* jirriżulta fir-rigward ta' *Tillage Inc* u *Hearnville Inc* kienu saru tentattivi minn Karl Cini biex jinfetħu kontijiet barra minn Malta (u mhux f'Malta) wara li fit-22 ta' Lulju 2015 dawn iż-żewġt kumpaniji kienu waqfu l-istrutturi ta' *trust* rispettivi fi New Zealand. Biss ma

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Maġistrat Inkwirenti : So how come that you took this document?

Maria Efimova : ..Which one? The declaration?...No, I didn't take it. I just saw it.

Dawn id-*declarations* kienu *f'folder*. Mistoqsija għaliex hija feħet dan il-*folder*, twieġeb li hi feħet dan il-*folder* għax dan kien l-ewwel *folder* li kien hemm (fhimt li kien fil-wiċċ) u għalhekk feħet lilu :

It was the first one, because obviously I didn't have much time. She told me be to bring the file immediately. So I just took out one of ....

Hi tgħid li dawn id-*declarations* kienu jgħidu li :

It was declaring that the shareholders holding the share in favour and I don't remember the wording, of Michelle Muscat.

Mistoqsija jekk kienetx taf min hi Michelle Muscat, tgħid li :

By that time I knew the surname Muscat, so I know that it was the Prime Minister. After I just put on google search and I found out who she was because it was also mentioning, her maiden name as well.[67]

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jirriżultax li Karl Cini pprova jinfetaħ kontijiet bankarji f'isem *Egrant Inc.* f'Dubai, fil-Panama jew xi mkien ieħor, tant li s-siltiet tal-*Panama Papers cache* li ġiet reża disponibbli lil din l-inkjesta, ma fiha ebda riferenza għal tentattiv ta' ftugħ ta' kont bankarju għal *Egrant Inc.* la f'Malta u l-anqas barra minn Malta. Irriżulta li l-unika persuna li tgħid li rat id-*declarations of trust* u l-*bank account opening forms* għal *Egrant Inc.* fil-Bank Pilatus kienet Maria Efimova. Ebda impjegat ieħor ma għamel dan, inkluż dawk it-tnejn li kienu dubbjużi ħafna dwar li setgħu raw xi ħaġa li setgħet kienet ta' *Tillgate Inc.*, għalkemm anke dwar din il-kumpanija mhux ċar jekk kienetx informazzjoni relatata mat-tiftix li l-Bank Pilatus beda jagħmel wara li ġew rivelati l-*Panama Papers*.

[67] Hawnhekk Maria Efimova jidher li tagħmel assoċjazzjoni tal-ideat tagħha bejn il-kunjom Muscat u l-mara tal-Prim Ministru Joseph Muscat – u mhux għax kienet taf li dik il-Michelle Muscat imsemmija f'dan l-allegat dokument kienet fil-fatt mart il-Prim Ministru. Tgħid ukoll li kien <u>wara</u> li allegatament rat dawn id-dokumenti li marret tagħmel il-*google search* fuq din Michelle Muscat. Dan juri wkoll li Maria Efimova għandha għarfien ta' kif jiġi użat l-internet sabiex issir *open source search* għal informazzjoni.

Maria Efimova **ma tiftakarx** jekk *Egrant Inc* kellhiex *account* mal-Bank Pilatus,[68] iżda tiftakar li kienet rat xi *"declarations"* għal din il-

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[68] Dan ukoll jikkontrasta ma dak li rrapurtat Daphne Caruana Galizia fl-artiklu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** tal-20 t'April 2017 fil-4:41pm. Fejn Caruana Galizia kienet kategorika li *Egrant Inc* kellha mal-Bank Pilatus. Mix-xiehda tal-Awdituri KPMG jirriżulta li Egrant Inc ma kellhiex kont mal-Bank Pilatus. Dan ġie konfermat mill-analiżi magħmula mill-*Forensic Accountants Harbinson Forensics* u *Miroslava Milenovic*, jirriżulta li *Egrant Inc* ma kellhiex kont bankarju mal-Bank Pilatus. Mir-risposta għall-ittri rogatorji magħmula fil-Panama jirriżulta li ma kien hemm ebda bank Panamense rispondenti li kellu relazzjoni bankarja ma' *Egrant Inc* jew li din kellha xi kont bankarju. Għalkemm saru talbiet b'ittri rogatorji lill-Emirati Għarab Magħquda sabiex tiġi ottjena informazzjoni mill-Banek operanti f'Dubai (li huwa numru li jaqbeż il-ħamsin bank). Iżda anke minħabba d-diffikultajiet riskontrati u imsemmija aktar il-fuq, sal-jum ta' meta sar dan il-*Proces Verbal*, dawn l-awtoritajiet naqsu milli jwieġbu din it-talba. Biss il-*Forensic Accountants Harbinson Forensics* ikkonfermaw ukoll li minn stħarriġ li għamlu huma ma *international intelligence banking contacts* tagħhom ma rriżultalhom li kien hemm kont bankarju miftuh f'isem *Egrant Inc* f'Dubai – ara paragrafu 327 tar-relazzjoni tagħhom.

Biss minbarra dan mix-xiehda ta' Hamidreza Ghanbari jirriżulta li hu qatt ma ra dokumenti li għandhom x'jaqsmu ma *Egrant Inc.* u li din il-kumpanija qatt ma użat is-servizzi tal-Bank Pilatus jew kienet involuta f'xi transazzjoni finanzjarja li tinvolvi lil dan il-Bank. Hamidreza Ghanbari qatt ma ra dawn id-*declarations of trust*. Dokumenti ta' din il-portata (*magnitude*) kieku kienu jkunu jafu bihom *senior management* u ħadd mis-*senior management* ma kien jaf bihom. Hamidreza Ghanbari ma kienx jaf jekk *Egrant Inc* qattx issottomettew xi *bank account opening form* mal-Bank Pilatus jew qatt saritx talba għal ftugħ ta' xi kont bankarju mal-Bank Pilatus.

Mehmet Tasli jgħid li minbarra li huwa qatt ma ra lil *Egrant Inc* bħala klijenta tal-Bank Pilatus, la bħala b'kont bankarju jew bħala benefiċjarja ta' xi servizz jew transazzjoni bankarja jtenni li huwa ċċekkja l-messaġġi SWIFT kollha mill-2014 sal-jum li fih xehed permezz ta' *"specific tool in TAS, you drop the name and then it is checking that particular string throughout all messages received and sent, and it is not mentioned anywhere"*. Huwa kien fittex din l-informazzjoni fuq talba ta' Ali Sadr u Antoniella Gauciu dan għaliex il-Bank Pilatus ma kienx għamel dawn it-transazzjonijiet u riedu juru li fil-fatt ma sarux.

Mix-xiehda ta' Brenda Calleja Smith jirriżulta li sa' Awissu 2014 *Egrant Inc* ma kienetx klijenta tal-Bank Pilatus u li hija qatt ma kienet rat xi transazzjonijiet għal din il-kumpanija. Denica Cebova, li kellha aċċess għal dan is-*safe* li kien jikkontjeni dan it-tip ta' dokumenti u li rat il-*hard copies* tagħhom kollha minħabba x-xogħol li ġiet mitluba tagħmel, tgħid li sakemm damet taħdem hi mal-Bank, jiġifieri sa' Frar 2016, hi qatt ma rat dokumenti f'isem *Egrant Inc.* jew Michelle Muscat. Arienne Gaerty tikkonferma wkoll li minn dak li setgħet rat hi fil-Bank Pilatus, la Michelle Muscat u l-anqas Joseph Muscat ma kellhom kontijiet mal-Bank Pilatus – la miftuħin u l-anqas magħluqin, la personali u l-anqas *corporate accounts*. L-anqas ma rat xi *declaration of trust* f'isem *Egrant Inc.* jew xi *account opening form* f'isem *Egrant Inc.* L-istess tgħid Domenique Camilleri. Arienne Gaerty żżid li f'idejha qatt ma waslu ittri jew *emails* bi struzzjonijiet biex jinferaħ kont fil-Bank Pilatus.

kumpanija..."*They were in the safe and I saw two declarations, for this Company. Trans (sic! Trust) declarations.*" Mistoqsija dwar jekk dawn id-*declarations* kienux iffirmati qalet li kienu ffirmati mid-direttur tal-kumpanija, it-*trustees*:[69]

Diana Alexandra Ungureanu, li kienet taħdem *intern* fil-*Compliance Department* bejn Marzu u Ottubru 2016 – u allura wara li telqu Emilia Maria Vacaru u Deniza Cebova, mistoqsija dwar *Egrant Inc.* tipotizza li *There might have also been one of these files that we moved from the safe to the cupboards called Egrant....well, the Tillgate one is a bit iffy in my memory. However regarding Egrant I definitely do not recall seeing any document. If anything I would remember seeing the file but not the document.* Biss din ix-xhud meta mistoqsija speċifikament minni jekk qattx rat id-*declarations of trust* imsemmija fl-artiklu tgħid li hija qatt ma rat dak it-tip ta' dokumenti għax dawn kienu jkunu *far beyond my authority*. Anzi ppressata tgħid jekk qattx ġarret dawn id-dokumenti jew qattx għamlet xi fotokopji tagħhom jew rathom matul ix-xogħol tagħha tgħid :

> The Witness : No. I do not remember that particular document at any point. I mean there is no doubt.
>
> The Court : Or perhaps have you ever seen any document portraying or showing Mrs Michelle Muscat as being tied to any particular company?
>
> The Witness : UBO? Shareholder? Anything of the sort?
>
> The Court : Exactly, anything of this sort.
>
> The Witness : No.

Mistoqsija speċifikament jekk qattx rat il-*bank account opening forms* ta' *Egrant Inc,* Ungureanu tgħid li kien diffiċli li tiftakar speċifikament dwar dan id-dokument għax hi kienet taħdem f'dan il-Bank Pilatus qabel ma faqqgħu l-istejjer fuq il-*Panama Papers* u għalhekk l-ismijiet għaliha kienu kollha xorta. Iżda hija wieġbet li *no, I say no because I do not recall.*

[69] Emilia Maria Vacaru li kienet taħdem speċifikament fuq il-ftugħ ta' kontijiet tal-Bank, tgħid li ma tiftakarx li qatt rat dawn id-*declarations of trust* relattivi għal *Egrant Inc.* L-anqas ma rat dawn l-*account opening forms* għal *Egrant Inc.* Fil-fatt dil-kumpanija *Egrant Inc* ma kienetx iddoqqilha bħala li kienet xi kumpanija li kienet semgħet biha. Ma kienetx kumpanija li kienet iltaqgħet magħha fuq xogħolha jew li kienet tieħu ħsieb tagħmlilha transazzjonijiet. Hi setgħet tiftakar ċerti ismijiet ta' kumpaniji li kienet tieħu ħsieb it-transazzjonijiet ta' kuljum tagħhom iżda *Egrant Inc* ma kienetx waħda minn dawn il-kumpaniji li setgħet tiftakar isimhom. Iżżid tgħid li ma tiftakarx li *Egrant Inc* kienet klijenta tal-Pilatus Bank jew jekk kellhiex kont bankarju jew kienetx *beneficiary* jew *remitter* ta' flejjes mill- jew fil-Pilatus Bank. L-isem ta' din il-kumpanija ma kienx familjari għaliha u ma kienetx tiftakar dak l-isem. Ma setgħetx tgħid jekk infetaħx xi kont wara li telqet hi mill-Bank. Mistoqsija jekk kienetx taf bil-kumpanija *Egrant Inc* bħala klijenta tal-Bank Pilatus, Denica Cebova tgħid li "*no*". Għalkemm kellha aċċess għas-*safe* li tgħid li kien fil-kċina sa' meta telqet fi Frar 2016 ma kien hemm ebda dokument dwar *Egrant Inc* jew Michelle Muscat. Jekk dawn ix-xiehda għandhom mis-sewwa, allura dan ikun ifisser li d-dokumenti li qalet li rat Maria Efimova kienu ġew introdotti wara li dawn iż-żewġt impjegati telqu mill-Bank Pilatus fi Frar 2016. Biss kif intqal aktar il-

> Name of the Director I don't remember but the trustees they were, the subscribers I don't remember the names exactly. But they were subscribers. Because it was like in the Spanish word, for subscribers. "Suscritor." I remember this because it was written in Spanish. The declaration was written in English and this was in Spanish.[70]

Dawn id-dikjarazzjonijiet kienu stampati, printed fuq *plain sheet of paper*, mingħajr ebda *letterheads*. Kien hemm biss *text*.[71]

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fuq dan iħalli spazju ta' żmien limitat ħafna f'Marzu 2016 – u ċjoe meta l-FIAU kienu għadhom qegħdin jagħmlu l-ispezzjoni tagħhom – fatt li jimmilita kontra l-introduzzjoni ta' dawn id-dokumenti minn Brian Tonna fil-Bank Pilatus fi żmien tant sensittiv.

[70] Din l-espressjoni "(*suscriptor*)" tidher fuq il-kopja tad-*declarations of trust* sottomessi minn Pierre Portelli, għalkemm ma jidhrux miktuba fuq it-traskrizzjoni tad-*declarations of trust* li kienu ġew pubblikati minn Daphne Caruana Galizia fl-artiklu tagħha intitolat ***This is the text of the two declarations of trust which were in the kitchen-safe at Pilatus Bank*** nhar il-21 t'April 2017 fl-10:02pm. Għalkemm Daphne Caruana Galizia tixhed li hija kienet għamlet traskrizzjoni preċiża, ossija eżatta ta' dak li kien miktub, din l-espressjoni Spanjola jidher li għal xi raġuni ġiet imħollija barra minn Daphne Caruana Galizia fl-allegata traskrizzjoni li hija għamlet ta' dawn id-*declarations of trust* u minkejja li Daphne Caruana Galizia tikkonferma li l-informazzjoni li hija ppublikat kienet ġejja mingħand Maria Efimova.

Inoltre fir-raba' xiehda ta' Maria Efimova, meta ġiet mistoqsija speċifikament jekk Daphne Caruana Galizia kienetx urietha *declarations of trust,* wara li kien ġie suġġerit lilha li kienu iffirmati minn Jaqueline Alexander, Maria Efimova issa tgħid li ftakret l-isem tad-Direttur u żżid li : "*Yes, I remember that below the signature was the name Jacqueline Alexander and I recognised that name because I know about Panama Papers. She was very common signatory for many companies.*" Iżżid tgħid pero li ma kienetx ċerta jekk Alexander kienetx iffirmat fil-kapaċita ta' direttur. Irriżulta mill-kopja tad-*declarations of trust* depożitati fl-atti tal-inkjesta minn Pierre Portelli li l-firma li kienet tinstab fuq dawk id-dokumenti kienet ta' Jaqueline Alexander fil-kwalita tagħha ta' Direttur tal-Kumpanija *Dubro Limited S.A.* u *Aliator S.A.* Biss irriżulta wkoll mix-xiehda tar-rappreżentant tar-Reġistru Pubbliku tal-Panama, l-Avukat Soshi Santos u mid-dokumenti eżibiti minnha li Jaqueline Alexander ma kienetx tidher reġistrata bħala direttur ta' *Aliator S.A.* fiż-żmien li suppost ġew allegatament iffirmati minnha dawn id-*declarations of trust;* kienet reġistrata bħala direttur ta' *Dubro Limited S.A.* biss.

[71] Dan li qalet li kienu mingħajr letterhead jikkontrasta dak li kien ġie pubblikat minn Caruana Galizia fl-artiklu intitolat ***This is the text of the two declarations of trust which were in the kitchen-safe at Pilatus Bank*** nhar il-21 t'April 2017 fl-10:02pm, (li Caruana Galizia tgħid li rathom mingħand Maria Efimova), kif jikkuntrasta mal-kopji tad-*declarations of trust* li ddepożita Pierre Portelli fl-atti tal-inkjesta. Jirriżulta li l-kopji tad-*declarations of trust* depożitati minn Pierre Portelli kienu jaqblu f'kollox ma dak li semmiet Maria Efimova, inkluż il-kelma (*suscriptor*) iżda kienu magħmula fuq *letter head* stampata tal-kumpaniji *Dubro Limited S.A.* u *Aliator S.A.* rispettivament.

Mistoqsija x'rat aktar minn dawk id-dokumenti hi wieġbet *"Nothing else"* għax ma kellhiex ħafna ħin biex toqgħod tqalleb. Mistosija jekk kienx hemm dokumenti oħrajn li kellhom x'jaqsmu mal-*Egrant Inc,* Maria Efimova tgħid li ma kienetx taf. Wara pero, meta ġie suġġerit lilha jekk fost il-*bank account opening forms* kienetx rat ukoll dawk tal-*Egrant Inc,* hija wieġbet li *"Yes, I saw this form, but I do not know if it was opened or just they were preparing to open"*. Ma ratx jekk kienx hemm l-isem tal-*UBO* fuq il-*bank account opening form* tal-*Egrant Inc.*[72] Mistoqsija x'għamlet bihom dawn id-*declarations of trust* li rat hi wieġbet *"nothing...I just opened the file, close it"*.

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[72] Skont dak li xehed Hamidreza Ghanbari id-dettalji li jidentifikaw min huwa l-*UBO* tal-kont bankarju jkunu jinsabu fl-ewwel parti tal-*bank account opening form*. Filwaqt li Maria Efimova tiftakar min kienet l-*UBO* ta' *Sahra FZCO* għax kienet ratha mill-*bank account opening form* tagħha – mentri fil-fatt il-*KYC form* (*know your customer form*) kienet turi l-*UBO* ma kienetx biss Leyla Aliyeva iżda wkoll oħtha Arzu Aliyeva - Efimova tgħid li ma kienetx rat jekk kienx hemm l-isem tal-*UBO* fil-każ tal-*Egrant Inc.* Emilia Maria Vacaru kienet tagħmel u timla l-*KYC* u tagħmel *review* tad-dokumenti tal-klijenti u kienet tibgħathom lill-*Legal Department,* ma ssemmi li rat xejn minn dak mistqarr minn Efimova. Imbagħad kienet tgħaddihom lil Claude-Ann Sant Fournier li kienet tagħmel l-analiżi tad-dettalji u kien wara li tkun rathom Claude-Ann Sant Fournier li dawn id-dokumenti jiġu pproċessati. Ġieli talbet ukoll dettalji oħra f'liema każ kienu jerġgħu iduru fuq il-klijent biex itihom l-informazzjoni li jkunu jeħtieġu. *"I know they were very meticulous with documents and have everything in order to open a bank account"*. Biss Emilia Maria Vacaru tikkonferma li sakemm damet taħdem hi sa Frar 2016 ma kienetx tiftakar li rat dawn id-dokumenti relattivi għall-*Egrant Inc.* kif ukoll li qatt ma rat dokumenti li jġibu l-isem ta' Joseph Muscat jew Michelle Muscat.

Hamidreza Ghanbari jgħid li *Egrant Inc* qatt ma kellha kontijiet mal-Bank Pilatus u li sa fejn jaf hu qatt ma kien hemm tentattiv biex jinfetah kont bankarju. Kwistjoni ta' din il-portata (*magnitude*) kienet tkun fl-għarfien tas-*senior management* u kkonferma li ħadd mis-*senior management* tal-Bank Pilatus ma kien qatt ra dawn id-dokumenti. Biss Hamidreza Ghanbari jżid li fil-każ ta' ftugħ ta' kont bankarju għal kumpanija il-Bank Pilatus kien jara mix-*share certificates* jekk il-kumpanija għandhiex struttura *nominee* f'liema każ ikunu jeħtieġu *trust declaration*. Ix-xenarju prospettat minn Maria Efimova għalhekk ma dak li skont Hamidreza Ghanbari huwa meħtieġ sabiex kumpanija bi struttura *nominee* tkun tista' tiftaħ kont bankarju mal-Bank Pilatus. Biss l-identifikazzjoni tal-*UBO* ssir permezz ta' kopja ta' ritratt tal-passaport, kopja tal-passaport, kont ta' xi servizz mhux eqdem minn tliet xhur. Maria Efimova ma ssemmi xejn dwar jekk kienx hemm

Mistoqsija jekk kienetx ħadet ritratt jew *scan* ta' kopja tad-*declarations of trust* hija wieġbet fin-negattiv. Tgħid hekk : -

Court: Did you take a picture or a scan copy of this declaration of trust?

Wit: No.

Court: So you don't have a copy that you can show me?

Wit: Me? No.

Court: No. Not even of the opening of account forms?

Wit: No.

Court: No, you don't have that. Ok. now, apart from this declaration of trust and

Ins: Have you perhaps not kept a copy but uploaded them somewhere?

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tali dokumenti jakkumpanjaw id-*declarations of trust* li qalet li rat fil-*folder* jew fejn kienu jinstabu dawn il-*bank account opening forms*.

Pero aktar minn hekk fir-raba' xiehda tagħha, Maria Efimova żiedet mal-verżjoni li kienet tat preċedentement u qalet li kienet rat mhux biss il-*bank account opening form* ta' *Egrant Inc*, iżda wkoll dawk ta' *Tillgate Inc* u ta' *Hearnville Inc*. :-

Court: Ok, so here it also says that Egrant, Tillgate and Hearnville, all had accounts with Pilatus Bank. Is that true?
Witness: I saw account opening forms at least.
Court: Account opening forms?
Witness: Yes.
Court: For the three of them?
Witness: Yes.
Court: But you don't know if they have opened an account?
Witness: No I don't know. Because usually it was when account it was opened it was a number on the first page like written with a pencil which account it is the CIF, the last six digit of the account.
Court: And what was the procedure for the opening of accounts at Pilatus back then?
Witness: Usually, Ali Sadr I said it was Nexia BT who was introducing the clients and they were sending account opening forms already filled and questioner in regarding for QIC (sic! KYC) and documents so like passport copies or if it was company corporate documents. Yes and it was my responsibility or the person who was working before me in customer to fill the QIC (sic! KYC)form. And then we gave everything to compliance so they would approve and operation department will open an account.
Court: And when did you see these bank account opening forms, when was it in March, in February, in January?
Witness: I think it was in March because it was a question about one account opening pending, so I was reviewing documents which in this like, painting batch. So I saw those forms Ali Sadr well between the other ones

Wit: Hard copies. I mean how could I upload them?

Ins: You can scan a copy and put it on the

Wit: But after the safe was closed. I mean she closed it after.

Court: Or else you could have a mobile and you take a picture. And you upload it to Whatsapp.

Wit: But I didn't do it.

Court: You didn't do that.

Wit: No.[73]

Aktar tard mistoqsija mill-Maġistrat Inkwirenti: -

Court: But, did you ever see any transactions, any statements relating to payments made by Sahra to Egrant?

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[73] Hawnhekk Maria Efimova tixhed bil-maqlub ta' dak li kienet xehdet Daphne Caruana Galizia. Daphne Caruana Galizia tikteb li dawn id-*declarations of trust* kienu ġew *scanned* u *uploaded* fil-*cloud* biex il-Bank Pilatus ma jkunx jista' jeqridhom u li l-persuna li kienet għamlet dan kienet Maria Efimova u l-*cloud account* kien dak ta' Maria Efimova. Caruana Galizia tixhed li hija ġiet murija dawn id-dokumenti mingħand Maria Efimova u mhux li Maria Efimova tagħthomlha jew li kienet Caruana Galizia li wrietha dawn id-dokumenti meta ltaqgħet magħha.

Aktar minn hekk, fit-tieni u t-tielet xiehda ta' Pierre Portelli jirriżulta li Maria Efimova lilu kienet qaltlu li kienet għamlet *scan* ta' dawn id-dokumenti. Pierre Portelli jixhed ukoll li mument minnhom kienet intlaħqet ukoll intiża ma' Maria Efimova li kellha tgħaddilu kopja ta' dawn id-dokumenti billi jiltaqgħa magħha viċin ta' Paceville fejn l-uffiċju tagħha biex tkun tista' tidħol bil-*VPN* fl-*iCloud* u ttih kopja tagħhom. Skont Pierre Portelli din ma seħħitx għax kelmu r-raġel ta' Maria Efimova u qallu li ma riedetx tagħmel dan. Jekk Daphne Caruana Galizia u Pierre Portelli qegħdin jgħidu s-sewwa allura dan ikun ifisser li Maria Efimova kellha almenu aċċess għal dawn id-dokumenti u meta xehdet fl-inkjesta ma qalitx il-verita'. Pierre Portelli jgħid li sa qabel l-elezzjoni ġenerali huwa ma kellux kopja ta' dawn id-dokumenti, għalkemm kienu urewhomlu fuq *Ipad*.

Pierre Portelli jixhed li kemm Daphne Caruana Galizia kif ukoll Maria Efimova lilu kienu qalulu li dawn id-dokumenti kienu ġew murija lill-Maġistrat Inkwirenti meta kienu xehdu. Iżda dan mhux minnu għax la Daphne Caruana Galizia u l-anqas Maria Efimova ma qatt urew lil Maġistrat Inkwirenti dawn id-dokumenti matul ix-xiehda tagħhom. Anzi Daphne Caruana Galizia qalet li dawn id-dokumenti uriethomlha Maria Efimova filwaqt li Maria Efimova qalet li hija qatt ma ħadet kopja tagħhom u li kienet Daphne Caruana Galizia li wriethomlha matul l-ewwel laqgħa li kellhom flimkien.

Wit: No, about Egrant I only remember this conversation that they (I) heard (had?).[74] But do you mean statements from accounts?

Court: Statement of account. Do you know for example if like Tillgate, whether Egrant has also a loan, from Sahra?

Wit: I don't remember.

Court: You don't remember that. Ok. Do you know or remember perhaps if there were issues, there were problems with the US corresponding banks in the relation to payments that were made by Sahra to Tillgate?

Wit: I don't remember if it was to Tillgate. I remember that it was issued one evening, everybody again was shouting, the Bank has stopped the payment, that was big one from Sahra, one million something and Mr. Sadr was calling me, he wanted me to connect him with Mr. Hedreza, then with Mehmet who was in operational department. It was, yes, like, they were trying to solve this problem and release the payment but as far as I know, it was released but to whom it was, I don't remember. I mean the beneficiary.

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[74] Hawnhekk f'din l-ewwel xiehda, Maria Efimova tgħid ċar li hija ma ratx transazzjonijiet bejn *Egrant Inc* u *Sahra FZCO*. Iżda fir-raba xiehda tagħha, mistoqsija jekk kienetx rat ukoll il-pagamenti bejn *Sahra FZCO* u *Egrant Inc* Maria Efimova twieġeb li hija kienet rat il-*payment instructions* iżda ma kienetx ħadet kopja ta' dawn id-dokumenti għax ma kellha ebda kopja tat-transazzjonijiet tal-Bank. Minkejja għalhekk li fir-raba xiehda tagħha tibdel il-verżjoni u tgħid li rat ukoll transazzjonijiet bejn *Sahra FZCO* u *Egrant Inc.* Maria Efimova ma tikkonfermax dak li qalet Daphne Caruana Galizia fir-rigward tas-sustanza tal-artikolu pubblikat minnha ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** tal-20 t'April 2017 fil-4:41pm. Tgħid biss hekk – *"no by that time I wasn't paying attention on Egrant in particular. I saw transacting with Sahra but Sahra was transacting with other companies as well. So the surname caught my attention not the company"*.

Mir-records bankarji fil-*Flexcube* tal-Pilatus Bank ma jirriżultax li qatt saru dawk il-pagamenti minn *Sahra FZCO* lil *Egrant Inc* kif allegat minn Daphne Caruana Galizia. Anke Hamidreza Ghanbari jikkonferma li ma kien hemm ebda transazzjoni bejn *Sahra FZCO* u *Egrant Inc* għax hu jgħid li din it-transazzjoni ma kienetx teżisti. Arienne Gaerty wkoll tgħid li hi qatt ma rat it-transazzjonijiet finanzjarji bejn *Al Sahra FZCO* jew *Sahra FZCO* u *Egrant Inc* kif allegat minn Daphne Caruana Galizia.

Minbarra dan pero, fir-raba' xiehda tagħha, Maria Efimova għall-mistoqsija magħmula fir-rigward ta' jekk kienetx qatt semgħet xi konversazzjonijiet bejn kollegi tagħha dwar transazzjonijiet speċifiċi bejn *Sahra FZCO* u *Egrant Inc*, Maria Efimova tgħid li *"Yes I heard sometimes, by the time I wasn't yet responsible for transaction payment and it was Maria Vacaru who was processing them I could hear her speaking on the phone and mentioning those companies to Mehmet Tasli who was working in operations. So yes I can recall someone mentioning those companies names in relation with the payments...Sahra and Egrant yes"*. Hawnhekk jidher li Maria Efimova żiedet dawn id-dettalji mill-verżjoni li kienet tat xahar u nofs qabel. Maria Emilia Vacaru ma tikkonferma xejn minn dan li qalet Efimova dwar dawn it-transazzjonijiet.

Court: The beneficiary?

Wit: Yes.

Court: And you remember when this happened, when was this? Was it in January, in February, March,

Wit: It was in March.

Court: It was in March.

Wit: Yes.

Court: And you remember, I mean how long it took for this issue to settle?

Wit: The same day.

Court: On the same day?

Wit: Yes.

Court: So it wasn't really, it didn't take long then?

Wit: No, no. I remember it was for an hour. These calls and everybody running, but then it was solved.[75]

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[75] Din tidher li tirrifletti l-episodju msemmi minn Daphne Caruana Galizia fl-artiklu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** tal-20 t'April 2017 fil-4:41pm. A differenza ta' dak miktub minn Daphne Caruana Galizia, fl-ewwel xiehda tagħha Maria Efimova bl-ebda mod ma torbot dan il-pagament mal-allegat pagament li skont Daphne Caruana Galizia sar minn *Al Sahra FZCO* lil *Egrant Inc.* Anzi fl-ewwel xiehda tagħha Maria Efimova tgħid li hija ma kienetx tiftakar min kien il-benefiċjarju u ma kienetx taf jekk kienetx *Tillgate Inc.* Mill-banda l-oħra fir-raba' xiehda ta Maria Efimova, meta ġiet mistoqsija fil-kuntest ta' dak li kienet qalet bħala li kien allegat trasferiment ta' flus bejn *Sahra FZCO* u *Egrant Inc,* reġgħet ġiet mistoqsija:

> Court : Now, how did you come to know that there was a problem with the US correspondent banks in order for this transaction to get through? How did you know about this?
>
> Witness: Yes I heard a conversation, it was Mr. Sadr was calling me asking him to connect I think with Mehmet or with Hamidreza Ghanbari regarding this transaction, he was calling like multiple times.
>
> Court: Mr. Sadr?
>
> Witness: Mr. Sadr yes.
>
> Court: And he was not present therefore in Malta?
>
> Witness: No I think he was calling from US or from Turkey but he wasn't in Malta at that time. Yes and because the bank premises are not very big I would hear like shoutings from the operational department that it was a problem with correspondent bank. I cannot say that they mentioned particular bank or they say US correspondent bank, they just mentioned correspondent bank. I know the bank had one in US but maybe they had other, I don't remember. Yes, so the conversation was about this payment, it was a problem and it was quite like afternoon, I mean it was not in the morning, it was around, I don't know 5:00, 6:00, not 6:00 but 5:00.

Jiġifieri fl-ewwel xiehda tagħha, Maria Efimova ma tgħidx li kien hemm transazzjonijiet bejn *Sahra FZCO* u *Egrant Inc.* Anżi fir-rigward t'*Egrant Inc* mistoqsija jekk kienetx rat transazzjonijiet jew statements dwar pagamenti magħmula minn *Sahra* lil *Egrant*, Efimova twieġeb li le għax dwar *Egrant* kienet tiftakar biss il-

Mill-banda l-oħra Maria Efimova tgħid li hija kienet rat il-*bank account opening form* ta' *Sahra FZCO* u rat li Leyla Aliyeva kienet il-*UBO* u li kienet waħedha.[76]

konversazzjoni li qalet li semgħet bejn Brian Tonna u Ali Sadr. Anzi tgħid aktar il-quddiem li t-transazzjonijiet li rat minn *Sahra FZCO* kienu saru ma *Tillgate Inc* fil-kont li qalet li *Tillgate Inc* kellha f'Dubai u t-transazzjonijiet kienu saru f'valura Sterlina u kienu saru wara li kien sar self minn *Sahra FZCO* lil *Tillgate Inc*. Ma kienetx ċara dwar jekk il-problemi mal-*US Correspondence Bank* kienx dovut għal din l-allegata transazzjoni bejn *Sahra FZCO* u *Tillgate Inc*. Kemm mix-xhieda tal-Awdituri KPMG kif ukoll mir-relazzjoni tal-*Forensic Accountants* dawn it-transazzjonijiet diretti mill-Bank Pilatus bejn *Sahra FZCO* u *Tillgate Inc* ma rriżultawx.

Mentri fir-raba' xiehda tagħha Maria Efimova tgħid li kienet rat *payment instructions* bejn *Sahra FZCO* u *Egrant Inc*. Anzi żżid li l-allegati problemi mal-*US Correspondence Bank* kienu fil-kuntest ta' din it-transazzjoni li semmiet bejn *Sahra FZCO* u *Egrant Inc*. Fir-raba' xiehda tagħha żżid ukoll li hija ġiet konxja li l-problemi fil-pagament kienu relattivi għal din it-transazzjoni bejn *Sahra FZCO* u *Egrant Inc* mhux minn konversazzjoni li kien hemm bejn Ali Sadr u Hamidreza Ghanbari għax il-konversazzjoni telefonika kienet bl-Ingliż u mhux bil-Farsi – l-lingwa li kienu jitkellmu biha normalment Ali Sadr u Hamidreza Ghanbari bejniethom; u għalhekk il-konversazzjoni kienet bejn Ali Sadr u Mehmet Tasli. Arienne Gaerty tikkonferma li l-problemi mal-*US Correspondence Banks* kienet teżisti mhux biss għall-Bank Pilatus iżda għal dawk il-Banek Maltin kollha li kienu jipproċessaw pagamenti f'Dollari Amerikani. Ekmel Gilingir jgħid li ma kienx faċli għall-Bank Pilatus sabiex jimexxielu jistabbilixxi *Correspondent Bank relationships*; u tant hu veru li għall-bidu l-anqas il-Bank li hu stess kien għamel snin twal jaħdem miegħu u ċjoe il-*BNP Paribas Fortis* ma kienu laqgħu l-applikazzjoni biex joqgħodu *Correspondent Bank* u dan għax il-Bank Pilatus kien għadu fl-infanzja tiegħu u dawn il-Banek stabbiliti ma riedux jieħdu riskji ta' negozju u ta' *Compliance*. Biss wara mexxielhom jistabbilixxu *Correspondent Bank relationships* ma *Societe Generale, WGZ Bank, Ziraat Bank, DNB Bank* u kif ukoll il-*Bank of Valletta* – li miegħu diġa kellhom kont bankarju miftuħ. Diana Alexandra Ungureanu tgħid li kull tant żmien kien ikun hemm ftit kommozzjoni minħabba li ma jkunx għadda xi pagament miljunarju iżda ma setgħetx tgħid bi preċiżjoni għall-liema transazzjoni.

[76] Mid-dokumenti bankarji tal-Bank Pilatus li ġew elevati fil-kors ta' din l-inkjesta, inkluż dawk imsemmija minn Efimova, inkluż il-*KYC* (*know your customer*) *forms* għal *Sahra FZCO* u r-relazzjonijiet tal-*Forensic Accountants* jirriżulta li l-*UBO* ta' *Sahra FZCO* huma Leyla Aliyeva flimkien m'oħtha Arzu Aliyeva u mhux kif qalet Maria Efimova li Leyla Aliyeva waħedha hija l-*UBO* ta' *Sahra FZCO*. Dan iqiegħed f'dubju kemm verament Efimova kienet rat dawn id-dokumenti relattivi għal *Sahra FZCO*, kif qalet hi. Dan il-fatt huwa konfermat ukoll mix-xiehda ta' Hamidreza Ghanbari li Arzu Aliyeva hija sħab m'oħtha Leyla Aliyeva nofs b'nofs. Kienu għalhekk it-tnejn li huma *UBO* ta' *Sahra FZCO*. Dan il-fatt huwa wkoll konfermat mix-xiehda ta' Claude-Ann Sant Fournier. Arienne Gaerty wkoll tgħid li Farnoush Farsiar kienet firmatarja ta' *Sahra FZCO* għax ġieli rċeviet *payment instructions* mingħandha għal *Sahra FZCO*. Tikkonferma wkoll li ġieli tiffirma flimkien ma' Robert Baker, għalkemm ma kienetx taf jekk kienx għal *Sahra FZCO* ukoll.

Mistoqsija jekk kienx hemm kumpanija jisimha *"Al Sahra"* tgħid li kien hemm kumpanija *"Shams Al Sahra"* li sakemm kienet taħdem hemm kienet *pending account opening company.*[77] Hamidreza Ghanbari kien jistaqsiha diversi drabi jekk hux kollox sew u meta ser jinfetah il-kont. Din kienet kumpanija minn Dubai u kienu jċemplu spiss biex jistaqsu jekk il-kont kienx ġie miftuh. Kienet tistaqsi lil Claude-Ann Sant Fournier u din kienet tweġibha li kienet qegħda taqra d-dokumenti. Sakemm telqet il-kont kien għadu ma nfetaħx jew jista' jkun li fetħuh. Qalet ukoll li rat kont ta' *Sahra* u mhux ta' *Al Sahra.* Ma kienet rat xejn f'isem *Al Sahra.*[78]

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[77] Din l-informazzjoni mogħtija minn Maria Efimova tirriżulta li taqbel mal-lista tal-klijenti tal-Bank kif ukoll mal-*Flexcube.* Hu stramb għalhekk kif Daphne Caruana Galizia, li tgħid li l-informazzjoni li ppublikat fl-artikli tagħha ġabitha mingħand Maria Efimova tirreferi għall-kumpanija ta' Leyla Aliyeva bħala *Al Sahra* u mhux *Sahra.* Aġħar minn hekk jirriżulta mix-xiehda ta' Caruana Galizia li meta hija wriet id-dubju tagħha lil Maria Efimova dwar l-isem Al Sahra li ma setgħet issibu mkien, skont Caruana Galizia, kienet Efimova stess li kkonfermatilha li l-isem tal-kumpanija li kienet involuta (fit-transazzjonijiet mal-*Egrant Inc*) kien jisimha *Al Sahra*!

Biss mid-dokumentazzjoni tal-*Oracle Flexcube* jirriżulta fil-fatt li n-numru sekwenzjali tal-klijent ta' *Shams Al Sahra FZCO* huwa **101731**, mentri dak ta' *Sahra FZCO* huwa ***101150***. Il-kont ta' *Sahra FZCO* infetaħ fl-24 t'Awissu 2015 qabel dak ta' *Shams Al Sahra FZCO* li nfetaħ nhar it-22 t'April 2016. Il-*Forensic Accountants Harbinson Forensics* jirrimarkaw ukoll l-istramberija tal-koinċidenza bejn in-numru tal-kont ta' *Shams Al Sahra FZCO* **101731** mal-figura imsemmija minn Caruana Galizia fl-artiklu tagħha ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** tal-20 t'April 2017 fil-4:41pm. Biss *Shams Al Sahra FZCO* mhix il-kumpanija li l-*UBO* tagħha huma l-aħwa Aliyeva, iżda hija rikonduċibbli għall-aħwa Heydarov.

[78] Daphne Caruana Galizia tirreferi kontinwament u unikament għall-kumpanija *Al Sahra* bħala dak l-isem tal-kumpanija li kien ġie mogħti lilha minn Maria Efimova bħala dik il-kumpanija li kienet tappartjeni għal Leyla Aliyeva u li kienet għamlet pagamenti miljunarji lil *Egrant Inc* fl-allegat kont tagħha f'Dubai. Anzi skont l-ewwel xiehda tagħha Daphne Caruana Galizia tgħid li Maria Efimova kienet fil-pussess ta' żewġ *declarations of trust* kif ukoll żewġ *bank account opening forms* u *"the other bank account opening form l-oħra ta' Al Sahra FZCO"*.

Hamidreza Ghanbari minn naħa l-oħra jikkonferma li l-Bank Pilatus m'għandux klijent bl-isem *Al Sahra FZCO,* għalkemm jikkonferma kemm lil *Sahra FZCO* (fejn ulied il-President tal-Ażerbajġan – Arzu u Leyla Aliyeva għandhom l-ismha fiha nofs b'nofs) kif ukoll lil *Shams Al Sahra FZCO* (fejn l-aħwa Nijat u Tale

Heidarov huma sħab nofs b'nofs ta' din il-kumpanija u dawn huma wlied il-*Minister for Emergency Situations* Kamaladdin Heidarov. Lana Sue Hedley kienet ċara wkoll fir-risposta tagħha li l-Bank Pilatus kellu klijenti lil *Shams Al Sahra* u lil *Sahra,* iżda mhux *Al Sahra.* Minn analiżi tal-*Flexcube* u lista tal-klijenti tal-Pilatus Bank, mix-xiehda tal-Awdituri KPMG u mir-relazzjonijiet tal-*Forensic Accountants* ma jirriżulta minn imkien li kien hemm kumpanija jisimha *Al Sahra FZCO* bħala klijenta tal-Bank Pilatus. Jirriżulta li kien hemm żewġ kumpaniji b'ismijiet li jixtiebħu – *Sahra FZCO* u *Shams Al Sahra FZCO* li kienu klijenti ta' dan il-Bank. Jidher li l-ismijiet ta' dawn il-kumpaniji kienu joħolqu xi konfużjoni f'moħħ ta' xi impjegati tal-Bank Pilatus.

Hekk per eżempju Emilia Maria Vacaru tgħid li dawn l-ismijiet kienu gerfxuha minħabba li jixtiebħu ħafna u fil-fatt ma kienetx kapaċi tgħid jekk kienux *Al Sahra, Sahra* jew *Shams Al Sahra.* Anzi mumenti minnhom Emilia Maria Vacaru donnha tgħid li dawn iż-żewġt kumpaniji kien jisimhom *Al Sahra* u *Sahra.* Louis Zammit, Domenique Camilleri, Arienne Gaerty, Avila Rovelo Nielsen Libyeth, Mehmet Ugurluoglu jagħmlu konfużjoni simili. Meta lil Louis Zammit issuġġerejtlu jekk qattx semgħa bil-kumpanija Al Sahra FZCO wieġeb fl-affermattiv. Meta semmejtlu t-tliet ismijiet wieħed wara l-ieħor qalli ċar u tond li tħawwad minħabba li kienu jixtiebħu. L-istess għamlu Arienne Gaerty u Domenique Camilleri. Anke Katarina Kostialova, li hi *senior lawyer* ukoll kienet milquta minn din il-konfużjoni dwar dawn l-ismijiet b'mod li ma kienetx ċerta eżattament dwar l-ismijiet tagħhom. Sandro Charles Grech meta mistoqsi minni biex jgħid mill-memorja liema mit-tliet ismijiet ta' kumpaniji *Shams Al Sahra, Sahra* u *Al Sahra* huma klijenti tal-Bank Pilatus huwa jtenni li minnhom kien jaħseb li kienet il-kumpanija *Al Sahra* li kienet klijenta tal-Bank Pilatus – għalkemm ma kienx jiftakar xi dokumenti relattivi għal din il-kumpanija għax ma kienx ikollu aċċess. Biss jgħid li bilanċi l-aħħar li kien ra kien nil, li kien jaf. Mistoqsi jekk kienx ra bilanċi ta' *Shams Al Sahra* u *Sahra* wieġeb li ma kienx jaf jgħidli xejn fuqhom! Denica Cebova tgħid li tiftakar il-kumpanija *Al Sahra* iżda ma tiftakarx il-kumpanija *Shams Al Sahra.*

Mill-banda l-oħra minn riċerka *open source* magħmula mill-Maġistrat Inkwirenti mas-sit *UAE Contacts and Business Locations* <http://www.uaecontact.com/?s=al+sahra+fzco> instab li meta ssir *open source search* fuq *Al Sahra FZCO* kienu jitilgħu reġistrati *Shams Al Sahra FZCO* u *Sahra FZCO,* iżda mhux *Al Sahra FZCO,* għalkemm fil-*UAE* hemm diversi kumpaniji li jġibu l-isem ta' *Al Sahra* f'xi forma jew oħra li ma kienetx pero *FZCO.* Daphne Caruana Galizia tinsisti li Maria Efimova qaltilha li l-isem tal-kumpanija kien *Al Sahra FZCO* u anzi Daphne Caruana Galizia insistiet ma' Maria Efimova biex tikkonfermalha dan għax meta Daphne Caruana Galizia kienet qegħda tfittex fuq *Al Sahra* ma bdiet issib xejn dwarha, iżda bdiet issib ħafna fuq *Shams Al Sahra.* Mentri meta xehdet Maria Efimova kienet ċara li hi kienet irreferiet lil Daphne Caruana Galizia għall-kumpanija bl-isem ta' *Sahra FZCO* u mhux *Al Sahra FZCO* li tgħid li qatt ma kienet semgħet biha qabel. Maria Efimova titfa' din id-diskrepanza dwar l-isem fuq Daphne Caruana Galizia fis-sens li Efimova qalet li Daphne Caruana Galizia setgħet tħawdet minħabba li kien hemm kemm *Shams Al Sahra FZCO* kif ukoll *Sahra FZCO* reġistrati u għalhekk setgħat tħawdet bejn dawn iż-żewġt ismijiet.

Mehmet Tasli wkoll jidher li dawn l-ismijiet ħawduh xi ftit għax jgħid li *"precisely I cannot remember but Al Shamz Sahra or Shamz Al Sahra, but these combinations yes".* Hu ma jafx b'*Al Sahra FZCO* u ma jiftakarx li kien hemm xi bdil fl-isem minn *Al Sahra* għal *Sahra* u kieku kien hemm din il-bidla, din xorta waħda kienet tibqa' reġistrata fis-sistema bankarja. Li din il-bidla kienet tibqa' reġistrata fis-sistema, hija konfermata wkoll minn diversi impjegati tal-Bank Pilatus li jħadmu l-*Flexcube* għal xi raġuni jew oħra.

Meta staqsejtha jekk meta kienet għadha taħdem mal-Bank Pilatus kellux isem ta' klijent *Tillgate* wieġbet li kienet tiftakar li kien hemm xi transazzjonijiet għaliex *Sahra* kienet *transacting* ma *Tillgate* :

> but it was obviously not internal payments. I mean not from Pilatus Bank account. It was outside. Because they were different forms of instructions.

Għalkemm issemmi li kienu *different form of instructions* ma spjegatx xi tfisser biha. Qalet li dan kien *loan agreement* u kienet involuta Denica Cebova.[79] Kienet *Tillgate* li kienet ħadet is-self mingħand *Sahra* u *Sahra* ħalset lil *Tillgate*. Dan kien mill-kont ta' *Sahra* fil-Pilatus Bank u *Sahra* kienet tinnegozja f'dollari Amerikani. Iżda f'dan il-każ qalet li kienet fi Sterlina. Il-kont ta' *Tillgate* kien f'Dubai ma xi bank f'Dubai iżda ma tiftakarx ismu. Dan suppost li sar bejn Frar u Marzu 2016. Din kienet transazzjoni diretta bejn *Sahra* u *Tillgate* ma kienetx mgħoddija tramite persuni oħra *"It should be corresponding bank but Pilatus had it's corresponding Bank"*. Il-flus jgħaddu mill-*Correspondent Bank* u l-benefiċjarju jibqa' l-istess. Dan kien pagament dirett bejn il-kont ta' *Sahra* fil-Pilatus u mar direttament fil-kont ta' *Tillgate* f'Dubai.[80]

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[79] Fix-xiehda tagħha Denica Cebova ma kkonfermatx din it-transazzjoni allegata minn Maria Efimova.

[80] Din it-transazzjoni diretta bejn il-kont ta' *Sahra FZCO* jew *Shams Al Sahra FZCO* ma tirriżultax mill-informazzjoni ottjenuta minn fuq *Flexcube* u analizzata mill-*Forensic Accountants*. Hamidreza Ghanbari jgħid li ma kienx hemm tali transazzjonijiet. Mistoqsi dwar jekk hux konxju ta' xi ħadd minn dawn l-erbgħa li uża s-servizzi tal-Bank Pilatus fir-rigward ta' negozju ma xi wieħed mill-*PEP* Maltin li semmejtu aktar il-fuq huwa wieġeb *"Absolutely not"*.

Dwar il-mod ta' kif saret din it-transazzjoni bankarja jingħad hekk : -

Ins: Can I ask you something, you said that it would not necessary be the bank involved. You said time ago, when we were asking you, you said that it could be a direct payment.

Wit: No, I didn't say this.

Ins: You said that the Bank could not be involved. It could be a direct payment.

Wit: Of course the Bank is involved. I mean if the money are leaving Pilatus Bank and going to another Bank, and it is USD it is swift, we don't have any other,

Ins: So it always has to be in swift form?

Wit: Yes, it had to be.[81]

Mehmet Tasli jgħid li l-Bank Pilatus ma kienx involut f'dan in-negozju. Iżda l-Bank ġieli kien jipproċessa pagamenti interni "*When it comes facilitating if you mean if customer A and customer B, in regard they are moving the funds and they are making transfer, we do payments, the transfers*" bejn klijenti tal-istess Bank li jkollhom kontijiet miftuħin miegħu u dawn il-pagamenti kienu jkunu għal servizzi reżi bejn l-istess klijenti jew inkella għal *loans*. Mehmet Tasli jgħid li jkunu tal-*Business Department* u l-*Compliance Department* li jkunu involuti fit-talba u fit-twettieq ta' din ir-rikjesta. Dan ifisser li l-Bank Pilatus fil-fatt jipproċessa pagamenti interni bejn kontijiet ta' klijenti tiegħu innifsu kif ukoll pagamenti esterni minn kont ta' klijent fil-Bank Pilatus lil kont ta' terz f'Bank ieħor jew band'oħra.

Dan li jgħid Mehmet Tasli huwa wkoll konfermat minn Adrian Galea li jtenni li kienu jsiru pagamenti interni bejn klijenti li kien ikollhom kont fil-Bank Pilatus u dawn kienu jitqiesu bħala pagamenti interni u li ma kienux jiġu reġistrati fis-sistema *TAS*. Ir-raġuni għal dawn it-trasferimenti minn kont ta' klijent għal kont ta' klijent ieħor kienu jkunu differenti – eżempju Ali Sadr ġieli għamel trasferimenti mill-kont tal-kumpanija *Alpene* lil xi kont intern ieħor bħala *family support*. Ir-raġuni għaliex ikun sar pagament jingħatalhom mill-*Front Office*. Makhabbat Ellul, kollega ta' Mehmet Tasli fl-*Operations Department* tgħid li l-*loans* li kien jagħti l-Bank Pilatus kienu jkunu bejn il-Bank u l-klijenti tiegħu biss u dawn kienu dejjem jiġu pproċessati tramite l-*Flexcube*.

[81] Hawnhekk għalhekk Maria Efimova hija kategorika li din it-transazzjoni saret mill-Bank Pilatus tramite s-sistema bankarja tal-Bank Pilatus. B'hekk Maria Efimova teskludi kemm li din it-transazzjoni saret tramite l-kont ta' xi terz jew li saret b'xi mod barra mill-Bank Pilatus. Anzi tinsisti li l-Bank Pilatus kien involut f'din it-transazzjoni u li kien hemm l-użu ta' *Correspondent Bank* u li t-transazzjonjiet kienu bi *Swift*. Biss fir-raba' xiehda tagħha mistoqsija jekk tali pagamenti kienux isiru bl-i*Swift*, Maria Efimova tgħid li dan ma kienetx taf tgħidu għax ma kienx parti mix-xogħol tagħha. Il-*payment instructions* kienu jkunu stampati kienet tgħaddihom lill-*Operations Department* u mbagħad ma kienetx tkun taf x'kienu jagħmlu bihom. Fir-raba xiehda tagħha Maria Efimova tgħid li hija qatt ma kienet rat *swift transfer documentation*, għax qatt ma

kienet involuta fl-*Operations Department*. Huwa stramb kif dik iċ-ċertezza li kellha dwar il-mod kif isiru l-pagamenti battiet fir-raba' deposizzjoni tagħha.

Skont Louis Zammit pero, Maria Efimova kienet involuta fil-maġġoranza tal-klijenti tal-Bank Pilatus u kienet ukoll involuta fl-istruzzjonijiet għall-pagamenti ta' ħafna klijenti. Fil-fatt jgħid ukoll li hija ġieli kienet tirċievi kopja tal-iswift fuq pagamenti li tkun segwiet hi stess. Louis Zammit jgħid hekk :

> Swift, toħroġ l-Swift copy jibgħatuha lil Maria, l-Swift copy cioe' jibgħatuha l-front office pero jekk tkun bagħatitha Maria ħafna drabi tiffolowjaha Maria ma' l-klijent is-swift copy u tibgħat l-swift copy li l-pagament sar Maria jew who ever lil klijent.

Arienne Gaerty tikkonferma li Maria Efimova kienet involuta fix-xogħol tal-*Front Office*. Tant hu hekk li Gaerty tgħid li Maria Efimova kienet tagħmel it-transactions dak iż-żmien li daħlet taħdem hi mal-Bank Pilatus kif ukoll kienet Efimova li kienet bdiet tagħmlilha *training* lil Gaerty. Għalhekk dak li qalet fir-raba' deposizzjoni tagħha li qatt ma rat *Swift copy documentation* ukoll mhix dikjarazzjoni paċifika.

Hamidreza Ghanbari jgħid li hu kien dak li kien jieħu ħsieb il-kont ta' Keith Schembri u jaf li mal-Bank Pilatus ma kienx hemm kont f'isem *Tillgate Inc* u l-anqas ma kien hemm ebda tali transazzjoni mill-kont ta' *Sahra FZCO* lil *Tillgate Inc*. Biss huwa wkoll jikkonferma li l-operazzjonijiet bankarji tal-Bank Pilatus isiru tramite l-*Oracle Flexcube* u l-*iSwift messaging* jgħaddu mill-portal *TAS*. Wara dawn it-transazzjonijiet jgħaddu wkoll mill-*Correspondent Banks* tal-Bank Pilatus, li għall-US Dollar dak iż-żmien kienu prinċipalment Bank of Valletta plc u aktar riċenti DZ Bank. Fuq dan il-punt jidher li Hamidreza Ghanbari u Maria Efimova qegħdin jaqblu. Hamidreza Ghanbari iżid li l-Bank Pilatus ma kienx jaċċetta li jsiru struzzjonijiet bankarji bl-i *Skype* u għandhom proċess dettaljat ta' kif isiru transazzjonijiet.

Kemm Louis Zammit, Arienne Gaerty kif ukoll Mehmet Tasli jixhdu li kull transazzjoni bankarja li jeżegwixxi l-Bank Pilatus issir bil-mezz tal-*Flexcube* u *TAS* u l-Bank Pilatus ma għandu ebda sistema bankarja oħra apparti dawn. Louis Zammit huwa wkoll ċar fil-fatt li huwa li kien jaħdem fl-IT li kien jaqa' fl-*Operations Department* qatt ma kien ra jew sema' b'*Tillgate Inc, Hearnville Inc* jew *Egrant Inc* fil-Bank Pilatus. Mill-banda l-oħra huwa identifika li kien hemm il-kumpanija *Willerby* u li kellha transazzjonijiet. L-anqas ma ra dokumenti dwar Joseph Muscat jew Michelle Muscat fil-Bank Pilatus. Biss jikkonferma li Keith Schembri kellu kont personali u *credit card* mal-Bank Pilatus filwaqt li ma kien qatt ra xejn f'isem martu Josette Schembri Vella, jew inkella f'isem Konrad Mizzi jew Sai Mizzi Liang. Jiġifieri fejn kien hemm evidenza ta' *PEP* Malti, dan qalha.

Adrian Galea li jaħdem fl-*Operations Department* u li xogħolu huwa dak li jagħmel l-i*Swift payments*, kemm *incoming* kif ukoll *outgoing* jgħid li l-pagamenti tal-Bank Pilatus isiru billi l-ewwel jiġu inseriti fil-*Flexcube* u dan il-programm huwa *linked* ma *TAS* u wara li għaddi għal *TAS* hemm imbagħad verifiki li jridu jsiru ma check list qabel ma pagament joħroġ mill-Bank. Hu jaġixxi billi jdaħħal l-informazzjoni fil-*Flexcube* bħala *inputter* u l-pagament ma joħroġx qabel ma jiġi verifikat minn *checker*. Din tkun persuna oħra li tkun *at second level* u tiddependi mit-tip ta' pagament li jkun. Il-pagamenti fil-Bank Pilatus jgħaddu kollha mill-*Flexcube* u wara jgħaddu minn *TAS*. Il-Bank Pilatus m'għandux sistema oħra li permezz tagħha jistgħu jiġu pproċessati pagamenti mis-sistema Bankarja. Minn naħa tiegħu hu qatt ma ra pagamenti jsiru mod ieħor mill-Bank Pilatus għajr ħlief tramite *Flexcube* u *TAS*. L-anqas ma ingħata struzzjonijiet biex isiru pagamenti bi proċedura jew sistema differenti minn din. Iżid hekk –

> Il-Qorti : Le. All right. Jigifieri apparti l-Flexcube u t-TAS, li ghidtli li jahdmu flimkien, il-bank ma ghandux xi sistema ohra ta' kif jaffettwa pagamenti tal-klijenti, hux hekk?
>
> Xhud : Le, ma ghandux.

Wara li rat id-*declarations of trust*, hi rraġunat li kellha titlaq minn dak il-Bank kemm jista' jkun malajr. Talbet lil Claude-Ann Sant Fournier għall-ħlas tal-paga tagħha għax kienet għadha ma tħalsitx paga sa minn Jannar. Ma kienux ħalsuha għax ġabu skuża li ma kellhiex residenza Maltija u karta tal-identita Maltija u b'hekk qalulha li ma setgħux iqegħduha fuq il-*payroll* tagħhom u kellhom jistennew sakemm tinħarġilha l-ID card Maltija. Mill-*ETC* qalulha li ladarba hija miżżewġa lil ċittadin tal-EU, hi setgħet taħdem Malta. Żewġha hu Grieg. Talbet lil Claude-Ann Sant Fournier għall-ħlas tal-paga u din weġbitha li kienet ser tkellimha aktar tard.

Katarina Kostialova tikkonferma wkoll li kull transazzjoni li tiġi approvata mil-*Legal and Compliance Department* tgħaddi lill-*Operations Department* u meta tiġi eżegwita, din tgħaddi mill-*Flexcube* u eventwalment tgħaddi mill-*Correspondent Banks*. Il-*Finance Manager* Tatiana Zammit ukoll tikkonferma li kull transazzjoni finanzjarja li ssir fil-Bank Pilatus trid tgħaddi mis-sistema bankarja tagħha nonche jsir użu tas-sistema *Swift*. Meta ġiet pressata dwar jekk setgħux isiru pagamenti barra minn Malta tramite l-Bank Pilatus mingħajr ma jgħaddu mis-sistema *Swift*, Tatiana Zammit tenniet li *I do not see any other way to do it to be honest, because there isn't any other way to process a payment abroad without Swift*. Għalkemm ma kienetx taħdem fl-Operations Department u għalhekk ma kienetx taf jekk kienx hemm il-possibilita li l-Bank Pilatus jagħti struzzjonijiet li banek oħra biex jeżegwixxi transazzjoni b'email, hi tgħid li l-uniku mod kif jista' jsir pagament mingħajr ma jkun involut l-*iSwift* huwa permezz ta' ħlas kontanti. Hi żżid pero li fi kwalunkwe każ, il-kontijiet tal-Bank iridu jiġu bilanċjati u b'hekk xorta jrid ikun hemm traċċa ta' kull transazzjoni li ssir għaliex altrimenti l-kotba ma jiġux bilanċjati. Sandro Charles Grech jagħti wkoll rendikont ta' dak kollu li minn naħa tad-Dipartiment tal-Finanzi jużaw mill-*Flexcube*, inkluż pagamenti li jsiru għall-benefiċċju tal-Bank Pilatus fl-operat tiegħu ukoll u dejjem bil-*Flexcube*. Tal-istess fehma hija Ishwarija Subramanyan li tieħu ħsieb ir-*reconciliations* bejn il-*Finance Department* u l-*Operations Department*. Din tikkonferma li l-Bank Pilatus għandu l-*Flexcube core banking system* u *TAS* u l-pagamenti kollha li jsiru jridu jgħaddu minn dawn iż-żewġt sistemi u tramite l-*Correspondent Banks*. Marcon Cumbo wkoll tgħid li hi kull ma li l-Bank Pilatus għandu biex jiġu pproċessati pagamenti huma l-*Flexcube*, *Swift* u *BIP*.

Dwar jekk il-Bank Pilatus kellux kont ta' *Hearnville* ukoll, Maria Efimova tgħid li darba l-*Compliance Officer* Denica Cebova bagħtitilha messaġġ *"Look for this transaction with Hernville. Do we have a loan agreement signed? Or how it went?"*.[82] Biss hi kienet għadha ma tagħmilx transazzjonijiet peress li kienet għadha bħal *Personal Assistant*. B'hekk Maria Efimova staqsiet lil Denica Cebova għaliex kienet qegħda tistaqsiha dwar dan? Ma tiftakarx min kienet il-kumpanija li tat is-self lil *Hearnville* iżda ma taħsibx li kienet *Sahra. It was some other Company*. Kienu qegħdin ifitxu jekk kienx hemm self iffirmat.[83]

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[82]Hamidreza Ghanbari jeskludi li Konrad Mizzi jew *Hearnville Inc* kienu klijenti tal-Bank Pilatus. Mistoqsija minnu jekk kienetx tiftakar l-isem tal-kumpaniji *Hearnville Inc* jew *Egrant Inc*, Denica Cebova tirrispondi fin-negattiv għat-tnejn li huma. Domenique Camilleri ukoll tikkonferma li qatt ma rat record bankarju, inkluż mill-lista tal-klijenti l-isem ta' *Egrant Inc., Tillgate Inc.* jew *Hearnville Inc.*; Katarina Kostialova u Avila Rovelo Nielsen Libyeth jgħidu l-istess. Domenique Camilleri tikkonferma li kienet rat il-*KYC forms* għall-kumpanija *Willerby Trading Inc.* Lana Sue Hedley li bdiet taħdem mal-Bank Pilatus f'April 2016, mistoqsija dwar jekk qattx semgħet jew ipproċessat xi pagamenti f'isem il-kumpaniji *Tillgate Inc, Hearnville Inc* u *Egrant Inc*, wieġbet li qatt ma kienet rat dokumenti fil-Bank Pilatus jew semgħet lil xi ħadd jirreferi għalihom, għajr ħlief fuq l-aħbarijiet. Inoltre -

> The Court : Or else perhaps the names of Mrs Michelle Muscat for example? Or Joseph Muscat? Have you ever received any, or have you ever seen any document purporting to be made on their behalf?
>
> The witness : No.
>
> The Court : No.
>
> The witness : I have been here two (2) years and I did not even know who they were until this came up. I have never seen that name on a document. I answer the phone a lot, and I have never taken a call from anybody with that name.

Dan jikkuntrasta bil-qawwi dak li jidher li għamlet Maria Efimova li f'anqas minn tliet xhur f'Malta kienet saret taf ħafna dettalji dwar ix-xena politika Maltija.

[83] Mill-analiżi tal-*Forensic Accountants* ma rriżultax l-anqas li Konrad Mizzi jew Hearnville qatt kellhom kont jew servizzi fil-Bank Pilatus.

Maria Efimova bagħtet messaġġ lil Claude-Ann Sant Fournier li kienet għadha bil-*maternity leave* u qaltilha:-

> Look, your employee is asking if we have signed loan agreement and the transaction was already released. How can it be? You have supporting document for you to release the transaction. That was I remember.

Dwar Denica Cebova qalet hekk:-

> yes because not about Egrant, for Till Gate and Hern ville she sent me a message that the loan agreement wasn't signed but the transaction has been proceeded and then I called Claudienne and said look she is sending me such a message.

Mistoqsija minni jekk kienetx fiżikament rat *bank account opening form* għal *Hearnville* jew *loan agreement* jew *bank statement*, wieġbet :

> I saw one time loan agreement. I think it was all for Hernville or for Tillgate, I don't remember. But two of these Companies. And this agreement was in the bathroom....Yes. I went to the bathroom and I found it, it was like paper like that, and I opened it like this to see what is it. And I saw the name, but Hernville or Tillgate, I don't remember, but obviously one of them....Yes, I saw the document and I saw that this loan agreement, saying loan agreement and then I went to Claud Anne, because for me she was the only person who could forget this in the bathroom. First of all this was a ladies bathroom, I mean I excluded everyone who can prepare this loan agreement and I asked her: "Is it yours? And she said: "Yes, yes. Thank you." And she took it.[84]

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[84] Dwar dan is-self li skont Maria Efimova kien isir bejn il-klijenti ta' Pilatus, Denica Cebova tgħid li ma tafx dwarhom. Denica Cebova kienet tieħu ħsieb il-kuntratti tas-self mill-Bank Pilatus lil klijenti tiegħu. Dwar xogħolha, Denica Cebova tgħid hekk :

> Denica Cebova Radovanovikj: not exactly what I have been doing in Macedonia but here yes, I have prepared Ali Sadr I have mentioned a loan agreement and also I was reviewing some of the agreements between bank and third parties.
>
> Inquiring Magistrate: now when you refer to loan agreements, what sort of loan agreements are you referring to?

Denica Cebova Radovanovikj: loans given by the bank.

Inquiring Magistrate: given by the bank?

Denica Cebova Radovanovikj: yes.

Inquiring Magistrate: to customers?

Denica Cebova Radovanovikj: yes.

Inquiring Magistrate: were you very busy with this work, how many loans did you work upon between October, 2015, October you told me you started ...?

Denica Cebova Radovanovikj: yes.

Inquiring Magistrate: October 15 and February, '16?

Denica Cebova Radovanovikj: I don't remember the exact number but I believe there were five or six.

Inquiring Magistrate: five or six. Ok basically October, November, December, January, February basically almost one per month?

Denica Cebova Radovanovikj: one per month. There was no such ...

Inquiring Magistrate: some times you had two and some times you had nothing?

Denica Cebova Radovanovikj: some times I had two or three per month and some times nothing.

Inquiring Magistrate: understandable. Now one other thing, given that you worked for compliance and you were also engaged on drafting of loan contracts, do you know whether in Pilatus Bank, it was only Pilatus who used to grant loans to clients?

Denica Cebova Radovanovikj: I don't know.

Inquiring Magistrate: you don't know so you don't know if clients or customers between them used to give loans to each other?

Denica Cebova Radovanovikj: no, I wouldn't know that.

Inquiring Magistrate: you wouldn't know that. Who do you think would be in a position to know that operations?

Denica Cebova Radovanovikj: Hamidresa Gambari.

Dan ifisser li l-allegazzjoni ta' Maria Efimova dwar self magħmul bejn klijenti infushom ma ġiex konfermat minn Denica Cebova, l-istess waħda li Maria Efimova tgħid kienet ħadet ħsieb dan il-kuntratt ta' self. Għalkemm Denica Cebova tgħid li hija kienet semgħet bil-kumpanija *Tillgate*, hija ma setgħetx tiftakar f'liema kuntest setgħet semgħet jew iltaqgħet ma din il-kumpanija. Fir-rigward ta' *Hearnville* u *Egrant*, Denica Cebova kienet aktar kategorika fir-risposta tagħha li qatt ma semgħet bihom jew ħadmet fuqhom.

Mill-banda l-oħra, Emilia Maria Vacaru tgħid li *Tillgate company doesn't sound familiar to me* u żżid li ma kienetx tiftakar transazzjonijiet bejn *Tillgate* u *Al Sahra*. L-anqas l-isem tal-kumpanija *Hearnville* ma kien familjari għaliha. Adrian Galea li huwa responsabbli mill-pagamenti tramite l-*Flexcube* u t-*TAS* mhux konxju tal-fatt jekk il-Bank Pilatus kienx jinvolvi lilu nnifsu fl-arranġamenti biex isir il-ftehim ta' trasferimenti bejn il-klijenti jew li jagħtu *drafting* tal-*loan agreement* bejn il-klijenti infushom. Biss iżid li bosta *payment instructions* kienu jiġu mill-*Front Office* indikati bħala *loan payment* jew *shareholder's loan*, iżda hu qatt ma staqsa għaliex ikun hemm dak l-iskop imniżżel.

Katarina Kostialova, *Senior Lawyer* sa minn Frar 2017, tgħid li għalkemm ħadmet fuq xi kuntratti jew abozzi ta' kuntratti ta' self, ma kienetx taf bi prattika fejn klijenti tal-Bank Pilatus jagħtu self lil xulxin billi jużaw

Dwar Negarin Sadr Hasheminejad, Maria Efimova taf li din tiġi oħt Ali Sadr. Hi kienet klijenta tal-Pilatus u Maria Efimova ppreparatilha l-*bank account opening form*. Negarin Sadr Hasheminejad kellha *personal account* u l-Bank kien taha self dakinhar stess.[85] Is-self sar fi Frar 2016 stess għax Emilia Maria

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is-servizzi tal-Bank Pilatus. Hi ħadmet biss fuq kuntratt *standard* bejn il-Bank u l-klijenti tiegħu. Domenique Camilleri, *Compliance Officer*, tikkonferma li ġieli rat pagamenti interni bejn klijenti tal-Bank Pilatus li jsejħu l-pagamenti bħala *loan payment*. Hi daħlet taħdem mal-Bank Pilatus fi Frar 2017 u ma kienetx taf kemm kienet ilha għaddejja din il-prattika. Avila Rovelo Nielsen Libyeth ukoll qatt ma rat xi kuntratti ta' dan it-tip fil-Bank Pilatus. Arienne Gaerty wkoll tgħid li għalkemm ma tafx jekk il-Bank jipprovdix servizz ta' *drafting* ta' *loans* lil klijenti tiegħu, hi żgur qatt ma qalet lil klijenti tal-Bank li setgħu jiktbulhom il-kuntratt. Hi ġieli kitbet *payment instructions* għan-nom tal-klijent, b'mod partikolari fil-bidu tar-relazzjoni mal-Bank, iżda wara xorta kienet tibgħat il-*payment instructions* għall-verifika u firma da parti tal-klijent.

L-anqas Sharonjit Kaur Agimal, li kienet taħdem fil-*Compliance Department* ukoll, bejn Frar u Marzu 2017 qatt ma rat prattiċi fejn impjegati tal-Bank kienu jabozzaw kuntratti ta' self bejn klijenti tal-Bank Pilatus.

[85] Hamidreza Ghanbari jikkonferma li kien ingħata dan is-self u li l-istruzzjonijiet setgħu daħlu tard minħabba differenza fil-ħin bejn Malta u California. Dan is-self kien ser ikun *asset backed* u kellu jkun għall-akkwit t'interessi fi proprjeta immobiljari fejn jitkabru l-*pistachios* f'California. Huwa jiġġustifika dan billi jgħid li dan is-self kien ġie pproċessat mhux mill-*Credit Committee*, għax kien self lil *related person* u b'hekk ried jgħaddi permezz ta' reżoluzzjoni tal-Bord tad-Diretturi. Din ir-riżoluzzjoni ma kienetx iffirmata minn Ali Sadr u malli għaddiet is-self kien ġie pproċessat immedjatament. Il-Bank Pilatus ma kienx jagħti ħafna kuntratti ta' self. Iżda peress li kienu għamlu kuntratt ta' self li kien jipproteġi l-interessi tal-Bank, kif ukoll minħabba li l-Bank kien adotta sistema spedita ta' kif jipproċessa s-self bażata fuq komunikazzjoni robusta mar-relationship manager rispettiv, dawn il-kuntratti kienu jsiru ħafna aktar malajr minn banek oħra. Għalkemm għall-bidu qal li l-ammont kien ta' miljun dollaru Amerikan, wara kkoreġa ruħu u qal li kien ta' miljun u nofs dollari Amerikani u li ġew imħalsin direttament f'*one single payment* lill-bejjiegħ tal-Pistachio Farm – Mohsen Torabi - SMT. Ta' dan kellhom il-konferma mill-i*Swift* ukoll. Minbarra dan is-self, Negarin Sadr Hasheminejad ma kienet ħadet ebda self ieħor.

Mid-dokumenti bankarji tal-Bank Pilatus jirriżulta li l-kont f'isem Negarin Sadr Hasheminejad infetaħ nhar it-2 ta' Frar 2016 u kien iġib in-numru bankarju 101654. Mill-banda l-oħra mill-istess dokumenti jirriżulta li s-self li ingħata li Negarin Sadr Hasheminejad kien ingħata nhar it-3 ta' Frar 2016 bil-*book date* ikun l-4 ta' Frar 2016, liema kont kien iġib in-numru 001IOTA160350001. Dawn id-dokumenti ma jikkonfermawx dak li tgħid Maria Efimova fir-raba' xiehda tagħha li l-kont bankarju f'isem Negarin Sadr Hasheminejad infetaħ fl-istess jum li ingħatalha s-self mill-Bank Pilatus, għalkemm jista' jingħad li s-self ingħata l-għada li nfetaħ il-kont bankarju tagħha mal-Bank Pilatus.

Anke r-raġuni għaliex dan is-self ġie mogħti kif deskritt fid-dokumenti bankarji huwa differenti minn dak mistqarr minn Maria Efimova. Maria Efimova tgħid li dan is-self kien ingħata lil Negarin Sadr Hasheminejad bħala *loan for future business needs* in konnessjoni man-negozju tagħha fil-qasam tal-ġojjellerija u moda taħt l-isem ta' *Negarin London*. Mill-banda l-oħra mir-relazzjoni tal-*Forensic Accountant* Miroslava Milenovic jirriżulta li minn dokumenti stampati tal-Bank Pilatus analizzati minnha kien jidher li dan is-self kien ingħata lil Negarin Sadr Hasheminejad kien tħallas b'dan il-mod :

a. The loan has been paid to the account held in Wells Fargo Bank NA, San Francisco, USA (bank code: WFBIUS65), same bank Ali Sadr for EXIR LLC

b. The intermediary bank which participated in the transaction between Pilatus Bank and Wells Fargo Bank NA was Bank of Valletta

Based on seized documents, in Box 9 Folder ZA, a document stating that Pilatus bank has provided to Negarin Sadat a loan in the amount of US$ 1.5 million on 3rd February 2016 for the purchase of 12,375% interest in "SMT Pistacho Ranch and Management LLC

This loan was granted just a day after opening the account in Pilatus bank".

Maria Efimova tgħid li kienet rat stramb il-fatt li Negarin Sadr Hasheminejad kienet fetħet kont bankarju f'isimha personali imbagħad kienet ser tieħu self li l-*business plan* tiegħu kien juri li das-self kien sejjer għall-fini tan-negozju tagħha fil-qasam tal-ġojjellerija u moda tagħha. Qalet li din ħolqitlha xi ftit tal-konfużjoni f'moħħha. Biss Maria Efimova tgħid li hi ma kienetx tiftakar x'kien fih il-kuntratt tas-self. Tagħlaq billi tgħid li : "*But I remember that she got a loan and immediately she was preceding some transactions and one of transactions was for that US jewellery business.*" Dan in-negozju suppost kien rikonduċibbli lil Michelle Buttigieg.

Michelle Buttiegieg xehdet fl-atti ta' din l-inkjesta fis-16 ta' Mejju 2017 u filwaqt li kkonfermat li verament kienet tmexxi negozju bid-ditta "Buttardi", li kienet tirrisjedi fi New York, kif ukoll li kienet ilha b'din id-ditta sa mill-2002. Tgħid li din ma għandhiex store u dan huwa aktar hobby għaliha. Murija printout tal-*website* li kienet tinsab *open source* ikkonfermat li dan kien tagħha u li kien magħmul minn żewġha. Mistoqsija dwar l-indirizz indikat fuq il-website tgħid li dak kien l-indirizz tar-residenza tagħha. Tgħid li Buttardi bħala ditta kienet imwaqfa minnha u mhux ma Michelle Muscat. Iżżid hekk : -

Michelle jigifieri is mentioned here as well, l-ewwel darba li għamilna because we were already friends u urejtha l-affarijiet tiegħi u qaltli mela issa we get together, we invite some friends, show it to my friends jigifieri u għamilna xi couple of suareys (*sic! soirees*), we called them, every Summer when we come here basically couple of woman, gieli kien ikun hemm għoxrin, gieli kien ikun hemm ħamsa u għoxrin u gieli tletin and we sell a few jigifieri anki VAT receipts, I would say the pieces are not very expensive so by the end of the Suarey (*sic! soiree*), may be it was up to three hundred / four hundred pounds in total. Michelle was put on the web site as my Maltese contact biex jekk xi ħadd ikun irid xi ħaga taf inti fis-Sajf niltaqa' magħhom, a month after some body's mum has her birthday, they call her isma' Michelle tista' tagħmlilna waħda bħal dik, Michelle contacts me, I sent it to her, she delivers to the people, she takes the money, my mother lives here u tagħtiha l-flus. I mean that was what it was That is what it is. This hasn't happened with Michelle for a while because with their lives they became busy, jiena I became busy on the side and we never did any thing else in Malta I guess for the last, it has to be ma nafx six years or so, we ... any thing in Malta.

...

Magistrat Inkwerenti: issa hemm hekk qiegħda mnizzla jidhirli, iccekja naqra l-wording, għax mill-memorja, Michelle Muscat qiegħda indikata bħala European sales representative?

Michelle Buttigieg: European Sales representative yes because basically she is here but we didn't do any business any where else but Malta jigifieri in Europe. It was you know, le jigifieri that is what it is imma.

Vacaru kienet għadha hemm u kienu jaħdmu flimkien.[86] Ma tiftakarx eżatt kemm kien is-self, għalkemm taħseb li kien miljun dollaru Amerikan

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Michelle Buttigieg tgħid li hi ma kienetx taf min hi Negarin Sadr Hasheminejad qabel qrat l-artiklu pubblikat minn Daphne Caruana Galizia intitolat ***US$400,000 "loan payment" to Michelle Muscat jewellery business partner from sister of Pilatus Bank owner*** pubblikat fil-21 t'April 2017 f'12:04. Qatt ma kellha kuntatti ma Negarin Sadr fuq negozju. Tiċħad li qatt irċeviet xi flus mingħand Negarin Sadrhasheminejad, aktar u aktar US$400,000.

> Magistrat Inkwerenti: zgur mhux forsi kien hemm xi bicca negozju ma' din il-mara jew xi kumpanija tagħha, nerga' ngħidlek li tagħmel negozju ma' hemm xejn ħazin?
>
> Michelle Buttigieg: lanqas xejn, pero ma nafhiex ma kienx hemm nothing. I mean in-negozju ta' Buttardi, these few necklaces that are being sold during the year has nothing to this calibre, I mean it is astonishing to hear 400, 000 xi ħadd ma nafux.
>
> Magistrat Inkwerenti: u lanqas forsi jiena naf xi ftehim jew xi kuntratt ma' xi kumpanija mill-Amerika jew inkella minn x'imkien mill-Ewropa għax din għandha l-ħanut tagħha Londra?
>
> Michelle Buttigieg: Again jiena l-business tiegħi lanqas hu, it is a few necklaces, it has nothing to do with that. I don't even know.
>
> Magistrat Inkwerenti: alright.
>
> Michelle Buttigieg: lanqas għandi account jgħid Buttardi per ezempju.
>
> ...
>
> Magistrat Inkwerenti: jekk għandek xi dokumenti li tista' turi Sinjura ...?
>
> Michelle Buttigieg: għandi profit and loss for the last two years, I brought them with me because for me that is beyond my imagination.
>
> Magistrat Inkwerenti: jekk jogħgbok mela jekk għandek xi dokumenti gibhom daqs xejn, gibhom daqs xejn.
>
> Michelle Buttigieg: Dik what is under Buttardi Profit and Loss business for 2015 and 2016 u tara kemm daħlu fis-sena, kemm ħallast taxxa fuqhom and that is it so, so over here you will see 2015, it shows you the expenses u gross five thousand Dollars, 5 7 u 2016, three thousand eight hundred. That is a New York Official document.
>
> Magistrat Inkwerenti: alright, urihom daqs xejn lil Ispettur u lis-Supretendent.
>
> Michelle Buttigieg: it is signed by our accountant jigifieri it's.

[86] Dwar l-istorja tas-self ta' Negarin Sadr, Emilia Maria Vacaru tgħid li darba minnhom tiftakar li kien filgħaxija u kienu irċevew struzzjonijiet sabiex imexxu l-karti ta' self u li kienu damu ħafna biex ipproċessaw dawn il-karti. Temmen li kien fil-bidu tal-2016, Jannar jew bidu ta' Frar 2016. Tiftakar li kien għal madwar miljun (ma tgħidx il-valuta). Ladarba s-self kien ġie approvat Emilia Maria Vacaru ma kienetx taf x'għamel il-Bank fir-rigward ta' dan is-self u lil min ingħata. Ma kienetx taf x'kien ir-raġuni tas-self. Hi ma kienetx involuta fid-dettalji ta' dan is-self għaliex hi kull ma għamlet kien li stampat il-karti ta' dan is-self. Pero ma kienetx involuta fl-ipproċessar tas-self. Mistoqsija jekk flus minn das-self jew parti minnu kienux indirizzati lil xi persuna fl-Amerika, tgħid li ma tiftakarx dan. Ma tafx jekk dan is-self kienx maqsum fi tnejn jew mod ieħor.

Mehmet Tasli jgħid li transazzjoni ma tistax tiġi maqsuma fit-*TAS*. Jekk wieħed ikun irid jaqsam pagament dan irid isir f'żewġ *entries* differenti u separati u mhux fi transazzjoni waħda maqsuma fi tnejn. Mehmet

(US$1,000,000). Maria Efimova tgħid li jista' jkun li kien aktar minn miljun dollaru Amerikan, iżda ma kienx żewġ jew tliet miljuni għax hi tiftakar li l-ammont kien jibda' bin-numru wieħed. Dan kien self għal negozju : -

> It was a business plan. Because Miss Negarin Sadr Hashminigad, she is a fashion designer, she has a brand Negarin London, because when we opening her account, me and my collegue, we googled, because we were curious...Emilia Vaccar. She was still there. The customer service officer. Yes and we saw the brand, the clothes, everything and also it was a business plan.[87]

Biss ma kienetx taf x'tip ta' *business* kien dan għax ma qratx kollox peress li kienet mgħaġġla għax Ali Sadr kien qiegħed iċempel kull nofs siegħa jistaqsi jekk il-kont kienx infetaħ u x'kienu qegħdin jagħmlu. Kien qiegħed jippressahom biex jiftħu l-kont. Peress li Negarin tikteb kunjomha b'mod sħiħ Sadrhasheminejad, Maria Efimova kienet qegħda tiktbu ħażin għax ħasbet li kienet tiktbu bħal Ali Sadr. B'hekk kien qiegħed jgħajjat magħha għax riedha tiftaħ il-kont bl-isem korrett. Hu ma kienx bagħtilhom dokumenti tagħha iżda tahom id-dettalji biss u b'hekk ma setgħetx tivverifika kunjomha.

Tasli jgħid li fil-Bank Pilatus qatt ma kien hemm transazzjonijiet li ġew maqsuma b'dan il-mod li jiġu maqsuma fi tnejn. Apparti minn hekk transazzjoni tista' titħassar mit-*TAS* jekk tkun għadha mhux awtorizzata. Ladarba transazzjoni tkun awtorizzata, din ma tistax titħassar minn fuq it-*TAS*.

[87] Dwar l-isem *Buttardi* Emilia Maria Vacaru tgħid li dan l-isem ma kienx familjari magħha. Emilia Maria Vacaru ġiet mistoqsija jekk hux veru li Maria Efimova u hi kienu qegħdin jiżżuffjettaw bl-isem *Buttardi* u jqabluh ma *Trussardi* (fil-kuntest tal-allegazzjoni li kien hemm self lil Negarin Sadr Hasheminejad u li tħalset mara Maltija minn New York li kellha negozju bl-isem *Buttardi*) u Emilia Maria Vacaru qalet li ma tiftakarx dan iseħħ.

Mistoqsija għaliex Negarin Sadr Hasheminejad ħadet is-self hija wieġbet: *"It was a business plan for her business, in the fashion."* Mistoqsija min kien il-benefiċjarju ta' dan is-self, Maria Efimova qalet li dan is-self kien ġie *"credited to her account...in Pilatus Bank"*. Mistoqsija jekk kienetx għamlet xi ħlasijiet b'dan il-*loan* hija wieġbet hekk:-

> Yes, I remember it was immediately a payment transaction to her to another account. And I remember because it was mentioned in the business plan, in her business plan that she will be cooperating with one brand for jewellery.[88]

Maria Efimova tgħid li Negarin Sadr Hasheminejad kellha kont wieħed għalkemm *"...maybe different currencies. Maybe she had one in USD, in Dubai currency. But I mean as a relationship it was one."*

Mistoqsija min kien il-benefiċjarju ta' dan is-self, hija tgħid hekk : -

> So it was mentioned in the business plan, the name of the Company. The brand. So we were making fun of it because it was like Trussardi but not Trussardi but Bruttardi, Badrtardi, something like this. But very similar with Trussardi. And after my collegue who was Maltese, she came and she said that it is a woman from, she is Maltese but she is living in the US and she has her jewellery and she took it from her name, so she

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[88] Fir-raba' xiehda tagħha Maria Efimova tgħid li l-allegat trasferiment ta' USD400,000 kien wieħed mill-*payment intructions* li kienu daħlu ma dak is-self. Maria Efimova tgħid hekk : -

> I saw the payment instruction because it came altogether with other account opening form for Miss Negarin Sadr and other, I don't remember what you said, because they were several payment instructions not only one. But the one you are mentioning Ali Sadr I said before, because we are making fun of it, that's why I remember.

Dan qalitu minkejja li fl-ewwel xiehda tagħha hija ma semmiet xejn dwar dawn l-allegati *payment instructions* l-oħra li skontha kienu daħlu għal dan is-self.

took part of her surname and put in the brand. So she was explaining all this and you know we were making fun of it.

Din it-transazzjoni kienet tammonta għal xi madwar US$400,000.[89] Hi ma tafx jekk din kientx mara li toqgħod New York, pero kienet taf li kienet mara li tgħix l-Amerika. Ma kienetx taf min fiżikament ipproċessa dan il-pagament għax ma kienx xogħolha. Pero kien Mehmet għax hu kien jipproċessa s-self. Sakemm damet taħdem il-Bank hi personali qatt ma fetħet kontijiet. Aktar tard tgħid li l-persuna li *they were making fun of it* kienet Emilia Maria Vacaru.[90]

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[89] Fir-raba xiehda tagħha Maria Efimova tinsisti li hija kienet rat il-*payment instructions* sabiex minn dan is-self jiġu versati l-USD400,000 lil *Buttardi* iżda meta mistoqsija dwar fejn kienu tħalsu l-kumplament (ol skontha allura kienu jammontaw għal sitt mitt elf Dollaru Amerikan, Maria Efimova tgħid li *"I remember there were other transactions but I don't remember for whom"*. Ma kellhiex kopja tad-dokumenti li juru dawn it-transazzjonijiet eżattament x'sar minnhom.

[90] Fir-raba' xiehda tagħha Maria Efimova tgħid li hija kienet baqgħet tiftakar ukoll dan is-self minħabba l-fatt li l-proċedura tal-Bank Pilatus kienet teħtieġ li meta kienet ser issir transazzjoni bankarja l-klijent jiġi kuntattat telefonikament biex jikkonferma t-transazzjoni. Maria Efimova tgħid li kienu qagħdu jippruvaw jikkuntatjawha ħafna drabi bit-telefon, iżda *"..she was in US like early in the morning and she didn't pick up the phone and Mr. Sadr was calling us – did you proceed and I was telling him we cannot reach your sister, she is not answering the authorised mobile number given and probably he was calling her and after she picked up and we confirmed transaction"*. Mistoqsija jekk dan seħħx tard filgħaxija Maria Efimova żżid li dan kien madwar is-sebgħa ta' filgħaxija. Meta konfrontata bil-fatt li allura jekk kienu s-sebgħa ta' filgħaxija f'Malta kien ifisser li l-California kienu madwar il-ħdax ta' fil-għodu, u għalhekk mhux daqstant "early in the morning", Maria Efimova tgħid li : *I don't remember. I just remember she was not picking up and we made the conclusion maybe she's still sleeping because of the time difference. And Ali Sadr far Ali Sadr I know at least she wasn't registered in California, she was from Washington, Maryland"*. Biss dan allura kien ifisser li anqas u anqas kien *early morning* għax jekk f'Malta kienu s-sebgħa ta' filgħaxija, f'Washington, Maryland, USA, l-ħin kellu jkun is-sagħtejn ta' wara nofsinhar.

Mistoqsija jekk Ali Sadr kienx ukoll ħa self mill-Pilatus tgħid li ma tiftakarx, iżda hu kellu *mastercard* – probabilment kellu tnejn jew tlieta. Meta daħlet taħdem hi il-Pilatus kien beda' jaħdem mal-*Mastercard*. Lil ċerti klijenti kienu bdew joħoġulhom *mastercard*.

Mistoqsija jekk matul iż-żmien li kienet taħdem Pilatus, dan il-Bank kienx joħroġ numru kbir ta' *loans*, hija tgħid li "*Yes, there were lots of loan agreements.*" Tgħid li tiftakar li fil-*Compliance Department* kien hemm *folder* tal-*loans*. Darba kien hemm l-Awdituri u għamlu talba għal xi kumpanija u b'hekk hi rat *folder* bil-*loans*. Dan kien *electronic folder* u mhux *folder* fiżiku u dan kellu *subfolders* bl-ismijiet tal-klijenti tal-Bank. F'dawn is-*subfolders* kien hemm imbagħad il-*loan agreements*.

Maria Efimova tgħid li l-Bank Pilatus kien jipprepara *loan agreements* kemm mill-Bank għal klijenti tiegħu kif ukoll *loan agreements* bejn klijenti infushom. Tgħid hekk : "*yes but the thing is compliance and legal department was preparing loan agreement even for the loans between clients. That's why I am calling them "loans between clients"*. Dan bħal per eżempju dak li semmiet qabel fejn *Sahra* tat *loan* lil *Tillgate*. Dan it-*text* tal-*agreement* ikun ġie abozzat mil-*Legal Department* tal-Bank stess. B'hekk ikun il-klijent li jitlob lil Bank sabiex jipprepara *loan agreement* bejn il-klijent u klijent ieħor tiegħu. Kien hemm

għadd ġmielu tagħhom dawn il-*loan agreements* u fil-fatt fil-*payment details* issib li ħafna drabi ssib riferenza għal *"loan agreement"*.[91]

Maria Efimova tgħid li l-Pilatus kien jagħti wkoll self lil klijenti tiegħu, iżda mhux f'ammont kbir. Hi kienet tiftakar xi ħamsa jew sitta fi tliet xhur.

Maria Efimova taf li l-*core banking system* tal-Bank kienet *Oracle* (*Flexcube*) u kien hemm żewġ programmi bħal żewġt *databases* li kienu jaħdmu bihom. Ma tiftakarx isimhom pero tiftakar li kien hemm kumpanija mill-Albanija: *Facilization or Facilitation* li kienu jservu dan is-*software*. Dawn ta' spiss kienu jmorru l-bank. Pero hi qatt ma kellha ċ-ċans li tipproċessa pagament jew li tiftaħ kontijiet. Ma kienx parti minn xogħolha. Ġieli pero ħadmet fuq is-sistema bankarja billi tiċċekkja bilanċi ta' klijenti meta kien ikun hemm

[91] Għal kuntrarju ta' Maria Efimova, Emilia Maria Vacaru tixhed li taf li Pilatus kienu bdew jagħtu self lil klijenti meta kien hemm hi. Kienet xi attivita ġdida li bdew jagħmlu. Mistoqsija jekk kienetx taf jekk klijenti tal-Pilatus kienux jagħtu self lil xulxin Emilia Maria Vacaru tgħid li ma kienetx *"aware of this"*.

Anke Kamila Anna Lis tixhed li l-Bank Pilatus kien beda jagħti self lil klijenti tiegħu; iżda għalkemm ċerti klijenti kienu jagħmlu transazzjonijiet li jiddiskrivuhom bħala *"loan payment"*, mistoqsija dwar jekk klijenti tal-Bank Pilatus setgħux jagħtu self lil xulxin tramite l-Bank Pilatus Kamila Anna Lis twieġeb : *"no I would find it very strange, the bank has nothing to do with clients wants to do with their money"*. Mistoqsija jekk il-Bank Pilatus kienx jiġi mistoqsi jipprepara ftehim ta' self bejn il-klijenti tiegħu, Kamila Anna Lis tgħid : *"absolutely not. Why would that be, no, no. No that is not normal banking operations, no, no."*

Denica Cebova tixhed li hi kienet dik li tabozza u tanalizza kuntratti ta' self magħmula mill-Bank lil klijenti tiegħu. Bejn Ottubru 2015 u Frar 2016 kien hemm xi 5 jew 6 kuntratti ta' self. Ma tafx jekk klijenti tal-Bank kienux jagħtu self lil xulxin.

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payment instructions, jew tiċċekja l-*payment transactions*. Hi kienet tiċċekkja l-firem fuq il-*payment instructions*.

Kull klijent kien jingħata *customer number* u li jidhrilha li kien jikkonsisti f'sitt numri. In-numru kien jiġi assenjat b'relazzjoni mal-fatt li persuna tkun ġiet aċċettata bħala klijent u mhux bħala kont attwali. Meta persuna kien ikollha aktar minn kont wieħed kien hemm kodiċi li jiddistingwi.

Il-Bank kellu żewġ sistemi li jaħdem bihom – kellu sistemi li biha jiġu verifikati l-firem u biex wieħed jara li l-firem huma l-istess ċjoe jaqblu mal-*ispecimen signature*. Mis-sistema l-oħra kienu jivverifikaw il-bilanċ attwali tal-klijent. Dawn kienu żewġ sistemi differenti iżda ma tafx jekk kienx hemm sistema separata mill-*Oracle* jew le. Din ma kienetx *application* tal-*Oracle* iżda kienet bħal *database* – ma tiftakarx *x'software* kien; biss kien *database* separat mill-*Oracle*. Hi kienet tuża t-tieni sistema biss għall-fini ta' tqabbil ta' firem. Bħala *Customer Service Officer* kellha aċċess biss għall-firem. Meta kellha bżonn tivverifika xi ħaġa oltre, kienet kostretta titlob li Luis Rivera biex jiċċekjalha hu. Kienet tidħol fis-sistema billi tagħmel "www...." pero ma tiftakarx l-isem tas-sit. Il-*credentials* kienu differenti wkoll u ma tiftakarhomx. Meta keċċewha ħadulha n-*notebook* tagħha u kienu miktubin fuqu. Biss hija kienet tuża l-istess *computer* li kellha biex tagħmel din l-operazzjoni.

Ma Daphne Caruana Galizia iltaqgħet xi 3 jew 4 darbiet. Hi bdiet tagħmel kuntatt mal-media f'Ottubru 2016 wara li kienu bdew il-proċeduri kontra tagħha bil-Qorti u ġiet arrestata. Hija kienet bagħtet ittra lil media kollha dwar il-każ tagħha mal-Pilatus. Il-kuntatt ma Daphne Caruana Galizia beda

f'Marzu 2017.[92] Il-laqgħa saret id-dar ta' Maria Efimova.[93] Mistoqsija dwar dak li xehdet Daphne Caruana Galizia dwar id-*declarations of trust*, Maria Efimova wieġbet is-segwenti : -

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[92] Fir-raba' xiehda tagħha Maria Efimova tgħid li hija kienet l-ewwel iltaqgħet ma Daphne Caruana Galizia u wara kienet iltaqgħet ma Pierre Portelli. L-ewwel darba li rrakkuntat l-istorja tal-*Egrant Inc* kienet lil Daphne Caruana Galizia u wara lil Pierre Portelli. Biss fir-rigward ta' meta ltaqgħet l-ewwel darba ma Daphne Caruana Galizia, Maria Efimova rrilaxxjat ukoll intervista lil ġurnalista Taljan Carlo Bonini ta' *La Repubblica*. Traskrizzjoni integrali tal-intervista qegħda tiġi riprodotta :

> Traskrizzjoni magħmula minni ta' intervista telefonika li saret minn Carlo Bonini ta' *La Repubblica* lil persuna identifikata minnu bħala Maria Efimova fi ħdan il-proġett *The Daphne Project*, u riferit bħala *Episodio 4* intitolat *Maria Efimova, la whistleblower*. Il-link għal din l-intervista jinsab fl-indirizz <https://video.repubblica.it/webseries/daphne-caruana-galizia/maria-efimova-la-whistleblower-episodio-4/303061/303696?refresh_ce>.
>
> ME – Yes, hello.
>
> CB – Hi Maria, Carlo here.
>
> ME – Hello Carlo, how are you doing?
>
> CB – Fine thank you. Can you hear me?
>
> ME – Yes.
>
> CB – Ok. Great. Much much better than last time. So Maria, I am coming to record a little bit two or three key points of the story, of your story and why basically Daphne was killed.
>
> ME – while working in Pilatus Bank I bump on politically exposed persons (PEP) from Malta, from Azerbaijan, from Russia. As for other nationalities who were not PEP they were some citizens of United Arab Emirates as well as Iran and Turkey. I would say ninety (nine zero) percent of outgoing transaction were for Dubai. On the 29 of March 2016 I have been given a termination note with immediate effect. So that was my last day, there.
>
> Before to testify before European Committee I have prepared a report to the European Central Bank about shortcomings in compliance and the money laundering I was witnessing in Pilatus Bank.
>
> I first contact Ms Caruana Galizia around six months after my dismissal from the Bank. Daphne was investigating She got some other sources as well. She was coming back to me for some clarifications from my experience in the Bank. We have discussed Egrant Company and account of this company in Pilatus Bank because it was related to PEP in Malta. In declarations of trust for this company as well as in account opening form for this company Ms Muscat was mentioned as sole and ultimate beneficiary.
>
> I don't think Daphne was feared. I was really worried about her and I was suggesting that she should not stay in Malta while revealing and publishing all this information. But Daphne was so shocked with information she received from me. She was just very eager to reveal. I was telling her that she should be very careful because I saw car-bomb in the light of day with my own eyes. And I told her "you should be aware" and she told me "ok what can they do to me.. will they put bomb in my car as well?".
>
> In October sixteen, two thousand seventeen, even I wasn't in Malta, I was still following her blog. I remember that I read her last article that she posted at around two thirty pm and then in two, three hours I saw an announcement in Russian news and I immediately proceed to Maltese local news and I saw that she has been killed.

Minn hawn jirriżulta li skont Efimova, l-ewwel kuntatt li għamlet ma Caruana Galizia kien għal ħabta ta' Settembru jew Ottubru 2016 u mhuz Marzu 2017.

Supr. Ian Joseph Abdilla: in your house, well Ms. Caruana Galizia testified here, she didn't mention you and in fact we asked her to contact you and you decided to come over, she said that her source gave her a copy, showed her and gave her a copy of four documents, these were the declaration of trusts, and declaration of trusts.

Inquiring Magistrate: two.

Supr. Ian Joseph Abdilla: and two opening bank mandates, have you gave these four documents yourself to her?

Maria Efimova: no, no I didn't.

Supr. Ian Joseph Abdilla: do you know perhaps who could have given Ms. Caruana Galizia these documents or have you referred her to?

Maria Efimova: no I didn't refer her, I was mentioning some colleagues of mine but I never said this one can give you some thing or no but as far as I know, many employees of the bank, they have been fired when I was in the bank before I joined the bank, other colleagues of mine were telling me a lot of dreading stories of people treated very bad way in this bank so one of them probably could do it.

Inquiring Magistrate: ok.

Supr. Ian Joseph Abdilla: so you were not the person who gave these?

Maria Efimova: no.

Supr. Ian Joseph Abdilla: so if I show you part of an article that was published on the 21 st of April, 2017 at 10.02 in the evening where there is an abstract from the declaration of trusts, do you recognise this article, do you recognise this text?

Maria Efimova: yes the text is similar ... when it says its capacity subscriber it was as I said the Spanish word subscriber and how do you call it.

Supr. Ian Joseph Abdilla: brackets?

Maria Efimova: brackets yes. It was in the Spanish ...

Supr. Ian Joseph Abdilla: Dubro Limited S. A. and Aliator S. A. do you remember these?

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[93] Fit-tieni xiehda tagħha Maria Efimova qalet li l-intervista ma Daphne Caruana Galizia kienet għamlitha fid-dar ta' Maria Efimova ftit wara l-Għid tal-2017, għalkemm qabel ma Maria Efimova ġiet tixhed fil-Qorti. Fit-tielet xiehda tagħha Maria Efimova tgħid li l-ewwel laqgħa li kellha ma Daphne Caruana Galizia kienet f'Marzu 2017 jew qabel jew wara l-Għid u damet madwar sagħtejn. L-Għid tal-2017 ġie ċelebrat fis-16 t'April u mhux f'Marzu. Matul din l-ewwel laqgħa, Maria Efimova tgħid li Daphne Caruana Galizia urietha dokumenti.

Maria Efimova: I remember that I saw the declarations first I thought that it is the same paper printed two times because the text was very similar but after I saw that the names of the companies that issued the declarations they were different. I think they were these names yes.

Inquiring Magistrate: ehe. Ok but the declarations were like those?

Maria Efimova: the text yes, it was not much text like I remember it was like two lines - declaration of trust, the text of the trust and one signature, one director was signing.

Inquiring Magistrate: one signature?

Maria Efimova: ehe.

Inquiring Magistrate: and there were the details of the company?

Maria Efimova: yes it was addressed to the name of the company, number, address, yes, yes, yes.

Inquiring Magistrate: ehe.

Supr. Ian Joseph Abdilla: have you ever seen Ms. Michelle Muscat at the bank?

Maria Efimova: no. I cannot recall here.

Supr. Ian Joseph Abdilla: Prime Minister Joseph Muscat ?

Maria Efimova: no.

Inquiring Magistrate: Conrad Mizzi?

Maria Efimova: No. Inside the premises of the bank, no.

Inquiring Magistrate: John Dalli, do you know who John Dalli is?

Maria Efimova: No.

Inquiring Magistrate: do you know if John Dalli haves an account?

Maria Efimova: I don't know, I cannot recall. I remember this Brian Tonna's partner Karl Cini, he also had one I think, I recall the name Cini.

Inquiring Magistrate: Karl Cini had an account?

Maria Efimova: I think so but again I cannot say 100 % sure. ....

Supr. Ian Joseph Abdilla: so you are 100 % sure that you have never took a copy of these documents that Ms. Caruana Galizia is saying?

Maria Efimova: no I didn't.

Supr. Ian Joseph Abdilla: because for us it is very, very important that we have them for our investigation?

Maria Efimova: yes, yes.

Supr. Ian Joseph Abdilla: a copy of them.

Inquiring Magistrate: but you don't have copies you said?

Maria Efimova: no I don't have copies.[94]

Żiedet tgħid ukoll li Ali Sadr kellu erba' passaporti u żewġt dati tat-twelid differenti. Dawn setgħu jiġu verifikati minn *open source sites* bħal *Companies House* tal-Ingilterra.[95]

It-tieni xiehda ta' Maria Efimova

Maria Efimova xehdet ukoll nhar it-tnejn (2) ta' Mejju 2017. Ikkonfermat li wara li kienet xehdet fil-kors tal-inkjesta maġisterjali kienet irrilaxxjat żewġt intervisti : lil ġurnal *The Malta Independent* tat-30 t'April 2017 fejn kienet *front page* u waħda lil Daphne Caruana Galizia *"Pilatus Bank Whistleblower speaks out"*. Hija għamlet ukoll *video interview* ma Pierre Portelli. It-test ta' dan l-

[94] Fit-tielet xiehda tagħha, Maria Efimova minbarra li tirrepeti li hi qatt ma wriet id-dikjarazzjonijiet lil Daphne Caruana Galizia iżda kienet Daphne Caruana Galizia li wriethomlha Maria Efimova żżid tgħid li Daphne Caruana Galizia kienet staqsietha wkoll jekk dawn kienux *"fake or can be proved as authentic ones"*. Maria Efimova tgħid li Daphne Caruana Galizia ma kienetx ċerta jekk kienux oriġinali jew ġenwini : *"because we were talking on the subject again so she was just asking me if I know, if I know if these documents can be fake or can be proved as authentic ones"*.

[95] Dan il-kumment ta' Maria Efimova juri wkoll li għandha ċerta għarfien kif tagħmel tiftix f'siti speċjalizzati għal informazzjoni speċifika fir-rigward t'individwi partikolari. Apparti minn hekk il-fatt li skont Pierre Portelli kienet ukoll qaltlu li setgħet taċċedi għall-*iCloud* billi taċċedi mill-VPN, juri wkoll livell sofistikat t'għarfien ta' tħaddim tal-*internet*.

artiklu huwa wkoll formanti parti minn din l-inkjesta. Maria Efimova tgħid li *text* tal-*interview* li sar ma kienx ġie moqri lilha, għalkemm hija qrat l-artiklu. Tgħid hekk : -

Maria Efimova: yes I would like to comment that this interview states that I scanned the documents, that I opened the safe with the key and I scanned the document and I put them on the cloud I think but this I didn't say and I didn't do.

Inquiring Magistrate: this you didn't say and you didn't do?

Maria Efimova: yes.

Inquiring Magistrate: so who came up with this? So it was the journalist who has written this?

Maria Efimova: the journalist wrote this yes.

Inquiring Magistrate: the journalist did?

Maria Efimova: yes.

Inquiring Magistrate: now and she did so without you having said those words, that is what you are saying?

Maria Efimova: yes....

Supr. Ian Joseph Abdilla: so on page 2 of this article, under the title in red, I quickly scanned those documents and return them and the paragraph reads like this – *I quickly scanned those documents and returned them to the safe, I don't know why I did it what was at the back of my mind except that I knew I wanted to have something in hand in case they tried to frame me as responsibly for their irregular PEP files.*

Maria Efimova: so this paragraph hasn't been said by me.

Inquiring Magistrate: you didn't say so?

Maria Efimova: no.

Inquiring Magistrate: ok.

Supr. Ian Joseph Abdilla: was the interviewer writing down or was she recording you?

Maria Efimova: no she was writing down.

Supr. Ian Joseph Abdilla: so the obvious question is – do you have these documents?

Maria Efimova: which documents?

Supr. Ian Joseph Abdilla: mentioned four documents last time – the two declarations of trusts ok and two opening bank mandates, that you saw in the cabinet, in the safe?

Inquiring Magistrate: let's call it safe.

Maria Efimova: in the safe I saw trust declarations. The account opening forms were not in the safe, they were in the file with the other account opening forms.

Supr. Ian Joseph Abdilla: ok so these trust documents, do you have a copy of them?

Maria Efimova: no I don't.

Inquiring Magistrate: and you never scanned them?

Maria Efimova: no I never scanned them.

Inquiring Magistrate: not even took a photo of it?

Maria Efimova: no.

Supr. Ian Joseph Abdilla: ok you never had a copy in your possession?

Maria Efimova: no.

Supr. Ian Joseph Abdilla: in the cloud, in your purse, in your, any where?

Maria Efimova: no I didn't have a copy in my …

Inquiring Magistrate: so who, are you saying that that part is invented by the journalist?

Maria Efimova: no when she was interviewing me, she showed me those documents so she had the copies. I saw them but who gave it to her I don't know.

Supr. Ian Joseph Abdilla: so she showed you these documents?

Maria Efimova: yes she showed me the trust declarations.

Supr. Ian Joseph Abdilla: where they signed?

Maria Efimova: yes, yes.

Supr. Ian Joseph Abdilla: where these the same documents you saw?

Maria Efimova: the trust declarations yes.

Supr. Ian Joseph Abdilla: did she also show you the bank opening forms?

Maria Efimova: no she didn't. She only showed me two trust declarations.

Inquiring Magistrate: so she showed you the two trust declarations?

Maria Efimova: yes....

Inquiring Magistrate: but you didn't give her these documents?

Maria Efimova: no I didn't.

Supr. Ian Joseph Abdilla: and never where they in your possession outside the bank?

Maria Efimova: no. I didn't have them.

Efimova tgħid li Daphne Caruana Galizia kienet għamlet din l-intervista fid-dar ta' Maria Efimova ftit wara l-Għid; iżda qabel ma ġiet tixhed il-Qorti. Daphne Caruana Galizia kienet ċemplitilha wara li xehdet fil-Qorti u qaltilha li issa l-Bank setgħa jipprova jattakka l-kredibbilta' tagħha. Maria Efimova ma kienetx ġiet intervistata mill-ġdid wara li kienet xehdet il-Qorti jew irrilaxxjat intervista oħra ġdida lil Daphne Caruana Galizia qabel din ippubblikat dak l-artiklu fil-ġurnal *The Malta Independent*.

Maria Efimova qalet li kienet qrat l-artiklu u kienet taf li jum qabel ma xehdet Maria Efimova, u ċjoe f'jum il-Ħamis, Daphne Caruana Galizia kienet xehdet fl-inkjesta. Maria Efimova qrat fuq il-gazzetta li Daphne Caruana Galizia kienet xehdet. L-għada ġiet il-Qorti u staqsiet lir-*reception* jekk setgħetx tixhed u l-uffiċjal qallha biex tkellem lill-Avukat u tagħmel rikors. Minn hemm għamlet kuntatt ma' Daphne Caruana Galizia għax xtaqet li ma

tkellimx lill-Avukat minħabba li kienet imħasba għal raġunijiet ta' sigurta. Xtaqet tkun taf jekk kienx hemm mezz ieħor kif tista' tixhed. Il-Ġimgħa imbagħad ġiet tixhed hi. Wara li spiċċat tixhed, Daphne Caruana Galizia bagħtitilha messaġġ tistaqsiha jekk kienetx lesta.

Supr. Ian Joseph Abdilla: yes, let's take just some of them, there was, let's take part of this article under the title – list of special companies on page 2, I was also given a list of companies may be eight or ten names and told that these were to be given special attention for payment transactions and for any thing to do with them, I would have to speak to Claudenne Sant Fournier, the Executive Director, the companies included Willerby Inc, Till gate Inc, Hern ville Inc, *Egrant Inc* and Al Sahra FZCO, I knew that Al Sahra Inc belonged to the daughter of the President of Azerbajgan Lyla Alyeva because I had seen the bank account opening form but I didn't know who the other companies belonged to at that stage. Further down there is also another reference – these payments of hundreds of thousands of Dollars from Al Sahra FZCO always marked as loan payments where made, where not made to their accounts at Pilatus Bank but to accounts they held at a bank in Dubai. Is this your text?

Inquiring Magistrate: did you say this?

Maria Efimova: not regarding the company Al Sahra, it was company Sahra, not Al Sahra.

Inquiring Magistrate: Al Sahra and Superintendent mentioned some four companies in particular did you give her, the names of these companies?

Maria Efimova: I don't remember now how it came, she was asking me, she was giving me the name of this company and asking if I saw transactions with this company so yes, I said yes. I saw.

Inquiring Magistrate: she told you for example did you see Hern Ville, did you see Till gate, was it Egrant, wasn't this, that or the other?

Maria Efimova: yes.

Inquiring Magistrate: and you said, yes, yes and yes. So it wasn't you who told her from your memory, she suggested those names to you and you told her yes?

Maria Efimova: honestly now I don't remember who brought it first, may be it was me, I am not sure.

Inquiring Magistrate: ok, but definitely Al Sahra wasn't you?

Maria Efimova: a?

Inquiring Magistrate: Al Sahra wasn't you?

Maria Efimova: Al Sahra no, I never saw.

Inquiring Magistrate: because you never mentioned Al Sahra?

Maria Efimova: only Sahra.

Inquiring Magistrate: only Sahra?

Maria Efimova: yes.

Inquiring Magistrate: but there she mentions Al Sahra so who gave Al Sahra to her?

Maria Efimova: I don't know may be it was a confusion because they had also Shams Al Sahra.

Inquiring Magistrate: and you never saw Al Sahra?

Maria Efimova: Al Sahra no.

Ġew nutati diversi diverġenzi bejn ir-rakkont pubblikat minn Daphne Caruana Galizia, kemm fl-artiklu tar-Running Commentary, kif ukoll dak fuq il-Malta Independent, kif ukoll dak li kienet xehdet dwaru Daphen Caruana Galizia dwar dak li qalet li rrakontatilha Maria Efimova, ma dak li fil-fatt Maria Efimova kienet xehdet dwaru. Mistoqsija dwar dan il-punt, Maria Efimova tgħid hekk -

Supr. Ian Joseph Abdilla: when you read this article and there are some mistakes or some inaccuracies in particular to that paragraph that says that you scanned the documents?

Maria Efimova: ehe.

Supr. Ian Joseph Abdilla: did you contact the paper, did you contact Daphne Caruana Galizia to correct that mistake?

Maria Efimova: that is why I was giving another interview to the same paper but in person like video interview, I wanted to correct some discrepancies.

Imbagħad irrakkontat ukoll l-episodju relattiv għall-kumpanija *Silverlake* allegatament tat-tifel tal-President tal-Angola. Anke hawn qalet li kien hemm differenza bejn dak miktub fl-artiklu u dak li seħħ. Hi qalet hekk:-

> yes, the difference with the article is that when I joined the bank, the account for that company Silver lake if I remember correct, it was already opened because bank. Silver Lake I think, Silver Lake some thing or investments or holding some thing like that so when I started to perform customer service duties, the account has already been opened, it wasn't me who was preparing the account opening form for that company, it has been opened however the ladies from the Portuguese company they have contacted me and I was arranging a meeting for them to come so in that meeting when they came to the bank, it was me Hamedresa Gambari and two ladies, I don't remember the name of the corporate service provider from Portugal unfortunately so they came, if I remember correct Silver Lake and they told us look part of the company, some shares they have been sold from this company to the son of Angola, son of the President of Angola but it is not for his PEP activities let's say, he is a singer, he is a famous singer so he needs this company for his singing, for his business yes, singing business and they brought us all the transfer, all the documents and ... transfer of shares, it was resolutions from the Directors of this company and they said there is nothing to be afraid off because he is a singer and his business is clear and they left and after I told to Mr. Gambari, I told him look such a trick they did, they opened an account just for the usual company and after, because as I remember the account has been opened early 2016, they opened an account and now they put PEP inside and they should have immediately closed this company, it is very dangerous for the bank and he told me no, it is not your business, I will deal with it, just go and do your job.

Maria Efimova qalet li f'dak iż-żmien hija kienet *intern* u li kienet għadha fuq *probation*.[96] Mistoqsija kif kienu jafdawha daqshekk hija wieġbet : -

> first of all I was really surprised they entrusted me with the duties of the customer services officer, me being an executive assistant at the first place....yes they trusted me

[96] Il-fatt li hija kienet għadha *intern* huwa wkoll konfermat mix-xiehda ta' Hamidraza Ghanbari.

but as far as I know very few employees were staying in the bank for long, most of the employees were staying like three / four months and after they resigned or have been fired, so at the moment I have been untrusted those customer service duties, one person has been fired and another has resigned so obviously the bank I think didn't have sources so they didn't have much choice, who would for example then they took another person for this position to under take this customer services duties she was actually for actually, she is Maltese so at least I knew some thing about the job and she was like totally."[97]

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[97] Ix-xiehda ta' Sharonjit Kaur Agimal hija interessanti għax tgħid eżattament bil-maqlub ta' dak li qalet Maria Efimova. Agimal tgħid li fil-Bank Pilatus kienet tiddomina regola li kull impjegat kien ikun mogħti informazzjoni *on a need to know basis*. Anzi żżid li fis-sitt xhur li damet taħdem mal-Bank Pilatus ftit li xejn kienet tara s-*Senior Management* jaqsam informazzjoni mal-impjegati ta' taħthom. Għalkemm kellha aċċess għal files fil-*Front Office* hi kienet tara biss dawk li kienet taħdem fuqhom u xejn aktar. Dwar l-allegazzjoni li kien hemm xi impjegat li ingħata ċ-ċwievet tas-*safe* Agimal tgħid li kienet rat dan is-*safe* darba waħda biss meta kienu qegħdin ifitxu *file* partikolari u kien ġie xi ħadd mill-*Compliance Department* biċ-ċwievet u ħadd ma kien ħalliha tmiss dawn iċ-ċwievet – hi li kienet taħdem fil-*Front Office*. Kienu tal-*Compliance Department* li ħarsu fis-safe u hi qagħdet warajhom u ma setgħetx l-anqas tara x'hemm fil-*cabinet*. *We do not have easy access to keys*, tgħid. L-anqas meta kienet taħdem mal-*Compliance Department* ma kellha aċċess għal dan is-*safe* :

> The Court : So if I give you a scenario where you would have the safe open, with files accessible to employees who could be coming and going in the room where the safe is housed, do you see that... without any supervision mind you
>
> The Witness : Would it be possible? Honestly
>
> The Court : Do you see that as a probable scenario?
>
> The Witness : No. Not at all. Because for a start the safe is not kept with anybody. And it is locked at all times So if a senior member of staff out Compliance or Legal go into it they have the key, they open it and they close it behind them. They would not just leave it open. I personally could not imagine that as a scenario at all. I said I worked in Compliance as well and there is no, I had a supervisor that was technically a supervisor that was above me. So if something did need to come out of the safe it would not be anyway, it would be her. And no I could not, honestly I could not see that as the safe being opened unsupervised, and somebody being able to wander in and out, *** really not going in and out as they pleased. I genuinely cannot see that as a scenario.

Mill-banda l-oħra Michaela Krajcikova tgħid li meta l-*MFSA* kienu għamlu l-ispezzjoni f'Ottubru 2015 (sic! f'Settembru 2015) :-

> The Witness : As I said I was never supposed to be involved. I was only taking part in some, like filling the holes if I can say like that. So as there was no person to confirm the phone call it would be me to confirm it either because I am in the room at the moment or there is nobody else so they call me to do so. Or doing KYCs and papers like this I would be called to do them because there is either a panic in the bank or the lawyer was just too busy. She used to give me the key of the file cabinet and tell me to bring her something or stay in the room and organize certain documents. Once before we had MFSA visit, they have spent over a week in the bank, it was horrible moments. Everybody was panicking, everybody was nervous. A lot of tension would be around in the bank. And that was really bad for me because I had to host them. I had to make sure that everybody is in his office with doors closed which normally we used to have the doors open. Kitchen closed. Everything closed. I had to serve them food. I had to wake up early before my working time and go and shop for some food and refreshments for them and organinze these things, make sure that they always have fresh coffee and water. It was a little bit uncomfortable. And then everybody was so tense that one time I left out for my lunch break to a place close by and when I came back Mr Sadr shouted at

Maria Efimova tgħid li kienet hi stess li rreferiet lil Daphne Caruana Galizia dwar il-kumpanija "*Akce*" u mhux bil-maqlub.

Maria Efimova tenniet li Brian Tonna kien ikun ta' spiss il-Bank – xi darba fil-ġimgħa u anke aktar minn hekk. Il-mod kif kien iġib ruħu kien qisu l-Bank kien tiegħu. Ali Sadr kellu attitudni differenti ma Brian Tonna qisu mhux Ali Sadr kien is-sid, iżda Brian Tonna.[98]

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me a lot that I allow myself to leave for a lunch break when MFSA is there. He would jsut demolish me for leaving for lunch.....I really do not know what was the reason. I can just understand that when some authorities come and check in your working place, either it is a bank or some other place of work, you want everything to be organized and in order which I am sure it was not, the Doctor of Law employed in the bank, I am not sure if I can mention the name, was very disorganised with her paperwork which came so strange to me. I imagine lawyers as organised people, they are handling important documents and they should be organised. They were not at all. So every time something like this was supposed to happen she was really angry, nervous, uncomfortable. That is why it happened that she used to give tasks to people which were not supposed to be doing these tasks. Everybody had handful of work and she would need to rush up some things and so she needed help from me.

[98] Mix-xiehda ta' Brenda Calleja Smith jirriżulta li matul iż-żmien li damet taħdem mal-Bank Pilatus, jiġifieri bejn Jannar u Awissu tal-2014 hi qatt ma kienet rat lil Brian Tonna fil-Bank Pilatus. Dak iż-żmien kienu madwar erba' minn nies jaħdmu f'dan il-Bank u għalhekk kienet ħaġa faċli tara min ikun daħal fil-Bank għal xi laqgħa. Apparti minn hekk, sa Awissu 2014 l-uniku Malti li taf li daħal għal meeting mad-Direzzjoni tal-Bank kien John Dalli. Sa' Awissu 2014 ma kienx hemm klijenti li kellhom rabta mal-Ażerbajġan. Inoltre Keith Schembri kien għadu mhux klijent tal-Bank Pilatus sa' Awissu 2014. Dan jidher li ġie konfermat ukoll minn Ekmel Gilingir li għal perjodu Diċembru 2013 sa Settembru 2014 kien is-*CEO* tal-Bank Pilatus. Dan jaqbel ukoll ma emails li l-*Forensic Accountants Harbinson Forensics* sabu fil-hardware ta' Nexia BT fejn f'konversazzjoni bl-*email* bejn Brian Tonna u Karl Cini li saret f'Ottubru 2014 jirriżulta li Brian Tonna kien qiegħed jippressa lil Karl Cini biex jipprova jagħti servizz tajjeb u effiċjenti lil Bank Pilatus għaliex dan għalihom setgħa jkun sors ta' negozju tajjeb. Dan juri li f'dak l-istadju, ir-relazzjoni kummerċjali bejn il-Bank Pilatus u Nexia BT kienet għadha fil-bidu tagħha – u jekk xejn kienet turi kemm Brian Tonna xtaq li jaqta figura tajba biex ikun jista' jġib aktar negozju lejn id-ditta tiegħu. F'din il-korrispondenza jidher ċar li din kienet intiża biex Nexia BT tintroduci s-servizzi tagħha lil dan il-Bank li kien għadu fil-bidu tal-operazzjonijiet tiegħu. F'dak l-istadju xejn fil-provi ma jindika li Brian Tonna kien qiegħed jieħu attitudni ta' padronanza fuq dan il-Bank ma Ali Sadr. Jekk xejn juri li kien qiegħed jipprova jagħti stampa pożittiva tad-Ditta tiegħu bit-tama li jiġbed negozju minn dan il-Bank lejha.

Supr. Ian Joseph Abdilla: then there is another part about Mr. Tonna as well and this deals with a property which Mr. Tonna had, this was not covered in our last, when you testified the first time, this paragraph goes like this, another time, I was asked to scan an offer for a real estate agent, for a mansion house in London priced at around 17 million sterling with plans and pictures of the rooms, the offer was addressed to Willerby Inc, Willerby Trading Inc, I remember it because Mr. Gambari made me scan it again and again until it was perfect. The payments for this mansion were processed through Willerby Trading Inc, I remember the first payment was of five million sterling and there was an agreement for instalments on the rest. What can you tell us about this?

Maria Efimova: yes I remember the agreement, they asked me it was evening quite late, I was about to go home but Mr. Sadr called me and he said I should take some brochures, brochure document from Mr. Gambari scan it and sent to him, to his email so Mr. Sadr told me to go to Mr. Gambari, Mr. Sadr wasn't in the office, Mr. Gambari was and he told me to go to Mr. Gambari and take his brochure from him, make a scan and sent him a copy so what I did, I made the scan and I sent him an email and he called back shouting that it was not proper scan and it wasn't very well done because it was binded, it was very difficult for me to scan it I couldn't open it properly and he told me to re scan it and when I finished my colleague Maria Vacaro, she told me take this payment instruction to the operations department and tell them to do it now and the payment instructions was related to this offer, it was offer or proposal for an acquisition of some thing like that and I took this instruction to the payment department.

Maria Efimova tgħid li hija rat il-*payment instruction*, iżda mhux il-pagament effettiv għax ma kienetx fl-*Operations Department*. Mistoqsija kif jista' jkun li dak li qed tgħid hu minnu meta la d-depożitu tal-ħames miljun Lira Sterlina u l-anqas il-pagamenti tal-*intalments* ma kienu jidhru fuq l-account tal-*Willerby*,[99] hi tgħid li :

because they were discussing them how they will buy so much sterlings, they were discussing some thing about money market, it is a big amount, they shall acquire those

[99] Din l-informazzjoni kienet waslet mingħand il-*Forensic Accountant Miroslava Milenovic* waqt li kienet qegħda tagħmel l-analiżi tat-transazzjonijiet Bankarji fil-Bank Pilatus.

> sterlings to ... the transaction.... un fortunately I cannot explain it because I am not a technician and I cannot now go to the system of the bank and see what is going on there, how can I explain.

Mistoqsija kif kienet baqgħet tiftakar dawn id-dettalji kollha minn fost l-ammont ta' klijenti u transazzjonijiet li kellu l-Bank, hija qalet li baqgħet tiftakar għax kienet *distressed* ħafna li fit-20:00 kellha tibqa tagħmel l-i *scans* tad-dokumenti biex ikunu perfetti u b'hekk baqgħet tiftakar.

Meta mistoqsija fuq is-*safe* iż-żgħir hija qalet li ma kienetx taf li kien hemm dan is-safe iż-żgħir, iżda kienet iltaqgħet ma Makhabat Ellul u din kienet qaltilha lil Maria Efimova li kien hemm is-safe iż-żgħir.

Claude-Ann Sant Fournier kienet f'relazzjoni tajba magħha u Efimova kienet anke żżommilha l-*baby* meta kien ikollha xi *meeting* mas-*CEO*. Sant Fournier kienet tirrabja u tgħajjat ma xi impjegati, għalkemm mhux magħha. Claude-Ann Sant Fournier kienet titkellem regolarment ma' Hamidreza Ghanbari u ma tiftakarx li kien hemm xi kunflitti bejniethom.

Maria Efimova tgħid li ma Denica Cebova kellha relazzjoni ta' kollegi u meta spiċċat mill-Pilatus ma baqgħux ħbieb. Wara li spiċċaw pero :

...no we met, one time we met, when she found another job, she came and we met with Maria Vacaro and her and we went for lunch and she was also sending me some messages like that I remember regarding some thing in regard of children.

Mistoqsija ulterjorment dwar id-dokumenti :

Supr. Ian Joseph Abdilla: ok so in the video that Pierre Portelli took that you specifically said that you did not scan the document?

Maria Efimova: he was asking me if I scanned them, if I putted them to the cloud, if I did it, he was asking me like three or four times but I told him no, I know that the documents exist but I didn't scan them.

Inquiring Magistrate: you play the document. We have just seen the interview that was released by you to journalist Pierre Portelli of the Malta Independent, first of all do you confirm that the person being interviewed is yourself?

Maria Efimova: yes I confirm.

Inquiring Magistrate: do you confirm the content of what was said during the interview?

Maria Efimova: yes.

It-tielet xiehda ta' Maria Efimova

Maria Efimova reġgħet xehdet fil-5 ta' Mejju 2017. Hi tibda biex tgħid hekk:-

I remembered the fact that Maria Emilia Vacaro was my colleague at the time I was working in the bank, she was mentioning that the statements are prepared manually, one time she was complaining that it takes her by the end of the month to prepare monthly statements for the clients, it takes her like three to four hours to prepare statements because the IT officers were downloading some information from the bank system but the statement was not ready so she was doing some manipulation to actually prepare statements in pdf format and then sent to the client so this was the first that I wanted to mention and also...she said it was her monthly routine by the end

of the month, she was staying longer hours in order to prepare those statements because they were sending statements to all the clients in all like banks are sending statements.

I wanted to mention that I didn't mention yet it is about Turkish, office in Turkey, office of the bank in Turkey... Yes, I don't know if it was an official representative office or branch or some thing else but it was a lady who was working for the bank but she was based in Turkey and she was also doing some QYC (sic! KYC) Forms, she was also preparing some account openings and she, clients were contacting her as well as us, I mean as well as customers service officer in the bank based in Malta, clients were contacting her as well. I just know the name of the woman, I heard her name was mentioned several times in the bank and I saw some emails for example when I was performing customer service duties some clients were sending to me and when putting her in the copy so I could see her email address in the cc....Linet Estiroti.[100]

Maria Efimova tgħid li hi kelmet lill-Estiroti darba waħda fuq it-telefon u qatt ma ratha personalment. Darba Ali Sadr kien ried xi *agreement* u kien

[100] Emilia Maria Vacaru tikkonferma li tiftakar li kien hemm waħda jisimha Linet Estiroti li kienet taħdem mal-Pilatus. Hi qatt ma ltaqgħet magħha għax Estiroti kienet taħdem mid-dar fit-Turkija. Meta Emilia Maria Vacaru kienet *trainee*, kienet iċċempillha u tagħtiha l-pariri xi trid tagħmel biex tiftaħ kontijiet tal-bank. Taf li qabel Estiroti kienet taħdem fuq ftugħ ta' kontijiet tal-bank, pero ma tafx jekk kienetx tagħmel attivitajiet oħra. Taf li kienet taħdem għal madwar għaxar snin ma Ali Sadr. Meta Emilia Maria Vacaru kienet bdiet taħdem ma Pilatus Bank, Estiroti kienet baqgħet tipproċessa pagamenti għal Pilatus Bank. Pero wara l-Bank għaddew l-ipproċessar tal-*payment instructions* lil Emilia Maria Vacaru. Kien hemm ħabta fejn il-Bank kien baqa' jibgħat *payment instructions* lil Estiroti, iżda din kienet tirreferihom lura l-Pilatus Bank f'Malta. Peress li Estiroti ma kienetx f'Malta, hi ma kienetx f'qagħda li twettaq il-*payment instructions*. Emilia Maria Vacaru tispjega li l-proċedura għall-ipproċessar tal-pagamenti kienet waħda dettaljata u riġida li kienet dejjem tiġi segwita mill-Bank.

Brenda Calleja Smith u Mehmet Tasli jikkonfermaw li Estiroti kienet l-assistent personali t'Ali Sadr kemm qabel kif ukoll wara li fetaħ il-Bank Pilatus. Mehmet Tasli ma kienx jaf pero sakemm kienet baqgħet f'kuntatt ma Ali Sadr wara. Luis Felipe Rivera mill-banda l-oħra jgħid li Linet Estiroti kienet taħdem ma Pilatus Capital Limited, li kienet tipprovdi *Front Office Relationship Management* u ma kienetx direttament impjegata mal-Bank Pilatus.

irreferiha għand Estiroti. Maria Efimova kienet rat *email* li kienet mid-domain ta' *Altitude Capital LLC* u mhux minn fuq il-Pilatus Bank.

Maria Efimova tgħid li Hamidreza Ghanbari kien ukoll irrefera għal uffiċju fit-Turkija in konnessjoni mal-ġbir ta' *cards* għall-Bank minn hemmhekk biex jiffrankaw it-taxxa minħabba li huwa *non-EU product.*

L-ewwel laqgħa li Maria Efimova tgħid li kellha ma Daphne Caruana Galizia kienet f'Marzu 2017 jew qabel jew wara l-Għid u damet madwar sagħtejn. Matul din il-laqgħa, Daphne Caruana Galizia **urietha dokumenti.**

> Inquiring Magistrate: so how could she show you the documents during your first meeting when she didn't know what you are going to talk about?
>
> Maria Efimova: may be she already had them.

Mistoqsija għaliex, wara laqgħa twila ta' sagħtejn kellhom jerġgħu jiltaqgħu darbtejn jew tlieta oħra, Maria Efimova wieġbet li Daphne Caruana Galizia riedet li jkollha dettalji oħra peress li kienet qegħda tagħmel ir-riċerki tagħha ibbażati fuq dak li kienet qaltilha Maria Efimova biex tivverifika dak li kienet qaltilha u wara riedet tikkjarifika xi dettalji oħra.[101]

[101] Dan il-fatt jista' jitqies konfermat mix-xiehda ta' Daphne Caruana Galizia li tgħid li hija pruvat tivverifika dwar l-isem tal-kumpanija *Al Sahra* in kwantu bdiet issib ħafna informazzjoni dwar il-kumpanija *Shams Al Sahra,* iżda mhux dwar il-kumpanija *Al Sahra.* Mid-dokumenti bankarji tal-Bank Pilatus ma tirriżultax li qatt kienet reġistrata l-kumpanija *Al Sahra.*

Dawn il-laqgħat li saru wara ħadu madwar siegħa kull darba u Caruana Galizia dejjem urietha l-istess dokumenti cjoe' – it-*trust declarations*. Daphne Caruana Galizia kienet staqsietha wkoll jekk dawn id-dokumenti kienux *fake or can be proved as authentic ones*. Daphne Caruana Galizia ma kienetx ċerta jekk kienux oriġinali (ġenwini) jew le.

Daphne Caruana Galizia qatt ma wrietha dokumenti oħrajn apparti dawn iż-żewġt *declarations of trust* u Efimova żżid li b'mod partikolari Caruana Galizia qatt ma wrietha l-*bank account opening forms*. Daphne Caruana Galizia qatt ma qalet lil Maria Efimova minn fejn kienet ġabet dawn id-*declarations of trust*. Daphne Caruana Galizia qatt ma offritilha xi flus jew remunerazzjoni. Minbarra ma Daphne Caruana Galizia hija tkelmet ukoll ma xi ħbieb tagħha dwar din l-istorja, għalkemm ma tkelmitx ma membri tal-*media* oħra dwarha.

> Inquiring Magistrate: so let me ask you another question to have my ideas clear. Now I want to clarify this point, when Mrs. Caruana Galizia informed us about your willingness to testify, she wrote the following, that your intent to contact us that she has an important witness who wishes to volunteer herself for the inquiry, she came to Court this morning and was told that she would have to file a formal application in order to testify, this witness is my source says Caruana Galizia and requires privacy from the press, please inform the Inquiring Magistrate and instruct me is to how she should proceed, now my question is very simple, we respected this of course as you know till this very day and this is what we are going to do, however it seems that from the turn of events, you didn't really seek privacy from the press because soon afterwards Mrs. Caruana Galizia immediately upon exiting the Court put up on her running commentary the fact that you had testified, then all of a sudden we find

another article on the Malta Independent of last Sunday and more than that an interview live with Pierre Portelli of the Malta Independent on TV so much so that there were people who seem to have recognised you as well, so I was asking my self, is this the form of privacy from the press that you are seeking. Something is not really on Madam?

Maria Efimova: yes.

Inquiring Magistrate: you understand that and it is I think fair and logical for investigators to ask these questions?

Maria Efimova: yes and as I previously said when we met last Monday, that after an article in the Independent I wanted to give an interview and actually talk out myself because my words were interpretated not in the way I told them so I wanted actually to speak so every body will be seeing ok, ok not seeing my face but seeing me speaking and I wanted to answer some questions myself because when I see articles in newspapers, they are not exactly what I was telling and what came to my knowledge, that is why I didn't find another way to speak myself how else would I do it only speaking by my self in front of the camera.

Hi ma kienetx tkelmet mal-Avukat tagħha dwar l-intervista li hija rrilaxxjat lil Pierre Portelli qabel ma għamlitha għax l-avukat kien ma jiflaħx. Ippressata tgħid għaliex marret fuq it-TV hija qalet li kienet ser tinkixef xorta waħda. Il-Bank kienu jafu min hi. Il-ħaddiema l-oħra li kien hemm ma kienux jafu eżattament x'kien qiegħed jiġri fil-Bank...

...yes they are not with them but those people Maria Emilia Vacaro before she joined the bank she was working in a restaurant as a waiter, she doesn't have any knowledge of EMA, QIC (sic! KYC), CFT prevention... I was the only one who really know some thing about compliance procedure so they knew that Emilia Maria Vacaro would not come up with all this information because she didn't understand it.[102]

[102] Mistoqsija jekk hi qattx kienet impjegata f'xi ristorant, Vacaru tgħid li : "*no I have never worked or been employed in a restautrant or bar or any close*". Mal-Pilatus Bank, din kienet l-ewwel esperjenza tagħha taħdem ma Bank. Hija ma kellhiex esperjenza bankarja preċedenti. Iżda hi qatt ma ħadmet bħala waitress. Kienet taħdem mal-iSmart Supermarket bejn Awissu u Diċembru 2014. F'Marzu 2015 bdiet taħdem bħala segretarja mad-ditta legali "Dingli and Dingli" u baqgħet taħdem hemm sakemm bdiet taħdem ma' Pilatus

Konfrontata bl-istqarrija ġuramentata ta' Claude-Ann Sant Fournier, meta qalet li ma kienet taf xejn dwar l-allegazzjonijiet li kienet qegħda tagħmel Maria Efimova, Efimova qalet li :

> of course she knew. She was the one signing for the account openings, of course she knew I mean but she is in the management, she is one of the Directors as well and as I said apart from the management.

Mistoqsija għalhekk jekk Claude-Ann Sant Fournier kienetx qegħda tigdeb, Maria Efimova wieġbet li ma kienetx taf x'kienet qegħda tagħmel Claude-Ann Sant Fournier.

Maria Efimova tgħid li Emilia Maria Vacaru kienet tipprepara l-i *statements of account* tal-klijenti kollha manwalment. Emilia Maria Vacaru telqet xi l-24

Bank. Hi qatt ma ħadmet ta' waitress la f'Malta u l-anqas fir-Rumanija. Hi kienet taħdem f'ditta t'avukati fir-Rumanija wkoll.

Fi kwalunkwe każ, din id-deskrizzjoni ta' Maria Efimova mogħtija minnha stess, qajla taqbel mar-rwol ta' *intern* li qalet li kellha mal-Pilatus Bank. Emilia Maria Vacaru tgħid li kien hemm diversi persuni li kienu *junior* bħalha u kien hemm oħrajn li damu ferm inqas minnha – bħal Maria Efimova, li damet xahrejn u nofs, li Maria Efimova kienet impjegata bħala Segretarja, li l-posizzjoni tagħha ma kienetx bħala Uffiċjal tal-Bank. Maria Efimova qatt ma kienet impjegata bħala parti mis-*Sales Department*. Safejn taf hi, Emilia Maria Vacaru kienet *junior* minħabba li ma kellhiex esperjenza preċedenti fil-qasam bankarju. Biss tgħid li qalulha li Maria Efimova kellha xi esperjenza bankarja preċedenti f'Ċipru. Kien għalhekk li talbuha tgħin lil Emilia Maria Vacaru. Taf ukoll li Maria Efimova kienet taħdem fl-Irlanda għal *Google* għal perjodu qasir ta' żmien imbagħad ġew Malta. Maria Efimova qaltilha li ddeċidew li jiġu hawn Malta, pero Emilia Maria Vacaru ma kienetx tafx il-motiv.

jew 25 ta' Frar u għalhekk ħalliet ammont ta' *statements* li kienu għadhom iridu jsiru. Kienu qabdu lil Maria Efimova biex tagħmilhom hi. Maria Efimova ma riedetx tagħmilhom hi għax kellha biżżejjed x'tagħmel u ma riedetx toqgħod xi sitt siegħat bilqegħda tagħmel dan ix-xogħol. Kienet kelmet lil Hamidreza Ghanbari u spiċċa għamilhom Louis Zammit dawn l-*istatements of account* ta' Frar. Għalkemm taf li kienu jsiru f'*pdf format*, hi spiċċat qatt ma għamlithom għax kienet irrifjutat.[103]

[103] Emilia Maria Vacaru tgħid li verament kienet tagħmel *statements of account* manwalment, billi jagħmluhom manwalment *f'word* u jiġu *saved f'pdf* files f'folders. Imbagħad jintbagħtu f'*generic email*. L-*istatements* kienu jiġu ġenerati fil-*Flexcube* għal kull klijent. Iżda Hamidreza Ghanbari kien ta lista ta' klijenti li riedet tibgħatilhom *statement*. Kienet tidħol fil-*Flexcube* u tiġġenera l-i *statements* hekk. Maria Efimova donnha riedet tagħti x'tifhem li l-fatt li fehmet li s-Supretendent Abdilla ried jgħid li "*the transactions which I mentioned before are not reflected in the statements*" setgħa kien dovut għall-fatt li dawn kienu qed jiġu preparati manwalment. Iżda mix-xiehda ta' Emilia Maria Vacaru jirriżulta li l-*istatements* xorta waħda kienu jiġu ġenerati mill-*Flexcube* u ma kienux isiru b'mod li jinqabeż il-*Flexcube* jew li tiġi inserita informazzjoni li ma tkunx meħuda mill-*Flexcube*. Ergo d-dettalji ta' dawn ir-rendikonti kienu jingiebu mill-*Flexcube* u jkunu qed jirriflettu transazzjonijiet reġistrati fuq *Flexcube*. Emilia Maria Vacaru tgħid ukoll li l-Bank Pilatus kien qiegħed jaħdem biex dan il-proċess jiġi awtomatizzat. Apparti dan mhux il-klijenti kollha kienu jirċievu *statements* iżda kienu biss dawk li kien jordna Hamidreza Ghanbari li kienu jsirulhom *statements* manwalment. Minħabba li dan kien jinvolvi ċertu ammont ta' xogħol, dawn kienu jdumu ftit biex jiġu proċessati. Luis Felipe Rivera jgħid li huwa ma kienx jaf li Emilia Maria Vacaru kienet imqabda tagħmel dawn l-*istatements* in kwantu hi kienet taħdem fil-*Front Office* – għalkemm jgħid li jista' jkun li bħala *standard process* dan ir-rapport tas-*securities* setgħa kien jiġi mgħoddi fil-*Front Office* biex imbagħad jintbagħat lil klijenti minn persuni bħal Emilia Maria Vacaru. Rivera ma jiftakarhiex tagħmel dawn l-*istatements*. Li jista' jkun li ġara hu li jagħmlu statements generati mis-sistema imbagħad jirranġawhom manwalment *tweeked by the bank to make it look nicer*..

Brenda Calleja Smith tikkonferma wkoll li l-*istatements of account* ma kienux isiru manwalment. Dawn kienu jiġu ġġenerati mis-sistema *Flexcube*. Mehmet Tasli wkoll jgħid li *statements of account* ma kienux isiru manwalment. Dawn kienu jiġu ġenerati mis-sistema. L-*investment statements* kienu jsiru manwalment pero għax ma kienx hemm *connection* bejn *Flexcube* u l-*markets*. Dawn l-*investment statements* kien jagħmilhom hu stess fl-2016. Dawn l-*istatements* ma kienetx tagħmilhom Emilia Maria Vacaru. Ma kienx jaf pero jekk Emilia Maria Vacaru kienetx imqabda speċifikament biex tagħmel *statements of account* manwalment għax hi kienet taħdem fil-*Front Office*. Mehmet Tasli ma kienx jaħdem fil-*Front Office*. Luis Felipe Rivera jaqbel perfettament ma dak li qal Mehmet Tasli dwar il-preparazzjoni manwali tal-*istatements* relattivi għas-securities, u li ma kienux isiru *statements of account* manwalment għall-fini tal-kontijiet bankarji. Arienne Gaerty tikkonferma li Maria Efimova ġieli rrifjutat li tagħmel ċertu xogħol li kienu jqabduha tagħmel. Hi ssemmi episodju ieħor fejn kienu ġew mogħtija stuzzjonijiet li jassistu lill-*Compliance Department* fit-tħejjija

Mistoqsija jekk kienetx tagħmel pagamenti u tipproċessa pagamenti, Maria Efimova wieġbet li ma kienetx, għalkemm kienet tieħu *payment instructions* mingħand klijenti. Hi kienet tiftakar li kienet tuża l-*Flexcube*. Biss Maria Efimova ma kienetx tuża t-*TAS* għall-pagamenti li jridu jgħaddu bl-*iswift*. Hi kienet tuża l-*Flexcube* biex tivverifika l-*payment instructions* u biex tivverifika l-bilanċi tal-klijenti. Kien hemm żewġ programmi pero hi tiftakar il-*Flexcube*. Fil-programm l-ieħor li nsiet ismu kienu jiċċekjaw il-firem li jkunu jaqblu mal-i*specimen signature*. Maria Efimova tgħid ukoll li f'dak iż-żmien kienu qegħdin jippruvaw jibdew jużaw *Sharepoint*.

Maria Efimova tiftakar li kienet iltaqgħet ukoll ma persuna minn *Facilisation*. Din kienet mara u tiftakar li ħaditha fil-*Conference Room*. Louis Zammit kien qallha li *Facilisation* kienu ser jagħtuhom *training* fuq kif iħadmu l-*Oracle Flexcube* u kif jagħmlu *updates*. Maria Efimova pero ma kienetx involuta f'dan it-*training* u dan għax ma kienux staqsewha biex tipparteċipa.

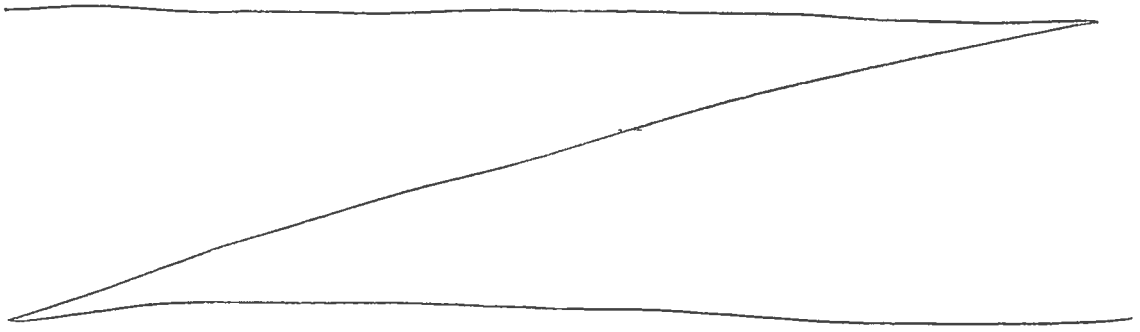
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tal-*jurisdiction reports* u għalkemm kienet taħdem fil-*Front Office* ukoll, Maria Efimova rrifjutat li tagħmilhom. Makhabbat Ellul, li kienet taħdem *Operations Department* ma Mehmet Tasli bejn Novembru 2015 u Marzu 2016 tgħid li statements kienu jiġu stampati mis-sistema. La Emilia Maria Vacaru u l-anqas Dina Stankovich ma qatt qalulha li kienu jagħmlu *statements* manwalment.

Sarah Buzzerio, li kienett taħdem flimkien ma' Emilia Maria Vacaru fil-Front Office bejn Frar u Marzu 2016 tgħid li qatt ma rat lil Emilia Maria Vacaru tagħmel *statements of account* manwalment, għalkemm qalet ukoll li Vacaru kienet tpoġġi warajha u għalhekk jista' jkun li ma kienetx tara x'inhi tagħmel Vacaru l-ħin kollu.

Inoltre, Efimova żżid li :-

> Maria Efimova: some thing that I remembered. One time when Mr. Gambari was absent from the office and my office was just next door and I knew that he was not in the bank and so I heard some noises in his room so I opened the door to see why and it was fax coming, he had like printer, scanner, fax and the pages were falling down and I just picked up the pages and I put them so the noise was from the fax, but I don't remember what it was but I saw the name on the fax, Tatiana Zammit and Strarurg was mentioned, Straturg Group or just Straturg so I just put the papers there and then left and after one minute Claude – Anne Sant Fournier came and she took those papers, yes, I don't know if it is relevant or not.
>
> Supr. Ian Joseph Abdilla: who is Tatiana Zammit?
>
> Maria Efimova: as far as I know Tatiana Zammit was working with Pilatus Bank in 14 for several months because Claude – Anne was mentioning her quite often, I think they are friends or some thing. I mean they are friends apart from the job. They are meeting each other so after some body told me that she used to work in this bank in Pilatus Bank, then some body told me that she is working for Yanu Credit Bank some Turkish bank here in Malta and as far as I know now she is back to Pilatus Bank.[104]



[104] Dwar dan il-punt, Ekmel Gilingir jgħid li qabel ma huwa daħal jaħdem mal-Bank Pilatus f'Diċembru 2013, huwa kien għamel tiftix tiegħu fuq Ali Sadr li ma kienx għadu jafu personalment. Gilingir jixhed li huwa kien sab li Ali Sadr kellu kumpanija fit-Turkija li kienet involuta fil-kostruzzjoni u li kien jisimha *Straturk Construction Limited* u Ali Sadr kien għalaqha ftit żmien wara li l-Bank Pilatus kien ottjena l-liċenza biex jopera minn Malta. Donnu minn kliemu Gilingir kien ikkonvinċa ruħu li Ali Sadr kien finanzjarjament sod biżżejjed li jmur jaħdem fil-Bank Pilatus wara li kien ra li din il-kumpanija kellha kapital ta' ħamsin miljun Lira Torka u rraġuna li allura dawn kienu *strong people*. Meta kien daħal jaħdem hu mal-Bank Pilatus f'Diċembru 2013 sa' Settembru 2014 il-Bank Pilatus ma kellux *PEP* barranin, inkluż mill-Ażerbajġan. Biss kellhom klijenti mit-Turkija u minn Dubai kif ukoll kellhom "*U Group*" li kienu fetħu madwar ħmistax il-kont kumpaniji tagħhom b'interessi Russi. Dak iż-żmien hu ma kellux kuntatti ma' Brian Tonna jew Karl Cini.

Ir-raba' xiehda ta' Maria Efimova

L-aħħar darba li xehdet Maria Efimova f'din l-inkjesta kien fit-13 ta' Ġunju 2017. Hi bdiet tgħid li l-ewwel ma ltaqgħet kien ma Daphne Caruana Galizia u mhux ma Pierre Portelli. Ma Pierre Portelli iltaqgħet wara. L-ewwel li rrakkuntat l-istorja tal-*Egrant Inc.* kienet lil Daphne Caruana Galizia u wara lil Pierre Portelli. Dwar l-istqarrijiet tagħha fuq il-*bank account opening forms* u d-*declarations of trust* hija kienet tkelmet ukoll ma' żewġha. Ma tiftakarx li kelmet lil xi ħadd ieħor dwar dan.[105] Tgħid li tiftakar li kien hemm xi ġurnalisti li għamlu kuntatt telefoniku magħha pero ma kienetx qed tiltaqa' magħhom. Iżda imbagħad bdew ħerġin l-istejjer dwar il-kunflitt li għandha mal-Bank Pilatus u l-każ tagħha minħabba nuqqas ta' ħlas ta' paga. Ma tiftakarx jekk il-ġurnalisti kienux qegħdin jistaqsuha dwar id-*declarations of trust*. Il-ġurnalisti kienu bdew jikkuntatjawha wara li hija kienet xehdet fl-inkjesta u għalhekk ma bdietx tkellimhom għax issa kienet qed tipparteċipa fl-inkjesta. Safejn taf Maria Efimova, kienet Daphne Caruana Galizia li tat id-dettalji tagħha lil Pierre Portelli.

Maria Efimova tirribadixxi li ma ħaditx *scanned copy* tad-*declarations of trust* jew tal-*bank account opening forms*. Hi kienet biss rathom fil-Bank Pilatus. Id-

[105] Fit-tielet xiehda tagħha, Maria Efimova kienet qalet li minbarra ma Daphne Caruana Galizia hija kienet tkelmet ukoll ma xi ħbieb tagħha dwar din l-istorja.

declarations of trust rathom fis-*safe* filwaqt li l-*bank account opening forms* rathom *"between the client's files"*. Hi ma żammitx *hard* jew *soft copy* tagħhom. B'hekk tgħid li hi la wriet u l-anqas tat kopja tagħhom lil Pierre Portelli jew lil Daphne Caruana Galizia. Meta kienet qed titkellem ma Daphne Caruana Galizia din kienet urietha *hard copies* tad-*declarations of trust* iżda ma kienetx Maria Efimova li tagħtha dawk il-kopji u għalhekk il-kopja li kellha Daphne Caruana Galizia ma kienetx ġabitha mingħandha.[106]

Mistoqsija jekk Daphne Caruana Galizia kienetx urieha kopja tal-*bank account opening forms*, Maria Efimova tgħid li ma writhomlhiex u l-anqas Pierre Portelli ma wrihomlha. Anzi Pierre Portelli kien qiegħed jistaqsiha jekk kienux fil-pussess tagħha u jekk setgħetx tgħaddilu dawn id-dokumenti, iżda Maria Efimova qaltlu li ma kienux fil-pussess tagħha. Daphne Caruana Galizia qatt ma qaltilha minn fejn kienet ġabet dawn id-dokumenti; kienet qaltilha li kienu ġew mogħtija lilha izda ma qaltilhiex mingħand min.

Maria Efimova tgħid li hi ma tafx minn fejn kienu għamlu t-traskrizzjoni tad-*declarations of trust*. Żgur li ma kienx minħabba li Maria Efimova wriet xi dokumenti lil Caruana Galizia għax hi ma wriet lil ħadd dawn id-dokumenti

[106] Dan huwa ezatt bil-maqlub ta' dak li xehdet Daphne Caruana Galizia.

għax hi la kellha kopji diġitali u l-anqas stampati. Meta kienet għadha taħdem mal-Bank Pilatus hi ma kienetx ħadet kopji minn hemm.

Court: And therefore you did not upload, save these documents or scanned copies of them on the Cloud?
Witness: No.
Court: Or on the bank's share point?
Witness: By that time that I was working in the bank the share point wasn't yet in use.
Court: Operative.
Witness: They were just developing it, so I couldn't do it.

Mistoqsija jekk minbarra dawn id-dikjarazzjonijiet u l-formoli għall-ftugħ ta' kont bankarju kienetx ukoll rat il-pagamenti bejn *Sahra* u *Egrant*, Maria Efimova twieġeb li kienet tiftakar li kienet rat il-*payment instructions* iżda ma kienetx ħadet kopja ta' dawn id-dokumenti.[107] Tgħid li hi ma kellha ebda kopja ta' transazzjonijiet tal-Bank.

[107] Louis Zammit li kien jaħdem fl-IT u li kien jaqa' taħt l-*Operations Department* dwar l-allegati trasferimenti ta' flus minn *Al Sahra FZCO* lejn *Egrant Inc*, jgħid li din it-tranzazzjoni qatt ma raha jew sema' biha. Għalkemm kienu jsiru transazzjonijiet kbar lejn Dubai għax is-*CEO* kellu ħafna kuntatti u klijenti f'Dubai din it-transazzjoni qatt ma kien sema' biha. L-istess jgħidu l-impjegati tal-Bank l-oħra involuti, nonche r-records bankarji tal-Bank Pilatus analizzat mill-Awdituri KPMG u b'mod aktar indipendenti mill-Forensic Accountants f'din l-inkjesta. Anzi hawnhekk tidher inkonsistenza oħra bejn l-ewwel deposizzjoni ta' Efimova u dik misjuba fir-raba' testimonjanza tagħha. Fl-ewwel deposizzjoni tgħid li t-transazzjoni bejn *Sahra FZCO* u *Egrant Inc* kienet taf biha għax semgħetha f'konversazzjoni bejn Ali Sadr u Brian Tonna, liema konversazzjoni kienet imqanqla. Anzi speċifikament mistoqsija dwar jekk kienetx rat xi transazzjonijiet, xi statements dwar pagamenti bejn Sahra u Egrant, kienet wieġbet *No, about Egrant I only remember this conversation they heard (had?)* – suppost bejn Brian Tonna u Ali Sadr u ma ssemmi li rat ebda *payment instructions*. Hija fir-raba' testimonjanza tagħha li żżid il-parti fejn qalet li kienet rat il-*payment instructions* ta' din it-transazzjoni wkoll.

Court: Ok. But how come that these transactions catch your attention back in March 2016?

Witness: Because these companies, they were in a list of companies to be given special attention and as I mentioned before if one transaction it was a problem because it was stopped or something, so that's why I remember. And apart from all the transactions from Sahra or to Sahra or incoming payments were given a very special attention and it should be executed urgently.

Court: Now how come you made the connection with the Prime Minister's wife back then when actually nobody was suspecting that Egrant was allegedly owned by Mrs. Muscat.

Witness: I saw the surname. Obviously by that time I knew the surname of the current Prime Minister of Malta and of course in Malta there are many people with such a surname but I would, I had a doubt taking into consideration other political exposed persons who were connected to the bank they had accounts or transacting. I made like conclusion that it should be somehow related to him and after that I saw the name of the company because I was curious what is this company owned by this person. So it was this surname that caught my attention not the company name, because by that time company name didn't tell me anything.

Court: So the surname Muscat caught your attention because it happened to be the same surname of the Prime Minister or because you saw something which stated that this account belongs to a PEP?

Witness: No by that time I wasn't paying attention on Egrant in particular. I saw transacting with Sahra but Sahra was transacting with other companies as well. So the surname caught my attention not the company.

Court: Ok, but did you know that Muscat was a PEP from the bank files or was it Sahra that was indicated as a PEP ultimate beneficial owner?

Witness: No Sahra wasn't indicated as PEP. I was reviewing the account opening form of Sahra before I saw those declarations in the very beginning when I have joined the bank, and I saw the name of Leyla Aliyeva account opening form and of course I make two plus two I know who is she.

Court: She was not mentioned as a PEP Leyla Aliyeva?

Witness: No she was not mentioned as PEP. No she was mentioned as far as I remember one of the directors, there were three (3) or four (4)

and as UBO, but the file didn't have enhanced due diligence. It was simple account opening form QIC (sic! KYC).[108]

Court: Ok. Now you said that when it came to the transfer between Sahra and Egrant you saw the payment instructions. Do you remember who signed for those payment instructions?

Witness: From Sahra, I think, but I cannot say for sure, I think it was a person named Farnoush Farsiar, but I'm not sure because she was signing for several other companies as well, I think it was her because she was one of the directors, but I'm not sure.[109]

Mistoqsija jekk tiftakarx li fuq id-*declarations of trust* (li skontha ġew murija lilha minn Daphne Caruana Galizia) kienx hemm il-firma ta' Jaqueline Alexander, Maria Efimova tgħid li hija tiftakar li kienet kien hemm il-firma ta' Jaqueline Alexander *"I recognised that name because I know about Panama Papers. She was very common signatory form many companies."*[110]

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[108] Mill-analiżi tad-dokumenti bankarji magħmula mill-*Forensic Accountants*, nonche mix-xiehda ta' Hamidreza Ghanbari u Claude-Ann Sant Fournier jirriżulta li l-*UBO* ta' *Sahra FZCO* huma Leyla Aliyeva u oħtha Arzu Aliyeva. Jekk verament Maria Efimova kellha tagħti attenzjoni speċjali lit-transazzjonijiet ta' din il-kumpanija, hija alkwantu stramba kif ma kienetx taf li l-*UBO* ta' din il-kumpanija li kellha ttiha attenzjoni speċjali ma kienetx Leyla Aliyeva biss, kif qalet Maria Efimova, iżda li oħtha Arzu Aliyeva kienet wkoll *UBO* ta' *Sahra FZCO* flimkien ma' Leyla Aliyeva. Dan juri li probabbilment Maria Efimova ma kienetx rat id-dokumenti kollha ta' *Sahra FZCO* li kien hemm fil-Bank Pilatus għal din il-kumpanija għax altrimenti kienet suppost tintebah, bħal ma għamlu l-Awdituri KPMG u l-*Forensic Accountants*, li l-*UBO* ta' *Sahra FZCO* ma kienetx biss Leyla Aliyeva iżda oħta Arzu wkoll.

[109] Mill-analiżi tal-*payment instructions* magħmula mill-*Forensic Accountant* Miroslava Milenovic fir-rigward tal-kumpanija *Sahra FZCO* u *Shams Al Sahra FZCO* jirriżulta li dawn kienu jiġu eżegwiti minn Farnoush Farsiar u minn Robert Baker flimkien. Maria Efimova ssemmi biss lil Farnoush Farsiar u tħalli barra lil Robert Baker. Dan iwassal għal dubju kemm verament Efimova kienet rat dawn il-*payment instructions* kollha ta' *Sahra FZCO* għax kieku kienet tintebaħ li dejjem kien jeħtieġ firma tat-tnejn li huma u mhux ta' wieħed minnhom biss.

[110] Pero fl-ewwel xiehda tagħha tat-28 t'April 2017 Efimova kienet qalet li **ma kienetx tiftakar l-isem tas-*subscribers***. Mentri issa mhux biss ftakret l-isem ta' Jaqueline Alexander, iżda wkoll il-fatt li kienet tiffirma ħafna dokumenti f'isem il-kumpaniji *Dubro Limited S.A.* u *Aliator S.A.* Pero fil-kuntest ta' din l-inkjesta huwa aktar sinjifikattiv il-kumment tagħha li *I recognised that name because I know about Panama Papers.* Efimova hawnhekk turi kjarament li kienet midħla tal-*Panama Papers* u allura, per konsegwenza tal-informazzjoni li kienet tinsab fuqhom *open source.*

Mistoqsija jekk kienx hemm ukoll l-isem ta' Verna De Nelson, Maria Efimova tgħid li ma kienux iffirmati minn Verna De Nelson u li kienu iffirmati biss minn Jaqueline Alexander għax kien hemm biss firma waħda fuq kull karta. Tiftakar li dawn id-dokumenti kienu tnejn – waħda maħruġa għall-kumpanija *Aliator S.A.* u l-oħra għall-kumpanija *Dubro S.A.* iżda t-tnejn kienu ffirmati biss minn Jaqueline Alexander. Għalkemm ma tiftakarx il-kapaċita tagħha sew, jidhrilha li ffirmat fil-kapaċita tagħha ta' direttur. Dawn id-dikjarazzjonijiet ma kienux qishom *"share certificate..It was like a proper declaration of trust. I mean they usually have different layout. It wasn't company, two companies, it was each or one, one for Dubro and one for Aliator."*

Mistoqsija jekk hi kienetx *"in charge among other things of these lists of accounts, of a specific list of accounts"*, Maria Efimova twieġeb li *"It wasn't that I was in charge; it was like general instruction to all the people who participated in transaction processing including compliance, because someone just gave me a print out of an e mail where those companies there listed."*

Mistoqsija jekk matul il-perjodu li damet taħdem il-Bank Pilatus kienetx rat aktar *declarations of trust* minbarra *Egrant Inc* Maria Efimova tgħid li meta ġiha ċ-ċans li tara d-dokumenti li kienu fis-*safe*, f'dak il-*folder* rat id-*declarations of trust* għal *Egrant Inc.* Biss kien hemm dikjarazzjonijiet oħra u dokumenti ta' kumpaniji oħra *"so yes I saw some other declarations as well. But*

I don't remember if they were copies or originals". Iżda minbarra dik t'*Egrant Inc* ma kienetx tiftakar ismijiet ta' kumpaniji oħra. Mistoqsija għalhekk kif kienet kapaċi li tidentifika lil dawk ta' *Egrant Inc* b'mod partikolari Maria Efimova qalet li dawn kienu fil-wiċċ.

Witness: It was when I opened the folder it was a very beginning, the first or second this transparent plastic file where we put the pages, so and because I didn't have much time obviously and it would be weird if I was staying there looking through the documents, so I just saw the surname and it made me like great impression, yes, and I've read the declaration and after I just listed the whole folder, I just saw some other trust declarations and other corporate documents like share certificates or something and I left.

Court: Now was that the only time when you saw these documents or did you have access to the safe on other occasions?

Witness: No it was the only occasion that I . . .

Court: So it was only on that occasion that you visited, you saw this folder?

Witness: Ehe, ehe, yes.

Court: And yet you remember quite vividly on that occasion all the details relating to this particular declaration of trust for Egrant?

Witness: I remember because those companies Dubro and Aliator from my previous experience I saw them quite often.

Court: Ok.

Witness: Because they are very common subscribers who are incorporating in other companies in Panama. So it wasn't like something unknown. I already heard about them as well as of Jacqueline Alexander that she is signing for seven thousand companies or something, so that's why I remember.

Court: Ok now by any chance do you remember perhaps any other person who used to sign a lot these declarations of trust from Mossack Fonseca, apart from Jacqueline Alexander?

Witness: Yes, yes. I don't remember the names.

Court: Ok.

Witness: But they were like seven or six for each company for Dubro and Aliator and I remember they were pretty much the same. I mean the same sort of directors from each company. Why I remember this Jacqueline Alexander because usually from Panama they had like Spanish - their names and surnames were of Spanish style and she was

> a one who was sounding like French, so you know the name itself is very like clutching attention, so that's why I remember her.

Mistoqsija jekk qattx rat dokumenti iffirmati minn Verna de Nelson, Maria Efimova tgħid li qatt ma rat xejn fil-Bank Pilatus għalkemm jista' jkun li kienet rat xi dokumenti iffirmati minn De Nelson f'xi xogħol preċedenti tagħha.[111]

Mistoqsija jekk meta kienet fil-Bank Pilatus kienetx qatt semgħet xi konversazzjonijiet bejn kollegi tagħha dwar it-transazzjonijiet speċifiċi bejn *Sahra FZCO* u *Egrant Inc*:

> Witness: Yes I heard sometimes, by the time I wasn't yet responsible for transaction payment and it was Maria Vacaru who was processing them I could hear her speaking on the phone and mentioning those companies to Mehmet Tasli who was working in operations. So yes I can recall someone mentioning those companies names in relation with the payments.
> Court: So those companies' names you mean Sahra and Egrant.
> Witness: Sahra and Egrant yes.[112]

Mistoqsija jekk minbarra dawn il-pagamenti kienet tiftakar jekk tali ħlasijiet kienux isiru bl-*iSwift* tgħid li dan ma kienetx taf tgħidu għax ma kienx parti

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[111] Hawnhekk Maria Efimova tikkonferma li hija kellha għarfien mhux biss tal-Panama Papers, iżda wkoll li kellha għarfien tal-modus operandi ta' Mossack Fonseca minn esperjenza ta' xogħol preċedenti tagħha. Hija daħlet taħdem mal-Bank Pilatus f'Jannar 2016, u għalhekk xhur qabel ma Panama Papers kienu ġew pubblikati. Mill-banda l-oħra jekk Maria Efimova qegħda tgħid is-sewwa, allura dan juri li fix-xogħol preċedenti tagħha hija diġa kellha għarfien ta' kif Mossack Fonseca joperaw.

[112] Mill-banda l-oħra kemm Mehmet Tasli kif ukoll Emilia Maria Vacaru ma jikkonfermawx din l-allegazzjoni magħmula minn Efimova.

mix-xogħol tagħha. Il-*payment instructions* kienu jkunu stampati. Hi kienet tgħaddi l-*payment instructions* lill-*Operations Department* u mbagħad ma kienetx taf x'kienu jagħmlu bihom. Hi qatt ma kienet tkun involuta fl-*Operations Department*. Ma kienetx tiftakar jekk xi klijenti kienux jitolbu l-i"*swift copy, swift confirmation but I don't remember if someone sent me by e mail swift copy and I forwarded to the client. I cannot say if it was or wasn't*". Maria Efimova tgħid li hi qatt ma rat *swift transfer documentation* għax qatt ma kienet involuta fl-*Operations Department*.[113] Ma kienetx taf jekk il-Bank Pilatus kellux xi mezz ieħor li bih jeżegwixxi pagamenti. Taf li kien hemm il-Bloomberg, iżda dan ma kienux isiru pagamenti bih u dan użat kien għal "*exchanges only*".

Dwar il-problema li ma setgħux jgħaddu flus minħabba l-*US Correspondence Banks* tgħid li kienet semgħet konversazzjoni. Ali Sadr kien ċemplilha biex

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[113] Mill-banda l-oħra, Louis Zammit jixhed li Maria Efimova kienet involuta fil-maġġoranza tal-klijenti tal-Bank Pilatus u kienet ukoll involuta fl-istruzzjonijiet għall-pagamenti ta' ħafna klijenti. Fil-fatt jgħid ukoll li hija ġieli kienet tirċievi kopja tal-iswift fuq pagamenti li tkun segwiet hi stess. Louis Zammit jgħid hekk:-

> Swift, toħroġ l-Swift copy jibgħatuha lil Maria, l-Swift copy cioe' jibgħatuha l-front office pero jekk tkun bagħatitha Maria ħafna drabi tiffolowjaha Maria ma' l-klijent is-swift copy u tibgħat l-swift copy li l-pagament sar Maria jew who ever lil klijent.

Minn naħa tagħha Arienne Gaerty tikkonferma li Maria Efimova kienet involuta fix-xogħol tal-*Front Office* u Gaerty tgħid li Maria Efimova kienet tagħmel it-*transactions* dak iż-żmien li daħlet taħdem hi mal-Bank Pilatus kif ukoll kienet Efimova li kienet bdiet tagħmlilha *training* lil Gaerty. Arienne Gaerty ssotni li dak iż-żmien l-uffiċju t'Efimova kien fil-*Front Office* li kienet il-kamra eżatt mal-Uffiċju tas-*CEO* u kien fl-uffiċju flimkien u kien hemm ukoll *administrator* li kienet taġixxi ta' *receptionist*. Gaerty ttenni li hi kienet iltaqgħet m'Efimova biss fil-*Front Office* u meta Efimova telqet mill-Bank Pilatus, Gaerty spiċċat waħedha. Gaerty tgħid li ma kienetx taf li anke Efimova kienet *trainee* u tgħid li kienet taraha kunfidenti ħafna. Mill-banda l-oħra meta Maria Efimova xehdet, hija ma qalitx espressament li kienet taħdem mal-*Front Office*, għalkemm qalet li kienet taħdem mal-*Compliance Officer* kif ukoll li kienet tara *payment instructions*. Biss ma qalitx li kienet fl-istess Uffiċju ma Arienne Gaerty fil-*Front Office*.

tqabdu ma Mehmet Tasli jew ma Hamidreza Ghanbari dwar din it-transazzjoni u kien beda jċempel għal aktar minn darba. Ma tafx jekk kienx qiegħed iċempel mill-USA jew mit-Turkija. Peress li l-Bank mhux kbir, hi setgħet tisma' bħal għajjat ġej mill-*Operations Department*. Ma setgħetx tgħid jekk qalux *US Correspondent Bank* jew semmewx xi bank partikolari. Jista' jkun li l-Bank Pilatus kellu *US Correspondent Bank* jew setgħa kellu tnejn. Ma kientx ċerta dwar dan. Il-konversazzjoni bejniethom kienet dwar dan il-pagament u din it-telefonata seħħet għall-ħabta tal-ħamsa ta' filgħaxija. Kienet impressjonata b'din il-ħaġa peress li safejn kienet taf, il-pagamenti *swift* kienu jeżegwuhom filgħodu u mhux wara nofsinhar u hi bdiet tehwden x'kienu sejrin jagħmlu minħabba dan il-pagament stante li kien diġa tard wara nofsinhar. Hi setgħet tisma' dak li kien qiegħed jingħad għax il-*partitions* ma kienux jiżolaw il-ħsejjes u allura kulħadd kien jisma' xi jkun qed jintqal.

Maria Efimova tgħid li hija saret taf bit-transazzjoni bejn *Sahra FZCO* u *Egrant Inc* :-

> Witness: But not from them, it was mostly from operational department because now them recalling even if Mr. Sadr was talking with Mr. Ghanbari they would speak in Farsino than in English because I think they both know it. So I should heard his next call passed to Mehmet or to . . . . regarding this transaction, because clearly if I understand the conversation was in English, so probably not from Mr. Ghanbari.
>
> Court: Ok, however do you know at which Dubai bank were these transactions made?
>
> Witness: I cannot say for sure. I don't remember. I can be confusing with banks, but I think it could be Bank of Baroda.

Court: Bank of ?

Witness: Baroda or Badora. The one which is Indian but has office in Dubai. But again I'm not sure, I just can recall the name of the bank, but I don't know if it was for this particular.

Court: But are you sure that this transaction was executed in favour of Egrant in its account held with a Dubai based bank?

Witness: Yes I'm sure that I saw the name of the beneficiary and it was Egrant Inc. And I recall the bank details in Dubai.

Court: In Dubai?

Witness: Yes, it was mentioning some FZCO and usually this abbreviation means for Dubai.

Court: For Dubai?

Witness: Yes, this I remember but the name of the bank no.

Court: But it was a Dubai based bank?

Witness: Yes, yes.

Court: It was?

Witness: Ehe, ehe.

Court: It was not simply that Sahra is a Dubai free zone company?

Witness: No it wasn't the address of Sahra because I think in payment instructions the clients are not stating their address just the name and account number.

Court: But could it be that the FZCO connection that you make relates to the name of Sahra and not in relation the bank of Egrant?

Witness: No I'm recalling the bank details, these abbreviations and the bank details of the beneficiary not Sahra. Sahra is also FZCO but it was in the details of the beneficiary bank.

Court: Of the beneficiary bank FZCO?

Witness: Yes, yes.

Court: Right. So this bank therefore I'm understanding that was a free zone company bank?

Witness: I don't know if it was . . .

Court: If it is FZCO?

Witness: I don't know if it was related because you know they have address for example …., it means the area.

Court: The area.

Witness: It's not only abbreviation of the company.[114]

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[114] Kif rimarkat aktar il-fuq, Maria Efimova żiedet dettalji dwar l-allegazzjoni li saru transazzjonijiet minn *Sahra FZCO* għal *Egrant Inc* mill-ewwel deposizzjoni il-quddiem. Fl-ewwel deposizzjoni tgħid li t-transazzjoni bejn *Sahra FZCO* u *Egrant Inc* kienet semgħetha f'konversazzjoni bejn Ali Sadr u Brian Tonna,

Dwar ir-rwol ta' Michael Satariano, Maria Efimova tgħid li huwa minnu li hija kienet semmietu ma' Daphne Caruana Galizia; iżda mhux bħala dak l-impjegat ta' Nexia BT li kien qiegħed iċempel ripetutament lill-Bank Pilatus jinsisti biex din it-transazzjoni tiġri tgħaddi iżda kienet semmietu fil-kuntest li kien dak l-impjegat minn Nexia BT li kien iġib klijenti lejn il-Bank Pilatus u kien jibgħat id-dokumenti għall-*Bank account opening form* u kien joqgħod jiġri warajha jew wara l-kollega tagħha biex jiftħu dawn il-kontijiet. Konfrontata bil-fatt li Daphne Caruana Galizia kienet irrapurtat li Daphne Caruana Galizia kienet qalet li dak l-impjegat li kien qagħad jiġri wara l-Bank Pilatus sabiex jara li din it-transazzjoni tgħaddi, Maria Efimova qalet li:

> Now I remember telling to Mrs. Caruana Galizia that Michael Satariano was calling me many times in relation with - at some account openings, they were introduced to the bank and the bank was delaying to open the accounts. So I remember such situation the he was calling literally like every hour, did you open, did you open, did you open. Maybe she confused, I don't know.

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liema konversazzjoni kienet imqanqla. Anzi speċifikament mistoqsija dwar jekk kienetx rat xi transazzjonijiet, xi statements dwar pagamenti bejn Sahra u Egrant, kienet wieġbet *No, about Egrant I only remember this conversation they heard (had?)* – suppost bejn Brian Tonna u Ali Sadr. Aktar tard fix-xiehda tagħha tgħid li kienet semgħet il-konversazzjoni dwar dawn it-transazzjonijiet bejn Emilia Maria Vacaru u Mehmet Tasli. F'din ir-raba' deposizzjoni tagħha, Efimova tgħid li l-konversazzjoni li semgħet dwar it-transazzjonijiet bejn *Sahra FZCO* u *Egrant Inc* kienet bejn Ali Sadr u Mehmet Tasli. Iżda din iż-żieda tinqabad f'kontradizzjoni bejn dak li xehdet fl-ewwel deposizzjoni tagħha għal dak li qalet fir-raba' deposizzjoni meta issa qalet li kienet rat l-isem tal-benefiċjarju tat-transazzjoni (wieħed jassumi fil-*payment instructions*, għalkemm dan ma tgħidux għax tgħid biss) *Yes I'm sure that I saw the name of the beneficiary and it was Egrant Inc.* Biss fl-ewwel deposizzjoni tagħha, meta ġiet speċifikament mistoqsija dwar jekk kienetx rat xi transazzjonijiet, xi statements dwar pagamenti bejn *Sahra FZCO* u *Egrant Inc*, kienet wieġbet *No, about Egrant I only remember this conversation they heard (had?)* – li f'dak l-istadju suppost kienet saret bejn Brian Tonna u Ali Sadr.

Court: Well she had to say that she understood you right or wrong, but was Mr. Satariano calling you in relation to this transaction that did not go through?
Witness: No.
Court: No.
Witness: No.
Court: Or did Mr. Satariano speak to you about Egrant?
Witness: To me no.
Court: No.
Witness: No he never spoke to me about Egrant.
Court: Ok, so here it also says that Egrant, Tilgate and Hearnville, all had accounts with Pilatus Bank. Is that true?
Witness: I saw account opening forms at least.
Court: Account opening forms?
Witness: Yes.
Court: For the three of them?
Witness: Yes.
Court: But you don't know if they have opened an account?
Witness: No I don't know. Because usually it was when account it was opened it was a number on the first page like written with a pencil which account it is the CIF, the last six digit of the account. [115]

Mistoqsija x'kienet il-proċedura biex jinfetaħ kont bankarju fil-Bank Pilatus, Maria Efimova tgħid li Nexia BT kienu dawk li kienu jintroduċu l-klijenti

[115] Fir-rigward tal-parti tal-istqarrija li fiha ssemma' Michael Satariano, ġie diġa rimarkat li l-*Forensic Accountants Harbinson Forensics* rintraċċjaw *emails* datati Frar u Marzu 2016 bejn Michael Satariano u l-Bank Pilatus – b'uħud mill-*emails* ikunu indirizzati lil u mwieġba minn Maria Efimova u li kienu relattivi għal klijenti oħra li Efimova stess tikkonferma li ma għandhomx x'jaqsmu mal-PEP jew kumpaniji meritu għall-allegazzjonijiet f'din l-inkjesta. Hawnhekk hawn diskrepanza oħra bejn dak li issa qegħdha tixhed Maria Efimova għal dak li kienet kitbet Daphne Caruana Galizia u fir-rigward tal-fatt li Caruana Galizia kienet stqarret li l-informazzjoni dwar l-involviment ta' Michael Satariano fit-trasferimenti bejn *Sahra FZCO* u *Egrant Inc* u l-problemi li nqalgħu biex il-pagament ikun jista' jgħaddi kienet ġabitha mingħand Maria Efimova. Hawnhekk għal darb'oħra, Efimova qegħda tixhed bil-kontra ta' dak li kitbet u xehdet Daphne Caruana Galizia.

Arienne Gaerty, kollega ta' Maria Efimova tgħid li hi qatt ma kienet kelmet lil Michael Satariano minn Nexia BT, għalkemm tikkonferma li ġieli kienet kelmet lil Karl Cini jew lil Katya Tonna jew lil Manwel Castagna jew biex ituhom xi dokumentazzjoni jew biex jawtorizzaw xi pagamenti.

lill-Bank Pilatus u Nexia BT kienu jibgħat l-*bank account opening forms* diġa mimlija, inkluż il-*questionnaire* dwar il-*KYC* kif ukoll id-dokumenti li jmorru magħhom bħal passaporti eċċetra. Kienet responsabbilta' tagħha u tal-impjegata preċedenti li timla l-*KYC form*. Wara li jkunu mlewhom jgħaddu kollox lill-*Compliance Department* sabiex dawn japprovaw id-dokumenti u wara dawn jgħaddu lill-*Operations Department* sabiex dawn jiftħu l-kont.

Mistoqsija meta Maria Efimova kienet rat dawn il-*bank account opening forms* ta' *Egrant Inc., Tillgate Inc.* u *Hearnville Inc.* tgħid li taħseb li kienet rathom f'Marzu 2016 u kienet rathom *f'batch* flimkien ma oħrajn *"because it was a question about one account opening pending, so I was reviewing documents which in this like, painting batch. So I saw those forms as well between the other ones"*. Dawn il-*bank account opening forms* ma kienux fis-*safe*.[116]

Dwar is-self ta' Negarin Sadr qalet hekk : -

> Court: Now, Mrs. Caruana Galizia also mentions another transaction relating to a loan payment of USD 400,000 made from Negarin Sadr to a woman, Maltese woman who lives in New York and has a jewellery business called Buttardi. Now again did you see any payment instructions in relation to these 400,000?
>
> Witness: I saw the payment instruction because it came altogether with other account opening form for Miss Negarin Sadr and other, I don't remember what you said, because they were several payment

[116] Apparti li ħadd mill-impjegati tal-Bank Pilatus ma kkonferma din l-allegazzjoni ta' Maria Efimova, u l-anqas ir-*records* bankarji stampati jew diġitali analizzati ma taw ħjiel dwar dawn id-dokumenti; u l-anqas l-Awdituri *KPMG* u l-*Forensic Accountants* ma sabu xejn li jindika li qatt kien hemm tentattiv biex dawn il-kumpaniji jiftħu kont bankarju mal-Bank Pilatus.

instructions not only one. But the one you are mentioning as I said before, because you are making fun of it, that's why I remember.

Court: Now but did Mrs. or Miss Negarin Sadr, did she not have a bank account already with Pilatus?

Witness: No it was we were opening account for her that day.

Court: So on the same day that she took out the loan. . .

Witness: Yes, yes, yes.

Court: She opened a bank account on the same day?

Witness: Yes.

Court: Now do you have, do you remember exactly what this transaction of Mrs or Miss Negarin Sadr was all about, how it came about? Ok you described that it was Mr. Ali Sadr's sister and that everything had to be carried out immediately. Can you give me a little bit mar particular details about this transaction? What it related to, what the loan was meant for, how the payment was carried out, whether it was a split payment, whether it was a single transaction, how was it?

Witness: Yes I remember that together with account opening form it was kind of business plan, some it was named business plan describing activities fashion designer in London. She has a company, a brand at least, I remember Negarin in London called, so it was saying that she is taking a loan from the bank to future business needs. And I remember it was like I was asking myself why is she opening personal account and not - obviously she had a company for her brand. It's not a personal account and if it's personal account why business plan on her business but anyway it was a bit confusing. And I remember that she was granted a loan the same day. I don't remember loan agreement, probably I wasn't in charge of the loan agreement between the bank and yourself because I don't remember the actual loan agreement document. But I remember that she got a loan and immediately she was preceding some transactions and one of transactions was for that US jewellery business.

Għalkemm kienet l-assistent personali t'Ali Sadr, dan qatt ma qallha xejn dwar is-self li kienet ser tieħu Negarin Sadr – l-anqas għall-liema skop kienet ser tieħu dan is-self. Maria Efimova tirrepeti li l-*payment instructions* li kienu

daħlu flimkien mas-self kienu jgħidu li riedu jitħalsu dawn l-US$400,000. Iżżid hekk -

Witness: Yes I saw the payment instructions.
Court: And do you know whether they were affected by swift transfer?
Witness: I don't know, but why I remember this transaction as well because it was a procedure in the bank we had to call actual client to confirm transaction and I remember that we were calling her and she was in US, it was like early in the morning and she didn't pick up the phone and the Mr. Sadr was calling us - did you proceed and I was telling him we cannot reach your sister, she is not answering the authorised mobile number given and probably he was calling her and after she picked up and we confirmed transaction. So, but again I don't . . .
Court: But this was late in the evening, no?
Witness: Around 7:00.
Court: 7:00 in the evening.
Witness: Ehe.
Court: So basically if it was in California it was around 11:00 in the morning?
Witness: I don't remember. I just remember she was not picking up and we made the conclusion maybe she's still sleeping because of the time difference. And as far as I know at least she wasn't registered in California, she was from Washington, Maryland.
Court: Maryland?
Witness: I think yes.
Court: Not California?
Witness: No.
Court: I was assuming it was California - I don't know why?
Witness: But Mr. Sadr as well he is in Washington.
Court: In Maryland.
Witness: In Maryland, I think it is the state for Washington, sorry I don't know that I know little geography but Maryland for sure that state not California.
Court: Maryland not California.
Witness: Ehe.
Court: Yes and in so far as the remaining, because, here it seems that the loan was for one million US Dollars, so 400,000 of them were paid out therefore to this Maltese woman in New York and what about the remaining 600,000 then?

Witness: I remember there were other transactions but I don't remember for whom.

Court: For whom or for what ok. And again I'm assuming that you have no copies of these transactions?

Witness: No.

Court: And I understand that you are sure that you didn't give any copies to Mr. Portelli or Mrs. Caruana Galizia of any of these documents?

Witness: I'm sure no, I'm sure I didn't give any of these documents.

Rapport tal-mobile phone ta' Maria Efimova

Ġie wkoll analizzat ir-rapport li Maria Efimova stess ħalliet fl-atti tal-inkjesta rigwardanti l-analiżi li sar fuq il-mobile phone li hija kienet tuża waqt li kienet taħdem mal-Bank Pilatus. Din ir-relazzjoni kienet ġiet ippreżentata mill-espert tekniku Dottor Stephen Farrugia Sacco u li kopja diġitali tagħha qegħda tiġi mehmuża fil-kawża fl-ismijiet ***The Police vs Maria Efimova*** li tinsab pendenti quddiem il-Qorti tal-Maġistrati (Malta) bħala Qorti ta' Ġudikatura Kriminali presjeduta mill-Maġistrat Dottor Caroline Farrugia Frendo. Jirriżulta minn dan ir-rapport li dan il-mobile phone kien jikkonsisti fis-segwenti :

Common information

Alias	Apple iPhone 5s
Retail name	Apple iPhone 5s

Manufacturer	Apple
Internal name	iPhone6,2
Platform	iOS
IMEI	358761058995114
Software revision	9.3
Boot loader	iBoot-2817.40.106
Jailbreak	No
Activation State	Activated
Product version	9.3
Build version	13E233
Baseband version	6.02.00

SIM cards history:

SIM card Details :

SIM 0

ICCID: 8935677014521379950

Phone number: +35677099991

Last detected (UTC): 07/12/2015 07:02:51

SIM 1

ICCID: 8935677014521325045

Phone number: +35677977920

Last detected (UTC): 20/09/2016 06:02:09

SIM 2

ICCID: 8935601201207345816

Phone number: +35699204383

Last detected (UTC): 30/03/2016 17:42:46

Fl-analiżi ta' dan il-*mobile phone* Dr. Farrugia Sacco ħareġ ukoll diversi ritratti li kienu jinsabu fih, uħud minnhom kjarament attribwibbli għal Maria Efimova in kwantu tidher hi fihom. Hemm ritratti oħra li preżumibbilment juru membri tal-familja tagħha kif ukoll xi karti li huma marbuta mal-iskola tat-tfal ta' Maria Efimova. Jirriżulta ukoll ritratt ta' dokument li jidher li kien intbagħat lilha permezz ta' WhatsApp minn Ali Sadr Hasheminejad. Iżda ma jirriżultaw ebda ritratti ta' dokumenti li jistgħu jiġu marbuta mal-meritu ta' din l-inkjesta.

L-ewwel xiehda ta' Pierre Portelli

Pierre Portelli, *Content Director* ta' *The Malta Independent* xehed l-ewwel darba nhar il-5 ta' Mejju 2017. Huwa kien ippreżenta rikors dakinhar stess fejn talab udjenza biex ikun jista' jagħti xi dettalji li jistgħu jkunu rilevanti għall-inkjesta *Egrant*.

Pierre Portelli stqarr li kien resaq lejh persuna fil-kapaċita tiegħu ta' ġurnalist biex jgħaddilu xi informazzjoni u wrieh dokument li kien rapport magħmul mill-*FIAU* u li ntbagħat forma ta' ittra lic-*Chairman* tal-Bank Pilatus fl-2016 wara li kienet saret investigazzjoni interna fil-Bank. Ir-rapport ġie riprodott fil-gazzetta *The Malta Independent* tal-5 ta' Mejju 2017 (għalkemm hemm xi affarijiet nieqsa minnu). Is-sors qallu li ma setgħax jagħtih dan ir-rapport għax kien fih ċerti *security features* u b'hekk kienu jiġi identifikat min kien qiegħed jillikjah. Ħalla lil Pierre Portelli jagħmel transkrizzjoni kelma b'kelma tiegħu. Dil-persuna provdietlu *soft copy* u ħa' l-ħin biex ivverifika kelma b'kelma dak li hemm fir-rapport u dak li kellu f'idejh. Sa hemm hekk kienet biss għal fini tagħhom li bħala *The Malta Indipendent* jagħmlu l-istorja.

Ħa deċiżjoni jekk jiżvelax li dan huwa rapport tal-*FIAU*. Bħala l-persuna inkarigat f'*The Malta Independent* li jieħu l-aħħar deċiżjonijiet editorjali għax

Direttur tal-Kontenut, hu ddecieda illi jingħad li dan kien rapport tal-*FIAU* għaliex fil-media kien hemm diga' *hints* t'affarijiet li jinsabu f'dan ir-rapport pero qatt ma kellhom il-piż ta' min għamel ir-rapport.

Kien hemm żewġ raġunijiet għaliex ħass li kellu jiġi quddiem il-Maġistrat Inkwirenti b'dan id-dokument.

L-ewwel nies daħalli s-suspett u l-inkwiet illi il-Bank Pilatus illi qal fil-media apertament, anzi rrid inzid illi insista biex jgħid dawn id-dikjarazzjonijiet għax ġara hu wara l-media houses biex jagħti d-dikjarazzjonijiet, qal illi kkoopera kompletament ta' l-Magistrat, miegħek jiġifieri f'din l-inkjesta. Jiena daħalli s-suspett li forsi din l-ittra li rċeva c-Chairman bi t-twissijiet ta' l-FIAU ma ġietx mgħoddija lilek, jista' jkun li jien żbaljat pero ma ridtx nieħu s-sogru u deherli li biex inti tagħmel il-ħidma tiegħek, inti għandu jkollok dak li għandi jien.

It-tieni punt għaliex dan is-suspett kompla jikber fija huwa rilatat ma' xi ħaġa li grat nhar il-Ħadd illi għadda. Nhar il-Ħadd illi għadda, il-gazzetta The Malta Independent on Sunday ippubblikat rakkont ta' l-persuna li inti ltqajt magħha li hija l-Whistle blower, jiena kelli imbagħad l-opportunita' li niltaqa' magħha t-Tnejn u wara li ħareġ dak ir-rapport u wara li ovvjament għamel ir-rounds tiegħu Malta kollha naħseb li qratu wara nofs in-nhar sar kuntatt bl-email mill-bank magħna, ma' The Malta Indipendent l-ewwel mhux miegħi imma imbagħad spiċċa għandi u tkellimt jien f'isem il-gazzetta biex aħna mmorru urġentement wara nofs in-nhar ġewwa l-bank għaliex qalulna iridu juruna dokumenti sensittivi bil-kundizzjoni illi la nieħdu ritratti, la nieħdu video u lanqas nistaqsu mistoqsijiet, pero ma kienx hemm il-kundizzjoni li minn dak li naraw ma nirrapurtawx. Jiena ma qbiltx ma dawn il-kundizzjonijiet u għamilt kundizzjonijiet oħra lil bank fosthom anki li nieħu l-avukat miegħi u dawn ma gablux u waqfet hemm hekk l-istorja b'semplici email issa l-gimgħa d-dieħla naraw jekk niltaqgħux. Sussegwentement nara f'media oħra jiġifieri fit-Times u fil-Malta Today, rapporti illi dawn intalbu jmorru fil-bank u hemm hekk intwerew CCTV footage ta' l-ex impjegata ta' l-bank tingħata xi flus f'xi envelope u wkoll xi smses minn xi mobile. Jiena jidhirli li bank serju u mbagħad ukoll wara li qrajt dan żgur tlift il-fiducja f'kemm hu bank serju, jidhirli li ma għandux jagħmel dawn l-affarijiet illi jċempel lil media biex juriha filmati ta' ex impjegata, ma jidhirlix li dawn huma metodi u allura l-fiducja tiegħi fil-bank illum hija kważi żero u ħassejt illi jien ma nagħmilx biss xogħoli ta' ġurnalist u nippubblika dak li għandi hawn hekk

> pero ngħaddilek ukoll it-test kollu issa jekk dan diga' għandek ma gara xejn, jiġifieri tkun, inkun ġejt għal xejn.

Pierre Portelli jżid jgħid li r-rapport kien jindika ċar illi l-*FIAU* għamlet investigazzjoni dettaljata speċifikatament fuq kif il-Bank Pilatus jittratta l-*PEP* li għandhom kontijiet fil-Bank Pilatus. Fl-istess rapport hemm enfażi fuq żewġ istanzi fejn innota illi l-ewwel transazzjoni ta' miljun u mbagħad kien hemm tranżazzjoni ta' nofs miljun pressapoco għax hemm ħamsin elf euro differenza fejn tindika li dawn huma żewġ transazzjonijiet li għaddew f'kontijiet, f'kumpaniji ta' *PEP* u l-*FIAU* kienu għamlu enfażi fuqhom. Jingħad li l-*PEP* huma kemm Maltin u nies fl-Ażerbajġan. Hemm bosta riferenzi rilevanti għall-fini tal-Inkjesta *Egrant* jiġifieri l-ammont tal-miljun, il-perjodu ta' żmien li anki semmiet il-*whistleblower*, l-Ażerbajġan fih innifsu, il-Bank Pilatus.[117]

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[117] Dan huwa dettall sinjifikanti. Hawnhekk ix-xhud qiegħed jirreferi għall-ittra mibgħuta mill-*FIAU* lill-Bank Pilatus nhar is-16 ta' Mejju 2016. Minn naħa tal-Bank Pilatus jirriżulta mix-xiehda ta' Hamidreza Ghanbari li ma fehmux eżattament dawk iż-żewġt paragrafi għall-liema transazzjonijiet bankarji kienu qegħdin jirreferu minħabba li fl-ittra tal-*FIAU* il-paragrafi rilevanti ma kienux jindikaw liema transazzjonijiet kienu qegħdin jirreferu għalihom l-*FIAU*. Tant hu hekk li meta xehed Hamidreza Ghanbari huwa eżebixxa kemm dokumenti relattivi għal transazzjoni li kienet tirreferi għal trasferiment magħmul minn *Mirk General Trading LLC* lil *Sahra FZCO* f'Dinari tal-Emirati Għarab Magħquda (AED) f'ammonti li kienu pressapoco jammontaw għal madwar miljun dollaru Amerikan, kif ukoll eżebixxa dokumenti li jirrelataw għal transazzjonijiet li kienu saru bejn *Mirk General Trading LLC* u *TKH Investments Limited*, *Mirk General Trading LLC* u *NH Investments Limited*, kif ukoll *Frater LLC* lil *Hereti Holdings Limited* li setgħu b'xi mod jaqblu ma' dak mistqarr fl-ittra tal-*FIAU*. Din l-allegazzjoni ġiet ukoll mistħarġa, għal darba darbtejn – inkluż wara li kien sar rikors minn Jonathan Ferris. L-analiżi tax-xiehda fuq dawn il-proċeduri speċjali tinstab inkluża aktar il-quddiem f'dan il-*Proces Verbal*. Mill-banda l-oħra l-impjegati tal-*FIAU* li għamlu l-analiżi fil-Bank Pilatus u ċjoe Martina Scalpello u Sarah Gauci jagħmluha ċara, anke grazzi għan-notamenti meħuda minnhom eżibiti fl-atti li fir-rigward ta' dawk iż-żewġt paragrafi (indikati wkoll minn Pierre Portelli) għalkemm ma jidhirx mill-kliem miktub fl-ittra tal-*FIAU* lil Bank Pilatus tas-16 ta' Mejju 2016, huma kienu qiegħdin jikkonċentraw fuq it-transazzjonijiet bejn *Mirk General Trading LLC* u *TKH Investments*

It-tieni xiehda ta' Pierre Portelli

It-tieni darba li xehed Pierre Portelli kien fit-13 ta' Ġunju 2017. Din ix-xiehda kienet issegwi programm li deher fuq TVM nhar l-1 ta' Ġunju 2017 fil-programm televiżiv "*XTRA*". Kien hemm xi punti li inħass li kellhom jiġu ċċarati miegħu in segwitu għall-dak il-programm. F'dak il-programm, Pierre Portelli kien għamel stqarrija li kienet tgħid hekk : -

> Jien l-uniku wieħed fostkom kollha li d-dokumenti li ra' l-maġistrat tal-whistle blower rajthom ukoll. Jien rajthom ukoll. Jien pero u nista' ngħidielhek jekk taħseb li hi scoop ħudha bħala scoop, jiena ma stajtx nippubblika dawk id-dokumenti bħal ma jistax jippubblikom ħaddieħor il-għaliex il-persuna involuta, il-whistleblower, hija ta' nazzjonalita russa marret għand l-ambaxxata russa biex tieħu l-pariri u wissiewha li jekk ma timxix ma dak li qallha l-maġistrat mhux sejrin jgħinuha.. biex inkunu ċari għaliex dawn ma ħarġux.

Limited u *NH Investments Limited* kif ukoll fuq dik ta' bejn *Frater LLC* u *Hereti Holdings Limited* – u mhux daqstant fuq dik ta' bejn Mirk General Trading LLC u Sahra FZCO. Mill-banda l-oħra l-istess riferenza għall-dawk iż-żewġt paragrafi kienet saret wkoll minn Jonathan Ferris fix-xiehda tiegħu ta' Jannar 2018. Hemmhekk Jonathan Ferris jgħid li l-*FIAU* kellu informazzjoni li dak il-paragrafu kien qiegħed jirreferi għat-transazzjoni ta' *Sahra FZCO* u li skont Ferris l-*FIAU* kienu jafu li din it-transazzjoni kienet dik li saret biex titħallas Michelle Buttigieg fi New York. Skont Ferris, għalhekk il-pagament li kien sar lil Michelle Buttigieg ma kellux x'jaqsam mal-istorja tas-self minn Negarin Sadr ta' miljun dollaru Amerikan li minnhom US$400,000 tħalsu direttament lil Michelle Buttigieg - kif ippubblikat minn Daphne Caruana Galizia fuq l-informazzjoni mogħtija lilha minn Maria Efimova; iżda Ferris sostna li Michelle Buttigieg kienet tħalset minn *Sahra FZCO* grazzi għal din it-transazzjoni li kienet imsemmija fir-rapport tal-*FIAU*. Kemm mix-xiehda tad-diriġenti preżenti u passati tal-*FIAU*, kif ukoll mill-analiżi li saret mill-*Forensic Accountant* Miroslava Milenovic kemm fuq id-dokumenti tal-Bank Pilatus kif ukoll minn dawk tal-*FIAU*, ebda tali transazzjoni allegata minn Ferris jew minn Caruana Galizia jew Maria Efimova ma jirriżultaw li saru mill-Bank Pilatus. Huwa interessanti pero f'dan il-kuntest li kemm Pierre Portelli kif ukoll Jonathan Ferris jagħmlu riferenza għal din l-ittra tal-*FIAU* tas-16 ta' Mejju 2016 u b'mod partikolari għall-dawn iż-żewġt paragrafi speċifiċi bħala dawk li qajmulhom suspetti li kienu għaddejjin transazzjonijiet sinistri mill-Bank Pilatus li kienu jinvolvu xi rabta mal-allegazzjonijiet magħmula minn Caruana Galizia.

Mistoqsi x'inhuma d-dokumenti li Pierre Portelli qal li kien ra' tal-*"whistleblower"*, Pierre Portelli jgħid li :

> Xhud : Jiena rajt dokumenti illi fl-opinjoni tieghi li ma hijiex ta' espert, huma declaration of trust milli spjegawli, illi ntqal lili dan hu x'intwera lill-Magistrat, x' intwera qaluli, lill-Magistrat.[118]

Portelli qal li dawn intwerewlu minn fuq *Ipad*. Hu biss ra kopja diġitali. Ma riedx jiżvela min urihomlu għaliex inkella jikxef is-sors tiegħu.

> Qorti : Imma jiddispjacini ha jkolli nistaqsijielek.
> Xhud : Le nifhem li inti tistaqsihieli imma din hija r-risposta tieghi.
> Qorti : Kwistjoni ta' importanza u ta' relevanza u importanza nazzjonali u jkolli nistaqsihielek, jigifieri ara naqra l-pozizzjoni tieghek x' ser tkun ghax at this stage saret determinanti. Jien l-informazzjoni li ghandi li l-informazzjoni li ghandek inti gejja minn ghand Mariia Efimova. Jigifieri llum il-gurnata d-dettali ta' Mariia Efimova jiena ma nistax naghmel disclosure taghhom. Jigifieri minn dak milli stajt nifhem mill-artiklu tieghek, mill-intervent tieghek dik id-dettaji ttiehdu minn ghand il-whistleblower jigifieri issa qed tghid li ttiehdu minn ghand sors iehor.
> Xhud : Le, le jiena la qed nghid li hadthom minn ghand sors iehor u lanqas nikkonferma li hadthom minn ghand din il-persuna li qed issemmi inti. Jiena sempliciment kont qed naghmel dak l-intervent biex nispjega fil-konsapolovezza tieghi ghalfejn wasalt ghal konkluzjoni li dawn ma jigux ippublikati. Jiena lis-sinjura li semmejt inti tlabtha, meta ntervistajtha kont u jidhirli li ghidtulek dan il-kliem meta tajt ix-xhieda tieghi l-ewwel darba, tlabtha biex tghaddili kopji ta' dawn id-dokumenti u hi baqghet tghidli li le ma tistax tghaddihomli. F'mument iehor, ma niftakarx ezatt il-precizjoni tal-gurnata qaltli illi hi nghatat il-parir mill-Ambaxxata Russa, anke ghaliex kien hemm intendere at one point illi din ukoll se tghaddili dawn id-dokumenti, kien hemm intendere illi l-Ambaxxata Russa meta marret ghandha qalulha: inti obdi x' qallek il-Magistrat u lili

[118] Hawnhekk Pierre Portelli jitkellem fil-plural – jindika li meta huwa ġie muri dawn id-dokumenti kien hemm aktar minn persuna waħda preżenti.

gieghelitni nifhem hu li l-Magistrat f' dan il-kaz inti ghidtilha biex ma tohrogx xejn minn go l- inkjesta u din qaltli : Qaluli obdi lill-Magistrat inkella ahna mhux sejrin nghinhuk bhala Ambaxxata Russa u allura d-dokumenti baqghet ma tathomlix, ma ghaddithomlix.[119]

Qorti : Effettivament jidher illi qajla obdiet l-ordni tieghi din, ghaliex il-Hadd ta' wara li giet tixhed hawnhekk, jew il- Hadd jew it-Tnejn, giet ippublikata l-intervista li ghamilt inti maghha, jigifieri fejn riedet tkellmet din.

Xhud : Il-Hadd giet ippublikata rakkont fuq il-Malta Indipendent li kitbet il-gurnalista Dephnie Garuana Galizia, pero' jien ma kontx naf li inti ghidtilha taghtix intervisti. Jigifieri jien setghet qaltli le ma rridx nigi f' dan l-istadju.

Qorti : Le jien mhux qed nghid lilek. Jien qed nghid mihabba li jidher li hi minn naha taghha minkejja l-ordni li tajtha jidher illi xorta wahda ghamlet din l-intervista.

Xhud : Nista' nghidlek taht gurament illi lili qatt ma qaltli illi nghatat struzzjonijiet biex ma taghmilx intervisti u din li qed nghidlek ta' l-Ambaxxata Russa grat wara, jigifieri wara l- intervista mhux qabel l-intervista.

Qorti : Mela ta' l-Ambaxxata Russa grat wara l-intervista?

Xhud : Ehe, iva.

Qorti : Wara l-intervista.

Xhud : Ghax jien waqt l-intervista kont qieghed nitlobha d-dokumetni.

Qorti : L-intervista maghha meta ghamiltha?

Xhud : Jien ghamiltha, ara s-Sunday ta' wara dehret dik it-transcript, kien hemm numru ta' kummenti fuq is-social media jew anke fuq il-portal ta' l-Indipendent li fih intqal - imma din mhux hi qed titkellem, din hija l-gurnalista qed tinterpreta dak li qalet hi, jiena ghamilt ir-request through Daphne Caruana Galizia ghax hi kellha kuntatt maghha li din idealment titkellem hi. Ahna kellna programm jismu Indepth. Hi giet lura through Daphne Caruana Galizia u qaltli mhix lesta tigi gewwa studio. Imbaghad Daphne Caruana Galizia nahseb iddejqet tkun di mezzo u ghaddietli n-

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[119] Meta Pierre Portelli beda jirreferi għall-"whistleblower" huwa kien qiegħed jirreferi għal Maria Efimova. Jekk verament Pierre Portelli kien ġab id-dokumenti mingħand persuna li mhix il-"*whistleblower*", allura ma kellux għalfejn iħabbel rasu mill-problemi li l-"*whistleblower*" setgħa jkollha mal-Ambaxxata russa għax fi kwalunkwe każ, kieku ma kienetx hi li għaddiethomlu, ma kienx ikollha għalfejn tinkwieta. Mill-banda l-oħra jekk Pierre Portelli kien intwera' dawn id-dokumenti minn Maria Efimova, allura hemmhekk setgħa verament ikollu l-preokkupazzjoni li jekk jikxef id-dokumenti, Efimova setgħet tiġi mingħajr protezzjoni tal-Ambaxxata russa skont kif qal. Aktar il-quddiem, pero, fix- xiehda tiegħu Pierre Portelli jgħid li dawn id-dokumenti kienet għaddiethomlu persuna oħra li kienet ġabithom mingħand is-"sors".

numru taghha, jiena kkuntattjatha u meta tlabtha biex tigi riedet assigurazzjoni u ghidtilha : Le ma gara xejn nigu ahna u nghattulek il-wicc u l-vuci. Fuq il-vuci qaltli : Le m' ghandix problema. Mort id-dar taghha jiena flimkien ma' cameraman u ssettjajna x-xena. Kien hemm ir-ragel taghha illi wkoll tkellem mieghi u hu kien persuna li jidher, ma rridx nuza terminu zbaljat, imma kien exited. Kont se nghidlek agitat imma kien exited u deher li rrabjat ukoll. Baqa' jsemmi l-kwistjoni tal-passaport li hadulha l-passaport u ma setghetx tmur. Hemmhekk jiena ghmilt it-talba, isma dawn id-dokumenti iridu johorgu, ma tistax tibqa' ma tohroghomx. Hi qaltli illi d-dokumenti mhux qeghdin ghandha dak il-hin u qaltli nerga nikkuntattjaha.[120]

Qorti : Jigifieri qaltlek li mhux qeghdin ghandha dak il-hin?

Xhud : Qaltli li mhux qeghdin ghandha dak il-hin. Qaltli li mhux qeghdin hawnhekk. Later on konna qisna wasalna biex dawn id-dokumenti tghaddihomli u fil-fatt qaltli : Mhux hawnhekk, qaltli : ghax jiena ma rridx nipprintja xejn, ma rrid ingib xejn, pero' qaltli : ejja hdejn l-ufficcju tieghi, x' imkien vicin Paceville. Qaltli : Jien nidhol bil-VPN fuq l-I Cloud, qaltli : u nkun nista nghaddilek il-kopja. Imbaghad kelli kuntatt ftit jiem wara mir-ragel . . .

Qorti : Din dejjem Efimova?

Xhud : Iva li ghadha kif kienet u harget.

Qorti : Sorry?

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[120] Anke hawnhekk interessanti l-kumment dwar ir-raġel ta' Maria Efimova li jidher li kien eċitat u rrabjat minħabba li martu kellha l-passaport miżmum. Dan jikkonferma ċertu rabja lejn l-istituzjonijiet da parti ta' din il-familja minħabba l-fatt li Maria Efimova kienet għaddejja minn dawn il-proċeduri penali u li konsegwenza tagħhom hija kellha dawn id-diffikultajiet u miżuri kontriha. Fattur ieħor interessanti huwa li għalkemm Maria Efimova qaltlu li ma kellhiex id-dokumenti dak il-ħin; iżda li kellha aċċess għall-istess dokumenti f'ħin ieħor u li kienu disponibbli għaliha billi tidħol bil-VPN fuq l-iCloud viċin tal-uffiċju tagħha Paceville u tkun tista' tgħaddilu kopja. Dan il-fatt allura jiġi li jaqbel ma dak pubblikat minn Daphne Caruana Galizia li d-dokumenti in kwistjoni setgħu kienu miżmuma fuq il-"*cloud*" iżda Maria Efimova riedet taċċedi għalihom billi tuża VPN. Dan iqajjem diversi mistoqsijiet, fosthom għaliex Maria Efimova riedet tuża VPN biex tidħol fl-*iCloud* tagħha meta huwa magħruf li l-użu internet bil-VPN isir, inter alia, biex ikun hemm aktar sigurta fil-konnessjoni sabiex jiġu evitati ċensuri jew ġeo-restrizzjonijiet jew biex l-utent jaċċedi għal *proxy servers* biex ikun jista' jipproteġi l-identita tiegħu u l-post minn fejn ikun qiegħed jaċċedi biex jassigura li jkun qiegħed jibqa' anonimu meta juża l-internet. Jidher ukoll li kien wara li r-raġel ta' Efimova kkonferma ma Pierre Portelli li ma riedetx tikkopera miegħu aktar li Efimova semmietlu l-istorja tal-Ambaxxata russa. Biex dan jagħmel sens, din il-laqgħa riedet tkun saret wara t-28 t'April 2017, ċjoe l-ewwel darba li kienet xehdet Maria Efimova u meta kienet ġiet imwissijja biex ma titkellem ma ħadd. Biss minkejja dan, Efimova għażlet li tirrilaxxja l-intervista ma' Pierre Portelli li xxandret fis-6 ta' Mejju 2017.

Xhud : Li ghadha kif kienet qed tixhed. Imbaghad kelli kuntatt mir-ragel taghha fejn qalli : Do not contact my wife anymore. Qalli : jekk trid informazzjoni hemm iktar persuni li jahdmu fil-bank illi jekk iridu jaghtuk l-informazzjoni u bqajna b'hekk jigifieri. Imbaghad ergajt ghamilt kuntatt maghha u qaltli din ta' l-Ambaxxata Russa. L-ewwel qaltli sejra l- Ambaxxata Russa u staqsejtha jekk nistghux fil-gazzetta niktbu li hi sejra ghal protezzjoni ghand l-Ambaxxata Russa u talbitni le biex ma niktbuhiex. U imbaghad wara li marret l-Ambaxxata Russa kellmitni u qaltli : Isma jiena nghatajt dan il-parir li jiena ma naghmel xejn illi jmur kontra dak li qalli l-Magistrat u waqafna hekk. Imbaghad closer ta' l-elezzjoni jiena kelli laqgha u hemmhekk intwerejt through an iPad dawn id-dokumenti illi jiena l-istess dokumenti anke li gibitlek qatt ma nista' nivverifika x'inhuma. Li nista biss hassejt li ghandi nitlob lilek illi inti bil-poteri tieghek tmur kif spjegajtlek fl-ewwel laqgha taghna, tmur specifikament titlob id-dokument lil FIAU bhal ma qed nassumi, kkoregini jekk jien zbaljat, l-istess haga tista' taghmel jew ghamilt ma Pilatus Bank fuq dawn id-dokumenti partikulari.

Qorti : Pero' jien nixtieq inkun naf inti fejn taf x'dokumenti ghandi jew li rajt jiena. Ghaliex id-dikjerazzjoni publika kienet fis-sens illi inti rajt l-istess dokumenti li rajt jien u allura logikament tfisser illi inti taf jiena x' ghandi u taf x' rajt jiena, illi ghalija hija haga serja dik.

Xhud : Mela jiena . . .

Qorti : Ghaliex jekk tippermettili tfisser illi inti taf illi hawn dokumenti fl-Atti ta' l-Inkjesta.

Xhud : Le ma nafx hekk.

Qorti : Imma hekk tfisser.

Xhud : Le.

Qorti : Jekk inti rajt l-istess dokumenti li rajt jiena?

Xhud : Li rajt ghax jien hekk intqal lili.

Qorti : Qed tassumi illi jiena rajt xi haga.

Xhud : Ghax jien hekk intqal lili, anke qabel.

Qorti : Minn ghand min?

Xhud : Mela l-whistleblower Russa qaltli u kkonfermatli wkoll Daphne Caruana Galizia li int intwerejt dokumenti mhux inghatajt dokumenti.[121]

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[121] Jekk din l-istqarrija ta' Pierre Portelli hija l-verita, ikun ifisser li kemm Daphne Caruana Galizia kif ukoll Maria Efimova ma qalulux il-verita għaliex fl-atti tal-inkjesta la Maria Efimova u wisq anqas Daphne Caruana Galizia ma ppreżentaw jew eżebew jew almenu wrew kopja ta' xi dokumenti. Daphne Caruana Galizia qalet li d-*declarations of trust* urithomlha Maria Efimova filwaqt li Maria Efimova qalet li d-declarations of trust kienet uriethomlha Daphne Caruana Galizia. Meta Pierre Portelli jixhed li kemm Maria Efimova kif ukoll Daphne Caruana Galizia qalulu li d-dokumenti kienu ġew murija lil Maġistrat

Qorti : Li jiena ntwerejt dokumenti u din qaltlek Efimova?
Xhud : Qaltli hi u qaltli wkoll Daphne Caruana Galizia.
Qorti : Daphne Caruana Galizia li jiena ntwerejt - minn ghand min intwerejt?
Xhud : Min ghandha meta giet l-ewwel darba.
Qorti : Minn ghand Efimova?
Xhud : Meta giet hi l-ewwel darba hawnhekk.
Qorti : Mela biex inkunu cari. Mela Efimova u Caruana Galizia lilek ikkonfermawlek illi lili wrewni dokumenti . . .
Xhud : U mhux tawk, hekk kien id-diskors.
Qorti : U dawn id-dokumenti biex kienu jikkonsistu qalulek?
Xhud : Li huma d-dokumenti in kwistjoni.
Qorti : Id-declerations of trust.
Xhud : Id-declerations of trust.
Qorti : All right u kien hemm xi bank account opening forms ukoll maghhom?
Xhud : Le ma jidhirlix.
Qorti : Declarations of trust li rajt.
Xhud : Declaratios of trust u kien istant . . .

Hawnhekk Pierre Portelli ġie mwissi bl-importanza li jagħti l-informazzjoni mingħand min kien ġab dawn id-dokumenti għax din ma kienetx kwistjoni ġurnalistika normali. Ġie mwissi li l-Maġistat Inkwirenti ma kienx żvela x'kien ra, għalkemm Portelli kien għamel dikjarazzjoni pubblika fis-sens li huwa kien ra l-istess dokumenti li kont ra l-Maġistrat Inkwirenti. Rinfaċċjat b'dan huwa tenna li :

Xhud : Ok, jekk jirrizulta li jiena nghatajt informazzjoni zbaljata li dak li wrew lili mhuwiex dak li wrew lilek, mela allura jien fil-pubbliku mbaghad irrid niffaccja l-konsegwenzi ta' dak li ghidt jiena. Pero' sa dak il-hin meta jiena kont qed nitkellem jiena kont taht l-impressjoni, onestament

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Inkwirenti minn xi ħadd minnhom meta ġew jixhdu fl-inkjesta jfisser li xi ħadd minnhom kien qiegħed jieħu ġurament falz. Jiġi ribadit li matul ix-xiehda tagħhom la Daphne Caruana Galizia u l-anqas Maria Efimova ma wrew jew eżibew dokumenti kif jirriżulta mix-xiehda tagħhom u mill-verbali tal-udjenzi meta xehdu. L-ewwel darba li din l-inkjesta rċeviet kopja tad-*declarations of trust* kienet meta sussegwentement, fid-19 ta' Ġunju 2017 Pierre Portelli flimkien kien ġab kopja tagħhom preżentata flimkien ma dikjarazzjoni li kien għamel mingħajr ġurament fejn ġabar ir-raġunijiet li skontu kien hemm provi biżżejjed biex jiġi konkluż li *Egrant Inc* kienet rikonduċibbli għal Michelle Muscat.

ghalkemm issa wara din id-diskursata bdew jidhluli ftit dubji, imma kont u ghadni taht l-istess impressjoni illi jien u int rajna l-istess haga.

Pierre Portelli ma ppublikax din l-informazzjoni għaliex, f'dak l-istadju, huwa ma kellux kopja tagħhom id-dikjarazzjonijiet.

Qorti : Jigifieri inti qed tghidli li din id-dokumentazzjoni li inti rajt inti m' ghandekx, rajtha in soft copy fuq iPad u jigifieri informazzjoni espossiva bhal dik ma zammejtx kopja taghha inti?

Xhud : Le ma stajtx.

Qorti : U ma nghatajtx kopja taghha?

Xhud : Le.

Pierre Portelli ma kienx jiftakar x'kien il-kontenut ta' dawn id-*declarations of trust*. Biss jiftakar li kienu wrewh żewġ paġni :

Xhud : Le, le ma niftakarx ghaliex kien numru ta' kitba u meta ntwerew lili qaluli : hawn ara ha.

Qorti : Iva imma qed nifhem jiena f'gieh is-sewwa ghandek informazzjoni esposiva bhal din . . .

Xhud : Le m' ghandix Sur Magistrat, ma kellix, jiena ntwerejt, daqshekk kollox.

Qorti : Le all right intwerejt, pero' ntwerejt informazzjoni li pontenzjalment hija esposiva.

Xhud : Imma m' ghandix - u meta qed nghidha qed nghidha b' rasi mistriha li ghandek int jew rajt inti.

Qorti : Dak issa x' ghandi jien u x' rajt jiena narah jiena u ghalhekk qed nipprova nifhem inti x' rajt halli nara naqra jiena sewwa sewwa fiex qieghed. Mela you are a seasoned journalist, mhux qed nitkellem ma principjant kif kont jien ghoxrin sena ilu fil-gurnalizmu u ma bqajtx. Jien li kont novizz, ahbar bhal bhal dik kont inqaxxarha. Min kien is- sors ta' l-informazzjoni kont issuplikah biex b' xi mod jaghtini kopja jew nehodlu kopja. Possibli ma hadtx kopja taghha inti din?

Xhud : Le ma stajtx, ma stajtx. L-ewwel nies iz-zmien kien very close ta' l-elezzjoni. L-affarijiet kien qed jigru fast hafna u jien b'mod konsapevoli kont diga ddecidejt illi anke jekk jigu f'idejja dawn id- dokumenti jew xi

dokumenti ohrajn, ma kontx konvint li ha naqbad u nippublika. Ghaliex kien diga dahal id-dubju publiku, jigifieri d-dubju kif poggieh il-Prim Ministru, jekk dawn l-affarijiet humiex awtentici jew le. Mela jiena allura go mohhi bdejt nghid imma jiena anke jekk ikolli dawn id-dokumenti dawn se nippublikahom u jekk ha nippublikahom mhux ha nigbed fuqi l-kritika fuq l-awtenticita. Jigifieri dawk diga kienu l-hsibijiet tieghi. Jiena fejn issorpassajt il- pozizzjoni tieghi ta' gurnalist, nahseb illum in hindsight huwa meta fl-ambitu ta' diskussjoni tahraq fuq it-televizjoni jiena ghidt illi ntwerejt dawn id-dokumenti. Hemm hekk nirrikonoxxi illi ma kontx bi hsiebni nippublika li ma kellix il-karti f' idejja ma jmissnix ghidt jien rajt dawk id-dokumenti. Sa hemmhekk imma jigifieri mhux argument li tghidli ghax kellek f'idejk informazzjoni splussiva bhal dik. L- informazzjoni konna ilna nghiduha tramite l-whistleblower ghal gimghat shah.

Qorti : U jirrizulta illi Caruana Galizia kienet ippublikat traskrizzjoni ta' dak illi s-sinjura Caruana Galizia qalet illi huma dawn id-declarations of trust. Jigifieri ghalkemm inti hawn hekk qed tghid illi ma stajtx tippublika d-dokumenti bhal ma jistax jippublikahom haddiehor dawn id-dokumenti Caruana Galizia jekk qed tirreferi ghat-traskrizzjoni tad-declaration of trust Caruana Galizia kienet diga ppublikathom.

Xhud : Imma ppublikat transcripts.

Qorti : Traskrizzjoni taghhom so it begs another question. Meta inti qed tghidli ma stajtx tippublika dawk id-dokumenti x' dokumenti qed tirreferi ghalihom allura? Dawk illi Caruana Galizia qalet li huma traskrizzjoni tad-declaration of trust jew id-declaration of trust infushom?

Xhud : Jien kont taht l-impressjoni li dawk li rajt jien huma d-declaration of trust infushom. Jigifieri scanned copy tad-decleration of trust infushom. U dejjem qed norbot go mohhi ma dak illi qaltli l-whistle blower illi hi skenjat dawn id-dokumenti.[122] Jigifieri t-thought process kien mibni bicca bicca fuq dak illi kont qed niskopri jew nisma bicca bicca.

Qorti : Mela fir-rigward ta' Efimova, jigifieri inti minn naha tieghek lil Efimova kellimtha wara illi kont ghamilt kuntatt jew Caruana Galizia, s-sinjura Caruana Galizia kienet ghamlet kuntatt mieghek, hux hekk?

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[122] Dettall ieħor importanti hawnhekk li jgħaqqad ma dak li kitbet u qalet Daphne Caruana Galizia fis-sens li kienet Maria Efimova li qalet li kienet għamlet *scan* ta' dawk id-dokumenti u jikkontradiċi dak li qalet Maria Efimova ripetutament fix-xiehda tagħha. F'dan l-istadju għalhekk jekk Caruana Galizia u Portelli qegħdin jgħidu il-verita, Maria Efimova kienet dik li fl-inkjesta ma qalitx il-verita billi lil Pierre Portelli u lil Daphne Caruana Galizia qaltilhom informazzjoni kontra ta' dak li xehdet hi u li xehdu huma fl-inkjesta.

Xhud : Ghaliex jiena Daphne Caruana Galizia kienet ikkuntattjatni u qaltli : Isma flok nikteb l-artiklu tas-soltu peress li hija columnist fuq l-Indipendent, qaltli : jiena nista nikteb first hand account tal-persuna Russa. U jien ghidtilha jekk ha taghmel hekk ibghatuli kmieni ghax hi ghandha habta tibghat l-artiklu tard hafna, ghidtilha ibghatuli kmieni ha niccekkjawh kemm nistghu legalment ghax din mhix xi haga li nippublikaha fuq gewwa ta' gazzetta fil-columm taghha imma hi xi haga li tmur fil-front page u fil-fatt hekk ghamilna. Kien wara mbaghad kif spjegajtlek illi bdew dehlin numru ta' kummenti ta' nies illi jghidu anke kienu kummenti personali imma dan mhux hi qed titkellem u minn hemmhekk imbaghad ghamilti ir-request isma din lesta titkellem hi. Ovvjament mort ghall-intervista dakinhar rasi mimlija illi din ha nsaqsiha waqt l-intervista u tohrogli anke dawn id- dokumenti u turihom quddiem il-camera. Jien b' dak l-intendere mort bil-kappell gurnalistiku tieghi.

Qorti : Issa, ha nerga ndur daqsxejn fuq il-kontenut ta' dan id-dokument illi inti rajt. Ghidtli li rajthom ta' malajr, malajr. Il-gest li ghamilt huwa wiehed jifhmu illi huwa ta' malajr, malajr.

Xhud : Ghax anke l-kuntest tal-laqgha kien hekk malajr.

Qorti : Pero' ghandi nifhem illi dak li jkun ikun qed jurik jew ikellmek fil-kuntest ta' din l-informazzjoni, ghandi nifhem illi ghalkemm malajr, malajr wiehed jaghti daqqa t'ghajn dak illi hemm miktub. Jigifieri meta inti rajt dawn id-dokumenti, inti rajt dawn id- dokumenti kienu fil-kontenut taghhom declaration of trust illi qed jghidu illi the ultimate beneficial owner ta' l-Egrant hija Michelle Muscat , ghal dawk qeghdin nghidu?

Xhud : Ehe dik l-impressjoni li hadt jiena.

Qorti : Issa dawn iz-zewg dokumenti li inti rajt fuq dan l-iPad, qed nghidu illi kienu scanned copies, they were soft copies so they were scanned, issa dan id-dokument illi inti rajt tiftakar min kien illi ffirmah jew ma kienx iffirmat?

Xhud : Ma rajtx hemm hekk 'il ghaliex il-karta ma qghaditx shiha, taf kif taghmel file meta tkun horizontal il-karta tinqata barra minnha, jigifieri jien ma nizziltx hemm isfel, ma fittixtx hemm isfel, ma kellix l-opportunita. Nerga ntenni, illi ghal fatt illi dak li rajt rajtu b' mod skjett u malajr in -hindsight messni zammejtu ghalija u mhux uzajtu waqt diskussjoni bhal dik. In hindsight partikularment issa ta' kemm qed tigbidli l-attenzjoni int fuqu. Pero' nerga nghid ukoll illi jien u nghid dak id- diskors dejjem kont taht l-impressjoni illi dak li rajt jien u dak li rajt

int, hu li qed tahdem fuqu. Pero' nerga nsostni li kont taht dik l-impressjoni.

Qorti : Jien ma nistax nassumi. Jien ma nistax nassumi.

Xhud : Nifhmek u napprezza. Li qed nispjegalek illi jien kont taht dik l-impressjoni, issa jekk mhux il-kaz u mhux insaqsik jekk hux il-kaz, ghax m' ghandix dritt insaqsik hux il-kaz, pero' jekk mhux il-kaz jien ma kontx konsapevoli li mhux il-kaz imma t-train of thought tieghi kien qed jghidli li jien qed nara l-istess affarijiet li ntwerew lilek.

Qorti : Ok. Jigifieri firem fuq dan id-dokument jew minn liema kumpaniji hargu dawn id-dokumenti ma tiftakarx inti?

Xhud : Jiena Sur Magistrat nista nitolbok illi jien nerga nikkuntattja lis-sors tieghi jekk is-sors tieghi jkun lest jerga' jurini l-affarijiet b'iktar kalma, possibilment ukoll nitlob il-copy, ma nafx jekk hux se jirnexxili, nerga nigi lura ghandek?

Qorti : Ha nghidlek il-verita hija li f'kaz bhal dan kif ghidtlek illi mhuwiex kaz normali, mhux kaz normali, fis-sens illi l-implikazzjoni ta' dak illi l-investigazzjoni, iva twassalni nghid illi f'dan l-istadju l- kunfidenzjalita gurnalistika jkollha tbaxxi rasha ghall-interss nazzjonali.

It-tielet darba li Pierre Portelli deher quddiem l-inkjesta

Sussegwentement, wara li kien talab ftit żmien sabiex jara jekk jistax iġib kopja ta' dawn iż-żewġt dikjarazzjonijiet, nhar id-19 ta' Ġunju 2017, Pierre Portelli kien reġgħa ġie quddiem l-inkjesta u ddepożita dikjarazzjoni magħmula minnu (mhux datata, li kien fiha dikjarazzjonijiet u konsiderazzjonijiet tiegħu għaliex kien jemmen li d-dokumenti li kien sejjer jagħtini dakinhar stess kienu rilevanti għal din l-inkjesta) flimkien ma żewġt karti li kienu jidhru kopji ta' *"declarations of trust"* li kienu jġibu l-firma ta'

Jaqueline Alexander u li kienu jidhru simili ħafna għal dak li kienet diġa ppublikat Daphne Caruana Galizia preċedentement fil-21 t'April 2017 bħala t-test taż-żewġ *"declarations of trust"* li in bażi tagħhom kien qiegħed jingħad li l-*UBO* t'*Egrant Inc* kienet Michelle Muscat.

Id-dikjarazzjoni, mhux bil-ġurament, ta' Pierre Portelli li ppreżenta dakinhar tad-19 ta' Ġunju 2017 kienet tgħid is-segwenti[123] :-

DIKJARAZZJONI:

Jiena, Pierre Portelli, ID 386769, iben Francis Portelli, mwieled H'Attard u noqghod Hal Gharghur, niddikjara li fil-kapacita tieghi ta' Direttur responsabbli mill-kontenut ta' The Malta Independent fejn jien nezercita doveri manigerjali izda wkoll naqdi dmirijiet ta' gurnalista, li gej :

Gejt mitlub mill-magistrat Aaron Bugeja sabiex nghaddilu kopja tad-dokumenti li jiena qabel l-elezzjoni ghamilt riferenza ghalihom. Illum jiena f'pozizzjoni nghaddi kopja ta' dawn id-dokumenti kif mitlub.

Jiena gibt dawn id-dokumenti minghand is-sors li m'iniex ser nikxef biss xtaqt nghamel dawn l-osservazzjonijiet li gejjin :

1. Id-dokument huwa aktar importanti l-ghaliex sar/gie miktub milli min ghamlu. Il-whisle blower Russa ma kellha l-ebda raguni/kwistjoni mal-familja Muscat, ma kelliex id-dettalji ta' Michelle Muscat, dettalji tal-post fejn twieldet (Rabat) jew isem il-kumpaniji li jissemmew fid-dokumenti. Jekk kellha dawn id-dettalji jfisser li kopja tal-karta tal-identita kienet tinsab fil-Pilatus Bank. Il-whistle blower Russa kellha issue

[123] Dawn il-konsiderazzjonijiet ta' Pierre Portelli ġew ukoll analizzati fid-dawl tal-provi miġbura fil-kors tal-inkjesta u l-kummenti dwarhom jinsabu miktuba b'riferenza għal kull paragrafu.

mal-Pilatus Bank u ma kelliex bzonn tuza lill Michelle Muscat sabiex tasal ghand il-Pilatus Bank. Ma kelliex raguni tattakka lill Michelle Muscat.[124]

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[124] Huwa importanti li jiġi stabbilit kemm ir-raġuni għaliex sar dan id-dokument kif ukoll min għamlu. L-inkjesta ma għandhiex provi dwar min għamel dan id-dokument. Biss l-inkjesta stabbiliet bil-prova tax-xiehda ta' Jaqueline Alexander li kkonfermat li dawk id-dokumenti ma kienetx għamlithom hi, ma kienetx taf bihom, ma kkonfermatx il-kontenut tagħhom u li ma ffirmathomx hi u li l-firem fuq dawn id-dokumenti ma kienux il-firem ġenwini tagħha. Din l-istqarrija ta' Alexander tifforma parti mix-xhieda ottjenuta mill-ittri rogatorji mibgħuta mill-Awtoritajiet tal-Panama. Din l-inkjesta riedet tivverifika dawn l-istqarrijiet ta' Jaqueline Alexander billi ssottomettiet kemm kampjuni tal-firem oriġinali tagħha kif ukoll dawk li kienu jidhru fuq id-dokumenti preżentati minn Pierre Portelli għal analiżi tal-*Forensic Document Analyst* Elisabeth Briggs ta' *Key Forensic Services* tar-Renju Unit fejn il-verżjoni ta' Jaqueline Alexander ġiet ikkonfermata. Minbarra dan ġie stabbilit ukoll mix-xiehda tar-rappreżentant tar-reġistru Pubbliku tal-Panama, Sochi Santos li Jaqueline Alexander ma kienetx direttur ta' Aliator S.A. u b'hekk ma setgħetx tiffirma bħala tali. B'hekk l-inkjesta stabbiliet li dawn id-dokumenti li kienu fil-bażi tal-allegazzjonijiet magħmula minn Caruana Galizia fuq ir-rivelazzjonijiet magħmula lilha minn Maria Efimova kienu dokumenti foloz, b'firem foloz.

Għalkemm l-inkjesta ma sabitx provi li juru li Maria Efimova kellha xi kwistjoni diretta ma Michelle Muscat, hemm evidenza oħra, inkluż dik ta' Maria Efimova stess li tixhed li hija kienet imdejqa ħafna bil-fatt li kien hemm il-proċeduri penali kontra tagħha u li ġie miżmum il-passaport tagħha mill-Qorti. Anzi jirriżulta wkoll mix-xiehda ta' Pierre Portelli li anke żewġha kien irrabjat u eċitat u semmielu dan il-punt in partikolari. Irriżulta li minħabba li ma setgħetx issiefer, Maria Efimova ma rnexxilhiex tmur għall-funeral t'ommha. Dwar il-passaport tagħha kienet ukoll kitbet lil Prim Ministru Joseph Muscat u ma kellhiex risposta. Maria Efimova kellha kwistjoni ta' natura personali kemm fir-rigward tal-Bank Pilatus kif ukoll kellha kwistjoni mal-Awtoritajiet Maltin dwar iż-żamma tal-passaport tagħha fi proċeduri ta' natura penali pendenti kontriha.

Dwar min kienet il-persuna jew persuni li ħolqu dan id-dokumenti hija kwistjoni li tmur lil hinn mill-parametri ta' din l-inkjesta skont ir-rapport tal-Kummissarju tal-Pulizija. Biss din l-inkjesta stabbiliet li d-dettalji li jinsabu fil-kopji tad-*declarations of trust* eżibiti minn Pierre Portelli kienu jinsabu f'diversi siti internet "*open source*", inkluż id-dettalji tad-data tat-twelid ta' Michelle Muscat (ad eżempju l-artiklu tal-Malta Independent tas-16 ta' Mejju 2014 intitolat : *Happy Birthday Michelle: Muscat family to celebrate event in Gozo* fejn bi prominenza jingħad li dakinhar Michelle Muscat għalqet erbgħin sena).

Kunjom xbubit Michelle Muscat jista' wkoll faċilment jinstab fuq l-internet *open source* – anke sempliċiment b'riċerka bażika fuq *Joseph Muscat* fuq *Wikipedia* joħorġu dettalji ta' kunjom xbubit martu Michelle bħala *Tanti*.

Il-post tat-twelid ta' Michelle Muscat indikat fuq il-kopji tad-*declarations of trust* huwa indikat bħala li huwa r-Rabat, Malta. Minn informazzjoni fuq *open source* faċilment wieħed jista' (erronjament) isib u jassoċja r-Rabat, Malta bħala l-post tat-twelid tagħha. Dan peress li hemm artikli fuq Michelle Muscat li jtennu li hija mir-Rabat. Hekk per eżempju l-artiklu li deher fit-Times of Malta tat-28 ta' Ġunju 2008 intitolat : *Meet Michelle Muscat* miktub minn Jennifer Mifsud minn fejn jingħad li *Indeed, for the 34-year-old from Rabat...* Hawnhekk faċilment li wieħed jassumi li peress li mniżżla li mir-Rabat allura l-post tat-twelid tagħha kien ir-Rabat. Dan juri li min ħoloq dawn il-kopji tad-*declarations of trust* ma kellux fil-pussess tiegħu dokument uffiċjali li juri verament il-post tat-twelid ta' Michelle Muscat li kien Ħ'Attard.

2. Huwa car li din id-dikjarazzjoni saret ghaliex xi hadd kellu bzonn l-istess dikjarazzjoni. Xi hadd kien qed jigi mitlub dikjarazzjoni ta' min kien l-UBO. Persuna li kellu l-informazzjoni u d-dettalji kollha dwar din ix-xibka ta' kumpaniji sigrieti, Persuna li jekk ma jghaddiex din l-informazzjoni ma setax jkompli b'dak li ried jghamel. Minn hawn johrog dak li ghedt qabel li d-dokumenti huma intrinsikament aktar importanti ghall-fatt li saru milli min ghamilhom. Id-dokumenti huma datati Awwissu 2015.[125]

Huwa minnu wkoll li fil-kopji tad-*declarations of trust* eżibiti m'hemmx riferenza għal numru uffiċjali ta' identifikazzjoni ta' Michelle Muscat jew xi numru tal-passaport kif inhi l-prassi li titniżżel solitament fuq dokumenti uffiċjali li jridu jidentifikaw persuna bi preċiżjoni. Kemm f'Malta kif ukoll barra minn Malta teżisti prassi li fejn ma jkunux jeżistu karti tal-identita jitniżlu numri ta' dokumenti uffiċjali oħra bħan-numru tal-passaport. Pierre Portelli jikkonkludi li l-Bank Pilatus kellu l-karta tal-identita ta' Michelle Muscat. Biss huwa stramb kif jekk il-Bank Pilatus kellu din il-karta tal-identita, u fejn l-identifikazzjoni tal-*UBO* bi preċiżjoni f'każijiet simili (fejn ikun hemm interessi finanzjarji inġenti) kienet tkun mistennija li tkun waħda preċiża b'riferenza għal dokumenti uffiċjali (per eżempju bħal ma jiġri fl-istadju tal-*KYC*). Biss dan in-numru tal-karta tal-identita jew tal-passaport jirriżulta nieqes minn dawn il-kopji tad-*declarations of trust*. B'dan in-nuqqas wieħed ma jistax awtomatikament jikkonkludi li l-Bank Pilatus kellu għad-disposizzjoni tiegħu il-karta tal-identita ta' Michelle Muscat. Jidher li l-anqas min kiteb dawn il-kopji tad-*declarations of trust* ma kellu aċċess għall-istess karta tal-identita għax altrimenti kien jagħmel dawn id-*declarations of trust* aktar verosimili billi jniżżel fihom in-numru uffiċjali tal-karta tal-identita jew tal-passaport ta' Michelle Muscat. Dan pero ma sarx. Għalhekk il-konklużjoni milħuqa minn Pierre Portelli mhux neċessarjament hija korretta. Fi kwalunkwe każ, minn analiżi tad-dokumenti bankarji fil-Bank Pilatus ma rriżultawx dokumenti li jorbtu ma Michelle Muscat, mart Dr. Joseph Muscat.

[125] Irriżulta li dawn id-*declarations of trust* eżibiti huma dokumenti falsifikati. Biss min għamel dawn id-dokumenti kien jaf x'inhu jagħmel b'ċerta grad ta' preċiżjoni dwar dak li kien qiegħed jiġi mikxuf fil-*Panama Papers*. Għalkemm id-data miktuba fuq dawn id-dokumenti hija dik t'Awissu 2015, ma jfissirx li dawn id-dokumenti saru dakinhar. Min iffalsifika dawn id-dokumenti inkluda d-data t'Awissu 2015 b'intenzjoni u mhux b'kumbinazzjoni – u dan meta din id-data tittieħed fl-isfond tal-korrispondenza li kienet qegħda tiġi skambjata fir-rigward t'avvenimenti li seħħew f'Awissu 2015 u li ġew dokumentati fil-Panama Papers u minn dokumenti oħra analizzati mill-Forensic Accountants *Harbinson Forensics* iżda b'riferenza għal kumpaniji *Tillgate Inc* u *Hearnville Inc* iżda mhux ukoll għal *Egrant Inc.*

Maria Efimova tgħid li dawn id-dokumenti rathom fil-Bank Pilatus f'Marzu 2016. Ħadd qabilha jew warajha ma jgħid li qatt ra dawn id-dokumenti f'dan il-Bank jew xi mkien ieħor. L-anqas ix-xiedha mill-Mossack Fonseca ma jirriżultaw li qatt rawhom. Anke mill-Panama Papers cache imqiegħed għad-disposizzjoni tal-inkjesta mill-Awtoritajiet Ġermaniżi ma rriżulta li Mossack Fonseca qatt kellhom dawn id-dokumenti għad-disposizzjoni tagħhom fil-*files* tagħhom u fl-*emails* internament skambjati minn impjegati ta' Mossack Fonseca.

Hija biss Maria Efimova li ssemmi li rat dawn id-dokumenti f'Marzu 2016. Biss it-traskrizzjoni ta' dawn id-*declarations of trust* ġiet reża pubblika fil-21 t'April 2016 fl-22:02 fl-artiklu pubblikat fir-*Running*

3. Naturalment tqum il-mistoqsija ta' min kien qieghed jitlob din id-dikarazzjoni. Nahseb li huwa car li dan kien qieghed jintalab biss mill-Pilatus Bank u hemm il-persuna ma seta jkun hadd ghajr hlief l-MLRO - Claude Ann Sant Fournier. Din it-talba ghal-din id-dikjarazzjoni setghet ssir biss lil min kien qieghed jamministra din ix-xibka ta' kumpaniji - Pubblikament harget li kien Brian Tonna li sahansitra ukoll ddikjara li din kienet kumpanija tieghu minkejja li ma hemm hadd hemm barra li emmen din id-dikjarazzjoni.[126]

4. Ghaliex intalab - ghaliex minghajr din id-dikjarazzjoni l-MLRO kienet twaqqaf it-tranzazzjonijiet tal-kumpanija Egrant u xejn aktar.[127]

Commentary minn Daphne Caruana Galizia intitolat : *This is the text of the two declarations of trust which were in the kitchen safe at Pilatus Bank.* Bejn il-jum li fih Maria Efimova ġiet liċenzjata jiġifieri d-29 ta' Marzu 2016 u d-data tal-pubblikazzjoni tat-*text* ta' dawn id-*declarations of trust* kienet għaddiet sena u tliet ġimgħat. Din l-inkjesta stabbiliet li l-informazzjoni kontenuta f'dawn il-kopji tad-*declarations of trust* kienet ottjenibbli mill-*internet open source sites.* Inoltre, matul dik is-sena u tliet ġimgħat kienet ħarġet ħafna informazzjoni dwar il-*Panama Papers* inkluż dwar il-kumpaniji *Egrant Inc, Tillgate Inc* u *Hearnville Inc,* kif ukoll fir-rigward ta' kumpaniji oħra involuti fil-*Panama Papers,* fosthom *Aliator S.A., Dubro Limited S.A., Jaqueline Alexander, Colson Services Limited, Nexia BT* eċċetra. Dettalji ta' dawn il-persuni kienu disponibbli fuq *open sources,* kif setgħa jiġi konstatat minn din l-inkjesta stess. Dawn id-*declarations of trust* setgħu ġew falsifikati minn kwalunkwe persuna – li riedet tkun taf tħaddem *computer,* taf tħaddem l-*internet,* kienet tinteressa ruħha f'dak li kien qiegħed jiġri fil-*Panama Papers,* u kellha interess li tkun taf – u kienet taf x'inhu jiġri f'Malta. B'hekk mhux possibbli li jiġi konfermat dak li ddikjara Pierre Portelli u dan peress li biex dak li qiegħed jiddikjara hu jkun verosimili, wieħed l-ewwel ikun irid jitlaq mill-presuppost jemmen l-istorja u x-xiehda ta' Maria Efimova – ħaġa li anke x-xiehda ta' Pierre Portelli innifsu tikkontradiċi f'diversi aspetti tagħha kif instab u muri aktar il-fuq.

[126] Jekk tiġi emnuta l-verżjoni ta Maria Efimova, li dawn id-dokumenti verament kienu jinsabu fil-Bank Pilatus, allura tqum il-kwistjoni għaliex dawn id-dokumenti kienu jinsabu hemm. Il-provi miġbura matul il-kors ta' din l-inkjesta ma jikkonfermawx dan il-punt. Ħadd mix-xiehda li xehed eċċetto Maria Efimova ma jgħidu li raw dawn id-dokumenti fil-Bank Pilatus, mhux l-inqas Claude-Ann Sant Fournier. Minbarra dan huwa minnu li Brian Tonna iddikjara li din il-kumpanija kienet tiegħu u li kienet reġistrata fuq ismu bħala *UBO.* Huwa wera' dokumenti fis-sens li kien l-*UBO* ta' *Egrant Inc.* Id-dokumenti reġistrati u dawk misjuba fil-files ta' Mossack Fonseca wkoll kienu jgħidu dan u skont dak li ġie misjub mill-inkjesta ma jidhirx li ġew maħruġa ishma oħra minbarra dawk misjuba u msemmija mill-*Forensic Accountants.* Iċ-ċertifikat tal-*bearer shares* li kienu ħarġu s-*subscribers Dubro Limited S.A.* u *Aliator S.A.,* instabu wkoll fil-folder tal-*Egrant Inc* li kien fil-pussess ta' Nexia BT. Jekk Brian Tonna kienx qiegħed iżommhom għal ħaddieħor jew le hija kwistjoni oħra. Huwa jiċħad li kien qiegħed iżommhom għal terzi persuni u ma nsatbu ebda provi li jindikaw li kien qiegħed iżommhom għal terzi persuni partikolari.

[127]Mill-analiżi kondotta mis-sistema bankarja tal-Bank Pilatus ma rriżultat ebda transazzjoni bankarja jew finanzjarja bejn *Sahra FZCO* jew *Al Sahra FZCO* u *Egrant Inc* kif allegat minn Daphne Caruana Galizia fl-artikli tagħha jew xi transazzjoni finanzjarja oħra li kienet tinvolvi lil *Egrant Inc.* kemm fil-Bank Pilatus kif ukoll barra minnu. Għalhekk din l-allegazzjoni ma tistax titqies pruvata skont kif qiegħed jassumi li hi Pierre Portelli.

5. Tqum il-kwistjoni mnejn ingab jew min ghamel dan id-dokument. Car kristall li Brian Tonna kien jaf l-informazzjoni kollha inkluz dettalji bhall-ismijiet taz-zewg kumpaniji li jissemmew fid-dokumenti, u d-dettalji tal-karta tal-identita setghu kienu accessibli biss ghal min kellu kollox dwar il-klient. Fiz-zmien meta saru id-dikjarazzjonijiet, Awwissu 2015, ma kien hemm l-ebda raguni sabiex jigi dikjarat UBO differenti milli kienet jew falz - Dak iz-zmien hadd ma stenna li jinkixfu l-Panama Papers jew Mossak Fonseca. Ghamlu min ghamlu, bil-kunsens jew minghajr il-kunsens tal-klient, sar genwinament biex tinghata l-informazzjoni rikjesta dwar il-UBO mill-MLRO.

6. Dan kollu verifikabbli mal-MLRO. Jekk intuzatx din id-dikjarazzjoni ghal-transazzjonijiet ta' Egrant barra l-Ewropa, hi haga facilment verifikabbli teknikament jekk sarux jew jekk thassrux. Nghid biss li sar fi zmien meta ma kienx hemm raguni ma jiddikjarawx il-verita, zgur li sar min minn kien jaf kollox u biex jghin il-klient anki jekk ma nafx jekk il-klijent kienx jaf, sar minhabba l-kont tal-klient.[128]

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[128] Huwa minnu li Brian Tonna kellu aċċess għad-dokumentazzjoni kollha li jsemmi Pierre Portelli. Biss jirriżulta mit-test ta' dawn il-kopji tad-*declarations of trust* li ċerta dettalji li kien hemm fuqhom diffiċilment setgħu isiru minn persuni li kellhom id-dettalji kollha korretti tal-kumpaniji involuti. Mill-banda l-oħra Brian Tonna kellu aċċess dirett u faċli għal Mossack Fonseca u għal dawk li kienu jipprestaw is-servizzi tagħhom lil Mossack Fonseca. Anzi l-*Forensic Accountants* Harbinson Forensics sabu li fir-rigward ta' żewġ dikjarazzjonijiet (li semmew fir-relazzjoni tagħhom) kien Karl Cini stess li indika lil Mossack Fonseca bit-test tal-dikjarazzjoni li ried tkun iffirmata billi Cini kiteb it-test innifsu u bagħtu lil Mossack Fonseca għall-firma tal-impjegati/aġenti tagħhom. Dan juri biċ-ċar li bejn Nexia BT u Mossack Fonseca kien hemm kanal ta' komunikazzjoni u azzjoni verament effikaċi, liema fatt inaqqas l-inċidenza tal-ħtieġa da parti ta' Nexia BT li jirrikorru għal firem foloz fuq dokumenti meta setgħu jottjenu l-firem oriġinali mingħand l-impjegati ta' Mossack Fonseca b'ċerta faċilita.

Apparti minn hekk mir-relazzjoni tal-espert tekniku il-*Forensic Digital Analyst* Elisabeth Briggs jirriżulta li hemm probabbilita qawwija li min iffalsifika l-firma ta' Jaqueline Alexander fuq id-*declarations of trust* għamel dan billi kkopja l-firma tagħha minn fuq is-*share certificate* maħruġ għall-*Colson Services Limited* meta din għamlet *share issue* ta' 50,000 sehem. Skont Briggs, il-firem ta' Jaqueline Alexander fuq dawn il-kopji tad-*declarations of trust* jidhru li ġew "*traced*" mill-firma ta' Jaqueline Alexander li tidher fuq dan is-*share certificate*. Din l-inkjesta stabbiliet li kopja ta' dan is-*share certificate* jirriżulta wkoll li sa mill-bidu li kienu saru pubbliċi r-rivelazzjonjiet tal-Panama Papers, ċjoe sa mit-18 t'April 2016 kien disponibbli fuq *open source search website* – www.afr.com/news/policy/foreign-affairs/the-panama-papers-new-twist-to-maltas-mossack-fonseca-bank-saga-20160418-go92h.

Il-provi miġbura fl-inkjesta juru li Jaqueline Alexander kienet tiffirma dokumenti għall-interessi ta' Mossack Fonseca anke fl-2015. Il-firma tagħha fuq id-dokumenti analizzati mill-inkjesta hija konsistenti ħafna. Hija kienet tiffirma numru kbir ta' dokumenti u b'hekk dawn iż-żewġt kopji ta' *declarations of trust* ma kellhomx għalfejn ikunu eċċezzjoni, kieku kienu oriġinali u ġenwini. Biss anke l-fatt innifsu li dawn il-kopji tad-*declarations of trust* kienu jġibu biss il-firma ta' Jaqueline Alexander għaż-żewġ subscribers (u mhux ukoll dik ta' Verna de Nelson għal *Aliator S.A.* fiha nnifisha tqajjem suspett raġjonevoli dwar l-

Ir-raba' darba li Pierre Portelli deher u t-tielet darba li xehed fl-inkjesta

Xhud: Però jien bil-permess tiegħek ngħidlek ukoll avvenimenti li seħħew wara li jien ġejt għandek. Jekk issibhomx relevanti għall-inkjesta jew le inħalli f'idejn il-ġudizzju tiegħek. Meta int kont tlabtni biex ngħidlek jew min hu s-sors jew inkella nġiblek id-dokumenti li rajt jien fuq Ipad elettroniku, jien dort persuni li deherli li setgħu forsi jgħinuni. Fost dawn il-persuni kont kellimt lil Daphne Caruana Galizia. Hi kienet qaltli li m'għandhiex id-dokumenti u allura ma setgħetx tgħini u kienet qaltli ukoll li – jidhirli li anke din ġiet irrapportata li qalitha lilek ukoll – jekk ikollha d-dokumenti hi ukoll ma tgħaddihomx. Jien imbagħad kellimt lil xi nies oħrajn li ma nixtieqx niddentifika hawnhekk u imbagħad ftit ġranet wara – għax int kont tajtni sal-weekend – through terza persuni waslu għandi dawk iż-żewġ dokumenti u jien imbagħad ġibthom lilek. Jiġifieri jien anqas kieku rrid niddentifika s-sors ewlieni ma jien f'dik il-pożizzjoni. Ġara imbagħad li kelli telefonata - wara li ġejt għandek u għadda ftit taż-żmien – mingħand Daphne Caruana Galizia fejn staqsietni point blank. Qaltli "inti ħadt id-dokumenti lill-Maġistrat?" U jien għedtilha "Ma nistax ngħidlek." Qaltli "jien naf li ħadt id-dokumenti lill-Maġistrat." Għedtilha "Jekk int taf biċċa tiegħek." Qaltli "Għaliex mhux qed tippubblika dan?" Għedtilha "Għax jien marbut mill-Maġistrat biex ma ngħidx x'hemm fl-inkjesta." Qaltli "Imma jien se ngħid li int ħadt id-

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awtentiċita tagħhom) stante li *Dubro Limited S.A.* u *Aliator S.A.* kienu rappreżentati minn Jaqueline Alexander u Verna de Nelson rispettivament.

Inoltre stramberija oħra toħroġ mill-*micro-jacket number* t'*Egrant Inc* indikat f'dawn il-kopji tad-*declarations of trust* bħala li huwa 807956S. Mir-risposta tal-ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet Ġudizzjarji fil-Panama jirriżulta li dan sar il-*micro-jacket number* t'*Egrant Inc* sa mill-2014 il-quddiem wara li fir-Reġistru Pubbliku tal-Panama kien daħlu sistema ġdida tal-mod kif jiġu mniżla l-*micro-jacket numbers* fis-sens li fil-każ ta' soċjetajiet kummerċjali tiżdied l-ittra *S* wara n-numru tar-reġistrazzjoni oriġinali. Dan huwa żvilupp li kien daħal fis-seħħ fl-2014, iżda fil-korrispondenza li din l-inkjesta analizzat in-numru tal-*micro-jacket* ta' *Egrant Inc*, anke fil-korrispondenza relattiva eżibita bejn Nexia BT u Mossack Fonseca turi l-*micro-jacket* number t'*Egrant Inc* kemm qabel kif ukoll wara l-2014 bħala 807956, mingħajr indikazzjoni tal-ittra "*S*".

Interessanti pero li meta wieħed jidħol fis-sit *open source, Opencorporates.com* u jfittex fuq *Egrant Inc.* isib li din il-kumpanija hija mniżla biż-żewġt numri – kemm 807956 u 807956S bħala n-*native company number*. Dan juri li dan in-numru *micro-jacket* tal-*Egrant Inc.* kien disponibbli wkoll fuq siti *open source* u aċċessibbli minn kull min kellu interess ifittex dwarha.

Għalhekk daqskemm dan id-dokument, skont insinwazzjoni ta' Pierre Portelli, setgħa ħolqu Brian Tonna, daqstant ieħor setgħa ħoloq dan id-dokument ħaddieħor li kellu l-interess li joħloq dan id-dokument għal skopijiet varji. It-teżi ta' Pierre Portelli għalhekk ma ssibx sostenn fil-provi miġbura fl-inkjesta.

dokumenti lill-Maġistrat." Għedtilha "Int għamel li trid biċċa tiegħek." Għadda ftit żmien u – naħseb li taf x'kien għaddej fil-pajjiż fis-sajf fil-kampanja tal-leadership tal-PN, jien dikkjarament kont qed nappoġja wieħed mill-kandidati li llum huwa Dr Delia li llum huwa l-Kap tal-Partit Nazzjonalista. Fil-fatt naħseb li ukoll tajjeb inniżlu fir-records li jien illum m'għadnix nokkupa l-istess kariga li kont nokkupa meta dehert quddiemek l-ewwel darba. Jien dak iż-żmien kont direttur ta' The Malta Indipendent. Illum qiegħed executive chairman tal-Medialink li hija l-media arm tal-partit Nazzjonalista. Allura dan li qed ngħid illum bl-ebda mod ma jinpinġi jew jagħmel xi piż fuq l-Indipendent għax mill-1 ta' Ottubru jien ma kelli x'naqsam xejn aktar hemmhekk. Anqas – biex nispeċifika – ma kont parti mid-deċiżjoni li jitneħħew l-artikoli li huma relevanti anke għal din l-inkjesta. Jien ma kontx parti minnha dik id-deċiżjoni. Però at one point Dr Delia kien ħareġ mill-Qorti wara li għamel xi libelli, ġurnalist/a staqsewh jekk jemminx li Egrant hi kumpanija ta' Mrs Michelle Muscat u hu kien wieġeb li m'għandu l-ebda mezz kif jista' jgħid li dan hu l-każ. Kien qed jgħid il-verità għax jien ma ddiskutejt ma' ħadd dak li jien iddiskutejt miegħek. Daphne Caruana Galizia għamlet blog fejn qalet li mhux qed jgħid il-verità għax persuna qrib ta' Adrian Delia huwa Pierre Portelli u Pierre Portelli kien il-persuna li ta d-dokumenti lill-Maġistrat Aaron Bugeja. U kien f'dak il-mument li żvelat li jien ġejt għandek bid-dokument. Later xi ġurnalisti oħrajn qabdu din, kellmu lili u reġgħu għamlu stejjer oħrajn. Ma nafx humiex fil-files tiegħek.

Sur Maġistrat: Caruana Galizia kienet qaltlek minn fejn kienet saret taf li d-dokumenti qegħdin f'idejja?

Xhud: Le. Ma qaltlix. Qaltli "Jien naf li int tajt id-dokumenti lill-Maġistrat." Hekk point blank. Il-karattru tagħha hekk kien. Jekk temmen xi ħaġa tgħidulek straight mingħajr ma jirnexxilek targumenta għax jekk temmen hekk kienet temmen hekk.

Sur Maġistrat: Jien min-naħa tiegħi f'dan l-istadju dak kollox.

Xhud: Jien nista' nistaqsik jekk ippruvajtx tivverifika dawk id-dokumenti?

Sur Maġistrat: Dik ma nistax inwieġbek.

Xhud: Qed inħoss li qed nistaqsihielek b'leġġittimità peress li tajthomlok jien għalhekk.

Sur Maġistrat: Għandek raġun però inkun qed nikser is-sigriet tiegħi imbagħad.

Xhud: U anqas jekk kontx l-uniku wieħed li għaddilek dawk id-dokumenti?

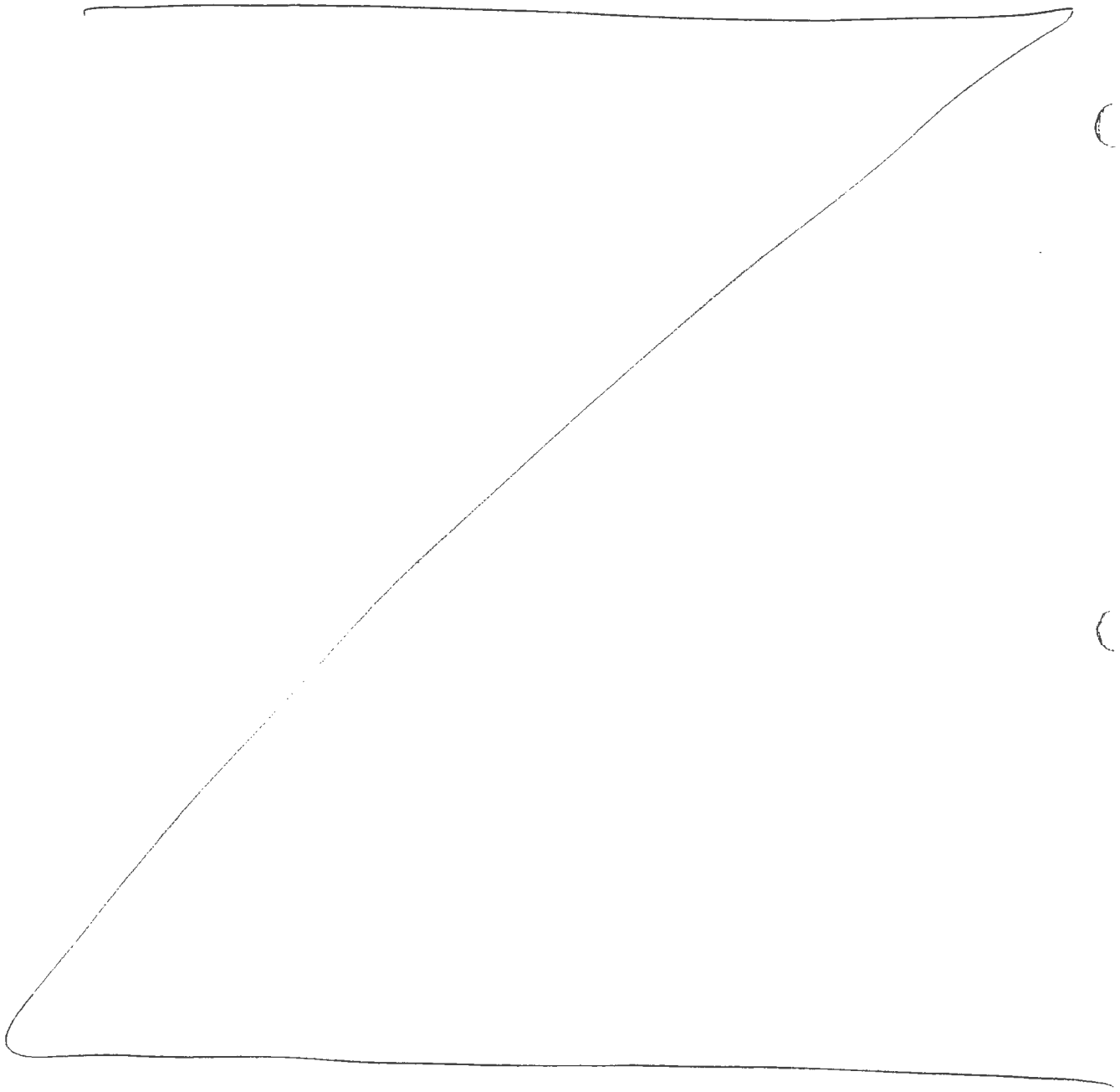
Sur Maġistrat: Anqas dik ma nista' nwieġbek. Mhux għax ma nixtieqx imma għax ma nistax. Affarijiet ta' natura ġenerika fuq l-inkjesti f'Malta kif jitmexxew nista' nitkellem għaliex dik hija liġi. Affarijiet speċifiċi ad esempio xi rwol ikollu investigatur min-naħa tal-pulizija fir-rigward ta' din l-inkjkesta u kull inkjesta oħra

nista' nwieġbek għax dik ukoll hija liġi, x'inhu jiġri f'din l-inkjesta ma nistax inwieġbek.

Xhud: Nifhimha.

Sur Maġistrat: Huwa piż li min hu bħali jkollu jġorr.

Xhud: Però nispeċifika li kontra dak li għamilt b'dokumenti oħrajn, dawk iż-żewġ dokumenti jien għażilt li mhux nippubblika imma nagħtihom lilek biex tagħmel il-verifika. Dik kienet deċiżjoni importanti li ħadt u li nibqa' nemmen li għandi nagħmel.



Ix-xiehda tal-kwerelanti

Ix-xiehda ta' Dr. Joseph Muscat

Dr. Joseph Muscat xehed bħala l-ewwel xhud nhar it-22 t'April 2017. Huwa stqarr li din l-inkjesta qiegħda ssir wara li hu stess talab lill-Avukati tiegħu jitolbu lil Kummissarju tal-Pulizija biex imexxi f'dan ir-rigward għax kien jixtieq illi joħorġu l-fatti kollha.

> Jiena fl-ebda ħin u mument la jien u lanqas marti imma marti ħa titkellem għaliha ukoll, la kellna u lanqas għandna, la din il-kumpanija, la xi kont, la xi ħaġa li ma hijiex dikjarata fid-dikjarazzjoni ta' l-assi tiegħi fix-xogħol tiegħi bħala Prim Ministru u Membru Parlamentari. Din hija fabbrikazzjoni u spekulazzjoni li konna ilna nisimgħu dwarha, fil-bidu fil-konfront tiegħi, fl-aħħar żmien bdejna nisimgħu to the grave wine illi ħa joħroġ isem il-mara tiegħi u aħna ħadniha ftit bic-cajt ngħid il-verita' ukoll. Li nista' ngħidlek mill-allegazzjonijiet kollha li rajt huwa dan, Sur Magistrat, illi jiena nicħad kategorikament u qiegħed bil-ħalfa hawn hekk li b'xi mod jew ieħor qatt konna involuti jiena u marti f'din il-kumpanija jew kellna xi tip ta' trust jew kellna xi tip ta' dokument illi jirreferi għalina, barra minn hekk la jien u lanqas marti u l-ebda membru ta' l-familja tiegħi ta' l-ewwel grad, persuni oħra zijiet u hekk ma nafx imma ma nippretendix imma sa missieri, ommi, uliedi, missier il-mara u anka omm il-mara sa kemm kienet ħajja u hu il-mara, ma għandna l-ebda tip ta' kont jew relazzjoni ma' l-istess Pilatus Bank, relazzjoni kummerċjali jiġifieri qatt ma kellna la xi credit card, la xi kont, la ħaġa u oħra fil-konfront li ssejjaħ lilna jew issejjaħ lil xi kumpanija jew xi ħaġa li tappartjeni lilna.

Mistoqsi minn jekk minn naħa tiegħu ġiex avviċinat minn xi ħadd jew qatt kellimx lil xi ħadd dwar l-inkorporazzjoni ta' *Egrant Inc* jew jekk kellux xi

interess dirett jew indirett f'din il-kumpanija, Joseph Muscat wieġeb li la tkellem ma nies dwar l-inkorporazzjoni tagħha u l-anqas ma kellu xi interess fiha.

Joseph Muscat tenna li ra t-transcript ta' dokument illi ħareġ *online* fil-ġurnata ta' qabel fuq il-mezzi ta' x-xandir u kien tkellem dwar x'kien jemmen li kienu d-difetti li kellu dak id-dokument fosthom illi suppost sar trasferiment ta' *shares* mis-*subscribers* lil martu sentejn wara li dawn l-istess *subscribers* kienu għaddew is-*shares* ta' din il-kumpanija lil Brian Tonna. Joseph Muscat jemmen li ma jistax ikun li għamlu hekk. Huwa tenna wkoll li l-indirizz tal-*Egrant Inc* fuq dan id-dokument ġie mniżżel bħala li huwa Malta.[129]

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[129] Dwar dawn il-punti ssir riferenza għall-parir legali ottjenut mill-Avukat Fernando Berguido mid-Ditta Castro & Berguido fejn jispjega dan il-punt :

> **12. Whether the subscribers would know who the assignee of the subscription shares would be?**
>
> It is common practice that, once a company is formed, the subscribers to the Corporate Charter will sign a letter or form assigning their subscription rights to the clients of the firm, meaning, the ultimate beneficial owner or owners of the company. The vast majority of companies incorporated according to Law 32 are formed by lawyers or law firms. There may be a case, not common whatsoever, that two or more people appeared before a Public Notary in Panama in order to subscribe in person the public instrument containing the Corporate Charter, follow by the issuance of shares to themselves. This situation accounts for a very limited number of incorporations.
>
> If the subscribers to the Corporate Charter are members or staff of the law office, the subscribers may not know who the assignee of the subscription rights are. Their duties as subscribers will normally end with the incorporation of the company and the assignment of the subscription rights to the future shareholders of the company. Keep in mind that the members of the Board of Directors of the company (see below) are empowered to issue the shares and assess the rights of future shareholders.

Inoltre, mit-tiftix li sar fil-*folders* stampati għand in-Nexia BT, ġie elevat il-*file* oriġinali tal-*Egrant Inc* u minn dan il-file irriżulta li dawn iċ-ċertifikati taż-żewġt ishma maħruġa *to bearer* mis-*subscribers* : *Dubro Limited S.A.* taħt il-firma ta' Jaqueline Alexander u *Aliator S.A.* taħt il-firma ta'

Joseph Muscat tenna li wara din l-inkjesta huwa ser ikun qed jara li jittieħdu l-passi ulterjuri biex jinqabad min, kif u għaliex għamel din il-fabbrikazzjoni fil-konfront tiegħu u ta' martu. Joseph Muscat qal li din kienet storja li ġiet iffabbrikata u li kienet gravissima fis-sens li xi ħadd ħa l-isbriga illi jagħmel

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Verna de Nelson kienu jinsabu f'dan il-file, fil-pussess ta' Nexia BT, u għalhekk ukoll dak ta' Brian Tonna u Karl Cini. L-Avukat Berguido jkompli jwieġeb li : -

> **13. Whether the subscribers would know who the ultimate beneficial owner of the company is: a) upon the formation of the company,**
> **b) after that their subscription shares have been assigned.**
>
> Please see above.
>
> **14. Whether it is normal for the subscribers to sign *declarations of trust* denoting who the ultimate beneficial owner of the company is:**
> **(a) upon the formation of the company;**
> **(b) after the formation of the company;**
> **(c) following assignment of the subscription shares;**
>
> It is not common for the subscribers to sign declarations of trust. First, subscribers to the Corporate Charter have a potential right only to become a shareholder of the company. So, they may transfer or assign that right but they are not shareholders so the only "good" that they may give in trust would be that right. Second, if they proceed to the next step, meaning, acquiring in fact a share of the company, they become shareholders leaving behind being a mere subscriber. Third, it may happens that a subscriber will give in trust his right to become a shareholder once the company is incorporated but not before the company exists nor after the assignment or transfer of such rights have been made.

Apparti dan hemm ukoll ix-xiehda ta' Jeurgen Mossack li kkonferma li Nexia BT kienu klijenti tad-Ditta tiegħu u kienu Nexia li kienu talbu għat-twaqqif tal-kumpanija *Egrant Inc.* u għal din ir-raġuni kien qiegħed jassumi li kienet qed tidher is-sede ta' Malta. Qal ukoll li minn pesrpettiva ta' persuna mhux mill-Panama, għalkemm din il-kumpanija hija kostitwita għal klijent li joqgħod barra l-Panama, kien normali li jitqiegħed l-indirizz tal-aġent residenti tal-kumpanija daqslikieku kienet il-post fejn il-kumpanija teżerċita attivitajiet meta fil-verità l-attivitajiet jiġu eżerċitati fil-post fejn ikun jirrisjedi l-klijent. Mistoqsi jgħid jekk kienetx prattika normali għal Mossack Fonseca li jużaw indirizz differenti minn dak reġistrat tal-kumpanija skont kif jidher fid-dokumenti t'inkorporazzjoni, Mossack jgħid li l-persuni li huma l-utenti tal-kumpaniji li huma kostitwiti fil-Panama, huma dawk li jiddeċiedu li jpoġġu l-indirizz tal-aġent residenti fil-Panama bħala dak li kien il-post minn fejn topera l-kumpanija meta fir-realta ir-rwol tal-aġent residenti huwa biss dak li jħallas it-taxxa annwali tal-kumpaniji lil gvern tal-Panama u li jżomm il-komunikazzjoni mal-klijent sabiex jiġi mħarsa l-liġijiet riċenti dwar l-eżerċizzju tad-due diligence u f'ebda każ dawn il-kumpaniji ma realment joperaw mill-Panama.

transcript ta' xi dokument ivvintat totalment illi bikkem lil martu u ħalla marka fuq uliedu li raw lill-ommhom inkwetata.

Mistoqsi jekk kienx hemm xi negozju bejn Michelle Muscat u Michelle Buttigieg skont kif allegat minn Daphne Caruana Galizia fl-artiklu tagħha tal-21 t'April 2017 huwa qal li fil-bidu tas-snin elfejn, Michelle Buttigieg kienet tagħmel xogħol ta' *costume jewellery* u Michelle Muscat kienet tbiegħ f'Malta f'numru ta' *events*, dan ix-xogħol. Michelle Muscat kienet ilha ma tagħmel dax-xogħol għal xi snin. Ma kienx jaf x' hemm fil-*website*. Biss huwa informat li ma kien hemm ebda dħul minn din l-attivita' żgur kemm ilu Prim Ministru Michelle Muscat m'għamlitx din it-tip t'attivita'.

Dwar Michelle Buttigieg huwa qal li ried jivverifika l-fatti u l-kuntratt ta' Michelle Buttigieg li ġie ppubblikat u fil-fatt kien tema ta' diskussjoni pubblika dwar kemm titħallas u l-kundizzjonijiet tagħha. Michelle Buttigieg għamlet differenza kbira għax għandha esperjenza kbira fil-qasam tat-turiżmu. It-turiżmu mill-Istati Uniti kien irdoppja fiż-żmien kemm ilha hemm hekk Michelle Buttigieg.

Joseph Muscat qal li :

irrid inzid illi jien ovvjament la ma hiniex u la jiena u lanqas marti, la aħna involuti f'din il-kumpanija, la aħna qiegħdin f'dan il-bank u lanqas qiegħdin fit-tmexxija ta' dan il-bank, ma nistgħux ngħidu lil min sar transfer 'il fejn jiġifieri ma nistax inwiegeb għat tmexxija ta' l-bank, minn fejn gew xi flus u 'l fejn marru imma nista' nwiegeb għax fl-interess tiegħi li nistaqsi, lis-Sinjura Buttigieg kellimha u assolutament ma huwiex minnu, naħseb li s-Sur Magistrat permezz ta' l-inkjesta tiegħu u ta' l-esperti jekk isir trasferiment ta' kwalunkwe tip din ma hijiex kwistjoni ta' dokumentazzjoni bil-karti imma kwistjoni ta' dokumentazzjoni bl-iswift u l-... systems jiġifieri tistgħu ticcekjaw minn naħa tagħkom stess jekk sarux jew le u jien rajt ukoll l-istqarrija li għamel il-bank il-bieraħ li caħad li kien hemm dawn l-affarijiet.

Joseph Muscat qal li huwa tkellem ma' Michelle Buttigieg u qaltlu li dak miktub ma kienx minnu.

Mistoqsi dwar ir-relazzjoni ta' bejnu, Michelle Muscat, Ilham Aliyev u Leyla Aliyeva, Joseph Muscat jgħid li huwa ltaqa' mal-President Alyev darbtejn fl-Ażerbajġan – kienu żewġ laqgħat bilaterali u darba fi Brussell fejn kien hemm summit. Fil-laqgħat bilaterali f'Baku kienu ħadmu biex iżidu r-relazzjonijiet bejn iż-żewġ pajjiżi, wara li kienu ħajru investiment mill-Ażerbajġan lejn Malta. Dan sar wara li kienu *shareholders* f'kumpanija li rebħet il-kuntratt tal-*power station* (Socar). Dakinhar li ltaqgħu fi Brussel kienet laqgħa bejn il-mexxija kollha tal-EU u l-mexxejja tal-Eastern Partnership. Dakinhar ħadlu b'idu. Kien hemm darb'oħra meta ltaqgħa miegħu il-Litwanja meta kien hemm laqgħa oħra simili.

Joseph Muscat jgħid li ma Leyla Aliyeva qatt ma ltaqa'; għalkemm darba iltaqa' m'ommha; iżda ma kienx ċert (jekk dik li ltaqa' magħha kienetx hi jew ommha) għax kienu jixxiebħu u ommha ma kienetx iġġib iż-żmien. Leyla Aliyeva kienet ġiet Malta fuq żjara organizzata mill-Uffiċju tal-President tar-Repubblika Dr. George Abela. Kien hemm xi organizzazjoni li kien jirrapprezentaha Tony Cassar illi ġabu wirja ta' fotografija mingħand fotografu magħruf internazzjonalment bħala Resa u kienet saret exhibition fil-Palazz il-Belt, fil-kurituri ta' l-Palazz isfel. Din il-wirja kienet miftuħa mill-President tar-Repubblika u bħala kortesija Michelle Muscat kienet mitluba biex tospita għal lunch lit-tifla tal-President Aliyev. Dik kienet l-unika darba li ltaqgħu ma' Leyla Aliyeva.

Mistoqsi jekk kellhomx relazzjoni jew oħra jiġifieri ta' natura, ta' ħbiberija jew relazzjoni kummerċjali jew relazzjoni oħra illi permezz tagħha kien hemm xi skambju ta' flus jew favuri Joseph Muscat wieġeb:

> jiena nichad kategorikament li hemm xi tip ta' relazzjoni u nichad kategorikament illi qatt f'xogħoli f'dan ic-cirkostanza jew fi kwalunkwe ċirkostanza oħra ħadt ċenteżmu wieħed illeċitu. Jiena dejjem għamilt xogħoli mingħajr ma tlabt u ma ħadt xejn Sur Magistrat u għal hekk jiena għalija din l-inkjesta hija importanti ħafna u hija importanti ħafna s-speditezza tagħha, ma rrid nagħmel ebda tip ta' pressjoni imma nixtieq nirrileva dan il-punt....u li ridt nirrileva Sur Magistrat huwa li fil-karriera politika tiegħi li ma hijiex xi twila, ħamsa u għoxrin sena biss ta' jiġifieri jew għoxrin sena, jiena kont ikkonfrontat diversi drabi b'argumentazzjoni politika u argumentazzjoni politika tinkwetak u ma tinkwetakx għax dak li jkun jattakkak fuq biċċa li tkun vera u biċċa li ma tkunx vera, dan huwa l-ewwel darba illi qiegħed iffaċċjat b'fabbrikazzjoni mill-bidu sa l-aħħar u ngħidlek il-verita' kidditna ħafna din il-bicca xogħol u iktar qed itkiddni għax qed tkidd lil marti u lil familja tiegħi u tlifna

s-serenita tagħna u anka familjari u għal hekk nistqarr anka qabel ma ġejna hawn hekk konna offruti pariri legali jew ħaġa jew oħra, għażilna li ma noħduhomx għas sempliċement irridu ngħidu l-verità'. Ma hemmx kwistjonijiet ta' x'toqgħod attent jew ma toqgħodx attent u aħna nixtiequ li l-verita kollha u li dak kollu li tista' aħna nistgħu naħilfu għalina nfusna, jiena naħlef għalija u għal marti, għandi fiduċja fil-kollegi tiegħi imma f'din il-bicca xogħol jiena dak li rrid nara hija iktar mill-karriera politika tiegħi, il good name tiegħi u s-serenita familjari tiegħi illi ġiet attakkata b'mod, bla preċedent u ttellifni anka mis-serenita' li naqdi dmirijieti Sur Magistrat.

Kif is-seduta kienet ser tagħlaq, Joseph Muscat talab li jżid biċċa oħra max-xiehda tiegħu. Huwa qal hekk -

jiena l-bierah ġejt mistoqsi mistoqsija u rrid għax biex inkun car ħafna, jekk nafx lil owner ta' l-Pilatus ħaġa u oħra u naħseb illi tajjeb, illi forsi ma għandhiex x'taqsam imma tajjeb illi jekk għandi bżonn ngħid xi ħaġa ma jkollokx għal fejn toqgħod terga' tistaqsini, jiena lis-Sid ta' l-Pilatus Bank bħal ma nagħmel ma' s-sidien ta' ħafna investimenti u hekk li hawn f'pajjizna ltqajt miegħu. Jekk ma hiniex sejjer żball iltqajt miegħu f'attivitajiet xi sitt darbiet għax għoddejthom il-bierah filgħaxija, xi sitt darbiet differenti f'attivitajiet soċjali u wkoll kont mistieden għat tieġ tiegħu jien li kien barra minn Malta. Jiena u l-mara ħallasna personalment għax konna ħadna l-okkazzjoni biex immorru holiday Firenze, kien tieġ hemm hekk u kont interessat li mmur għaliex kien intqal lili li ħa jkun hemm ic-CEO ta' l-kumpanija ta' COCA COLA ta' dak iz-zmien, ċertu Mohtar Kent, fil-fatt kont iltqajt mas-Sur Mohtar Kent biex nitkellmu dwar possibilitajiet ta' investimenti f'Malta u ma' xi numru ta' business man oħra, l-iktar mit-Turkija illi mbagħad bdew jimmaterjalizzaw ċertu investimenti. Biex inti staqsejtni x'inhi r-relazzjoni mas-Sinjura Alyeva u qed ngħidlek ma hemm l-ebda tip ta' relazzjoni u għal fini ta' korrettezza fil-waqt li ma għandi l-ebda tip ta' relazzjoni kummerċjali jew xi bank, jew xi kont jew xi ħaġa jew oħra fil-Pilatus Bank l-owner tiegħu iltqajt miegħu u kont mistieden għat tieġ tiegħu flimkien ma' numru ta' Maltin oħra illi kienu hemm hekk flimkien ma' għexieren jekk mhux mijiet ta' invitati imma mort partikolari biex niltaqa' ma' din il-persuna.

Mistoqsi mid-Deputat Kummissarju Silvio Valletta jekk huwa kienx ġieli jiltaqa' ma' Chairmen ta' Banek oħra Joseph Muscat qal li huwa kien jiltaqa'

magħhom regolarment, inkluż ma *Chief Executives* ta' Banek, korporazzjonijiet eċċetra. Dan kien parti minn xogħolu. Ma kienx iltaqa' mac-*Chairman* tal- Bank Pilatus biss.

Ix-xiehda ta' Michelle Muscat

Michelle Muscat ukoll xehdet fit-22 t'April 2017. Mistoqsija tgħid jekk għandhiex tgħid xi ħaġa minn jeddha dwar dak li kien qiegħed jiġi rapurtat fil-mezzi tax-xandir, Michelle Muscat qalet li *xejn ma hu veritjier*.

Mistoqsija x'għandha xi tgħid dwar l-artikli ta' Daphne Caruana Galizia relattivament għall-fatt li ġie allegat li Michelle Muscat hija l-*UBO* t'*Egrant Inc.* Michelle Muscat wieġbet li dawn kienu kollha gideb. Hi żżid : -

> Michelle Muscat: ma hiniex is-sid, ma jiena sid ta' xejn. Dik hija storja iffabbrikata, hija storja vilment iffabbrikata, jiena qatt ma kelli x'naqsam ma ebda persuna li hemm, hemm hekk, qatt ma kelli kumpanija, qatt ma kelli bank accounts barra minn Malta. L-unika bank accounts li għandi huma ta' Malta, wieħed l-HSBC u l-ieħor il-Bank of Valletta konġunt ma' r-ragel tiegħi u ta' tfal ...
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> Magistrat Inkwerenti: issa hawn hekk qed jingħad illi inti minn naħa tiegħek owner, sid ta' din il-kumpanija li jisimha Egrant, inti minn naħa tiegħek qatt ġejt mitkellma minn xi ħadd jew ħadt parir ta' xi ħadd professjonali ma nafx avukat, accountant, qatt iffirmajt xi dokument illi jistabbilixxi din il-kumpanija Egrant?
>
> Michelle Muscat: le l-isem ta' din il-kumpanija biss smajtu mill-media, mill-mezzi ta' x-xandir jiġifieri qatt ma semmejnih la d-dar, la smajtu f'xi uffiċċju jew f'xi ħaġa, qatt ma ddiskutejna kumpaniji, qatt ma ddiskutejna xiri ta' kumpaniji, qatt jien ma kont involuta ma' xi ħadd li qatt sema' dawn it-tip ta' affarijiet.

Magistrat Inkwerenti: jew iffirmajt xi dokument?

Michelle Muscat: xejn.

Magistrat Inkwerenti: per eżempju?

Michelle Muscat: qatt, qatt.

Magistrat Inkwerenti: illi lilek jinvolvik f'attivita' kummerċjali bħal din?

Michelle Muscat: le qatt. Qatt ma kont involuta, lanqas biss kellna diskussjoni dwar xi affarijiet ta' dan it-tip jiġifieri mhux qatt ma ffirmajt xejn imma lanqas biss qatt ma tkellimna fuq affarijiet ta' dan it-tip.

Mistoqsija jekk qattx iltaqgħet ma Brian Tonna, Michelle Muscat wieġbet li lil Brian Tonna tafu soċjalment u miż-żmien li Joseph Muscat kien *MEP*, kien jieħu ħsieb l-affarijiet bħala *accountant* imma hi qatt ma kienet involuta f'ċertu affarijiet magħhom u jiġifieri lanqas qatt ma marret l-uffiċju tagħhom.

Mistoqsija jekk kienetx taf lil Negarin Sadr Hasheminejad, Michelle Muscat tgħid li ma tafx min hi, għalkemm kienu marru t-tieġ ta' Ali Sadr, fejn kien hemm xi nies Maltin oħrajn, u kien hemm ukoll il-familjari tiegħu. Michelle Muscat kienet taf min hi Negarin Sadr Hasheminejad għax ratha t-tieġ iżda ma kienetx tafha personalment. Hi qatt ma kienet iltaqgħet magħha qabel. Mistoqsija speċifikament jekk għandhiex xi negozju ma' Michelle Buttigieg, Michelle Muscat wieġbet li :

Michelle Muscat: mela Michelle Buttigieg jiena nafha, nafha bħala ħabiba, ma għandi l-ebda business magħha, aħna kellna hobby, Michelle kienet tgħix u għada tgħix ġewwa New York, meta waqfet mill-karriera tagħha fit-turizmu ġewwa

New York għax kienet pregnant, bdiet tagħmel dawn il-jewellery, jiena dak iz-zmien kont sirt ħabiba magħhom.

Magistrat Inkwerenti: meta qed tgħidli dak iz-zmien jiġifieri qed tgħidli, qed nitkellmu ... per eżempju?

Michelle Muscat: ara jiena kont sirt ħabiba magħha għax kienet il-mara ta' xi ħadd, ir-ragel tagħha kien, jiena dak iz-zmien kont naħdem ma' Dr. Alfred Sant u r-ragel tagħha kien imur il-Labour Party Club ta' New York, kien bniedem li Alfred Sant dak iz-zmien kien għenu biex għax kienu għamlu official visit, dak iz-zmien kien fl-oppozizzjoni u kien għamel official visit ġewwa New York u jiena bħala l-assistenta ta' Dr. Sant kont ġejt mitluba li norganizza din il-visit u naħdimha ma' Mr. William Buttigieg, sirt naf lil Michelle Buttigieg through William Buttigieg. Din hija Ghawdxija tgħix ġewwa New York u kellha dan il-hobby ta' l-jewellery, jiena ukoll inħobb ħafna l-jewellery u kont għidtilha meta tigu hawn Malta għal holiday niltaqgħu u nitkellmu ftit flimkien u dak iz-zmien meta ġiet fis-Sajf ta' wara, kont iltqajt magħha u kont stidint xi ftit ta' ħbieb tiegħi u mbagħad konna nagħmlu, għax l-ewwel sena għamilna qisu bħal gibt il-ħbieb tiegħi d-dar tiegħi fejn għamilna qisu jewellery party. Din li biegħet, biegħet u jiena ovvjament qatt ma kont involuta fis-sales tagħha. L-iktar ħaġa li kienet forsi tagħtini nagħżel xi biċċa ġiżirana li tagħtini hi jiġifieri tagħtihieli bħala rigal mill-bqija qatt ma kien hemm kumpaniji. Fis-snin ta' wara bqajna nagħmlu, kull meta tiġi fis-sajf, nagħmlu xi suare, konna nsemmuhom suare, jiena xogħoli huwa Marketing and PR u bħala li kont ukoll dak iz-zmien, matul is-snin ninteressa ruħi ħafna fl-NGOs u dejjem ngħin lil NGOs, ġieli anka għamilna suarajs ta' l-jewellery bħala fund raising għal dawn l-NGOs, jiġifieri mmorru eżempju nagħmlu talk fuq il-jewellery għax ikunu magħmulin minn stones, minn semi precious stone u mbagħad eżempju tagħtihom xi waħda għar raffle biex jagħmluha fund raising. Meta kienet għamlet il-web site għax sa dan it-tant kien ikun hemm min jafna u jgħidli isma' kemm nixtieq din tagħmilli ġiżirana ġieli jiena kont qisni l-go between bejna u bejn Michelle, bejn il-klijent u bejn Michelle pero ovvjament qatt ma kien hemm xejn binding bil-kitba u qatt ma kien hemm flus bejnietna. Fil-fatt meta imbagħad bdiet tbiegħ peress li mbagħad hawn hekk għandna l-ligi ta' l-VAT, hi kienet anka rreġistrat hi l-Buttardi ma' l-VAT u kienet ovvjament kellha book ta' l-VAT biex kollox ikollha bil-ligi imma jiena jigifieri, qatt ma kelli xejn magħha bħala kumpanija jiena.

Magistrat Inkwerenti: insa kumpanija hawn hekk din mhux qed isemmi kumpanija?

Michelle Muscat: imma dik biex niccarahielek għax dik hija gidba oħra jiġifieri business partner, dawk huma kollha kliem sbieħ li jintużaw.

Magistrat Inkwerenti: *she set up in partnership with Michelle Muscat* jiġifieri din qed tgħid li inti għamilt xi partnership magħha, partnership mhux bil-fors kumpanija?

Michelle Muscat: hekk huwa partnership eżatt, jekk tista' tgħidha li partnership, ħbiberija tista' tgħidilna partnership imma ma hijiex business jiġifieri ma hemmx kumpaniji, ma hemmx flus, ma hemm xejn.

Magistrat Inkwerenti: għax din qed tgħid hawn hekk *is the contact person for the European market* din eżattament x'inhi?

Michelle Muscat: għax dika fuq il-website peress li hi tgħix l-Amerika u kellha l-address ta' New York, hi kitbet li bħal speċi trid li tikkuntattja lil xi ħadd minn Malta u tista' tikkuntattja lili jiġifieri jiena eżempju jekk tiġi inti u tgħidli jiena rrid ġiżirana ta' Michelle, jiena eżempju kont nagħtiha l-address tagħha u tibgħatilha, ġieli kien hemm min, eżempju meta tiġi hawn Malta imbagħad tiltaqa' magħhom eżempju għax ħafna drabi n-nies għax ikunu jafu lili kienu jmorru għandha u hi just kitbet hekk biex ovvjament il-web site ikun hemm number.

Magistrat Inkwerenti: contact person?

Michelle Muscat: contact person jiġifieri ma kien hemm xejn aktar minn hekk.

Magistrat Inkwerenti: jiġifieri din inti hawn hekk qed tgħidli illi fil-verita' dan ma hu business xejn?

Michelle Muscat: hekk hu.

Magistrat Inkwerenti: hi iktar attivita' li tagħmel inti ma' din Michelle Buttigieg bħala żewġt iħbieb li għandkom interess komuni fil-costume jewellery?

Michelle Muscat: hekk hu. Fuq l-affarijiet l-oħra li qalet fuq Michelle Buttigieg dawk tista' Michelle Buttigieg tanserjahom hi fuq il-kapabilita' tagħha fuq it-turizmu.

Michelle Muscat qalet li riċentement kellha kuntatt ma Michelle Buttigieg bħal ma jkollha mal-ħbieb tagħha minn żmien għal żmien. Qalet li sa tlett ġimgħat qabel kienet ġiet Malta u ġabet delegazzjonijiet ta' *Travel Agents* biex timmarkitja lil pajjiż. Kull meta tkun Malta jiltaqgħu. Fil-kapacita' tagħha ta' *Spouse of the Prime Minister* Michelle Muscat kienet tgħinha f'dan is-settur u tgħid li :

> jiġifieri jekk eżempju tgħidli isma' għandi persuni travel aġent li jġib għoxrin elf persuna lejn l-Italja, I want to put Malta on his itinerary, jiena ma nsib l-ebda ħażin li din tiġi tieħu cafe ma' dan il-persuna eżempju go l-Girgenti jew go post ieħor, go Villa Francina, it is part of the role that I hold and it is part of the role that we are pushing to put Malta on the map jiġifieri dawn huma affarijiet li jsiru in openess bl-ebda ħabi u hemm nies fil-Malta Tourism Authority li jafu b'dawn l-affarijiet u jagħmlu dawn l-attivitajiet ma' nies li joqgħodu eżempju go l-Birgu biex kemm jista' jkun nuru l-palazzi li għandna u nuru l-venues li għandna jiġifieri it is all part of marketing the island li jiena ma naħsibx li hemm ebda affarijiet li huma ħżiena f'dawn l-affarijiet.

Michelle Muscat tgħid li ma jidhrilhiex li Negarin Sadr Hasheminejad u Michelle Buttigieg saru jafu lil xulxin. Mistoqsija jekk kienetx taf jekk Negarin Sadr Hasheminejad qatt ħalsitx lil Michelle Buttigieg l-ammont ta' madwar erba mitt elf dollaru Amerikan, Michelle Muscat tgħid :

> Michelle Muscat: mela ħa nibdew hekk, jien sa fejn naf jien, dawn ma jafux lil xulxin jiġifieri totalment qatt ma naf li dawn iltaqgħu jew jafu li jeżistu, li waħda taf li l-oħra teżisti jiġifieri għax dan qatt ma kien hemm, sa fejn naf jiena dawn lanqas naf li waħda taf lil oħra jew li teżisti. Jiġifieri din hija tant hi fittizja li meta ħarġet dik l-istorja u qrawha, dawn għalihom hillarious, it is hillarious, this is hillarious, it is all a fabrication, dawn lanqas biss jafu fuq min qed tgħid din.

Michelle Muscat tgħid li hija qatt ma kelmet lil Negarin Sadr Hasheminejad u ma kienetx taf x'jisimhom ħut Ali Sadr. Taf li Ali Sadr u l-mara tiegħu ġieli tkun Malta u ltaqgħet magħha xi tliet darbiet inkluż fit-tieġ tagħhom. Michelle Muscat qatt ma ltaqgħet ma Negarin Sadr Hasheminejad u tkelment magħha jew iddiskutiet negozju magħha u ma kienetx taf li kellha xi ħanut tal-moda. Tgħid li din hija storja fabbrikata u li hija bażata fuq presunzjonijiet għax Michelle Muscat kienet tħobb il-moda u tieħu pjeċir b'dawn l-affarijiet. Pero jidhirlha li din l-istorja kienet *hilarious* għax Michelle Buttigieg u Negarin Sadr Hasheminejad qatt ma ltaqgħu flimkien u Michelle Muscat u Michelle Buttigieg qatt ma tkelmu fuq Negarin Sadr Hasheminejad jew Ali Sadr u dan għaliex ma għandhomx x'jaqsmu ma Michelle Buttigieg u ma hemm ebda konnessjoni bejniethom.

Lil Michelle Buttigieg ma kelmithiex fuq it-telefon iżda bagħtitilha *What's App* u d-diskussjoni kienet tad-daħk għax huma kienu qegħdin jeħduha biċ-ċajt għall-ewwel :

> Michelle Muscat: with a laughter, ta' xi storja din li din vera storja tad-daħq, kieku mhux għax serja daqs hekk li gabitni l-ewwel darba go l-Qorti lili, din ta' d-daħq, aħna ilna nidħqu b'ħafna ħmerijiet li jinkitbu imma kieku ma kienetx issa up to the limit, kieku ma naħsibx li qegħdin hawn imma dawn huma affarijiet tad-daħq, il-gest aħna tkellimna li din *oh my God* dawn affarijiet li ma tistax, jiġifieri jiena nista' naqbad il-mobile u naqralek id-diskussjoni għax aħjar hekk, din *good morning jiena Yankee friends, Michelle, William għandu tnejn numri u you, me, good morning guys I think you should file a libell suit* għax jiena dan ma kontx naf jekk hux qed taqra dawn għax aħna ma noqgħodux nitkellmu ta' kuljum fuq it-telefon.
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> Magistrat Inkwerenti: meta qed tgħid din għal Michelle Buttigieg?

Michelle Muscat: ehe u hi wieġbet hekk *hi I am here at the New York Yoga journal for four day event surrounded by ... Malta is on the top aġenda here and getting good work done, this ... is trying to break us but we won't let her, keep working guys I say* imbagħad jiena għidtilhom *watching xarabank, I am watching it ir-ragel tagħha, what a load of crap, were is the proof, the paper trail, bank safe cannot provide proof ... insomma araw l-news, il-PBS b'ritratt tiegħek u tiegħi, I didn't see photo where is it* jiġifieri dan huwa x'jismu, ħa nara.

Magistrat Inkwerenti: dak qed taqra mill-whats up inti Sinjura?

Michelle Muscat: what crap this moment is hillarious, unbelievable, incredible.

Michelle Buttigieg ma semmitlhiex qatt li rċiviet xi flejjes jew erba mitt elf dollaru Amerkian. Michelle Buttigieg qaltilha *"This is a load of crap"*. Michelle Muscat taħseb li probabbilment Michelle Buttigieg u William Buttigieg qraw l-istorja tal-erba mitt elf dollaru Amerikan għax wieġbet b'dak il-mod. Michelle Muscat iżżid li hi qatt ma laqqgħat flimkien lil Negarin Sadr Hasheminejad u lil Michelle Buttigieg u ma setgħetx tagħraf kif dawn setgħu jafu lil xulxin : -

kif dawn jistgħu jkunu jafu b'xulxin jiġifieri din jien, x'jisimha Sadr jiena din lanqas jien qatt ma kellimtha jiġifieri jekk jien kellimtha jekk forsi konna ejja ngħidu with a lot of immagination, ejja ngħidu f'dan it-tieg fejn konna aħna u kien hemm il-familja kollha u kien hemm Maltin oħra, ejja ngħidu li kien hemm xi ħadd ħa xi ritratt jiena joħdilha b'idha li ma nafx jeżistix għax.

Magistrat Inkwerenti: qed tassumi.

Michelle Muscat: għax il-persuna li kien f'dan it-tieg huwa xi ħadd li jinnanifesta fil-Partit Nazzjonalista jiġifieri ejja nassumu li aħna qiegħdin in the wedding line u dan aħna ħadna b'idejhom jew xi ħaġa, jiena ejja ngħidu li jiena ħadt b'idejn din xi darba f'dan it-tieg, that was it, we never ever talked or spoke.

Magistrat Inkwerenti: ma' din ma' Negarin Sadr?

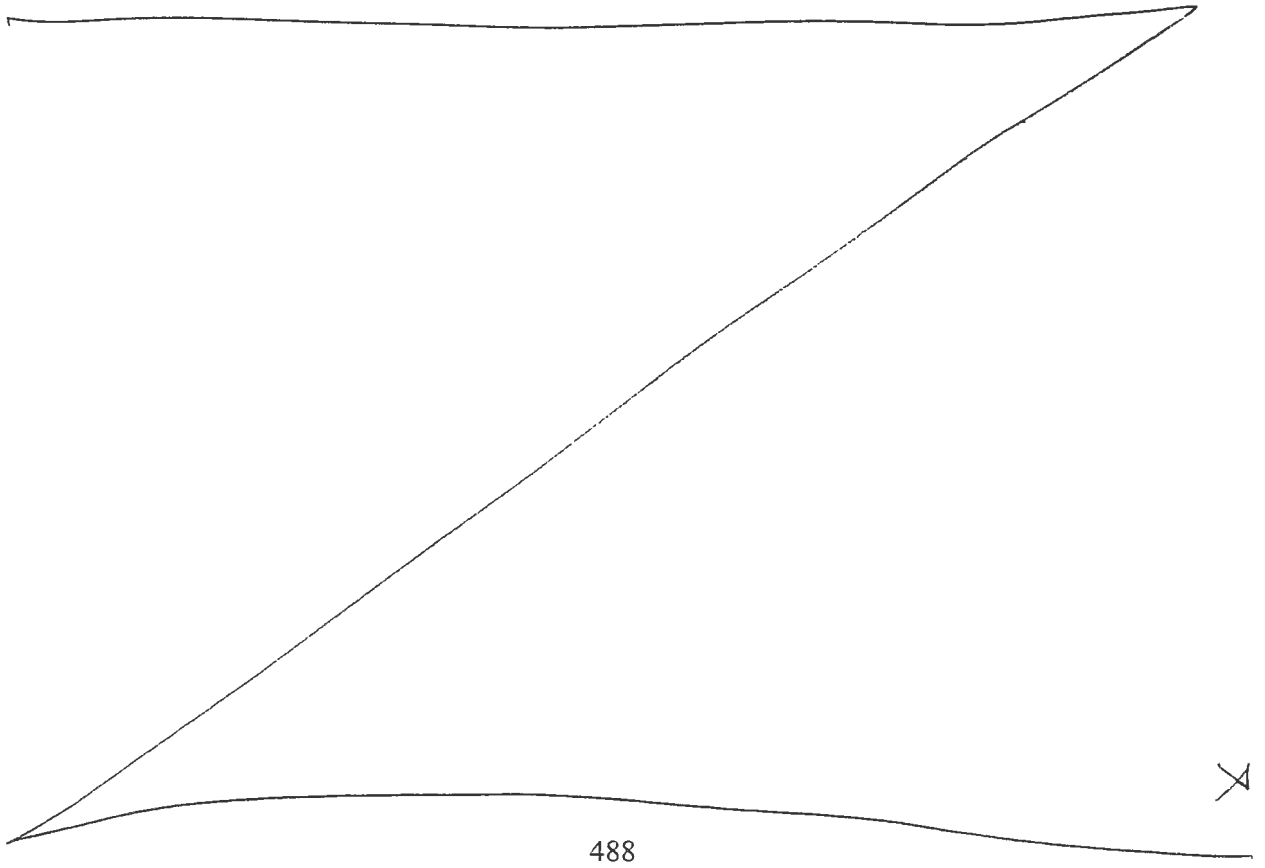
Michelle Muscat: ma' din Sadr aħseb u ara kemm din Negarin Sadr taf b'Michelle Buttigieg li toqgħod New York. Din għalija hija xi ħaġa a good plot for a drama.

Misotqsija jekk lil Leyla Aliyeva kif tafha, f'liema kuntest tafha u jekk kellhiex xi relazzjoni magħha, ta' ħbiberija, ta' negozju, ta' sħubija Michelle Muscat tgħid li hija ltaqgħet ma Leyla Aliyeva darba waħda f'okkażjoni fejn Leyla Aliyeva kienet ġiet mistiedna Malta mill-President George Abela biex tiġi tinawgura exhibition *in aid of Community Chest Fund.* Din kienet *exhibition* mill-fotografu rinomat Resa, u kien qed jikkoordina din l-event Tony Cassar mal-Ufficcju tal-President. Fil-kapaċita tagħha ta' *Spouse of the Prime Minister*, Michelle Muscat kienet mistiedna biex tattendi għal din l-attivita'. Peress li Leyla Aliyeva kienet ħa toqgħod lejl f'Malta kienu staqsewha biex hi tieħu ħsiebha waqt li tkun f'Malta. B'hekk kienet marret il-Palazz tal-President, il-Belt fejn kienet laqgħet lil Leyla Aliyeva flimkien mal-President George Abela u l-Ministru Evarest Bartolo. Leyla Aliyeva fetħet din l-exhibition li kienet fuq in-natura u fuq l-ambjent.

Wara telgħu fuq fejn kien hemm attivita fil-kamra ta' fuq fejn tkellem il-President, tkellmet Leyla Alyeva u tkellem il-Ministru Evarest Bartolo. Wara ospitathom għaċ-ċena ġewwa l-Palazz tal-Girgenti fejn kien hemm Leyla Alyeva, Resa l-fotografu u Tony Cassar li kien l-intermedjarju biex jistidinhom jagħmlu din l-attivita'. Hi ltaqgħet ma Leyla Aliyeva dakinnhar

biss. Leyla Aliyeva lilhom qatt ma tathom xejn, lanqas *courtesy gift*. Resa taf li kellu xi ktieb, kien ħa jibgħat xi ktieb. Leyla Aliyeva lanqas titkellem ħafna bl-ingliz.

Michelle Muscat tgħid li ma kellha ebda forma ta' negozju ma Leyla Aliyeva, qatt ma marret l-Ażerbajġan u qatt ma kellha interessi ta' negozju ma persuna fl-Ażerbajġan. Michelle Muscat issostni li r-ritratt li wriet Daphne Caruana Galizia fil-blog tagħha kien meħud fil-Palazz tal-Girgenti meta tlaqgħet ma Leyla Aliyeva hemmhekk u kien hemm ukoll l-istaff tad-DOI magħha kif ukoll membri tal-pubbliku. Ir-ritratti kollha li għandha huma pubbliċi u ħadithom minn fuq id-*DOI*. *Kieku jkun hemm xi ħaġa x'taħbi ma tieħux ġurnalisti u fotografi miegħek* – qalet Michelle Muscat.



Ix-xiehda tal-*PEP* l-oħra imsemmija fl-artiklu

Ix-Xiehda ta' Keith Schembri :

Keith Schembri xehed fit-22 t'April 2017 u jikkonferma li huwa għandu kont personali mal-Bank Pilatus. Dan huwa kont normali, mhux ċert hux *current account* iżda żgur huwa kont ta' depożitu u jaħseb li fetħu fl-2015. Hu ma għamel ebda transazzjoni ma persuni mill-Ażerbajġan. Qal hekk : -

> Keith Schembri: żgur li le, la jiena personali, la t-Tilgate u lanqas l-ebda waħda mill-kumpaniji li jiena shareholder fihom u la jien u lanqas il-familja tiegħi, ħadd qatt ma għamel negozju ma' l-Azerbajġan.

Fil-kont tiegħu kien hemm żewġ depożiti. Fih għandu mitt elf euro. Dan huwa wieħed mill-kontijiet li huwa għandu ma' erba' banek, fosthom HSBC, BOV u Banif. Wara li rċieva depożiti ta' ħamsin elf euro il-wieħed qatt ma użah aktar. Dawn il-flus la huma direttament u l-anqas indirettament rikonduċibbli għal negożju ma persuni mill-Ażerbajġan.

Għalkemm Keith Schembri ikkonferma li huwa kien l-*UBO* ta' *Tillgate Inc*, Keith Schembri saħaq li din ma kellhiex kontijiet bankarji la ma Pilatus u l-ebda kont fid-dinja. *Tillgate Inc* qatt ma kellha kontijiet bankarji.

Dwar l-oriġini ta' *Tillgate Inc* u r-raġuni għaliex kienet ġiet imwaqfa, Keith Schembri jgħid hekk : -

Keith Schembri: jiena qabel dħalt f'dan il-job li għandi ovvjament kif kulħadd jaf għandi n-negozju tiegħi tajjeb u ddecidejt żewġ affarijiet – waħda li nikkonsolida l-istruttura ta' l-grupp tiegħi tajjeb, fil-grupp jiena 99 % shareholder u l-papa tiegħi għandu 1 %, il-holding group tagħna hija tinvesti f'ħafna kumpaniji oħra, ħafna imma within the group one, two ħadt parir u qaluli isma' ... the company ibda ħu ħsieb l-assets tiegħek u ta' l-familja tiegħek personali u ġejt mogħti parir li niftaħ trust hawn Malta, ftaħt trust ma' l-Bank of Valletta, Malta kollha taf issa.

Magistrat Inkwerenti: dan meta kien?

Keith Schembri: wara l-elezzjoni għax qabel l-elezzjoni ma kellhiex għal fejn, le mhux ma kellhiex għal fejn nagħmilha, xorta kelli għal fejn nagħmel dawn l-affarijiet imma qatt ma ħsibt li kelli nagħmilhom daqs hekk malajr. Just biex nagħtik żewġ ideat għal fejn u forsi ħa nkun naqra personali, jiena miżżewweġ u għandi żewġt itfal, tajjeb, il-mara tiegħi ħa jkolli nsemmiha sena iżgħar minni and she went through a very terrible experience meta kellha sentejn, two years tilfet lil missierha fi splużjoni ġewwa barriera hawn Malta, they had to emigrate, she couldn't take it any more, her family, her mum and they went to Canada, sa kemm kienu l-Kanada, it was a very well off family and ma kien hemm xejn kif suppost testment and so on and so forth, they wiped all the wealth li kellhom huma, tajjeb, u l-mara dejjem tgħidli isma' I don't want to go through that again so let's, jiġri x'jigri I want to have every thing black on white għat tfal tagħna, it was one of the reasons, the second reason was li jiena għandi żewġt itfal – waħda thirteen u waħda eleven u l-pariri ta' min hu fin-negozju u li hu akbar minni and I always look up to them kien isma' qabel jidħlu two girls, irġiel, boyfriends what ever make sure you get your house in order għax imbagħad jibda' jinqala' l-glied, l-trust, u l-iskop ta' l-trust hija li l-ewwel bdejt bl-affarijiet tiegħi personali and then kont ħa nibda' ndaħħal il-kumpaniji mill-holding by the trust.

Magistrat Inkwerenti: din li qed tgħid ta' l-Bank of Valletta?

Keith Schembri: Bank of Valletta imbagħad f'daqqa waħda bdejt nisma', isma' the opposition party they know that you have a trust and so on and so forth u bdejt ngħid isma' għal ewwel ma tagħtix kaz, one, two, three imbagħad meta bdiet ħierġa fil-media, jiena kont ktibt ittra lic-Chairman, lil Joe Cassar White at that point in time fejn tlabtu, ktibtha jien fuq pariri legali, isma' Sur Chairman, jiena għandi dawn l-

affarijiet, dawn il-licks li issa qed joħorġu fil-media, inti marbut b'konfidanzjalita', these are my personal assets, John irrispondini c-Chairman qalli qed nifhem, qalli ħa nibdew investigazzjoni, qalli imma tifhem li hawn ħafna nies right, li għandhom aċċess għal dawn il-kontijiet allura jiena għal kemm nagħmel investigazzjoni I cannot tell you black on white that that cannot happen, jiena ħadt parir legali.

Magistrat Inkwerenti: kien qed jirreferi għal impjegati ta' l-bank qed nifhem hux?

Keith Schembri: għal impjegati ta' l-bank, jiena ħadt parir legali u ngħidha hand on heart anka kieku ma tkunx fil-posizzjoni tiegħi kont infittex lil bank għax jiena li c-Chairman ma jagħtinix garanzija li trust tajjeb f'ismi u f'isem il-familja tiegħi ma jistax jagħtini garanzija li ma jistax jidħol ... u jarah, this goes against banking right, one, kellimt lil Prim Ministru u għidtlu Prime, għidtlu I have this situation, I have two options, one li nfittex lil bank imma jekk ħa nagħmel hekk, kieku jien ċittadin normali li ma hiniex because of the position I hold ma nistax inqis ruħi hekk jew two I let it go by u qisu qatt ma gara xejn pero I had to take advice, jien ma hiniex komdu bit trust il-Bank of Valletta for two reasons, one li ġrali hekk biex ngħid kollox u two għal fatt li l-Bank of Valletta kif naħseb jaf kulħadd, they will be closing the trust, not closing them passing them to other companies li whatever li qed jittenderjaw biex jeħduhom so I took advice I said I need the trust, ir-raguni għal fejn jien kont ser nagħmel trust kienet hemm u tibqa' hemm jiġifieri li eventwalment nibda ncaqlaq il-kumpaniji tiegħi go t-trust, tibqa' hemm so I need to find another jurisdiction fejn jien nista' niftaħ trust and I was given the advice minn numru ta' nies li kemm lokali u kemm avukati barranin li I had two jurisdictions mainly – one is Singapore and one is New Zealand both OCD countries and both sharing the same law that we have and I opted to go for New Zealand, that was the reason why I opened my trust in New Zealand, the ... company was because the New Zealand trust according to their laws, they always have to put tista' titfa' flus what ever imma tista' titfa' assets in the company so I was given a very good advice ma tistax tirrikordja imma hawn hekk in inverted commas, to the easiest way temporarily is to open a Panamensi Company right and I went for it, I could have not done it, kelli strutturi oħra li nista' nagħżel li nagħmilha imma peress li kont qed nara temporanja ftaħt dik, I could have gone for taking one of my companies and putting it immediately in the New Zealand trust jiġifieri jiena stajt naqbad l-assets kollha li għandi fit-trust ta' l-Bank of Valletta and eventually I put them in the New Zealand trust, qed tifhem, ma stajtx nagħmilha imma, for two reasons, one I had to find the right structure for it, two ma kellhiex ħin u ma kellhiex moħħi hemm biex nagħmilha so I didn't put in it enough thought that is the reason.

Magistrat Inkwerenti: u jiġifieri din il-kumpanija, il-Panamensi ta' l-Panama jiġifieri għamilt lilha minħabba li kienet l-iktar waħda faċli għalik biex tkun tista'?

Keith Schembri: I was given the advice ... Fonseca were the people li kienu mqabbdin biex jifthu t-trust tiegħi right, they said that this is the easiest fast temporary thing that we can do.

Magistrat Inkwerenti: u allura l-istruttura li inti hemm hekk kont qed tistabbilixxi kienet waħda temporanja fil-ħsieb illi toħloq ħaġa iktar duratura?

Keith Schembri: yes, jiġifieri jiena eventwalment ... Bank of Valletta u nitfgħu fit-trust ta' New Zealand, it is something, ma kienetx ta' pjaċir tiegħi li nagħmilha għax jiena ċittadin Malti, dejjem ħdimt hawn Malta, dejjem ħaddimt in-nies hawn Malta, tajjeb u ħassejtni li ma għandhiex għal fejn ninqala' minn dak li dejjem xtaqt nagħmel li nuza bank, Malta ħafna iktar faċli milli nuza trust barra minn Malta, tgħidli mhux xorta in this day and age, iva u le jiġifieri jiġifieri xtaqt bqajt hawn imma sa llum għadni nħossni mhux komdu li nħalli l-assets tiegħi finanzjarji hawn Malta kif gew l-affarijiet. ... iktar raġunijiet.

Magistrat Inkwerenti: issa jiġifieri din il-kumpanija allura it-Tilgate.

Tillgate Inc. għalhekk ġiet miftuħa bis-servizzi ta' Mossack Fonseca li kienet ġiet trasferita fit-*Trust* fin-New Zealand. Din kienet intiża bħala kumpanija temporanja. F'Malta huwa ma setgħax jagħmel negozju minħabba li l-post huwa limitat fil-potenzjal tiegħu. Keith Schembri qal li huwa qatt ma kellu xogħol mal-Gvern u dejjem kellu xogħol mal-privat fil-kumpaniji tiegħu. Il-kumpaniji tiegħu kienu jesportaw. Hu minn naħa tiegħu ħareġ mid-direzzjoni tal-kumpaniji tiegħu u ried lid-Diretturi l-ġodda li jsibu swieq barranin. L-idea tiegħu kienet li jaqbad waħda mill-kumpaniji Maltin u kollha eventwalment imorru fit-*Trust* tan-New Zealand u jagħmlu negozju huma minn dik il-ġurisdizzjoni.

Għall-mistoqsija jekk allura *Tillgate Inc* għamilthiex aktar minn ħaġa oħra minħabba *regulatory requirements* fi New Zealand Keith Schembri wieġeb li dan kien ta' bil-fors, għax ma setax ikun hemm *Trust* mingħajr ma jkollha *asset*. *Tillgate Inc* qatt ma ntużat bħala *commercial vehicle*, għax din qatt ma kellha kont bankarju u l-anqas għamlet negozju. Din il-kumpanija ġiet awditjata u għandu *consolidated audited accounts*. *Tillgate Inc* infetħet għalih u għall-użu tiegħu. Biss kienet akkwistata *off the shelf*, għalkemm ma kellhiex kont bankarju. Meta huwa akkwistaha ra li din kienet *clean*, għax jekk ma tkunx *clean* ħadd ma jkun iridha. Din ma kellhiex kont bankarju u dan kollu ġie awditjat.

Keith Schembri jgħid li huwa għandu wieħed u erbgħin sena u lil Brian Tonna ilu jafu sa minn mindu kellu dsatax il-sena. Kien l-*accountant* u l-awditur sa minn meta kien fetaħ l-ewwel kumpanija tiegħu sal-lum. B'hekk għandhom relazzjoni kummerċjali ta' tnejn u għoxrin sena u Brian Tonna għadu involut fil-kumpaniji tiegħu mija fil-mija bħala *Nexia BT*.

Mistoqsi jekk meta tkellem ma Brian Tonna dwar l-istrutturi li huwa ried jagħmel kienx ukoll tkellem ma Brian Tonna dwar xi strutturi li kien interessat jagħmel ħaddieħor, Keith Schembri wieġeb fin-negattiv.

> Magistrat Inkwerenti: jiġifieri li inti tkellimt ma' Brian Tonna u Brian Tonna għidtlu isma' ħa nagħmilhielek cara u tonda jiena naf illi Conrad Mizzi bi ħsiebu jagħmel hekk

u nixtieq nagħmel bħalu jew gie jgħidlek isma' Conrad Mizzi bi ħsiebu jagħmel hekk tridx nagħmillek bħalu?

Keith Schembri: żgur li le.

Magistrat Inkwerenti: jiġifieri inti fir-rigward ta' din l-istruttura li qed tgħid, kienet struttura li inti tkellimt miegħu u hu tak il-parir tailor made għal ħtiġijiet tiegħek?

Keith Schembri: jiena ili nafdaħ 22 years, jiena dejjem hekk naħdem jiġifieri jekk għandi bżonn parir legali imur għand avukat jiġifieri jiena naf my Forte jiġifieri jekk għandi bżonn parir legali immur għand avukat u jekk għandi bżonn parir fuq struttura immur għand l-awdituri tiegħi jiġifieri ma hiniex kompetendi biżżejjed biex ngħidu li ftaħt trust jiġifieri and there was l-avukati tagħhom biex jaraw l-istruttura u mbagħad eventwalment l-istruttura feħitha l-exhibitee (sic! Nexia BT) mill-bidu sa l-aħħar.

Magistrat Inkwerenti: ehe. Relattivament għal dak li kien jinteressa lilek?

Keith Schembri: yes, yes.

Mistoqsi jekk minn naħa tiegħu meta għamel din l-istruttura kienx qiegħed jagħmilha speċifikament għal dak in-negozju li huwa kellu diga' fis-seħħ, Keith Schembri wieġeb : -

Keith Schembri: u ħassejtni ovvja komdu li nagħmilha miegħi għax dan jaf l-ins and outs ta' n-negozju tiegħi mill-bidu sa l-aħħar jiġifieri I mean b'telefonata waħda jaf eżatt fejn inkun irrid immur qed tifhem, that is the reason why jiġifieri u jgħid le, tagħmilx hekk jiġifieri ...

Fil-Bank Pilatus huwa kien mar darba biex jiffirma sabiex jiftaħ il-"kontijiet".

Mistoqsi jekk kienx klijent regolari mal-Bank Pilatus li jmur ta' spiss, huwa wieġeb : -

Keith Schembri: ifhimni illum il-banek kollha, I mean kull bank account li għandi, qabel jien kont naħdem il-bank għamilt tlett snin il-Bank of Valletta u it changed so much jiġifieri illum ma għandekx għal fejn tmur go bank biex tagħmel transaction u ma' l-Pilatus qatt ma għamilt transaction just money coming in, two transactions.

Mistoqsi jekk kienx għamel xi pagament għal xi klijenti tiegħu jgħid li ma jiftakarx sew u ried jivverifika għax darba kellu jħallas xi kont ta' xi għaxart elef euro lill-Avukati tiegħu u ma kienx ċert jekk ħallashomx mill-BOV jew HSBC. Jidhirlu li l-kont bankarju li għandu mal-Bank Pilatus għadu mhux mimsus.

Dwar Daphne Caruana Galizia, Keith Schembri jgħid li :

Keith Schembri: it can be on the record or it can be off the record, inti staqsejtni fuq l-artikolista I think il-persuna ħolqitli ħafna inkwiet fil-ħajja personali tiegħi, fil-ħajja jiġifieri familjari tiegħi jiġifieri dan kulħadd jaf jiena kelli problemi ta' saħħa, ivvintat kundizzjoni, gennet lil familja tiegħi kollha kont tlajt l-America for treatment, tat id-data ta' meta ħa mmut mingħajr ma ... I am living proof ta' l-gideb kollu tagħha, qed tifhem, I think it is not right jiġifieri d-data protection commissioner ġiegħelha tneħħi minn fuq is-site tagħha that I have an inoperable tumour, this was on the 27th of March, trid tħallas € 2,500 and € 250 a day biex tneħħiha dak l-artiklu ... u l-artiklu għadu hemm qed tifhem, mhux għax irrid nippika I don't mind pero she has crossed the limit li jien fl-aqħar mumenti ta' ħajti lanqas jgħadduli minn moħħi jiġifieri jien kont nista' ngħid qiegħed ... clinic l-Amerika going for a Pad scan, nisterna nofs siegħa u nara kumment *make cancer bring him down* ma għandi l-ebda rispett, ma nafx nobgħod pero ma għandi l-ebda rispett għal nies hekk u naħseb li qiegħed hawn illum nirrispondi għal montatura, ... jiġifieri naf kemm ilha tigdeb ġimgħa, ġimgħa, sena, sena u nofs fuqi u jiena kont għamilt promise lili nnifsi li lil din ma nillibellahhiex, il-gimgħa li għaddiet, illum x'inhu, is-Sibt, il-gimgħa ftaħtilha żewġ libelli, it can't go on like this jiġifieri hemm differenza bejn opinjonijiet suggettivi fuq persuna imma mbagħad meta tibda going fil-familja li jkolli t-tifla ta' t-tlettax il-sena tiġi fuqi u tgħidli *Daddy, l-iskola qed jgħidu li ħa tmut* u ma nafx x'ħa nirrispondiha, I feel hurt li

> llum qiegħed hawn nirrispondi allegazzjonijiet hekk, mhux minn naħa tagħkom, intom sewwa qed tagħmlu jiġifieri jiena ... biex niftħuha din l-inkjesta magisterjali but I mean this has gone, I have never seen any thing like it, never jiġifieri in my life jiġifieri not even abroad, ħadd ma għamilhom dawn l-affarijiet jiġifieri li llum qed niddiskutu blog hekk, naħseb huwa nuqqas ta' rispett lejn il-pajjiz tagħna.

Ix-Xiehda ta' Konrad Mizzi

Konrad Mizzi xehed fit-22 t'April 2017. Mistoqsi jekk kellux xi relazzjoni bankarja jew kont bankarju mal-Bank Pilatus f'Malta jew barra minn Malta, Konrad Mizzi wieġed fin-negattiv kemm għalih kif ukoll għall-familja tiegħu. Lil Brian Tonna jafu bħala *Service Provider*, ħadem miegħu kemm ilu fil-Gvern, u tahom ħafna pariri fuq suġġetti varji. Konrad Mizzi żviluppa relazzjoni miegħu matul iż-żmien u ħa wkoll servizzi mingħandu għal *financial planning* tiegħu ukoll.

Mistoqsi jekk fost dan il-*financial planning* tiegħu iffurmax xi kumpanija tramite s-servizzi ta' Brian Tonna jew id-ditta tiegħu Konrad Mizzi wieġeb li ma ddiljajx fuq din il-kwistjoni ma' Brian Tonna direttament, iżda tramite d-ditt tiegħu u l-impjegati tiegħu. Konrad Mizzi jgħid li *jiena prattikament kont issetjajt a family trust and an underlying company we had acquired in 2015 which was settled into the trust.* Iżid hekk : -

Magistrat Inkwerenti: mela spjega daqs xejn l-istruttura li inti għamilt f'hiex kienet tikkonsisti u x'pariri ingħatajt u għaliex ingħatajt dak il-parir naturalment?

Conrad Mizzi: jiena ovvjament minn naħa tiegħi kont poggejt flimkien ma' l-advisers tagħna x'options kien hemm ta' family planning, family estate planning, ħalli ma tinftihemx mod ieħor.

Magistrat Inkwerenti: nassigurak li korrettament fhimtek, kompli.

Conrad Mizzi: from my perspective, jiena l-mara tiegħi tgħix in-naħa l-oħra tad-dinja, tgħix fic-Cina, jiena ngħix post ieħor, għexna l-Ingilterra, għandna dar barra minn Malta, il-karriera tiegħi hija an international carrier ħa nkun onest miegħek jiġifieri I might do other things after Politics as well u ħassejna li xtaqna struttura which reflects our needs, u poggejt bil-qiegħda with an exhibitee and they had suggested li a trust would be the best way to protect biex ngħid hekk your assets u investments over time, li it can last a life time u ssetjajna trust in New Zealand.

Magistrat Inkwerenti: meta kien li qed tgħid dan?

Conrad Mizzi: this was I believe in 2015.

Magistrat Inkwerenti: 2015?

Conrad Mizzi: yes, 2015 yes correct. As part of that structure tawni l-parir li kellna bżonn an underlining company which assets can be held within that company u prattikament li gara huwa li I acquired in 2015 a shell company from the Service provider u din is-shell company imbagħad kienet ma' l-ewwel within a few days settled into the trust jiġifieri ma baqgħetx tiegħi.

Mistoqsi jekk dan l-eżerċizzju bdiex jagħmlu fl-2015, Konrad Mizzi xehed li kien bdieh fl-2015. Mistoqsi jekk kienx tkellem ma' Nexia BT dwar dan is-suġġett fl-2015, Konrad Mizzi ikkonferma li kellimhom fl-2015. Mistoqsi jekk hux qabel, huwa reġa rrepeta li kellimhom fl-2015, għalkemm ma kienx ċert fir-rigward tax-xahar meta kien.

Mistoqsi jekk l-argument b'relazzjoni mal-*family estate planning* li jieħu d-direzzjoni ta' twaqqif ta' Trust kienx ġie l-ewwel, huwa qal il-*family trust* kienet ġiet l-ewwel. Mistoqsi jekk ma Nexia BT kienx tkellem magħhom fuq *family trust*, Konrad Mizzi wieġeb li hekk kien. Fl-2015 huwa kien diġa jokkupa kariga ministerjali u f'dak l-istadju huwa ma kellux negozju jew attivita kummerċjali għaddejja.

Fl-2015 huwa flimkien ma impjegat ta' Nexia BT qagħdu bilqegħda tkelmu fuq *estate planning* u qalulu li l-aħjar għażla kienet li jagħmel *Trust* u hu minn naħa tiegħu tahom direzzjoni. Il-parir li jwaqqaf *Trust* kienet ġiet mogħtija lilu minn Nexia BT, inkluż il-ġurisdizzjonijiet fejn setgħa jiftaħ dik l-istruttura. Huwa kien jidhirlu li kien tkellem ma Karl Cini. Meta tkellem ma Karl Cini huwa qallu x'kien jixtieq. Lilu qallu li t-*Trust* fin-New Zealand kienet ġurisdizzjoni komuni u li kienu firmatarji ta' konvenzjoni u affarijiet hekk.

Mistoqsi jekk kienx hemm xi raġuni għaliex ma għazilx li jagħmel *Trust* f'Malta, Konrad Mizzi qal li għalkemm ma tantx hawn ħafna kumpaniji li jagħmluhom, dawk il-kumpaniji li jagħmluhom kien kollha qed jaħdem magħhom regolari mill-aspett ta' Gvern. Iżda *altru minn hekk jiena obviously għandi an international family ukoll u xi ħaġa li kienet maqbula ovvjament ma' l-*

mara tiegħi ukoll. Eventwalment għażlu li jimxu mal-parir li tahom Karl Cini u għamlu Trust fi New Zealand jisimha "Rotorua".

Mistoqsi allura apparti t-*Trust* fin-New Zealand, x'kienet l-istorja tal-kumpanija *Hearnville Inc.*, Konrad Mizzi jgħid hekk : -

> Conrad Mizzi: Herveling (*sic! Hearnville Inc*) hija kumpanija, essentially jiena kont ingħatajt il-parir again same thing from Nexia li within the trust għandek bżonn an underlying company biex iżomm fiha l-assi u l-intenzjoni tagħna kienet ovvjament li kien ser ikollna l-investimenti tiegħi futuri fiha din il-kumpanija, kif ukoll kelli proprjetà Londra li tiġi mikrija li kienet ser tidhol fiha ukoll.

Jaf li biex twaqfu l-kumpanija u t-Trust kien hemm diversi kumpaniji involuti u li huwa kien iffirma t-*Trust documents.*

> Conrad Mizzi: u l-acquisition of the company in the first instance biss, ħa nispjegalek għal fejn, għax inti once li tagħmel trust, inti jkun hemm appointed trustees, minn dak il-mument 'il quddiem inti ma tmexxi xejn aktar inti jiġifieri everything is in the hand of the trustees, il-kumpanija iffirmajt biss meta inxtrat il-kumpanija.
>
> Magistrat Inkwerenti: issa jekk tippermettieli, meta qed tirreferi għal kumpanija issa għal liema kumpanija qed tirreferi?
>
> Conrad Mizzi: il-kumpanija hija Herveling (*sic! Hearnville Inc*) li hija rreġistrata in Panama.
>
> Magistrat Inkwerenti: li dik hija registered in Panama. Mela din il-kumpanija li ġiet registered in Panama again min tak l-advice biex tiġi set up in Panama?
>
> Conrad Mizzi: Nexia suggested it to me so kienet shelf company li kienet għandhom diga', my understanding li s-Service Providers ikollhom a number of shelf companies, li gara kienet li.
>
> Magistrat Inkwerenti: skuzani kienet għandhom diga', għand Nexia?

Conrad Mizzi: yes.

Magistrat Inkwerenti: jew inkella għand xi?

Conrad Mizzi: għand Nexia.

Magistrat Inkwerenti: għand Nexia jiġifieri sa fejn taf inti.

Conrad Mizzi: I am not even sure, lanqas jiena ċert mija fil-mija.

Magistrat Inkwerenti: għal hekk qed ngħidlek, jiġifieri sa fejn taf inti?

Conrad Mizzi: ehe sa fejn naf jiena.

Magistrat Inkwerenti: pero inti taf żgur li through Nexia li inti għamilt dan il?

Conrad Mizzi: correct.

Magistrat Inkwerenti: issa and it was on Nexia's advice li inti qed nifhem mort għal din il-kumpanija li għidtli li jisimha ...?

Conrad Mizzi: Yes.

Magistrat Inkwerenti: u allura inti hemm hekk id-dokumenti li ffirmajt fir-rigward ta' din il-kumpanija kienu, ta' l-kumpanija issa mhux ta' t-trust? Ta' l-kumpanija inti ffirmajthom id-dokumenti jew inkella ħadd ieħor?

Conrad Mizzi: my understanding was li jiena ftit li xejn iffirmajt kumpaniji, probabbilment u I need to verify probabbilment meta saret l-acquisition l-ewwel darba.

Magistrat Inkwerenti: alright.

Conrad Mizzi: għax ovvjament meta saret l-acquisition l-ewwel ġiet transfered fuq ismi imbagħad min hemm hekk after a few days it was settled into the trust jiġifieri jiena kull ma żammejt l-ownership tagħha for a few days or a few weeks, after which it was settled into the trust u ġiet proprjeta' ta' t-trust.

Magistrat Inkwerenti: imbagħad allura qed nifhem illi il-ħsieb kien illi l-assets illi inti għandek Malta, barra, where ever.

Conrad Mizzi: u li jkollok throughout your life.

Magistrat Inkwerenti: ikunu imbagħad eventwalment gestiti, managed minn din il-kumpanija jew mit-trust?

Conrad Mizzi: the over all ... management mit-trust għax it-trustees huma responsabbli ta' kollox.

Magistrat Inkwerenti: ta' kollox?

Conrad Mizzi: il-kumpanija hija simply a vehicle within the trust jiġifieri t-trustees are responsable for everything.

Magistrat Inkwerenti: issa din il-kumpanija jew din it-trust jiġifieri kemm ir-Rotoruwa għidtli hux hekk?

Conrad Mizzi: ehe u Hemville.

Magistrat Inkwerenti: u Hemville. Dawn il-kumpaniji qatt kellhom xi kont bankarju ma' l-Pilatus bank Malta jew barra?

Conrad Mizzi: it-trust u l-kumpanija qatt ma kellhom kont bankarju la ma' Pilatus la Malta u lanqas barra u lanqas ma l-ebda bank ieħor jiġifieri jekk induru d-dinja mhux ser insibu imkien li hemm kont miftuħ jew kien hemm qatt kont miftuħ fuq din il-kumpanija u t-trust.

Magistrat Inkwerenti: qatt kien hemm transazzjonijiet finanzjarji li jaffettwaw il-Hemville jew inkella what ever jiġifieri mhux qed nillimitak għal Pilatus issa?

Conrad Mizzi: none what so ever u to validate for this obviously jiena qabbadt an independent audit li kien il-Crohoret in New Zealand li għamlu audit ta' l-grupp kollu, kemm ta' t-trust u kemm ta' l-kumpanija li vverifikaw u ovvjament ħarġu l-opinjoni based on all the information, kellhom sufficient information biex jiċċertifikaw l-audited statements u ppubblikajthom ukoll.

Magistrat Inkwerenti: jiġifieri anke biex inkunu ċari, jiġifieri anke ma' banek oħra oltre mill-Pilatus, la l-Hemville u lanqas ir-Rotoruwa ma kellhom kont?

Conrad Mizzi: correct.

Magistrat Inkwerenti: issa gie ukoll f'xi wieħed minnhom minn dawn ir-rapporti li kien hemm illi, inti semmejtli it-2015 bħala d-data ta' meta bdejt tagħmel din is-set up?

Conrad Mizzi: yes.

Mistoqsi dwar il-fatt li kien hemm rapport ieħor li jgħid li dak li spjega fil-fatt sar ferm qabel, Konrad Mizzi jgħid li kienet Daphne Caruana Galizia li dejjem sostniet li ftit wara l-elezzjoni huma kienu ħadu over dawn il-kumpaniji, iżda huwa tenna li :

jiena minn naħa tiegħi the first time which this company was acquired in terms of hadt overship tagħha, din is-shelf company kienet proprju fit-2015. It is verifyable by documentation and all which has been published u kienet ukoll.

Mistoqsi mid-Deputat Kummissarju Silvio Valletta jekk huwa fil-kariga tiegħu ta' Ministru kellux xi negożju mal-Ażerbajġan, Konrad Mizzi stqarr li huwa sar Ministru f'Marzu tal-2013 u :

Conrad Mizzi: yes, le il-kumpanija Hemville u ir-Rotoruwa trust qatt ma kellha transactions jiġifieri ma' ħadd u wisq aktar qatt ma kellha transactions ma' nies mill-Azerbajġan jew anki rilatati mill-Azerbajġan ħalli nkunu very specifically, very speċifiċi jiġifieri l-answer to the question is an outright no, kien hemm mistoqsija fuq jekk iltqajtx ma' l-Familja Alyev.

Magistrat Inkwerenti: mela dika fir-rigward, semmejtli fir-rigward ta' Rotoruwa u Hemville, issa inti personali Conrad Mizzi?

Conrad Mizzi: le.

Magistrat Inkwerenti: jiġifieri inti personali ma kellekx deals jew negozju ma' xi kumpanija jew persuna f'Azerbajġan jew mill-Azerbajġan?

Conrad Mizzi: le, le qatt ma kelli.

Magistrat Inkwerenti: lanqas kellek transferimenti ta' flus inti personali jew?

Conrad Mizzi: far from it.

Magistrat Inkwerenti: jew persuna jew entitajiet jew kumpaniji mill-Azerbajġan?

Conrad Mizzi: la mill-Azerbajġan u lanqas rilatati ma' l-Azerbajġan.

Fir-rigward tas-sitwazzjoni tiegħu bħala Ministru għall-Enerġija, Konrad Mizzi jgħid hekk : -

Conrad Mizzi: vis a vie ir-relationship tagħna bħala Gvern b'mod partikolari fl-Energy Sector kien hemm żewġ dimensjonijiet ta' relations ma' l-Azerbajġan, Sokar trading registered in Geneva kienet parti mill-konsorzju ta' l-electro gass li rebħet it-

tender ta' l-power station. Dan it-tender intrebaħ kien hemm 18 bids għal dan it-tender, intrebaħ mill-kumpanija with the best price essentially, ... technology, ma kienux waħedhom kienu ukoll, kien hemm diversi kumpaniji Maltin u oħrajn barranin fosthom is-Siemens fil-konsorzju, huma they have 33 % of that company u l-European commission ukoll għamlet review ta' l-process intern vis a vie state aid u anki ta' procurements u kkonfermat li l-procurement sar in a fair and transparent manner jiġifieri on that line obviously ser ikolli from time to time meetings with Sokar or Sokar trading bħala laqgħat ta' kortesija u anki laqgħat tekniċi ukoll. That is number one. On a political level, kien hemm obviously visits to Azerbajġan, waħda minnhom fil-fatt morna ma' l-Prim Ministru fejn kien hemm meeting ukoll ma' l-President, il-meeting ma' l-President kien irrapurtat fil-media u hemm ir-ritratti tiegħu fejn attendejt jiena ukoll u dik kienet l-unika inkontru li jiena qatt kelli with a member of the Alyev Family biex ngħid hekk in a meeting which is documented u that was it essentially. F'dan il-meeting jiena naħseb lanqas tkellimt fil-fatt. You know I was simply accumpanying the Prime Minister to this meeting.

Magistrat Inkwerenti: jiġifieri inti minn naħa tiegħek qatt ma rċevejt xi flus minn naħa ta' dawn il-persuni?

Conrad Mizzi: le qatt.

Magistrat Inkwerenti: Alyev jew xi persuna oħra mill-Azerbajġan, qed inkun wiesgħa u ġenerali apposta biex l-affarijiet ikunu ċari?

Conrad Mizzi: yes ħa nkun kategoriku, jiena qatt ma rċevejt, la jiena u la l-Familja tiegħi qatt ma rċeviet flus mingħand xi ħadd mill-Azerbajġan jew relatat ma' l-Azerbajġan so ...

Magistrat Inkwerenti: fil-fatt kont ħa nistaqsik ukoll fir-rigward ta' s-Sinjura sa fejn taf inti, jekk is-Sinjura tiegħek qattx kellha hi personali jew xi interess f'xi negozju illi kien jolqot l-Azerbajġan jew xi membru ta' l-Familja Azera ta' l-Alyev?

Conrad Mizzi: qatt, qatt, qatt u Sai qatt ma kienet miegħi fl-ebda meetings li kelli flimkien ma' l-Gvern.

Assistent Kummissarju Silvio Valletta:l-aħħar mistoqsija Sur Magistrat.

Magistrat Inkwerenti: of course.

Assistent Kummissarju Silvio Valletta:ngħid sew li s-Sokar, l-agreement li sar dak gie mitfuh fuq il-mejda ta' l-kamra fil-Parlament? Ippubblikajtuhom? Il-Gvern ippubblikahom dawn jiġifieri?

Conrad Mizzi: aħna l-kuntratti ta' l-Electro gas gew sottomessi għar review ta' l-Kummissjoni Ewropeja u l-kuntratti rilatati ma' l-Electro gas transaction kienu ppubblikati ukoll ħalli nkunu fair ukoll without the commercial considerations.

Assistent Kummissarju Silvio Valletta:mhux hekk.

Conrad Mizzi: il-Kuntratti ta' l-Electro gas ingħataw lil European Commission u kif ukoll lil National Audit office obviously mhux the ... version, the full version ingħataw f'dan ir-rigward u kien hemm sa fejn naf jien ... ippubblikat ukoll.

Mistoqsi fir-rigward tad-dokumenti meta dawn in-negozjati għar-rigward ta' dan is-*set up* saru, jekk hux ferm kmieni fil-legislatura o meno, Konrad Mizzi qal hekk : -

Conrad Mizzi: fil-fatt I reinstate it u għidtha publically kemm il-darba jiġifieri the company was acquired u anki settled into the trust in 2015, 2013 qatt ma kelli u lanqas kelli l-ħsieb li nissettja trust ... jiġifieri it wasn't in my thinking at the time jiġifieri far from it jiġifieri it is a state of fact. Obviously and I can get the documents to substantiate that.

Magistrat Inkwerenti: ehe in the mean time, inti semmejtli li la t-trust u lanqas il-kumpanija hawn il-Hemville ma kellhom bank account pero deher ukoll illi kien hemm xi tentattiv biex jiġi ottjenut xi bank account dan minn x'imkien, din x'inhi din l-istorja?

Conrad Mizzi: is-service provider kellu l-mandates li jagħmel enquires fuq bank accounts, to set the bank accounts for the trust and for the underlined company, saru numru ta' enquires ma' different banks pero minn naħa tiegħi qatt ma ffirmajt il-bank opening forms u qatt ma tajt go ahead open the accounts u fil-fatt no bank opening forms were actually signed jiġifieri kontijiet qatt ma infetħu.

Magistrat Inkwerenti: jiġifieri sa hemm hekk illi waslu dawn jiġifieri li din il-kumpanija, kienet fuq il-kumpanija jew fuq it-trust?

Conrad Mizzi: it-tnejn li huma.

Magistrat Inkwerenti: fuq it-tnejn li huma illi jkollhom bank account kien hemm il-proposal?

Conrad Mizzi: yes, kien hemm l-enquires of course yes pero anka fl-engagement għandek li huma ma kellhomx per eżempju power of attorney to open the accounts or to sign.

Magistrat Inkwerenti: għax din li kont ħa nistaqsi, jiena fil-bidu staqsejtek jekk kemm il-darba inti dawn id-dokumenti ffirmajthomx inti, inti personali jew inkella qabbadtx lil xi ħadd ieħor?

Conrad Mizzi: jiena prattikament qatt ma ffirmajt, in-Nexia kellhom obviously ċertu rights li jagħmlu l-opening ta' t-trust u jieħdu ħsieb id-dokumentation.

Magistrat Inkwerenti: għal hekk qed nistaqsik għax normalment ikollhom ċertu?

Conrad Mizzi: pero ma kellhomx il-mandat to open bank accounts jiġifieri kienet restricted jiġifieri to making enquiries u sa hemm waqfu fil-fatt.

Magistrat Inkwerenti: u eventwalment imbagħad ma kienx hemm bank accounts illi gew miftuħa la ma' l-Pilatus u lanqas ma ħadd?

Conrad Mizzi: imkien fid-dinja u l-kumpanija Hemville issa ġiet likwidata ukoll, hija likwidata.

Magistrat Inkwerenti: u meta beda l-liquidation proċess?

Conrad Mizzi: in January, there is the documentation As well I believe on the 21 st or on the 22 nd of January.

Magistrat Inkwerenti: li beda l-process jew li ġiet liquidated?

Conrad Mizzi: iltaqa' s-shareholders meeting jgħidulu ... ovvjament id-diretturi u ddikjarawha liquidated imbagħad tmur il-company registry imbagħad hemm il-process sa kemm kollox jiġi published.

Magistrat Inkwerenti: pero dan qed nifhem illi at the end of it inti ħadt id-decizjoni li tiġi likwidata din?

Conrad Mizzi: jiena kont għamiltha cara pubblikament li filwaqt li ma sar xejn illegali, filwaqt li għamiltha with good intentions, politically the whole thing was, I shouldn't have done it, from a political point of view, not from a legal point of view, ħa nkun onest miegħek, from a Professional point of view and everything else, jiġifieri my intention was ... iddikjarajtha fid-declaration of assets ukoll jiġifieri l-Prim Ministru kien jaf li kien hemm a trust and an underlining company u kont spjegajtlu r-ragunijiet qabel ma ħarġet fil-media u qabel ma gara xejn minn dan pero x'ħin rajt the public segment towards it għidt jiena I have been delivering, I have been working

day and night to make a change for the country and I don't want to leave, ma rrid inħalli xejn li jista' jimmina l-kredibilita' futura tagħna, la tiegħi u lanqas ta' l-Gvern, għal daqs tant tlabt an independent audit, kif tlesta l-audit imbagħad ippubblikajt l-audit ukoll imbagħad iddeċidejt li at that point stajt nillikwida l-kumpanija.

Magistrat Inkwerenti: li ħa nitolbok ukoll li tippreżenta kopja ta' dan l-audit.

Conrad Mizzi: sure of course.

Kwantu għall-allegazzjonijiet li kienu qed isiru fuqu minn Daphne Caruana Galizia qal is-segwenti : -

Conrad Mizzi: l-istess persuna, il-blogger ħa nkun car, Mrs Caruana Galizia li għamlet dawn l-allegations foloz fil-konfront tiegħi u ta' ħadd ieħor ukoll, kienet għamlet allegazzjonijiet foloz ukoll fuq il-familja tiegħi, kienet qalet li jiena prattikament għandi relazzjoni ma' xi ħadd fl-ufficcju tiegħi, obviously it-tfal tiegħi huma żgħar pero xorta waħda jidħlu fuq il-Bing u jagħmlu s-searches tagħhom u every thing else u jistaqsuk fuqhom so it did create a lot of unnecessary family stress, jiena, we coped with that, kont għamilt libell, kif kont għamilt libelli fuq l-affarijiet l-oħra ukoll pero obviously I am a politician, I feel that I should be subjected to scrutiny pero imbagħad meta tidħol on personal lifes inħoss li it was grossly unfair and it created a lot of stress kemm għalija, kemm għal mama, kemm għal Sai, għat tfal and it was unfair vis a vie towards us as a family as well and obviously I did want to raise that matter I really welcome this inquest taf kif għax it is a fact based inquest which shed light on the truth which is what we are after.

<u>It-tieni xiehda ta' Konrad Mizzi</u>

Ix-xhud : Iva. Hawnhekk ghandi ittra li kont iffirmajt jiena lil MF Legal and Co, jigifieri nahseb lil Mossack Fonseca essentially fejn iddikjarajt li qed naqbel li huma jkunu registered agents ghall-kumpanija Hearnville u tajthom ukoll indemnety lilhom jigifieri indemnification u dik kienet datata sixteenth (16th) June two thousand and fifteen (2015). Ovvjament jien ma bghatthiex lilhom, ikun tahieli Nexia, inkun iffirmajtha u ghaddejtha lil Nexia.

Il-Qorti : All right. U hawnhekk dak id-dokument qieghed jigi immarkat bhala Dokument ...

Ix-xhud : Hawnhekk ghandi declaration minghand l-ATC administrators li essentially huma, x'jghidulha l-kelma dak? il-fiduciaries, they hold the company on behalf of the beneficial owner fejn qed jiddikjaraw li jiena I undertook the ownership of the company ta' Hearnville Inc. u iffirmata mit-tlett attorney u zewg nassumi zewg diretturi taghhom, issa, u din hija iddatata second (2nd) July twenty fifteen (2015), però tajjeb li nigbidlek daqsxejn l-attenzjoni li f'din l-ittra hemm zewg dati riferuti, nahseb bi zball, wahda second (2nd) July twenty fifteen (2015), u l-ohra at the bottom second (2nd) of June twenty fifteen (2015). It's inconsequential per se ghax ma taghmilx differenza però jien qed nassumi it is the second (2nd) of July.

Il-Qorti : All right. U dik l-ittra minn min hija maghmula?

Ix-xhud : Dik l-ittra hija minn ATC administrators jigifieri n-nominee companies tal-Mossack Fonseca li jzommu x-shares on your behalf. U jiena tinsiex, jiena l-kumpanija hadt over in twenty fifteen (2015). And I kept it only for a few weeks, we acquired it biex nissetiljawha go trust. Jigifieri dik kienet l-ewwel step fejn we took over.

Il-Qorti : Dokument immarkat KM2.

Ix-xhud : Dan ma tlabtulix per se però kien ghandi allura I might as well intihielkom ukoll din l-ittra. Din ittra li kont tlabt jiena meta kelli hafna media questions fuq l-issue kont tlabt lill-ATC Administrators ituni declaration ta' meta hadt over il-kumpanija jiena u ghal kemm zmien zammejtha. U hawnhekk huma qed jghidu li essentially we took over on the second (2nd) June – nikkwotaw minn dak id-dokument u li zammew il-kumpanija on my behelf up to the twenty-first (21st) of July twenty fifteen (2015).

Il-Qorti : Dak id-dokument KM3.

Ix-xhud : Din l-istess Mr Magistrate, ma tlabthilix per se inti però li kont tlabtha u kont, this is simply a declaration in February twenty sixteen (2016) li l-kumpanija Hearnville Inc. qatt ma trejdjat mid-diretturi u qatt ma kellha bank accounts in its name. Later on to be confirmed by the audit imma la qieghda ghandi I might as well intihielkom ukoll.

Qorti : Dokument KM4.

Supt. Abdilla : Dawn ircevejthom in that format? Jigifieri tipo scan email jew ghandek il- –

Ix-xhud : Ikun ghaddieli kopja taghhom Karl Cini. Jien komunikazzjonijiet mal-Mossack kwazi qatt ma kelli direttament. The only interface li kelli, halli nkun preciz, kien meta wara li nqala' kollox ridt issir audit u hemmhekk cempilt lit-trustees u insistejt li jaghmlu audit kemm jista' jkun malajr. Obviously at the time kien hemm hafna issues min-naha tal-Mossack, allura to get through to them it was very very difficult. Però.

Qorti : Però, jigifieri l-intermedjarju bejnek u bejn Mossack Fonseca kien Karl Cini,

Ix-xhud : Correct.

Qorti : Jew Brian Tonna, min kien?

Ix-xhud : Karl Cini.

Qorti : Karl Cini.

Ix-xhud : Karl Cini, in all fairness, yes, yes. Gieli semmejtlu xi haga lil Brian, ha nghidlek kollox, però Karl Cini was handling,

Qorti : Li kien jiehu hsieb l-affarijiet day-to-day, the day-to-day organization of it.

Ix-xhud : Yes. Subsequently hawnhekk ghandi l-minutes tal-board of directors ta' Hearnville Inc. tat-twenty-first (21st) of July twenty fifteen (2015) fejn qed jaqblu d-diretturi li jigi transferred ix-shares mill-ATC Administrators ghal got-trust il-gdida li kienet se tigi krejata. Jigifieri I think this helps as well, tispjega the flow.

Qorti : Dokument KM5.

Ix-xhud : Subsequently, the day after, 22nd of July kien hemm id-declaration of trust ta' Hearnville Inc. fejn Hearnville Inc. giet parti mir-Roturua Trust. Il-kumpanija Orian New Zeland Limited kienet tagixxi bhala t-trustees essentially. U hawnhekk I can submit the declaration of trust u fuq wara hemm ukoll ix-share certificate fejn Hearnville Inc. giet proprjetà ma baqax proprjetà ta' ATC Administrators imma ghadda to Orion Trust as trustee of Roturua Trust.

Qorti : Dokument KM6.

Ix-xhud : Is-share certificate qieghed –

Qorti : Qieghed stapled.

Ix-xhud : Ma nafx triduhx two separate documents jew le; it's up to you.

Qorti : Issa niehdu hsieb. Mela declaration of trust. Ix-share certificate ha nhallih separat, ahjar ikun separat.

Supt. Abdilla : Jew hallih hekk.

Qorti : Dokument KM6.

Ix-xhud : The next document is the middle, jigifieri l-audit. L-audit huwa ta' trust u l-consolidated statements jigifieri tinkludi l-Hearnville Inc. ukoll, iffirmata l-ewwel mid-diretturi, imbaghad ic-certifikat ghamilt il- ... in New Zealand li huma kienu l-auditors fejn qed jikkonfermaw li l-kumpanija u t-trust ma trejdjawx, ma kellhomx bank accounts essentially, u li kienet fuq family trust li kienet irregistrata ...

Qorti : Jigifieri l-audit, biex inkun qed nifhem sewwa, l-audit sar minn audit firm fi New Zealand,

Ix-xhud : ...

Qorti : illi ghamlu l-audit kemm tat-trust,

Ix-xhud : Iva.

Qorti : Kif ukoll tal-kumpanija, ta' Hearnville.

Ix-xhud : Iva. Huma ghamlu consolidated, ghax il-kumpanija saret parti mit-trust.

Qorti : Parti mit-trust.

Ix-xhud : Parti mit-trust.

Qorti : Dokument KM7.

Ix-xhud : The last document huma, again, ghaddihuli Nexia, huwa d-dissolution through the Panama courts, hawn bl-Ispanjol imma mbaghad hawn verzjoni bl-Ingliz gewwa ukoll.

Qorti : Ahjar, ghax l-Ispanjol tieghi daqsxejn,

Ix-xhud : Imma bl-Ingliz hawnhekk hemm minutes of meeting of shareholders of Hearnville Inc. fejn qed jghid li hemm meeting tax-shareholders was held on the 21st of January at 11.45 u qed jaqblu d-diretturi li it is completely dissolved. Imbaghad fuq wara hemm is-certification tar-registru tal-company register li kien, li qed jghid li dan id-dokument gie prezentat in February, imbaghad kien officially dissolved, kienet officially published in April. Fil-fatt ghalhekk nahseb illi ... ikkwotat illi gie dissolved in April u mhux qabel ghaliex obviously kienet published, id-date of publication, allura huma flok –

Qorti : Flok raw id-data ta' meta kienet giet dissolved, raw meta kienet giet published id-dissolution. Dak id-dokument huwa KM8.

Ix-xhud : The English version is a bit further down.

Ix-xiehda ta' John Dalli

John Dalli xehed l-ewwel darba nhar it-22 t'April 2017. Mistoqsi dwar jekk għandux jew kellux relazzjoni kummerċjali jew xi kontijiet bankarji mal-Bank Pilatus hawn Malta jew barra minn Malta John Dalli jikkonferma li huwa kellu kont kurrenti, u kien iddepożita fih elf euro u fil-fatt qatt ma saru transazzjonijiet fih tant li *kiluhomli dawn il-one thousand euros bank charges jiġifieri u l-kont ingħalaq issa żmien ilu.*

Id-data preċiża meta fetaħ dan il-kont ma kienx jiftakarha pero żgur li ma kienx Ministru u ma kellu l-ebda funzjoni pubblika. Dan il-kont kien ingħalaq xi tlett snin ilu. Huwa stqarr li dan kien joħroġ mill-istatements tal-Bank Pilatus u hu ma kellux problema li l-inkjesta tkun tista tivverifika dan.

John Dalli saħaq li huwa ma kienx konsulent tal-Prim Ministru iżda li l-Prim Ministru, fuq talba tal-Ministru tas-Saħħa kien talbu biex jagħmel studju kif jista' jiġi riorganizzat l-isptar Mater Dei - *ħaġa tal-poplu kollu u ta' l-ebda partit*

politiku – u huwa aċċetta dak l-inkarigu u għamel rapport li spiċċah fit-2013. Minn dak in-nhar lil hawn qatt ma kellu relazzjoni oħra mal-Gvern.

John Dalli jirreferi għal Daphne Caruana Galizia bħala terrorista u jgħid :

> Irrid ngħid ukoll Sur Magistrat, u gibtha hawn ukoll il-cutting. F'Mejju, ta' l-2016 l-istess terrorista għax jiena hekk insejhilha lil din tajjeb, kienet qalet li din il-kumpanija Egrant kienet tiegħi tajjeb, għandha gut feeling qalet għal kemm ismi ma jidhirx fil-Panama papers, min jaf kemm tpecpcet din biex tipprova ssib ismi tajjeb, imma din tiegħi kienet din skont hi.
>
> .....
>
> għandha dan id-dokument tagħha imbagħad tibda' tipprova tikkonnettja, skuzi ftit, ma' din ta' l-Bahamas għax jiena kont mort u salt gideb illi kienu qed ixerdu dak iz-zmien, tajjeb, imma din tigdeb fuq kulħadd, li jfettilha tiktbu din, tajjeb, u dan huwa kaz, fil-fatt irrid ngħidlek ukoll illi jiena sitt xhur ilu għamilt rikors lil Pulizija, applikazzjoni lil Pulizija għal haressment għax issa xebbatni dawn is-snin kollha tigdeb kontrija kontinwament u tivvinta kull ħaġa u f'sitt xhur għandhom ma ttieħdu l-ebda passi kontriha din, tajjeb u l-Pulizija jgħiduli li qed iżommuhom xi ħadd mill-Attorney General u jiena nixtieq inkun naf min qed jipprotegiha mill-Attorney General lil din, tajjeb, jiena naf min għandu influwenza kbira mill-Attorney General biex inkun qed ngħid kollox. Issa interessanti wkoll tkun taf għax dawn huma kollha affarijiet marbutin waħda ma' oħra tajjeb illi f'Mejju, ta' l-2016 u huwa meta l-Kummissjoni Ewropeja neħħiet l-immunita' lil Giovanni Kesler, il-bniedem li għamel ir-rapport fuqi biex ikun jista' jiġi interrogat mill-Pulizija wara li l-Pulizija kienu ilhom tlett snin jiggieldu ma' l-Kummissjoni biex jilliftjawlu l-immunita' u dan dejjem insista li le, ma jridx joqgħod għal interrogazzjoni ta' l-Pulizija tant huma onesti u sinċiera dawn.
>
> .....
>
> f'April illiftjawlu l-immunita' u din hija konfoffa waħda ma' Giovanni Kesler biex lili tavvelini f'dan il-pajjiz u anka barra mill-pajjiz għal hekk ngħidilha terrorista lil din il-bniedma jien u tuża kollox, dina qed isemmi hemm hekk li jiena ridt nagħmel xi trust il-Bahamas li hija gidba kompletament tajjeb ta' nies mixtrija minnhom dawn, dawn kollha nies mixtrija minnhom li jiena għandi dokumentazzjoni ukoll kif biddlu d-

diskors tagħhom ok minn żmien għal ieħor. Jiġifieri dan qed ngħidulek kollu dan biex inti jkollok back ground ta' din il-mara illi milli jidher donnu issa kif titkellem hi tinfetaħ il-Qorti u ttella' n-nies il-Qorti, ma nistax nifhem kif din qed tiddetermina issa, tajjeb, min jittella' l-Qorti jew le. Jiena vera kelli, kont ftaħt kif għedtlek kont il-Pilatus Bank tajjeb, it was a normal current account ġdid, ridt nara daqs xejn kif joperaw dawna jiena u qatt ma operajtu fir-realta'.

Minbarra dak id-depożitu t'elf euro John Dalli ma kien għamel ebda depożitu jew transazzjonijiet oħra. Huwa jiftakar li darba kien attenda *business lunch* mad-diriġenti tal-Bank Pilatus altrimenti dejjem il-Bank Pilatus iltaqa' magħhom. Ma kienx jaf min kien il-persuna li ltaqgħet miegħu mill-Bank Pilatus għalkemm jidhirlu li kien jismu *Madi*. John Dalli jiċħad li kien involut f'xi kumpanija jew f'xi negozju li għandhom xi kontijiet ma' dan il-Pilatus bank la Malta u barra. John Dalli insista li kien qiegħed isir użu minn dokumenti misruqa u talab li jittieħdu passi:-

kontra min qed juża dawn id-dokumenti misruqa, din anka dan, jiena sa fejn naf jien kont għaddejt ligijiet jien fil-Parlament Sur Magistrat, fejn għidt illi l-bank u l-banking transactions huma kollha kunfidenzjali jiġifieri dik il-ligi issa, Daphne Caruana Galizia għandha l-immunita li tista' tiksirha x'ħin trid? Jiena għandi kont il-bank bħala ċittadin għandi kont il-bank, jiena għandu jkun hemm xi ħadd, hu min hu li joqgħod jgħid jiena x'kontijiet għandi l-bank?

Xhieda tad-Diriġenti u impjegati tal-Bank Pilatus

Ix-xhieda ta' Ali Sadr Hashemi Nejad

Ali Sadr Hasheminejad xehed fl-24 t'April 2017 u qal li huwa ċ-*Chairman* tal-Bank Pilatus. Il-liċenzja tal-Pilatus Bank ġiet mogħtija f'Jannar jew Frar 2014. F'Mejju 2017 Pilatus Bank ingħata liċenzja jiftaħ branch f'Londra. Huwa l-*UBO* ta' Pilatus Bank plc. Dan hu Bank li joffri *personal banking* u mhux *retail banking* u huwa maħsub li jiġbed nies tal-flus (*high net-worth individuals*) biex jiġġustifika li jkun hemm *customer relationship manager* magħhom.

Hu stazzjonat Washington DC. Jiġi Malta meta jkun hemm bżonn. Huwa jżomm l-indipendenza tiegħu mill-operat tal-Bank li huwa fdat lil *management team* professjonali.

Biex tkun klijent tal-bank irid ikollok kont magħhom. Irid ikun hemm *account opening form*. Huwa ma għandux involviment dirett fl-operat ta' kuljum tal-bank. Huwa jiċċerja l-*Credit Committee*. L-operat ta' kuljum huwa mmexxi mis-*CEO, COO, Legal and Compliance Manager, Risk Manager, IT*

manager etc. Il-Bord tad-Diretturi huwa magħmul minn tmienja minn nies. Uħud minnhom jiċċerjaw kumitati oħra bħal *Risk Committee* jew *Audit Committee*. Ir-*Relationship Managers* imorru huma jiltaqgħu mal-klijenti. Xi darba jew oħra jrid ikun hemm laqgħa wiċċ imb wiċċ mal-klijent, għalkemm mhux bil-fors meta jinfetaħ il-kont bankarju.

L-istruzzjonijiet għal transazzjonijiet dejjem isiru bil-kitba. Hemm proċess twil t'awtentikazzjoni qabel ma tiġi proċessata transazzjoni. Meta ma jkunx hemm il-firma oriġinali jkun hemm *call back* fuq linja telefonika indikata fuq l-*account opening form,* liema konversazzjoni u struzzjonijiet ikunu *recorded*. Dan isir biex jiġi verifikat u aċċertat li l-ordni għall-pagament tkun verament ħarġet minn dak l-*account holder*.

Egrant Inc, Tillgate Inc u *Hearneville Inc* qatt ma kienu klijenti tal-Bank Pilatus jew suġġetti ta' transazzjonijiet mill-Bank Pilatus. Il-Bank Pilatus għandu *AML policy* dwar kif isir jaf min huma l-*UBO's*. Ikunu jridu dokumenti li juru min huwa l-*UBO*. Biss jeżistu xenarji fejn persuna tkun qed tidher li hi *UBO* iżda fil-verita tkun qed taġixxi bħala *nominee* (jew prestanome) għal ħaddieħor. Hemmhekk il-Bank ma jkollux wisq kontroll. Iżda jkun irid xorta jara min huma d-diretturi jew il-firmatarji u jkun irid dokumentazzjoni li turi dan. Irid ikollhom il-kopja tal-passaport tal-*UBO* u jrid ikollhom ukoll l-i*specimen signature* fuq l-*account opening form*.

Il-Bank għandu safe fejn jinżammu l-flus kontanti (*petty cash*) fil-kamrin fejn hemm is-*CCTV*. Il-kamrin infetaħ *b'card* speċjali. Dan is-*safe* għandu *second authentication*. Oriġinarjament verament kien hemm *cabinets* jingħalqu biċ-ċwievet fil-kċina li kienu jaħżnu dokumenti fihom. Meta bnew il-*board room,* trasferew il-*cabinets* u l-*old fax machine* fiha. Qabel pero kien hemm *cabinets* mal-Bank kollu. Jista' jkun li xi żmien kien hemm *cabinet* tal-metall fil-kċina; iżda dan il-*cabinet* qatt ma kien is-*safe* tal-Bank.

Il-Bank ma jaħdimx b'ħafna *cash* u juża l-*petty cash* fil-każ li xi klijenti jkollhom bżonn xi ftit *cash* meta jkunu Malta għal btala jew *business*. Altrimenti fil-kċina ma hemmx *safe*. Jista' jkun li xi ħadd mill-ħaddiema irrefera għal xi *filin cabinet* bħala *safe*. Iżda ebda *cabinet* fil-kċina ma qatt ġie użat bħala *safe*. Huwa minnu li jżommu dokumenti bħal min huma l-*UBO's* separati minn dokumenti oħra *"day to day staff (sic!* stuff)" *f'cabinet* tal-azzar. Mhux kulħadd jista' jaqbad u jmur jiftaħ dan il-*cabinet* l-anqas. L-*account opening forms* u dokumenti relatati ma jkunux miżmuma fis-*safe* fejn hemm il-flus. Ikunu pero miżmuma ma dokumenti oħra *f'cabinets* apposta. Dawk li jkunu PEP's ikunu *f'cabinets* li jkollhom aċċess għalihom ċerti impjegati u jkunu miżmuma *f'locked cabinets*.

Hemm diversi *audits* li jsiru perjodikament u li jinvolvu lil Bank. *KPMG* jagħmlu l-*external audit; PWC* jagħmlu l-*internal audit*; Deloitte *risk partner. KPMG* għamlulhom review dwar il-proċeduri ta' kif isir l-*onboarding* ta' *PEP*. Il-Bank kien għadda minn spezzjoni tal-*FIAU* dwar dan is-suġġett fejn kienu sabu xi nuqqasijiet. Huwa kien talab lil *KPMG* u lil Camilleri Preziosi sabiex jagħmlulu *review* tal-proċeduri interni. Wara kienu tawh żewġ rapporti u kien għadda wkoll ittra lill-*FIAU*. Dan kollu seħħ minħabba nuqqas t'esperjenza tal-Uffiċjali li kienu intbagħtu jagħmlu l-ispezzjoni li ma kellhomx esperjenza fil-*private banking*.

Il-Bank għandu żewġ *PEP* Maltin – John Dalli u Keith Schembri (*personal accounts* it-tnejn li huma). Iżda ħadd minn Joseph Muscat, Michelle Muscat Konrad Mizzi, Sai Mizzi Liang ma għandu kont jew approċjaw lil Bank biex jiftħu kont. Konrad Mizzi *"never stepped foot in the Bank"*.

Kwantu għal Brian Tonna jaf li dan għandu *account "Willerby"*, li pero ġie magħluq. Lil Brian Tonna jafu mhux biss soċjalment iżda jafu għal fil-bidu jiftakar li kellu konversazzjoni miegħu meta l-Bank kien qiegħed jiġi mwaqqaf – iżda qatt ma qabdu lilu għax huwa qabbad lil *KPMG, PWC* u *Deloitte*. Il-*law firm* tal-Bank hija Camilleri Preziosi.

Ma jafx b'*retention policy* partikolari fir-rigward tad-dokumenti bankarji. Iżda tenna li jekk persuna tiftaħ kont mal-Pilatus id-dokumenti tagħha jibqgħu hemm. Jekk ikun hemm bżonn jixtru *storage facility*.

Ma għandhomx *Russian client base* jew klijenti Russi fil-plural. Jista' jkun li kellhom xi klijent privat Russu.

Għandhom klijentela mill-Azerbajġan pero ħadd minn dawn il-klijenti ma kellhom transazzjonijiet mal-kont ta' Keith Schembri sa minn meta infetaħ. Qatt ma kien hemm kont miftuħ f'isem *Tillgate Inc.*

Egrant Inc qatt ma kellha kont mal-Bank Pilatus jew xi relazzjoni oħra. Huwa sar jaf b'dak l-isem meta ħareġ fil-medja. Brian Tonna qatt ma kelmu jew avviċinah fuq *Egrant Inc* jew fuq il-*UBO's* tagħha jew għal Joseph Muscat jew Michelle Muscat personalment. Il-Bank Pilatus qatt ma kellu dokumenti li għandhom x'jaqsmu mal-*Egrant Inc.* jew *declarations of trust* skont kif imsemmi fl-artiklu.

Brian Tonna kien avviċina lil Bank Pilatus biex jiftaħ il-*Willerby account*. Issa jekk Brian Tonna iddikjara li huwa l-*UBO* huwa kien meħtieġ jippreżenta l-

passaport tiegħu. Jista' jkun li Brian Tonna jew Nexia jaġixxu bħala *nominees* għal terzi persuni. F'dak il-każ ikunu jridu jiddikjaraw min ser ikun l-*UBO* u jippreżentaw il-kopja tal-passaport tal-*UBO*. Jekk ma jsemmix li qed jaġixxi bħala *nominee,* allura jiġi meqjuż li kien huwa personali l-*UBO*. Dan ma jeskludix li jsir *handshake arrangement* bejnu u bejn terz.

Il-Bank huwa suġġett għal diversi *audits* u *inspections* u għalhekk dawk li jagħmlu dawn l-eżerċizzji jkollhom aċċess għall-informazzjoni tal-Bank inkluż dwar *UBO* u *PEP* inkluż Maltin u l-*client's list*. Meta jagħmlu *inspections* dawn ma jmorrux jiftħu l-*cabinets* jew il-kxaxen jew jagħmlu *raid* fid-dokumenti tal-Bank, sakemm ma jkunx hemm ordni ta' Qorti. Ikunu jistgħu jitolbu u jaraw l-*account opening forms, KYC documents, CV* etc.

Lil Joseph Muscat jafu xi ftit xhur wara li sar Prim Ministru *"because we were in the licensing process and the license was granted and it was a good event for me to request to go and meet and introduce myself"*. Kien ukoll stiednu għat-tieġ tiegħu. Ħaseb li tkun okkażjoni eċċellenti biex ipoġġi isem Malta fuq il-mappa. Kien hemm ħafna nies influwenti fin-negozju fosthom is-*CEO* tal-Coca Cola.

Missieru kien Chairman ta' Bank fl-Iran, pero ma għadux. Ftit għandu kuntatt miegħu. Meta kienu għadhom żgħar ommu kienet ħadet lilu u liż-żewġt ħutu bniet lejn l-Amerika. Oħtu hi Negarin Sadr u għandha negozju tal-moda *Negarin London*. Jaħseb li għandha kumpanija *Negarin London Limited*. Verament li oħtu kienet ħadet self mill-Bank Pilatus. Huwa kien għamel investiment f'*Pistachio farm* fl-Amerika. Huwa ħa interess f'*Lamur Holdings* li għandha 1200 ettaru ta' art f'California li fihom hemm *pistachio's* u lewż għal dawn l-aħħar disa' snin. Dawn jipproduċu l-*pistachio's* u għalhekk din hija intrapriża. Hu issuġġerixxa dan l-investiment lil Negarin ukoll u qallha tagħmel kuntatt mal-Bank Pilatus biex tieħu self mingħajr pero ma jindaħal hu. Il-Bank iħallas direttament il-prezz lis-sid. Il-*loan* ġie approvat u ttieħed. Hija kienet xtrat interess fit-titolu għal kumpanija li tipproduċi l-*pistachio's*.

M'eskludiex li l-għaġla msemmija fl-artiklu kienet dovuta għall-fatt li Negarin tħalli kollox għall-aħħar. Apparti minn hekk seħħet tard bil-lejl minħabba li hemm differenza ta' disa' siegħat bejn Malta u California. Ma kienx involut fl-ipproċessar ta' dan il-*loan*, u ma jafx kemm dam żmien biex jiġi pproċessat. Jaf li sselfet miljun u ħames mitt elf Dollaru Amerikan (*US$1.5 million*). Hu ma kienx parti mill-*Credit Committee*. Ma hemmx hin speċifiku li fih self jista' jiġi approvat u maħdum. *Loan* jista' jiġi approvat f'nofs siegħa – jiddependi mill-*asset, collateral* u kif ser tħallas lura – dan

huwa parti mill-*commercial banking risk*. Sa fejn jaf hu din ħalset (il-prezz) f'daqqa (u mhux fi transazzjoni maqsuma fi tnejn).

Ivverifika m'oħtu u din qaltlu li ma tafx min hi Michelle Buttigieg. Assolutament mhux veru li oħtu ħalset lil Buttigieg jew li parti mill-*loan* li ħadet marret biex titħallas dik il-mara skont kif imsemmi fl-artiklu jew x'imkien ieħor : *"never, with full confidence, never"* ma kien hemm xi trasferiment ieħor apparti dak lejn sid il-*pistachio interest* – altrimenti kien ikun jaf hu.

Il-Bank Pilatus għandu bħala *correspondent bank* għal Dollari Amerikani (US$) lil BOV u lil *WGZ Bank* li sar *DZ Bank*. Ebda transazzjoni f'US$ ma sseħħ sakemm ma tgħaddix mill-erba' Banek prinċiali Amerikani : *Citibank, Bank of New York Mellon, JP Morgan Chase, HSBC.*

Il-mod kif jinħadem il-*loan* jiddependi mit-tip ta' kuntratt li jsir mal-klijent. Il-Bank Pilatus ma jagħtux *loans* għal aktar minn ħames snin ħalli jillimitaw ir-riskju ta' rati t'interessi li jkunu fissi jew baxxi. B'hekk wara 5 snin ikunu jistgħu jagħtu *loans* b'kundizzjonijiet differenti. Jagħtu ħafna *loans* fejn il-kapital jitħallas fl-aħħar, iżda l-klijent iħallas l-imgħax regolarment eżempju *quarterly*. Ma jridux li l-klijent jiġi b'dahru mal-ħajt jew ifalli. Il-*collateral*

iħalluħ għall-aħħar għax huma ma jkunux iridu li joqgħodu jintilfu fuq kif ser jirkupraw flushom mill-*collateral* għax dan jiġi jiswa ħafna flus. Il-Banek jagħmlu l-flus meta n-negozju tal-klijent jikber u mhux meta jfalli.

F'parti mix-xiehda tiegħu, ġie mistoqsi jekk ħax *loan* hu wkoll għall-fini tal-akkwist ta sehemu mill-*pistachio ranch,* iżda din il-mistoqsija dar magħha u ma wieġibhiex b'mod ċar kif għamel għal mistoqsijiet oħra. Pero Ali Sadr jgħid li hu għandu 24.7% fl-interess ta' *SMT* (li semma' li kienet tmexxi l-*Pistachio Ranch*) u oħtu Negarin għandha 12.375% u għalhekk bejniethom għandhom 38%. Ċertu Mohsen Torabi jżomm il-kumplament tal-ishma għax ma biegħx kollox. Oħtu l-oħra għandha 12.375%. B'hekk l-aħwa bejniethom għandhom 49.5% minn dan l-interess *f'SMT*. Dan peress li jekk l-interess fil-kumpanija jaqbeż il-50% l-istruttura tal-kumpanija jkollu jinbidel u Mohsen Torabi ma riedx li dan iseħħ.

Il-Bank Pilatus ma għandux klijent jismu *Al Sahra FZCO;* iżda hemm klijent jismu *Sahra FZCO*. Hemm ukoll *Shams Al Sahra FZCO* u t-tnejn li huma għandhom *UBO* mill-Ażerbajġan. *Sahra FZCO* hija tal-aħwa Aliyev u *Shams Al Sahra FZCO* hija tal-aħwa Heydarov. Ebda waħda minn dawn il-kumpaniji ma għamlet talba lil Bank Pilatus sabiex isir il-pagament lil *Egrant Inc.* skont kif imsemmi fl-artiklu. Hu qatt ma ltaqa' ma dawn il-*UBO's* li

huma pero jaf li huma *PEP*. Kien is-*CEO* Hamidreza Ghanbari li ġabhom bħala klijenti tal-Bank Pilatus.

Il-Bank Pilatus qatt ma kellu jew irċieva *bank account opening forms* għal *Egrant Inc, Tillgate Inc* jew *Hearnville Inc.* Hu qatt ma ra jew ġie konsultat fuq *share certificates* tal-*Egrant Inc.* Ikkonsulta mal-impjegati tal-Bank (li huma madwar għoxrin) u ħadd minnhom ma ra jew ġie konsultat dwar dawn is-*share certificates* tal-*Egrant Inc.*

Qatt ma kien hemm pagamenti skont kif imsemmija fl-artiklu u kieku kien hemm ikunu jridu jidhru fl-*accounts* tal-Bank u fil-*core banking system* tiegħu. Dawn l-istruzzjonijiet għat-transazzjonijiet ikunu jridu jiġu mgħoddija mill-Bank Pilatus lill-*US Correspondent Bank* tiegħu – per eżempju *BOV* jew *DZ Bank,* imbagħad dawn jiġu reġistrati lil Banek Amerikani bħal *JP Morgan Chase* li wara jgħaddihom lil per eżempju *Citibank* biex jiġu mgħoddija lil Bank f'Dubai u f'din l-operazzjoni dejjem ikun hemm l-istess *SWIFT* number rekordjat. Din hija magħrufa bħala *U-turn transaction* u l-*US$ transactions* iridu jgħaddu minn dan il-proċess.

Id-dokumenti bħal *account opening forms* ikunu stampati u miżmuma l-Bank, għalkemm kienu għamlu wkoll proċess *t'automation* biex ma joqgħodux jiġru għall-karti.

F'din iż-żjara f'Malta huwa huwa kien telaq minn Washington DC u wasal Malta fl-20 t'April 2017 minn Frankfurt għal ħabta tal-11:30 am. Rikeb *ecabs* u baqa' sejjer direttament l-uffiċju minħabba li kellu *board meeting* l-għada fil-għodu. Id-*driver* niżżillu l-bagalji l-Bank. Huwa kellu jirrevedi ċ-*Chairman's statement* u l-*audit financials*. Huwa dejjem iġorr l-istess bagalji miegħu għal madwar għaxar snin. Din hija bagalja kannella li fiha jġorr ħwejġu u l-oħra sewda li hija aktar *lap-top case*. Meta jiġi Malta huwa joqgħod Qui-Si-Sana u jitlob lis-*CEO* biex joqgħod miegħu għal ġurnata jew tnejn.

Dakinhar huwa mar fil-*Board room* u qagħad jaħdem fuq ic-Chairman's report hemmhekk. Huwa ma għandux uffiċju u juża l-*Board room*. L-uffiċju kien hemm Luis Rivera u Antoniella Gauci u n-nies tas-soltu. Is-*CEO* inzerta kien California iżur xi ħabib tiegħu li kien qiegħed imut. Biss kellu jipparteċipa għall-*Board meeting* tramite *Skype*.

Għall-ħabta tat-tmienja ta' filgħaxija tela wieħed mis-*security guards* u qallhom li kien hemm xi nies bil-*cameras* barra l-uffiċju li kienu qegħdin jiffilmjaw. Il-binja fiha wkoll xi ħames ambaxxati u ma setgħux jieħdu *video* jew ritratti ġewwa l-binja. Is-*security* qallhom biex jitilqu. Kienu saru aktar mit-20:00 fejn dan ġie lura u qallhom li l-ġurnalisti ma kienux ser jitilqu. Luis Rivera qallu biex jitlaq bil-karozza tiegħu li kienet ipparkjata fil-*garage*. Sadr qallu biex imur u dan telaq. Baqa' hemm sa xid-21:00 u miegħu kien għad hemm xi ħames impjegati nisa – Tatiana, Claude-ann, Antoniella u Domenique.

Claude-ann tkelmet mas-*security* u dan qallha li kien aħjar jekk joħorġu mill-bieb tal-ġenb. Claude-ann qablet u n-nisa l-oħra ma riedux li jkunu ffastidjati u huwa qabel ma din l-ideja. U hekk għamlu. Kien hemm kwistjoni fuq is-*security* għall-egħluq tal-Bank u b'hekk taw iċ-ċwievet lis-*security* biex isakkar hu imbagħad jiġbru ċ-ċwievet mingħandu. L-ewwel ħarġet kienet Tatiana u warajha Claude-ann. Hu ħareġ ukoll ma Antoniella, li kienet ipparkjat il-karozza tagħha band'oħra. Huwa segwa lil Antoniella li kienet ser ittih lift. Biss din tħawdet fejn kienet ipparkjat il-karozza u għalhekk kellhom ifitxuha iżda ħadu triq itwal biex jaslu għall-karozza minħabba li nsiet fejn ipparkjatha.

F'dak il-mument huwa ra l-ġurnalist u kellu idea għaliex kienu hemm iżda dawn riedu ċertu informazzjoni speċifika. Kien jaf li kienu saru ċertu allegazzjonijiet fuq ċertu blog iżda hu ma setgħa la jikkonferma u l-anqas jiċħad dik l-informazzjoni. Fl-opinjoni tiegħu dak pubblikat kien *fake news* għax il-Bank qatt ma kellu dawk it-tliet kontijiet ta' *Egrant Inc, Tillgate Inc* jew *Hearnville Inc* u qatt ma kien hemm trasferimenti ta' flus lejn dawn il-kumpaniji. Bħala rappreżentant tal-Bank huwa ma riedx jagħti informazzjoni lil dawn il-ġurnalisti dwar materja li tolqot lil klijenti għax jekk iwieġeb mistoqsija jkollu jwieġeb għal kollox. Pero l-ġurnalist kien interessat fil-bagalji li kellu. Dawn kienu l-bagalji li kellu miegħu mill-airport u li kienu affarijiet personali tiegħu.[130]

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[130] Wieħed mill-aspetti li din l-inkjesta stħarġet hija l-allegazzjoni li fil-lejl tal-20 t'April 2017 Ali Sadr inqabad ħiereġ mill-bieb tal-ġenb tal-Bank Pilatus b'żewġ bagalji tqal mimlija dokumenti li huwa kien ħa bil-moħbi mill-Bank Pilatus u li huwa deher iġorr il-barra mill-Bank fil-filmati mxandra minn NET TV.

Din l-inkjesta ġabret ix-xiehda mhux biss tal-istess Ali Sadr Hasheminejad u tal-impjegati tal-Bank Pilatus, fosthom Antoniella Gauci, ir-*Risk Manager* li kienet ħierġa miegħu u li ġiet ukoll immortalata fil-video clip miġbuda mill-crew ta' NET TV, iżda wkoll ġabret ix-xiehda tal-istess ġurnalisti u l-cameramen kollha li kienu involuti. Ix-xiehda tagħhom, inkluż kopji tal-filmati relattivi tifforma parti minn din l-inkjesta. Ali Sadr Hasheminjad u l-maġġor parti tal-impjegati tal-Bank Pilatus li kienu xogħol dakinhar tal-20 t'April 2017 ikkonfermaw li Ali Sadr kien għadu kif wasal Malta minn barra. Ali Sadr jiċħad li huwa ħataf u ħareġ klandestinament dokumenti importanti relatati mal-meritu ta' din l-inkjesta mill-Bank Pilatus dakinhar tal-20 t'April 2017.

Minbarra Sadr u l-impjegati tal-Bank Pilatus, din l-inkjesta semgħet ukoll bil-ġurament lir-rappreżentant tal-linja tal-ajru Deutsche Lufthansa A.G. Dr. Andrew Chetcuti Ganado, li eżebixxa dokumenti li kienu jirrigwardaw it-titjira bin-numru 1276 lejn Malta minn Frankfurt fil-Ġermanja operata mill-Lufthansa. Dr. Andrew Chetcuti Ganado, xehed li mill-uffiċju tal-Ġermanja bagħtulu b'mod diġitali (u li huwa stampa u eżebixxa fl-atti tal-inkjesta) id-dettalji li jindikaw li Ali Sadr kien fuq l-ajruplan mat-titjira 1276 minn Frankfurt lejn Malta, inkluż is-seat number li kien prenota taħt l-isem Sadr Hashemi Nejad Ali. Dan jikkonferma li Ali Sadr kien passiġġier u ġie *boarded* fuq dik it-titjira lejn Malta.

Mal-wasla tiegħu f'Malta dan kellu jgħaddi mill-Ajruport Internazzjonali ta' Malta. Għalhekk l-inkjesta ġabret ukoll ix-xiehda tal-Pulizija li ġabru wkoll footage mill-Ajruport Internazzjonali ta' Malta fir-rigward

ta' persuni deħlin f'Malta nhar l-20 t'April 2017 minn dan l-ajruport ċjoe PC196 Dion Agius kif ukoll PC967 Adrian Vella li xehdu u eżebew ukoll stills u CD li juri persuna li kienet tidher li hi Ali Sadr dieħel bil-bagalji tiegħu mill-airport. B'mod partikolari minn din ix-xiehda ta' PC 196 Dion Agius jirriżulta illi nhar il-ħamsa u għoxrin (25) ta' April tal-2017 hu u PC 967 Adrian Vella kienu rċevew struzzjonijiet mingħand il-ġja Supretendent Ian Abdilla biex jirraportaw ġewwa l-Ajruport Internazzjonali ta' Malta sabiex jiġbor xi filmat tas-*CCTV cameras* li fihom kien jidher Ali Sadr Hasheminejad. Huwa qalilhom biex jieħdu aktar struzzjonijiet mingħand l-Ispettur Matthew Vella fejn minn naha tiegħu hu kien għaddielhom kopja tal-*boarding pass* li fiha kien fiha l-informazzjoni tal-*flight* li kien ġie bih Ali Sadr Hasheminejad, kif ukoll kien qalilhom biex ikellmu lil ċertu Simon Grima li huwa s-*Senior Administrator* tas-*Security* tal-*Airport Security*.

Minn naħa tagħhom huma rraportaw ġewwa l-ajruport fejn hemmhekk iltaqaw ma' dan Simon Grima. Huwa kien stabilixxa li din il-*flight* kienet niżlet u ħattet il-passigieri fuq *Bay* 1 u kienet illendjat fil-ħdax u erbgħa u tletin minuta (11:34) u rreferijhom ghand certu Ivan Saliba li kien s-*security* li jiehu ħsieb iħaddem is-sistema tas-*CCTV* fil-*Control Room* tas-*Security* tal-airport. Il-*flight* kien nhar l-ghoxrin (20) ta' April u l-*flight number* kien LH1276 li kien minn Frankfurt lejn Malta tal-Lufthansa.

Għalkemm għall-bidu ma setgħux jidentifikaw lil Ali Sadr, irrizulta li l-passiġġieri kienu dahlu minn *Transit Area 1*. Dan irrizulta wara li kienu marru l-ghada l-*ajruport*, u kellimu lil Patrick Murgo, fejn mill-uffiċċju tiegħu bdew jaraw il-filmati kienu aktar ċari. Minn hemmhekk raw lil-passiggier li huwa kien Ali Sadr dahal minn *Transit Area 1*. Huma talbuhom jagħmlulhom kopja ta' dawn il-filmati u kif ukoll għaddewlhom tliet *CDs* bl-*istills*, li mbaghad huma għaddewhom lis-Supretendent Ian Abdilla u ġew eżibiti fl-atti tal-inkejsta markati bhala Dokumenti DA1.

L-ajruplan ħatt il-passiġġieri f'nofsinhar neqsin għoxrin (11:40). Il-filmat jiġbed bejn nofsinhar neqsin għoxrin u nofsinhar neqsin ħamsa. Ali Sadr deher dieħel fuq diversi *cameras*. Wahda minnhom b'IP partikolari deher bejn nofsinhar neqsin seba' minuti (11:53) u nofsinhar neqsin sitt minuti (11:54) Ali Sadr jidher dieħel minn got-*Transit Area*. PC196 jgħid li Ali Sadr deher li kellu l-bagalji li kienu hand luggage - *Kellu hand luggage li kienu jidhru qishom zewg bagalji fuq xulxin ahna milli stajna naraw fuq il-filmat. Però ma kienux cari li stajna,*.....[q]isu ghandu wahda kulur u l-ohra kulur iehor fuq xulxin kienu.

Biss l-inkjesta riedet tara wkoll jekk dak li qal Ali Sadr setgħax jiġi konfermat ukoll mill-filmati tas-*CCTV* tal-Bank Pilatus sabiex jiġu rintraċċjati l-movimenti ta' Ali Sadr minn meta daħal f'dak l-uffiċju sakemm ħareġ. Għalhekk ġew maħtura PS1147 Anthony Fenech, PS1341 Ryan Buttigieg u PS836 Joseph Vella biex jieħdu l-apparat tas-CCTV u jippreżervaw il-*footage* kollu ta' dak il-jum u l-lejl tal-Bank Pilatus kollu. Fil-fatt minn din ix-xiehda jirriżulta mix-xiehda ta' PS1147 Antoine Fenech li : -

> Qed nipprezenta rapport kongunt maz-zewg kollegi tieghu li huma PS 836 Joseph Vella u PC 1342 Ryan Buttigieg rigward inkejsta gewwa l-Bank Pilatus, Whitehall Mansions, Triq Ta' Xbiex, Ta' Xbiex. Gejna nominati nhar il-wiehed u ghoxrin (21) ta' April biex niehdu kopja tas-cctv footage li kien hemm gewwa Pilatus Bank. Pilatus Bank minn gewwa kien sorveljat kwazi kullimkien minbarra zewg kmamar zghar li wahda minnhom kienet kitchenette zghira u l-ohra hija t-toilet. Il-bqija kullimkien kien ikkaverjat bis-sistema tas-cctvs. Kienet sistema mwahhla ta' digital video recorder sixteen (16) channel, li kellha b'kollox tlettax (13)-il channel installati, tlieta (3) minnhom ma kienux. Hadna r-ritratti necessarji ta' qabel ma bdejna naghmlu l-verifikazzjonijiet taghna. Rajna d-diskrepanza tal-hin x'kienet u mbaghad gie deciz sabiex isir download ta' hin partikolari li kien – ha nsib ir-rapport ha nkun cert – l-ghoxrin (20) ta' April tal-elfejn u sbatax (2017) mill-hdax ta' filghodu (11:00am) sal-wiehed u ghoxrin (21) ta' April sal-erbgha ta' filghodu (4:00am), hin tad-DVR. Id-decizjoni ttiehdet matul il-lejl peress li l-bank riedu jkunu certi li ma kien hemm hadd li dahal lura l-bank bil-lejl peress li kien hemm anke xi nies barra jew il-hin kollu josservaw. Id-download li saret qeghda tigi prezentata ma' dan ir-rapport forma ta' DVDs, kull channel ghalih. L-istess download gie stabbilit ma' Magistrat Inkwerenti dak il-hin sabiex tinghata kopja lill-Pilatus Bank peress li kienu qeghdin taht l-inkjesta. Qed nipprezenta rapport annessi d-DVDs tad-Download u kif ukoll DVR li gie estratt quddiemna mit-technician imqabbad mill-kumpanija ta' Pilatus Bank. Ahna d-DVR baqa' dejjem taht il-konsenja taghha u qeghdin nipprezentawh kif gie ssigillat dak il-hin stess

Qorti: Jigifieri d-DVR huwa l-istess DVR li kellhom installat fil-premises taghhom il-Pilatus Bank, qed nifhem sew?

Xhud: Prosit. Id-DVR kien installat fis-server room. Is-server room tidher ukoll minn camera partikolari. Dejjem tkun maghluqa imma min jiftah u jaghlaq il-bieb jindika x'hemm u x'ma hemmx. Fis-server room ukoll kien hemm is-safe.

Qorti: Mela, dan il-,

Supt. Abdilla : Inti dan il-filmat inti rajtu personalment?

Xhud: Il-filmat ikkonfermajt x'hemm u x'ma hemmx bhala downloads. Id-downloads li saru jindika persuna partikolari diehel il-bank u wkoll jispicca l-istess persuna, hafna wara jispicca jigifieri, wara li l-impjegati kollha tal-bank hargu mill-istess stabbiliment.

Supt. Abdilla : Ok. Dan il-persuna taf min hu inti?

Xhud: Gie identifikat bhala CEO.[130]

Supt. Abdilla : Is-CEO. Kellu xi haga mieghu jekk joghgbok dakinhar li inti rajtu?

Xhud: Ehe, kellu bagalja, carrying luggage zghira.

Il-Qorti: Intı cert li dan huwa s-CEO?

Xhud: Dan gie identifikat mis-COO tal-bank li qalilna "Dak huwa s-CEO."

Supt. Abdilla : All right. Din il-bagalja inti rajtha?

Xhud: Tidher mal-persuna diehel fejn jibqa' diehel go kamra board room, iva. U mill-board room hierga biex johrog 'il barra.

Supt. Abdilla : Ok.

Il-Qorti: Jigifieri din il-bagalja ddahlet fil-board room?

Xhud: Mill-istess persuna li dahal biha iva.

Il-Qorti: Issa, u mill-filmat li rajtu intom stajtu tinnutaw din il-bagalja x'sar minnha? Uzaha dan il-bagalja? Caqlaqha l-bagalja? Fetahha l-bagalja? Hadha minn kamra ghall-ohra? X'ghamel biha? Halliha hemm?

Xhud: Il-bagalja, kif dahal fil-bank, mill-memorja nista' nitkellem, però hemm kollox fil-filmati, il-bagalja kif dahal fil-bank baqa' diehel fil-board room, tpoggiet taht camera, tidher sewwa li qeghda taht camera ghax ghollielha l-handle taghha u pogga l-glekk maghha, b'hekk nafu li hija l-istess bagalja. Qatt ma ntmesset minn hemmhekk hlief mill-istess CEO. Dan hareg xi affarijiet tieghu personali biex jiccargja l-mobile, jekk mhux sejjer zball, kif ukoll biro u notepads li l-istess haga regghu gew, poggihom f'posthom hu qabel ma telaq mill-bank. Il-bagalja ma hemmx sekondi nieqsin mill-filmat. Il-filmati li hemm prezentati hemm il-hin kollu coverage taghha. Anke xhin beda hiereg minn gol-bank, baqghet tidher sakemm hareg mil-bank.

Il-Qorti: Deher li jiftahha u jqieghed xi haga go fiha din il-bagalja?

Xhud: L-istess, fl-opinjoni tieghi huma l-istess dokumenti li hareg hu. Id-dokumenti huma notepad isfar fejn beda jikteb –

Il-Qorti: X'rajtu jaghmel? X'rajtu johrog u x'rajtu jdahhal? Milli tiftakar.

Xhud: Milli nista' niftakar, in-notamenti ta' dawk ma hadthomx. Johrog notepad isfar A4 size sort of, biro, jikteb xi notamenti. Kien hemm anke n-nies li dahlu jkellmuh u hargu fil-board room. Is-sinjur deher jitkellem u jikkomunika fuq it-telephones kif ukoll fuq internet, jaghmel xi xoghol ovvjament li jien ma nkunx naf x'inhu

Il-Qorti: Fuq il-kompjuter.

Xhud: Però l-bagalja regghet intmesset xhin pogga l-affarijiet li hareg hu stess hu nghalqet u telaq biha 'l barra.

Supt. Abdilla Zewg mistoqsijiet zghar. Taf jekk apparti n-notepad tefghax xi dokumenti fil-bagalja?

Xhud: Kien hemm persuna f'hin partikolari li gabet xi karta jew tnejn, imma kemm just intefghu fuq il-mejda u ma tantx taw kashom, nghidlek i l-veritá. Le, ma nistghax nghidlek jekk tefghax dawk il-karti wkoll.

Supt. Abdilla : Ghal li jista' jkun, inti ghidt il-cameras jaqbdu wkoll is-safe fis-server room.

Xhud: Fis-server room is-safe kienet qeghda mal-art. Hemm camera tal-kuritur li taghti ghall-bieb ta' fejn kien hemm is-server room.

Supt. Abdilla : Taf jekk din il-kamra matul dak il-perjodu infethitx?

Xhud: Le, ma nafx.

Supt. Abdilla : Ma tafx. Ghal li jista' jkun, kien hemm kamra ohra li tigi bieb ma' bieb mal-board room on the left, tigi qisha store, tigi qisha fejn izommu l-A4 papers u affarijiet hekk, u hemm xi cabinets. Din tinqabad ghandha camera, jekk inti tiftakar?

Xhud: Mela, jekk naghmel referenza ghar-rapport inkun nista' nghidlek liema huma l-cameras. Ha naghmel referenza ghal pagna tnejn (2) tar-rapport li pprezentajt. Il-cameras li huma nstallati jaghtu l-views ta' dawn il-postijiet partikolari. Channel 1 taghti view tal-waiting area u l-main corridor. Channel 2 tal-Office for Risk Manager. Channel 3 tal-Office for CEO. Channel 4 tal-inside corridor and entrance. Channel 5 tal-inside corridor and entrance. Channel 6 tal-Meeting room. Channel 7 tal-Inside corridor. Channel 8 tal-Legal Office. Channel 9 Board room. Channel 10 tal-Finance. Channel 11 tal-Meeting room. Channel 12 no video, jigifieri ma kienx installat. Channel 13 tal-Kitchen fejn kien hemm il-kzina principali. Channel 14 tal-Operations Office. Ic-Channels 15 u 16 ma kienux installati, ma kienx hemm cameras imdahhlin. Int ghal liema camera qed tirreferi please?

Il-Qorti: Kurzita zghira please. Fil-kcina,

Xhud: Fil-main kitchen?

Il-Qorti: Fil-main kitchen.

Xhud: Kien hemm zewg kcejjen. Kcina Main Kitchen fejn bniedem seta' jsib fridge, microwave, però jekk ma himiex sejjer zball ma kienx hemm sink. U s-sink kien qieghed go kitchenette zghira fil-kuritur li taghti ghas-server room. F'dik hemmhekk ma kienx hemm coverage ta' camera. Però l-entratura tidher mill-cameras tal-kuritur.

Il-Qorti: Però fil-kcina l-kbira allura hemm camera?

Xhud: Iva. Dik hija camera number 13 u minnha jidher hiereg l-impjegati u s-security tal-istess Whitehall Mansions minn fejn ghaddihom.

PS1147 Antoine Fenech reġgħa xehed nhar it-12 ta' Mejju 2017 fejn fuq inkariku tal-Maġistrat Inkwirenti huwa kien irraporta lura u jixhed li il-*cameras* huma sinkronizzati bejniethom għalkemm hemm diskrepanza ta' siegħa u xi għaxar minuti bejn ir-*real time* u l-ħin reġistrat fuq is-CCTV. Trid tiżdied siegħa u ftit sekondi għar-*real time*. Bejn camera u oħra jista' jkun hemm *overlapping* qasir li juri kontinwita u sinkronizzazzjoni.

Il-*clip* tibda *channel* 1 fl-20 t'April 2017. Il-ħin fuq il-*camera* huwa 1143. Fuq dan il-*clip* jidher Ali Sadr jasal bil-bagalja tiela' mill-lift u għadu ma daħalx fil-Bank fis-siegħa neqsin kwart. Fuq *Channel* 5 Ali Sadr jidher dieħel il-bank f'11:43:20 sa 11:44:29. F'11:44:28 sa 11:44:37 Ali Sadr jimxi għall-uffiċju.

Miċ-*channel* 1 jispiċċa 11:44:37 jibda ċ-*channel* 9 bil-ħin 11:44:35. Hemm *two micro seconds* (2ms) li ma tidhirx il-bagalja sakemm tieħu over il-*camera* number 9 iżda Ali Sadr jibqa' jidher. Channel 9 huwa l-*Boardroom*. Il-bagalja qegħda taħt il-camera. Ali Sadr jgħolli l-*handle* tal-bagalja u jpoġġi l-ġlekk miegħu. Hemmhekk huwa indikattiv li l-bagalja hija l-istess waħda għax għalkemm ma tidhirx il-bagalja kompluta qed tidher il-forma fejn kienet qegħda l-bagalja. Il-bagalja titlaq minn dak l-uffiċju fit-20:14:39 (trid iżżid siegħa u ftit sekondi). Bejn 11:43:35 u 20:14:39 il-bagalja ma tidherx ħierġa mill-*Boardroom*. Mic-*channel* 9, il-bagalja ħarġet mill-*Boardroom* fit-20:14:40 u tinqabad minn *channel* 1. F'dak il-ħin jidher aġitazzjoni fil-Bank u kien hemm movimenti ta' nies jimxu 'l quddiem u lura. Il-ħin reali jiġi 21:15 – 21:30. Dak il-ħin l-impjegati li kien għad fadal fil-Bank jidhru li ma ħarġux mill-bieb prinċipali tal-Bank. Jidher li hemm *Security Guard* tal-*Whitehall Mansions*. Is-*Security Guard* jidher jidderieġi lill-impjegati biex jgħaddu minn bieb laterali. Il-movimenti ta' jdejh is-*Security Guard* juri li jindika minn fejn għandhom joħorġu. A differenza ta' dak li seħħ matul il-jum, fil-għaxija l-impjegati dehru aġitati.

Sa 20:18:10 jidher Ali Sadr ħiereġ. Bejn dawn iż-żewg *clips* hemm *four microseconds* (4ms) li huma *blind* bejn 20:15:34 sa 20:15:38. Dawk se jkunu rekuperati, ghalkemm ma tidhirx il-bagalja jidher xorta imma l-

Hu baqa' sejjer dritt mill-airport u ma qagħdx jieħu waqfa biex jagħti eżempju lill-ħaddiema tal-Bank. Kien hemm ħafna xogħol li ried isir qabel

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individwu. *Channel* 4 mit 20:16:35. Dan huwa l-kuritur ukoll. Il-*clip* ta' qabel spiċċat 20:18:10 u din il-*clip* tibda minn 20:16:35 sa 20:19:00. Hemmhekk hemm żewġ sekondi li huma overlapping minn clip għall-oħra. *Next clip* tibda minn 20:18:57 ta' *channel* 7. Hemm sekonda overlapping. Dan ukoll huwa kuritur. *Channel* 13 tibda l-clip fi 20:19:01 fejn spiċċat il-*clip* l-oħra sa 20:19:26.

Channel 13 hija l-*main kitchen* fejn hemmhekk hemm *fire exit* u setgħu joħorġu għat-taraġ tal-ġenb tal-Whitehall Mansions. Minn hemmhekk 'il quddiem ma deherx li Ali Sadr kien aktar fil-bank. Il-ħin reali jiġi d-21:20 u 21:30.

F'channel number 9 hemm *clip* tibda 12:40 fejn il-bagalja tidher bil-ġlekk fuqha. Ali Sadr jidher joħroġ *tablet, notepad* u biro. Tul il-filmat ta' *channel* 9 dak in-*notepad* jidher li nqatgħu xi karti minnu però ma ntrema xejn. Jiġifieri minn wieħed issa jidhru tlieta jew erbgħa karti. Però n-*notepad* għandu kulur partikolari, jibqa' jintgħaraf.

Fil-15:38 tidher mara (*MLRO*) daħlet b'karti f'idejha. Il-*clip* tibqa' għaddejja sa' 15:51. L-istess mara tidher toħroġ bil-karti u ma ħallietx karti warajha.

B'referenza għall-*clip* 17:45 intmesset il-bagalja u ħareġ *charger* tal-*mobile*.

F'18:24, channel 9, jidħol raġel (Luis Rivera) u jgħaddi karta jew tnejn lil Ali Sadr fejn din il-karta tintefa' fil-ġenb tal-mejda u tibqa' hemmhekk għal ħin twil, u li qisu Ali Sadr ma għamilx użu minnha.

Beda jsir hafna movimenti minn 19:15 'il quddiem – fejn bdew jidħlu impjegati, u ħin minnhom bdew jidhru li kienu aġitati. Fil-*clip* 19:29 il-quddiem ħin reali jiġi 20:30 - 20:45 – jidher li fi 20:11 Ali Sadr jiġbor l-affarijiet li kien hemm fuq il-mejda, fosthom in-*notepad, biro, charger, mobile* u jippakkja l-bagalja u joħroġ mill-uffiċju. Huwa ħareg fit-20:14:39.

Il-Maġistrat Inkwirenti ra dan il-footage fejn jidher Ali Sadr dieħel fl-Uffiċini tal-Bank Pilatus għal aktar minn darba, u anke darba minnhom fil-preżenta tal-Forensic Accountants Harbinson Forensics, fiż-żjara magħmula fl-Uffiċji tagħhom f'Jannar 2018. Mill-ħin kollu tal-*footage* meħud minn imkien ma jirriżulta li dakinhar tal-20 t'April 2017 Ali Sadr ħataf jew klandestinament ħareġ xi ammont ta' dokumenti jew oġġetti oħra mill-Bank Pilatus. L-aktar li jista' jingħad huwa li apparti dawk l-oġġetti li kien ħareġ mill-bagalja tiegħu u li meta ġie biex jitlaq reġgħa daħħal lura, kien hemm xi karta jew tnejn li kien newwillu Luis Felipe Rivera f'18:24 (ħin reali xi 19:24), channel 9, u li Ali Sadr ftit li xejn ħares lejha u ta' kasha u ma għamilx użu minnha.

Minn din l-evidenza jiġi konkluż li dakinhar tal-20 t'April 2017, fil-jum meta Daphne Caruana Galizia għamlet l-allegazzjonijiet meritu ta' din l-inkjesta, mhux minnu dak li ġie rapurtat minn diversi mezzi tax-xandir li Ali Sadr, Chairman tal-Bank Pilatus kien ħareġ għadd kbir ta' dokumenti bil-moħbi mill-Bank Pilatus u li kien ħbiehom u ġarrhom fil-bagalji li huwa kien qiegħed iġorr u li dehru fil-filmati ta' NET TV. Jekk qatt xi ħadd ħareġ dokumenti minn dak il-bank dakinhar, żgur ma kienx Ali Sadr kif ġie allegat.

il-*Board Meeting* tal-għada. Huwa kien ser isiefer lura Londra l-Gimgħa filgħaxija. Dawk li kienu jafu bil-wasla tiegħu, apparti l-ħaddiema tal-Bank kienu l-*KPMG* u xi ħadd mir-regolaturi li kienu involuti. Huma riedu jissottomettu l-*ICAB* – dokument dettaljat ħafna dwar l-operat tal-Bank sal-aħħar t'April 2017.

Sadr jiċħad li huwa ħareġ miegħu xi dokumenti li juru min kien il-UBO ta' *Egrant Inc* jew xi *financial statements* jew *banking documents* ta *Egrant Inc., Hernville Inc., Tillgate Inc.,* Joseph Muscat, Michelle Muscat, Keith Schembri, Konrad Mizzi, John Dalli u Michelle Buttigieg mill-Bank Pilatus dakinhar tal-20 t'April 2017 fil-għaxija.

Dak li ħa miegħu kien id-*draft* tac-*Chairman's statement* u d-*Director's report* li kellu jiġi ppreżentat l-għada fil-*Board Meeting* u li kien fihom madwar ħames faċċati.

Ix-xhieda ta' Hamidresa Ghanbari

Beda jaħdem mal-Bank Pilatus f'Diċembru 2014 bħala *Head of Private Banking Business Development* u f'Diċembru 2015 ġie maħtur *CEO* u jieħu ħsieb in-

negozju tal-Bank Pilatus. Hu studja fl-*International University* ta' Ginevra fl-Isvizzera u għandu *Bachelor of Business Administration* minn hemmhekk u *Masters of Business Administration in Global Banking and Finance* mill-*Birmingham Business School* l-Ingilterra. Huwa Bankier professjonali u beda fl-2005 man-*National Bank of Dubai,* l-ikbar bank fl-Emirati Għarab Magħquda.

Il-mudell tal-Pilatus Bank huwa dak li jgħaqqad *private banking* ma *commercial banking* għal *high net worth individuals.* A differenza tal-Banek Svizzeri, il-Bank Pilatus kien jipprovdi *commercial banking* ukoll. Is-sid tal-Bank Pilatus huwa Ali Sadr, tramite l-kumpanija *Alpine,* li għandha l-ishma ta' *Pilatus Holding* li għandha l-ishma ta' *Pilatus Bank plc.*

Il-Bank għandu *Sales Department* li jittratta direttament mal-klijenti tramite l-*Front Office.* Għandhom *dedicated relationship managers* għal kull klijent u jieħu ħsieb il-bżonnijiet tal-klijent. Hemm il-*Finance Department* għall-*accounts* u *treasury activities* tal-Bank; *Legal and Compliance* jieħdu ħsieb il-lat legali u *onboarding* ta' klijenti; l-*Operations Department* jieħu ħsieb l-operazzjonijiet bankarji u l-*IT* u s-*COO* jieħu ħsieb dan il-qasam. Riċentement waqfu r-*Risk Department* u *Deloitte Malta* huma r-*risk partners* tagħhom fir-*risk management.*

L-Awdituri esterni huma *KPMG Malta. PWC Malta* huma l-*internal auditors. Deloitte Malta* huma r-*risk partners. Camilleri Preziosi* huma l-Avukati.

Egrant Inc mhix klijenta tal-Bank Pilatus.

Il-*core banking system* tal-Bank Pilatus huwa *Flexcube* tal-*Oracle.* Minn dan il-programm tista' tiġġenera *clients list* u għandek *audit trail* għall-kontijiet miftuħin u magħluqin. Il-*Flexcube* jiġġenera kuntratt meta jinfetaħ kont. Dan jibqa' reġistrat fuq il-programm anke wara li jingħalaq il-kont. Huma diġa kienu pprovdew lill-Ispetturi tal-Pulizija *on site* bi *clients' list.*

Biex isir trasferiment ta' flus mill-Bank Pilatus, il-klijent irid ikollu kont miftuħ mal-Bank Pilatus. Pero benefiċjarji ta' flus minn klijenti tal-Bank Pilatus ma jkollhomx kont fil-Bank Pilatus. Kull pagament mill-Bank Pilatus jgħaddi minn *Swift* li għandu *sanctions tool* li tivverifika li kull transazzjoni tkun *cleared* għall-fini ta' sanzjonijiet tal-*EU, UN* jew *US.* Mhux ser ikun hemm indikazzjoni kompluta tal-benefiċjarji kollha fil-*client base* għax dawn mhux bilfors ikollhom kont ma' Pilatus. Jekk il-benefiċjarju ikun irid jirċievi flus fil-Bank Pilatus, huwa jrid ikollu wkoll kont bankarju miftuħ mal-Bank

Pilatus. Dawk it-transazzjonijiet kollha ta' ħruġ u dħul ta' flus li jinvolvu lil Pilatus jiġu reġistrati fl-i *Swift* MT103.

Il-Bank Pilatus ma jipprovdix *online banking facility* – għajr ħlief *read-only* fejn klijenti jaraw il-bilanċi u l-movimenti fil-kontijiet; iżda l-Bank Pilatus għandu *live monitoring* ta' transazzjonijiet bankarji – ħaġa unika f'Malta. Dan ifisser li klijent ma jistax jibgħat flejjes barra l-Bank mill-*online platform*. Kull transazzjoni trid tgħaddi tramite r-*Relationship Manager* u tiġi verifikata mill-*Compliance Department* tramite dokumentazzjoni. Dan iħalli *audit trail* għal kull transazzjoni.

Il-Bank Pilatus joffri *multiple currency accounts* fl-*Euro, USD, GBP* etc. Il-*major Correspondent Bank* tal-Bank Pilatus huwa *Societe' Generale* fi Franza, *DZ Bank* fil-Ġermanja u Banek oħra, bħal *BOV*. Il-Bank Pilatus ma jistax jibgħat flejjes f'Banek oħra jekk mhux tramite *Correspondent Banks* għax jeħtieġu li jkollhom *clearing banks*. Huma għandhom *money market partners* minħabba raġunijiet regolatorji fejn il-Banek iridu jqegħdu flushom ma banek differenti sal-ammont tal-kapital tal-bank. Il-Bank Pilatus ma jistax ikollu aktar minn 11,000,000 ma' xi wieħed mill-*Correspondent Banks*. B'hekk transazzjoni li tibda mill-Bank Pilatus trid tgħaddi tramite l-*Correspondent Bank* tal-Bank Pilatus u wara din tgħaddi għand il-*Correspondent Bank* tal-benefiċjarju u minn hemm tgħaddi fl-aħħar għand il-Bank tal-benefiċjarju. Il-Bank Pilatus

għandu għażla għand liema *Correspondent Bank* imur. Huma għandhom *Nostro Account* filwaqt li l-*Correspondent Banks* isejħulu *Vostro Account*. Il-Bank Pilatus ma jistax iżomm aktar mill-*Own Funds* mal-*Correspondent Bank* tiegħu. Imbagħad għandhom *Money Market Placement* u regoli għall-*Forex Settlement* (jumejn) jew *Security settlement* (erbat ijiem). Għall-fini ta' *settlement* iħalluhom li jkollhom aktar mill-*Own Funds*. Meta klijent jitlob li jibgħat flus eżempju *GBP*, il-Bank Pilatus jara min joffri s-servizz ta' *Correspondent Bank* għall-*GBP* lilu, f'dal każ, eżempju Societe Generale u jgħidu lil Societe Generale li jridu jibgħatu dawn il-flus lil Bank fir-Rejnu Unit. Societe Generale tara min ikun il-*Correspondent Bank* għal dak il-Bank fir-Renju Unit, eżempju Barclays Bank. Societe Generale jibgħatu l-flus lil Barclays Bank u mbagħad Barclays Bank jibgħatu l-flus lil Bank destinatarju.

Il-Bank Pilatus m'għandux klijent bl-isem *Al Sahra FZCO* iżda għandu klijenti bl-isem *Sahra FZCO* jew *Shams Al Sahra FZCO*. Għal *Sahra FZCO* l-*UBO* huma l-aħwa Leyla u Arzu Aliyeva u huma sħab nofs b'nofs fl-ismha ta' din il-kumpanija. Dawn huma wlied il-President tal-Ażerbajġan. Fir-rigward ta' *Shams Al Sahra FZCO* l-*UBO* huma l-aħwa Tale u Nijat Heidarov u dawn huma wlied il-*Minister of Emergency Situations in Azerbaijan, Mr Kamaladdin Heydarov.*

Mistoqsi dwar jekk mill-kotba tal-Bank Pilatus kienx hemm ħlasijiet li saru skont l-artikli ta' Daphne Caruana Galizia, Hamidreza Ghanbari jgħid hekk:

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> The witness: We, so to the best of my knowledge, we have provided the account statement of Sahra. There are payments to companies in Dubai, but there is no payment to the alleged Egrant Inc, because the companies incorporated in Dubai obviously they have payments to Dubai based companies but not to Egrant. And we have given the full statement and the audit trail is there.

Mistoqsi jekk qattx kien hemm pagamenti li saru mill-kontijiet ta' *Sahra FZCO* jew *Shams Al Sahra FZCO* fil-Bank Pilatus lil *Egrant Inc*, Hamidreza Ghanbari qal li ma kien hemm ebda tali transazzjoni għax din it-transazzjoni ma kienetx teżisti.

Mistoqsi jgħid jekk jafx min hi "Farnoush Farsian", Hamidreza Ghanbari jgħid li din hija Farnoush Farsiar u hija waħda mill-*authorised signatories* ta' *Sahra FZCO*. Hemm tliet *authorised signatories* għalkemm il-firem ta' tnejn minnhom ikunu biżżejjed. Mistoqsi jekk hawn Malta hawnx minn dawn il-firmatarji, jgħid li wieħed minnhom huwa Ross Hederington u li għamlu *Investment Services Firm* mal-MFSA.

Hamidresa Ghanbari jgħid li ma jistax jeskludi li kien hemm transazzjonijiet ta' mitt elf dollaru Amerikan kif allegat minn Daphne Caruana Galizia iżda

4

mhux lil *Egrant Inc.* għax hu qatt ma ra dawn it-transazzjonijiet.

Rigward il-*cash* li jkollhom fil-Bank Pilatus, Hamidreza Ghanbari jgħid li qabel kienu jġibu l-*cash* tagħhom mill-*BOV* iżda riċenti bdew iġibuhom mill-Bank Ċentrali ta' Malta. Ikollhom ammont ta' madwar mitt elf li jkunu fis-*safe* biex jekk jiġi xi klijent ikollhom minn fejn itih xi ħaġa *cash.* Imbagħad ikollhom ukoll il-*petty cash* tagħhom.

L-operazzjonijiet tal-Bank Pilatus huma differenti minn banek oħra fil-qasam *retail banking*. Anke l-mod kif imexxu l-*private banking* tagħhom huwa mudell differenti fis-sens li jipprovdu *cash withdrawals* lil klijenti tagħhom jekk ikunu jeħtieġu. Imbagħad għandhom *policy* ta' *relationship managers* u anke s-*CEO* li jkunu disponibbli erbgħa u għoxrin siegħa kuljum.

Mistoqsi min huma r-*relationship managers* ta' *Sahra FZCO* u *Shams Al Sahra FZCO* qal li dawn huma *PEP* u għalhekk għandhom *"several relationship managers that they take care of the day to day normal banking activities"*. Iżda bħala *internal controls,* kien hu li jżomm kuntatt ma' dawn l-individwi. Hu kien il-punt ta' kuntatt u jkellimhom u jagħti l-istruzzjonijiet lin-nies tiegħu. Min ikun responsabbli mit-transazzjoni meta tidħol rikjesta jipproċessaha u hu jkun ikkopjat. Imbagħad dik it-transazzjoni tgħaddi għal il-*Compliance*

Department, li japprovaw il-pagament. Wara din tgħaddi għand l-*Operations Department* li hemmhekk tgħaddi mingħand *marker* u *checker* li jridu janalizzawha huma wkoll. Jekk l-ammont ikun jaqbeż ħames mitt elf, imbagħad irid ikun *releaser* li jrid jgħaddi għand is-*COO*. Għal kull transazzjoni li tkun saret irid ikun hemm *audit trail.*

Għal transazzjonijiet fid-Dinari tal-Emirati Għarab Magħquda (AED) huma kienu jużaw lil Societe Generale bħala *Correspondent Bank.* Fil-preżent kellhom lil *DZ Bank* u sa l-aħħar ta' Lulju jew Awissu 2016 kellhom lil *BOV* bħala *USD Clearing Bank.* F'Marzu 2016 kellhom kemm *BOV* kif ukoll *DZ Bank* li dak iż-żmien kien jismu *WGZ Bank.* Huwa normali li *Correspondent Bank* iwaqqaf ċerti transazzjonijiet u li dawn jistaqsu mistoqsijiet fir-rigward tat-transazzjonijiet jew tal-klijent.

Il-Bank Pilatus għandu *live monitoring system* u għalhekk jista' jieħu azzjoni immedjata. Jista' jkun għalhekk li matul dak il-perjodu kien hemm xi transazzjonijiet li m'għaddewx minħabba mistoqsijiet ta' *Correspondence Banks.* Il-qasam regolatorju illum inbidel ħafna u jeħtieġu *KYCC – know your customer's clients.* Ġieli jirċievu *swift enquiries,* ġieli *email enquiries* u huma dejjem ikollhom *log* tagħhom u b'hekk ikun hemm *audit trail.* Jekk il-*query* tiġi *via swift,* huma jwieġbuha *via swift* ukoll; mentri jekk tkun bl-*email,* huma jwieġbu bl-*email.* Dawn il-*logs* jinżammu għaliex il-*queries* iqumu wara li

tkun saret it-transazzjoni mill-Bank. Huwa Luis Rivera is-*COO* li jżomm dawn il-logs.

Meta jkun hemm pagamenti li jkunu jridu jsiru għal Dubai, il-Banek Amerikani jkunu involuti wkoll fir-rigward ta' kwalunkwe pagament li jkun sar f'dollari Amerikani. F'dan il-każ tkun trid tgħaddi minn *US Clearing Bank,* bħal *JP Morgan Chase, Bank of New York, Citibank.* Il-Bank Pilatus m'għandux *Correspondent Bank* Amerikan dirett u jrid jgħaddi minn *BOV* jew *DZ Bank* skont il-każ. Meta jkun hemm transazzjoni f'Dollari Amerikani u jużaw il-*BOV,* il-*BOV* kienu jiddebitaw il-kont lill-Bank Pilatus. Il-*BOV* imbagħad ikun irid jgħaddi minn xi wieħed mill-Banek Amerikani fi New York biex il-ħlas jiġi *cleared.* Wara l-Bank Amerikan li jagħmel il-*clearance* jibgħat il-flejjes lil Bank ta' min ikun il-benefiċjarju tat-transazzjoni.

Nexia BT jafhom bħala li huma *Corporate Service Providers* f'Malta u ġieli rreferew klijenti lil Bank Pilatus u li għal uħud minnhom feṫulhom kontijiet bankarji *corporate.* Hamidreza Ghanbari kien jikkuntatja lil Karl Cini. Jaf min hu Brian Tonna u ġieli ltaqa' miegħu. Għalkemm jaf li ġieli kien hemm skambju t'emails ma' impjegati ta' Nexia BT, huwa ma kienx f'qagħda li jagħti ismijiet t'impjegati. Peress li Nexia BT huma *corporate service provider* u jaġixxu bħala *corporate directors* għal xi wħud mill-kumpaniji, huma awtorizzati li jagħmlu transazzjonijiet bankarji u b'hekk huwa ċert li ġieli

tkelmu mar-*relationship manager*. Biss ma jikkonfermax jekk hu ġielix ħa telefonati diretti mingħandhom.

Tillgate Inc ma għandhiex kontijiet bankarji fil-Bank Pilatus. Keith Schembri għandu kont personali bħala *individual account holder*. In kwantu huwa *PEP* lokali, kien Hamidreza Ghanbari stess li jiddilja miegħu. Il-kont ta' Keith Schembri mhux attiv ħafna – kien hemm xi transazzjonijiet iżda mhux ħafna. Dawn it-transazzjonijiet huma wkoll dokumentati. *Hearnville Inc* m'għandhiex kont mal-Bank Pilatus u l-anqas Konrad Mizzi. Konrad Mizzi u Keith Schembri mhux diretturi jew *nominee* ta xi kumpanija li għandha kont mal-Bank Pilatus.

Meta persuna tiġi biex tiftaħ kont mal-Bank Pilatus jimlew u jiffirmaw *bank account opening form*. Wara dan jibdew il-proċess tal-*onboarding*. Il-*bank account opening form* hija dokument estensiv. Fl-ewwel parti tagħha jkun hemm id-dettalji li jidentifikaw l-*UBO*. F'każ ta' kont personali huma jistaqsu lil persuna jekk tkunx l-*UBO* tal-kont. F'każ ta' kont għal kumpanija jaraw mix-*share certificates* jekk hix struttura *nominee* f'liema każ ikunu jeħtieġu *trust declaration*. Huma jiddeterminaw l-identifikazzjoni tal-*UBO* billi jeħtieġu kopja ta' ritratt tal-passaport, kopja tal-passaport, kif ukoll kont ta' xi servizz li ma jkunx eqdem minn tliet xhur. Għal kumpaniji għandhom lista aktar estensiva in kwantu jeħtieġu l-*memorandum u l-articles of*

association, management account, audited financials (jekk il-kumpaniji jkunu obbligati li jżommuhom) u *annual returns*. Imbagħad jgħaddu biex jaraw minn fejn ġej is-sors tal-ġid tal-klijent prospettiv. Dan huwa l-*onboarding process* li jiġi magħmul mill-*Compliance Department*. Jistaqsu lin-nies dwar l-assi tagħhom u jridu jingħataw dokumentazzjoni biex tissostanzja dak allegat, fosthom bl-*accounts* awditjati. Il-Bank Pilatus għandu lista *standard* li tiġi mibgħuta lill-klijenti. Imbagħad ikun jispetta lill-*Compliance Department* biex jiddeċiedu x'dokumenti oħra jkunu jridu. Hemmhekk ikun hemm komunikazzjoni robusta bejn il-*Front Office* u l-klijent. Imbagħad jaraw li l-klijent ma jkunx milqut minn xi sanzjoni u b'hekk jivverifikaw tramite d-*Dow Jones,* li tkun waħda mill-ewwel affarijiet li jagħmlu biex jivverifikaw persuna.

Fil-Bank Pilatus hemm kċina u *kitchenette*. Il-Bank verament għandu *safe* wieħed. F'Marzu 2016 ma kellhomx ħliefu. Fih kienu jqegħdu l-*cash* u dan jissakkar *b'codes* li jkunu fil-pussess ta' żewġ persuni differenti. Dan is-*safe* jinsab fl-*IT room*. Fil-bidu dan is-*safe* kien fil-kamra *"Exostat"* li hija l-kamra ħdejn l-*Operations Department*. Peress li l-impjegati tal-Bank żdiedu minn ħamsa għal għoxrin, il-*floor plan* tal-uffiċju kien jinbidel kważi kull sena. Il-kamra *Exostat* kienet użata bħala *storage room*. Issa qed jużawha bħala *meeting room* jew aħjar l-*audit room* għax madwar sittin jew sebgħin fil-mija tal-ħin tiegħu huwa dedikat għal *meetings* mal-awdituri *PWC*. Hemmhekk

isir ukoll l-*internal audit* da parti ta' *KPMG*. Deloitte kienu qegħdin jagħmlu wkoll ir-*risk exercise*. Fiha jżommu l-ixkafef, *printers*, karti eċċetra. Wara li krejaw spazju ħdejn is-sala tal-*meetings*, li fih għamlu l-*IT room* u poġġew is-*safe* fih. Dan is-*safe* qatt ma kien fil-kamra tas-*CEO*. Dan is-*safe* qatt ma kien imqiegħed fil-kċina jew fil-*kitchenette*. Safejn jaf hu dan is-*safe* ma kienx imsammar jew imwaħħal mal-art. F'dan is-*safe* kienu jżommu l-*cash* tal-Bank.

L-informazzjoni tal-klijenti kienu jżommuha *f'cabinets* apposta li jinsabu mqasmin mal-bank kollu. Dan peress li l-bank iżomm ħafna dokumenti. Id-dokumenti dwar it-transazzjonijiet, kif ukoll il-*bank account opening forms* ikunu fil-*Front Office*. Id-dokumenti dwar *KYC, onboarding, ongoing monitoring* eċċetra jkunu fil-*Compliance Department*. It-*treasury documents* u l-*management documents* ikunu fl-*Operations Department*. Id-dokumenti tal-klijenti jkunu kollha msakrin. Iżda huwa s-*safe* li għandu żewġ *passcodes*. Biex jinfetaħ dan is-*safe* l-ewwel persuna trid iddaħħal il-*passcodes* tagħha imbagħad it-tieni persuna trid iddaħħal il-*passcodes* tagħha immedjatament wara. F'dan is-*safe* qatt ma kienu jżommu dokumenti l-anqas ta' dawk li huma *PEP*.

Għandhom *file cabinet* kbir li fih iżommu dokumentazzjoni relattiva għal *PEP* barranin u Maltin. Dan il-*file cabinet* għandu *lock* u kien hemm żmien fejn kien fil-kċina, ħdejn il-bieb, imbagħad bidlulu postu għall-i*storage room.*

Safejn jaf hu ma kellhomx portfolio ta' klijenti Russi. Huma kien rċevew prospetti mingħand persuni Russi iżda ma kellhomx tali klijenti fl-2016. M'għandhomx *PEP* Russi, għalkemm għandhom lista t'ismijiet ta' persuni *PEP* Russi li m'aċċettawhomx.

John Dalli kellu kont mal-Bank Pilatus. Dal-kont infetaħ fl-2014 u ġie magħluq fl-2015. Hamidreza Ghanbari kien ir-*relationship manager* għal John Dalli u kien hu li fetaħlu l-kont. L-uniċi transazzjonijiet li kien hemm fih kienu dawk biex jitħalsu l-ispejjeż tal-kont bankarju għax ma kienx qed jiġi wżat u waqgħa *dormant account.* Jidhirlu li kien ġab il-flus mingħand l-*HSBC* u wara li tħaslu l-ispejjeż bankarji għalqulu l-kont. L-*opening balance* tiegħu kien żero, bagħat madwar elfejn euro. Wara l-fees ġew *offset.* Il-*closing balance* tiegħu kien żero wara ħruġ ta' *cheque* għal sebgħin euro. L-ammont ta' flus li għadda mill-Bank Pilatus fil-każ ta' John Dalli kien wieħed żgħir ħafna. Dan kien kont personali għal John Dalli.

Mhux minnu li l-kont ta' Keith Schembri kien attiv ħafna u li kien hemm *highly suspicious transactions* ma persuni mill-Ażerbajġan. Fuq medda ta' sentejn ma kienx hemm aktar minn ħmistax il-transazzjoni u fihom ma kien hemm ebda involviment ta' persuni Ażeri. Safejn kien jiftakar f'dan il-kont kien hemm biss depożiti u ma jiftakarx li kien hemm xi ħruġ. Kellhom talba mingħand Keith Schembri biex tinħariġlu *executive card* u ħarġuhielu. Din il-card tiġi ttoppjata u jidhirlu li din kienet l-unika *internal ongoing* jew *debit entry* fil-kont ta' Keith Schembri. L-aktar ammont ta' flus li daħlu f'dan il-kont kien madwar mitt elf euro li saru f'madwar ħames depożiti.

Mistoqsi jekk jiftakarx kienx hemm transazzjonijiet oħra minn persuni minn partijiet tad-dinja oħra li mhux Ażeri li kienu jinvolvu dan il-kont ta' Keith Schembri, Hamidreza Ghanbari qal li jiftakar li kellhom *żewġ internal transfers* u *żewġ external transactions* li pero żgur ma kienux jinvolvu elementi Ażeri – la persuni u l-anqas interessi. Safejn jaf hu *Tillgate Inc.* qatt ma kienet involuta f'xi transazzjoni mal-Bank Pilatus.

Hu qatt ma ra dokumenti li għandhom x'jaqsmu ma *Egrant Inc.* Safejn jaf hu *Egrant Inc* qatt ma użat is-servizzi tal-Bank Pilatus jew kienet involuta f'xi transazzjoni finanzjarja li tinvolvi lil dan il-Bank. Hu qatt ma ra d-*declarations of trust* li semmew Maria Efimova u Daphne Caruana Galizia. Safejn jaf hu ħadd mill-ħaddiema tal-Bank Pilatus ma raw dawn id-

dokumenti. Dokumenti ta' tali importanza (*magnitude*) kienu jkunu s-*senior management* li jittrattaw magħhom. Żgur li ħadd mis-*senior managment* ma qatt raw dawn id-dokumenti. Dan għaliex meta jkun hemm *high risk client*, irid ikun is-*senior management* li jawtorizza tali *onboarding*. Minn naħa tiegħu ma jafx li *Egrant Inc* qatt issottomettiet xi *bank account opening form* mal-Bank Pilatus jew li qatt għamlu xi talba biex jiġi miftuħ kont fil-Bank Pilatus.

Mistoqsi dwar min ikollu aċċess għal dokumenti ta' din il-manjitudni, Hamidreza Ghanbari qal li l-uniċi nies li jkollhom aċċess għalihom huma hu, l-*Head of Compliance* u r-*Risk Manager* u r-*Relationship Managers* li jkunu rċevewhom. Hamidreza Ghanbari ma jistax jifhem min huma dawn it-*third parties* li jissemmew fl-artiklu ta' Daphne Caruana Galizia. Biss dawn jistgħu ikunu u jinkludu *PWC, KPMG, MFSA, FIAU* li meta jmorru jagħmlu viżta, dawn jistaqsu għad-dokumenti u l-Bank jipprovdihomlhom.

Fil-kors tal-konversazzjonijiet tagħhom l-impjegati kienu jużaw il-*WhatsApp*. Huma jagħmlu wkoll *interviews* permezz ta' *Skype* għal impjegati prospettivi barranin. Biss ma jagħmlux transazzjonijiet bankarji bl-*iSkype*.

Il-Bank Pilatus għandhom il-proċeduri tagħhom ta' kif jipproċessaw pagamenti. Għandhom *electronic indemnity form* li l-klijenti jridu jimlew. L-

istruzzjonijiet għall-pagamenti jeħduhom permezz tal-*emails*. Wara li jirċievu l-*email*, jawtentikaw dawk l-istruzzjonijiet. Impjegat iċempel lill-klijent minn fuq linja telefonika li tkun reġistrata u għandhom proċedura t'identifikazzjoni doppja. Il-persuna li tiddalja n-numru ma tkunx l-istess persuna li tkellem lil klijent. Dan biex jevitaw li jkun hemm telefonati foloz. Tkun it-tieni persuna li tawtentika l-pagament. Darba jkun sar il-proċess ta' verifika tat-transazzjoni, l-istruzzjonijiet għall-ħlasijiet jgħaddu għand il-*Compliance Department* bid-dokumenti li jsostnu dik it-transazzjoni. Wara jagħmlu *call backs*. Biss huma ma jirċievux struzzjonijiet għal-transazzjonijiet bankarji bl-*iSkype*.

Meta l-Bank jiġi biex jagħti self, ikun hemm *Credit Committee* li jirċievi dik it-talba għas-self u hemm diversi stadji biex jiġi mogħti self. Huma jagħtu *"Lombard Loans which are like securities backed or deposits backed or asset backed"*. Mhux normali li jagħtu self mingħajr *collateral*. Il-kwalita tal-*collateral* tagħmilha aktar faċli għalihom li jagħtu self. B'hekk għandhom waħda mill-ogħla *capital adequacy ratio* f'Malta. Ir-Regolatur jistipola 8%, filwaqt li l-*MFSA* tistabbiliha għal 12%. Huma joperaw għal madwar 13% u fuqhom. U ma joperax ogħla minn 16% huwa dovut għall-fatt li huma jridu jieħdu 20% *exposure*. Għandhom limiti kemm jistgħu jagħtu self li huwa stabbilit mir-Regolatur. Hemm *ratios* differenti. Jispjega kif jaħdmu dawn ir-*ratios*.

Il-*loan portfolio* tagħhom huwa *short to medium term.* Huma ma għandhomx *mortgage business* u b'hekk is-self tagħhom huwa għal perjodi qosra. Dawn is-self jgħaddu minn *credit assessment* li jsir minn *Credit Committee* u jekk dawn ikunu soddisfatti imbagħad jiġi approvat. Iż-żmien biex jiġi awtorizzat self jiddependi minn każ għal każ. Huma jkollhom *credit proposal* u jiddiskutu l-parametri tas-self. Il-Bank Pilatus ma jirċevix ħafna talbiet għal self. Fil-fatt kull ma kellhom self kif xi disa' jew tnax il-self minn mindu bdew joperaw. Għalhekk il-*capital adequacy ratios* tal-Bank Pilatus huma għoljin. Il-*Credit Committee* huwa kompost minn Hamidreza Ghanbari, Ali Sadr u Claude-Ann Sant Fournier.

Fil-każ tas-self lil Negarin Sadr, peress li skont il-*Credit Charter* u r-regoli tal-*MFSA* hi tiġi *related party,* is-self ma setgħax jiġi approvat mill-*Credit Committee* iżda mill-Bord tad-Diretturi u c-*Chairman* ma jkollux vot innifsu. B'hekk meta r-riżoluzzjoni ta' dan is-self għaddiet din ma kienetx iffirmata mic-*Chairman.* Negarin Sadr Hasheminejad għandha kont mal-Bank Pilatus. Verament li ingħatat self mill-Bank Pilatus u li għandha negozju tal-moda f'Londra.

Fir-rigward ta' dan is-self jiftakar li kien Frar jew Marzu 2016 u kienu rċevew talba sabiex ikun jista' jiġi akkwistat *pistachio farm* f'California. Il-*collateral*

għal dan is-self kellu jkun proprjeta immobiljari f'California. Din il-*credit proposal* kienet sottomessa lill-*Board* tad-Diretturi u mxew skont il-proċedura għall-self li jkun *asset backed*. Is-self ġie maqbul u mogħti. Għandhom *audit trail* ta' din it-transazzjoni inkluż l-istima tal-assi nfushom fl-USA. Dan is-self kien ġie approvat dakinhar stess. Għandhom sistema li hija *very agile system* bażata fuq il-prinċipju ta' komunikazzjoni robusta mar-*relationship manager* rispettiv. Is-sistema ta' self fil-Bank Pilatus hija waħda spedita ħafna f'kull każ. Għandhom dokument li huwa *standard* u li huwa robust u li jieħu ħsieb li jassigura l-interessi tal-Bank meta jingħata self. U peress li ma għandhomx ħafna każijiet ta' self jaffordjaw jgħaġġlu l-proċess iktar.

Jista' jkun li t-talba għas-self saret matul il-ħinijiet ta' filgħaxija jew il-lejl minħabba li hemm differenza ta' 9 sigħat fil-ħin bejn Malta u California. Il-Bank ġeneralment jibqa' miftuh sa tard ukoll.

Supt Abdilla: Do you remember if it was a for a million-dollar ($1,000,000) loan?

The Witness: The amount was of one million ($1,000,000) to the best of my recollection.

Supt Abdilla: If I tell you that it was one point five ($1.5m).

The Witness: One point five million ($1.5m) yes because there was another loan of one million ($1m)

Supt Abdilla: How much was it one million ($1m) or one point five ($1.5m)?

The Witness: One point five, one point five ($1.5) I think.

Supt Abdilla: So the other one you were referring to?

The Witness: There is another loan that we sanctioned for one million, one point

one million euro (€1.1m) so I was just mixing them up.

Supt Abdilla: To her as well?

The Witness: No, no, not to her. To another client, to another client. So, I think it was the loan amount one point five ($1.5m). Again, we have all the documents so it –

The Court: It can be crossed checked –

The Witness: It was last year so I can double check that for you.

Supt Abdilla: So, was this loan granted in full? So the actual payment was given out in one whole lot?

The Witness: Yes, yes, to the seller of the interest of the pistachio farm.

The Court: Ok. So, it was a lump sum. If it was one point five million ($1.5m), one point five million ($1.5m) were wired.

The Witness: Yes, one single payment went to the seller of the interest of the pistachio farm.

The Court: Now because here it says that, apart from that it was opened immediately, it refers to one million dollar ($1m) and given to Negarin Sadr for her fashion business, whereas you are saying that it related to add interest in this pistachio farm. Two thing do not really tally there it seems. However, it adds that another instruction came in because As soon as the loan was processed a significant proportion of it, approximately four hundred thousand US dollars ($400,000) was to be paid out from Negarin Sadr loan account to a bank held by a Maltese woman who loves in New York and has a jewellery business called Buttardi. So, you confirm that only one payment was made and this payment was executed in the name of this seller of this interest in the pistachio farm.

The Witness: Yes, yes. We have the Swift confirmations as well.

The Court: Do you recall the name of this person?

The Witness: ... Senturabi, SNT because the land is his initials SNT, so ... Senturabi, but then again we have the full audit trail of that that you can see the loan sanctioning process, the loan agreement that was signed between the bank and the client, and the Swift confirmation of the proceeds of the loan, how they were sent. So, I think it is best, we already provided that to the Inspectors. If you want to see that I think that is –

The Court: But apart from this loan, I mean Negarin Sadr did not have or did not apply, or did not receive another loan from Pilatus Bank.

The Witness: No, no.

The Court: So this is the only loan that she had.

The Witness: This is the only loan, yes, yes. Absolutely.

The Court: Yes, and what about Michelle Buttigieg? Do you have Michelle Buttigieg as a client of your bank?

The Witness: No.

The Court: Did you have any past or present commercial banking relationship with Michelle Buttigieg?

The Witness: No.

Supt Abdilla: Ever heard of a business by the name of Buttardi?

The Witness: Me no, personally no. I have no idea.

Supt Abdilla: The chairman took a similar loan like his sister on this same ...?

The Witness: Altitude, is a legal entity in the States for the same land, yes, to buy a similar interest.

The Court: Now, so let me see this. In so far as –

The witness: So Altitude is one point five, this one was one point five for twelve point something percent. It is coming back to my memory.

Supt. Abdilla: In fact they have twelve percent divided by two percent divided by two and then they have another twenty-four –

The witness: Altitulde has twenty-four percent and then –

Supt. Abdilla: For a total of forty-nine point five percent.

The witness: It says one point five.

Michelle Muscat mhix klijenta tal-Bank Pilatus u m'għandhiex kontijiet bankarji miegħu. L-anqas Michelle Buttigieg. L-anqas Joseph Muscat, Konrad Mizzi, Sai Mizzi Liang u Josette Schembri Vella. Brian Tonna u Karl Cini m'għandhomx kontijiet bankarji personali mal-Bank Pilatus iżda huma

corporate services directors, jiġifieri Brian Tonna għandu *corporate account* li tiegħu kien *UBO* iżda li illum huwa magħluq. Dan kien ta' *Willerby Trading Inc.*

Hamidreza Ghanbari jgħid li Leyla Aliyeva u Arzu Aliyeva huma wlied il-President tal-Ażerbajġan. Tale Heidarov u Nijat Heidarov huma wlied il-*Minister for Emergency Situations*. Dawn għandhom kontijiet *corporate* u mhux personali. Kien introdućihom hu lil Bank Pilatus għax kienu klijenti tiegħu qabel meta kien jaħdem fl-*Emirates National Bank* ta' Dubai. Ilu jafhom sa' mill-2009. Mistoqsi dwar *due diligence* li għamel fil-konfront tagħhom jixhed li l-Bank Pilatus għandhom proċess ta' *due diligence* li huwa robust fis-sens li jimxu mal-liġijiet lokali u dawk tal-*FIAU implementing procedures* u l-*AML policy and procedures*. Huma għandhom dokumenti li jinkludu awditjar u *financials* mill-*big four* – fil-fatt *Ernst and Young* jagħmlulhom l-*audit* tal-assi tagħhom. Dawn qatt ma ġew il-Bank Pilatus, iżda hu kien iltaqa' magħhom f'Londra, f'Baku u f'Dubai. Il-Bank Pilatus iżomm *face to face interaction* mal-*PEP* u għalhekk jiltaqgħu mal-klijenti wkoll u jżommu *log* ta' dan sabiex jekk *relationship manager* jiġrilu xi ħaġa min jiġi f'loku jkun jista' jsegwi. Il-Heidarovs għandhom kumpaniji Maltin. L-Aliyevs ma jidhirlux li għandhom.

Mistoqsi dwar jekk hux konxju ta' xi ħadd minn dawn l-erbgħa li uża s-

servizzi tal-Bank Pilatus fir-rigward ta' negozju ma xi wieħed mill-*PEP* Maltin li semmejtu aktar il-fuq huwa wieġeb *"Absolutely not"*.

Hamidreza Ghanbari jiċħad li José Eduardo Paolino dos Santos it-tifel tad-dittatur tal-Angola huwa klijent tal-Bank Pilatus. Hamidreza Ghanbari jgħid li huma ġew mitkelma minn *corporate service provider* u fetħu kont fil-Bank Pilatus, iżda l-*audit trail* qegħda hemm u turi min hu wara din il-kumpanija Maltija. Kollox kien regolari. Wara ftit xhur ġew xi avukati Portugiżi fil-Bank Pilatus li nfurmawhom li kien hemm *share transfer* t'ammont ta' *shares* li waslu sabiex jiġi mibdul l-*UBO* u li għalhekk kien hemm sid ġdid. Kienu ltaqgħu magħhom Hamidreza Ghanbari u l-intern li kienet taħdem magħhom dak iż-żmien, Maria Efimova. Meta informawhom li kien hemm *UBO* ġdid, Hamidreza Ghanbari informahom li ried isir proċess ta' *due diligence* mill-ġdid u għamlu hekk. Il-*Compliance Department* ma kienux kuntenti bil-kwalita tad-dokumenti li kienu ġabulhom u rrifjutaw li jaċċettaw lil dan is-sid il-ġdid. Il-kont ġie magħluq. Għalkemm il-*holding company* u *trading company* oriġinali Maltin kienet ġiet imwaqfa minn Nexia BT, l-Avukati kienu Portugiżi li jgħixu l-Iżvizzera. Ma jiftakarx min kien l-*UBO*, iżda jgħid li kien jiftakar li kien *PEP* wara li kienu għamlu tiftix fuq id-*Dow Jones*. Maria Efimova kienet l-unika persuna li kienet miegħu fil-*meeting* meta l-avukati Portugiżi qalu li l-*UBO* kien *PEP*. Għalhekk issuspetta li l-persuna wara dik l-istorja li kienet ġiet pubblikata minn Caruana Galizia

kienet Maria Efimova.

Kien hemm każ kriminali kontra Maria Efimova miftuħ mill-Bank Pilatus f'Malta għal frodi li għadu pendenti quddiem il-Maġistrat Dottor Donatella Frendo Dimech u prosegwit mill-Ispetturi tal-Pulizija Jonathan Ferris u Lara Butters. Dr. Joseph Giglio qiegħed jirrapreżenta lil Bank Pilatus.

Mistoqsi dwar il-fatt li kien hemm *compliance inspection* minn naħa tal-*FIAU* fl-2016 Hamidreza Ghanbari jgħid li kellhom spezzjoni mill-*MFSA* f'Settembru 2015 wara li kienu ilhom madwar sena joperaw. Din kienet *full-on inspection*. Mir-rapport tagħhom kien *"It is very clear with their findings and it was a very good report"*.

Mistoqsi jekk kienx rapport favorevoli, Hamidreza Ghanbari jgħid li l-*FIAU* ma kienux fehmu l-mudell bankarju tagħhom u għalhekk kellhom iqabbdu lil *KPMG* u lil *Camilleri Preziosi* biex jgħinuhom u wara li ssottomettewlhom ir-rapporti tagħhom, ikkonkludew li l-Bank kien *compliant* wara li kienu reġgħu għamlu spezzjoni oħra. Dan ir-rapport inħareġ f'Settembru 2016.

Hamidreza Ghanbari reġgħa xehed fid-9 ta' Mejju 2017 fl-atti tar-rikors ta'

Pierre Portelli relattiv għall-siltiet mill-*Compliance Report* tal-*FIAU* u kien ġab miegħu kopja tal-ittra mibgħuta lil Bank Pilatus fis-17 ta' Mejju 2016. Din kienet tirrelata *on-site inspection* li kienet saret mill-*FIAU* bejn il-15 ta' Marzu u t-22 ta' Marzu 2016. L-ewwel kienu bagħtu żewġ spetturi *juniors*. Kellhom l-fuq minn 20 sena u waħda minnhom kienet anke għamlet *interview* mal-Bank Pilatus iżda ma ġietx ingaġġata. Dawn ma kienux fehmu l-mudell ta' negozju tal-Bank Pilatus. Il-Bank provda lil dawn l-*audited financials* fir-rigward tas-*source of wealth* maħruġa mill-*Big Four*. Dawn ma fehmux dawn l-*audited financials* li kien jikkonsisti f'mijiet ta' paġni u ma kienux jafu x'inhuma *dividend distribution*.

Il-Bank Pilatus qabbad lir-*Risk Department* tal-*KPMG* u għamlu studju dwar l-*AML procedures* li wrew li ma kien hemm ebda nuqqasijiet. Fl-istess waqt qabdu lid-ditta *Camilleri Preziosi* sabiex jagħmlu rapport parallel. Wara li tlestew dawn ir-rapporti, il-Bank Pilatus reġgħa għamel risposta lill-*FIAU* b'riferenza għal dak li kienu sabu *KPMG* u *Camilleri Preziosi*. Il-Bank Pilatus kien irċieva t-tieni ittra li kienet tgħid li minħabba li deher li setgħa kien hemm xi *misunderstanding* bejn l-uffiċjali li għamlu l-eżami u l-Bank, riedu li jerġgħu jagħmlu spezzjoni oħra. Kienu għamlu wkoll laqgħat ma Alfred Zammit, *Deputy Director* tal-*FIAU* sabiex jaraw li jkun hemm xi ħadd *senior* biex jissorvelja s-sitwazzjoni. Kien hemm ukoll laqgħet mal-*MLRO*. Fis-26 ta' Settembru 2016 l-*FIAU* imbagħad ħarġu ittra oħra li kienet tgħid li wara

li rrevedew il-posizzjoni u d-dokumentazzjoni mogħtija lill-kumitat u raw x'kienu n-nuqqasijiet identifikati issa dawn dehru li ġew solvuti u għalhekk il-kwistjonijiet sollevati fl-ittra tas-17 ta' Mejju 2016 kieu solvuti. Il-kwistjoni kollha kienet li huma ma kienux qegħdin jifhmu kif il-Bank kien qiegħed jiddokumenta t-transazzjonijiet tiegħu.

F'Novembru 2016 il-Bank Pilatus talab lil *PWC* sabiex jagħmel *AML audit* fuqhom, u dan peress huma jagħmlu dawn l-istudji b'mod regolari. Dawn ukoll innotaw il-fatt li l-Bank Pilatus jagħmel *live monitoring* tat-transazzjonijiet bankarji tiegħu ħaġa li r-*retail banks* ma jagħmlux. L-*internal audit* ma kienx sab nuqqasijiet konsistenti – ħdax *low risk findings*.

Fir-rapport tal-*FIAU* hemm indikazzjoni għal transazzjonijiet li ma humiex speċifikati u fir-risposta tal-Bank Pilatus lill-*FIAU* huma kienu talbuhom sabiex ikunu speċifiċi. Fir-rigward tat-transazzjonijiet imsemmija fil-*Compliance Report* tal-*FIAU* tas-17 ta' Mejju 2016 Hamidreza Ghanbari jgħid hekk : -

> The Court : Thank you. Now, in relation to these alleged transactions that I mentioned in bullet number 1 and bullet number 2, here it says that in one particulat bank account, the equivalent of approximately one million (1,000,000) was transferred into an account classified as high risk from a bank account of a third party. Here the report does not really mention names. It does not mention countries. It does not mention companies. It just leaves the issue and deals with the issue in very vague terms. Can you please explain what this particular transaction relates to?

Witness : Yes, Your Honour, as you mentioned the FIAU report does not specify the transaction and in our reply to the FIAU we again ask the regulatory body to be specific, but from what they have said and from what they have seen, one of the transactions that we thought that they are referring to given the amount and given that they mentioned it is an Azeri PEP, it is the payment that Sahra FZCO received from their property manager company in Dubai which is three point six million (3.6m) durhams which is approximately, with the rate at the time should come around one million (1,000,000), in which we have provided the documents. And what I want to clarify is the Swift part that it is mentioned that for incoming payments, when we say Swift sanction screening or Swift screening tool, they did not even understand that, because they never worked in a bank. So they do not have any undestanding of Swift, how Swift works. So when we said that ok these they get screened into Swift, they just again vaguely said Swift programme, so you have the Swift payment platform and they you have Swift screening, sanction screening that screens all the payments with the sanctions list, ... sanction list, EU sanction list, anything, anything that for Swift it is... For us it is like global, that they have the screening tool. Now the documentary evidence on that it is first of all it is in the platform that we use. But again it is in the Swift itself, but you have to be able to read the Swift fields. If you do not read the Swift fields then they are like ok they have done the screening but there is no documentary evidence. No, the documentary evidence A is in the Swift sanction screen, the platform that we have with Compliance Level 1, Compliance Level 2 that we have. And it is in the Swift itself in the field of the Swift that you see screening information 'A Ok' meaning automatically release, that they did not find anythingrong with this payment and then it was released and booked in our sytem. But you have to be able to go through so each fields this means something, so you have the ordering customer, you have the beneficiary, you have the intermediary bank, you have the bics. So anything that we send and we receive it is unique to this bic PLTSMTMT. But you have to be able to read that when you say that ok they said Swift programme is there but there is no documentary evidence, if you have seen this and you are like ok this is just a payment confirmation you do not pay attention Field 433, screening information 'A ok' meaning automatically released, then we have a problem.

Supt. Abdilla : That is because what you have already mentioned previously in your previous testimony is that the Swift screening process is an automatic system whereby each payment is screened through a list of sources, like the UN sanction list, the EU sanction list, the US sanction list. And this process is done, so just one clarification, so this process is done automatically by Swift upon the process. It is not in that one week which you said that every incoming transaction you have one week whereby you check the transaction yourself.

Witness : No, no, this is every single incoming automatically. Every single

incoming payments that come to the bank goes through a Swift sanction screening tool. Every single, so

The Court : Every transaction generates that report there.

Witness : Exactly. So you have to go to TAS. TAS is the protal, so we create a contract in our core banking system Oracle Flexcube that gets pushed to TAS, then from TAS goes to sanction screening first, because Swift does not want to get hit by a payment that is related to a designated person if that person is on any black list. So it goes there. If it is ok then it release on the other end as well. When it comes they want to make sure, they want to make sure the banks, they want to safeguard themselves, they use that tool that is provided. This is the screening tool, not the execution. The execution it goes to TAS for every single dime, whether it is one euro (€1) or twenty million euro (€20,000,000) it goes through TAS and you can go and see every single and outcoming that is tied to our big number.

Supt. Abdilla : This sanction screening is provided by Swift directly?

Witness : By Swift, by Swift.

Supt. Abdilla : And is this automatic to all banks? Or you chose to take this maybe add-on from Swift?

Witness : No, no, you have to subscribe to it. It is a subscription. I do not know, I mean I talk on behalf of Pilatus, all the banks I do not know but I think that everybody in their right mind they use it to safeguard themselves.

The Court : Ok.

Supt. Abdilla : So do you have the transactions themselves?

Witness : So I have the statements, I brought the statements. I brought the Swift with the screening information, Field 433, so these are the true is these are the ones proviously that they provided. So this is th, when we archive them it changes. So this is from the archive, ok it condenses it, so I do not know. But this it the actual one that we have. So these are the supporting documents fro the rental that they received, because the UBOs they have properties. These are the lists of tenenats with the amounts that they received. So, and also my logs are here as well. And also we have also sample title deed as well for the villas, that it belongs to the UBOs with this. And this is the account statement again. Now the other one Your Honour, if you allow me to continue,

Supt. Abdilla : Can I ask you something please?

Witness : Yes.

Supt. Abdilla : You highlighted two transactions.

Witness : Yes.

Supt. Abidlla : What if I tell you that there were three transactions?

Witness : This is, again as I said, becuase they did not specify, we think they referred to this third party with the amounnt. There are more transactions from the same party because that party is property manager of that company.

Supt. Abdilla : So technically that one million (1m) that is referred

Witness : We think it is that one with the date. But they are not specifying.

The Court : So when you received that report about that one million (1m) they did not discuss with you about this particular one million transactions?

Witness : With me no, they did not discuss it.

The Court : So you just technicaly had to guess because it could be any two (2) transactions from, any other transaction from any other PEP for that amount. Why have you specifically selected think that it is from Sahra FZCO they they are talking about there. I believe that they are not the only PEP you have, right?

Witness : No, no, no, but what they are saying is that, if you read, what we thought they are referring to, because they said the same third party provided transfers to the PEP accounts. So Merk is the property Manager of these two relationships, the two Azeri PEP. So if you read the report, the report says that the same third party, because they do not receive from third parties. The third party, well what we thought they were referring to is their property manager that they recieved these funds.

Supt. Abdilla : Ok.

Witness : Because if you read the report that I put for you they are saying that it is appoximately one milliom (1,000,000) then the same party sends same third party.

The Court : "This third party made a number of other significant deposits to different bank accounts pertaining to companies owned by the same UBOs." So

Witness : Same PEP. So we have that in that the same company Merk they made payments to other, they distributed rental incomes to other PEP accounts. That is why our mind went there, but again FIAU is to confirm that.

The Court : Well I guess they would be in a position to confirm that at least.

Witness : But from the trend that we saw we thought ok they are referring to that.

The Court : Ok, probably they are referring to that transaction. Ok.

Supt. Abdilla : I think that they may be referring to some other three (3) transactions because ok it is today's rate of exchange, but I do not beleive that in two (2) years the rate of exchange changed much. But these two transactions together make up five point four million (5.4m) Emirati dirhan and that would make it one point four seven million dollars ($1.47m). So most probably they are referring,

The Court : Here it says 'equivalent of approximately one million euro (€1,000,000)'

Witness : So the three point six (3.6) should come around one million USD ($1,000,000) so because the rate is pegged, so it is three point six seven (3.673). So that is around one million USD ($1,000,000) which they put probably approximately one million euro (€1,000,000).

The Court : So essentially these statement of accounts and the supporting documents that you are exhibitng relate to what you think are the transactions that the FIAU had in mind when they drew up this report. Now this has to be verified eventually by the Police with FIAU. Perhaps we would have to come back to this again. Now in relation to the second payment, the five zero five thousand euro (€505,000).

Witness : So, for that, again since they did not specify, we believe or we think that they were referring to a loan payment between one of our clients with his friend, that they actually entered into a verbal agrement that for our client to advance funds to his friend. And then they had an assignment that the client assigned it to one of his legal entities. So we again in our letter we said we believe you are referring to this, which again I brought supporting doucuments that we have the contract which refers to the verbal agreement, because that is why the verbal agreement, we thought that the handshake is referring to the verbal agreement. That if two friends that have been together since college, he advanced money to him. Obviously they had a verbal agreement. Once he assigned it to his corporate, to one of his corporate entities, then they have the loan agreement with the source of funds that actually this was relating to purchase of a property. So he gave him money for him to buy a property in the States and then he sold that property and then he settled his debt. So I brought the settlement statement, the loan agreement and based on the supporting documents for the loan agreement. So I will give you this and then there is another thing here that I want to show regarding the screening as well, that, so we have again 'A Ok' which automatically released. This is again 'A Ok' automatically released. Then we have FPO. FPO means false positive. Sometimes the system flags the street name or something. But then you go, by you I mean the Compliance that is the Department which is responsible for that. They go and they check that Ok it is not against the

sanction list, it is a false positive. So I brought these as well and I can leave it to you.

Supt. Abdilla : So a false positive would have to be released let us say manually.

Witness : Manually. They have to go and check that soemthing is in the Swift sanction screening. Then you have to go and check that if there is, if it is a valid flag or no it is a false positive. It picked up a street name or whatever that it picked up. Then you have

Supt. Abdilla : Or a person with the same name for example

Witness : Yes, with the same name or anything. I mean it is a false positive. So then the system quotes it as a false positive.

Supt. Abdilla : And in that case, in case of a false positive, would you log that in TAS for a Swift to have a record that it was manually released as a false positive.

Witness : Yes, yes, there is. There is, because it goes to Compliance level 1, and then they have to go and they have to look into it.

Supt. Abdilla : Yes but the result, the end result of this manual exercise by Compliance would it then be reflected in the TAS? So like if the TAS through Swift, through the screening process would give you this person might be that person, and you check and you say listen this is a person which has the same name of a person which is in the UN sanction list, would you have to tick something? Would you have to write something for Swift to have some piece of mind that the bank has checked and there is a record and the bank checked withing the Swift system?

Witness : That I think is best if you checked with the Compliance Team, because for the segregation of duties obviously I do not have access to that. So how they do that I am not the right person to answer that.

The Court : So, however, in so far as these transactions are concerned, this is Hereti Hodlings Limited. So one is Sahra and this is Hereti Holdings Limited.

Supt. Abdilla : Can we know for those two persons who are the UBO's?

Witness : For Sahra it is Mrs Arzu Aliyeva and Mrs Leyla Aliyeva, jointly fifty fifty. Hereti's, to the best of my recollection is owned only by Mr Nijad Heydarov solely. So he is the shareholder. Mr Nijad Hejdarov.

The Court : So these payments that were mentioned here do not relate to any maltese PEP. They relate only to Azeri PEP. Am I right?

Witness : Yes Your Honour.

Supt. Abdilla : And as far as you are aware and as we have already asked you this

question a million times, all transactions, the bank processes pass through Swift.

Witness : Yes. Absolutely. TAS, goes to TAS and then Swift yes., every dingle time. Even when we pay for our own services, if Swift subscription for example, Blomberg subscription, every single dime is recorded.

The Court : Ok. And whenever you use TAS I presume that you use it concurrently with Flexcube.

Witness : Absolutely. And then you have for every transaction you have maker and checker that who actually made the contract, who checked the contract. And then if it is based on the grids that we have above, if I recall correctly, five hundred thosuand (500,000) it goes to the CEO. So then you need, you have a releaser. So you have basically the ID of the person who has done this as well.

The Court : Ok. And there is no way that you can buy by-pass Flexcube for exmample?

Witness : Absolutely not.

The Court : And make payments through TAS or any other platform apart from

Witness : Any payment that you make is recorded in TAS. You cannot by-pass. If it is an electronic transfer that is number one. Number two is that I have to go through a correpsondent abnk. I cannot send money directly anywhere in the world. Even if I want to send money to HSBC Malta I have to go through a correspondent bank. So I have Nostro accounts that they call Vostro accounts and every single dime that has to be sent it has to be debited. The same way, think of it as this, that you have an account, if you want to make a payment you have to go through your bank. So a bank who wants to make a payment has to go through his correspondent. So it is recorded there and then it that Swift you see which correpsondent was used. So I mentioned our BIC. Then you see the BIC of Société Générale. You see the BIC of BOV. You have the list, we have provided the list of our correspondents and all of that. So you can see which correspondent was used.

The Court : Do you have the list of correspondent banks? You do. Ok.

Supt. Abdilla : Your Honour, I believe it was marked and marked all over again.

The Court : Just for Mr Gambari to go through them and check whether they are correct.

Witness : Oh yes. There is Bank of Valletta, DZ Bank,

Supt. Abdilla : The ones marked in light pink?

Witness : Yes, correpsondent money markets. Yes, some of them they do not

clear money, so even it is easier because the ones that they clear money it is less than the actual money market

Supt. Abdilla : Just confirm, some other witness, apart from marking the correspondent banks, because this list has correspondence, investment and counterparts, for the correspondence banks he marked them with a 'No' and even marked for which currency you use them.

Witness : The other think is best if you provide me with the list, so we can actually provide you with the list that ok these... So the main ones are Bank of Valletta, Société Générale and DZ. USDs only DZ now. Since inception it was BOV and WGZ. Then WGZ they stopped, actually we had at the beginning we had I think there was Turkish bank that was doing that but immediately they stopped because with USd there is so much sensitivity that everything has to go to New York. Forget about my correspondent in Germany, my correspondent has to go to New York, JP Morgan Chase, Bank of New York, Mellon, Citi Bank, these are the usual suspects. So every single USD transaction has to go to New York, get cleared from New York, go to the beneficiary. So they call this a U-turn transaction because you make a U. And this point, this guy here the banks in New York. So I cannot make any payment without going to my correspondent. Then my correspondent has to go to their joint clearing house. So the clearing business is pretty much a monopoly of a handful of banks, the big banks, the major banks, especially when it comes to USD.

Supt. Abdilla : Can you explain to us a little bit the BIP?

Witness : Yes.

Supt. Abdilla : How is it used in your bank?

Witness : BIP is a reporting tool, so we issue reports, client lists, any report that we want to extract from Flexcube they issue BIP reports. So incoming funds, outgoing funds, list of clients, all of that.

Supt. Abdilla : Is it an add-on to Flexcube? Or is it a different stand-alone system?

Witness : No, no, it is, as far as I know, but again the CEO is, when it comes to the details, is better than me. But it is a reporting tool that we extract reports, BIP reports.

Supt. Abdilla : Yes, but is it like TAS, where you have this third company providing the interphase with Swift? Or is it an add-on that could be, that you could buy through

Witness : No, no, it is part of Oracle Flexcube. So it is just generating reports.

Supt. Abdilla : It is part of Flexcube.

Witness : It generates reports for us, to the best of my knowledge.

Supt. Abdilla : As far as you know who decided in your bank to opt for Flexcube? And why? And who decided to opt for TAS rather than any other system and why if you know?

Witness : Again, as far as I know at the beginning when the bank in the set-up process after receiving the license obviously the CEO at that time with the Board, with the supervision of the Board, they, I believe that they received various quotations. If I recall correctly and then Oracle Flexcube was the best and the most expensive at the time, core banking system. So they decided that ok if we want to do this let us just do it, let us have the infrastructure ready from day one, let us go for something... we are not going to use it today, today we do not use it the way big banks they really ... to its capacity, but we said that ok as in a new bank let us have something that is the best in the market. And now BOV when they migrated to Oracle Flexcube so now their core banking system, Oracle came here, they signed a contract and now BOV is migrating from whatever their core banking system was to Flexcube, because again it was like the best so let us go with the best again.

Supt. Abdilla : And for TAS?

Witness : The same, TAS is, as far as I know is because we do have, it allows us to connect with Swift because we do not have that much of volume. So it does not make sense for us to be directly connected to Swift. Again these decisions were made prior me becoming the CEO.

The Court : But is it possible to use TAS to effect payments that would not, in such a way that the transactions would not be recorded in Flexcube? Is it possible?

Witness : Any you create, that again I think you have to refer that the CEO because when it comes to technicality he is better experienced than me. But every single payment, every single dime has to go through TAS which then go to Swift. From Flexcube you cannot make a payment. From Flexcube itself

The Court : You can despatch an order for payment.

Witness : You create a contract but you cannot make a payment. It has to be released to TAS because TAS connects you to Swift and then from Swift you go on.

The Court : So, but can you by-pass Flexcube in such a way as to effect a payment directly through TAS without it being recorded on Flexcube? Perhaps this is theoretical, but I would like to have a

Witness : That I do not know. If again it is a fraud question if you can by-pass, if again if you by-pass Flexcube it is one thing, but you have to go to TAS. So if you

made a payment it is recorded in TAS no matter what. And then you can go and check TAS. From Flexcube you cannot.

Supt. Abdilla : So technically you cannot by-pass the correspondent bank?

Witness : No. And you cannot by-pass TAS. You need the two. You need the means to actually send it. So if you somehow defraud Flexcube

Supt. Abdilla : It is not a question of defraud, it is a question of like for example if one day your Flexcube for some reason or another is down, and you need to send an urgent payment just the same, whether it would be possible to process that payment in TAS and then afterwards when the system is up and running again you record that transfer back on Flexcube?

Witness : That I do not know that, I cannot answer that. What I answer is that any payment, asingle payment again going back whether it is one euro (€1) or hundred million euro (€100m) has to go through TAS, it is recorded in TAS, it is searchable in TAS, you can go to TAS, you can search it, and then when it is created and it goes to Swift sends the message to correspondent banks. So it is impossible for the bank to make a payment without TAS, without debiting its Nostro accounts with any bank that you can see in the Swift, that is Société Générale, whoever that we have a relationship with, DZ Bank, Société Général, BOV and all of that. So I have to go as an individual if I want to make my rent I have to go to my bank and then make that payment. In this they debit my Nostro account that I have, ok five million (5m), ten million (10m) whatever that I have. They grab that, they debit that, they send it to the correspondent bank of the beneficiary bank and then the beneficiary bank receives the payment.

The Court : However, in your bank, apart from TAS, do you have any other programme or platform through which you can effect payments?

Witness : No.

The Court : No. So it is just TAS.

Witness : TAS.

The Court : So it is Flexcube plus TAS.

Witness : Flexcube you create accounts and then you push it to TAS goes to Swift sanction screening. And then TAS, from TAS creates the message to Swift and then from Swift it goes out.

The Court : I think that was clear. Anything else from Mr Gambari please.

Supt. Abdilla : That is all.

The Court : Thank you so much.

Ix-xiehda ta' Luis Felipe Rivera

Luis Felipe Rivera huwa bankier bi professjoni u jaħdem mal-Bank Pilatus bħala *Chief Operating Officer*. Kien beda bħala *Chief Information Officer*

> My official start with the bank was as Chief Information Officer. So I was involved in implementing the Core Banking Systems, configuration of systems, internet banking for clients and I grew into Chief Operating Officer overseeing and implementing processes for the bank, cross-functional processes from processing of the payments to openening of accounts, to implementing the systems to support those activites and effecting better internal controls, risk management as well as, I also operate as part of an Executive Director on the Board having intimate, I guess, access in support about the operational systems with the bank.
>
> The Court : Ok. How long have you been working for this bank?
>
> Witness : Three (3) years. I mean this is our fourth (4) year operating. It is less than three (3) years technically, cause I had to have a PQ approved, but I did do consulting in the beginning during the initial set-up of the bank while my professional qualification was being approved by the MFSA.

Huwa akkademikament kwalifikat bħala *Bachelor* fl-*Engineering* u għandu *Masters* fir-*Real Estate Development and Finance*. Ilu jaħdem ma Ali Sadr minn żmien li kienu jistudjaw flimkien u għamlu l-*Masters* flimkien. Kien għamel żmien jaħdem bħala *IT management consultant* għal *British Petroleum CIO* fil-*Gulf of Mexico*. Dan wara li huwa tgħallem waħdu jħaddem *IT systems* iżda imbagħad attenda korsijiet u ottjena ċertifikati għal *project management*,

systems architecture eċċetra. Mistoqsi jispjega sistemi li juża l-Bank Pilatus għall-fini tal-operazzjonijiet bankarji tiegħu, Luis Felipe Rivera jgħid hekk -

Witness : So I guess high-level architect to the bank as operation support systems, and then the core banking system. Core banking system is our accounting system of records, it is where we mantain balances, manage accounts, post accounting GLs, revaluations of the regulatory stuff that we have to do, keep track of balances, what manages the whole process of the core banking system. We affect the payment from there, we open an account there, the actual client accounts are connected to Swift are all originating from that system. And then in addition to supplement that you have supporting documentation and internal document which we manage through other operational systems.

Supt. Abdilla : So about the core banking system can you tell us what type of system you use if you were involved in the purchase of it? Whether it is an off the shelf system? Whether it is tailor-made for you?

Witness : So this is one of the top three to five, it depends on who you look at and who is selling it, core banking systems in the world, significant investement in the beginning, but it is a core banking system meant for scalability developed by CitiBank Salt Oracle from the ground up architected with validation and all the things that you really need in place to make sure that that scent isn't off, all the validation that goes on in the back and in the database and all that. At its core it is structured with the concept of the Fori principle which is no one thing can be done in the system without another person doing it to prevent internal fraud to prevent me, I do not even have super-admin access. That does not exist in our core banking system except for one user, and that user is locked away for emergency situations in the safe with a code that I do not know. Half a code is know by somebody else and the other half is known by the Head of Legal. And the key to IT room is held by somebody else. So that user, and that user still cannot make a straight-through payment by itself. That is just in the core banking system. I do not want to go too far in the technical piece. I think I already mentioned that we use a Swift service bureau, we have sanctioned screening releases that we have to do as well. So at a minimum there are two people I need to do anything in the core banking system. If I am going to change a password, if I want to add a new type of fund transfer product, if I am going to move a label, it takes two people to first make the change, and then another person to review the change depending on the activity, they will re-key certain values to affect the payment or just authorise the change.

Supt. Abdilla : So the system I believe is called,

Witness : Oracle FlexCube.

Supt. Abdilla : FlexCube.

Witness : Yes. We are whirling on 12.02 which was the latest flavour in end of two thousand thirteen (2013) or early two thousand fourteen (2014).

Supt. Abdilla : You were saying that it is effectively an off the shelf, right?

Witness : Off the shelf product that is sold directly to banks. So.

Supt. Abdilla : And you were telling me also last time that we were speaking that this is a system that is even Bank of Valletta will be operating,

Witness : So Bank of Valletta they operate, they built their core banking piecemeal throughout their years of operating and they actually awarded a giant contract to Oracle to move fully to Oracle Flexcube. This is the system that we are using.

Supt. Abdilla : Can you tell us who the agent for it is?

Witness : Gerard Mahoney, he is the, I guess, the product, in our account, manager with Oracle

Supt. Abdilla : No, not from your bank.

Witness : Oh, sorry.

Supt. Abdilla : If we had to go to who supplies that Oracle directly?

Witness : Oracle you can buy it directly from Oracle or through a partner.

Supt. Abdilla : Ok.

Witness : We purchased directly with Oracle.

Supt. Abdilla : Ok. From the States?

Witness : No, no, from Oracle, their representative office in Milan I think.

Supt. Abdilla : In Milan.

Witness : Yes.

Supt. Abdilla : Ok. So effectively Swift system is integrated in it? Or is it patched in it?

Witness : So high-level Swift is kind of like an address book of all the banks globally in a network. It is like an address book with a network kind of tied in, so, in three ways. So when you make a payment you need to connect to that network, I can

connect Flexcube directly through a very expensive, technical connection which I, that is our business is not IT, we want to focus on banking. So we use use a Swift service bureau called Tas, and this service bureau they provide that technical connection into Swift alliance and they mantain that, because they change role books and XML requirements, all those kind of things very frequently. So to minimise my investement in having to re-change my production systems we integrate once with this Tas, we send them one file format, they take that message, they translate it into Swift message format which is ... filed 56A, it is the originating instituition, 56B is the address first line, second line. So they have structure, a common structure, they take our core banking system, you literally key in who is the beneficiary, who is the remittor, the amount, the debit, the credit, all that stuff. You save those to another person, they review it, they re-key in some values. They authorise the payment. It goes to this gateway. That gateway transforms that message into Swift language effectively. Tas from there, somebody goes there is level 1, level 2, and level 3 review. If it originates from the core banking system it goes to level 3 review and released by a Compliance officer just to mitigate internal fraud. So if someone did, if two people decided to corraborate internally in the Operations Department, that payment would have to be released by somebody in Complinace who is looking at instruction that we follwed all the internal checklist that we have, that we have done call-backs as a kind of sanity checks, also to make sure that it is not internal collaboration. So you release it from there after which it goes through a screening tool called Swift Sanction screening, where we screen a hundred plus (100+) sanction list globally. That payment when it goes out has hits the sanctions screening tool. We have a very high threshold set on it. So a lot of them get a false positive grabbed, but for us we use that also as an additional sixth, or seventh or eighth I principle if you say to make sure that the payment is a good clean payment. And all of this kind of comes from our more conservative model to make sure that we are treating our clients with our most, I think, respect, and making sure that they are not sending payments that they should not be sending, and that we treat their payments, that we check the payments and complied all our international regulatory requirements. So that is screening all check lists, EU lists, US lists, Black lists that we can set for certain people. And from that it gets released into Swift, that payment then hits a correspondent of ours. They screen the payment, then they make the payment from that to the beneficiares' correspondent ultimately, unless there is FX involved, which it goes through probably in another couple of two banks depending on who is doing clearing for what currency, and then that payment ultimately lands into beneficiaries account, after having been screened probably anywhere from four to five, to six, seven times depending on the currency.

Fil-bidu kienu jżommu l-informazzjoni bħal email eċċetra fuq *plain file server* maqsumin *f'folders*. Wara minħabba li żdiedu l-ammont t'impjegati daħlu s-sistema *Sharepoint Document and Management System.*

> We have migrated to what is called Sharepoint and Document Management System, and over this year have been implementing further controls to our bank to better manage and digitaze kind of the banking compliance piece of it. So we have, at the bank we have a concept called Responsible Innovation where we feel that we should not be competing with Fintech firms for like making the payment faster. For us what is slowing a payment down is the compliance piece of it. So my, I guess, internal kind of goal is to build an internal process, give the tools to my compliance team so that they have access to KYC data, that I have the right risk rules and things like that. So if the payment if above a certain treshold it always goes through two or three levels of compliance. So that system we are in the process of implementing to improve our existing very manual process which is a little onerous, but for us it gives us the peace of mind that we are doing clean payments. So, and that, full cards on the table, all the transactions that you are reviewing at the bank you will see a cover list where it will show copied instruction from the client, what date and time, two people do call backs on our payments to make sure that it was not a fake payment that somebody just emailed using their email account. So we call them on an electronic indemnity number, that it is meant through the Compliance, that we have documented the purpose of the transaction, that we have the supporting documents, that we have run the name checks both from, we have done up-dated name check on our client as well as those who are receiving those funds. We do those checks both, Compliance does the compliance checks at the end of the day Operations is given to execute. So, my team takes that for sanity, they review, they make sure that, you know, that Compliance officers have signed off on it, they the recording was made, that there are funds in the account, and all those kind of operational checks. And then we go through our maker checker process to actually execute the payment.

Qegħdin jiżviluppaw mobile app jisimha *ARCS* li hija mezz aktar sikur għalbiex il-klijenti jagħmlu kuntatt mal-Bank Pilatus minflok jkomplu jirrikorru għall-*email*, peress li l-*email* mhux mezz sikur għal skambju t'informazzjoni kunfidenzjali. Din is-sistema tkun *encrypted*. Din imbagħad

tkun użata bħala parti mill-*Cloud Services*. Inoltre biex ikomplu jnaqsu r-riskju ta' serq ta' data sensittiva tal-klijenti tagħhom trasferew l-*emails* tagħhom fuq *Office 365* u dan peress li l-*IT setup* tal-*Microsoft* huwa eċċellenti. Għandhom tliet *disaster recovery sites* differenti fl-*EU* u għalhekk din hija *data centre* tajba ħafna għall-iskopijiet tagħhom.

Minn naħa tiegħu Luis Felipe Rivera ftit li xejn ikollu kuntatt mal-klijenti. Hu mhux *relationship manager*. Għalkemm huwa jkun jaf min huma l-klijenti tal-Bank Pilatus u jkun ukoll kopjat bil-korrispondenza tal-klijenti jew pagamenti iżda hu ma jkunx jaf min huma l-klijenti għax ma jkollux kuntatt magħhom.

Dan ix-xhud jikkonferma li huwa jaf min hi Negarin Sadr, kif ukoll jaf li Keith Schembri kien klijent purament minħabba l-*FIAU* report. Huwa kkonferma li Joseph Muscat u Michelle Muscat u l-familja tagħhom huwa qatt ma ra xejn dwarhom fil-Bank Pilatus.

Luis Felipe Rivera qal li huwa litteralment impossibbli li xi ħadd iħassar informazzjoni minn fuq il-*Flexcube* mingħajr ma titħalla traċċa. Dan minħabba l-mod ta' kif dan is-*software* huwa arkitettat li ma jippermetti xejn milli jisparixxi minn fuq is-sistema.

Witness : No, so deletion is the wrong word. So nothing disappears in a core banking system. There account is either active or closed. So if I open an account for a client and I no longer want them as a client, I do not delete them, right.

Supt. Abdilla : But technically can they?

Witness : No, no, you cannot delete them. I mean you can delete them if you take my database and throw it in the ocean. But I mean, you can go and you can hack in there and try to delete a record, but the system, we also have an additional protection called Advanced Security, that Oracle provides that audits and logs every activity. I remember I kind of made an intial fuss about opening the envelopes because when you open those envelopes and I show you the password I know I have to shut all my systems down, reset the password and restting the password that is the system password, it is the password that I use for the core banking to communicate with the core database. So that process I have done it once and it was ... Advanced Security ..., in order to even better encrypt and provide other third outside access for my core banking in case I had some hacking attempt. So they even if they got my database the would not be able to decrypt it. You would have to use Flexcube to read that data. I mean natively, and this is something that happened, that came up on site when initially "Can I have a snapshot of your system?" I mean I called my applications support and kind of laughed, becuase it is like even though you do not have encryption, encryption at rest enabled on your database it is incredibly hard to read the data because of all the validation and the way that they put the data in the system. So going back to what I was saying, this system is architected in the way that any modifications are traceable in an audit log, and with this new tool we have implemented it provides even further ... So now my applications ... even if he ever logs in, even just to look at something it is there. If he tries to write something it is there, if he tries to delete something it is there. And part of, half of my job is being auditor as a bank, both by external auditors, internal auditors, MFSA as they did their first on site inspection. Part of that is a technical audit where they log in and they review logs, they make sure that I am doing a regular review of these logs, and that I have the proper controls and checks in place so that these kind of things do not happen.

Mistoqsi dwar l-allegazzjoni tad-*declarations of trust* li kienu jinstabu fil-Bank Pilatus, ix-xhud wieġeb li klijent qabel xejn irid jimla *account opening form* li tkun analizzata internament, *scanned* u *uploaded* fid-*document management*.

Imbagħad jgħaddu biex jużaw dan id-dokument meta jiġu biex jifthu *account* fuq il-*core banking system*.

Jekk dan id-dokument kien jeżisti, ried ikun ukoll reġistrat fuq is-sistema bankarja tagħhom. Jekk ma jkunx fil-*core banking system* imbagħad ma jkunx jista' jiġi rifless fil-*balance sheet*...

> I do not have the money to pay from or to, or like there is no, our system is the one place where you kind of originate everything. You have to have an account number, you have to have an IBAN, my system keeps track of IBANs. So if my system does not create an IBAN for that account the money does not get there, the money cannot; it is like me giving an address, you know you have House 10, House 12, House 15, and I tell you that I want to send it to House 11 which does not exist. Effectively if I do not give you an IBAN money never gets to an account. So the only way you generate that IBAN is throught the system and the system has a specific algorithm with check digits and all sorts of things that is mandated by Swift and the Swift Bureau who issues these structured IBANs with your Swift code like PLTSMTMT which is ours, which is in part of that IBAN. So if you want to make a ... payment or a Swift payment or any kind of payment you need that IBAN, and without my system you cannot generate that IBAN and you cannot pay another bank without an IBAN, you know. I can send now, I can for treasury management purposes send money to a bank, but that is a completely different Swift message, that is a Swift 200 message, where that is a bank to bank message. In fact my Nostra accounts that I hold with Société Générale and DZ and other of my correspondents when I have say ten million here and am about to break, I receive a large incoming and regulatory-wise I am not allowed to exceed eleven million, so if it goes over eleven million I have to take the overage and move it to another Nostra account that I am holding with another bank. And that is sent through a 200 message, and they do not use IBAN specifically because you give IBANs to customers' accounts only, with very very very very slim exceptions for like Master card settlement payments. But as MT 103 requires an IBAN, I mean my correspondents will reject the payment if I put the address in 52B instead of 52C. I mean it is that structured of a format.
>
> Supt. Abdilla : I know because I used to work at the bank and even if you mistakenly change an I to an E, or else you remove a space, immediately the payment gets rejected or returned.

Witness : Now, so we do, so basically what Operations kind of initial responsibility is taking hard document like an account opening, creating a client number and then creating a current account and assign them to that number. If we want to make a payment they send us a hard copy or we scan that, and once it has gone through the Compliance process and there have been the signatures and the validations, the call backs everything, we receive a completed package, we review it for completeness, and we have to key that into the core banking system. There is no take this and just make a payment with it. Just you need a system to connect to Swift. And to connect to Swift you have to have security tokens and certificates installed on your machine because they do not just take any message. I cannot go to my iphone and make a Swift payment, you know, Swift has to physically provision me a token that only works on this machine and that this machine once it is initialized, it takes my hardware that is on there and it creates a special key and it says "This is your key." If you take the hard drive out you cannot use this key.

Supt. Abdilla : You cannot even sometimes change a machine, a computer because it is faulty, without informing and going through –

Witness : Exactly. There is a whole change management process I guess behind that.

Mistoqsi fir-rigward tas-*safe* fil-Bank Pilatus, Luis Felipe Rivera jgħid li l-Bank Pilatus għandu *safe* li qiegħed fl-*IT room*. Dan is-*safe* huwa żgħir, għandu kodiċi speċjali u l-*IT room* innifisha għandha aċċess kontrollat minnu u minn nies tal-IT, filwaqt li dawk li għandhom il-kodiċi huma l-*Head of Legal* u l-*Head of Operations* jew l-*Operations Supervisor*. Dak huwa l-uniku *safe* li jaf bih dan ix-xhud.

<u>It-tieni deposizzjoni ta' Luis Felipe Rivera</u>

Luis Felipe Rivera qal li l-*BIP* huwa *Business Information Publisher* u huwa *application* li hija maħsuba biss biex tipproduċi rapporti direttament mid-*database* tal-*Flexcube* u biha ma tistax tagħmel jew tipproċessa pagamenti. *BIP* huwa biss *reporting tool*. *BIP* huwa separat mill-*Oracle Flexcube*.

Il-*Flexcube* huwa maqsum f'żewġ partijiet – il-parti li hija l-*Oracle database* u li tiġi wżata mill-*Operations Department* sabiex ikun jista jsir *keying in* ta' data, pagamenti, u l-*accounting entries* kollha. Imbagħad hemm il-*Flexcube direct banking* li huwa forma t'*internet banking site* fejn il-klijenti jkunu jistgħu jaraw il-bilanċi tal-kontijiet tagħhom u t-transazzjonijiet li jkunu għamlu direttament mill-internet. Biss huma ma jistgħux jagħmlu transazzjonijiet mill-*Flexcube direct banking*.

Mistoqsi dwar jekk *BIP* jistax ikun użat ukoll biex jiġu ġenerati *debit advices* minn kont ta' klijent fil-Bank Pilatus għal kont ta' klijent ieħor fil-Bank Pilatus Luis Felipe Rivera stqarr li meta kont jiġi debitat, dan dejjem irid isir fil-*Flexcube* sabiex it-transazzjoni tkun reġistrata fuq il-kont tal-klijent partikolari. Biss imbagħad jintuża l-*BIP* biex tiġi prodotta d-*debit advice* permezz ta' PDF file li jista' jiġi stampat u mogħti lill-klijent.

Mistoqsi dwar jekk kienx minnu li l-*istatements* tal-kontijiet kienux jiġu magħmula manwalment għal ċerti klijenti, Rivera jgħid li hu ma jafx li dawn kienu jsiru hekk u hu qatt ma għamel din il-proċedura jew ra lil xi ħadd jagħmilha. Mill-banda l-oħra għas-*securities*, is-sitwazzjoni kienet differenti in kwantu l-*BIP* mhux konness mal-*interactive brokers account*. Għall-investimenti simili huwa minnu li jsiru *statements* manwali. Ikunu tal-*Operations Department* li jagħmlu dawn l-*istatements* manwalment u dawn kien jagħmilhom Mehmet Tasli. Hu jaraha ftit stramba li dawn l-istatements kienu jsiru manwalment; iżda fi kwalunkwe każ jekk dawn saru riedu jkunu almenu saved jew fl-*email* tal-klijent jew fil-*folder* tal-klijent.

Luis Felipe Rivera jgħid li Linet Estiroti kienet taħdem ma *Pilatus Capital Limited* u mhux mal-Bank Pilatus. *Pilatus Capital* kienet użata bħala *Front Office Relationship Management*. Hamidreza Ghanbari jaf dwarha.

Ix-xiehda ta' Brenda Calleja Smith

Brenda Calleja Smith daħlet taħdem mal-Bank Pilatus bħala *Accountant, Finance and Compliance* bejn id-29 ta' Jannar 2014 u l-14 t'Awissu 2014. Dak iż-żmien kienu jmexxu l-Bank Pilatus Ali Sadr (bħala *Chairman*) u Ekmel

Cilingir (bħala *CEO*). Kienu għadhom 4 persuni biss. Kienu kważi *pre-operations*. Brenda Calleja Smith kienet ħadet ħsieb il-kuntatti mal-*MFSA* u mal-*VAT Department* sabiex il-Bank Pilatus setgħa jibda' jopera. Dwar il-liċenzja li kienet mogħtija lil Bank Pilatus, tgħid hekk -

> Le, set-up fil-fatt kienet licenzja moghtija lil non-banking group, jigifieri dan kien individwu li kien miljunarju, sa fejn naf jien, u li kellu kumpanija Asset Management go Switzerland. Però banking background zgur li ma kienx hemm. Issa wiehed jghid, kif tghid, jekk Malta hijiex f'pozizzjoni li taghti licenzji lil, jiena jidhirli li issa rrivedew dik il-policy bhala MFSA u ma ghadhiex tohrog licenzji lill-kumpaniji jew individwi, jew anke kumpaniji ghax inti sahansitra jista' jkollok kumpanija multi-national, imma jekk ma hijiex a banking group m'ghadnekx dal il-qafas, qed tifhem, so... Jien jidhirli li issa dik il-policy bidluha. Ma nistax nghid li minhabba l-Pilatus ghaliex hawn banek ohra li kienu fethu u ma kellhomx banking group background jigifieri.

Il-Bank Pilatus kellu *holding company* jisimha *Pilatus Holding Limited*. Ali Sadr kien l-*UBO*. Ali Sadr kellu kumpanija l-Isvizzera u kellu klijenti tiegħu hemmhekk u taħseb li dawn ġew *onboarded* mal-Bank Pilatus meta fetaħ. Dak iż-żmien ir-*Relationship Managers* kienu għadhom mhux impjegati mal-Bank Pilatus, u probabbilment kellhom xi rabta mal-kumpanija li Ali Sadr kellu fl-Isvizzera. Hi ma kienetx taf min hu Brian Tonna u fl-2014 qatt ma kienet ratu fil-Bank Pilatus. Tiftakar li John Dalli kien daħal għal xi *meeting*.

Il-*core banking system* kienet Flexcube, sistema diżenjata mill-*Oracle* u kienet diġa lesta u kienu ġew *Facilisation* mill-Albanija biex jinstallawha. Ma tafx min għażel dik is-sistema. Pero kien hemm is-*CEO* li kien ingaġġaha li kien

diġa beda jaħdem fuqha. *Flexcube* mhix *accounting system* u għalhekk hi riedet sistema biex taħdem l-*accounts* li kienet *Banking Reporting Solutions*, biex tirraporta kull xahar lir-Regolatur, lis-*Central Bank* u l-MFSA flimkien ir-returns bhalma huma l-BRO6 u CRD4. Iżżid hekk –

> U sakemm kont hemm jien din is-sistema qatt ma giet approvata. Allura jien kont qed naghmel hafna mix-xoghol manwali u hassejt li ghandi nirrizenja ghax ma kellix, il-manpower tieghi mhux bizzejjed to fulfill my obbligations vis-a-vis regulatori.

Biss l-obbligi statutorji tagħha xorta qdiethom. Dak iż-żmien ftit kien hemm klijenti u transazzjonijiet : -

> kellna xi bonds tal-Gvern u xi treasury bills u hekk. Konna qeghdin nirrekordjaw kellhom lilhom bhala assets. Jigifieri principarjament dawk kienu bhala assets. U l-interest accrued taghhom u hekk. Is-suppliers u x-xiri, accruals u pre-payments.

Brenda Calleja Smith tgħid li l-Bank Pilatus kien prova jieħu lil *Deutsche Bank* bħala *Correspondent Bank* pero dan m'aċċettax. L-anqas l-*APS* u l-*HSBC* m'aċċettaw li jiftħu kont lil Bank Pilatus. Biss il-Bank of Valletta aċċetta li joqgħod *Correspondent Bank.*

Dak iż-żmien il-klijenti kienu kollha barranin u kellhom tnejn mit-Turkija ..*"ghax huma kellhom close ties ma Turkey wkoll...Jigifieri jien kont qed nassumi li l-client base kienet se tkun aktar mit-Turkija jiena"*.

Brenda Calleja Smith tikkonferma li Linet Estiroti kienet Torka u kienet taħdem bħala assistent personali t'Ali Sadr u kienet tieħu ħsieb il-*bookings* għall-ivjaġġar u l-*hotels* tiegħu. Ali Sadr kien jiġi għall-għarrieda u ma kienx hemm strateġija. Sakemm kienet għadha taħdem fil-Bank Pilatus, l-*online system* ma kienetx għadha taħdem. Għalhekk meta klijent kien ikollu bżonn statement kienu joħorġuhielu mis-sistema u ma jagħmluhiex manwalment.

Sakemm damet taħdem hemmhekk, ma kienx hemm klijenti li kellhom rabta mal-Ażerbajġan. Keith Schembri ma kienx klijent tal-Bank Pilatus. *Egrant Inc.* ma kienetx klijent tal-Bank u qatt ma rat transazzjonijiet tagħha. Il-klijenti li kien hemm kienu sidien ta' multinazzjonali Torok iżda ma kienux *PEP*.

Ix-xhieda ta' Claude-Ann Sant Fournier

Claude-Ann Sant Fournier hija *Head of Legal Compliance Officer MLRO* tal-Bank Pilatus. Ilha hemm minn Awissu 2014. Bħala *Compliance Officer* u *MLRO* hi tara li l-impjegati jkunu trenjati mill-inqas darba fis-sena. Jekk tinbidel il-liġi jew jekk l-*FIAU* toħroġ xi *guidance* ġdida tara li l-impjegati jkunu mgħarfa biha. Hi tieħu ħsieb *AML u CFT training*. Tassigura li kull impjegat ġdid ikun jaf l-*AML* u *CMT policy* tal-Bank. Wara dan l-impjegat

jiffirma dikjarazzjoni li jkunu jafu li l-*MLRO* tista' tkellimhom dwar suspetti li jista' jkun hemm ta' ħasil ta' flus. Fil-prattika trid toqgħod aktar attenta għax mhux kulħadd jifhem mill-ewwel.

Bħala parti mix-xogħol tagħha fil-*Compliance Department* tagħmel analiżi tat-transazzjonijiet tal-klijenti. Il-proċedura adottata mill-Bank Pilatus fil-konfront ta' *High Net Worth Client* hija partikolari in kwantu dawn ikollhom transazzjonijiet ta' valur għoli ħafna iżda mhux ta' kuljum. Huwa għalhekk possibbli li jkollok rendikont tat-transazzjonijiet aktar faċli. Il-kontijiet tagħhom ikun partikolari bħal investimenti, jew proġetti, jew il-*fees* tal-avukati, jew il-*fees* tal-*Big 4 firms*, eċċetra.

Qabel joħroġ il-pagament, il-Bank Pilatus janalizza t-transazzjoni li jkun mitlub jagħmel għan-nom tal-klijent, u jitolbu lill-klijent jispjegalhom, bosta drabi b'dokumentazzjoni sabiex isostni din it-transazzjoni. Eżempju – jekk klijenti jgħid li jrid jagħmel pagament lil Nutar, huma jitolbuh il-kuntratt tal-akkwist, biex ikollhom konferma li l-proprjeta tkun veru teżisti. Ir-rikjesta għal pagament tidħol fil-*Front Office*, is-*Sales Department*, għax dawk huma *Relationship Managers* li jitkellmu mal-klijenti. Dak il-pagament jiġi dokumentat u wara jgħaddi fid-Dipartiment tagħha. Claude-Ann Sant Fournier għandha nies jaħdmu magħha li xogħolhom huwa li jagħrblu l-pagament sabiex jaraw min se jibgħat il-flus, min se jirċievi l-flus, l-ammont

kemm hu u r-raġuni għaliex ikun se jsir dan il-pagament. Jagħmlu wkoll *Dow Jones* u *Google search* fuq il-partijiet u jaraw li d-dokument li jkun ġie provdut biex isostni t-transazzjoni ikun jagħmel sens. Fil-*Compliance Department* ghandha żewġ avukati li janalizzaw il-kuntratti. Hemm ukoll persuna trenjata fil-*Compliance*. Meta jkunu komdi bil-pagament, jiffirmaw il-konferma tagħhom u javżaw il-*Front Office* li l-pagament ikun jista' jsir. Il-*Front Office* jghaddu d-dokumenti lill-*Operations Department* li jagħmlu *keying in* tad-dettalji tat-transazzjoni. F'dak l-istadju ikun hemm *maker* u *checker*. Il-*maker* huwa dak li jdaħħal id-dettalji u c-*checker* huwa dak li jivverifikahom. Minn hemm il-pagament jiġi rilaxxjat mis-sistema bankarja tramite *Swift message*. Il-Bank Pilatus xtara wkoll *Swift Sanction Screening monitoring tool,* li hija screening system li taqra dak li huwa mniżżel fil-messaġġ u jagħmel *matching* ma' *sanction list* jew *embargo list*. Jekk ikun il-każ, is-sistema toħloq notifika *Level 1* sabiex jaraw jekk hemmx *a postive match* jew biex jaraw jekk huwiex *a false positive*. Imbaghad minn hemmhekk jekk jirrilijsja *Level 1* jew jiddiklajnja *Level 1* dejjem irid imur ghand il-*Level 2* li huwa l-*Compliance Department*. Il-*Compliance Department* jara jekk jaqbilx, jekk hemmx *match* jew jekk kienx *false postitive*. Jekk ikun *false positive* huma jirrilaxxjaw il-pagament huma jassumu responsabbilta li ma jkunx *real hit* kontra lista ta' sanzjonijiet u l-pagament jitlaq mill-bank. Hemmhekk jibda t-traġitt tiegħu barra l-Bank.

Il-ħlasijiet li jsiru lejn il-kontijiet tal-Bank minn barra l-Bank jiġifieri l-*incoming transactions* ma jsirx *real time*. Dawn isiru b'mod manwali kull nhar ta' Tnejn jew Tlieta fejn huma jagħmlu rendikont tal-*incoming transactions* kollha tal-ġimgħa ta' qabel. Hemmhekk jaraw x'pagamenti jkunu daħlu, min bagħat il-flus, għand min daħlu, u r-raġuni mogħtija. Jekk ma tkunx ingħata raġuni F'kaz liema raguni ma tkunx giet mogħtija fuq il-messaġġ li jkun daħel minn Bank ieħor, Il-*Compliance Department* jitolbu lil-*Front Office* biex jikkuntattjaw lill-klijent u jistaqsuh għaliex intbagħtu l-flus mingħand din il-persuna. Jekk jaraw li jkun hemm ħtieġa li jiġi sostnut b'dokument, jitolbu li jiġi prodott dan id-dokument sabiex isostni t-transazzjoni li tkun daħlet ukoll.

Meta jkun hemm *PEP* li jkun irid isir klijent tal-Bank Pilatus, dan irid jottjeni l-approvazzjoni tas-Senior Manegement. F'dan il-każ, Il-Bank Pilatus iżidu dokument magħruf fil-bidu kien 'Annex 5' u wara bidluha għal 'Annex 11', għalkemm baqa' essenzjalment l-istess dokument. Fih jiddokumentaw l-isem, il-kunjom, il-ġurnata tat-twelid, jekk għandux ismijiet oħra, għaliex ġie identifikat bħala *PEP*, x'riċerka tkun saret fuqu, u x'inhuma l-*assessments* tal-Bank Pilatus dwaru. Għalkemm qegħdin jagħmlu transazzjonijiet qed *in real time* fil-każ ta' PEP jaghzlu li nħarsu lejn dak il-kont b'mod aktar ta' spiss minn klijenti oħrajn. Jekk klijenti normali jħarsu lejhom darba f'sena jew tmintax il-xahar, fil-każ ta' PEP *"jekk hu gej minn certu pajjiz, ghaliex li ahna*

nistghu nikkunsidraw bhala bank bhala high risk, forsi nixtiequ nibdew inharsu lejh sakemm, you know, insiru aktar familjari mieghu", kull tlett xhur inħarsu lejh mill-bidu sal-aħħar. Jivverifikaw għandhomx id-dokumenti kollha dwaru, jaraw jekk ikunx meħtieġ jiġbri xi dokument addizzjonali, jaraw il-*bank statement* u t-transazzjonijiet kollha illi jkun għamel f'dak il-perjodu. B'hekk ikollha stampa aħjar tal-attivita tal-PEP ħalli jekk ikun hemm suspett isir aktar facli li tarah għax tkun tista' tara wkoll *pattern*.

Għal Bank Pilatus, *PEP* ifisser *a natural person who has a prominent public function*. Huma jikkunsidraw *PEP* kemm jekk Maltin kif ukoll persuni mhux Maltin li għandhom funzjoni pubblika prominenti. Dawn jinkludu wkoll membri tal-familja tagħhom u lil uliedhom kif ukoll lill-ġenituri tagħhom, aħwa u anke zijiet. Għandhom klijent barrani li huwa *PEP* għax tiġi zija ta' *PEP*. Malta ftit għandhom *PEP*. Il-mudell tal-Bank Pilatus huwa wieħed *private banking* u l-pool ta' klijenti lokali mhux suffiċjenti għall-Bank.

Claude-Ann Sant Fournier ippreżentat lista tal-klijenti tal-Bank Pilatus li tiġi ġenerata mis-sistema bankarja tal-Bank u tiġi stampata mill-*Operations Department*. Hija immarkat bil-highlighter rosa dawk li huma l-*Correspondent Bank relationships* li għandu l-Bank Pilatus u l-*Counter-parties* li huma investimenti li jagħmel il-Bank bħal ma Interactive Brokers biex ikun jista; jaqdi r-rwol tiegħu. Immarkat bil-highlighter blu dawk in-nies li huma

jew li kienu impjegati mal-Bank Pilatus u li nfetħilhom kont. U mmarkat bl-isfar dawk li huma *PEP accounts*. Immarkat bir-roża dawk li huma *company in formation accounts* ċjoe *account* li jinfetaħ mill-Bank sabiex persuna illi tixtieq tiftaħ kumpanija mar-*Registry of Companies* ta' Malta jkollha bżonn tiddepożita x-*share capital*. Dan ma jkunx *functioning account* għax il-kumpanija tkun għadha ma ġietx imwaqfa. Il-kont ikun fih biss l-ammont ta' *paid up share capital* biex turi lir-Reġistru tal-Kumpaniji li s-*share capital* ġie depożitat. Wara li l-Bank Pilatus ikun soddisfatt li l-kumpanija tkun ġiet imwaqfa imbagħad tibda proċess normali ta' *onboarding* tal-klijent. Il-flus li jkunu ġew depożitati jistgħu jerġgħu imorru lura għand min iddepożitahom u ma jistgħux jgħaddu għand terzi persuni.

Egrant Inc ma tidhirx fuq il-lista tal-klijenti tal-Bank. Meta Claude-Ann Sant Fournier daħlet taħdem mal-Bank f'Awwissu 2014 daret il-*bank account opening forms* u *KYC forms* li kienu daħlu qabel ma bdiet taħdem mal-Bank, biex inkun taf il-*client base* li riedet tissorvelja. *Egrant Inc* ma kienetx fosthom. Minn mindu bdiet taġdem hi mal-Bank Pilatus, *Egrant Inc* ma kienetx klijent u lanqas saret klijenta tal-Bank Pilatus.

Il-kumpanija *Al Sahra* ma tidhirx fuq il-lista tal-klijenti tal-Bank Pilatus. Hemm *Sahra FZCO* u *Shams Al Sahra FZCO* li huma klijenti tal-Bank Pilatus u għandhom kontijiet mal-Bank Pilatus. *Sahra FZCO* għandha kont f'Dinar

tal-Emirati Għarab (AED) li huwa attiv, wieħed f'Euro li mhux attiv, wieħed f'GBP li mhux attiv u wieħed USD li huwa attiv.

Mistoqsija dwar it-transazzjonijiet ta' *Sahra FZCO* u l-fatt li l-kont tagħha ġie miftuh b'AED 58,000,000 Claude-Ann Sant Fournier qalet li kull kont ma jiġix miftuh malajr. Qabel jinfetaħ kont isir ħafna xogħol. Il-klijent jimla' *bank account opening form* u r-*relationship manager* irid jimla *KYC form* li fiha jkun hemm id-dettalji tal-klijent fosthom l-isem u d-dettalji tal-kumpanija : x'jisimha uffiċjalment il-kumpanija, min huma d-diretturi, jekk hemmx xi ħadd li għandu prokura, min hu x-*shareholder*, min hu l-*UBO*, is-*source of wealth* tal-UBO, is-*source of funds* minn fejn se jkunu gejjin il-flus. Il-*Compliance Department* janalizzaw l-informazzjoni li tkun miġbura mir-*Relationship Manager*. Il-*Compliance Department* mhux dejjem inkunu sodisfatti mill-ewwel u jkun hemm drabi meta teħtieġ li jgibulha aktar informazzjoni. Peress li hi avukat, tirreferi ma' Antoniella Gauci li għandha esperjenza kbira f'dan il-kamp tal-analiżi tal-*financials*. Flimkien janalizzaw l-informazzjoni finanzjarja li tigi provduta mill-applikant, u jaslu għall-konkluzjoni jekk dak li jkun qed jallega jkunx sostanzjat bid-dokumenti eżibiti.

Fil-każ ta' *Sahra FZCO* l-ewwel transazzjoni li tidher fl-*AED account*, juri li l-ammont huwa daħal minn Yassat Gloria Hotel. Huma analizzaw l-

applikanti ta' *Sahra FZCO*, u l-*UBO* ta' dik il-kumpanija, u kienu jafu li huma nies li għandhom ċertu kapital. Dawn riedu jdaħħlu fil-kont ta' *Sahra FZCO* l-flus li kienu se jkunu qed jirċievu minn Yassat Gloria Hotel. B'hekk ma kienux sorpriżi bl-ammont ta' flus involut. Huma talbuhom id-dokumenti biex juru li Yassat Gloria Hotel hija proprjeta taghhom, inkluż l-*audited finanacial statements*. F'dawn il-financials kien hemm miktub min huwa s-sid tal-Yassat Gloria Hotel. Meta kienu sodisfatti bil-provenjenza ta' dawk il-flejjes fetħulhom il-kont. Claude-Ann Sant Fournier qalet li meta raw min huma s-sidien ta' Yassat Gloria Hotel raw li kienu diġa klijenti tal-Bank Pilatus u kienu diġa għarbluhom qabel. Biss mhux dejjem il-flus ikunu *dividends*.

Tgħid ukoll li ġieli l-flus ikunu ġejjin minn servizz li jkun ġie reż. Hi tagħmel tfittxija u tipprova tistabilixxi x'attività għandha dik il-kumpanija, x'servizz kien li ngħatalha, jekk dan is-servizz li nghatalha jagħmilx sens. Qabel jagħmlu wkoll riċerki biex jaraw illi l-kumpaniji li jkunu qed jagħmlu transazzjonijiet hemmx informazzjoni illi forsi tista' turi li hemm xi ħaġa mhux f'postha.

Fil-każ ta' *Sahra FZCO* hemm indikata l-kumpanija *Merk* bħala li tgħaddilha xi flejjes. Merk hija kumpanija illi tieħu ħsieb xi proprjetajiet ġewwa Dubai u tiġbor u tqassam il-kirjiet ta' dawn il-proprjetajiet. Jidher li *Sahra FZCO*

kienet irċeviet il-flus mingħand Yassat Gloria Hotel u *Merk* f'AED iżda mbagħad kwazi immedjatament ħarġithom billi kkonvertiethom f'USD għax l-AED mhix valuta konvenjenti.

Claude-Ann Sant Fournier tgħid li l-*UBO* ta' *Sahra FZCO* huma Arzu Aliyeva u Leyla Aliyeva u *Sahra FZCO* għandha erba' kontijiet mal-Bank Pilatus. Iżda dawn huma *UBO* ta' kumpaniji oħra li għandhom kontijiet mal-Bank Pilatus bħal *Da Vinci, Picasso,* pero ma kienetx mija fil-mija ċerta. Apparti minn dawn hemm zija minn naħa ta' ommhom u zija minn naħa ta' missierhom li fetħu kontijiet bankarji mal-Bank Pilatus, iżda li huma kontijiet personali.

Shams Al Sahra għandha kont AED li huwa attiv mid-9 ta' Frar 2017, kont EUR li mhux attiv, kont GBP li mhux attiv u kont USD li mhux attiv.

Kemm kumpaniji tal-aħwa Aliyev kif ukoll kumpaniji tal-aħwa Heidarov għandhom self mal-Bank Pilatus. Dan is-self ingħata wara li għamlu *"assessment tal-loan għal xhiex qed jigi mitlub u nitkellmu mal-klijent halli nkunu nafu wkoll x'dokumenti huma lesti li jaghtuna sabiex nissostanzjaw dan il-loan".*

Mistoqsija minni kienetx taraha stramba li nies li kellhom dawk il-flejjes kollha jmorru jieħdu self mingħand il-Bank Pilatus, Claude-Ann Sant Fournier qalet li ma kienetx taraha stramba għaliex fix-xogħol tagħha ġieli rat li dawn in-nies ikunu jridu jagħmlu proġetti mingħajr ma jużaw il-likwidita tagħhom u jippruvaw jerfgħu flushom f'valuta partikolari għax ikunu qed jantiċipaw li ser imorru aħjar b'hekk. B'hekk anke l-fatt li jkunu qed jieħdu self u jħalsu l-imgħax, xorta jiġi li jkun jaqblilhom. Per eżempju s-self li ħadet il-kumpanija tal-aħwa Aliyeva kienet intiża biex jiġu mixtrija ishma f'kumpanija li kellha proprjeta fir-Russja.

Meta ċċekjat it-transazzjonijiet ta' *Sahra FZCO* u *Shams Al Sahra FZCO* sabet li *Egrant Inc* ma kienetx tidher fosthom. Joseph Muscat, Michelle Muscat, Konrad Mizzi u Sai Mizzi Liang m'għandhomx kontijiet mal-Bank Pilatus. Keith Schembri għandu *Euro account* li huwa attiv u ghandu *Euro account SAP* (*card account*) li fih daħlu €10,000 iżda li ma ntużawx. Għaliha mhux normali li jkunu daħlu flus u ma jintużawx minn dan il-kont. Biss ma tistax tisforza persuna biex tuża kont. Biss dawn ikunu saru kważi *dormant account*. Keith Schembri m'għandux self mal-Bank Pilatus. Josette Schembri Vella m'għandhiex kontijiet mal-Bank Pilatus. John Dalli kellu kont mal-Bank Pilatus. Michelle Buttigieg ma għandhiex kont jew self. *Egrant Inc, Tillgate Inc u Hearnville Inc* m'għandhomx kontijiet mal-Bank Pilatus.

Willerby Trading Inc għandha kont fl-Euro.

Ix-xhieda t'Antoniella Gauci

Antoniella Gauci hija *accountant*. Bdiet taħdem mal-Bank Pilatus bħala *Finance Manager* u sa Settembru 2016 kienet l-*Official Finance Manager* tieħu ħsieb l-*Accounting*, il-*Management Accounts*, l-*Audited Finanacial Statements*. Wara laħqet *Risk Manager*. Fl-2016 il-Bank beda jikber u ra l-ħtieġa ta' din il-kariga biex ikun hemm analiżi tar-riskji fil-kreditu, AML, likwidita u reputazzjoni. Dan sar wara li l-MFSA kienu għamlu spezzjoni fl-2015 u ssuġġerewlhom jagħmlu dan id-dipartiment. Kienu qabdu lil Deloitte jgħinuhom fit-tfassil tiegħu. Hi tara li ma jkunx hemm affarijiet ħżiena fil-Bank li jesponuh għal ħsara. Hi għada qed tibda tagħmel dan ir-rwol. Ma kellhiex sehem fit-tfassil tal-*policy* dwar PEP, għalkemm għandhom proċedura li kienet teżisti sa minn meta beda jopera l-Bank.

Joseph Muscat, Michelle Muscat Konrad Mizzi, Sai Mizzi Liang, Josette Schembri Vella, Michelle Buttigieg, *Egrant Inc, Tillgate Inc* u *Hearnville Inc* ma għandhomx kontijiet fil-Bank Pilatus. John Dalli kellu kont personali li ftit li xejn użah u "*...r-relazzjoni ghalaqniha wara ftit xhur wara li kien hemm xi news*

fil-media illi ma konniex kuntenti bihom." Lil Konrad Mizzi qatt ma ratu fil-Bank.

Keith Schembri għandu kont fuq ismu. Ma ħadmitx fuq il-ftugħ tal-kont tiegħu. Taf il-proċedura li trid tiġi segwita fil-każ tiegħu bħala *PEP*. Il-Bank jadotta *enhanced due diligence*, għax *PEP* joffri riskju għoli. Il-klijent irid jiġi approvat minn *Senior Management*, jew is-*CEO*, il-*Head of Legal*, iridu japprovaw lil dan il-klijent, u jridu wkoll jidentifikaw is-sors tal-ġid ta' dan il-klijent u l-attivita' ekonomika minn fejn il-Bank ikun ser jirċievi l-flus ta' dan il-klijent. Apparti dan jekk ikun hemm transazzjoni *outgoing* mill-*account* tiegħu il-Bank jaraha dak il-ħin stess, meta tkun qed issir. Qabel toħroġ dik it-transazzjoni din tiġi verifikata mill-*Compliance Department* li jaraw jekk hemmx dokumentazzjoni biżżejjed u sodisfaċenti.

Brian Tonna ma għandux kont f'ismu personali iżda għandu kont f'isem *Willerby Trading Inc.* Karl Cini mhux klijent personali tal-Bank Pilatus. Kemm Brian Tonna kif ukoll Karl Cini huma firmatarji għal klijenti li ġew introdotti lil Pilatus minn Nexia BT.

Shams Al Sahra hi klijenta tal-Bank Pilatus. L-*UBO* huma Nijat Heydarov u Tale Heydarov, żewġ *PEP* fl-Ażerbajġan. L-*audited financial statements* juru li

għandha *fifty percent* (50%) *interest* fil-lukanda Sofitel fid-Dubai. Ma jidhrilhiex li rċevew *dividends* fil-kont tagħhom. Dwar il-kumpanija *Sahra FZCO* tgħid hekk :

> Sahra hija klijent taghna. L-ultimate beneficial owners ta' Sahra huwa Leyla Aliyeva u Arzu Aliyeva li huma zewg PEP fl-Azerbaijan ghax huma t-tfal tal-President tal-Azerbaijan. Sahra it owns fifty percent (50%) interest go Sofitel. Jigifieri Shams Al Sahra u Sahra huma l-owners tas-Sofitel Dubai....Ahna li naraw almenu fl-account ta' Sahra, ghax l-account ta' Shams Al Sahra ma huwiex as such transactional. Fl-accounts ta' Sahra naraw ukoll, ghax Sahra hija wkoll l-owner, skuzani insejt, ta' hotel ohra, Jasad (sic Yassat) Gloria. Fl-account ta' Sahra naraw dehlin id-dividends ta' Jasad (sic Yassat) Gloria. Ingibu l-audited financials ta' Jasad (sic Yassat) Gloria, biex nivverifikaw illi jekk dawn ircevew miljun dividend actually il-kumpanija ghamlet profitti ta' miljun biex jigu distributed lill-parent company, u meta jkollna quarterly dividend distributions ovvjament il-financial statements jigu maghmulin darba f'sena. Allura ghall-quarterlies ingibu l-management accounts li jippreparaw il-management tal-kumpanija u mbaghad nivverifikawhom dejjem mal-audited financial statements malli johorgu n-next set. U l-financial statements huma audited, jekk ma hiniex sejra zball, minn Ernst and Young, imma I will double check. Imma it is a big four audit firm.

Żgura li ma kien hemm ebda pagament mill-kontijiet ta' *Sahra FZCO* jew *Shams Al Sahra FZCO* mal-Bank Pilatus lil xi kont ta' *Egrant Inc* fid-Dubai. *Shams Al Sahra* ilha klijent minn nofs 2016 u *Sahra* ilha mill-2015.

Farnoush Farsiar hija konsulenta tal-familji Aliyev kif ukoll Heidarov u ttihom parir fejn jinvestu flushom. Ix-xhud qatt ma kelmitha. Huwa l-*Front Office* li jagħmel dan il-kuntatt u jista' jkun ukoll is-*CEO* li huwa parti minnu. Meta din tagħmel transazzjoni għal kumpanija li tagħha tkun firmatarja xi

ħadd mill-*Front Office* jagħmel kuntatt magħha biex jikkonferma dik it-transazzjoni.

Safejn taf hi it-tifel tal-President tal-Angola Jose Eduardo Paolo Dos Santos ma għandux kont mal-Bank Pilatus.

Dwar pagamenti mill-kont ta' *Sahra FZCO* tgħid hekk : -

> Il-bank qatt ma hareg loan f'isem la Sahra u lanqas Shamz Al Sahra. Issa jekk kien hemm xi pagament minn l-account, ghax jien l-artiklu ma nafx ezattament kif inhu miktub, jekk l-artiklu qed jirreferi ghal-loan li hareg il-bank ghal dik il-kumpanija, nista' nikkonferma li l-bank qatt ma hareg loan. Issa jekk l-artiklu qed jirreferi ghall-pagament li sar through the account illi r-referenza tieghu hija loan, jien qatt ma ltqajt mieghu dan il-pagament.

Dwar il-proċedura tas-self mill-Bank Pilatus qalet hekk : -

> Mela, fejn ikun hemm jew board member li se jiehu loan, jew relatives ta' board member li se jiehdu loan, jew employees li se jiehdu loan, din il-loan trid titla' ghand il-board members biex tigi accettata... F'kazijiet ohra l-Credit Committee huwa responsabbli biex jaccetta.... Mela, Negarin Sadr hija oht c-chairman tal-bank. Din il-loan inghatat jidhirli fil-bidu tat-two thousand and sixteen (2016). Telghet ghand il-Board of Directors biex tigi accettata. Il-purpose tal-loan huwa li Negarin Sadr tinvesti go kumpanija li mbaghad ghandha interessi go kumpanija li mbaghad ghandha interessi go pistachio farm in the US.
>
> Iva. Mela l-procedura biex tohrog loan hija maqsuma fi tlieta. L-ewwel ha naraw il-business sense tal-loan, jigifieri se jigi borrower u se jaghmel request ghall-facility. Dik se tmurlek ghand is-Sales Department, il-Front Office, u se jaraw jekk taghmilx sense minn naha finanzjarja, jigifieri l-interessi li se nzommu fuqha, il-collateral li se

jaghtuna. So dak huwa l-financial risk. Imbaghad hemm Compliance. Issa kull persuna li ghandha loan irid ikollha wkoll account mal-bank u se jsirilha KYC daqs li kieku din fethet account normali. Jigifieri se tghaddi mill-identification, verification u l-KYC vetting bhala Compliance. Ha nghaddulha isimha against sanctions list, ha nghaddulha isimha against negative news, li jghamlu wkoll il-Compliance Department se jaraw il-collateral x'inhu, jekk tkun art il-collateral se ngibu indipendent valuation tal-art ukoll. U dik hija l-Compliance Section. Imbaghad naraw in-naha regolatorja. Il-bank irid jaddressja certu limits regolatorji li ghandu fosthom hu li l-bank ma jistghax ikollu exposure aktar minn twenty five percent (25%) tal-kapital tieghu lejn one individual. U f'dik il-parti ukoll naraw il-credit risk li ghandna based on the capital requirments directive, jekk ahna bhala credit risk irridux niehdu bhala hundred percent (100%) risk, jew thirty five per cent (35%), jew zero (0). Dan jiddependi minn natura tal-collateral.

Fil-każ tas-self ta' Negarin Sadr Hasheminejad ikkonfermat li dan il-proċess fil-fatt sar.

All right. Mela, din hija individwu, jigifieri l-KYC fuq individwu li ma hijiex politically exposed person, jekk inti ghandek id-dokumenti available biex tidentifika ghandek l-isem, il-kunjom taghha u d-date of birth, ha tghaddi Dow Jones, ha tipprobdilek dokumentazzjoni ta' verifika tal-identità, passaport jew licenzja, u se tipprovdilek ukoll utility bill. Ha timla l-KYC form... Utility bill ta' fejn hija residenti. So jekk din se taghtina identity card li hi qed tghix il-United States, ahna rridu ngibu utility bill li tikkonferma li din qed tghix f'dak l-indirizz. Jigifieri KYC fuq individwu jekk ma jkunx persuna politically exposed person ma ghandux idumlek izjed minn tlett (3) sighat, meta jkollok id-dokumenti available ovvjament. Jekk ma jkollokx id-dokumenti available hija haga ohra... Inti trid tqis li jkun hemm hafna dipartimenti jahdmu fuq loan. Ghandek il-Conmpliance Department jahdmu fuq parti mill-loan li huwa l-Legal requirments u l-Compliance requirments. Ghandek il-Front Office li qed jinnegozzjaw sadanittant ir-rati mal-klijent. Jigifieri li tghidli li l-loan harget f'gurnata ma hijiex il-procedura tal-bank biex il-loan mill-A saz-Z, including il-loan agreement, tohrog f'gurnata... Ma ghandekx kumplikazzjonijiet, u se naghtik ezempju ta' cash-backed loan, ghax dik hija l-aktar semplici, fejn ghandek il-collateral li huwa cash. Dik xorta tehodlok a good three (3) days biex tohrog.

Antoniella Gauci tiftakar li dan is-self kien ta' xi US$1.5 miljuni u li kellha

titħallas direttament lill-bejjiegħ – l-SMT. Ma kien hemm ebda struzzjonijiet li jitħallas parti minnhom ħaddieħor. Michelle Buttigieg qatt ma rċeviet flus mingħand il-Bank Pilatus.

Dwar in-negozju tal-ismha fil-Pistachio ranch li kienet xtrat Negarin Sadr Hasheminejad, Antoniella Gauci żżid li Ali Sadr :

> ha loan through kumpanija li he owns, Altitude. Issa din il-loan kienet ukoll biex jinvesti f'shares tal-kumpanija li hija ultimately owns dan il-pistachio farm in the US... Ic-chairman ghadda mill-istess process, ezattament l-istess. Il-kumpanija tac-chairman f'dan il-kaz. Imma xorta mbaghad dik il-loan telghet ghand il-Board of Directors, ghax ovvjament hu ma jistax jaccetta u japprova l-loan tieghu stess.

Mistoqsija jekk dawn il-klijenti jagħmlux pagamenti lejn xulxin bħala loan payments qalet –

> Kellna sitwazzjonijiet fejn il-klijent ghalkemm ma hax loan through il-bank imma d-deskrizzjoni tat-transazzjoni li ghadda mill-bank ikun loan payment. F'dak il-kaz immorru lura ghand il-klijent u ahna nghidulu "Ok, issa tina l-kuntratt ta' din il-loan halli naraw dan il-payment ghalfejn sejjer u bejn min hija l-loan." Ghax jekk ahna se naraw il-loan payment sejjer ghand XYZ Limited nippretendu li se jkun hemm kuntratt li juri loan bejn il-kumpanija taghna u XYZ Limited.

Il-klijenti jagħmlu transazzjonijiet billi jwettaqhom il-bank stess bl-impjegati tiegħu. Pilatus għandu internet facility iżda li hija view only. Żiedet : -

> Be it one hundred euro (€100) u be it one million euro (€1,000,000), il-klijent irid jibghatilna transfer request. Dak it-transfer request jasal ghand il-Front Office Department. Il-Front Office Department l-ewwel haga li jaghmlu jiccekkjaw jekk dan

> il-klijent ghandux bizzejjed bilanc fil-kont biex nghaddu dik it-transazzjoni. Wara dik il-procedura naghmlu dual call back, jigifieri zewg rapprezentanti mill-bank icemplu lill-klijent biex jikkonferma t-transazzjoni. Wara li naghmlu dak jghaddu Front Office t-transazzjoni lill-Compliance Department biex jiccekkjawha from a Compliance and an AML point of view. Once li l-Compliance Department jiffirmaw fuq it-transazzjoni din tmur Operations u Operations jghaddu l-pagament. Dak huwa l-process ghal kull transazzjoni.

Kwantu għat-transazzjonijiet ta' *Sahra* qalet li din tirċievi *dividends* perjodikament u li jvarjaw. *Sahra* tħallas ukoll lis-*service providers* tagħha b'ammonti li jvarjaw. Dawn il-pagamenti jsiru għal Dubai.

> Jiddependi. Ara li naghmlu, jekk per ezempju ghandna kumpanija, ejja nghidu li hallsu lil legal advisors. L-ewwel ma naghmlu hu li niccekkjaw li dik il-kumpanija hija kumpanija reputable ta' avukati go Dubai. Ok? So naghmlu Google search u niccekkjaw u ngibu l-invoice ukoll tal-legal advice... Iva nattaccjawhom mat-transaction. Mill-memorja tieghi iva nattaccjawhom. Issa jekk ovvjament jekk se jkun hemm xi transazzjoni li ma jkunx hemm, ghax jien it-transazzjonijiet ma rajthomx kollha, imma l-procedura hija li naghmlu l-google searches u natteccjawhom u ngibu l-invoice. Jigifieri ahna dejjem irridu nivverifikaw li l-kumpanija fejn sejjer il-pagament acrually tezisti. U apparti minn hekk, jigifieri naghmlu l-Google search u naraw li tezisti din il-kumpanija, qed nitkellem fuq PEP jiena, il-proceduri tal-PEP huma hafna aktar rigidi minn kumpaniji ohra, ghax hemmhekk ghandek aktar high risk. Apparti minn hekk kull pagament jghaddi through is-sanctions system taghna... Jigifieri l-parties fil-pagament ha jigu screened against various sanctions lists, EU, OFEC, UN, HMT, kollox.

L-impjegati tal-Bank Pilatus jivverifikaw minn fuq *open sources* jekk is-*service providers* jeżistux jew x'reputazzjoni għandhom. Fejn ikunu jistgħu jagħmlu verifiki aktar dettaljati (bħal fil-*Companies House* fir-Renju Unit) jagħmluh ukoll. Huma pero ma jidħlux fid-dettall jekk is-servizz indikat fl-*invoice*

verament ikunx ġie mogħti jew le.

Kwantu għall-kumpanija *Egrant Inc*, Antoniella Gauci tgħid li "*Jien qatt ma rajt dokumenti l-bank li jirreferu ghall-kumpanija Egrant, u lanqas qatt rajt dokumenti l-bank li jirreferu ghas-Sinjura Muscat*". Qatt ma semgħet lil xi ħadd mill-kollegi tagħha jgħid illi ra fl-uffiċju tal-kumpanija xi dokument bhal *declaration of trust* jew *bank account opening form* f'isem *Egrant Inc.* Hi personali qatt ma rat xi dokument li jirreferi għal *Egrant Inc.*

Minn meta daħlet taħdem il-Bank Pilatus, is-safe tal-Bank dejjem kien fl-IT room fit-tarf tal-kuridur tal-Bank fejn hemm is-*server*.

Fir-rigward tal-jum tal-Ħamis, Antoniella Gauci tagħti rendikont dettaljat dwar dak li kien ġara fil-Bank Pilatus u tgħid hekk: -

> Mela, il-Gimgha kien se jkun hemm Board meeting. Jigifieri kellna gurnata busy hafna biex nlestu l-affarijiet ghall-Board meeting. F'dan il-Board meeting partikolari kienu se jigu prezentati various documents li d-deadline taghhom hija l-ahhar ta' April, inkluzi l-audited financial statements tal-bank, l-ICAP li huwa dokument li jillistja r-riskji tal-bank u kif il-bank qieghed jikkontrolla dawn ir-riskji, u jekk il-bank ghandux izomm aktar kapital minhabba r-riskji li huwa espost ghalihom. U kif ukoll l-ILAP li huwa dokument l-istess bhal l-ICAP imma minflok li jiffoka fuq il-kapital jiffoka fuq il-likwidità tal-bank. Dawn iz-zewg dokumenti kellhom jigu submitted lir-regulatur ukoll on the thirtieth (30) of April. Allura fil-Board meeting konna se nipprezentaw kollox. Jigifieri jien il-gurnata tieghi kienet prattikament nahdem fuq il-presentation tal-Board, kont naf ukoll li se jillendja c-chairman dakinhar u allura ha jkun qieghed jipprepara ghall-Board meeting u jkun se jsaqsini xi affarijiet fuq il-Board meeting, u

allura dik kienet il-gurnata ippjanata tieghi. Il-Board hu kompost mic-chairman Mr Ali Sadr, mis-CEO Mr Hamidreza Ghanbari, Head of Legal Dr Claude-Anne Sant Fournier, is-COO Mr Luis Felipe Rivera, u imbaghad non-executive director lil Mr Philip Mercieca, Dr Armin Ackermann, Mr Rob Klingensmith u Mr Mustafa Cetiner. Mela kienu se jkunu prezenti, imma prezenti fizikament mhux kollha kienu se jkunu hemm ghax Mr Mustafa Cetiner huwa residenti t-Turkija so jippartecipa via conference call. Mr Rob Klingensmith huwa residenti l-Amerika so bhalu wkoll jipparticipa via conference call. U s-CEO Mr Ghanbari kien imsiefer ukoll u allura kien se jipparticipa via conference call. Il-Board members l-ohra kienu se jkunu prezenti fizikament. Il-gurnata tieghi kienet kollha nahdem fuq il-presentation tal-Board, niffinalizza d-dokumenti illi riedu jigu prezentati lill-Board inkluzi l-audited financial statements. Xhin gie c-chairman dhalt ukoll fejnu niddiskuti xi affarijiet mieghu biex nara kif jixtieq li l-affarijiet jimxu. Ovvjament il-presentation tehodli hafna hin. Il-presentation jekk tara l-pack taghha ghal dan il-particular Board meeting fiha fuq hamsin (50) slide, jigifieri jien kont ilni nahdem fuqha gimgha shiha jiena, mhux just Friday. So kont qed nigbor il-kummenti tad-diretturi wkoll fuq il-Board presentation ghaliex kont digà iccirkulajtilhom, u kont qed napdejtja based on their comments...

Ic-chairman wasal jidhirli li kien bejnnofsinhar u s-siegha ghax naf li kont qeghda fil-kuritur u rajtu diehel. Bagalja. Bagalja u basket iswed. U baqa' sejjer fil-Board Room. Actually waqaf ghax kumbinazzjoni kien hemm il-mara u t-tifel ta' Luis Felipe Rivera u waqaf ikellem naqra t-tifel ta' Luis Rivera. Imbaghad baqa' diehel fil-Board Room....Kont qed nahdem fuq id-desk tieghi u kelli xi meetings matul il-gurnata wkoll, forsi xi mistoqsijiet lejn il-Head of Legal allura mort insaqsiha xi mistoqsijiet. So gurnata bhall-ohrajn, inkellem lil min ghandi bzonn, daqqa fuq it-telefon u daqqa nahdem fuq il-kompjuter tieghi, daqqa mmur fejn ic-chairman ghal xi affarijiet, u biex nikkjarifika xi affarijiet minhabba l-Board meeting...Imbaghad ghal xi, nahseb li kienu xis-sebgha ta' filghaxija (7:00pm) inhares barra mit-tieqa u ninduna li kien hemm il-cameraman barra, u ovvjament avzajt mill-ewwel lil kulhadd u hemmhekk indunajna li kienu hargu xi artikli li qed jirreferu ghall-bank fuq il-blog ta' Daphne Caruana Galizia. Aktar tard dainhar ukoll il-Prim Ministru ghamel speech u rajna dak l-ispeech fuq il-video, kont qed narah fejn id-Dottoressa Claude-Anne Sant Fournier, u mbaghad morna fil-Board Room u komplejna nahdmu prattikament ghall-Board meeting tal-ghada. Sadinttant ukoll avzajna lis-security li hemm il-cameraman barra, ghax ovvjament ahna ma kienx gost u pjacir taghna li hemm il-cameraman barra l-bank jiffilmjaw il-bank. Is-security ippruvaw jghidulhom biex jieqfu jiffilmjaw izda ma riedux jieqfu. U ahna bqajna fil-Board Room sadanittant nahdmu....

Imbaghad ghal xi, ma niftakarx il-hin ezatt, imma nahseb li kienu d-disgha ta' billejl (9:00 p.m.), iddecidejna li nieqfu ghall-gurnata peress li lghada ovvjament kellna gurnata twila. Kellna din il-problema tal-cameraman barra. Is-security kien avzana digà li ghalkemm kienu hargu jghidilhom bosta drabi ma riedux jitilqu minn hemm. Is-security issuggerixxa li nohorgu mis-side door biex ma nigux harassed mill-cameras. U c-chairman meta giet issuggerita din il-haga qalilna nohorgu minn hemmhekk. U bl-ghajnuna tas-security wkoll hrigna mis-side door. L-ewwel harget, ghax konna qeghdin, so l-ewwel konna qeghdin erbgha (4), Domenique, Tatiana, jien u Claude-Anne u c-Chairman. Domenique telqet ftit qabel. Domenique telqet bejn it-tmeinja (8:00 p.m.) u t-tmienja u nofs (8:30 p.m.) jidhirli...Ħarġet mis-side door ukoll...Imbaghad bqajna flimkien jiena, Dr Claude-Anne Sant Fournier u Tatiana Zammit li hija l-Head of Finance, u c-Chairman. U ahna hrigna kollha f'daqqa. Izda meta, so ahna ghandna l-kcina u mbaghad ghandek qisha bicca gardina zghira u ghandek dak is-side door. L-ewwel harget Tatiana. Ma hrigniex kollha f'daqqa mis-side door. L-ewwel harget Tatiana. Imbaghad harget Dr Claude-Anne Sant Fournier. Imbaghad hrigna jien u c-chairman fl-ahhar...bdejna telghin it-tarag...

Jidhirli li ghal xi d-disgha (9:00) kienu. Ma niftakarx il-hin bl-amment bl-amment, imma jidhirli li ghal sid-disgha (9:00) kienu. Le, le zgur li ma kienx nofsillejl. L-iktar l-iktar bejn id-disgha u d-disgha u nofs (9:00 p.m. – 9:30 p.m.)....Fil-bank kull ma kien hemm is-security, ghax ahna l-bieb tal-kcina ma jinghalaqx minn barra, u allura kellna bzonn lil xi hadd jghalqilna l-bieb, tajnih ic-cavetta tal-bank biex imbaghad jirritornaha dak il-hin stess fil-karozza lil Dr Claude-Anne Sant Fournier. Just kemm ghalqilna l-bieb biex ahna nkunu nistghu nohorgu mill-bieb tal-genb minflok ma nohorgu mill-bieb ta' barra. Il-bqija ma kien fadal hadd fil-bank...Jiena ma rajtux jiehu karti mieghu lic-Chairman...Naf li kien qed jahdem fuq karti, u hu, dak jiena per ezempju fil-basket tieghi tfajt kelli l-kopji tal-ICAP u tal-ILAP...

Dwar dak li kitbet Daphne Caruana Galizia, Antoniella Gauci qalet hekk:-

Tkellimna bejnietna. Rajna l-artiklu u ghidna "Din x'il-marelli qed tghid! Din lanqas biss hija kumpanija tal-bank!" Imma ovvjament malli ssemmiet din il-kumpanija u kien hemm illinkjata maghha...Iva, Egrant, jigifieri din il-kumpanija Egrant ma hijiex klijenta tal-bank "X'inhi tghid!" ghax ma taghmilx sens l-istorja, specjalment kif kienet relatata ma' Mrs Muscat, u ndunajna li ovvjament se jkun hemm hype fil-midja minhabba dan l-artiklu. Digà kien hemm hypes fil-midja minhabba artikli ohra li kienet qed tohrog. Imma ma bdejniex inhalluhom jaffetwaw ix-xoghol taghha, ghax

ahna kellna hafna x'naghmlu biex inlestu ghall-Board meeting. Fuq dan, ehe, tkellimna, fuq dan l-artiklu u ovvjament ghax artiklu li kien qed jitfa' weight qawwija fuq il-bank u fuq ir-reputazzjoni tal-bank. Imbaghad hareg l-istatement il-Prim Ministru, rajnih ukoll. Ghamilna translation tieghu lic-chairman ukoll ghax staqsiena x'inhu jghid il-Prim Ministru u allura poggejna mieghu u bdejna naghmllulu translation ta' dak li ntqal mill-Prim Ministru. Imma l-bqija pruvajna nkomplu kemm nistghu nahdmu fuq l-affarijiet ghall-Board meeting. Imbaghad ghal xid-disgha ddecidejna li ahjar immorru lejn id-dar....It-tragitt hadtu ghas-semplici raguni biex nevitaw il-gurnalisti. Ghax jien il-karozza tieghi kienet ipparkjata fil-marina. Kieku kienu cirkostanzi ohra kif naghmel kuljum konna nohrog mill-front door u kont nimxi mal-front biex nasal sal-karozza tieghi....Kien hemm il-gurnalisti u ma xtaqniex, konna nafu li dawn il-gurnalisti se jsaqsuna mistoqsija ovvjament fuq dan l-artiklu li hareg u ahna we are bound by confidentiality, so ma nistghux nikkummentaw ghall-mistoqsijiet li se jkunu qed jistaqsuna. U lanqas ma ridna li f'daqqa wahda se nispiccaw fuq in-news, u fuq il-midja. Jien personali jien niddejjaq nidher fuq dawn l-affarijiet. So kemm jista' jkun xtaqt nevita illi nkun qeghda f'dik is-sitwazzjoni to be honest.

Xhieda ta' Tatiana Vyacheslavovna Zammit

Tatiana Zammit kienet taħdem mal-Bank Pilatus bejn Awissu u Novembru 2013 u reġgħet bdiet taħdem miegħusa minn Ġunju 2016. Ix-xogħol tagħha huwa ta' *Finance Manager*. Hi tieħu ħsieb il-*financial records* tal-Bank Pilatus, tagħmel ir-rapporti u l-financial statements kif ukoll il-komunikazzjonijiet mal-Awdituri u r-Regolatur. L-ewwel darba li kienet taħdem mal-Bank Pilatus fl-2013 kienet *Accounts Manager*, għalkemm kienet tagħmel l-istess *job description*. Hi għandha aċċess għall-informazzjoni dwar il-klijenti tal-Bank Pilatus, għalkemm id-dipartiment tagħha ma jiltaqgħux mal-klijenti direttament għax ma

jagħmlux on boarding ta' klijenti u l-anqas jipproċessaw transazzjonijiet ta' klijenti. Għalkemm ġieli tanalizza l-figuri relattivi għat-transazzjonijiet bankarji, hi ma toqgħodx tidħol fid-dettall dwar ir-raġunijiet tat-transazzjonijiet partikolari. Hi li jkun jinteressaha huwa l-korrettezza tal-figuri u mhux ir-raġunijiet għaliex ikunu inħarġu jew ingħataw dawk il-figuri.

Ir-rapporti li tagħmel jinkludu dawk statistiċi, fejn jippreżentaw il-*balance sheets* f'modi diversi. Jagħmlu *prudential reports* lir-Regolatur dwar il-*capital adequacy*, dwar il-likwidita' tal-Bank eċċetra. Tidħol ukoll fuq il-limiti ta' fondi li tista' tħalli ma *counterparty* partikolari fir-rigward tar-relazzjonijiet mal-*Correspondent Banks*. Għalkemm hi ma għandhiex setgħa tiddeċiedi min ikunu l-*Correspondent Banks*, taf li l-Bank għandu madwar ħmistax il-wieħed. Meta jkollhom eċċess ta' likwidita' iqegħdu l-flus ma *money market counterparties* għalkemm għal żmien qasir.

Tatiana Zammit taf li l-Bank Pilatus għandu *operational account* mal-Bank of Valletta. Pero jekk ikollhom bżonn supplier barra minn Malta jista' jkollhom *Nostro Account* ma Bank barrani. Meta jkun hemm tali pagamenti, it-transazzjoni trid tgħaddi mis-sistema *Swift* għaliex it-transazzjonijiet kollha jridu jgħaddu mill-*iSwift*. Tikkonferma li kull transazzjoni finanzjarja li ssir fil-Bank Pilatus trid tgħaddi mis-sistema

bankarja tagħha nonche jsir użu tas-sistema *Swift*. Meta ġiet pressata dwar jekk setgħux isiru pagamenti barra minn Malta tramite l-Bank Pilatus mingħajr ma jgħaddu mis-sistema *Swift*, Tatiana Zammit tenniet li *I do not see any other way to do it to be honest, because there isn't any other way to process a payment abroad without Swift*. Għalkemm ma kienetx taħdem fl-Operations Department u għalhekk ma kienetx taf jekk kienx hemm il-possibilita li l-Bank Pilatus jagħti struzzjonijiet li banek oħra biex jeżegwixxi transazzjoni b'email, hi tgħid li l-uniku mod kif jista' jsir pagament mingħajr ma jkun involut l-*iSwift* huwa permezz ta' ħlas kontanti. Iżżid hekk -

> The witness : We have one account local which is used to settle local operational expenses. I know that we place funds with other banking counterparties. That is it. That is comprehensive list. Then we have procedures in place, reconciliation of those accounts and everything tallies. There isn't anything unrecorded. It cannot be anywhere because everything is within the core banking system.
>
> Supt Abdilla : So it is all through the core banking system that is processed.
>
> The witness : Yes. Transactions are processed
>
> The Court : Has it always been like this? As far as you know, of course.
>
> The witness : As far as I know yes.

Mill-lat *t'accounts* il-Bank Pilatus m'għandux *Financial package* għalkemm jużaw *Excel spreadsheets* bħala *working documents* fejn iżommu l-kontijiet eċċetra li jridu jħalsu iżda dawn jiġu *posted* fil-*core banking system* xorta waħda fil-*general ledger*. Il-Bank Pilatus ma għandux xi ammont *t'invoices*

kbar li jkun irid iħallas u allura jistgħu jużaw l-istess sistema għall-*invoices* li jridu jħalsu huma stess. Għalhekk it-transazzjonijiet finanzjarji kollha huma diretti fil-*core banking system* li jiġi wżat meta tiġi biex hi tagħmel l-*accounts* tal-Bank innifsu. Fil-fatt toħroġ it-trial balance u r-rapporti l-oħra mill-*core banking system* innifisha.

Mistoqsija dwar il-fatt li kien hemm allegazzjoni li mill-Bank Pilatus għaddew pagamenti miljonarji li ma jidhrux fil-*core banking system,* Tatiana Zammit tgħid li ma tafx kif dan jista' jkun fil-prattika :-

> The witness : I do not see how it can actually happen in practice.
>
> The Court : Unless you bypass the bank's core banking system, no? Logically.
>
> The witness : How? I do not see how it can happen. What, if it was for example a cash payment of twenty euro (€20) and it was not booked into the system,
>
> The Court : No, here we are dealing with approximately one million,
>
> The witness : But if we are talking about one million,
>
> The Court : Another five hundred and five thousand (505,000) deposited into the same client's bank account.
>
> The witness : And if we are talking about client transactions and client accounts are already in the system. It is impossible to remove the funds from client accounts and transfer them out somehow bypassing the system if the funds are already recorded there. It is just impossible. You cannot remove the funds which are booked in the system.

Tatiana Zammit tikkonferma li għandha aċċess għall-lista tal-klijenti tal-Bank Pilatus, għalkemm m'għandhiex aċċess għall-lista tal-*UBO*. Mistoqsija

jekk tafx dwar il-kumpanija *Al Sahra FZCO* tgħid li hemm klijena jisimha *Sahra* iżda ma kienetx ċerta kienetx *Al Sahra* u ma kienetx taf kemm kienet ilha klijenta tal-Bank Pilatus. Biss ma kienetx taf xejn dwar il-kumpaniji *Egrant Inc, Tillgate Inc* u *Hearnville Inc.* Mistoqsija jekk qattx kienet rat dokumenti jew semgħet li xi ħadd jirreferi għal Michelle Muscat jew Joseph Muscat bħala klijenti tal-Bank jew bħala suġġetti ta' *payment instructions,* Tatiana Zammit twieġeb fin-negattiv u żżid li ma jistax ikollok *payment instructions* sakemm ma tkunx klijent tal-Bank Pilatus. Mill-banda l-oħra stante li hi kienet tieħu ħsieb id-Dipartiment tal-Finanzi tal-Bank, ebda transazzjoni bħal dik allegata fl-artiklu ma kienet tgħaddi minn taħt idejha.

Id-Dipartiment tal-Finanzi tal-Bank Pilatus jagħmel *assessment* dwar il-*lending option* minn aspett regolatorju u dan sabiex jaraw jekk ikunx hemm impatt fuq il-*capital adequacy* tal-Bank Pilatus u jekk ikunx hemm impatt mill-lat ta' *logic exposure perspective.* Dan huwa proċess li jsir għal kull self li jingħata. Ma kienetx f'qagħda li tikkonferma min kien il-benefiċjarju tal-pagament magħmul minn Negarin Sadr meta din ħadet is-self mill-Bank Pilatus. Dan għaliex ladarba jingħata s-self u dan jidħol fil-kont tal-klijent, it-transazzjoni ma tgħaddix mid-Dipartiment tal-Finanzi. Fi kwalunkwe każ, Tatiana Zammit ma kienetx involuta fl-ipproċessar ta' dak is-self jew ma transazzjonijiet partikolari ta' klijenti tal-Bank Pilatus.

Dwar l-episodju tal-20 t'April 2017, Tatiana Zammit tgħid li hija kienet xogħol. Dakinhar Ali Sadr kien mar l-Uffiċju bil-bagalji b'kollox u hi baqgħet xogħol sat-tard u telqet minn hemm kważi flimkien ma Ali Sadr u Antoniella Gauci. Dwar dak li seħħ tgħid hekk -

The witness : It is pretty normal, yes. It is pretty normal. That is a private bank and basically the people who at least people who are top people in the bank they may be required to stay and work quite late. So it is not that we are forced, but I mean we know that we need to stay and do what we need to do. So it was not exceptional that we were staying late on that day. It was normal. And then the next day there was a scheduled board meeting. So people had to be ready for that.

The Court : And what happened? What happened all of a sudden?

The witness : Well, what happened is that we were working late at night, I do not remember who it was but someone said that there were reporters outside of the building. So in the bank I think there were only the ladies and Mr Sadr who were left at that point in time. And I believe also the security officer from downstairs came and said that there are reporters outside. They tried to send them away but the reporters would not leave. And I do not remember who but somehow this was suggested that perhaps we should leave through the side door so that we do not face the reporters. And that is what we did.

The Court : Did any one of you take out documents relating PEP on the day?

The witness : Well, I can say for myself that I did not.

The Court : You did not. Did you see anyone else doing this?

The witness : No, I did not see and I was not looking to be honest because I was doing my own stuff.

The Court : Did you use the main door or the side door?

The witness : The side door.

The Court : The side door. Is it normal for you to use the side door?

The witness : No. We do not use the side door normally and we were informed that we should not do that by the security guards because it gives alarm to the whole

building or something like this. So no we do not use the side door normally. That was an exceptional case because of the reporters.

Xhieda ta' Sandro Charles Grech

Sandro Charles Grech daħal jaħdem mal-Bank Pilatus f'Marzu tal-2017 u kien *Finance Supervisor*. Minn naħa tiegħu jagħmel *account routines* tal-ġurnata, għalkemm iffukat fuq il-*financial statements, management accounts* ta' kull xahar, *Tax returns, VAT returns, accounting models on investments*, eċċetra. Ma jkollux kuntatt dirett mal-klijenti. Biex jaħdem xogħolu għandu aċċess għall-*Flexcube* u għandu *user rights* marbuta ma xogħolu. Mistoqsi dwar kif isiru pagamenti mitluba minn klijenti, ix-xhud wieġeb hekk : -

> Xhud : Bazikament li jigri l-klijent ovvjament jaghmel ir-request for payment. Ikun hemm il-call-backs minn naha tal-Operations Department u minn naha tal-Operations jibghatu lil Head tieghi bhala access, bhala approval fl-accounting journal minhabba l-accounting system, ghax l-accounting system differenti minn ovvjament mis-sistema li tintuz ghall-payments, li ovvjament ghandna sistema ohra TAS, ma nafx ezatt ghaxhiex toqghod, li juzaw biex jikkomunikaw ma' terzi persuni biex jgahddu l-payments minnhom. U dik ovvjament l-istess ghandha jibghatu r-requests minn naha tal-Operations Department u japprovawhom il-Head tal-Finance.

Sandro Grech għandu aċċess għall-lista tal-klijenti tal-Bank Pilatus, iżda minn naħa tiegħu li jara huma lista sħiħa tal-klijenti bi breakdown tagħhom. Biss minn naħa tad-Dipartiment tiegħu ma joqgħodux jidħlu fil-meritu

għalfejn għandhom klijent eċċetra. Huma jirrapurtaw fuq klijenti li jkunu attivi u jiskartaw li jkollhom bilanċ ta' żero. Dawk li jkunu għalqu l-kont tagħhom mal-Bank Pilatus xorta waħda jibqgħu jidhru fuq il-lista oriġinali tal-klijenti.

Il -Qorti : Tahseb li iva. Ha nsemmilek zewg kumpaniji ohra illi jixbhuha, Shamz Al Sahra u Sahra minghajr Al. Mela tlett kumpaniji qed insemmilek, Shamz Al Sahra, Al Sahra jew Sahra. Minn dawn it-tlieta liema tahseb mill-memorja tieghek li huma klijenti tal-bank?

Xhud : Nahseb li Al Sahra.

Il -Qorti : Tahseb li Al Sahra. U tiftakar xi dokument partikolari ta' din l-Al Sahra?

Xhud : Le, dokumenti ma jkollix access.

Il -Qorti : Il -bilanci mela.

Xhud : Il -bilanci. Bilanci le, nahseb li l-ahhar li rajt zero, nil, li naf.

Il -Qorti : Li taf. Dwar il -kumpaniji l-ohrajn li semmejtlek Shamz Al Sahra u Sahra qatt rajt xi bilanci taghhom?

Xhud : Le, ma naf nghidlek xejn fuqhom.

Il -Qorti : All right. Issa ara, jekk insemmilek il -kumpanija Egrant, qatt rajt xi karti jew bilanci jew xi dokumenti taghha din il -kumpanija?

Xhud : Le.

Il -Qorti : Jew inkella l-kumpanija Tillgate? Jekk rajtx xi bilanci jew xi dokumenti taghha? Tillgate? Jew hemm kumpanija ohra illi tinteressana illi jismha Hearnville?

Xhud : Le.

Il -Qorti : Jew inkella kumpanija ohra li jisimha Willerby Trade? Qatt rajt xi bilanc taghha din? Willerby Trade jew Trading?

Xhud : Le.

Il -Qorti : Le. Issa,

Xhud : Ga nkun onest, fis-sens jien bhala ismijiet ma tantx inhares lejhom

Il -Qorti : L-iktar relevanti l-bilnanc inti.

Xhud : Imma le, ma nafx nghidlek, le.

Il -Qorti : Issa ha nistaqsik naqra xi ismijiet ta' nies, tajjeb?

Xhud : Iva.

Il -Qorti : Mela jekk per ezempju insemmilek John Dalli qatt rajt xi bilanc tieghu dan?

Xhud : Zero (0).

Il -Qorti : Jigifieri dak ghandu kont

Xhud : Dak iva, iva, iva.

Il -Qorti : Ghandu kont però l-bilanc tieghu huwa zero (0). Michelle Buttigieg?

Xhud : Le.

Il -Qorti : Michelle Buttigieg ma ddoqqlokx. Issa, jekk insemmilek per ezempju lil Brian Tonna? Qatt rajt xibilanc tieghu dan?

Xhud : Bilanci le.

Il -Qorti : Jew xi Keith Schembri?

Xhud : Iva.

Il -Qorti : Keith Schembri x'ghandu?

Xhud : Dan, jekk ma hiniex sejjer zball, xi Master Card account, credit cardu account imma ma hiniex cert jekk fihx bilanc però. U tal-Master Card ma jintuzax, qieghed

Il -Qorti : Il -Master Card ma jintuzax.

Xhud : Ifhimni jien issa nista' nghid, ghax lanqas, trid tkun fuqhom biex tkun taf x'hemm transazzjonijiet jew bilanci li

Il -Qorti : Issa jekk per ezempju insemmilek Negarin Sadr?

Xhud : Iva, nahseb li rajtu, iva.

Il -Qorti : U x'ghandha Negarin Sadr?

Xhud : Account, deposit account.

Il -Qorti : Deposit account. Jithaddem dan id-deposit account milli tiftakar?

Xhud : Ma nafx nghidlek sew.

Il -Qorti : Taf jekk ghandhiex xi loan account?

Xhud : Nahseb li loan mhux deposit.

Il -Qorti : Loan mhux deposit.

Xhud : Nahseb li loan mhux deposit.

Il -Qorti : Loan, loan. Issa tiftakar jekk kienx hemm xi movements fih dan il -kont ta' dan il -loan?

Xhud : Ma nahsibx le.

Il -Qorti : Jekk kienx hemm xi pagamenti?

Xhud : Le, le. Fiss. Li naf li qed nakkumulaw l-interessi.

Il -Qorti : All right. Issa ara, jekk insemmilek per ezempju Michelle Muscat, jew Michelle Tanti?

Xhud : Le.

Il -Qorti : Dan qatt rajt xi karta jew xi dokumenti jew xi bilanci taghha mal-bank taghkom din il -persuna?

Xhud : Le.

Il -Qorti : Jew inkella Joseph Muscat?

Xhud : Le, le, le.

Il -Qorti : Jekk qattx rajt xi bilanci per ezempju jew inkella Mizzi Konrad? Jew xi karti jew xi bilanci li jorbtu lilu?

Xhud : Ma nahsibx le.

Il -Qorti : Jew inkella din jisimha Sai Mizzi Liang?

Xhud : Le.

Mistoqsi dwar jekk kienx iħaddem il-*core banking system,* ix-xhud wieġeb : *il-Flexcube iva.* Dan jużawh : -

Xhud : Ahna li nuzawha l-aktar ghall-accounting records, per ezempju biex invoices, jigifieri pagamenti ghas-suppliers, renti, spejjez, ghall-investements li huma, affarijiet li huma proprietary tal-bank, jigifieri li ghandhom x'jaqsmu mal-bank biex jopera. Fejn jidhlu per ezempju loans u depostis dawk l-affarijiet nehduhom kif ikunu, as in, fis-sens client facing people jaghmlu l-inputs, johorgu l-payments minnhom. Jigifieri ahna aktar bhala, il-Finance aktar niehdu hsieb affarijiet li huma ta' proprjetà tal-bank, ma hemmx terzi persuni

Il -Qorti : Terzi persuni involuti

Xhud : Jigifieri dawn is-soltu journal entries.

Il -Qorti : All right.

Xhud : Jigifieri bhal market to market movements, gains, losses, accruals, pre-payments, property, plant and equipment, dawn it-tip ta' affarijiet, invoices, VAT, nippostjaw it-taxxa.

Il -Qorti : All right. Pagamenti ghan-nom tal-bank taghmlu intom?

Xhud : Pagamenti ghan-nom tal-bank li naghmlu requests biex isiru pagamenti, fis-sens illi ovvjament ghandna l-petty cash. Però naraw li l-petty cash generalment li jintuzaw ghall-operat tal-bank, l-istess. Jew inkella ghandna c-cheque book li nuzawhom ghal spejjez li huma daqsxejn minn tal-petty cash naqra volum ghola. Imbaghad li jkollna per ezempju dawn is-suppliers barranin, speci jekk ahna ghandna ngibu xi servizz però nibghatu ovvjament wara li jkollna l-authorizations minn naha ta' CEO u mill-Head u mis-COO ikollna bzonn l-invoice biex ovvjament nirrekordjaw l-istatement of affairs. Inzommu d-dettalji tal-kredituri u hekk. Imbaghad ovvjament minhabba nghaddu l-payment, però l-payment nibghatu r-request lill-Operations, però jghadduh huma. Jigifieri bhala l-payment ovvjament ma nistghax naqbad nghid jien se nhallas lil missieri ghall-argument

Il -Qorti : Jigifieri meta jkun hemm dawn il-pagamenti normalment il-pagamenti jkunu pagamenti ta'

Xhud : Invoices.

Il -Qorti : Invoices.

Xhud : Iva.

Il -Qorti : U dawn ikunu

Xhud : Invoices u salarji.

Biss minn naħa tiegħu ma kienx jagħmel pagamenti għan-nom ta' klijenti. Għalkemm dakinhar tal-20 t'April 2017 ma kienx dam ħafna x-xogħol u għamel sa xis-18:00, huwa jikkonferma li l-ħaddiema tal-Bank Pilatus huwa normali għalihom li jdumu wara l-ħin tax-xogħol biex ilaħqu x-xogħol tagħhom tant li hu meta daħal kien ġieli għamel sat-20:00 jew id-21:00. Hu normali li jaħdem tnax il-siegħa kuljum, anke fejn kien jaħdem qabel. Dakinhar kien ra li Ali Sadr kien daħal għal xis-13:00 jew ftit qabel u meta daħal kellu l-bagalji (li wrew fuq it-TV). Dawn huma t-*travelling bags* tiegħu u x-xhud ġieli raħom xi darbtejn oħra qabel dakinhar u dan meta Ali Sadr ikun għadu ġej mill-airport.

Ix-xhieda ta' Ishwariya Subramanyan

Ishwariya Subramanyan daħlet taħdem mal-Bank Pilatus fis-16 ta' Jannar 2017 u kienet tagħmel *reconciliations* bejn l-*Operations Department* u l-*Finance Department*. B'hekk kienet bejniet dawn iż-żewġt dipartimenti. Ir-rwol tagħha għalhekk huwa dak li tagħmel in-*Nostro Reconciliation* :

> The Court : All right. Now, can you please explain what your role in the bank is?
>
> The witness : Ok. I will be doing the Nostro Reconciliation, if the payments are going out of the Swift, through Swift then I will be reconciling how the payments are being taken on, and how it is going, whether it has properly reached the client or whether it is still stuck in between the banks, so I am totally into examining things on whether the payments of Swift is proper. So basically I used to check, I am using my Flexcube as a source for the payment and the Swift. So I will be reconciling both to

know whether the payment has been proper and the balance is fine.

Il-*core banking system* tal-Bank Pilatus huwa l-*Flexcube*. U minbarra dan hemm programm ieħor li huwa t-*TAS*. Dawn it-tnejn jinteraġixxu u l-pagament isir tramite l-*Correspondent Banks*. Il-pagament isir billi jiġi ġenerat messaġġ Swift u jintbagħat lil *Correspondent Bank* sabiex ikun jista' jsir il-pagament lit-terz. Hi tagħmel *Nostro transfers* għal pajjiżi oħra wkoll. F'dan il-każ il-valuta tkun tista' trid tinbidel, u tista' tidħol ukoll rata tal-kambju eċċetra. Għal dawn l-għanijiet huma dejjem jużaw il-*core banking system* :

The Court : But is it possible to make payments not through the bank's core operating system?

The witness : No, I don't think, I do not know, because till now I have been here I have not seen any transactions like that.

The Court : Like that

The witness : Yes.

The Court : So for example, can you use TAS in order to make payments without using Flexcube?

The witness : No.

The Court : No.

The witness : No. The information, the first step is through Flexcube. Once it is authorized by the supervisors, I mean in the bank, that message will directly go to TAS, and from TAS the next day morning we will come to know whether the payment was done or not properly. So without Flexcube I have never used TAS for payments.

Din ix-xhud ma għandhiex involviment fl-għoti ta' self mill-Bank Pilatus u l-anqas ma tieħu sehem fil-ħlasijiet lill-klijenti tal-Bank Pilatus. Hi

m'għandhiex aċċess għall-lista tal-klijenti u l-anqas tiltaqa' ma klijenti. Hi tgħid li qatt ma rat transazzjoni jew pagament f'isem *Egrant Inc.* Kienet ċerta minn dan għaliex kemm ilha l-Bank hi taqra l-*istatement* tal-*iSwift* u qatt ma rat dan l-isem. Mistoqsija fuq l-ismijiet ta' *Tillgate Inc, Hearnville Inc, Willerby Trading Inc, Shams Al Sahra, Sahra, Al Sahra,* Brian Tonna, Michelle Muscat, Joseph Muscat, John Dalli, Michelle Buttigieg, Konrad Mizzi u Sai Mizzi ix-xhud qalet li ma tafx bihom dawn il-persuni. Mistoqsija dwar Keith Schembri, ix-xhud tgħid li kienet rat *account* tal-*Mastercard* iżda ma kien hemm ebda transazzjoni fuqha.

Subramanyan tgħid li ġieli semgħet b'Negarin Sadr, iżda ma kienetx taf x'servizzi tiegħu. Għalkemm kienet semgħet b'Robert Baker, ma kellhiex idea f'liema kuntest semgħet ismu – għalkemm għandha impressjoni li qiegħed fuq is-settur tal-*loans*. Ma semgħetx b'Farnoush Farsiar.

Mistoqsija x'jiġri jekk ikun hemm error bejn it-*TAS* u *Flexcube* ix-xhud wieġbet li jekk ma jiġix rikonċiljat sewwa kienet tmur għand is-*Supervisor* tal-*Operations Department* biex tara xi jkun ġara. L-ewwel li tagħmel huwa li tivverifika l-*Flexcube* u tara jekk il-pagament ikunx ħareġ minn hemm. Imbagħad tivverifika mal-*iSwift* u tara jekk ikunx ġie kreditat jew addebitat. Qatt ma esperjenzjat li s-sistema tieqaf, għalkemm tista tislowja ftit. Hi minn naħa tagħha ma taħsibx li tista tentra transazzjoni fit-*TAS* mingħajr ma

tgħaddiha mill-*Flexcube*.

Nhar l-20 t'April 2017 hi kienet xogħol, iżda damet biss sas-18:30.

Ix-xhieda ta' Marcon Grech

Marcon Grech hija *Finance Officer* fid-Dipartiment tal-Finanzi tal-Bank Pilatus u ilha taħdem hemm sa mill-15 ta' Frar 2017.

> Xhud : Jiena mal-Pilatus Bank xoghli huwa li nohrog xi pagamenti imma bic-cheque book jigifieri suppliers maltin. Nikkowordina mal-Finance Manager forsi xi pagamenti ta' barra minn Malta, suppliers barranin. Naghmel il -Management accounts, il -VAT return, inzomm il -cash flows u hekk, pure finance, imma ma nidholx f'pagamenti u hekk illi huma money markets u hekk jigifieri jien.

Hi m'għandhiex kuntatt dirett mal-klijenti u bilkemm taf il-lista tal-klijenti. Hi taf li dan hu Bank għal min għandu ħafna flus. Taf li jagħmlu *money markets*. Hi xogħolha hu purament li tara l-figuri fl-aħħar tax-xahar. Taf li dan il-Bank jagħti xi self lil klijenti u taf ukoll li hemm xi mija u tletin miljun mogħtija f'self sal-aħħar ta' dak ix-xahar. Biss bħala kwantita' kemm kien hemm klijenti li għandhom self ma kienetx taf tgħid għax hi kienet tara xi jkun hemm fl-aħħar tax-xahar u ma toqgħodx tara x'għadda matul ix-xahar.

Hi tara li fl-aħħar tax-xahar iċ-ċifri jkunu jaqblu u ma toqgħodx tidħol biex tara ismijiet ta' klijenti eċċetra.

Biex tagħmel xogħolha tuża l-*Flexcube* tal-*Oracle* u l-*BIP*. Hi qatt ma ġiet mitluba tipproċessa pagamenti għal klijenti. Li ġieli għamlet hi huma pagamenti minn fuq iċ-cheque book għal servizzi li jkun ħa l-Bank u tħallas għalihom. Biss hi ma tidħolx fil-pagamenti *fis-Swift tal-Bank*. Il-ħlasijiet li jsiru għall-Bank Pilatus joħorġu minn diversi kontijiet li l-Bank Pilatus għandu ma banek differenti. Hi kienet taf li hemm is-*Société Générale, DZ Bank, Interactive Brokers, hemm il -BOV ta' Malta*. Iżda minbarra dawn hemm oħrajn ukoll. L-ammonti li l-Bank Pilatus kien iħallas lis-suppliers tiegħu kienu jvarjaw. Per eżempju il-liċenza għall-*Oracle Flexcube* kienet ta' sebgħin elf dollaru Amerikan (US$ 70,000) fis-sena. Biss ma kienx ikun hemm ħlasijiet miljunarji li jsiru. Mistoqsija minni speċifikament, Marcon Cumbo tgħid li hi qatt ma pproċessat xi invoices biex tħallas persuni f'Dubai.

> Xhud : Le. Per ezempju, jien naf ordnajna l-Master Cards, il -cards, ordnajnihom mill-Grecja, dak kien xi kont ta' xi tmient elef (8000) u k ien hemm xi sbatx-il elf (17,000) is-sena l-ohra ghax bdejt nara l-accounts. Imma l-bqija ma jkunx hemm, jien fitta f'xoghli jigifieri jien jekk irrid inkun naf ghalxiex... Li kont qed nghidlek li pagamenti li rajt jien dejjem rajt fis-sens jien ma nidholx fil -mertu tal-pagament ghandix naghmlu jew le, però l-pagament dejjem ikun hemm raguni ghalfejn qed naghmlu. Qatt ma kelli xi klijenti jew hekk ta' Dubai kif qed tghid int. Li kelli li naf tal-Grecja, li kienet kumpanija li xtraw il -Master Cards minghandhom, ordnaw il -Master Cards. Il -bqija ma rajt xejn, ma jista' jigini xejn ippikcerjat f'mohhi b'somom kbar fhimt?

Mistoqsija minni minbarra l-*Flexcube* u l-*BIP*, jekk il-Bank Pilatus kellux xi programmi oħra li permezz tagħhom setgħu isiru pagamenti lil terzi persuni Marcon Cumbo tgħid li kellu l-*iSwift*, li kienet taf bih.

Xhud : Jien ghandi kont tas-Swift, però ma nuzahx ghax jien fis-sens, jien l-iSwift tieghi sa fejn naf jien qatt ma urewni kif naghmel pagament, jigifieri ma ghandix idea. Kull ma naghmel gieli fis-Swift meta jaghmlu l-bank transfers huma u jien nipprintja dik ta' quddiem biex ikolli, meta jaghmlu l-bank transfers tipo ta' dawn is-suppliers, peress lijien niehu hsieb is-suppliers inzomm il -bank details tas-suppliers ghal darba ohra biex jekk ikollna bzonn inhallsuhom ikollna l-bank details. Imma l-bqija naf li hemm is-Swift, imma daqshekk.

Dakinhar tal-20 t'April 2017 kienet xogħol iżda żgiċċat kmieni għax kellha hen's party x'torganizza u l-għada kienet *leave*.

Ix-xhieda t' Arienne Gaerty

Arienne Gaerty bdiet taħdem mal-Bank Pilatus mill-1 ta' Marzu 2016 u xogħolha hu t'*Associate* fil-*Front Office*, u ċjoe korrispondenza mal-klijenti, tiftaħ kontijiet u jsiru *transactions*. Qabel jinfetaħ kont janalizzaw il-*business model* tal-klijent u jaraw hux *in linea* mal-operat tal-Bank. Jibghatulhom *email* b'*KYC on-boarding check list* u *KYC information* u *KYC on-boarding check list*. B'hekk il-Bank jottjeni stampa bażika tal-applikant.

Fil-każ ta' *corporate client* ikunu jridu l-*corporate documents* kollha. Jekk ikun persuna naturali jkollhom bżonn id-dokumenti relatati ma' dik il-persuna. Jekk jaraw li s-*shareholder* ta' kumpanija hija kumpanija oħra, huma jirrikjedu l-M&A tax-*shareholder*. Din il-proċedura sabitha titħaddem meta daħlet taħdem mal-Bank Pilatus. Normalment jiltaqqgħu personalment mal-klijent sa' sitt xhur żmien minn meta jinfetaħ il-kont u bosta drabi qabel dan. Il-Bank Pilatus japplika dawn il- proċeduri b'mod strett ħafna u l-proċeduri jsiru aktar stretti meta l-klijenti jkunu *PEP* – jew *by association* jew għax ikunu *PEP* infushom.

Lil Brian Tonna ġieli ratu l-uffiċju pero mhux spiss – minn Marzu 2016 ratu xi tliet darbiet għal *meetings* ma Ali Sadr. Dejjem kien ikollu attitudni professjonali u ma kienx juri familjarita. Qatt ma semgħet xi argument jaħraq bejn Ali Sadr u Brian Tonna. Biss hemm ċerta distanza bejn l-uffiċju tagħha u l-*Boardroom* fejn kien ikun Ali Sadr. Brian Tonna m'għandux kont tiegħu personali mal-Bank Pilatus.

Kemm ilha taħdem il-Bank minn Marzu 2016 ma tiftakarx jekk kienx hemm *cabinet* li jissakkar fil-kċina. Żgur li ma kienx hemm *safe* fil-kċina. Ħdejn il-*Boardroom* hemm kamra żgħira li fiha jkun hemm karti u hemm *unit* tal-

ħadid li dejjem tiftakru hemm. Għaliha dak huwa s-*safe* u ma hemmx *safe* ieħor. Hi darba ratu. Għandha aċċess għalih Claude-Ann Sant Fournier u meta kellha bżonn dejjem kienu *Legal and Compliance Department* li ċċekkjawlha minn dan il-*cabinet*. F'dan il-*cabinet* ikun hemm *accounts* li għandhom xi tip ta' rabta ma' *PEP*. Għandhom ukoll *KYC cabinets* oħra li jekk il-*file* mhux hemm normalment għax ikun f'dan il-*cabinet*.

Meta jiftħu kont huma jimxu skont l-informazzjoni li jkun hemm fuq l-*account opening form*, li jkollha *electronic service indemnity portion*, u f'dak il-post hemm miktub min hu l-*authorised person* ta' dan il-kont. Jista' jkun l-*UBO*, jista' jkun *Corporate Service Provider*, jista' jkun dawk it-tnejn. Meta jiġu biex jagħmlu *onboarding* ta' klijent hi bħala *Front Office Associate* ma tistax taqbad u tapprova *KYC form*. Għal dan il-għan ikun hemm uffiċjal ieħor aktar anzjan li janalizza l-proċedura u jagħti l-approvazzjoni jekk ikun il-każ.

Pilatus ma kellux kljenti Russi, għalkemm *"U Group"* ġieli semgħet bih u jidrhilha li kellhom xi kawża l-Qorti. Me kellhiex x'taqsam magħhom.

John Dalli u Keith Schembri kellhom kont personali fil-Bank Pilatus. Ta' Keith Schembri ftit li xejn intuża u ma tafx jekk kellux *transactions* ma xi ħadd mill-Ażerbajġan. Ta' John Dalli kien magħluq u m'għamlet xejn fuqu.

Tillgate Inc ma tafx jekk kellhiex kontijiet u jista' jkun li, jekk kellha, kien magħluq. Minn dak li setgħet rat hi fil-Bank Pilatus la Michelle Muscat u l-anqas Joseph Muscat ma kellhom kontijiet mal-Bank Pilatus, l-anqas magħluqin, u dan kemm għal kontijiet personali kif ukoll *corporate accounts*. Qatt ma rat *declaration of trust* f'isem ta' *Egrant Inc* jew *account opening form* għal *Egrant Inc*. Qatt ma ġew f'idejha xi ittra jew xi *e-mail b'instructions* biex jinfetaħ kont fil-Bank Pilatus f'isem *Egrant Inc*.

It-talbiet biex isiru *transactions* fil-*Front Office* kienet tipproċessahom Maria Efimova. F'Marzu 2016 Arienne Gaerty kienet għadha f'perjodu ta' *training* u ġieli qagħdet bħala *call back* għal *transactions* li jkunu saru minn Efimova. Lill-Efimova kienet taraha veru kunfidenti u ma kienetx taf eżattament kemm kienet ilha taħdem mal-Bank Pilatus. Biss saret taf wara. Kienet Efimova li kienet tagħtiha t-*training* lil Arienne Gaerty. Efimova kienet ftit persuna stramba. Kellha *sense of entitlement* kbir u kienet tħossha superjuri. Arienne Gaerty tgħid li Efimova kienet ġabitha bħala assistenta tagħha. Kellha karattru diffiċli.

Il -Qorti : U hi kienet tkun principilament Front Office? Jew fejn kienet tkun?

Xhud : Ahna kellna l-ufficcju taghha ehe Front Office, li kien ezatt jekk inti tara l-ufficini ghandek il -board room. Ghandek il-kamra tas-CEO u l-Front Office ezatt mieghu. Jigifieri ahna konna hemmhekk. Dak iz-zmien kien hemm ukoll administrator li kienet hemm ukoll, tipo receptionist. So that is prtty much it. Jigifieri ahna konna nismighu d-doorbell ukoll. So ghalhekk kif kont qed nghidlek qabel li jkun hemm irridu nilqghu n-nies jekk naraw li hemm xi hadd....Jiena Front Office iltqajt biss ma' Maria in Front Office. Meta Maria telqet jien spiccajt wahdi.

Taf li kien hemm kumpanija *Shams Al Sahra* u oħra *Sahra FZCO*. Ma tafx min huma l-*UBO* tagħhom iżda dawn id-dettalji jkunu fil-*cabinet*. Ma tafx jekk jipprovdux *drafting* ta' *loans* lil klijenti tal-Bank Pilatus. Pero żgur li qatt ma qalet lil klijenti tal-Bank li setgħu jiktbulhom l-*agreement* huma. Li ġieli għamlet huwa li jiktbu l-*payment instructions* għal klijenti li jkunu ġodda sakemm jidraw – *"jibghatlek invoice u tiktibtlu d-dettalji inti, imma xorta trid tibghathielu lura u jrid jiccekkjaha u jiffirmaha"*. Taf li jkun hemm pagamenti msejħa *payment of loans* jew *payment of invoice*. Ma tafx kemm hemm perċentwali bejn waħda u l-oħra. L-għoti tal-*loans* jiddeċidiehom Hamidreza Ghanbari. Hi tgħin fl-ipproċessar tal-karti lejn l-aħħar tal-proċess. Ma għandha ebda setgħa deċiżjonali dwar jekk jingħatax self jew le. Biss kienet ċerta li qatt ma qalet lil klijent li setgħu jiktbu l-karta tal-*loan* huma bħala Bank. L-aktar li kienu jagħmlu kien li f'ċerti każijiet jiktbu l-*payment instructions* lil klijent, pero dan kien ikun fil-bidu sakemm il-klijent jidra. Biss xorta kienu jibgħatuhielu lura biex jivverifikaha u jiffirmaha.

Ġieli rċeviet *payment instructions* mingħand Farnoush Farsiar għal *Sahra FZCO*. Ġieli tiffirma flimkien ma Robert Baker għalkemm ma tafx jekk hux għal *Sahra FZCO* wkoll. Semgħet b'Leyla Aliyeva għalkemm qatt ma kelmitha dirett. Qatt ma rat kont bankarju f'isem *Egrant Inc.* fil-Bank Pilatus.

Hi ma ratx it-transazzjonijiet imsemmija minn Daphne Caruana Galizia fl-artiklu tagħha.

Taf li ġieli kien hemm problemi mal-*US Correspondence Banks* pero dawn ma kienux ikunu problemi biss tal-Bank Pilatus waħdu. Qatt ma rċeviet telefonata b'ilment mingħand Nexia BT jiffittawhom biex jeżegwixxu pagament. Anzi tgħid hekk : -

Il -Qorti : Qatt jigifieri ma rcevejt telefonata inti minghand in-Nexia BT fuq xi kont? Jew fuq xi transaction illi tipprova tippressak "Isma' dik ghaliex ma ghaddietsx dik it-transaction?" Insa din, kellek xi calls minghand in-Nexia per ezempju jippressawk fuq xi transaction li ma tkunx ghaddiet?

Xhud : Jippressaw fuq transaction li ma tkunx ghaddiet? Iktar nista' niftakar calls ma' Nexia to make sure li ghandna, of us requesting documents per ezempju. Additional documents, ghax kif ghidtlek id-dokumenti jigu mal-ewwel mal-instruction, jigifieri that is an obvious. Però houdning us biex ahna nibghatu pagament le qatt ma niftakar.

Ġieli kkuntatjat lil Karl Cini jew lil Katya Tonna jew lil Manwel Castagna (biex ikollhom *documentation* jew biex jawtorizzaw xi pagament). Ma tiftakarx li qatt kelmet lil Michael Satariano minn Nexia BT. Ma kienetx involuta fil-proċess tal-għoti tas-self lil Negarin Sadr. Pero bħala Bank ftit għandhom *loans* – xi 13 jew 14. Biss huwa veru li jippruvaw jagħtu servizz tajjeb u anke jdumu sa tard bil-lejl biex ilestu x-xogħol. Michelle Buttigieg mhix klijenta tal-Bank.

Kienet preżenti meta kien hemm ispezzjoni mill-*FIAU* biss ma kienetx direttament involuta ħlief f'xi stampar ta xi *statements*. Ma tafx li kien hemm xi ġenn partikolari meta ġew tal-*FIAU*. Kien hemm Maria Efimova ħdejha għad. Din kellha attitudni, fis-sens li ġieli kienu iqabduha tagħmel xi xogħol partikolari u hi kienet tirrifjuta li tagħmlu. Tgħid hekk : -

> Le, ara, kif ghidtlek Maria kienet vera, kellha attitudni u ha naghtik ezempju. Niftakar darba ahna naghmlu kull sena we assist Compliance in naghmlu il-jurisdiction reports. Ahna as a bank naghmlu r-reports ghal kull gurisdizzjoni whether they are high risk or non-risk, imbaghad ovvjament kull sena naghmlu dak ir-report u nibnu fuq ir-reports ta' qabel. Jiena niftakar carament li ovvjament meta l-ewwel bdejt nahdem hemmhekk peress li ma kontx qed naghmel transactions kont involuta f'din it-task. U niftakar li kienu qalulha biex taghmilhom però spiccajt naghmilhom jien ghax she did not so them. Kien hemm certu affarijiet ohra li niftakar li kienu qalulha taghmel u ma ghamlithomx. Again dik ic-certa, she had a certain attitude, I do not know how to explain it.

Il-*Front Office* kellhom aċċess għall-*Flexcube* fis-sens li kienu jidħlu fih bin-numru tal-klijent u jaraw x'għandu. Fil-*BIP* il-*Front Office* kellhom *view only rights*. Arienne Gaerty spjegat ukoll il-proċedura biex ikunu jistgħu isiru l-pagamenti. Il-pagamenti, anke pagamenti miljonarji, iridu l-ewwel jgħaddu mill-*Front Office*. Setgħa kien ukoll il-każ li Hamidreza Ghanbari jirċievi l-*payment instruction* iżda dan imbagħad kien jgħaddiha lill-*Front Office*. Hawnhekk kien isir l-*internal check list* u wara li jiġi verifikat jekk hux kollox f'postu, jgħadduh lill-*Compliance Department* għall-approvazzjoni. Dawn janalizzaw id-dokumenti, l-*payment instruction*, jagħmlu s-*searches* fuqhom inkluż *Google searches, Dow Jones searches*, li kienu jsiru mhux just fuq ir-

remittor iżda wkoll fuq il-benefiċjarju u l-banek involuti biex jaraw li mhux milquta minn xi *sanctions* (fejn pagamenti ma jkunux jistgħu isiru). Tgħid hekk :

> Però bhala klijenti in generali ninety nine point nine nine nine nine nine nine per cent Front Office jippreparaw ic-check lists. Imbaghad wara Compliance approval jergghu jigu ghandna mbaghad ahna nibghatuhom lill-Operations for execution.

Fl-*Operations Department* ikun hemm il-*maker* u c-*checker* fejn hemm ċertu impjegati li jistgħu japprovaw pagamenti fuq ċertu ammont, u oħrajn aktar anzjani fuq ammonti ogħola. Ma hemmx mezzi oħra ta' kif isiru pagamenti jekk mhux tramite din is-sistema. L-anqas ma l-Bank għandu sistema ta' kif jiġu pproċessati pagamenti jekk mhux tramite *Flexcube* u *TAS*. Iżżid hekk : -

> L-uniku pagamenti li nista' nahseb li forsi jsiru personal ta' Mr Sadr bhala FX ezempju. Forsi in that case jekk ikun vera tard bil-lejl u ahna mhux hemm he would speak directly mal-Operations....Li qed nghidlek, jigifieri jista' jkun kien hemm xi pagament ta' Mr Sadr personali, ha naghtik ezempju, forsi ried ihallas il-lease tal-karozza u jiftakar billejl u jibghatha tard, normalment l-instructions ta' Mr Sadr nippreparawhom ahna ovvjament ghax he is the chairman, so we try to... però hu normalment jibghatilna invoice u nahdmu fuqha. Però jekk ikun irid for example Swift malajr u jkun tard billejl, forsi jien ma kontx hemm jew hadd ma kien hemmhekk, jista' jkun li jibghatha l-Ops.

Biss dawn il-pagamenti jkunu jridu jgħaddu mill-iSWIFT xorta waħda.

Fil-Bank Pilatus il-*management* jistenna li l-impjegati jaħdmu anke wara l-ħin tax-xogħol. Ma hemmx *work-life balance* tajba. Għalhekk hemm ħafna

turnover ta' impjegati. Dan minbarra *zero tolerance policy* għal min jagħmel żbalji. Gaerty tgħid li l-attendenza għar-*retreat* kienet diskrezjonarja u mhux obbligatorja. Qatt ma obbligwahom biex imorru bilfors. *"It is not a slave shop"*. Hi kienet organizzat l-aħħar tnejn minn dawn ir-*retreats*. Hemm aspettattivi għoljin ħafna fil-Bank. Mhux veru li dawn l-irtiri jkunu spartani.

Xiehda ta' Domenique Camilleri

Domenique Camilleri ilha taħdem mal-Bank Pilatus sa minn Frar tal-2017 bħala *Compliance Associate*. Bħala parti mix-xogħol tagħha hija tara li meta jkun ser isiru pagamenti tagħmel riċerki fuq dak il-pagament sabiex tassigura li l-pagament ikun jirrispetta r-regoli, għax altrimenti l-pagament ma jgħaddix. Hija tiftaħ ukoll kontijiet ġodda lil klijenti u tagħmel ix-xogħol relatat mal-egħluq tal-kontijiet u tawtorizza l-ħruġ ta' *credit cards* għal klijenti tal-Bank. Hi għalhekk għandha aċċess għall-lista tal-klijenti tal-Bank Pilatus u hi tagħmel ukoll xogħol marbut ma *due diligence*.

Il-proċedura li tadotta hija li tanalizza kemm min huwa r-*remitter* kif ukoll min huwa l-*beneficiary* billi tagħmel *Dow Jones* search permezz ta' *software* tad-*Dow Jones* kif ukoll tagħmel *Google search*. Jekk ikollha dubju hija tirreferi lil *Head* tal-*Legal and Compliance Department* u jagħmlu analiżi tar-riskju dwar

jekk il-pagament għandux isir jew le.

Il-lista tal-klijenti tal-Bank tiġi ġenerata mis-sistema tramite l-*Operations Department* li jistampawhielha skont l-ispeċifikazzjonijiet li tkun tagħthom – eżempju – jistgħu jiġġeneraw lista ta' klijenti *PEP* jew lista ta' kontijiet miftuħa eċċetra.

Is-sistema ta' monitoraġġ li semmiet bid-*Dow Jones* u bil-*Google* issir għal kull klijent u għal kull transazzjoni li ssir – "*Any transaction that a client wants to make. Paying a medical bill, accepting payment for a car they have sold, I mean anything that a client usually pays for. A dress, a coat, anything like that.*" Dan kien ukoll jinkludi pagamenti ta' self.

Mistoqsija jekk bħala parti mill-*Compliance (Department)* kienux jagħmlu wkoll analiżi ta' kuntratti ta' self li l-Bank jagħmel mal-klijenti tiegħu, hija wieġbet li dan ma kienx jaqa' taħt ir-rwol tad-dipartiment tagħha. Għal dak il-għan kienu responsabbli aktar ir-*Risk Manager* u l-*Finance Department*. Mistoqsija jekk kienetx konxja b'xi prattika fejn klijenti tal-Bank Pilatus kienux jagħtu self lil xulxin, Domenique Camilleri wieġbet li ma kienetx; u hi minn naħa tagħha qatt ma ltaqgħet ma din il-prattika. Biss tikkonferma li ġieli rat pagament magħmul minn kont ta' klijent lejn kont ieħor ta' klijent

fil-Bank bil-pagament ikun imsejjaħ bħala *loan payment*. Dwar dan it-tip ta' pagamenti Domenique Camilleri tgħid :-

> The witness : Well, to start of with, the payments that you are referring to, these relationships happened before, these relationships were already taken on by the bank before I started. And so for me they are seen as regular payments that happened already. So I have gone with the notion that there, the checks have already been carried out before I started at the bank. So these are seen as normal payments.

Hi ma kienetx taf kemm din il-prattika kienet ilha għaddejja. Pero jekk kienet tiltaqa' ma pagament li ma kienetx ċerta dwaru, hi kienet tivverifika jekk kienx sar pagament ieħor preċedentement u tara x'verifiki jkunu saru dwaru qabel u tuża dawn bħala l-bażi tar-riċerka tagħha.

Mistoqsija jekk mill-lista tal-klijenti jew minn xi record bankarju ieħor qattx rat isem il-kumpaniji *Egrant Inc, Tillgate Inc* jew *Hearnville Inc,* Domenique Camilleri wieġbet fin-negattiv. Biss mistoqsija dwar *Willerby Trading Inc,* hi qalet li kienet rat il-*KYC forms* għal din il-kumpanija, għalkemm qatt ma pproċessat dokumenti għal pagamenti għal din il-kumpanija. Kienet taf li l-*UBO* huwa Brian Tonna, li huwa accountant iżda li hi ma kienetx tafu personalment. Hi saret taf min hu mill-media u qatt ma ratu fl-Ufficju tal-Bank Pilatus. Mistoqsija jekk għandux kont bankarju personali hi twieġeb *not that I know of, no.* Biss kien wieħed mill-*corporate service providers* tal-Bank Pilatus, għalkemm minn Frar 2017 ma kienx irrefera ħafna klijenti. Biss taf

ukoll li kien jidher għal klijenti tramite Nexia BT.

Domenique Camilleri reġgħet ikkonfermat li *Egrant Inc* ma kienetx klijenta tal-Bank Pilatus u hi qatt ma kienet rat xi transazzjoni jew pagament minn xi klijent tal-Bank Pilatus lill-*Egrant Inc*. Mistoqsija jekk kienx hemm klijenti bl-isem ta' *Shams Al Sahra FZCO, Al Sahra FZCO* u *Sahra FZCO,* Domenique Camilleri kienet ċara fuq l-eżistenza ta' *Shams Al Sahra FZCO* bħala klijenta tal-Bank Pilatus iżda tħawdet bejn l-ismijiet *Al Sahra FZCO* u *Sahra FZCO*. Taf li waħda minnhom kienet klijenta tal-Bank Pilatus, iżda ma kienetx ċerta liema fosthom. Hi pproċessat ħafna transazzjonijiet u ma kienetx kapaċi tidentifika transazzjonijiet mingħajr dokumentazzjoni.

Mistoqsija jekk qattx rat isem Michelle Muscat fuq xi record bankarju, Domenique Camilleri wieġbet fin-negattiv. L-istess għamlet fir-rigward ta' Joseph Muscat, Konrad Mizzi u Sai Mizzi Liang. Biss mistoqsija dwar Keith Schembri, hi stqarret li kienet rat dokumenti li kienu jikkonċernawh, fosthom il-*KYC* u *bank account opening forms*. Għalkemm ma kienetx ċerta jekk dan kellux kont bankarju personali jew *corporate* mal-Bank Pilatus, Domenique Camilleri tikkonferma li kienet rat *file* b'ismu fuqu iżda qatt ma ħarset x'fih dan il-*file*. Mistoqsija jekk qattx rat xi *declarations of trust* f'isem Michelle Muscat, Domenique Camilleri wieġbet fin-negattiv u tgħid li l-anqas qatt ma rat xi *bank account opening form* li kienet tikkonċernaha.

Dwar Negarin Sadr, Domenique Camilleri tgħid li ġieli rat isimha iżda ma kienetx taf jekk kellhiex xi self mill-Bank Pilatus; iżda ġieli pproċessat pagamenti li kienu jsiru lilha fil-Bank Pilatus. Biss hi qatt ma pproċessat pagamenti minn Negarin Sadr lil terzi.

Mistoqsija dwar dak li seħħ fil-lejl tal-20 t'April 2017 Domenique Camilleri tgħid li baqgħet l-uffiċju sat-20:30. Kellhom ħafna xogħol x'jagħmlu minħabba li l-għada kellhom *board meeting*. Claude-Ann Sant Fournier riedet tippreżenta lill-membri tal-Bord rapport dwar il-progress tal-Bank Pilatus. Hi kienet rat lil Ali Sadr dakinhar għalkemm ma kienetx tiftakar x'ħin daħal l-uffiċju. Hi kelmitu għall-ħabta tas-19:00. Semgħet lil Claude-Ann Sant Fournier tgħid li kien hemm il-press barra l-Uffiċju u talbitha biex tmur isfel tkellem lis-*Security Guard* biex jaraw jekk setgħux joħorġu mill-bieb tal-ġenb. Dan weġibha li ma kienx hemm aktar membri tal-istampa barra u għalhekk setgħu joħorġu mill-bieb prinċipali. Iżda hi ppressatu biex joħorġu mill-ġenb u reġgħet marret lura, lestiet xi xogħol li kellha tagħmel u ħarġet mill-bieb tal-ġenb. Qabel din il-ġurnata hija qatt ma kienet użat il-bieb tal-ġenb biex toħroġ. Biss kien hemm uffiċji oħra li kienu jużawh biex joħorġu mill-*Whitehall Mansions*. Fit-20:30 kien għad hemm xi kollegi tagħha għadhom fl-uffiċju u ma kienetx minn tal-aħħar li ħarġet.

Domenique Camilleri tgħid li hi m'għandhiex aċċess għall-*Flexcube* għax ma taħdimx l-*Operations Department*. Jekk ikollha bżonn ta' xi bilanċ jew *statement of account* titlob lill-*Operations Department* biex jipprovduha b'wieħed. Hi ma tafx jekk il-pagamenti jsirux biss mill-*Flexcube* għax ma tafx tħadmu. Biss għandha password għat-*TAS*. Dan tużah meta tiġi biex tirrilaxxa pagament li tkun approvat qabel. Li jiġri huwa li l-Operations Department jibgħatulha email jinfurmawha li l-pagament huwa disponibbli fuq *TAS*, tilloggja, tivverifika li l-pagament huwa korrett u tirrilaxxjah. Hemmhekk hi tkun qed taġixxi bħala *checker* jew aħjar *gate-keeper*. Għalkemm Claude-Ann Sant Fournier għandha password ukoll għal *TAS*, hi taġixxi bħala *releaser* normalment. Biex pagament ikun jista' jsir irid jiġi proċessat fil-*Flexcube*, iżda imbagħad ikun irid jiġi rilaxxjat mit-*TAS*. Jekk ma jiġix rilaxxjat mit-*TAS* il-pagament ma jgħaddix. F'każ ta' self, fejn l-istruzzjonijiet ikunu mogħtija biex il-Bank Pilatus jagħmel pagament direttament lil terza persuna, il-flus li bihom isir il-pagament lit-terza persuna jinħarġu mill-*main account* tal-Bank Pilatus.

Xiehda ta' Louis Zammit

Louis Zammit huwa ta' *IT Systems Administrator* mal-Bank Pilatus u kien ilu sena u tmien xhur. Xogħolu kien jikkonsisti filli jieħu ħsieb il-maggoranza tas-sistemi tal-IT tal-Bank, jassisti ukoll lil *users* li jkunu f'diffikulta' fl-IT,

parti mis-sistemi li hawn fl-*IT* huwa *CCTV* ukoll. Louis Zammit jixhed li l-*Core Banking System* li jużaw huwa l-*Oracle Flexcube*. Huma jieħdu ħsiebha internament iżda għandhom kumpanija jisimha Facilisation li ttihom support fuq id-*database administration* tas-sistema.

Minbarra dan għandhom ukoll *Swift Sanction Screening*. Għalkemm ma kienx jaħdem fit-taqsima fejn jitwetqu l-pagamenti, huwa jaf li l-pagament li jiġi magħmul fil-*Flexcube* jgħaddi għas-sistema Swift fejn imbagħad il-pagament ikun irid jiġi rilaxxat minn persuna oħra fil-Bank. L-assistenza fuq is-sistema *Swift* u *Sanctions Screening* hija mogħtija lilhom mingħand il-kumpanija *TAS* fl-Italja. Hemm ukoll *Door Access Control* tal-*fingerprints access* tal-klijenti. Għandhom ukoll is-sistema tal-*credit cards Carta* flimkien mal-*Master Card,* inkluż *Mastercard Connect* li tiġġenera rapporti dwar transazzjonijiet li jkunu saru mill-klijenti. Il-Bank Pilatus kien fil-proċess li jaqleb ma' kumpanija oħra. Hemm ukoll *mobile banking app,* jisimha *ARX* li pero kienet għadha fi stadju sperimentali. *Office Automation* ftit għandhom iżda kienu qegħdin jinvestu f'sistema jisimha *K 2* li hija *work flow automation* li kienet għadha qegħda tiġi żviluppata.

Jużaw ukoll *Sharepoint*. F'Marzu tal-2016 il-Bank kellu *physical file server* li kien jinsab fil-*Melita Data Centre* u *Computime* peress li għandhom żewġ siti fejn iżommu servers. Dak iż-żmien il-Bank Pilatus iddeċieda li jibdlu għal

Microsoft Office 365, li jinkludi *emails,* il-*Word, Power point, Excel* u *Sharepoint. Sharepoint* issa kienu qegħdin jużawh bħala l-*intranet* prinċipali tal-Bank Pilatus u issa qed iżommu wkoll il-*files* tal-klijenti fuqu. Il-*files* tal-klijenti fil-preżent kienu jinsabu f'żewġ postijiet - fuq il-*physical server.* Dan il-file mhux aċċessibbli għall-*users* u dan biex il-*users* jużaw il-*files* li hemm fuq *Sharepoint.* Il-*physical server* għadu jerfa' fih il-*finance* u l-*Carta* tal-*credit cards.* Il-maġġoranza tas-servizzi ġew mitfugħa fuq *Sharepoint. Il-Bank Pilatus* m'għandux *backup* tas-*Sharepoint* li pero jinżamm minn naħa tal-*Microsoft.* Louis Zammit jgħid li ma jaqbilx ma din is-sistema għax hija riskjuża għall-Bank. Huwa ma jafx x'inhi r-raġuni wara din id-deċiżjoni, għalkemm jgħid li l-Bank Pilatus ried li jkollu sistemi ta' IT mill-aqwa. Jaf li huma riedu li l-informazzjoni tkun aċċessibbli b'mod faċli u bl-anqas sforzi minn kullimkien. Biss mhux kull taqsima fil-Bank tagħmel sens li tkun fuq *Sharepoint.* Eżempju l-*company intranet* kienet tagħmel sens, mentri l-*Finance* ma jagħmilx sens minħabba l-ammont ta' ċifri u figuri involuti huwa kbir u *Sharepoint* huwa *online,* is-sistema tbagħti.

> Louis Zammit: ara mela share point għandna l-main home page li prattikament fuqha hemm leave request, IT request, link għad dipartiment tiegħek just a calendar and a news feed, dak kollox fil-main home page u mbagħad hemm site għal kull departiment jiġifieri fosthom hemm front office, IT, operations, finance, risk, HR u f'kull team site hemm dokumenti rilatati ma' dak id-dipartiment, eżempju d-dokumenti ta' l-klijenti qiegħdin fit-team site ta' l-front office, jiġifieri KYCs, account opening forms u hekk qiegħdin hemm hekk ehe, qabel kienu fuq il-file server u għadhom hemm pero issa l-klijenti ġodda meta jinfetħu l-account, I mean wara li sar share point, ma għadniex nagħmluhom fuq il-file server imma qed isiru direttament fuq share point jiġifieri dokumenti ehe qiegħdin fuq share point go l-front office team site.

Supr. Ian Joseph Abdilla: u hemm il-livelli ukoll ta' min jista' jara xix?

Louis Zammit: ehe bħala permissions hemm iva eżempju jiena naf affarijiet ta' klijenti jistgħu jaraw front office u jistgħu jaraw operations per eżempju, prattikament għax front office I mean ħafna dokumenti jirċievuhom huma, operations għax jagħmlu pagament eżempju u jitfgħu l-swift copy go l-folder ta' l-klijent li mbagħad joħduha l-operations minn hemm hekk u jekk mhux sejjer żball jarawha ukoll complaince naħseb mingħalija jarawha għax iridu jaraw I mean il-pagamenti jekk ma jagħmilx sens eċċetra. Dawk jiġifieri front office il-main x'jismu tagħhom hija li folder ta' l-klijenti tipo, il-klijenti huma l-aktar x'jismu tagħhom.

Kwantu għas-sistemi tal-*Computers* li jħaddem il-Bank Pilatus, Louis Zammit spjega li meta daħal jaħdem fil-Bank Pilatus, il-*Main Data Centre*, il-*Production Environment* kien il-*Melita* u d-*Disaster Recovery Site* kien il-*Computime*. Bħala struttura kellhom bejn tminn u għaxar *physical servers* il-*Melita* u s-sistema kienet replikata mal-*Computime*. Kellhom ukoll ir-*Remote Desktop Session* li tintuża mill-*users* biex jaċċessaw magna ugwali, waħda li tintuża minn kulħadd. B'hekk meta jkun irid isir eżempju *update*, jiġi updated *desktop* u l-*update* jaffettwa lil kulħadd. Fl-aħħar ħames xhur kienu qegħdin jaqilbu l-*Management* fuq *laptops*, u dan peress li l-RDS hija *shared machine* u kienet qed tbati. Hemm ukoll magni oħra tal-*card virtual machines*. Għandhom ukoll xi magni fuq l-*Azzure Environment* tal-*Microsoft* fejn għandhom il-website *hosted* hemmhekk.

Meta inxtrat is-sistema tal-*Flexcube* hu kien għadu ma kienx jaħdem mal-Bank Pilatus. Jaf li din hija waħda mill-aħjar sistemi bankarji fis-suq għax kien ra' taħdem ukoll fil-Bank li kien jaħdem qabel fih – il-*FIM Bank*. Kienu qalulu li l-*Facilisation* ġew irrakkomandati lill-Bank Pilatus minn *Oracle* innifishom tramite r-rappreżentant tagħhom f'Malta Michael Balzan. Dil-kumpanija hija wkoll użata minn Banek oħra f'Malta fosthom is-*Central Bank of Malta*. Dawn jipprovduhom bis-support meta jkun hemm bżonn, bħal meta jkun hemm xi *error*, jew xi *trouble shooting*. Imbagħad jekk ma jkunux kapaċi jaslu huma jeskalaw it-talba mal-*Oracle*. *Facilisation* jaċċessaw il-*Banking environment through a secuity plain connection*. Il-Bank Pilatus illum għandu *advanced data masking* u b'hekk *Facilisation* ma jkollhomx indikazzjoni dwar min ikun il-klijent. Dan l-advanced data masking kien ġie implimentat mill-Bank Pilatus wara li kienu saru suġġerimenti f'dan is-sens wara li kien sar *internal audit*.

Fl-*Oracle Flexcube* hemm ħafna livelli t'aċċess minħabba rwoli differenti li jista' jkun hemm. Mhux kulħadd ikollu aċċess għal kollox, iżda normalment persuni differenti jkollhom aċċess għall-dik l-informazzjoni li jkunu jeħtieġu li jkollhom aċċess għaliha. Hu per eżempju kellu aċċess bħala *Systems Administrator* iżda ma jistax iwettaq pagament. Anke fejn jidħlu pagamenti hemm livelli differenti skont l-ammont tal-pagament xi jkun. Ezempju jekk hemm pagament ta' €100,000 dan irid jiġi awtorizzat minn tlieta minn nies.

Jekk il-pagament ikun qiegħed bejn il-€100,000 u l-€500,000 irid ikun hemm tnejn minn nies oħra. Jekk jaqbeż dan l-ammont jidħlu Luis Rivera u Antoniella Gauci. Dawn ir-restrizzjonijiet ma kienux hemmhekk mill-bidu iżda kienu ġew implimentati xi ftit tax-xhur qabel biex jiġi assikurat li mhux kulħadd ikun jista' jagħmel kollox.

Mistoqsi dwar il-mod kif issir l-interazzjoni bejn il-*Flexcube, TAS* u *SSS*, Louis Zammit qal li jiġri meta jsir pagament, ikun hemm xi ħadd li jdaħħlu fil-Flexcube, xi ħadd jawtorizzah u jkun hemm każijiet li jidħol f'TAS u jrid jiġi awtorizzat minn xi ħadd ieħor. *"Ma hiniex ċert jekk mhux kollha jaqgħu f'Tas jew jekk hemmx xi ċertu valur, pagamenti ta' ċertu valur li jaqgħu f'Tas, ma hiniex ċert pero hemm livelli oħrajn f'Tas li again hemm first u second, first releaser u second releaser ukoll mingħalija xi ħaġa hekk."*

L-informazzjoni li tidħol fil-*Flexcube* tgħaddi fis-sistema *TAS* b'mod automatizzat. Hu mhux ċert jekk jistax isir pagament manwali fit-*TAS*. Minn naħa tiegħu ta' Systems Administrator kwantu għal-*TAS* jibgħat rikjesta lill-*TAS* fl-Italja biex jissettjaw password u l-administration jagħmluha huma mill-Italja stess. Huma t-*TAS* li jissettjaw il-permissions skont dak li jkun ġie mitlub lilhom mill-Bank Pilatus. Mistoqsi dwar xi bdil li sar riċentement li jaffettwa t-*TAS*, Louis Zammit qal : -

> Louis Zammit: kien hemm tibdil iva, it-tibdil li kien hemm inbiddlu xi livelli fis-sens again kif semmejt fuq il-Flex Cube li jiena naf eżempju level 1 jekk pagament qiegħed f'level 1 jistgħu jirrilisjawh żewġ minn nies jew tlieta, level 2 again, eżempju din ta' l-approval qabel just kont nibgħat email jiena lil Tas eżempju ngħidilhom irrisetjawli l-password eżempju ta' c-COO, ħadd ma kien jikwexxinjani, nista' nagħmilha u jibgħatu l-password lili u nista' eventwalment nidħol jiena fis-sistema mill-profile ta' c-COO, dik ġiet flagged waqt dan ir-retreat li kellna u tipo milgħux għidna ehe lil Tas li rridu nbiddlu dik l-istructure li eżempju jiena naf jekk jiena rrid nirrisetja password, ħa nibgħat ir-request jiena, ħa tiġi approvata mill-operations supervisor jew mis-COO u finalment il-password tintbagħat lil user dirett u mhux lili jew lic-COO għax ma tagħmilx sens in a way li nirċievi l-password jiena. Bħala changes li naf li saru dawk kienu, simili għac changes li kienu saru għal Flex Cube fil-verita'.

Louis Zammit ma kienx ċert jekk setgħux isiru pagamenti billi jiġi wżat it-*TAS* biss mingħajr ma ssir transazzjoni fil-*Flexcube*. Hemm ukoll dokumentazzjoni dwar x'tibdiliet kienu jsiru fis-sistema mill-*Facilisation*.

Meta daħal hu jaħdem mal-Bank Pilatus, kulħadd kellu aċċess għall-files structure tal-klijenti. Imbagħad bil-mod bdew jirranġaw l-affarijiet. Is-sistemi kollha tal-*Flexcube*, *Swift* u *Sharepoint* huma *web based;* biss għall-*Flexcube Core Banking System* hija *physical server* li pero tista' tiġi virtwalizzata iżda ma tidħolx fiha minn *icon*. Tkun trid tidħol fuq explorer, tieħdok lejn link tal-IP tas-server u taċċesaħ.

Mistoqsi jekk id-dokumenti li hemm fis-*Sharepoint* li qabel kienu fuq *folders* fuq is-*server* kienux aċċessibbli għall-impjegati kollha, Louis Zammit qal li iva għalkemm ma kienx ċert hux client *folder* biss : -

> jiena naf eżempju kien hemm folder operations, l-istess issa qiegħed fuq share point u folder IT qiegħed fuq share point jiġifieri mhux just the client's folder.
>
> Magistrat Inkwerenti: pero dettalji ta' l-klijenti, dettalji bħal per eżempju client's list, dettalji ta' min hu account holder, x'tip ta' account u x'naf jien, dawk id-dettalji kienu aċċessibbli għal impjegati kollha Jannar, Frar, Marzu ta' s-sena l-oħra?
>
> Louis Zammit: jekk mhux sejjer żball fil-bidu iva. Mingħalija iva.
>
> Magistrat Inkwerenti: meta qed tgħid fil-bidu, fil-bidu ta' xix?
>
> Louis Zammit: sorry ta' meta bdejt jiena f'Settembru naħseb għamilna iktar minn Marzu, ehe fil-bidu mingħalija jekk mhux sejjer żball kienu aċċessibbli minn kulħadd, ifhimni aħna I mean bħala bank, kull ma hemm front office jiġifieri jridu jaccessawhom għax huma client folder, legal and compliance li jridu jaccessawhom, operations li jridu jaccessawhom u jiena IT nagħmel parti minn operations, ma hiniex ċert jekk kienux jaccessawhom huwa Finance biss, dik ma hiniex ċert pero mill-bqija I mean Front Office, Legal and Compliance u Operations jiġifieri tista' tgħid il-maggoranza ta' l-bank kienu ehe jaccessawhom. Il-Finance dak iz-zmien Antoniella kien hemm jiġifieri persuna waħda kienet Finance dak iz-zmien meta bdejt jien jiġifieri u peress li kienet manager naħseb li kellha aċċess ukoll onestament, ehe pero dak iz-zmien il-maggoranza kienu jaċċessaw il-clients folder żgur.

Mistoqsi dwar kif jiġi ġenerat in-numru tal-kont fuq il-*Flexcube*, Louis Zammit qal li l-*client list* tiġi ġġenerata mill-*Flexcube* jiġifieri l-klijenti, l-*accounts* kollha li hemm fi *Flexcube* jiġu ġenerati minn hemm hekk u mbagħad joħorġu dak ir-rapport minn *BIP* reports. Il-*BIP* reports hi *dummy system* għax id-data tieħdu minn *Flexcube*. Is-*CIF* jiġi ġġenerat mis-sistema *Flexcube*.

Supr. Ian Joseph Abdilla: le, kollox hawn hekk hawn, din in fatti għadditilna Dr. Claude – Anne Sant Fournier u mmarkathomlna jiġifieri għandna klijenti normali qiegħdin bl-abjad, correspondence, investiment u counterparts qiegħdin bir-roza car, employees qiegħdin bil-blu, PEP qiegħdin bl-isfar u company information qiegħdin bir-roza skur imma xorta x'ħin tara tirrealizza li l-accounts ma humiex wara xulxin jiġifieri kif spjegajtlek minn ... naqbżu għas-seventy one.

Magistrat Inkwerenti: ma hemmx ordni kronoloġiku.

Supr. Ian Joseph Abdilla: jiġifieri account fifty eight, account fifty nine, account sixty fejn qiegħdin dawn?

Louis Zammit: ħa ngħidlek jiena sa fejn naf jiena s-sistema tiggenerahom wara xulxin sewwa issa kemm ili hemm jien naf żgur li ġieli kien hemm każijiet li eżempju meta għamilna l-progett ta' l-cards, li krejajna ħames new accounts, test accounts biex nuzawhom għat testing jiġifieri ma nafx imma s-sif li qbizna hemm maqbuz ma nafx hemm maqbuz għat testing, issa again din mistoqsija bħal din eżempju kieku ngħidu din x'inhi nifthu support ticket ma' Facilisation jekk huma they can answer it, they give us a reply within a few hours jekk le jeskalawha ma' l-Oracle ehe, jiġifieri jkun hemm dawn il-mistoqsijiet u affarijiet li jkollna neskalaw magħhom biex naraw għal fejn, jiena forsi common sense jgħidli li s-sistema ma għandhiex tagħmel hekk, kollox in order pero ma hiniex ċert I mean ...

Magistrat Inkwerenti: jista' jkun forsi xi security feature din ta' l-programme?

Louis Zammit: le ma jidhirlix.

Magistrat Inkwerenti: jiena naf to preserve privacy jew biex ħadd ieħor ma jkunx jaf?

Louis Zammit: le privacy inti number ħa jkollok biss, ma hiniex aware tagħha, ma hiniex ċert fuqha.

Supr. Ian Joseph Abdilla: ok.

Louis Zammit: nista' niccekja I mean, niccekja ma' Facilisation fuqha.

Supr. Ian Joseph Abdilla: is-sistema tippermettielek tiddilitja accounts?

Louis Zammit: iva imma irid ikollok a maker and a checker jiġifieri.

Supr. Ian Joseph Abdilla: mhux closing, tiddilitja?

Louis Zammit: complete deletion?

Magistrat Inkwerenti: jiġifieri jiena għandi kont u ma għadniex klijent spiċċajt, għalaqt il-kont u ħasruhuli jew xenarju ieħor, jiena klijent, ma rridx nuri li għandi dan il-kont, ngħidilhom ħasruhuli, pum u jħasruh, hemm dik il-facilita'?

Louis Zammit: mela mill-... ta' Flex Cube ma nafx jekk tistax tagħmilha mill back end kollox tista' tagħmel, mid-data base tista'.

Supr. Ian Joseph Abdilla: min għandu aċċess għal back end?

Louis Zammit: Facilitation, id-data base administrator ta' Facilitation pero ovvjament.

Supr. Ian Joseph Abdilla: intom minn naħa tagħkom għandkom aċċess?

Louis Zammit: għandna aċċess iva pero.

Supr. Ian Joseph Abdilla: min?

Louis Zammit: jiena, ic-COO u dawk prattikament pero I mean trid tkun aware tas-sistema, jiena eżempju ma nafx nuza d-data base.

Magistrat Inkwerenti: trid tkun taf tħaddimha il-Flex Cube sew.

Louis Zammit: la jiena u lanqas Luis jiġifieri ma nafux inħadmuha li kieku request bħal dik jekk I mean through Facilisation again u d-data base administrator u kieku request bħal dik mhux ser jieħdu responsabbilita' Facilisation jagħmluhielek qed tifhimni imma kieku tista' issir ehe mill-back end, mid-data base tista' ssir imma mill Front end ma nafx jekk hemmx xi mod imma jekk hemm mod ma hiniex aware tagħha.

Magistrat Inkwerenti: u din il-ħaga tista' ssir anki remotly jiġifieri ejja ngħidu per eżempju?

Louis Zammit: ehe.

Magistrat Inkwerenti: hi possibbli għax inti tidħol fid-data base

Louis Zammit: Facilisation jaqbdu ma' l-environment tagħna finalment remotly mill-Albanija jaqbdu the security VPN imma remotly qed jaqbdu, aħna eżempju darba f'sena nagħmlu fail over test.

Supr. Ian Joseph Abdilla: x'tagħmlu?

Louis Zammit: Fail over test mill-Melita nitfgħu mill-Melita mhux nitfgħu as such qisu gara xi ħaġa l-Melita u naqilbu biex naħdmu mill-Compu Time u nagħmlu three days biex naraw li jekk jinqala' xi ħaġa vera, jaħdem kollox sew, eżempju f'dak il-kaz trid timputja l-password ta' d-data base ta' Flex Cube, f'dak il-kaz eżempju naqbdu through a remote session ma' Facilisation, huma l-password ma jafuhiex u ninputjaw

il-password aħna biex nagħmlu din ic-change over jiġifieri ehe l-affarijiet remotly imbagħad magħhom jiġifieri jridu jsiru. Issa din semmejt id-deletion, ma nafx imma naħseb deletion jiena naħseb id-data base mhux ser taqbad tagħmel delete u daqs hekk, xi tip ta' password nimmaġina issa jekk trid password kull ma jafhom Luis, jiena bl-amment ma nafhomx imma għandna l-passwords kollha fis-safe jiġifieri jiena personalment biex nirrikwestja l-password għal din il-fail over inkellem lis-COO u c-COO jgħid lil Avukata biex tiftaħ is-safe, hemm persuna oħra li tiftaħ is-safe magħha jiġifieri nimmaġina li xi ħaġa hekk kieku trid password biex tagħmel xi tip ta' deletion.

Magistrat Inkwerenti: u fir-rigward ta' l-klijenti per eżempju jiena qed nifhem li l-client list qiegħda fuq data base hija data base ta' l-klijenti għandi nifhem le, it is generated jiġifieri through Flex Cube?

Louis Zammit: ehe Flex Cube minnu nnifsu hemm data base warajh.

Magistrat Inkwerenti: ... imma eżempju taħseb fil-ħazin ta', imma dak illi semma' s-Supretendent għandek numri li ma humiex konsekuttivi jista' jkun illi jkunu ismijiet li dawn tħassru minn fuq id-data base, tippermettihielek is-sistema?

Louis Zammit: ma nafx, ma nimmaginax li huma hekk jiġifieri.

Magistrat Inkwerenti: Alla ħares ta' imma aħna qed nippruvaw naraw naqra.

Louis Zammit: imma kollox jista' jkun eżatt.

Magistrat Inkwerenti: Alla ħares ifhimni x'jiena qed ngħidlek imma wieħed jibda jgħid imma dan kif għandek one, two, three, four, five imbagħad seven, nine, twenty four?

Louis Zammit: iz-zgur.

Magistrat Inkwerenti: titgerfex hux xi ftit qisek tibda'.

Louis Zammit: li nista' ngħidlek niftaħ ticket jew ma' Facilisation jew ma' l-Oracle dirett fuqha u nara jekk hemmx xi raġuni, onestament ma nafx għal fejn qiegħda hekk ..

Magistrat Inkwerenti: għal li jista' jkun il-bank ma għandux xi sistema oħra apparti l-Flex Cube illi juża għal pagamenti?

Louis Zammit: le, sa fejn naf jien le.

Magistrat Inkwerenti: dejjem il-Flex Cube illi juża?

Louis Zammit: u l-swift ehe.

Magistrat Inkwerenti: semmejtli li inti qabel kellek aċċess għal istatements u x'naf jien?

Louis Zammit: le statements aċċess għad għandi through BIP nista' niggererahom.

Mistoqsi jekk qattx ra' xi statement tal-kumpanija *Al Sahra,* Louis Zammit wieġeb li iva kien ra mingħalih ta' *Al Sahra FZCO.* Meta imbagħad konfrontajtu b'*Shams Al Sahra, Sahra* jew *Al Sahra,* wieġeb li:-

Magistrat Inkwerenti: Shamz Al Sahra jew Al Sahra jew Sahra waħedha?

Louis Zammit: ħawwadtni ma hiniex ċert naf xi ħaġa FZCO żgur u għandu jkun kien hemm tnejn simili jekk mhux sejjer żball.

Magistrat Inkwerenti: kien hemm tnejn simili?

Louis Zammit: hekk hu mingħalija.

Magistrat Inkwerenti: mela ara milli tista' tiftakar ħa ngħidlek tlieta jiena, ara naqra milli tista' tiftakar – Shamz Al Sahra, Al Sahra FZCO dejjem u Sahra FZCO mingħajr l-AL?

Louis Zammit: Mingħalija Al Sahra FZCO iva, ma nafx l-oħra onestament, ma nafx l-oħra imma kien hemm tnejn simili ħafna, jiena as such ifhimni jiena l-client list narahom għax għandi aċċess għal kollox, mill-bqija pagamenti u hekk ... I mean ma nagħmilx pagamenti jien, l-operations jagħmlu pagamenti jiġifieri jekk isiru xi affarijiet iktar huma li on a daily basis ħa jiltaqgħu magħhom pero eżempju migration mis-server għas-share point jiena għamiltha jiġifieri mingħajr ma trid, I mean tara ċertu affarijiet, l-emails nircevihom kollha jien, kważi kollha insomma ta' l-operat jiġifieri ehe tara.

Magistrat Inkwerenti: jiġifieri dawn l-ismijiet idoqqulek xi ħaġa pero ċert mija fil-mija ma intix?

Louis Zammit: eżatt, eżatt

Mistoqsi dwar il-kumpanijia *Tillgate Inc, Hearnville Inc* u *Egrant Inc* Louis Zammit wieġeb li huwa qatt ma ra' jew sema' b'dawn il-kumpaniji fil-Bank Pilatus. Biss mistoqsi dwar il-kumpanija *Willerby,* huwa wieġeb fl-affermattiv u kien ra s-*CIF folder* ta' *Willerby*; jaf li kien hemm xi

transazzjonijiet pero ma kienx jaf x'inhuma. Hu ma kienx jara pagamenti iżda jekk eżempju il-*Front Office* jibgħatu *email* lill-*Operations Department* b'*Payment Transfer to Willerby,* huwa jirċievi l-email u jaraha u dan peress li l-*IT Department* jaqa' taħt l-*Operations Department*.

> Louis Zammit: għax għal bank IT jaqa' taħt operations u operations huwa magħmul mis- COO, Operations supervisor Mehmet, Operations Specialist Mark u Adrian, dawk u jiena naqa' taħt operations u għal hekk qiegħed fil-grupp ta' l-operations jiġifieri ovvjament ma kienetx request tiegħi li nkun f'dan il-grupp jiena qed tifhimni pero l-pagamenti l-Front office jibgħatuhom lil operations u jiena part of that emeil allura ħafna minnhom l-emails letteralment niddilitja għax as such ma jinteressawnix, ma nagħmilx pagamenti imbagħad per eżempju Willbery u hekk ifhem tisma' bihom ukoll internament, ovvjament dan kullimkien ikun hemm naqra, kull ħadd iparla tipo taf hekk, taf hekk, gie dak hawn jiġifieri ehe.
>
> Magistrat Inkwerenti: jiġifieri per eżempju qatt kien hemm xi ħadd iparla li Joseph Muscat kellu xi kumpanija magħkom?
>
> Louis Zammit: Ie.
>
> Magistrat Inkwerenti: qatt ma smajt jew Joseph Muscat qatt ma kellu kumpanija magħkom, hawn kien klijent magħkom?
>
> Louis Zammit: qatt ma smajt, jekk għandux ma nafx. Jekk għandu ma hiniex aware tagħha.
>
> Magistrat Inkwerenti: u l-mara tiegħu Michelle Muscat taf jekk għandhiex xi interess f'xi kumpanija, klijenta tagħkom?
>
> Louis Zammit: sa fejn naf jien le, imma again ċertu affarijiet ma tistax tgħidhom I mean, Willbery billi tara Willbery ma tafx ta' min hu fil-verita' jekk imbagħad tfittex I mean qed tifhimni jiġifieri hemm ħafna klijenti li jiġu recommended through Nexia BT jiġifieri ma nafx jekk hemmx xi ħaġa, ma nimmaginax li ħa jidher Joseph Muscat , dak ikun xi isem ieħor bħal Egrant per eżempju imma Egrant qatt ma rajtu pero le qatt ma rajt l-isem Joseph Muscat u Michelle Muscat qatt ma rajthom.

L-anqas l-isem ta' Konrad Mizzi jew Sai Mizzi Liang ma ra'. Biss jaf li Keith Schembri għandu kont personali mal-Bank Pilatus kif ukoll card. L-isem ta'

martu Josette Schembri Vella ma raħx. Jaf li Leyla Aliyeva għandha kont mal-Bank Pilatus. Biss meta mistoqsi dwar Heidarov huwa jgħid li qatt ma semgħa dwaru. Negarin Sadr Hasheminejad jaf li tiġi oħt Ali Sadr u li għandha kont u li għandha *"fashion company"*. Jaf li mhux l-ewwel darba li Ali Sadr stess għaddielha xi transfer pero ma kienx jaf ta' xiex. Ma kienx jaf għaliex Negarin Sadr Hasheminejad kienet ħadet is-self.

L-impjegati tal-Bank Pilatus kienu mistennija li jdumu l-Uffiċju u kien ikolli xi jgħid ma Luis Rivera minħabba f'hekk. Iżda huwa normali li impjegati jdumu sat-2030 jew id-2100. Dakinhar tar-rivelazzjonijiet ta' Daphne Caruana Galizia ma ħadhiex bi kbira li dawk il-ħinijiet kien għad hemm l-impjegati fil-Bank għax din kienet ħaġa normali.

Minħabba li huwa *Private Bank* huma jkunu jridu li jaqdu lill-klijent dak il-ħin. Ġieli jiġu ġranet fejn ma jkollhomx x'jagħmlu imbagħad jiġi x-*COO* fis-sebgħa ta' filgħaxija biex jinfetaħ kont u jgħaddi pagament – meta fil-verita dak il-ħin ma jkunx ser jiġi pproċessat. Dan kien jaffettwa ħafna lil min kien jagħmel il-pagamenti u ċjoe lil Meħmet, Mark u Adrian. Meħmet kien barrani u l-ħin tiegħu iqattgħu hemmhekk iżda Mark u Adrian kellhom ħajjithom u kienu jiġu affettwati meta s-*CEO* kien jgħidilhom biex jiftħu kont fit-tard. Huma nies eżiġenti ħafna u anke matul il-leave kienu jċemplulu.

Fil-lejl meta nqalgħet il-kwistjoni huwa kien xogħol pero telaq bejn il-1730 u s-1800. Jaf pero li Ali Sadr kien ġie mill-airport u dan jafu għax kif kien bil-*break* ra lil Ali Sadr tiela bil-lift u sellimlu. Dan kien għall-ħabta ta' xis-1300 jew 1330. Kellu l-basket l-iswed tal-lap top u basket ieħor. Jaf li mar fil-*Boardroom* għax Ali Sadr minn hemm kien jaħdem. Kien normali li wara l-airport kien jibqa' sejjer il-Bank. Qal ukoll li għalkemm dik it-triq li ħadet Antoniella kienet tidher kerha meta tkun tafha tirrealizza li mhux l-ewwel darba li hija tinsa' fejn tkun ipparkjat il-karozza. Louis Zammit ma kienx jaf jekk Ali Sadr kienx ħa dokumenti miegħu.

Supr. Ian Joseph Abdilla: ok. At one point xi ħadd qalilna li inti f'xi perjodu mill-employment tiegħek kellek kwistjoni fuq xi CCTVs li riedu jitwaħħlu ix-xogħol tista' tispjegalna ftit, x'gara u x'ma garax?

Louis Zammit: Ie darba ic-CCTV qiegħed go s-server room u għandi aċċess għalih jiena u COO Luis u kienet ġiet Maria u kienet qaltli biex naqla' c-CCTV.

Supr. Ian Joseph Abdilla: Maria x'Maria?

Louis Zammit: Il-Whistle blower, Maria Efimova u kienet qaltli biex naqla' c-CCTV.

Magistrat Inkwerenti: għandha laqam ġdid din jiġifieri.

Supr. Ian Joseph Abdilla: kif taf li Maria l-Whistle blower?

Louis Zammit: ifhimni fuq l-Independent gabuha I mean tidher.

Supr. Ian Joseph Abdilla: inti tafha sew jiġifieri?

Louis Zammit: le nafha sew, I mean ħdimt magħha għal ftit xhur, nafha sew.

Magistrat Inkwerenti: għaraftha inti insomma, minn fuq l-Indipendent għaraftha?

Louis Zammit: minn leħinha tgħarafha, ma' l-ewwel to be honest gieni suspett li hija hi.

Magistrat Inkwerenti: u issa allura ġiet Maria l-Whistle blower?

Louis Zammit: Ie Maria Efimova .

Magistrat Inkwerenti: bil-laqam?

Louis Zammit: le.

Magistrat Inkwerenti: kompli, x'garalha din?

Louis Zammit: le jiena ma għandi xejn kontriha u kienet qaltli biex ineħħi c-CCTV u għidtilha n-naħħi c-CCTV ma tarax tipo, min qallek, qaltli ic-CO.

Supr. Ian Joseph Abdilla: Ic-CCTV min fejn ried jitneħħa?

Louis Zammit: minn go s-server room.

Supr. Ian Joseph Abdilla: il-camera jew l-apparat?

Louis Zammit: le d-DVR, l-apparat.

Supr. Ian Joseph Abdilla: le għax aħna fhimna l-cameras riedu jitneħħew?

Louis Zammit: ta' l-cameras hija storja oħra issa ngħidilek u għidtilha tipo għal fejn, qaltli l-CO qalli, jiena għidtlu mhux ser nagħmilha, to be honest, l-għada sibt il-wire mhux maqlugħ as such qisu miġbud imma kien imkisser fis-server room, x'ħin nidħol filgħodu niccekja, nixgħel l-AC minħabba s-survers u kummiedji.

Supr. Ian Joseph Abdilla: fejn ried jagħmlu u għal fejn?

Louis Zammit: ma għandhiex idea. Ma għandhiex idea għal fejn, jiena niftakar dak in-nhar għidt lil Luis is-COO qalli ehe naf, dak ħadtu d-dar, qalli għax gbidnieh u tkisser u rrid nirrangah jien, għidtlu alright, fil-fatt dak iz-zmien kont tkellimt ma' Compu Time għax Compu Time jimmonitorjaw is-sistemi ovvjament jekk waqa' server jirċievu notification u għas CCTV l-istess jirċievu notification li qiegħed down u kien cempilli Maurizio minn Compu Time u qalli isma' ehe naf, kien hemm xi problema u rrangah ic-COO mid-dehra, qalli alright, alright qalli basta għax aħna qed narawh li qiegħed down, mhux qed jaħdem ... għidtlu ma nafx kemm ħa jdum u kien għamel naħseb bejn one u two weeks xi ħaġa hekk.

Supr. Ian Joseph Abdilla: tiftakar meta kienet din il-bicca xogħol?

Louis Zammit: ma għandhiex idea eżatt pero ifhem kien hemm Maria jiġifieri fit-2016, Maria tlett xhur għamlet hemm jiġifieri I mean.

Mistoqsi dwar ir-rwol ta' Maria Efimova fil-Bank Pilatus, Louis Zammit jgħid li :

> Louis Zammit: hi Maria, I mean daħlet hemm bħala Assistenta ta' Mr. Sadr u ta' CO tista' tgħid, two in one, u barra minn hemm kienet tieħu ħsieb il-maggoranza ta' l-klijenti.

Mistoqsi x'ried ifisser biha Louis Zammit qal li hija kienet taf tmur mal-klijenti u kienet qabdet ix-xogħol malajr u spiċċat biex kienet l-iktar li kienet involuta mal-klijenti. Hija qabdet il-proċess malajr u kienet tagħmel ħafna pagamenti. Maria Efimova kienet tirċievi l-istruzzjonijiet mingħand il-klijenti u hi minn naħa tagħha kienet tagħmel *scans*, tagħmel *attachment* mal-*emails* u tibgħat lill-*Operations Department*... :

> Dear All, please execute this payment, maker u checker ... Swift, toħroġ l-Swift copy jibgħatuha lil Maria, l-Swift copy cioe' jibgħatuha l-front office pero jekk tkun bagħatitha Maria ħafna drabi tiffolowjaha Maria ma' l-klijent is-swift copy u tibgħat l-swift copy li l-pagament sar Maria jew who ever lil klijent.

Kwantu għall-*camera* fil-kċina, Louis Zammit jgħid li din il-kċina dejjem kellha *camera* installata fiha sa minn meta daħal hu. Kwantu għas-*safe*, kien hemm wieħed żgħir li kien fih il-*passwords* u hemm xi *cash*. Dak kien ilu hemm mill-bidu nett li beda jaħdem hemm hu. Ħafna impjegati ma għandhomx amment tiegħu għax jinsab fis-*server room* li hu pero għandu aċċess għaliha u għalhekk jaf bih. Il-*passwords* qegħdin f'idejn Claude-Ann Sant Fournier u Mehmet Tasli. Kien hemm *cabinet* bil-*lock* li kien għamel xi żmien fil-kċina wkoll. Jidhirlu li kien bil-*combination* ukoll, li qegħda għand Claude-Ann Sant Fournier; iżda issa dan il-*cabinet* jinsab fl-*istore*. Jaf li kien tqil u li kienu resquh. Mhux ċert jekk hux bil-*combination* jew ċavetta.

Magistrat Inkwerenti: allura jekk qed nifhmek sew, jekk fil-kcina hemm il-camera, fejn kien hemm is-safe allura dak iz-zmien kien hemm camera ukoll hux hekk logikament?

Louis Zammit: iva mela mela.

Magistrat Inkwerenti: la kien hemm camera fil-kcina suppost li dina taqbad lis-safe ukoll għandi nifhem jien?

Louis Zammit: eżatt, eżatt iva.

Magistrat Inkwerenti: u f'dan is-safe x'kienu jżommu?

Louis Zammit: jiena as such qatt ma kelli bżonn immur ħdejn is-safe u nara x'fih pero meta ġieli kont nkunu qiegħdin nieklu fil-kcina u hekk, xeba' karti nista' ngħidlek, mill-bqija ma nafx.

Magistrat Inkwerenti: ma tafx x'tip ta' karti kienu jkunu, jekk hux ta' klijenti PEP jew inkella jekk hux ta' ma nafx xix?

Supr. Ian Joseph Abdilla: kopji ta' transactions ma nafx?

Louis Zammit: ma hiniex aware, naf li ħafna dokumenti, I mean li ħarġet fil-media u li ġieli nisma' internament li ehe ċertu klijenti importanti imma jekk hux vera ma nafx. Jiena just li hemm xeba' / ħafna karti pero ma nafx x'inhuma ġieli ehe kien hemm min jitlob xi ħaġa lil Claude – Anne ehe daka rrid ingibu mis-safe eżempju jiġifieri ehe nimmaġina affarijiet relatati qed tifhimni jiġifieri pero ma nafx eżatt x'inhuma jekk hux account opening forms, transactions what ever, ma nafx.

Dwar l-allegati trasferimenti ta' flus minn *Al Sahra FZCO* lejn *Egrant Inc*, Louis Zammit jgħid li din it-transazzjoni qatt ma raha jew sema' biha. Għalkemm kienu jsiru transazzjonijiet kbar lejn Dubai għax is-*CEO* kellu ħafna kuntatti u klijenti f'Dubai din it-transazzjoni qatt ma kien sema' biha.

Dwar is-self ta' Negarin Sadr jaf li din hija oħt iċ-*Chairman* u li kellha kont. Pero ma jafx dettalji dwar jekk flejjes li ħadet b'self marrux fil-kont ta'

Michelle Buttigieg. Jekk kienu jsiru affarijiet ta' dan it-tip ma kienux ser jgħidu lilu. Kienu jagħmluhom il-*management* jew is-*senior staff* u mhux jgħidu lilu.

Meta għamlu l-ispezzjoni l-*FIAU* hu kien preżenti. Mistoqsi jekk kienx hemm tensjoni fil-Bank huwa qal li iva kien hemm tensjoni, iżda *"hemm ġew dejjem, I mean hija normali."* Louis Zammit iqabbel il-Bank Pilatus mal-*FIM Bank* u jgħid li l-*FIM Bank "relax konna"*. Hu jgħid hekk fis-sens li meta kien *FIM Bank* huma kienu jkollhom iż-żmien biżżejjed biex ilaħqu mentri fil-Bank Pilatus ir-responsabbilta' żdidietlu u l-*management* kien eżiġenti u jrid ir-riżultati malajr. Allura qabel jekk il-*Website* weħlet, huwa ma kien jagħmel xejn fil-għaxija iżda jekk issa l-*Website* tal-Bank Pilatus teħel fil-għaxija, huwa jkun irid jara x'jagħmel biex tiġi taħdem. Biss meta kienu jagħmlu spezzjoni l-awdituri jew l-*FIAU* it-tensjoni kienet tiżdied. Dan kien minħabba l-fatt li : -

> Louis Zammit: tension ta' l-FIAU u awdituri għax iridu ħafna affarijiet bħal statements u hekk jiġifieri anka eżempju jiena dak in-nhar niftakar kont għenthom jipprintjaw l-istatements għax jien fejn naf jien jekk riedu ħamsin statement eżempju konna naqsmuhom bejn tlett minn nies / erbgħa minn nies fosthom kont ngħinhom jiena, qed tifhimni niggenerawhom qed tifhimni mingħajr ma trid jekk iriduhom within one hour ehe jkun hemm tension, rapporti forsi xi rapport li ma għandniex tgħid lil Facilitization u tgħidilhom irridu urġenti.
>
> ....

Louis Zammit: minn meta gew l-FIAU għal żmien wara l-affarijiet impruvjaw ħafna in terms of documentation jiġifieri ehe jista' jkun li dak iz-zmien kien hemm affarijiet nieqsin, ma nafx jekk kienx hemm jiġifieri pero jista' jkun ehe għax meta telqu l-FIAU jiġifieri inbidlu ħafna l-processi li jekk qabel jiena naf kien jiġi pagament mill-Front office, alright, alright u jgħaddi tipo issa hemm ħafna iktar checks, dawk li għidtilkom qabel li daħlu over one million jarahom ic-COO eżempju, nimmaġina li hekk saru ukoll biex jimpruvjaw il-flow ta' kif jibda pagament u kif tipo jispiċċa jiġifieri ehe kemm ili hemm inbidlu l-processi jiena bħala impjegat ngħidlek li nbiddlu għal aħjar biex jekk tgħidli naraha iktar serja jien milli jiġi pagament u qabad u x'jismu, isma' l-klijent erga' mur fuqu staqsih dan għal fejn imma, qed tifhimni jiġifieri hemm ħafna ehe issa hemm ħafna processes differenti li huma aktar I mean joqgħodu iktar attenti ħa ngħidu hekk.

Mistoqsi minni jekk kienx jaf min hu Brian Tonna, wieġeb li huwa qatt ma kien rah l-uffiċju tal-Bank Pilatus. Pero hu ma kienx ikun mal-bieb għax il-bieb kienu jiftħuh mill-*Front Office*. Biss darba minnhom kien mar jiftah il-bieb hu u r-raġel li kien hemm introduċa ruħu miegħu bħala Karl Cini u kien qallu li kellu meeting ma' Hamidreza Ghanbari. Hemmhekk sar jaf min hu Karl Cini. Biss hu qatt ma kien semgħa xi argument bejn Ali Sadr u Brian Tonna. L-aktar nies li setgħu semgħu dan il-fatt, jekk seħħ, setgħu ikunu jew mill-*Front Office* jew Hamidreza Ghanbari li kellhom l-uffiċji tagħhom viċin tal-*Boardroom*.

Ix-xiehda ta' Mehmet Tasli

Il-professjoni tiegħu hija ta' bankier u jaħdem mal-Bank Pilatus bħala *Operations Supervisor* sa' mit-13 ta' Jannar 2014. Huwa għandu esperjenza t' operazzjonijiet bankarji billi jaċċessa l-*iSwift* u *Correspondent Banks, trade finance, treasury back office* u *treasury front office.* Hu jeżegwixxi l-aspett tekniku tal-operazzjonijiet tal-Bank u jentra t-transazzjonijiet bankarji fis-sistema bankarja billi juża l-i*Swift platforms, Flexcube, TAS* u pjattaformi tekniċi oħra bħal *sanction screening, Bloomberg* għat-*treasury,* il-*voice recording* tat-telefonati tal-klijenti eċċetra.

Mistoqsi jekk minbarra l-*branch* ta' Londra il-Bank Pilatus għandux xi Bank ieħor barra minn Malta li huwa *partner* u mhux *Correspondent Bank,* Mehmet Tasli jgħid li l-Bank Pilatus m'għandux strutturi ta' dan it-tip. Mistoqsi dwar is-servizzi li joffri l-Bank Pilatus huwa jgħid li dal-Bank joffri servizzi sempliċi ħafna bħal depożiti bankarji u trasferimenti ta' flejjes u skambju ta' valuti diversi kif ukoll :

> holding securities on behalf of the client, leverage, managing trading for one particular client or two..effects trading... so basically the aim of the client is to make some profits in currency exchanges...and one time we had one term deposit. Other than this we do not have any other product

F'dan l-istadju staqsejtu jekk joffrux self lil klijenti għax ma semmihiex u qal li l-Bank Pilatus kien joffri wkoll self lil klijenti tiegħu. Il-Bank Pilatus għandu *Credit Committee* u qabel jingħata self il-klijent irid jagħmel talba lil

Front Office u l-ewwel li jittrattaw it-talba jkunu huma. Jekk it-talba tiġi kkunsidrata imbagħad tgħaddi lill-*Credit Committee* li jagħmlu analiżi mill-lat ta' compliance u mill-lat regolatorju tat-talba. Il-*Credit Committee* huwa magħmul minn Hamidreza Ghanbari, Claude-Ann Sant Fournier u Mehmet Tasli bħala segretarju tal-*Credit Committee*. Jekk dal-kumitat jaqbel li jingħata s-self imbagħad allura jiffirmaw id-deċiżjoni u din tgħaddi lill-*Operations Department* li jentra din it-transazzjoni fis-sistema bankarja. Il-*Credit Committee* jara wkoll li jekk is-self jiġi approvat ikun il-kuntratt tas-self iffirmat mill-partijiet. Is-self li jagħti l-Bank Pilatus huwa *"very plain with bullet principal payment with interest instalments, either the fixed interest rate or with a base rate plus Libor rate"*.

Mistoqsi ladarba self jiġi approvat kif jiġu utilizzati l-flejjes mislufa mill-klijent, Mehmet Tasli jgħid li hemm żewġ modi. Wieħed minnhom huwa billi l-kont tal-klijent fil-Bank Pilatus jiġi kreditat direttament jew inkella mod ieħor huwa li jiġi kreditat il-kont tal-benefiċjarju li għalih il-klijent ikun ħa s-self u l-Bank Pilatus imbagħad jagħmel it-trasferiment tal-flus lil dak it-terz indikat mill-klijent li jkun ħa s-self.

Mistoqsi jekk il-Bank Pilatus kienx jiffaċilita kuntratti ta' self bejn il-klijenti tal-Bank Pilatus infushom, Mehmet Tasli jgħid li *"No, we do not have such a business"*. Biss il-Bank Pilatus jagħmel pagamenti bejn kontijiet ta' klijenti

tiegħu stess. Jgħid hekk :

> When it comes facilitating if you mean if customer A and customer B, in that regard they are moving the funds and they are making transfer, we do payments, the transfers".
>
> The Court : You do the transfer.
>
> The witness : Yes.
>
> The Court : So, if for example customer A want to pay customer B – for a loan, payments for services rendered,
>
> The witness : yes,
>
> The Court : Payments for products purchased,
>
> The witness : yes,
>
> The Court : You make transfers from account of client A to client B.
>
> The witness : Yes.
>
> The Court : But do you prepare the documentation not simply for the transfer but for the agreement behind the transfer?
>
> The witness : This not with my role and I do not know if it is prepared or not.
>
> The Court : Ok. Who would know whether that service is given by the bank?
>
> The witness : Business and Compliance would know this.
>
> The Court : Business and Compliance.
>
> The witness : The people who are in contact with the client, they would receive this request and secondly if it is prepared, it is prepared by the Legal Department, so they would know it.

Kwantu għal kuntratti ta' self eżegwiti mill-Bank lil klijenti tal-Bank Mehmet Tasli jgħid li jistma li minn meta daħal jaħdem hu kiem hemm massimu ta' ħamsa u għoxrin wieħed fis-sena – biss din hija spekulazzjoni għax ma kienx ċert – u dan meta klijent ikun ġedded il-kuntratt tal-kera wara li jkun skada

t-terminu tiegħu. Altrimenti jistma li kwantu ta' klijenti li jieħdu self kien ikun hemm madwar għaxar jew ħmistax il-self sa mill-2014.

Meta l-Bank Pilatus jagħti self, il-flus li jiġu konċessi jinħarġu mill-fondi tal-Bank Pilatus fil-*general account* tiegħu. Dan is-self jiġi proċessat tramite s-sistema bankarja tal-Bank Pilatus li huwa l-*Flexcube* li għandu *client lending model* li fiha jiġi reġistrat is-self li jkun ser jiġi mogħti inkluż id-data tal-iskadenza, l-ammont, il-valuta, l-isem tal-klijent, ir-rata tal-imgħax u bir-rati ta' ħlas tal-interessi. Ikun hemm persuna li tentra d-dettalji tas-self u jkun hemm persuna oħra li tivverifika u tawtorizza dak is-self. Imbagħad il-flus jiġu trasferiti mill-*ġeneral account* tal-Pilatus skont waħda mill-għażliet imsemmija aktar il-fuq. Mistoqsi jekk kull darba li jagħtu self jużawx il-*Flexcube*, Mehmet Tasli jikkonferma li jużaw biss il-*Flexcube* għall-operazzjonijiet bankarji kollha tal-Bank Pilatus.

Jekk il-flus li jkunu ġew mislufa jiġi depożitati fil-kont tal-klijent li jkun ħa s-self jgħid hekk : -

> The witness : The clients may have already funds in their account and then directly through using the model we can collect the payments or else the client can send fresh funds to his account with the bank again or else the client may send the funds to one of our correspondent banks in the account of Pilatus Bank. So in our statement with that correspondent bank we would see the entry, then the ... on that entry we would make the relevant collection.
>
> The Court : Now, the same question in relation to when customers give you

instructions to make payments from their own account to another account, either to a beneficiary with Pilatus or to a beneficiary with any other bank. When you process this request, do you always use Flexcube or do you use any other platform?

The witness : Flexcube is used to put the entry and then ... Flexcube generating the Swift message, Swift message is then communicated to TAS platform, TAS platform is for the Swift messages and then integrated with the ... service. And the message is going to TAS, then from TAS it is released and then it is going to Swift service and then from there it is communicated to one of our correspondents and then finally the correspondent is processing this payment and then getting the money to the destination.

The Court : Now, do you use Flexcube as a – all right, as your main and core banking system from what I can understand – but do all your employees use Flexcube, those who are in operations or do your employees use Flexcube and other programmes to affect payments of clients?

The witness : If you have Flexcube only and Flexcube is communicated with the TAS and other than this Flexcube and TAS we do not have any other banking system.

The Court : For payments.

The witness : Yes.

Mistoqsi kif allura t-transazzjoni tiġi mgħoddija mill-*Flexcube* lil portali *TAS*, Mehmet Tasli jgħid li dan huwa proċess awtomatizzat. Għalhekk meta jkun hemm l-MT103 lesta mill-persuna li tkun qegħda tentra t-transazzjoni fil-*Flexcube* u t-tieni persuna tawtorizzaha, awtomatikament ladarba l-*Flexcube* jiġi awtorizzat jeżegwixxi t-transazzjoni, din tgħaddi awtomatikament fil-portali *TAS* fi żmien għaxar jew ħmistax il-sekonda.

Mill-banda l-oħra s-sistema *TAS* tippermetti li jiġi proċessat pagament direttament fis-sistema tagħha u b'hekk jekk ikun hemm problema bil-

Flexcube huwa possibbli li pagament jiġi inserit direttament fit-*TAS*. Iżda l-messaġġ fit-*TAS* xorta jrid jiġi inserit minn persuna waħda u awtorizzat minn persuna oħra u jiġi rilaxxat mit-tielet persuna. B'hekk din it-transazzjoni ma tkunx inserita wkoll fil-*Flexcube* u ma tiġix tidher bħala transazzjoni doppja għaliex altrimenti jkun hemm *"a reconciliation mismatch between Flexcube and (TAS)"* imbagħad allura tiġi inserita fil-*Flexcube* manwalment wara.

Mistoqsi jekk qattx għamlu din it-tip ta' transazzjoni Mehmet Tasli jgħid li:-

> To my knowledge no. There are some free format messages which we have to prepare, one or three; no, I don't remember. There is such a thing if one goes to TAS and then prepare ... message and are released from there and then if he does not ... on Flexcube side, the day after it would be shown mismatch between the correspondent bank and the Flexcube correspondent bank balances. So we did not have such a mismatch so far. We did not identify a payment that was booked from TAS but not booked in the Flexcube....
>
> Supt. Abdilla : No, no, but technically if the connection between TAS and Flexcube is down, technically you still can continue receiving, clients will continue receiving payments in and can still continue to do payments out without actually being reflected in their accounts and they would have to be inputted manually.
>
> The witness : Technically you can do this if the connection is down. What we would do, we would ... in Flexcube first and the connection is down first you would put the transaction in Flexcube then you would do the job between the Flexcube and then TAS manually by yourself, you would then go to TAS and then put payment there and then the second person would check and then authorizes again.
>
> Supt. Abdilla : Who in your bank has the right if need be to input transactions directly in TAS?
>
> The witness : Mark Camilleri, Adrian Galea and myself we can input.
>
> Supt. Abdilla : Ok.

The witness : This is the first phase by putting, you cannot process it, only input.

Supt. Abdilla : And who can authorize that?

The witness : Who can authorize? One of us can authorize.

Supt. Abdilla : All three of you.

The witness : And of us. And then it has to go to a third level and then in the third level there are people Tatiana Zammit, Antonella Gauci and Domenique Camilleri and Claude-Anne Sant Fournier, one of these four people and Luis Rivera, then needs to release it.

Mehmet Tasli jgħid li l-Bank Pilatus dejjem uża l-*Flexcube* flimkien ma *TAS* sa minn meta fetaħ għan-negozju u għalhekk safejn jaf hu, ġaladarba qatt ma użaw *TAS* manwalment mingħajr *Flexcube* it-transazzjonijiet tal-Bank Pilatus kollha jridu jiġu riflessi fil-*Flexcube*.

Id-deċiżjoni dwar liema *Correspondent Bank* jiġi użat għal transazzjonijiet partikolari tiġi deċiża mill-*Management* billi hu jitkellem ma Hamidreza Ghanbari u Luis Rivera, li jiddeterminaw il-kriterji kif għandha ssir l-għażla tal-*Correspondent Bank*. Eżempju għal *multiple currencies* jużaw *Societe Generale*; għal *USD* jużaw lil *DZ Bank*; għal *Turkish Lira* jużaw lil *BOV* jew *Vakif Bank*. Mistoqsi jekk kellhomx xi numru ta' transazzjonijiet ma' persuni fit-Turkija jgħid li ma għandhomx transazzjonijiet fit-*Turkish Lira*. Il-Bank Pilatus kien fetah kontijiet ma Banek Torok biex ikun jista' jgħaddi : -

our funds through money market transactions. So, our real aim is not to transact ... payments in Turkish Lira but other then this to open a relationship with the bank and to pay some funds with these banks because the bank is required to distribute the

funds limited with our funds, our own funds is eleven million euro (€11,000,000) so we need to have as much as possible many counterparties so it is making our jobs more flexible, that is why we are opening accounts.

Mistoqsi minni jekk kellhomx xi persuni jaħdmu għalihom fit-Turkija, Mehmet Tasli jgħid li l-Bank Pilatus ma għandux Bank fit-Turkija. Mistoqsi dwar jekk jafx min hi Linet Estiroti jgħid li fil-preżent ma kellhiex relazzjoni mal-Bank Pilatus. Dwarha jgħid li din kienet l-assistent personali ta' Ali Sadr kemm qabel kif ukoll wara li ġie mwaqqaf il-Bank Pilatus. Meta kienu qegħdin jaħdmu fuq il-liċenzjar tal-Bank Pilatus kienu wkoll f'kuntatt ta' Linet Estiroti. Għalkemm kien ra darba f'Malta ma ltaqax aktar magħha aktar. Safejn kien jaf u m'għadhiex l-assistent personali ta' Ali Sadr u ma jafx għadhiex f'kuntatt miegħu. U ma jafx jekk fil-bidu tal-2016 kienetx tikkorrispondi ma Ali Sadr. Mehmet Tasli ma jafx jekk Ali Sadr għandux xi negozju, kumpanija, bank jew istituzzjoni finanzjarja fit-Turkija.

Mistoqsi jekk lill-klijenti kienux jingħataw *statements* lill-klijenti, Mehmet Tasli jgħid li kienu jibgħathulhom *statements* fuq bażi regolari. Kien hemm klijenti li rieduhom mensilment u oħrajn fuq bażi ad hoc. Ma jafx jekk jingħatawx *statements* bil-karti jew elettronikament. Hu ma kienx jiftakar li kienu jsiru u jintbagħtu *statements* magħmula b'mod manwali.

Il-Bank Pilatus għandu servizz ta' *pre-paid cards* u m'għandhomx servizz ta' *credit cards*. *Cartaworld* u *Mastercard* kienu wżati għal dan l-iskop. Il-Bank Pilatus ma kellux *mobile banking* jew apps għal dan is-servizz. Qed jiżviluppaw is-servizz *ARC* li pero kien għadu mhux miftuh għal klijenti. Għad-dokumenti jkienu użaw *Sharepoint* sa mill-bidu tal-2016.[131] Qabel kellhom *shared drives* jew il-*computers* tagħhom. *Sharepoint* huwa *common public folder* li kulħadd setgħa jkollu aċċess għalih għalkemm kien hemm ukoll *personal folders* għal utenti partikolari. Safejn kien jaf hu kull impjegat kellu aċċess għas-*Sharepoint*. Dan setgħa jkun limitat għal ċerti *files* pubbliċi minħabba raġunijiet ta' kunfidenzjalita'.

Mehmet Tasli jgħid li transazzjoni ma tistax tiġi maqsuma fit-*TAS*. Jekk wieħed ikun irid jaqsam pagament dan irid isir f'żewġ *entries* differenti u separati u mhux fi transazzjoni waħda maqsuma fi tnejn. Mehmet Tasli jgħid li fil-Bank Pilatus qatt ma kien hemm transazzjonijiet li ġew maqsuma b'dan il-mod li jiġu maqsuma fi tnejn. Apparti minn hekk transazzjoni tista' titħassar mit-*TAS* jekk tkun għadha mhux awtorizzata. Ladarba transazzjoni tkun awtorizzata, din ma tistax titħassar minn fuq it-*TAS*.

[131] Maria Efimova tgħid li sakemm kien hemm hi taħdem il-Bank *Sharepoint* kien għadu fi stadju sperimentali u mhux operattiv għall-aħħar: "*By that time that I was working in the bank the share point wasn't yet in use...they were just developing it..*". Għalhekk id-dikjarazzjoni li kien beda jintuża fil-bidu tal-2016 għandha tiġi meqjusa f'dan il-kuntest ukoll.

Meta l-Bank Pilatus jakkwista klijent ġdid, dan jingħatalu *Customer Information File (CIF).* Id-dettalji personali tal-klijent jiġu entrati fis-sistema bħall-isem u konjom, indirizz, data tat-twelid, numru tat-telefon eċċetra. Mal-mument li l-klijent jiġi miktub fuq is-sistema tal-Bank Pilatus dan ikun għad m'għandux kont bankarju. Persuna imbagħad tentra l-*currency account* u jkun hemm persuna separata li tawtorizzaha. Jistgħu jinfetħu kontijiet f'valuti differenti u ammonti ta' kontijiet differenti.

Ikunu l-*Operations Department* li jibdew jentraw id-dettalji tal-klijent fil-*Flexcube* u dan għall-klijenti kollha. Il-*Flexcube* jiġġenera l-lista kollha tal-klijenti tal-Bank. Il-*BIP* huwa mibni fid-*database* ta' *Flexcube.* Safejn jaf hu mhux possibbli li tentra d-dettalji ta' klijenti fil-BIP mhux tramite Flexcube. Mistoqsi jekk jafx li n-numru tal-klijent jista' ma jkunx konsekuttiv, Mehmet Tasli jgħid li n-numri ġieli jinqabżu iżda ma jafx għaliex: -

> The witness : For instance the ... numbers start from one (1), double zero double zero one (00001) and subsequently when you open a new account, new ... accounts, it is given the subsequent number. However, today you open it at four (4) and then the day after it opens with eight (8).
>
> The Court : Why? Why does it do that?
>
> The witness : I do not know.
>
> The Court : But it is inbuilt in the programme itself you are saying.
>
> The witness : In my experience this is since day one,
>
> The Court : It always was like that?
>
> The witness : It was always like that. When we started at day one we were using the Flexcube and then immediately it was jumping.

The Court : So, let me be clear. It is not possible for the bank, because to me it is a bit strange, because I think one, two, three, four, five, they should be chronological, no?

The witness : Ehe.

The Court : So why should you go from four (4) you skip to eight (8)? It does not make sense. It is confusing. What happens for customer five (5), customer six (6), customer seven (7)?

The witness : This I do not know. It is totally particular to the system itself.

The Court : To the system itself. So it is not a case that some clients are deleted from the clients' list.

The witness : No, you cannot delete. If you open you can only close. There is not a delete function.

The Court : You can close but you cannot delete.

The witness : No.

The Court : And if you close, the closed account would retain the same chronological number?

The witness : The closed account if the number was seven (7), seven (7) would still stand there.

The Court : As seven (7)?

The witness : Yes.

The Court : Even if the account is closed?

The witness : Yes.

The Court : Ok.

Supt. Abdilla : Can you delete an account? Can you delete a record?

The witness : No. To my knowledge no you cannot delete.

The Court : In Flexcube?

The witness : Yes.

Supt. Abdilla : So we have either an open account or a closed account.

The witness : Yes.

Supt. Abdilla : And with the closed account they stay there, you do not have like after

one year closed account it gets deleted?

The witness : No.

Mehmet Tasli jgħid li riċentement kienu għamlu tibdiliet fis-sistema *TAS* b'mod li ġabuha aktar ristretta. Dan seħħ minn Frar 2017 biex iżidu s-sigurta tas-sistema biex minn żewġ *checkers* issa jrid li jkun hemm ukoll l-approvazzjoni tal-*Compliance Department* u l-*Finance Department*. Dan sar biex jiġu evitati kollużjoni bejn żewġ *checkers*. Inoltre daħlu profili ġodda.

Hu għandu kuntatt ma' *Facilization* u ma rappreżentanti tat-*TAS*. Dawn għandhom *help desk email contacts*. Meta Louis Zammit ma jkunx disponibbli, u jkollhom problema bil-*Flexcube* jew it-*TAS* huma jagħmlu kuntatt mal-*help desk*.

Mehmet Tasli ikkonferma li huwa kellu aċċess għall-lista tal-klijenti tal-Bank Pilatus. Safejn jaf hu l-isem tal-kumpanija kien *Sahra FZCO* u mhux *Al Sahra FZCO*. Jiftakar li hemm ukoll *Shams Al Sahra FZCO*. Iżda ma jiftakarx *Al Sahra* waħedha. U l-anqas jiftakar li kien hemm xi bidla fl-isem minn *Al Sahra* għal *Sahra*. Biss :

if it was changed it would be locked in the system and then the system.

The Court : It would still be locked.

The witness : Yes.

The Court : So, if the name of the company changed from Al Sahra to Sahra, for example, if originally it was Al Sahra, would the system still retain Al Sahra as the name of the customer?

The witness : To my knowledge yes, it should be. Before, I did not extract such a lock, but what I say there are versions of CIF records. So the previous version, to my knowledge it is including this lock. However, I did not verify it before.

The Court : Did you have any instance where one of your clients, corporate ones principally, had a name change?

The witness : Yes.

The Court : And when this happened, how did you tackle it in your system?

The witness : To my memory it was in two thousand and fifteen (2015), summer time, and I may not remember the name of the client, and when it happens and then officially the client changed the name, then we are given new documents by Compliance to change the name in the system so that one user is opening the record namely unlocking it, changing the name, and then saving and then the second person is checking and then authorizing, and then the name is changed from A to B.

The Court : All right. Now, however, the transactions carried out by the company under its old name, would they still be retained in your Flexcube system?

The witness : Yes.

The Court : Or would they be deleted?

The witness : No. They would be retained....

The Court : Now. So it is not possible for a transaction to be carried out, for example a payment to be carried out by the bank unless it is processed through its core banking system, correct?

The witness : Correct.

The Court : So if a customer of yours, a client of yours effects a one million dollar ($1,000,000) payment for example, to another customer, wherever he is, Pilatus or to a beneficiary or whatever, through Pilatus Bank, somehow or other this payment has to be recorded in the bank's core banking system.

The witness : Ehe.

The Court : So is there a way of escaping the core banking system and making the payment nonetheless?

The witness : No. Without escaping Flexcube and TAS one cannot make a payment.

The Court : One cannot make a payment in Pilatus Bank.

The witness : Yes.

The Court : So in order for a payment to take place it must have its records with the bank, it must be recorded with Flexcube, processed through TAS, therefore SWIFT, passing through correspondent banks, and eventually arriving at destination. It has to be like that, there is no way of doing a payment.

The witness : It has to be like that.

Supt. Abdilla : Are you sure about this? Can a payment be made without going through SWIFT?

The witness : No.

Mehmet Tasli jgħid li l-Bank Pilatus għandu kont kummerċjali mal-Bank of Valletta għall-ħtiġijiet tal-Bank. Apparti dan il-Bank Pilatus għandu *Correspondence Bank relations*. Il-Bank Pilatus għandu kont bankarju ma' Badr Bank għall-fini ta' securities u ma jistgħux isir pagamenti minn dan il-kont. Meta jkun hemm messaġġ *Swift*, il-flus ma jittieħdux fiżikament mill-Bank Pilatus iżda din tkun *paper transaction*. Il-Bank Pilatus ma jistax jagħti struzzjonijiet bl-*email* lil *Correspondent Bank* sabiex jeżegwixxi transazzjoni. Jista' jagħmel dan biss mill-i*Swift system*. Irid jobdi l-messaġġi MT103. Anke mal-*Badr Bank* il-Bank Pilatus jinnegozja bl-*iSwift*. Meta l-Bank Pilatus jiġi biex jixtri *securities*, huwa jagħmel kuntatt mal-*Badr Bank* bil-*Bloomberg Trading Platform*. Imbagħad biex jagħmel transazzjonijiet bejn *Badr Bank* u *Societe Generale* jew *DZ Bank*, il-Bank Pilatus jagħmel kuntatt magħhom tramite *Swift*. Jużaw ukoll is-*Saxo Bank* mhux bħala *Correspondent Bank*. Dan mhux qiegħed għal

ħlasijiet ta' klijenti u jista' jagħmel trasferimenti *between Pilatus Bank and Pilatus Bank.* Anke meta jiġu biex jagħmlu ħlasijiet f'banek fid-dinja Għarbija, bħal Dubai, jużaw il-*Correspondence Banks* tagħhom – *DZ Bank, Societe Generale, BOV* eċċ. Ftit qabel is-sajf tal-2016 il-*BOV* waqaf jaġixxi bħala *Correspondence Bank* għall-*USD.* Iżda f'Jannar, Frar u Marzu 2016 il-Bank Pilatus kien juża l-*BOV* bħala *Correspondence Bank* tiegħu. Safejn jaf Mehmet Tasli, il-*BOV* imbagħad kien jikklerja *USD* ma' *Deustche Bank New York* jew *Bankers' Trust Bank* li huma fl-istess grupp. Il-*Correspondence Banks* huma listed fil-*Bankers Almanac.* Imbagħad għal *USD* hemm *CHIPS* li hija *clearing system* Americana.

Mistoqsi jekk jittrattawx lil klijenti kollha bl-istess mod ugwali, Mehmet Tasli stqarr li hemm grupp ta' kumpaniji li għandhom l-aktar depożiti qawwija li għandhom struzzjoni biex jieħdu ħsiebhom aktar. Hemm grupp ta' kumpaniji li l-firmatarju tagħhom huwa Robert Baker li jiffirma f'madwar 90% tat-transazzjonijiet tagħhom, u lil dawn il-kumpaniji jtuhom trattament speċjali. Robert Baker huwa responsabbli għal madwar sittin fil-mija tat-transazzjonijiet tal-Bank Pilatus. Mehmet Tasli ma jafx min hu u qatt ma rah u ma kienx jaf bl-amment għall-liema kumpaniji Robert Baker kien jaġixxi ta' firmatarju jew direttur. Jaf ukoll li Farnoush Farsiar hija wkoll firmatarja flimkien ma Robert Baker. Biss ma jafx liema huma dawn il-kumpaniji li tagħhom Baker u Farsiar jidhru

bħala *UBO*. Jaf pero li għandha kont Dubai.

Mehmet Tasli jgħid li *Tillgate Inc, Hearnville Inc u Egrant Inc* ma humiex klijenti tal-Bank Pilatus. Jaf pero li *Willerby* għandha *Euro account* pero ma jafx min huwa l-*UBO* tagħha. Mehmet Tasli ma jiftakarx li fil-kċina tal-Bank kien hemm *filing cabinet* li kien intiż għal dokumenti importanti. Żgur li ma kienx hemm is-*safe* iż-żgħir li qiegħed fis-*server room*. Jgħid pero li hemm il-metal file cabinet li qiegħed fl-i*storage room*. Jiftakar li kien hemm wieħed fl-*Exostat room* li ġie mmexxi għall-i*storage room*. Biss jiftakar ċar li fil-kċina kien hemm *CCTV* camera : "*Yes, since day one it was there*". Biss huwa ma jafx il-*filing cabinet* li hemm fl-i*storage room* x'fih u qatt ma rah miftuħ.

Mehmet Tasli ma jidhirlux li l-Bank Pilatus qatt kellu klijenti Russi. Mehmet Tasli ma jafx hekk Brian Tonna jew Konrad Mizzi għandhomx kont mal-Bank Pilatus. Jikkonferma li John Dalli għandu kont, *current account*, li ma kienx jużah ta' spiss. Keith Schembri għandu kont personali iżda ma kienx jużah ħafna. Ma jafx jekk kienx jużaħ fil-kuntest ta' transazzjonijiet ma klijenti mill-Ażerbajġan.

Mehmet Tasli jgħid li *Egrant Inc* m'għandhiex kont mal-Bank Pilatus u qatt ma ra xi transazzjonijiet bankarji fejn setgħet kienet involuta din il-

kumpanija. Jgħid li huwa ċċekkja :

The witness : And I have checked.

Supt. Abdilla : And you checked.

The witness : I did. I have checked all the Swift messages starting from two thousand and fourteen (2014) up to now, thousands of messages, I do not say three thousand (3000), five thousand (5000) or ten thousand (10,000) and there is a specific tool in TAS, you drop the name and then it is checking that particular string throughout all messages received and sent, and it is not mentioned anywhere.

Supt. Abdilla : So technically you searched all the Swift messages the bank has sent or received throughout its existence.

The witness : Yes

Supt. Abdilla : Including even not just for your clients sending but also who was sending or to whom that payment was sent.

The witness : Yes. Or if it is mentioned somewhere in the address, if it is mentioned somewhere in the reference, or if it is mentioned somewhere in the ... information.

Supt. Abdilla : Ok.

Mehmet Tasli jgħid li huwa ma ċċekkjax jekk Michelle Muscat użatx is-servizzi tal-Bank Pilatus, pero jgħid li ma għandhomx kont mal-Bank Pilatus. Biss ivverifika l-i*Swift messages received and sent* bil-kunjom *"Muscat"* u ma rriżultalux li kienu involuti f'xi transazzjoni:

There was only one hit for Muscat, and there is a bank in Oman, Bank of Oman, Muscat Oman, as Muscat is the capital city of Oman. Only one hit was returned. Other than this we do not have any transaction received or sent or mentioned somewhere for Muscat.

...

The Court : Ok. Did you ever see any document relating to Egrant which had the name of Michelle Muscat as the ultimate beneficial owner of Egrant Inc?

The witness : No, I have not seen.

Mehmet Tasli jgħid li huwa qatt ma ra *bank account opening form* f'isem ta' *Egrant Inc.* jew xi rikjesta għal ftugħ ta' kont għal kumpanija *Egrant Inc.* Għalkemm illum dan l-isem huwa famuż, sentejn ilu ma kienx u għalhekk ma kienx ser jibqa' jiftakru. Huwa ma kienx konxju ta' xi transazzjoni finanzjarja jew pagament li kien sar minn *Al Sahra* lil *Egrant Inc* skont kif imsemmi fl-artiklu ta' Daphne Caruana Galizia. Hu qatt ma ra pagament bħal dan jitlaq lil Bank Pilatus u l-anqas meta ċċekkja l-*iSwift*, mill-pjattaforma *TAS* tal-Bank Pilatus, tali messaġġ ma kienx jidher. Meta huwa vverifika l-infomazzjoni minn fuq it-*TAS* huwa kien għamel dan fuq struzzjonijiet ta' Ali Sadr u Antoniella Gauci: -

The witness : Because the bank did not transact these transactions, and then the bank is in a position to prove its place in these allegations, and they called me and asked me "How can we prove? How can we check these? Can you go?" And then they asked similar questions and then ... asked "Can you go and then check? And then can we prove these things?" And then I said "Yes", so I go and check and then ... hit, and so I said "yes I can do this" and I did and there was no hit.

Supt. Abdilla : And you said that at that time January to March two thousand sixteen (2016) your correspondence bank for US dollar was mainly Bank of Valletta right?

The witness : Yes main correspondence bank was, ahhh two thousand and sixteen (2016)

The Court : January, February and March.

The witness : Yes.

....

The witness : Yes, I mean if, I do not know, ... if, in my knowledge I mean into TAS

we cannot arrange, we cannot reach and then change the data there. TAS is a company in Milan in Italy, and then they are not instructed by us. So when I check these third party records, so these records I respect them as a third party independent source, to check our own records. So of course I have been to holidays, and I left the bank, and some transactions also were passed when I was absent, so the ... I have to rely on is this third party sources. So I am bound with the reliability of that third party sources, and then I believe it is reliable, so in that respect I am saying that there is not such a hit.

...

The Court : Now this also says that – so in relation to Egrant, to be clear, so you did not simply check your own banking records, you say that you also checked with TAS group as well.

The witness : Yes, yes.

The Court : So your search was both in your records as well as with TAS.

The witness : Yes.

The Court : Ok. So with your records in relation to client list, and transactions with TAS it was in relation to transactions.

The witness : Yes.

Huwa ġieli ltaqa' ma *bank account opening forms* kemm li jkunu ġew mimlija manwalment kif ukoll li jkunu mimlija b'mod diġitali. Mehmet Tasli qatt ma ltaqa ma problema mal-*Correspondence Bank* minħabba l-allegat pagament lil *Egrant Inc.* kif allegat minn Daphne Caruana Galizia. U kieku kien hemm problemi tan-natura msemmija minn Daphne Caruana Galizia, huwa kien ikollu *compliance issue* dwar transazzjoni mal-*Correspondence Bank*, xorta kien jasallu l-messaġġ tramite *TAS*. Hu ġieli ra minn dawn il-messaġġi; iżda mhux f'dan il-każ. Il-Bank Pilatus juża dejjem it-*TAS* anke għal transazzjonijiet sabiex isiru ħlasijiet f'Malta. Mehmet Tasli jgħid li fl-

2016 kellhom problema b'xi pagamenti li saru bl-*AED*, minħabba l-mod kif jaħdmu l-banek f'Dubai.

Jaf li Negarin Sadr Hasheminejad hija klijenta tal-Bank Pilatus u għandha kont personali *f'USD*. Negarin Sadr Hasheminejad għandha wkoll self mal-Bank Pilatus. L-ammont misluf kien tħallas direttament lill-benefiċjarju u safejn jiftakar kien imħallas *f'lump sum*. Hu ma jafx bi struzzjonijiet oħra għajr ħlief dawk. Ma kienx hemm aktar minn pagament wieħed mill-ammont misluf minn Negarin Sadr Hasheminejad li mar għand benefiċjarju wieħed u ma jafx jekk huwa raġel jew mara.

Mehmet Tasli ma kienx jaf jekk Brian Tonna kienx imur il-Bank Pilatus. Biss ħadd ħlief Ali Sadr ma kien jaġixxi ta' sid tal-post. Ġieli semgħa lil Ali Sadr jargumenta b'mod qawwi. Pero ma jiftakarx li qatt kien hemm xi argument jaħraq bejn Ali Sadr u Brian Tonna. U meta Ali Sadr kien jargumenta ma kienx ikun ma xi persuna minn barra l-Bank Pilatus.

Fl-20 t'April 2016 huwa kien xogħol, iżda laħaq telaq qabel ma waslu l-ġurnalisti. Jaħseb li telaq bejn is-19:00 u t-20:00. Kienet ħaġa *"very normal"* għall-impjegati tal-Bank li jibqgħu jaħdmu wara s-18:00. Hu qatt ma jitlaq qabel is-18:30. Kien ikun hemm ħafna xogħol xi jsir u kien hemm nuqqas ta'

nies biex jaħdmuh. Kien hemm *turnover* qawwi ta' nies minħabba l-kundizzjonijiet tax-xogħol – għax ikollhom joqgħodu wara l-ħinijiet.[132] Jaf li Maria Efimova kienet telqet mill-Bank Pilatus xi 2016 u kien iltaqa magħha xi darbtejn barra l-Bank. Jaf li kien hemm xi kawżi l-Qorti magħha u kien issa sar jaf li kienet il-persuna li kienet qegħda tagħti informazzjoni dwar dan il-każ. Maria Efimova kienet taħdem fil-*Front Office* u kienet tkun f'kuntatt mal-klijenti. Ġieli għamlet pagament mill-*Operations Department* u hu rċieva talbiet għal pagamenti mingħandha. Għalih, Maria Efimova kienet persuna normali u ma kellux xi argumenti magħha. Ma jafx kienetx fdata aktar minn ħaddiema oħra.

Ix-xhieda ta' Lana Sue Hedley

Lana Sue Hedley ilha taħdem mal-Bank Pilatus sa mill-25 t'April 2016 u hija *Relationship Manager* fl-*Administration and Support Department*. Ix-xogħol tagħha jikkonsisti filli jirċievu l-*emails* li jkun fihom il-*payment instructions*, kif ukoll is-*supporting documents* u minn naħa tagħha tivverifikahom biex tara jekk hux kollox mimli kif suppost. Hi tagħmel ukoll *payment instructions* li imbagħad tgħaddihom lill-*Compliance Department* għall-analiżi dettaljata – *full checks* - tagħhom. Hi xogħolha huwa fil-*point of entry* tal-Bank Pilatus u

[132] Dan huwa wkoll konfermat mix-xiehda ta' Louis Zammit li jikkonferma li l-Bank Pilatus mhux ambjent faċli li taħdem fih.

tagħmel kuntatt dirett mal-klijenti. L-aktar li jkollha kuntatt mal-klijenti huwa bit-telefon jew bl-email u rarament ikun hemm kuntatt personali. L-istruzzjonijiet mingħand il-klijenti ma jittieħdux bit-telefon, iżda jridu jkunu permezz ta' *email* jew *fax*, għalkemm prinċipalment – 99% - bl-*email*.

Meta jkun ser isir pagament, id-Dipartiment tagħha jagħmel xogħol ta' verifika dwar id-dettalji tal-istruzzjonijiet biex jaraw li dawn ikunu preċiżi. Tgħid hekk : -

> The witness : Well we have to verify it for accuracy. We have to look at the company, what it does, is it line with their business profile, we have to look at the beneficiary to see if it is someone that is know to us, that they have used before, that we have done due diligence on before, we have to make sure of course that they have enough funds in their account, we have to make sure that IBANs are correct, that what they are asking us to do makes sense to us. If there is an agreement involved we have to make sure that we have that agreement on file. If there is not we have to make a request to the client for that agreement. We have to put it on to one of our formats. And there is a side list of questions that you have to be able to ask, Is the IBAN correct? We have to check the IBAN. Are there enough funds? – What else is there? – It has their phone numbers for dual confirmation. We have to check in the system to make sure that those are the people who are signatories on the account to have the right to authorize those instructions and make sure that their phones numbers are correct, their signatures are correct and that they match the documents that we have in file. We have to give a detailed explanation of our understanding of the payment and whether or not it makes sense. We have to check supporting documents. An then once we have completed that we have to give it to Compliance. So we send an email to Compliance and ask them to review it for approval and we take them the physical documents that we have printed off and the work that we have done as the entry point, if you like, the Front end. And then they do their checks.

Dan il-proċess isir għall-klijenti kollha tal-Bank Pilatus. Meta ġiet mistoqsija jekk hux veru li kien hemm żewġ *practitioners* li kienu jieħdu ħsieb jagħmlu l-maġġoranza tal-*payment instructions*, ix-xhud wieġbet fin-negattiv. Mistoqsija jekk kienetx taf min hi Farnoush Farsiar, ix-xhud wieġbet li kienet taf iżda li ma tafhiex personalment. Ix-xhud tgħid li ma kellhiex xi ammont inużwali ta' *payment instructions*. Mistoqsija jekk ix-xhud kienetx irċeviet *payment instructions* mingħand Farnoush Farsiar, ix-xhud wieġbet fl-affermattiv – kemm għaliha personali kif ukoll għal klijenti tagħha. Għalkemm ix-xhud daħlet taħdem mal-Bank Pilatus f'April 2016, hija bdiet tiġi involuta fil-payment instructions minn Ġunju jew Lulju tal-2016.

Mistoqsija speċifikament jekk kienetx taf bl-ismijiet tal-kumpaniji *Shams Al Sahra* u *Sahra* ix-xhud wieġbet fl-affermattiv u meta mistoqsija jekk kienetx taf bil-kumpanija *Al Sahra*, ix-xhud wieġbet fin-negattiv. Biss meta mistoqsija kienetx taf jekk Farnoush Farsiar kienetx taġixxi ta' firmatarja fuq il-*payment instructions* ta' *Sahra*, ix-xhud wieġbet li ma kienetx taf. Mistoqsija jekk kienetx taf l-isem ta' Robert Baker, ix-xhud wieġbet fl-affermattiv u kienet irċeviet struzzjonijiet mingħandu kemm għal pagamenti għalih personali kif ukoll għal klijenti tiegħu. Baker kien jagħmel stuzzjonijiet għal kumpaniji bħal *Rafael*; iżda huwa direttur li jaħdem miegħu li jagħmel it-talbiet għall-ħlasijiet għalih. Mistoqsija jekk kienx jagħmlilhom ammont kbir ta' *payment instructions* meqjuż mal-ammont ta' klijenti tal-Bank Pilatus u l-

volum tat-transazzjonijiet li jkollhom ix-xhud wieġbet li ma kienx jagħmel ammont kbir ta' *payment instructions*. Meta mistoqsija mill-AC Abdilla jekk hux minnu li bejn Baker u Farsiar kienu jagħmlu madwar il-50% tal-*payment instructions* tal-Bank Pilatus, ix-xhud wieġbet li għalkemm hi toqgħodx tgħoddhom, jista' jkun li hekk hu.

Mistoqsija dwar jekk qattx semgħet jew ipproċessat xi pagamenti f'isem il-kumpaniji *Tillgate Inc*, *Hearnville Inc* u *Egrant Inc*, ix-xhud wieġbet li qatt ma kienet rat dokumenti fil-Bank Pilatus jew semgħet lil xi ħadd jirreferi għalihom, għajr ħlief fuq l-aħbarijiet. Inoltre -

> The Court : Or else perhaps the names of Mrs Michelle Muscat for example? Or Joseph Muscat? Have you ever received any, or have you ever seen any document purporting to be made on their behalf?
>
> The witness : No.
>
> The Court : No.
>
> The witness : I have been here two (2) years and I did not even know who they were until this came up. I have never seen that name on a document. I answer the phone a lot, and I have never taken a call from anybody with that name.

Mistoqsija dwar Brian Tonna, tgħid li taf bih għax għadd ta' klijenti tal-Bank Pilatus jużaw is-servizzi ta' Nexia BT u tgħid li hi qatt ma ratu fil-Bank Pilatus sa minn meta bdiet taħdem fil-Bank. Iżda anke wara li bdiet tara min hu minn wiċċu fuq ir-ritratti tal-passaport u fuq id-dokumenti, hi ma semgħetx li kien mar iżurhom il-Bank Pilatus. Hi qatt ma ratu fil-Bank

Pilatus.

Lana Sue Hedley tgħid li hi qatt ma rċeviet *payment instructions* mingħand Negarin Sadr għalkemm kienet rat payment instructions. Biss ma kienetx taf jekk Negarin Sadr kellhiex self mal-Bank Pilatus. Qatt ma rat payment instruction mingħand Negarin Sadr lil terzi persuni.

Mistoqsija jekk meta klijent ikun għamel pagament jivverifikawx ukoll x'pagamenti jkun għamel preċedentement, ix-xhud wieġbet fl-affermattiv u li dan kien isir ta' spiss, għalkemm mhux fuq kull transazzjoni. Għalhekk meta irreferejtha għall-*Sahra FZCO* u staqsejtha jekk tafx kienx hemm xi payment instructions magħmula għal *Sahra FZCO* biex jitħalsu terzi persuni f'Dubai ix-xhud wieġbet fin-negattiv – u li jekk qatt kien hemm xi pagament, ma kellhiex x'taqsam miegħu hi.

Ix-xhud kienet taf li Keith Schembri kien klijent tal-Bank Pilatus, iżda ma kienetx rat xi attivita fuq il-kont tiegħu. Mill-banda l-oħra ma kienet semgħet qatt bl-isem ta' Michelle Buttigieg, jew bl-isem Buttardi. Ma kienetx ċerta dwar l-isem ta' John Dalli.

Mistoqsija jekk kellhiex aċċess għall-*Flexcube* ix-xhud wieġbet fl-affermattiv għall-*Flexcube* iżda mhux għat-*TAS*. Safejn taf hi l-Bank Pilatus ma għandux programm jew *software* ieħor li bih jistgħu isiru pagamenti minn kontijiet tal-klijenti jew mill-fondi tal-Bank stess lil terzi persuni għajr ħlief għal *Flexcube* u *TAS*.

Fl-20 t'April 2017 kienet preżenti l-uffiċju u baqgħet sa xis-sitta ta' filgħaxija. Dakinhar il-ġurnata tax-xogħol kienet waħda normali. Lil Ali Sadr kienet ratu u kelmitu wkoll. Ma tafx x'ħin eżatt wasal.

Xhieda ta' Mehmet Ugurluoglu

Mehmet Ugurluoglu beda jaħdem mal-Bank Pilatus għal nofs Ottubru tal-2016 u xogħolu huwa ta' *Relationship Manager Associate* u joqgħod fil-*Front Office*. Ix-xogħol tiegħu jinkludi :

> The witness : My role consists of doing payments whenever we receive a request from a client, doing bank statements. I sit in the Front Office so I answer phones when it rings. Let us say someone is calling and asking for someone from Operations, I dial it in and I pass the phone through to them, and then I try to bring clients to the bank to open bank accounts especially since I am from Turkey, so I try to use my Turkish network to bring clients, and basically account opening processes ... clients, and doing payments and bank statements and answering the phone.

Minn naħa tiegħu kien jipprova li, tramite l-kuntatti familjari u ta' ħbieb tiegħu, t'oħtu u ta' missieru li għandhom fit-Turkija, jġib iżjed klijenti lejn il-Bank Pilatus. Biss huwa ma għandux xi kuntatt partikolari fit-Turkija. Dawn huma nies li għandhom negozji tagħhom. Iżid hekk : -

The Court : Right. And when you refer to your father's friends and your sister's friends, are these people engaged in any business or in any other commercial activity?

The witness : They are usually engaged in business, yes they have their own businesses. For example, I went to school in the United States and so did my sister, so her classmates that are in the US, that are now working back in Turkey, I usually go up to them and I talk to them about Pilatus Bank and I try to convince them to open a bank account. So far I did not succeed....

The Court : So, but you do not have a Turkish office as Pilatus Bank so far.

The witness : No we do not.

Mistoqsi dwar jekk kienx jaf lil Linet Estiroti, ix-xhud jgħid li kellu xi kuntatti magħha diversi drabi meta kien mar it-Turkija sabiex iżur klijenti potenzjali u minn naħa tagħha din irranġatlu biex ikollu l-*business cards*. Ma kienx jafha qabel ma huwa daħal jaħdem mal-Bank Pilatus. Hi kienet ġiet riferita lilu minn Hamidreza Ghanbari. Ma jafx eżattament x'inhu x-xogħol tagħha fit-Turkija. Huwa kien iltaqa' magħha f'Malta darba waħda. Iżda meta kien mar it-Turkija, Estiroti kienet ħadet ħsieb tordna l-business cards u mbagħad huwa rranġa mal-istampatur biex jiġborhom mingħandu. Ix-xhud ma ltaqgħax magħha fit-Turkija. Safejn jaf hu Estiroti kienet taħdem mal-Bank Pilatus

f'Malta.

Mistoqsi dwar ir-rwol tiegħu fil-*Front Office*, fosthom li jiltaqa' man-nies li jmorru l-Bank Pilatus, staqsejtu jekk jafx min hu Brian Tonna. Ix-xhud wieġeb li huwa qatt ma ltaqa' miegħu fil-Bank Pilatus u li huwa sar jaf dwar Brian Tonna mill-allegazzjonijiet li kienu qegħdin isiru. Ma jafx jekk Brian Tonna kienx jirreferilhom klijenti. Biss kien jaf min hu Karl Cini in konnessjoni ma *call back confirmations* u dan peress li Nexia BT kienu jimmaniġġjaw xi kumpaniji li kellhom kontijiet mal-Bank Pilatus. Fosthom semma lil *Cormia Limited*. Ma jafx jekk Brian Tonna jew Karl Cini għandhomx kontijiet f'isimhom personali mal-Bank Pilatus u dan għax hu qatt ma ra tali kontijiet.

Mehmet Ugurluoglu għandu aċċess għall-lista tal-klijenti tal-Bank Pilatus u kien jaf min huma l-klijenti passati u preżenti tal-Bank Pilatus. Mistoqsi dwar il-kumpanija *Al Sahra* huwa qal li kienet klijenta tal-Bank Pilatus. Iżda meta konfrontat bl-ismijiet *Shams Al Sahra, Al Sahra* u *Sahra*, huwa wieġeb li kien jiftakar lil *Shams Al Sahra* u *Sahra*. Hu ma kienx jaf bil-kumpanija *Al Sahra*. Biss jidher li tħawwad sew dwar l-ismijiet għaliex filli qal li fil-*Flexcube* ra l-isem *Al Sahra* filli jgħid li

> The witness : On Flexcube, I remember Shamz Al Sahra definitely being a client. There is a Sahra as well, Al Sahra,

The Court : But Al Sahra or Sahra? Or Both?

The witness : I am not sure.

The Court : It is a bit tricky I know. But it is very important for you to try to be as precise as possible.

The witness : Ok.

The Court : That is why I gave you the three different versions, in order to see whether from your memory you remember.

The witness : From my memory I do not remember them exactly.

Mistoqsi jekk mill-lista tal-klijenti qattx kien ra xi kumpanija li għandha *PEP* Maltin, ix-xhud wieġeb li ma kienx jiftakar dwar ħaġa bħal din. Ix-xhud kellu aċċess għall-*KYC forms* u għalhekk setgħa jkun jaf min huma l-*UBO*. Mistoqsi dwar jekk jiftakarx min huwa l-UBO ta' *Shams Al Sahra* ix-xhud iwieġeb li ma kienx ċert mija fil-mija iżda jidhirlu li kienet Arzu Aliyeva. Biss huwa jgħid li kien ra' l-*KYC form* qabel. Ma kienx jiftakar min kien l-*UBO* ta' *Sahra*.

Mistoqsi jekk qattx kien ra' l-isem tal-kumpaniji *Tillgate Inc, Hearnville Inc* u *Egrant Inc* qalb il-lista tal-klijenti tal-Bank Pilatus, ix-xhud wieġeb fin-negattiv. Mistoqsi dwar *Willerby Trade Inc,* mill-banda l-oħra wieġeb fil-pożittiv, għalkemm ma kienx konxju ta' xi transazzjonijiet għal din il-kumpanija u bħala impjegat fil-*Front Office* ma kienx ġie kuntattjat għal transazzjonijiet minn din il-kumpanija.

Mistoqsi dwar l-ismijiet ta' John Dalli, Josette Schembri Vella, Konrad Mizzi, Sai Mizzi, u Michelle Buttigieg jekk kienux klijenti tal-Bank Pilatus, ix-xhud wieġeb fin-negattiv, għalkemm kien jaf li Negarin Sadr kienet klijenta tal-Bank Pilatus u li kellha kont personali f'isimha. Ugurluoglu jgħid li ma kienx ra transazzjonijiet tagħha u ma jafx għandhiex self mal-Bank Pilatus. Ġieli ra transazzjonijiet magħmula minn Ali Sadr lil mara tiegħu.

Dan ix-xhud ikkonferma li kien jaf min kienet Leyla Aliyeva għalkemm ma kienx jaf jekk kellhiex kont personali mal-Bank Pilatus. Kien jaf ukoll li kienet *UBO* ta' *corporate accounts*, li pero ma kienx jaf liema huma. Kien ukoll jaf li Keith Schembri kellu *personal account* li pero ma kienx jaf jekk kienx attiv jew le u ma kienx jaf x'tip ta' kont kien. Mistoqsi jekk qattx kien ra l-isem ta' Michelle Muscat jew Joseph Muscat fuq il-lista tal-klijenti jew *KYC forms* tal-Bank Pilatus, ix-xhud iwieġeb fin-negattiv.

Minn naħa tiegħu Ugurluoglu kien jaf li l-*Flexcube* kien il-*core banking system* tal-Bank Pilatus. Hu ma kienx jipproċessa pagamenti għax ma kienx jaħdem fl-*Operations Department*. Li jiġri huwa li meta jkollhom

payment instructions il-*Front Office* jgħaddihom lill-*Legal and Compliance Department* biex jagħmlu l-istħarriġ tagħhom u wara (jekk japprovawh) dawn jerġgħu jibgħatulhom lura l-istruzzjonijiet u l-*Front Office* jgħaddi l-istruzzjonijiet lill-*Operations Department* għall-eżekuzzjoni. Minn naħa tal-*Front Office* jaraw jekk hemmx fondi suffiċjenti fil-kont sabiex ikun jista' jsir it-trasferiment. L-*inputting* għall-fini tal-eżekuzzjoni tal-pagament isir mill-*Operations Department*. Biss apparti l-Flexcube, ix-xhud ma jafx li l-Bank għandu xi programm ieħor li bih ikunu jistgħu jiġu pproċessati pagamenti. Kien jaf li l-*Flexcube* huwa konness mat-*TAS* iżda huwa ma kellux aċċess għalih.

Minn naħa tiegħu qatt ma kellu x'jaqsam mal-għoti ta' self u ma kienx jaf jekk klijenti setgħux jagħtu self lil xulxin.

Fl-20 t'April 2017 huwa kien xogħol u dam sa' xil-17:00 jew is-18:00. Dakinhar ma kienx ra lil Ali Sadr fl-uffiċju. Hu ftit kien ikollu kuntatt miegħu għax kienu n-naħa l-oħra tal-Uffiċju.

Kien jaf min huma Farnoush Farsiar u Robert Baker u li kienu diretturi u firmatarji ta' diversi kumpaniji klijenti tal-Bank Pilatus. Dawn kienu jibgħatu l-*payment instructions* u minn naħa tiegħu hu kien iċemplilhom

lura biex jikkonferma l-istruzzjonijiet; huma kienu jibgħatu wkoll is-*supporting documentation.* Ma kienx jiftakar jekk kienux involuti fis-*Shams Al Sahra* u *Sahra* għax kien hemm ħafna kumpaniji. Biss kien jaf li kellhom madwar 40% jew 50% tal-istruzzjonijiet tal-pagamenti.

Ix-xhieda ta' Adrian Galea

Adian Galea jaħdem fl-*Operations Department* u huwa responsabbli mill-i*Swift payments*. Beda jaħdem mal-Bank Pilatus f'Ġunju tal-2016. Ix-xogħol tiegħu jikkonsisti filli jirċievi talbiet għal ħlasijiet mill-*Front Office*. Minn naħa tiegħu huwa jagħmel aġġornament tar-rati kull fil-għodu kemm fis-sistema *Flexcube* id-*database system* u matul il-ġurnata jivverifika fis-sistemi tagħhom it-tip ta' pagamenti li jirċievu – kemm dħul kif ukoll ħruġ. Il-Bank Pilatus juża l-*Flexcube* fejn il-pagamenti mhux neċessarjament jiġu rilaxxati. Pagamenti jistgħu jitħallew on hold sakemm jiġu mogħtija struzzjonijiet jew mingħand il-klijent jew mill-*Front Office, Operations Department* u *Compliance Department*. Peress li l-klijenti tal-Bank Pilatus huma *high net worth clients* it-transazzjonijiet jiddependu minn jum għall-ieħor. Ir-rutina tinbidel kuljum.

Adrian Galea qal li : -

Basically I monitor incoming and outgoing payments. I produce them through Swift, we use a system called TAS, and they go through checks. We obviously have to authorize the first level and then there is second level authorization through another department before payments get released. That is basically my routine, you know we are always there, whenever we get requests coming in we deal as best as we can.

....

We have a system in Flexcube which is linked to TAS. So any incomings or outgoing payments because TAS is linked to Flexcube we basically use Flexcube as a first to check. But incomings normally that gets done, that comes automatically through Flexcube because it is linked to TAS. TAS is a Swift system that we use, so I am basically monitoring you know continuously what comes in and what goes out in terms of payment. The ... request when it comes to outgoing payments like I said we get the request through Front Office. We have a special check list that we go through. Usually it is dealt by Compliance in Front Office, the request. I basically input the details through Flexcube, let us say I am the inputter and then somebody is going to be the checker. So he checks the details what I input before the payment could be released out. And once it is released, once it is authorised through Flexcube it goes through a system called TAS which gets converted into Swift. Then we have to authorise that once it is in Swift in TAS. And once we authorise then it goes to a second level. Now that second level usually depending on the type of payment, if it is Compliance related we have somebody from Compliance that will release the payment from second level. If it is an invoice it will go through Finance. We have a person who deals with second level checks. And once she authorizes that that gets released. The Swift gets sent out to whatever corresponding bank we have.

L-impjegata li tieħu ħsieb is-*second level* hija Tatiana. Kwantu għall-outward payments is-second level irid jiġi awtorizzat minn żewġt persuni li huma Tatiana Zammit u Domenique Camilleri F'każ *t'invoices* jew *money markets*, is-*second level authoriser* hija Tatiana Zammit.

Dwar l-interazzjoni bejn *Flexcube* u *TAS*, Adrian Galea qal li d-dettalji jiġu

imdaħlin fis-sistema l-ewwel tramite *Flexcube* :

Xhud : Well, we input the details through Flexcube ok? We have product codes that we use for outgoing payments. We use 'F Hour' if it is hour, if the remittor is going to be charged for it.

Supt. Abdilla : ...

Xhud : 'F hour', a code, a product code in Flexcube which is called 'F hour'. We type that FTS .... And then while you are in FTS ... you have to put in product code 'F hour'. Then you input the information, related information based on that payment request. And then once that payment is inputted by myself I get somebody from Operations who will do the check. So he will check the details through obviously based on the request that we get through Front Office. And if it complies, if the details comply with what the client is requesting and Compliance are happy with it, then we issue it. We issue the payment through TAS.

Supt. Abdilla : Ok. So when the payment is authorized in Flexcube it goes to TAS.

Xhud : Yes. Automatically.

Supt. Abdilla : Then what would happen from there?

Xhud : Then somebody, either myself or one of my colleagues would need to authorize it through first level.

Supt. Abdilla : Ok. Would you change something in TAS?

Xhud : Only, the only ones we actually change is when we get Master Card request because we have to include an extra field, 53B because Flexcube does not pick it up through the system. So we have to put in to 'Return to Verified', slight modification

Supt. Abdilla : No, no, let us talk about normal Swift and a normal outgoing payment.

Xhud : Ok.

Supt. Abdilla : So you input the details of the transaction in Flexcube.

Xhud : Yes.

Supt. Abdilla : Somebody checks that and it goes into TAS.

Xhud : Yes.

Supt. Abdilla : Then you enter again TAS, right?

Xhud : Yes.

Supt. Abdilla : Now I am telling you do you amend or correct or modify the details in TAS?

Xhud : No, no we do not. If it is a specific outgoing we do not, because that records the details, what is input originally through Flexcube, so you cannot go in and amend something through TAS because then you would have a difference in the two different, you know in what you have actually inputted in Flexcube and what you have actually are releasing through TAS. You cannot go in and just amend like especially if it is a client, a high net worth client, you know, you do not do that. The only time we modify a Swift, I was going back to that, it is when we have a Master Card payment because unfortunately through Flexcube

Supt. Abdilla : Master Card payment is when a client wants to pay his Master Card bill?

Xhud : We get requests to pay Master Cards, ok?

Supt. Abdilla : Ok.

Xhud : And there are certain fields in Flexcube which you cannot input. Ok? The system is not designed for that. So we have to go into TAS and we have to go into 'Modified', 'Returned to Modify'. It is like to modify, so that what we are doing is adding an extra field in it, Field 53B.

Supt. Abdilla : And what would you add?

Xhud : We just add the account, our correspondent bank account that we have with Société Générale.

Supt. Abdilla : Ok.

Xhud : Because we use Société Générale as our correpsondent bank.

Supt. Abdilla : Ok. Theoretically can you put a payment directly in TAS and bypass Flexcube?

Xhud : Technically no you cannot.

Supt. Abdilla : Why not?

Xhud : Because, I mean since I have been there all our payments go through Flexcube first and then through TAS. We have never had payments that have gone through TAS without not going through Flexcube.

Supt. Abdilla : But if for some reason Flexcube is down and the client wants an urgent payment, would it be possible to accomodate that client by transmitting

that transaction directly in TAS and then later input that whole transaction again in Flexcube?

Xhud : No, you cannot do that.

Supt. Abdilla : You can't do that.

Xhud : Outgoings I have never seen that since I have been there.

Il -Qorti : Do you know whether there are any other methods through which to effect payments apart from using Flexcube or TAS within the bank?

Xhud : I am not aware of any other system.

Il -Qorti : Ok. Qatt rajt jew inkella qatt gejt moghti istruzzjonijiet biex teffetwa pagamenti ta' klijenti mhux through is-sistema tal-Flexcube?

Xhud : Le, qatt ma rajt.

Il -Qorti : Le. All right. Jigifieri apparti l-Flexcube u t-TAS, li ghidtli li jahdmu flimkien, il -bank ma ghandux xi sistema ohra ta' kif jaffettwa pagamenti tal-klijenti, hux hekk?

Xhud : Le, ma ghandux.

Kemm kien ilu jaħdem mal-Bank Pilatus Adrian Galea jgħid li huwa ġieli ra klijenti li jibgħatu flus lil xulxin permezz t'internal transfers fil-Flexcube. Dan isir bil-*product code FTIC*. Dan isir billi l-klijenti jkollhom kont il-Bank mal-Pilatus u jsir pagament minn kont għall-ieħor. Dawn jikkonsidrawhom bħala *internal transfers* u jkun pagament bejn il-klijenti bejniethom. Dawn il-pagamenti jistgħu ikunu kollox : -

Il-Qorti : U dawn il-pagamenti taf x'ikunu? Ikunu payment for services rendered? Loans? Payment for products purchased? X'ikunu?

Xhud : Jistghu jkunu per ezempju, they could be anything really. What I can think of maybe interest payments, ircevew l-interessi u qed jibghathom il -kon tal-klijent li ghandu per ezempju mill-Euro (€) account ghall-kummpanija, l-isem ta' kumpanija li ghandhom ma' Pilatus.

Supt. Abdilla : Le, imma l-idea mhux dik. L-issue mhux dik. Klijent jibghat payment lill-klijent iehor.

Xhud : Internally?

Supt. Abdilla : Iva. Mhux tieghi f'tieghi. JIgifieri mhux account tieghu u nitrasferixxi flus mill-kont tieghi ghall-kont tieghi.

Xhud : Le jkun kont tieghu ghal xi kont ta' haddiehor li ghandu ma' Piluats Bank. Iva I have seen that yes.

Supt. Abdilla : U x'ikunu tdawn it-tip ta' pagamenti?

Xhud : Jista' jkunu family support, per ezempju family support I have seen Mr Sadr's payments. as he sents from 'Alpin??' to another account internally. It could be family supposrt or anything like that.

Il -Qorti : Imma inti jigifieri ma' dan il -payment transaction ikollook il -purpose? Ikollok ir-raguni ghaliex qed isir il-pagament?

Xhud : Yes, yes. We always put remitting information in it. We never leave it empty.

Il -Qorti : U dik l-informazzjoni min jaghtihielkom, Front Office?

Xhud : We get the request always from Front Office yes. And everything is going through Compliance. We do not get anything Operations before anything is checked through Compliance in Front Office, because Front Office deals with the client directly, so if there is any queries or anything they would have to go back to them.

Il -Qorti : Issa però taf inti jekk kemm-il darba l-bank minn naha tieghu jinvolvix ruhu wkoll fid-dokumenti illi jkunu jridu jsiru meta jkun hemm ftehim bejn klijent u klijent iehor biex jghaddu l-pagamenti? Ha ngiblek ezempju, ghandek klijent A jaghti loan lill-klijent B. Mela B irid ihallas lil A l-ammont li jkun issellef minghandu, u jibda jghaddi pagamenti jew ta' interessi, jew ta' kapital, jew tat-tnejn li huma. Taf jekk kemm-il darba il -bank bhala bank jinvolvix lilu nniffsu fl-arrangamenti biex ikun jista' jsir dan l-agreement bejn il -klijent A u l-klijent B?

Xhud : Ma nafx, don't know.

Il -Qorti : Jew forsi l-bank juzawx jew jipprovdix is-servizz illi jaghti ezempju loan agreement, jew ma nafx, acknowledgement of debt agreement? Xi haga

Xhud : I am not aware of

Il -Qorti : Ma tafx biha din.

Xhud : Ma nafx. Like I said I get the request from Front Office, they go through Compliance, and we are obviously instructed based on the payment instruction, we have a payment instruction form that we go through the checklist to make sure is done correctly and we just issue the payment accordingly to the instruction.

Supt. Abdilla : Klijent wahdu ma jistghax jaghmilha transaction, jigifieri jekk jinea rrid nhallas mill-kont tieghi lil xi hadd ma nistghax naghmklha on line jew xi haga

Xhud : Ma tistghax, no.

Mistoqsi għaliex ħafna mid-deskrizzjonijiet tal-pagamenti li jsiru fil-Bank Pilatus huma indikati bħala *loan repayments* jew *shareholders loans,* Adrian Galea jgħid li ma kienx jaf għaliex dan kien iseħħ. Huwa kien jirċievi dawn l-istruzzjonijiet mill-*Front Office.* Huwa ma kienx jistaqsi għaliex dawn kienu jkunu indikati hekk. Il-*Loans* kien jieħu ħsiebhom it-*Treasury Department.*

Biex ikunu jistgħu jsiru dawn l-*internal payments* huma xorta waħda jużaw il-*Flexcube* li għandu product code *FTIC* u li fih jistgħu isiru pagamenti anke minn valuta għal oħra. Din it-transazzjoni ma tgħaddix minn *TAS,* iżda l-Bank joħroġ *debit advice* għaliex xorta waħda tidħol fil-*BIP* u jiġi ġenerat rapport tat-transazzjoni bħala *debit advice* li jiġi muri lill-klijent. Għalkemm għal *internal payments* huwa possibbli li jsir trasferiment billi jiġi inserit fil-*BIP* u mhux fil-*Flexcube,* sabiex isiru *external payments* bħal pagament minn kont fil-Bank Pilatus għal kont, eżempju, f'Dubai, din it-transazzjoni ma

tistax issir biss fil-*BIP*. Dan peress li din it-transazzjoni trid bilfors tgħaddi minn *Flexcube,* imbagħad minn *TAS* minħabba *Swift* u wara titlaq għall-*Correspondent Banks*. Il-*BIP "is like an acknowledgement that a payment has been released from one account into another account internally"*. Huwa possibbli li jsir *internal payment* bejn żewġ klijenti differenti tal-Bank iżda li l-pagamenti jsiru minn kont ta' klijent A fil-Bank Pilatus għal kont ta' klijent B fl-istess Bank tramite l-*BIP*. Aktar tard ix-xhud jispeċifika li biex isiru *internal payments* dawn xorta waħda jridu jgħaddu mill-*Flexcube* għaliex dik hija d-*database* mentri l-*BIP* mhux *database* iżda huwa *report generating tool.* It-transazzjoni dejjem trid tibda minn *Flexcube* anke jekk tkun *internal transfer*.

Adrian Galea jgħid li huwa għandu aċċess għall-lista tal-klijenti tal-Bank Pilatus. Meta mistoqsi jekk huwa qattx ra pagamenti minn kumpanija *Al Sahra FZCO* huwa wieġeb li qatt ma ra transazzjonijiet tagħha. Biss l-anqas ra pagamenti magħmula mill-kumpanija *Sahra FZCO* jew *Shamz Al Sahra FZCO*. L-anqas ma ltaqa' ma transazzjonijiet għall-kumpanija *Egrant Inc* jew ra bħala xi klijenta tal-Bank Pilatus. Mistoqsi wkoll jekk, kemm kien ilu jaħdem mal-Bank Pilatus (Ġunju 2016), qattx ra l-ismijiet ta' kumpaniji jew persuni oħra b'xi mod involuti f'xi transazzjoni tal-Bank Pilatus bħala *beneficiaries* jew *remitters*, fosthom *Tillgate Inc, Hearnville Inc, Willerby Trading Inc*, Negarin Sadr, Michelle Buttigieg, John Dalli, Leyla Aliyeva, Heidarov, Michelle Muscat, Joseph Muscat, Konrad Mizzi, Sai Mizzi Liang u Keith

Schembri jgħid li huwa qatt ma ra l-isem tagħhom f'xi pagamenti. Mistoqsi jekk qattx ra l-isem ta' Michelle Muscat fuq xi dokumenti fil-Bank Pilatus, Adrian Galea qal li ma kien qatt ra dokument b'isem Michelle Muscat. Biss meta mistoqsi jekk l-ismijiet ta' Robert Baker u Farnoush Fersiar kienx semgħa bihom, ix-xhud wieġeb li dawn kienu jagħmlu ħafna pagamenti. Hu kien jaf li dawn kienu jagħmlu pagamenti u l-istruzzjonijiet kien jirċevihom mill-*Front Office* iżda ma jafx jekk dawn kienux jagħmlu pagamenti f'isimhom personali jew jekk hux għal ħaddieħor. Hu jaf li dawn it-tnejn huma *signatories* għax għal ċerti pagamenti jeħtieġu żewġ *signatories*. Qabel ma jirrilaxxa pagament huwa jivverifika min huma l-firmatarji, jara jekk dawn ikunx jaqblu mal-*payment instruction form*. Huwa jara wkoll li fil-*payment instruction form* ikun hemm ukoll l-isem tal-beneficjarju. Mistoqsi jekk f'din il-formula jkunx hemm ukoll indikat l-isem tal-persuna / kumpanija li tkun qed tagħmel il-pagament, Adrian Galea jgħid li mal-*payment instruction form* ikollhom *supporting documents* li jkun fihom informazzjoni fir-rigward ta' xiex il-pagament ikun jikkonsisti. Fin-nuqqas ta' tali dokumentazzjoni, il-Bank ma jirrilaxxax flus. Għalhekk iridu jivverifikaw din id-dokumentazzjoni. Meta mistoqsi minni allura jekk Robert Baker jew Farnoush Farsiar ġieli talbu li jsiru pagamenti f'isem *Shamz Al Sahra* ix-xhud wieġeb li ma kienx jaf.

Mistoqsi dwar min joħroġ l-istruzzjonijiet dwar liema *Correspondence Bank*

jiġi magħżul, Adrian Galea qal li dan ikun jiddependi mill-valuta – eż *Euro* u *AED* għandhom lil *Societe Generale;* mentri *USD* għandhom lil *DZ Bank.* Mal-*BOV* normalment irid ikun hemm *invoice* biex tiġi mħalsa. Għandhom lil *BOV* bħala *Correspondence Bank* ukoll, minbarra *Corporate account* miegħu. L-għażla ssir minn *supervisor* li jimmonitorja l-*Correspondence Banks.*

Xhieda ta' Katarina Kostialova

Katarina Kostialova taħdem mal-Bank Pilatus bħala *Senior Lawyer* fil-*Legal and Compliance Department* u bdiet fit-13 ta' Frar 2017. Magħha hemm jaħdmu Nielsen Avila Rovelo, bħala avukat u Domenique Camilleri mill-lat ta' *Compliance.* Mistoqsija jekk matul kemm ilha taħdem mal-Bank Pilatus qattx rat dokumenti dwar il-kumpanija *Al Sahra* ix-xhud wieġbet li kienet rat dokumenti tagħha, għalkemm ma kienetx ċerta jekk kienx isimha *Al Sahra* – ċjoe bl-*AL* fuq quddiem. Biss tikkonferma li rat dokument ta' *Sahra.* Ma kienetx ċerta dwar il-kumpanija *Shams Al Sahra* u dan peress li huma simili ħafna. Ma kienetx ċerta mill-ismijiet kompluti.

Katarina Kostialova tgħid li l-Bank Pilatus jagħmel analiżi dettaljata meta jiġi biex jagħmel *onboarding* ta' klijenti. Isiru riċerki mhux biss fuq l-individwi, iżda wkoll fuq iċ-ċirkostanzi li jdawru lil dawn l-individwi. Ikun

is-*senior management* li jiddeċiedi finalment jekk jaċċettawx klijent o meno. Kwantu għax-xogħol tagħha Kostialova tagħmel analiżi u reviżjoni ta' proposti ta' kuntratti jew tabozza kuntratti. Minn naħa tagħha tivverifika jekk il-kuntratti jkunux josservaw il-liġijiet viġenti. Qabel isiru transazzjonijiet bankarji, id-dipartiment tagħha jagħmel verifiki dettaljati ħafna. Fost il-kuntratti li tanalizza hemm ukoll il-kuntratti ta' self. Il-Bank Pilatus jipprovdi self lil klijenti tiegħu bħala wieħed mill-prodotti bankarji li joffri. Sa minn Frar 2017 hi kienet ivverifikat xi żewġ abozzi ta' kuntratti ta' self, pero ma kienetx taf jekk dawn ġewx approvati.

Mistoqsija minni speċifikament jekk kemm ilha taħdem hemm kienetx taf bi prattika fejn klijenti tal-Bank Pilatus jagħtu self lil xulxin billi jużaw is-servizzi tal-Bank Pilatus, Kostialova tgħid li hi ma kienetx taf b'din il-prattika. Da parti tagħha hi rat u ħadmet biss fuq kuntratti jew abbozzi ta' kuntratti standard bejn il-Bank u l-klijenti tiegħu.

Mistoqsija dwar jekk kemm ilha taħdem mal-Bank Pilatus qattx rat xi dokumenti li għandhom x'jaqsmu ma' *Egrant Inc,* ix-xhud wieġbet fin-negattiv. Mistoqsija dwar *Tillgate Inc* qalet li ma kienetx ċerta filwaqt li dwar *Hearnville Inc* wieġbet fin-negattiv.

Kostialova kompliet iżżid tgħid li hi kienet ivverifikat il-lista tal-klijenti tal-Bank għaliex riedet li tkun taf x'inhu jiġri. Ikkonfermat li Michelle Muscat u Joseph Muscat żgur ma kienux klijenti tal-Bank Pilatus. Dwar Konrad Mizzi u Sai Mizzi Liang ma kienetx ċerta. Keith Schembri żgur li kien klijent tal-Bank Pilatus, għalkemm ma jidhrilhiex li martu Josette Schembri Vella kienet klijenta.

Kostialova ikkonfermat li kienet taħseb li Leyla Aliyeva kienet klijenta filwaqt li l-kunjom Heydarov kien jeżisti (fil-lista tal-klijenti). Biss ma kienetx taf jekk Negarin Sadr, Michelle Buttigieg, John Dalli kienux klijenti tal-Bank Pilatus.

Mistoqsija jekk kienetx qatt iltaqgħet ma Brian Tonna, Katarina Kostialova wieġbet fin-negattiv, iżda żiedet li kienet taf min hu mir-ritratti. Ma kienetx taf jekk kienx klijent tal-Bank Pilatus jew jekk kienx *corporate service provider*. Kwantu għal Karl Cini, ix-xhud tgħid li semgħet u rat ismu iżda ma kienetx ċerta jekk kienx xi direttur ta' xi kumpanija jew benefiċjarju. Biss ma kienetx tiftakar l-isem tal-kumpanija.

Mistoqsija jekk kienux jagħmlu analiżi tal-klijenti tal-Bank, inkluż dawk passati, Kostialova wieġbet li kienu jagħmlu analiżi dettaljata għal kull

transazzjoni li ssir. Anke jekk l-istess kumpanija tagħmel tliet transazzjonijiet kuljum, huma janalizzaw kull transazzjoni u jagħmlu l-verifiki tagħhom għal kull transazzjoni daqs li kieku kienet transazzjoni ġdida ..*Because you never know... so.*

Mistoqsija jekk is-self li jkun ingħata mill-Bank ikunux *monitored* ix-xhud wieġbet fl-affermattiv kemm mill-aspett ta' *Compliance* kif ukoll mill-lat ta' *Operations* minħabba l-element tal-interessi. Minn naħa tagħha pero qatt ma rat jew analizzat il-kuntratt tas-self mogħti lil Negarin Sadr u ma tafx jekk xi kollegi tagħha kienux ivverifikaw dan il-kuntratt u hi tgħid li hi qatt ma tkelmet ma Farnoush Farsiar.

Katarina Kostialova tikkonferma li l-Bank Pilatus għandu *filing cabinet*, li huma jsejħulu *safe*, għax hekk fil-fatt hu, u tkun l-*MLRO* li tiddeċiedi li tqiegħed dokumenti ta' klijenti speċifiċi fih u ċjoe dawk li jkunu ftit aktar riskjużi. Dan is-*safe* qisu *cupboard* kbir u qiegħed f'kamra separata u fih hemm *files* li jinkludu wkoll il-*PEP*. Dan jissakkar b'ċavetta li tkun fil-pussess tal-*MLRO*, Claude-Ann Sant Fournier. Din iċ-ċavetta għandha xi mekkaniżmu speċjali iżda ma tafx x'inhu. Meta jkollhom bżonn xi dokument is-*safe* tiftħu l-*MLRO* stess. Dan is-safe ilu f'din il-kamra żgur minn meta daħlet taħdem hi fi Frar 2017, u kien diġa hemmhekk u din il-kamra hija wkoll bħala *safe room*.

Kostialova tikkonferma li ġieli rat transazzjonijiet li jmorru lejn Dubai. Biss bħal kull transazzjoni oħra, dix-xhud ikkonfermat li dawn it-transazzjonijiet jiġu verifikati fil-fond kemm minn naħa tar-*remitter* kif ukoll minn naħa tal-*beneficiary*. Wara li jkunu analizzaw it-transazzjoni, jekk tgħaddi mill-għarbiel tal-*Legal and Compliance Department* imbagħad jibgħatuha lill-*Operations Department* fejn jeżegwixxi t-transazzjoni mis-sistema bankarja.

Kull transazzjoni bankarja tgħaddi mis-sistema *online* tal-Bank Pilatus in kwantu l-Bank imbagħad jgħaddiha tramite l-*Correspondent Banks* tiegħu. Għalkemm hi ma għandhiex aċċess għas-sistema bankarja, ġieli wrewha kif taħdem fuq il-*computer*. Għalkemm hi m'għandhiex aċċess għall-*Flexcube*, għandha aċċess għax-*Sharepoint* li hija s-sistema fejn kull Dipartiment għandu aċċess għalih. Fis-*Sharepoint* wieħed isib :-

Katarina Kostialova: I can see legal documents, any thing concerning legal, I can see front office who is this list of clients, clients for instance of all the documentation on the clients it means accounts opening forms, I can see KUYC means know your customers system, you can see how they are checked until they become customers, until they become clients so from those documents I can see while performing these checkings, I always can see share holders, share holding system you know, structure, I can see Directors you know, I can see all the information on the company or individual.

Supr. Ian Joseph Abdilla: Autorised signatories?

Katarina Kostialova: sorry?

Supr. Ian Joseph Abdilla: authorised signatories?

Katarina Kostialova: yes, yes.

Supr. Ian Joseph Abdilla: the signatures themselves?

Katarina Kostialova: yes.

Supr. Ian Joseph Abdilla: are they scanned?

Katarina Kostialova: yes they are scanned. Every signatory is scanned. We have it in the file but also scanned.

Kostialova ma tafx jekk il-Bank għandux xi *central account* li minnu jgħaddu t-transazzjonijiet bankarji u ma tafx min huma l-*Correspondent Banks* tal-Bank Pilatus. Il-kuntratti tas-self ikunu wkoll miżmuma fuq is-*Sharepoint*. L-*administrator* tas-*Sharepoint* huwa Louis Zammit.

Meta klijent jagħlaq il-kontijiet tiegħu mal-Bank Pilatus id-dettalji tal-klijent jiġu arkivjati. Id-dettalji u d-dokumentazzjoni relattiva tiġi miżmuma mill-Bank. Kwantu għall-klijenti li l-kont tagħhom ikun ingħalaq dawn xorta waħda jibqgħu jidhru fil-lista tal-klijenti bid-differenza li jmorru fil-lista ta' kontijiet magħluqa. Kostialova kienet rat il-lista ta' klijenti attivi u dawk magħluqa b'mod separat minn xulxin. Qabel ma jingħalaq kont minn naħa tad-Dipartiment tagħha jivverifikaw iċ-ċirkostanzi madwar il-klijent u jaraw jekk hemmx xi pendenzi wkoll. Hemm ukoll sitwazzjoni fejn klijent jista' jkun li xi *corporate customer* ikun biddel ismu. F'dak il-każ il-klijent ikun obbligat jinfurmahom immedjatament u minn naħa tagħhom jivverifikaw is-

sitwazzjoni. Mistoqsija speċifikament jekk qattx *Al Sahra FZCO* kienetx bidlet isimha għal *Sahra FZCO,* ix-xhud wieġbet li ma kienetx taf.

Mistoqsija jekk il-Bank Pilatus qattx bagħat *STR* lill-*FIAU* ix-xhud wieġbet li minn naħa tagħhom jirraportaw regolarment, inkluż rapport dwar frodi u dan tafu għax jirċievu emails u informazzjoni regolarment dwar dan. Dan ikunu aktar marbuta mar-*Risk Department.*

Xhieda ta' Avila Rovelo Nielsen Libyeth

Avila Rovelo Nielsen Libyeth bdiet taħdem mal-Bank Pilatus mill-1 ta' Marzu 2017 u hija *Associate* fil-*Legal and Compliance Department.* Ix-xogħol tagħha jinkludi abozzar ta' kuntratti, pagamenti, rapporti lill-awdituri, listi tal-klijenti tal-Bank, tagħmel ukoll *photocopying* u *scanning* eccetra. Hi għandha aċċess għall-lista tal-klijenti u sal-Gimgħa ta' qabel kienet qegħda taħdem fuq il-lista tal-klijenti li riedu jgħaddu lill-awdituri *KPMG.* Din il-lista għaddithielha Claude-Ann Sant Fournier u x-xhud ma kella ebda kuntatt mal-klijenti tal-Bank.

Mistoqsija jekk kienx hemm l-isem tal-kumpanija *Al Sahra,* ix-xhud wieġbet

fl-affermattiv, għalkemm ftit wara meta staqsejtha jekk hux *Sahra* jew *Al Sahra*, tħawdet u ma kienetx ċerta. Ftakret fl-isem *Shams Al Sahra* għax kien isem twil. Mistoqsija dwar jekk ratx jew semgħetx bil-kumpaniji *Egrant Inc*, *Tillgate Inc* jew *Hearnville Inc* jew l-individwi Michelle Muscat, Joseph Muscat, Konrad Mizzi u Sai Mizzi Liang fix-xogħol tagħha mal-Bank, ix-xhud wieġbet fin-negattiv. Tikkonferma pero li kienet taf b'Negarin Sadr u li din kienet klijenta tal-Bank Pilatus, għalkemm ma kienetx taf x'kontijiet għandha. Kienet taf li Keith Schembri huwa klijent tal-Bank Pilatus għalkemm ma kienetx taf x'kontijiet setgħa kellu. Iżda dwar martu Josette Schembri Vella twieġeb fin-negattiv. Kienet taf li Leyla Aliyeva hija klijenta tal-Bank Pilatus, iżda ma kienetx tiftakar jekk missierha Ilham Aliyev kienx klijent u l-anqas kienet tiftakar jekk Michelle Buttigieg kienetx klijent tal-Bank Pilatus. Ikkonfermat ukoll li John Dalli kien klijent tal-Bank Pilatus.

Mistoqsija dwar Brian Tonna, din ix-xhud tgħid li kienet rat ismu iżda ma kienetx taf jekk hux klijent tal-Bank u dan għaliex riedu jivverifikaw l-ismijiet ta' ħafna kumpaniji iżda kkonfermat li kienet rat ismu. Mill-banda l-oħra ma kienetx tiftakar dwar Karl Cini. Tgħid li tiftakar bil-kumpanija *Willerby*, iżda ma kienetx taf x'servizzi bankarji għandha.

Ix-xhud tikkonferma li kienet rat il-kuntratt tas-self ta' Negarin Sadr. Hi kienet għamlet *scan* tad-dokument u jiġi *uploaded* fid-*database*. Biss ix-xhud

ma qratux. Hi għadha ġdida u għadha qegħda titgħallem x'għandha tagħmel. Biss ma kienetx taf jekk klijenti tal-Bank Pilatus kienux jagħtu self lil xulxin. Mistoqsija jekk hi qattx kienet rat xi dokument bħal dak wieġbet fin-negattiv.

Ix-xhud tgħid li hi kienet tipproċessa pagamenti fis-sens li l-ewwel il-*Front Office* jtuha s-*supporting documents* u minn naħa tal-*Legal and Compliance Department* jivverifikawhom billi jagħmlu *double checking* ma dokumenti oħra bħal *loan agreements*, jew jagħmlu *Google searches* jew *Dow Jones searches* eċċetra. Imbagħad ikun hemm żewġ persuni li jiffirmaw id-dokument legali maħruġ mill-*Legal and Compliance Department*. Ix-xhud kienet tagħmel il-*first level* in kwantu għadha *junior*. Imbagħad id-dokumenti tgħaddihom lil Domenique Camilleri li hija inkarigata mill-*Compliance*. Ix-xhud ma kienetx tqassam il-flus hi għax hi ma kellhiex kuntatti ma klijenti. X'jiġri minn meta tgħaddi d-dokumenti hi, ma kienetx taf.

Ex Impjegati tal-Bank Pilatus

Ix-xhieda ta' Philip Mercieca

Philip Mercieca kien *non-executive director* tal-Bank Pilatus bejn 2014 u l-2017. Huwa bankier professjonali. Qabel telaq minn *HSBC* huwa kien *Head of International and Relationship Banking* u kien dak li vara l-iskema tal-*Premier* li kienet immirata għal *high net worth customers*. Dak kien it-tip ta' *private banking* li kien hawn Malta.

Ħabib tiegħu li kien direttur l-*HSBC* kien avviċinah u qallu bil-kariga ta' *non executive director* f'dan il-Bank. Ġie mgħarraf li *KPMG* u Juanita Benici kienet qed tagħmel *due diligence*, kellimthom lil *KMPG* u ġie offrut biex ikun direttur. Eventwament il-bank fetaħ fit-2014 u beda bħala *non-executive director* jitħallas renumerazzjoni ta' €15,000 fis-sena.

Ma kellu ebda involviment fit-twaqqif tal-Bank. *KPMG* kien bagħtu għalih għal interview. Kien mela' formula tal-*MFSA*. Kien ra' l-*business plan* mill-*KPMG* li kien għal *high net-worth private banking*. Qabel ma kien beda bħala direttur mhux eżekuttiv kien iltaqa' ma Ali Sadr wara li kien ġie riferut

għandu minn *KPMG*. Kienet laqgħa informali fil-Westin Dragonara. *KPMG* kienu kkonfermawlu li Ali Sadr kien approvah.

Eventwalement ġie stabbilit li l-klijenti tal-Bank Pilatus ried li jkollhom almenu 100,000 (Euro) depożitati fil-kont u dan ma kienx *retail banking*. Ħadd ma kien jista' jmur jagħmel *cashing* ta' ċekks; iżda wara l-Bank Pilatus introduċa *card service* u anke *investment services* wara li l-*MFSA* tagħthom ukoll *a full investment services licence*. Setgħu jagħmlu anke *discretion report mamangement*. Jgħid li anke fl-*HSBC* kien diffiċli li jkollhom dik it-tip ta' liċenza għax biex tinħareġ din riedet tkun mogħtija fuq bażi individwali u jrid ikun veru kwalifikat sew. Ma kienx hemm *banking halls*, iżda *meeting rooms* biss.

Kien jattendi madwar erba' *board meetings* fis-sena. Kien jiċċerja l-*Audit Committee*. Apparti minn hekk ma kellux involviment fl-operat ta' kuljum tal-Bank Pilatus. Ma kellux dettalji dwar min kienu l-klijenti tal-Bank Pilatus u ma kellux aċċess għall-operazzjonijiet bankarji. Hu kien jistrieħ fuq ir-riżultanzi tal-Awdituri li kienu *KPMG* u kien ikollu meetings ma Noel Mizzi, partner ma' *KPMG*. Dawn kien jiċċekkjaw kollox u dejjem kellhom *clean reports*. Minbarra dawn kien hemm *PWC* li kien *internal auditors*. Dawn kellhom aċċess sħiħ għal dak li riedu jaraw u kienu jaraw miegħu ukoll il-

programmi tal-*audit*. Meta kienu jirrapurtawlu xi dwar xi riskji huwa kien jieħu l-azzjoni li tkun tmiss. Pero qatt ma kellu rapporti ħżiena.

> Anzi before li ħareġ dan il-ħafna allegazzjonijiet u affarijiet hekk, minn PWC kelli internal audit report fuq anti-money laundering and due diligence in compliance procedures li I have documented li kien nothing to worry about at all. F'kollox kważi low risk għax ovvjament jien kont inserrah ħafna fuq dawn ir-rapporti.

Jaf li kien hemm *inspection* tal-*MFSA* li kien on site u damu madwar tliet ġimgħat. Għalkemm ma kienx involut hu kien ra r-rapport tal-*MFSA*. Kien ħareġ xi rakkmandazzjonijiet li kienu ġew implimentati, fosthom li jiġi maħluq *risk committee*. Il-Board Meetings kienu jkunu regolari u dokumentati sew. Kull aspett tal-Bank kien ikun diskuss u dokumentat. Dawn il-laqgħat kienu jsiru kull tliet xhur.

Fil-bidu kien hemm diżgwid mas-*CEO* Ekmel Cetinel li kien responsabbli mit-twaqqif tal-Bank. Cetinel kien jilmenta li ma kellux staff biżżejjed iżda Ali Sadr ma riedx li jiżdiedu n-nies biex ma jkunx hemm spejjeż żejda. Jgħid li Cetinel ma għamilx ċerti affarijiet li kellu jagħmel dak iż-żmien. Eventwalment Cetinel telaq minn *CEO* iżda baqa' bħala direttur mhux eżekuttiv għal xi żmien. Kien ħa t-treġija Robert Klingensmith għal ftit żmien li ħa f'idejh il-portfolio tal-Bank kif ukoll *asset management*. Kien kompetenti ħafna. Wara ftit żmien spiċċa minħabba problemi personali u baqa' direttur. Kien jippartecipa fil-laqgħat permezz ta' *Conference Calls* mill-

USA. Altrimenti l-laqgħat tal-Bord tad-Diretturi kienu jsiru f'Malta. Kien hemm direttur ieħor Tork, Mustafa, li kien jiġi għall-*Bord meetings*.

Wara Klingensmith kien sar *CEO* Hamidreza Ghanbari, li kien diġa mal-Bank Pilatus, iżda kien jiġi wara Klingensmith. Imbagħad kien ingħaqad ukoll Luis Felipe Rivera kif ukoll Claude-ann Sant Fournier.

Dax-xhud kien ukoll ic-*Chairman* tal-*Audit Committee* u kien beda jservi hekk wara li kien ilu xi sena bħala *non executive director*. F'dan ix-xogħol ried jivverifika li l-proċeduri kollha tal-Bank kienu jkunu immexxija sew. Kien f'kuntatt kontinwu mal-*KPMG* bħala *external auditors* u *PWC* bħala *internal auditors* għalkemm bħala *Chairman* tal-*Audit Committee* kollox kien ried jgħaddi minnu. Biss dawn l-awdituri kienu bosta drabi jmorru on site u jagħmlu dak kollu meħtieġ fuq kull suġġett li kien jidhrilhom li kellhom jittrattaw. Ix-xhud imbagħad kien jarraporta lil Bord tad-Diretturi. Meta kienu jirraportawlu xi affarijiet, li kienu bosta drabi jkunu żgħar, huwa kien jara li r-rakkomandazzjonijiet tagħhom kienu jiġu mwetqa.

Kien jaf li darba kienet saret spezzjoni mill-*MFSA* u mill-*FIAU* u li dawn kienu ħarġu rapporti dwar affarijiet li ma kienux allarmanti u li huwa ma kienx qabel magħhom. Minn naħa tiegħu ma kienx ħadha bħala sorpriża li

kienu jsiru dawn l-ispezzjonijiet għax dawn kienu affarijiet regolari u allaħares ma kienux isiru.

Il-Bank Pilatus ma kienx qiegħed jara li kien sejjer jidħol f'xi riskji partikolari in kwantu xogħolhom kien prinċipalment li jipprovdu depożiti. Kienu saru xi kuntratti ta' self, iżda li kienu kollha mħarsa b'*cash collaterals*. Kull kont li kien jinfetaħ kien ikun kopert bi *due diligence exercise*. Dan ix-xhud ma kienx ikun jaf min huma l-klijenti tal-Bank, iżda kien jassigura li kien ikun hemm proċeduri b'saħħithom dwar kif il-Bank Pilatus setgħa jassumi klijenti u jiftħilhom kontijiet bankarji. Dawn il-proċeduri kienu jinkludu wkoll dawk għal *PEP*.

L-aktar persuna li kienet iġġib klijenti kien Ali Sadr innifsu peress li kellu ħafna klijenti li kien jeħdilhom ħsieb l-investimenti tagħhom. Il-ħsieb tiegħu kien li jiftaħ bank u jkun jista' jipprovdi s-servizzi kollha lil klijenti tiegħu u mhux jirreferihom għal għand banek oħra. Ma kienx hemm linji partikolari ta' negozji li l-klijenti kellhom ikollhom għajr ħlief li jkunu *high net worth*. Il-flus li jiġu depożitati ma kienux jirrendu imgħaxijiet. Biss kien ikollhom *rate of exchange*.

Dax-xhud ma kienx jaf il-background ta' Ali Sadr. Sar jaf li misseiru Iranjan dan l-aħħar. Qatt ma kien semgħa li Ali Sadr kien involut f'xi negozju mal-Venezuela għajr ħlief darba meta wieħed mid-diretturi Mustafa kien qallu li Ali Sadr kien jieħu ħsieb xi investimenti li kellu fil-Venezuela u Mustafa kien imur il-Venezuela għan-nom t'Ali Sadr. Kien jaf pero li Ali Sadr ma kellux background bankarju u dan il-fatt lix-xhud ma kienx inkwetah.

Ġurnata wara li kienu saru l-allegazzjonijiet minn Caruana Galizia, ix-xhud kien sejjah *Board Meeting* urġenti fejn kien staqsa ħafna domandi li kienu ta' dominju pubbliku u talab li jara l-*accounts* tal-Bank Pilatus. Claude Ann Sant Fournier spjegatlu l-kontijiet lilu u lid-direttur l-ieħor Ackermann, inkluż dawk il-kontijiet ta' klijenti mill-Azerbajġan. Qabel matul il-*Board Meetings*, huma kien ikollhom *updated management accounts of the last quarter* dettaljati ħafna u l-Bord kien jara xi progress ikun qiegħed isir. Biss ma kienx ikollhom liema u kemm huwa d-depożiti tal-klijenti. Ma kienx jiġi diskuss min kienu l-klijenti u minn fejn kienu ġejjin. Hu kien jaf li kien hemm ċerta klijentela ġejja minn Dubai u dawk l-inħawi u dan kien punt li kien jiddiskuti mal-*internal auditors* u dawn ma kienux jirrimarkaw xejn stramb f'dan il-fatt fis-sens li ma kienetx ħaġa stramba li l-Bank ikollu klijenti minn dawk l-akkwati.

F'laqgħa tal-Bord tad-Diretturi minnhom kien ippuntwalizza biex il-Bank joqgħod attent mill-assunzjoni ta' *PEP* lokali bħala klijenti u dan wara li Ackermann kien qal li John Dalli kien resaq lejh biex jiftaħ kont bankarju. Ix-xhud kien qal lil Ali Sadr li ma kienetx idea tajba li jinfetaħ kont lil John Dalli minħabba li kien qed ikun fl-aħbarijiet. Biss *PEP* riedu jgħaddu miċ-*channels* normali. Ix-xhud kien kunfidenti fl-ammont ta' checks li kien ikollu l-Bank u kien jistrieħ fuqhom. Sar jaf x'kellu John Dalli meta kienet ħarġet l-aħbar minn Caruana Galizia u ġie spjegat lilu x'kont kellu. Brian Tonna qatt ma ġie diskuss at Board level, għalkemm lejn l-aħħar Keith Schembri kien.

Ix-xhud kien beda jistaqsi dwar dawn il-*PEP* hekk kif kienu bdew ħerġin ix-xniegħat fil-media madwar sena qabel ma huwa rriżenja. Kien ivverifika fuq Konrad Mizzi u ra li ma kellux kont. Kien staqsa fuq *Lester Holdings, Willerby Trade Inc* eċċ. Ippreżenta kopja t'email mibgħuta lil Claude-Ann Sant Fournier : -

> Dear Claude-Anne, I would be greatful if you would kindly confirm whether we presently have or have had any accoutn held with our bank in any of the following names, Lister, Cellson, Colson, AtoZ Consulate, Willeby and Tillgate. If Pilatus in any particular case do have or have had a ccount or any connection wioth any of these companies, entites and please could you inform me the name of the ultimae beneficial owner disclosed. As you are no doubt awre these names are currently in public domain. Kindly acknowldege receipt of this message with thanks and best regrads." Iffirmat Philip Mercieca. Imbagħad hawn ir-risposta ta' Claude-Anne Sant Fournier datata 12 ta' Lulju 2016, "Dear Philip, further to your email of 1st June 2016 kindly note the following..." Din ingħatatlek jhekk jiġifieri? Mhux b'emial?

Xhud: She handed it to me meta kont mort il-bank wara. Kienu diġà qaluli verbalment imma jien għedtilha to give it to me in writing. Whith hindsight now I am looking at it...

Sur Maġistrat: "Kindly note the following: Pilatus Bank established a clinet relationship with Willeby Trading on the 28th November 2014 and the account was closed on May 5th 2016. Pilatus established a client relationship with Lister Holding Group on 19th June 2015 and on 19th April 2016 the accoutn closure notice with the effective date 1st June 2016 as per times and condition. The appropriate level of customer due diligence undertaken in terms of local applicabel legislation namely the ultimate beneficial owner of each company was identified and verified as necessay both prior to the account opening and throughout the client relationship. Kindly be advised that the other companies listed in your email have not to date maintained client relationships with Pilatus Bank and the bank's policy is not to onboard if approached by such clients. Please do not hesitate to contact me should you require any further information in this respect." U din qed tiġi mmarkata PM2. Sewwa mela hawnhekk qed nitkellmu aħna...

Xhud: Din kont bgħattha biex niċċara at the time li kienu saru l-ewwel allegazzjonijiet u after that one of the other things li ġegħielt lill-internal auditors jiċċekjaw iżjed. Dik kienet is-sitwazzjoni at that time. Issa għandi ngħid li Claude-Anne Sant Fournier li kienet ġiet on board wara li konna bdjena l-bank jien sirt nafha as a KMPG employee, kienet tiġi tagħmlilna - għax money launderign the procedure is that at least once a year or every six months mhux id-dretturi biss imma all the staff have to go to the whole manual and go throughthe whole procedures eċċ and sign – kienet ġiet tatna l-ewwel instruction and the eventually she came onboard. Jien kelli impressjoni li she is somebody very thorough u baqgħet sal-aħħar. I was very confident that she was doing everything kif suppost. Pereżempju dawn tal-money laundering sal-aħħar and we documented it li we always used to do all these examinations anke bħala diretturi qishom tests biex naraw that we are on the ball as far as money laundering in concerned and all the compliance. The manual li għandi tal-money laundering in very thorough. Għandi kopja hawn.

Hu kien iserraħ rasu li l-affarijiet fil-Bank immexxija sewwa għax kellu fiduċja fi Claude-Ann Sant Fournier, kif ukoll fl-Awdituri interni u esterni u wkoll l-ispezzjonijiet tal-*MFSA* u l-*FIAU*. Għal ftit żmien l-allegazzjonijiet fuq il-Bank Pilatus kienu waqfu u hu ħassu ftit rassikurat. Hu kien ser jitlaq

minn *Chair* tal-*Audit Committee* xorta waħda għax kienet saret regola mill-*MFSA* li ċ-chairman tal-audit committee irid ikun *accountant*. F'Jannar 2017 kien identifikat *replacement* accountant approved mill-*MFSA*.

Deloitte daħlu biex jagħmlu rakkomandazzjoni tal-*MFSA* li kienet li jsir *risk assessment* u li jsir *Risk Committee*. Dan sar b'mod professjonali u hu kien parti minn dawn il-meetings.

> Nista' ngħid jien mill-banking experience tiegħi on the lines of anything I had encountered anke mal-HSBC for sure u ma' Deliotte ukoll kien hemm dan il-proċess li they did report to me on what was happening. A risk management was identified ċertu Antoniella; she was going to be in charge. Imbagħad ħallejtha fin-nofs. When I left meta reġgħu ħarġu allegazzjonijiet.

Meta ħarġu l-allegazzjonijiet kien inkwetat iżda reġgħa ġie assikurat minn Claude-Ann Sant Fournier u mill-Awdituri.

> Kien spjegali Ali ukoll a transaction li kien sar which with hindsight it should not have been accepted li kienet ta' Keith Schembri u Brian Tonna which is għalija crazy thinking about it again. Jien ma nafx klijent li jissellef mingħand l-awditur tiegħu but that was allegedly brought out. I do not know if it is true or not.
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> Sur Maġistrat: Din kienet ġiet diskussa ukoll at board level?
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> Xhud: No. One to one biss the impression li kienu qed jagħtuni li dak forsi sar żball imma it is out in the open, we told MFSA fl-audit. Jafu kollox bih. Sa ċertu punt l-MFSA audit u subsequently l-FIAU kellhom aċċess għal dawn it-transazzjonijiet u ma ġara xejn sa ċertu punt allura the explaination was satisfactory of what was going on għax kieku ma kenux l-MFSA who had suspended certain things. But nothing like that happened. Għalija at that time it was of a period.
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> Sur Maġistrat: Dan int qed tgħid wara li bgħatt din l-ittra tal-1st June 2016?

Xhud: Yes. Then I had a bit of an outburst. Li kien hemm tal-FIAU ukoll kienet qed tinkwetani. Tal-FAIU.... he did not give us the letter. He did not give us the original letter li kienu bagħtu. Rajtha l-ewwel darba in the media.

Sur Maġistrat: Jiġifieri l-ittra li kienet bagħtet l-FIAU lil Pilatus....

Xhud: L-oriġinal report tal-FIAU ma kienx tajjeb.

Sur Maġistrat: Dan kien f'Mejju 2016? Tiftakar?

Xhud: Qabel naħseb. The initial report kien ħareġ qabel naħseb. What we were told in board li kien hemm dan l-initial report qalilna li kien hemm ċertu affarijiet mhux tajbin.

Sur Maġistrat: Kien spejalkom x'inhuma l-affarijiet mhux tajbin?

Xhud: Not specifically. Biss kien qalilna li they were going to go back to them. Kien qalilna thaty they employed to look into it and help in the reply Juanita Bencini as KPMG and Luois Degabriele ta' Camilleri Preziosi. Jointly they were studying the report that was made by the FIAU and presenting there reply and explainations. After, the next meeting we had he actually presented - u din ma stajtx ngħidha, it did not come out in the media - a copy of a letter li rċieva mill-FIAU li qalu fiċ-ċirkostanzi u fl-ispjegazzjonijiet li tajtuna hija aċċettabli.

Sur Maġistrat: Dan allura qed nifhem jien kien b'bord meeting sussegwenti jiġifieri. Allura int hemmhekk speċi...

Xhud: Again ħadt daqsxejn comfort li ma ħareġ xejn hawn. Imma dik kienet for some time anxious about it biex nara kif se nispiċċaw għax jien ma kontx se naċċetta. I was going to insist li anke nisrta' ngħid wieħed mid-diretturi miegħi ukoll iddiskutejniha. We were going to insist that we were given this letter, this FIAU report which we were not because by the time we were meant to he got us the reply.

AC Ian Abdilla: Bħala chairman tal-audit committee ma ħassejtx li kellek tlaqqa' l-committee u tiddiskutuh dan ir-rapport tal-FAIU?

Xhud: I do not think it was initiated.

AC Ian Abdilla: Jew forsi tagħmlu additional checks?

Xhud: Kemm l-MFSA report u anqas l-FIAU report do not come under the audit committee. It goes directly to the board. At that stage anke l-audit committee...

AC Ian Abdilla: Imma kien hemm issues fir-rapporti li they could have had an implication possible bad internal audit practises.

Xhud: Yes. Of course naħseb. Fil-fatt I was fully intending to see this report and to insist li jagħtuna dan ir-rapport. By the time it was going to be presented – hu qalilna tuwni ċans there are some inaccuracies se nirrispondu with KPMG and Camilleri Preziosi. This was alwas oner thing that reassured me that the people huma the top professionals in Malta.

Ix-xhud jgħid li ma Ali Sadr kellu biss relazzjoni professjonali, li kienet tajba. Sadr ma kienx jikkonfida fih, għajr ħlief darba meta ried ineħħi lil Ackermann minn direttur. Sadr qatt ma tkellem miegħu fuq Brian Tonna jew Karl Cini.

Sur Maġistrat: Pero fir-rigward ta' Ali Sadr anke b'mod partikolari fil-bidu nett, taf jekk kellux kuntatti jew qattx tkellem miegħek jew fil-bord dwar kuntatti li kellu ma' Brian Tonna jew Carl Cini?

Xhud: Qatt.

Sur Maġistrat: Jew ma' Joseph Muscat jew ma' Keith Schembri?

Xhud: Qatt. L-unika ħaġa, darba kont smajt minn barra. Xi ħadd kien qalli li l-Prim Ministru jafu u li Keith Schembri kien ħabib tiegħu. This I heard from outside sources.

Sur Maġistrat: Jiġifieir li kien ħabib ma' Keith Schembri int kont smajt?

Xhud: Iva kotn smajt minn barra. Darba we were having a board meeting u kien qal li kellu jitlaq kmieni malajr "Għax bagħat għalija l-Prim Ministru." I do not know imma.

Sur Maġistrat: U din liema sena kienet tiftakar?

Xhud: 2016. Something like that. Anke li żżewweġ u li kien hemm it-tieġ tiegħu jien ma kont naf xejn. Anqas kont naf li żżewweġ.

Sur Maġistrat: Int ma kontx mistieden għat-tieġ jiġifieri.

Xhud: Le. I did not even know he was married jiġifieri. Eventwalment sirt naf li kien miżżewweġ u eventwalment sirt naf li kellu baby ukoll għax kien urini ritratti but that is about it. Socially qatt ma kelli x'naqsam miegħu. He was always very charming ma' kulħadd. Very strict bħala chairman, iżomm il-control ħafna. He did not strike me as being a person li he is not a nice person. Almenu miegħi kien dejjem jittrattani. Meta

saqsejt ċertu affarijiet they took the trouble to answer. He took it seriously for what I said. Ħalli imbagħa dikun għamel xi ħaġa differenti imma semgħani. Anke meta ġejna fl-aħħar a lot of the things I brought out mhux li rrabja miegħi. Fl-aħħar meta ħarġu l-allegazzjonijiet serji...tal-waħx...

Dwar Maria Efimova jgħid hekk : -

Xhud: Maria Efimova li ma kontx naf min hi, qatt ma ltqajt magħha. I used to go into the board room or the meeting room at most. Xi staff li forsi kienu jġibu kafè otherwise I did not know. Jien ma kontx nafha biss at one board meeting kienu semmew din il-problema li għandhom. Claude-Anen had explained.

AC Ian Abdilla: Liema problema?

Xhud: LI kienet serqet mill-bank. Kienet abbużat mill-credit card. Those were the details u kienu qabdu lill-pulizija u l-pulizija kienu indagaw and they decided to proceed against her and it was recorded u l-avukat tal-bank dak iż-żmien kien Dr Joe Giglio and every board meeting li kien hemm wara dejjem kienu jgħidulna li the case of Maria Efimova has been adjourned to such a date. At that is about it. Ma kenitx xi ħaġa ta' interess tal-għaġeb għalija. I do not know what she stole. L-ammont insejt kemm kien imma not more than €2000, €3000. Iżda hu kien insista u proceed against here. Kont għedtlu is it worth noqgħodu nmorru l-Qorti fuq €2000, €3000 u ried bil-fors jipproċedi.

Sur Maġistrat: Semmejna d-dismissal tagħha, issa la qegħdin fuqha, fir-rigward tar-recruitment tagħha, it did not reach board level?

Xhud: No recruitment reeached board level.

Sur Maġistrat: Il-fatt li kelli bżonn personal assistant Ali Sadr qatt ġie diskuss min-naħa tal-bord?

Xhud: No.

Meta bdew l-allegazzjonijiet is-*CEO* kien Hamidreza Ghanbari.

Jiftakar li kienu ġew diskussi x'tip t'equipment ried ikollhom għax huma kienu qegħdin jaspiraw għal

very high levels of sophistication. ... Għalija akienu beyond what I knew as a banker qabel ma tlaqt fit-2004. They were beyond that. Kienu ismijiet tajbin li kien qed jagħmlu dela magħhom se fejn kont naf jien. An that is about it. Is-sistemi kif jaħdmu...Bħala struttura the whole bank seemed to be very sophistictaed anke fis-sistemi li konna naħdmu. Everything was ery documented. Kont nara ħafna kompetenza fihom. Anke r-rapporti, kull ħaġa li nagħmlu, anke meta konna qed nagħmlu din tar-risk daħħalna esperti ta' Deliotte u mhux ħaġa li qbadna u tfajniha hekk. Deliotte were the experts, they guided us u apperently they continued working on it għax kont tlaqt. They eventually got the licence tal-Ingilterra. Everything seemed quite to be sophisticated and everytime getting the very best. Anek jekk semmejna Efimova, it is the first time li qabbadna avukat – mnhux nis li qatt ma smajt bihom. At that used to always reassure me. Onestament kif kienu jaħdmu s-sistemi ma stajtx nidħol fiha. Ma kellix aċċess. Frankly I would not know how to. Jien ġej minn ġenerazzjoni differenti. Jien kont nikkonċentra aktar biss meta kienu jistaqsu u jkolli nistaqsi domandi, nipprova nifhem dak li qed jgħidu fuq dawn l-affarijiet tal-IT.

Dwar Brian Tonna qal : -

Li Brian Tonna kien l-aktar wieħed li jgħaddilna xogħol ma kont naf at any stage. Nobody was identified as "isma l-aktar li qed inġibu xogħol mit-tali jew mit-tali."...Se nkun onest Brian Tonna kont nafu. Kieku qalulna "Isma ġabilna kont Brian Tonna" forsi I would not have thought anything of it as such at that time. Biss imbagħad wara they never told me "Isma l-iżjed xogħol ġej mingħand Deliotte jew mingħand it-tali." No nothing. L-impressjoni tiegħi kien li x-xogħol kien iġibu Ali from his contacts li kellu ta' business barra. That is the impression, the feeling I got.

Sur Maġistrat: Però qatt ma kellek indikazzjoni jew informazzjoni li Brian Tonna kellu a strong foothold f'dan il-bank li kważi kważi l-bank kien ta' Brian Tonna aktar milli ta' Ali Sadr?

Xhud: Definately not. Kieku kien hekk it would have been, even if i thought Brian Tonna was the best person in the world ma kienx ikun aċċettabli naħseb.

Sur Maġistrat: Dik il-ħaġa at board level qatt ma...

Xhud: Definately no.

Sur Maġistrat: Jew kien hemm xi involviment Brian Tonna at board level.

Xhud: Qatt ma kienu jissemmew ismijie ta' nies to be quite honest.

Dwar is-self lil Negarin Sadr, ix-xhud jgħid li darba Ali Sadr kien semma' f'wieħed mill-*Board Meetings* li kien sejjer jagħti self lil oħtu jew martu biex tixtri appartament f'Tower Road, li kien *cash covered*. Kien mitlub biex imur il-Bank u jiffirma l-kuntratt f'isem il-Bank. Dal-kuntratt kien sar għand in-Nutar Clyde La Rosa. Hu ma ra xejn ħażin fiha din anke għax in-Nutar La Rosa huwa wieħed rispettabbli ħafna u jafu personali u ħaseb li kollox kien above board. Dawn il-loans kienu jkunu b'*cash collateral* u dan kien isir għal raġunijiet ta' taxxa.

Fir-rigward ta' self bejn il-klijenti tal-Bank, huwa u l-Board ta' Diretturi ma kienux jidħlu fiha dik. Dwar il-kumitati li kellu l-Bank Pilatus, ix-xhud jgħid li : -

> Every committee used to report. Il-credit committee, l-audit committee, eventwalment sar ir-risk comittee u forsi hemm xi ieħor. At the end of the board minuites, jiġifieri l-board minutes l-ewwel jibdew bil-performance u l-accounts, imbagħad bil-business developement u dejjem kien hemm li each committee used to report at the end.
>
> Sur Maġistrat: Jiġifieri dawn il-kumitati kienu juru li kienu jaħdmu mhux qegħdin hemm għan-nom.
>
> Xhud: U żgur and they were minuted as well. We used to have copies of the minutes. Jien bħala audit committee every meeting I had with PWC kienet minuted and hardcopies presented eċċ. qegħdin għandi kollha jiġifieri.
>
> Sur Maġistrat: Anke l-kumitati l-oħra jiġifieri kienu jagħmlu l-istess?
>
> Xhud: Ehe.
>
> Sur Maġistrat: B'mod regolari?

Xhud: I think li kull kumitat kellu jiltaqa' suppost at least four times a year. Pereżempju at one time kienu se jpoġġinu fuq l-ALCO.

Sur Maġistrat: L-ALCO liema hu?

Xhud: The management of the funds basically tal-bank how you manage and put the money. Onestament ma ħassejtnix komdu hemmhekk, kompetenti and it is not my area. I came from a background at credits, lendings eċċ imbagħad dħalt l-offshore so I was very comfortable on audit or credit imam credit qatt ma poġġieni.

Kien hemm verament ftit klijenti li kellhom turnover qawwi ta' flus fil-kontijiet tal-Bank Pilatus. Dan kien fil-fatt issemma fil-laqgħat tal-Bord. Biss it-transazzjonijiet partikolari ma kienux jiġu diskussi fil-Bord. Biss dan normalment kienu jkunu nutati mill-Awdituri li kienu jagħmlu *random sampling* tal-kontijiet li jaraw u jawditjaw. Hu ma kellux raġuni għaliex jiddubita lil *PWC*.

Meta Caruana Galizia ħarġet l-artikli tagħha fl-20 t'April 2017 huwa kienx ixxukkjat. Ħa parir u ddeċieda li ma riedx jibqa' f'dik is-sitwazzjoni mingħajr ma jkun ivverifika dawn l-allegazzjonijiet. Meta ġie Malta Ali Sadr kitiblu e-mail fejn eżiġa li jsir *Board Meeting* urġenti. Kien ċempillu wkoll. Sadr kien ġej Malta għax kellu jkun hemm *Board Meeting*. Ix-xhud eżiġa li l-agenda tinbidel biex ikunu mwieġba dawn l-allegazzjonijiet li kienu qegħdin isiru. Kienu ltaqgħu l-għada ta' dawn l-allegazzjonijiet. Huwa qatt ma rċieva kopja ta' dawn il-minuti. Staqsa fuq ħafna affarijiet inkluż fuq *Egrant*.

He denied the thing of the safe, ta' Efimova, neither Egrant had never had an account or Joseph Muscat had any accounts or any connection. These he all denied during the board meeting which I hadnever been copied although I asked fro them. Ukoll I have asked fuq tal-Azerbaijan and the explaination given to me was that they were mostly companies representing a business entity pereżempju a hotel in Dubai which was owned by another company, ultimately the beneficial owner was the daughter of the ruler of Azerbaijan. The ruler of Azerbaijan never had any accounts with the bank he said. Issa these particular accounts he said were perfectly legal. Ukoll sirt naf min ġabhom il-bank dak iż-żmien, was someone who I happened to know as well. But anyway he said they were all perfectly legal. In my opinion it is not the matter opf the structure għax I am sure it would have been in a way li ma tkunx taf. The ultimate beneficial owner you may know they are but the provenance of the funds to buy this hotel minn fejn ġew? This I was not satisfied. One of the things which I was against basically. I never knew that there were these types of accounts. Ma kontx naf. Ħarġu mill-blogger and there were a subsential ammount. Jiġifieri a good percentage of the whole account list. Allavolja they have passed the test of the FIAU and have passed the test of the MFSA because they were all ready, they were all vetted by everybody, jien personali I declare that I still was not happy with them. And l-fatt the ...they were getting. Però it was not something I was happy with, I was comfortable with because the provinence of these funds minn fejn ġabuhom dawn? Alright they bought a hotel. U kienu jgħaddu d-dividents apperently and they were not on the hotles, they were on other business entities u kienu jgħaddu d-dividents hux! It something that I had seen it as a KYC initial I would have been maybe a bit more – I would not have accpeted it. I had asked if Keith Schembri had an account and he did and I said "Is it a wise thing to have now as a PEP who is now in the public?" His answer was a persoanl account only. That is all he had, not large balances. There is nothing wrong with having an account here. And I said "Yes but he is in the public. At this point in time a sa bank, do you want have somebody..." Anyway that I objected to as well. There were other things. Saqsejtu ovvjament fuq il-biċċa xogħol tas-safe, ta' Efimova eċċ. He dismissed everything qas kważi ridicules having a safe in the kitchen, that there was never any certificate. That is what he told me. I am not saying that he is right or wrong. I do not know. Hemm allegazzjonijiet. Likewise fuq il-biċċa xogħol tas-suitcase. Nista' ngħidlek ll-istorja li qalli; li hu kien ġej mill-airport, "As you know I go straight to the bank as always in preperation for the meeting the next morning, I have CCTV coverage. I put the suitcases as I do in the corner in the board room and then I came to leave preparing for the next day and I picked them up to leave." Għedtlu "Allura why did you go from the back?" "Għax I saw li kien hemm ħafna moviment quddiem il-bank, they were puttign lights on the bank biex nevita." That is what he said. The story he ridiculed forsi li ħadhom x'imkien xi affarijiet. One of the things they told me that everything is on Oracle Flexcube. I am not technical. This

is not something you can erase. It is not something I can tajke physically out. If there were accounts showing certain things, they were going to remain there. They are in the whole system. Beda jinsisti li everything was perfectly legal and this was just a blogger giving her opinion. Nothing is being proven. I asked whether there are any other transaction on Willeby u qalli li definately not. Saqsejtu fuq Brian Tonna u qalli thet there was no more connection with him. Kien qalli li se jqabbad lil Stefano Filletti to defend the case. Semmejna ta' John Dalli and explained to me what i told you before. Tal-Azerbaijan, ta' Keith Schembri. Mostly all the things li kienet Daphne in one way or another hi qed tagħmel allegazzjoni issa jien staqsejtu jekk hux veru jew le. Some were in a way true tal-Azerbaijan. Li kellu xi ħaġa Keith Schembri forsi kien qabel ... imbagħad konna tlabna biex naraw il-kontijiet. Jien u Amir Ackerman. He was a director. I do not know if he still is coming from Fimbank. Morna with Claude-Anne she went through the whole accounts. A lot of names, dan PEP u dan hekk, a lot of them were minn Azerbaijan, the Azerbaijan connectionbut we are not talking about a lot of accounts. Going through them anqas li tgħid li kien hemm xi ammont fenominali. They were all clearly marked. Jekk kien PEP it was very clearly marked. Two weeks before kien kelli ukoll meeting aml-KPMG li kien tagħni draft tat-2016 audit which had to be signed at that period. Kont ħadt kopja of the draft. That was then due to be read at the board meeting. It never happened because tħadditna fuq din. Hu ried imbagħad li nerġgħu nagħmlu meeting ieħor the next day biex kellna napprovaw l-ICAP u l-ILAP li huma important documents. We had been working on with Deliotte for some time u biex nippruvaw ukoll l-accounts as presented by KPMG. L-għada jien when I went back I sort of thought about, ħadt parir form people u mill-avukat tiegħi u onestament I just was not happy. L-għada mort għedtlu "On the basis of the allegations there are, I am not happy to continue until these allegations are proven true or false, on way or the other. I am not in a position to judge." Kien irrabja ftit at that stage. "There are certain things I was not very happy with. The Keith Schembri connection, the Azerbaijan accounts. Those I things I am not happy with anyway and I am not prepareds to carry one." He said "But today we have a dead line with the MFSA to present the ILAP and the ICAP." "I am sorry but I am not going to carry on. I am resigning today." And I resigned immediatley. The other directors all decided to stay on including Armin u ħadha daqsxejn bi kbira because I put him a bit in a spot bħala presentation of these. Imma jien onestament I could not. I am retired, I am 70 years old, dan il-ħafna taħwid u l-inkwiet, I did not what to have anything to do with these allegations. I was resigned with immediate effect. Wara li bgħatt ir-resignantion kienu anke għamlu approach il-KPMG and they were sort of insisting that I had to be present for the accounts because after all they were presented to me as chairman of the audit committee and they have to pass through the chairman audit committee qabel il-board, jiġifieri ..... u niftakar l-ewwel Mizzi was in charge of the audit, they chase me, they wrote to me not a very nice letter, kważi pushing me to go

and prove the accounts which I did not. I never went there again. I told him that "I am leaving and never coming back again. I do not want to get involved in these things. There are things I am not very comfortable with at all." I can not and I am not still today jkiġifieri saying this has happened or this did not happen. I do not know. I can not say Efimova sabet – I do not know. Whoever asks me I do not. And it is not my competance. I do not have the prove. I do not like judgeing but the point is if there are allegations, if there are these allegations I am not comfortable to remain working where there are these type of allegations li kienu serjissimi in my opinion. It was also very difficult for me għax people who knew I was at Pilatus, I was even being shown on a film, xi riklam, nies li jafuni. It was a very difficult time għalija. I stand by...my life but apperently the accounts were not signed imbagħad għandu jkun li ffirmawhom wara. I did not know how or what they did or if they appointed somebody else but I send the resignation on the 28th of April.

L-ittra tar-riżenja tiegħu irreġistraha mal-*MFSA*. Wara xi sitt ġimgħat bagħtu għalih l-*MFSA* u kellu interview ta' xi siegħa u nofs li kienet reġistrata. Claude-Ann Sant Fournier talbet li kopja tagħha tingħata lil Bank Pilatus. Din ma ingħatatx. Biss kien qalilhom l-affarijiet li stqarr illum. Il-Bank Pilatus kien jiddokumenta kollox.

Sur Maġistrat: Fir-rigward tal-allegazzjoni prinċipali li kienet qed tagħmel Daphen Caruana Galizia, u li għal meritu ta' din l-investigazzjoni, fir-rigward tal-involviment ta' mart il-Prim Ministru f'din il-kumpanija Egrant, min-naħa tagħkom fil-board qatt iddiskutejtu jew ġiet għall-informazzjoni jew għall-attenzjoni tagħkom xi informazzjoni li kienet torbot lil Michelle Muscat mal-bank Pilatus jew ma' xi kumpanija li kienet transecting ma' klijenti tal-bank Pilatus? Qed nitkellmu hawnhekk high profile individual, a high political exposed person.

Xhud: Qatt ma ssemma. Fil-fatt jein staqsejt in the last board meeting speċifikament jekk hemmx xi verità f'dawn l-allegazzjonijiet li kienu qed jagħmlu u categorically irrisponda li qatt ma kellu l-ebda relazzjoni ta' bank magħna. La Prim Ministru u anqas il-mara tiegħu u li din il-ħaġa qalli li kienet fittizja ta' Efimova. Nista' ngħid li emta dort il-kontijiet ma' Armin there were a lot of names u ppruvajt nara ujekk hemmx xi ħaġa Egrant. Ma rajtx dak iż-żmien. Sometimes ngħid, "Rajthom sew?" but I had specifically asked beforehand and it was denied categorically. Anke ma kien

hemm l-ebda reazzjoni mal-Prim Ministru assolutament vis-a-vis banking. That is it as far as it goes. Otherwise it was never mentioned jiġifieri.

Sur Maġistrat: Jew inkella forsi qattx kien hemm xi...

Xhud: Li l-Prim Ministru kien jafu sew naħseb li iva biss jien kont smajt – għax Malta qegħdin – li sirt naf li kellu t-tieġ u min mar it-tieġ li kien ukoll il-Prim Ministru – u smajt minn barra, minn terza persuna. Gma għedt xejn at that time. It is not my business. Kien hemm okkażjoni li qalli "Irrid nitlaq mill-board meeting għax bagħat għalija l-Prim Ministru." Kien hemm indikazzjoni li kien jafu sew. It could have been on an advisory capacity. I do not know. As far as the bank is concerned qatt ma ġie xi ħaġa quddiemna tal-Prim Ministru. Għalhekk meta ħarġu dawn l-allegazzjonijiet – issa jipprova x'għandhom jipprovaw.

Sur Maġistrat: Jekk inkella kienx hemm xi diffikultajiet fir-rigward tas-sistemi tal-bank li kien jadopera, li kien juża, qatt kellkom xi indikazzjoni li l-bank forsi seta' kien qiegħed juża xi sistemi differenti minn dak li he used to portray?

Xhud: Ma nistax ngħid hekk. Assolutament ma nistax ngħid hekk. Anzi bil-maqblu. Anke jekk kieku sar hekk jien dejjem nippretendi li n-nies li kienu ta' ċertu kategorija. Qed nitkellmu KMPG, PWC at one time kien hemm suggestion li forsi peress li PWC kienu jeħdulna mhux ħażin that we get someone else as an internal auditor which I resisted personali and her then agreed. "Let us keep somebody li nistgħu nafdaw fih 100%." Ma kien l-ebda min dan. Nothing that ever came to my attention or was brought to my attention. I repeat li jien qatt ma kelli aċċess għall-operazzjoni tal-kontijiet. Qatt ma stajt inmur niċċekja jien xi kont.

Fl-*accounts* tal-Bank qatt ma kienx xi *qualification* minn naħa tal-Awdituri u qatt ma ġibdulhom l-attenzjoni fuq xi ħaġa. L-unika kwalifika li huwa kien jaf biha kienet l-ittra oriġinali tal-*FIAU* (Mejju 2016) li huwa qatt ma kien raha. Biss jaf li Sadr kien qabbad lil *Camilleri Preziosi* u *KPMG* biex jagħmlu risposta. Biss wara din l-ittra tal-*FIAU* kienet ġiet retratta u l-ittra ġiet murija lil Board tad-Diretturi.

Dwar Hamidreza Ghanbari, ix-xhud qal li oriġinarjament ma kienx direttur, kien impjegat, kien *relationship manager*. Wara kien sar *COO* meta kien hemm Rob Klingensmith bħala *CEO*. Warajh spiċċa *CEO*. Kien jagħmel ir-rapporti tiegħu lil Bord tad-Diretturi. Minbarra dak li seħħ wara l-20 t' April 2017, il-Board Meetings preċedenti ma kienux ikunu imqanqlin. Sadr kien bniedem affermattiv u deċiż f'dak li jkun ser jagħmel. Kien jispjega kollox dak li ried jagħmel. Kien ikollu xi diżgwidi ma Luis Rivera fuq l-implimentazzjoni ta' ċerti deċiżjonijiet.

Dwar il-ftugħ ta' branch f'Londra, ix-xhud wieġeb hekk : -

> AC Ian Abdilla: Il-move li tapplikaw għal-liċenzja Londra x'kienet il-move warajha u jekk ġietx diskussa fil-bord?
>
> Xhud: Yes at lenght.
>
> AC Ian Abdilla: L-istruttura tal-grupp issa xorta Malta kien se jibqa' fuq Londra? Kienet se tkun a seperate organisation?
>
> Xhud: Londra kien se jkun a branch of the local bank. Fil-fatt kien jiftaħar li it is going to be the first time that a local bank is opening a branch overseas. It was a marketing move. Ħass li hemmhekk there was a lot of potential to get business, to raise business. Kien se jimpjega nies. We had also identified relation managers u nies li kienu se jkunu hemmhekk. Kien ukoll iddentifika l-post, kien urina l-post li fil-fatt il-blogger has shown it imma at that point it had not opened yet. Veru li kien dak il-post imma it was not opened yet. To show that he was serious għax hekk kien. Kien qal li he was going to get an indipendent – qabbad lil Deloitte to look into it and the whole application li għadda mill-MFSA imbagħad mill-Bank of England, that work I was not involved in it but I knew what was going on jiġifieri. Kien jgħidilna what was going on and sooner ort later hopefully we will get a licence. At the time li ġrat din I had heard li kienu tawna – kważi at the same time simultaneously – l-approved għal liċenzja ġewwa l-Ingilterra. Wara li tlaqt apparentament fetaħ kien. Biss it was a strategic business...that was how it was put forward which made sense to me as well.

Sur Maġistrat: Kienet xi ħaġa li kienet bdiet mill-bidu jew inkella kienet xi ħaġa li żviluppat?

Xhud: Żviluppat. Towards the end ma kienx hemm daqshekk growth in the last year. Anke bdew ikunu a bit more choosy on the type of accounts they get. They only get an account if they feel they are going to get something out of it. An accoutn would need alot of maintenance u dawn l-affarijiet and you do not turn in anything on it naħseb there was this feeling. It was mentioned. Forsi he felt it was drying up here. I do not know.

Id-depożitanti mal-Bank Pilatus ma kienx ikollhom rata t'interessi fuq id-depożiti tagħhom. Iżda dan kien mudellat fuq il-*private banking model* u għalhekk il-klijenti kienu jkunu sinjuruni li jkunu jridu s-servizz t'eċċellenza aktar milli l-interessi fuq il-kont. Il-Bank kien jagħmel *Portfolio Management* u kellu l-għola kategorija ta' liċenzja għall-investiment. Dak li kienu jridu huwa servizz t'eċċellenza bil-mezz ta' *relationship manager* li jkun magħhom u servizz personalizzat. Dan kien imur fuq il-mudell Svizzeru.

Ix-xhieda ta' Ekmel Gilingir

Ekmel Gilingir kien Direttur u *CEO* tal-Bank Pilatus mis-6 ta' Diċembru 2013 sa Settembru 2014. Hu kellu ftehim verbali ma' Ali Sadr, l-uniku azzjonista tal-Bank Pilatus sa' minn Diċembru 2012. F'Settembru 2014 huwa rriżenja minn *CEO* u *Company Secretary* iżda baqgħa jservi ta' direttur sa' Diċembru

2015, għalkemm wara li rriżenja ma marx aktar minn tliet darbiet fil-Bank Pilatus. Meta beda jaħdem hu uffiċjalment il-Bank kien għad m'għandux liċenzja, għalkemm ġabha madwar xahar wara, xit-3 ta' Jannar 2014, għalkemm l-approvazzjoni fil-prinċipju mill-*MFSA* kienet maħruġa f'Ottubru 2013. Qabel ma kien daħal hu fix-xena Ali Sadr kellu diġa kuntatt mal-*MFSA*. Mistoqsi jekk minn naħa tiegħu kienx ħa pariri professjonali qabel ma fetaħ il-Bank f'Malta Gilingir qal li dak iż-żmien kienu jitkelmu biss mal-*KPMG* fosthom ma Walter Bencini, Claude-Ann Sant Fournier u Antoniella Gauci li kien impjegati ma' *KPMG*. Kellu interview ma Mark Bamber minn *KPMG* u wara kien iltaqgħa ma Ali Sadr.

Ekmel Gilingir huwa bankier professjonali. Kien għamel madwar għoxrin sena ma *BNP Paribas Fortis*. Hu kien jaħdem bħala *CEO* jew *COO* mal-*Fortis Bank Malta Limited*, iżda kien ser jagħlqu l-operazzjonijiet tagħhom minn Malta. B'hekk kien beda jfittex xogħol f'Malta għax kien ilu hawn mill-1999. Kien ma *ACH Bank*, l-akbar bank Għarbi fit-Turkija u mbagħad għamel erbatax il-sena ma *BNP Paribas Fortis*. Gilingir ma kienx jaf lil Ali Sadr qabel. Kien ra riklam fuq is-Sunday Times of Malta, applika u wara kellu *interview* ma Mark Bamber.

Mistoqsi minni dwar il-pjan strateġiku tal-Bank Pilatus, Gilingir wieġeb li

The Witness : Strategic plans is I am coming from one of the biggest banks in the world, very well organised in the organised bank, I mean my first aim it was also known very well by Mr Sadr as well. My first aim was I mean to establish something perfect bank for in terms of everything, IT, Policy procedures, organizational structures and everything and everything. And I beleive during my term this is what I did more or less. But with regards to the business I was a bit out, I mean of the business side but main aim is to serve high net worth individuals all over the world and our aim is to recruit relationship managers in some specific countries and to get some business and to make money to their business by foreign exchange transactions or I mean the interest rate, I mean .... This was our strategic plan actually to serve high net worth individuals all over the world by hiring some relationship managers in certain countries and also by using Mr Sadr's existing contacts because he also has a set management company, he had actually in Switzerland which was Perse Swiss. I have not seen official documents but as far as I know it was already liquidated some time ago after we obtained the license, banking license. This was our aim but during my term I mean we used to work most on the establishment of the bank and we did not have many clients ...

The Court : So when you started, when you started you started from scratch? Or did you have already some contacts that you could start to exploite?

The Witness : We started definitely from scratch. We just started at our office, existing office, their existing office ***. I mean we did not even have internet, telephony, *** furniture, nothing. We started from the scratch and we used to work more on the establishment of the company. But once we finalised our core banking system and our IT issues, we already had if you ask me in terms of the customers, no, we did not start from scratch. We already had, actually he already had some customers through Asset Management Company and they were,

The Court : Mr Sadr?

The Witness : Mr Sadr. Sorry. Mr Sadr. And they were transferred to us but when I am saying transferring there was no official transferring or somehting like that. We just opened a few accounts, or let me say some accounts, and that is it. But it was really really initial stage and I cannot say that we had many customers and many funds in our balance sheet.

Ix-xogħol inizjali dwar il-ħruġ tal-liċenza sar kollu mill-*KPMG*. Wara bdew jużaw is-servizzi ta' *PWC* u *Camilleri Preziosi*.

Supt. Abdilla: Do you know if a company by the name of Pilatus Capital exists?

The Witness : Yes, I know Pilatus *** I do not know it was completely out of.. this time I am not sure if I was at the bank as a CEO it is really easy to check, I can check any time through our OC site. He incorporated a company Pilatus Capital Ltd as Pilatus Capital Ltd in Malta but I did not know why he incorporated to ***

Supt. Abdilla: In the beginning somebody told us that in the beginning it was as if most of the Front Office employees of Pilatus Bank were almost employed or it was not really much well explained to us by this Pilatus Capital.

The Witness : It could be Pilatus Capital in the UK? Are we talking about UK?

The Court : Yes, I think it was UK.

Supt. Abdilla: No. Pilatus Capital has just received its licence now.

The Witness : I am not aware of this. I have no idea about the –

The Court : But there were witnesses who specified Pilatus Capital UK.

The Witness : Actually as I said Mr Sadr had or still has I do not know, an office in the UK and he, because I checked him a lot. I talked with KPMG as well because I know how KPMG *** with the customers as well. I checked everything even I did not ask him. I had seen a company in the companies of UK which is I mean very free to check the names. I had seen a company as Pilatus Capital Ltd, if I am not mistaken, and I cannot say that hundred percent but these employees you could be right were employed by the company which is in the UK. But in Malta I really have no idea.

Misotqsi jekk Ali Sadr kellux klijenti mit-Turkija, Gilingir stqarr li wħud mill-ewwel klijenti tal-Bank Pilatus kienu Torok. Ali Sadr kellu kumpanija li kienet involuta fil-kostruzzjoni u li għalaqha ftit żmien wara li ottjena l-liċenza tal-Bank Pilatus. Din kien jisimha *Straturk Construction Limited.* Din l-informazzjoni ġabha minn riċerka li għamel hu stess qabel daħal jaħdem mal-Bank Pilatus meta kien qiegħed ifittex fuq Ali Sadr. Gilingir irraġuna li

ladarba din il-kumpanija kellha kapital ta' ħamsin miljun Turkish Lira (madwar erbatax il-miljun euro) allura dawn kienu *strong people.*

Meta kien daħal jaħdem mal-Bank Pilatus kien impjegaw madwar tliet persuni. Dawn kienu Brenda Calleja Smith li kienet *Accounting and Compliance Officer* u *MLRO,* Mehmet Tasli u ċerta Mandy Micallef. Hamidreza Ghanbari daħal wara għax dak iż-żmien kien *Managing Director* ta' Perse Swiss. Dan għandu relazjoni tajba ħafna ma Ali Sadr, iżda kien impjegat bħala *Relationship Manager and Head of Private Banking.*

Luis Rivera ġie impjegat wara li Gilingir kien irriżenja minn *CEO* tal-Bank Pilatus u kien l-*IT person* u kien żviluppa l-*internet site* tal-Bank Pilatus meta kien it-Turkija flimkien ma Hamidreza Ghanbari u kien iltaqa' miegħu biss permezz tal-*internet.* Jista' jkun li Rivera kien impjegat ta' Ali Sadr iżda ma probabbilment mhux it-Turkija.

Mistoqsi dwar kif intagħżel il-*core banking system,* dan ix-xhud qal : -

> The Witness : Of course because I have chosen everything and I can say that I have chosen something perfect for all the structures. I had already discussed these things with Mr Sadr, I mean "We need to create something perfect or I am not ready to work for this bank" and we have chosen Oracle Flexcube,
>
> Supt. Abdilla: Oracle Flexcube was your choice?
>
> The Witness : Not exactly my choice. Of course it was the Board of Directors chose

but I collected,

Supt. Abdilla: You suggested.

The Witness : Exactly. I collected all the quotations, I suggested but Board approved and I mean even the implementation team was I mean a really well known company. They are also implementing the system of the Central Bank of Malta at the moment.

Supt. Abdilla: Ok. Which company?

The Witness : We bought directly the license of Oracle from Italy, Flexcube license. Database license we bought it from Oracle Malta. But implementation team is Oracle Gold partner which is in Albania, Facilization.

Supt. Abdilla: Ok.

The Witness : And they were about to open a subsidiary here in Malta.

Supt. Abdilla: So who made contact with Facilization? You yourself?

The Witness : Initial contact, initial suggestion was given by the one of the directors in Oracle Italy. He suggested them and I contacted and we had a meeting with Mr Sadr and owner of the Facilization who is a former banker as well.

Supt. Abdilla: Ok. Apart from Oracle Flexcube we were informed that you use a system called BIP Bank Information Platform or Publisher.

The Witness : Publisher I think, if I am not mistaken. It is the part of two Oracle sytem.

Supt. Abdilla: It was part and parcel with Oracle?

The Witness : Exactly because I have just received, resigned these days, I was just trying to, since I am a senior banker and I was just trying to check everything, operational risk, fraud risk, everything and everyhting and I was just with working with Facilization to create many reports which will be sent automatically by email. And these reports are being prepared by the system.

Supt. Abdilla: Ok. The interlink with Swift do you remember what system you used?

The Witness : Of course because it is the same story, not different. I obtained quotations and I submitted to the Board. We used to use the system of TAS which is an Italian company, but which is a really giant company. They were with many big banks and also Posta Italiana in Italy. And as a filtering system we used to use Swift *** Swift filtering system because Swift has a swift filtering system as well.

Supt. Abdilla: Yes, the sanctions Swift?

The Witness : Exactly, Sanctions Automatic Filtering.

Supt. Abdilla: Ok. So the TAS was suggested to you by Oracle? Or you made a different, like you made a different quotation for it?

The Witness : If I am not, if I remember correctly I found TAS through internet.

Supt. Abdilla: Ok.

The Witness : But I visited them in Bologna and in Rome. I have seen them and I met them.

Supt. Abdilla: Ok. Have you received training on both systems? Are you acquainted with the way both Flexube and TAS operate?

The Witness : I did not have directly but our employees defenitely received training.

Supt. Abdilla: Do you know whether TAS allowed for transactions for bank transfer to be keyed in directly into the TAS without using Oracle Flexcube?

The Witness : Actually, technically it might be possible. I cannot say that hundred percent because I am not a technical person. But first of all we did not create *** hundred per cent I mean. During my time it was impossible. But after, because I resigned almost three (3) years ago my CEO postion. But after me I cannot say, I mean I cannot give some concrete answer for this.

Mistoqsi għaliex irriżenja mill-kariga tiegħu Gilingir qal li huwa għamel dan għax ma kienx hemm nies biżżejjed għall-operazzjonijiet bankarji li kienu qed jaspiraw għalihom u kien qiegħed jara li hemm *operational risk* għax kien jeħtieġ li l-organizzazzjoni tikber. Issa qiegħed jaħdem ma *CFT Team Limited*, li hija proprjeta ta' *AKCO Holding*. Iżda dak iż-żmien huwa qal lill-Board tad-Diretturi li kien qiegħed jara li kien hemm *operations and fraud risks* u l-għada irriżenja. Ma jafx għaliex ma emmnuħx.

Gilingir jgħid li ma kienx faċli biex isibu *Correspondent Bank*. L-anqas il-*BNP Paribas Fortis* li kien jafhom sew ma kienu laqgħu l-applikazzjoni tiegħu. Din kienet sitwazzjoni li ma kienetx partikolari għall-Bank Pilatus għax il-problema biex issib *Correspondent Banks* hi waħda komuni riċentement. Iżda l-Bank Pilatus ma kellux storja ta' servizzi bankarji. B'hekk diversi banek ma riedux jieħdu riskji ta' negozju u *compliance*. Dan peress li biex *Correspondent Bank* jaġixxi bħala tali jinkorri spiża konsiderevoli. Iżda rnexxielhom jottjenju lis-*Societe Generale* (Franza), *WGZ Bank* (Germanja), *Ziraat Bank* (Turkija) *DNB Bank* (Norveġja) kif ukoll *Bank of Valletta* bħala *Correspondent Banks*. Kwantu għall-*BOV* il-Bank Pilatus kellu kont bankarju magħhom meta ġew biex jiftħu bħala Bank għalkemm ma kellhomx *Correspondent Bank* status f'dak il-punt.

Jaf li Linet Estiroti kienet l-assistent personali t'Ali Sadr u kienet bażata fit-Turkija. Din kienet teħodlu ħsieb kollox minn taxis għal *flights, hotels* eċċetra. Kienet tkun Malta ta spiss. Hu kien invista l-"uffiċju" tagħha fid-distrett t'Atasehir f'Istanbul, fit-Turkija.

Il-proċedura dwar l-*onboarding* ta' *PEP* kienet stabbilita qabel ma Claude-Ann Sant Fournier ingħaqdet mal-Bank Pilatus u kienet maħduma minn *KPMG*. Sakemm kien għad hemm hu kienu feħtu l-kont lil John Dalli u għalkemm ma kienux irċevew fondi, kienu kkonduċew *enhanced due diligence*

dwaru. Ma jiftakarx li dak iż-żmien kien hemm *PEP* barranin l-anqas mill-Ażerbajġan. Kellhom xi klijenti mit-Turkija u minn Dubai, iżda ma kellhomx numru kbir. Kien hemm ukoll kumpanija Maltija jisimha "U Group" li kienu fetħu madwar ħmistax il-kont għall-kumpaniji tagħhom. Fi żmienu ma kienx hemm kuntatt minn naħa tiegħu ma Karl Cini jew ma Brian Tonna. Biss jgħid li

> The Witness : Actually Mr Sadr used to meet a lot of people in Malta, I mean he used to go dinners, I mean the people used to come to Malta and he was at the time lobbying in Malta and I mean meeting and just having introduction with the people and I cannot say that definitely they do not I mean give any advice to Mr Sadr. But to me or as far as I know no, I have no idea.

Fil-bidu kellhom *Relationship Managers* li kienu jkunu barra minn Malta, fosthom Hamidresa Ghanbari, Gulcicek Kartal (li kienet Torka), Kamila Lis (u safejn jaf hu kienet taħdem ma Ali Sadr *f'Pilatus Capital* fl-Ingilterra) u Linet Estiroti, għalkemm ma jafx jekk kienux jitħalsu mill-Bank Pilatus. Jaf li kellhom ftehim ma *Perse Swisse* li kien redatt minn *Camilleri Preziosi Advocates* intiż biex *Perse Swisse* tirrendi servizzi lil Bank Pilatus.

> Supt. Abdilla: Never. So if I tell you have you ever been to meet the Prime Minister for example? Or the Minister of Finance? Or the Minister for Economy?
>
> The Witness : I know that he had a meeting with the Prime Minister. I was not invited. I did not go. But he used to say this to everyone I meet. It was not something secret. He has a meeting with Prime Minister for sure. And once we were in the Board Meeting he said that he had a meeting at the office of the Prime Minister and he left the Board meeting, we were almost closing the meeting ***. And these are the things I remember.
>
> Supt. Abdilla: Ok.

The Witness : But I never met anyone.

Matul l-ewwel tliet xhur, Ali Sadr ma kienx ġie Malta, għax ma kellux x'jagħmel hawn. Iżda meta twaqqaf il-Bank kien beda jiġi Malta darba fix-xahar. Jaf li oħtu jisimha Negarin Sadr u li hija stilista tal-moda. Kien iltaqgħa darba waħda fit-Turkija, iżda b'kumbinazzjoni f'tieġ li attendew għalih. Gilingir qal li n-negozju li Negarin tiġġestixxi f'Londra jappartjeni lil Ali Sadr u dan kien jafu għax kienu ssottomettew dawn id-dokumenti lill-MFSA matul l-ipproċessar tal-liċenza.

Gilingir kien jaħdem ħafna siegħat twal meta kien jaħdem il-Bank Pilatus u ma kienetx sitwazzjoni perfetta għalih. Kien ilu minn April jaħseb biex jirriżenja minn hemm. Dak iż-żmien ma kienx għad hemm Bank proprju. Huwa ried jibda kollox mill-bidu nett. La kellu *printer*, la *internet*, la telefon xejn u kien jeħtieġ jorganizza kollox flimkien ma Mehmet Tasli. L-implimentazzjoni tal-*core banking system* kienet sfida kbira.

> And not just this, I mean because we did everything regarding the bank, policies, procedures for instance. Because to start business operations you need to finalise something as a minimum, policies, procedures, implementation, data centres, for instance we had two data centres, on in Computime, one in Melita. I mean you need to finalise everything and everything, because before this you cannot I mean start the operation and you cannot inform MFSA that we starting operation without finalising everything. And that was the reason and we used to be really extremely busy.

Ali Sadr qatt ma kien qallu jekk kellux kuntatti ma Brian Tonna jew ma Karl Cini jew ma Joseph Muscat. Sakemm dam jaħdem mal-Bank Pilatus qatt ma ġie informat dwar *PEP* Maltin jewAżeri la bħala *CEO* u l-anqas bħala direttur, minkejja li kienu jagħmlu erba' laqgħat tal-Bord tad-Diretturi fis-sena u kienu jingħataw ħafna dettalji. Biss jgħid li dawn id-dettalji kienu jkunu dwar figuri, pjanijiet strateġiċi, eċċ.. Biss bħala diretturi ma kienx ikollhom aċċess għall-*core banking system.* Il-Bord tad-Diretturi ma kienx jiġi infurmat meta jkun hemm onboarding ta' *PEP* li jkun *high net worth individual.* Gilingir jgħid li meta jkun ser jiġi mqabbad *PEP* dan għandu jiġi eskalat sal-Bord tad-Diretturi u mhux jiddeċiedi l-*Compliance Officer.*

Mistoqsi dwar *high degree of secrecy protocol* fil-Bank Pilatus, ix-xhud jgħid li ma kienx jaf dwar din il-*policy.* Hu jgħid li l-livell ta' segretezza kien wieħed normali fil-Bank Pilatus iżda ma kienetx xi ħaġa esaġerata. Ikun hemm ħtieġa ta' *need to know basis* iżda fi żmienu ma kienetx xi ħaġa esaġerata. Jgħid ukoll li fi żmienu bħala *added operational safety feature* l-messaġġi swift kienu jiġu pproċessati fil-*Flexcube* u wara jkunu jridu jiġu approvati wkoll mit-*TAS.* Il-messaġġi swift għalhekk ma kienux jiġu rilaxxjati mill-Flexcube biss; iżda ried ikun hemm ukoll konferma mit-*TAS.* Fi żmienu żgur li ma kienx hemm mod kif pagament bankarju setgħa jaqbeż il-*core-banking system.* Mistoqsi speċifikament :

The Court : But let us take the worst-case scenario. Let us take the worst-case

scenario, and I am not referring to your time. And I am not necessarily referring to Pilatus to be clear. But if one were to affect a payment by-passing the Swift system, how would one go about it?

The Witness : By-passing Swift system? No, it is impossible.

The Court : Impossible.

The Witness : I thought that we were only talking about core banking system.

The Court : Core banking system.

The Witness : No it is impossible.

The Court : You would have to pass through Swift just the same.

The Witness : Of course. I mean you can send for instance, I am exagerating, you can send an instruction like a normal company to your correspondent bank, but they never execute your transaction. They definitely ask Swift message. I mean it is impossible.

The Court : And probably the higher the amount,

The Witness : Exactly!

The Court : The stricter the controls would be.

The Witness : I mean I am not exagerating, I believe even for one thousand euro (€1,000) they nobody does this transaction because I mean it is direct alert I mean, you are using Swift, you have Swift connection to send instructions by Swift you should have a key between those two banks. Without key you cannot send authenticated message. You have this key as well but we are not sending your instruction by Swift you are sending by fax let me say, and it is impossible I mean even perhaps my example is a bit exagerated I mean.

Gilingir jikkonferma li fi żmienu kien għamlu *Credit Committee* li permezz tiegħu kienu jiġu analizzati *loans*. Mistoqsi jekk mill-mod kif kien jitħaddem il-*Flexcube* setgħux jiġu pproċessati żewġ pagamenti lil persuni differenti minn *payment instruction* waħda jew riedx ikun hemm żewġ *payment instructions* separati, Gilingir stqarr li ried bilfors ikun hemm żewġ *payment*

instructions separati aktar u aktar jekk kien ser ikun hemm żewġ *beneficiaries* differenti.

Gilingir jiftakar li l-Bank Pilatus kellu safe li kien xtara hu stess. Dan kien safe żgħir *second hand* u kien qegħdu fl-i*sationery room* li kienet l-aħħar kamra fuq in-naħa tal-lemin hekk kif tidħol il-Bank. Ma kienx fis-*server room* li kienet ħdejn it-*toilets* dak iż-żmien, iżda fl-i*stationery room* li kienet bejn il-kamra l-kbira fil-kantuniera (li kienet tal-*Operations Department*) u l-kċina. Dan is-*safe* kien żgħir u jissakkar bil-*codes*. Fih kienu:

> keep banking licence there, loan agreement there, cash, pledge agreements there. I mean if you lose them I mean you lose the loans as well.
>
> Supt. Abdilla: Ok. So at the time you kept clients information there.
>
> The Witness : At that time we used to never keep any clients' information because we only had one loan. Probably we put this loan documents to the safe. And we used to keep Swift information, because Swift has –
>
> Supt. Abdilla: The codes
>
> The Witness : Codes and Master code tariff. These are the –
>
> Supt. Abdilla: Ok, ok. Was this safe ever in your room? Or in the CEO room? Or in the chairman's room?
>
> The Witness : No, it was not, I mean we never moved it. We just got it, we put it and that is it.
>
> Supt. Abdilla: Apart from this safe, are you aware whether there was some sort of filing cabinet which was fire proof or something like this? A heavy duty cabinet made of metal?
>
> The Witness : Actually it was our initial aim to buy something like that. But since we had this safe we did not. So we did not have any fire proof cabinet or something like that.

Supt. Abdilla: So the metal cabinet, there was a metal cabinet, was it already there when you came? Or was it purchased after you left?

The Witness : No after me for sure. I do not remember.

Ix-xiehda ta' Ahmed Tawfik Bugaighis

Dan ix-xhud kien jaħdem mal-Bank Pilatus mill-20 ta' Diċembru 2016 u għamel anqas minn xahar jaħdem hemmhekk. Kien impjegat bħala *Financial Analyst.* Huwa telaq minn dan il-Bank għaliex filwaqt li suppost kien jirraporta lil *Finance Manager* jew lis-*CEO,* kien hemm xi nuqqasijiet fl-organizzazzjoni strutturali tal-Bank, li jistgħu ikunu dovuti għall-fatt li dan huwa bank żgħir. Lilu kienu jagħtuh doveri li kienu bażiċi ħafna li anke *associate accountant* jew persuna appena gradwata setgħet tagħmel.

Mistoqsi jekk dawn in-nuqqasijiet tal-Bank kienux proċedurali, amministrattivi jew irregolaritajiet, dan ix-xhud wieġeb li :

The Witness : No, I think it is management incompetence by the Finance Manager. She had issues in allocating tasks, and there was some problems in the distribution of tasks. Basically I ended up just drafting handwritten notes into Microsoft Word which was very, it was below my capabilities.

Supt. Abdilla : Ok, who was your direct superior?

The Witness : Tatiana Zammit.

The Court : So basically you should have been performing the work of a financial analyst, whereas in point of fact you were entering data on Microsoft word.

Dan ix-xhud ilmenta mill-fatt li ma kienx ċar x'tip t'operazzjonijiet dan il-Bank kien intiż għalihom. Dan kien wieħed mill-ilmenti tiegħu, li semmihom fl-ittra tar-riżenja tiegħu. Il-komunikazzjoni f'dan il-Bank kienet inadegwata. L-istrateġija tal-Bank ma kienetx komunikata lill-impjegati. Ma kienx hemm *managment meetings*. Is-Superjuri tiegħu ma kienux jgħidulu x'direzzjoni l-Bank kien intiż li jieħu u għalhekk ma kienetx ċara l-posizzjoni. Biss minn qari tal-invoices u c-*Chart of accounts* of the Bank, huwa setgħa jikkonkludi li l-Bank kien qiegħed jipproċessa *"conventional banking activities"*.

Huwa ma kellux aċċess għall-*client base* tal-Bank *on a micro-level*. Hu minn naħa tiegħu kien jagħmel *"grouping of accounts in order to prepare certain Microsoft Excel formulas to the Central Bank returns"*.

Dan ix-xhud jgħid li waqt li kien jaħdem fil-Bank Pilatus innota ċertu nuqqasijiet fil-*Finance Department* għalkemm ma kienx jaf jekk kienx hemm ukoll *Compliance issues :*

> But there were technical matters which I recommended also to my manager at the time saying "Ok we have to improve or to enhance our chart of accounts, our reporting system," It was very generic, it was not something that was worth reporting I mean.

Mistoqsi jekk kienx jiftakar jekk ċerti ismijiet ta' persuni jew kumpaniji kienx iltaqa' magħhom fil-kors tax-xogħol tiegħu, dan ix-xhud jgħid li l-*client base* ma kienetx parti mid-doveri tiegħu iżda kien jiftakar xi ismijiet. Imbagħad staqsejtu jekk qattx fix-xogħol tiegħu kienx iltaqa' jew ra' l-isem ta' *Al Sahra FZCO, Shamz Al Sahra, Sahra FZCO, Tillgate Inc, Hearnville Inc, Egrant Inc,* Michelle Muscat, Joseph Muscat, Sai Mizzi Liang, Konrad Mizzi, Keith Schembri, Josette Schembri, Leyla Aliyeva, Ilham Aliyev, Heydarov, Michelle Buttigieg, John Dalli, Brian Tonna, Karl Cini, Farnoush Farsiar u Robert Baker ix-xhud qal li huwa ma semgħax bihom fil-Bank Pilatus. Mistoqsi dwar Negarin (Sadr) ix-xhud qal li jista' jkun li semgħa xi ħaġa dwarha, pero ma kienx ċert.

Ix-xhud jikkonferma li l-*core banking system* tal-Bank Pilatus kienet il-*Flexcube*. Mistoqsi minni jekk minbarra l-*Flexcube* il-Bank Pilatus kienx juża programmi oħra li bihom jeżegwixxi pagamenti lil terzi, ix-xhud wieġeb *"Nothing that I am aware of, and there should not be because Flexcube is a core banking system and every transaction should be recoreded through the core banking system at the end. Otherwise it would show as a missig leg, as a discrepancy"*.

Bugaighis jgħid li huwa kien jaf li l-Bank juża *TAS* għall-*iSwift*. Huwa kien jużah biss *on an inquiry level* u ma kienx joperah fuq livell finanzjarju. Hu

kien juża t-*TAS Swift* biex jillogja u jagħmel download ta' Nostro accounts statements. Jara min huma l-*Correspondence Banks* u jagħmel *reconciliation* kontra l-*istatements* li joħorġu mill-*Flexcube*. Huwa għalhekk kien jagħmel *reconciliation* tal-*accounts* fil-*core banking system* mal-*istatements* li kien jirċievi mingħand il-*Correspondence Banks*. Huwa għamel dan l-eżerċizzju għal darba waħda biss.

Mistoqsi jekk *TAS* setgħax jintuża bħala *standalone system* biex jintbqgħtu messaġġi *Swift*, Bugaighis jgħid li ma kienx f'qagħda jikkonferma dan iżda ma kienx ċert jekk il-Bank kienx attiva din il-module fit-*TAS Swift*. Mistoqsi minni jekk kienx konsapevoli ta' xi mezz biex il-Bank Pilatus ikun jista' jagħmel pagamenti billi jaqbeż l-*iSwift* jew *Flexcube*, ix-xhud wieġeb fin-negattiv.

Ix-xhieda ta' Emilia Maria Vacaru

Kienet taħdem mal-Pilatus Bank bejn Settembru 2015 u Frar 2016. Kienet taħdem bħala *Associate* fis-*Sales Department* u kienet tieħu ħsieb transazzjonijiet ta' kuljum fosthom pagamenti għal Pilatus u tiftaħ kontijiet tal-Bank. Is-superjuri tagħha kienu Hamidreza Ghanbari u Claude-Ann

Sant Fournier. Dal-Bank kellu prinċipalment *high net worth individuals* u kienu *business oriented* ħafna.

Tgħid li ma kienx hemm *safe* fil-kċina. Kien hemm *metal locker* f'waħda mill-*Conference Rooms*, li qabel telqet kien ġie konvertit f'uffiċju. Kien hemm ukoll *safe* fis-*server room*, għalkemm hi qatt ma ratu. Il-*metal locker* kien jingħalaq u jissakkar b'ċavetta. Dan kien fil-*Legal Department* u kienet Claude-Ann Sant Fournier li kienet iżżomm iċ-ċavetta.

Mistoqsija dwar is-*safe* tgħid li dan kien fis-*server room* u dan kellu *letter passcode* li kienu jafuha tnejn minn nies. Hi taf dan għax Mehmet Tasli kien mar *holiday* u kellhom bżonn is-*safe* iżda peress li kien imsiefer, kellhom joqgħodu jistennewh. Saret taf b'dan minħabba li kienu bdew jitkelmu dwar dan. Qabel ma kienetx taf dwaru dan is-*safe*. Hi ma kienetx taf jekk riedux li jixtru *safe* ieħor minbarra dak li kien hemm.

Kwantu għall-*camera* fil-kċina Vacaru tgħid li l-kmamar kollha, minbarra l-"*washrooms*" kellhom *camera* installata. Dan kien jinkludi l-passaġġi. Dwar jekk kienx veru li l-camera fis-server room kienet ġiet imneħħija, Vacaru tgħid li ma kienetx taf b'dan. Dwar il-*camera* taf li ftit qabel ma telqet, kienu qasmu l-uffiċju ta' Hamidreza Ghanbari fi tnejn u li kienu għamlu *extra*

camera biex ikun hemm *camera* oħra fil-kamra l-ġdida. Biss qatt ma semgħet li kienu neħħew xi *camera* minn x'imkien. Biss hi qatt ma daħlet fis-*server room*. Mhux veru li fil-Pilatus kien joqgħodu jitfu u jixgħelu l-*cameras* jew jaqilgħuhom. Din hija l-ewwel darba li qed tismagħha din l-allegazzjoni.

Pilatus Bank kellu ħafna klijenti minn pajjiżi differenti u jista' jkun ukoll li kellu klijenti mir-Russja. Hi ma tafx jekk John Dalli jew Keith Schembri kienux klijenti tal-Pilatus Bank. Peress li hi ma kellhiex aċċess għal dan il-*metal locker,* hi ma kienetx taf x'dokumenti kienu maħżuna hemmhekk. Tgħid li *"Tillgate company doesn't sound familiar to me"*. Tgħid li hi ma tiftakarx jekk kienx hemm transazzjonijiet bejn *Tillgate* u *Al Sahra*. Dwar *Hearnville Inc* tgħid li din il-kumpanija mhix *familiar* għaliha.

Ma tiftakarx jekk *Egrant Inc* kienetx klijenta ta' Pilatus Bank, jew jekk kellhiex kont bankarju jew jekk kienetx *beneficiary* jew *remitter* ta' flejjes mill- jew fil-Pilatus Bank. Taf li Brian Tonna kien jaħdem għal Nexia BT. Sa fejn taf hi Tonna kien firmatarju għal diversi kumpaniji li kellhom kont fil-Pilatus Bank. Għalkemm qalet li Tonna kellu *personal account,* biss ma kienetx ċerta dwar dan. Żgur pero li kien firmatarju għal diversi kumpaniji li kellhom kont mal-Bank Pilatus. Hi tiftakar li kien hemm il-kumpanija *Willerby Trading*. Mhix ċerta jekk Brian Tonna kellux *loan* mill-Pilatus Bank. Hamidreza Ghanbari ġieli kien iħallilha envelopes fuq id-*desk* tagħha biex

tkun tista' tgħaddihom lil Brian Tonna jew lis-segretarja tiegħu tiegħu u li jkunu konsenjati lura lil Hamidreza Ghanbari. Iżda ma tiftakarx sewwasew.

Mistoqsija jekk hux veru li kienet Emilia Maria Vacaru li kienet involuta fl-ipproċessar ta' pagamenti mill-kumpanija *Willerby Trade Inc.* fl-ammont ta' 5 miljun sterlina tgħid li tiftakar il-kumpanija, iżda ma tiftakarx il-pagamenti li saru. Għalkemm Maria Efimova tgħid li kienet Emilia Maria Vacaru li kienet ipproċessat din it-transazzjoni, Emilia Maria Vacaru tgħid li ma tiftakarx din it-transazzjoni.

Dwar id-*declarations of trust* relattivi għal *Egrant Inc* tgħid li hi ma tiftakarx li qatt rat dawn id-dokumenti. L-anqas ma rat dawn l-*account opening forms* għal *Egrant Inc*. Fil-fatt dil-kumpanija *Egrant Inc* ma kienetx iddoqqilha bħala li kienet xi kumpanija li kienet semgħet biha. Ma kienetx kumpanija li kienet iltaqgħet magħha fuq xogħolha jew li kienet tieħu ħsieb tagħmlilha transazzjonijiet. Hi setgħet tiftakar ċerti ismijiet ta' kumpaniji li kienet tieħu ħsieb it-transazzjonijiet ta' kuljum tagħhom iżda *Egrant Inc* ma kienetx waħda minn dawn il-kumpaniji li setgħet tiftakar isimhom.

Kwantu għall-allegati pagamenti li saru minn *Al Sahra FZCO* lil *Egrant Inc* bejn Jannar u Marzu 2016, hija ma kienetx għadha impjegata mal-Pilatus

f'Marzu 2016. Kwantu għall-isem tal-kumpanija *Al Sahra* hija tgħid li isem din il-kumpanija kien familjari għaliha. Hi tiftakar li kien hemm żewġ kumpaniji li kellhom isimhom jixtiebah. Hi kienet tiftakar li kien qabadha konfużjoni meta rat dawn iż-żewġt ismijiet.[133] Tiftakar li kien hemm pagamenti li pproċessat iżda ma kienetx tista' tgħid għall-liema fost il-kumpaniji *Sahra* jew *Al Sahra* hija kienet ipproċessathom. Fil-bidu ta' meta bdiet taħdem hemmhekk dawn l-ismijiet tal-kumpaniji kienet tafhom iżda ftit kellhom attivita'. Pero ma kellhomx attivita' qawwija.

Kwantu għal jekk *Egrant Inc* kellhiex kont ma' Pilatus Bank qalet li l-isem ta' *Egrant Inc* ma kienx familjari. Setgħa kien li kien infetah xi kont ftit qabel ma telqet hi mill-Pilatus Bank, iżda ma kienetx tiftakar dak l-isem. Dwar l-allegati pagamenti bi settimanali bejn *Al Sahra* u *Egrant*, hi tgħid li tiftakar li kienu jsiru xi pagamenti minn *Al Sahra* : *"it sounds familiar. I cannot recall exactly, you know, like the frequency of payments and such, but they had some*

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[133] Fit-tielet xiehda tagħha Maria Efimova tatribwixxi dan l-element ta' konfużjoni bħala r-raġuni għaliex Daphne Caruana Galizia setgħet ħawdet l-isem tal-kumpanija *Sahra* u kitbithu bħala "Al Sahra" u tgħid li dan kien jixtiebah ma dak ta' *Shams Al Sahra*. Maria Efimova ma tgħidx l-istess li qalet Daphne Caruana Galizia u ċjoe li kienet Maria Efimova li tatha l-isem tal-kumpanija bħala *"Al Sahra"* tant li Daphne Caruana Galizia wkoll kien qabadha ċertu tħassib għax meta bdiet tfittex dwar dil-kumpanija ma setgħetx issib riskontru. Daphne Caruana Galizia tgħid hekk : -

> għax fil-fatt jiena kelli din id-domanda għax meta bdejt infittex fuq l-internet għax rajthom malajr ma nistax naħlef u meta bdejt infittex fuq l-internet dwar Al Sahra sibt, ħafna informazzjoni dwar Shams Al Sahra u fil-fatt jiena assumejt li kienu l-istess u meta saqsejta qaltli le kienet Al Sahra żgur, u mbagħad meta staqsejtha iżjed viċin wara ħafna ġimgħat jiġifieri dwar Al Sahra hi qaltli le niftakar li kien hemm xi tentattivi biex din il-kumpanija Shams Al Sahra jitfħu kont hemmhekk imma jien sal frattemp kont tlaqt, u fil-fatt għandu jkun Shams Al Sahra infetħet wara li telqet hi xi April xi ħaġa hekk.

payments. Yes." Ma kienetx tiftakar kemm kienu frekwenti jew lil min. Ma kienetx tiftakar id-dettalji.

Hi kienet responsabbli mit-twettieq tal-istruzzjonijiet tal-pagamenti. Biss tiftakar li kienet tiftakar li kienet tirċievi struzzjonijiet għal pagamenti minn *Sahra* jew *Al Sahra* iżda ma kienetx kapaċi tiftakar id-dettalji tal-pagamenti li kienet tagħmel għal din il-kumpanija. Dawn kellhom xi ftit pagamenti – mhux meta hi kienet għadha dieħla taħdem il-Bank iżda aktar il-quddiem wara li kienet daħlet taħdem mal-Bank. Pero ma kienetx tiftakar x'pagamenti kienu jsiru. Mistoqsija jekk meta kienet tiġi biex teżegwixxi pagamenti fil-Bank Pilatus lil klijenti kienetx dejjem tipproċessa dawn il-pagamenti tramite l-*core banking system* tal-Pilatus, Emilia Maria Vacaru tgħid li l-pagamenti kollha kienu jiġu pproċessati tramite *Flexcube*.

Mistoqsija jekk hija qattx ingħatat struzzjonijiet minn Ali Sadr jew Hamidreza Ghanbari biex biex teffettwa pagamenti tramite persuni oħra jew kumpaniji oħra jew banek oħra Emilia Maria Vacaru tgħid li le. Hija kienet tibgħat email lill-*Operations Department* sabiex dawn ikunu jistgħu jipproċessaw il-pagamenti huma. Mistoqsija jekk hi kienetx dejjem tibgħat il-*payment instructions* lil *Operations Department* jew inkella lil persuni oħra hi tgħid li hija dejjem lil *Operations Department* kienet tibgħathom. Il-*Legal*

Department u Hamidreza Ghanbari kienu dejjem jiġu *cc'd* b'dawn l-istruzzjonijiet għall-pagamenti.

Mistoqsija dwar jekk kienx hemm pagamenti lil persuni mill-Bank Pilatus lil Banek oħra mhux tramite *Swift* hi tgħid li hi ma tafx biha din. Kienu jużaw biss *Flexcube* u l-*payment instructions* kienu jiġu proċessati minnu u jgħaddu tramite *swift*. Kollox kien jgħaddi mill-*Flexcube*. Kienet tiċċekkja li l-klijenti għandhom flus fil-bank u jekk id-dettalji tal-i *swift* kienux korretti. Imbagħad kienet tgħaddi kollox lill-*Operations Department*. Hi kienet tivverifika l-*Flexcube* biex tara li kellhom flus fil-kont. Hi qatt ma tiftakar jew rat transazzjoni bankarja magħmula mill-Bank Pilatus li kienet saret mhux tramite *Flexcube* u *swift*. Dan peress li kien ikun hemm l-*Intermediate Bank* li jkun jeħtieġ dan l-*i swift code*.

Dwar l-istorja tas-self ta' Negarin Sadr, Emilia Maria Vacaru tgħid li darba minnhom tiftakar li kien filgħaxija u kienu irċevew struzzjonijiet sabiex imexxu l-karti ta' self u li kienu damu ħafna biex ipproċessaw dawn il-karti. Temmen li kien fil-bidu tal-2016, Jannar jew bidu ta' Frar 2016. Tiftakar li kien għal madwar miljun. Ladarba s-self kien ġie approvat hi ma kienetx taf x'għamel il-Bank fir-rigward ta' dan is-self u lil min ingħata. Ma kienetx taf x'kien ir-raġuni tas-self. Hi ma kienetx involuta fid-dettalji ta' dan is-self għaliex hi kull ma għamlet kien li stampat il-karti ta' dan is-self. Pero ma

kienetx involuta fl-ipproċessar tas-self. Mistoqsija jekk das-self jew parti minnu kienx indirizzat lil xi persuna fl-Amerika, tgħid li ma tiftakarx dan. Ma tafx jekk dan is-self kienx maqsum fi tnejn jew mod ieħor. Dwar l-isem *Buttardi* hi tgħid li dan l-isem ma kienx familjari magħha. Fir-rigward tal-allegazzjoni li kien hemm *loan* lil Negarin u li tħalset il-*Buttardi*, Emilia Maria Vacaru ġiet mistoqsija jekk hux veru li Maria Efimova u hi kienu qegħdin jiżżuffjettaw bl-isem *Buttardi* u jqabluh ma *Trussardi* – hi qalet li ma tiftakarx dan iseħħ.

Mistoqsija jekk hi qattx kienet impjegata f'xi ristorant, Emilia Maria Vacaru tgħid li : *"no I have never worked or been employed in a restautrant or bar or any close"*. Ix-xogħol tagħha mal-Bank Pilatus kienet l-ewwel esperjenza tagħha taħdem ma Bank għax ma kellhiex esperjenza bankarja preċedenti. Iżda hi qatt ma ħadmet bħala *waitress*. Kienet taħdem mal-*i Smart Supermarket* bejn Awissu u Diċembru 2014. F'Marzu 2015 bdiet taħdem bħala segretarja madditta legali *"Dingli and Dingli"* u baqgħet taħdem hemm sakemm bdiet taħdem mal-Bank Pilatus. Hi qatt ma ħadmet ta' *waitress* la f'Malta u l-anqas fir-Rumanija. Hi kienet taħdem f'ditta t'avukati fir-Rumanija wkoll.

Ali Sadr kellu kont bankarju. Darba waħda ċemplulu fit-tard biex isir pagament mill-kont tiegħu. Biss ma tiftakarx għal xiex kien sar dan il-pagament. Sadr kien jibgħat struzzjonijiet bl-*email* lilha jew lil Hamidreza

Ghanbari biex ikun jista' jsir il-pagament. Meta ma jibgħatx lilha kien jibgħat lil Hamidreza Ghanbari dejjem bl-*email* biex jiġi pproċessat il-pagament. L-istruzzjonijiet biex isiru pagamenti kienu dejjem isiru bil-mezz tal-*email*.

Fil-fatt kull struzzjoni għal pagament li kienet issir lill-Bank Pilatus kellha dejjem issir, mingħajr eċċezzjonijiet, bil-mezz tal-*email*. U dan anke meta t-talba kienet issir bit-telefon, kienu jitolbu biex tiġi magħmula bl-*email*. Huma riedu li dan l-*email* jintbagħat lill-*Legal Department* għall-approvazzjoni. Hi ma setgħetx taqbad u teżegwixxi struzzjoni ta' pagament. Il-Bank ried li jkun hemm il-prova u li jkun hemm il-firma tal-klijent. Kien hemm *request for payment form* li ried li jiġi *scanned* u li jintbagħat bid-dettalji kollha, inkluż il-*Bank account*, l-*i swift form* u l-informazzjoni kollha li l-*Operations Department* ikolhom bżonn biex jeżegwixxu pagament. Dan huwa proċess li dejjem kien isir u kien dejjem l-istess.

Emilia Maria Vacaru kienet tagħmel u timla l-*KYC* u tagħmel *review* tad-dokumenti tal-klijenti u kienet tibgħathom lill-*Legal Department*. Claude-Ann Sant Fournier kienet tagħmel l-analiżi tad-dettalji u kien wara li tkun rathom Claude-Ann Sant Fournier li dawn id-dokumenti jiġu pproċessati. Ġieli talbet ukoll dettalji oħra f'liema każ kienu jerġgħu iduru fuq il-klijent biex itihom l-informazzjoni li jkunu jeħtieġu. *"I know they were very meticulous with documents and have everything in order to open a bank account"*.

Meta kumpaniji kienu jirċievu ħlasijiet, l-*Operations Department* kien responsabbli mit-twettieq tal-operazzjoni. Kienu jinformaw lis-*Sales Department* pero huma kienu jipproċessaw il-karti. Fir-rigward tal-pagamenti li riedu jsiru pero hi kienet tieħu ħsieb li tipproċessaħhom.

Hi tiftakar li kien hemm waħda jisimha Linet Estiroti li kienet taħdem mal-Pilatus. Hi qatt ma ltaqgħet magħha pero. Estiroti kienet taħdem mid-dar fit-Turkija. Meta Emilia Maria Vacaru kienet *trainee,* kienet iċċempillha u tagħtiha l-pariri xi trid tagħmel biex tiftaħ kontijiet tal-bank. Taf li qabel Estiroti kienet taħdem fuq ftugħ ta' kontijiet tal-bank, pero ma tafx jekk kienetx tagħmel attivitajiet oħra. Taf li kienet taħdem għal madwar għaxar snin ma Ali Sadr.

Fil-bidu meta kienet bdiet taħdem Emilia Maria Vacaru mal-Bank Pilatus, Estiroti kienet baqgħet tipproċessa pagamenti. Pero wara l-Bank għaddew l-ipproċessar tal-*payment instructions* lil Emilia Maria Vacaru. Biss wara għalkemm kien għaddewlha l-*payment instructions,* hi kienet tirreferihom lura l-Bank f'Malta. Peress li ma kienet f'Malta hi ma kienetx f'qagħda li twettaq il-*payment instructions.*

Il-proċess tal-pagament kien kollu jiġi reġistrat bil-miktub u tramite *email*. Wara li l-pagamenti kienu jiġu pproċessati kienu jintbagħtu lil *Operations Department* u dawn kienu jeżegwixxu l-pagamenti tramite l-*Flexcube*. Sa fejn taf hi l-Bank kellu biss il-*Flexcube* li setgħa jsiru transazzjonijiet bankarji bih u ma kienx hemm xi sistema bankarja oħra. Sa fejn taf hi l-Bank dejjem kien juża l-*i Swift* għat-transazzjonijiet u pagamenti li kienu jsiru. L-*i Swift* kien ikun imsemmi fuq il-*payment request forms*. Huma kienu dejjem jivverifikaw li l-*i Swift code* kien ikun korrett sabiex il-pagament kien jista' jsir.

Dwar ir-riżenja tagħha mill-Bank Pilatus, Emilia Maria Vacaru tgħid li mhux veru dak li intqal fuqha fix-xiehda ta' Maria Efimiova fir-rigward tar-ragunijiet għaliex hi rriżenjat mill-Pilatus Bank. Emilia Maria Vacaru ttenni li r-raġuni tar-riżenja tagħha mill-Pilatus kienet ta' natura personali ħafna. Hi qatt ma kienet semgħet b'din l-ittra li qed tissemma' fix-xiehda ta' Maria Efimova u hija sorpriża ħafna li isimha ġie msemmi b'dan il-mod. Ir-raġuni għar-riżenja kienet f'nofs Jannar u kienet tagħt ir-riżenja verbalment lil Hamidreza Ghanbari iżda dan ma riedx jaċċetta r-riżenja tagħha. Ir-raġuni kienet li kellha l-visa Kanadiza fuq il-passaport tagħha li kienet ser tiskadi u riedet tiddeċiedi jekk kienetx ser tmur il-Kanada jew inkella tħalliha hemm. Dik kienet ir-raġuni għaliex riedet titlaq mill-Bank u minn Malta. Kienet ilha ħames snin tistenna biex tottjeni l-visa u ġiet Malta sabiex tistenna l-karti jiġu rranġati. Għalhekk wara li rriżenjat verbalment u Hamidreza Ghanbari

m'aċċettax huwa kkonvinċiha biex tibqa. Qallha li kienu *short staffed* u li ma kienx il-mument biex titlaq lil Bank. Iddeċidiet li tibqa ftit ieħor. Madwar nofs Frar iddeċidiet li tirriżenja bil-miktub. Ma riedetx tieħu r-riskju li titlef il-*permanent resident* visa għall-Kanada li kellha. Hi ma kienetx qed tara li kellha futur fil-Bank għaliex l-ambjent kien kompetittiv ħafna u hi kienet tħoss li ma kienx jaqbel mal-aspettattivi għall-ħajja tagħha. Dik kienet ir-raġuni li telqet. Mhux veru li hija kienet mogħtija xi ittra jew li kienet ġiet mitluba tagħmel xi ħaġa minn Hamidreza Ghanbari jew li kellha tagħmel xi xogħol kif qalet Maria Efimova fix-xiehda tagħha.

Mistoqsija jekk kienetx hi li persuna responsabbli biex jiġu ppreparati d-dokumenti u l-*account opening forms* ta' *Sahra* jew *Al Sahra,* u *Akce Holdings*. Emilia Maria Vacaru tgħid li jista' jkun li kienet responsabbli mill-ftugħ ta' waħda minnhom jew tat-tnejn li huma iżda kwantu għal *Sahra* jew *Al Sahra* ma kienetx tiftakar liema waħda fosthom. Biss tiftakar li waħda minnhom kienet diġa ġiet miftuħa meta kienet bdiet taħdem Pilatus. Biss ma tiftakarx jekk Leyla Aliyeva kienetx il-*UBO* ta' *Sahra* jew *Al Sahra*. Safejn tiftakar dawn id-dokumenti kienu jkunu magħluqa fis-*safe* u ma kienux ikunu magħluqa mad-dokumenti l-oħra tal-klijenti regolari. Emilia Maria Vacaru ma kellhiex aċċess għal dawk il-files. Mistoqsija jekk l-*account opening forms* ta' Sahra jew Al Sahra kienux *open access* Emilia Maria Vacaru tgħid li "*not that I am aware of*".

Kwantu għall-*FIAU monitoring inspection*, tgħid li hija ma tiftakarhiex. Iżda taf li *KPMG* kienu jkunu kull kostantament jagħmlu audit u kienu jkunu fl-Uffiċju kull ftit ġimgħat, iżda ma tiftakarx l-*FIAU inspection* jew il-preżenza tal-Uffiċjali tal-*FIAU* fil-Pilatus. Għal madwar erba' xhur, fl-2015 Vacaru kienet *Customer Service Officer*. Pero mhux ċerta jekk kienx minnu li kien hemm diversi dokumenti li kienu neqsin minn firem jew formalitajiet oħra kif allegat minn Maria Efimova. Biss Emilia Maria Vacaru tgħid li meta kienet tirċievi xi struzzjonijiet, dawn kienu jiġu verifikati minn Claude-Ann Sant Fournier, inkluż il-*bank account opening forms*. Jew ġieli kien ikun Hamidreza Ghanbari li kien jissorveljaha. Hi ftit kienet tagħmel affarijiet waħedha mingħajr superviżjoni ta' xi ħadd ieħor.

Huwa minnu li Hamidreza Ghanbari kien qal lil Emilia Maria Vacaru biex Maria Efimova tgħinha fl-ipproċessar tal-*bank account opening forms* u dan għaliex kienu *short staffed*. Kien hemm tnejn minn nies li kienu meħtieġa sabiex iċemplu biex jiġu kkonfermati l-pagamenti. Hamidreza Ghanbari kien qallha biex tuża lil Maria Efimova bħala t-tieni persuna biex teżegwixxi l-pagamenti bit-telefon. Għal ftit ġimgħat Emilia Maria Vacaru u Maria Efimova kienu qegħdin jagħmlu l-istess xogħol u kienet tkun ukoll *cc'd* fl-*emails*. Dan kien fuq struzzjonijiet ta' Hamidreza Ghanbari u mhux fuq deċiżjoni jew inizjattiva tagħha.

Dwar Maria Efimova tgħid li hija taf li daħlet taħdem il-Bank f'Jannar 2016 u kienet bħala *Executive Secretary* għal Ali Sadr. Ma tafx xi rwoli jew xogħol ieħor kellha. Taf li Maria Efimova kienet tieħu ħsieb torganizzalu meetings. Biss Maria Efimova ma kienetx tgħid jew titkellem mal-oħrajn fir-rigward ta' dak li kienet tagħmel jew ma tagħmilx fil-Bank. Ma Maria Efimova kienet tmur tajjeb. Kienet relazzjoni tajba. Maria Efimova kellha esperjenza estensiva ta' xogħol f'diversi pajjiżi. Kienet tieħu gost taħdem magħha. B'hekk meta Hamidreza Ghanbari qallha li Maria Efimova kellha diġa esperjenza f'din l-area Emilia Maria Vacaru aċċettat li taħdem magħha. Mistoqsija jekk kienetx taf li Maria Efimova kienet *intern* fil-Bank Pilatus, Emilia Maria Vacaru tgħid li kienet taf li Maria Efimova kienet *Executive Secretary* iżda ma kienetx taf b'attivitajiet oħra tagħha fl-istess Bank. Emilia Maria Vacaru tgħid li Maria Efimova kienet ta' żaqqha fommha u kienet tgħidha kif tħossha u l-impjegati l-oħra ma kienux kuntenti ħafna b'dan. Maria Efimova ma kienetx toqgħod lura milli tistqarr l-opinjoni tagħha jew li toħroġ b'ideat ġodda jew milli tagħti veduti dwar kif l-affarijiet għandhom jiġu amministrati.

Emilia Maria Vacaru tgħid li l-*bank account opening forms* kienu dettaljati ħafna. Huma kienu jduru l-*files* regolarment biex jassiguraw ruħhom li ma jkunx hemm dettalji skaduti bħal passaporti skaduti jew inkella firem li

jkunu neqsin. Jekk ikun hemm xi nuqqas ta' dettalji kienu jkunu mġegħla jidentifikaw in-nuqqas u jieħdu azzjoni biex jiġi rimedjat. Dan kien parti mix-xogħol tagħha li tara li kollox ikun *up to date* u li ma jkunx hemm indirizzi ħżiena.

Mistoqsija dwar jekk tiftakarx isem ta' klijenti jisimhom *U-Group* tgħid li dan ma kienx wisq familjari għaliha. Dwar Denica Cebova tgħid li tiftakar min hi. Kienet avukat u kienet *Compliance Officer*. Dwar *Hearnville* tgħid li mhix familjari.

Emilia Maria Vacaru ma tiftakarx li qatt rat jew sabet xi *loan agreement* fil-*bathroom* tan-nisa. Tiftakar li kienet iltaqgħet ma Maria Efimova u kif ukoll ma Denica Cebova. Meta kienet iltaqgħet ma Maria Efimova, kienu marru għal *cafe* u Maria Efimova kienet qaltilha li kienet qed taħseb biex titlaq mill-Pilatus. Qaltilha li kienet qed tħossha *"overwhelmed"* u li kienet ser tirreżenja. Kienet qed tippjana biex titlaq lil Bank. Hi taħseb li ma kienetx qegħda tagħmel dak li kienet qed taħseb minħabba li kien Bank kompetittiv u Maria Efimova ma kienetx kuntenta b'dak li ġegħluha tagħmel. Kwantu għall-fatt li ma ħalsuhiex għall-paga tagħha Emilia Maria Vacaru tgħid li lilha qatt ma qaltilha li ma kienux ħalsuha l-paga tagħha. Din hija l-ewwel darba li qed tisma' li Maria Efimova ma kienetx tħalset. Taf li Maria Efimova kienet applikat għal residenza f'Malta u peress li ma kienetx mill-EU kienet qed

iddum biex toħorġilha. Emilia Maria Vacaru assumiet li kienet titħallas b'mod differenti mill-impjegati l-oħra, bħal biċ-ċekk. Maria Efimova ma kellhiex *bank account* iżda safejn taf Emilia Maria Vacaru, Maria Efimova kienet qed titħallas xorta waħda.

Mistoqsija jekk kienetx tagħmel *statements of account* manwalment, ix-xhud tgħid li kienu jagħmluhom *f'word* u jiġu *saved f'pdf* files *f'folders*. Imbagħad jintbagħtu f'*generic email*. L-*istatements* kienu jiġu ġenerati fil-*Flexcube* għal kull klijent. Hamidreza Ghanbari kien ta lista ta' klijenti li riedet tibgħathilhom *statement*. Kienet tidħol fil-*Flexcube* u tiġġenera l-*i statements* hekk. Biss mhux il-klijenti kollha kienu jirċievu *statements*. Kienu dawk li kien ordna Hamidreza Ghanbari li kienu jirċievu. Biss verament kienu jdumu ftit biex jiġu proċessati. Kienu qed jaħdmu biex dan il-proċess jiġi awtomatizzat. Taf li Pilatus kienu bdew jagħtu self (*Loans*) lil klijenti. Kienu bdew jagħtu *loans* meta kien hemm hi. Kienet xi ħaġa ġdida li bdew jagħmlu huma. Mistoqsija jekk kienetx taf jekk klijenti tal-Pilatus kienux jagħtu self lil xulxin tgħid li ma kienetx "*aware of this*".

Mistoqsija jekk kienetx tara xi ħaġa stramba jew suspettuża fil-mod kif il-Pilatus jitmexxa tgħid li huma kienu veru riżervati. Kienu jitkelmu b'mod riżervat u kien hemm darba jew darbtejn li fetħu *bank account* mingħajr ma kienet taf hi. Emilia Maria Vacaru taf dan għaliex wara li infetħu l-*Operations*

Department kienu jikkonfermaw li l-*bank account* kien infetah għal persuna li ma kienetx taf bihom hi. Il-*management* kienu jiddiskutat affarijiet bejniethom u l-impjegati ma kienux ikunu jafu kollox. Hi kienet tqis lilha nnifisha *junior* ħafna u għalhekk ma kienux ituha ħafna informazzjoni. Lilha kienu jagħtuha *"minimum things to do"*. Meta bdiet kien hemm hi u Hamidreza Ghanbari biss fis-*Sales Department*. Uħud mill-*Operations Department* kienu jgħinuha għax riedu li jkun hemm tnejn minn nies biex ikun jista' jsir pagament. B'hekk fis-*Sales Department* kien hemm hi biss.

Kien hemm diversi persuni li kienu *junior* bħalha u kien hemm oħrajn li damu ferm inqas minnha – bħal Maria Efimova, li damet xahrejn u nofs. Maria Efimova kienet impjegata bħala Segretarja. Il-posizzjoni tagħha ma kienetx bħala Uffiċjal tal-Bank. Maria Efimova qatt ma kienet impjegata bħala parti mis-*Sales Department*. Safejn taf hi, Emilia Maria Vacaru kienet *junior* minħabba li ma kellhiex esperjenza preċedenti fil-qasam bankarju. Biss tgħid li qalulha li Maria Efimova kellha xi esperjenza bankarja preċedenti f'Ċipru. Kien għalhekk li talbuha tgħin lil Emilia Maria Vacaru. Taf ukoll li Maria Efimova kienet taħdem fl-Irlanda għal *Google* għal perjodu qasir ta' żmien imbagħad ġew Malta. Maria Efimova qalet li ddeċidew li jiġu hawn Malta, pero Emilia Maria Vacaru ma tafx il-motiv.

Emilia Maria Vacaru tgħid li qatt ma rat dokumenti li jġibu isem Joseph Muscat jew Michelle Muscat. L-isem ta' Konrad Mizzi u Keith Schembri kienu jidhru familjari iżda ma tafx għaliex u f'liema *email* setgħet rat dawk l-ismijiet. Anke meta kienu ingaġġaw klijent mingħajr ma kienet taf kien hemm darba waħda jew tnejn. Biss anke meta għamlu hekk, kienu xorta jinkluduh fuq il-*clients list*.

Emilia Maria Vacaru ma tafx min kien il-*UBO* ta' *Sahra FZCO*. Kien hemm ħafna ismijiet ta' persuni u kumpaniji li kienet rat waqt li kienet taħdem hemm. Farnoush Farsiar kienet *signatory* f'xi ħamsa minnhom, pero ma tafx eżattament f'liema kumpaniji. Hi ma baqgħetx tiftakar ħafna dettalji ta' klijenti u ismijiet. Dan għaliex għadda ħafna żmien u ma tistax tgħid b'ċertezza l-ismijiet u dettalji. Hi ma setgħetx tiftakar kollox inkluż min kien il-*UBO*. Tiftakar il-proċessi li kienu jiġu magħmula repetittivament. Iżda dettalji dwar persuni ma tiftakarhomx.

Mistoqsija jekk hix ċerta jekk kienx hemm żewġ kumpaniji *Sahra* u *Al Sahra* għax qajmilha konfużjoni kbira. Kienu żewġ kumpaniji differenti. Kienet taf li kienu familjari. Mistoqsija jekk kienx hemm *Shams Al Sahra* u *Sahra* tgħid li mhux ċerta iżda jista jkun li kienet fil-proċess li tiftah kont bankarju u dawn l-ismijiet kienu jinstemgħu familjari għaliha.

Ix-xiehda ta' Denica Cebova Radovanovikj

Ilha Malta tliet snin. Hi gradwata fil-Liġi mill-Maċedonja iżda ma tistax taħdem t'Avukat f'Malta. Daħlet taħdem fil-Bank Pilatus bejn Ottubru 2015 u Frar 2016. Il-kap tagħha kienet Claude-Ann Sant Fournier. Meta daħlet taħdem Claude-Ann Sant Fournier kienet tqila. Biss ma kienetx taf li waslet biex twelled. Kienet l-ewwel esperjenza tagħha ma Bank. Xogħolha kien review ta' *due diligence* ta' klijenti prospettivi mibgħuta lilha mill-*Front Office,* tabozza kuntratti ta self u *corporate law of the Bank* bħal *company secretarial work.* Meta Claude-Ann Sant Fournier ħarġet bil-*maternity,* ir-*role* ta' *MLRO* dar fuq Antoniella Gauci. Kienet tabozza u tanalizza kuntratti ta' self magħmula mill-Bank lil klijenti tiegħu. Bejn Ottubru 2015 u Frar 2016 kien hemm xi 5 jew 6 kuntratti ta' self. Ma tafx jekk klijenti tal-Bank kienux jagħtu self lil xulxin. Hi kienet tieħu l-istruzzjonijiet mingħand Hamidreza Ghanbari. Claude-Ann Sant Fournier kienet tmur l-uffiċju anke wara xi ħmistax li weldet.

Ir-relazzjoni tagħha ma Claude-Ann Sant Fournier fil-bidu kienet tajba. Pero wara li ħarġet bil-*maternity leave* Denica Cebova kellha tieħu f'idejha abozzar

ta' *M&A* tal-kumpanija u Claude-Ann Sant Fournier bdiet issibilha xi żbalji. Claude-Ann Sant Fournier u Hamidreza Ghanbari kienu jingħalqu f'kamra jiddiskutu waħedhom. Ma kienx hemm proċeduri li setgħet issegwi jew istruzzjonijiet ċari. Il-komunikazzjoni mal-impjegati ma kienetx tajba xejn. Tgħid li :

> I can see that there are so many things missing and there are so many proceedings which are not applied to the documentation, to the clients, to employees.[134]

Fi Frar 2016 Claude-Ann Sant Fournier qaltilha li kien hemm talba mill-*FIAU* dwar il-pajjiżi li minnhom ġejjin id-diretturi u s-*shareholders* tal-klijenti u tawha tliet ijiem biex tagħmilha u kellha tagħmilha manwalment għax hi ma tawhiex aċċess għas-sistema *online* (*Flexcube*). Hi kellha aċċess biss għall-*folder* tal-*Legal Department* fejn kien hemm il-kuntratti. Għalhekk riedet tagħmel dan it-tfittix manwalment mill-kopji tal-*files* tal-klijenti. Hi qatt ma rat *statements* ta' klijenti. Il-fatt li ma kellhiex aċċess għall-*Flexcube* kienet tqisu bħala "*wierd*".

Hi kellha tagħmel il-lista tal-klijenti manwalment mill-*files* stampati tal-klijenti kollha tal-bank. Irnexxielha tlesti dan ix-xogħol fil-ħin iżda kellha

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[134] Dan jikkonstrasta dak li qalet Emilia Maria Vacaru li "*I know they were very meticulous with documents and have everything in order to open a bank account*". Jidher li hemm attitudni differenti lejn il-Pilatus Bank bejn dawk l-impjegati li jiġu ġew imkeċċija minnu għal dawk li jkunu telqu minnu mingħajr inkwiet. Dawk li ġew b'xi mod imkeċċija jew kellhom xi esperjenzi mhux daqstant pjaċevoli mal-Pilatus Bank jidher li jkunu ferm aktar kritiċi ħorox tal-Bank u tal-operazzjonijiet u l-proċeduri li jadatta minn dawk li jkunu spiċċaw jaħdmu mal-Bank mingħajr inkwiet, jew almenu mingħajr ħafna attrit.

toqgħod taħdem wara l-ħinijiet tax-xogħol tagħha u ma titħallasx tagħhom. Kienet tistaqsihom jekk kienetx sejra tajjeb u qalulha biex tirranġa fil-*loan agreements*. Dwar dawn il-*loan agreements*, Denica Cebova tgħid hekk : -

Denica Cebova Radovanovikj: not exactly what I have been doing in Macedonia but here yes, I have prepared as I have mentioned a loan agreement and also I was reviewing some of the agreements between bank and third parties.

Inquiring Magistrate: now when you refer to loan agreements, what sort of loan agreements are you referring to?

Denica Cebova Radovanovikj: loans given by the bank.

Inquiring Magistrate: given by the bank?

Denica Cebova Radovanovikj: yes.

Inquiring Magistrate: to customers?

Denica Cebova Radovanovikj: yes.

Inquiring Magistrate: were you very busy with this work, how many loans did you work upon between October, 2015, October you told me you started ...?

Denica Cebova Radovanovikj: yes

Inquiring Magistrate: October 15 and February, '16?

Denica Cebova Radovanovikj: I don't remember the exact number but I believe there were five or six.

Inquiring Magistrate: five or six. Ok basically October, November, December, January, February basically almost one per month?

Denica Cebova Radovanovikj: one per month. There was no such ...

Inquiring Magistrate: some times you had two and some times you had nothing?

Denica Cebova Radovanovikj: some times I had two or three per month and some times nothing.

Inquiring Magistrate: understandable. Now one other thing, given that you worked for compliance and you were also engaged on drafting of loan contracts, do you know whether in Pilatus Bank, it was only Pilatus who used to grant loans to clients?

Denica Cebova Radovanovikj: I don't know.

Inquiring Magistrate: you don't know so you don't know if clients or customers between them used to give loans to each other?

Denica Cebova Radovanovikj: no, I wouldn't know that

Inquiring Magistrate: you wouldn't know that. Who do you think would be in a position to know that operations?

Denica Cebova Radovanovikj: Hamidresa Gambari.

Imbagħad meta kienet għadha fil-*probation* kienu tterminawlha l-impjieg mingħajr ma tawha raġuni. Ħadet gost għax ħelset. Kienet qed tfittex xogħol minn qabel ma keċċewha. Biss ħalsuha l-paga li kienet dovuta lilha. Ma bagħtulhiex *reference letter* u riedu biss li jibgħatu *reference* lill-*employer* prospettiv u Claude-Ann Sant Fournier qaltilha li dik hi *Bank policy*. M'għandhiex kawżi mal-Bank pero.

Meta Claude-Ann Sant Fournier ma kienetx fl-uffiċju kienet kelmet lil Hamidreza Ghanbari u qaltlu li kien hemm *files* ta' klijenti li kellhom kont miftuh li fihom ma kienx hemm informazzjoni dwar min kienu l-*UBO*. Hamidreza Ghanbari qallha li hu kien jaf min huma l-*UBO* u qallha li kien ser jipprovdi informazzjoni dwar dan.

Ma tiftakarx jekk kienx hemm klijenti li kienu b'*share certificates to bearer*. Mistoqsija jekk tifktakarx l-ismijiet tal-kumpaniji partikolari rilevanti għal

din l-inkjesta, Denica Cebova tgħid li *Al Sahra FZCO* tiftakarha iżda ma tifakarx *Shams Al Sahra. "Tillgate" rings a bell.* Imbagħad mistqosija "Tillgate, Hearnville" qalet *no*. Egrant qalet "*no*". Eżattament tgħid hekk :

> Inquiring Magistrate: ok, so let me bring along my list, let's start off with Al Sahra FZCO, does this ring a bell, Al Sahra FZCO?
>
> Denica Cebova Radovanovikj: Yes.
>
> Inquiring Magistrate: Al Sahra?
>
> Denica Cebova Radovanovikj: yes.
>
> Inquiring Magistrate: Shamz Al Sahra?
>
> Denica Cebova Radovanovikj: no.
>
> Inquiring Magistrate: Sahra?
>
> Denica Cebova Radovanovikj: Sahra rings a bell.
>
> Inquiring Magistrate: Sahra rings a bell?
>
> Denica Cebova Radovanovikj: yes.
>
> Inquiring Magistrate: so which one rings best, Al Sahra or Sahra?
>
> Denica Cebova Radovanovikj: Al Sahra.[135]
>
> Inquiring Magistrate: Al Sahra, now Till Gate?
>
> Denica Cebova Radovanovikj: Yes.
>
> Inquiring Magistrate: Till Gate, Hearn Ville?
>
> Denica Cebova Radovanovikj: No.
>
> Inquiring Magistrate: Hearn ville no. Egrant?
>
> Denica Cebova Radovanovikj: no.

[135] Hawnhekk għal darb'oħra l-konfużjoni tal-ismijiet donnha terġa tispikka.

Mistoqsija dwar dak l-artiklu ta' Daphne Caruana Galizia li jittratta l-allegat self li ingħata mill-Bank Pilatus lil Negarin Sadr Hasheminejad Denica Cebova għall-bidu ma ftakritux. Ippressata għal tweġiba qalet li ftakret għax il-Bank baqa' miftuh sa tard. Kif kienu sejrin id-dar Hamidreza Ghanbari qallhom ma jmorrux għax kien hemm kont li ried jinfetah. Il-*Front Office* taw id-dokumenti lil Antoniella Gauci bħala *MLRO*. Din analizzat id-dokumenti magħha u reġgħu raw id-dokumenti. Ma tiftakarx x'kien id-dokument tal-*proof of identity* tagħha kienx *driving licence* jew *ID card,* iżda tiftakar li kien skada. Wara bagħtu *scanned copy* ta' dan id-dokument u Hamidreza Ghanbari jidher li kien aċċetta. Kienet għamlet kuntratt ta' self għaliha, iżda ma tifatkarx kemm kien l-ammont. Ma tafx għaliex ittieħed is-self jew lil min tħallas.

Mill-*PEP* indikati tiftakar li Keith Schembri kellu *personal account* mal-Pilatus. Tiftakar l-ismijiet ta' dawn il-*PEP* għax kienet għamlet il-lista tal-klijenti u minn liema pajjiż ġejjin. Dawn il-*PEP files* kienu jinsabu fis-*safe*. Kwantu għas-*safe* hi tgħid hekk –

> first it was in the kitchen and then while I was leaving my last days, they rearranged the offices so I am not sure but I think they placed it in, when you are entering the bank there was a big corridor and on the end of the corridor next to the board room, there was a small space and I think there was where they placed the safe ...

Mistoqsija jekk dan is-*safe* kellux *passcodes* jew *codes*, hija twieġeb li kien jissakkar b'ċavetta. Din iċ-ċavetta l-ewwel kienet għand Claude-Ann Sant Fournier imbagħad għaddiet għand Luis Rivera. Dan is-*safe* kien kbir u tal-metall. Hemmhekk kien hemm *safe* ieħor żgħir u bil-*codes*. Hi u Mehmet Tasli kellhom dawn il-*codes* u meta telqet hi Claude-Ann Sant Fournier talbitha ttiha l-*code* tas-safe iż-żgħir. Dan kien ikun fih il-*cash*.

Tiftakar li Leyla Aliyeva kienet *PEP* mill-Ażerbajġan u kellha kont il-Bank Pilatus iżda ma tafx jekk kienetx *UBO* ta' xi kumpanija. Heydarov ukoll kellu *personal account*.

John Dalli tiftakar li kienet rat xi ħaġa qalb il-*closed accounts*.

Brian Tonna tiftakru bħala wieħed mill-*business providers* tal-Bank u kellu kont ukoll. F'Jannar 2016 tiftakar li l-Bank kien ta' self lil Brian Tonna u Karl Cini personalment. Dan kien *loan for future business*. Tiftakar li kien hemm ukoll *Tillgate* iżda ma tiftakarx *"why I have seen it"* jew min hu l-*UBO* tagħha.[136] Denica Cebova qatt ma tkelmet ma Daphne Caruana Galizia u ma tafx min hi qabel.

[136] Interessanti li ftit qabel, meta ġiet mistoqsija jekk kienetx tiftakar f'xogħolha l-ismijiet ta' *Tillgate* u *Hearnville*, din ix-xhud kienet wieġbet fin-negattiv.

Għalkemm kienet taf fejn hu s-*safe* u għamlet l-eżami tal-klijenti kollha mill-*hard copies,* ma tafx jekk Pilatus kellux klijenti Russi. Hi kellha aċċess għas-*safe* tal-kċina. Sa' Frar 2016 (meta telqet) ma kien hemm ebda dokument dwar *Egrant* jew Michelle Muscat.

Hamidreza Ghanbari u Claude-Ann Sant Fournier ma kienux kuntenti bix-xogħol li għamlet għax fil-lista li ppreparat kien hemm klijent li kien *PEP* u hi ma niżlitux bħala *PEP.* Din kienet il-mara ta' *PEP* mill-Ażerbajġan. Imbagħad kien hemm oħra fejn kien hemm klijent mill-Iran u Claude-Ann Sant Fournier ma ħaditx pjeċir bih. Hi ma kienetx għadha taħdem Pilatus meta *FIAU* għamlu l-ispezzjoni. L-*MFSA* marru f'Settembru 2015. Ftit qabel ma tterminawlha l-impjieg kienet ħadmet fuq *file* ta' xi klijent Taljan u Denica Cebova għamlet xi żball u Claude-Ann Sant Fournier irrabjat magħha u qaltilha li ma riedetx tmur il-ħabs minħabba żball tagħha.

Hi minn naħa tagħha qatt ma ħadet kopja jew *scanned* jew *uploaded* xi *file* fil-*cloud* qabel ma telqet mill-Pilatus. Taf lil Maria Efimova :*"she was my friend, let's say"*. Kienet introdotta lilhom bħala assistent personali ta' Ali Sadr. Kienet twieġeb it-telefon, tiftaħ il-bieb u ma tafx x'aktar kienet tagħmel. Kienet qed tieħu ħsieb xi arranġamenti għal vjaġġ li riedu jagħmlu fil-

Ġermanja u b'hekk kienet tieħu n-numru tal-passaporti tagħhom u tibbukkja l-biljetti tal-ajru. Denica Cebova ma marretx għax laħqu keċċewha. Pero kienu qalu li dan kellu jkun bħal *team building* fejn ikun hemm laqgħat għal ħin twil.

Denica Cebova kellha problema għax ma kellhiex ma min tħalli lit-tifel tagħha; pero qalulha li trid tmur bil-fors inkella tista' ma tirraportax għax-xogħol.[137] Kienu jħalsulek l-ispejjeż, iżda ma jħalsukx tal-jumejn li tkun għamilt. Wara li keċċewha baqgħet f'kuntatt ma Maria Efimova. Din qaltilha li kienu qabduha tagħmel parti mix-xogħol li kienet tagħmel Denica Cebova.

Qatt ma semgħet *b'Buttardi* jew Michelle Buttigieg. L-aktar nies li setgħu jagħtu informazzjoni huma Mehmet Tasli (li pero kien lejali ħafna lejn id-diretturi), Kamila Lis u Dina Stankovic.

Ix-xhieda ta' Diana Alexandra Ungureanu

[137] Dan jikkontrasta bil-qawwa ma dak li xehdet Gaerty li kkonfermat li dan l-irtir ma kienx obbligatorju u l-management qatt ma obbligaw lill-impjegati biex imorru bil-fors. *It is not a slave shop*, tgħid.

Diana Alexandra Ungureanu kienet intern mal-Bank Pilatus mill-bidu ta' Marzu 2016 u damet sa' Settembru 2016. Kienet *Legal and Compliance Trainee*. Kienet tagħmel vetting ta' kuntratti li tgħaddilha Claude-Ann Sant Fournier. Meta ħarġu l-*Panama Papers* kienet mogħtija inkarigu biex tagħmel spreadsheet bl-ismijiet tal-persuni kollha li kienu dehru fil-*Panama Papers reports*. Kienet ukoll għamlet *AML* training kif ukoll fuq Mastercard, kif ukoll tagħmel doveri t'uffiċju eċċetra.

Meta kienet taħdem fil-Bank Pilatus kien hemm ukoll Gabriele Stucchi li kien avukat li kien jaħdem fil-*Legal and Compliance Department*. Kienet tagħmel ukoll emendi għal dokumenti tal-varji sotto-kumitati tal-Bank Pilatus; iżda ma kienux ikunu dokumenti ta' xi importanza kbira. Qatt ma ġiet mitluba tabozza kuntratti ta' self, għalkemm għamlet riċerka fuq *loan guarantees*. Qatt ma ġiet mitluba biex tagħmel xogħol fuq self li klijenti jagħtu lil xulxin. Kienet taf li Gabriele Stucchi kien qiegħed jaħdem fuq kuntratti ta' self, iżda ma kienetx taf eżatt x'kien jagħmel.

Meta daħlet taħdem kien hemm spezzjoni mill-*FIAU* u mill-*MFSA*.

> The Court : Now can you describe whether, how the atmosphere felt during this period? Were the employees calm? Were they taking it seriously? Were they in a state of panic? How was it? I mean how was this visit received by the bank?
>
> The Witness : It was a situation of being I mean all hands on deck, if that tells you anything. I mean it, I would not say panic as such, but it was definitely an

environment where everyone was very much focused on the visit.

The Court : Ok. And for example were you tasked to search for certain documents or to look for certain specific details relating to certain customers? Or were you for example asked to hide certain information? I do not know

The Witness : Well, when the visits were being carried out I was not directly asked to look for a particular documents or prepare certain files. However I know that when this was happening Gabriele, so the lawyer and Claude Anne were very much hands on in terms of what the people were needing to look at files, documents, details. I remember that in preparation to one of the visits I was tasked with the preparation of hundreds and hundreds of documents which was a bit daunting ot be honest becuase they were basically photocopies of the same, you know

The Court : Ok. And apart from MLRO, Gabriele and yourself, I mean where there other employees giving a helping hand to Leagl and Compliance to sort out its work?

The Witness : Well the closest to Legal and Compliance would be Finance. So at the time Antoniella, again the surname escapes me, but she was the Finance Manager I believe and she would also help us in the visits. But I am not aware of anyone else helping.

The Court : Such as Maria Ifimova for example?

The Witness : I am not familiar, I mean I am not... I know that there was a Maria working when I had started, but she stopped shortly after. So no.

The Court : During that period, I mean it was March two thousand sixteen (2016), do you recall whether she was helping out with Legal and Compliance as well?

The Witness : I recall her being around in terms of Legal and Compliance and I was slightly confused as to why was she was there because she was supposed to be in another department as in she was suppoes to be next door. I mean she was very helpful when I joined in terms of you know settling in and getting the know how about how to do certain things. I was a bit confused to tell you the truth, but shortly after that she left and I never thought much about it to be honest.

The Court : Ok. Did she give you any instructions? Or did she sort of I do not know help you out with your internship and daily duties? No? Not really?

The Witness : No, not really. She was obviously she was a familiar face in the bank. She was a person working for the bank when I joined, but she was not one of the people that I had to report with in terms of reporting to or getting instructions from.

Kienet tagħmel ukoll filing ta' *bank account opening forms,* għalkemm ma kellhiex aċċess għall-lista sħiħa tal-klijenti. Stucchi kien imqabbad jagħmel lista tal-klijenti u mbagħad kienet tagħżel liema kienet tgħaddilha biex tagħmel il-*filing*. Apparti minn hekk ma kienetx taf b'xi *policy* partikolari dwar *PEP*.

Ungureanu kienet taf li kien hemm safe li fih kienu jinżammu dokumenti importanti pero ma kienetx ċerta jekk kienx fil-kċina jew band'oħra. Fit-tieni parti tal-internship tagħha kienet ġiet diretta biex tagħmel filing ta' dokumenti f'*cupboard* li kien jissakkar b'ċavetta li kien fis-*supplies room* u li kien tal-metall u l-lock kien ikbar minn normali u ċ-ċavetta tiegħu kienet tkun għand Claude-Ann Sant Fournier. Biss dan ma kienx fil-kċina u sakemm damet hi bejn Marzu sa Mejju, Lulju sa Settembru 2016 hi ma kienetx rat *document* jew *filing cabinet* fil-kċina.

Diana Alexandra Ungureanu tikkonferma li definittivament kien hemm camera fil-kċina tal-Bank f'Marzu 2016. Anzi tgħid li hi taf kif *CCTV* camera tkun u kienet ċerta li kien hemm waħda installata fil-kċina, għalkemm, ġustament ma setgħetx tikkonferma kienetx taħdem jew le, għax dak ma kienetx tkun tafu hi, stante li ma kienetx responsabbli mit-tħaddim tas-sistema tas-*CCTV*.

Din iċ-ċavetta kienet ġieli tgħaddiha lil xi ħadd mill-impjegati bħal Stucchi biex imur jiftaħ il-*cabinet*. Biss ma kienetx tagħti ċ-ċavetta lil kulħadd u għalhekk meta Ungureanu kien ikollha bżonn xi dokument hi kienet titlob lil Stucchi u dan kien imur u jiftah il-cabinet hu u jġibilha d-dokumenti li kienet tkun talbet. B'hekk Ungureanu ma kellhiex aċċess dirett għal dan il-*cabinet* u l-kontenut tiegħu. Iżda meta Hamidreza Ghanbari jew Antoniella Gauci kien ikollhom bżonnha Claude Ann Sant Fournier kienet tagħtihielhom u ma kienetx taf b'persuni oħra li kellhom dan il-"*privileġġ*". Dan is-*safe* dejjem kien ikun magħluq u qatt ma kien jitħalla miftuħ għajr ħlief għal dawk il-ftit minuti li fihom kienu qed ikunu jġibu jew iġorru xi dokumenti.

> The Witness : No, obviously there would, well again the only time that I had access to this safe was when Gabriele and I had to move the documents from the safe to a cupboard. So obviously in that time of movement the safe was left open for five or ten minutes, but that is immaterial I think. Whenever I visited the supplies room it was never open. I am not aware of anyone opening the safe and just leaving it open for a period of time.

Waqt l-ispezzjoni tal-*FIAU* ma tiftakarx li qatt rat dan il-*cabinet* miftuħ. Ma kienetx taf jekk Maria Efimova kellhiex ċavetta għal dan il-*cabinet* u safejn kienet taf kien hemm ċavetta waħda u riedet teħodha mingħand Claude-Ann Sant Fournier bilfors. Ungureanu qatt ma rat lil Efimova tiftaħ dan il-*cabinet*.

Ungureanu ma setgħetx tikkonferma li kien hemm klijenti Russi, iżda kienet tisma' ismijiet li kienu jinstemgħu li ġejjin mill-Ewropa tal-Lvant jew ir-Russja. Ungureanu tikkonferma li Brian Tonna kien mar diversi drabi l-Bank Pilatus meta kienet taħdem hemmhekk iżda hi qatt ma ratu personalment. Ma kienetx taf min hu Karl Cini jew Michael Satariano.

Peress li ma kellhiex il-lista tal-klijenti kollha tal-Bank Pilatus ma setgħetx tikkonferma b'ċertezza, iżda peress li kienet għamlet ħafna mijiet ta' fotokopji, l-ismijiet ta' John Dalli u Keith Schembri kienu familjari għaliex kienet rat xi dokumenti bħal fotokopji ta' passaporti eċċetra – iżda mhux statements tal-kontijiet tal-Bank.

Mistoqsija dwar *Tillgate Inc*, hi tgħid li kienet tiftakar li kienet rat xi dokument dwar din il-kumpanija fil-mument meta kienet qed iġġorr dokumenti mill-*cabinet* għal ġol *cupboard*.

> The Witness : I would not be able to say that because obviously the files would have needed to opened and I would have had to go through the information. So I cannot say in detail what Tillgatte was, what the file was. But I am very confident that there was a file called Tillgate.
>
> The Court : Perhaps, I do not know, perhaps an account opening form or a statement of account?
>
> The Witness : That is quite interesting because now that you metioned the OAF, the opening of account form, there might have been something, but I say that with huge

reservation because I mean it has been a veery long time, so I cannot say for sure. But it does ring a slight bell.

Supt. Abdilla : Since all this was in the media now, it has been going on for... are you sure it was Tillgate not one of the other companies being mentioned? Say Hearnville? Willerby? Have you ever heard of these?

The Witness : No, Willerby was also one of the companies that, the files. But even Tillgate sounds very fammiliar in the Pilatus Bank contxt. When I had worked there I remember some sort of either a file with Tillgate written on it, or an OAF under Tillgate.

Supt. Abdilla : What is OAF?

The Witness : Opening of account form.

The Court : And what about the company Egrant? Have you ever seen anything relating to Egrant?

The Witness : There might have also been one of these files that we moved from the safe to the cupboards called Egrant.

The Court : Now have you ever seen any document relating to, any specific document relating to these two companies Tillgate and Egrant?

The Witness : Well, the Tillgate one is a bit iffiy in my memory. However regarding Egrant I definitely do not recall seeing any document. If anything I would remember seeing the file but not the document.

Biss aktar il-quddiem fix-xiehda tagħha, Ungureanu żżid hekk –

The Court : So you sound pretty sure in relation to Tillgate.

The Witness : There has been a point when Tillgate cane up in the office context.

The Court : Though you do not know the specifics, you do not remember

The Witness : I was never in a position to know the specifics of Tillgate.

Supt. Abdilla : Could it be part of the discussions that were going on at your office following all this outbreak from Panama Leaks?

The Witness : It could have been. I mean it could have very much been a name that was present in the office after the Panama Leaks broke out. So that would explain why I heard the name Tillgate. However

The Court : And you are putting it in the office context.

The Witness : I am putting it in the office context.

Supt. Abdilla : Then Willerby for example?

The Witness : No. I mean Willerby was definitely one of the companies or of the files that were present in the office. I mean that is a hundred percent within reason, a hundred percent certainty.

The Court : However given that you were tasked with coming up with this Panama Papers sort of analysis, no?

The Witness : Yes.

The Court : Could it have been that, I mean you have to explain because of course we were not there with you

The Witness : Here is the thing just to put you into context what I had to do. Panama Papers the website you go in and you see the web of all the connections. Well I was asked to sit down and basically create a spreadsheet of all the names that featured, the connections and so forth. Now Panama Papers is a sixteen thousand, I mean it contains sixteen thousand (16,000) names. I did not go through all of them. I figured out the way to download in a zip file and then transposed them in an Excel sheet. So ultimately I did not go through every single name to type. I just downloaded transposed into an Excel sheet.

Mistoqsija dwar id-*declarations of trust* imsemmija fl-artiklu ta' Daphne Caruana Galizia, ix-xhud tgħid li hija qatt ma rat dak it-tip ta' dokument ukoll għaliex dan *would have been far beyond my authority.*

The Court : No, fair enough. But I mean if this document was held in the company's safe during your stay I presume it could have been one of those documents that could have been transferred from one room to the other, no? Or at least among those of I do no know how many pages that you photocopied.

The Witness : No. I do not remember that particular document at any point. I mean there is no doubt.

The Court : Or perhaps have you ever seen any document portraying or showing Mrs Michelle Muscat as being tied to any particular company?

The Witness : UBO? Shareholder? Anything of the sort?

The Court : Exactly, anything of this sort.

The Witness : No.

Mistoqsija speċifikament fuq il-*bank account opening form* ta' *Egrant Inc* tgħid: -

The Witness : It is tough to remember. It is genuienly very tough to remember the specific OAF. Well, I mean this was at a time when, beofre anything happened, so the names that, that name would have been similiar to any other

The Court : To any other name.

The Witness : So it is very difficult to remember. But no, I say no because I do not recall.

Mistoqsija fuq l-isem tal-kumpanija *Al Sahra FZCO,* ix-xhud qalet li tiftakar *seeing some sort of document related to that company.* Meta konfrontata bl-ismijiet *Shamz Al Sahra FZCO, Al Sahra FZCO* u *Sahra FZCO* kien ċar li x-xhud ma kienetx ċerta tant li talbitni nirrepeti l-ismijiet u qalet li *Al Sahra FZCO* kienet familjari u t-tnejn l-oħra ftit anqas u qalet *obviously they are all related. So afterall this time they might all ring a bell. Obviously the degree of certainty that is questionable.* Ma kienetx f'qagħda tgħid jekk Leyla Aliyeva kienetx *UBO* ta' *Al Sahra FZCO* għax ma kellhiex dik l-informazzjoni. Anzi żżid hekk -

The Witness : And if I was let us say that a one point or another I was asked to file something, these names were ordinary names that did not mean anything to me at the time. Keep in mind I was a three month interner, two month interner. So they did

not mean anything to me to make a mental note about them.

The Court : So when you are referring to the names Sahra, Shamz Al Sahra, Al Sahra, whatever, are you sure about what you said earlier on? Whether it was really Al Sahra? Could it have been

The Witness : Are you asking for a hundred percent certainty?

The Court : Well, a hundred percent certainty I mean it would be divine, which is not possible. Beyond a reasonable doubt let us say so, which goes like within the realm of seventy five percent.

The Witness : I should bring out the calculator. No I cannot say that. I genuinely cannot say no matter how hard I try, you have to keep in mind that these names have been repeated over and over again. It has been saturated so

Tgħid ukoll li ġieli semgħet b'Farnoush Farsiar, iżda ma kienetx taf f'liema kuntest u jista' jkun li kien hemm bank account openening form f'isimha.

Dwar l-allegati problemi rigwardanti l-*Correspondent Banks* Amerikani ix-xhud tgħid li kull tant żmien kien ikun hemm ftit kommozzjoni minħabba li ma jkunx għadda xi pagament miljunarju iżda ma setgħetx tgħid bi preċiżjoni għall-liema transazzjoni.

Ma kienetx taf dwar min hi Negarin Sadr u l-anqas Michelle Buttigieg. L-isem ta' Linet Estiroti kien familjari, iżda ma kienet taf xejn dwarha. Taf li l-Bank Pilatus iżomm records miktuba tat-transazzjonijiet iżda ma tafx jekk kienux isiru *statements* manwali jew awtomatiċi. Ma kienetx taf lil Emilia Maria Vacaru. L-anqas ma kienet ċerta fuq jekk ratx l-isem ta' Konrad Mizzi

fil-kuntest tal-Bank Pilatus.

Kienet iltaqgħet mal-isem ta' Brian Tonna iżda ma kienetx taf jekk dan kienx jirreferi klijenti lil Bank Pilatus jew il-kuntest. Qalet li kienet iltaqgħet mal-isem tiegħu meta kellha tagħmel fotokopja mijiet ta' drabi tal-istess dokumenti li fosthom kien hemm il-passaport u dokumenti t'identifikazzjoni ta' Brian Tonna, liema dokumenti riedu jidħlu f'files differenti. Biss ma kienetx taf jekk kienx *UBO, shareholder, introducer it would be anyone's guess.* L-istess kienet iltaqgħet mal-isem ta' Robert Baker – fil-kuntest li kellha tagħmel ħafna fotokopji.

Ix-xhieda ta' Kamila Anna Lis

Fil-preżent Kamila Anna Lis taħdem bħala *On boarding Officer* ma Bank ieħor. Kienet taħdem bħala *Operations Officer* mal-Bank Pilatus bejn Ġunju 2014 u l-aħħar ta' Jannar 2015, ċjoe meta kien għadu *start up* phase. Id-dipartimenti kienu għadhom mhux definiti tajjeb u kien għad hemm ftit impjegati, li kienu jagħmlu ftit minn kull ma kien ikun hemm bżonn. Ali Sadr kien ic-*Chairman* u l-*Management* kien kompost minn erbgħa minn nies, li kienu jinkludu lil Philip Mercieca u lil Mustafa Catina. Magħha kien

hemm *Finance Officer* u *Administration Office Secretary*. Il-*Finance Officer* kienet taġixxi ta' *MLRO*. Ix-xogħol tagħha kien jinvolvi l-implimentazzjoni tas-sistema bankarja li kienet *"the core for operations of the bank also opening of the accounts and payments"*. Hi kellha aċċess għas-sistemi bankarji kollha li kellu l-Bank Pilatus dak iż-żmien.

Pilatus kien jaħdem bl-*Oracle Flexcube*. Dan kien il-*core banking system* u t-transazzjonijiet u d-dettalji tal-kontijiet kienu jinżammu fih *"as per the normal banking operations"*. Id-dettalji tal-klijenti kienu jinżammu fuq *Microsoft files*. B'hekk kellek il-*core banking system* kienet *Oracle Flexcube* u dettalji tal-klijenti jinżammu f'*Microsoft word document files*. Sa' Diċembru 2014 il-firem tal-klijenti kienu jinżammu fuq l-*account opening forms* li kienu jiġu fiżikament verifikati ma kull transazzjoni, jew pagament. Kienu għalhekk kemm jinżammu fiżikament kif ukoll diġitalment wara li l-firem fuq l-*account opening forms* kienu jigu *scanned*. F'Diċembru 2014 / Jannar 2015 il-firem tal-klijenti kollha kienu ġew imdaħla fil-*Flexcube*.

Flexcube kien beda jiġu użat mill-bidu nett tal-operazzjonijiet. Kien bil-mezz tal-*Flexcube* li l-istruzzjonijiet għall-pagamenti kienu jingħaqdu mal-infrastruttura tal-pagamenti fil-*Flexcube* li kien jippermettu li l-pagamenti jinħarġu jew jiġu rċevuti mill-kontijiet tal-Bank. Xogħolha kien li tadatta l-*Flexcube* għall-ħtijiet operazzjonali tal-Bank. Biex tidħol fil-*Flexcube* kien

hemm icon fuq il-*computer* u kien hemm *password* li ridt tuża. Kull min kien jaħdem hemm kellu *user ID* u *password*.

Minbarra li kienu jagħmlu l-*independent compliance verification* permezz tad-*Dow Jones*. Biss ma kienx hemm sistemi oħra li bihom tagħmel pagamenti. Tiftakar li kien hemm il-programm *TAS* li kien programm li bih setgħu isiru pagamenti tramite *swift*. Biss hi ma kienetx taf bil-programm *Carta Worldwide*. Il-*core banking system* kienet tikkontrolla l-operazzjonijiet bankarji. Dak kollu li kien jgħaddi mill-*Flexcube* kien imbagħad jgħaddi mit-*TAS swift platform* li kienet tbiddel id-data f'messaġġ *swift*, li kien il-*payment message* li imbagħad kien jgħaddi sabiex jiġi proċessat mill-banek. It-*TAS platform* ma kienetx tistorja *account numbers* u b'hekk kien meħtieġ li jkun hemm sistema bankarja li taħżen l-*account numbers* fejn ikun hemm l-*IBAN* u l-*account number* tal-klijent. It-*TAS platform* ma kienetx tirċievi jew tibgħat ħlasijiet minnha nnifisha. It-trasferiment tal-flus kien jinbeda mill-Flexcube u wara jgħaddi għat-*TAS* platform. Sakemm raw li dis-sistema bdiet taħdem sew, huma kienu ħtieġu l-għajnuna ta' *Facilisation* biex id-data kienet tiġi inserita manwalment fil-*Flexcube* u *TAS* u dan sabiex ikollhom moħħhom mistieħ li s-sistema qed taħdem tajjeb. Tgħid hekk : -

> Inquiring Magistrate: so let me put it bluntly was there a way of evading Flex Cube while performing banking transactions at the same time?
>
> Kamila Anna Lis: I honestly don't think so, I don't think so. Let's not forget that every thing that is going through swift goes to another bank no so it has to be both.

Inquiring Magistrate: it has to be both.

Kamila Anna Lis: I can't imagine having a swift plat form without this being connected.

Inquiring Magistrate: or else for example another programme running parallel to Flex Cube?

Kamila Anna Lis: could be.

Inquiring Magistrate: but did you ever encounter such a programme during the days you were working for Pilatus there?

Kamila Anna Lis: no all the time I worked there, I operate Flex Cube, the current system, swift plat form and the online banking of Pilatus which is a part of Flex Cube itself.

Hi kienet taġixxi wkoll bħala *contact officer* għal xi klijenti u kienet responsabbli milli tagħmel *double checking* jew *double authorisation* tat-transazzjonijiet bit-telefon. Dawn it-telefonati kienu jkunu reġistrati u hi kienet tistaqsi l-mistoqsijiet ta' sigurta lil klijent qabel ma jsir pagament. Wara li kienet tirċievi l-*payment instruction* mingħand klijent, hija kienet tagħmel *double checking* ta' dawk l-istruzzjonijiet permezz ta' telefonata fuq linja telefonika awtorizzata.

Meta daħlet hi, l-atmosfera fil-Bank kienet waħda konċentrata fuq kif kienu sejrin iġibu negozju ġdid lejn il-Bank. Kienet impenjata biex tara li din is-sistema bankarja kienet qegħda taħdem sew għaliex kienu qegħdin jantiċipaw li l-volum tan-negozju kien ser jikber maż-żmien u kien jidhrilha

wkoll li din is-sistema bankarja kienet waħda mill-aqwa sistemi bankarji fid-dinja. Ali Sadr kien effettivament imexxi dan il-Bank.

Kamila Anna Lis tgħid li hija telqet minn dan il-Bank għaliex ma kienx *"a pleasant working environment for many reasons"*. Kienu jippretenduha li taħdem aktar minn tminn siegħat kuljum mingħajr ma titħallas extra għal dan. Ali Sadr kien bniedem dedikat ħafna u kien jippretendi li kulħadd ikun bħalu, minkejja li huma ma kienux bħalu. Hi kienet titħallas €20,000 u għaliha ma kienetx xi paga eċċezzjonali, għalkemm bi standards Maltin ma kienetx paga ħażina. Biss kienet taħdem taħt ħafna pressjoni biex jinfetħu l-kontijiet u l-files ma kienux jinżammu sew. Ġieli kienet tirċievi telefonati minn Hamidreza Ghanbari li dak iż-żmien ma kienx jaħdem mal-Pilatus Bank iżda kien Direttur mal-*Pilatus Capital* fir-Renju Unit. *Pilatus Capital* kienet qisha l-*Front Office* tal-Bank Pilatus u kienu jaġixxu ta' *sales people* għal-Bank Pilatus. Dak iż-żmien kienu qishom barra mill-Bank Pilatus iżda kienu jġibu ħafna klijenti għall-Bank Pilatus.

Dak iż-żmien Ali Sadr u Hamidreza Ghanbari kienu riedu jagħmlu sforz biex il-Bank ma jitlifx klijenti u l-effiċjenza għalihom kienet meħtieġa. Huma riedu juru lil klijenti tagħhom li kienu kapaċi jiftħu kontijiet bankarji anke wara ħinijiet normali. Kulħadd jaf kemm huwa diffiċli illum il-ġurnata li jinfetaħ kont bankarju. Huma riedu juru li kienu effiċjenti : *"It was part of the*

selling proposition for the Bank". Kamila Anna Lis kienet tiġi mogħtija struzzjonijiet biex tiftaħ kontijiet anke wara l-ħinijiet normali tal-Bank, minkejja li xorta waħda l-kont ma kienx ser ikun qed jiġi użat dak il-ħin, xorta kienu jeżiġu li jinfetaħ – anke jekk huma kienu jkunu l-uniku Bank li jkun għadu miftuħ. Ma kienx jagħmel differenza jekk jinfetaħx dak il-ħin jew aktar tard għax jekk kien isir xi pagament, il-*Corresponding Bank* xorta ma kienx ser ikun miftuħ dak il-ħin. Biss il-Bank Pilatus huwa *promoted* bħala *Private Bank* intiż għal *high net worth persons* u għal dawn in-nies jista' jkun li jkunu jippretendu li jingħataw dan is-servizz minn Bank privat li joffrilhom servizz dedikat. Kien ikun hemm klijenti li jużaw ħinijiet normali, iżda ġieli kellhom klijenti li ġejjin minn *time zones* differenti li kienu jikkuntatjaw lil Bank lejn il-ħin tal-egħluq.

L-ammont ta' transazzjonijiet li kellu l-Bank Pilatus kien żgħar fin-numru iżda għoljin fil-volum, ġieli kellhom xi transazzjoni waħda jew tnejn matul ġurnata sħiħa – mhux bħal *retail banks*. Biss il-klijenti kienu jkunu eżiġenti ġaladarba kienu jħalsu għal *Private Bank*. Dwar il-proċess ta' kif kienu jiftħu kontijiet, Kamila Anna Lis tgħid hekk : -

> Kamila Anna Lis: I can mention at the beginning, it was the account opening process, the account opening process is actually the due diligence and KYC process, this involves quite a number of people, first of all there is a person who sources that client so that would be your relationship manager who has the contact with the client who gets to know that client and ensures that the client fits into that acceptance policy of the bank and then that is passed on to the back office, the operations of the bank

who would then on board that client in the system so input all the data in the system, into the banking core system and operate that account from there on.

Supr. Ian Joseph Abdilla: so that is work, that type of work would have been done from the relationship management side and due diligence MLRO and then it is up to you, so you open the accounts?

Kamila Anna Lis: technically speaking yes, but at the beginning because there were quite a limited number of people every one was doing the part of every thing so. Hamidresa who acted as the relationship from the ... office manager at the time there was another lady working with him, a Turkish lady but I believe she only worked for a few months till September, 2014 if I am not mistaken, they were the people responsible for bringing the clients to the bank, they would sign the ... customer form and ensure that we, operations had the documents necessary to process the account opening in the system however if I went through the documents and noticed that I don't have sufficient documents or I am not able to determine corporate structure, shareholding structure or there are particular documents missing I would contact them and ask them for these documents to be provided or if the account opening form had some information or signatures missing I will always do the same so in a way I was also responsible for the compliance process of the on boarding of the clients.

Mistoqsija għaliex kien ikun hemm ħafna impjegati li ma jsaddux mal-Bank, Kamila Anna Lis qalet hekk : -

Kamila Anna Lis: well I am aware that the turn over of that place is quite high. I can tell you about my personal experience which I know or I am aware that probably the rest of the employees of that bank can relate to or I can relate to their experience. The atmosphere there is of very strange secrecy and there is strange, I really don't know how to put it through you, you have to know these people to actually understand, you have to be there. What happened to me was that I didn't agree with certain things – operationally or on a personal level and unfortunately that wasn't well received, I was told not to challenge certain people, not to ask so many questions just basically do what needs to be done.

Inquiring Magistrate: did they operate on a need to know basis?

Kamila Anna Lis: the least to know and that concept was mentioned I don't know how far and it was implemented, it was a bit difficult for us at the point when you operate a bank in three people, it is very hard not to know what the other person is doing.

Inquiring Magistrate: what is going on.

Kamila Anna Lis: what the other person is doing because you cannot expect me to do certain things without me by default being exposed to some thing else so that concept was lost at that time.

Supr. Ian Joseph Abdilla: if you can say did this secrecy issue relate to the bank doing unorthodox operations or because they wanted that due to their high net customers certain secrecy, certain like meetings behind closed doors ...?

Kamila Anna Lis: I wouldn't say that there were meetings behind closed doors because the clients would very rarely come to the bank so the clients would be met outside the bank, outside of Malta I have to say. The secrecy perhaps partially due to the fact that there were people of a certain wealth status so obviously by default these kind of people expect from their bankers to ...

Inquiring Magistrate: special treatment basically.

Kamila Anna Lis: you don't want to go around and say I have this much in this bank or this much in that bank, that goes against the human nature to start with and private banking.

Kamila Anna Lis tgħid li s-sistema operattiva fi ħdan dan il-Bank kienet waħda laxka ħafna. Hi ma kellhiex esperjenza bankarja preċedenti u ma kien hemm ebda persuna *senior* tagħha li setgħet tiggwidha f'xogħolha. Kienet tara li kien hemm affarijiet li ma kienux jinkwadraw fis-sens li ma kienx hemm *internal policies* li setgħet issegwi. Fi żmienha il-Bank ma kienx jagħmel distinzjoni bejn *"high risk or a PEP file"* u klijenti oħra mhux *PEP*. Il-files kollha kienu jinżammu in the *"cupboard behind me regardless of who the ultimate beneficial owner or any person involved in that file could be, all the files were kept all the same"*.

Minn Diċembru 2014 jew Jannar 2015 imbagħad ċerti files kienu bdew jiġu maqfula *f'safe* żgħir tal-metall bil-*codes* li kien fl-Uffiċju tal-*Head of Legal* Claude-Ann Sant Fournier. Dan is-*safe* kien *fitted f'cabinet* u t-tnejn kienu jkunu msakkrin. Fis-*server room* kien hemm *safe* ieħor li ma kienx kbir, daqs nofs metru twil. Jidhrilha li kien bil-*passcodes* u li kienu jridu jkunu tnejn minn nies biex jiftħuh. Dan kien fih ukoll dokumenti tal-impjegati, bħal kuntratt tagħha. Claude-Ann Sant Fournier kellha *codes* u kien hemm impjegat ieħor. Dan dejjem kien fis-*server room*.

> Supr. Ian Joseph Abdilla: while doing your work at operations apart from the regular problems that would crop up, missing detail, missing IBAN, missing some thing, have you ever encountered some strange situations like being asked to perform some transactions that were not properly recorded or had pressure to.
>
> Kamila Anna Lis: I wouldn't say not properly recorded, not properly documented. Most of the transactions that could not be explained through the information provided in the KYC which is a brief description of the client's activity especially when it was a corporate bank account, not belonging to a private individual but to a boarded corporate, than obviously that vital part to understand the business and therefore it helps with understanding the nature of the transactions. I am sure you would understand that if some one tells you I have a bakery and I was being told that this payment is to be buy I don't know, a barrel of oil, that doesn't tally with your information so naturally you would question that transaction so where the transaction could not be... explain or verified through the information provided in that KYC form, most of the time that payment would be explained to us thus as a loan payment.

Mistoqsija dwar jekk il-Bank kien jipproċessa self, Kamila Anna Lis tgħid li fi żmienha l-Bank kien ipproċessa xi self wieħed jew tnejn mogħtija lil klijenti tiegħu.

Inquiring Magistrate: are you aware of any particular procedure where by clients could through Pilatus grant loans to each other?

Kamila Anna Lis: no I would find it very strange, the bank has nothing to do with the clients wants to do with their money.

Supr. Ian Joseph Abdilla: or the bank being asked to prepare loan agreements between clients?

Kamila Anna Lis: absolutely not. Why would that be, no, no. No that is not normal banking operations, no, no.

Inquiring Magistrate: fine enough but I mean the question lies to whether this was practise in Pilatus Bank till January, 2015?

Kamila Anna Lis: not that I know off.

Inquiring Magistrate: no.

Kull darba li kien ikun hemm transazzjoni, din kienet tinvolvi xi kont bankarju ta' klijent. Il-pagament kien ikun ġenerat mill-kont tal-klijent u jintbagħat lill-persuna li tkun trid tirċievi l-ħlas. Ebda pagament ta' jew għal klijenti ma kien isir minn xi *general account* għax dak *"no that is not allowed, no, no. No that cannot happen. No."*

Supr. Ian Joseph Abdilla: it is not a question whether it is allowed or whether it cannot happen, like for example if I am to take a loan, we were told that a loan normally perhaps you can confirm or other wise, if I take a loan, it is not like a normal loan you take from the bank so if I get a thousand euro loan, it would not be deposited into my loan account and then from that loan account a noteworthy payment is issued to the person from whom I am buying a car or a property but normally there existed no such thing as a loan account, it would pass directly from the bank money to the seller, if I am going to buy a house for five million for example, the way loans were structured is I pay interest every quarter and then after five years I would have to pay the loan so actually there was no loan account as a normal bank would have and I would see that every payment part would go to interest and part would go to principal but rather I would deposit money towards interest every quarter but the

actual principal if I get a loan of five million to pay for a house, that loan would go directly from the bank books to the seller, not through my account?

Kamila Anna Lis: I have not seen such thing and I don't believe that such thing is even possible, it would be very hard for any bank to reconcile their own books I mean to do any thing like that.

Kamila Anna Lis qatt ma pproċessat self b'dan il-mod jew self ieħor fejn l-ammont misluf kollu jitħallas fl-aħħar taż-żmien konċess. Tiftakar li kien sar self fejn il-*credit committee* approvah u kredita l-kont tal-klijent u l-flus ġew mogħtija lil klijent, li kien ħieles jiddisponi mill-flus kif ried. Dwar *collaterals* ma kienetx esperjenzjat xi każ sakemm damet hemm.

Klijent ġdid jiġi mogħti *customer relationship number* li jkun uniku iżda kull kont li jkollu jġorr numru differenti, iżda li jkun iġorr il-*customer relationship number* flimkien ma numri oħra li jiddependu kemm il-kont ikollu. Il-*customer relationship number* kien jiġi ġenerat mill-*Flexcube* stess. Ġeneralment in-numri tal-klijenti kienu jkunu konsekuttivi iżda jekk kien ikun hemm żball, bħal input ta' data ħażin, dak in-numru konsekuttiv kien jintilef, iżda n-numru li jingħata kien ikun konsekuttiv.

Supr. Ian Joseph Abdilla: if I tell you that some body informed us here that they were not consecutive but rather they were consecutive by batch in the sense if for example, today we have account one, account two, account three, tomorrow my first account could not be four but could be seven, eight and the system itself would jump numbers as a security so that the last customer of today would not be able to try and guess the first account number, the first customer of tomorrow?

Kamila Anna Lis: and I would find it very strange. I can't possibly explain that as far as I remember the numbers were consecutive and like I said if there was no client and let' say we go one, two, three, four and client number five I make a mistake and I don't proceed, the number is still being generated, the number is still used by the system, there would be no account to this number but that number would still exist so next client yes would be number six because of the fact that number five was a mistake and that account wasn't processed but other than that I don't really see why these numbers would not be consecutive.

Inquiring Magistrate: and what happens with clients who decide to leave, to close their account, would they still be included on the customer or client list or would their particulars be taken off, the client list?

Kamila Anna Lis: no there was still a data base of every single input in the system so it depends on the report that you would like to generate, if you were to generate the entire data base you would still see those names, if you were only to generate the active accounts obviously those numbers or these account holders would not be there.

Inquiring Magistrate: and you do this through Oracle?

Kamila Anna Lis: yes.

Inquiring Magistrate: through Flex Cube?

Kamila Anna Lis: yes.

Supr. Ian Joseph Abdilla: you were authorised to generate this list?

Kamila Anna Lis: yes.

Mistoqsija jekk tiftakarx b'*Al Sahra FZCO*, Kamila Anna Lis tgħid li ma tiftakarx isem dil-kumpanija. Ma tiftakarx bl-ismijiet ta' *Egrant Inc*, *Tillgate Inc* jew *Hearnville Inc.* Iżda ftakret bl-isem ta' *Willerby Trading Inc.* u li kienet *BVI* u waħda minn dawk l-aħħar kontijiet li fetħet hi u li kienet tappartjeni lil Brian Tonna. Tgħid li hi ma kienetx taf lil Brian Tonna, iżda taf li skont id-dokumentazzjoni li kellhom kien *beneficial owner* ta' ħafna kumpaniji li kellhom kont ma Pilatus Bank.

Kamila Anna Lis: I didn't quite understand or had knowledge of him being involved in corporate services through his own company, I know there was a company Nexia BT but I didn't quite understand what the relationship was between Pilatus, between Nexia and between the companies that Mr. Tonna was the beneficial owner off.

Inquiring Magistrate: why are you saying this as you cannot understand the relationship between Brian Tonna and Pilatus as if it was not a bank customer relationship?

Kamila Anna Lis: why I don't understand, let me rephrase, why I find it strange now and why I didn't understand back then. After I left Pilatus I gained two years of experience in a very similar environment and I understand what corporate services, financial services, nominee services, tax advisory services, what ever services are which are provided through companies like Nexia BT so it doesn't really make sense in my opinion that the director of that company himself is the actual owner of those companies unless he does it on his own or for his own personal estate planning reasons, I don't think it is, I work with very many service providers and I find it very weird, I don't find it weird that the beneficial ownership would be entrusted into a financiary or a nominee but there would be also.

Supr. Ian Joseph Abdilla: but not the ultimate beneficial owner?

Kamila Anna Lis: not the ultimate correct, there would also be an explanation who the ultimate beneficial owner is and there would be always a declaration of that ownership, trust nominee agreement, there are different ways of having that evidence.

Taf li Brian Tonna u Karl Cini kienu ġieli jżuru l-Bank Pilatus, pero ma kienux jagħmlu dan ta' spiss. Ġieli kien hemm drabi fejn marru aktar minn darba fil-ġimgħa, iżda dan kien ikun rari. Ma tafx kif Ali Sadr u Brian Tonna kienu jirrelataw ma xulxin għax ma kienetx tkun preżenti għall-laqgħat bejniethom. Hi qatt ma semgħet argumeti bejn Ali Sadr u Brian Tonna, iżda ma kienetx taf. Meta Brian Tonna kien iżur il-Bank Pilatus, l-imġieba tiegħu kienet tkun waħda ta' *normal business visit* u ma kienet tara xejn stramb fl-imġieba tiegħu. Biss illum li taħdem ma Bank ieħor u akkwistat aktar

esperjenza fil-qasam tas-servizzi finanzjarji tgħid li taraha stramba kif Brian Tonna kien *UBO* ta' dawk il-kumpaniji. Dak iż-żmien ma kienetx tagħti każ għax ma kienetx tifhem. Biss ma kienetx tiftakar transazzjonijiet li saru f'dawn il-kumpaniji. Biss meta kien ikun hemm Brian Tonna bħala firmatarju f'kont kienet iċċempel lilu jew lil Karl Cini, għax hi kienet tikkuntatja lill-firmatarju tal-kont. Normalment kienu jidhru jew Brian Tonna jew Karl Cini bħala diretturi, jew firmatarji jew *UBO*.

Taf li Negarin Sadr Hasheminejad hija oħt Ali Sadr u meta kienet taħdem il-Bank Pilatus, din ma kellhiex kontijiet il-Bank Pilatus u qatt ma żaret Malta. Milli kienet taf ma kellhiex self mill-Bank Pilatus. Kamila Anna Lis kienet taf lil Negarin Sadr Hasheminejad minn qabel ma daħlet taħdem il-Bank Pilatus. Kamila Anna Lis tgħid li kienet taf lil Ali Sadr minn qabel ma daħlet taħdem il-Bank Pilatus u kienet iltaqgħet ma Negarin Sadr Hasheminejad ukoll. Taf li Negarin Sadr Hasheminejad hija *fashion designer* u kienet iltaqgħet magħha bejn l-2012 u 2013, ferm qabel ma daħlet taħdem mal-Bank Pilatus. Minn meta kienet daħlet taħdem mal-Pilatus Bank, Kamila Anna Lis ma kellhiex kuntatt ma' Negarin Sadr Hasheminejad. Ma tafx jekk Negarin Sadr Hasheminejad għandhiex xi negozju ieħor l-USA.

Kamila Anna Lis ma kienetx taf min hi Michelle Muscat jew Michelle Tanti. L-anqas ma taf min huma Joseph Muscat, Konrad Mizzi, Sai Mizzi, Keith

Schembri, Josette Schembri Vella, Leyla Aliyeva jew Ilham Aliyev, Michelle Buttigieg, *Buttardi, Sahra FZCO* jew *Shams Al Sahra, Dubro Limited jew Aliator,* jew Michael Satariano. Biss kienet taf li kien hemm diversi kontijiet bankarji fil-Bank Pilatus li l-*UBO* tagħhom kien Nijad Heidarov u dawn kienu *corporate accounts.* L-isem *Akce Holdings* kien familjari magħha pero ma ftakritx dwaru. Il-klijenti Azeri li kienet tiftakar kienu l-Heidarov, u ma kienetx tiftakar lil Aliyev bħala klijenti tal-Bank Pilatus.

> Kamila Anna Lis: They were Maltese companies Kimberly Properties, Arcai Holding, there were several under the same Kimberly Beta Properties, Kimberly Holdings, Arcai Holdings, Arcai Beta but there were several.

Tiftakar li John Dalli kellu kont personali mal-Pilatus Bank għax kienet hi li kienet personalment responsabbli minn dak il-kont; iżda tiftakar li sakemm damet hemm il-kont kien *"pretty much dormant. So no there were no transaction during my time."*

Mistoqsija dwar jekk qatt għamlitx transazzjonijiet fir-rigward ta' *Egrant Inc* tirrispondi *"not that I remember"*.

Kwantu għal *U Group,* Kamila Anna Lis tgħid li :

> Kamila Anna Lis: Yu group was a particular customer, it was a relationship of about twelve different companies within what we called Yu group is in fact a group of different companies, they are all Maltese companies if I am not mistaken ... or you

should many different companies, that relationship ended some what sour with the bank, it was one of the largest, one of the first clients, in fact I was entrusted with being the contact officer for Yu group of companies.

Supr. Ian Joseph Abdilla: who is the ultimate beneficial owner?

Kamila Anna Lis: that I can't really remember the name but it was a Russian national but I can't remember any names I am afraid.

Supr. Ian Joseph Abdilla: ok. And what happened to this relationship that ended sour?

Kamila Anna Lis: all the accounts were opened I believe some time in May early June of 2014 because when I actually joined the bank, the accounts were already there, there were still certain documents which needed to be provided either in original or certified copies but ... pretty much all documentation was there, then the accounts were not used for a few months and Hamidresa wanted these accounts to start and produce some volumes so we started to ask the clients to deposit the money that was promised to be deposited and make the use of the accounts which they did, they deposited I can't remember several thousand of thousands of thousands of euros, there were quite a number of transactions but at a particular stage there was also a need for petty cash from Yu group which the bank not being a retail bank was a bit hard to provide cash services for but none the less we managed and on couple of occasions, then it was decided that ... and there would ... be cash withdrawals, at the end I think the people behind Yu group, the clients decided that this is not the bank that provides / to caters to their business needs and decided to close the accounts.

Supr. Ian Joseph Abdilla: what were they after? More anonymity? More control? Less control?

Kamila Anna Lis: in relation to?

Supr. Ian Joseph Abdilla: you said the clients decided that this was not the bank they wanted to work with but because they wanted a more serious bank?

Kamila Anna Lis: I think so. I think that is the right way to put it. A bank that could actually provide banking services that would cater for the business needs and the business needs were efficient transactions.

Supr. Ian Joseph Abdilla: but efficient transactions when you said that you would even process payments?

Inquiring Magistrate: late at night?

Supr. Ian Joseph Abdilla: even late at night, how more efficient?

Inquiring Magistrate: how ... more efficiency can one ask to a bank, I mean?

Supr. Ian Joseph Abdilla: perhaps you would say listen at that time we did not offer credit card services so they wanted the services of a credit card as well and at that time you did not offer that could be but ?

Kamila Anna Lis: but efficiency in payments is also ... between sepa payments and swift payments. Sepa payments and swift payments – sepa payments are the Euro payments in Euro zone which normally are very efficient. At that time between June, 2014 and January, 2015, the bank was not performing sepa payments, all the payments were swift payments so obviously that delayed the transaction because it is some what like ...

Supr. Ian Joseph Abdilla: going to the states and?

Kamila Anna Lis: correct. So sepa payments for Yu group would be much more efficient and a lot cheaper as well so when I mean the payment efficiency I don't only mean the time for the payments but also the fee structure of the payment. These were not competitive fees.

Supr. Ian Joseph Abdilla: so on this matter, this client left not because it wanted for example less security or less questions to be asked or?

Kamila Anna Lis: no I don't think so, I don't think any transparency issues were there.

Taf min hi Farnoush Farsiar għax kienet *signatory* fuq numru ta' kumpaniji li kellhom kontijiet fil-Bank Pilatus. Taf li kellha wkoll Passaport tar-Renju Unit u b'hekk assumiet li kienet bażata fir-Renju Unit. Taf li Ali Sadr u Farnoush Farsiar kienu jafu lil xulxin *"from may be previous business encounters"* pero mhix ċerta.

Hi kienet ukoll taf lil Ali Sadr minn qabel ma daħlet taħdem mal-Pilatus. Kien Ali Sadr li għamlilha l-*interview* għax-xogħol tagħha.

Supr. Ian Joseph Abdilla: do you know from where he got his wealth to set up this bank?

Kamila Anna Lis: as far as I know he had a wealth management company before in Switzerland, a trade finance company what ever that could ... there were quite a few companies in different jurisdictions that he had, he had a construction business in Turkey and as far as I know his father is also a successful business man with construction and financial services in Iran.

Supr. Ian Joseph Abdilla: do you know what connection he might have had with the company by the name of Pilatus Capital in the UK?

Kamila Anna Lis: as I mentioned in relation to Hamidresa Gambari I believe that the initial plan for the whole Pilatus banking proposition would be that Pilatus Capital and the UK entity would be the front office of the bank situated in London and the bank would operate from Malta so ... Pilatus Bank was an arm or Pilatus Capital or from front office of Pilatus Bank was my understanding of it.

Ix-xhieda ta' Sharonjit Kaur Agimal

Sharonjit Kaur Agimal daħlet taħdem mal-Bank Pilatus f'Ottubru 2016 u telqet f'Marzu 2017. Hi kienet impjegata bħala *Front Officer relationship manager*. Iżda if Frar 2017 ġiet trasferita għall-*Compliance Department*. Fil-*Front Office* ftit li xejn kellha xogħol x'tagħmel għax ma kellhiex klijenti tagħha u ma kienux iħalluha tagħmel kuntatt dirett mal-klijenti. Kienet pero involuta fl-ipproċessar ta' kontijiet ġodda u affarijiet t'amministrazzjoni. Kienet tagħmel *call-backs* fil-każ ta' transazzjonijiet. Wara l-*call-back* it-transazzjoni kienet tgħaddi għand il-*Compliance Department* li kienu jaraw jekk it-transazzjoni setgħetx tgħaddi wara li janalizzaw id-dokumenti

relatati mat-transazzjoni partikolari minbarra li jagħmlu *Dow Jones searches* jew *open web searches* dwar il-persuni kollha involuti fit-transazzjoni – kemm *remitter* kif ukoll *beneficiary*. Fil-*Front Office* hi kienet tirraport lil Hamidreza Ghanbari filwaqt li fil-*Compliance Department* kienet tirraporta lil *Claude-Ann Sant Fournier*. Hi kellha aċċess għall-lista tal-klijenti tal-Bank Pilatus. Biss ma kienetx tiftakar jekk fost dawn il-klijenti kienx hemm *PEP* Maltin. L-isem ta' Keith Schembri kien familjari għaliha biss ma kienetx ċerta jekk dan kienx mill-aħbarijiet jew inkella mill-informazzjoni li kienet rat fil-Bank. Biss jidhrilha li dan kellu kont fil-Bank Pilatus. L-isem ta' Negarin Sadr kien familjari magħha u jista' jkun li kellha kont bankarju, iżda ma kienetx taf x'setgħa kien. Hi ma kienetx involuta fl-għoti ta' self mill-Bank Pilatus.

Mistoqsija dwar jekk kienetx tiftakar l-ismijiet tal-kumpaniji *Al Sahra FZCO, Shams Al Sahra FZCO, Sahra FZCO, Tillgate Inc, Hearnville Inc, Egrant Inc,* Michelle Muscat, Joseph Muscat, Sai Mizzi Liang, Konrad Mizzi, Josette Schembri Vella, Leyla Aliyeva, l-aħwa Heydarov tgħid li ma tiftakarx li qatt rat isimhom f'xi kont bankarju jew fuq il-lista tal-klijenti tal-Bank Pilatus.

Sharonjit Kaur Agimal tgħid li fil-Bank Pilatus l-informazzjoni li kienet tgħaddi lill-impjegati kienet *on a need to know basis*.

> The Witness : As far as I could tell from the time I spent there, information was on a need to know basis, where anybody was, what was going on, what was... anything

was on a need to know basis. I was not there very long. I did not, when you apply for a role you are kind of given one sort of jobs back and you end up with something else and it does not quite fit. That is why I ended up leaving while I got moved out of Front Office into Compliance. **** five months or four months I was in Front Office, I did not have any clients, I did not meet any clients. There was no help to kind of be a private banker, so to speak, or to learn what a private banker is, which is why I am saying everything is on a need to know basis, because I effectively did not have anything to so with any of the clients. I basically was not told anything. It was just if I got past something like "Ohh, I need someone to make a back-up call with me. You do that." And that was about it.

The Court : But is this policy applied in relation to all employees as far as you know?

The Witness : Yes, I would say so. I would say that if

The Court : You noticed this approach in relation to your colleagues as well?

The Witness : Yes.

The Court : You did.

The Witness : I would say yes. I'd see that if a particular, say for example if it was just somebody else that we are dealing with something or they wanted someone particular to do something it would, the information would just be between like Senior Management and that person. ***, nothing would filter backwards. Nothing would trickle down the other end to say "Ohh can you help, or anything". It would just be that person that deal with everything

The Court : And it stops there.

The Witness : Sorry?

The Court : And it stops there.

The Witness : Yes, yes. There is no onward discussion or anything like that. It would not be that somebody is given a task to do for something particular and then they would have come to me and said "Ohh, this is what I am doing", anything like that.

The Court : Have you ever noticed any different approach being taken by Senior Management with respect to other colleagues of yours? I mean, let me suggest something to you. I mean we have heard witnesses here who worked for the bank for an odd two or three months or so. But they came up with a total different version to what you are saying, as if they were given access to a lot of information that they did not really need to know. Can you see that happening?

The Witness : No, sorry I cannot. Like I said I was there for just short of six months and

The Court : One of them for example did not even last for three months, you know?

The Witness : No, quite honestly information was on a need to know basis. If I did not need to know it I was not told it.

The Court : You were not told anything.

The Witness : Yes, I was not told anything. I had access to client files when I was in Front Office. The client files were in cabinets next to me and if I had no reason to go through them there was no reason for me to actually be anywhere in them. We had client files backed up into our Sharepoint, and again if I had no reason to go into them, there was no reason for me to look. If I was asked to do something like for example a transaction like the verification and it would literally be a call-back, and that would just be me introducing myself and then passing the call-on on to somebody else who would then verify all the details of the transaction. I would not even have to do that kind of thing. Even then I needed, if like I said if it was something, if there was a reason for me to go into it because we had a project or something like that to do, it was the only time we went in. There was, I think one of the articles that was read said something about having keys, someone had been given keys to the safe. I have seen the safe once and that was because I think we were locating a particular file we had that had been misplaced nad we were literally checking everywhere. Someone from Conpliance, I was not allowed the keys. It was not like "Ohh can I have the keys to the safe so that I can go check" Nothing like that. It was a very, "we need to can you please double check." And I went with a person from Compliance. I literally stood like behind them as they looked in the safe. It was not even like I could actually look physically into to the safe to look at files or anything. Those kind of files are not accessible. We do not have easy access to keys

The Court : Not even during your period with Compliance?

The Witness : Not even during my period with Compliance, no.

The Court : So if I give you a scenario where you would have the safe open, with files accessible to employees who could be coming and going in the room where the safe is housed, do you see that... without any supervision mind you

The Witness : Would it be possible? Honestly

The Court : Do you see that as a probable scenario?

The Witness : No. Not at all. Because for a start the safe is not kept with anybody.

And it is locked at all times. So if a senior member of staff out Compliance or Legal go into it they have the key, they open it and they close it behind them. They would not just leave it open. I personally could not imagine that as a scenario at all. I said I worked in Compliance as well and there is no, I had a supervisor that was technically a supervisor that was above me. So if something did need to come out of the safe it would not be anyway, it would be her. And no I could not, honestly I could not see that as the safe being opened unsupervised, and somebody being able to wander in and out, *** really not going in and out as they pleased. I genuinely cannot see that as a scenario.

Hi ġieli użat il-*Flexcube* biex tagħmel *double checking* għal xi *registered address*. Qatt m'effettwat pagamenti. Ma tafx li klijenti jagħtu self lil xulxin. Iżda waqt li kienet taħdem fil-*Compliance Department* tal-Bank Pilatus hi qatt ma rat lil xi impjegat jikteb kuntratti ta' self bejn klijenti. Li rat kienu kuntratti ta' self normali.

Kienet taf min hi Farnoush Farsiar bħala li kellha kont bankarju u li kellha kontijiet ta' kumpaniji u kienet direttur u firmatarja. Kienet semgħet b'Robert Baker pero ma setgħetx tikkollokah imkien.

Ix-xhieda ta' Michaela Krajcikova

Michaela Krajcikova bdiet taħdem mal-Bank Pilatus f'Ġunju 2015 bħala *Office Manager* u spiċċat f'Novembru 2015. Qabel ġiet ingaġġata kellha

tgħaddi minn tliet *interviews* li kienu *quite long and very strict* u qalulha li kellha tagħmel xogħol ta' *Office Manager* għalkemm imbagħad spiċċat tagħmel ħafna xogħol li ma ħassethiex li kellha tagħmilhom, bħal per eżempju li kienet involuta fil-*Compliance Department* u tagħmel *KYC* u tagħmel tiftix fuq persuni privati. Kienet *almost like a private assistant of the owner of the bank.* Fosthom kienet tkun mitluba biex tmur fl-appartament tiegħu u tal-*manager* l-ieħor biex torganizzalhom trasferimenti eċċetra.

The Witness : My role within the bank was supposed to be that for example I order office needs, I will organize the bank, I make sure that the bank is always clean, I have found a cleaner for example, I would be ordering business cards, replying emails but not to clients like in Front Office but to other things like when I was ordering I was supposed to check for prices for a flag for example, all these things as you imagine, just for the needs of the office as such not for the clients or anything else, nothing to so with the business. I am not a banker and I have never been. What, as I said, I ended up doing more things than I was comfortable. I was looking at documents that I was not supposed to see and seeing myself as somebody who does not understand in banking seeing these documents I could have really misplaced and do something very wrong and I would be responsible in that case for it, but I was not supposed to be. And that is what when it came to the point that I really did not like working there. I did not feel comfortable. I was seeing and hearing things that I did not want to know because I would not know how to handle this kind of information.

The Court : Can you be more specific?

The Witness : More specific, as I said I was doing the KYCs so I was asked to do searches on private persons on private names which is part of the research I would have to print first three of four pages of the Google search. If I see something suspicious or something not normal I would have to highlight it and show it to the Compliance. For me suspicious does not always have to be the same like for a legal person. I would not know what is suspicious and in my personal life I never did something like that, but I was explained shortly how to do so and I did so. That is why I recall some of the names mentioned in this case and for me it was not a nice thing to do, you know, when you are not confident about what you are doing because you do not have maybe the knowledge, it does not feel right. I did not feel very uncomfortable from the beginning. I was new to the place and I was trying to say Ok, I will get used

to it, this is a new place. I used to work before only in management regarding to catering, so I said Ok, I have to learn and I have to see how it goes and then if I still do not like it I will stop. But after a few months even the culture in the place was very not ok. It was very uncomfortable. The behaviour sometimes of the management and of the people around me were very tense, stressed. People used to shout, people used to cry. I used to cry. It was not a place where you want to be especially for a young person like me. I was still trying to find a job, maybe I find myself doing something different and I really did not find it. So it was uncomfortable. Personally I was metally destroyed a little bit there. So after that I have took a break. I did not work for two months. I went travelling with my partner abroad. I was not feeling good.

Mistoqsija speċifikament jekk qattx rat isem il-kumpanija *Al Sahra FZCO* jew *Sahra FZCO* fil-Bank Pilatus, dix-xhud tgħid li tiftakar li kien hemm *FZCO* iżda ma tiftakarx jekk huwa *Sahra* jew *Al Sahra.* Kien hemm madwar mitt klijent dak iż-żmien u hi kienet torganizza d-dokumenti li kienu jinsabu f'*big drawers by alphabet* u kienet tikteb isimhom fuq biċċa karta żgħira u tqegħdhom f'dawn il-*big drawers.*

Sakemm kienet taħdem hemmhekk hi, żgur li ma ratx dokumenti bl-isem tal-kumpanija *Egrant Inc.* L-anqas rat bl-isem ta' *Tillgate Inc.* jew *Hearnville Inc.* Mistoqsija jekk ratx l-isem *Negarin,* Krajcikova wieġbet fin-negattiv. Mistoqsija speċifikament sabiex tgħid jekk qattx rat xi dokument bħal *KYC, bank account opening form,* jew *declaration* ta' kull tip, jew ismijiet fuq il-lista tal-klijenti ta' Michelle Muscat jew Joseph Muscat, ix-xhud wieġbet fin-negattiv. L-anqas fir-rigward ta' Michelle Buttigieg jew *Buttardi.*

Biss kienet tiftakar li kien hemm l-isem ta' Keith Schembri li kellu kont personali wieħed. Mistoqsija dwar martu Josette Schembri, qalet li ma kienetx ċerta. Ma kienetx ċerta l-anqas fuq isem Konrad Mizzi għax ma kienetx kapaċi tgħid kienetx rat jew semgħet ismu *only from the surrounding of the bank or if I would hear this name outside of work as well. So, yes it is familiar to me but I am not sure from where.*

Kienet ċerta li kienet iltaqgħet ma isem Leyla Aliyeva għaliex kienet għamlet *personal search* fuqha u stqarret li din kienet *a brunette pretty woman*. U dan peṛess li meta kienet tagħmel *search* hi kienet tara kemm *text* kif ukoll *images* tal-persuni li tkun qed tfittex dwarhom. Ma kienetx ċerta dwar Arzu Aliyeva u Ilham Aliyev. Mistoqsija dwar l-aħwa Heydarov, ix-xhud tgħid li dawn kienu darba minnhom żaru wkoll il-Bank Pilatus. Tiftakar dan għax hi kienet laqgħethom fil-bieb u dakinher kienu qalulhom biex ikollhom *extra smart dress code, doors closed, you know, I guess how it goes, and then that they when they had to arrive I was practicing their names before I walked into the lift to meet them like hundred fifty times just not to confuse them.* Tiftakar li dawn ma kienux Maltin u derhu li kienu jew Għarab jew Libjani. Wieħed minnhom kellu daqna twila u turban. *And apparantely they were very important to the bank.*

Kienet pero tiftakar ukoll li rat dokument f'isem John Dalli iżda ma kienetx

ċerta fuq liema dokument. Mistoqsija dwar Brian Tonna, dix-xhud tgħid hekk : -

The Court : Another person is a certain Brian Tonna

The Witness : I do remember this name very well. Brian Tonna was part of our Nexia BT account. Nexia BT was a very common account in the bank at the moment I was working there and the transctions were quite constant.

The Court : Constant. In relation to who but?

The Witness : Not always I would know because this part was department of the Financial transactions, but since we were a very small place I used to be most of the time in both offices. I never remained sitting on my desk only. Many times I had to, we had this procedure of confirming call when a transaction is being done, so we would have to call both parties and confirm the amount and the transaction. Many times if there was nobody around I would be the person introducing myself and confirming it is the person, and another person from the Financial Department will confirm the rest of the transaction. So many times I do remember things from there, for the calls were being recorded supposedly.

The Court : From Nexia BT. And do you remember who did you speak to from Nexia BT? Would it be Brian Tonna? Would it be Karl Cini? Would it be any other

The Witness : I remember the name of Karl Cini for sure.

The Court : You remember him as one of the persons calling you? Or else

The Witness : I am sure that they were on the documents but I do not remember if one of those days would be Karl Cini on the phone or Mr Tonna. I do recall both of the names definitely, but I would not know.

The Court : Do you know Mr Brian Tonna in person?

The Witness : In person no I would not say hundred percent. I do know how he looks like but now with these things going on I have seen his face. I am not sure if I would know his face from the bank. I do not think I have ever met him personally. I might have seen his passport copy.

The Court : So you do not remember seeing Mr Tonna visiting the bank?

The Witness : No, myself personally no.

The Court : And Mr Cini Karl?

The Witness : No.

The Court : Not even Mr Karl Cini.

The Witness : I do not remember appearance of Karl Cini. Maybe if I would have seen the picture I would know but at the moment I do not even know his appearance.

The Court : And when you said that Nexia BT used to be involved with Pilatus Bank, do you have any specific client in mind? Or does Nexia BT sort of, can you link Nexia BT with any particular client?

The Witness : What I can definitely connect I know that Nexia BT was very important to the owner of the bank. Well if it was just because it was a good client or it was something personal I would not manage to address this. But I am sure it was very important and Nexia BT was doing transactions with the private account of Schembri for once I remember this. I would not know the amount but most of the time Nexia BT was doing transactions they were not so small. I never worked in a bank before as I said but I do not think it is very common to do transactions of for example, for instance four hundred thousand (400,000). For me it was very new. Sometimes millions, even other clients we had. So for me it was very new. So they were always big numbers.

The Court : And when you consider Nexia BT's contacts with Mr Sadr and with Pilatus Bank, do you know if Nexia BT provided business to Pilatus Bank?

The Witness : I do not know what kind of business

The Court : For example by referring clients to Pilatus?

The Witness : For sure. I am sure. Very often and constantly, you know I was the person answering the phone and I was the person, the closest to the door. Many times we had somebody, some kid of representative calling from Nexia BT to be connected either to the owner or to the manager of the bank. Many times. Sometimes I would not know to whom I am speaking because they would say "we are calling from Nexia BT" and I would directly know it is for Mr Sadr or they ask me who they want to speak. We had a lot of phone calls from this company. I am sure it could not be only one client but I would not know any names from them. But I know I speak many times to some kind of representative from Nexia BT. They always wanted to speak to one of either the Manager Hamidreza Gambari or Mr Sadr.

Mistoqsija dwar jekk kienetx involuta fl-operazzjonijiet tal-Bank, din ix-xhud qalet hekk : -

The Court : Ok. However you were not involved in the bank's operations, am I right?

The Witness : As I said I was never supposed to be involved. I was only taking part in some, like filling the holes if I can say like that. So as there was no person to confirm the phone call it would be me to confirm it either because I am in the room at the moment or there is nobody else so they call me to do so. Or doing KYCs and papers like this I would be called to do them because there is either a panic in the bank or the lawyer was just too busy. She used to give me the key of the file cabinet and tell me to bring her something or stay in the room and organize certain documents. Once before we had MFSA visit, they have spent over a week in the bank, it was horrible moments. Everybody was panicking, everybody was nervous. A lot of tension would be around in the bank. And that was really bad for me because I had to host them. I had to make sure that everybody is in his office with doors closed which normally we used to have the doors open. Kitchen closed. Everything closed. I had to serve them food. I had to wake up early before my working time and go and shop for some food and refreshments for them and organinze these things, make sure that they always have fresh coffee and water. It was a little bit uncomfortable. And then everybody was so tense that one time I left out for my lunch break to a place close by and when I came back Mr Sadr shouted at me a lot that I allow myself to leave for a lunch break when MFSA is there. He would jsut demolish me for leaving for lunch.

The Court : And when was this?

The Witness : This was, if I am not mistaken, I think it was October in two thousand and fifteen (2015). At that moment another person for Compliance have started new and I remember this particular day when we went for lunch she was still new, and she came with us, and I cried at that lunch because I received a phone call from Mr Sadr.

The Court : And this was when MFSA were doing their inspection.

The Witness : Yes.

The Court : Do you recall any other inspection being carried out for example by FIAU?

The Witness : No, when I was working in the bank this was the only visit we had. And I remember it as I said because it was very bad time.

The Court : But I did not really quite understand what was the reason behind all the panic.

The Witness : I really do not know what was the reason. I can just understand that when some authorities come and check in your working place, either it is a bank or

some other place of work, you want everything to be organized and in order which I am sure it was not, the Doctor of Law employed in the bank, I am not sure if I can mention the name, was very disorganised with her paperwork which came so strange to me. I imagine lawyers as organised people, they are handling important documents and they should be organised. They were not at all. So every time something like this was supposed to happen she was really angry, nervous, uncomfortable. That is why it happened that she used to give tasks to people which were not supposed to be doing these tasks. Everybody had handful of work and she would need to rush up some things and so she needed help from me.

The Court : But apart from you, did she receive help from other employees?

The Witness : Yes, at that moment a new person had started working in Compliance, a young lady, for me she looked young, and she was trained very briefly and she used to help her and she used to get tasks from her. But she was very fresh, so I would not know what exactly she gave her, but she used to prepare some maybe loans or things like that, preparing documents for her. And then it obviously would go on to the Doctor of Law and she would kind of revise these documents. But definitely she gave her a part of her job.

The Court : Do you remember her name? The name not of the lawyer but of the assistant?

The Witness : Yes I do. She was kind of my personal friend, Deniza.

The Court : Deniza Sebova.

The Witness : Yes. She was not my friend before. I got to know her in the bank. But we are all from similar countries. I th ink she is from Macedonia if I am not mistaken. The language of ours is not the same but you can definitely recognize that that is a person from your surroundings. So we used to talk and as I said we went for lunch maybe two or three times during work.

The Court : Are you still in contact with Deniza?

The Witness : Yes I am. We do not meet often, maybe I met with her twice. Once we particularly met when she was fired as well. These were most of the things that connected us because we used to talk about the bad times we had.

The Court : Not about the good times though.

The Witness : Definitely not.

Fil-bidu ta' meta daħlet taħdem kienu introdućewha għall-*core banking*

system iżda qatt ma użatu waħedha. Hi tispjega l-mod kif kienet tara li jsiru l-pagamenti pero me kienetx tkun involuta direttament. Pero għalkemm tgħid li kienet taf li ċerti pagamenti kienu jgħaddu mis-*Central Bank* għaliex ġieli kienu jirċievu e-*mails* meta kien jidħol xi suspett, Hamidresa Ghanbari *would get really upset* u kien jgħid lill-impjegati biex ma jindaħlux fejn ma jesaħħomx u *he would call them and he said that it is completely OK, you do not need to worry and pass it on.* Mistoqsija jekk kienetx taf jekk il-Bank Pilatus kellux xi mezzi biex jaqbeż il-*core banking system* u jeffettwa pagamenti b'xi mezzi oħra, ix-xhud qalet li dwar dan ma kienetx taf, għalkemm *it was always wierd that certain payments have passed.* Anke meta ġieli rċevew e-mails b'xi suspetti ma kienetx taf kif il-pagamenti kienu jgħaddu xorta waħda, iżda hi ma kienetx taf kif din is-sistema taħdem. B'mod partikolari ssemmi kif fis-sajf tal-2015 kien hemm klijenti Libjani jew Iranjani li :

> were supposed to be stopped by doing transactions. That was the way I understood it. And it used to be kind of official thing. And at that moment I have seen Hamidresa with this woman from Legal Department having a printed out list of names and clients where wer highlighted all those from Iran and Libya, and they were arranging some things and I am sure that, and I knew that some of these have the companies which were still doing payments for, so I would not understand how is it poddible if I am seeing everywhere, I mean the news that this was not supposed to be done. But I would not understand how it is
>
> The Court : So you would not really know how they would manage to effect the payments
>
> The Witness : Exactly. No, I would not know.
>
> The Court : And you would not know because you were not given the information or else because it it something that you do not really understand?
>
> The Witness : Partially I did not understand. I learned a lot of new things there, but I did not use to use the core system. I used to know somethings because my colleague

was explaining to me as I said a while ago that I used to watch so if she would have said "You know then it goes in this department and then it passes from bank..." But it would be very brief, I would not be ever able to understand the exact way it works in banking.

Mistoqsija jekk kienetx taf il-Bank Pilatus kellux klijenti Russi, Krajcikova tgħid li ġieli rat passaporti Russi, iżda qajla kienet tagħt każ. Żgura li kien hemm xi persuni Russi iżda ma kienux xi kwantita. Mill-banda l-oħra kien hemm il-parti l-kbira tal-klijenti kienu Torok. Anke mart sid il-Bank kienet Torka. Kienet taf li Linet Estiroti kienet l-assistent personali ta' Ali Sadr. Hi kienet taħdem mal-Bank Pilatus għal ħafna żmien u kienet Malta wkoll. Biss wara li kellha żewġt itfal hi ma reġgħetx lura Malta u baqgħet taħdem mit-Turkija. Ix-xhud ġieli kelmitha bit-telefon. Anzi kienu jgħidulha li jekk kien ikollha bżonn l-għajnuna setgħet iċċempel lil Linet Estiroti. Din kienet tibgħatilhom ħafna e-*mails*. Din kellha ħafna informazzjoni fuq il-kompjuter tagħha għax kollox kien jgħaddi mingħandha. Kien hemm episodju fejn is-*CEO* preċedenti kien insteraqlu l-kompjuter u Luis Rivera u l-management kienu inkwetati jekk jiġri l-istess lil Linet Estiroti kienet tkun problema kbira. Biss Estiroti kienet baqgħet tibgħat l-e-*mails* anke tard bil-lejl u ma kienetx taf kif mara bit-tfal setgħet tagħmel dan kollu. Imbagħad wara li spiċċat din ix-xhud taħdem minn mal-Bank kienet saret taf li Estiroti kienet waqfet taħdem jew keċċewha. Ma kienetx taf kif setgħu jagħmlulha hekk għax kienet taħdem ħafna siegħat twal, iżda dejjem mit-Turkija. Meta kienet bdiet taħdem il-Bank Pilatus f'Ġunju 2015 dix-xhud kienet iltaqgħet magħha

personalment; iżda qalulha li ma kienetx ser tibqa hemmhekk fiżikament. Kienet taf kollox fuq il-Bank Pilatus u jekk ridt tistaqsi mistoqsija kont tista' ċċemplilha.

Mistoqsija jekk qattx kienet mitluba tagħmel *statements* għall-klijenti manwalment dix-xhud wieġbet fin-negattiv. Kienet tara ħafna *statements of account* iżda ma kienetx timlihom hi personalment. Ġieli kienet tieħu kopji lil Claude-Ann Sant Fournier għall-firma tagħha. Biss din kien ġieli jkun hemm *KYC* forms li ma kienux ikunu ffirmati minn Claude-Ann Sant Fournier u dan mhux suppost li kien isir għax mingħajr dik il-firma il-proċess ta' *KYC* ma kienx ikun komplut. U għalhekk qabel ma kienu għamlu l-ispezzjoni l-*MFSA* kellha toqgħod tfittex dawn id-dokumenti mingħajr firem u ġġibhomlha biex tiffirmaħhom.

Krajcikova tgħid li hi kienet iltaqgħet ma Emilia Maria Vacaru għax kienet taħdem ħdejha. Kienet għadha żgħira u kienet bdiet taħdem xi xahrejn wara li bdiet hi iżda wara li telqet Denica u baqgħet taħdem hemmhekk wara li x-xhud kienet spiċċat taħdem minn mal-Bank Pilatus. Vacaru kienet taħdem fil-*Front Office* u kienet taħdem fuq dawn id-dokumenti, in kwantu kienet viċina ħafna mal-*Compliance Department* u kienet taħdem id f'id ma Denica Cebova meta jiġu biex jiftħu kontijiet bankarji. Kienet taħdem fuq *statements of account* kif ukoll fuq il-*KYC forms*, kif ukoll *bank account opening forms*. Ma

kienetx taf jekk l-*istatements of account* kienux ikunu ġenerati awtomatikament mis-sistema bankarja.

Kienet tiftakar li kien hemm persuna jisimha Satariano man-Nexia BT, iżda ma kienetx ċerta jekk qattx kelmitu. Ma tiftakarx li qatt iltaqgħet miegħu fil-Bank Pilatus. Kienet ukoll rat l-isem ta' Farnoush Farsiar fuq id-dokumenti, iżda ma tiftakarx li qatt irċeviet struzzjonijiet mingħand dan ir-raġel (għax tirreferi għaliha fil-maskil).

The Witness : I do not think that particularly I would get an instruction from him personally. I think we did confirm payments with this person and he might even call a couple of times personally to the bank to speak to somebody. But I would not really know which place to put him, like if it was a confirmation of a payment or if he just called the bank himself. I am sure that we have spoken to this person and I am sure that we have seen this name.

The Court : But you personally have you ever spoken to this person?

The Witness : I might have, but I am not so sure. I have spoken to a lot of clients mostly for a couple of seconds to transfer the phone call.

The Court : And waht about Robert Baker?

The Witness : Yes, Robert Baker again a very common name

The Court : Very common name

The Witness : A lot of accounts. He did not have one account. They were always on name of company but he was the representative of a lot of accounts. Robert Baker was a big name there.

The Court : Can you tie Robert Baker with any particular company?

The Witness : I tried to remember to tell you the truth this morning because I know that it was the first account in the alphabet because it started with A. 'Arsha', or... I am not so sure. I could not, and I knew this name of the company so strongly. I do not know exactly how it is spelled, but I am sure that he was one of the owners of this company. And then he had many others, I think they were companies which they had

to be something with building or like you know not aparmtents, but maybe building companies, something like that, like construction. But a big company, and he had many of them. Most of the time I remember from that because I would know as I said the names of the company and then sometimes I would just look what is the reason behind this company, what are they doing and I remember. And then the other companies I do not remember the names but they were something with B and then again there were a lot like I say for instance Butterfly Limited Incorporation, then some shortcut TP or something, a lot of sismilar but with a different end. He had more than five accounts.

Tikkonferma wkoll li meta kienet taħdem fil-Bank Pilatus, Maria Efimova ma kienetx taħdem hemmhekk. Kienet taf li kien hemm *US Correspondent Bank* iżda ma kienetx taf liema wieħed hu għax kellhom ħafna transazzjonijiet fid-dollaru Amerikan. Tikkonferma li kienet taf fejn huwa s-*safe* tal-bank li kellu l-*codes* u ċjoe li kien fl-*IT Room* ħdejn il-kċina.

The Witness : Yes, with the code, it was in like a small IT room, just right next to the kitchen. To access this room you had to like type in a small code and the card. At that moment a worker who I think still works there because I meet him many times in Ta' Xbiex, Mehmet. Only Mehmet was able to open this with the presence of Antoniella or Hamidresa Gambari. And then even when we went for the retreat they had to take in some money from there or if we necesaarily needed some cash they have taken the money from there. Then there was, that was the only safe I remember. And then I remember this magic fire cabinet in this room next to the kitchen where a lot of documents were kept. Not all of them. Not basic documents. There were in employees documents which I used to work with, and then there were some more important companies and transactions and all the filing we needed to keep, were kept there in the fire cabinet which was on key with Claude Anne.

The Court : And do you know whether there used to be documents relating to PEP there?

The Witness : I am sure, yes. Either there or in a glass cabinet just like a regular office cupboard with two doors with a key which she always kept locked and she only

opened them sometimes and then told me to arrange something but it was with her presence. It was next to her desk. She have mentioned that she has very important documents there and some sensitive information about some clients. It was not a secret that we have clients like that. But they were kept in either or of them, in the fire cabinet or in the cabinet in her office.

The Court : However was there any such cabinet in the kitchen while you were there?

The Witness : No, while I was working there I am sure there was no cabinet because I have at that moment when I started in the bank I got a task to organize the kitchen because there were a lot of shelving with things from the previous office in Turkey, so there was a lot of rubbish and lamps and I do not know things which they did not need, And Luis Felipe Riviera wanted me to organize this, There was no cabinet at that moment and there was a glass table, regular shelf cabinet for some dry store and that is it. No other cabinet. It must have been done after I gone.

Mistoqsija dwar jekk kienx hemm *CCTV* camera fil-kċina għall-bidu tgħid li ma kienx hemm għax kien hemm waħda fil-kuridur u meta kienu jidħlu fiha biex jieklu jew jitkelmu ġieli kienu jagħlqu l-bieb; iżda meta inġibditilha l-attenzjoni li kien hemm ukoll il-kitchenette iż-żgħira tgħid hekk -

The Court : Now one other thing, do you know... the kitchen not the kitchenette

The Witness : Yes it was a room with a small kitchenette, coffee machine and

The Court : The small one. In the small one there was no camera. But in the larger one?

The Witness : No, there was only one kitchen we had... Ahh yes sorry, there was a small room with sink also no. The camera would be in the corridor facing this room. But if you close the door nobody would see anyhting. There is no cctv inside there, from what I remember, I am sure, we used to like that room.

Tgħid ukoll li kienu jbidlu ħafna l-*layout* tal-*uffiċju* tant li kienu jagħmlu ħafna *refurbishment* u l-uffiċju kien jidher kompletament differenti wara

xaharejn li daħlet taħdem hemmhekk. Luis Felipe Rivera kien kuljum joħlom b'xi ħaġa ġdida – u ġieli ċaqilqu xi għamara u oġġetti minn uffiċju biex l-għada reġgħu qegħduhom lura kif kienu qabel.

Għalkemm kienu wrewha kif ikunu *bank account opening forms,* hi qatt ma mliethom. Mistoqsija speċifikament jekk kienetx qatt rat xi bank account opening form f'isem *Egrant Inc.* dix-xhud twieġeb fin-negattiv.

> The Witness : During while I was working at the bank as I said I was like a private assistant to Mr Sadr and his behoviour towards everybody was sometimes very unacceptable. He used to shout and swear at people and make you cry in front of everybody. There was one particular board meeting when everybody was present plus Mr Chilinger, he was from Turkey, he was a chubby guy, one of the Board of Directors. And everybody was there and he really screamed at me and said bad things to me like it was the worst board meeting ever which I had handled a couple of them before, and he made me feel really ridiculous in front of everybody. That was the day when I really broke down and I did not feel comfortable and there were some Maltese people as well and he did similar things to other people many times even on the retreat. So then I really had bad attitude towards him, personally I have never showed it to him. He used to make me drive him to places, I was like a driver to everybody of the bank, even to the bank's association or to Prime Minister's Office. I had to go and drive him there and he would tell me "Wait somewhere in the car for thirty minutes" and I do not know if you know but in Valletta it is not so easy to park and I was new to the bank and I did not want to lose my job. I was kind of afraid of him. He was an authority to me. So I would stop somewhere and stay in the car but he would not return in thirty minutes. And then I have need to use the restroom and I could not leave the car. I did not know where to go and what to do. And then I was saying to myself he is already gone much longer than he promised. I am going to wait, hopefully he will come soon. But he did not. And then I was like really petrified in the and I needed to use the loo and then I was really forced to leave with the car to go in the loo somewhere. And then I came rushed back really sacred that he would be waiting there and he would scream at me and swear at me but he still ws not there. And then he returned after like maybe three hours. It was already gone the working time I had. It was maybe almost eight o'clock in the evening (8:00pm) and then I

would have to dirve him back to the bank and remain doing a couple of more things with Luis Rivera and that day I returned home definetly at nine o'clock in the evening (9:00pm). I remember because my boyfriend was telling me "I hate you job and I hate you doing it because I can see you are unhappy and you are spending there more time than you should." I remember this a lot. We used to, I used to drive him to this office in Valletta very often, or often I would say, particulary I remember at least three or four times. We used to bring also presents of jewellry from abroad. Most of the time it was when Mr Sadr have come from abroad. He would have very important meeting, he would tell me and tell me "Michaela get ready, I need to be in Prime Minister's office in thirty minutes. I want you to take me there." He was constantly late somewhere, even for the flights. It was so stressful because I had to drive the company's car and I was scared and he made me to drive fast and take him somewhere immediately to manage this meeting or the flight, and it was really not comfortable for me. As you know Malta has a lot of traffic going on. If I turn a wrong turn where there is a lot of traffic he would be upset why I passed from there. So I had to rush one of these days again and he just threw me a small bag with this jewellry brand and he told me "Wrap this up and take it with you and wait for me in front of the bank" because the car would be parked in the garage in minus 2 level. So I would prepare everything and take it with me, go and wait for him in front of the bank and then just the last minute almost late to the meeting he jumps in the car and we fly there. I just wanted to say this because I think it is important and I felt really uncomfortable in this moment. That is all.

Ix-xiehda ta' Makhabbat Ellul

Makhabbat Ellul kienet taħdem mal-Bank Pilatus minn Novembru 2015 sad-29 ta' Marzu 2016 bħala *Specialist* fl-*Operations Department*. Hi kienet responsabbli mit-*Treasury Operations* u kienet ukoll tagħmel il-pagamenti. Is-superjur tagħha kien Luis Felipe Rivera u kollegi tagħha kienu Keith Borg u Mehmet Tasli.

Meta kienet tagħmel pagamenti hi kienet taġixxi ta' *maker* filwaqt li Mehmet Tasli jew Keith Borg kienu jaġixxu ta' *authorisers*. Qabel ma teżegwixxi pagament pero hi kienet iċċempel lil klijent għal *call back*. Biss ma kienx ikollha kuntatti mal-klijenti wiċċ imb'wiċċ. L-istruzzjoni għall-pagament kienu jagħmluh il-*Front Office* u kienu jgħaddulhom l-istruzzjonijiet biex huma jeżegwuh. Fil-*Front Office* tiftakar li kien hemm diversi *girls* li kienu jibgħatu struzzjonijiet fosthom lil Dina, Maria Efimova u Emilia Maria Vacaru. Hi kienet tkun taf min irid jagħmel il-ħlas u lil min minħabba li kien ikun hemm l-isem tar-*remitter* u tal-*beneficiary* fuq l-istruzzjonijiet għall-pagamenti, kif ukoll id-dettalji kollha tal-pagamenti. Minn naħa tad-dipartiment tagħha ma kienux ikunu jafu min huma l-*UBO*. Huma kien ikollhom biss l-isem tar-*remitter* u tal-*beneficiary*. Iżda ma tafx jekk dawn kienux ikunu l-*UBO* jew le.

Mehmet Tasli kien qisu l-*Head of Operations* għax kull transazzjoni kienet tgħaddi minn taħt idejh u miegħu kien ikollha kuntatt kontinwu. Ma Luis Felipe Rivera r-relazzjoni kienet aktar professjonali. Minn naħa tagħha ma kellhiex aċċess għal dokumenti, għajr ħlief għall-istruzzjonijiet għall-pagament. Il-Bank Pilatus kien jeżegwixxi l-pagamenti bis-sistema *Oracle*. Makhabbat Ellul kellha aċċess għall-i*statements* tal-Bank Pilatus u għat-transazzjonijiet bankarji u kienet ukoll tagħmel *reconciliation*. Tiftakar li

kienet tistampa xi *statements* u kienet tivverifika l-pagamenti li jkunu saru. Għalkemm kienet tuża l-*Oracle* ma kienetx tiftakar x'inhu l-*BIP*. L-anqas ma kienet taf kif jaħdem l-i*Swift* għax hi ma kienetx hi li tidħol fl-i*Swift* biex jiġi eżegwit il-pagament. L-anqas ma kienet taf bis-sistema *TAS*. Mistoqsija jekk kienx hemm xi programm ieħor minbarra l-*Oracle* li bih setgħu jiġu eżegwiti pagamenti, ix-xhud wieġbet fin-negattiv. Hi kienet tuża l-*Oracle* billi tidħol bil-*user name* u bil-*password* tagħha. Ma kienetx taf jekk mill-*Front Office* setgħux jeżegwixxu pagamenti. Biss hi aġixxiet ta' *maker* fil-fażi tal-pagamenti, għalkemm ma kienetx tiftakar l-ammonti kemm kienu jkunu. Ma kienx hemm limitu kemm l-ammon tal-pagamenti setgħa jkun.

Mistoqsija dwar is-*safe* fil-kċina, Makhabbat Ellul tgħid li tiftakar li kien hemm safe żgħir li kien ħdejn il-kċina u t-toilet f'kamra *where they recorded everything*. Dan is-safe kienu jżommu fih il-flus u kien fil-kamra tas-*server*. Biss tgħid li fil-kamra tal-*Operations* kien hemm *cabinet* tal-metall fejn fih kienu jqegħdu dokumenti. Dan kien fl-uffiċju tagħha. Mistoqsija jekk qattx rat xi *document cabinet* ieħor fil-kċina, dix-xhud qalet li din l-istqarrija kienet semgħetha mill-aħbarijiet u kienet baqgħet sorpriża meta semgħatha għax fil-kċina ma kienx hemm dan il-*cabinet*. Taf li kien hemm xi darba fejn kienu ċaqilqu xi għamara, iżda ma kienetx taf għaliex.

Tiftakar li darba kienu ġew tal-*MFSA*, għalkemm mill-*Operations Department*

ma kienux tawhom dokumenti għax id-dokumenti kienu jtuhomlhom mill-*Front Office*. Dawn kienu ġew darbtejn. Mehmet Tasli kien jgħidilha biex tagħlaq il-bieb. L-atmosfera kienet waħda kalma. Tgħid li f'dak il-Bank l-atmosfera dejjem kienet tkun waħda kalma. Bejn l-impjegati ma kienx hemm ħbiberiji. Kienu jidħlu jgħidu hello lil xulxin u daqshekk. Ma kienux jitkelmu ma xulxin. Qatt ma rat ġlied bejn l-impjegati. Biss fl-ewwel jew it-tieni jum tagħha mal-Bank kien hemm argument bejn Luis Rivera u Dina (Stankovic) fejn Rivera kien kellimha ħażin.

Ma kienetx tiftakar li qatt kienet qrat jew rat xi proċedura differenti għal dak li għandhom x'jaqsmu proċessar ta' pagamenti għal *PEP*. Hi kienet iddaħħal id-dettalji fl-*Oracle Flexcube* b'idejha. *Statements* kienu jinħarġu stampati mis-sistema *Flexcube*. La Emilia Maria Vacaru u l-anqas Dina Stankovich ma qatt qalulha li kienu jagħmlu *statements* manwalment.

Qabel ma tipproċessa pagament, dawn kienu jiġu verifikati minn Mehmet Tasli. Anke dokumenti sensittivi kienu jiġu mgħoddija lil Mehmet Tasli jew lil Luis Rivera. Hi qatt ma kienet rat *declarations of ownership* ta' kumpaniji u qatt ma marret taqra d-dokumenti li kienu jkunu fil-*cabinet* fl-*Operations Room*. Mistoqsija dwar l-ismijiet importanti għal din l-inkjesta dix-xhud qalet li qatt ma kienet rathom qabel. Kwantu għal kuntratti ta' self, Ellul qalet li l-Bank kien jipproċessa kuntratti ta' self bejn il-Bank u klijenti tiegħu

biss u dawn kienu jiġu pproċessati dejjem tramite l-Flexcube. Mehmet Tasli kien uriha xi darba jew tnejn meta għamlu dawn il-*loans*. Lil Maria Efimova tafha bħala li kienet taħdem bħala assistenta ta' Ali Sadr. Ġieli kienet teħdilhom xi *payment instructions*. L-istruzzjonijiet għall-pagamenti dejjem kienu jirċievuhom permezz ta' karti miktubin.

Ix-xhieda ta' Sarah Buzzerio

Sarah Buzzerio ingħaqdet mal-Bank Pilatus bejn it-22 ta' Frar 2016 u spiċċat taħdem hemmhekk fid-29 ta' Marzu 2016, għalkemm irriżenjat ġimgħa qabel. Hi kienet impjegata bħala *receptionist/office administrator*. Ma kellhiex kuntatt dirett mal-klijenti tal-Bank Pilatus, għalkemm kienet tirrispondi t-telefon u tilqa' lil klijenti fil-bieb. Ma kellhiex sehem fil-proċeduri bankarji tal-Bank Pilatus.

Kwantu għal *safe* fil-Bank Pilatus tgħid li tiftakar li kien hemm *filing cabinet* kbir tal-metall li kien fl-i*storage room* li kien jinżamm imsakkar u kien jinfetaħ b'ċavetta speċjali. Il-persuna li kellha ċ-ċavetta tiegħu kienet Claude-Ann Sant Fournier. Hi kienet aċċediet għal dan il-*cabinet* darba waħda biss meta Claude-Ann Sant Fournier kellha bżonn kopja ta' xi dokument. Kienet taf li dan il-*cabinet* fih dokumenti, pero ma kienetx taf in-natura tad-dokumenti

x'kienet. Ma kienetx taf b'xi *safe* ieħor fil-Bank Pilatus. Mistoqsija speċifikament kienx hemm tali *safe* fil-kċina, Buzzerio Sarah tgħid li ma kienetx tiftakar li kien hemm *safe* fil-kċina.

Dix-xhud ma kellhiex aċċess għall-lista tal-klijenti tal-Bank Pilatus. Ġieli għamlet photocopies ta' dokumenti ta' klijenti iżda d-dokumenti riedet tagħtihom lura lis-*CEO* jew lil Claude-Ann Sant Fournier. Kienet taf min hu Brian Tonna, u taf li kien minn Nexia BT, iżda ma kienet tiftakar li ratu preżenti personalment fil-Bank Pilatus. Tiftakar pero li kien ikun hemm telefonati mingħand Nexia BT għax *Nexia BT was the most frequent caller*. Minn Nexia BT jidhrilha li Karl Cini kien inċempel, iżda mhux Michael Satariano. Meta Nexia BT kienu jċemplu, kienu jistaqsu għal Hamidreza Ghanbari. Darba waħda taf li Nexia BT kienu ċemplu diversi drabi u kienu ftit *pushy* iżda ma kienetx taf tgħid meta u għaliex. Tikkonferma pero li kien Karl Cini li kien ċempel.

F'Marzu 2016 tiftakar li kien hemm xi awdituri għal xi żmien u f'dak il-perjodu is-sitwazzjoni fil-Bank ma kienetx kalma. L-ambjent kien *a bit more stressful* – l-aktar minn naħa tal-*management*. Meta ma kienx ikun hemm l-awdituri xorta kienet jkunu *a little bit* stressjati. Din kienet waħda mir-raġunijiet għaliex telqet mill-Bank ukoll. Hi telqet mill-Bank għax ma kienetx għal qalbha taħdem hemmhekk u ma kienx jogħġobha... *I do not think*

that they were polite, that is all. L-atteġġjament tal-*management* kien arroganti u *quite rude.* Kienet suppost taħdem ħinijiet normali bejn it-0830 u l-1700, iżda kienet taħdem sakemm kien ikun hemm bżonn – ġieli sas-1830, sas-1900 u ġieli anke sat-2000.

Ma setgħetx twieġeb x'kien jiġri f'dipartimenti oħra għax ma kienetx tkun taf x'inhuma jagħmlu. L-aktar ħin tal-ġurnata li kienu jkollhom x'jagħmlu kien wara nofsinhar u hi kienet iċċempel biex tikkonferma *payment instructions* – bejn is-14:00 u 15:00. Għalkemm kienet taħdem f'Uffiċju ma żewġ persuni oħra, hija kienet tarahom aktar għandhom x'jagħmlu minnha u kienu jkunu okkupati fuq *payment instructions.* Dawn kienu Emilia Vacaru u Maria Efimova. Wara daħlet Arienne Gaerty. Fl-Uffiċju fejn kienu kien hemm l-Uffiċju tas-*CEO* ukoll. Taf li Emilia Vacaru kienet tiftaħ kontijiet bankarji u teffetwa *payment instructions*, għalkemm qatt ma ratha tagħmel *statements* ta' klijenti manwalment. Filwaqt li Maria Efimova kienet assistent tac-*Chairman*, għalkemm ma kienetx taf eżattament x'kienet tagħmel – biss kienet teħodlu ħsieb trasferimenti u affarijiet hekk. Efimova kienet ukoll tikkonferma pagamenti ta' klijenti minn fuq it-telefon. Efimova kienet l-aktar waħda *nice* fil-Bank u kienet turiha x'għandha tagħmel, tgħinha. Ma kienetx *bossy.*

Hi qatt ma kienet mogħtija aktar informazzjoni milli kien meħtieġ fuq

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xogħolha. Biss hi ma kienetx involuta f'operazzjonijiet bankarji jew kontijiet bankarji. Ma kienetx tiftakar tirċievi telefonati mingħand Farnoush Farsiar jew Robert Baker. Ma kienetx tiftakar min hi Linet Estiroti. Mogħtija l-lista tal-*keywords* bl-ismijiet tal-persuni li dwarhom kien qiegħed isir it-tiftix, Buzzerio stqarret li hi minn naħa tagħha ma kienetx taf min huma.

L-Awdituri tal-Bank Pilatus

Ix-xiehda ta' *KPMG* – external auditors

L-awdituri esterni tal-Bank Pilatus kienu l-*KPMG*. Żewġ partners ta' din id-ditta, Antonio sive Tony Zarb u Noel Mizzi xehdu fis-26 t'April 2018. Tonio Zarb huwa l-*managing partner* tad-ditta filwaqt li Noel Mizzi huwa l-*Head of Audit* tad-ditta, nonche l-*Principal Auditor* fuq il-*banking sector*. Huwa awditja lil *HSBC*, Bank of Valletta u banek oħra.

L-involviment tal-*KPMG* mal-Bank Pilatus bdiet qabel ma dan il-Bank ġie mwaqqaf. Ali Sadr kien talab is-servizzi tagħhom fl-2012 biex isib *alliances* biex iwaqqaf Bank f'Malta. Il-partner li kien ħa ħsieb dawn il-kuntatti irtira minn mad-ditta ftit ilu. Bdew il-proċess biex tiġi sottomessa dokumentazzjoni mal-*MFSA* għalbiex tiġi maħruġa liċenza. *KPMG* għandhom taqsima speċjalizzata fuq il-ħruġ ta' liċenzi bankarji mill-*MFSA*. Qabel aċċettaw lil dan il-klijent għamlu *due diligence exercise* estensiv, kemm fir-rigward ta' regoli *AML* kif ukoll background checks ta' Ali Sadr. Dawn ġew imwetqa mhux biss minn *KPMG* Malta iżda wkoll mit-taqsima speċjalizzata ta' *KPMG* barra minn Malta u dak iż-żmien ma kien hemm xejn fil-public domain kontra Ali Sadr. Kienu konxji kemm li Ali Sadr kien Iranjan kif ukoll li kellu passaport ieħor minn St. Kitts and Nevis, kif ukoll li missieru kien bankier. Il-*background checks* mit-taqsima speċjalizzata

barranija saru wkoll fuq l-attivitajiet kummerċjali tiegħu ukoll billi għamlu mistoqsijiet lilu u verifikawhom minn databases oħra. Fir-rigward ta' Ali Sadr, ir-rating li ħa kienet l-ogħla waħda u ċjoe classification 1 fejn ma kien hemm ebda indikazzjoni negattiva. Dak iż-żmien il-fatt li huwa t'oriġini Iranjana ma kienetx daqstant rilevanti, għalkemm issa saret. B'hekk huwa ddeċidew li jaċċettawh bħala klijent ta' *KPMG*. Ladarba aċċettawh bħala klijent imbagħad għaddew biex jibdew l-evalwazzjoni tat-talba tiegħu biex tinħariġlu liċenza bankarja. Il-fatt li kien aċċetat bħala klijent kien l-ewwel pass. Il-proċess għall-ħruġ ta' liċenza mill-*MFSA* huwa wieħed dettaljat ħafna u mhux wieħed faċli.

Dawk li jkunu qegħdin imexxu bank, iridu jkunu jafu x'inhuma jagħmlu. Ali Sadr kien diġa jaħdem fil-*private banking* fl-Isvizzera u kellu *financial services firm* hemmhekk. F'Malta ried li jwaqqaf private bank u l-proċess mal-*MFSA* kien wieħed twil u l-*MFSA* kienu sodisfatti li dan il-Bank Pilatus kellu l-kwalitajiet meħtieġa sabiex jopera bħala bank. Fil-fatt ħarġulu l-liċenza. Mill-*KPMG* kienet involuta Juanita Bencini. Ma jafx min kien involut mill-*MFSA*. Il-proċess kompla sakemm il-liċenza tal-Bank Pilatus inħarġet f'Jannar 2014. Dakinhar il-Bank Pilatus sar klijent ta' *KPMG*. L-ippreparar u l-ipproċessar tal-liċenza tal-Bank Pilatus ħadet minn Novembru 2012 sa' Jannar 2014.

Il-kunċett tal-*private banking* f'Malta qajla qabad art. Iżda Ali Sadr ried li jaħdem f'din in-niċċa. Ma kienx intiż għal klijenti lokali u ma kellhomx l-

intenzjoni li jkollhom klijenti Maltin. Il-ħsieb t'Ali Sadr kien li dan il-bank jilħaq *ultra high net worth individuals*. Il-*business model* u d-direzzjoni tal-Bank kienet parti intrinseka mill-applikazzjoni għall-liċenza. F'dak l-istadju ma daħlux dwar min kien ser ikunu l-klijenti. Biss ikunu jridu jassiguraw li l-Bank għandu pjanijiet serji ta' kif ser ikun qiegħed imexxi n-negozju tiegħu.

KPMG kienu l-*external auditors* tal-Bank Pilatus. Huma provdew ukoll servizzi anċillari li ma kienux konfliġġenti mar-rwol prinċipali tagħhom t'awdituri esterni tal-Bank Pilatus, fosthom ta' taxxa, compliance, regulatory and compliance issues, kif ukoll għamlu analiżi fuq ċerti kontijiet miżmuma mill-Bank Pilatus u fuq *AML documentation* fir-rigward ta' dawn il-kontijiet. Assistew ukoll il-Bank Pilatus biex jiftaħ biranch f'Londra.

Noel Mizzi qal li r-rwol tagħhom bħala awdituri esterni jitnissel mill-*Companies Act* u l-*Banking Act*. Bħala awdituri esterni r-rwol tagħhom huwa l-awditjar tal-istatements finanzjarji tal-Bank u jipprovdu l-opinjoni tagħhom dwar jekk dawn l-*istatements* finanzjarji kienux jagħtu *true and fair* view tal-istat tal-finanzi tal-Bank nonche l-*performance* tal-Bank. Huma ilhom jagħmlu dan sa mit-twaqqif tal-Bank Pilatus u għadhom external auditors sal-lum il-ġurnata. Huma jimxu abbażi ta' standards internazzjonali tal-awditjar kif ukoll dawk li huma stabbiliti mill-Liġi. Fix-xogħol tagħhom huma jagħmlu *materiality threshold* in kwantu l-opinjoni tagħhom mhix opinjoni assoluta. Huwa impossibbli li jagħtu assikurazzjoni assoluta; iżda huma jagħtu *reasonable assurance* skont *standards*

internazzjonali. B'hekk jiċċertifikaw li l-verifika tagħhom tagħti a *true and fair view* u mhux *a complete and accurate view* tal-qagħda finanzjarja u operattiva tal-Bank. Fil-każ tal-Bank Pilatus huma għażlu li għall-fini tal-*materiality threshold* użda il-profitti tal-Bank bħala *benchmark* u ssettjah għal €200,000 :

> and set the materiality level at 200,000 which means that our testing then, we have another layer which is called the planning materiality which is set even lower to a 150 and which means that any difference in access of 10,000 which is called the audit materiality posting thresholds – apologies for being technical here but it is important – anything above 10,000 difference will be highlighted to the audit committee. So in preparing our work we used those materiality levels to audit our transections and balances. Just to give context when I refer to reasonable assurance and to hat we mean by true and fair. It does not mean that we stop there. I will explain in greater detail. The basis of the preparation of those financial statements in Malta, those are prescribed by law and they are also transposed into our legislation and these are international financial reporting standards as adopted by the EU and one very important principles' basis in the preparation of financial statements under this framework is the going concern basis. So that it something that we evaluate. Actually it is accessed by management and then evaluated by us for all our audits irrespective of whether it is a bank, a company. The company has to access whether the company is a going concern. Why? Because if there is any indication irrespective of the situation and the balance sheet there, if there is an indication that the bank, company, whatever the reporting entity is, is not a ongoing concern there is an impact on the financial statements which have to be shown and presented in the financial statements. This background is important with the context of what I am going to explain specifically in the audit of 2016.
>
> If you allow me, I will concentrate on the 2016 audit and then please ask me questions. We had started the audit of 2016 as we do always with most of our client bank, we do an interim audit where we focus on controls so we tend to take in controls approach in auditing most of our clients for two main reasons; first of all looking at controls is important because it can identify weakness which can be also benefit to the bank in carrying out these operations and normally – I say normally because there could be exceptions – it is a more efficient way in terms of providing our services to carry out the audit because if controls are working properly you an actually reduce your substantive testing. Meaning the detailed work we carry out on transections and

balances. So we started our control phase in the first quarter. Obviously when we look at controls here we refer to those controls that flow through the financial reporting systems. So we do not look at all the controls in the bank and we do not opine on all the controls in the bank. So that is very important. Our mandate is the opinion of the financial statement.

Miroslava Milenovic: What type of controls actually you check?

NM: I do not have the full lit of the controls but we look at boarding procedures, we look at conciliations which is the heart of the bank, so we are looking at the relationship with correspondent banks, we look at how these are carried out. Normally these are carried out either on a daily or a weekly basis depending on the level of activity of those correspondent banks, how these are prepared, how these are reviewed by someone independent of those reconciliations and how differences – because there will always be differences – are actually cleared. Those are two main controls which we look. We started with the substantive work in the first quarter of 2017. I would remind you that the bank was still a small bank so in the first two years the size of the bank – even in the third year and even now – remained very small. So we are not talking about an institution which is huge.

Magistrate: When compared to other banks of course!

NM: Yes but what I am saying is that as clients start onboarding, one cannot actually take a decision on this being what the bank….so one was looking at the future growth of the bank which was very positive what they wanted to do with the bank. At this stage of the audit we had all the assurances we wanted to actually opine and issue a clean opinion on the financial statements. We do also have, as part of our standards, a requirement to look at compliance with laws and regulations obviously at a certain level. I will come back to this because it becomes very relevant of how things turned out eventually. We were actually going to – we had presented our findings to the committee. So what we did; the issues found and the conclusions and then we were actually due to sign off – if I am not mistaken on the 21st of April 2017. On the even of that same day it just happened that it hit the news that there were those events which were very much covered by the media. I followed it throughout the night actually and I communicated immediately with the chairman of the audit committee at the time clearly explaining that the board is not in a position to sign off on those accounts under the circumstances without considering what those events could and have an impact on the financial statements and thus also carrying out specific procedures after speaking to them to see whether or not those events first of all whether they were true and what could be the possible impact of those events on the financial statements. Here I take you back to the issue of the ongoing concern. Clearly with those sorts of allegations the application of the bank and the licence and if it were found that the

bank would not comply with laws and regulations was jeopardised and that would create what is known in our profession as a material uncertainty on the ongoing concern.

Miroslava Milenovic: The ongoing concern doubt, when it happened? Just recently in 2018 or it happened in 2017? Or 2016?

NM: We access the ongoing concern on an annual basis as a matter of course but the material uncertainty started coming out on the 20th of April last year for obvious reasons.

Miroslava Milenovic: So, before April 2017 you did not have any issues?

NM: No. we were ready to sign off.

Magistrate: Actually if I am not mistaken the issues touching Pilatus Bank not issues relating to the Panama Papers revelations. The issues relation to Panama Papers and issues relating to Pilatus Bank started through Daphne Caruana Galizia's blog in April 2017.

Miroslava Milenovic: Yes. Through the media but my question is different. So, I asked when you had the first going concern issue? And you said April 2017. My question is before that in 2016 you performed one agreed upon procedure review about several accounts and about compliance and everything, on that point you did not have going concern.

Magistrate: So, irrespective of what was going on in the media, were there any reasons before April 2017 to lead you to any concerns or suspicions in relation to the going concern issue?

AZ: The fact I think you are referring to – I think all of Malta knows this – an FIAU report in the first quarter of 2016 which was quite a damning report to the bank on their anti-money laundering processed which was in March. At that point the bank – or shortly afterwards – approached us and we also understand they approached Camilleri Preziosi. But Camilleri Preziosi were their lawyers so it was at a different assignment. But they approached us to carry out specific procedures and looking at specific files which were mentioned in the FIAU report and which were still open and we were asked to look at the documentation in those files to ascertain whether that documentation was in line with the bank's policies, rules but more importantly the anti-money laundering regulations and laws. We carried out that exercise. These are agreed upon procedures so it is a factual thing. We were given this file and we looked at what was in it. The documentation that we found in those files although there were a number of comments for improvement or certain inconsistence which they could do better, which in our view was no more than we would have found in any other bank,

even the best prepared bank; you are always going to have some shortcomings but in the essence that the documentation that were given substantiated the compliance with laws and regulations. I need to point out here that the anti-money laundering law does imposes two main – besides the documentation, the prove of that person exists and all of this, the bank had a very main standard there because they actually met the people personally because this was a private bank. The CEO and senior executives would actually meet the people. The identification here was at a much lower risk as against a retail bank which is sometimes very difficult to actually meet one to one. So the issues here were for these key accounts. And these were key accounts for politically exposed persons. So how did they deal with politically exposed person's requirements which are then set a much higher bar on the bank? To go to the cracks of it you need to look at the source of funds for those specific transections and the source of wealth. These are two different issues. So the source of funds is; you are receiving dividends from a hotel into the account, the bank used – this is an example of the kind of flows that were coming to these PEP accounts – so the hotel has audited accounts. You can verify the dividends were paid. You can verify and check who the shareholder is. It is their client etc. so these are the actual source of funds and they did that. Then you can check the source of wealth. And the source of wealth is a bit more complex because you get into issues. Let us give an example. This is a person who is a PEP or the children of a PEP. That PEP has a family business over a number of generations but is also in a high politically position in his country where there are allegations but nothing proven, that there could be corruption. So the bank has to make a decision. Is this source of wealth legitimate coming from the business in the family which is coming from generations or is it coming from corruption? That judgement is a judgement then for the bank to take. In our view the rules relating to on the accounts that we saw which were the open accounts because there were other accounts mentioned in the report which were closed which I think that we did not look at. So the open accounts, our report was just a fraction, what we found in the files and how they decided that and whether they were following due process and the procedures. As I said there were some minor comments which the bank contested. They wanted a perfect report. Nobody gets a perfect report. We get this all the time so we are used to it. We are very thick skinned on these things. In essence, following that report and following representations by the bank with the FIAU and I think the MFSA, they were also concerned, there was another review at the bank by the FIAU and they came out with the conclusion that the problem is no longer persisted. A bit of background context not part of our work. The issue is why did we see certain documentation on file which the FAIU did not see whenthey visited? Obviously we have no information on that directly ourselves. The bank informed us and we know that they have a dual file system, there is certain information in the operative file and then there is a file in where you have the more – let's say – confidential information

in another file and that the officials of the FIAU did not ask or were not given the confidential file. That means that they were insisting that the documentation was always there. Whether that is the case or not we have no means of saying. What I do know is that we carries out our report in May of 2016, by the end of May we reported and at that time we saw what we so the documentation is always there. I cannot say whether it was there or not but the going concern problem, the issue was cleared. By the end of 2016 the issue as far as the authorities were concerned was cleared.

NM: Just let me explain a bit to follow up from an audit perspective obviously, what we assess is the risk that any regulator can actually take action. What Tonia is explaining here is that as a result of the second report that risk did not appear to be apparent, the FIAU report. But obviously on the 20th this evolved and we could not stand there and sign off on something. It is at that point when the material uncertainty erupted. Obviously probably it was there looming at the back but there was no evidence of it. Rather on the contrary it seems to have been a closed issue where the bank had to take immediate action and therefore there was no indication that previously alleged compliance of laws and regulations could have a material impact on the going concern.

Magistrate: Turing back to the point that you mentioned in relation to documentations system, is that normal banking normal practice also with other banks or was it something that you encountered only in Pilatus Bank?

TZ: IF I may, it is not frequently encountered by I have come across situations where confidential information which separately in other files. But obviously it is not the norm.

NM: As this was a private bank, I think they used this Swiss system. They actually used numbered accounts. So they knew who the UBO etc., but they referred to accounts by the CIF so just for security so that people were not talking in the bank about mentioning names but mentioning CIFs. I think it is a practice in private banking to organize it this was.

Miroslava Milenovic: Yes but it is very hard to believe that there was the inspections from the regulator related to the compliance and anti-money laundering and the officer of charge, if I am not misunderstood was ex-KPMG. So she was completely aware what the inspection is about and what is a compliance review. So you are saying that actually they gave one part of the files and they did not give another part of the files just because they did not ask?

Magistrate: SO let us make one important distinction. So when it came to the FIAU report – because this is a question which I was going to pose – so basically the approach that was taken by the bank as far as you can recollect from the information

you received, somebody had to make a decision, decided to give information to the FIAU coming from the open file of they were selective in relation to what information to hand over to the FIAU vbecause that it there set and standard policy?

AZ: As I said this is a very speculative part.

Magistrate: If I am a regulatory authority and I ask you for information, I am to assume in good faith that you are going to give me that information as it is being asked of you specifically in relation to your statutory obligations. If I am a judiciary authority and I turn up at your offices and I ask you for some information, if I learn that you are giving me this piece of information but not the other, I would very much be prepared to take immediate action to investigate the action and I think that would be legitimate because you cannot withhold information from regulatory authorities on the guise of confidentiality.

AZ: Absolutely not.

Magistrate: Basically, this is the question. So this system, this two tier system…

AZ: The two-tier system is not the question is it? The two tier system it means that you give the two files.

Magistrate: As far as the two-tier system is concerned, for regulatory authorities and for regulatory reasons whether it is two, three, four, five, ten it does not really make much difference. What the essence is if I need full and proper documentation, I must get full and proper documentation.

AZ: Of course, I cannot but be in agreement with this argument. In fact, we were told that there were two files and that these people who came from FIAU did not ask them any questions. They just looked at the files that they were given. They did not say, "but do not you have more?"

Magistrate: It depends on what files they were given. If they gave them the open file and keeping under wraps the confidential one you cannot expect the FIAU to go there and ask them for the confidential file if they did not know about the confidential file in the first place. That is what I am trying to understand.

AZ: Why the files were not given in full or indeed if there was missing documentation which was then prepared in between the FIAU visit – this is what I was trying to say; we can only vouch for what we saw in May. However, there is another issue here and that is in relation to anti-money laundering documentation. There is such a thing as remediation. So with documentation, a bank or any subject persons including ourselves, because we are subject persons, we have an obligation to keep at the time of account opening, open certain documentation, sometimes there is a period where certain documentation can come in within three months or a few months after the

account opening, but this is when you are very satisfied that you can open the account. The documentation should be there at the start. If the processes of that organization are not up to scratch, are not capturing all the information, for instance are not getting a prove of identity as required by law when opening the accounts, and then there is a review by regulatory authority or by internal review. It could be either or. Here are all these shortcomings we have to remediate and then there is a remediation process. So say we have not gone into enough detail, we have not proper documented for instance the prove of the origin of funds. You can do that later. That is called remediation. Normally when regulatory authorities impose remediation procedures after a visit there would be a fine with a period of time by which time you need to remediate and then another visit to remediate and in fact if I am not mistaken the FIAU in their final report actually mentioned their surprise in this documentation was not there in the beginning and they also make reference like the problems they saw before no longer persisted implying that there was remediation. I wanted to make clear that when – this is when I made the statement which got this argument is that when we saw the files, we saw the files at a date and we did not see the files when the FIAU saw the files.

Magistrate: This begs another question. So when you performed your task as external auditor, did you ensure that you were given all the necessary documentation whether in the open file as well as in the more confidential file?

AZ: Yes I confirm. We knew about all this.

Magistrate: Some of the speculation and allegations that were raised related specifically to the fact that this back failed to disclose information. Apart from that, worse then that, this bank also kept under wraps information which could not be divulged to regulatory or other authorities. Now we will come to that later but I would like to continue giving the floor.

AZ: It is very important that when that hit the media, clearly it exploded. Therefore from our point of view we had to carry out further procedures. I repeat that I communicated immediately with the audit committee and we sought a meeting with the audit committee.

AC Ian J Abdilla: Since you mentioned this, the events of the 20th April, so you were aware that on the 21st there was going to be the board meeting.

NM: Of course!

AC Ian J Abdilla: How long was this meeting planned?

NM: Probably it would have been planned a couple of months before. The board meetings are set well ahead.

AC Ian J Abdilla: And this was a statutory board meeting whereby certain documentation had to be signed off for regulatory submissions.

NM: There is a requirement for the financial statements to be submitted to the regulator within four months from the reporting date, that is by the 30th of April.

AC Ian J Abdilla: So you were going to be present for this board meeting as well?

NM: We are not normally present to board meetings. We are present at the audit committee meetings and then the audit committee proposed the approval of those accounts to the rest of the members to the board.

Magistrate: But was not there going to be an audit committee meting on the day as well?

NM: No. the committee meeting would have been before. I cannot remember the date.

AC Ian J Abdilla: Were you aware also that as part of this board meeting, four documents were also going to be discussed, prepared by the internal auditors of Pilatus Bank?

NM: No. I would not have the agenda for the board meeting.

AC Ian J Abdilla: But you said you would be attending the audit committee. Were you aware that the audit committee had also engaged services Price Waterhouse to carry out four reports?

NM: But those are not provided to us before the deliberation by the board. That is the process. So the board would have to go to the ... and then they are released to us.

AC Ian J Abdilla: So you can continue.

NM: So you can imagine the impact also on us when we heard the news and clearly it was something which we had automatically had to discuss internally. Just to give you an idea, the team was composed before the event by two seniors, a manager assistant and a senior manager, an IRM (Information risk management) specialist together with myself and the engagement leader and a second partner which is a quality control reviewing partner. That is a system internally which we apply for public interest entities where the second partner challenges the approach, challenges the work being carried out, challenges our judgment and conclusions and also reviews the financial statement before these are actually released for us to release the opinion. At that time clearly I had also to escalate the settle level which goes outside the team and so the team was made also, included two other partners; the senior partner and the risk management partner.

Magistrate: So on the 20th this that broke out, I understand that it struck you like lightening. Why did it strike you like that?

NM: Because the news was totally new.

Magistrate: So basically you felt surprised with these allegations because you had already went through the bank's accounting and financial records before.

NM: Yes.

Magistrate: And you audited those records in 2014, '15 and '16 in particular. So that was the reason why you felt surprised that you did not find anything of this sort?

NM: Perhaps the word surprise is not the appropriate word. It is the event which escalated the going concern issue into a material uncertainty for obvious reasons. Because the event, the way it transformed itself within 24 hours clearly required first of all of the bank itself the audit committee, the non-executive directors to assess and evaluate what was happening and whether there was any truth behind those allegations and then the people responsible for the financials in the first instance and then on me as auditors because we are actually opining on those financial statements always in the context of the opinion on the financial statements and therefore I am not there to pass judgement in terms of as a Court would, but I need to assess whether there were any non-compliance with laws and regulations that has an impact on the financial statements and clearly there was an unresolved at the point in time material uncertainty.

AZ: To make this statement very clear, the allegations that came to light at that specific day coming mostly out of the whistleblower, those allegations were not known or we had no prevailed and had not seen anything of that in our relationship with the bank both during the specific agreed upon procedures I referred to previously or indeed in the course of the audit. Therefore, surprise not being the right word but more this was news and it was significant news in various ways. It was significant in the course of the audit and the audit opinion. But it was also significant from our point of view into whether there was at that stage a decision to be taken in what is the correct course of action professionally. The first decision for us is, this is a bank which is being accused of major wrongdoing. There is no argument if these accusations are correct, this is not a client we would want to have. So what do we do at this stage? These are allegations. We would immediately leave the client to their own devices and ask them to find another auditor. I do not believe we can do that by the way because the allegations were not proven. Professionally it is not the correct thing to do. An auditor when resigning has to give concrete examples and the very fact that there were allegations in the press and therefore we decided to resign it is not a good enough reason professionally. So we believed at that stage that the only course of actin for us is to

enter into the merits of those allegations. And to enter into the merits in accordance with these standards.

Miroslava Milenovic: But international audit standards it is always that the auditor could say, "sorry we do not want to be involved." It is also reputation risk for the auditor when such a client is appearing.

AZ: Not so. That is not the case. International auditing standards do not tell you whether you should accept a client or not. As an international firm we obviously have our own processes and whether we want to be associated with clients who are doing something we do not want.

Magistrate: I would not really want such a person to be a customer of mine if it were true. And I think this applies to KPMG as much as to any other audit firm around Malta and elsewhere.

AC Ian J Abdilla: We jumped the gun and went to 20th April. You were approached in December 2012, January 2014 this person got a license so you performed I believe an audit for 2014, 2015 and 2016. I wanted to ask what conclusions you had on these audits, were there any management issues and qualifications that you did and another thing is, in your audit have you went into the banking system of the bank? Flexcude; have you audited the system? Have you check whether the system was performing properly, functioning as it should be? Then we go to the events of the 20th.

NM: I was coming to that. Again the 2014 and 2015 were the initial years and in reality, the bank was not really fully set-up in all processes. So it was still emerging. Still setting up the partments, still looking at formalizing policies. So it was evolving. It was a small bank. And even in terms of our management report we could not even be specific in terms of the weaknesses and recommendations because of that and we had actually reported in our management letter this fact. In terms of getting comfort around the required comfort around the numbers, yes in 2014 and 2015, in 2014 there was really few transactions and in 2015 a bit more, we did get the comfort and our opinion was an unqualified opinion terms of the truth and fairness of the financial statement. If I may I will use the word unmodified which is the word now being used. It was unmodified. I think the most pertinent question to answer is the one you referred to around the systems and the work we did. And whilst we do carry out what are called review of general IT control around systems during the normal course of our audit to access control, management over changes, to access password reliability and all that, if I may go back to the 20th...

Magistrate: Please do as you were planning and then we will go through our questions afterwards. Because otherwise your train of thought would....

NM: Required of us a higher level of persuasive as actually be in a position to close off on the financial statements. So what happened on the 20th created a material uncertainty which for us was very difficult to actually conclude and to add what Tonio is saying, we were also seeing the possibility that if we were not in a position to actually conclude on our procedures, that would have created what it known as a scope limitation or limitation of scope on the work we could possible do and that would have resulted in either of one of two things. We either issue an opinion which states that we are unable to give an opinion, stating the reasons why or if the bank would not accept that situation, that is where we would have resigned. We would have no option but to resign. If the bank would not allow us to issue the disclaimers, we would have no option. That was what we were probably seeing. Because to get that persuasive evidence is very difficult. So this is the way we approach the engagement in terms of management, in the board, all denied the allegations. So we said, "Look we need to do a lot of work." It was not something they were very pleased about. I can tell you that. It was not an easy assignment in terms of seeing management there with us having completed the engagement and now re-entering, opening up, we actually opened up everything again. When you get those allegations you cannot leave a stone unturned if you want to get that level of persuasive to allow you to conclude. We actually planned this in the office and then explained to them the process.

AC Ian J Abdilla: As you go along can you explain if you have days? Because as you know the 20th the magistrate was involved so for 5 or 2 weeks the bank was closed down, we were there. So if you can please explain the timeline and what happened. I believe you did a second audit.

NM: Not a second audit. This was a continuation of the same audit. It was not a specific engagement.

AC Ian J Abdilla: So if you can now say the timelines, the dates, who was present for the meetings.

NM: I might not have all the dates. I think we meet the audit committee members the following week for a brief meeting at the bank at which the audit committee chair was not there because he had immediately resigned.

Magistrate: Who was?

NM: Mr. Philip Mercieca.

Magistrate: He reigned?

NM: He resigned. The director resigned and obviously he was not present. Present there were two other members. I cannot recall. I can actually look them up. By conference by the way.

AZ: I was present as well.

NM: So it was Mustafa Cetinel and Robert L Klingensmith. And there was also present in attendance Mr Hamidreza.

Magistrate: He was abroad if I am mistaken. Right?

NM: Who?

Magistrate: Ghanbari was abroad as well?

NM: No. He was present. He was in the meeting. This is a relative a short meeting basically explaining what I have just explained to you; that this creates a post balance sheet event and in terms of standards management have to consider the impact of the post balance sheet events on the financial statements and the impact could be either no impactor an impact which would require a disclosure or an impact which could also require an adjustment to the number depending on whether that reflects a condition which would have existed at the balance sheet date. Clearly this is something which we explained. We explained that the allegations required us to – but they were not doing nothing about it obviously, we had to be comfort – do much more procedures and we explained to them the process. The process was in four basically. 1 we had to make sure that we actually captured all the allegations and this is something relatively easy in terms of everyone was following the news and so we were not simply restricting our analyses to what was at the time but obviously we did understand that this was an evolving issue and we have to keep our eyes open to what was happening at least up until the date we decided to sign off. Obviously beyond that we cannot do anything else. So that is the first thing. Secondly we explained to them that under the circumstances we had to go again and look into the systems in much greater detail and we said that the object is to see whether or not there was any possibility of the system being manipulated, of transactions being omitted or extracted or modified or reversed. So that was part one and part two. The third part was obviously delving into the allegations once we get the comfort of the first two and the fourth was concluding. We told them that we could not give them any idea of the timing of the procedures and when these were to be completed. Obviously they were under a lot of pressure at the time because there were a number of others who were looking into there records and therefore they were split into them trying to answer our queries and answer other people's queries. But obviously we said that we have to do what we have to do and we could not be pressured into closing off our engagement until we are satisfied, if we are satisfied of the procedures.

Miroslava Milenovic: My major concern is and if you can clarify this to me, actually I do not understand why you were so surprised in April 2017 taking into consideration that you looked in all transactions all clients, all IML procedures to know your customer, transactions everything must gave you a confident that whatever is written in that article is a lie.

NM: But what happened on the 20th was totally news to us.

Miroslava Milenovic: I understand that it is just the news coverage. Because of that my question is why in that time to look deeply, to ask them if there is a double system or manipulation in transactions and everything? Why you did not do that even before? Did you as auditor partner for the bank, did you read this report related to some transactions performed by – I suppose- KPMG team in mid-2016? You had that?

NM: No.

Miroslava Milenovic: You were not aware of that?

NM: I was aware of it but not to the contents of the report.

Miroslava Milenovic: So you were aware that they did it.

NM: We are not permitted to actually look into the reports. Obviously we discussed the findings. But as soon as that was provided it could not be provided to me. I only get that from the client.

Miroslava Milenovic: But you were present on the audit committee when it was discussed?

NM: No.

Miroslava Milenovic: So actually you only knew that everything is ok but nothing in deep. Nothing in detail. Were you aware on what clients they checked?

NM: But we were aware of the most important thing, the FIAU told the bank that the problems that they had identified previously no longer exist. That is the …

Magistrate: The issue is on the 20th of April there were these allegations that were being published and what have you and of course from your end you decided that something had to be done here.

NM: Something more.

Magistrate: Something to these allegations. That is why I asked the question earlier on in relation to this specific point. However early on I used to word surprised and you said not surprised really but the fact that these news were news. Now the fact that it was news meant that before these news were published, for you there was no

reason to suspect anything on those lines because it did not find anything on those lines.

NM: I confirm that.

Magistrate: That is what I understood from what you were saying. Therefore and this perhaps ties to what Mrs Milenovic is saying. Once that on the 20th of April you sort of saw that this news to you and once that this is news to you there is an element of surprise, undeniably you cannot say no, her point is you knew that there was nothing thanks to your previous work so at that stage you should not have been surprised or worried or concerned because you should have had the confidence. It is a different way of looking at things.

AC Ian J Abdilla: If for example Egrant was mentioned, I presume that as part of your audit exercises throughout these last three periods you would have had a list of clients even in your files so by simply going back to your files....

Magistrate: Sorry for interrupting but if I am not mistaken the connection Egrant Pilatus was made on the 20th was not made before. Leave Egrant out of the equation for the time being. We will come to that very soon. But in order to access the frame of mind.

Miroslava Milenovic: They did not do just audit. They did this procedure, review on clients so they knew about before the 20th of April. So they were completely ok that everything is covered.

Magistrate: The point is on the 20th, remember the drama that took place.

AC Ian J Abdilla: What I was going to say is that the allegations that were made in the run-up to the 20th, in the few hours of the 20th was Egrant, the one million transfer.

Magistrate: So the allegations were on the 20th of April 2017 there were two main articles that were published by Caruana Galizia. Number one 4:41pm claiming that 1.017milion US dollars were transferred from the account of Al Sahra in Pilatus to Egrant in Dubai, that was the main drift of the article. 7:59pm Caruana Galizia publishing that Michelle Muscat was the ultimate beneficial owner of this Egrant company thanks to nominee shares held by Mossack Fionseca nominees. Those are the two allegations. And of course, the drama that took place. Those two articles in rapid succession after a whole week of build-up, after a two month break, I went through that and I know exactly what I am saying, so basically there was this sort of build-p that took everyone to a certain extend not by surprise because everyone was waiting for something to happen on these lines and that is why I used surprise earlier on because really there was an element of uncertainty as to when and what is going to come out but everyone was expecting something to out basically.

AC Ian J Abdilla: My point in my question was since your threshold was 200,000 for the audit and most probably part of your audit you would have kept captured also the client list, was not is just a question to go through your audit files, and see that there is no Al Sahra, there is Al Sahra, there was a transaction of 1.012 million which should have been captures through our threshold of 200,000 as an initial threshold. So technically if all the processes applied by KPMG were correct and properly functioning then the surprise was no issue.

Magistrate: There should have been no surprise. That is the point and please together with this address the point relating to the fact that roughly a year before certain issues were already flagged by FIAU. So basically, I think that is were Mrs Milenovic is coming from.

AC Ian J Abdilla: Just another point. For the audit of 2016, since the Magistrate mentioned this report of FIAU, so you as an audit team you were not aware because it might have been dealt with another section of KMPG and I understand that finally FIAU issued that clean report as a follow up, but did this incident....

Magistrate: It is not a fully clean file.

AC Ian J Abdilla: This incident of the original FIAU report, the KPMG and Camilleri Preziosi tasks and the final report by FIAU did it impinge on the way you did the audit in 2016 and perhaps even extending a little bit the scope of the audit? You were aware of this issue, did you consider that for 2016 you placed much more attention on KYC and documentation as part of your audit as well?

Magistrate: Did you higher your thresholds?

NM: Yes of course. There has to be a distinction between the normal audit and what is normally required and then the enhanced procedures which we need to escalate when something happens. We carry out the normal procedures around systems, around reconciliations, around client acceptance procedures. Those we do.

Magistrate: Also in 2016?

NM: Yes.

AZ: I think there is a fundamental misunderstanding we have to clear. You are assuming that an auditor knows all of the transactions of the clients of a bank and that is far from the truth. We are only interested actually in the financial statements and the veracity of the financial statement. All the work we do is leading to us giving the financial statement provide that true and fair view of the financial position of the bank. This is what we are interested in. we are only interested in rules and regulations in so far as the reputation of the bank may have an impact of its going concern. it is a very specific task and a very focused one. Obviously, we would not have a list of all

the clients of the bank. We an access it but we would not have it. We do not keep any documents of the client in our files. In our files we only keep copies of our work to come to the opinion and all of the file is leading to the financial statements. It is all linked to financial statements. We do not do a forensic audit. We have to satisfy ourselves that we are reasonably comfortable that the financial statements are correct. Whether there was the transaction of Egrant or not, from the point of view of the financial statement per se would have been totally irrelevant. Whoever the UBO is, is totally irrelevant accept for one fundamental difference, that if that allegation was correct and that allegation of the 20th is in my view the most damning of everything as that was said, if that was true then I think that in the circumstances there would have been serious doubt on the going concern of the bank because I do not think that you can ever justify the action of the bank in taking into account those transactions. This is what prompted. Then we looked at all the allegations.

Magistrate: It was the tipping point really.

NM: Just to make also another point, as part of our normal audit procedures we also look at what are known the four risk factors. We carry out an assessment as to whether or not when fraud can actually be perpetrated and how this is being controlled. So in terms of our normal assessments that did not highlight any issues. However when you are confronted with that allegation you cannot ignore it and then you have to enhance your procedures. So it is not a question of "Alright, I did enough. I can rely on that." No you cannot because now there is this specific allegation.

Magistrate: All of a sudden, a certain doubt would have been instilled in your frame of mind and therefore you start even doubting your own customer to whether he is really portraying and giving to you a true and fair record.

NM: We are required by standard to do that. The standard tells you is such cases that you need a higher level of persuasive evidence and that is what we sought out to do.

AZ: I think what you just said is very pertinent. The bank had a certain risk appetite and that was reflected in its client base. That risk appetite requires a much higher level of controls. The way the bank was set up and the documentation we saw in our agreed upon procedures reflected that higher level, the ones we saw as I said. So the risk appetite per se is an issue from the point of view even of the audit. But when you then come to a situation that this is not a risk appetite, this is beyond, nobody can justify. This is not a question of judgement anymore.

Magistrate: You stepped the line between risk appetite and noncompliance if not devious.

AZ: Precisely and that could not be ignored. This is when discussion with management became difficult because they were looking at us and saying, "Do you

believe this?" Obviously, it was not a question of whether or not, respective of our own personal opinions, it was not a question or not we believed it. It was a question we had the responsibility and we had to go down that road.

NM: When I went to the question, what should we do, should we resign, or should we do our job, at that stage our reasoning was very simple. There are these allegations, we are in a unique position, not having signed the accounts already, that the standards demand for us to do this, and perhaps we can bring some more clarity on this issue. We are doing our job and this is a good team. It is a bit our purpose if you know what I am trying to say.

AZ: It is our purpose actually.

NM: This is why we are here. Forget what is being said out there. We are professionals. As far as I know these people live in Malta, it was just before an election, they have families, there are a lot of issues and pressures and we are going to do our job and we are going to do it till we are satisfied one way or the other. This is the way we approached this.

Magistrate: This is also on the 20th. Can you please go through what your firm did from then onwards?

AZ: I already explained that we had a process in place to make sure that we capture allegations as they continued to evolve. The first thing we did obviously we said, look the only way we are going to get comfort is by trying to make sure that the system could not be tampered with.

Magistrate: When you say the system, what are you referring to?

AZ: We are referring to the banking system which is reflected by the Flexcube and then the interface with Thus as the swift bureau. So we spilt the transactions in two. We could have actually focused on one side, on the cash side but we also looked at the non-cash but let me start with the cash. The bank is not a Swift member itself so it uses the services of Thus Swift Bureau for transfer funds, for movements of funds. So we confirmed that that was the only service provider. We confirmed the integrity of the services providers by looking at other banks they service in the Americas and also in Europe. We confirmed directly with Thus that they only provided one specific service to the bank and that service was given by one organization within Thus.

AC Ian J Abdilla: Did you make personal contact with Thus or through the client?

AZ: Directly with Thus always.

AC Ian J Abdilla: You in direct contact.

AZ: No. Directly with Thus. We actually got all the data from the inception of the relationship from Thus until that date. We also asked them to give us an electronic copy of all enquiries made by the bank from inception to that point in time. So we hand in our hands the complete list of all incoming and outcoming Swift messages and the complete list of all the massages, the email messages which we went through to understand whether there was any request for modifications, for deletions, for diversions and all that. What we then did with the data is reconcile the data with the Flexcube, totally, all of them.

Magistrate: Since inception you mean.

AZ: From 18th of January 2014.

Miroslava Milenovic: You did this reconciliation between the Flexcube and Thus?

AZ: Yes.

Miroslava Milenovic: Did you find anything?

AZ: No.

Miroslava Milenovic: Nothing?

AZ: Everything was reconciled either electronically or manually.

Miroslava Milenovic: Completely.

AZ: Yes. This is something which can be done. If you have the date you can do it.

NM: not everything matched. Everything reconciled.

Miroslava Milenovic: There were differences?

NM: There would be but then you will understand whether or not those differences are acceptable differences obviously.

Magistrate: So there were differences but at the end of the day they were reconciled.

NM: Yes and they were not suspicious differences.

Magistrate: So when we are dealing with differences, are we running into hundreds, thousands, millions?

NM: In terms of number of transactions or in terms of value?

Magistrate: In terms of value.

NM: I do not know at the top of my head.

AZ: From what I understood of these, these differences there is an explaination for them. It is not because somebody did a mistake. There will be a separate story of every one of these. We had addressed this is a meeting.

NM: It is very important to point out that we also reconciled all the Nostro bank accounts. These all tie together. You have all the incoming and outgoing payments going into the system with Flexcube with we reconciled with the Nostro reconciliations. So in terms of movements of cash, they were all there. That was one part. Remember also that all the Swift messages make reference to the CIF numbers and therefore we could actually tie in to all the transactions within Flexcube. That was part to A. Then we looked at what could possibly be omitted or excluded from the system. And those could be the inter-account movements. So we started to do this by elimination. The first thing is there cannot be one single account which was hit by a cashflow which could be in any way modified without the client doing anything it and not leaving a trace. So all accounts which experienced a cashflow or a cash outflow following a cash inflow could not have been modified by a non-cash transaction without leaving a trace. So that is point number one. We only had to look at two accounts with no cash movements and the inter account transfer. So technically, if you were to speak to facilitation of oracle they will tell you there is no way you can actually delete two accounts without laving a trace. However IT specialists say that if you have someone who is really knowledgeable and have access to the database tables of oracle, you can actually modify that data and take two accounts out. So we said, "ok what is the risk of this happening? What is the risk of actually opening two accounts, putting debit and a credit and then removing those?" First of all Oracle said that it is very difficult to do it without leaving a trace but lets say you can still do it. You would have still to modify all the back-ups so you cannot actually modify the accounting here and the ignore all the back-ups and we had three data sets which we had acquired before and during the course of our audit and we could actually check that the SIFs that existed in the previous periods were actually found in the list. We also said, look even if they had to do that again, they would have to physically remove all the files relating to those accounts which again would have involved many more people to actually destroy the physical files from the premises. So in the end we obtained very strong and very persuasive evidence that the system could not have been modified in any way during the course of the three and a half years. Not just 2016. We did this from the inception. We got a high level of assurance on this part of the audit. This is a very important part because it would have let us continue with the procedure so if at any point in time we found something which said, look but you cannot conclude on this, we would have had what I refer to before as a scope limitation and we would have to stop there and say our opinion would have had to be a disclaimer under the circumstances. Let me stop here for a bit because probably you have some questions.

Magistrate: I have a question to pose. So when you started querying this technical aspect, did you also query whether the bank had an alternative banking system that could operate in parallel with Flexcube?

NM: We assessed that obviously. But cannot see how that could have been possible without the institution having no correspondent banking relationships, having the same name. that could have been impossible. The same IBAN, that would have been impossible. That would have been known in the market. It had to be a different institution under a different name and license somewhere else.

Magistrate: Lets be clear because as far as the allegations are concerned, the actual amounts that were allegedly transferred using Pilatus platform ran in the millions not in the hundred or in the thousands. And the allegations were very specific. If we leave out the specific details mentioned in the article, and the article was very clear that it was Pilatus Bank, it was Al Sahra account, and from Al Sahra account it went through to Egrant Dubai using Pilatus Bank. if we leave that aside for a moment, and this is something that I would like to clarify also, would it have been – it is a bit hypothetical but I have to pose it like that – feasible and if at all possible for a bank to execute any such payment transaction by-passing correspondent banks?

NM: There are other means but it would have to go to the Nostro system. You have to use your funds. Somewhere along the line you have to make contact with your cash.

Magistrate: Did you find any evidence in relation to the Nostro accounts?

NM: No. In fact what I said is that when we have looked at the completeness of the inflows and outflows in the Thus, the data we got, we reconciled that to the Flexcube which was the reconcile to the Nostro.

Magistrate: You could have the full picture.

NM: Yes. In fact we could have stopped. We could technically have stopped. But we did not want to end here. We could have stopped in the Nostro section but we did not want to because then you are excluding what you are saying; the possibility of other banks but having obtained all the flow of funds from Thus, we reconciled it with Flexcube and the Nostros, anything which could possibly have happened must have happened around it and not in the name of the bank and not under the bank's IBAN and under a separate jurisdiction.

AZ: We checked the perimeter and this is what we are saying.

Magistrate: As far as the article is concerned, it did not mention anything but Pilatus Bank, Pilatus banking system, through Pilatus bank accounts, going through correspondent banks so much so that a lot of hullabaloo was created even in the article

itself about US correspondent banks not approving the transaction, of people calling and stuff. And of course nobody mentioned any other, or rather the articles did not mention any other banking methodology, orthodox or unorthodox for that so please do continue on this.

NM: So that closes a very important part of our process and then obviously we started delving into the allegations. So here we said, look now we can actually look on whether or not the allegations were true or not. Not in view of whether or not we had to give an opinion of those allegations but whether or not those allegations could have an impact on the reputation and the license of the bank and therefore an impact on the going concern of the bank. just to link again to the original objective of the audit. So we started going through the allegations. Obviously the first one was the one you are mentioning, the transfer of…

Magistrate: 1.017 million dollars.

NM: The allegation said that it referred to Al Sahra and payments had been made out of this account in favour of Hearneville and Tillgate and Egrant allegedly as having Mrs Michelle Muscat as the UBO more specifically that 1.017 million were paid to Egrant into Dubai account together with a number of 100,000 payments January, February and March. Twice a week actually. Payments instructions given by Farnoush Farsian. So there what we did first we searched for Al Sahra FZCO which we did not find. You cannot stop there so we got all the pertinantions ond combinations of that name and went through the whole list and we found two similar names mainly Al Sahra FZCO which was of the Heydarov and it had only three deposits presented by rental income which the audit team reconciled to tenancy agreements. And then there was Sahra FZCO so there was a Sahra FZCO which had deposits pertaining to dividents receivable Yassad Gloria Hotel which was 100% owned by Sahra itself and rentaling income from General trading. All dividends were traced to the dividend warrants or reconciled to the audit financial statements. The rental income was to make 7 years statements. There were other transfers but they were inter account transfers because they had two accounts of Al Sahra either current or terms so it was inter account transfers. All outgoing payments were related to management fees payable to service providers related to the real estate. There were no one millions payments mentioned anywhere.

Magistrate: So you also analyzed the allegations in terms of figures not only in terms of names?

NM: We had actually then asked for the statements, the account statement, we reconciled it to the General Ledger and we went into transaction by transaction and putting evidence for each transaction and obviously we could not in any way support the veracity of that allegation. We also looked for accounts in the name of Farnoush

Farsian for example. Any connection, anything which was mention in the allegation was actually what we went into. Here it did not flag any issues in this respect. I do not whether you have any questions.

AZ: Actually in our work we had found no confirmation that the allegation was true.

Magistrate: Apart from the allegation related to Egrant, you also tried to see whether this Al Sahra company was also transacting with Tillgate?

NM: We went to all the transactions. Obviously I think a very important point is that we did not consider the allegations whilst we considered allegation on its own, we also considered the allegations in their totality. When you start also finding allegation number 1, nothing, number 2 nothing, number 3 nothing, then you star to get a different picture.

Miroslava Milenovic: It is clear that you did not find anything what was written in the article. Also according to the anti-money laundering law you also obliged to report any suspicious transactions. So after you lookin detail all transactions in Pilatus did you find anything what could maybe alert you that you file a suspicious report?

NM: We did not go through 100% of the database in terms of reviewing transactions. We checked that in terms of completeness and then we delved into the separate allegations in its widest terms. So any connections like I said – they mentioned Farnoush Farsian, we also looked for accounts…

Miroslava Milenovic: But you look Farnoush Farsian you look everything 100,000, you look around everything 1 million.

Magistrate: If you allow, the issue at this stage does not really center about the specific profiling of the transactions because that would go well beyond and apart from that there would be certain other issues and procedures that we would have to go through should there have been a shortcoming.

Miroslava Milenovic: May I ask then to rephrase my question. The international audit standards require that you will look related third parties. Am I right?

NM: Yes.

Miroslava Milenovic: Did you find any?

NM: Yes. Actually it was one of the allegations related to a loan to a Negarin Sadr which the allegation being that the payment of 400,000 out of funds made available as a loan to Negarin Sadr to a bank account held…

Magistrate: That was published the day after.

NM: Yes but we obviously went into it. You cannot ignore and that is why I said in the beginning that the first part of our additional procedures was to identify all allegations and that is something which we had to keep on doing regard to the signing of our opinion. So this was one of them. There was a loan to Negarin Sadr, his sister, it was a loan if 1.5 million dollars. It was directly paid to no one else but the SML ... ranch which they bought ... So we looked at other payments. There were no payments of 400,000 to anyone else and the only movement in the loan account was simply the debt interest, the monthly debit interest and the repayment of the loan of 9000 each.

Magistrate: So you did not find any evidence of any split payment for example or any other transaction warranting the 400,000.

NM: Obviously we traced the one million to the Swift message. So no if that was...

Magistrate: The 1.5 or the 1 million?

NM: The 1.5. So that we traced to the Swift message to its intended destination. I do not know what happened after. They still hold the account and they still hold the interest as a pledge against the loan. It is there. Whether or not they will recover anything from that is a separate issue.

Miroslava Milenovic: Any other related party?

AZ: We can go allegation by allegation. I think that is the best thing to do because I think it throws a light on the whole.

NM: I do not know whether it was part of the allegations which funded the acquisition of an apartment in Qui-Si-Sana, a loan which was being repaid by Ali Sadr himself.

Magistrate: And it was also mentioned in your report?

NM: Our final report does not make mention to a specific reference. Our report relates to the financial statement. This is accessible at the Registrar of Companies and you will find their opinion on the financial statement and their opinion on the financial statement in this case we have to go through a process ...going concern. In this case – I am jumping the gun here, we have actually concluded on the going concern but there is a specific reference in the audit report which is referred to a key audit matter where it says what we have considered to be a signification key audit matter referring to the allegations and how we have addressed it not in very specific terms because obviously you cannot specify procedures carried out during the course of the audit. So you have to give an indication of how you got comfortable with that risk.

AZ: Perhaps it is useful we go through the allegations and our findings?

Miroslava Milenovic: I think that the main thing is to understand what you audit.

Magistrate: But in subject to the matter of this case because I am not questioning their audit.

Miroslava Milenovic: It is about the relating parties. So international accounting standards together with your international audit standards require for that it will separately be disclosed all transactions to their related parties which means loans, all transactions and everything. Did you check that in your audit and also afterward in April when that happened? I am not talking here only about Ali Sadr loan or his sister's loan or his wife's loan. I am talking about a huge number of his companies.

AZ: The procedures as you say there is a requirement on the bank to actually have a process to identify related parties and on us to audit those related parties. So the first thing we do we assess how these are identified, we ask them for a list, we look at the relationship and how that relationship qualifies as a related party.

Magistrate: At this stage I am not really concerned about that. That could come at a second stage.

AZ: Disclosure in note 29, full disclosure for all related party transactions. I stand to be guided how..in another allegation if we can go through is the whistleblower claimed that Portuguese lawyers had visited Pilatus in order to open a bank account for a Portuguese company.

Magistrate: My task is very specific and it relates to those two allegations that we made on the 20th of April and that is why I kept strictly in line with what was mentioned in that website on the 20th of April. You already mentioned that the management, these two principle management figures Ali Sadr and Hamidreza Ghanbari they do seem to work out in a similar fashion as to what happens with Swiss banks and Swiss banking practice. However did you notice any signs of closed attitudes perhaps? Or a devious approach towards the banking system? For example did you ever notice whether these people were trying sometimes to take you for a ride or to give you wrong or incomplete to a certain extend? My concern is whether these people in the management of this bank - I mentioned Ali Sadr and Ghanbari because they are the top two, I do not know about the others – my main concern is whether these people were setting up a bank with state of the art technology, using Flexcube which we have learned it is one of the best core banking systems available around. We have had the original CEO of the bank claiming that he wanted to create the perfect bank. the issue is and this enquiry to a certain extent, did you encounter evidence of this bank creating a smoke screen perhaps, a dual system whereby on the face of it, it would appear to be carrying out legitimate business while in parallel it would be carrying out money-laundering activities? I am saying specific money-laundering activities because if these allegations were true, I think they would easily be qualified as money laundering activities. Did you discover or identify any evidence

pointing towards this sort of practice not only through the structures of the bank but also through the manner in which the top brass of the bank approached you, spoke to you, gave you information, you could have caught them lying to you at times? Sometimes it is little details that can make the difference.

AZ: The answer is no but I would clarify something. One thing which was quite evident that they did not trust everyone. It was not uncommon that it when it came to certain confidential information they would not allow everyone to review it. Normally said "I would like the manager to review this" or "We would like the partner to review this" or "we would like to discuss this with the manager or with the partner." But it was never a question of withholding information. It was never a question of us finding that what they told us was incorrect or incomplete but that sort of attitude yes, it was a bit of a nuisance sometimes but it not uncommon. That sometimes comes across as "why do they not want to give this evidence?" Yes this happened. Also for example asking for a full list with names. In the beginning they said, "We will give you the full list, you tell us which one you want to see and we will give you the files." We say "Look this is untenable for us. We have to have the full list." They would have given us the numbered accounts but not the names. They will ask us to choose and they will give us whatever we wanted. "Look this cannot work. We need to have.." So this sort of thing but we had never come across something which was discomforted or something to be a lie. That would definitely have ended the relationship there and then. I can assure you. That would have escalated.

Magistrate: Turning back to what you are saying in relation to the clients' list, when you asked for a full client list was it given to you in printed form? Were you allowed to verify it through Flexcube?

AZ: Both. We asked for it in printed form but then we can actually extract it from Flexcube.

Magistrate: But did you extract it yourself?

AZ: Yes ourselves.

Magistrate: So therefore you must have noted that the customer numbers...

AZ: Did not follow?

Magistrate: Did you query that?

AZ: We did obviously and that was one of the reason why we did additional procedures on the non-cash transactions because with the cash transactions all SIFs would be exposed. The reason why they skipped those numbers given to us clearly was that you could have a customer which would have been onboarded and then not authorized. When that was not authorized obviously that SIF is reversed and not

used. This is not uncommon. We have seen this in other banks. But that is why we were not happy with the completeness of the SIFs when we were looking at the completion of the transactions. So that is why we wanted to reconcile the cash movements with Flexcube and look at the probability of actually reversing any non-cash movements in the second part. That is exactly the reason why we did that.

Magistrate: I am asking this question because the information that this non-sequential feature in Flexcube stems from the algometry itself.

AZ: That was mentioned as well. Because we queried it.

NM: Obviously from what I told you so it is not just the algometry because if it was just the algometry I would say to ignore but you even could actually onboard something not authorize it and reverse it.

Magistrate: Point in fact we got the two versions.

NM: But the point is that we did not stop there. We could not rely therefore on that being a control supporting the completeness. So we had to ignore it. We had to ignore that reply. We had to say that that reply still exposes us to a risk so that is why we continued further procedures.

Magistrate: So essentially during the course of your enhanced analyses therefore of these banking system, of the banking practices and the allegations, did you come across any documentation in the bank either on digital format or on printed format indicating that the bank held any documents or any banking relationship with the companies Egrant, Tillgate or Hearneville?

AZ: No.

Magistrate: Did you interview any of the employees in pursuance of your enhanced query in relation to these allegations?

AZ: Yes. Continuously as part of the process.

Magistrate: Who did you speak to?

AZ: All of them. Antoniella Gauci, Dr Sant Fournier, the head of IT, Hamidreza. I think the only person I did not speak to was Ali Sadr himself.

Magistrate: In relation to the onboarding process of customers by the bank, especially in relation to PEP, did you see any sort of – you said that they were not really trusting everyone with information, that is understandable, but to what extend did you consider the bank to be forthcoming with its information when it came to PEP, Maltese PEP in particular?

AZ: When asked for information, except when they were reluctant to provide it directly to more junior staff, it has always been provided freely to the manager or the partner. No doubt about that. Even during the process I can say that although it was not a pleasant process they cooperated fully.

Magistrate: Did you manage to see or to obtain any printed documentation relating to the companies Egrant, Tillgate or Hearnville at Pilatus Bank?

AZ: No.

Magistrate: Any further questions?

AC Ian J Abdilla: Is it possible to have a copy of the report you did after the 20th of April so technically the data you got from Thus, the data you got from the reconciliation exercise? We are doing it as well so it would serve as a double check even for us so the data with the Nostro account, basically the exercise which you did.

AZ: You are referring to our papers here because our report is the report attached to the financial statements.

Magistrate: This is something which is internal to your firm now.

AZ: These are the working papers supporting our opinion.

Magistrate: Do you have that available?

AZ: If the Court orders us to produce them...

Magistrate: I prefer not to order but if needs be.

NM: We are legally prohibited unless it is a Court order.

AZ: I prefer a Court order so we can say that we gave them under a Court order.

Magistrate: So, you are being ordered please.

Miroslava Milenovic: May I ask about management letters. It there anything we need to know in those letters?

NM: The last management letter clearly highlighted the need to enhance the audit committee's governance structure because we were not happy with it. It obviously excluded any references to the enhanced procedures we carried out. I did not mention the fact that before releasing our opinion, we did have one final meeting with the regulator, the MFSA. We took them through the whole process as we did with you today and before actually releasing the opinion we asked them whether or not there is anything else which we should know about. Obviously this was something which was very sensitive and we gave the verbal confirmation at the time that there was

nothing that we should have been aware of before releasing the opinion. That is were it stopped. Then we signed off on the 23rd of June which was two months later.

Magistrate: Please do supply the supporting documentation to your enhanced analyses following the 20th of April events. As assistant commissioner Abdilla told you, it is exactly on the lines of what this inquiry is doing hence the lady here, the gentlemen sitting there who are coming over to assist the inquiry which is going into a lot of details of course. So basically that documentation will definitely will be of assistance to this task.

AZ: The documentation requested is our working papers relating to the systems.

AC Ian J Abdilla: I just wanted to clarify something. Are your working papers readable in some form of special software?

AZ: We will make them.

AC Ian J Abdilla: Yes please.

AZ: I think we should concentrate on the specific tests we carried out on the completeness of the systems. Is that right?

Magistrate: Of course!

AC Ian J Abdilla: Even the work on the allegations. That is a cross-match.

AZ: Ok. To whom shall we give this? The Court?

Magistrate: Yes please. It will have to be delivered under oath. Anyone of you can come over. It is a five-minute job. Nothing more and nothing less. The substance of the testimony is already there registered so basically it is a follow up to the main testimony. When do you think it would be passible for us to have this file?

Ix-xiehda ta' Noel Mizzi kompliet nhar it-2 ta' Mejju 2018 fejn huwa ppreżenta kopja tal-working papers relattivi għall-proċeduri li saru b'rabta mal-proċess t'awditjar tas-sena 2017.

Magistrate: Can you please explain your presence this morning?

Witness: Following your request I am providing the Court with a copy of all the working papers relating to the addition procedures carried out during the course of last year's audit. The working papers are in a format.

AC Ian Abdilla: Excel?

Witness: It is a PDf format with attachments and there is a group – I have explained in the covering letter – there is a section of messages that are not readable but we have reproduced those in XML format. It is all in there. Obviously, I am always available. Either myself or any of our IT specialists to assist to Court if so required after this session.

AC Ian Abdilla: IS the KPMG the auditors for Pilatus Bank?

Witness: Yes we are. In fact we are presently auditing the 2017 financial statements.

Magistrate: I think you had replied to that in the beginning of your testimony if I am not mistaken. We wanted to ensure that we got that right as well.

Miroslava Milenovic: So from Flexcube you extracted copied the database of Pilatus and then you extracted that to readable excel format?

Witness: In the work papers you mean?

Miroslava Milenovic: This, as I understood you put Excel files into PDF or XML.

Witness: First of all those are our work papers. Those are not documentation from Pilatus records. Those are the documentation that support our audit opinion. What you have there is an extract of our working papers, it is called a retention file which is produced in PDF because after 45 days of closing of the engagement, the files have to be closed and locked. So when we accessed those, they are in a PDF format with all the explanations and the attachment will retain the original format. So if it is an excel file, it is an excel file. If it is a word file it is a word file. If it is a PDF, it is a PDF and it is accessible to that file with the exception of a set of Swift messages, there are quite a number of Swift messages which are not readable unless you have our software. So what we did, we actually converted those into XML format for you which is in a separate file on the pen drive.

Miroslava Milenovic: What are the steps? You extracted the database, I suppose IT experts from KPMG extracted that from Flexcube and from Thus. Then you compared.

AC Ian Abdilla: From the nostro you said last time as well.

Magistrate: Can you please explain the methodology? I think that is the question.

Witness: Just for the sake of specifying, one of the work papers is an actual approach paper and there is a summary of work done and in the summary of work done, you can go through all the steps we have carried out and it is all set out before you can actually go into the more detailed work papers. That is one document you will find

there. So you are referring to our work on what we refer to as the completeness of the accounting records and specifically to those involving the cash flows of the bank and not the non cash transactions. There we have first of al that Thus is the only provider, it only provides Swift transfer services and then directly from Thus we obtained all the Swift messages and those Swift messages we obviously filtered and reconciled that it the accounting records of the bank which in this case is the core banking system Flexcube. Apart from that we also carried out procedures on the reconciliation of the nostros which are the bank accounts, those accounts that all these transactions will flow through. And so we have a three point check.

AC Ian Abdilla: But I believe what the Court expert would also like to know is, in the pen drive would we find all transactions you have extracted from Pilatus, all transactions which you have got from Thus or is it just your working papers?

Witness: I this it is our working papers. But there is detailed documentation.

AC Ian Abdilla: We will not find all the transactions that have been extracted from Pilatus?

Witness: I do not think that was retained on the audit file.

AC Ian Abdilla: You are not allowed to keep specific transactions or specific information?

Witness: We did not think that that was important. It is not required by standard to actually retain all the accountant records of the client on file.

AC Ian Abdilla: So we would just find the reconciliation and the audit papers.

Witness: The steps, the reconciliation we did on the working papers.

AC Ian Abdilla: So, as you said, you took the nostro account – let's say – a client information.

Witness: Not only, the nostro accounts is clearly a reconciliation process by the client but that is on the back of the bank statement confirmation.

AC Ian Abdilla: But the documentation on the nostro is like a clients' database ownership or client ownership, the Flexcube transactions would be client ownership, as you obtained it directly from the Thus, would that be directly included in there as well?

Witness: There is evidence of how we obtained all the records. I am not sure we have retained a copy of all the messages we received but it could be there. I have not gone to all the working paper. I just extracted it on the day, put it on a pen drive.

AC Ian Abdilla: If need be would all this documentation from Thus be available at your end?

Witness: Yes for sure. That is why I said that if you need anything else we will be happy to help.

Miroslava Milenovic: I have one more question. This is a huge work that your team and you did. I am sure it took months. Who paid that?

Witness: The bank. not all of it unfortunately but obviously it is part of a process.

Miroslava Milenovic: So that is the extra upon you agreed fee for?

Witness: The audit fees I never fix. It is by its very nature cannot be fixed because otherwise it would restrain your works. So afterwards, when you completed everything, you go with the time spend, you make a proposal for what are known as audit overruns and then you discuss whether or not that is acceptable and to what extend that is acceptable. But that was after the event.

Miroslava Milenovic: Did KPMG issue a management letter or any kind of – I do not want to say report – any paper to the bank regarding this conciliation with nostro accounts and everything or it was just for KPMG?

Witness: We do not share our working papers with the bank.

Miroslava Milenovic: Even correspondence with Thus? Nothing?

Witness: No. There might have been certain correspondence to make sure that they are actually authorized. So if I am discussing something with you and I need the client's authority, there we do copy the client so that the client then again – please proceed. So you will find a lot of those messages "please proceed to assess the audit. Please provide anything which you..." to that extend.

Magistrate: Now, one other thing that I wanted to clarify in relation to the technical assessment that was made in relation to the bank's core banking system and its database. Now if I understood you correctly last time, you said that one of the technical people that analysed Flexcube gave you the idea or opinion or view that technically it is possible for transactions to be deleted within the system itself. Am I correct?

Witness: Our IT specialist told me and this is on the back of the fact that the CIF numbers were not sequential. And if you recall I have mentioned that the client informed us that the reason for that was actually – I mentioned one and you mentioned another one and you were right. One was because of the... generation of the SIfs and the other one was that when a client is onboarded and not authorized that SIF is reversed and obviously when a system does not retain sequential numbers that

for us is not sufficient evidence. Although it is not uncommon, it si not sufficient evidence to look at completeness. And our IT specialist said that although fasilisation which is part of Oracle that actually said that it is impossible for the client to actually do it, our IT specialist said that someone with a lot of specialization and access to the database tables can actually go in and modify without a trace. That is why we ignored the SIFs sequential numbers and did more work. So in that way we did not think more about it. We said, "Look we cannot rely on this, we need to do more."

AC Ian Abdilla: But you mentioned that this procedure is not as easy as it sounds because even you need to have access to backups. Have you seen backups, have you managed to see?

Witness: we have not gone through all the backups. We had three points of data as at the 31st of December '14. '15 and '16 and we reconciled that. As you say it is difficult but once a doubt has been put in our minds from an audit perspective, we do not stop there. We continue especially in this particular case. We got the assurance we required by what are known as alternative procedures.

AC Ian Abdilla: You had the 2014 data, the 2015 data, the 2016 data. During your audit, would you compare with previous figures so that you see that everything is tallying?

Witness: Yes we did that.

Magistrate: And therefore I am to understand that the end result was that you managed to reconcile the bank's statements, final figures for the year '14, '15 and '16. Is that correct?

Witness: Yes.

Magistrate: And therefore on the bases of that reconciliation you considered it to be highly unlikely that the database was tempered with.

Witness: Precisely.

Magistrate: Because otherwise I presume it would have left some trace in the actual balances themselves.

Witness: Precisely. If we have not had the evidence, the persuasive evidence, we could not have concluded on our opinion as we did.

Magistrate: Fair enough.

Witness: I am just linking the fact that we got the evidence required because otherwise our opinion would have been a qualified opinion. That is my point.

Magistrate: Fine enough. But int his particular case given that you had the figures reconciled for each and everyone of the years '14, '15 and '16, then I imagine that that was sufficient evidence for you to exclude that they could have been tempering with database itself.

Witness: Yes. That with other evidence. Because we consider evidence in its totality.

Magistrate: So basically that is what I am trying to understand. So therefore apart from you having visited and analysed the figures for these years, then you took those figures and then you analysed also the truthfulness of the picture that was being given to you through – in this particular case – Thus and the nostro accounts?

Witness: Yes.

Magistrate: And when you had that picture drawn out, everything matched at the end of it? All figures matched at the end of the day?

Witness: Yes. No exceptions were noted. Let me just try whether I understood your question.

Magistrate: Let me try to be simpler in the way I pose the question. My suspicions are that there could have been instances where certain transactions could have been camouflaged. In the sense that – I do not know whether this is technically possible but I am making this as a hypothesis. So basically you would have a situation where the bank gives you a particular picture of transactions carried out without giving you the full picture of all transactions carried out. So on one hand you would have a respectable balance sheet – or what you call it, I am no accountant so excuse my ignorance in this field - whereas in reality all the real transactions that would have passed through the bank would have been another and of course the real historical truth would not necessary match with the bank's official front giving you as auditors, giving the regulator and so on and so forth. Is that scenario something that you considered when you were maki9ng this exercise?

Witness: Obviosly this is a scenario which we consider in all audits. So there is a risk of fraud and the risk of declined. Actually, there are two types of fraud. One is known as misappropriation of funds where funds are actually lost and one is of financial reporting fraud and both are extremely important. In this particular case our work did not stop at the reconciliation stage. Reconciliation stage was simply the first part. It was simpler. It took a month and an half to get to it to make sure that all the messages, all the transfers were there and were there intact. The second stage was delving into the transactions and obviously from doing the first one you do not get sufficient comfort. That is just the completeness part. It simply tells you, "look all the transactions, all the messages have been reflected in their counting records." But then obviously we looked at the specific transactions focusing to those accounts which I

talked about last time. And to answer your question, just to give you an example, for example, if we were referring to a payment of 400,00 to someone who was being alleged as receiving a bribe we look at the Swift message and the beneficiary of that message and as I explained last time, obviously we did not go beyond that part because that would be impossible for anyone. Probably it is possible but we had to stop there. So if a payment is clearly evidence that it reached the intended destinations and there is evidence to the Swift messages, that is for us sufficient evidence that it did no go anywhere else.

Magistrate: But you did not encounter or uncover or manage to uncover any other alternative or parallel system that the bank was using in this particular case?

Witness: No and we did not either come across with we also refer to as disconfirming evidence. So evidence that seems to contradict what the management was telling us in respect of those transactions.

Magistrate: For the time being we go through the data that you supplied. Should there be the need of course we will contact you accordingly.

Witness: Just one important thing, that if there are follow up questions of a highly technical nature I would need to get someone with IT because that is not my area.

Magistrate: Eventually should there be the need, you would be advised beforehand who we intent to summon if we reach that stage and the reasons why.

Flimkien ma' din ix-xiehda qiegħed ukoll inżid is-sunt tar-riżultanzi tal-eżerċizzju magħmul mill-*KPMG* aktar il-fuq imsemmi. Dan is-sunt juri sewwasew il-qofol ta' dak li xehed fuqu Noel Mizzi. Dan is-sunt jgħid hekk : -

	Private and confidential
To	**Files**
From	**Noel Mizzi**
cc	**Team**

Date 23 June 2017

Ref Summary of work done

Summary of work done

Part 1

Since 20 April 2017, a number of serious allegations have been made by a blogger which mention Pilatus Bank as the medium by which corrupt practices have been perpetrated. Fresh allegations continued to sprout on a daily basis from many different media and political sources. Since then, a number of magisterial enquiries have also been requested, in which we understand that the Bank is involved. It is pertinent to point out that since the Election Day, the persistent mention of these allegations has abated significantly.

One of the risks we wanted to cover, in assessing the impact of post balance sheet events, is to be in a position to capture ALL events as these continued to unfold. We do however believe that the allegations out there are substantially captured by 4 reports made publicly available by the media and said to have been compiled by the FIAU (one out of the four reports was so confirmed as Pilatus received a copy of such report) – refer to **4.5.5.2.6** for copy of the reports. In addition to this, we also considered allegations made as a result of testimony by a whistle blower.

All these allegations have been documented in as much detail as possible to the extent that these relate to Pilatus Bank. We have maintained track of what was being alleged up till this morning. Refer to **4.5.5.2.2** for a summary of all the allegations which involved Pilatus Bank.

Part 2

Before carrying out any work that confirms or otherwise the veracity of the allegations, we embarked on looking closely at the systems used, with a view to ascertain whether these can be relied upon for the purpose of the required additional procedures. More specifically, we addressed the risk that transactions could have been deleted or omitted during the course of the bank's existence and which would therefore present a scope limitation on our follow up procedures.

As part of the audit team's objective to test the completeness of the transactions captured by Oracle Flexcube, we have reviewed the risk that

transactions are omitted and/or deleted from the accounting records. We have approached this risk by identifying two types of transactions:

1 Transactions that require the movement of funds to or from the Bank; and

2 Transactions that require transfers of amounts between accounts held with the Bank

In addressing the first set of transactions, we:

1 Confirmed that the Bank uses SWIFT only for funds flow purposes;

2 Confirmed that the Bank only uses TAS as the SWIFT service bureau;

3 Reviewed the agreement between TAS and the Bank which confirmed that TAS only provides SWIFT services to the Bank (refer to 4.5.5.2.150);

4 Confirmed with TAS that the Bank is only provided such a services from TAS Group Infrastructure – refer to 4.5.5.2.221;

5 Have been provided with an electronic copy of all the incoming and outgoing SWIFT messages for the entire period TAS were engaged by the Bank ('the archive') – **refer to folder 4.6.3.C.1.A**;

6 Have been provided with an electronic copy of all service desk requests and / or similar correspondence for the entire period TAS were engaged by the Bank;

7 Received confirmation that the record TAS holds of the SWIFT messages is a complete and accurate representation of all the SWIFT messages processed through the TAS Group infrastructure – **refer to 4.5.5.2.221**;

8 Obtained TAS SWIFT SIP Certification containing security controls – **refer to 4.5.5.2.231**;

9 Reconciled SWIFT transactions to the Bank's accounting system; and

10 During the statutory audits for the financial years ending 31 December 2014, 2015 and 2016, we have tested the relevant controls over the Nostro Reconciliation process as well as performed substantive testing on the Nostro accounts.

The second set of transactions relate to intra-bank account transfers that do not involve the flow of funds. Such transactions are recorded on Oracle Flexcube and do not require the use of other systems or the intervention of third parties. The Bank does, however, use Oracle Software Facilization in maintaining the system.

The risk being addressed in this case is whether transactions can be intentionally omitted or deleted from the accounting system. The IT specialist members of the audit team have been looking at access controls over the database and in particular around

the Customer Identification File (CIF) creation and maintenance. It would appear that CIFs are automatically generated by the system sequentially albeit allowing for CIF numbers to be purposely skipped. Such numbers are taken without being allowed to be used again in the future (possibly to retain the sequential nature of the CIF numbers). Similarly, CIF numbers that are on boarded but eventually not authorized are also taken out and not used. From an audit point of view, an issue arises as no audit trail is maintained of the unused CIF numbers. This situation, however, is not different from what we have seen in at least three other Banks in Malta that use the same system. As a result, we considered other matters as follows:

1 FACT: If a CIF is deleted because it has not been used, the number is lost as are those numbers that are skipped through the automatic generation of sequential numbers. In any case, such CIFs are irrelevant for our analysis as in such a case a customer has not been authorized onto the system;

2 FACT: For CIFs to be created and subsequently deleted, no incoming and outgoing fund transfers must have occurred. Otherwise, a reversal would result in another account being debited or credited with a cash flow that is unrelated. No such instances have been identified;

3 Through system screens, it should not be possible for authorized CIF to be subsequently deleted without leaving a trace. This was also confirmed by Facilization. However, access to data tables would always enable deletion without a trail;

4 It is highly unlikely to have such CIFs for a long period without cash flows having been effected through such accounts. We fail to see the purpose of opening such accounts in the first place if cash is not to be remitted from or to such accounts;

5 The deletion of such accounts in the recent past or at a point in time when transactions became possibly suspect is a highly risky process as this would entail the tampering of all previously held back ups maintained from the point of the opening of such an account. In addition, the audit team is in possession of three points of customer data points (at each balance sheet date) that tie up with the lists provided. Given the remoteness of such fraud being perpetrated, the risk of discovery and the knowledge that the Magisterial Inquiry is in possession of all back-ups, we decided that reverting to back-ups was not necessary;

6 It is also pertinent to point out that the intra-bank transfers mentioned in the allegations, i.e. the transfer of amounts from Willerby Trade Inc to Keith Schembri and the granting of the loan to Negerin Sadr, were both found in the accounting records. Also, in relation to Jvest entities (Portuguese companies) there was an appointment of new director (Angola PEP) after the Bank accepted the client. However, it was subsequently closed as part of the Bank's client continuance processes. Therefore, there is no indication of omitted transactions from those known to have existed;

7 Also, the deletion of previously created CIFs would mean that all such physical files maintained by the Bank would have had to be destroyed. Also, this would entail modification of correspondence or other documentation of the contra CIF account. At the end of the day, accounts cannot be debited or credited unless there is an original source of funds and therefore, a single account that would have been debited or credited by a cash flow would have had to exist. This would involve collusion of a number of people (possibly everyone) at one point or another of the onboarding or continuing servicing of such a client. This is, again, an extremely risky situation to control.

In view of the foregoing, the probability that the Oracle Flexcube database has been manipulated is highly remote. In fact, there is probably a higher risk of a deletion being detected than an illicit transfer being detected if left recorded in the system.

On the basis of the above, we have obtained sufficient appropriate evidence that allow us to rely on these systems for completeness of the transactions.

Part 3

The final part of the process has been to delve into each and every allegation mentioned, as stated in Part 1, and performed the following procedures:

1. Obtained a statement of account for all corporates and individuals mentioned in the allegations. Each statement was scrutinized on a transaction by transaction basis (except for bank charges) and documented the nature of each entry. Where necessary, such entries were vouched to the supporting documentation held on the physical files of the respect CIF – **refer to 4.5.5.2.3**. It is pertinent to note that the supporting documentation used was a copy retained by the Bank after ALL originals were confiscated by the Police as part of the ongoing Magisterial enquiry. Each page has been numbered and endorsed by a Police Constable to maintain the security of such documents;

2. Specifically sought to trace alleged incoming and outgoing payments to the statements of account extracted from the Bank's system. The findings of the alleged transactions are summarised below:

a. Allegation 1 – Transfer from Willbery Inc to Keith Schembri

Through review of Willbery Trade Inc bank statement, it was noted that Willerby received €166,831 in referral fees from three Russian individuals. The bank obtained copies of the invoices issued by BT International Ltd. Moreover, a letter was sent from Willerby to BT International notifying it that such

incomings were deposited to Willerby bank account in anticipation of dividends that will be paid by Nexia BT Holdings to the partners of NexiaBT. The engagement team reviewed the invoices and the letter at client's premises.

There were two other transfers in the account originating from an account held with BOV in the name of BT International Limited. Such inward transactions had a total value of €583,617. To support these transactions, a letter was presented to the Bank addressed by Willerby Trade Inc to BT International Ltd notifying it that such amounts will be withdrawn from BT International's bank account and transferred to Willerby bank account. These amounts related to dividends that were issued by Nexia BT Holdings, which were traced to the respective dividend warrants.

In relation to the transfer of €100,000 from Willerby to Keith Schembri, the bank obtained the following:

- Loan agreement dated 12 March 2012 entered into between Brian Tonna and Keith Schembri for the sum of €100,000 as assistance during the separation proceedings of Brian Tonna;

- Assignment approval dated 12 January 2015 of such loan agreement whereby the debt was assigned to Willerby Trade Inc

- Assignment of such loan agreement dated 2 February 2015 wherein Willerby accepted to repay the loan originally granted to Brian Tonna.

b. Allegation 2 – Purchase of mansion through Willerby Trade Inc for £17 million

Apart from the transactions mentioned under (a) above, there were no other transactions which passed through Willerby Trade Inc account. Hence, the engagement team concluded that the above mentioned allegation is not supported by the Bank's accounting records.

c. Allegation 3 – Al Sahra FZCO's payments to Panama Companies

The engagement team scrutinized the list of Bank's customers and noted that no bank account is held in the name of Al Sahra FZCO. However, the engagement team checked substantively whether the alleged named company has any connections with the Sahra companies found in the books of the Bank.

The engagement team identified two Sahra entities:

- *Shams Al Sahra FZCO*

From the review of the bank statement of Shams Al Sahra, it was noted that the account only had three incomings pertaining to rental income. These transactions were traced to signed tenancy contracts and other support.

- *Sahra FZCO*

Through review of the bank statements of such customer, we noted that the incomings pertain to dividends received from Yassat Gloria Hotel Appartment LLC (100% owned by Sahra FZCO) and rental income from Mirk General Trading LLC. Any dividends received were traced to the audited financial statements of Yassat, and if not available to its management accounts. Incomings from Mirk represent accumulated rental income from villas owned by Sahra FZCO. These were traced to Mirk's net revenue statements.

In addition to the above, there were 3 internal transfer of funds from the AED account to the USD account, both held by Sahra FZCO.

Any outgoings of funds relate to professional fees paid to management and legal consultants. These were traced to the respective invoices.

Moreover, through review of the client list it was noted that the Bank does not hold and never held any bank account in the names of Egrant, Hearnville and Tillgate.

d. Allegation 4 – Negarin Sadr's loan

Negarin Sadr took a loan of USD1.5m to purchase 12.375% interest in SMT Pistachio Ranch and Management LLC. The engagement team obtained the approved loan agreement and traced the payment of USD 1.5m directly to SMT Pistachio to swift message dated 4 February 2016.

Negarin Sadr holds a USD account at Pilatus Bank. Incomings in such account relate to family remittances which are then used to honour loan interest payments (outgoings). The engagement team did not identify any payments of $400,000 from Negarin's loan account to bank account held by Michelle Buttigieg as alleged.

e. Allegation 5 – Payments from Keith Schembri to Adrian Hillman

Adrian Hillman holds a bank account with Pilatus Bank, in the name of Lester Holdings Ltd. Through review of the client list, it was noted that no bank account was held in Adrian Hillman's personal name.

The only incomings in Lester's bank account originated from Kasco Limited which amounted to €10,000 (two incomings of €5,000 each). For these incomings, the Bank was provided with two invoices indicating that these payments represent advisory services as per agreement on RFID.

Following the receipt of such funds, the sum of €9,500 was transferred to MFSP as payment of fees. No other transactions were passed, except for payment of bank charges.

e. Allegation 6 – Vitals consultant received payments in Pilatus Bank

The allegation mentioned that Mr Asad Shukat Ali, consultant of Vitals Global Healthcare Limited, opened a bank account at Pilatus Bank in the name of Planetcore Malta Ltd.

Through the review of the clients' list, the engagement team noted that the Bank holds a bank account in the name of Planetcore Malta Limited. A number of transactions passed from the bank accounts of such entity which mainly related to entertainment expenses, the hire purchase payments of a Mercedes C Class car, rental payments of villa in Bahar Caghaq and its registered office at Floriana, and monthly consultancy fees to Mr Asad Shaukat Ali and Mr Shaukat Ali Chaudrya. These consultants were engaged by the Planetcore but there is no indication that it has anything to do with Vitals Global Healthcare Limited. The engagement team reviewed the signed consultancy agreements.

Incomings in banks accounts held by Planetcore were very limited which mainly pertained to contributions by the UBO or contributions by other companies owned by the UBO such as Sohum Wellness LLC.

Through review of the client's list it was also noted that the bank holds an account with Eurasia Ltd, for which the UBO is Mr Asad Shaukat Ali. However, from such account no transactions were passed except for various bank charges.

3. Reviewed copies of:

a. All correspondence with FIAU including full reports;
b. PwC internal audit reporting of November 2016 covering the Bank's AML procedures;
c. KPMG's report on the Bank's AML in response to FIAU's report;
d. MFSA correspondence to date; and
e. All other reports made publicly said to have been compiled by the FIAU.

Refer to **4.5.5.2.4 & 4.5.5.2.5** for correspondence with the MFSA and FIAU.

Part 4 Conclusions

1. Discussed with the team and assessed whether there is evidence of possible non-compliance with laws and regulation. The team concluded that none was identified. With hindsight an STR in the case of the transfer from Willerby to Keith Schembri may have been warranted;

2. Considered whether we should refrain from continuing with the engagement unless a forensic examination is undertaken. Given the level of assurance achieved (very high) vs the reasonable assurance sought, no further testing was deemed necessary;

3. Considered the involvement of external legal counsel in assessing the outcome of the assessment and beyond. The procedures, findings and conclusions of the audit team were discussed with the EQCR, the Senior Partner, RMP and the two other audit partners in great detail setting out all considerations as aforesaid. Given that our conclusions agreed with those of the client and a high level of assurance was achieve, the audit team and the other involved as mentioned above agreed that it was not considered necessary to consult external legal counsel. In particular, the potentially different outcome of the magisterial enquiry should not be considered in arriving to our conclusion, not least because the enquiry is not in relation to any charge against the bank;

4. Considered the client's disclosure of such events in the draft financial statements in the light of what we know from internal and external sources to the Bank – these were discussed in detail and our comments were fully taken on board;

5. Considered the status of the magisterial enquiry (or any other known investigation at the time) and any reports made available to the public. All information available to the bank or to the public was taken into account. The magisterial enquire is still in progress (see also comment under 3 above);

6. Held meeting with the MFSA to discuss the findings and conclusions. Enquired whether there is anything that we, as the external auditors, should know about before we release our report. Meeting was held on 22 June. Engagement Partner and RMP met up with Karol Gabaretta and Ray Vella from Banking Supervision. We explained in detail the procedures performed as aforesaid, referred to the one management report point relating to the constitution of the audit committee and explained how we concluded on the unmodified opinion. We also showed them a draft of our report and the inclusion of the KAM relating to the compliance with laws and regulations. They were pleased to be informed of our procedures and conclusions and from

their end confirmed that they were not aware of anything that we should know about before we release our opinion.

7. Draft auditors' report discussed with EQCR, RMP and SP together with the engagement team. Considered the impact of our meeting with the regulator and concluded that no modifications were necessary. The report is to be issued by early adopting ISA 700 and ISA 701 to include KAM for the current year covering Non-Compliance with Laws & Regulations.

Minn din ix-xiehda u mill-kopja tal-ittra li eżebixxa Noel Mizzi u li tifforma parti mill-atti ta' din l-inkjesta jirriżulta li *KPMG* għamlet eżerċizzji simili għal dawk li ġew kondotti f'din l-inkjesta mill-*Forensic Accountants* maħtura. Ir-riżultanzi tagħhom, kif jidher mill-istess rapporti huma fil-parti l-kbira tagħhom simili, jekk mhux identiċi, għal dawk li stabbiliet din l-inkjesta.

<u>Ix-xiehda ta' *Deloitte Malta* – Rapport dwar ir-Riskju</u>

Stephen Paris xehed nhar il-25 t'April 2018 fejn ikkonferma li *Deloitte Malta* kienet għamlet xogħol ta' konsulenza bħala *risk and regulatory advisers* lil Bank Pilatus. Ix-xogħol sar bejn Ottubru 2016 sa April 2017. Il-ħtieġa għal dan ix-xogħol tnislet mill-fatt li l-*European Central Bank* bidlu ħafna regulations fil-*banking sector* u minħabba dan offrew is-servizz li jgħallmu u

jispjegaw ir-*regulation*. Il-*letter of engagement* kienet tikkonsisiti fi training għall-Bord tad-Diretturi, *gap analysis* kif ukoll kif inhu l-operat tal-Bank Pilatus mil-lat regolatorju.

Gap analysis hu analiżi bejn ir-*regulation* u l-istat tal-Bank Pilatus kif qed jaddotta r-regulation. Imbagħad bħala bank huma obbligati jagħmlu ċertu rapporti fuq l-istat tas-sistemi elettroniċi jew kif joperaw mil-law finanzjarju l-Bank. Iridu jagħmlu rapporti fuq jekk jiġri xi ħaġa li l-Bank jitlef il-flus, jekk hux se jibqa' biżżejjed flus fil-Bank biex id-depositanti jieħdu flushom eċċetra. Għamlu diversi *presentations* u rapporti fosthom *gap analysis report* u erba' rapporti fuq il-*business analysis* u *internal capital process report* u *internal liquidity assessment process report*.

Dawn huma obbligi tal-bank li jridu jagħmlu fuq bażi annwa. Dawn huma rapporti l-Bank ikun irid jagħmel lil *MFSA*. Minħabba l-kumplessita ta' dan l-eżerċizzju il-Bank Pilatus ried l-ispeċjalizzazzjoni ta' *Deloitte* f'dan il-qasam biex jgħinuhom jagħmlu dawn l-affarijiet. Per eżempju in meritu għall-governanza tal-Bank, ir-*regulations* fuq il-governanza tal-*ECB* jeħtieġu li l-Bank irid jagħmel il-kumitati. Fit-*training* li tawhom *Deloitte*, spjegaw lil Bank bħala parti mill-*gap analysis* li hemmhekk skont ir-regolament kif ġejjin u kif inhuma jridu jagħmlu ħafna iżjed formulazzjoni ta' kumitati, fosthom *Audit committee, credit committee* u *risk committee*. Peress li l-Bank kien żgħir

ma ma kellux dawn l-istrutturi u ried jagħmilhom biex ikun konformi ma dawn ir-regoli tal-*ECB*. *Deloitte* pero ma daħlux fl-operat tal-Bank *on a day to day basis*. Kien involviment professjonali fuq livell strutturali.

Dawn is-servizzi ġew mitluba minnhom mingħand Hamidreza Ghanbari. Kien hemm ħafna *interviews* mal-istaff tagħhom *at all levels*. Dan it-*training* għamlu Dimitrios Goranitis li pero ma għadux jaħdem ma *Deloitte Malta*. Kien hemm ukoll *managers* oħrajn. B'kollox kienu xi ħamsa minn nies. Dan l-eżerċizzju għamluh kemm lil Bank Pilatus kif ukoll Banek oħrajn fosthom *BOV, HSBC* eċċetra.

Mal-Bank Pilatus l-ewwel fażi kienet *Board training* u l-*gap analysis*. It-tieni fażi kienet it-tqassim ta' dawn l-erba' rapporti u dawn kellhom jiġu approvati fil-bord tal-aħħar ta' April 2017. Kien hemm ukoll ħsieb li ssir it-tielet fażi iżda din ma seħħitx. Wara April 2017 *Deloitte* ma ħadmux aktar mal-Bank Pilatus.

Dawn l-erba' rapporti li kellhom jiġu approvati fil-*Board Meeting* ta' April 2017 kienu saru bl-*interviews* u l-informazzjoni li taw il-Bank Pilatus. Dawn ir-rapporti kienu jikkontjenu stat ta' fatt u mhux opinjoni ta' *Deloitte*. Dan allura ma kienx eżerċiżżju t'Awditjar iżda forma ta' *technical review* tas-

sistemi adoperati mill-Bank Pilatus. Dawn ir-rapporti ġew mgħoddija lil Bank Pilatus, iżda ma kienx jaf jekk il-Bank wettaqhomx. Biss bħala *deadlines* huma kellhom sal-aħħar t'April 2017. Ir-rapporti kienu lesti sal-*Board meeting* li kellu jsir fit-23 t'April 2017 u dan peress li dawn id-dokumenti riedu jiġu sottomessi lill-*MFSA* sal-aħħar t'April 2017. It-*training* għall-Board tad-Diretturi sar f'Novembru 2016; il-*gap analysis* sar f'Diċembru 2016 iżda d-dokumenti tar-rapporti intbagħtu fil-ħin qabel il-*Board Meeting* ta' April 2017.

L-obbligi li din ir-*regulation* timponi huma oneruża fuq banek żgħar. Allura kien hemm ċerta tħassib dwar kif il-Bank Pilatus kien ser iwettaq dawn l-obbligi. B'hekk bdew jagħtuhom l-ideat dwar kif setgħu iwetqu dawn l-obbligi. Tawhom ukoll interpretazzjoni tar-*regulation* u kif se jiġu addotati fis-sitwazzjoni tagħhom.

Imqabbel ma banek oħra f'Malta il-Bank Pilatus kien wieħed mill-banek ż-żgħar li huma *start-ups* li dawn dejjem se jkollhom din id-diffikultà ta' nies, ta' proċeduri *at this level* u waqt li l-*ECB* dejjem qed toħroġ dawn ir-regolamenti l-ġodda dawn il-banek qed isibuha diffiċli biex jaddottaw sistemi u strutturi biex ikunu jistgħu jlaħqu ma' dawn l-obbligi.

Deloitte innutaw li riedu jifhmu n-natura tal-*business* li kellu l-Bank Pilatus u li kien hemm ħtieġa *geographical risk*. Dwar *AML* huwa ġew *tackled* fuq livell ta' verifiki u mhux fuq livell ta' klijenti jew kontijiet partikolari. *Deloitte* ma qagħdux jidħlu fuq l-operat jew kontijiet speċifiċi.

Ix-xiehda ta' *Price Waterhouse Coopers* – awdituri interni

Matul is-seduta tal-25 t'April 2018 xehdu wkoll David Valencia, George Sammut, Roberta Schembri, u Deborah Lorraine Gatt ilkoll in rappreżentanza tad-ditta *Price Waterhouse Coopers*. Din id-ditta kienet tagixxi bħala *internal auditor* għall-Bank Pilatus. Minħabba l-importanza tax-xiehda de quo, din ġiet riprodotta integralment.

> DV: So I was appointed managing partner of Price Waterhouse Coopers on the 1st of October 2017. Our engagement with Pilatus Bank occured before that date and I was not involved in any way in that engagement. So I can only tell you from the firm's point of view that we were engaged initially from the 13th of February 2014 and our last engagement was carried out in December '16. We then reissued proposal to continue working with Pilatus Bank, they never came back to us until June 2017 whicb by that time we were uncomfortable in continuing with that engagement. In terms of the detailof the work that we carried out my colleagues here will be much more able to describe.
>
> Sur Maġistrat: Min jista' jispjega daqsxejn x'kien it-task?

GS: Kif qal David Valenzia we were appointed to carry out internal audits. Aħna konna f'audit committee u konna niġu appointed biex nagħmlu assignement speċifiċi bbażati fuq risk assessment fejn kienu r-risks u hekk u konna nagħmlu assignements, jiġifieri nmorru nagħmlu fieldwork u nagħmlu rapport. Dan ir-raport nippreżentawh lill-management, il-management jagħtina feedback u kummenti u pjanijiet kif se jindirizzaw ċertu issues imbagħad nippreżentaw ir-rapport lill-audit committee. Fi żmien li konna appuntati għamilna serje ta' dawn l-assignments. Se nagħti lista tagħhom. L-ewwel wieħed kien deployment of IT. F'July 15th ippreżentajna r-rapport. It-tieni wieħed engagements of new clients. L-istess July 2015. Processing of client's transactions December '15. HR processes and procedures January '16. Procurement July '16. Regulatory July '16. Anti-money laundering ongoing November '16 u l-aħħar wieħed kien issuing of loans. Dan l-assignment ippreżentajna draft report imma ma tawniex feedback u allura ma ħriġniex the final report.

Sur Maġistrat: Issa dawn ir-rapporti kienu intiżi biex jolqtu speċifikament ċertu issues jew ċertu aspetti li l-bank kien qiegħed jitlob lilkom jew inkella kif kienet is-sitwazzjoni biex tirregola eżattament it-task tiegħek x'kellu jkun u kif kellu jiġi mwettaq?

GS: Qabel kull sena kien isir a risk assessment jiġifieri nħarsu lejn x'inhuma r-riskji tipikament ta' bank, l-operat anke fi żmien li kien qed jopera u fuq din il-bażi u skont x'audits oħra saru fis-snin ta' qabel – ma hemmx għalfejn jiġu repetuti jekk xi ħaġa hija ta' ċertu riskju – imma jiġu ppreżentati l-lista lill-audit committee u jkun hemm deċiżjoni. Pereżempju li jsiru tliet audits jew erba' audits f'sena allura jintagħżlu dawk li l-audit committee bħala supervisory body jaraw li huma tajjeb li jsiru f'din is-sena li ġejja.

Sur Maġistrat: Min kien jagħmilhom danw id-deċiżjonijiet? Min kien joħodhom? Kontu teħduhom intom bħala awdituri jew joħodhom il-bank fir-rigward ta' ħteġijiet li kien ikollu?

GS: Aħna konna nipproponu fuq il-bażi ta' risk assessment li jkun ibbażat fuq diskussjonijiet mal-management u imbagħad l-audit committee jew jagħmel endorsement jew tissuġerixxi liema jiġu l-ewwel jew jidħol audit ieħor allura l-oħrajn jew isiru aktar tard jew anke s-sena ta' wara. Dak hu l-proċess.

Sur Maġistrat: Fir-rigward tal-mod kif intom kontu tagħmlu approach ta' danw it-tasks. Kifkontu tagħmlu? Pereżempju you deploy min-naħa tiegħek? You delegate impjegati partikolari? How do you go about it? Kif taħdem bħala tim?

GS: Jien l-engagement leader allura skont l-area tal-assignement ġeneralment għandna an internal audit team u an internal audit huwa li tivverifika li l-affarijiet li qed isiru fl-operat huma skont il-proċeduri u skont il-policies. That is the base line.

Allura l-proċess ikun li nitolbu l-informazzjoni. Pereżempju policies jekk qed inħarsu lejn ċertu area, naraw il-policies u l-procedures f'dan ir-rigward u jkun hemm tim ġeneralment led by a manager u jkun hemm xi associates staff u junior staff imorru u jkun hemm sampling process, jekkikun hemm tests ta' dan it-tip. L-ewwel ħaġa hi li nifhmu l-proċessi kif qed isiru u min jagħmilhom eċċ.

Sur Maġistrat: Tmorru on-site jiġifieri.

GS: Inmorru on-site iva. Wara li nkunu fhimna l-proċessi ngħidu mela li rridu nagħmlu test ta' dan it-tip biex nivverifikaw li din l-attività qed issir kif suppost fil-proċedura. Allura nieħdu sample jew nitolbu dokumentazzjoni biex naraw jekk dak li suppost isir hux verament qed isir u nħarsu lejn evidenza li jagħtuna l-klijenti.

Sur Maġistrat: Din l-analiżi li tkun qed issir, tkun qed issir fir-rigward ta' informazzjoni li tkun qed tirċievi mingħand il-klijent. Jiġifieri int se tmur on-site, int għandek il-parametri ta' dak li int trid tasal għalih u se titolbu l-informazzjoni? How do you go about it? Spjegali daqsxejn.

GS: Ivarja imma l-prinċipju huwa li jekk naslu biex nagħmlu test, biex inħarsu naraw din l-attività, din il-proċedura hix qed issir jew nitolbu – jekk ikun hemm ftit – id-dokumentazzjoni kollha u narawha. Jekk ikun hemm ħafna, jekk huma transazzjonijiet jew accounts nitolbu lista, nieħdu sample imbagħad nitolbu dokumentazzjoni speċifika biex naraw skont xi nkunu qed infittxu – jekk hijiex xi ħaġa finanzjarja jew xi ħaġa bħala proċedura, supervision, signatories, forms filled in, skont il-proċedura. Nitolbu dawk u nivverifikaw biex naraw li saru skont il-proċedura.

Sur Maġistrat: Fir-rigward ta' dan il-bank Pilatus, mela kontu bdejtu essenzjalment lejn l-aħħar tal-2014 u bqajtu sejrin bażikament sa well into 2016. Fir-rigwrad allura issa internament, fir-rigward tal-operazzjonijiet ta' dan il-bank, il-mod ta' kif kien jagħmel handling, l-operations tiegħu, is-sistemi li kellu in place, il-mod ta' kif kien anke the on-boarding process tal-klijenti, how they used to deal with clients, kontu tidħlu fuq dawn l-aspetti meta qed tagħmlu x-xogħol tagħkom?

GS: Kien hemm different areas. Semmejt on-boarding. Konna għamilna audit ta' on-boarding process fil-bidu tal-bank. Affarijjiet oħra bħala pereżempju processing of transections dak ikun iffukat fuq jekk l-instructions humiex qed jiġu followed u allura hemm aktar minn persuna waħda li jista' jara li l-instructions huma tajbin li imbagħad jgħaddihom lil xi ħadd ieħor biex jgħaddi t-transazzjoni biex majkunx hemm possibilità ta' frodi jew xi ħadd jgħaddi transazzjoni meta mhux suppost. Affarijiet hekk.

Sur Maġistrat: Dan ix-xogħol li sar dan kien job li kien sar one time jew inkella every so often kien jerġa' jiġi reviewed?

GS: Fil-prinċipju internal audit hemm cycle. Ikun hemm a two year or a three year cycle fejn meta jgħaddi ż-żmien ovvjament ma tistax tassumi li dak li kien hemm sentejn ilu se jibqa' l-istess u allura jkun hemm repetition. Fil-każ tal-Pilatus qatt ma ġejna fit-tarf ta' cycle li se nerġgħu nagħmlu dak li konna għamilna.

Sur Maġistrat: Ejja allura nmorru għal dak li għamiltu between 2014 and 2016. X'kienu dawk l-aspetti li intom analizzajtu – kif kont qed tispjega – u jekk kienx hemm issues ta' red flags pereżempjku jew inkella xi ħaġa li intom bħala awdituri rajtu li hawnhekk hawn xi ħaġa che non torna, li hemm xi ħaġa li hija dodgy jew xi ħaġa li hija forsi – minn dak li rajtu – saħansitra verging on the illegal? X'tgħidli fir-rigward ta' dan ix-xogħol li għamiltu? X' findings kellkom intom min-naħa tagħkom?

GS: Ħa nellimina affarijiet bħal HR processes u prodúrement processes peress li huma amministrattivi fejn ma sibniex affarijiet li huma relatati ma' klijenti jew aspetti hekk. Dawk ma kenux significant. Jekk nista' nsemmi pereżempju l-ewwel wieħed deployment of IT dak ukoll kien fil-bidu tal-bank u li sibna hemmhekk kien hemm excess għal user accounts li kienu intużati meta kienet qed tiġi stallata s-sistema u kienu leftover u xorta kienu hemmhekk attivi. Ovvjament għedna li mhux suppost qegħdin hemm għax l-implimentazzjoni lesta u suppost magħluqin u li xi ħadd iħares lejn il-lista tal-accounts u jara li dawk huma li suppost hemm għax jekk telaq xi ħadd jew xi ħadd m'għadx għandu bżonn dak l-aċċess jiġi mneħħi. Hemm rapport bil-lista ta' recommendation.

Sur Maġistrat: Ir-rapport meta sar?

GS: Ir-rapport ġie preżentat July '15.

Sur Maġistrat: Fir-rigwrad tas-sistemi tal-informatika li qed tgħid, l-analiżi tagħkom kienet immirata fir-rigward tal-core banking system tagħhom jew inkella kien hemm xi programmi oħrajn partikolari li forsi rajtu?

GS: Kien pjuttost ġenerali. Is-sistema prinċiparja hija core banking system imma aħna ħarisna ukoll lejn pereżmepju aċċess għall-operating system, aċċess għad-datebase, jiġifieri l-infrastruttura. L-aktar kienet lejn l-infrastruttura.

Sur Maġistrat: Dak iż-żmien milli jirrizżultalkom din l-infrastruttura kif kienet imqasma?

GS: Pjuttost kif tistenna organizzazzjoni bħal din. Jiġifieri kien hemm platform, kien hemm backups, replication u prodott li huwa off the shelf jiġifieri mhux xi ħaġa stramba jew xi ħaġa li tistenna li tarah f'bank.

AC Ian Abdilla: Jiġifieri dħaltu fis-sistema tal-Flexcube?

GS: F'dan l-engagement le u anqas ngħid f'engagements oħra. Ħarisna lejn l-infrastruttura, l-access control eċċ. Jiġifieri ma dħalniex fuq jekk il-functioning tal-Flexcube jew configuration.

AC Ian Abdilla: Ma dħaltux fuq audit trail ta' transactions?

GS: L-assignment li kont qed nitkellem fuqu huwa d-deployment of IT jiġifieri li ċ-change management process li qed iddaħħal sistema ġdida, li jekk jidħol xi ħadd ġdid jew jitlaq xi ħadd u tneħħilu l-aċċess and that sort of thing mhux l-użu tas-sistema.

Sur Maġistrat: Allura qed nifhem li l-informazzjoni fir-rigwrad ta' x'sistemi informatiċi kellhom bħal core banking system, l-office automation u x'naf jien, huwa dka li qalulkom huma li għandhom jew inkella intom ivverifikajtuhom on-site?

GS: Nibdew b'diskussjoni imbagħad nivverifikaw billi naraw li s-servers huma dawk li semmew li huma hekk u fuq dan il-bażi li nħarsu. Mela hawn dawn l-erba' servers u naraw l-aċċess għalihom kif inhu, kif inhu mqassam l-istruttura ta' access rights u min hu administrator, min għandu aċċess għal aktar minn operator fuq l-operating system, fuq id-database partikolari.

Sur Maġistrat: Irriżultalkom jekk kemm-il darba l-informazzjoni li tawkom kenitx korretta, kenitx relaible, kenitx sistemi jew kellhomx sistemi li jagħtuk front mod u imbagħad wara dak il-front ikun hemm tgerfix, tbabis, tgħawwiġ?

GS: Milli rajtu u mir-rapport li għamilna ma sibna xejn li hu suspettuż li qed jgħidulna xi ħaġa u fil-fatt hemm xi ħaġa oħra.

Sur Maġistrat: Jew jekkkellhomx xi platforms oħrajn li huma okkulti, pereżempju li core bank system, kemm-il core banking system se jkollu bank, jekk kellhomx core banking system okkulta li ma tistax taċċessaha through ordinary means? Ma nafx jekk hijiex fantaxjenza. Qed nistaqsik biex f'dan l-eżerċizzju li għamiltu intom jekk kemm-il darba ltqajtux ma' xi ħaġa simili pereżempju.

GS: Mill-eżerċizzju li għamilna ma sibna l-ebda indikazzjoni jew rajna xi ħaġa jew skoprejna xi ħaġa li ma kenux qalulna biha. Aħna meta nsibu sistema nistaqsu min qed jipprovdi s-sapport. Naraw li hemm biżżejjed backup ta' servizzi, ta' continuity eċċ. F'dan ir-rigward ħarisna lejn dak li hemm imma ma ltqajniex ma' xi ħaġa li tindika li hemm xi ħaġa li ma qalulniex biha jew hija xi ħaġa okkulta. Mela l-engagement li jmiss huwa enagegement of new clients, jiġifieri on-borading ta' klijenti. Kien għedt qabel kien fil-bidu tal-engagement. Fil-fatt aħna nieħdu listing ta' accounts biex nieħdu sample u naraw li l-on-boarding process sar sew fuq numru ta' klijenti. Li sibna li kien hemm numru ta' acocunts li kienu ta' impjegati u kien spjegat li dawn kienu accounts li kienu kreati biex jittestjaw is-sistema peress li kienet ġdida.

Sur Maġistrat: fil-fatt fuq dan il-punt xtaqt nistaqsik mistoqsija. Meta intom kontu qed tagħmlu l-internal audit, fir-riwagrd ta' dan l-on-boarding of clients kif ukoll magħquda mal-aspett tas-sistema bankarja li kienu jużaw, għal li jista' jkun kontu tivverifikaw jekk il-klijenti li jkunu ġew on-boarded bħala klijenti tal-bank u li allura jiftħu kontijiet hemmhekk ikunu jsinu ruħhom fil-client's list li toħroġ mill-Flexcube? Kontu tagħmlu reconciliation bejn id-dokumentazzjoni tal-on-boarding u dak li jkun imbagħad jirriżulta fil-Flexcube?

GS: Il-lista minn fjen ħadna s-sample biex nagħmlu t-tests tal-on-boarding, il-lista ħarġet mill-core banking system. Jiġifieri għat-test li għamilna kien ibbażat fuq lista li ħarġet. Reconciliation ma' xi dokumenti oħra li seta' ma kienx reconciliation li kull ma daħal. Ma nafx jekk keinx hemm xi lista oħra biex nirrikonċiljaw li dawk kollha spiċċaw fil-Flexcube. It-tests kienu meħudin minn sample li ħarġet mill-Flexcube.

Sur Maġistrat: Dan is-sample kien random sample jew inkella kien sequential?

GS: Randomly we selected the sample of fourteen clients.

Sur Maġistrat: Fir-rigward ta' dna l-eżerċizzju jiġifieri intom min-naħa tagħkom kellkom aċċess għal full clients' list jew le? Jew kellkom aċċess biss limitatament għal dawk li huma l-klijenti li ġew randomly sampled?

GS: Wara li ħadna s-sample imbagħad tlabna dokumentazzjoni waħda waħda għal dan is-sample li tlabna. Ma kellniex aċċess għal tal-oħrajn. Bażikament f'dak ir-rapport, il-findings li sibna kien hemm li ċertu proċeduri mhumiex qed jiġu followed jew id-dokumentazzjoni mhix biżżejed.

Sur Maġistrat: Bħal pereżempju?

GS: Dawk li humammarkati bħala medium risk mhux low. Pereżempju li kull min jaħdem fuq l-on-boarding ikollu training konsistenti fuq l-AML procedures. Jista' jkun li peress li kien żmien kmieni kien għadu mhux kulħadd up to scratch.

Sur Maġistrat: Dan l-eżerċizzju meta kien sar allura? LI xtaqt ukoll, jekk is-sinjuril-oħrajn ikollkom xi punti oħrajn li tixtiequ tiċċaraw ma ġara xejn. You can compliment dak li s-sinjur qiegħed jgħid. L-importanti li jekk ikollkom ċertu affarijiet do not worry just speak up please.

GS: Ir-rapport ġie ppreżentat 16 July 2015. Il-perjodu li koprejna kien il-bidu tal-bank April '14 sa December '14. Dak kien is-sample jew it-target minn fejn ittieħed is-sample. Pereżempju rrakomandajna li fejn ma jkunx hemm dokumentazzjoni bl-Ingliż, Malti, Taljan jew Franċiż ikun hemm translation għax sibna li mhux dejjem kien hemm translation.

Sur Maġistrat: Meta si tratta on-boarding ta' politically exposed persons, infurmawkom dwar il-potenzjalità li jkollhom PEP fost il-client base tagħhom? Tawkom indikazzjoni jekk sa dak il-punt kellhomx PEP bħala klijenti?

GS: Iva. Mis-sample li ħadna kien hemm PEP u rajna indikazzjoni. Ħarisna lejn dawk li kienu PEP li kienu ddentifikati u recognised bħala PEP.

Sur Maġistrat: Int qed tirrefferi għal dawk Maltin u barranin jew barranin f'dak l-istadju?

GS: It-tnejn.

Sur Maġistrat: Kien hemm xi aspetti partikolari li xtaqtu tindirizzaw fir-rigward tal-proċeduri li kienu jaddottaw fir-rigward tal-PEP?

GS: Fir-rapport mhux qed nara speċifikament aspetti li jirrelataw biss lejn PEP. Jiġifieri r-rakomandazzjonijiet kienu acrtoss the board. Ikkoreġuni jekk qed naqbeż xi ħaġa. Nikkonferma dak li għadni kemm għedt li f'dak l-engagement ma kienx hemm recommendations jew findings li huma speċifiċi għal proċessi li jirrelataw mal-PEP. Akta rtard fil-fatt fit-2016 konan għamilna engagement ieħor ongoing an AML monitoring u hemmhekk l-aspetti tal-PEP kienu aktar significant.

Sur Maġistrat: Minn dan l-aspett kien hemm xi affarijiet li intom stajtu taraw li dan il-bank kien b'xi mod qiegħed jipprova jgħawweġ l-affarijiet jew ma jagħtix stampa li kienet stampa ġenwina u korretta?

GS: Kont semmejt li fl-ewwel rappor tli għamilna kien fuq on-boarding. Imam aktar tard fuq dan is-suġġett anti-money launderign konna qed inħarsu lejn on-going u int staqsejtni waqt ix-xogħol li konna qed nagħmlu kienx hemm indikazzjoni li l-affarijiet ma kenux kif suppost eċċ. bażikament l-informazzjoni li ġbarna, id-domanda li staqsejan u l-evidenza li tlabna eċċ. fl-aħħar mill-aħħar iċevejniha, ħarisna lejha u ssodisfajna mir-rikjesti li għamilna. Kien hemm ċertu attivitajiet pereżempju fit-tieni każ fejn ħarisna AMLsaqsejna għall-clients' list, tawna client list u aħna xi ħaġa li nagħmlu ħafna drabi hi li nħarsu lura fuq jobs li għamilna qabel u nużaw dik l-informazzjoni li ġbarna u rajna li ċertu accounts li konna ġbarna fl-ewwel assignement ma kenux qed jidhru fil-client list li tawna allura morna lura u saqsejnihom "Din tidher li mhix il-lista kompleta." "Ma tajnikomx il-lista ta' acocunts li kienu magħluqin." "Le aħna rridu lista kompleta" u fil-fatt insistejna li naraw il-proċess li tinħareġ din il-lista mill-computer biex naraw li qed tinħareġ mingħajr ebda filtering jew exclusions imbagħad fuq dik il-lista għamilna s-sample.

Sur Maġistrat: Jiġifieri kontu qed taraw ċertu reluctance, ċertu resistenza jew inkella dak li jkun kien qed jaġixxi not to cross a very delicate line? How would you descibe it?

GS: Nagħmlu ħafna audits. Ċertu klineti jkunu very easy going, forthcoming u anke ċertu stil u ċertu personalitajiet ivarjaw. Anke within the same organisation. Isisb jobs li tieħu gost tmur għax it is a welcoming atmosphere eċċ. even though the work that you are doing is pretty much similar. Fil-każ ta' Pilatus sibna very sort of stringent approach to dealing with us. F'dan ir-rigward we ask for information and we are given the information però l-atitudni ma ngħidx li kienet suspettuża jew ma kenux qed jagħtuni l-informazzjoni li qed nitolbu imma it took much longer to the an audit then it would normally take. Fil-fatt kif semmejna towards the end konna insistejna li ma jista' jkun inkomplu sejrin hekk li audits anke clearnce meetings eċċ idumu daqshekk u jkun hemm toing and froing biex naslu għall-konklużjoni.

Sur Maġistrat: Però dan l-atteġjament kien jittieħed min-naħa tal-management kollu jew inkella kellek elementi partikolari li forsi...għax dan kif qed tgħid inti. Hawn min hu prattiku u f'kemm trodd salib ġablek kollox, hawn min kif tkellmu jibda jippanikja u jintilef ganqas biss ikun jaf x'inhu jagħmel, hawn min sempliċiment għax hu malizjuż ma jkunx irid jagħtik l-informazzjoni, hawn min għax forsi over cautious ma jkunx irid to over step. L-assessment tiegħek fir-rigward ta' dak li int kont qed tara f'dan il-bank x'inhu?

GS: Ir-raġuni jew il-messaġġ li konna nirċievu anke mill-bidu minn meta bdejna kien li l-informazzjoni hija kunfidenzjali ħafna. Hawnhekk qed nitrattaw ma' nies high networth individual, this is a private bank, it is not a commercial bank eċċ, this is different u allura we pride ourselves in protecting the information on a need to know basis. So that was the context li xi kultant kellna nitlobu ħaġa u għax ma staqsejniex id-domanda in full irridu nistaqsuha b'aktar reqqa biex noħorġu dak li qed infittxu.

Sur Maġistrat: Fl-aħħar mill-aħħar ħriġtu l-ġurdien mit-toqba? Għax dak il-punt. Jista' jkun li tipprova u ma tasal qatt imma magħhom fl-aħħar mill-aħħar kont tasal għax hemm il-kruks!

GS: Nista' ngħid li fl-aħħar with persistance l-informazjzoni kienu jgħadduhielna. Jiġifieri l-aħħar mill-aħħar meta konna nistaqsu d-domanda u ma nkunux sodisfatti forsi nistaqsu domanda oħra u iva konna naslu.

Sur Maġistrat: Dan huwa aktar minn ħaġa oħra approach forsi daqsxejn aktar cautious, naqra aktar magħluq, naqra aktar forsi – bit-Taljan jingħad con un occhio di riguardo jiġifieri li dak li jkun inħares lejk b'ċertu mod, b'ċertu ċirkospezzjoni kważi kważi, ma jridx ikun too forth coming fil-konfront tiegħek. Iżda wara danl-approach stajt tagħraf, stajt tintuwixxi li kien qed ikun hemm dan l-approach għax ġenwinament dawk jemmnu fil-kunfidenzjalità tal-high networth individuals li huma they so proudly target jew inkella kienu qed jagħmlu hekk minħabba li inti bħġala awditur stajt forsi tħoss li hemm xi ħaġa che non cuadra hawnhekk, xi ħaġa li mhux qiegħda f'postha?

GS: Qabel saqsejtni jekk kienx hemm individwi jew kenitx concern. Nista' ngħid li kienet konsistenti. Ma kienx hemm ħadna nies li ridna niddiljaw magħhom imma l-mod li pprovdewlna l-informazzjoni u konna nkunu trattati kien konsistenti across the board. I would say that.

Sur Maġistrat: Fir-rigward tar-raġuni, dak li int stajt tara għaliex iġibu ruħhom b'dan il-mod? Hija kwestjoni ta' kultura bankarja differenti? Intom min-naħa tagħkom meta bdejtu fil-bidu ċċekjajtu l-background ta' dan il-bak minn fejn kien ġej?

GS: Ovvjament client acceptance procedures napplikaw. Dik kienet entità regolata u liċenzjata u allura ċertu reliance fuq dan il-proċess li diġà sar tal-liċenzjar. Going back to your point, l-atmosfera jew il-mod ta' kif kkondiċew ruħhom magħna kienet konsistenti mas-segretezza jew l-kunfidenzjalità għolja ħafna.

Sur Maġistrat: Bħalma ssib l-Isvizzera u dawn it-tip ta' postijiet?

GS: Ngħidlek il-verità qatt ma ħdimt in a similar private bank imma it was consistant with that concept. Xi ħaġa li forsi fakritni Roberta li ma narawhiex f'ħafna każi huwa li f'kull kamra kien hemm CCTV u xi kultant aktar minn CCTV waħda. Fil-kamra li konna nkunu bil-qiegħda kien hemm numru CCTV cameras.

Sur Maġistrat: F'kull kamra kien ikun hemm CCTV.

GS: F'ħafna mill-kmamar li dħalna fihom iva.

Sur Maġistrat: Kurżità żgħira. Fit-2016 kontu għamiltu xi on-site inspections? Fil-bidu.

GS: Iva. Għamilna l-HR procurement u regulatoryy audits fl-ewwel nofs tat-2016.

Sur Maġistrat: Min kien involut fih dak l-audit?

GS: Jien kont l-engagement leader u Roberta kienet il-manager fuq dak il-job.

Sur Maġistrat: Sinjorina, meta kont tkun on-site fejn kienu jqiegħedukom?

RS: Bażikament kien hemm żewġ meeting rooms li konna naħdmu fihom għax aħġna ġieli konna nagħmlu ġurnata jew nofs ta' nhar jew ġejjin u sejrin imma ħafna drabi konna nippruvaw nmorru tliet ijiem hemmbiex inlestu x-xogħol. Konna noqgħodu f'żewġ meeting rooms. Ma niftakarx l-siem tagħhom imma waħda on the right kif tidħol u l-oħra kienet faċċata u imbagħad ovvjament konna nkunu fil-boardroom fejn kien ikollna l-audit committees.

Sur Maġistrat: Meta ġie riferit li ġieli kien ikun hemm is-CCTV cameras f'kull kamra, fejn kontu tkunu qed taħdmu intom kien ikun hemm camera ukoll hux hekk?

RS: Hekk hu.

Sur Maġistrat: Prova ftakar ftit, il-camera li qed issemmili fejn kienet tkun qiegħda? Thares lejk jew minn warajk?

RS: Kif għedtlek meeting rooms kien hemm tnejn. L-ewwel waħda ta' kif tidħol on the right il-camera kienet tkun warajja u tal-meeting room l-oħra kienet tkun warajja ukoll. It-tnejnli huma kienu jkunu minn warajna.

Sur Maġistrat: Meta kien ikollkom bżonn break kontu tibqgħu fil-kamra jew kontu tmorru banda oħra?

RS: Ġieli konna noħorġu barra jew jekk ikollna bżonn kafe, ilma jew affarijiet oħra nmorru fil-kċina.

Sur Maġistrat: Liema kċina? Il-kitchenette jew il-kċina l-kbira?

RS: Il-kċina li tagħti għal fuq it-terazzin ta' barra.

Sur Maġistrat: Il-kbira.

RS: Kien hemm mejda tonda, kien hemm bank twil.

Sur Maġistrat: Tiftakar jekk keinx hemm camera dak iż-żmien hemmhekk?

RS: Ma niftakarax li kien hemm. Ma neskludix li kien hemm u ma neskludix li ma kienx hemm. Qatt ma tajt kas onestament imma ma niftakarx li kien hemm. Ma niftakarx li rajt cameras fil-kċina l-kbira li qed nitkellmu fuqha.

Sur Maġistrat: Waqt li kontu tkunu qed tagħmlu dan l-audit tagħkom il-kamra fejn kontu tkunu intom kienu jkunu miftuħin jew magħluqin?

RS: Il-bibien dejjem magħluqin.

Sur Maġistrat: U meta kontu tagħmlu talbiet għal dokumentazzjoni ma' min kontu titkellmu? Lil min kontu titolbu?

RS: Jiddependi x'internal audit inkunu qed nagħmlu. Jekk pereżempju konna qed naħdmu fuq l-HR audit konna tkellimna ma' Dr Claude-Anne Sant Fournier u ma' Ms Antoniella Gauci. Jekk pereżempjukellna l-procurement tkellimna aktar ma' Antoinella Gauci għax dak iż-żmien kienet il-finance manager. Fir-rigward tal-AML kien hemm involviemtn kemm minn Dr Sant Fournier peress li kienet l-LMRO. Mingħand Ms Antoniella Gauci kien hemm involviment u anke mingħand is-CEO Hamidreza Ghanbari. Bażikament meta jitkellmu magħna kienu jiġu jkellmuna t-tlieta li huma. Rarament jiġu jkellmuna waħda waħda. Ħafna drabi jiġu jkellmuna t-tlieta li huma.

Sur Maġistrat: Qed nassumi li xi daqqiet kien ikollok bżonn li totjeni dokumentazzjoni. Tiftakar min kien imur iġib dokumentazzjoni?

RS: Dejjem Dr Sant Fournier u Antoniella. Dejjem huma. Ġieli kien hemm każijiet fejn Mr Ghanbari....

DG: Fil-fatt qed nitkellem fuq l-AML on-going monitoring procedures għax dka kien l-assignment li kont involuta fiha. Fejn kien ikoollna bżonn nikkjaraifikaw jew nitolbu aktar dokumentazzjoni kif qalet Roberta kienu jiġu Claude-Anne, Antoniella u anke Mr Haidreza Ghanbari. Konna nagħmlu request u d-dokumentazzjoni kienu jerġgħu jġibuha huma. Konna nagħmlu r-request lilhom u huma jġibulna l-files jew il-karti li nitolbu.

Sur Maġistrat: Qatt kellkom xi request li għamiltu li ma riedux jagħtukom informazzjoni dwarha? Mhux qed nitkellmu diffidenza jew resistenza, but an outright no.

DG: Outright no kellna każ wieħed fejn konna tlabna li nerġgħu naraw id-dokumetazzjoni li konna rajna. L-ewwel qalulna le imbagħad kienu ċemplulna u qalulna li se jġibulna d-dokumentazzjoni fl-uffiċċju tagħna Ħal Qormi.

Sur Maġistrat: Fuq xiex kienet titratta?

DG: Kienet supporting documentation ta' waħda mit-transection li konna għażilna għas-sample fejn kien hemm numru ta' kuntratti ta' bejgħ ta' proprjetà. Ma konniex qed niftiehmu fuq il-kontenut ta' dawk id-dokumenti, konna erġajna tlabna li nerġgħu naraw id-dokumentazzjoni ħalli we go through it again u naraw jekk dak li konna qrajna forsi fehemnix ħażin jew le. Meta konna erġajna għamilna r-request Mr Ghanbari kien qalilna li mhux se jagħtina dik d-dokumentazzjoni imma later on in the day kienu ċemplulna u qalulna li se jġibu l-kopja tad-dokumentazzjoni l-uffiċċju Ħal Qormi.

Sur Maġistrat: Dakinhar stess?

DG: Kienu ġabuha l-għada. Kienu ċemplu filgħaxija, kien tard, the call was followed in the morning mill-uffiċċju tagħna u ġabulna d-dokumentazzjoni later on, late in the afternoon.

Sur Maġistrat: Waqt li qed tagħmlu dan l-eżerċizzju, min-naħa tagħkom dawk it-tliet persuni biss li kontu...

DG: Magħhom konna nitkellmu.

RS: Fuq l-audit tal-AML huma l-aktar. Fuq audits oħra ovvjament kien hemm impjegati oħra involuti bħal Louis Felipe Riviera li kien is-CIO. Kien hemm Mehmet Tasli li kien jaħdem fl-operations. Mr Louis Zammit il-persuna li kienet taħdem fl-IT. Dawk.

Sur Maġistrat: Issa f'dan ix-xogħol li intom għamiltu, l-AML u l-affarijiet l-oħrajn qatt imexxilkom dawn in-nies taqbduha b'falza stikka jew f'gidba jew li jkun hemm afffarjiet li huma devious? Żbalji kulħadd jieħu. M'aħniex perfetti imma altru tieħu żball ġenwin u altru li int b#'malizja tagħżel trid għad-differenza ta' oħra. Min-naħa tagħkom qatt iltqajtu ma' sitwazzjonijiet fejn kien hemm evidenza ta' ċertu deċiżjonijiet jew ta' ċertu proċeduri jew ta' ċertu sistemi li forsi ma kenux in line b'mod li kienx ġenwin jew kien saħansitra devious aktar milli frott ta' nuqqas ta' esperjenza jew ta' nuqqas ta' għarfien ta' regoli ta' kif għandhom jiġu implimentati?

RS: Fil-fatt jekk forsi nista' nipjega daqsxejn il-proċess tal-AML ongoing monitoring li konna għamilna, l-ewwel konna bdejna b'meeting intern ħalli naraw liema huma l-areas of risk li se niffukaw fuqhom waqt l-eżerċizzju li kienu dawk it-three areas of risk li kienu maqbulin at the audit committee. Kien hemm ir-raba element li kien a carry forward item mill-ewwel audti tal-engagement li kienet relatata mat-traing tal-istaff. Mela hemmhekk konna qbilna liema huma l-erba' areas fejn aħna se nħarsu fihom f'dak l-assignment. Qabel ma morna on the premises konna tlabna kopja tal-proċeduri u tal-formoli li jużaw għal file reviews biex aħna lħaqna rajna daqsxejn u ffamiljarizzajna ruħna mal-proċessi li jadottaw u konna diġà morna b'idea tal-proċess u anke b'xi domandi min-naħa tagħna. Bħala proċeduri kienu in line mal-AML regulations applikabli ta' dak iż-żmien. Però during the course of the audit konna ddentifikajna xi areas fejn jistgħu jimpurvjaw dawk il-proċeduri kif fil-fatt immarkajna fir-rapport. Konan bdejna bl-ewwel ġurnata fejn poġġejna ma' Antoniella, Claude-Anne u ma' Hamidreza Ghanbari fejn they took us through the process, spjegawlna x'inhu l-proċess, stajna nistaqsu l-ewwel initial questions li kellna wara li konna diġà rajna l-proċeduri biex b'hekk aħna diġà kellna idea tal-proċess li huma jadottaw. Kopja tal-lista tal-klijenti konna tlabnihielhom ukoll qabel ma morna on-site pero kienu weġbuna li because of confidentiality mhumiex se jgħadduha via email però tkun available l-ewwel ġurnata li nmorru. Fil-fatt fl-ewwle ġurnata kienu tawna two lists. One for the open accounts and one for the closed accounts għax parti mill-audit ukoll, parti mis-sample kien li ħarisna lejn kontijiet li ukoll kienu ngħalqu għax for the duration of that account obligations xorta waħda kienu hemmhekk u ridna naraw li kienu qed ikopru l-obbligi kollha tagħhom till the end of the relationship. Minn dawk il-listi għażilna s-sample tagħna. Biex għamilna l-kampjun ħarisna lejn in-nazzjonalità tal-individwu jew the country of registration f'każ ta' kumpaniji.

Sur Maġistrat: Jiġifieri dak il-kampjun ħadtuh minn fuq il-full clients' list?

DG: Kienu tawna a printed list ta' open accounts u closed accounts. Id-dettalji, l-elementi li ħarisna lejhom biex għażilna l-kampjun kienu n-nazzjonalità, il-klassifikazzjoni jekk humiex PEP jew le u l-livell tar-riskju, jekk humiex high risk, medium risk jew low risk u l-bilanċ fuq il-kont; il-closing balance as at the date li

ħarġulna l-lista. Abbażi ta' dik l-informazzjoni għażilna a random sample ta' 25 klijent. Wara dik is-selezzjoni imbagħad konna tlabnihom il-bak statements ta' dawk il-25 klijent biex minn fuqhom għażilna numru ta' transazzjonijiet. Fil-fatt konna għażilna minn 70 transazzjoni minn fuq dawk l-istatements li tawna.

Sur Maġistrat: Fakkarni meta sar danl-eżerċizzju?

DG: 26th September 2016. Dik kienet l-ewwel ġurnata li morna on-site. Il-proċess ġie addottat b'dan il-mod għax bħal ongoing mointoring għandek żewġ obbligi. L-ewwel waħda li int qed iżżomm ir-records u l-informazzjoni tiegħek updated fuq il-klijent u t-tieni waħda hija li t-transections huma in line mal-profiel tal-klijent. Allura b'dak il-mod ħarisna sia lejn il-files tal-klijent allura rajna li kienu qed isiur reviews fejn qed tiġi updated il-KYC, l-informazzjoni li għandhom fuq il-klijent kif ukoll jekk kienx hemm xi dokumenti bħal ID cards, passports li kenux għadhom validi jew inkella jekk skadewx kenux ġabu updated copies tagħhom. Imbagħad kien hemm it-tieni element li huma transazzjonijiet.

Sur Maġistrat: Meta tawkom il-lista tal-klijenti, il-customer number kontu rajtuh?

RS: Kien ehmm in-numru tal-klijent, l-isma tal-klijent, jekk hux kumpanija jew individwu, jekk hux PEP, in-nazzjonalità u l-bilanċ.

DG: Eżattament. Dik kienet l-informazjzoni litlabnihom aħna meta għednilhom li għandna bżonn client list li joħorġu danw il-fields biex aħna nkunu nistgħu nagħżlu l-kampjun tagħna.

RS: Jekk nista' nkur lura għad-domanda li staqsejtna l-ewwel dwar jekk qattx rajna xi ħaġa li hija devious min-naħa tagħhom, għadu kemm fakkarni s-sur Sammut li aħna meta bdejna nagħmlu dan l-AML audit saqsejnihom pointblank "Kellkom xi tip ta' visit mill-FIAU fir-rigward ta' money laundering?" Qalulna "Le." Aħna u sejrin bl-audit darba minnhom waqt diskussjoni ma' Deborah Hamidreza Ghanbari semma' l-FIAU fej hemmhekk Deborah qaltlu "Mela ġew l-FIAU?" u qallha "Ehe ġew imma m'għad għandi report." U meta aħna saqsejnihom kienx hemm xi issues signifikanti li ħarġu minn din il-visit hu qalilna li le. Diik li forsi tista' tgħid li daħqu bina li ma qalulniex il-verità għax fil-verità l-FIAU kienu marru hemmhekk.

Sur Maġistrat: Fir-rigward tal-lista tal-klijenti, il-lista tal-klijenti li kienu tawkom kienet ġenerata mill-Flexcube direttament?

RS: Aħna meta tawna l-lista huma tawna listi pprintjati. Jiġifieri hard copies. Issa aħna morna lura għal audti li konna għamilna li tkellem fuqu s-sur Sammut, l-ewwel AML audit li għamilna għax minnu aħna kellna n-numru tal-klijent u l-isem. Pereżempju 1234 Joe Borg. Aħna li għamilna, xtaqna nagħmlu test biex inkunu ċerti fuq kemm hi kompluta dik il-lista. Allura ħana li għamilna, qbadna l-kampjun li użajna fl-ewwel

audit u qabbilnih mal-lista li kellna pprintjatha aħna. Nixitieq ukoll infakkar li aħna qatt ma ħallewna noħorġu l-ebda tip ta' karta minnġol-bank. Jiġifieri aħna konna naraw il-karti dak il-ħin u daqshekk. Meta aħna qabbilna dawn iż-żewġ listi bdejna nindunaw li kien hemm xi kontijiet li kienu neqsin u aħna hemmhekk ovvjament konna concerned u ddeċidejna li se nagħmlu test magħhom mingħajr m'għednilhom għalfejn se nagħmlu, konna għamilnih jien u Deborah ma' Ms Antoniella Gauci fejn aħna qbadna numru ta' client numbers kemm dawn li konna nafu li kienu neqsin u kemm dawk li aħna nafu li kienu fuq il-lista. Morna fl-uffiċċju tagħha u rajnihom fuq Flexcube, bdejnanagħtuha n-numru tal-klijent u hi bdiet ittella' l-klijent. Pereżemju 123 huwa Joe Borg. Meta imbagħad bdejnanistaqsuha dawk li kienu neqsin, għednilha "Għalfejn dawn qed jidhru fuq is-sistema imma fil-lista printed ma kenux hemm?" Qaltilna "Dawk kienu test accounts li użajna fil-bidu li kienu għan-nom ta' impjegati u meta ħriġt il-lista neħħejthom." Għalina kienet unexceptable. Għednilha "Ħu paċenjza, se narawk toħroġ il-lista minn ġol-Flexcube." Ħarġet il-lista mill-bidu quddiemna, qbadna din il-lista li ħarġet u qabbilniha mal-lista li kellna. Meta qabbilniha ndunajna ukoll li kien hemm żewġ accounts li meta aħna saqsejna fuqhom qaltilna "Neħħejthom bi żball."

Sur Maġistrat: Mill-printed list?

RS: Mill-printed list li tat lilna.

Sur Maġistrat: Imma kienu fuq il-Flexcube.

RS: Kienu. Jiġifieri meta aħna ġibna t-tieni lista li rajna lilha tipprintjaha imbagħad qabbilniha mal-lista li kienet tatna għal meta bdejna l-audit – dan it-test għamilnih l-aħħar ġurnata tal-audit – indunajna li kien hemm żewġ kumpaniji neqsin. X'ħin saqsejniha qaltilna li ħadet żball. "X'ħin tfajt il-lista ġo Excel għamilt delete tar-rows bi żball."

DG: Meta kont qed nagħmel delete tal-kontijiet tal-istaff li kienu bħala test acocunts sia meta kienu introduċew il-Flexcube u anke meta kienu qed jagħmlu running ta' test fuq il-card accounts, bi żball kienu nqatgħu dawk iż-żewġ kumpaniji mill-print out li tawna.

Sur Maġistrat: Mill-Excel sheet u mhux mill-Flexcube.

RS: No.

DG: Mill-Flexcube kienu hemmhekk.

Sur Maġistrat: Il-customer number fuq il-Flexcube intom kontu rajtuh? Intom meta rajtu l-customer number..

RS: Dik konna saqsejna fuqha lil Loius. Meta bdjena naraw in-numru, ma kenux sequential.

Sur Maġistrat: U x'qalilkom?

RS: Is-sistema ma toħroġx sequential numbering. Qalilna li kull ġurnata valuri ġodda. Ana bdjena ngħidulu "Għalfejn għandek 1010 imbagħad qbiżna għal 1040?" Qalilna li ma hemmx sekwenza. Qalilna li l-Flexcube kull jum toħroġ bin-numri at random. Għax l-argument tagħna kien fejn nafu li n-numru hu sekwenzjali u xi jwaqqaf lil xi ħadd li jivvinta numru? Qalilna li ma jistax għax jaħdem b'mod li s-sistema toħroġ string ta' numri differenti kull ġurnata. Jiġifieri llum toħroġ string mod u għada se toħroġ string mod ieħor.

Sur Maġistrat: Grossa modo jkunu sequencial, ma jkunux neċessarjament b'numru konseguttivi.

RS: Ikollok 1023 u 1024 imma imbagħad biex issib 1057.

Sur Maġistrat: Jiġifieri dak li kien qalilkom Louis Rivera li huma grazzja għall-irregolarità li jkun hemm li jinbidel minn ġurnata għall-oħra.

RS: Hekk hu.

AC Ian Abdilla: Meta intom kontu tlestu r-rapport, forsi sibtu xi findings, corrections kienu jsiru fuq il-findings tagħkom?

RS: Li huma jiġu lura b'kummenti?

AC Ian Abdilla: Ehe.

RS: Iva.

AC Ian Abdilla: Mhux just jiġu bil-kummenti. Intom irrakkomandajtu li tibdew din il-proċedura, aħna sibna li dawn il-klijenti li aħna ħadna sampel tagħhom ma hemm proper KYC in place. Ir-reazzjoni tagħhom u they rectified the position u jekk intom wara l-ewwel exercise erġajtux għamiltu biex taraw li veru dawk is-suġġerimenti litajtu saru.

DG: Bħala proċedura f'kull eżerċizzju huwa li noħorġu a draft report bil-finds li nkunu ħriġna, li nkunu sibna. Il-management ikollu l-opportunità li jagħti r-risposti tiegħu. fil-każ partikolari tal-AML kellna numru ta' okkażjonijiet fejn qalulna "Isma jew forsi ma ftehmniex sew" Anke kellna calls oħra u għamilna aktar domandi oħra, niġbru aktar kjarifika fuq dak il-finding oriġinali u fuq il-management response li jkunu taw. Fejn imbagħad tingħata spjegazzjoni adekwata dokumentazzjonili nerġgħu narawha jew inkella forsi l-ewwel darba m tkunx ingħatat inkun nistgħu nimxi accordingly fuq kull finding. Jiġifieri jekk jibqgħu naraw li hemm gap

imbagħad ovvujament hemmhekk tispiċċa final finding fil-final report li jiġi ppreżentat lill-audti committee.

Sur Maġistrat: Però eventwalment meta intom tkunu għami9ltu dan l-eżerċizzju, minnaħa tagħkom nifhem li tkunu għamiltu ċertu suġġerimenti biex dawn jaderixxu ma' dak li suppost huma l-istandards li għandhom. Kienu jwettquhom dawn issuġġerimenti milli tafu intom jew le?

RS: Parti mix-xogħol tagħna kien li jekk pereżempju tajna rakomandazzjoni u aħna meta nagħtu rakomandazzjoni l-management għandu żewġ għażliet; jew li jaċċetta r-rakomandazzjoni tagħna u jikkommetti ruħu mal-audit committee meta se jwettaqha jew inkella jgħidilna naċċetta r-riskju, ma nixtieqx inwettaq ir-rakomandazzjoni tagħkom. Meta kienu jaċċettaw ir-rakomandazzjoni tagħna u jikkommettu ruħhom li se jwettquha sa ċertu żmien – pereżempju li nagħmel dik il-proċedura sa quarter three tat-2016. Aħan qabel kull audit committee konna nmorru lura; pereżempju jekk għandna audit committee f'Settembru, aħna nafu li dak jiġi t-tielet kwart tas-sena. Qabel l-audti committee aħna naraw jekk kienx hemm rakomandazzjonijiet li kellhom jingħalqu sat-tielet kwart tas-sena, inmorru niċċekjaw nagħlu l-verifiki tagħna, jekk inkunu ngħalqu niġbru evidenza li kienu magħluqin, jekk ma kenux magħluqin nirrapportaw lill-audit committee li ma kenux magħluqin. Dak kien ikun parti mix-xogħol tagħna.

DG: Kien hemm affarijiet pereżempjufejn setgħui jagħmlu xi ħaġa dak iż-żmien, a case in point fil-fatt kienet ukoll relatata ma' training. Pereżempju konna indikajna li t-trainign tal-istaff number 1 hija ukoll in-natura tat-training. Din kienet propriju a carry forward item mill-ewwel audit; li t-trainign tal-istaff kien isir b'mo dli l-individwu l-ġdid, impejgat ġdid li jidħol jaħdem mal-bank jingħata kopja tal-AML CFT policy and procedures, kien ikollu perjodu biex jaqrah u imbagħad kien ipoġġi mal-MLRO, jkollhom discussion ħalli jaraw li l-kontenut veru fehmu. L-obbligi huma li jrid ikollok evidenza li l-impjeghati tiegħek qed jiġi tested fuq dawk il-proċeduri and just having the discussion m'għandek xejn fattwali li jista' juri li jien nista' nmur u ngħid, "Ara dak eru fehemhom." Fil-fatt konna ssuġġerejna li t-training apparti l-proċeduri jkun hemm formal training, items li kienu ta' relevanza f'dak il-perjodu li daħal il-persuna, liġijiet ġoda, changes fil-proċeduri u li anke jsir test. Test li minnu jkollok marking, scoring allura tista' tgħid din il-persuan fehmet jew ma fehmitx. Xi ħaġa bġal dik b'kumbinazzjoni kienu għaddejjin mit-traing tar-relationship managers dak iż-żmien u kienet xi ħaġa that they took it on board immediately u fil-fatt ukoll kienu wrewna t-tests u l-iscoring tal-relationship managers. Findings oħra li sibna u suġġerimenti li għamilnilhom kif ħawn imniżżel fir-rapport għandna indikat fjen they took note of our recomendations and they had to impliment. Pero kif spjegat Robertas peress li ma kienx hemm follow up ta' dan l-eżerċizzju, kull ma għad għandna "Yes we are taking note of the recomendation."

Sur Maġistrat: Apparti dawn is-sistemi u x'naf jien, fort affarijiet oħra, parti minn din l-inkjesta hija li tipprova tistabbilixxi jekk ċertu allegazzjonijiet humiex fatti. Fosthom kien hemm allegazzjonijiet li fost il-klijenti ta' dan il-bank, kien hemm kumpanija li jisimha Al Sahra. Però qabel ma niġi għaliha, xtaqt nistaqsikhom jekk fl-internal audit tagħkom rajtux jew iltqajtux ma' evidenza li dan il-bank kien jagħmel deletions jew tħassir ta' klijenti. Mhux closed accounts. Sempliċiment deletion b'mod u manjiera li ma kien iħalli ebda forma ta' record ieħor.

DG: Dak it-test m'għamilniex. L-unika ħaġa li saqsejna meta kienet ħarġitilna t-tieni lista, fejn rajtna s-sekwenza imbagħad bejn il-lista l-ġdida li ħarġet flimkien mal-lista tal-closed accounts, allura hemmhekk fejn rajna gaps fis-sequential numbers, hemmhekk fejn konna tlabna l-ispjegazzjoni għalfejn u hawnhekk inmorru lura għal spjegazzjoni li tana Louis li kienet li hemm li kull ġurnata qed ibiddel l-istring.

Sur Maġistrat: Però mill-banda l-oħra fir-rigward ta' dawk l-accounts li intom ivverifikajtu li kienu magħluqin, mela kellek kont li hu miftuħ, li ġie magħluq li fil-bidu ma kienx qed jidher fil-lista għax kien closed iżda meta imbagħad eventwalment intom ġibtu l-lista sħiħa, active accounts and closed account you could marry one with the other. Fir-rigward tal-closed accounts issa li xtaqt inkun naf. Hemmhekk fil-closed accounts intom rajtu li kienu għadhom qed iżommu dokumentazzjoni relattiva għal dawk il-closed accounts?

RS: Żammewha sakemm ingħalaq il-kont.

DG: Fil-fatt mill-kampjun tagħna kellna erba' kontijeit li kienu relatati ma' closed accounts uy peress li dak iż-żmien l-obbligu kien għadu li sa ħames snin from closure from termination of the relationship għandhom l-obbligu li jżommu dokumentazzjoni, ovvjament dak kien ukoll parti mit-test li nitolbuhom id-dokumetazzjoni u jagħtuhielna. Fil-fatt rigward dawk l-erba' kontijiet li kienu closed fil-fatt kienu tawna l-file.

Sur Maġistrat: Għal li jista' jkun fost il-closed accounts kellkom xi accounts ta' PEP?

RS: Fil-kampjun tagħna le.

DG: Fil-kampjun tal-clo9sed ma kellniex PEP.

Sur Maġistrat: Issa niġi lura għal dik il-mistoqsija li għamilt ftit aktar qabel fir-rigwad tal-kumpanija Al Sahra.

DG: Li kellna fil-kampjun tagħna kienet Sahra FZCO.

Sur Maġistrat: September 2016 iltqajtu mal-kumpanija Shams Al Sahra?

RS: Fil-kampjun tagħna dik iltqajna magħna Sahra FZCO.

Sur Maġistrat: Il-kumpanija Al Sahra ltqajtu magħha?

DG: LI għandna record tal-kampjun tagħna għax kif spjegajna l-client lists ma stajniex noħorġuhom minn hemmhekk. Sahra FZCO fil-fatt dak kien kont li kien immarkat li kellu PEP connections.

Sur Maġistrat: Kien attiv dak iż-żmien hux hekk?

DG: Kien attiv dak iż-żmien.

Sur Maġistrat: Fost il-lista tal-klijenti li intom iltqajtu magħha, kien hemm indikazzjoni ta' PEP li huma Maltin. Min kellkom indikati bħala PEP Maltin?

RS: Fl-ewwel audit li għamilna tal-AML kien hemm Mr John Dalli li kien indikat bħala PEP Malti. Fit-tieni audit l-account ta' Mr John Dalli kien magħluq. Kien hemm Keith Schembri indikat bħala PEP Malti li kien ukoll parti mill-kampjun tagħna. Maltin dawk.

Sur Maġistrat: Kellkom indikazzjoni dwar kumpaniji ta' PEP Maltin mal-bank?

RS: Kien hemm kumpanija fejn kien hemm żewġ persuni li kienu diretturi li kienu kkunsidrati bħala PEP għax kienu tfal ta' eks-ministru.

DG: Heritage Assets Holding Ltd li bħala diretturi kien hemm Robert Baker, Michael Frendo u Luke Frendo. Michael Frendo u Luke Frendo kienu rriżenjaw u minflok kien daħal Kenneth Heterktin.

Sur Maġistrat: Waqt li qed tagħmlu dan l-eżerċizzju kien ikollkom ukoll aċċess fir-rigward ta' min kien l-ultimate beneficial owner ta' dawn il-kumpaniji li kienu PEP?

DG: Iva.

Sur Maġistrat: Allura stajtu tirrintraċaw ukoll dawk li kienu l-UBOs respettivi tagħhom.

DG: Eżattament.

AC Ian Abdilla: Aċċess dirett jew aċċess mitlub?

RS: Mitlub għax kien parti mix-xogħol.

AC Ian Abdilla: You would have to ask for who is the UBO of this company mhux tidħlu fis-sistema u taraw intom.

RS: Is-sistema qatt ma dħalna fiha aħna. Aħna dejjem affarjiiet ipprintjati ġabulna.

DG: Aħna tlabna 25 file, ġabulna 25 file u minn hemmhekk bdejna naraw id-dokumentazzjoni on file.

Sur Maġistrat: Dik id-dokumetazzjoni fir-rigward tad-dokumentazzjoni fiha nnifisha, stajtu taraw pereżempju know your clint forms tagħhom dawn li kienu mhux mimlija sew jew b'ħafna dettalji neqsin?

DG: Fl-AML ongoing monitoring dak kien propriju wieħed mill-iskopijiet tal-eżerċizzju fejn huma kienu spjegaw ukoll il-frekwenza tar-reviews tagħhom fejn PEP u high risk files kienu jagħmlu monitoring tagħhom kull numru ta' xhur u dawk il-low risk jew medium risk files kienu jirriveduhom f'perjodu itwal. Allura bdejna naraw li l-aħħar KYC li kien hemm on file kienet taqa' fil-perjodu tar-review li qalu. Jekk pereżempju PEP jarawhom kull sena, mela rajna li in the last twelve months kien hemm abn updated KYC form on file.

Sur Maġistrat: Fost dan l-eżeriċzzju li għamiltu intom min-naħa tagħkom iltqajtu ma' transazzjonijiet li kienu jolqtu lill-kumpaniji Tilgate?

RS: Tilgate ma kenitx fil-kampjun tagħna. Ma niftakrx li kien hemm transazzjonijiet mill-kampjun tagħna li jirrigwardjaw lil Tilagte.

Sur Maġistrat: Kienx hemm xi forma ta' dokumentazzjoni li ltqajtu magħha rispettivament jekk kemm-il darba kenitx transecting jew le?

RS: Ma niftakarx li ltqajt magħha.

Sur Maġistrat: Jew pereżempju l-Egrant stess?

RS: Ma niftakarx li ltqajt magħha.

Sur Maġistrat: Hearneville?

RS: Ma niftakarx li ltqajt ma' Hearneville.

AC Ian Abdilla: prċoedura tal-loans dħaltu fiha?

RS: Iva.

AC Ian Abdilla: Meta kien il-perjodu?

RS: December 2016.

Sur Maġistrat: Quite late in the day. Irriżultaljkom li kien hemm kumitati, credit committees li kien jaħdem?

RS: Kien hemm credit committee li jaħdem. Aħna fil-każ ta' issueing of loans tlabna lista tal-loans kollha li kien hemm li kien ħareġ min-naħa tal-bank.

AC Ian Abdilla: Ammont żgħir. Xi sebgħa jew tmeinja kien hemm loans.

RS: Tlettax-il lona għax pereżmepju meta jkollok addendum mal-istess klijent imma numru ta' klijenti differenti għandi tlettax jiena.

Sur Maġistrat: Fir-rigward ta' dawn il-loans li qed tirreferi qatt iltqajtu ma' sitwazzjoni fejn klijenti tal-bank jagħmlu transections bejniethom b'designations ta' loans? For example compnay A with a bank account in Pilatus granting a loan to Company B in Pilatus.

RS: Mhux l-audit ta' issueing of lonas qed tgħid imma fl-audit l-ieħor.

Sur Maġistrat: Ehe.

RS: Kien hemm.

Sur Maġistrat: Fuq xiex kienu jikkonsistu dawn?

DG: Fil-fatt kien hemm kont partikolari ta' Kimberly Beta Property Ltd fejn kien hemm numru ta' loan drawdowns. Fil-fatt din propriju kienet transazzjoni fjen imbagħad konna erġajna tlabna li nerġgħu naraw id-dokumentazzjoni liema dokumentazzjoni kienu ġabuhielna l-uffiċċju.

Sur Maġistrat: Imma kontu rajtu a loan agreement?

DG: Iva kien hemm loan agreement u kien hemm anke adendum għal dak il-loan agreement għax l-ewwel il-loan kienet for seven million imbagħad kien hemm adendum fejn il-loan kienet neqset – mhux ċerta jekk hux għal four jew three million.

Sur Maġistrat: Irriżultalkom dak il-loan agreement? Kien loan agreement iffirmat mill-klijenti b'mod regolari?

DG: Kienu kopji. Dan forsi huwa punt importanti. Fejn kien hemm dokumentazzjoni relatata mal-KYC, identifiaction docuemtns, ID cards, passaporti, verification of address, M and As dawk rajna li kien hemm jew l-oriġinali jew inkella certified true copies. Meta niġu għat-transazzjonijiet ir-requirement qiegħed li jrid ikollok dokumentazzjoni. A copy of the documentation fil-fatt jgħidu u hemmhekk ma stajniex ovvjament la nippenalizzaw jew inkella nresqu l-punt "isma għax din hija kopja."

Sur Maġistrat: Għal li jista' jkun ma ngħatajtux informazzjoni dawk il-loan agreements min kien jabbozzahom?

DG: Qatt ma staqsejna. LI ovvjament konna naraw li għallinqas il-kopja tad-dokument tal-loan agreement kienet tkun iffirmata bejkn il-partijiet imsemmija fl-agreement.

Sur Maġistrat: Fair enough.

AC Ian Abdilla: Qatt ma ngħatajtu x'tifhem li dawn l-agreements kienu qed joħorġu mill-vbank stess?

RS: Le.

Sur Maġistrat: Internal transections kienu jkunu?

RS: Kontijiet Pilatus għal Pilatus.

AC Ian Abdilla: Nostro accounts u Corrispondence bank accounts dawk dħaltu fihom bħala parti mill-internal audit tagħkom?

RS: Qatt ma eżaminajna s-sistema. In-nostro accounts konna nħarsu lejhom biex aktar nifhmu proċedura imma qatt ma ttestjajna fihom u qatt ma dħalna fis-sistema.

DG: Fl-ongoing monitoring ma ħarisniex lejn Vostro jew Nostro accounts.

RS: Ħarisna lejhom min-naħa ta' proċeduri imma qatt ma dħalna fihom.

Sur Maġistrat: U t-transazzjonijiet li kienu jsiru, the actual banking transections meta kienu allura – għall-argument għandek lil Sahra li riedet tħallas lil xi ħadd mis-suppliers tagħha, għamiltu xi verifika dawk it-transazzjonijet kif kienu jiġu eżegwiti?

RS: Ġos-sistema?

Sur Maġistrat: Mis-sistema stess kif il-pagament jitlaq x'sistemi intużaw fil-Flexcube.

DG: Ma kenitx parti minn dan l-eżerċizzju. Fil-fatt biex għażilna t-transazzjonijiet wara li l-ewwel għażilna l-kampjun tal-klijenti u ġabulna imbagħad l-istatements tal-kontijiet li għażilna biex għażilna transazzjonijiet ħarisna lejn l-ammont ta' transazzjoni sender jew receiver ħalli naraw ukoll bħala location. Dawk kienu l-elementi li stajna minn fuq l-istatement u d-description ukoll fejn kien ikun hemm description għax mhux kull transazzjoni jkollha description attached magħha. Jiġifieri random sampling mid-dettalji li kien hemm fuq l-istatement. Fil-fatt l-element ta' processing tat-transections. Ma rridux ninsew ukoll x'kien l-element ta' dan l-eżerċizzju li kien the three risk areas li l-ongoing monitory procedures whether or not they adhere to legal obligations, li the risk that the transections are executed which facilitate money laundering li allura għalhekk ħarisna lejn supporting documentation for that transection and that AML records are regulary and consistantly maintained li huwa l-aspett tal-KYC.

AC Ian Abdilla: Kemm kontu tagħmlu ħin in a month or in a quarter hemmhekk?

RS: Mhux dejjem l-istess. Skont il-frekwenza tal-audits. Skont x'audit hu. pereżempju tal-AML kien daqsxejn twil. Fil-każ ta' issueing of loans ma konniex domna aktar minn jumejn u nofs, tliet ijiem li konna on-site.

AC Ian Abdilla: On a quarter period, every month kontu tagħmlu three days, four days?

RS: Jekk trid tieħu average. Probabli inqas għax ma konniex nagħmlu erba' audits f'sena. Ħudha aktar kull sitt xhur naħseb.

AC Ian Abdilla: Għalfejn finalment waqaft milli tkomplu sservu bħala internal auditors għall-bank? Meta waqaftu?

GS: Kif għedna l-aħħar xahar li għamilna kien December 16 u kif għedt qabel ukoll li l-audit kien jieġu aktar ħin milli hu normali f'dawn iċ-ċirkostanzi. Konna tkellimna f'Marzu. Kont mort u ltqajt mas-CEO u ppreżentajt a revised letter of engagement on the basis li x-xogħol kien qed jieħu ħafna aktar ħin mill-average u allura r-rati li konna kkwotajna fit-2014 meta l-bank kien għadu qed jibda għandhom jiġu reveduti. Semmejt ukoll l-każ fejn – pereżempju aħna ġeneralment nikkwotaw fee fissa fejn ikun hemm average allura f'ċertu audits jeħodlok inqas ħin u audit ieħor jeħodlok aktar ħin, pluses and minuses. Fil-każ meta konna għamilna l-procurement u l-HR fi żmien qaris ridna niċċarġjaw the standard fee għal kull wieħed even though ma kienx ħadilna daqshekk ħin biex jagħmel tajjeb għal każi oħra. Is-CEO insista li peress li kienu żewġ audits żgħar niċċarġjah ta' audit wieħed. Kien hemm dawnit-tip ta' pressures u allura ppreżentajna każ li ma nistgħux nkomplu fuq din il-bażi u jekk irridu nkomplu rridu nirrevedu t-termini tagħna. Wara dak il-meeting ma konna smajna xejn aktar. Ma kenux għajtulna. Imbagħad kienu bagħtu email f'Settembru '17. Bejn Marzu meta konna ħriġna l-ittra u Settembru kienu ħarġu ħafna revelazzjonijiet jew għajdut. Allura at that point għedt li one l-letter of engagement qatt ma smajna, qatt ma ġiet aċċettata eċċ u fis-sitwazzjoni u fl-i9nformazzjoni li għandna jew li smajna ma konniex komdi li nerġgħu nibdew ix-xogħol.

AC Ian Abdilla: Ma tafux min ħa over jekk ħa over xi ħadd?

GS: Le. Ma konniex infurmati. Ma erġajniex tkellimna.

Sur Maġistrat: Se tinolbok jekk ma nimpurtax tħallili kopja tar-rapporti li għandek hemmhekk ħalli nkun nista' nagħtihom daqqa t'għajn. Once li nkunu tajnih daqqa t'għajn u forsi jkun hemm xi mistoqsijiet ta' kjarifika jekk ma jimputax nerġa' niltob l-assistenza tagħkom.

L-Analiżi magħmula mill-esperti tekniċi Antony Martin Babu u Shrisha Guruaj, esperti tal-*Oracle Flexcube Universal Banking System (Flexcube)*, dwar l-integrita tas-sistema Bankarja użata mill-Bank Pilatus u dik tal-*Forensic Accountant* Miroslava Milenovic

Ladarba ġiet traċċjata x-xiehda tal-impjegati tal-Bank Pilatus nonche dik tal-Awdituri *KPMG, Price Waterhouse Coopers* u *Deloitte Malta,* l-inkjesta issa tgħaddi biex tanalizza r-riżultanzi tekniċi tagħha dwar l-informazzjoni estensiva li inġabret mingħand il-Bank Pilatus. L-analiżi tal-informazzjoni miġbura mill-Bank Pilatus ġiet analizzata kemm mill-*Forensic Accountant Miroslava Milenovic* kif ukoll mill-*Forensic Accountants and Forensic Analysts Harbinson Forensics.* Iżda peress li, minħabba raġunijiet loġistiċi l-*Forensic Accountant Miroslava Milenovic* bdiet teżegwixxi r-rwol tagħha qabel dak tal-*Forensic Accountants and Forensic Analysts Harbinson Forensics* kienet hi li għamlet l-ewwel u l-aktar analiżi fid-dettall fir-rigward tal-informazzjoni meħuda mingħand il-Bank Pilatus.[138]

[138] Għalhekk ir-relazzjoni tagħha sejra tkun inkluża f'dan l-istadju ta' dan il-*Proces Verbal.* Ir-relazzjoni tal-*Forensic Accountant Miroslava Milenovic* trid ukoll tinqara fid-dawl tax-xiehda tad-diriġenti u l-impjegati ta' Nexia BT ukoll. Iżda peress li l-maġġor parti tal-informazzjoni miġbura mingħand Nexia BT kienet ġiet sottomessa għall-analiżi tal- *Forensic Accountants and Forensic Analysts Harbinson Forensics* ir-relazzjoni ta' dawn ser tkun trattata wara li tiġi traċċata in suċċint ix-xiehda ta' Brian Tonna, Karl Cini u Michael Satariano.

Iżda l-ewwel pass għal dan kien li jiġi stabbilit kemm is-sistema bankarja tal-Bank Pilatus kienet integra qabel ma tibda ssir analiżi tagħha mill-*Forensic Accountants,* li f'dan il-każ ir-rwol prinċipali kien fdat f'idejn il-*Forensic Accountant* Miroslava Milenovic. Dan l-eżerċizzju kien meħtieġ peress li f'dak li kien jirrigwarda l-Bank Pilatus, kemm stando ma dak miktub minn Daphne Caruana Galizia, u kif aktar tard mistqarr bil-ġurament minn Maria Efimova, deher li l-aktar informazzjoni importanti li setgħet tiġi miġjuba minn dan il-Bank kienet

(a) il-lista tal-klijenti kollha tiegħu, preżenti u passati; kif ukoll

(b) il-lista tat-transazzjonijiet bankarji kollha eżegwiti minnu u li ġew allegatament magħmula skont kif rapurtat minn Daphne Caruana Galizia u mistqarr minn Maria Efimova.

Għal dan il-għan id-data diġitali kollha li kellha x'taqsam mal-*core banking system* tal-Bank, inkluż il-lista kompluta tal-klijenti tiegħu kellha tiġi meħuda u analizzata sa' mill-ewwel jum tal-operat tal-Bank. Din kienet miżura drastika li kienet tolqot kemm lil dawk li setgħu kienu involuti kif ukoll dawk li ma kienux. Din l-informazzjoni kienet ġie priżervata wara li kif ġie msemmi kienu involuti l-espert Godwin Caruana bl-għajnuna loġistika mal-Membri tat-Taqsima tas-*Cybercrime.*

Sadattant diversi dokumenti stampati li dehru li setgħu kienu rilevanti għall-fini ta' din l-inkjesta kienu diġa ġew elevati mill-Bank Pilatus u mgħoddija lill-*Forensic Accountant* Miroslava Milenovic għall-analiżi tagħha. Biss minn naħa tagħha *Miroslava Milenovic* ma kienetx lesta li tibda tanalizza l-informazzjoni kontenuta fil-*core banking system* tal-Bank Pilatus qabel ma jkun konfermat lilha li s-sistema bankarja tal-Bank Pilatus kienet integra u setgħet tistrieħ fuqha.

Wara kuntatt li kien sar ma rappreżentant tal-kumpanija *Oracle,* li kienet dik li ddiżenjat u arkitettat il-*Flexcube,* li huwa l-programm informatiku li permezz tiegħu il-Bank Pilatus setgħa jipproċessa t-transazzjonijiet bankarji tiegħu, ġew miġjuba f'Malta żewġ esperti tekniċi sabiex ikunu jistgħu janalizzaw din il-*core banking system* tal-Bank Pilatus u wara li jkunu vverifikaw jekk din is-sistema kienetx integra u awtentika, u għalhekk li tkun tista' torbot fuqha, joħorġu wkoll informazzjoni mill-istess sistema bankarja li fuqha tkun tista' ssir ċerta analiżi teknika da parti tal-*Forensic Accountants.*

Għal dan il-għan, ġew maħtura żewġ esperti:- *Antony Babu Martin* u *Shrisha Gururaj* li ġew Malta appożitament sabiex jagħmlu x-xogħol meħtieġ fir-rigward tal-analiżi tal-*Oracle Flexcube Universal Banking System,* inkluż dak li jivverifikaw l-awtentiċita u l-integrita tas-sistema nonche li joħorġu dik l-

informazzjoni li kienet rilevanti għall-fini ta' din l-inkjesta jew dik ordnata lilhom mill-Maġistrat Inkwirenti u li saret fuq il-*Flexcube application* li kienet tinsab fis-sistemi informatiċi tal-Bank Pilatus *live* mill-Uffiċji tal-istess Bank Pilatus. Għal dan il-għan l-inkjesta ingħatat aċċess għas-sistema imħadma *live* mid-diriġenti ta' dan il-Bank li kkoperaw mal-inkjesta.

In-nomina ta' Antony Babu Martin u Shrisha Guruaj b'digriet tal-15 ta' Mejju 2017

Antony Babu Martin u Shrisha Guruaj ġew nominati sabiex bħala esperti tal-*Oracle Flexcube Universal Banking System* :

> jagħmlu x-xogħol kollu meħtieġ fir-rigward tal-ġbir u l-analiżi tal-informazzjoni diġitali u stampata kollha li kienet meħtieġa minnhom mill-Bank Pilatus sabiex ikunu jistgħu jagħmlu analiżi tal-*Oracle Flexcube Universal Banking System* li kienet tinsab fis-sistemi informatiċi tal-Bank Pilatus *live* mill-Uffiċji tal-istess Bank Pilatus jew minn kwalunkwe post jew tramite kwalunkwe mezz u manjiera li jidhrilhom xierqa u dan sabiex ikunu jistgħu jivverifikaw l-awtentiċita u l-integrita tas-sistema *Oracle Flexcube Universal Banking System* skont kif kienet installata, imħadma u proċessata mill-Bank Pilatus u mid-diriġenti u impjegati kollha tiegħu li kellhom aċċess għal din is-sistema informatika bankarja kif ukoll li joħorġu dik l-informazzjoni li kienet rilevanti għall-fini ta' din l-inkjesta jew dik ordnata lilhom mill-Maġistrat Inkwirenti. B'mod partikolari, huma ġew mogħtija speċifikament l-istruzzjonijiet sabiex jagħmlu dak l-istħarriġ u ġabra ta' informazzjoni u analiżi meħtieġa mis-sistemi u records tal-Bank Pilatus sabiex jivverifikaw u jottjenu l-informazzjoni kollha biex jipproduċu rapport finali tagħhom dwar:
>
> **1.** FLEXCUBE Data & Systems Integrity

2. List of all external systems connected to FLEXCUBE
3. Full client list from 1st working day, including the below information
3.1. History of the name & address changes done in the client list
3.2. Configuration details of customer number generation logic
4. Full transaction list from the 1st working day
5. List of deleted transactions & Maintenances
6. Updated statement of accounts
6.1. List all the statement records available in FLEXCUBE including those generated on
demand for the customers
7. Full list of bank loans
8. Standing order created from 1st working day
8.1. Customer to Customer internal transfer from agreement to transfer or loan
9. Business Intelligence Publisher (BIP) report formatting capabilities and can BIP be used to
key in transactions directly to FLEXCUBE
10. Security transactions in FLEXCUBE
11. FLEXCUBE documentation including a list of all customizations done in PILATUS
12. Does Internet & Mobile banking exists in PILATUS & how is it being used? Read only or in
transaction posting mode?
13. Reliability of the data backups and how often is the Production data backed up?
14. Can users log into FLEXCUBE remotely and post transactions?
15. Full list of banks configured as correspondent banks in FLEXCUBE
16. Balance sheet analysis
16.1. List all the days when the bank's balance sheet weren't balanced
17. Reconcile all the messages generated in FLEXCUBE with the TAS System
18. Search in FLEXCUBE client list, account signatories list, incoming & outgoing SWIFT message
details for the following key words
1. Key word list 1
2. Key word list 2
3. Key word list 3

L-esperti qiegħedin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma

dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmlu dak l-iskambju t'informazzjoni li jidhirlhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom.

Għal dan il-għan l-esperti ġew ordnati li jirrelataw proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw il-konklużjonijiet tagħhom u sabiex l-istess esperti tekniċi jkunu jistgħu iwettqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom huma ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Saru diversi laqgħat ma' dawn l-esperti, bl-ewwel laqgħa saret fil-15 ta' Mejju 2017 fil-Qorti fejn għaliha kien hemm preżenti wkoll ir-rappreżentanti tal-*Oracle* u l-membri tat-Taqsima kontra r-Reati Ekonomiċi. Dawn ġew mogħtija l-ordni li jagħmlu diversi testijiet fis-sistema nnifisha u li jiġbru l-informazzjoni imsemmija fin-nomina

Fis-26 ta' Mejju 2017 dawn l-esperti irrelataw bil-miktub u l-konklużjonijiet tagħhom ġew espressi bil-mod segwenti :-

Along with the officers from the Economics Crime Squad of the Malta Police Force, we visited Pilatus bank to collect the aforementioned data, directly from their FLEXCUBE Production Database Systems on the 16th, 17th, and 19th May 2017. Database queries were executed directly on the FLEXCUBE Production Database instance and the output was dumped into an USB drive in excel format to be used for further investigation.

The above collected Production data was copied into 4 USB drives sealed and signed in the presence of the officers of Pilatus and Economics Crime

Department, so that the copied data is preserved and only one USB drive is used for working data analysis.

Similarly, the same data was extracted on 18th May, and 23rd May from the backup of the DR server, copied by the Economic Crimes Department in April 2017, available in their data center servers in the Magistrate's office. This data has been copied into 2 USB drives with one being a working copy.

Dawn eventwalment kienu mgħoddija lil *Forensic Accountant Miroslava Milenovic* għall-analiżi tagħha. Sadanittant, dawn l-esperti mill-*Oracle* wara li għamlu analiżi tad-data kontenuta live fuq il-*core banking system* tal-Bank Pilatus, il-*Flexcube* ikkonkludew u stabbilew is-segwenti (bit-test oriġinali jinsab kontenut fir-relazzjoni oriġinali tagħhom annessa fl-atti ta' din l-inkjesta) : -

1. Dwar l-integrita tas-sistema u d-data fil-*Flexcube* huma tennew li: -

Query the balance sheet table for on balance sheet items by grouping the balance for every financial period for both Customer & Internal GL's. The resulting data indicates the balance sheet is balanced every accounting period. Detailed data is available in Appendix brchk.xlsx.

Dan fisser li skont dawn l-esperti fis-software tal-Oracle Flexcube, wara li analizzaw is-sistema *live* fil-Bank Pilatus u ġabru l-informazzjoni huma direttament mis-sistema kif imħadma fil-Bank Pilatus, ikkonkludew li s-sistema u d-data tal-*Flexcube* tal-Bank Pilatus kienet integra u konsegwentement wieħed setgħa jistrieħ fuqha għal fini ta' analiżi.

2. Għamlu lista tas-sistemi esterni kollha li kienet konnessa mal-*Flexcube* u sabu, anke wara li ġabru informazzjoni mingħand *Facilization*, id-ditta Albaniża akkreditata mal-kumpanija *Oracle* li kienet tissupplixxi lil Bank Pilatus b'servizzi ta' għajnuna u support tekniku fit-tħaddim tal-*Flexcube*, li kienet tinkludi

a) TAS – FLEXCUBE to SWIFT Alliance connectivity.
b) Gateway – FLEXCUBE Direct Banking interface
c) Carta File Processing

2) The following jobs are configured in FLEXCUBE
a) EMS_IN – FLEXCUBE job to read incoming SWIFT messages from TAS
b) EMS_OUT – FLEXCUBE job to send outgoing messages to TAS
c) PR_AUTO_MT100_FT_STP – FLEXCUBE job to straight through process the incoming SWIFT messages

3. Għamlu lista aġġornata tal-klijenti kollha tal-Bank Pilatus sa mill-ewwel ġurnata tal-operazzjonijiet bankarji sa' dak il-jum. Din kienet tinkludi:

1) History of the name & address changes done in the client list.
2) Configuration details of customer number generation logic.

Queried all the customer table data and the change log table data for the changes done for NAME & ADDRESS Full list is available in the file
1. Customer - list_of_all_cutomer_personal_data.xlsx
2. Customer Changes - list_of_name_address_changes.xlsx
3. Customer number generation is based on database sequence object. There is a very good possibility that the customer number is not in sequence when the bank user cancels the customer creation screen after the customer number is filled in by FLEXCUBE.

4. Lista tat-transazzjonijiet kollha sa mill-ewwel jum tal-operazzjonijiet tal-Bank Pilatus sa dakinhar. Għal dan l-għan huma għamlu:

> Full transaction list from 1st Working day. Queried the accounting table without any criteria to list all the accounting entries posted in FLEXCUBE until now. Full list is available in list_of_all_accounting_entries.xlsx in Figure 3-2

5. Għamlu wkoll lista ta' transazzjonijiet li kienu ġew imħasrin u *maintenances* oħra. F'dan ir-rigward għamlu wkoll dawn il-kummenti :-

> In FLEXCUBE only un-authorized transactions & Maintenances can be deleted.
> 1) Transactions which are deleted in FLEXCUBE can only be retrieved as a report on the same working day i.e. before the executing of the end of day for the current business date. The file, list_of_deleted_transactions.xlsx contains the transactions which were deleted on 16th May 2017.
> 2) Maintenances which are deleted cannot be retrieved at all.

6. Għamlu lista aġġornata tal-kontijiet tal-klijenti tal-Bank Pilatus li fihom inkludew : -

> 1. List all the statement records available in FLEXCUBE including Queried the outgoing message table and extracted all messages for message type ACST_DETAILED. Full list of all account statements generated in FLEXCUBE either periodically or on demand is available in the file, list_of_all_account_statements.csv in Figure 3-3 10 **Criteria Query Resolution Approach Result** those generated on demand for the customers.

7. Ipproduċew ukoll lista sħiħa tal-kuntratti ta' self mogħtija mill-Bank Pilatus lil klijenti tiegħu. Għamlu dan billi : -

7 Full list of bank loans Queried the loan master, loan parties,
loan schedules, loan change log, loan payments, and settlement details.
Full list is available in the below file in Figure 3-1
1) list_of_all_loan_contracts.xlsx
2) list_of_loan_parties.xlsx
3) list_of_loan_parties_history.xlsx
4) list_of_loan_parties_modified.xlsx
5) list_of_loan_accounts_schedules.xlsx
6) list_of_loan_changes_log.xlsx
7) list_of_loan_changes_log_historical_data.xlsx
8) list_of_loan_payments.xlsx
9) list_of_loan_settlement_details.xlsx

8. Ipprovdew ukoll lista tal-istanding orders magħmula mill-ewwel ġurnata tal-operazzjonijiet tal-Bank Pilatus. Fiha inkludew :-

Standing order created from the 1st working day in FLEXCUBE
1. Customer to Customer internal transfer from agreement to transfer
2. or loan. Queried from Funds Transfer and Lending master data tables
Full list of customer to customer, internal, and loan available in the file,
list_of_all_funds_transfer_contracts.xlsx and, All_loans.xlsx in Figure 3-1

9. Peress li kien hemm sistema ta' rapurtaġġ jisimha *Business Intelligence Publisher* (*BIP*), ġew mitluba wkoll biex jagħmlu analiżi dwar il-*formatting capabilities* ta' dan is-*software* kif ukoll jekk setgħax jintuża biex isiru transazzjonijiet diretti fil-*Flexcube* minnu stess. Ikkonkludew li :

BIP formatting is possible by amending the existing template.
BIP cannot be used to input transactions in FLEXCUBE.

10. Ġew mistoqsija janalizzaw jekk kienx hemm *securities transactions* fil-*Flexcube*. It-tweġiba tagħhom kienet li : -

Securities module of FLEXCUBE is not used in Pilatus and hence the details are not available in FLEXCUBE. Pilatus is posting manual accounting entries.

11. Ġew ukoll mitluba sabiex jinkludu d-dokumentazzjoni kollha li kien hemm dwar Flexcube kif ukoll dawk il-customizations kollha li kienu sarulu fil-Bank Pilatus. It-tweġiba tagħhom kienet provduta b'riferenza :

FLEXCUBE documentation is available on demand. Refer http://docs.oracle.com/cd/E49740_01/homepage.htm for the FLEXCUBE UBS 12.0.2 documentation library. Refer to <...> for the complete list of Customization developed for PILATUS by ORACLE.

12. Mistoqsija jwieġbu jekk il-Bank Pilatus kienx juża Flexcube Internet u Mobile Banking Application, u f'każ pożittiv jekk kienetx read only jew in transaction posting mode, wieġbu li : -

Information gathered from Pilatus COO According to Pilatus initially Internet Banking (FLEXCUBE Direct Banking) was tested with transactions and later it was switched to only view mode. By verifying the data in FLEXCUBE it can be confirmed that initially in 2014 test transactions were carried out by the team with low value amounts among the staff and this is the only data in FLEXCUBE. So this confirms that no new transactions have been received from Internet Banking. Details of these transactions are available in files, list_of_internet_banking_Funds_Transfer_contracts_ incoming_response.xlsx and, list_of_internet_banking_Funds_Transfer_contracts_ outgoing_response.xlsx. According to Pilatus, ATM/POS interfacing was never really materialized as their service provider.

Criteria Query Resolution Approach Result : (Pilatus Bank) had numerous challenges to overcome and the project was shelved, however Pilatus provides its customer with limited cash card services. Mobile banking interfacing was also a non-starter in Pilatus.

13. Mistoqsija janalizzaw l-attendibbilita tad-*data backups* u kemm il-darba il-*production data* kienet ġiet *backed up*, huma wieġbu li din l-informazzjoni kienet miġbura mingħand ic-*Chief Operating Officer* tal-Bank Pilatus (Luis Felipe Rivera) huma qalu li : -

> Details of the DR recovery setup available in the file, Query on the backup instances.msg

14. Ġew ukoll mistoqsija janalizzaw jekk il-klijenti tal-Bank Pilatus setgħux jaċċedu għall-*Flexcube* b'*remote access* u jagħmlu transazzjonijiet bankarji huma stess, l-esperti ikkonfermaw ukoll mac-*Chief Operating Officer* tal-Bank Pilatus li l-klijenti ma jistgħux jidħlu fil-*Flexcube* b'*remote access* u l-anqas jekk jaċċedu bil-VPN ma setgħu jagħmlu transazzjonijiet bankarji waħedhom.

15. Mitluba biex jiġġeneraw il-lista tal-*Correspondent Banks* indikata fil-*Flexcube* dawn l-esperti kkonfermaw li mill-Flexcube database innifisha kien hemm lista sħiħa ta' dawn il-*Correspondent Banks* disponibbli fil-file bic.xlsx fil-Figure 3-1.

16. Għamlu wkoll lista ta' dawk il-ġranet li fihom it-transazzjonijiet fil-*balance sheet* kontenuta fil-*Flexcube database* kienu jidhru mhux bilanċjati billi produċew lista tal-*end of day aborts due to balance sheet mismatches*. Din tinsab fil-lista *list_of_eod_failures_due_to_balances.xlsx in Figure 3-2.*

17. Inħasset ukoll il-ħtieġa li jkun hemm rikonċiljazzjoni bejn il-messaġġi ġenerati fil-*Flexcube* mas-sistema *TAS* sabiex ikun jista' jiġi mqabbel u indagat jekk it-transazzjonijiet kollha esteri kienux bilanċjati. Qalu hekk:

> TAS Messages were provided by Pilatus team and FLEXCUBE Outgoing messages were selected from FLEXCUBE Database table for the Outgoing browser screen. The reconciliation was done based on the value of the User header block field 108 in all the outgoing messages recorded from TAS sent to SWIFT Alliance. Full list of TAS and FLEXCUBE outgoing messages is available in the file TAS Messages PLTSMTMT.zip and swift_messages_out_of_FLEXCUBE.xlsx in Figure 3-1

18. Intalbu wkoll jagħmlu rikonċiljazzjoni tal-bilanċi fin-*Nostro accounts*. Għal dan il-għan wieġbu s-segwenti : -

> PILATUS is not using the Nostro Reconciliation module in FLEXCUBE and hence a manual reconciliation had to be done. By querying the FLEXUCBE database to find the list of external accounts maintained and using the list_of_all_accounting_entries.xlsx list compared it with the incoming MT940/950 where field 25 matches with the external accountmaintained in FLEXCUBE. Comparison of the Nostro balances is completed for all correspondents of Pilatus in EUR and USD currencies. The full list of the reconciliation details is available in the file Nostro_balance_reconcilation_between_FLEXCU BE_and_incoming_mt940.xlsx. Discrepancies in the balances of the external accounts have been highlighted in the same file for further checking.

19. Barra minn hekk ingħataw lista ta' keywords ta' individwi u kumpaniji li kienu jidhru li setgħu kienu rilevanti għall-fini ta' din l-inkjesta u materji oħra relatati li kienu qegħdin jaslu għall-attenzjoni tal-Maġistrat Inkwirenti. Din il-lista tinstab imsemmija fir-relazzjoni tal-esperti mill-Oracle. Huma

ħarġu l-informazzjoni kollha relattiva mill-Oracle Flexcube f'Section 3 tar-relazzjoni tagħhom.

Għall-fini ta' kjarezza, wara li kienet preżentata r-relazzjoni ta' dawn l-esperti, saret ukoll video-konferenza magħhom fit-28 ta' Mejju 2018 fejn it-test integrali tad-deposizzjoni ta' Antony Babu Martin turi b'mod aktar ċar il-konklużjonijiet tagħhom x'kienu.

Magistrate: Let us start straight away. If you remember you already confirmed the report, the technical data analysis report that you performed on the 26th of May of last year in relation to Flexcude UBS for Pilatus Bank Malta. Am I correct?

AB: Yes sir.

SG: Yes sir.

Magistrate: Do you have a copy of the report available with you?

SG: Yes sir we have.

Magistrate: I would like first of all to go through this report step by step and I would like to you to explain briefly what you did in the course of your task. Please explain step by step what the procedures you adopted were and eventually we will refer to the report in relation to your findings. So please start to explain step by step what your task was and how you executed that task.

AB: We came to Malta at your request to gather data. So you wanted us to check the system data. You ordered us to check and assist you and your team and so we checked the data ...Oracle experts to assist your team with an ongoing investigation. You ordered from us from Flexcube database which I am listing now; we had to check the intergrity, you wanted us to check the list of formal ....you ordered us to have the list of all the clients in B1 which includes the list of names and how the customer number was. You wanted from us a full list of all transactions also including the little transactions. You wanted

from us an updated...full list of bank notes, list of all standing orders within the Flexcube. You wanted to know from us the capabilities of ..... You wanted to know from us the Flexcube....all the customers...Pilatus. You wanted to know from us .... In read only or in ..... you wanted to know from us how ...often backed up. You wanted to know from us if users ..... you wanted to know from us .....you wanted to know from us if balance sheet was .... You wanted us to reconcile. You wanted to know the list of key clients list mostly 3 which you wanted to check ..... this was a request which was given to us. With the help of your team we used the data directly from production systems, collecting the data or ... and also collecting the same data ...which was kept at our premises and ...records and we..... data analyses which we ....

Magistrate: So when you went on site at Pilatus Bank, what did you exactly do there once you repaired on site?

AB: In order to collect the data we have written some queries in our database and we have extracted that data and we took .... in excel sheet, UBS drive and brought it to our working place to analyse it. This was available in point number 3 of the report which explains to us the data collected on each of the days. We took a similar report, extract .. using the same ... from your backup also. This is just to collect the data and it was not altered or tempered in between.

Magistrate: When you went to analyze the bank's system itself, first of all which banking system are we referring to here?

AB: Flexcube banking solution.

Magistrate: That is used by Pilatus. Is there any particular version number?

AB: 03.0.3.

Magistrate: And this version was installed and operative at Pilatus bank?

AB: I believe so.

Magistrate: One of the very first issues that I requested you to verify was related to the Flexcube data and system integrity. As you recall one of our main concerns related to the issue whether Flexcube as a banking system and the database and it works on whether they were not only authentic but whether their integrity could be ascertained. What can you tell me about this specific issue please?

AB: So to check the data integrity we took all their transactions in the system to see if they are balanced and so we created a database for all the past .... and we summarised this data in an excel sheet and based on the results we could see that the holding periods...the balancing which means that the sum total of all the bits match all credits. This is one of the basic check which we do to ensure which address to find if the balance sheet of the bank is balanced. So from this data we could see this balance so all the ...in the past also had balanced.

Magistrate: How does Flexcube process these transactions? Are they transacted or rather saved and assessed on a daily basis? On a weekly basis? On a monthly basis? How does this system go about these accounts?

AB: At the end of the day we have a process in Flexcube which is called end of cycle process so all the transactions of the day are reconciled, they are all balanced and the balance sheet is updated and all of the processes running the systems .... if there are loans they are calculatins of interest, saving accounts calculation of interest. Data is moved from the daily tables and history tables. So end of day process there in Flexcube which ensure that the end of day are in balance.

Magistrate: So if I understood you correctly, the way Flexcube is designed ensures that at the end of everyday the system seeks to ensure whether the transactions would be balanced or otherwise. So once a transaction is balanced on a daily bases am I right to understand that your reading taken on the 17th or 18th or 19th of May 2017 once it was balanced it means that it was balances on each and every single day before that date since the first transaction carried out through Oracle Flexcube in that bank?

AB: Yes. Your understanding is correct.

Magistrate: Therefore one of our main concerns related to the possibility of data on/or through Flexcube being manipulated. One of our main concerns was to ascertain whether this bank processed financial transactions such as payments or emittances without them being duly registered through its core banking system. Given that these accounts or rather the balance sheet was balanced for every accounting period, am I right to understand that at least in so far as the transactions that were keyed in through the banking system are concerned, they had to be reflected in the balance sheet of Pilatus Bank?

AB: Yes sir.

Magistrate: So that is also the case. One other issue relating to the database, another concern that we had related to the possibility of operators in Pilatus Bank tempering with data in Flexcube. Can data inputted in Flexcube be deleted without leaving trace? Let me give you an example. Is it possible for a transaction, a payment to be processed regularly through Flexcube with it subsequently being deleted from the system without it leaving trace?

AB: No sir it is not possible. We can not delete transactions in Flexcube after they have been authorised. It is only possible to be reveresed. So transactions which are not authorised which means they have been not send out only those can be deleted in Flexcube.

Magistrate: They are unauthorized but if they are unauthorized I understand that the payment would not go through. Am I correct?

AB: Correct sir.

Magistrate: So basically, it is only those payments who are unauthorized that can be deleted? Am I correct?

AB: Correct sir.

Magistrate: If these unauthorized transactions are deleted would they leave a trace on Flexcube?

AB: Yes sir. We have a report to fetch al the transcation which are deleted for the date. This report has to be taken everyday so that we can get a list. Otherwise those transactions are physically deleted from there and from tha tables also.

Magistrate: One other issue related to the possibility of information in the database itself that could be tempered with. I have to make a premise here. During the course of this investigation, the investigation learnt of a technical analyses carried out separately by a firm of auditors which included a technical assessment of the bank's system. One of the issues that was raised was whether it was possible to delete data from the database itself without it leaving a trace. Would that in your opinion be possible given the proper expertise?

AB: It is possible however it can not be done by Pilatus Bank themselves because it needs the database access and it needs the knowledge of the database

structure to delete the transaction completely. To erase a transaction in my opinion I would assume that this has to be done by the support team which is probabily the fasilisation team doing the suppost for them. They have to request a call from them but in all possiblity we would question the reason why they want to delete a payment which has been authorised. It woul dhave needed some kind of approval to do such an activity.

Magistrate: Keeping this issue in mind for the time being, do you remember, do you recall, because Flexcube on its own is – if I understood you correctly – the software that processes and authorizes among other things payments from the bank to third parties around the world. Correct?

AB: Yes sir.

Magistrate: Now when it comes to payments from the bank to bank accounts of other beneficiaries in banks across the world, is Flexcube on its own enough for the transaction, for the payment to take place? Or id there need f any other sort of interface apart from Flexcube in order for a financial transaction such as a payment to be affected from Pilatus to a beneficiary holding a bank account in a bank anywhere around the world?

AB: Flexcube can authorized a connection within itself. So the transaction has to go into ... then it needs a network and we commonly use a Swift Network so it is one which is connecting the bank with the rest of the world and Flexcude is the ...who handle the payments from both in its system to the Script server. This is how the transactions actually flow from Flexcube to the rest of the world.

Magistrate: When you were in Malta you confirmed that Pilatus Bank uses Flexcube. Am I right?

AB: Yes.

Magistrate: And you did not come across any other core banking system while analyzing that?

AB: Our task was only to check Flexcube however we did not take any other task of checking if these was more than one core banking systems. We connected to Flexcube and I only checked Flexcube.

Magistrate: And that part of Flexcube was only paired or connected to Swift. Do you remember what Swift portal was sued by Pilatus?

AB: I think it was called TAS.

Magistrate: Therefore, once a payment is authorized through Flexcube, can you please explain what protocol is followed in order for a payment to be successful?

AB: So once a payment is created by the user, there is a need for an authorized to verify the transacton and approve it. Once the transaction is approved it creates accounting entry and creates a payment message and it is lying the Flexcube outgoing browser to be send to the Swift alliances. So once the job picks up the message we send out it updates the Flexcube that is had been send out in so date and time. The Swift system and normally the bank is suppose to have automatic rules that they have to send it out immediately or they want to put a control there and somebody warns that it has been send out and the approve it from there. However our scope of work we did not involve the see how the TAS is configured. Our scope was jus tot see whether all messages has been send to Flexcube into TAS.

Magistrate: And in point of fact did it result that all messages were all outgoing payments were executed through TAS?

AB: Yes. We have found that in point number 17 of the document.

Magistrate: Here in fact it says that full Tas and Flexcube outgoing messages was available in the figure that you mentioned and you can therefore confirm that from what you analyzed you could reconcile all the messages generated in the Flexcube with TAS?

AB: Yes sir.

Magistrate: So going back therefore to this issue, therefore once a transaction would have been an outgoing transaction would have been generated and authorized through Flexcube, it went and it goes - in this particular case - these transactions went through TAS and TAS basically facilitates if I understand you correctly the transfer of the specific code attached, or message attached to the transaction in question. Am I right?

AB: Yes sir.

Magistrate: That then is processed by Swift in Belgium. Correct?

AB: I do not know how they are configured.

Magistrate: But once the message is send from TAS, from the Swift portal, were does it go to? Were does it reach? Does it reach the beneficiaries bank or does it go through correspondent banks? Do you know how that system works?

AB: That is basically how the Bank Pilatus is configured. Basically normally Pilatus Bank would have correspondence banks configured for them in the Swift directory and they can only send them and receive the money, the payments only to these banks. Depending on that the configure of Flexcube all to the same way and Flexcube understand this and in the message there is a part which says who is sending and who is receiving it. Based on who is receiving it, it goes to that bank.

Magistrate: So, therefore turning back to that hypothesis that we mentioned earlier on whereby whether it would have been possible for the Flexcube database to be tempered with when it comes to transactions being authorized. So that would mean – you said it I understood you correctly – that that would entail some sort of action being taken on the path of the database administrator but not only that therefore I would think because apart from the record in the Flexcube database, some action would have to be taken also in relation to the TAS message that would have received the original payment message that would have been tempered with. Am I correct to make this co-realtion between TAS on one hand and Flexcube on the other?

AB: Yes sir.

Magistrate: So therefore if the database would have been tampered with, then that would also have to reflected in tempering with TAS date because otherwise if it is not captured from the Flexcube database the same transaction would be captured through TAS code. Is that correct?

AB: Yes sir.

Magistrate: So that would – if I understand this issue correctly – lead to a series of complications which probably would impact on the bank's balances. Am I correct?

AB: Probably not. If there is a change in the messgae, there is no change in accounting so it only goes out in the message and later comes back to Flexcube as a message to be reconciled.

Magistrate: But it would still leave a trace on the Swift message.

AB: Correct sir.

Magistrate: Did you encounter anything of this sort when you were analyzing Flexcube and TAS data?

AB: We basically confirmed that that data in Flexcube database, message and we found that we could match all the transactions that were in Flexcube and TAS. However we did find that some data, messages have been .. in TAS and so Flexcube for which we do not have any reasonign as to why they might have done this. I would guess it would be probably be soemthing specific that they had quicker on TAS. I did not see any reason that they tried in Flexcube and I could not find anything like that.

Magistrate: But despite this the transaction was also recorded on TAS. Am I correct?

AB: All which were in Flexcube were there in TAS. There were some which were only directly only in TAS.

Magistrate: But they remained in TAS.

AB: Yes they remained in TAS.

Magistrate: So you could see them in TAS.

AB: Yes sir.

Magistrate: One other issue that we noted relates to the customer information number. This issue relates to the fact that from the clients' list we have seen we noted that the customer information number was not always following a chronological consecutive order. Why do you think is this? Can you please explain how the client information numbering operates in Flexcube and whether it is possible to have gaps, somethings considerable gaps in the numerical sequence between one customer and the next?

AB: The customer number in Flexcube is generally in running sequence number. However this object is prone to have gaps in the customer number. If for some reason the user, the end user in bank wanted to create a customer and for some reason they cancelled it. So it means I would start with 1, the next number I would get is 2, they are trying to create customer number 2 and for some reasons they faced a problem in the system or they cancelled it for some other reason so which means that 2 is lost forever. Then the next number which

they get for the next customer is 3. Likewise if they cancel it out for some reason or they faced error and they cancel it out, then the good chance is that there is a gap in the customer sequence number.

Magistrate: But sometimes the gaps are not simply reflected in two or three numbers. Sometimes you have for example a dozen numbers that would have been skipped. Sometimes even almost two dozen numbers that could have been skipped. Does this normally happen with a Flexcube Oracle system?

AB: Normally no sir. Normally it is not possible. When the sequence numbers are cashed in the database, and if they have the database issued on the day and they are klisted in the database there is a very good possibility that the database keeps all those numbers cashed. The cashing was done for the inputting of the performance of the system so unless the database was restarted on that day, then you have so much numbers missing. I can not find a reason to explain this.

Magistrate: On of the reasons that was given related to the fact that the system was designed like that in order not to give an automatic sequential number in order to protect client's identities or anything of this sort. Do you think that this makes sense to you?

AB: I can not make sense out of it.

Magistrate: I would like to go through the results of your report. Some of them we have already covered but there are some issues that I would like to clarify with you and I am going to go through each point step by step. So point number 1 relating to Fklexcube data and system integrity we have already mentioned that. Therefore I am to understand that Flexcube as such shows that all entries since the first day it was used had its accounts balanced which I understand to mean that all the transactions inputted in Flexcube as shown through its clients' list and list of transactions matched. Is that correct?

AB: Yes sir.

Magistrate: List of all external systems connected to Felxcube and you give a list of all the external systems. When you say external systems what do you mean by that?

AB: Foreign systems which are not part of the core Flexcube systems.

Magistrate: So these systems help Flexcube to execute its functions? How do they operate?

AB: They are not helping Flexcube. They are helping the bank to do their process like payments in TAS, the bank has to send the payments so they need TAS systems, they need Swift. Felxcube by its own can only produce the message to be send but it cannot send it across the outside world. So it needs networks or TAS. Flexcube can work with TAS so the message is kept in Flexcube, however without TAS it cannot sent it outside.

Magistrate: So without TAS the bank in this particular case cannot use Flexcube in order for it to execute payment transactions abroad.

AB: Yes sir.

Magistrate: And therefore Flexcube and TAS have to work hand in hand in order for a transaction to be carried out properly. Correct?

AB: Correct sir.

Magistrate: So you also in point 3 provided a full client list from the first working day including the history of the name and address change done in the clients' list and the configuration details of the customer number in generation logic. You queried all the customer table data and the change log table data for the changes done for names and addresses. So here I understand that it is possible through Flexcube to make changes to customer details. Am I correct?

AB: Yes sir.

Magistrate: Is it possible to delete the names of customers from the database once inputted?

AB: Once it is authorized it is not posisble to delete. It can only close then account but once you close it still remains in the database. You cannot delete any record.

Magistrate: So once that a customer is onboarded and his name is entered in the Flexcube clients' list, once it is authorized it remains there. It cannot be deleted.

AB: No sir.

Magistrate: If it is not authorized can it be deleted?

AB: Yes.

Magistrate: And when you say authorized, what is the process of authorization? What does it involve? What does it entail?

AB: Second person who verifies, who is normally required to verify the transaction againt the actual input and then he is asked to do an action in the system which approves the transaction.

Magistrate: In this particular case in so far as Pilatus is concerned, in order for payments to be made through Flexcube the remitter had to be an account holder. Am I correct?

AB: Correct sir.

Magistrate: In so far as the beneficiary is concerned, was the beneficiary also required to be an account holder with Pilatus bank?

AB: No sir.

Magistrate: However, if a person was a client of Pilatus bank for banking purposes then I understand that his name as client would have to be registered on Flexcube. Am I right?

AB: Yes sir.

Magistrate: Am I right to understand that it would not be possible for the bank to process transactions through TAS only?

AB: It is still possible for the bank to only input in TAS directly ythe message.

Magistrate: Would that message require the remitter to hold an account with Pilatus?

AB: I do not know.

Magistrate: Because my question then would be how would they be able to reconcile their Flexcube balance sheet if these transactions are not recorded through Flexcube?

AB: I would say that noramlly in such instances they pass journal entries in Flexcube to balance it out.

Magistrate: Did you encounter anything of this sort with Piltuas Bank relating to journal entries in order to balance out their books?

AB: We did check but we could not find any action with has been done through journal entries.

Magistrate: As far as the customer details are concerned, here you mention and I tie to the point that we discussed earlier on that the customer number generation is based on database sequence. There is a very good possibility that the custom number is not in sequence when the bank user cancels the customer creation screen after the customer number is filled in by Flexcube. So given what we said earlier on, once that the client numbers are not necessary sequential as it transpires from the client's list, then I am to understand that this fact stems from the reason you mentioned that the entries of these clients names were unauthorized for each and everyone of the numbers not taken up?

AB: I do not have the .... I only made a stataement based on the knowledge of the system.

Magistrate: But as far as the system goes, once we know that there are some considerable gaps between the sequential numbers of clients and once that we said that the system authorizes deletions of customer names only when they are not authorized and that number which would do not have been authorized I understand that it would be lost forever.

AB: Yes sir.

Magistrate: So would there be a co-relation between the fact that there are numbers that appear to be missing in the chronological sequence and the fact that Flexcube deletes only those names of clients that would not have been authorized? Would there be this co-relation technically?

AB: Yes, sir it could be.

Magistrate: There would be this co-relation. Right?

AB: Could be. Yes sir.

Magistrate: Full transaction list from first working day you queried the accounting table without any criteria to list the accounting entries in Flexcube until that day and you also provided a list of all accounting entries. So, relating to the client list, once that a client name in entered in Flexcube it can not be deleted, therefore that means that the customer name once authorised and entered remains on the system whether the bank carries an open banking

relationship with him and even after it could have closed its banking relationship with him. Correct?

AB: Yes sir.

Magistrate: And then I understand that it would be possible for the bank to generate clients' list reports both for open accounts as well as for closed accounts and also a consolidated clients' list of open accounts and closed accounts.

AB: That is possible as well.

Magistrate: In so far as an unauthorised transactions are concerned, does the system retain a lof for unauthorised transactions?

AB: Yes sir. Before we close business day we are suppose to authorise all transactions. Messages or transactions. With ... you can not proceed to run the end of day so the system will fail and it will not move to the next business day. This remains there actually.

Magistrate: So that means that there should be a log or a report that indicates all the unauthorised transactions for each and every given day.

AB: Yes sir. It is available.

Magistrate: And it is available on all versions of Flexcube? Do you remember if this possibility also exists in relation to the Flexcube version and implementation of Pilatus Bank?

AB: Yes sir. It is available. It will list all the transactions which means accounting entries but if you delete the maintenance let us say you created a customer and you delete it before the day it does not maintain that. It only maintains any transactions which you created for customer and you want to delete only the transactions.

Magistrate: Only the transaction would be recorded. In point of fact I am going to go to point 5; list of deleted transactions and maintenances. What do you mean by maintenances?

AB: Customer modification like customer changed the name, address, he gives a new passport number as identification prove. He changes his home address, his resident address. All of these are called maintenances because there is no

transaction. There is no debit or credit in them. A transaction is something which creates an accounting entry in Flexcube, a debit or a credit.

Magistrate: Point number 6; dated statement of account and there I understand that you analysed these statements, all statements of account that the bank had. Am I correct?

AB: Yes sir. All the account statements, the statements from Flexcube for customer accounts.

Magistrate: Then you made a full list of bank loans and you queried the loan master, loan parties, loan schedules, loan change log, loan payments and settlement details and you provided a full list.

AB: Yes sir.

Magistrate: Then you ...standing order created since the first working day in Flexcube customer to customer, internal transfer from agreement to transfer or loan. So I am correct to understand that in Flexcube you did find a customer to customer transfers. Correct?

AB: Yes sir.

Magistrate: Is that a facility that Flexcube provides normally or is it something that it had to be tailormade of customised for Pilatus?

AB: It is available in Flexcube in the base product itself.

Magistrate: By default. Do you remember what these customer to customer payments actually entailed?

AB: I do not know that.

Magistrate: But is it necessary for these customer to customer transactions to take place, is it necessary for them to pass through TAS as well or does Flexcube on its own allow these customer to customer transfers without the transactions going through TAS and correspondent banks?

AB: Customers within Flexcube can transfer without going to TAS or Flexcube.

Magistrate: But these transfers would always be recorded in Flexcube then?

AB: Yes sir.

Magistrate: So you would find them recorded in Flexcube without there being any other trace in TAS for example. Correct?

AB: Yes sir.

Magistrate: And when it comes to these transfers, internal transfers I mean, customer to customer, or loan available in the file, would any deletions of these transactions be allowed and if positive would they be recorded on Flexcube?

AB: The same principle are no transfers can be deleted, internal transfers can be authorized and can not be deleted actually.

Magistrate: Business intelligence publishing report formatting capabilities and can be used to key in transactions directly to Flexcube. Now the query resolution approached, you said "answered the query". What do you exactly mean by that?

AB: So the first column is the question andf the second column what we did to answer this question, third volume is the actual answer. Point number 8 you had a query about standing orders, the answer is we checked these tables and then we found this result here. So in 9 there is nothing ot be checked in Flexcube but rather answer the query.

Magistrate: So basically you say anything is possible be emending the existing template and it can not be used to input transactions in Flexcube.

AB: Yes sir.

Magistrate: So what is the use of BIP in the first place?

AB: BIP is to generate colourful reports. PDF report with graphics of the banks, logo, tables, the colours and all. So this is called formatting. We have a distinct format in Flexcube which the bank can modify for their needs. Obviously when the product comes from the base factory we do not have the bank's name in the PDF so that is added actually by the bank and they want to have specific font, they want to have a specific look and feel of the report, they change these according to how they want it actually. They corporate branding standards and then they save it and use that formatting for that particular report.

Magistrate: BIP therefore can not be used in order for transactiosn to be affected?

AB: No sir.

Magistrate: Security transactions in Flexcube and you said that security's module of Flexcube is not used in Pilatus and hence the details are not available in Flexcube and that Pilatus is posting manual accounting entries. Can you please explain this?

AB: Basically what we are saying is journal posting. They created a journal posting...account whatever so that is what we found at the time.

Magistrate: And when you say securities what are you referring to?

AB: Purchase and selling of ...bonds this is what I am referring to.

Magistrate: So the dealing in security was carried out by Pilatus but not through Flexcube.

AB: Yes sir. We have a module we can do transactions but they did not have the licence to use it. They could not use it.

Magistrate: Flexcube documentation including a list of all customisations done in Pilatus. What do you mean by Flexcube documentation is available on demand? What is the meaning of this query?

AB: The base product of documentation of Flexcube is available on demand through internet so that is a ...given to you so 12.0.2 ...of the documentation is provided. Our customisation list is not with the product team but with the consulting team. So that is the reason why we could not provide this actually.

Magistrate: 12; does Pilatus use Flexcube internet and mobile banki9ng application? If so is it used in read only or in transaction posting? You say that information was guarded from Pilatus COO. Was there the technical possibility of checking this query directly at source without consulting the COO?

AB: Actually this information was provided to us by facilitation team. They are the suppost team for Flexcube so they told us that it was used initially for some test transactions and later on it was not used and we also confirmed from the transaction list that among these transactions none of the transactions have happened in Flexcube which came from the direct banking except for the ones which were initially posted.

Magistrate: 13; reliability of the data backups and how often is the production data backed up. You mentioned that the information was guarded from Pilatus

COO and the details of the DR recovery setup available in the file. Do you recall whether in point of fact this reliability was established?

AB: No sir. I only have the ...I do not have the copy.

Magistrate: Apart from this query however, in relation to the reliability of the data of Pilatus Bank in Flexcube is concerned, from what you could see, from what you could gather could you establish a degree of confidence in the reliability of the data you found on the system?

AB: Yes sir. From what we verified, the data is reliable.

Magistrate: So it does give you a true and correct view of what they reported to be the transactions?

AB: Yes sir.

Magistrate: Another query was whether users could log into Flexcube remotely and post transactions and you mention according to COO that according to Pilatus end users can not log into Flexcube remotely even with VPN. They are not able to post transactions by connecting to Flexcube remotely. What does this mean please?

AB: So this query which was asked from us if any of the users of the bank or anybody else can log in from a remote location into the Flexcube datebase, Flexcube system ... without anybody else's knowledge. So when ...we did see that they had multilevel...authentication before and they....that it is not possible that it can be used outside of the bank. We did not go into verification, we just answered the question.

Magistrate: So technically it is possible for Flexcube to be accessed remotely through VPN.

AB: Yes sir.

Magistrate: But it has to be authorized and implemented by the bank. Correct?

AB: Yes sir.

Magistrate: In this case however it did not result to you that it was being used in that fashion. Am I correct?

AB: Yes sir. Accordiny to the COO I would assume so.

Magistrate: Full list of bank's configured as correspondent banks and you provided a complete list of the correspondent banks that are mentioned in the Flexcube database right?

AB: Yes sir.

Magistrate: Once you mentioned correspondent banks, the way Flexcube is designed, does the bank need to list all its correspondent banks in the Flexcube system in order for the bank to be able to transact with these correspondent banks? So say for example I as a bank input four or five correspondent banks in my system, is it possible for me to transact with a sixth bank which would not be inputted and included in my system?

AB: Basically ... Flexcube uses this information to .... so basically the transfer of funds is basically a debit and credit account within the bank and equally the same set of accounts in the other bank also. So the correspondent banks, there is a key relationship which is already there ....and that is also recorded in the bank uploads which we see in Flexcube. For easier operation Flexcube, you can configure in Flexcube in the relation to the keyrelationship, a customer number for each of the .... Which will represent their customer has an account, the .. bank has an account with us and while inputting the transaction I just have to select the particular customer and automatic you ... move to this bank actually. That is how it works.

Magistrate: 16; balance sheet analyses. List all the days when the bank's balance sheet were not balance and you mentioned that the information was queried from Flexcube database and you provided a full list of Flexcude end of day aborts due to balance sheet mismatches in one particular file. Can you please explain this statement? At the beginning in point 1 you mentioned that at the end of the analyses it transpired that the banking records were balanced. Here we talk about bank's balance sheet not being balanced. How do you reconcile these two things together?

AB: Generally there could be some technical failures doing the end of day which.... balance sheet in balance so we had just taken the data of the days when the end of day process are ...to the balance sheet and we just list it out. They were charactered. We do not know how they were charactered, we can have that information so it is just a list of the days and they were non balanced and they were subsequently balanced to move forward. We can move from day 1 to day 2.

Magistrate: Point 17 we have already gone through it the reconciliation of all the messages united in Flexcube with TAS. Point 18 is the reconciliation of all balances in the Nostro accounts. Can you please explain what work you did in relation to the balancing by reference to the Nostro accounts?

AB: These correspondent banks that Pilatus has one to one key relationship, those banks have accounts of Pilatus and Pilatus have accounts of them so ...we found that the current customers accounts and we collect money, money which is held by that bank in Pilatus and subsequently the message is going out to that bank. So ..Piltaus bank account with them and credit the beneficiary and they send a report back to us saying that. "Your account has these transactions." And then we reconcile what we send and what we see are matching. Which means that I had done the reconciliation so my balance here in my account is also the same as the banks' balance. We have specific model in Flexcube which does this on Nostro cancellation module. Pilatus is not using this model. We saw that nothing was there in these modules. So in these years saying that they have been doing manual reconciliation probably they did not do or they were doing it manually. Basically I do not know how much funds I have in my account to sell with other bank actually. So then I will know if I had paid them or I have received from them. Basically it is the question of .... With another bank.

Magistrate: You mentioned that comparison of the Nostro balances is completed for all correspondence of Pilatus in euros and USD currencies and you mentioned a full list of the reconciliation details in an account Nostro balance reconciliation between Flexcube and incoming NT940.XLSX. The discrepancies in the balances of the external accounts have been highlighted in the same file for further checking. Do you remember what you really meant by this comment?

AB: We took the complete balance in Flexcube which is a coding transaction. We took the balance of the same external account which came incoming 940, record the closing balance and we checked whether it is matching with that of Flexcube. That is what we did. Assuming I send 100 euros to City Bank in Europe through Pilatus, City Bank would also send me bank saying that I did a 100 euro transaction in the account and also my closing balance of that day. Similar I would also have a closing balance assuming I start with zero, I had a 100 credit and they send me 100 debit which means it is balances. This is how

we compile actually. I do not recollect details in this files. I am just explaining to compare.

Magistrate: In so far as Flexcube is concerned, I do not know whether it is possible for you to answer this question but from what you could see, once a client would have been on boarded by the bank, the bank would include the clients' details in the core bankiign system. Otherwise it can not really operate as a bank through Flexcube. Correct?

AB: Yes sir.

Magistrate: Let us make an assumption for the moment. If we assume that the bank operated only Flexcube as its core banking system, in order for the bank to be able to operate as a banker for a given client, that client must be registered on Flexcube as a bank's customer. Correct?

AB: Yes sir.

Magistrate: Otherwise that client would not be in a position to hold a bank account with this particular bank being Pilatus.

AB: Yes sir.

Magistrate: IF you could establish, what was the link between the onboarding process, the paperwork that needed to be generated by the bank and Flexcube records. What do I mean? Let us say that I decide to open a bank account with Pilatus Bank in this particular case. What would be the moment that my personal details would be inputted in Flexcube? At which stage would my personal details be inserted in Flexcube?

AB: I would say that if the bank has to give the customer an IBAN, an account number, confirming that they opened an account with TAS, they need to have IBAN and .. number to transfer money. When this has been confirmed, the custoer saying yes the IBAN and the number is so and so his would mean that they have created the customer in Flexcube and they have created an account also in Flexcube. All with...

Magistrate: So from your understanding, what comes first? I approach the bank and I explain that I would like to become a customer of Pilatus bank. Do you know what forms have to be filled in? did you ask or did you check this out? For example do I need to fill in a bank account opening from with Pilatus Bank? Does that reflect itself in Flexcube?

AB: I did not check … te only think I asked is how do customers do transfers in the bank because this is a private bank so it is not a retail bank where there is a bank counter that people stand in the queue and wait for their turn to do transfers. So I just asked them in the interest of knowing how they do a transfer and Flexcube and the person .. informed me that they receive customer call of a transfer request, please transfer from my account or whatever and they are required to provide the legal details through an email I think so. They say that the …is filed. They will accept the request of transfer from the account they mentioned to another account they mention. So this is the only information I gathered in the investigation.

Magistrate: Let me go through some points that were mentioned by the audit firm's technical analyses that was carried out. So you confirm that the bank uses Swift only for funds flow purposes. Correct?

AB: Yes sir.

Magistrate: And that the bank uses only TAS as the Swift service bureau?

AB: Yes sir.

Magistrate: Apart from that I am going to read to you excerpts from this technical report and of course this was not carried out by Oracle experts like you. They are IT specialists but they are not really hands on people like you on the database itself so I would like to check these issues out with you. I am going to read from this report and I would like to see your reaction to this. "The second set of transactions relate to intra bank account transfers that do not involve the flow of funds. Such transactions are recorded on Oracle Flexcube and do not require the use of other systems or the intervention of third parties. The bank does however use Oracle Software Facilitation in maintaining the system". Is this correct?

AB: Intra is within the bank.

Magistrate: Correct.

AB: So yes it is correct.

Magistrate: "The risk being assessed in this case is whether transactions can be intentionally omitted or deleted from the accounting system. The IT specialist members of the audit team have been looking at access controls over the database and in particular around customer identification file CIF creation in

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the maintenance. It would appear that CIFs are automatically generated by the system sequentially all be it allowing for CIF numbers to be purposely skipped." Those the system allow these numbers to be purposely skipped?

AB: It could be when the bank chooses not to create a customer and just open the screen to create but they do not do anything actually. It could be cancelled so it is possible.

Magistrate: But those it make sense? What do you do it for? Because if you open the possibility to insert a name but then you do not fill it up, what do you make of it?

AB: They wanted to create account but by mistake they open a customer creation...by this time the account number is skipped actually. I would assume that this kind of skipping in one number or two numbers is fine but it cannot be twenty or thirty numbers in one lot. If it was genuine it would be have been one sort of ...probably of the database they would have a problem and they would have bounced it or whatever but it cannot be a regular instance every day. That is probably would not be seen as normal.

Magistrate: Here it continues, "Such numbers are taken without being allowed to be used again in the future possibly to retain the sequential nature of the CIF numbers. Similarly CIF numbers that are onboarded but eventually not authorised, are also taken out and not used. From an audit point of view an issue arises as no audit trail is maintained of the unused CIF numbers." Did you encounter that?

AB: It is possible.

Magistrate: Here it goes on to say, "The situation however is not different from what we have seen in at least three other banks in Malta that use the same system. As a result we considered other matters as followed: 1. If a CIF is deleted because it has not been used, the number is lost as are those numbers that are skipped through the automatic generation of sequential numbers. In any case such CIFs are irrelevant for this analyses as in such case a customer has not been authorised onto the system." Would you agree with that statement?

AB: Yes sir.

Magistrate: "2. For CIFs to be created and subsequently deleted no incoming and outgoing fund transfers must have occurred." Is this true?

AB: Yes. Fund transfer needs an account so obviously if that particular customer got deleted it might not have an account and there is no fund transfer. It does not mean that they might have created a new account, a new customer number in new account number.

Magistrate: Which would have to be authorised nonetheless but if they created a new number, a new customer number, a new client name, that new client name would then still be reflected on Flexcube.

AB: Yes sir.

Magistrate: This goes on to say otherwise a reversal would result in another account being debited or credited with a cash flow that is unrelated. So basically I understand this to be confirm what you are saying. "3. Through system screens, it should not be possible for authorised CIF to be subsequently deleted without leaving a trace." Is that correct?

AB: Yes sir. We cannot delete or trace CIF through Flexcube.

Magistrate: However, it says that, "Access to data tables would always enable deletion without a trail." To what extend is this true?

AB: The database administrator, he is the one who is ...the database. He does not necessary knows how Flexcube is done. It needs a support team who knows how Flexcube ... a request from the bank say, we need to remove this customer, we did a mistake or ... authorisation would come from the bank customer operation leader, it is possible to delete using a delete statement in the satabase table to remove it off. However such delete statments can be identified in the database... on the day and what was deleted can be easily found.... by the administrator. It may appear that it may not leave a trace externally ...ok there was something removed but even in the database it is till possible to identify that something happened. Some script was run or somebody had access to run the script. It is still possible to reverse engineer and find this source. That is a function that the database administrator to find that out.

Magistrate: And the database administrator was not Pilatus. Right?

AB: Yes sir. But Pilatus had the master key for the database. So they had a database in production to the access by the support team facilitation however their team could not see any data I mean the customer name or address is all....for them and Pilatus had the master key for that data. So obviously while they could have deleted the data they could not see the data.

Magistrate: So they could have deleted data but they could not see what the data is?

AB: Yes. For example they would see a ... customer number 10112. This would be a request from the customer "by mistake we did something. Please delete this one." But when Pilatus queried I verified this with ...and Pilatus COO that when we also queried the data from an encrypted system we could not see who was 10112. It was ... that the name, everything was completely encrypted so we do not know who is 10112 from the encryption. The COO had an unencrypted key and then we used that to extract the data. We could see who was 10112. So the support team would have never seen what was 10112. We called on the request, we ... to delete and they would have given us this statement to the person who would execute this statement. "Yes I believe this particular..... to delete.

Magistrate: But again even if they do delete the entry in the database, the transactions that would have gone through TAS and through the correspondent banks, I imagine that they would still be retained no?

AB: Yes.

Magistrate: There would still be an audit trail for those transactions.

AB: Yes sir.

Magistrate: Here it says "It is highly unlikely to have such CIFs for a long period without cashflows having been effected through such accounts. We failed to see the purpose of opening such accounts in the first place if cash is not to be remitted from or to such accounts." I think that if a person wants to open a bank account, he would want to open a bank account for a reason not simply to be an account holder but to make financial transactions not simply to be called a Pilatus Bank account holder. No?

AB: Yes sir.

Magistrate: Here it says, "The deletion of previously created CIFs would mean that all such physical files maintained by the bank would have to had been destroyed. Which would entail modification of correspondence or other documentation of the contra CIF account and that at the end of the day accounts cannot be debited or credited unless there is an original source of funds and therefore a single account that would have been debited or credited by a cashflow would have had to exist." Is this correct?

AB: Yes sir.

Magistrate: I do not know whether there are any further questions.

AC Ian J Abdilla: On the same lines as the magistrate was asking you, can backups be tempered with to show a different picture of the transactions without leaving a trace?

AB: No it is not possible. Backup is i a point in time data so it means if for a reason I want to remove one transaction and I want to put it in the backup which means removed all the transaction which ever happened after that. Too much manual work required to re input all the transactions. Generally, they do not do it. They do not restore a backup unless you have a system crush and it is not recoverable. They restore the backup and they log files to apply which means that the Oracle Database ensures that even if it is a crush you can actually come back up with the backups which it has and bring it to a point in time where the crush happened. They will not lose any transactions. I do not think to erase a particular transaction or a set of transactions use a backup actually.

Magistrate: Earlier on you mentioned as to holds the master key for the database. What does it entail to use this master key? Normally would this be sealed? How do you go about using this master key?

AB: I do not know the exact process which they are using to have it but it looks to me that they opened a particular envelope and they took the master key out of the envelope and then they used the key to the system for us to give us access and leave it there in Pilatus. It was done by the COO actually.

Magistrate: But in that particular case would the master key give you access to all the available information that would be in the database? How does it work?

AB: The master key secures the data so that the .... columns in the database data are encrypted so a third person cannot actually see what is the underlying value for that particular number. The code number, the name and account and information which is to be secured. This appear to be as encrypted data. Basically data protection so that nobody else understands a number to a name match. The person with the key is able to see it.

Magistrate: But would the master key holder need to pay a premium or an amount of money whenever he uses the master key to accede to the system? Is there a penalty?

AB: I think this is park of the licence in the Oracle database. So only with a specific licence you get this option for advanced encryption so the bank has to put ... a licence and only when they have this licence they can use this feature.

Magistrate: And while you were present therefore you did gain access to the system through the use of this master key. Correct?

AB: Yes sir.

Magistrate: And what use was made by you when you were there?

AB: To get the list of all customers, name and addresses to get the change values so we needed the uncrypted database to get the data.

Magistrate: So what level of confidence do you attribute to this in the sense that by so doing, do you believe, are you convinced that you got access to all the data that the bank has in their core banking system?

AB: Yes sir. I believe so.

Magistrate: So you believed that they did not hide anything from you by giving you this sort of access?

AB: No.

Magistrate: And basically therefore through this access it was an open access. It was a full access. It was not a limited selective access that was given to you.

AB: No. All the database tables.

Magistrate: Freely?

AB: Yes.

Magistrate: And no restrictions or impositions were made on you?

AB: No restrictions.

Magistrate: Therefore, you were also free to explore all the database information even the encrypted on from what I can understand.

AB: Yes.

Magistrate: And your report therefore reflects this open access that you were given is that right?

AB: Yes. Our reports have unencrypted data in the excel sheets.

Magistrate: So basically even if the data would have been deleted would you have been in a position to see traces of this once you had this open access?

AB: Yes we could have seen it actually.

Magistrate: But you did not see it then.

AB: Yes.

Magistrate: You did not see any sort of deletion in the customers.

AB: No we did not see any inconsistancy with the modification numbers. It was consistent.

Magistrate: And that gives you the degree of confidence in the data.

AB: Yes sir.

Magistrate: This is no contest but therefore you feel sure about the reliability of the data that was given. It is not something that you feel doubtful about?

AB: No.

Magistrate: That is all from me for today.

Ir-relazzjoni tal-Forensic Accountant

Miroslava Milenovic

Stabbilita l-integrita tas-sistema informatika bankarja *Oracle Flexcube Universal Banking Sytem* imħadma fil-Bank Pilatus, il-*Forensic Accountant Miroslava Milenovic* setgħet tibda twettaq l-inkarigu tagħha. Din il-*Forensic Accountant* ingħatat fakultajiet wiesa ta' stħarriġ tal-informazzjoni. Mill-banda l-oħra fid-dawl tal-ammont vastissimu tal-informazzjoni miġbura u sottomessa lilha għall-analiżi tagħha, hija kellha żżomm mal-parametri ta' din l-inkjesta. Għalhekk ġie suġġerit lilha li l-analiżi tagħha tagħmilha b'riferenza għal erbatax il-allegazzjoni li jitnisslu mill-artikoli pubblikati minn Daphne Caruana Galizia nhar l-20 t'April 2017 billi tindirizza l-allegazzjonijiet segwenti : -

> Declarations of trust article –
>
> 1.In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.
>
> 3. In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEPs, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

4. Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

5. The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

6. Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

7. The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

8. These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

B. US$1.017 million transfer to Egrant Inc from Al Sahra FZCO article: -

1.In March last year (2016), Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

2. The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around

US$100,000 each and made twice a week over several weeks in January, February and March last year.

3. The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.

4. Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country.

5. The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through.

6. Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up. This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.

7. The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta. Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

In-nomina tal-Forensic Accountant Miroslava Milenovic tal-24 t'April 2017

Miroslava Milenovic qegħda tiġi maħtura bħala espert tekniku *Forensic Accountant* sabiex :

wara li tkun ħadet konjizzjoni tal-informazzjoni diġitali u stampata fornita lilha mill-Maġistrat Inkwirenti jew minn esperti tekniċi jew persuni oħra indikati lilha mill-Maġistrat Inkwirenti jew esperti tekniċi jew persuni oħra maħtura minnu minn żmien għal żmien, tagħmel l-analiżi tagħha ta' bħala *Forensic Accountant* fir-rigward ta' din l-informazzjoni kollha (li tinkludi, iżda mhux limitata għal) dik meħuda mir-*records* stampati u diġitali tal-Bank Pilatus u Nexia BT matul il-kors ta' din l-inkjesta jew skont kif dirett lilha mill-Maġistrat Inkwirenti, kif ukoll xiehda u dokumenti oħra sottomessi lilha għall-analiżi tagħha skont kif jidhirlu l-Maġistrat Inkwirenti u dan sabiex tkun tista' tiddetermina jekk minn tali informazzjoni disponibbli lilha kienx hemm evidenza biex ikunu jistgħu jiġu ritenuti bħala pruvati sal-grad rikjest mill-Liġi l-allegazzjonijiet meritu ta' din l-inkjesta.

L-esperta ġiet mogħtija l-fakulta espressa li tkun tista' tagħmel kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferiha għalihom u li tagħmel dak l-iskambju jew ġbir t'informazzjoni u komunikazzjoni magħhom jew mingħandhom skont il-każ u skont ma jidhrilha meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħha kif ukoll li tkun preżenti u tipparteċipa fil-ġbir u l-analiżi tax-xiehda mill-Maġistrat Inkwirenti kull meta l-istess Maġistrat iqis li jkun hekk meħtieġ.

Għal dan il-għan l-esperta ġiet ordnata li tirrelata proviżorjament bil-fomm jew bil-kitba minn żmien għal żmien skont il-ħtieġa tal-każ u ċ-ċirkostanzi u sussegwentement finalment tirrelata bil-miktub billi tiġbor il-konklużjonijiet tagħha kollha inkluż dawk proviżorji u li ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażat l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija ġiet mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Nhar it-2 ta' Mejju 2018 il-Forensic Accountant Miroslava Milenovic ħalfet u kkonfermat ir-rapport finali tagħha flimkien m'Annex - fejn hija kkonkludiet is-segwenti : -

TASK 1

(1) Task Description

Identify whether Michelle Muscat nee Tanti is the ultimate beneficial owner of EGRANT Inc.

(2) Initial Findings

On 9TH August 2013, Mossack Fonseca & Co SA, Panama (Mossack Fonseca), issued invoices for the acquisition and annual maintenance of EGRANT INC. On the same day they also issued invoice for the acquisition and annual maintenance of HEARNVILLE INC. Three days later, on 12th August they also issued same invoice for TILLGATE INC. (*documents reference: Box A Nexia, Dok YF42*).

All three companies were registered by the same company in Panama-Mossack Fonseca, at its address, in the same meaner with the same type of documents and appointed directors (*documents reference: Box B Nexia, Dok YF5, Dok YF6, Dok YF7*).

Directors were:

- Ricardo Samaniego – Director and President
- Yadira De Boutaud – Director and Secretary
- Yakeline Perez – Director /Vice-President / Treasurer
- Yenny Martinez – Director and assistant Secretary
- Hercibelle Gonzales – Director and assistant Secretary

The companies' registry information is as following:

1. **EGRANT INC** (*document reference: Box B Nexia, Dok YF5*)

Company subscribers: Dubro Limited S.A., Panama and Aliator S.A., Panama
Registration details: Registered in Panama in Mercantile Section of the Public Registry at Microjacket 807956

Date of registration: 8th July 2013

Authorised Capital: 10.000 USD- 100 shares (nominal value of share 100 USD) which may be nominative or bearer shares.

Share transfer information:

- According to the Articles of Incorporation, each of the subscribers has agreed to take one share

- On 8th July 2013, each of the subscribers (Dubro Limited S.A. and Aliator S.A.) have transferred their one share each to the Bearer

- On 9th July 2013, one share with nominal value of 100 USD, was transferred to ATC Administrators INC. This share has been vested to Mr. Brian Tonna on 9th August 2013.

Power of Attorney (PoA): Issued on 12th August 2013 to Mr. Karl Cini and Mr. Brian Tonna.

2. TILLGATE INC (*document reference: Box B Nexia, Dok YF6*)

Company subscribers: Dubro Limited S.A., Panama and Aliator S.A., Panama

Registration details: registered in Panama in Mercantile Section of the Public Registry at Microjacket 808516

Date of registration: 15th July 2013

Authorised Capital: 10.000 USD- 100 shares (nominal value of share 100 USD) which may be nominative or bearer shares.

Share transfer information:

- According to the Articles of Incorporation, each of the subscribers has agreed to take one share

- On 15th July 2013, each of the subscribers (Dubro Limited S.A. and Aliator S.A.) have transferred their one share each to the Bearer

- On 15th July 2013, one share with nominal value of 100 USD, was transferred to ATC Administrators INC. This share has been vested to Mr. Brian Tonna on 9th August 2013. This same share (already vested to Mr. Brian Tonna), has been vested to Mr. Keith Schembri on 2nd July 2015 also by ATC Administrators.

Power of Attorney (PoA): Issued on 12th August 2013 to Mr. Karl Cini and Mr. Brian Tonna.

On 22nd July 2015 a Haast Trust was incorporated through a transfer of 100% of TILLGATE INC.'s shares, and since the incorporation no other shares have been transferred into this Trust according to the available documentation.

Haast Trust's settlor is Mr. Keith Schembri, while Orion Trust acts as their nominee. Orion Trust is incorporated also in New Zealand, with a registered office address at c/o Bentleys Chartered Accounts Limited, Auckland New Zealand. The main purpose of Orion Trust is to act as trustee of New Zealand Foreign trusts (as in the case of Haast Trust).

3. **HEARNVILLE INC** (*document reference: Box B Nexia, Dok YF7*)

Company subscribers: Dubro Limited S.A., Panama and Aliator S.A., Panama

Registration details: Registered in Panama in Mercantile Section of the Public Registry at Microjacket 808074

Date of registration: 9th July 2013

Authorised capital: 10.000 USD- 100 shares (nominal value of share 100 USD) which may be nominative or bearer shares. According to the Articles of Incorporation, each of the subscribers has agreed to take one share

Share transfer information:

- According to the Articles of Incorporation, each of the subscribers has agreed to take one share

- On the same date, 9th July 2013, each of the subscribers (Dubro Limited S.A. and Aliator S.A.) have transferred their one share each to the Bearer

- On the same date, 9th July 2013, one share with nominal value of 100 USD, was transferred to ATC Administrators INC. This share has been vested to Mr. Brian Tonna on 9th August 2013. This same share (already vested to Mr. Brian Tonna), has been vested to Mr. Konrad Mizzi on 2nd July 2015 also by ATC Administrators.

Power of Attorney (PoA): Issued on 12th August 2013 to Mr. Karl Cini and Mr. Brian Tonna.

Similarly, as in the case of TILLGATE INC., 100% of HEARNVILLE INC. have been transferred to Rotoura Trust, New Zealand. The settlor of this trust is Mr. Konrad Mizzi, while the nominee of the trust is also Orion Trust, New Zealand. Since the incorporation of the trust, the trust owns only the 100% shares of HEARNVILLE INC.

Through a review of the documentation, the following information has been identified (*documents reference: Box B Nexia, Dok YF13*):

Company:	**EGRANT INC.**
Purchase request:	Signed by Mr. Brian Tonna
	Issued to Mossack Fonseca for the purchase of a company from its stock
	Shares to be registered in a name of Brian Tonna under a nominee provided by Mossack Fonseca
	Invoice to be issued to BTI Management Limited, Malta
	Date: 4th August 2013
Invoice:	Number 4177561
	Issued by Mossack Fonseca
	For the acquisition of EGRANT INC.
	Issued to BTI Management Limited, Malta- in attention of Mr. Karl Cini
	Amount USD 1,365.84
	Date 9th August 2013
Company:	**TILLGATE INC.**

Purchase request:	Signed by Mr. Brian Tonna
	Issued to Mossack Fonseca for the purchase of a company from its stock
	Shares to be registered in a name of Brian Tonna under a nominee provided by Mossack Fonseca
	Invoice to be issued to BTI Management Limited, Malta
	Date: 4th August 2013
Invoice:	Number 4177596
	Issued by Mossack Fonseca
	For the acquisition of TILLGATE INC.
	Issued to BTI Management Limited, Malta- in attention of Mr. Karl Cini
	Amount USD 1,430.04
	Date 12th August 2013
Company:	**HEARNVILLE INC.**
Purchase request:	Signed by Mr. Brian Tonna
	Issued to Mossack Fonseca for the purchase of a company from its stock
	Shares to be registered in a name of Brian Tonna under a nominee provided by Mossack Fonseca
	Invoice to be issued to BTI Management Limited, Malta
	Date: 4th August 2013
Invoice:	Number 4177560
	Issued by Mossack Fonseca

For the acquisition of HEARNVILLE INC.

Issued to BTI Management Limited, Malta- in attention of Mr. Karl Cini

Amount USD 1,356.84

Date 9th August 2013

All three companies were incorporated before purchase request were submitted to Mossack Fonseca. The reason for such can either be that Mossack Fonseca has founded them and provided the names by its own choice, or that Mossack Fonseca had such a close relationship with BTI that they have founded the companies in the name of BTI in good faith and have retroactively created all the paper trail.

(3) Conclusion

All companies (ERGANT INC., TILLGATE INC. and HEARNVILLE INC.) have been acquired in the same manner and by two providers- BTI Management Limited on one side located in Malta and Mossack Fonseca, Panama on the other side.

Until Panama leaks, Panama was considered as a safe destination for hiding funds and information on ultimate beneficial owners from the public and tax authorities. Once Panama leaks have occurred, new destinations arose.

From the documentation, a strong connection between the group Maltese consulting companies (BTI and Nexia) and the company Mossack Fonseca from Panama is clearly identifiable.

In the literature[139] dealing with the phenomena of money laundering, foundation of companies and trusts in destinations from which information on UBOs cannot be easily extracted represents one of the red flags.

[139] Financial Action Task Force, 2006 – The Misuse of Corporate Vehicles Including Trust and Company Service Providers

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No evidence has been identified that Mrs. Michelle Muscat nee Tanti is the ultimate beneficial owner of ERGANT INC. However, in provided documents, no evidence was either found that Mr. Brian Tonna or anybody else is the ultimate beneficial of shares as no evidence of bearer transfer could be identified.[140]

Bearer shares are a type of shares which are wholly owned by whoever holds the physical share certificate. The issuing company does not register the owner of the shares and does not track the transfers of the ownership. Dividends are dispersed to the bearer of shares once the physical coupon is presented.

In the case of TILLGATE INC. and HEARNVILLE INC., their UBOs have appeared only once when in July 2015, all shares (100 shares) were transferred to the Orion Trust located in New Zealand acting as nominee for Mr. Konrad Mizzi / HEARNVILLE INC. and for Mr. Keith Schembri/ TILLGATE INC.

It is recommended that FIU New Zealand will be contacted.[141]

TASK 2

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[140] Hawnhekk irid jiġi rimarkat li mill-folder t'*Egrant Inc* elevat mill-Uffiċju ta' Nexia BT ittiżulta ċertifikat li kien maħruġ minn *Dubro Limited S.A.* iffirmat minn Jaqueline Alexander u minn *Aliator S.A.* iffirmat minn Verna de Nelson li permezz tiegħu kienu qegħdin jiġu trasferiti *"to bearer"* is-*subscription shares* tagħhom. Wara li kien hemm dan it-trasferiment ma hemmx evidenza li ġew issued ishma oħra mis-*share capital* ta' *Egrant Inc* għajr ħlief għal dak is-sehem wieħed li kien qiegħed ġie miżmum minn *ATC Administrators Inc* għal Brian Tonna. Fin-nuqqas ta' prova ta' B'hekk din il-konklużjoni tal-*Forensic Accountant* trid tiġi moqrija fid-dawl ukoll tal-parir legali mogħti mill-espert tekniku Fernando Berguido, fir-rigward tal-obbligu legali impost fl-2013 fir-rigward tal-ħruġ tal-*bearer shares* – u f'din l-inkjesta ma jirriżultax li inħarġu jew ġew reġistrati ma' xi *Authorised Custodian*; kif ukoll mix-xiehda tar-Reġistru Pubbliku tal-Panama li produċew id-dokumenti relattivi. L-evidenza miġbura tindika li *prima faciae* ma ġewx maħruġa *bearer shares* minbarra s-*subscription shares* li ġew misjuba fil-folder ta' *Egrant Inc* fl-Uffiċju ta' Nexia BT.

[141] Kull fejn hemm riferenza mill-*Forensic Accountant Miroslava Milenovic* b'suġġeriment li jiġu kuntattati *FIAU's* barra minn Malta, l-inkjesta kienet man man li jsiru dawn is-suġġerimenti tagħmel kuntatt mal-*FIAU* Maltija u tagħtiha struzzjonijiet dwar dak li l-*Forensic Accountant* tkun qegħda titlob li jiġi mistħarreġ. Dan japplika kull fejn hemm riferenza jew suġġeriment li jiġi kuntatti *FIAU's* barra minn Malta.

(4) Task Description

Identify whether the Prime Minister (Dr. Joseph Muscat) or members of his family (including of course Michelle Muscat nee Tanti) or other Politically Exposed Persons, that is John Dalli, Keith Schembri (and TILLGATE Inc) and Konrad Mizzi (and HEARNEVILLE Inc) held bank accounts with Pilatus Bank.

(5) Initial Findings

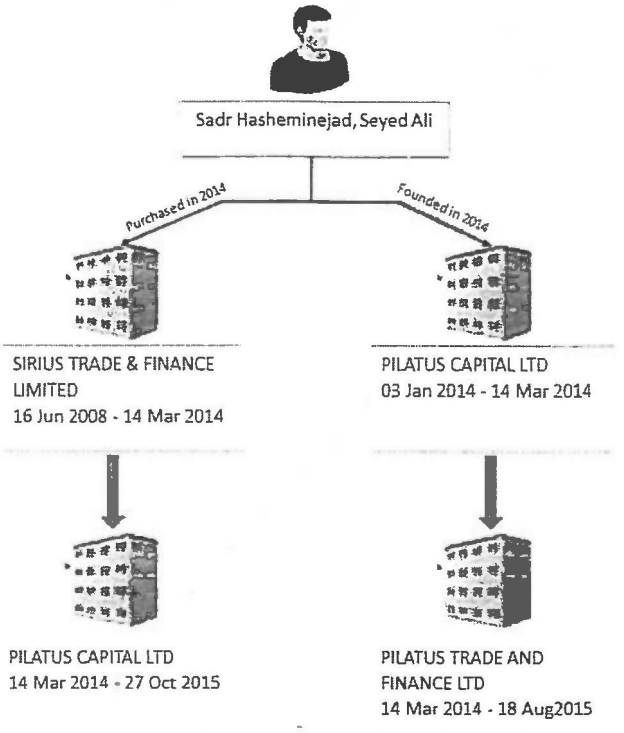
1. Mr. Seyed Ali Sadr Hasheminejad

January 2014 Mr. Seyed Ali Sadr Hasheminejad got the licence to register a bank in Malta – Pilatus bank.

On 3rd January 2014, Mr. Seyed Ali Sadr Hasheminejad founded Pilatus Capital Ltd in UK as a sole shareholder. The company has been active under that name until 14th March 2014, when its name has changed to Pilatus Trade and Finance Ltd.

On the same date, 14th March 2014, the company Sirius Trade & Finance Limited (founded in 2008 and bought by Mr. Sadr Hasheminejad in 2014) has changed its name into Pilatus Capital Ltd. Sirius Trade & Finance Limited was founded on 16th August 2008, its first directors were Mr. Mehdi Shams (director in the period from 16-08-08 to 31-12-08) and Mr. John Geoffrey Dowdall (director in the period from 16-08-08 to 01-12-09).

The changes of the companies is presented in the diagram below:



It is unclear how somebody with very limited banking experience, 30 years old with a passport from Saint Kitts and Nevis got the licence to operate the bank.

2. Dr Joseph Muscat

In seized documents from Pilatus Bank and in the database of Pilatus Bank, there were no records that Mr Muscat or members of his family held bank account in Pilatus Bank

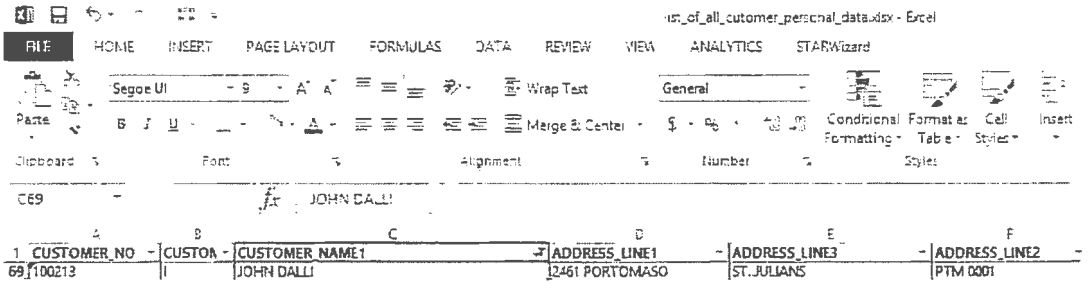
Through the review of the files (*documents reference: Box A Nexia, Dok YF46*) it has been identified that all payroll services, personal tax returns and salary calculations have been performed by NEXIA BT Consulting Limited (NEXIA BT) for the needs of Mrs. Michelle Muscat. Through the review of her files, two invoices from NEXIA BT have been identified. Invoices relate to the above-mentioned services, were not issued to Mrs. Michelle Muscat, but to a company and an individual with no evident relationship to her. Those invoices are:

1. Invoice number 15BTC0086C from 7th January 2015 issued to Lemon Grass Company limited, Malta
2. Invoice number 15BTC0084C from 7th January 2015 issued to Mr David Vella, David Vella Trading Limited, Malta

No clear relationship between Dr/Mrs Muscat, Lemon Grass Company limited and David Vella Trading Limited have been identified.

3. Mr. John Dalli

Through a search of the excel spreadsheet containing information of Pilatus Bank's customer personal data, it has been identified that John Dalli holds an account in his personal name, created on 25/06/2014:



	A	B	C	D	E	F
1	CUSTOMER_NO	CUSTOM	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE3	ADDRESS_LINE2
69	100213	I	JOHN DALLI	2461 PORTOMASO	ST. JULIANS	PTM 0001

Transactions related to John Dalli have been extracted from the excel spreadsheet containing information on all outgoing settlement data. The identified transactions are mainly small cash withdrawals and payments of certain bank fees (overdraft fees, closure of account fees and similar):

	G	H	K	L	M	AP	BD	BE	BF	BG	BL	BI	BN
1	ACCOUNT	ACC_CC	VALUE_DA	SETTLEMEN	PAY_REC	PAYMENT_DETAILS1	ORDERING_C	ORDERING_CUSTO	ORDERING_CUS	ORDERING_	ULT_BENEFICIARY1	ULT_BENEFI	ULT_BENEFICIA
2	AS1200001	EUR	24/02/2016	72.96	R	JOHN DALLI CASH WITHDRAWAL		- CASH IN VAULT			- BOV CURRENT ACCOUNT		
3	AS1200016	EUR	24/02/2016	72.96	P	JOHN DALLI CASH WITHDRAWAL		- CASH IN VAULT			- BOV CURRENT ACCOUNT		
4	100213CAI NEUR016	EUR	27/10/2014	450.00	R		JOHN DALLI	2461 PORTOMASO			DORMANT ACCOUNT FEES		
5	100213CAI IN5130203	EUR	27/10/2014	450.00	P		JOHN DALLI	2461 PORTOMASO			DORMANT ACCOUNT FEES		
6	100213CAI NEUR016	EUR	27/10/2014	30.00	R		JOHN DALLI	2461 PORTOMASO			OVERDRAFT FEES		
7	100213CAI IN5100605	EUR	27/10/2014	30.00	P		JOHN DALLI	2461 PORTOMASO			OVERDRAFT FEES		
8	100213CAI NUSD013	USD	27/10/2014	316.48	R		JOHN DALLI	2461 PORTOMASO			DORMANT ACCOUNT FEES		
9	100213CAI IN5130203	EUR	27/10/2014	250.00	P		JOHN DALLI	2461 PORTOMASO			DORMANT ACCOUNT FEES		
10	100213CAI NUSD013	USD	27/10/2014	63.30	R		JOHN DALLI	2461 PORTOMASO			DORMANT OVERDRAFT FEES		
11	100213CAI IN5100605	EUR	27/10/2014	50.00	P		JOHN DALLI	2461 PORTOMASO			DORMANT OVERDRAFT FEES		
12	100213CAI NEUR016	EUR	10/12/2014	307.04	R	COVER OF CHARGES	JOHN DALLI	2461 PORTOMASO			/MT12PLTS04019000 100213CAINUSD013	JOHN DALLI	2461 PORTOMASO
13	100213CAI NUSD013	USD	10/12/2014	378.78	P	COVER OF CHARGES	JOHN DALLI	2461 PORTOMASO			/MT12PLTS04019000 100213CAINUSD013	JOHN DALLI	2461 PORTOMASO
14	100213CAI NEUR016	EUR	21/04/2015	250	R		JOHN DALLI	2461 PORTOMASO	PTM 0001	ST. JULIANS	CLOSURE OF ACCOUNT FEES		
15	IN5130204	EUR	21/04/2015	250	P		JOHN DALLI	2461 PORTOMASO	PTM 0001	ST. JULIANS	CLOSURE OF ACCOUNT FEES		
16	100213CAI NEUR016	EUR	21/04/2015	72.96	R		JOHN DALLI	2461 PORTOMASO	PTM 0001	ST. JULIANS	CASH WITHDRAWAL		
17	AS1300001	EUR	21/04/2015	72.96	P		JOHN DALLI	2461 PORTOMASO	PTM 0001	ST. JULIANS	CASH WITHDRAWAL		
18	AS1200016	EUR	10/12/2014	2000	R		CHEQUE DEPOSIT	001524406061003 17001	0011534060061 0217001		/MT13PLTS04019000 100213CAINEUR016	JOHN DALLI	2461 PORTOMASO
19	100213CAI NEUR016	EUR	10/12/2014	2000	P		CHEQUE DEPOSIT	001524406061003 17001	0011534060061 0217001		/MT13PLTS04019000 100213CAINEUR016	JOHN DALLI	2461 PORTOMASO
20	100213CAI NEUR016	EUR	10/12/2014	307.04	R	COVER OF CHARGES	JOHN DALLI	2461 PORTOMASO			/MT12PLTS04019000 100213CAINUSD013	JOHN DALLI	2461 PORTOMASO
21	100213CAI NUSD013	USD	10/12/2014	378.78	P	COVER OF CHARGES	JOHN DALLI	2461 PORTOMASO			/MT12PLTS04019000 100213CAINUSD013	JOHN DALLI	2461 PORTOMASO

4. Mr. Konrad Mizzi

There was no record that Mr Mizzi or members of his family held bank accounts in Pilatus Bank

1.1.1.1 Relation between Mr. Konrad Mizzi and BTI Management LTD

Based on document review it has been identified that Mr. Konrad Mizzi has made two payments to BTI Management LTD in BOV: USD 550 on 23rd August 2016 and USD 4,750 on 30th July 2016. (*document reference: Box A Nexia, Dok YF26*).

An invoice BTIM002507 issued to Mr Konrad Mizzi in Relation to the Engagement Letter dated 5th May 2015 (EUR 1,150.50) has been identified; however no Engagement Letter was attached (*document reference: Box B Nexia, Dok YF15*).

1.1.1.2 Engagement of Nexia BT for the needs of Ministry for Energy

An Engagement letter dated 3rd March 2014 has been identified, signed between Mr. Brian Tonna as a representative of NEXIA BT Advisory Services Limited and Mr. Ronald Mizzi, Permanent Secretary at the Office of the Prime Minister in charge of Energy and Projects. The Engagement letter, addressed to Mr. Konrad Mizzi, refers to specialised consultancy and general advisory services in assisting the Ministry for Energy and the Conservation of Water during negotiations with gas distributors. Mr Brian Tonna will assume the leading responsibility for the services (*documents reference: Box A Nexia, Dok YF34*).

1.1.1.3 Creation of a Public Private Partnership

Through further review an e-mail from Mr. Konrad Mizzi dated 24th June 2014 to Mr. Keith Schembri related to the email received by Mr. Konrad Mizzi from Mr Cheng Chen, has been identified, in which the following is stated:

"(…)to discuss tomorrow (…) meeting with you (Mr. Mizzi), Keith (Mr. Keith Schembri) and Brian (Mr. Brian Tonna) to finalize business model (…) energy related topics, real estate, tourism (…) meeting with Maltese experts to understand the potential as off-shore investment hub for Chinese (…)"

In further communication a close relationship between Konrad Mizzi, Keith Schembri and Brian Tonna is evident. It has been mentioned that a Public Private Partnership for a MACHIN Project shall be created, i.e. an entity for promotion of investment China/Malta shall be registered in Malta and 100% controlled by a holding company from BVI. This entity shall be authorised by the Maltese government as the only Maltese representative investment-promotion agency in China. It is further on stated that the cooperative mechanism shall be set with a certain person named Sai. This could be Mrs. Sai Mizzi Liang, wife of Mr. Konrad Mizzi. An Emigration agency setup in China was also proposed.

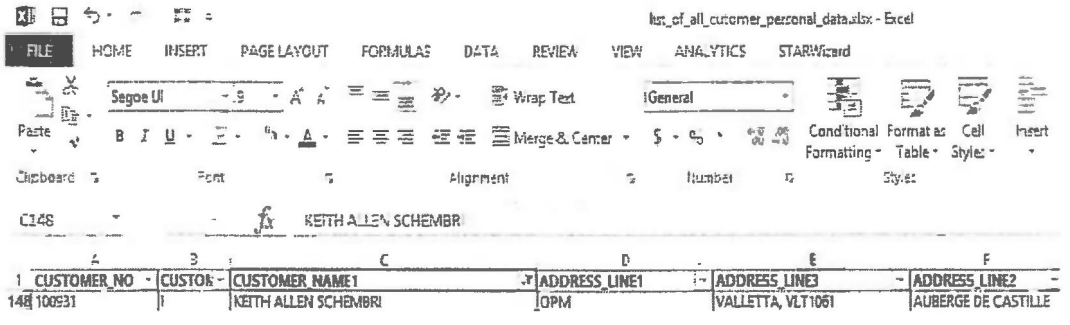
Through this model a Value chain for Chinese Applicants has been created in order to be in a position to submit request for Maltese identity documents (*documents reference: Box A Nexia, Dok YF30*).

A letter of appointment has been identified appointing Mrs. Sai Mizzi Liang (wife of Mr. Konrad Mizzi) as Consul General in Shanghai by The President of Malta, on 5th of September 2014, the letter was also signed by the Minister of Foreign Affairs (*documents reference: Box B Nexia, Dok YF13*).

Mr. Cheng Chen is a client of the company group BTI/Nexia. They have provided him support in becoming the owner of the company Torbridge Services Inc from BVI. This company has an opened bank account in Pilatus bank.

5. Mr. Keith Schembri

Through the review of folder *Box A Nexia, Dok YF46*, it has been identified that Mr. Keith Schembri holds bank accounts in Pilatus Bank under customer number 100931, created on 04/06/2015:



1.1.1.4 Loan Agreement with Mr. Brian Tonna

A loan agreement between Mr. Keith Schembri and Mr. Brian Tonna dated 12th March 2015 has been identified (*document reference: Box B Nexia, Dok YF14*). The Lender Mr Keith Schembri has advanced to the borrower Mr Brian Tonna a loan amounting to EUR 100.000 for the assistance during separation proceedings of the Borrower. The due day is not specified, and it is also stated that loan is accepted but without reference or proof that loan was paid.

On 12th January 2015 both parties signed Assignment Approval that the funds will be returned from the company Willerby Trade Inc BVI.

On 2nd February 2015 Mr Brian Tonna and the company Willerby Trade Inc BVI parties signed Assignment of the Loan Agreement. Mr Brian Tonna signed in the name of both parties.

Identified Transactions

Through the review of documents the following bank transactions have been identified:

Company:	WILLERBY TRADE INC
Account:	Account in Pilatus Bank,
	IBAN MT86PLTS04019001005l3CACOEUR018
Period covered:	28th November 2014 – 31st December 2016

Document reference: Box A Nexia, Dok YF28

Date	Description	Inflow	Outflow
10-12-14	Transfer from GB, Mrs Irina Orlova. Invoice BTI002552 to her was from BT International but she paid to Willerby Trade Inc	EUR 6.20	
22-12-14	Transfer from Malta, Mr Evgeny Filobokov, Invoice BTI002554 to him was from BT International but he paid to Willerby Trade Inc	EUR 28,500	
23-12-14	Transfer from CH, Mr Victor Vashkevich, Invoice BTI002555 to him	EUR 66,215.70	

	was from BT International but he paid to Willerby Trade Inc		
	Balance on 31-12-14: EUR 166,781.90		
28-01-15	Transfer to GB, Centtrip Card Limited on the client account of WILLERBY TRADE INC		EUR 20,000.00
25-06-15	Transfer to Malta, Pilatus bank, Mr Keith Schembri		EUR 50,000.00
	Balance on 30-06-15: EUR 96,460.90		
19-08-15	Transfer to Malta, Pilatus bank, Mr Keith Schembri		EUR 50,000.00
	Balance on 15-09-15: EUR 46,356.90		
11-11-15	Transfer from Malta, BT International Limited to Willerby Trade Inc	EUR 270,665.30	
06-01-16	Transfer to GB, Centtrip Card Limited on the client account of WILLERBY TRADE INC		EUR 20,000.00
07-01-16	Transfer from Malta, BT International Limited to Willerby Trade Inc	EUR 312,952.36	
	Balance on 29-01-2016: EUR 609,884.62		
25-04-16	Transferred to Mr Brian Tonna as a payment to UBO		EUR 609,834.62

1.1.1.5 Orders for transfer from BTI Management- Client Bank Account in BoV

BTI's bank account was used as a layering account for payments received from various companies. Once the payments were received, BTI's clients were giving orders to BTI for disbursements from its account.
Some of the disbursement orders were signed by Mr. Keith Schembri for disbursements performed in cash and for payments of various expenses executed from the account of BTI Management Client. Certain payments and

disbursements were hand marked with various colours by an employee in charge of the account, and then sorted by clients. There was a small number of clients using this account and particular type of described services - up to 5 (*Document reference: Box A Nexia Dok FY19*).

Also, on 16th July 2015 upon the closure of Colson's bank account held in Sparkasse Malta, all of the remaining funds were transferred to the BTI Management Limited client account (*Document reference: BoxA Nexia, Dok YF18*).

2.3. Conclusion

In the examined documents:

- **no evidence was found that Prime Minister (Dr Joseph Muscat) or members of his family held bank accounts with Pilatus Bank.**
- **Evidence was found that Mr John Dalli and Mr Keith Schembri held bank accounts with Pilatus Bank.**
- **No evidence was found that Mr Konrad Mizzi, company Tillgate Inc and company Hearnville Inc held bank account with Pilatus Bank.**

TASK 3

3.1. Task Description

Identify whether Prime Minister (Dr. Joseph Muscat) or members of his family (including of course Michelle Muscat nee Tanti) or other Politically Exposed Persons, that is John Dalli, Keith Schembri and Konrad Mizzi were involved in any acts of corruption, money laundering or suspicious financial transactions with Politically Exposed Persons from Azerbaijan through bank accounts held with Pilatus Bank.

3.2. Initial Findings

3.2.1. SAHRA FZCO

Through the review of documentation of Pilatus bank, a company SAHRA FZCO, Dubai, UAE has been identified as one of the bank's clients. The following transactions and information related to the company SAHRA FZCO, Dubai, UAE have been identified (*document reference: Box 10 PILATUS, Dok QAD 1-8*):

Date of bank account opening:	13th August 2015
Company Directors:	Arzu Aliyeva and Leyla Aliyeva
Company Signatories:	Farnoush Farsiar and Robert Baker
IBAN:	MT60 PLTS 04019001011150CACO
Currencies:	EUR, USD, GBP, AED
Compliance approval:	An email from Mehmet Ugurluoglu has been identified. The email is dated 29th March 2017 and is stating the need for compliance approval regarding the transaction execution from the bank account. However, Dominique Camilleri has responded with: ("(...) No comments please proceed (...)")
Overview of account transactions:	- Transfer from company's account in UAE to company's AED account in Pilatus, then transfer to the USD account in Pilatus. - Payments to UAE bank accounts from Pilatus bank accounts in AED and USD - Balance on the day of printing (22nd April 2017) the bank statement in USD significant – more than 38 million USD

Through further analysis of Sahra FZCO's bank account, the following inflows and outflows have been identified, which have been presented in tables below.

Account in local currency AED:

Ref. Num.	Transaction Date	Description	Inflow in AED	Outflow in AED	Balance in AED
Opening balance on 23-08-15			0		0

1.AED	07-09-15	YASSAT GLORIA HOTEL AND HOTEL H	58,185,917		58,185,917
2.AED	10-09-15	SAHRA FZCO-Transfer to USD account		58,000,000	185,917
3.AED	26-10-15	YASSAT GLORIA HOTEL AND HOTEL H	9,131,658		9,317,575
4.AED	22-12-15	MIRK GENERAL TRADING LLC	3,612,614		12,930,189
5.AED	05-02-16	YASSAT GLORIA HOTEL AND HOTEL H	14,950,374		27,880,563
6.AED	11-02-16	TRI HOSPITALITY CONSULTING		43,750	27,836,813
7.AED	11-02-16	External transfer fee		373	27,836,440
8.AED	03-03-16	MIRK GENERAL TRADING LLC	1,789,826		29,626,266
9.AED	03-03-16	PALMA MANAGEMENT CONSULTING DMCC		180,000	29,446,266
10.AED	03-03-16	External transfer fee		359	29,445,907
11.AED	05-04-16	SALAM ADVOCATES LEGAL CONSULTANTS		300,000	29,145,907
12.AED	05-04-16	External transfer fee		376	29,145,530
13.AED	11-05-16	TRI HOSPITALITY CONSULTING		43,750	29,101,780

14.AED	11-05-16	External transfer fee		376	29,101,404
15.AED	17-05-16	YASSAT GLORIA HOTEL AND HOTEL H	19,945,631		49,047,035
16.AED	17-05-16	SAHRA FZCO-Transfer to USD account		19,945,631	29,101,404
17.AED	03-06-16	NAKHEEL-COMMCORP JUM VILL CIRCLE TR		95,309	29,006,095
18.AED	03-06-16	External transfer fee		369	29,005,726
19.AED	03-06-16	SAHRA FZCO-Transfer to USD account		29,000,000	5,726
20.AED	14-09-16	YASSAT GLORIA HOTEL AND HOTEL H	9,502,821		9,508,548
21.AED	08-11-16	YASSAT GLORIA HOTEL AND HOTEL H	10,900,739		20,409,287
22.AED	14-02-17	YASSAT GLORIA HOTEL AND HOTEL H	18,130,067		38,539,353
23.AED	03-04-17	SAHRA FZCO-Transfer to USD account		37,000,000	1,539,353
24.AED	13-04-17	MIRK GENERAL TRADING LLC	5,341,644		6,880,997
Ending balance on 13-04-17 in AED					**6,880,997**
Ending balance on 13-04-17 translated in USD					**1,872,599**

Account in local currency USD:

Reference Number	Transaction Date	Description	Inflow in USD	Outflow in USD	Balance in USD
Opening balance on 23-08-15			0		0
1.USD/ 2.AED	10-09-15	SAHRA FZCO- transfer from AED account	15,680,761		15,680,761
2.USD	07-12-15	PALMA MANAGEMENT CONSULTING DMCC		252,522	15,428,239
3.USD	07-12-15	External transfer fee		98	15,428,141
4.USD	18-01-16	PALMA MANAGEMENT CONSULTING DMCC		624,059	14,804,082
5.USD	18-01-16	External transfer fee		98	14,803,984
6.USD/ 16.AED	17-05-16	YASSAT GLORIA HOTEL AND HOTEL H- transfer from AED account	5,430,687		20,234,671
7.USD/ 19.AED	03-06-16	SAHRA FZCO- transfer from AED account	7,850,781		28,085,452
8.USD	29-07-16	Due Diligence Fees Q1		1,431	28,084,021
9.USD	29-07-16	Due Diligence Fees Q2		1,431	28,082,591
10.USD	30-12-16	Due Diligence Fees Q3		1,227	28,081,363
11.USD	30-12-16	Due Diligence Fees Q4		1,227	28,080,136

12.USD/ 23.AED	03-04-17	SAHRA FZCO-transfer from AED account	10,003,244	38,083,380
Ending balance on 13-04-2017				**38,083,380**

Approximate total inflow in USD (including transactions from both USD and AED accounts)	41,244,380
Approximate total outflow in USD (including transactions from both USD and AED accounts)	(1,288,401)
Approximate total ending balance in USD	**39,955,979**

3.2.2. Shareholders structure of companies analysed

From the records of Pilatus Bank, bank statements of following entities have been extracted:

1. TKH Investment Limited: AED, GBP and USD Account
2. NH Investment Limited: AED, GBP and USD Account
3. Kaspia Investment Holdings Limited: AED, EUR and USD Account
4. Kimberley Holdings Limited: AED and EUR Account
5. Kimberley Property Limited: EUR Account
6. Kimberley Beta Property Limited: EUR and USD Account
7. Kimberley Gamma Property Holdings Limited: EUR Account
8. Heritage Collection S.A.: EUR Account
9. Argyle Holdings Limited: EUR Account
10. Argyle Retail Holdings Limited: CHF Account
11. Aylal Heydarova: GBP Account
12. Silverlake Investment Holding Limited: GBP Account

13. GP Farm Holdings Limited: EUR Account

14. Raphael Investment Limited: USD Account

As is demonstrated in the following sections, the above companies are interlinked not only by various transactions, but also through mutual UBOs, directors and signatories.

1.1.1.6 FAMILY ALIYEV

Members of the Aliyev family are primarily connected to a company named Sahra FZCO. Sahra FZCO is a company with an account held at Pilatus Bank, and from its KYC the following information was identified in relation to individuals related to it (*Box B Envelop BA*):

- Leyla Aliyeva – Daughter of President of Azerbaijan

- Arzu Aliyeva- Daughter of President of Azerbaijan

- Ilham Aliyev- President of Azerbaijan

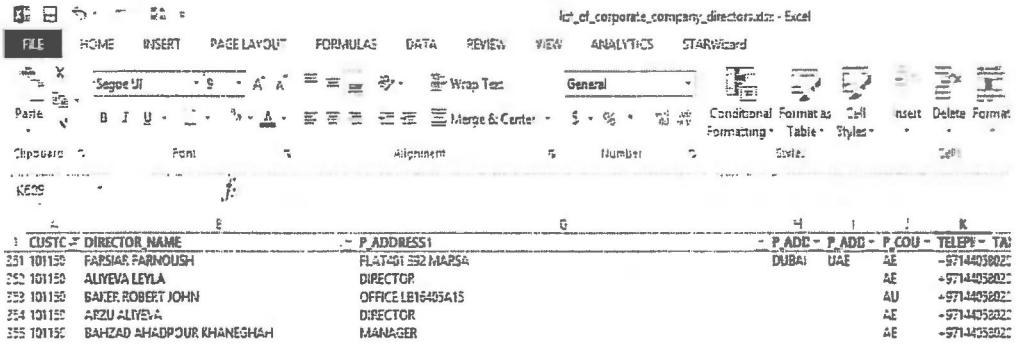
- Mehiban Aliyeva- Wife of President of Azerbaijan

- Robert John Baker- no records in open search (identified as PEP of GP Farm Holding Limited CIF101770)

- Farnoush Farsiar- no records in open search (identified as PEP of GP Farm Holding Limited CIF101770)

- Bahzad Ahadpour Khaneghah – no records in open search

According to a search performed through excel spreadsheets containing data on corporate company directors, Sahra FZCO has 101150 as its customer number and the following individuals are related to it:



CUSTC	DIRECTOR_NAME	P_ADDRESS1	P_ADD	P_ADD	P_COU	TELEPH	TA
101150	FARSIAR FARNOUSH	FLAT401 352 MARSA	DUBAI	UAE	AE	+97144058022	
101150	ALIYEVA LEYLA	DIRECTOR			AE	+97144058022	
101150	BAKER ROBERT JOHN	OFFICE LB16405A15			AU	+97144058022	
101150	ARZU ALIYEVA	DIRECTOR			AE	+97144058022	
101150	BAHZAD AHADPOUR KHANEGHAH	MANAGER			AE	+97144058022	

From the above presented it can be seen that both Leyla Aliyeva and Azru Aliyeva are listed as company's directors.

Through the search of the seized documents- Box 6 Folder T, an unsigned statement has been identified from Azru Aliyeva and Leyla Aliyeva about their involvement in the following companies:

- Bless Limited Liability Company from AZ,
- Reveri Limited Liability Company from AZ,
- Pasha Holding LLC from AZ,
- Raphael Investment Limited,
- Davinci Holdings Limited from UAE,
- Picasso Holdings Limited from UAE
- Roundtree Ventures LTD BVI

The statement specifies transactions which occurred in Pilatus Bank and their source of income. On the back of the paper there is a pen drawing of an original idea of transactions' structure, and then a re-drawing done in pencil, appearing as if someone from the bank was consulting on how to present the occurred transactions.

From the above list the company Raphael Investment Limited represents one of the companies for which a transaction analysis has been performed and is presented below.

A Corporate loan agreement (*Box 6 Folder red P- subfolder 2*) was identified between Raphael Investment ltd and Pilatus Bank. The PB's Credit Committee has agreed to extend a collateralised credit limit to USD 73 million. The loan agreement was signed by Mr Hamidreza Ghanbari and Mr Mehmet Tasli. The loan was fully covered by the same amount of money.

The collateral for the loan is USD 73 million on their investment accounts in PB (Collateral types – Investment Account 101893CINVUSD115, Custody account U148029- which is Raphael Investment ltd's account in PB). The folder contains information on the idea that a loan shall be provided in EUR. Collateral amount in USD will be used as based on which American bonds will be bought, which will lead to a positive foreign exchange difference (*Box 9 Folder ZD*).

Based on a search through excel spreadsheets containing information on outgoing settlement data a transfer was identified from Raphael Investment's Limited account held in AED in Pilatus Bank in the amount of USD 79,549,200 to its account in USD in November 2016.

The majority of the amount, USD 73,000,000 has been transferred to company's account held in Pilatus Bank, the transfer occurred on 14th December 2016. On the same date a loan was disbursed to the company's account in the equal amount- USD 73,000,000. The loan has been transferred to company's account in EUR (EUR 68,500,000), and until 22nd April 2017 there was no information on its repayment.

The main purpose of the loan (*Box 6 Folder red P- subfolder 3*) was buying a company in Moscow, which possesses land.

Money transfers had several layers, all with the accounts in Pilatus bank, started from Raphael Investment ltd and through several different companies with non-resident accounts in Pilatus bank ended in Cyprus in the bank account of EDINKLAR DEVELOPMENTS LIMITED:

- First transfer was the loan from Pilatus bank in the same amount as collateral (USD 73,000,000).
- Then a transfer of EUR 68.5 million from Raphael Investment Ltd to Kubernao Trust Limited as Trustee of the Arellano Lega Trust occurred, also through Pilatus Bank non-resident account (*Box 6 Folder red P- Subfolder 6*)
- The same amount was transferred from Kubernao Trust Limited as Trustee to Arellano Lega Holdings Limited, BVI, also through their accounts in Pilatus (*Box 6 Folder red P- Subfolder 7*)
- Then the same amount was transferred to Arellano Lega Alpine AG, Switzerland in Pilatus Bank account as a loan from Arellano Lega Holdings Limited, BVI. The purpose of the loan was that Arellano Lega Alpine AG will purchase the entire issued share capital of OAO Eruville for the sum of EUR 68,5 million (*Box 6 Folder red P- Subfolder 8*).
- A share purchase agreement was dated 13th December 2016 and signed between EDINKLAR DEVELOPMENTS LIMITED, Cyprus as owner of the company OAO Eruville and ARELLANO LEGA ALPINE AG, Switzerland. The company Ernville OAO was bought on 14th December 2016 according to the relevant register (*Box 6 Folder red P- Subfolder 9*)

The linkage between this company and other companies mentioned in this part of the report concerns Palma Management Consulting DMCC- a company with a bank account operating in United Arab Emirates which has received payments from several sources (TKH Investment Limited, Kimberley Holdings Limited, Sahra FZCO, GP Farm Holdings Limited...).

Based on seized documents (*Box 1 Envelop AQ*) the ownership of Palma Management Consulting was not clearly identified. The company might have been used as a payment hub, which should be checked with FIU UAE.

Based on seized documents (Pilatus Box 10, envelope QAD) Palma Management Consulting, Dubai was mentioned also as a correspondence address for SAHRA FZCO in the Pilatus form "Account open"

In the excel spreadsheet containing information on Pilatus's clients (list_of_all_cutomer_personal_data.xlsx) no client with the name Palma Management Consulting has been identified. However, through the search we have identified two email addresses containing "palmamc" (most probably short from Palma Management Consulting): ross@palmamc.com and farnoush@palmamc.com. These emails are stated as emails of following companies:

- 100431- KIMBERLEY HOLDINGS LIMITED
- 100432- ARGYLE HOLDINGS LIMITED
- 100451- KIMBERLEY PROPERTY HOLDINGS LIMITED
- 100472- HERITAGE ASSET HOLDINGS LIMITED
- 100473- ARGYLE HOSPITALITY HOLDINGS LIMITED
- 100474- HERETI ASSET INVESTMENTS LIMITED
- 100475- KIMBERLEY BETA PROPERTY LIMITED
- 101052- ARGYLE BUNDESLAND HOLDINGS LIMITED
- 101053- THRACIAN INVESTMENTS LIMITED
- 101054- ARGYLE RETAIL HOLDINGS LIMITED
- 101055- THRACIAN ASSET HOLDINGS LIMITED
- 101130- KIMBERLEY GAMMA PROPERTY HOLDINGS L
- 101150- SAHRA FZCO
- 101731- SHAMS AL SAHRA FZCO

Through the search in the excel spreadsheet "list_of_all_outgoing_settlement_data_partI.xlsx" Palma Management Consulting has been identified as both Ordering customer (payment orders given) and Ultimate Beneficiary (payments received).

Transactions ordered by Palma Management were the following:

Ordering Customer Account	Ordering Customer	Ultimate Beneficiary account	Ultimate Beneficiary	Description	Date	Settlement

000950

		/MT63PLTS04019001004 32CACOEUR018	Argyle Holdings Limited	Return of advance	31/08/2015	5,490.20
/AE560260001014897823101	PALMA MANAGEMENT CONSULTING DMCC	/MT44PLTS04019001004 31CACOEUR010	KIMBERLEY HOLDINGS LIMITED	Return of advance	31/08/2015	5,490.20

The search has identified a significantly larger number of payments received by Palma Management Consulting, - a total number of 117. They were all received to accounts held by Palma Management Consulting in UAE from following entities:

Ordering customer	USD	EUR	GBP	AED
ARGYLE HOLDINGS LIMITED			10,000	445,910
DAVINCI HOLDING LIMITED				897,500
FURIES BIA INVESTMENTS LIMITED	150,000			547,895
GP FARM HOLDINGS LIMITED	21,000	18,779		46,049
KIMBERLEY HOLDINGS LIMITED			10,000	445,910
PICASSO HOLDING LIMITED			129,399	1,342,277
RAPHAEL INVESTMENT LIMITED			75,636	615,014
SAHRA FZCO				3,200,000
TKH INVESTMENT LIMITED			600,000	
Grand Total	**171,000**	**18,779**	**825,034**	**7,540,556**
Translated into approximate value in EUR	**148,958**	**18,779**	**1,046,667**	**1,783,522**

Through the search of the excel spreadsheet with all outgoing settlement data at Pilatus Bank, it has been identified that Raphael Investment Limited had transactions on following accounts at Pilatus Bank:

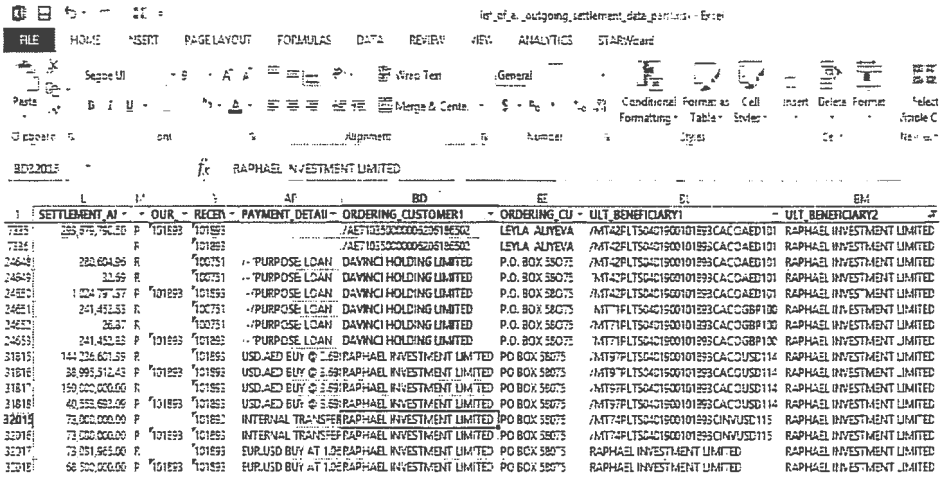
1. 101893CACOAED101
2. 101893CACOGBP100
3. 101893CACOUSD114

4. 101893CINVUSD115
5. 101893CACOEUR106

Through the same search it has been identified that Raphael Investment Limited has received payments from Leyla Aliyeva on its AED account, and from Davinci Holding Limited on its AED and GBP account.

Payments received from Leyla Aliyeva were in the amount of AED 293,679,790 on 11th November 2016, which was the equivalent of USD 80,000,000.

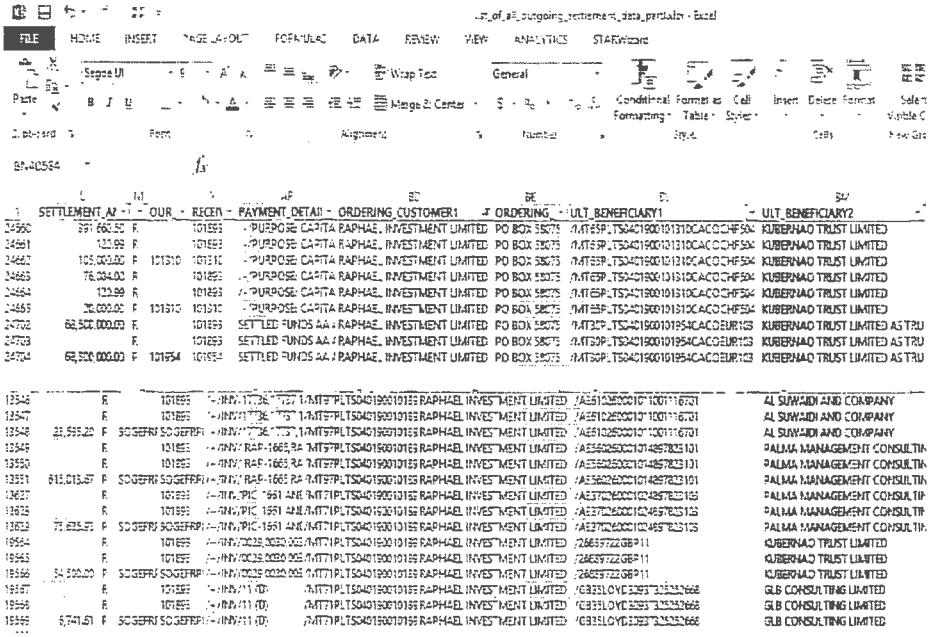
Payments received from Davinci Holding Limited were in the amount of USD 280,605 and GBP 241,452 both received on 28th October 2016, both in the equivalent of EUR 524,710.



	SETTLEMENT_AI	OUR_	RECEI	PAYMENT_DETAII	ORDERING_CUSTOMER1	ORDERING_CU	ULT_BENEFICIARY1	ULT_BENEFICIART2
7335	293,679,790.00	P	101893	101893	/AE710550000005205186502	LEYLA ALIYEVA	/MT42FLTS0401900101893CACOAED101	RAPHAEL INVESTMENT LIMITED
7336		R		101893	/AE710550000005205186502	LEYLA ALIYEVA	/MT42FLTS0401900101893CACOAED101	RAPHAEL INVESTMENT LIMITED
24649	282,604.96	R		100751	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT42FLTS0401900101893CACOAED101 RAPHAEL INVESTMENT LIMITED
24649	33.69	R		100751	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT42FLTS0401900101893CACOAED101 RAPHAEL INVESTMENT LIMITED
24650	1,024,797.37	P	101893	101893	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT42FLTS0401900101893CACOAED101 RAPHAEL INVESTMENT LIMITED
24651	241,452.53	R		100751	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT71FLTS0401900101893CACOGBP100 RAPHAEL INVESTMENT LIMITED
24652	26.87	R		100751	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT71FLTS0401900101893CACOGBP100 RAPHAEL INVESTMENT LIMITED
24653	241,452.53	P	101893	101893	-/PURPOSE LOAN	DAVINCI HOLDING LIMITED	P.O. BOX 58075	/MT71FLTS0401900101893CACOGBP100 RAPHAEL INVESTMENT LIMITED
31815	144,226,601.39	R		101893	USD.AED BUY @ 3.68	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT97FLTS0401900101893CACOUSD114 RAPHAEL INVESTMENT LIMITED
31816	38,995,512.43	P	101893	101893	USD.AED BUY @ 3.68	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT97FLTS0401900101893CACOUSD114 RAPHAEL INVESTMENT LIMITED
31817	159,000,000.00	R		101893	USD.AED BUY @ 3.68	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT97FLTS0401900101893CACOUSD114 RAPHAEL INVESTMENT LIMITED
31818	40,553,682.06	P	101893	101893	USD.AED BUY @ 3.68	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT97FLTS0401900101893CACOUSD114 RAPHAEL INVESTMENT LIMITED
32015	73,000,000.00	P		101893	INTERNAL TRANSFER	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT74FLTS0401900101893CINVUSD115 RAPHAEL INVESTMENT LIMITED
32016	73,000,000.00	P	101893	101893	INTERNAL TRANSFER	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	/MT74FLTS0401900101893CINVUSD115 RAPHAEL INVESTMENT LIMITED
32017	73,051,965.00	R		101893	EUR.USD BUY AT 1.05	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	RAPHAEL INVESTMENT LIMITED RAPHAEL INVESTMENT LIMITED
32018	66,500,000.00	P	101893	101893	EUR.USD BUY AT 1.05	RAPHAEL INVESTMENT LIMITED	PO BOX 58075	RAPHAEL INVESTMENT LIMITED RAPHAEL INVESTMENT LIMITED

Additionally, it has been identified that Raphael Investment Limited has performed payments to the following entities:

- Kubernao Trust Limited
- Al Suwaidi And Company
- Palma Management Consulting DMCC
- GLB Consulting Limited



	SETTLEMENT_AM		OUR	RECEIV	PAYMENT_DETAIL	ORDERING_CUSTOMER1	ORDERING_	ULT_BENEFICIARY1	ULT_BENEFICIARY2
24660	991,660.50	R		101693	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24661	122.99	R		101693	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24662	105,000.00	R	101310	101310	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24663	76,034.00	R		101693	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24664	122.99	R		101693	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24665	26,000.00	R	101310	101310	/PURPOSE	CAPITA RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT65PLTS0401900101310CACOCHF504	KUBERNAO TRUST LIMITED
24702	68,500,000.00	R		101693	SETTLED FUNDS AA /	RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT50PLTS0401900101954CACOEUR103	KUBERNAO TRUST LIMITED AS TRU
24703		R		101693	SETTLED FUNDS AA /	RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT50PLTS0401900101954CACOEUR103	KUBERNAO TRUST LIMITED AS TRU
24704	68,500,000.00	R	101954	101954	SETTLED FUNDS AA /	RAPHAEL INVESTMENT LIMITED	PO BOX 55075	/MT50PLTS0401900101954CACOEUR103	KUBERNAO TRUST LIMITED AS TRU
13546		R		101693	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE610250001010011116701	AL SUWAIDI AND COMPANY
13547		R		101693	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE610250001010011116701	AL SUWAIDI AND COMPANY
13548	28,595.20	R	SOGEFRP	SOGEFRP	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE610250001010011116701	AL SUWAIDI AND COMPANY
13549		R		101693	/--/INV/	RAP-1665,RA /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE560250001014857823101	PALMA MANAGEMENT CONSULTIN
13550		R		101693	/--/INV/	RAP-1665,RA /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE560250001014857823101	PALMA MANAGEMENT CONSULTIN
13551	615,013.67	R	SOGEFRP	SOGEFRP	/--/INV/	RAP-1665 RA /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE560250001014857823101	PALMA MANAGEMENT CONSULTIN
13627		R		101693	/--/INV/PIC	1661 ANE /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE370260001024857823105	PALMA MANAGEMENT CONSULTIN
13628		R		101693	/--/INV/PIC	1661 ANE /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE370260001024857823105	PALMA MANAGEMENT CONSULTIN
13629	71,425.91	R	SOGEFRP	SOGEFRP	/--/INV/PIC	1661 ANE /MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/AE370260001024857823105	PALMA MANAGEMENT CONSULTIN
13564		R		101693	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/28659722GBP11	KUBERNAO TRUST LIMITED
13565		R		101693	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/28659722GBP11	KUBERNAO TRUST LIMITED
13566	34,500.00	R	SOGEFRP	SOGEFRP	/--/INV/	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/28659722GBP11	KUBERNAO TRUST LIMITED
13567		R		101693	/--/INV/11 (D)	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/GB33LOYD32933732532668	GLB CONSULTING LIMITED
13568		R		101693	/--/INV/11 (D)	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/GB33LOYD32933732532668	GLB CONSULTING LIMITED
13569	6,741.61	R	SOGEFRP	SOGEFRP	/--/INV/11 (D)	/MT59PLTS0401900101955 RAPHAEL INVESTMENT LIMITED		/GB33LOYD32933732532668	GLB CONSULTING LIMITED

From the above, the most significant payment has been paid to Kubernao Trust Limited As Trustee Of The Arellano Lega Trust, with an account also within Pilatus Bank under the code 101954. The entity received an amount of EUR 68,500,000 with transaction description "Settled Funds AA and LA" on 19/12/2016.

1.1.1.7 FAMILY HEYDAROV

Heydarov family is also from Azerbaijan and from a KYC related an on-going review of a company BISCHIMMO SA Guernsey following information was identified (*Box 1 Envelop AS*):

- Tale Heydarov is a son of Kamaladdin Heydarov, Minister of Emergency Situations of Azerbaijan

- Nijat Heydarov is a son of Kamaladdin Heydarov, Minister of Emergency Situations of Azerbaijan

- Information on source of income- Earnings from Sofitel Dubai

Further information has been identified in relation to the ownership structure of a Maltese company IW Belgica formed by two Trusts in Jersey and two companies in Guernsey. The company is a mother company of Belgium company formed for Belgium Commercial Property

Tale and Nijat Heydarov were identified as connected to the following companies:

- **THRACIAN ASSET HOLDINGS LIMITED**, C70377 (*Box 1 Envelop AQ*): The company was introduced to Pilatus Bank by Hamidreza Ghanbari. He met Nijat Heydarov, and Tale Heydarov through Robert Baker in Dubai on 25th May 2015. Company's related entities are: Angyla Hospitality Holdings Limited; Kimberley Holdings Limited; Paddington Partners ltd

- **KASPIA Investment Holdings Limited Dubai**, UAE (*Box 1 Envelop AM*): Based on a KYC following information was identified:

o50% OWNER of the company is NH INVESTMENT LIMITED

o50% OWNER of the company is TKH INVESMENT LMITED

oCompany's director is Robert Baker

oCompany's UBO are Tale Hedarov and Nijat Heydarov

The company was introduced to Pilatus Bank by Hamidreza Ghanbari on 23rd March 2015 through a joint meeting between Mr. Ghanbari, the UBOs and directors in Dubai. Assets Princess Hotel Company 6 mil$ and loan from TKH Investment 7,3 mil$ are listed as source of income according to the information provided in KYC.

A Loan agreement between KASPIA and KIMBERELY BETA PROPERTY was identified in the amount of USD 7 million for the acquisition of the premises of the Ministry of Economy Georgia, Tbilisi.

- **HERETI ASSETS INVESTMENTS LIMITED** (*Box 1 Envelop AV*): Based on a KYC it is stated that the company was also introduced to Pilatus Bank by Hamidreza Ghanbari based on a meeting held in Dubai on 25th March 2015, and following individuals are related to it:

oRobert Baker – Director

oTale Heydarov- UBO

oNijat Heydarov- UBO

- **HERITRAGE ASSET HOLDINGS LIMITED** C67265 (*Box 1 Envelop AX*): Based on a KYC it is stated that the company was also introduced to Pilatus Bank by Hamidreza Ghanbari based on a meeting held in Dubai on 7th December 2014, and following individuals are related to it:

oRobert Baker – Director

oTale Heydarov- UBO

oNijat Heydarov- UBO

- **HERITRAGE COLLECTION SA**, LUXEMBURG (*Box 3 Envelop QCD*): Based on a KYC following information was identified:

oHolder of a non-resident account at Pilatus Bank

oUBOs: Heydarov brothers and French Nguyen-Cong-Duc

oSignatory: Robert Baker

The company was used as a transmitter of funds from TKH from UAE through HERITRAGE COLLECTION SA, LUXEMBURG's account in PB towards HERITRAGE COLLECTION SA FRANCE.

- **ROUNDTREE Ventures LTD BVI** (*Box 3 Envelop QCG*): As its UBOs following individuals are identified:

oTale Heydarov

oNijat Heydarov

oLeyla Aliyeva

oArzu Aliyeva

As a confirmation on the source of income, the company submitted an e-mail correspondence. According to an email from Linet Estiroti from Pilatus Capital dated 16th March 2016, Roundtree Ventures LTD BVI has sold a property in London for GBP 3.8 million on June 2014. From that sale, companies Picasso and Davinci have gained each GBP 875,000.

- **TKH Investment Limited**, UAE (*Box 3 Envelop QCF*): Tale Heydarov is identified as company's UBO.

- **KUBERNAO Trust**, New Zealand (Box 1 Envelop AY): The NZ Trust owns shares of a company INTERSTELLAR Investment Holding Limited BVI. The UBOs are Nijat Heydarov and Tale Heydarov. The account was opened through Hamidreza Ghanbari after its meeting with the UBOs in Dubai.

Interstellar Investment Holding ltd and Manuchehr Ahadpur Khangah are stated as owners of Silverlake Investment Holding Limited Guernsey. In KYC was found statement with estimated net worth of TH and NH. In 2015 net worth was estimated to USD 176 million each. The companies have 25% of ownership of Sofitel Hotel, 50% each of Azinsurance, and Residental villas from MIRK.

- **SILVERLAKE Investments Holdings Limited**, Guernsey (*Box 3 Envelop QCS*): Information identified following individuals as company's UBOs:

oAhadpur Manuchehr,

oHeydarov Nijat,

oHeydarov Tale

- **ARCHIMEDES RETAIL INVESTMENTS** (*Box 2 Envelop QBP*): Information identified that the company is owned by Heydarov family, while Robert Baker is one of the Authorized signatories.

1.1.1.8 ROBERT (JOHN) BAKER

As already identified in previous two sections (3.2.2.1 and 3.2.2.2), a connection between Robert Baker and both of the families Aliyev and Heydarov was identified through various companies' KYC forms in which he is stated as director or signatory of these companies. Rober Baker is CA, ex KPMG.

Apart from already identified companies, it has been identified that Robert Baker is connected also to the following companies:

- **ARGYLE BUNDESLAND HOLDINGS LIMITED**, MALTA (*Box 2 Envelop QBY*): The account was opened on 6th July 2015. Robert Baker identified as one of the Authorised signatories. No identification of UBO. Identified transfers from Kimberley Holdings Limited.

From the excel spreadsheet containing information on corporate clients, it has been identified that the company is registered under client number 101052. From the search performed in excel spreadsheet containing information on companies' corporate directors, the following individuals are linked to this company:

- Robert Baker
- Craig Martyn Wilson
- UBO 101052/1
- UBO 101052/2
- Ginette Louise Blondel

No information of who is under the reference UBO 101052/1 and 101052/2 has been identified. The following individuals are listed in the excel spreadsheet containing information on companies' signatories- all specified as Directors:

- Blondel Ginette Louise
- Robert Baker John

- Wilson Craig Martyn
- Hetherington Kenneth

- **ARGYLE RETAIL HOLDINGS LIMITED**, MALTA (*Box 2 Envelop QBW*): Robert Baker is identified as one of the Authorised signatories. No identification of UBO.

From the excel spreadsheet containing information on corporate clients, it has been identified that the company is registered in Pilatus Bank under the client number 101054. From the search performed in excel spreadsheet containing information on companies' corporate directors, the following individuals are linked to this company:

- Robert Baker
- Craig Martyn Wilson
- UBO 101052/1
- UBO 101052/2
- Ginette Louise Blondel

No information of who is under the reference UBO 101052/1 and 101052/2 has been identified. The following individuals are listed in the excel spreadsheet containing information on companies' signatories- all specified as Directors:

- Blondel Ginette Louise
- Robert Baker John
- Wilson Craig Martyn
- Hetherington Kenneth

Further search has identified another two companies operating also as Argyle:

- Argyle Holdings Limited- client number 100432
- Argyle Hospitality Holding- client number 100473

Through the listing of company corporate directors, Tale Heydarov is listed under Argyle Holdings Limited.

- **KUBERNAO TRUST LIMITED**, NewZealand (*Box 2 Envelop QBO*): Information identified of the company as Trustee of the Lighthouse Trust. Robert Baker identified as one of the Authorised signatories.

- **FURIES BIA Investment Ltd** (*Box 1 Envelop AU*): It has been identified that the owners of the company are Robert John Baker and Farnoush Farsiar (Iranian) who may be a frontman of Nijat and Tale Heydarov and Arzu and Leyla Aliyeva, and also linked to Nagriz Pashayeva.

- **PADDINGTON Partners Ltd** (*Box 1 Envelop AQ*): Identified as a company of Robert John Baker who is stated as a prime contact for all businesses in New Zealand, holder of CA and ex KPMG.

- **KIMBERLY GAMMA Property Holdings Limited** (*Box 2 Envelop QBC*): Identified as linked to the company through the search of excel spreadsheets containing information on corporate company directors. An original account opening form has been identified for the company, all pages are signed, however no information is stated concerning company's UBO. The accounts were opened on 20th August 2015, with the stated purpose of buying property in Marbella, Malaga, Spain for around EUR 15.6 million.

The company's client number in Pilatus Bank is 101130, and in the file containing information on companies' corporate directors, Kimberley Holding and Argyle Holding Limited are listed as shareholder. One of Kimberley Holding's directors is Nijat Heydarov, while one of Argyle Holding's directors is Tale Heydarov.

The company received a loan in the amount of EUR 15.6 million from Pilatus Bank on 30th October 2015

Through the search of the file, no signed and notarised Sale Purchase Agreement for an property in Marbella has been identified. An additional loan agreement dated 24th August 2015 was identified. The loan agreement in the amount of EUR 20 million was signed between KASPIA INVESTMENT HOLDINGS LIMITED (Tale and Nijat Heydarov identified in the list of company's directors) and KIMBERLY GAMMA PROPERTY HOLDINGS LIMITED (Nijat Heydarov identified in the list of company's directors).

- **KIMBERLY BETA Property Limited** (*Box 3 Envelop QCH*): Robert Baker has been identified as linked to the company through the search in excel spreadsheets in relation to corporate company directors.

On a bank statement of the company it is stated in hand writing that for a transfer of EUR 2,915 no documentation was provided. The transaction is related to AG LEGAL CONSULTING LLC, with the account number GE98BG0000000294528100. It was identified that KBP TBIISI LLC is a daughter company of KIMBERELEY BETA PROPERTY LIMITED connected to the family Heydarov.

A Purchase and Sale Agreement was identified between LEPL National Agency of State Property and KBP Tbilisi LLC, for the purchase of state owned immovable property.

Additionally, through a search of excel spreadsheet containing information on corporate company directors and containing information on signatories, Robert Baker is identified as linked to the following additional companies:

- ANDALUSIA PROPERTY ALPHA LIMITED- Director
- ANDALUSIA PROPERTY BETA LIMITED- Director
- ANDALUSIA PROPERTY GAMMA LIMITED- Director
- ARELLANO LEGA ALPINE AG- Signatory
- ARELLANO LEGA HOLDINGS LIMITED- Director
- ARGYLE HOLDINGS LIMITED –Director
- ARGYLE HOSPITALITY HOLDINGS LIMITED- Signatory
- GP FARM HOLDINGS LIMITED- Director; Director
- GP1 ASSET HOLDINGS LIMITED- Signatory
- GP2 ASSET HOLDINGS LIMITED- Signatory
- HERETI ASSET INVESTMENTS LIMITED- Role not stated in both of the lists
- HERETI HOLDINGS LIMITED- Director
- INTERSTELLAR INVESTMENT HOLDING LTD- Director
- KASPIA INVESTMENT HOLDINGS LIMITED- Director
- KIMBERLEY HOLDINGS LIMITED- Director
- KIMBERLEY PROPERTY HOLDINGS LIMITED –Director
- LIGHTHOUSE INTERNATIONAL VENTURE LT- Director/ Shareholder of Kubernao Trust Limited
- MONET INVESTMENT LIMITED- Authorised Signatory
- NH INVESTMENT LIMITED- Director
- ONEKA AIRCRAFT LEASING LIMITED- Signatories/UBO
- ONEKA ASSET MANAGEMENT LIMITED- Director
- ONEKA INVESTMENT HOLDINGS LIMITED- Director
- PLATO CAPITAL INTERNATIONAL HOLDING- Director
- RAPHAEL INVESTMENT LIMITED- Signatories

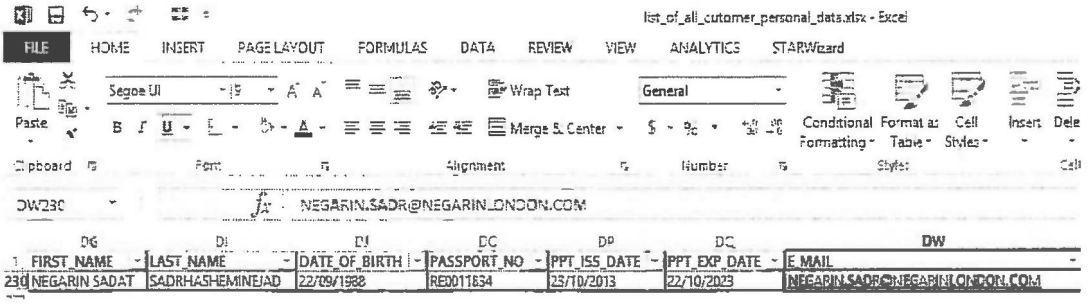
- THRACIAN INVESTMENTS LIMITED-Director

- TKH INVESTMNENT LIMITED- Director

1.1.1.9 NEGARIN SADR HASHEMINEJAD/ NEGARIN SADR

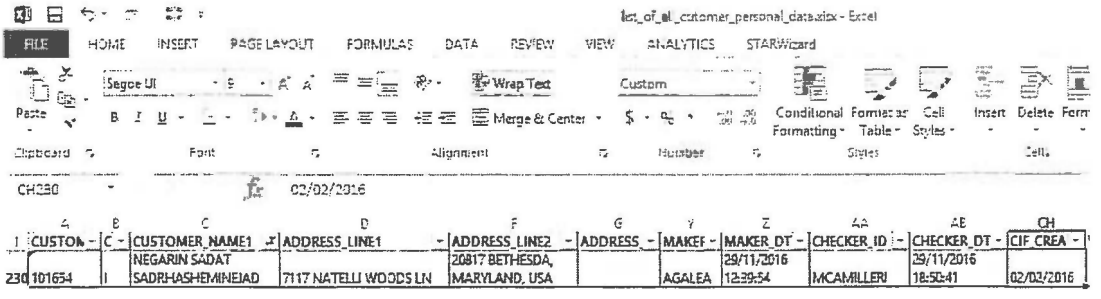
Negarin Sadr Hasheminejad (short name- Negarin Sadr) is allegedly Seyed Ali Sadr Hasheminejad's sister. Based on the same surname and identified transactions which occurred between them, the family connection can be confirmed. Additionally, it is believed that Negarin Sadr owns a fashion business in London, which was confirmed through internet search- on which website it is stated that the brand has been established by Negarin Sadr in 2011 (https://www.negarinlondon.com/pages/about-us).

Through the search of customer personal data excel spreadsheet it has been identified that the e-mail address linked to the personal account of Negarin Sadat Sadrhasheminejad is NEGARIN.SADR@NEGARINLONDON.COM :



	DG	DI	DJ	DO	DP	DQ	DW
1	FIRST_NAME	LAST_NAME	DATE_OF_BIRTH	PASSPORT_NO	PPT_ISS_DATE	PPT_EXP_DATE	E_MAIL
230	NEGARIN SADAT	SADRHASHEMINEJAD	22/09/1988	RE0011834	23/10/2013	22/10/2023	NEGARIN.SADR@NEGARINLONDON.COM

Based on excel spreadsheet search, it has been identified that a personal account on the name of Negarin Sadat Sadrhasheminejad exists at Pilatus Bank with stated CIF creation date: 02/02/2016:



	A	B	C	D	F	G	Y	Z	AA	AB	CH
1	CUSTOM	C	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE2	ADDRESS_	MAKEF	MAKER_DT	CHECKER_ID	CHECKER_DT	CIF_CREA
230	101654	I	NEGARIN SADAT SADRHASHEMINEJAD	7117 NATELLI WOODS LN	20817 BETHESDA, MARYLAND, USA		AGALEA	29/11/2016 12:39:54	MCAMILLERI	29/11/2016 18:50:41	02/02/2016

Personal applicant KYC for Negarin Sadat Sadrhasheminejad was prepared at 1st February 2016 in Malta by Emilia Vacaru even though Negarin was not in Malta.

In this form it is stated that she is a holder of St Kitts and Nevis passport.

For transaction details please see section 6.1.5.

3.2.3. Correlation and inter-linkage of companies

Several layers of transactions can be identified:

- Companies performing initial funding:

1. NH Investment Limited, TKH Investment Limited through their bank accounts operating in United Arab Emirates

2. MIRK General trading through its bank account operating in United Arab Emirates

3. Nijat Heydarov through its bank account operating in United Arab Emirates

- Companies performing the 1st transfer of funds:

• Kaspia Investment Holdings Limited through its bank accounts operating in Pilatus Bank

• Kimberley Holdings Limited through its bank accounts operating in Pilatus Bank

• Kimberley Property Holdings Limited

• Argyle Holdings Limited through its bank accounts operating in Pilatus Bank

• GP Farm Holdings Limited through its bank accounts operating in Pilatus Bank

- Companies performing the 2nd transfer of funds:

• Kimberley Gamma Property Holdings Limited through its bank accounts operating in Pilatus Bank

• Kimberly Beta Property Limited through its bank accounts operating in Pilatus Bank

- Companies which have received the final transfer:

• Alfa Moves S.L. on its bank account operating in Switzerland

- Kimberley Gamma Property Holdings Limited on its AED bank account operating in Pilatus Bank
- LLC KBP Tbilsi/Georgia on its bank accounts operating in Georgia
- Barbel Marianne C Kiss on its bank account operating in Liechtenstein
- Companies with their bank accounts operating in Spain:
  - Lexland Marbella S.L.
  - Plazas Abogados SLP
  - Comar SL
  - Preston Property Management S.L.
  - R.E. and M.W. Property Hodlings S.L.
  - OP De Beeck and Worth SL

- Other identified companies which had specific operations:

- Raphael Investment Limited
- Heritage Collection S.A.

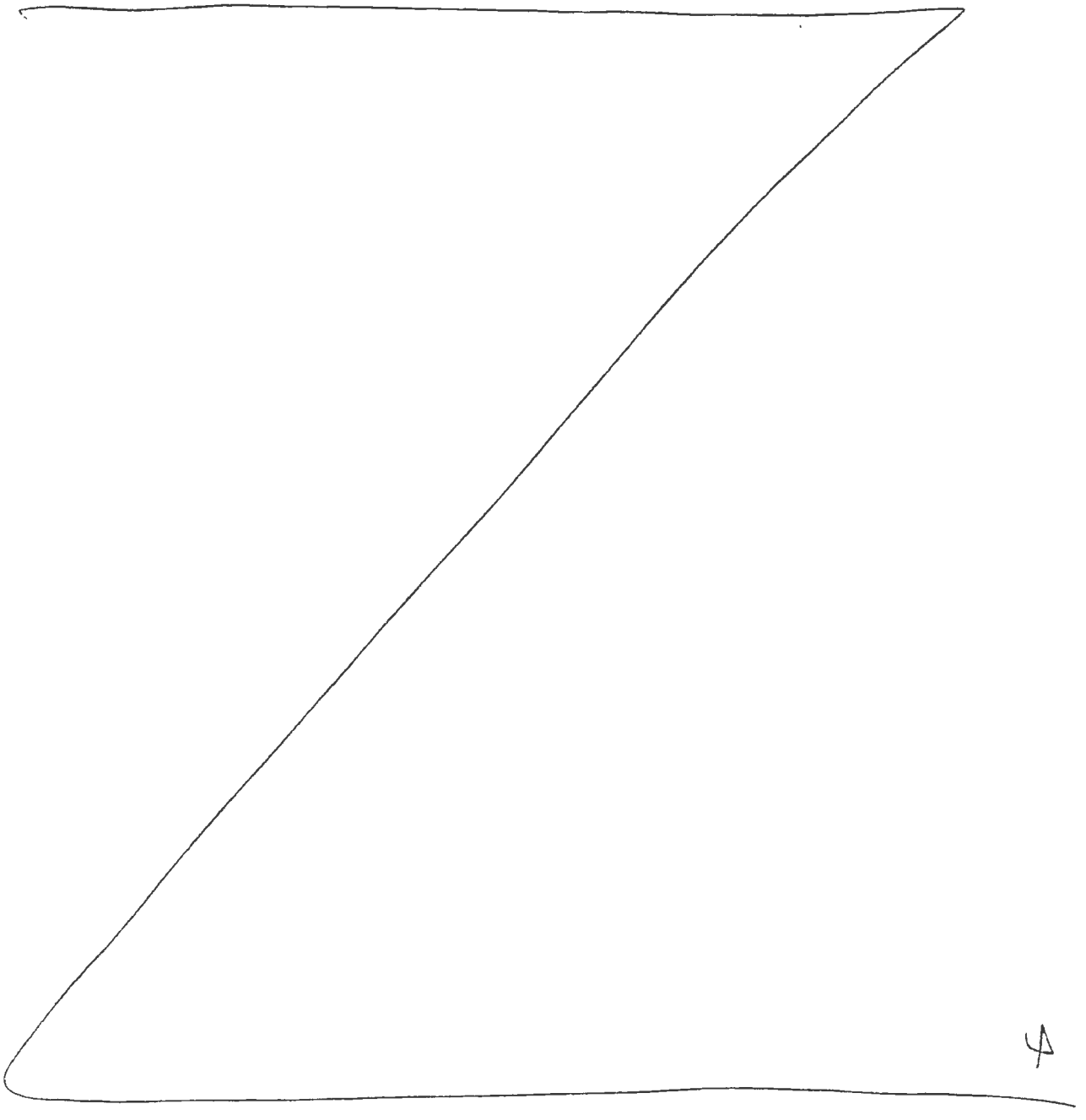
3.3. Conclusion

The preliminary review of transactions relating to Azerbaijan and the families Alyev and Haydarov, show commonly accepted[142] red flags for money laundering.

Having in mind that there is a suspicion that the bank has been used for money laundering, there is a need for international cooperation mainly due to the international dimension of this problem. Money laundering investigations usually rely on cooperation between a few countries and therefor such cooperation shall be of great importance in this case.

[142] Angela Samantha Maitland Irwin- An analysis of money laundering and terrorism financing typologies

At this time, the following countries should be asked to cooperate: UK, USA, UAE, NZ, TR, DE, CH. Other countries are also likely to be needed to cooperate to reach definitive answer whether PEPs from Malta were involved in any acts of corruption, money laundering or suspicious financial transactions with PEPs from Azerbaijan. Transactions did not pass through bank accounts of PEPs from Malta held with Pilatus Bank but there was not enough evidence to conclude that transactions did not pass through other hub accounts abroad.



TASK 4

3.4. Article "Declaration of trust in Pilatus Bank safe: Egrant shares held for Michelle Muscat" was issued on 20th April 2017 at 7:59pm

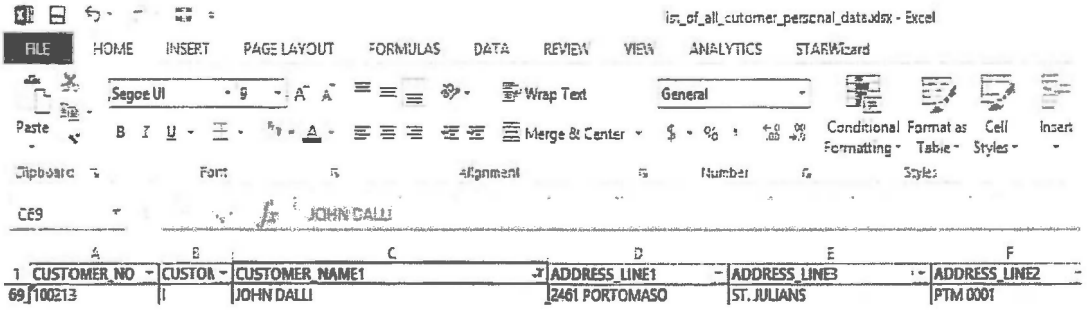
3.4.1. In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

Based on seized documents, there is not enough information to allow one to reach a conclusion whether is true or false this statement.

3.4.2. In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEPs, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

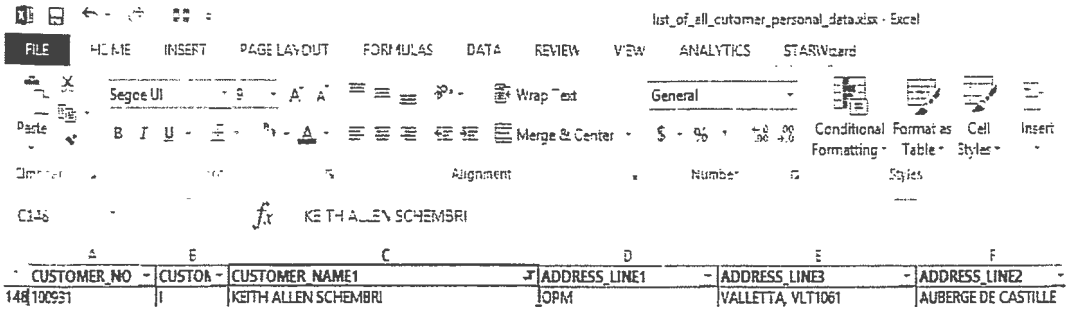
Based on seized documents, there is not enough information in order to allow one to reach a conclusion regarding the statement about Russian clients of the bank and Maltese PEPs.

Through the search of the excel spreadsheet containing information of Pilatus Bank's customer personal data, it has been identified that John Dalli holds an account in his personal name:



Through the same search it has been identified that Keith Schembri also holds an account in his personal name:

A



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C146 | KEITH ALLEN SCHEMBRI

	A	B	C	D	E	F
	CUSTOMER_NO	CUSTOM	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE3	ADDRESS_LINE2
148	100931	I	KEITH ALLEN SCHEMBRI	OPM	VALLETTA, VLT1061	AUBERGE DE CASTILLE

Based on the search through excel spreadsheets, the statement that John Dalli and Keith Schembri have accounts with Pilatus Bank can be confirmed.

3.4.3. Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

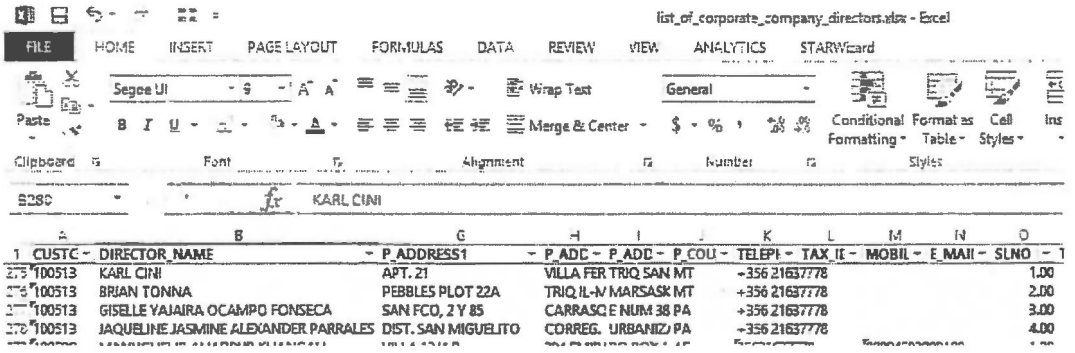
Transactions related to John Dalli have been extracted from the excel spreadsheet containing information on all outgoing settlement data. The identified transactions are mainly small cash withdrawals and payments of certain bank fees (overdraft fees, closure of account fees and similar):

	G	H	K	L	M	AP	BD	BE	BF	BG	BL	BM	BN
	ACCOUNT	ACC_CC	VALUE_DA	SETTLEMEN	PAY_REC	PAYMENT_DETAILS1	ORDERING_C	ORDERING_CUST	ORDERING_CUS	ORDERING_	ULT_BENEFICIARY1	ULT_BENEFI	ULT_BENEFICIA
2	AS1300001	EUR	24/02/2016	72.96	P	JOHN DALLI CASH WITHDRAWAL		- CASH IN VAULT			BOV CURRENT ACCOUNT		
3	AS1200016 100213CAI	EUR	24/02/2016	72.96	P	JOHN DALLI CASH WITHDRAWAL		- CASH IN VAULT 2461			- BOV CURRENT ACCOUNT DORMANT		
4	NEUR016	EUR	27/10/2014	450.00	P		JOHN DALLI	PORTOMASO 2461			ACCOUNT FEES DORMANT		
5	IN5100203 100213CAI	EUR	27/10/2014	450.00	P		JOHN DALLI	PORTOMASO 2461			ACCOUNT FEES		
6	NEUR016	EUR	27/10/2014	50.00	P		JOHN DALLI	PORTOMASO 2461			OVERDRAFT FEES		
7	IN5100605 100213CAI	EUR	27/10/2014	50.00	P		JOHN DALLI	PORTOMASO 2461			OVERDRAFT FEES DORMANT		
8	NUSD013	USD	27/10/2014	316.48	P		JOHN DALLI	PORTOMASO 2461			ACCOUNT FEES DORMANT		
9	IN5100203 100213CAI	EUR	27/10/2014	250.00	P		JOHN DALLI	PORTOMASO 2461			ACCOUNT FEES		
10	NUSD013	USD	27/10/2014	63.30	P		JOHN DALLI	PORTOMASO 2461			OVERDRAFT FEES		
11	IN5100605 100213CAI	EUR	27/10/2014	50.00	P		JOHN DALLI	PORTOMASO 2461			OVERDRAFT FEES MT12PLTS0401900	JOHN	2461
12	NEUR016 100213CAI	EUR	10/12/2014	367.04	P	COVER OF CHARGES	JOHN DALLI	PORTOMASO 2461			100213CAINUSD013 /MT12PLTS0401900	DALLI JOHN	PORTOMASO 2461
13	NUSD013 100213CAI	USD	10/12/2014	379.78	P	COVER OF CHARGES	JOHN DALLI	PORTOMASO 2461			100213CAINUSD013 CLOSURE OF	DALLI	PORTOMASO
14	NEUR016	EUR	21/04/2015	250	P		JOHN DALLI	PORTOMASO 2461	PTM 0001	ST. JULIANS	ACCOUNT FEES CLOSURE OF		
15	IN5100204 100213CAI	EUR	21/04/2015	250	P		JOHN DALLI	PORTOMASO 2461	PTM 0001	ST. JULIANS	ACCOUNT FEES CASH		
16	NEUR016	EUR	21/04/2015	72.96	P		JOHN DALLI	PORTOMASO 2461	PTM 0001	ST. JULIANS	WITHDRAWAL CASH		
17	AS1300001	EUR	21/04/2015	72.96	P		JOHN DALLI CHEQUE	PORTOMASO 001524406061C03	PTM 0001 001153440600610	ST JULIANS	WITHDRAWAL /MT13PLTS0401900	JOHN	2461
18	AS1200016 100213CA	EUR	10/12/2014	2000	R		DEPOSIT CHEQUE	17001 001524406061C03	0317001 001153440600610		100213CAINEUR016 MT13PLTS0401900	DALL JOHN	PORTOMASO 2461
19	NEUR016 100213CAI	EUR	10/12/2014	2000	P		DEPOSIT	17001 2461	0317001		100213CAINEUR016 /MT12PLTS0401900	DALL JOHN	PORTOMASO 2461
20	NEUR016 100213CAI	EUR	10/12/2014	367.04	R	COVER OF CHARGES	JOHN DALLI	PORTOMASO 2461			100213CAINUSD013 MT13PLTS0401900	DALL JOHN	PORTOMASO 2461
21	NUSD013	USD	10/12/2014	379.78	P	COVER OF CHARGES	JOHN DALLI	PORTOMASO			100213CAINUSD013	DALL	PORTOMASO

Based on search performed, the statement that John Dalli account is not used that much can be confirmed.

Transactions related to Keith Schembri have been extracted from the excel spreadsheet containing information on all outgoing settlement data:

It has been identified that Keith Schembri has received payments from Willerby Trade Inc. with code number 100513. Linked to this code 100513 are the following individuals: Karl Cini, Brian Tonna, Giselle Yajaira Ocampo Fonseca and Jaqueline Jasmine Alexander Parrales:



list_of_corporate_company_directors.xlsx - Excel

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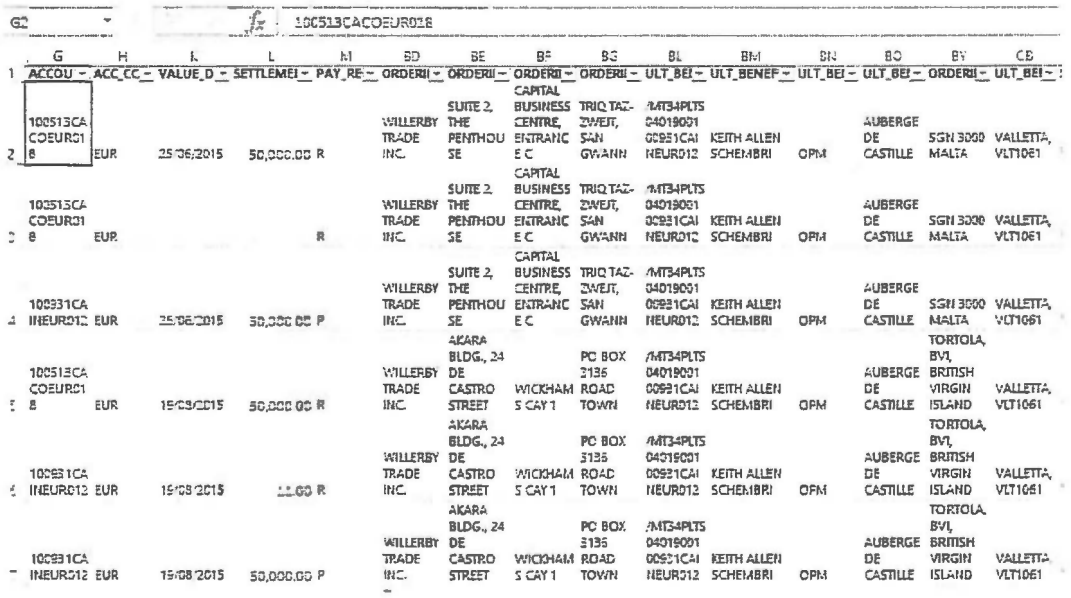
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B280 | KARL CINI

	A	B	G	H	I	J	K	L	M	N	O
1	CUSTC	DIRECTOR_NAME	P_ADDRESS1	P_ADD	P_ADD	P_COU	TELEPI	TAX_II	MOBIL	E_MAII	SLNO
275	100513	KARL CINI	APT. 21	VILLA FER	TRIQ SAN	MT	+356 21637778				1.00
276	100513	BRIAN TONNA	PEBBLES PLOT 22A	TRIQ IL-V	MARSASK	MT	+356 21637778				2.00
277	100513	GISELLE YAJAIRA OCAMPO FONSECA	SAN FCO, 2 Y 85	CARRASC	E NUM 38	PA	+356 21637778				3.00
278	100513	JAQUELINE JASMINE ALEXANDER PARRALES	DIST. SAN MIGUELITO	CORREG.	URBANIZ	PA	+356 21637778				4.00

The payments identified were the following:



G2 | 100513CACOEUR018

	G	H	K	L	M	BD	BE	BF	BG	BL	BM	BN	BO	BY	CB
1	ACCOU	ACC_CC	VALUE_D	SETTLEMEI	PAY_RE	ORDERII	ORDERII	ORDERII	ORDERII	ULT_BEI	ULT_BENEF	ULT_BEI	ULT_BEI	ORDERII	ULT_BEI
2	100513CA COEUR01 8	EUR	25/06/2015	50,000.00	R	WILLERBY TRADE INC.	SUITE 2, THE PENTHOU SE	CAPITAL BUSINESS CENTRE, ENTRANC E C	TRIQ TAZ-ZWEIT, SAN GWANN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	SGN 3000 MALTA	VALLETTA, VLT1061
3	100513CA COEUR01 8	EUR			R	WILLERBY TRADE INC.	SUITE 2, THE PENTHOU SE	CAPITAL BUSINESS CENTRE, ENTRANC E C	TRIQ TAZ-ZWEIT, SAN GWANN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	SGN 3000 MALTA	VALLETTA, VLT1061
4	100931CA INEUR012	EUR	25/06/2015	50,000.00	P	WILLERBY TRADE INC.	SUITE 2, THE PENTHOU SE	CAPITAL BUSINESS CENTRE, ENTRANC E C	TRIQ TAZ-ZWEIT, SAN GWANN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	SGN 3000 MALTA	VALLETTA, VLT1061
5	100513CA COEUR01 8	EUR	19/08/2015	50,000.00	R	WILLERBY TRADE INC.	AKARA BLDG., 24 DE CASTRO STREET	WICKHAM S CAY 1	PO BOX 3136 ROAD TOWN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	TORTOLA, BVI, BRITISH VIRGIN ISLAND	VALLETTA, VLT1061
6	100931CA INEUR012	EUR	19/08/2015	11.00	R	WILLERBY TRADE INC.	AKARA BLDG., 24 DE CASTRO STREET	WICKHAM S CAY 1	PO BOX 3136 ROAD TOWN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	TORTOLA, BVI, BRITISH VIRGIN ISLAND	VALLETTA, VLT1061
7	100931CA INEUR012	EUR	19/08/2015	50,000.00	P	WILLERBY TRADE INC.	AKARA BLDG., 24 DE CASTRO STREET	WICKHAM S CAY 1	PO BOX 3136 ROAD TOWN	/MT34PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE	TORTOLA, BVI, BRITISH VIRGIN ISLAND	VALLETTA, VLT1061

8	N510C20 9	EUP	29/07/2016	390.00	R	Due Diligence Fees Q1-2016 Discount				/MT84PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
9	100931CA INEUR012	EUR	29/07/2016	390.00	P	Due Diligence Fees Q1-2016 Discount				/MT84PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
10	N510C20 9	EUR	29/07/2016	390.00	P	Due Diligence Fees Q2-2016 Discount				/MT84PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
	100931CA INEUR012	EUR	29/07/2016	390.00	P	Due Diligence Fees Q2-2016 Discount				/MT84PLTS 04019001 00931CAI NEUR012	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
12	100931CA INEUR012	EUR	04/02/2016	10,000.00	R	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	/MT84PLTS 04019001 00931CAP CEUR227	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
13	100931CA PCEUR22 7	EUR	04/02/2016	10,000.00	P	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	/MT84PLTS 04019001 00931CAP CEUR227	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
14	100931C AINEUR0 12	EUR	29/07/201 6	390.00	R	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	Due Diligence Fees Q1-2016							
15	N51002 09	EUR	29/07/201 6	390.00	P	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	Due Diligence Fees Q1-2016							
16	100931C AINEUR0 12	EUR	29/07/201 6	390.00	R	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	Due Diligence Fees Q1-2016							
17	IN51002 09	EUR	29/07/201 6	390.00	P	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	Due Diligence Fees Q2-2016							
18	100931C AINEUR0 12	EUR	04/02/201 6	10000.00	R	KEITH ALLEN SCHEMBR I	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	/MT84PL TS04019 0010093 1CAPCEU R227	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061		
19	100931C APCEUR2 27	EUR	04/02/201 6	10000.00	P	KEITH ALLEN SCHEMBR /MT84PL TS04019 0010093 1CAPCEU R227	OPM	AUBERGE DE CASTILLE	VALLETTA, VLT1061	/MT84PL TS04019 0010093 1CAPCEU R227	KEITH ALLEN SCHEMBRI	OPM	AUBERGE DE CASTILLE		VALLETTA, VLT1061	Y	
20	100931C AINEUR0 12	EUR			R	KEITH ALLEN SCHEMBR I /MT84PL TS04019 0010093 1CAINEU R012	OPM	AUBERGE DE CASTILLE	/020924 0044011 00	CROWE HORWATH WELLINGTON	WELLING TON, NEW ZEALAND		VALLETTA MALTA				
21	100931C AINEUR0 12	EUR			R	KEITH ALLEN SCHEMBR I /MT84PL TS04019 0010093 1CAINEU R012	OPM	AUBERGE DE CASTILLE	/020924 0044011 00	CROWE HORWATH WELLINGTON	WELLING TON, NEW ZEALAND		VALLETTA MALTA				
22	100096N OACGBP 018	GBP	16/08/201 6	19244.00	P	KEITH ALLEN SCHEMBR I /MT84PL TS04019 0010093 1CAINEU R012	OPM	AUBERGE DE CASTILLE	/020924 0044011 00	CROWE HORWATH WELLINGTON	WELLING TON, NEW ZEALAND		VALLETTA MALTA				

Through the search of accounts held in Pilatus Bank related to Keith Schembri, only his personal accounts have been identified.

Based on the search performed in excel spreadsheet "All accounts details", Keith Schembri holds the following accounts in Pilatus Bank:

- 100931CAINEUR012
- 100931CAINEUR227

Additionally, no evidence that Tillgate Inc. holds an account at Pilatus Bank has been identified.

3.4.4. The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

Based on seized documents, there is not enough information in order to allow reaching a conclusion the statement that "The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri".

However, based on information gathered from seized documents it can be confirmed that:

- Egrant Inc. was the first company registered by Mossack Fonseca- based on documents presented in section 1.2, Egrant Inc was registered on 08 July 2013, while Tillgate Inc. and Hearnville Inc. were registered on 15 July 2013 and 9 July 2013, respectively.

- Mossack Fonseca issued invoices to BTI Management (company linked to both Karl Cini and Brian Tonna) for the acquisition of Egrant Inc., Tillgate Inc. and Hearnville Inc.

- ATC Administrators INC. owned one share in Egrant, Tillgate, Hearnville. Those shares has been vested to Mr. Brian Tonna in all three companies.

- Keith Shcembri has been identified as UBO of Tillgate Inc.

- Konrad Mizzi has been identified as UBO of Hearnville Inc.

3.4.5. Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

Through the review of the seized files, no document named Declaration of Trust was identified in relation to the companies formed/acquired by Mossack Fonseca. In most of the cases documents identified in relation to

A

companies formed by Mossack Fonseca were Assignment subscription of two shares, or Letter from administrators through which share(s) are vested in favour of a certain person.

Based on seized documents, there is not enough information in order to allow reaching a conclusion regarding this statement.

3.4.6. The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

According to the documents reviewed the person who was the prime contact for Pilatus bank was Mr Karl Cini. He opened bank account even for Mr Brian Tonna's company Willerby in Pilatus bank and Mr Cini was the authorised signatory for that account.

Based on seized documents, there is not enough information in order to allow reaching a conclusion regarding this statement.

3.4.7. These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

Based on sized documents, there is not enough information in order to allow reaching a conclusion regarding this statement.

TASK 5

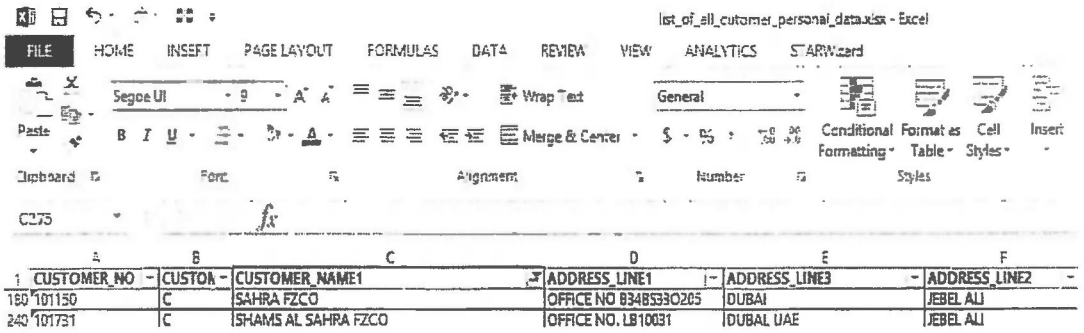
3.5. Article "US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc" issued on 20th April 2017 at 4:41 by journalist DCG, murdered in October 2017.

3.5.1. In March last year (2016), Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

1.1.1.10 Al Sahra FZCO is a company incorporated in Dubai with an account at Pilatus Bank

The search of companies which have accounts in Pilatus Bank has been performed in the excel spreadsheet containing information on all Pilatus Bank's customer personal data. The search has revealed with the company

Shams Al Sahra FZCO with customer number 101731 and **Sahra FZCO** with customer number 101150, both with an address in Dubai.



list_of_all_cutomer_personal_data.xlsx - Excel

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	A	B	C	D	E	F
1	CUSTOMER_NO	CUSTOM	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE3	ADDRESS_LINE2
160	101150	C	SAHRA FZCO	OFFICE NO B348S330205	DUBAI	JEBEL ALI
240	101731	C	SHAMS AL SAHRA FZCO	OFFICE NO. LB10031	DUBAL UAE	JEBEL ALI

From the excel spreadsheets representing companies' directors, and signatories the following information can be identified:

–Sahra FZCO, client number 101150

oList of companies' directors:
- Farsiar Farnoush
- Aliyeva Leyla- Director
- Baker Robert John
- Azru Aliyeva- Director
- Bahzad Ahadpour Khaneghah – Manager

oList of companies' signatories
- Leyla Aliyeva- Director Sole Power
- Farsiar Farnoush
- Baker Robert John

–Shams Al Sahra FZCO, client number 101731

oList of companies' directors:
- Tale Heydarov- Director
- Nijat Heydarov- Director

oList of companies' signatories:
- Tale Kemaleddin Oglu Heydarov- Director
- Nijat Kemaleddin Oglu Heydarov- Director
- Rober John Baker- Signatory
- Farnoush Farsiar- Signatory

No other results of the search term "Al Sahra FZCO" have been found in the excel spreadsheet containing information on all Pilatus Bank's customer personal data.

The statement mentioned in the Article that Al Sahra FZCO is a company incorporated in Dubai with an account at Pilatus Bank is not confirmed.

1.1.1.11 Egrant Inc is a company incorporated in Panama with an account in a bank in Dubai

Based on documents contained in Box B Nexia, Dok YF5, the following information has been extracted in relation to Egrant:

• Company subscribers: Dubro Limited S.A., Panama and Aliator S.A., Panama Registration details: Registered in Panama in Mercantile Section of the Public Registry at Microjacket 807956

• Date of registration: 8th July 2013

• Authorised Capital: 10.000 USD- 100 shares (nominal value of share 100 USD) which may be nominative or bearer shares.

- Share transfer information:

oAccording to the Articles of Incorporation, each of the subscribers has agreed to take one share

oOn 8th July 2013, each of the subscribers (Dubro Limited S.A. and Aliator S.A.) transferred their one share each to the Bearer

oOn 9th July 2013, one share with nominal value of 100 USD, was transferred to ATC Administrators INC. This share was vested in Mr. Brian Tonna on 9th August 2013.

- Power of Attorney (PoA): Issued on 12th August 2013 to Mr. Karl Cini and Mr. Brian Tonna.

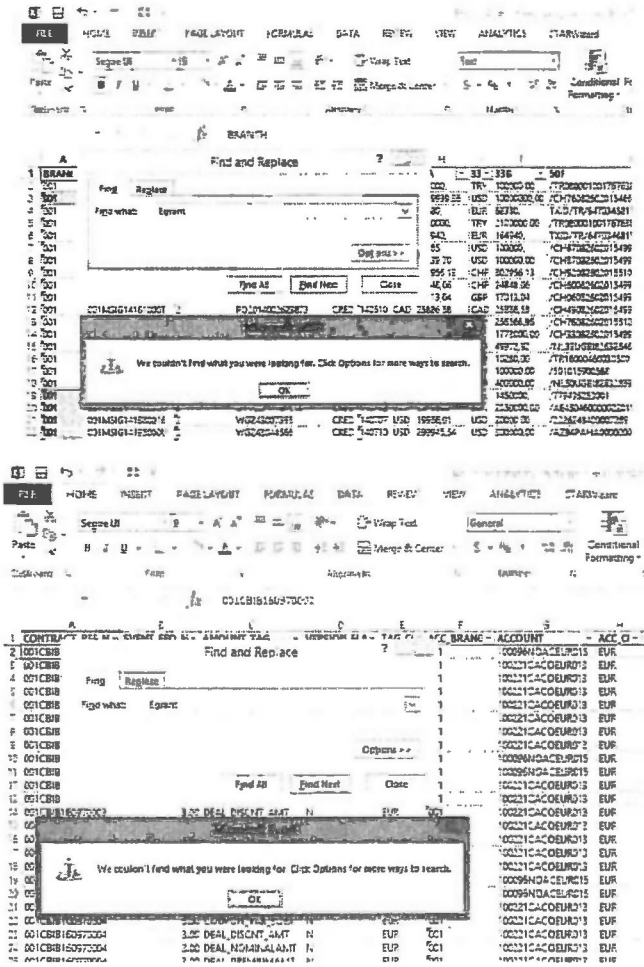
Conclusion: The statement mentioned in Article that Egrant Inc is a company incorporated in Panama is confirmed.

However, the statement that Egrant Inc has an account in a bank in Dubai cannot be confirmed with available documents. Further cooperation with relevant authorities in Panama and UAE to reach a conclusion in this matter is recommended.

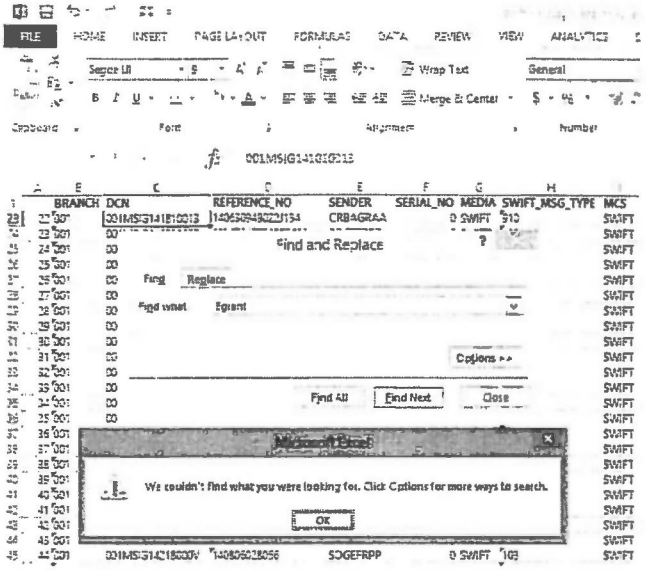
1.1.1.12 Al Sahra FZCO has made a single payment transaction of US$ 1.017 million to Egrant Inc in March 2016 (hereafter referred to as "the transaction")

As presented in section 5.1.1.1 an entity named Al Sahra FZCO has not been identified. The search through the excel spreadsheets has resulted in the identification of two companies Shahra FZCO and Shams Al Sahra FZCO, therefore further analysis shall be based on potential relations with and between Shahra FZCO and/or Shams Al Sahra FZCO

As a further step in order to identify transactions between Sahra FZCO/ Shams Al Sahra FZCO and Egrant, the search term "Egrant" has been used. The search term did not result in any hits:



000972



Since the initial search did not identify entities Egrant Inc and Al Sahra FZCO, and therefore no transactions between them, the search has been expanded to cover payment transactions by Sahra FZCO (Azru and Leyla Aliyeva are directors, see section 5.1.1) and Shams Al Sahra FZCO (Tale and Nijat Heydarov are directors, see section 5.1.1) in order to identify any transactions above US$ 1 million.

The search has been performed for the entire period contained in the Pilatus's databases extracted on the below mentioned spreadsheets, i.e. April 2014 to March 2017, and for all currencies.

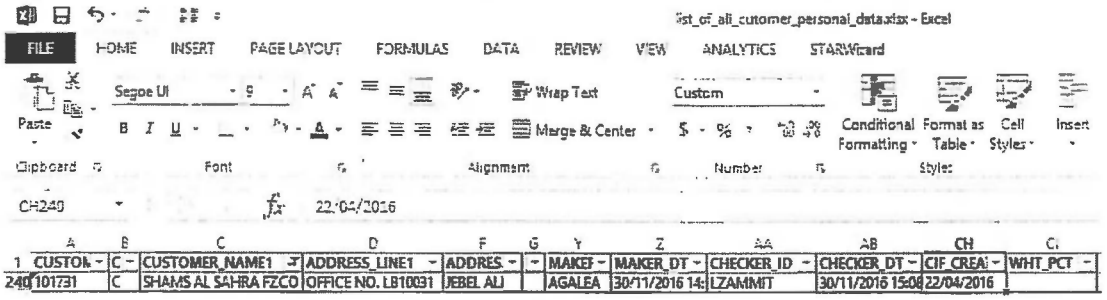
From the excel spreadsheet representing all incoming swift messages, one transaction has been identified related to Sahra FZCO. Transaction occurred on 2nd November 2015 between SAHRA FZCO as ordering customer (bank account in UAE) and FURIES BIA INVESTMENTS LIMITED as beneficiary (bank account in Pilatus) in the amount of USD 1 million

The search did not identify any transaction of US$ 1.017 million that has occurred in March 2016.

Identified transactions of SAHRA FZO relate to payments from YASSAR GLORIA HOTEL and MIRK GENERAL TRADING LLC received on SAHRA FZCO's AED account, which were then transferred to its USD account. As a result, the ending balance in April 2017 on the USD account was USD 38,083,380, while on the AED account it was AED 6,880,997

(equivalent of USD 1,872,599). For more details please see table on page 17 and 18.

No payment transactions from Shams Al Sahra FZCO have been identified as occurring in March 2016 since the account for Shams Al Sahra FZCO was opened on 22nd April 2016 with Pilatus bank:



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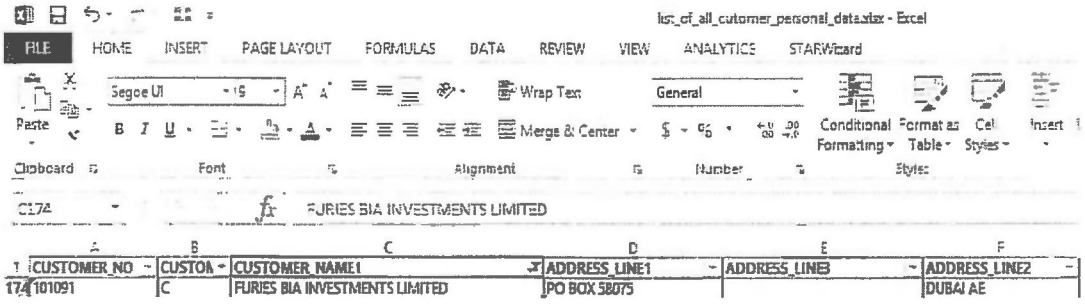
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CH240 22/04/2016

	A	B	C	D	F	G	Y	Z	AA	AB	CH	C
1	CUSTOM	C	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRES		MAKER	MAKER_DT	CHECKER_ID	CHECKER_DT	CIF_CREA	WHT_PCT
240	101731	C	SHAMS AL SAHRA FZCO	OFFICE NO. LB10031	JEBEL ALI		AGALEA	30/11/2016 14:	LZAMMIT	30/11/2016 15:08	22/04/2016	

As the closest amount to the alleged transaction was a payment from SAHRA FZO from UAE bank account (also identified in the excel spreadsheet of all incoming swift messages) to FURIES BIA INVESTMENTS LIMITED (payment of USD 1,000,000 on 02/11/2015) with an account at Pilatus Bank, a further search on this company has been performed.

According to information in the excel spreadsheet on all customer personal data, Furies BIA Investments Limited has a customer number 101091:



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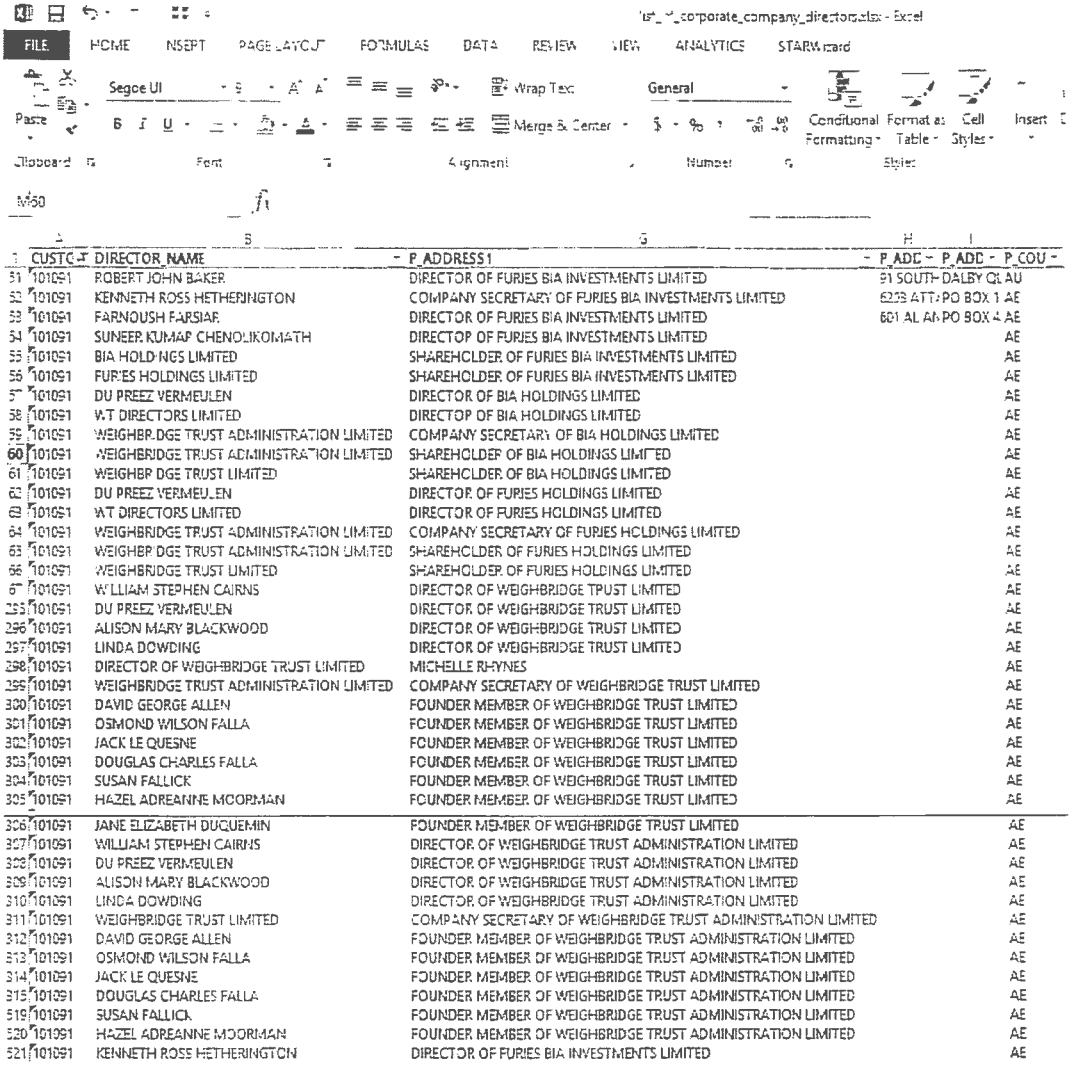
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C174 FURIES BIA INVESTMENTS LIMITED

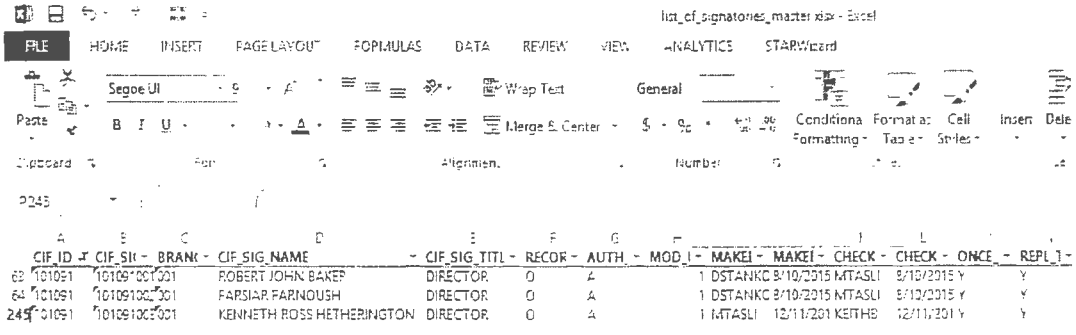
	A	B	C	D	E	F
1	CUSTOMER_NO	CUSTOM	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE	ADDRESS_LINE2
174	101091	C	FURIES BIA INVESTMENTS LIMITED	PO BOX 58075		DUBAI AE

The company has the following individuals and entities listed in the excel spreadsheet representing corporate company directors/ company secretaries/ shareholders/ shareholders' founders, directors and secretaries:



	CUSTC	DIRECTOR_NAME	P_ADDRESS1	P_ADD	P_ADD	P_COU
51	101091	ROBERT JOHN BAKER	DIRECTOR OF FURIES BIA INVESTMENTS LIMITED	91 SOUTH	DALBY QL	AU
52	101091	KENNETH ROSS HETHERINGTON	COMPANY SECRETARY OF FURIES BIA INVESTMENTS LIMITED	6238 ATT	PO BOX 1	AE
53	101091	FARNOUSH FARSIAR	DIRECTOR OF FURIES BIA INVESTMENTS LIMITED	601 AL AI	PO BOX 4	AE
54	101091	SUNEER KUMAR CHENOLIKOMATH	DIRECTOR OF FURIES BIA INVESTMENTS LIMITED			AE
55	101091	BIA HOLDINGS LIMITED	SHAREHOLDER OF FURIES BIA INVESTMENTS LIMITED			AE
56	101091	FURIES HOLDINGS LIMITED	SHAREHOLDER OF FURIES BIA INVESTMENTS LIMITED			AE
57	101091	DU PREEZ VERMEULEN	DIRECTOR OF BIA HOLDINGS LIMITED			AE
58	101091	WT DIRECTORS LIMITED	DIRECTOR OF BIA HOLDINGS LIMITED			AE
59	101091	WEIGHBRIDGE TRUST ADMINISTRATION LIMITED	COMPANY SECRETARY OF BIA HOLDINGS LIMITED			AE
60	101091	WEIGHBRIDGE TRUST ADMINISTRATION LIMITED	SHAREHOLDER OF BIA HOLDINGS LIMITED			AE
61	101091	WEIGHBRIDGE TRUST LIMITED	SHAREHOLDER OF BIA HOLDINGS LIMITED			AE
62	101091	DU PREEZ VERMEULEN	DIRECTOR OF FURIES HOLDINGS LIMITED			AE
63	101091	WT DIRECTORS LIMITED	DIRECTOR OF FURIES HOLDINGS LIMITED			AE
64	101091	WEIGHBRIDGE TRUST ADMINISTRATION LIMITED	COMPANY SECRETARY OF FURIES HOLDINGS LIMITED			AE
65	101091	WEIGHBRIDGE TRUST ADMINISTRATION LIMITED	SHAREHOLDER OF FURIES HOLDINGS LIMITED			AE
66	101091	WEIGHBRIDGE TRUST LIMITED	SHAREHOLDER OF FURIES HOLDINGS LIMITED			AE
67	101091	WILLIAM STEPHEN CAIRNS	DIRECTOR OF WEIGHBRIDGE TPUST LIMITED			AE
295	101091	DU PREEZ VERMEULEN	DIRECTOR OF WEIGHBRIDGE TRUST LIMITED			AE
296	101091	ALISON MARY BLACKWOOD	DIRECTOR OF WEIGHBRIDGE TRUST LIMITED			AE
297	101091	LINDA DOWDING	DIRECTOR OF WEIGHBRIDGE TRUST LIMITED			AE
298	101091	DIRECTOR OF WEIGHBRIDGE TRUST LIMITED	MICHELLE RHYNES			AE
299	101091	WEIGHBRIDGE TRUST ADMINISTRATION LIMITED	COMPANY SECRETARY OF WEIGHBRIDGE TRUST LIMITED			AE
300	101091	DAVID GEORGE ALLEN	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
301	101091	OSMOND WILSON FALLA	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
302	101091	JACK LE QUESNE	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
303	101091	DOUGLAS CHARLES FALLA	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
304	101091	SUSAN FALLICK	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
305	101091	HAZEL ADREANNE MOORMAN	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
306	101091	JANE ELIZABETH DUQUEMIN	FOUNDER MEMBER OF WEIGHBRIDGE TRUST LIMITED			AE
307	101091	WILLIAM STEPHEN CAIRNS	DIRECTOR OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
308	101091	DU PREEZ VERMEULEN	DIRECTOR OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
309	101091	ALISON MARY BLACKWOOD	DIRECTOR OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
310	101091	LINDA DOWDING	DIRECTOR OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
311	101091	WEIGHBRIDGE TRUST LIMITED	COMPANY SECRETARY OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
312	101091	DAVID GEORGE ALLEN	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
313	101091	OSMOND WILSON FALLA	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
314	101091	JACK LE QUESNE	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
315	101091	DOUGLAS CHARLES FALLA	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
519	101091	SUSAN FALLICK	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
520	101091	HAZEL ADREANNE MOORMAN	FOUNDER MEMBER OF WEIGHBRIDGE TRUST ADMINISTRATION LIMITED			AE
521	101091	KENNETH ROSS HETHERINGTON	DIRECTOR OF FURIES BIA INVESTMENTS LIMITED			AE

Out of all individuals and entities, presented above, listed as company directors, following are listed as company signatories of Furies BIA Investment Limited:



	CIF_ID	CIF_SI	BRANC	CIF_SIG_NAME	CIF_SIG_TITL	RECOR	AUTH	MOD_I	MAKEI	MAKEI	CHECK	CHECK	ONCE_	REPL_I
63	101091	101091001	001	ROBERT JOHN BAKER	DIRECTOR	0	A	1	DSTANKO	8/10/2015	MTASLI	8/10/2015	Y	Y
64	101091	101091002	001	FARSIAR FARNOUSH	DIRECTOR	0	A	1	DSTANKO	8/10/2015	MTASLI	8/10/2015	Y	Y
245	101091	101091003	001	KENNETH ROSS HETHERINGTON	DIRECTOR	0	A	1	MTASLI	12/11/201	KEITHB	12/11/201	Y	Y

Robert Baker and Farsai Farnoush are also listed as company signatories for Sahra FZCO.

Based on search performed, the statement in Article that Al Sahra FZCO has made a single payment transaction of US$ 1.017 million to Egrant Inc in March 2016 cannot be confirmed.

Considering the complexity of the transactions identified during the review of Pilatus's databases and documentation, there are grounds for suspicion that some of the accounts in UAE/ Turkey/ USA/ UK served as payment hubs.

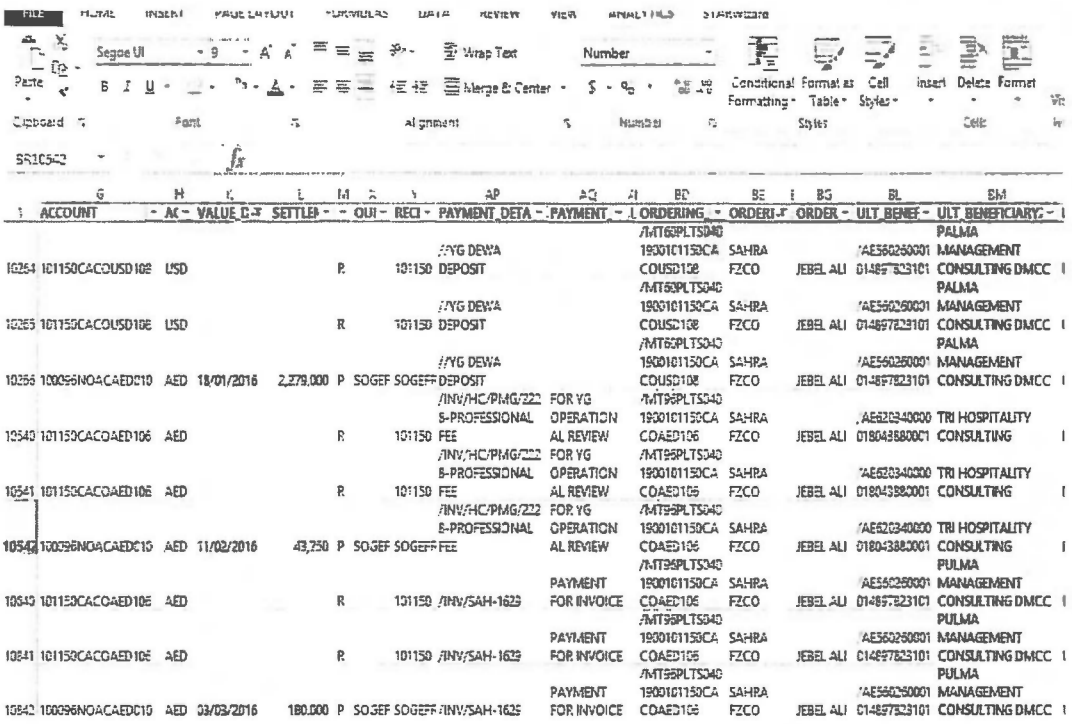
Money laundering includes multiple money transfers and rarely do the three phases of money laundering occur in the same state, in most cases there is an involvement in several countries. Therefore, a multinational aspect of this investigation is a necessity.

3.5.2. The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

From the transactions identified no payment transaction from Al Sahra FZCO/Sahra FZCO/ Shams Al Sahra FZCO with the description of "loan payment" has been identified to anyone.

In the period January – March 2016 the following transactions from Sahra's FZCO account can be identified:

000976



	G	H	K	L	M	N	Y	AP	AQ	AT	BD	BE	BI	BG	BL	BM
1	ACCOUNT	AC	VALUE D	SETTLEI		OUI	RECI	PAYMENT_DETA	PAYMENT	ORDERING	ORDERI	ORDER	ULT_BENEF	ULT_BENEFICIARY	
										/MT60PLTS040				PALMA	
								//YG DEWA		1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10254	101150CACOUSD102	USD			R		101150	DEPOSIT		COUSD102	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	
										/MT60PLTS040				PALMA	
								//YG DEWA		1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10255	101150CACOUSD102	USD			R		101150	DEPOSIT		COUSD102	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	
										/MT60PLTS040				PALMA	
								//YG DEWA		1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10256	100096NOACAED010	AED	18/01/2016	2,279,000	P	SOGEF	SOGEFF	DEPOSIT		COUSD102	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	
								/INV/HC/PMG/222	FOR YG	/MT99PLTS040					
								8-PROFESSIONAL	OPERATION	1900101150CA	SAHRA		'AE620340000	TRI HOSPITALITY	
10540	101150CACOAED106	AED			R		101150	FEE	AL REVIEW	COAED106	FZCO	JEBEL ALI	018043880001	CONSULTING	
								/INV/HC/PMG/222	FOR YG	/MT99PLTS040					
								8-PROFESSIONAL	OPERATION	1900101150CA	SAHRA		'AE620340000	TRI HOSPITALITY	
10541	101150CACOAED106	AED			R		101150	FEE	AL REVIEW	COAED106	FZCO	JEBEL ALI	018043880001	CONSULTING	
								/INV/HC/PMG/222	FOR YG	/MT99PLTS040					
								8-PROFESSIONAL	OPERATION	1900101150CA	SAHRA		'AE620340000	TRI HOSPITALITY	
10542	100096NOACAED010	AED	11/02/2016	43,750	P	SOGEF	SOGEFF	FEE	AL REVIEW	COAED106	FZCO	JEBEL ALI	018043880001	CONSULTING	
										/MT99PLTS040				PULMA	
									PAYMENT	1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10543	101150CACOAED106	AED			R		101150	/INV/SAH-1629	FOR INVOICE	COAED106	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	
										/MT99PLTS040				PULMA	
									PAYMENT	1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10544	101150CACOAED106	AED			R		101150	/INV/SAH-1629	FOR INVOICE	COAED106	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	
										/MT99PLTS040				PULMA	
									PAYMENT	1900101150CA	SAHRA		'AE560250001	MANAGEMENT	
10545	100096NOACAED010	AED	03/03/2016	180,000	P	SOGEF	SOGEFF	/INV/SAH-1625	FOR INVOICE	COAED106	FZCO	JEBEL ALI	014897823101	CONSULTING DMCC	

As presented, three payments were made in the period January- March 2016:

- Payments to Palma Management Consulting DMCC: payment of AED 2,279,000 (approximately US$ 620,516) on 18th January 2016 and a payment of AED 180,000 (approximately US$ 50,000) on 3rd March 2016

- Payment to TRI Hospitality Consulting: a payment of AED 43,750 (approximately US$ 12,000) on 11th February 2016

The search was further expanded in order to cover **all** transactions, regardless of whether they were ordered from or received by Pilatus customers, in the range of USD 90,000 and USD 110,000, and its equivalent in other currencies, occurring in the period January – March 2016. Following range per currency was used:

Range	USD	EUR	AED	GBP	CHF
Min	90,000	80,000	330,000	60,000	80,000
Max	110,000	110,000	410,000	80,000	110,000

A total of 98 transactions have been identified:

Month	USD	EUR	AED	GBP	CHF
Jan.16	4	20		1	

Feb.16	3	28		1	1
Mar.16	5	28	2	4	1
Total	12	76	2	6	2
Grand total			98		

Below is an overview of all transactions received by or ordered from Pilatus customers and currency which occurred in the period January to March 2016 that correspond to value range stated above:

Ordering Customers	Ultimate Beneficiaries	Ultimate Beneficiaries Accounts	USD	EUR	AED	CHF	GBP
	HAMIDREZA GHANBARI	/MT96PLTS040190 0101613CAINUSD 106	100,000				
ALI SADR	ALI SADR	/6843973303	100,000				
	ALTITUDE CAPITAL LLC	/7844096615	100,000				
	BAXI SPA	/IT65U05696121000 00002077X49		90,000			
	COPRECI	/ES85303500021600 24102214		80,850			
	ELICA SPA	/IT66H0103002600 000000856184		102,632			
ASHBORN CORP.LIMITED	FELDER KG	/AT4420503030009 06200		94,253			
	NITTO EUROPE NV	/BE89235012627085		98,499			
	RYNT CORP. LIMITED	/MT22PLTS040190 0100221CACOUSD 010	100,000				
	TEEKANNE GMBH & CO KG	/DE8230050110002 8003705		96,100			
ATK BILISIM TRADING CO. LTD	CKB TRADING LTD.	/MT39PLTS040190 0101531CACOEUR 107		192,390			
AZARBAYCAN ISLAM HAMRAYLIYI OYUNLAR	LAZR INTERNATIO NAL LIMITED	/MT39PLTS040190 0100172CACOUSD 014	103,000				
BALI GERI KAZANIM VE ULUSLARARASI	FACEKART LIMITED	/MT97PLTS040190 0101233CACOEUR 105		102,407			

BETANET TRADING LTD.	MAYA TRADING LTD.	/MT83PLTS040190 0100290CACOEUR 010		287,935		
CIE CONSTRUCTION INDUSTRIAL ENGIN	CIE CONSTRUCT ION INDUSTRIAL ENGINEE	/MT43PLTS040190 0101371CACOEUR 101		179,955		
CKB TICARET LTD.	CKB TRADING LTD.	/MT39PLTS040190 0101531CACOEUR 107		592,725		
	MAYA TRADING LTD.	/MT83PLTS040190 0100290CACOEUR 010		87,745		
CKB TRADING LTD	FACEKART LIMITED	/MT97PLTS040190 0101233CACOEUR 105		488,000		
DENTON MORRELL LIMITED	DENTON MORRELL LIMITED	/26887000GBP32				60,325
ECA PROCUREMENT SERVICES LIMITED	ECAP SOLUTIONS GMBH LIMITED	/MT74PLTS040190 0100136CACOEUR 010		87,500		
ECAP SOLUTIONS GMBH LIMITED	UNITEDGRE EN CA LIMITED	/MT47PLTS040190 0100135CACOGBP 018		89,529		
EFA DYNAMIC TRADE FINANCE FUND LTD	ECAP SOLUTIONS GMBH LIMITED	/MT74PLTS040190 0100136CACOEUR 010		91,520		
EXIM TRENDS INC.	FIBA CAPITAL LIMITED	/MT64PLTS040190 0100770CACOUSD 023	99,949			
FACEKART LIMITED	ALEA TRANSACTI ON LTD	/MT86VALL22013 00000004001945889 4		96,839		
	UNIVERSAL SOFTWARE SOLUTIONS N.V.	/DE8651230800000 0030015		87,836		
HUCO PIPELINES LIMITED	Ashborn Corp. Limited	/MT67PLTS040190 0100471CACOEUR 016		180,500		
INTERACTIVE BROKERS LLC	INTERACTIV E BROKERS LLC		103,924	285,000	80,000	70,284
MANUEL ROMERO DE AVILA RAMIREZ, S	1/ASHBORN CORP.LIMITE D	/MT67PLTS040190 0100471CACOEUR 016		294,840		

MIRK GENERAL TRADING (L.L.C).P O B	NH INVESTMENTS LTDDUBAI UAE PB 580	/MT66PLTS040190 0100485CACOAE D017			334,374	
	TKH INVESTMENTS LTDDUBAI UAE PB 58	/MT95PLTS040190 0100484CACOAE D018			334,374	
NH INVESTMENTS LIMITED	FURIES BIA INVESTMENTS LIMITED	/MT50PLTS040190 0101091CACOUSD 105	99,948			
ORION ON ODEMELI KART SISTEMLERI	CKB TRADING LTD.	/MT39PLTS040190 0101531CACOEUR 107		95,310		
OSTARA PARTNERS INC. CHINA	GARIBALDI MANAGEMENT INVESTMENTS	/MT55PLTS040190 0100190CACOUSD 012	103,074			
PICASSO HOLDING LIMITED	ALBANY MANAGEMENT LIMITED	/LU1331840249900 00EUR		100,000		
	ALI SADR	/MT53PLTS040190 0100390CAINUSD 018	100,000			
PILATUS CAPITAL LTD	PILATUS CAPITAL LTD	/MT97PLTS040190 0100910CACOUSD 026				72,751
	SADR HASHEMINEJAD SEYED ALI	/MT53PLTS040190 0100390CAINUSD 018	200,000			
PREV CONTENT SOLUTION LTD	CKB TRADING LTD.	/MT39PLTS040190 0101531CACOEUR 107		293,144		
REYHAN BILICAN	FACEKART LIMITED	/MT97PLTS040190 0101233CACOEUR 105		1,538,785		
RUITENBERG BASIQS BV	Ashborn Corp. Limited	/MT67PLTS040190 0100471CACOEUR 016		163,688		
SATCO GMBH	VONAGE LABORATOIRES SARL	/FR76300760216215 51820020008		100,000		
	VONAGE LABORATOIRES SARL	/FR76300873388000 02011470107		100,000		
SOGEFRPP	SATCO GMBH	/MT20PLTS040190 0100192CACOEUR 018		99,960		

TRADE IN SARL	IBG HOLDING LTD	/MT28PLTS040190 0101230CACOEUR 103		83,385			
UNITEDGREEN CA LIMITED	ARMIN AFSHARNEJ AD	/MT35PLTS040190 0100077CAINGBP 017					70,307
VERLINVEST SA	AA CONSULTAN TS FZE	/MT03PLTS040190 0101060CACOEUR 611		87,219			
VONAGE LABORATUVAR K OZMETIK DIS	SATCO GMBH.	/MT20PLTS040190 0100192CACOEUR 018		86,315			
	SATCO GMBH.	/MT20PLTS040190 0100192CACOEUR 018		99,875			
No information (please see table below)				692,365		90,989	160,000
TOTAL			1,209,895	7,247,101	668,748	170,989	433,667

During the search a few transactions have been identified with no information on the Ordering customer and Ultimate Beneficiary. The only information available relates to corresponding and receiving banks. Additional information on transactions has been taken from TAS messages- however apart from beneficiary's bank information (filed 57a), TAS messages also do not contain information on ordering customers and ultimate beneficiaries.

From the information available, the transactions most probably represent transfers between correspondent banks' accounts held in Pilatus Bank and their accounts held in other banks. For more details please see below:

ACCOUNT	ACC_CCY	VALUE_DATE	SETTLEMENT_AMT	OUR_CORRESPONDENT/NAME	RECEIVER CODE/ NAME	TAS Description	Remark
100452NOACEUR012	EUR	19/01/2016	100,000	100452 TURKIYE VAKIFLAR BANKASI TAO	TVBATR2A TURKIYE VAKIFLAR BANKASI TAO	{1:F01PLTSMTMTAXXX0515004150}{2:I200TVBATR2AXXXXN}{3:{108:001MSOG160190016}}{4::20:001NOFT160190001:32A:160119EUR100000,:57A:VALLMTMT-}{5:{CHK:CACB74AA13AD}}	Field 57A relates to Beneficiary's bank. In this case it seems that a transfer has been made from Turkiye Vakiflar Bankasi Tao's account in Pilatus Bank to its account held in Bank of Valletta.

100330NOACEUR018	EUR	27/01/2016	92,365	100330 CENTRAL BANK OF MALTA	MALTMTMT CENTRAL BANK OF MALTA	"{1:F01PLTSMTMTAXXX0519004193}{2:I200MALTMTMTXXXXN}{3:{108:001MSOG16025000W}}{4::20:001NOFT160250001:32A:160127EUR92365,:57A:SOGEFRPP-}{5:{CHK:6075DF0D6F40}}"	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Central Bank of Malta's account in Pilatus Bank to its account held in Societe Generale Bank.
100096NOACGBP018	GBP	05/02/2016	80,000	100096 SOCIETE GENERALE	SOGEFRPP SOCIETE GENERALE	{1:F01PLTSMTMTAXXX0528004346}{2:I200SOGEFRPPXXXXN}{3:{108:001MSOG16036000O}}{4::20:001NOFT160360001:32A:160205GBP80000,:57A:BYLADEMM-}{5:{CHK:257C69CBE121}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Societe Generale Bank's account in Pilatus Bank to its account held in BAYERISCHE LANDESBANK MUENCHEN.
100096NOACEUR015	EUR	12/02/2016	100,000	100096 SOCIETE GENERALE	SOGEFRPP SOCIETE GENERALE	{1:F01PLTSMTMTAXXX0533004410}{2:I200SOGEFRPPXXXXN}{3:{108:001MSOG16043000D}}{4::20:001NOFT160430001:32A:160212EUR100000,:57A:BDWBDEMM-}{5:{CHK:5A6688429E43}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Societe Generale Bank's account in Pilatus to its account held in BAADER BANK AG.
100029NOACCHF013	CHF	15/02/2016	90,989	100029 BANK OF VALLETTA PL	VALLMTMT BANK OF VALLETTA PL	{1:F01PLTSMTMTAXXX0534004428}{2:I200VALLMTMTXXXXN}{3:{108:001MSOG160460019}}{4::20:001NOFT160460003:32A:160215CHF90989,18:57A:SOGEFRPP-}{5:{CHK:FD5940E004D5}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Bank of Valletta's account in Pilatus Bank to its account held in Societe Generale Bank.
100055NOACEUR012	EUR	07/03/2016	100,000	100055 BAYERISCHE LANDESBANK	BYLADEMM BAYERISCHE LANDESBANK	{1:F01PLTSMTMTAXXX0549004677}{2:I200BYLADEMMXXXXN}{3:{108:001MSOG16067000T}}{4::20:001NOFT160670001:32A:160307EUR100000,:57A:SOGEFRPP-}{5:{CHK:8B2315CDAEBC}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Bayerische Landesbank's account in Pilatus Bank to its account held in Societe Generale Bank.

100055NOACEUR012	EUR	09/03/2016	100,000	100055 BAYERISCHE LANDESBANK	BYLADEMM BAYERISCHE LANDESBANK	{1:F01PLTSMTMTAXXX0551004697}{2:I200BYLADEMMXXXXN}{3:{108:001MSOG160690015}}{4::20:001NOFT160690003:32A:160309EUR100000,:57A:VALLMTMT-}{5:{CHK:608B7D6D1E2E}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Bayerische Landesbank's account in Pilaus Bank to its account held in Bank of Valletta.
100057NOACGBP011	GBP	09/03/2016	80,000	100057 DZ BANK AG	GENODEDD DZ BANK AG	{1:F01PLTSMTMTAXXX0551004707}{2:I200GENODEDDXXXXN}{3:{108:001MSOG16069001L}}{4::20:001NOFT160690005:32A:160309GBP80000,:57A:BYLADEMM-}{5:{CHK:73B1098864F0}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from DZ Bank Ag's account in Pilatus Bank to its account held in BAYERISCHE LANDESBANK MUENCHEN.
100096NOACEUR015	EUR	24/03/2016	100,000	100096 SOCIETE GENERALE	SOGEFRPP SOCIETE GENERALE	{1:F01PLTSMTMTAXXX1111111111}{2:I200SOGEFRPPXXXXN}{3:{108:001MSOG160840018}}{4::20:001NOFT160840001:32A:160324EUR100000,:57A:VALLMTMT-}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Societe Generale Bank's account in Pilatus Bank to its account held in Bank of Valletta.
100096NOACEUR015	EUR	24/03/2016	100,000	100096 SOCIETE GENERALE	SOGEFRPP SOCIETE GENERALE	{1:F01PLTSMTMTAXXX0563004919}{2:I200SOGEFRPPXXXXN}{3:{108:001MSOG16084001E}}{4::20:001NOFT160840004:32A:160324EUR100000:57A:VALLMTMT-}{5:{CHK:1AD07DEA1646}}	Field 57A relates to Beneficiary's bank In this case it seems that a transfer has been made from Societe Generale Bank's account held in Pilatus Bank to its account held in Bank of Valletta.

These transactions need further detailed explanation from the Pilatus Bank.

Based on the overview, no transactions between Al Sahra FZCO and Egrant Inc were identified.

The statement in the Article that the description of the transaction is "loan payment" and that this transaction is not the only payment Egrant Inc has received from Al Sahra FZCO, but it was the largest single transaction cannot be confirmed.

4

Additionally, the statement that other transactions with the description of "loan payments" were of around US$ 100,000 each and that the payment transactions were made twice a week over several weeks in January, February and March 2016 also cannot be confirmed.

3.5.3. The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.

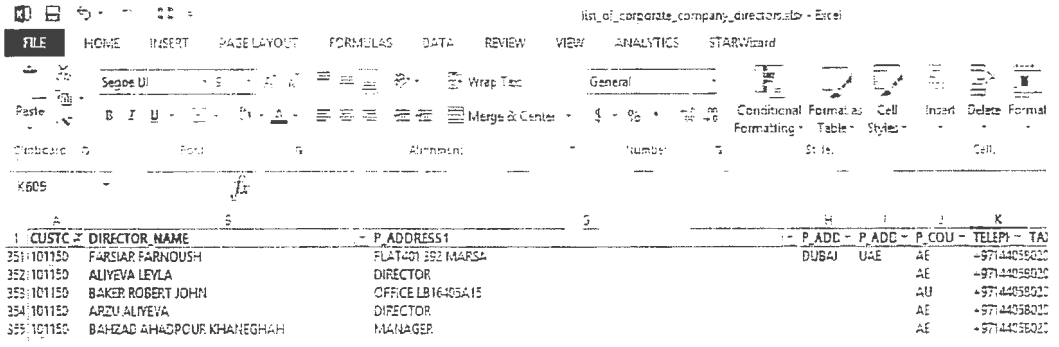
1.1.1.13 The ultimate beneficiary of Al Sahra FZCO at Pilatus Bank is Leyla Aliyeva

As presented, two companies were identified as corresponding to Al Sahra FZCO: Sahra FZCO (connected to Alyev Family) and Shams Al Sahra FZCO (connected to Haydarov Family).

Sahra FZCO has 101150 as its customer number, while Shams Al Sahra FZCO has 101731 as its customer number.

In the list of company corporate directors, the following individuals/entities are related to these customer number:

- Sahra FZCO 101150:



list_of_corporate_company_directors.xlsx - Excel

FILE HOME INSERT PAGE LAYOUT FORMULAS DATA REVIEW VIEW ANALYTICS STARNWizard

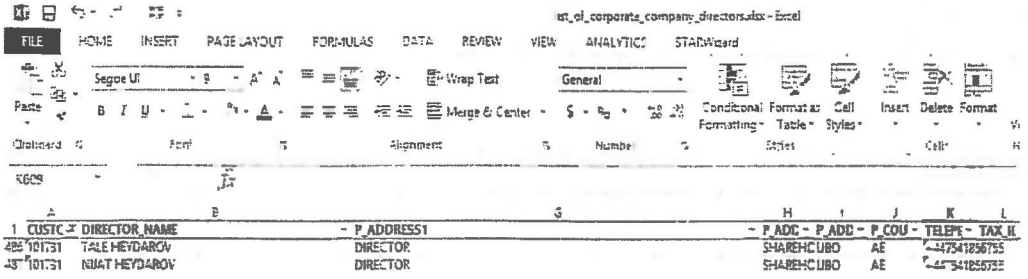
Segoe UI Wrap Text General Conditional Formatting Format as Table Cell Styles Insert Delete Format

Paste Merge & Center

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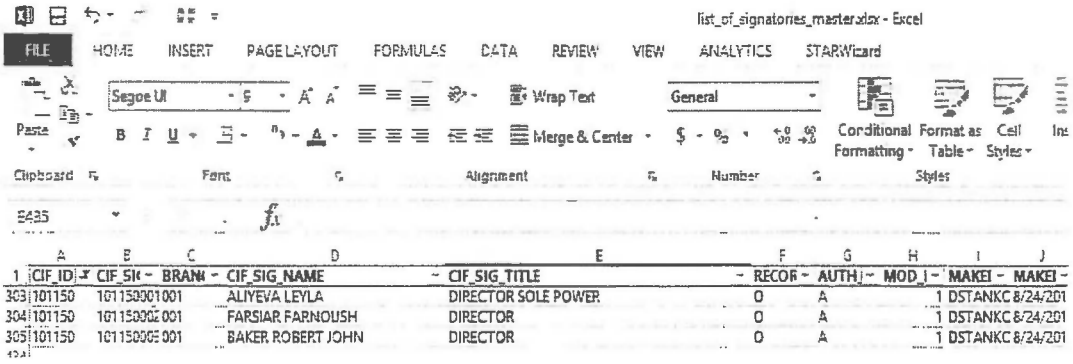
	A	B	H	I	J	K
1	CUSTC	DIRECTOR_NAME	P_ADDRESS1	P_ADDR	P_ADDR	P_COU	TELEPH	TAI
351	101150	FARSIAR FARNOUSH	FLAT401 392 MARSA	DUBAI	UAE	AE	+9714405802
352	101150	ALIYEVA LEYLA	DIRECTOR			AE	+9714405802
353	101150	BAKER ROBERT JOHN	OFFICE LB16405A15			AU	+9714405802
354	101150	ARZU ALIYEVA	DIRECTOR			AE	+9714405802
355	101150	BAHZAD AHADPOUR KHANEGHAH	MANAGER			AE	+9714405802

- Shams Al Sahra FZCO 101731:



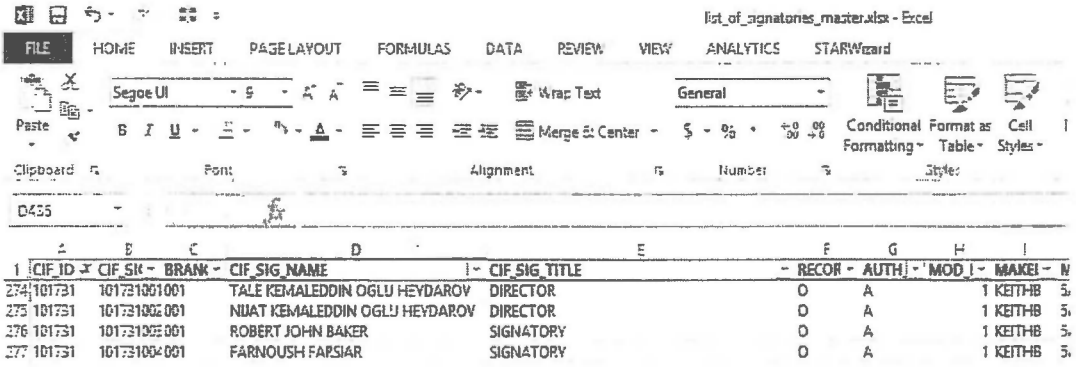
CUSTC	DIRECTOR_NAME	P_ADDRESS1	P_ADC	P_ADD	P_COU	TELEPE	TAX_II
101731	TALE HEYDAROV	DIRECTOR	SHAREHC	UBO	AE	[illegible]	
101731	NIJAT HEYDAROV	DIRECTOR	SHAREHC	UBO	AE	[illegible]	

Leyla Aliyeva together with Farsiar Farnoush and Baker Robert John are listed as Sahra FZCO's signatories:



CIF_ID	CIF_SIC	BRANK	CIF_SIG_NAME	CIF_SIG_TITLE	RECOR	AUTH	MOD_I	MAKEI	MAKEI
101150	101150001	001	ALIYEVA LEYLA	DIRECTOR SOLE POWER	0	A	1	DSTANKC	8/24/201
101150	101150002	001	FARSIAR FARNOUSH	DIRECTOR	0	A	1	DSTANKC	8/24/201
101150	101150003	001	BAKER ROBERT JOHN	DIRECTOR	0	A	1	DSTANKC	8/24/201

Concerning Shams Al Sahra FZCO, Leyla Aliyeva is not listed as its signatory:



CIF_ID	CIF_SIC	BRANK	CIF_SIG_NAME	CIF_SIG_TITLE	RECOR	AUTH	MOD_I	MAKEI	M
101731	101731001	001	TALE KEMALEDDIN OGLU HEYDAROV	DIRECTOR	0	A	1	KEITHB	5/
101731	101731002	001	NIJAT KEMALEDDIN OGLU HEYDAROV	DIRECTOR	0	A	1	KEITHB	5/
101731	101731003	001	ROBERT JOHN BAKER	SIGNATORY	0	A	1	KEITHB	5/
101731	101731004	001	FARNOUSH FARSIAR	SIGNATORY	0	A	1	KEITHB	5/

From the above it can be seen that company Sahra FZCO is related to Aliyev Family, while company Shams Al Sahra FZCO is related to Heydarov Family. Both Families related to PEPs from Azerbaijan.

The document KYC for the entity Sahra FZCO has been identified in Pilatus Box 1 Envelop BA and BB. According to the KYC Ongoing review of entity SAHRA FZCO from 22.02.2017, shareholders are Azru and Leyla Aliyeva. The KYC is in handwriting and contains information on individuals related to the entity for which an online checking has been performed in order to identify any connections to PEP, or similar. The following information is stated on the KYC:

- Leyla Aliyeva – Daughter of President of Azerbaijan

- Arzu Aliyeva- Daughter of President of Azerbaijan

- Ilham Aliyev- President of Azerbaijan

- Mehiban Aliyeva- Wife of President of Azerbaijan

- Robert John Baker- no records (identified as PEP of GP Farm Holding Limited CIF101770)

- Farnoush Farsiar- no records (identified as PEP of GP Farm Holding Limited CIF101770)

- Bahzad Ahadpour Khaneghah – no records

Mrs Leyla Aliyeva and Mrs Azru Aliyeva are named as UBO of Sahra FZCO (*Pilatus Box 1, envelope BB*).

Based on the search performed, it can be confirmed that Leyla Aliyeva is one of two UBOs and directors of Sahra FZCO.

1.1.1.14 Payment instructions for Al Sahra were given by Farnoush Farsian

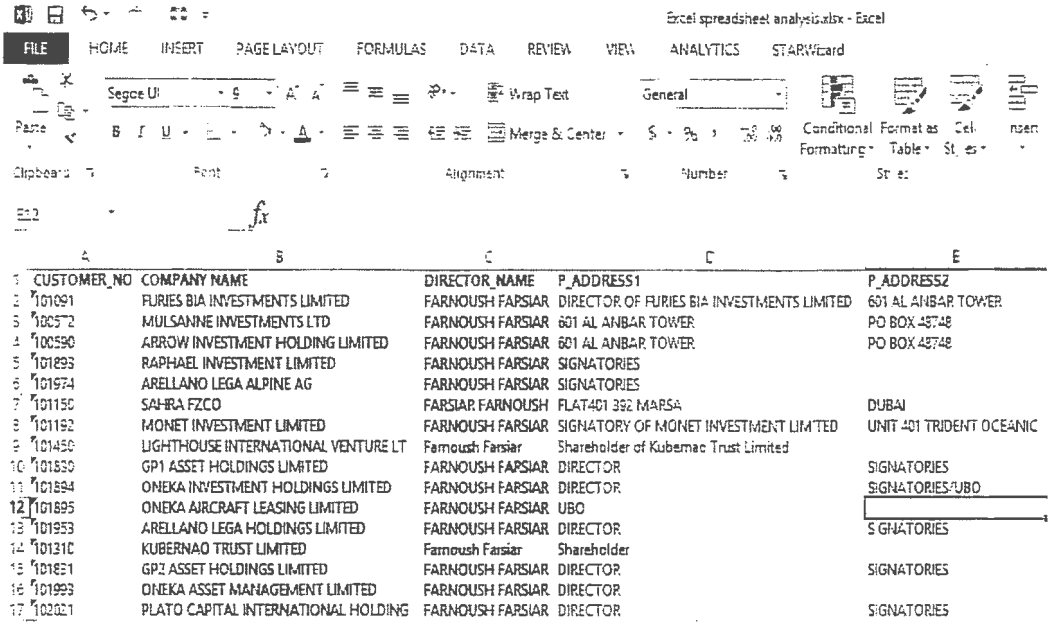
Based on the seized documents in Pilatus Box 10, folder QAD evidence was found that Farnoush Farsian has given payment instructions for Sahra FZCO together with Robert Baker.

In Pilatus Box 1 envelope BB it was found that she was one of the authorised signatory for SAHRA FZCO and also authorised person to provide confidential data to third parties.

In the Pilatus Box 10, folder QAD Sahra FZCO payment instructions were found signed by Farnoush Farsiar and Robert Baker.

One from 03rd March 2016 in the amount of AED180.000 was signed by Maria Efimova as bank clerk who checked the authorised persons signatures and called them back.

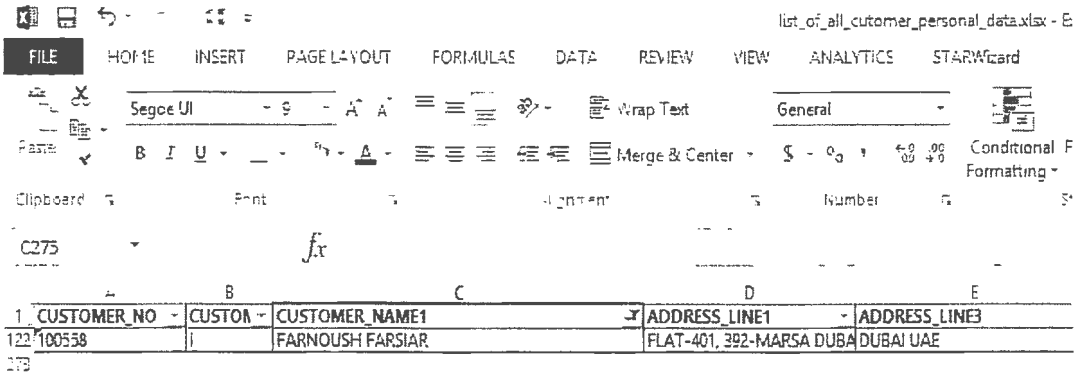
Additionally, as per excel spreadsheet containing information on corporate company directors and company personal data, Farnoush Farsiar is also linked to the following companies:



Excel spreadsheet analysis.xlsx - Excel

	A	B	C	D	E
1	CUSTOMER_NO	COMPANY NAME	DIRECTOR_NAME	P_ADDRESS1	P_ADDRESS2
2	101091	FURIES BIA INVESTMENTS LIMITED	FARNOUSH FARSIAR	DIRECTOR OF FURIES BIA INVESTMENTS LIMITED	601 AL ANBAR TOWER
3	100572	MULSANNE INVESTMENTS LTD	FARNOUSH FARSIAR	601 AL ANBAR TOWER	PO BOX 49748
4	100590	ARROW INVESTMENT HOLDING LIMITED	FARNOUSH FARSIAR	601 AL ANBAR TOWER	PO BOX 49748
5	101893	RAPHAEL INVESTMENT LIMITED	FARNOUSH FARSIAR	SIGNATORIES	
6	101974	ARELLANO LEGA ALPINE AG	FARNOUSH FARSIAR	SIGNATORIES	
7	101150	SAHRA FZCO	FARSIAR FARNOUSH	FLAT401 392 MARSA	DUBAI
8	101192	MONET INVESTMENT LIMITED	FARNOUSH FARSIAR	SIGNATORY OF MONET INVESTMENT LIMITED	UNIT 401 TRIDENT OCEANIC
9	101450	LIGHTHOUSE INTERNATIONAL VENTURE LT	Farnoush Farsiar	Shareholder of Kubernao Trust Limited	
10	101830	GP1 ASSET HOLDINGS LIMITED	FARNOUSH FARSIAR	DIRECTOR	SIGNATORIES
11	101894	ONEKA INVESTMENT HOLDINGS LIMITED	FARNOUSH FARSIAR	DIRECTOR	SIGNATORIES/UBO
12	101895	ONEKA AIRCRAFT LEASING LIMITED	FARNOUSH FARSIAR	UBO	
13	101953	ARELLANO LEGA HOLDINGS LIMITED	FARNOUSH FARSIAR	DIRECTOR	SIGNATORIES
14	101310	KUBERNAO TRUST LIMITED	Farnoush Farsiar	Shareholder	
15	101851	GP2 ASSET HOLDINGS LIMITED	FARNOUSH FARSIAR	DIRECTOR	SIGNATORIES
16	101993	ONEKA ASSET MANAGEMENT LIMITED	FARNOUSH FARSIAR	DIRECTOR	
17	102021	PLATO CAPITAL INTERNATIONAL HOLDING	FARNOUSH FARSIAR	DIRECTOR	SIGNATORIES

Additionally, it has been identified that Farnoush Farsiar has her own personal account at Pilatus Bank:



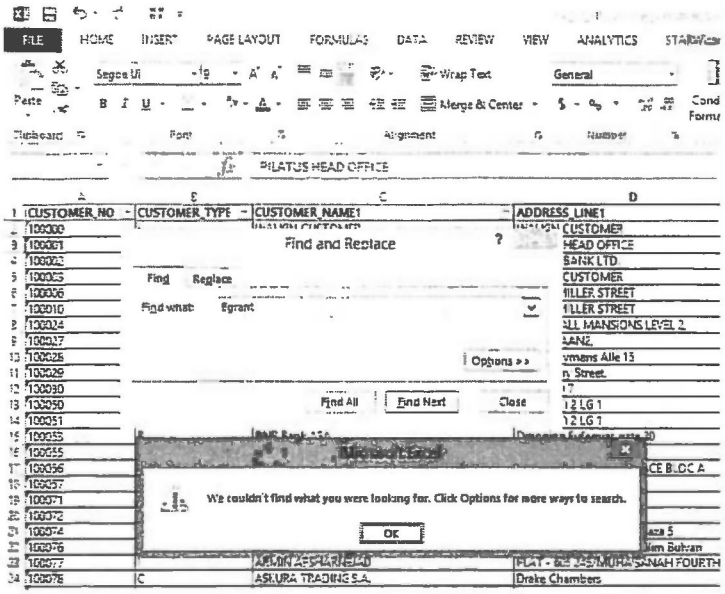
list_of_all_cutomer_personal_data.xlsx - E

	A	B	C	D	E
1	CUSTOMER_NO	CUSTOM	CUSTOMER_NAME1	ADDRESS_LINE1	ADDRESS_LINE3
122	100538	I	FARNOUSH FARSIAR	FLAT-401, 392-MARSA DUBA	DUBAI UAE

3.5.4. Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country

Based on search performed through excel spreadsheets, no information that Egrant Inc held an account at Pilatus Bank has been found:

- list_of_all_cutomer_personal_data.xlsx



The statement mentioned in the Article that Egrant Inc held an account at Pilatus Bank cannot be confirmed.

There is no evidence on which to base a conclusion as to whether a payment was executed on the bank account of Egrant Inc somewhere abroad. Future international cooperation is necessary to seek a final conclusion on this matter.

3.5.5. The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through

1.1.1.15 MT199 Messages

Due to Seyed Ali Sadr Hasheminejad's connection to Iran, as a result of International Sanctions on Iran, through the search of various MT199 messages received by Pilatus Bank, the following was identified:

1.1.1.16 Denied transaction

The identified denied transaction occurred between company Ashborn Corp. Limited and Rubber Tech S.r.o.:

On 15th November 2016 a payment order was given by Ashborn Corporate Limited to Pilatus Bank for a payment of EUR 14,305 to Rubber Tech S.R.O. The beneficiary's bank- Raiffeisenbank A.S. Prague sent a request for

clarification concerning the final destination of the goods and whether there is an Iranian nexus given. Pilatus Bank has provided the answer that the final goods destination is Dubai, and that there is no Iranian nexus involved. However, the transaction was cancelled.

For details please see below:

Description	Reference	ns1:FIN_Message	Date
Initial MT103 sent by PB	001FOUT163200001	{1:F01PLTSMTMTAXXX0737007212}{2:I103SOGEFRPPXXXXN}{3:{108:001MSOG16320000W}}{4: :20:001FOUT163200001 :23B:CRED :32A:161115EUR14305, :33B:EUR14305, :50K:/MT67PLTS04019001004 71CACOEUR016 ASHBORN CORP.LIMITED UNIT 2, LG 1 MIRROR TOWER 61 MODY ROAD, TSIM SHA TSUI KOWLOON HONG KONG :57A:RZBCCZPP :59:/CZ4255000000007018100001 RUBBER TECH S.R.O KOLINSKA 12/1964, 130 00 PRAHA 3 :70:/+/INV/16049 :71A:SHA -}{5:{CHK:74096024298C}}	
MT199 received by PB	SGFRA161117-0245	{1:F01PLTSMTMTAXXX0739028571}{2:O1991806161117SOGEFRPPCXXX842783473616111719 06N}{3:{108:RODSG16111701529}{433:/FPO/FALSE POSITIVE}}{4: :20:SGFRA161117-0245 :21:001FOUT163200001 :79:ATTN INVESTIGATIONS REFER TO YOUR MT103 VD 15/11/2016 REF 001FOUT163200001 EUR 14305. PLEASE READ MESSAGE FROM BBK//QUOTE//PLS BE INFORMED WE ARE UNABLE TO EXECUTE YR P/O DUE TO SANCTION REGULATION. WE NEED FOLLOWING DETAILS TO AMEND YOUR P/O . PLEASE INFORM US ABOUT THE UNDERLYING BUSINESS AND IF GOODS ARE INVOLVED, FINAL DESTINATION OF GOODS - IS THERE AN IRAN NEXUS GIVEN? . IMPORTANT: WE WILL AMEND THE DETAILS OF YOUR PAYMENT ORDER TO ACCORD WITH THOSE HENCEFORTH PROVIDED DETAILS UNLESS YOU EXPLICITLY REQUEST US NOT TO DO SO. . EXECUTION IS ONLY POSSIBLE AFTER RECEIPT OF THE REQUESTED INFORMATION DUE TO SANCTION REGULATION. . PLEASE REMIT EUR 0,00 BEING OUR INVESTIGATION CHARGES.//UNQUOTE// PLEASE REVIEW AND ADVISE US. REGARDS FOR ALL CORRESPONDENCE ABOUT THIS MATTER PLEASEUSE OUR REFERENCE SGFRA161117-0245 IN YOUR FIELD 21. Fanta SAKOH -}{5:{CHK:77818CF31B4C}}{S:{COP:P}{FAC:}}	2016-11-17 19:06:50.051

MT199 sent as response by PB	SGFRA161117-0245	{1:F01PLTSMTMTAXXX0745007284}{2:I199SOGEFRPPXXXXN}{4: :20:001FOUT163200001 :21:SGFRA161117-0245 :79:ATTN Investigations/Fanta SAKOH Please find our answer in two Messages in sequence. . 2/2 THIS IS SECOND MESSAGE OF TWO AND THE LAST MESSAGE. . As per the ongoing monitoring conducted by Pilatus Bank, the goods being purchased are in line with the business activities carried out by Ashborn Corp Ltd. . **As confirmed with the client** **the final destination of the goods** **is Dubai.** . . IS THERE AN IRAN NEXUS GIVEN? . **No Iranian nexus with respect to** **the transaction in question.** -}{5:{CHK:1A1B48E90F6B}}	
MT199 sent as a final response to PB	SGFRA161117-0245	{1:F01PLTSMTMTAXXX0755029081}{2:O199142516120750GEFRPPEX XX54575119611612071444N}{3:{108:RODSG16120700897}{433:/FPO/FA LSE POSITIVE}}{4: :20:SGFRA161117-0245 :21:001FOUT163200001 :79:ATTN INVESTIGATIONS REFER TO YOUR MT199 DD 24/11/2016 REF 001FOUT163200001. WE INFORM YOU THAT FUNDS HAVE BEEN RETURNED PLEASE FIND A COPY BELOW//QUOTE//202 SOGEFRPPXXX PLTSMTMTXXX 14 305,00 EUR COB333T6D3503 PMT INTERB ORDINAIRE ECHSTD - ECHANGE STANDARD Champs swift Libelle champs swift Valeur 20 Reference 07600333T6D3503 21 Reference d'origine ZTK-1161116-0323 32A Date de reglement, devise, montant 161128EUR14305,00 52A Banque ordonnatrice RZBAATWWXXX 58A Banque beneficiaire PLTSMTMT 72 Informations banque a banque /REC/retn/yr p/o dd 161116 //TRN:07600321T6A9540? return //due to lack of information - //internal compliance reasons//UNQUOTE// REGARDS FOR ALL CORRESPONDENCE ABOUT THIS MATTER PLEASE USE OUR REFERENCE SGFRA161117-0245 IN YOUR FIELD 21. Fanta SAKOH -}{5:{CHK:84C850BCAAA6}}{S:{COP:P}{FAC:}}	2016-12-07 14:44:20.097

1.1.1.17 Identified transaction with US correspondent bank

A transaction from Pilatus Bank PLC to Monex Europe Ltd was under investigation by Barclays Bank London and JP Morgan Chase New York. One of the questions asked was whether the owner of Pilatus Bank is connected to Iran.

The bank answered that their owner is: Seyed Ali Sadr Hasheminejad; US person who was born in Iran.

Description	Reference	ns1:FIN_Message	Date
Initial MT103 sent by PB	001FOUR171220001	1:F01PLTSMTMTAXXX0866008353{2:I103GENODEDDXXXXN}{3:{108:001MSOG17122001Y}}{4: :20:001FOUR171220001 :23B:CRED :32A:170503USD66204,3 :33B:AED243036, :36:3,6710002220 :50K:/100057NOACUSD014 PILATUS BANK PLC WHITEHALL MANSIONS FLOOR 2, TA' XBIEX WHARF TA' XBIEX MALTA :57A:BARCGB22 :59:/GB50BARC20776765247888 Monex Europe Ltd Re Client USD :70:FURTHER CREDIT TO PILATUS BANK PLC Client Ref 181974 Contract Number: TRC1705304264 USDAED SELL AT 3.6710 :71A:OUR -}{5:{CHK:26898987B29D}}	2017-05-02 12:03:30.447
MT199 received by PB	INVES17050800109	{1:F01PLTSMTMTAXXX0870032644}{2:O1991642170508GENODEDDAXXX7548720450170508183 2N}{3:{108:ZVR0000000186788}{433:/FPO/FALSE POSITIVE}}{4: :20:INVES17050800109 :21:001FOUR171220001 :79:QUERY We received the following inquiry to your payment for USD 66.204,30 under a.m ref. Please check and revert soonest. Kind regards DZ BANK AG D/PASP QUOTE WE HAVE EFFECTED PAYMENT TO BARCLAYS BANK LONDON WITH COVER VIA JP MORGAN CHASE NEW YORK WE HAVE RECEIVED FOLLOWING REQUEST FOR ADDITIONAL INFORMATION FROM JP MORGAN CHASE NEW YORK QUOTE:PLEASE BE ADVISED THAT WE HAVE NOT EFFECTED THE ABOVE MENTIONED TRANSACTION AS IT IS UNDER REVIEW BY OUR COMPLIANCE DEPARTMENT FOR A POSSIBLE SANCTION OR JPM RISK POLICY ISSUE. OUR LEGAL COMPLIANCE DEPARTMENT HAS REQUESTED YOU PROVIDE THE FOLLOWING INFORMATION: MORE INFO REQUIRED:PLEASE PROVIDE THE DETAILS OF IRANIAN OWNERSHIP OR INVOLVEMENT IN THIS TRN.. UNQUOTE LOYDGB2L'S ALSO REQUEST ADDITIONAL INFORMATION REQUIRED FOR PILATUS BANK: 1. WE REQUIRE FULL NAMES OF ALL OWNERS, NATIONALITY AND THE FULL PERMANENT ADDRESS OF ALL OWNERS. 2. IS THERE ANY IRANIAN INVOLVEMENT? URGENTLY PROVIDE THE ADDITIONAL INFORMATION	2017-05-08 18:31:00.070

		VIA AN AUTHENTICATED MESSAGE. UNQUOTE -}{5:{CHK:183F5E18A459}{DLM:}}{S:{COP:P}{FAC:}}	
MT199 sent as response by PB	INVES17050800109	{1:F01PLTSMTMTAXXX0873032758}{2:O1960838170511GENODEDDAXXX7554773127170511 0957N}{3:{108:ZVR0000000187213}{433:/FPO/FALSE POSITIVE}}{4: :20:INVES17051100012 :21:001FOUR171220001 :76:WE CONFIRM YOUR INVESTIGATION IS RECEIVING OUR ATTENTION. PLEASE ADDRESS ALL FUTURE CORRESPONDENCE CONCERNING THIS INVESTIGATION TO OUR ABOVE MENTIONED REF. KIND REGARDS DZ BANK AG :11R:199 170511 :20:001FOUR171220001 :21:CIT170505-001715 :79:REFERENCE INVES17050800109 WE REFER TO YOUR MT199 DATED 08/05/2017. PLEASE REFER TO BELOW DETAILS. . IS THERE ANY IRANIAN INVOLVEMENT? **PILATUS BANK PLC IS A CREDIT INSTITUTION INCORPORATED IN MALTA AND REGULATED BY THE MALTA FINANCIAL SERVICES AUTHORITY (MFSA),THE CENTRAL BANK OF MALTA AND THE EUROPEAN CENTRAL BANK IT IS ALSO A SUBJECT PERSON IN TERMS OF AML/CFT LEGISLATION AND IS SUPERVISED BY THE FINANCIAL INTELLIGENCE ANALYSIS UNIT IN THIS RESPECT. WE CONFIRM THERE IS NO IRANIAN INVOLVEMENT IN THE TRANSACTION OR THE COUNTERPARTIES INVOLVED IN THE TRANSACTION. FURTHERMORE, WE ALSO CONFIRM THAT THERE IS NO IRANIAN INVOLVEMENT IN THE OWNERSHIP STRUCTURE OF PILATUS BANK PLC. THE ULTIMATE BENEFICIAL OWNER IS A US PERSON WHO WAS BORN IN IRAN.** . KIND REGARDS, PILATUS BANK -}{5:{CHK:D3A98D86BA40}}	2017-05-11 09:55:00.057

1.1.1.18 MT199 Message informing stoppage of USD transfers executions

An information received from Vakif Bank (TVBATR2A- TURKIYE VAKIFLAR BANKASI TAO) that Pilatus Bank's USD transfers shall not be executed:

Reference	ns1:FIN_Message	Date
VOSUSDIRVTUS3N	{1:F01PLTSMTMTAXXX0630024916}{2:O1991055160623TVBATR2AA	

	FEX75868262831606231034N}{3:{108:5500398897 OZLEM}{433:/FPO/FALSE POSITIVE}}{4: :20:VOSUSDIRVTUS3N :21:NONREF :79:DEAR ALL, . WE REGRET TO INFORM YOU THAT WE WILL NO LONGER INTERVENE YOUR USD TRANSACTIONS DUE TO THE INFORMATION RECEIVED FROM BANK OF NEW YORK STATING THAT THEY WILL NOT EXECUTE THE USD TRANSFERS OF YOUR BANK . WITH OUR DEEP SORROWS AND KIND REGARDS VAKIFBANK VOSTRO DEPARTMENT -}{5:{CHK:556B2B09C3C7}}{S:{COP:P}{FAC:}}	

3.5.6. Correspondent banks of Pilatus Bank

From the file "list_of_all_outgoing_settlement_data_partI.xlsx" it has been identified that Pilatus Bank, apart from accounts in its own bank (Pilatus Bank Malta), has accounts in various locations:

- Bank of Valletta- Malta
- Saxo Bank A/S- Denmark
- Societe Generale, Paris- France
- Turkiye Vakiflar Bankasi T.A.O- Turkey
- Bayerische Landesbank Muenchen- Germany

Below is an overview of Pilatus Bank as Ultimate Beneficiary with summary of transactions which occurred in the period 2014-2016:

Entity and accounts	USD	EUR	AED	TRY
Pilatus Bank, Malta				
Pilatus Bank Malta Accounts	530,777	17,473,150		
Bank of Valleta, Malta				
/MT81VALL22013000000040023427060		26,000		
/MT62VALL22013000000040022213738		2,056,000		
Saxo Bank A/S, Denmark				
/DK6511490100709654		12,560,000		
/DK5711490100759268			407,000,000	
Societe Generale, Paris, France				
/FR7630003069900120161679647		315,000		
Turkiye Vakiflar Bankasi T.A.O, Turkey				
/TR7800067010000000048665049				50,000
TOTAL	**530,777**	**32,430,150**	**407,000,000**	**50,000**

Below is an overview of Pilatus Bank as Ordering customer with summary of transactions which occurred in the period 2014-2016:

Entity and account	USD	EUR	AED	CAD	CHF	GBP	JPY
Pilatus Bank, Malta							
Pilatus Bank Malta Accounts	244,936,398	25,516,831	407,796,678	1,596,000	819,251	11,670,312	96,158,964
Bank of Valleta, Malta							
/MT24VALL22013000000040022353520		150,000					
Bayerische Landesbank Muenchen, Germany							
/DE51705000000574354726	10,500,000						
TOTAL	255,436,398	25,666,831	407,796,678	1,596,000	819,251	11,670,312	96,158,964

No documents, not even MT199, were found to proof these statements. The statements mentioned in the Article cannot be confirmed

3.5.7. Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up. This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month but has not spoken to him.

Nexia BT made the arrangement to set up Egrant Inc which is already described. Mr Karl Cini and Mr Brian Tonna from Nexia BT were involved.

No documents were found to prove or disprove these statements.

3.5.8. The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO

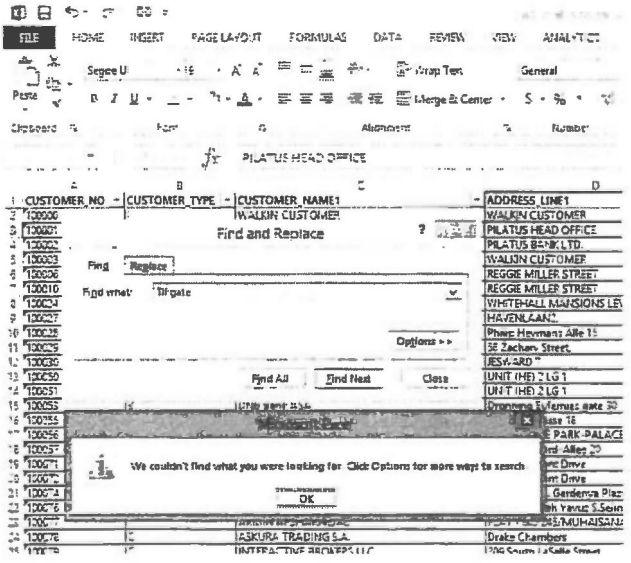
Konrad Mizzi), which also have accounts at Pilatus Bank in Malta. Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

1.1.1.19 Companies Tillgate Inc and Hearnville Inc also have accounts at Pilatus Bank

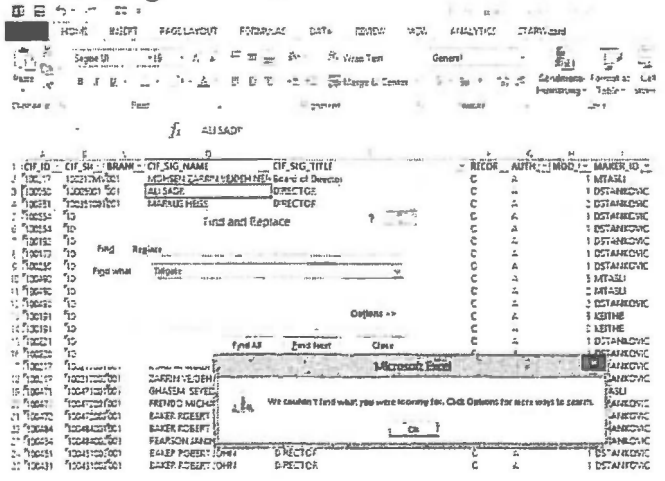
Based on search performed through excel spreadsheets, no information proving that Tillgate Inc and Hearnville Inc hold accounts at Pilatus Bank has been found.

- Tillgate Inc

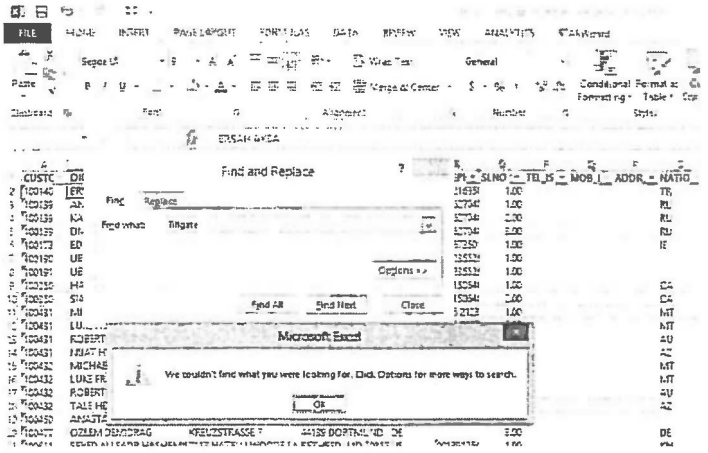
a. list_of_all_cutomer_personal_data.xlsx



b. list_of_signatories_master.xlsx

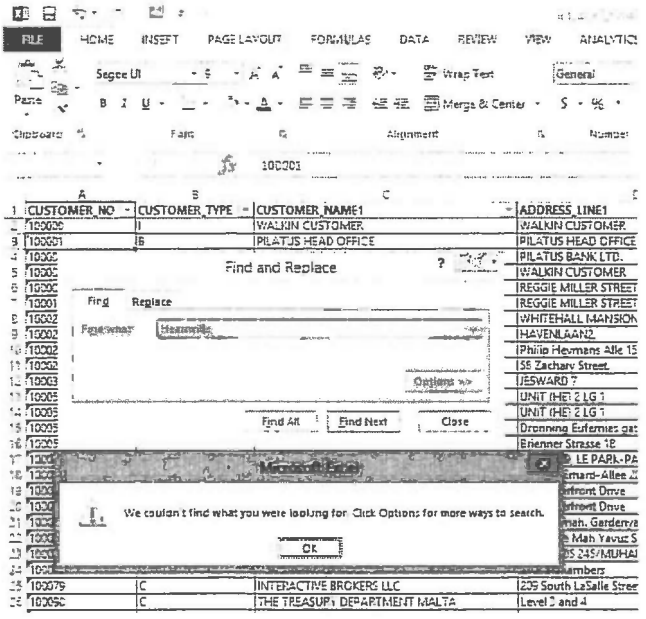


c. list_of_corporate_company_directors.xlsx

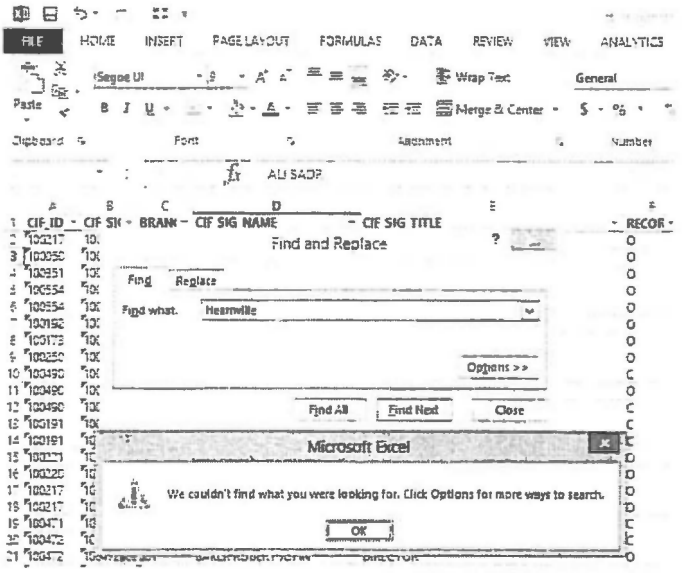


- Hearnville Inc

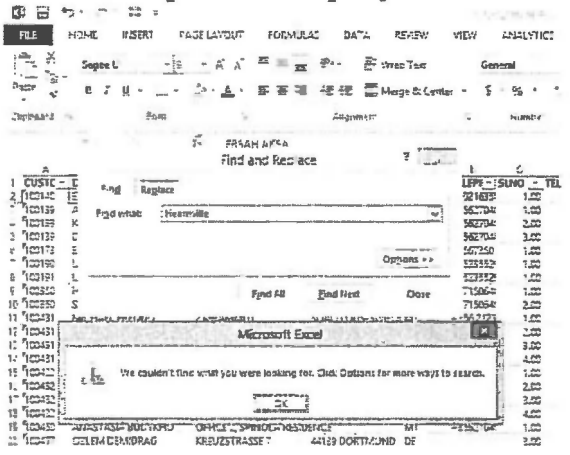
a. list_of_all_cutomer_personal_data.xlsx



b. list_of_signatories_master.xlsx



c. list_of_corporate_company_directors.xlsx



Based on the search performed, the statement mentioned in the Article that Tillgate Inc and Hearnville Inc hold accounts at Pilatus Bank is incorrect.

The statement mentioned in the article that Keith Schembri is the UBO of Tillgate Inc is confirmed, please section 1.2.

The statement mentioned in the article that Konrad Mizzi is the UBO of Hearnville Inc is confirmed, please see section 1.2.

Based on available documentation, no information has been obtained whether any employee of the Nexia BT has tried opening accounts for Egrant Inc, Tillgate Inc and Hearnivlle Inc with Pilatus Bank.

According to the review of the documents it is confirmed that these companies do not hold accounts in Pilatus Bank.

4.OTHER FINDINGS

4.1. Identified transactions related to Pilatus Bank's owner

4.1.1. ALI SADR

General Information

Client number in Pilatus: 100390
1015 33RD ST. NW, APT 809, WASHINGTON DC 20007-3532, US
Date of account creation: 27/08/2014
Accounts: 100390CAPCEUR225
100390CAINEUR101
100390CAINAED107
100390CAINUSD018
E-mail: ali.sadr@pilatusbank.com

Based on the excel spreadsheet "list_of_all_outgoing_settlement_data_partI.xlsx", in the period 2014 - 2017, Ali Sadr has had 59 transactions as ultimate beneficiary (payments received) and 90 transactions as ordering customer (payments ordered).

From the 59 payments received, 1 was originated from Ali Sadr's account in USA, 48 originated from third parties in Malta while 10 relate to transfers between accounts.

The value of the identified transactions are as follows:

ALI SADR- PAYMENTS RECEIVED	USD	EUR
Payments received to account in USA	1,439,998	
Payments received to account in Malta	10,126,929	515,662
Transfers between accounts	177,468	5,863
TOTAL	**11,744,395**	**521,525**

From the 90 payments ordered by Ali Sadr, one order was performed from Ali Sadr's account in USA and the rest of the orders were performed from its accounts held in Pilatus Bank.

The payments ordered were made to accounts in USA (14), Malta (58), outside Malta (7) and 11 orders relate to transfers between accounts:

ALI SADR- PAYMENT ORDERS	Number of transactions	USD	EUR	AED	GBP	CHF
Payments made to accounts in USA	14	14	/	/	/	/
Payments made to accounts in Malta	58	26	32	/	/	/
Payments made to accounts outside of Malta	7	/	2	2	2	1
Transfers between accounts	11	1	10	/	/	/
TOTAL	**90**	**41**	**44**	**2**	**2**	**1**

The value of the transactions are as follows:

ALI SADR- PAYMENT ORDERS	USD	EUR	AED	GBP	CHF
Payments made to accounts in USA	1,670,998				
Payments made to accounts in Malta	7,746,078	179,110			
Payments made to accounts outside of Malta		87,000	1,934,800	68,696	100,000
Transfers between accounts	7,294,064	170,281			
TOTAL	**16,711,139**	**436,391**	**1,934,800**	**68,696**	**100,000**

Orders made to accounts in USA (value of USD 1,670,998) were performed to following ultimate beneficiaries:

PAYMENT ODERS PERFORMED TO:	CORRESPONDENT BANK	AMOUNT IN USD	Number of transactions
ALI SADR	DZ BANK AG- Germany	903,374	7
	TURKIYE VAKIFLAR BANKASI T.A.O.- Turkey	94,000	1

	Bank of Valletta- Malta	442,624	4
ALLIANCE BUILDERS, LLC	Bank of Valletta- Malta	131,000	1
ALTITUDE CAPITAL LLC	Bank of Valletta- Malta	100,000	1
TOTAL		**1,670,998**	**14**

Out of these transactions the following occurred in the period January – March 2016:

Date of payment	Ordering Customer	Ultimate Beneficiary	Ultimate Beneficiary Account	Amount in USD	Correspondent Bank
15/01/2016	SADR HASHEMINEJAD SEYED ALI	ALI SADR	/6843973303	100,000	VALLMTMT
20/01/2016	SADR HASHEMINEJAD SEYED ALI	ALTITUDE CAPITAL LLC	/7844096615	100,000	VALLMTMT
29/03/2016	ALI SADR	ALI SADR	/4329374287	136,500	VALLMTMT
29/03/2016	ALI SADR	ALI SADR	/6788070318	78,450	VALLMTMT
TOTAL				414,950	

Based on information in "All_loan.xlsx excel spreadsheet", no loans from Pilatus Bank were issued to Ali Sadr.

From the" list of companies' directors and companies' signatories", Ali Sadr has been identified as connected to the following entities:

1. Malta International Construction Co
2. Pilatus Capital Ltd
3. Pilatus Bank plc
4. Altitude Capital llc- stated as UBO
5. Alpene Ltd- Director
6. Pilatus Holding- Director
7. Straturk Insaat Ve Taah A.S.- Chairman
8. Brittstone Ltd- Director

4.1.2. ALTITUDE CAPITAL LLC

General Information

Client number in Pilatus:	101432
Address:	11521 CONCORD PIKE 301, DE19803, WILMINGTON, STATE OF DELAWARE, USA
Company's shareholders:	SEYED ALI SADR HASHEMINEJAD (Director/ Shareholder, Signatory, UBO)
Date of account creation:	03/12/2015
Signatories:	SEYED ALI SADR HASHEMINEJAD
Accounts:	101432CACOEUR109 101432CACOUSD106 101432CACOGBP103
E-mail:	ALI.SADR.H@GMAIL.COM

Loans provided

Based on information in All_loan.xlsx excel spreadsheet, the following loan was provided to Altitude Capital LLC (please also see Report 1.6- section b, point I):

Account Number	Book date	Value date	Maturity Date	Amount	Curr.	DR_PROD_AC	CR_PROD_AC
001IOTA153410003	07-12-2015	07-12-2015	07-12-2020	1,500,000	USD	101432CACOUSD106	100138CACOUSD012

Loans repayment

Based on information in "All_loan_payments.xlsx", until 07 March 2017, an amount of USD 93,500 has been repaid in relation to the provided loan.

4.1.3. BRITTSTONE LTD

General Information

Client number in Pilatus:	100051
Address:	UNIT (HE) 2 LG 1, TSIM SHA TSUI, KOWLOON, MIRROR TOWER, 61 MODY ROAD, HONG KONG
Company's shareholders:	SADR HASHEMINEJAD SEYED ALI- identified as Director, not as UBO
Date of account creation:	03/04/2014
Signatories:	ALI SADR (Director)
Accounts:	100051CACOUSD019 100051CACOCHF012 100051PLFXEUR017 100051CACOTRY051

100051PLCOEUR018
100051CACOEUR011
100051PLFXUSD014
100051PLCOUSD015
100051CACOGBP016
100051CACOCAD011
100051CACOAED017

E-mail: linet.estiroti@pilatuscap.com

Loans provided

Based on information in "All_loan.xlsx excel spreadsheet", one loan has been provided to BRITTSTONE LTD (presented in the table below). Based on "All_loans_payment.xlsx" the loan has been repaid on 25-09-15 (before its maturity date which was 15-01-16). The total amount of payments from USD 6,755,919.20.

Account Number	Book date	Value date	Maturity Date	Amount	Curr.	DR_PROD_AC	CR_PROD_AC
001IOTF150610004	02-03-15	16-01-15	15-01-16	6,500,000	USD	100051CACOUSD019	100051CACOUSD019

Payments performed in relation to the loan:

Component Name	Due Date	Paid Date	Amount paid in USD
MAIN_INT	16-04-15	16-04-15	
MAIN_INT	16-04-15	16-04-15	91,364.00
MAIN_INT	16-07-15	16-07-15	92,379.16
MAIN_INT	16-07-15	16-07-15	
MAIN_INT	16-10-15	25-09-15	72,076.04
PRINCIPAL	15-01-16	25-09-15	6,500,000.00

4.1.4. Yasemin Aral, wife of Ali Sadr

Client number in Pilatus: 101076
Address: VANIKOY CAD NO.45, 34684 ISTANBUL, TR
Date of account creation: 03/08/2015
Accounts: 101076CAINUSD103

001902

101076CAINGBP100
101076CAPCEUR117
101076CAPCEUR106
101076PLFXUSD115
101076PLFXGBP112
101076CAINEUR106

Loans provided:

Account Number	Value date	Maturity Date	Amount	Currency
001IOFX162810005	04-10-2016	03-12-17	1,275,000	USD
001IOFX162840002	06-10-2016	03-12-17	1,260,000	USD
001IOTA160360001	05-02-2016	04-02-2021	1,220,000	USD

Payments have been received only regarding to the loan 001IOTA160360001 in the total amount of USD 81,835.54:

Due Date	Paid Date	Amount Paid
05-05-16	05-05-16	11,396.02
05-05-16	05-05-16	
05-05-16	03-08-16	4,221.81
03-08-16	03-08-16	52.77
05-08-16	05-08-16	25.42
05-08-16	05-08-16	
05-08-16	28-09-16	15,974.39
28-09-16	28-09-16	119.81
05-11-16	05-11-16	105.80
05-11-16	05-11-16	
05-11-16	16-12-16	16,352.08
16-12-16	16-12-16	93.12
05-02-17	05-02-17	554.80
05-02-17	05-02-17	
05-02-17	15-02-17	16,000.00

05-02-17	03-05-17	221.65
03-05-17	03-05-17	24.90
05-05-17	05-05-17	16,692.97
05-05-17	05-05-17	

4.1.5. NEGARIN SADAT SADRHASHEMINEJAD

General Information

Client number in Pilatus:	101654
Address:	7117 NATELLI WOODS LN, 20817 BETHESDA, MARYLAND, USA
Date of account creation:	02/02/2016
Accounts:	101654CAINUSD109 101654CAINEUR101

Loans provided

Based on information in "All_loan.xlsx excel spreadsheet", following loan was provided to Negarin Sadat Sadrhasheminejad:

Account Number	Book date	Value date	Maturity Date	Amount	Curr.	DR_PROD_AC	CR_PROD_AC
001IOTA160350001	04-02-2016	04-02-2016	04-02-2021	1,500,000	USD	101654CAINUSD109	100029NOACUSD018

Her bank account was opened at 2nd February while loan was granted just two days after

Following information was identified related to the loan:

a. The loan has been paid to the account held in Wells Fargo Bank NA, San Francisco, USA (bank code: WFBIUS65), same bank as for EXIR LLC

b. The intermediary bank which participated in the transaction between Pilatus Bank and Wells Fargo Bank NA was Bank of Valletta

Loans repayment

Based on information in "All_loan_payments.xlsx", until 04 May 2017 an amount of USD 93,790 has been repaid in relation to the provided loan

4.1.6. SMT Pistacho Ranch and Management LLC

Based on seized documents, in Box 9 Folder ZA, a document stating that Pilatus bank has provided to Negarin Sadat a loan in the amount of US$ 1.5 million on 3rd February 2016 for the purchase of a 12,375% interest in "SMT Pistacho Ranch and Management LLC".

The loan was granted just a day after opening the account in Pilatus bank.

The seized folder contained information on the shareholder structure of "SMT Pistacho Ranch and Management LLC" as of 1st June 2015, which was as following:

- Seyed Mohsen Torabi: 50,50%
- Hanza LLC (Pegah Sadrhasheminejad): 12,375%
- Altitude Capital LLC: 24,750%
- Negarin Sadrhasheminejad: 12,375%

Since Negarin already had 12,375% of the company's share, it is unclear whether the loan was with a purpose to buy shares from other shareholders or to secure the transfer of funds for something that was alredy in Negarin's possession.

In Box 9 Folder ZC a Membership interest purchasing agreement has been identified, signed between Seyed Mohsen Torabi (seller) and Altitude Capital LLC, Delawere (buyer). The agreement was related to a purchase of 24,750% shares of "SMT Pistacho Ranch and Management LLC"- a California listed company.

LeMoore Holdings II, LLL, Delawere and LeMoore Holdings III, LLCn, California hold together 48,37% shares of the company.

The transfer of shares between Seyed Mohsen Torabi and Alititude Capital was signed on 1st June 2015. Altitude Capital LLC Delawere was represented by Ali Sadr Hashemi, owner of the Pilatus bank.

On 4th December 2015, a loan was provided to Altitude Capital LLC by Pilatus bank in the amount of USD 1.5 million for a purchase of a 7% of interest in

"SMT Pistacho Ranch and Management LLC". Through the excel spreadsheet search the loan transferred from Pilatus bank to Altitude Capital LLC in the amount of US$ 1.5 million was identified as occurring on 7th December 2015:

list_of_all_outgoing_settlement_data_partial.xlsx - Excel

BM17154 ALTITUDE CAPITAL LLC

	H	K	L	M	X	Y	AP	AQ	AR	BD	BE	BF	BG	BL	BM
1	AC	VALUE_D	SETTLE		OU	RECI	PAYMENT DETAILS	PAYMENT_DETA	PAYMEN	ORDERIN	ORDERING_CU	ORDER	OR	ULT_BEN EFICIA	ULT_BENEF
17154	USD	07/12/2015	1,500,000	P	VALL MTM T	VALLM TMT	//DISBURS EMENT OF LOAN	DD 07 12 2015	REF NO .001IOTA15 3410003	/MT57PLTSD 40190010013 BCACOUSD0 12	PILATUS BANK LTD.	WHITEHA LL MANSIO NS	LEVEL 2	/7844096 615	ALTITUDE CAPITAL LLC

It is unclear what was the purpose of the loan- whether Altitude Capital LLC was intending to buy additional shares, since on 1st June 2015, already a 24,750% of the shares was in their ownership.

Two additional transactions were identified in connection to SMT Pistachio Ranch:

- Payment made from a company Brittstone LTD to Altitude Capital LLC in the amount of US$ 1,050,000 performed on 18th August 2015.

	H	I	J	K	L	M	N	O	R	S	T	U	V	W	X
1	ACC_C	VALUE_DA	SETTLEMENT_PA		OUR_	RECEIVER	PAYMENT_DETA	PAYMENT_	ORDERING_CU	ORDERING	ORDERIN	ORDERING_CU	ULT_BENE	ULT_BENEFIC	ULT_BENEFICIARY3
2	USD			P		100351	//CAPITAL CONTRIBUTION	FOR SMT INTEREST	/MT84PLTS040 1900100051CA COUSD019	BRITTSTO NE LTD.	UNIT (HE) 2 LG 1	MIRROR TOWER, 61 MODY ROAD	78440966 15	ALTITUDE CAPITAL LLC	7117 NATELLI WOODS LANE, BETHESDA
3	USD			P		100351	//CAPITAL CONTRIBUTION	FOR SMT INTEREST	/MT84PLTS040 1900100051CA COUSD019	BRITTSTO NE LTD.	UNIT (HE) 2 LG 1	MIRROR TOWER, 61 MODY ROAD	78440966 15	ALTITUDE CAPITAL LLC	7117 NATELLI WOODS LANE, BETHESDA
4	USD	12/08/2015	1,050,000.00	P	GEN CDED D	GENODEDD	//CAPITAL CONTRIBUTION	FOR SMT INTEREST	/MT84PLTS040 1900100051CA COUSD019	BRITTSTO NE LTD.	UNIT (HE) 2 LG 1	MIRROR TOWER, 61 MODY ROAD	78440966 15	ALTITUDE CAPITAL LLC	7117 NATELLI WOODS LANE, BETHESDA

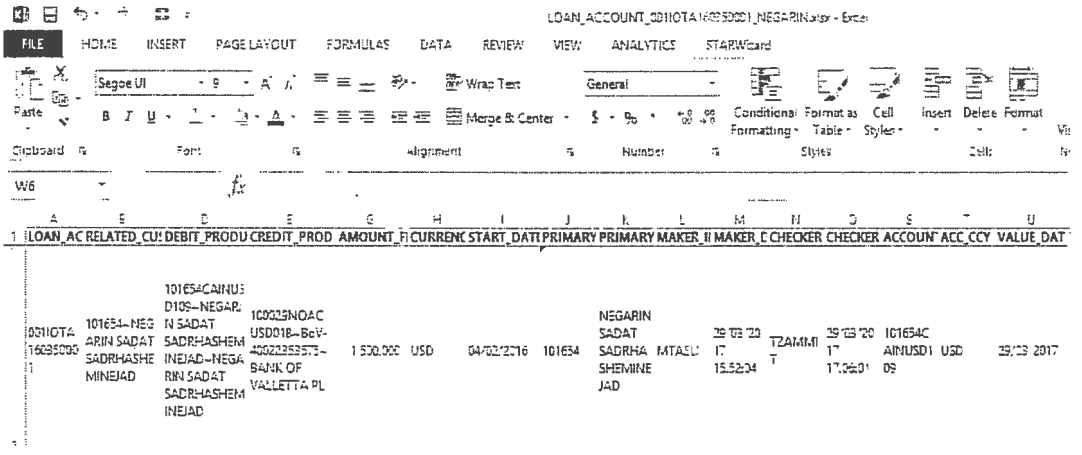
In the list of company directors, SADR HASHEMINEJAD SEYED ALI is the only individual listed for both Brittstone LTD and Altitude Capital LLC.

- Paymend made from Brittstone LTD to HANZA LLC in the amount of US$ 1,000,000 performed on 29th May 2015.

ACC_C	VALUE_DAT	SETTLEMENT	PAYOUR_I	RECEIVER	PAYMENT_DETAILS1	PAYMENT_D	ORDERING_CU	ORDERING	ORDERIN	ORDERING_CU	ULT_BENEFICIARY1	ULT_BENEFIC	ULT_BENEFICIARY3
USD	29.03.2015	1 000 000 P	GENODED D	GENODEDD	PISTACHIO FARM	/MT84PLTS040 19001000251 COUSD019	BRITTSTO NE LTD	BERKELEY SQUARE HOUSE	W1J 6BD LONDON	27255247		HANZA LLC	1134 ALTA LOMA ROAD #305

Hanza LLC is one of the shareholders (12.375% shares) of SMT Pistachio Ranch and Management LLC according to a shareholder structure dated 1st June 2015 identified during the review of Box 9 Folder ZA.

Additionally it was identified that a loan from Pilatus bank was provided to Negarin Sadr for the purchase of 12.375% shares of "SMT Pistacho Ranch and Management LLC" in the amount of US$ 1,500,000:



LOAN_AC	RELATED_CU	DEBIT_PRODU	CREDIT_PROD	AMOUNT_FI	CURRENC	START_DATE	PRIMARY	PRIMARY	MAKER_ID	MAKER_D	CHECKER	CHECKER	ACCOUNT	ACC_CCY	VALUE_DAT
031IOTA 16035090 1	101654-NEGARIN SADAT SADRHASHEMINEJAD	101654CAINUSD109--NEGARIN SADAT SADRHASHEMINEJAD--NEGARIN SADAT SADRHASHEMINEJAD	109025NOACUSD018--BoV-40022353573--BANK OF VALLETTA PL	1 500 000	USD	04/02/2016	101654	NEGARIN SADAT SADRHASHEMINEJAD	MTASU	29/03/20 17 15:52:04	TZAMM T	29/03/20 17 17:06:01	101654CAINUSD1 09	USD	29/03/2017

4.1.7. Search Pistachio

Through the review of TAS messages, the following message in relation to Pistachio Holding Company SARL from Luxembourg was identified:

ns1:FIN_Message	ns1:FIN_ACK

{1:F01PLTSMTMTAXXX0596023411}{2:O1031635160509SOGEFRPPFXXX5539313 8271605091704N}{3:{113:NNNN}{108:EEX09054902}{433:/FPO/FALSE POSITIVE}}{4: :20:LU/LOT/605090120 :23B:CRED :32A:160509EUR1500, :33B:EUR1500, :50K:/LU543010987237EUR001 PISTACHIO HOLDING COMPANY SARL 48, BLVD GRANDE-DUCHESSE CHARLOTTE L-1330 LUXEMBOURG :52A:CABILULL :57A:PLTSMTMT :59:/MT03PLTS0401900101060CACOEUR611 AA CONSULTANTS FZE :70:INVOICE 15054 DD 040516 RE COMFORT LETTER PROJECT NR P1256 :71A:SHA -}{5:{CHK:40B066C9E3B8}}{S:{COP:P}{FAC:}}	2016-05-09 17:03:20.050

4.2. Terms searched

4.2.1. Terms searched through all documents and excel data base from Pilatus Bank

- 17 Black Limited

- Macbridge Limited

- Items with relation to Bangkok, and Thailand- either in the name of an entity or as a location, address

- La Vela

- Wonka Co Limited

- Noi Tre Limited

4.2.2. Results

Following search terms did not result in any findings:

- 17 Black Limited

- Macbridge Limited

- Wonka Co Limited

By using a search term "Bangkok", one company were identified – HEALY CONSUTANTS.

Further search regarding the payments from this company identified two more companies:

- ASHBORN CORP LIMITED – PAYMENT TO THE HEALY CONSULTANTS GROUP, HONG KONG regarding "**renewals of three company**"
- BRITTSTONE LTD PAYMENT TO THE HEALY CONSULTANTAS GROUP

Both companies residing at the same address in Hong Kong and they are connected to the UBO of Pilatus.

By using a search term "Hong Kong" six companies were identified. Three already mentioned and:

oALPENA LTD
oNOMA TRADING CORP
oRYNT CORP LIMITED

Related to search "Noi Tre Limited" again same company identified by putting a search term FANOIT3:

ASHBORN CORP LIMITED PAYMENT TO Tvs SpaSede Admministrativa E Stabilimento WITH BANK ACCOUNT IN ITALY

1.1.1.20 ASHBORN CORP LIMITED

Address, town, country: UNIT 2, LG 1 MIRROR TOWER, KOWLOON, HONG KONG/ 61 MODY ROAD, TSIM SHA TSUI
Bank account opened: 24/10/2014
Number of the bank account:
100471CACOUSD013
100471CACOAED011
100471CACOGBP054
100471OACOUSD011
100471CACOCHF048
100471CACOEUR016
Client number in Pilatus: 100471
Director: SEYED AMIR GHASEMI
UBO: not specified
Authorised persons for signature: SEYED AMIR GHASEMI
Contact in Pilatus: Maker MTASLI: checker LUISFR
Email: amir8671@gmail.com

1.1.1.21 BRITTSTONE LTD

Address, town, country: UNIT (HE) 2 LG 1, TSIM SHA TSUI, KOWLOON, MIRROR TOWER, 61 MODY ROAD, HONG KONG (same address as 6.2.2)
Bank account opened: 03/04/2014
Number of the bank account:
100051CACOUSD019
100051CACOCHF012
100051PLFXEUR017
100051CACOTRY051
100051PLCOEUR018
100051CACOEUR011
100051PLFXUSD014
100051PLCOUSD015
100051CACOGBP016
100051CACOCAD011
100051CACOAED017
Client number in Pilatus: 100051
Director: SADR HASHEMINEJAD SEYED ALI (Director and UBO of Pilatus Bank)
UBO: not specified
Authorised persons for signature: ALI SADR
Contact in Pilatus: Maker ID LZAMMIT; Checker ID MTASLI

Email: linet.estiroti@pilatuscap.com

1.1.1.22 HEALY CONSULTANTS

Address, town, country: Unit 702 7/F, 18 Bonham Strand west, Bangkok bank Building, Hong Kong
Bank account opened: 12/06/2014
Number of the bank account:
100173CACOUSD011
100173CACOEUR014
Client number in Pilatus: 100173
Director: EDMOND AIDAN HEALY
UBO: not specified
Authorised persons for signature: EDMOND AIDAN HEALY
Contact in Pilatus: Maker ID MTASLI; Checker ID LZAMMIT

Email: aidanhealy@healyconsultants.com

1.1.1.23 ALPENE LTD

Address, town, country: UNIT (HE) 2 LG 1, TSIM SHA TSUI, KOWLOON, MIRROR TOWER, 61 MODY ROAD, HONG KONG (same address as 6.2.2. and 6.2.3.)
Bank account opened: 03/04/2014
Number of the bank account:
100050CACOEUR014
100050CACOGBP019
100050CACOUSD011
100050CACOCHF015
Client number in Pilatus: 100050
Director: SADR HASHEMINEJAD SEYED ALI
UBO: not specified
Authorised persons for signature: ALI SADR
Contact in Pilatus: Maker ID MTASLI; Checker ID MCAMILLERI

Email: ali.sadr@pilatusbank.com

1.1.1.24 NOMA TRADING CORP. LIMITED

Address, town, country: L1-2 MIRROR CENTRE, KOWLOON, 61 MODY ROAD TST EAST, HONG KONG (same address as 6.2.2, 6.2.3 and 6.2.5)
Bank account opened: 30/06/2014
Number of the bank account:
100220CACOUSD013
100220CACOEUR016
Client number in Pilatus: 100220
Director: EDAVALATH MEETHAL FYISAL
UBO: EDAVALATH MEETHAL FYISAL (shareholder)
Authorised persons for signature: EDAVALATH MEETHAL FYISAL
Contact in Pilatus: Maker ID LZAMMIT; Checker ID AGALEA

Email: femeethal@gmail.com

1.1.1.25 RYNT CORP. LIMITED

Address, town, country: L1-2 MIRROR CENTRE, KOWLOON, 61 MODY ROAD TST EAST, HONG KONG (same address as 6.2.2, 6.2.3, 6.2.5 and 6.2.6.)
Bank account opened: 30/06/2014
Number of the bank account:
100221CACOUSD021
100221CACOEUR013

100221CACOAED019
100221CACOUSD010
100221CACOGBP109
Client number in Pilatus: 100221
Director: EDAVALATH MEETHAL FYISAL
UBO: EDAVALATH MEETHAL FYISAL
Authorised persons for signature: EDAVALATH MEETHAL FYISAL
Contact in Pilatus: Maker ID LZAMMIT; Checker ID AGALEA

Email: femeethal@gmail.com

4.3. LOANS

4.3.1. Loans Provided

From the file "All_loans.xlsx" information has been extracted concerning loan agreements per company/individual. It has been identified that most of the loan agreements were used for refinancing of the initial loan. The table below provides an overview of identified loan agreements per company, with additional details including companies' Directors/UBOs/Signatories as per file containing information on all corporate companies' directors and all companies' signatories. Additionally, based on all gathered information, companies have been linked to Azerbaijan's PEPs, Hasheminejad, or other individuals, in case such linkage exist.

COMPANY	DIRECTOR/UBO/ SIGNATORY	LINKAGE	LOAN AGREEMENT	LOAN AMOUNT
ALTITUDE CAPITAL LLC	SEYED ALI SADR HASHEMINEJAD- UBO	Hasheminejad	001IOTA153410003	USD 1,500,000
ASHBORN CORP.LIMITED	SEYED AMIR GHASEMI- role not specified	No official information identified that the company is related to Hasheminejad, however the company's address is the same as Brittstone Ltd- for which Hasheminejad is identified as UBO	001IOTA150700001	USD 5,575,000
			001IOTA151180001	USD 5,575,000
			001IOTA152220003	USD 5,575,000
			001IOTA153020001	USD 5,575,000
			001IOTA160290002	USD 5,575,000

			001IOTA161130004	USD 5,575,000
			001IOTA162250002	USD 5,575,000
			001IOTA162810005	USD 5,575,000
BRITTSTONE LTD.	SADR HASHEMINEJAD SEYED ALI- role not specified	Hasheminejad	001IOTF150610004	USD 6,500,000
EXIR LLC	ALI AKBAR TORAB- UBO TORAB REZA – UBO TORAB ALI- role not specified	Torab- in report 1.4 it has been identified that Seyed Mohsen Torab is one of the shareholders (50.50%) of SMT Pistacho Ranch and Management LLC USA	001IOTA153080001	USD 1,000,000
IW BELGICA HOLDINGS LIMITED	SIMON GRAHAM- role not specified FRANCIS PAUL SNODING- role not specified ANDREW THOMAS BAILEY- role not specified PAUL EMMANUEL O'NEILL- role not specified BRIAN MICHAEL O'MAHONEY- role not specified HELEN PATRICIA CROWTHER- role not specified GRANVILLE JONATHAN WEST- role not specified LUKE JAMES HARDING- role not specified PATRICIA PREVEL- role not specified	Heydarov	001IOTA153100001	EUR 10,000,000

	UBO100850-01- role not specified			
	UBO100850-02- role not specified			
	IRON INVESTMENT HOLDINGS LIMITED – role not specified			
	WATER INVESTMENT HOLDINGS LIMITED- role not specified			
	ERICA PATREICE HARRISON- role not specified			
	RACHEL KIM BOUGARD- Signatory			
	NICOLA CLAIRE MCGALL- Signatory			
	CHANTELLE CAROL - ANN BOYD- Signatory			
	NATALIE GAIL CHAMBERLAIN- Signatory			
	AMANDA LOUISE CONNOLLY- Signatory			
	ROBERT JOHN BAKER- role not specified		001IOTA153020005	EUR 15,620,000
KIMBERLEY GAMMA PROPERTY HOLDINGS L	GINETTE LOUISE BLONDEL- role not specified CRAIG MARTYN WILSON- role not specified KIMBERLY HOLDINGS LIMITED- Shareholder ARGYLE HOLDINGS LIMITED- Shareholder LUKE FRENDO- Company Secretary	In the list of companies' corporate directors both Kimberly Holdings Limited and Argyle Holdings limited are listed. Both of the companies are connected to Heydarov family	001IOTA163020003	EUR 15,620,000
KR HOLDINGS LIMITED	RODERICK ZAMMIT PACE- Director, A Signatory		001IOTA161340006	GBP 2,400,000

	JOANNE MICHELLE PACE- Director but not listed as signatory			
	SARAH JANE MULLINS- Director, A Signatory			
	AQUA TRUST SERVICES MALTA LIMITED- Shareholder			
	KAVEH RAHBARY- UBO, but not listed as signatory			
	JOANNE LUCE- A signatory			
	STEPHEN MORGAN- A signatory			
	KYLE BOUGEARD- B Signatory			
	HAYLEY QUERIPEL- B Signatory			
	MEGAN OREILEY- B Signatory			
	JENNY VARRIE- B Signatory			
	LYDIA WILDING- A Signatory			
	RAYMOND O'REILLY- A signatory			
	AUGUSTINE GEORGE DAVID JONES- Director, but not listed as signatory			
LONALTA LIMITED	KIABOD TUTUNIAN MASHAD- Shareholder, UBO		001IOTA161340001	GBP 880,000
	ARMIN AFSHARNEJAD- Signatory			
NEGARIN SADAT SADRHASHE MINEJAD	N/A Individual Account	Hasheminejad	001IOTA160350001	USD 1,500,000

	ROBERT JOHN BAKER- Signatories JANINE MARGARET PEARSON- Director FARNOUSH FARSIAR- Signatories				
RAPHAEL INVESTMENT LIMITED	SUNEER KUMAR CHENOLI KOMATH- Director, but not listed as signatory DAVINCI HOLDING LIMITED- Shareholder PICASSO HOLDING LIMITED- Shareholder KENNETH ROSS HETHERINGTON- Signatory	Aliyev		001IOTA170720001	USD 73,000,000
RYNT CORP. LIMITED	FYISAL EDALAVATH MEETHAL- Director	No official information identified that the company is related to Hasheminejad, however the company's address is the same as Brittstone Ltd- for which Hasheminejad is identified as UBO		001IOTA151110001 Client: 100221	USD 5,000,000
				001IOTA151540001 Client:100221	USD 5,000,000
				001IOTA151620001 Client: 100950	USD 5,000,000
				001IOTA152430001 Client: 100950	USD 5,000,000
				001IOTA152470001 Client: 100950	USD 5,000,000
				001IOTA153410002 Client: 100950	USD 5,000,000
				001IOTA160600001 Client: 100950	USD 5,000,000
				001IOTA161970001	USD 5,000,000

			Client: 100950	
			001IOTA162390001	USD 5,000,000
			Client: 100950	
			001IOTA163420002	USD 5,000,000
			Client: 100950	
			001IOTA170580001	USD 5,000,000
			Client: 100950	
YASEMIN ARAL	N/A Individual Account	Hasheminejad	001IOFX162810005	USD 1,275,000
			001IOFX162840002	USD 1,260,000
			001IOTA160360001	USD 1,220,000
			001IOFX151910001	USD 20,000,000
			001IOFX151910002	USD 25,000,000
			001IOFX151910003	USD 21,000,000
			001IOFX151910004	EUR 20,000,000
			001IOFX151910005	EUR 25,000,000
			001IOFX151910006	EUR 21,000,000
			001IOFX153230001	EUR 22,000,000
			001IOFX153310003	EUR 20,000,000
TITKAN PULP AND PAPER FZC	MOHSEN ZARRIN VEJDEH NEJAD- role not specified SADEGH KORD AHMADI- role not specified		001IOFX153380001	EUR 20,000,000
			001IOFX153440001	EUR 10,000,000
			001IOFX153440002	EUR 10,000,000
			001IOFX153480001	EUR 10,000,000
			001IOFX153480002	EUR 10,000,000
			001IOFX153510001	EUR 10,000,000
			001IOFX153510002	EUR 10,000,000
			001IOFX153630001	EUR 22,000,000
			001IOFX160050001	EUR 24,000,000
			001IOFX160810001	EUR 11,000,000
			001IOFX160900001	EUR 6,000,000
			001IOFX160900002	EUR 5,000,000

001IOFX161170001	EUR 10,000,000
001IOFX161240001	EUR 5,000,000
001IOFX161240002	EUR 5,000,000
001IOFX161510001	USD 5,000,000
001IOFX161510002	EUR 5,000,000
001IOFX161580001	EUR 5,000,000
001IOFX161580002	EUR 5,000,000
001IOFX161720001	EUR 5,000,000
001IOFX161750001	EUR 5,000,000
001IOFX161800002	EUR 5,000,000
001IOFX161800003	EUR 5,000,000
001IOFX162110001	EUR 7,000,000
001IOFX162140001	USD 6,000,000
001IOFX162140003	EUR 6,000,000
001IOFX162390001	EUR 8,000,000
001IOFX162390002	EUR 5,000,000
001IOFX162390004	EUR 5,000,000
001IOFX163350001	EUR 9,000,000
001IOFX163510002	EUR 14,000,000
001IOFX163510003	EUR 14,000,000
001IOFX163630001	EUR 5,000,000
001IOFX163640001	EUR 6,000,000
001IOFX170060001	EUR 6,000,000
001IOFX170130002	EUR 7,000,000
001IOFX170270001	EUR 10,000,000
001IOFX170270002	EUR 10,000,000
001IOFX170380002	EUR 5,000,000
001IOFX170380004	EUR 5,000,000
001IOFX170870005	EUR 8,000,000
001IOFX170870006	EUR 7,000,000
001IOFX170870007	EUR 5,000,000
001IOTF150890002	EUR 20,000,000
001IOTF150890004	EUR 25,000,000

001IOTF150890005	EUR 20,000,000
001IOTF150910001	EUR 22,000,000
001IOTF151120001	EUR 21,000,000
001IOTF151130001	EUR 21,000,000
001IOTF151690001	EUR 20,000,000
001IOTF151690002	EUR 25,000,000

In relation to company Rynt Corp. Limited it has been identified that the company has two client codes in Pilatus:

- Client code 100950 with address APT 202 BUR DUBAI, ALI BIN ABI TALEB ST, HORIZON SERVICED APARTMENTS, Dubai. CIF date: 11/06/2015. Email: femeethal@gmail.com
- Client code 100221 with address L1-2 MIRROR CENTRE , KOWLOON , 61 MODY ROAD TST EAST, Hong Kong. CIF date: 30/06/2014. Email: femeethal@gmail.com

In the list of signatories, no information was identified for Rynt Corp. Limited under the code 100950.

Although no official information identified that Rynt Corp. Limited is related to Hasheminejad, the company's address in Hong Kong is the same as Brittstone Ltd- for which Hasheminejad is identified as UBO.

L-Appendiċi mar-relazzjoni ta' Miroslava Milenovic

Flimkien mar-relazzjoni ta' Miroslava Milenovic, hemm ukoll Appendiċi li fih l-informazzjoni li fuqha hemm listi ta' dokumenti u informazzjoni li ngabru fil-kors ta' din l-inkjesta u li ħadmet fuqhom il-*Forensic Accountant Miroslava Milenovic*. Matul l-eżekuzzjoni tal-inkarigu tagħha, u qabel ma ħejjiet ir-relazzjoni finali tagħha, *Miroslava Milenovic*

kienet ħejjiet diversi rapporti proviżorji li eventwalment wasluha għall-konklużjonijiet aħħarija tagħha kontenuti fir-relazzjoni finali tagħha aktar il-fuq imsemmija. F'dan l-appendiċi hemm kontenuti :

1. L-indiċi dettaljat tad-dokumenti stampati kollha meħuda mingħand Nexia BT u l-Bank Pilatus li eżaminat. Grazzi għal dawn id-dokumenti *Miroslava Milenovic* setgħat tagħmel l-analiżi forensika tar-rabtiet li l-persuni involuti f'din l-inkjesta setgħa kellhom fuq materji rilevanti għal fini ta' din l-inkjesta.
2. Hemm il-lista tad-*databases* meħuda mis-server tal-Bank Pilatus *ad opera* tal-esperti tal-*Oracle* li ġew preżentati lilha u analizzati minnha. Grazzi għal dawn id-*databases*, hija setgħet tivverifika mhux biss il-klijentela preżenti u passata tal-Bank Pilatus, iżda setgħet ukoll tagħmel analiżi tat-transazzjonijiet kollha rilevanti għall-fini tal-allegazzjonijiet meritu għal din l-inkjesta u li r-riżultanzi tagħhom jinsabu fir-relazzjoni finali tagħha.
3. Minbarra dan, matul il-kors ta' din l-inkjesta, kien sar eżerċizzju li fih kienu ġew inġunti rappreżentanti tal-Banek Maltin kollha biex jiġi stabbilit jekk il-persuni fiċ-ċentru ta' din l-inkjesta kellhomx kontijiet jew servizzi bankarji jew investimenti f'Malta. Ried jiġi stabbilit b'mod partikolari jekk kienx hemm anke l-iċken tentattiv biex isir kuntatt ma banek lokali għal servizzi bankarji jew

finanzjarji għall-kumpanija *Egrant Inc.* Ix-xiehda tar-rappreżentanti tal-Banek tinsab reġistrata u traskritta u tifforma parti mill-atti tal-inkjesta. Il-Banek operanti f'Malta ġew mistoqsija sabiex iwieġbu jekk il-persuni indikati fil-lista provduti lilhom, u li kienet konformi mal-lista tal-*keywords* oriġinali, kellhomx servizzi bankarji mal-bank rispettiv u f'każ affermattiv ġew mitluba sabiex jagħtu informazzjoni dwar in-numri tal-kontijiet bankarji, dati tal-ftugħ u egħluq tal-kontijiet, *statements of account, bank account opening forms, bank signatories*, dokumenti t'identifikazzjoni. Ġew mistoqsija wkoll sabiex jiddikjaraw jekk qattx kellhom relazzjoni ma dawn il-persuni jew qattx xi ħadd minn dawn il-persuni għamilx tentattiv biex ikollu relazzjoni bankarja tkun xi tkun mal-bank rispettiv.[143]

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[143] Fl-Annex hemm ukoll riferenza għal *FIMBank* indikat bħala *No info*. Dan jindika li ma kellhomx informazzjoni dwar dawn il-persuni imsemmija, iżda a differenza ta banek oħra meta kien xehed oriġinarjament ir-rappreżentant ta' *FIMBank* ma kienx preżenta xi ittra jew rapport bil-miktub dwar dan. Iżda biex. Biex jiġi assikurat li dan il-punt jiġi ċċarat sew ir-rappreżentant ta' FIMBank reġgħa ġie inġunt fl-4 ta' Settembru 2017 fil-preżenza tal-istess *Forensic Accountant Miroslava Milenovic* fejn kkonferma li l-persuni kollha fuq il-lista ma kellhomx servizzi bankarji mal-*FIMBank* għajr ħlief għal *Kasco Holdings, Kasco Trading, Kasco Limited, Keith Schembri, John Dalli* u *Marsovin Limited* u ppreżenta dokumentazzjoni relattiva għalihom, inkluż *bank account opening forms* u *statements*. Dan ikkonferma wkoll li l-persuni l-oħra indikati fil-lista tal-keywords ma kienux klijenti ta' *FIMBank* u r-records ta' dan il-Bank kienu jindikaw li ma kienx hemm tentattivi biex dawn jiġi ammessi bħala klijenti tal-*FIMBank* jew li ġew rifjutati. L-anqas kellhom *safe deposit boxes*.

Fl-istess annex hemm indikat li l-HSBC Bank Malta plc *did not answer* jiġifieri ma tax informazzjoni li l-*Forensic Accountant* kienet talbet lil dan il-Bank. Dan ġara għaliex meta kienet xehdet oriġinarjament ir-rappreżenant tal-Bank Audrey Ghigo ma kellhiex għad-disposizzjoni l-informazzjoni kollha li l-*Forensic Accountant* kienet qegħda tistenna. Iżda sabiex din is-sitwazzjoni tiġi solvuta, kien reġgħa ġie inġunt rappreżentant tal-HSBC Bank Malta Plc nhar l-4 ta' Settembru 2017. Dakinhar xehed Mark Drago li huwa *MLRO* u *Head of AML*. Dan ġie mistoqsi fuq Keith Allen Schembri u Kasco Holdings, Kasco Limited, Kasco Recycling Limited, Kasco Engineering Limited, Kasco Trading Limited, FSV Limited, Three City Desings

It-tweġibiet għal dawn il-kweżiti jinsabu fl-Annex 1 mar-relazzjoni ta' Miroslava Milenovic mnejn jirriżulta kjarament li fir-rigward ta' *Egrant Inc*, *Hearnville Inc* u *Tillgate Inc*, ma kien hemm ebda tali relazzjonijiet bankarji f'Malta jew li saru tentattivi sabiex jinfetħu kontijiet bankarji f'Malta u / jew li ġew miċħuda.

Hemm ukoll informazzjoni fir-rigward ta' wħud mill-punti inċidentali li din l-inkjesta kienet ukoll indagat bl-għajnuna ta' Miroslava Milenovic,

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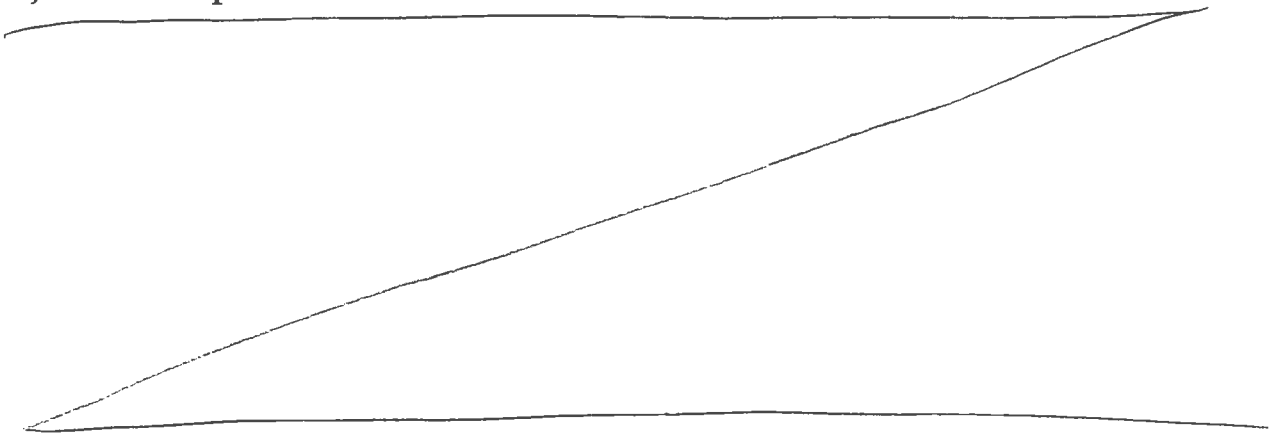
Limited, Graphic Supplies Limited, Burner Malta Limited, Kasco Foods Limited u preżenta lista dettaljata dwar dan. Director of Cinebis Limited and the other companies, including Smart City Malta Limited u Smart City Infrastructure Limited. B'riferenza għal Keith Schembri ma kellux kontijiet oħra minbarra dawk eżibiti fl-atti preżentati minn Audrey Ghigo. Bħala parti mill-proċedura tkun saret ukoll riċerka dwar jekk kellhomx *safe deposit boxes*. Ladarba ma kienux inklużi fid-dokumenti preżentati minn Audrey Ghigo, allura jfisser li dawn ma għandhomx tali servizz. Imbagħad semma wkoll li files 1, 2 u 3 li jikkontjenu dokumenti relattivi għal Keith Allen Schembri, Josette Schembri Vella li għandhom interess fihom ġew ukoll konfermati.

Drago ikkonferma wkoll li meta l-HSBC Bank Malta plc kienu għamlu s-search l-ismijiet fuq il-lista minn numru 8 sa 13 – jiġifieri Joseph Muscat, Michelle Muscat, Etoile Muscat, Soleil Muscat, Konrad Mizzi u Sai Mizzi Liang kienu ġew maħduma minn Audrey Ghigo u mhux mill-impjegati fid-dipartiment tiegħu. Għalhekk dawn ma kienux jidhru fil-lista li ppreżenta Mark Drago. Dak in-nuqqas għalhekk ma kienx minħabba li din l-informazzjoni ma riedetx tingħata mill-Bank kif kienet fehmet il-Forensic Accountant għall-bidu meta kienet għamlet li-*spreadsheet*, iżda minħabba li dik l-informazzjoni kienet ġiet maħduma minn Audrey Ghigo diġa.

L-HSBC Bank Malta plc ma jżommux informazzjoni uffiċjali dwar *declined relationships*. Mill-informazzjoni kollha li għandhom disponibbli ivverifika u ebda wieħed mill-ismijiet imsemmija fil-*keyword* list ma jirriżulta li ġie miċħud xi servizz.

001922

bħal kwistjoni tat-titjira li kienet saret mill-Aviajet bejn Malta u Baku fil-lejl tal-21 t'April 2017.[144]



[144] Dwar din l-istorja, l-inkjesta semgħet ix-xiehda ta' diversi xiehda li wkoll ġew reġistrati u traskritti fosthom dik ta' Nicholas van der Meer li huwa d-Diriġent tal-linja *VistaJet* kif ukoll dik ta' Ludwig Wright, pilota. Irriżulta li l-ajruplan in kwistjoni tal-*Vistajet* kien wasal Malta mill-ajruport ta' Ben Gurion, f'Israel fid-19 t'April 2017 b'żewġ persuni abbord u ma kellux titjira skedata. Biss fl-20 t'April 2017 għal 15:43 daħlet talba għal titjira minn Baku fl-Ażerbajġan għal Dubai. Peress li dan l-ajruplan li kien jinsab fl-ajruport ta' Malta kien l-eqreb ajruplan li din il-kumpanija kellha lejn Baku, ġie assenjat biex imur l-Ażerbajġan mingħajr passiġġieri sabiex imbagħad minn hemm ikun jista' jwassal il-persuni li prenotaw it-titjira lejn Dubai. Dan jidher minn *email* li ġiet mibgħuta nhar 24th August 2017 12:17 minn Rui Goncalves, VistaJet Limited, Malta lil Nick van der Meer. Jidher pero li l-ekwipaġġ ġie infurmat xi ftit fit-tard dwar din it-titjira li kienet sejra qabel u kien jeħtieġ li titlaq kmieni fil-għodu tal-21 t'April 2017. Laħqu saru l-arranġamenti meħtieġa sabiex l-ajruplan setgħa jitlaq minn Malta għal ħabta tat-03:30 – 04:00 tal-21 t'April 2017 lejn Baku, fl-Ażerbajġan u minn Baku dan jipproċedi lejn Dubai.

Skont ix-xiehda tal-Pilota Ludwig Wright f'dik it-titjira li telqet minn Malta fis-siegħat bikrin ta' fil-għodu tal-21 t'April 2017 ma kienx hemm passiġġieri jew *cargo* għajr ħlief l-ekwipaġġ u l-effetti personali tagħhom. Matul dik it-titjira bejn Malta u Baku, il-bdot kellu wkoll l-*annual check* tiegħu u l-*instructor* kien Andre Pereira.

Veru li fid-dokumentazzjoni relattiva għal dawn it-titjiriet u li ġiet eżebita instabu xi diskrepanzi. L-akbar waħda kienet dik dwar it-titjira Baku - Dubai, fejn fit-tieni e-*mail* mibgħuta lil Nick van der Meer kien imniżżel li fuq it-titjira lejn Dubai kellu jkun hemm sitt passiġġieri mentri f'email oħra mibgħuta minn Rui Goncalves lil Nick van der Meer kien hemm formula mehmuża li kienet tgħid li dik it-titjira kellha ħames passiġġieri – erba' adulti u minuri. In-numri tal-passaporti bejn dawn iż-żewġt listi ma kienux jaqblu kollha. L-ismijiet tal-passiġġieri ma kienux jidhru li kienu xi ismijiet li l-inkwirenti ltaqgħu magħhom matul il-kors ta' din l-inkjesta.

In definittiva, għalkemm id-data, lok, ħin, kuntest u diskrepanzi fid-dokumentazzjoni eżibita jistgħu jagħtu lok għal suspetti, ma nstabux provi suffiċjenti li bihom jista' jingħad sal-grad rikjest mill-Liġi li fit-titjira bejn Malta u Baku fl-Ażerbajġan kien hemm xi dokumenti li kienu marbuta mal-meritu ta' din l-inkjesta li ttieħdu minn Malta lejn l-Ażerbajġan u/jew mill-Ażerbajġan lejn Dubai.

Ix-xiehda ta' Dirigent, impjegati u aġenti ta' Mossack Fonseca involuti f'dan il-każ u dawk tar-Reġistru Pubbliku tal-Panama

A.1.1. Talba mill-Uffiċju tal-Prosekutur Speċjali kontra l-Kriminalita' Organizzata għal informazzjoni minn Banek fil-Panama

Waħda mir-rekwiżiti kienet biex jiġi stabbilit jekk Banek fil-Panama kellhomx relazzjoni kummerċjali jew bankarja ma *Egrant Inc* u jekk din il-kumpanija kellhiex fil-passat jew kienetx fil-preżent tippossjedi kontijiet bankarji, u f'każ pożittiv jippreżentaw diversi dokument u informazzjoni. Dan jidher ukoll fl-ittri iffirmati mill-Prosekutur Isis Del Carmen Soto Espinoza.

Konklużjoni –

Minn stħarriġ mal-Banek kollha interpellati rispondenti jirriżulta li *Egrant Inc* ma jirriżultax li kellha kontijiet bankarji fil-Panama.

A.1.2. Talba lill-Uffiċju Regolatorju tal-Kumpaniji fil-Panama

Irriżulta li l-Uffiċju responsabbli huwa r-Reġistru Pubbliku tal-Panama. Dan ipprovda dokumentazzjoni relattiva għall-inkorporazzjoni u reġistrazzjoni tal-kumpanija *Egrant Inc.* kif ukoll *Dubro Limited S.A., Aliator S.A.* u *ATC Administrators Inc.* Dawn il-konklużjonijiet sejrin jikkonċentraw fuq **ir-reġistrazzjoni tal-kumpanija *Egrant Inc.* fir-Repubblika tal-Panama.**

A.1.2.1. *Egrant Inc* ġiet imwaqfa bħala kumpanija anomina fl-4 ta' Lulju 2013

***Egrant Inc.* ġiet imwaqfa bħala soċjeta kummerċjali anonima fl-4 ta' Lulju 2013 skont il-kopja tal-att notarili mehmuż u pubblikat min-Nutar Diomedes Edgardo Cerrud.**[145] ***Egrant Inc* iġġib in-numru tar-reġistrazzjoni**

[145] In-Nutar Cerrud Ayala xehed fl-atti ta' din l-Inkjesta nhar it-28 t'Awissu 2017 fejn muri l-att notarili de quo indikat bħala doc 5, huwa rrikonoxxa l-parti formali tal-att pubbliku identifikat bin-numru 17935 li sar fl-4 ta Lulju 2013, data li fiha kien jokkupa l-kariga tan-Nutar Pubbliku tal-Ħames Ċirkwit Notarili tal-Panama. Wara li analizza l-parti formali tad-dokument muri lilu, in-Nutar Cerrud Ayala tenna li dan id-dokument kien jissodisfa l-parametri formali stabbiliti fid-data fl-approvazzjoni notarili. Il-firma li tidher fil-parti t'isfel ta' dan l-att kienet tikkorispondi għall-firma tiegħu użata skont il-protokoll ta' dan it-tip ta' strumenti. Huwa rrikonoxxa din il-kitba u li kienet saret fl-uffiċċju tiegħu fid-data indikata. Skond it-test tal-att notarili de quo, il-komparenti kienu jikkorrispondu ma' impjegati tal-Mossack Fonseca. Il-kopja ta'

(*microjacket*) 807956(S) u ġiet imwaqfa mingħajr data ta' skadenza. Il-kapital soċjali tagħha kien jikkonsisti f'10,000 sehem awtorizzat għal valur t'għaxart elef dollaru Amerikan maqsum f'mitt sehem, li setgħu ikunu *nominative* jew *bearer shares* b'valur nominali ta' mitt dollaru Amerikan kull sehem.

Skont ix-xiehda tal-Avukat tar-Reġistru Pubbliku tal-Panana, Soshi Santos, *Egrant Inc* ġiet imbagħad reġistrata fir-Reġistru Pubbliku tal-Panama fit-8 ta' Lulju 2013. Fis-16 ta' Ġunju 2017[146] *Egrant Inc.* kienet reġistrata bħala li kienet ġiet stralċjata.

L-aġent residenti fil-Panama ta' *Egrant Inc* kienu *Bufete MF & Co.*

Ir-rappreżentanza ġuridika ta' *Egrant Inc* kienet vestita fil-President iżda fl-assenza tal-President, ir-rappreżentanza ġuridika setgħet tiġi eżerċita wkoll mit-teżorier jew mis-segretarju jew minn kwalunkwe persuna li l-Bord jista' jiddelega għal dak il-għan. Inoltre fuq din il-kumpanija ma' kien hemm l-ebda piż jew dejn reġistrat sal-jum tad-dikjarazzjoni.

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dan l-att notarili ġiet inkluża fil-faxxiklu ta' dokumenti mibgħuta mar-risposti tar-Reġistru Pubbliku tal-Panama fl-atti ta' din l-Inkjesta.

[146] Dan kien il-jum li fih saret din id-dikjarazzjoni minn naħa tar-Reġistru Pubbliku tal-Panama.

A.1.2.2. L-abbonati oriġinali – *Subscribers* – *Suscriptor* kif jidhru fl-atti tar-Reġistru Pubbliku tal-Panama

L-abbonati oriġinali jew *Subscribers* (*Suscriptor*) ta' *Egrant Inc* kienu *Dubro Limited S.A.* (li għaliha deheret bħala Direttur Jaqueline Alexander) u *Aliator S.A.* (u li għaliha dehret bħala Direttur Verna de Nelson). Dawn iż-żewġt kumpaniji li kienu *subscribers* t'*Egrant Inc* dak iż-żmien li twaqfet *Egrant Inc* kellhom rabtiet sodi mal-*modus operandi* tan-negozju tad-ditta Mossack Fonseca fil-Panama. Dan peress li l-istess nies li jidhru li joqgħodu bħala uffiċjali ta' kumpaniji imwaqfa minn Mossack Fonseca, jirriżulta li kienu ntużaw sabiex Mossack Fonseca jkunu jistgħu iwaqfu diversi kumpaniji oħra bħala *shelf companies* li jiġu mibjugħa lil klijenti tagħhom kif ukoll jipprovdu servizzi ta' *nominee shareholding* għal-klijenti tagħhom – anke f'kuntest fejn dawk li jwaqfu l-kumpaniji intiżi biex jinbiegħu ikunu l-istess persuni li jservu t'uffiċjali fil-kumpaniji imwaqfin. Din tidher li kienet prattika standard adoperata minn Mossack Fonseca bħala parti mis-servizzi regolari li kienet toffri.

Mix-xiehda tal-Avukat Soshi Santos irriżulta li għalkemm Jaqueline Alexander kienet reġistrata bħala Direttur u sotto-segretarju ta' *Dubro*

Limited S.A., **hija ma kienetx ukoll tidher reġistrata bħala Direttriċi ta'** *Aliator S.A.*

A.1.2.3. *Egrant Inc* ġiet stralċjata u ma kienetx għadha teżisti aktar madwar ħmistax il-jum qabel il-pubblikazzjoni tal-artikoli li taw lok għal din l-inkjesta

A.1.2.3.1. Fit-Taqsima dwar jekk kienx hemm xi impedimenti u drittijiet effettivi oħra fis-seħħ fuq *Egrant Inc*, ir-rappreżentanti tar-Reġistru Pubbliku tal-Panama stqarr li *Egrant Inc* kienet ġiet stralċjata b'att pubbliku numru 2377 tal-15 ta' Frar 2017 fl-atti tan-Nutar tat-Tminn Ċirkwit tal-Panama. Dan l-istralċ ġie reġistrat nhar il-Ħamis, 6 ta' April 2017 bin-numru tad-dħul 83835 / 2017 (0). Ġiet mehmuża wkoll kopja tal-att notarili iffirmat min-Nutar Victor Manuel Aldana Aparicio li permezz tiegħu ġiet transutata ir-riżoluzzjoni li fiha ttieħdet id-deċiżjoni li permezz tagħha *Egrant Inc* ġiet stralċjata. Fuq dan l-att notarili fil-fatt deher l-Avukat Luis Alcibiades Quiel Gonzales, li kien jaħdem bħala Avukat mad-ditta Mossack Fonseca.[147]

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[147] Xehed ukoll fl-atti tal-inkjesta in-Nutar Victor Aldana li qal li huwa kien ġie muri l-kopja tal-att notarili li jġib il-firma tiegħu hawn fuq imsemmi u setgħa jikkonferma li *Egrant Inc* kienet ġiet stralċjata. Jgħid li ma dan l-att pubbliku kien hemm ukoll rekord tar-Reġistru Pubbliku tal-Panama mnejn jirriżulta li l-istralċ ta' *Egrant Inc* kien fil-fatt magħmul u konkluż in segwitu għal laqgħa tal-azzjonisti datata 19 ta' Jannar 2017 fejn ġie maqbul li din is-soċjeta tiġi stralċjata. Il-minuti ta' din il-laqgħa ġew mgħoddija lil dan in-Nutar mill-Avukat Luis Alcibiades Quiel Gonzales li kien qiegħed jidher f'isem id-Ditta t'Avukati Bufete MF & Co u dan wara li kien urieh li kien debitament awtorizzat jidher jeżegwixxi l-att. Mistoqsi jindika b'liema mod Quiel wera' din il-fakulta li jkun jista' jidher fuq dak l-att, in-Nutar Aldana qal li fis-sistema notarili

001928

A.1.2.3.2. Minn naħa tiegħu l-**Avukat Luis Alcibiades Quiel Gonzales** xehed fis-26 ta' Settembru 2017 u qal li d-doc 20, l-att pubbliku li bih kien reġistrat l-istralċ t'*Egrant Inc*) kien dokument li jidher fir-Reġistru Pubbliku u għalhekk huwa validu. Quiel ma kienx jiftakar il-persuna li tatu l-istruzzjoni biex jgħaddi għall-istralċ tal-kumpanija, iżda fi kwalunkwe każ il-klijent kellu jkun u kien Nexia BT li huma uffiċju ta' *accountants* f'Malta.

Mistoqsi speċifikament dwar id-doc 8 u ċjoe l-ittra li kienet ġiet mibgħuta minn *ATC Administrators Inc* lil Brian Tonna datat 8 t'Awissu 2013 (u li fiha

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Panamense in-nutar ma jivverifikax jekk il-persuna komparenti quddiemu biex teżegwixxi dokument tkunx awtorizzata sabiex taġixxi f'dik il-kapaċita, iżda f'dan il-każ peress li d-Ditta Bufete MF & Co kienet l-aġent resident ta' *Egrant Inc,* skont l-użu u l-użanza notarili huwa mifhum li l-aġent residenti ta' kumpanija bħal dik kellu s-setgħa li jiffirma dokumenti korporativi maħruġa mill-istess kumpanija. Mistoqsi mingħand min irċieva struzzjonijiet sabiex *Egrant Inc* setgħet tiġi stralċjata, In-Nutar Aldana qal li huwa ma kienx dak li stralċja l-kumpanija *Egrant Inc* għax fi kwalunkwe każ kien ir-Reġistru Pubbliku li stralċja din il-kumpanija u dan għaliex huwa dan id-dipartiment governattiv li huwa responsabbli mill-istralċi ta' kumpaniji. Fil-każ speċifiku tal-istralċ t'*Egrant Inc.* in-Nutar Aldana saħaq li r-rwol tiegħu kien dak biss li jirreġistra, fuq talba tal-Avukat Luis Quiel, id-dokument tal-kumpanija li bih ġie deċiż li din il-kumpanija tiġi stralċjata; u konsegwentement kien dak l-avukat li kien talab li jiġi reġistrat l-att li permezz tiegħu il-kumpanija Egrant Inc kienet ġiet xolta. Mitlub jispjega kif kienet il-proċedura li riedet tiġi segwita għalbiex kumpanija tiġi stralċjata u kif tali stralċ kien jiġi perfezjonat dan il-proċess, in-Nutar Aldana wieġeb li dan il-proċess jibda, fir-rigward ta' dak li għandu x'jaqsam i-nutar, mill-mument li tidher quddiemu persuna biex tirreġistra l-att tax-xoljiment tal-kumpanija u ġeneralment din il-persuna tkun l-aġent residenti ta' dik il-kumpanija; iżda jista' jidher ukoll ic-Chairman jew is-segretarju ta' dik il-kumpanija. Barra minn hekk tista' tidher ukoll persuna li tkun ġiet innominata għal dak il-għan u li tidher fil-minuti rispettivi. In-nutar jipproċedi biex jittraskrivi l-att u jinkorporah fil-protokoll, u jagħti lill-parti interessata kopja awtentika li fiha t-traskrizzjoni, liema kopja ġeneralment tiġi preżentata mill-persuna interessata lir-Reġistru Pubbliku sabiex jiġi perfezjonat l-istralċ. La darba jiġi preżentat l-att pubbliku lir-Reġistru Pubbliku mill-persuna interessata din ma tkunx obbligata wkoll li tipproduċi lin-nutar iċ-ċertifikat tal-istralċ maħruġ mir-Reġistru Pubbliku. Mistoqsi jikkonferma d-doc 20, ossija l-att pubbliku pubblikat minnu, in-Nutar Aldana jgħid li kien jikkonferma li dak kien kopja awtentika tal-att tax-xoljiment li kienet preżentata lilu mill-Avukat Luis Quiel tad-Ditta Legali Bufete MF & Co.

kien hemm imniżżel min kien *id-detentur reali tal-ishma*) u ċjoe biex jindika dak li ried jgħid f'relazzjoni mad-dikjarazzjoni mehmuża mingħand is-sid benefiċjarju tad-9 t'Awissu 2013 immarkata bħala doc 8, Luis Quiel qal li dik hija ċertifikazzjoni valida, u tikkorrobora b'mod effettiv l-informazzjoni li kienet tinsab fl-arkivji tad-ditta Mossack Fonseca. Luis Quiel ikkonferma li dik l-informazzjoni għandha tkun ukoll fil-files ta' Mossack Fonseca. Għalkemm id-doc 8 huwa biss kopja, Luis Quiel ikkonferma definittivament li l-firma fuq dak id-dokument kienet tiegħu.

A.1.2.3.3. Il-fatt li *Egrant Inc* kienet ġiet stralċjata ġie konfermat ukoll minn Yadinel Ortega, il-Kap tat-Taqsima taċ-ċertifikazzjoni ta' persuni ġuridiċi tar-Reġistru Pubbliku tal-Panama. Din ikkonfermat d-dokument enumerat 4 mal-ittra rogatorja *Republica de Panama-Registro Publico de Panama no. 374677* datat 7 t'Awissu 2013. Ġie għalhekk konfermat b'dokument uffiċjali li *Egrant Inc* ġiet stralċjata bis-saħħa t'att pubbliku numru 2377 tal-15 ta' Frar 2017 fl-atti tan-Nutar tat-Tminn Ċirkwit tal-Panama u reġistrata nhar il-Ħamis, 6 ta' April 2017.

Fil-mument meta kienu ġew pubblikati l-artikoli minn Daphne Caruana Galizia li in segwitu tagħhom saret il-kwerela li tat lok għal din l-inkjesta, *Egrant Inc* kienet ilha reġistrata bħala li ġiet reġistrata bħala stralċjata erbatax il-jum.

Egrant Inc ma kienetx imqegħda taħt reġim ta kustodja u ma kellha ebda entrata pendenti.

A.1.3. L-abbonati oriġinali – *Subscribers – Suscriptor – t'Egrant Inc.*

A.1.3.1. Jaqueline Alexander xehdet darbtejn – l-ewwel in eżekuzzjoni tal-ittra rogatorja oriġinali u mbagħad bħala x-xhud prinċipali fil-ittra rogatorja supplimentari. In eżekuzzjoni għall-ittra rogatorja oriġinali kienet xehdet fit-28 t'Awissu 2017. **Mistoqsija sabiex tixhed dwar it-twaqqif ta' *Egrant Inc*; dwar min kienu l-partijiet involuti fiha, l-UBO jew proprjetarji mid-data tat-twaqqif tagħha fl-4 ta' Lulju 2013 sal-jum tal-istralċ tagħha fil-15 ta' Frar 2017; kif ukoll dwar l-attivitajiet jew transazzjonijiet ta' *Egrant Inc*, inkluż trasferimenti magħmula jew riċevuti minn *Egrant Inc*, Jaqueline Alexander wieġbet li ma kienet tiftakar xejn li kellu x'jaqsam ma' *Egrant Inc* u l-istruttura tagħha.**

Murija d-dokument numru 1, ċjoe t-traskrizzjoni pubblikata minn Daphne Caruana Galizia tat-test tad-*declarations of trust* pubblikat fil-21 t'April 2017 fl-20:02 Jaqueline Alexander tgħid li hija ma kienetx tagħraf

u tirrkonoxxi dak li jissemma f'dan id-dokument peress li ma kien hemm ebda kopja ta' *declaration of trust* li kienet iffirmata.

Murija d-dokumenti kollha enumerati doc 4 sa doc 20 u mistoqsija jekk kienetx tagħraf dawn id-dokumenti kif ukoll jekk kienetx involuta fihom o meno, Jaqueline Alexander wieġbet li :-

Doc 4 – (ċertifikat mir-Reġistru Pubbliku) hija għarfet li dan id-dokument kien kopja taċ-ċertifikat meħud mir-Reġistru Pubbliku, iżda ma kienetx taf jekk kienetx kopja fidila tal-oriġinal.

Doc 5 – (*assignment of subscription of two shares in Egrant Inc*) hija għarfet li dan kien id-dokument li bih ġew trasferiti s-*subscription shares* (li kienu saru *to bearer* u maħruġa fis-6 ta' Lulju 2013) fl-*Egrant Inc* u li fuqhom kien hemm il-firma tagħha, kif ukoll kopja tal-istatut (artikoli tal-inkorporazzjoni) tal-kumpanija *Egrant Inc*.

Doc 6 – (minuti tal-laqgħa tal-bord tad-Diretturi t'*Egrant Inc* bi prokura favur Brian Tonna u Karl Cini mehmuża magħha) hija kkonfermat li din kienet kopja ta' prokura awtentikata quddiem nutar.

Doc 7 - (ittra t'indennizz minn Karl Cini lil *MF Legal Services*) hija għarfet li din hija kopja ta' ittra t'indennizz.

Doc 8 – (ittra minn *ATC Administrators Inc* lil Brian Tonna) hija għarfet li din kienet l-ittra li fiha kien hemm imniżżel min, skontha, kien *id-detentur reali tal-ishma.*

Doc 9 (traduzzjoni tac-*certificate of good standing* tar-Reġistru Pubbliku tal-Panama) kienet tagħraf li dan kien traduzzjoni tad-doc 4.

Doc 10 (*certificate of incumbency*) hija tikkonferma li dan kien *certificate of incumbency.*

Doc 11 (ittra mingħand *Egrant Inc* lil *BTI Management Limited* tad-19/07/2013) tikkonferma li din kienet ittra li permezz tagħha huwa konfermat li sa dik id-data *Egrant Inc* ma kien għad kellha ebda attivita'.

Doc 12 (*share certificate* ta' *Egrant Inc.*) ikkonfermat li dan kien ċertifikat tal-ishma f'*Egrant Inc.*

Doc 13 (*share register* t'*Egrant Inc.*) dan id-dokument kien kopja tar-reġistru tal-ishma ta' *Egrant Inc.*

Doc 14 (minuti tal-Bord tad-Diretturi t'*Egrant Inc.* tad-09/07/2013) dan huwa d-dokument li fih hemm reġistrat fejn kienu inħarġu l-ishma.

Doc 15 (artikoli t'inkorporazzjoni ta' *Egrant Inc.*) għarfet il-firma tagħha fuq dan id-dokument li huwa l-artikoli t'inkorporazzjoni ta' *Egrant Inc.*

Doc 16 (l-ittra ta' Ricardo Samaniego tas-16/02/2017) milli setgħet taqra dan kien dokument li jindika min kien l-azzjonista u s-setgħat li kienu ġew mogħtija.

Doc 17 (l-ittra ta' Brian Tonna tad-19/01/2017 li biha li tiġi stralċjata l-*Egrant Inc.*) din hija kopja ta' dokument fejn id-diretturi kienu ġew mitluba biex *Egrant Inc* tiġi stralċjata.

Doc 18 (prokura minn Brian Tonna lil Mossack Fonseca tad-19/01/2017) din kienet rappreżentazzjoni biex tiġi stralċjata l-*Egrant Inc.*

Doc 19 (l-ewwel ittra ta' Brian Tonna tal-15/03/2016 b'talba biex tiġi stralċjata l-*Egrant Inc.*) din hija kopja ta' dokument li kien juri fih talba biex id-diretturi jgħaddu għall-istralċ ta' *Egrant Inc.*

Doc 20 (l-att notarili li bih ġiet reġistrata r-riżoluzzjoni tal-istralċ tal-*Egrant Inc.*) din hija kopja ta' skrittura li biha ġiet stralċjata l-*Egrant Inc* liema skrittura ġiet iskritta fir-Reġistru Pubbliku tal-Panama.

Mix-xiehda ta' Jaqueline Alexander għalhekk ma ġiex pruvat li hija kienet taf min kien l-*UBO* ta' *Egrant Inc* jew li hi kienet taf li l-*UBO* t'*Egrant Inc* kienet Michelle Muscat.

A.1.3.2. Verna de Nelson xehdet fis-16 t'Ottubru 2017 (illum Verna Elizabeth Lee Carter) li qalet li ma kellha ebda informazzjoni fir-rigward tal-kumpanija *Egrant Inc.* u dan peress li l-*file* relattiv għal din il-kumpanija jkun merfuħ fl-uffiċju u hi ma kellhiex kopja tiegħu. Peress li l-affarijiet ta' Egrant Inc kienu jirreferu għal diversi snin qabel hi ma kienetx tiftakar dwarhom.

Murija d-dokument tal-*assignment of subscription* of shares tas-6 ta' Lulju 2013 Verna de Nelson tgħid li fih kien hemm firma bħal firma tagħha u li dan id-dokument kien it-trasferiment ta' sottoskrizzjoni ta' ishma. Tgħid li dan jista' jkun li meta klijent jitlob il-ftuħ ta' kumpanija huwa jkun ipprovdut b'pakkett ta' dokumenti korporattivi u li fosthom ikun hemm dan id-dokument ta' sottoskrizzjoni t'ishma. Hi kienet imqabda sabiex toffri servizzi ta' segretarju nominali u b'hekk tiffirma f'isem kumpaniji nominali.

Verna de Nelson ġiet mistoqsija jekk kienetx tagħraf id-dokumenti markati doc 4 sa 20. Dix-xhud tgħid li dawn id-dokumenti kienu jidhru qishom kopji tad-dokumenti korporativi. Doc 4 kien ċertifikat mir-Reġistru Pubbliku filwaqt li doc 5 kien id-dokument tat-trasferiment tas-*subscription of shares.* Id-doc 6 huwa d-dokument tal-Bord tad-Diretturi ta' *Egrant Inc.* Id-doc 7 huwa dokument t'indennizz. Id-doc 8 huwa dokument li kien jidher iffirmat mid-diretturi. Id-doc 9 huwa traduzzjoni taċ-ċertifikat mir-Reġistru Pubbliku. Id-doc 10 huwa kopja tac-*certificate of incumbency* li kien maħruġ mill-aġent reġistrat. Id-doc 11 huwa dokument li juri l-attivitajiet tal-kumpanija mid-direttur tal-kumpanija. Doc 12 huwa ċ-ċertifikat tal-ishma. Doc 13 huwa r-reġistru tal-azzjonijiet. Doc 14 huwa d-dokument tad-diretturi li juri li kien maħruġ sehem wieħed. Doc 15 huwa l-istatut tal-kumpanija tradott għall-lingwa ingliża. Doc 16 kien kpoja ta' dokument iffirmat mid-direttur u Chairman tal-kumpanija. Doc 17 fehmet li kien xi

dokument b'talba għall-istralċ tal-kumpanija *Egrant Inc.* Doc 18 kien jidher li huwa kopja ta' prokura sabiex isir l-istralċ tal-kumpanija *Egrant Inc.* Doc 19 hija ittra fejn jintalab l-istralċ tal-kumpanija. Doc 20 huwa att pubbliku li bih sar l-istralċ.

De Nelson ikkonkludiet li hi kienet tirċievi struzzjonijiet mingħand il-klijenti, iżda f'dan il-każ ma kienetx taf min kien il-klijent.

Mix-xiehda ta' Verna de Nelson ma ġiex pruvat li hija kienet taf min kien il-*UBO* ta' *Egrant Inc* jew li hi kienet taf li l-*UBO* t'*Egrant Inc* kienet Michelle Muscat.

A.1.4. *Egrant Inc* imwaqfa bħala kumpanija bi proċedura *standard* adoperata minn Mossack Fonseca - dokumenti fil-pussess tad-ditta Mossack Fonseca li ġew mgħoddija lil din l-Inkjesta minn Jurgen Mossack

Bħala parti mill-iskop tal-inkjesta, id-ditta tal-Avukati Mossack Fonseca ġiet ukoll mitluba sabiex tagħti informazzjoni li kellha dwar il-kumpanija *Egrant*

Inc. Għal dan il-għan, **Jurgen Mossack** ta' prokura lil impjegata **Hilda Joanna Soto** sabiex tidher f'isem is-soċjeta Mossack Fonseca u teżebixxi dokumenti relattivi għal *Egrant Inc.* Soto fil-fatt xehdet nhar il-15 ta' Settembru 2017 fejn eżebiet faxxiklu b'xi dokumenti li kienu jirrelataw għal *Egrant Inc* fil-pussess ta' Mossack Fonseca.

Id-dokumenti eżebiti kienu jinkludu :

A.1.4.1. L-*order form* li kienet iffirmata minn Brian Tonna nhar l-4 t'Awissu 2013. Kopja tagħha din kienet ukoll instabet fil-faxxiklu prelevat mill-Uffiċju ta' Nexia BT f'Malta. Minn din l-order form jirriżulta li Brian Tonna kien għażel li jordna l-kumpanija *Egrant Inc.* mill-istock ta' kumpaniji *shelf* li Mossack Fonseca kienu jwaqfu għal klijentela tagħhom. Minn din l-*order form* jirriżulta li Tonna ordna din il-kumpanija bħala kumpanija mwaqfa fil-Panama. L-*objects* ta' din il-kumpanija riedhom li jkunu standard u b'hekk ma riedx li tkun tirrifletti xi preferenzi jew struzzjonijiet jew attivitajiet partikolari. Il-kapital awtorizzat ta' din il-kumpanija għażilhom bħala dawk applikabbli għal kumpaniji standard imwaqfa fil-Panama. Oltre minn hekk ried li l-kumpanija tkun servuta minn diretturi li kellhom ikunu magħżula minn Mossack Fonseca stess, skont il-liġi in meritu applikabbli fil-Panama.

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Fl-*order form* tal-kumpanija jirriżulta li fit-Taqsima *V. Share certificates* kien hemm għażla tat-tip ta' ishma li kellhom jiġu maħruġa u ingħata l-possibilita' li jimla' x'kategorija ta' ishma ried li din il-kumpanija jkollha – u ċjoe jekk hux *bearer shares* jew ishma li jkunu *registered shares*. Brian Tonna għażel li l-ishma jkunu *registered shares*, filwaqt li ħalla l-kaxxa tal-*bearer shares* mhux ittikjata. Biss huwa ta struzzjonijiet lil Mossack Fonseca sabiex l-isem tal-azzjonista/membru jkun registrat hu personali bħala Brian Tonna iżda *under nominee provided by Mossack Fonseca.* Tonna ordna li jinħareġ sehem wieħed b'valur ta' sehem wieħed u li kellu jinħareġ ċertifikat wieħed għal dan is-sehem. Huwa ma riedx li jingħata *blank share certificates* apparti minn dawk l-erba' li jingħataw lilu bħala parti mill-pakkett sħiħ tal-inkorporazzjoni tal-kumpanija. L-anqas ma ried li jinħariġlu *corporate seal* għal din il-kumpanija. Biss ried li jkollu f'idu *certificate of good standing* kif ukoll *certificate of incumbency* għal *Egrant Inc.* Ma għażilx ukoll li d-dokumenti tal-kumpanija jiġu wkoll notarizzati. L-istruzzjonijiet għall-fini ta' fejn kellhom jintbagħtu l-kontijiet għas-servizzi reżi minn Mossack Fonseca fir-rigward ta' dak ordnat minn Brian Tonna ingħata bħala *BTI Management Limited,* Suite 2, The Penthouse, Capital Business Centre, Entrance C, Triq Taz-Zwejt, San Gwann SGN3000, Malta bil-VAT number MT20676720. Il-korrispondenza għażel li tintbagħatlu bil-courier.

A.1.4.2. Flimkien ma din l-*order form*, ġie mehmuż ukoll kopja tal-ittra iffirmata minn Karl Cini (ekwivalenti għal doc 7 mehmuż mal-ittra rogatorja) kif ukoll kopja tal-passaport ta' Brian Tonna.

A.1.4.3. Ġie mehmuż ukoll kopja ta' ftehim milħuq bejn *BTI Management Limited (BTI)* u *Mossack Fonseca & Co (BVI) Limited* (*Mossfon BVI*) datat 28 t'April 2015 fejn *BTI* ftehmu li jużaw is-servizzi ta' *Mossfon BVI* b'mod ġenerali.

A.1.4.4. Ġie wkoll mehmuż kopja ta' kuntratt intestat *Service Provision Agreement* datat 16 t'April 2013 bejn *BTI Management Limited (BTI)* u *MF Legal Services (Mossfon)* fejn għal darb'oħra jirriżulta li *BTI* qablu li jużaw is-servizzi ta' Mossfon b'mod ġenerali, mhux biss fil-Panama iżda kull fejn *Mossfon* kellhom preżenza, u dan skont il-protokolli użati minn *Mossfon* fl-eżerċizzju tal-professjoni/negozju tagħhom. Ma dan id-dokument ġew ukoll mehmuża diversi dokumenti oħra li juru forma ta' eżerċizzju ta' *due diligence* magħmul minn Mossfon fuq *BTI* bħal ċertifikat fuq *BTI Management Limited* maħruġ mill-*MFSA* fejn juri dettalji bażiċi dwar it-twaqqif u l-operat ta' *BTI* u jekk kienetx soġġetta għal sanzjonijiet jew penalitajiet. Sar ukoll tiftix fuq *World Check, WorldCompliance, Google Search* fuq Nexia BT datat 13 ta' Frar 2015. Analiżi simili jidher li saret ukoll fil-konfront ta' Karl Cini li jidher li ismu kien soġġett għal analiżi minn fuq siti

bħal *World Check, WorldCompliance, Google Search, FBI portal search, Interpol search,* inkluż *United States Secret Service Search* dwaru. L-istess eżerċizzju jidher li sar dwar Brian Tonna u Manuel Castagna in kwantu hemm ukoll diversi dokumenti li juru *due diligence exercise* dwaru li sar fis-27 ta' Frar 2015. Għal dawn it-tlieta hemm ukoll ittra ta' rakkomandazzjoni mibgħuta minn Steven Galea, *Certified Public Accountant,* datata 28 ta' Marzu 2013. Galea għamel ukoll ittra ta' rakkomandazzjoni għal *BTI Management Limited.* Bħala hemm ukoll rakkomandazzjoni oħra maħruġa mill-Bank of Valletta datata 8 t'April 2013, taħt il-firma ta' Christine Saliba, manager tal-Marsascala Branch tal-istess Bank fejn irrikmandat li BTI Management Limited, Tonna, Cini u Castagna kienu *bona fide persons and capable and trustworthy of establishing a business relationship.* Ġie wkoll mehmuż kopja tal-istatut ta' *BTI Management Limited* kif ukoll kopja tas-*CV* ta' Karl Cini u ta' Brian Tonna.

A.1.4.5. Ġiet ukoll eżebita kopja ta' dikjarazzjoni datata 23 t'April 2013 minn *BTI Managmenent Limited* taħt il-firma ta' Karl Cini fejn hemm imsemmija l-obbligi assunti minn *BTI Management Limited* fir-rigward ta' *due diligence* u *know your client requirements* fir-rigward ta' kull kumpanija imwaqfa jew li ser tiġi mwaqfa jew mibjugħa jew li ser tiġi mibjugħa jew miżmuma taħt l-amministrazzjoni ta' *Mossfon.* Ma din id-dikjarazzjoni ġew mehmuża wkoll kopji tal-passaporti ta' Brian Tonna, Karl Cini u Manuel Castagna.

A.1.4.6. Minbarra d-dokumenti preżentati minn Jeurgen Mossack, anke l-Avukat Jessika Chiu, li kienet taħdem mad-ditta Mossack Fonseca xehdet nhar it-28 t'Awissu 2017 fejn, b'riferenza għall-artikoli t'inkorporazzjoni ta' *Egrant Inc*, qalet li hija kienet tagħraf dan id-dokument, li kien jikkostitwixxi mudell *standard* li huwa l-mudell użat fid-Ditta fejn taħdem, Mossack Fonseca. B'mudell *standard* riedet tifhem li huwa dik id-dokumentazzjoni li hija l-kitba mudell li tintuża biex tinkorpora atti ta' soċjetajiet anonimi. Ix-xhud ikkonfermat li f'dak l-att pubbliku, iffirmat bħala xhud li dawn is-soċjetajiet kien jsiru fid-ditta fejn kienet taħdem. Fl-Uffiċju ta' Mossack Fonseca għandhom proċedura li permezz tagħha meta jsir att pubbliku ta' kumpanija jrid ikun hemm uffiċjal li jiffirma bħala xhud għall-ħolqien ta dik is-soċjetà. Għal din ir-raġuni ix-xhud kienet tiffirma bħala xhud u dik hija r-raġuni għaliex isimha jidher fuq l-att pubbliku ta' *Egrant Inc.* **Chiu ma kienetx tiftakar lil *Egrant Inc* b'mod speċifiku, għax għal dak iż-żmien kienu għamlu ħafna xogħol ta' twaqqif ta' kumpaniji b'ħafna firem fuq l-atti relattivi.**[148]

Chiu tispjega l-proċedura li kienet tkun segwita minn Mossack Fonseca fil-proċess ta' twaqqif ta' kumpanija, b'mod li l-abbozzar tal-istatut kien isir

[148] Minbarra Jessika Chiu xehdet ukoll Enma Rosa Rojas Caceres li wkoll kienet xhud fuq l-att tal-inkorporazzjoni t'*Egrant Inc.* Hi qalet li kienet tagħmel dan fl-uffiċju ta' Mossack Fonseca.

mid-Dipartiment tal-Abuzzar ta' Kuntratti. Wara li jiġi abozzat id-dokumenti, dan imbagħad jgħaddi għad-Dipartiment fejn kienet taħdem din ix-xhud, ċjoe d-Dipartiment tal-Produzzjoni fejn kien jiġi ffirmat id-dokument. Wara li jkun ġie ffirmat, id-dokument kien jiġi ritornat lura lejn id-Dipartiment tal-Abuzzar tal-Kuntratti fejn il-kuntratt kien jitressaq quddiem Nutar biex jiġi insinwat. Il-funzjoni ta' din ix-xhud bħala xhud fuq l-istatut ta' twaqqif ta' kumpanija kien għalhekk parti minn xogħolha. Il-Kap tagħha fid-Dipartiment tal-Produzzjoni kienet l-avukat Josette Roquebert.

A.1.4.7. L-Avukat Josette Roquebert li xehdet nhar is-26 ta' Settembru 2017, mitluba tixhed dwar is-*certificate of incumbency* tal-kumpanija *Egrant Inc* mnejn kien jidher isimha (doc 10) tgħid li l-gran parti tas-*certificates of incumbency* li kienu jkunu maħruġa minn *MF Legal Services* kienet tiffirmahom hi stess bħala parti minn xogħol ta' rutina u mir-responsabbiltajiet tagħha. Id-doc 10 kien għalhekk jidher li huwa wieħed minn dawn id-dokumenti. Anke l-fatt li inħareġ is-*certificate of incumbency* kien parti mill-proċedura standardizzata u li l-kljent setgħa jordna lil Mossack Fonseca biex jiġi provdut dan iċ-ċertifikat bħala parti mill-pakkett ta' dokumenti li jiġi mibgħut lill-klijent akkwirenti ta' kumpanija tramite din id-ditta legali.

A.1.4.8. Konklużjonijiet : -

Il-fatt li *Egrant Inc* kienet reġistrata bħala *shelf company* b'format standardizzat tidher li toħroġ mill-mod ta' kif din il-kumpanija ġiet imwaqfa kif ukoll minn dak li xehdu impjegati tad-ditta Mossack Fonseca u d-dokumenti eżibiti minn Juergen Mossack. Biss jirriżulta li kienu saru diversi ftehim bejn Mossack Fonseca u *BTI Management Limited* għal koperazzjoni bejn dawn iż-żewġt ditti biex ikun hemm operazzjonijiet kummerċjali inkluż il-ftugħ ta' kumpaniji minn Mossack Fonseca fuq talba ta' *BTI Management Limited* sa mis-16 t'April 2013 u dan mhux biss fil-Panama iżda kull fejn Mossfon kellhom preżenza. Dan il-ftehim għalhekk jirriżulta li ġie milħuq qabel ma ġiet kostitwita l-kumpanija *Egrant Inc.*

Dan il-ftehim jipprova wkoll parti mill-*modus operandi* tad-ditta Mossack Fonseca fir-rigward ta' kif twaqqaf kumpaniji f'ġurisdizzjonijiet diversi fosthom fil-Panama u fil-*British Virgin Islands*. Jirriżulta wkoll li din id-ditta kienet tagħmel dan bħala parti mis-servizzi professjonali li kienet toffri lil ditti professjonali oħra madwar id-dinja li kienu interessati fit-tip ta' servizzi tagħha, bħal *BTI Management Limited*. Dan ħareġ ukoll mix-xiehda ta' Karl Cini.

Jirriżulta konfermat ukoll li Mossack Fonseca kienet tagħmel dan in-negozju billi twaqqaf diversi kumpaniji b'oġġettivi standard għal dawn il-klijenti tagħha li jixtru mingħandha l-kumpaniji u servizzi anċillari li hija kienet tipprovdi, fosthom servizzi ta' nominee shareholding bil-mezz ta' kumpaniji kontrollati minn nies li kienu jaħdmu jew jirċievu struzzjonijiet mingħand Avukati ta' Mossack Fonseca stess. Kemm minn qari tal-*Order form* li kienet iffirmata minn Brian Tonna fit-8 t'Awissu 2013 kif ukoll mill-verżjoni ta' de Nelson, nonche l-Avukati Chiu jew Roquebert jirriżulta li meta d-ditta Mossack Fonseca kienet tbiegħ kumpaniji bħala *shelf companies* kienet tbiegħ pakkett sħiħ imfassal xkont ix-xewqa tal-klijent u li kienu jagħmlu dawn l-attivitajiet bħala parti mir-rutina tas-servizzi li kienu joffru.

A.1.5. Id-Diretturi t'*Egrant Inc.*

Id-Diretturi ta' *Egrant Inc* kienu :

1. Ricardo Samaniego, President;
2. Yadira de Boutaud, Segretarju;
3. Yakeline Perez, Viċi President u Teżorier;
4. Yenny Martinez, Sotto-segretarju;

5. **Hercibielle Gonzales, Sotto-segretarju;**

Mix-xiehda tar-Reġistru Pubbliku tal-Panama jirriżulta li mid-data tar-reġistrazzjoni t'*Egrant Inc* l-quddiem, ma kien hemm ebda bdil fil-Bord tad-Diretturi tagħha.

A.1.5.1. Ricardo Samaniego ġie mistoqsi dwar it-twaqqif ta' *Egrant Inc* nonche min kien l-partijiet involuti fiha, l-UBO jew proprjetarji mid-data tat-twaqqif tagħha fl-4 ta' Lulju 2013 sal-jum tal-istralċ tagħha fil-15 ta' Frar 2017, kif ukoll dwar l-attivitajiet jew transazzjonijiet ta' din il-kumpanija, inkluż trasferiment magħmula jew riċevuti minn din il-kumpanija u wieġeb li **għalkemm verament kien direttur ta' *Egrant Inc*, huwa ma kellux idea dwar min kienu s-sidien ta' din il-kumpanija u wisq anqas kien jaf dwar transazzjonijiet li setgħet għamlet din il-kumpanija.** Ricardo Samaniego għalhekk ma kkonfermax dak li kien jidher mid-dokumenti tal-*Egrant Inc* li skonthom is-sid kien kien Brian Tonna.

Mistoqsi dwar jekk kienx jaf xi transazzjonijiet finanzjarji *Egrant Inc* setgħet kienet involuta fihom ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja u f'każ affermattiv x'informazzjoni setgħa jagħti dwar dan, inkluż permezz ta' dokumentazzjoni li setgħa kellu, u magħdud ukoll kull

informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat u dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min, ix-xhud wieġeb li huwa jgħid li ma kien jaf xejn dwar dan.

Mistoqsi mingħand min kien jirċievi struzzjonijiet fir-rigward ta' *Egrant Inc,* Samaniego qal li huwa kien jirċievi struzzjonijiet mingħand l-Avukati fis-sens li d-dokumenti li kien jiffirma kienu riveduti minn avukati esperti fil-qasam u huma kienu jispjegawlhom is-suġġett jtuhom il-parir jiffirmawx id-dokumenti.

Mistoqsi jagħti informazzjoni dwar kwalunkwe għarfien li setgħa kellu fuq *ATC Administrators Inc* u jekk din il-kumpanija kellhiex ishma jew parteċipazzjoni f'*Egrant Inc,* ix-xhud wieġeb li huwa ma kienx jaf dil-kumpanija!

Mistoqsi jekk kienx jagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qal li huwa kien jiftakarhom minħabba li kien iffirma bħala direttur ta' *Egrant Inc.*

A.1.5.2. Yadira de Boutaud tgħid li hija kienet tiffirma fil-kapaċita tagħha ta' direttriċi t'*Egrant Inc*, iżda ma kellhiex informazzjoni dwar din il-kumpanija, inkluż min kienu s-sidien tagħha jew dwar xi transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc*. L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Fir-rigward tal-mistoqsija mingħand min kienet tirċievi struzzjonijiet dwar *Egrant Inc*, de Boutaud tgħid li hija kienet taġixxi bħala direttur ta' *Egrant Inc* u f'din il-kapaċita, hija kienet tiffirma dawk id-dokumenti li l-messaġġier kien jeħdilha fuq id-desk tagħha. Huma kienu jġibulha d-dokumenti biss biex tiffirmahom.

Mistoqsija tagħti informazzjoni dwar kwalunkwe għarfien li setgħa kellha fuq *ATC Administrators Inc* u jekk din il-kumpanija kellhiex ishma jew parteċipazzjoni f'*Egrant Inc*, ix-xhud wieġbet li hija ma kienet taf xejn dwar dan.

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li ma kienetx tiftakarhom u ma kienetx tagħraf xejn fihom għalkemm kienet tissoponi li jekk kien hemm il-firma tagħha setgħat kienet irċeviet dawn id-dokumenti biex tiffirmahom kif kienet tagħmel regolarment kull meta kienu jibgħatulha d-dokumenti biex tiffirmahom. Ma kellha ebda informazzjoni ohra dwar dan. De Boutaud iżżid li hija ma kienetx tkun taf informazzjoni minħabba li kienet biss tiffirma bħala direttur u hi ma kienetx tirċievi aktar informazzjoni.

A.1.5.3. Hercibelle Gonzales tgħid li ma setgħetx tirrispondi minħabba li ma kienet taf xejn dwar *Egrant Inc,* inkluż min kienu s-sidien tagħha jew dwar xi transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc.* L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Mistoqsija dwar mingħand min kienet iġġib struzzjonijiet dwar *Egrant Inc,* ix-xhud tgħid li hija ma kienetx taf.

Mistoqsija tagħti informazzjoni dwar kwalunkwe għarfien li setgħa kellha fuq *ATC Administrators Inc* u jekk din il-kumpanija kellhiex ishma jew parteċipazzjoni f'*Egrant Inc*, ix-xhud wieġbet li hija ma kienet taf xejn dwar dan, Gonzales tgħid li hija ma kienetx taf għax ma kellhiex informazzjoni dwar dan peress li kienet biss involuta bħala komunikatur intern fid-dipartiment tar-relazzjonijiet umani.

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li :-

Doc 4 – (ċertifikat mir-Reġistru Pubbliku) hija għarfet li dan id-dokument kien kopja taċ-ċertifikat meħud mir-Reġistru Pubbliku, iżda ma kienetx tirrikonoxxih in kwantu huma bħala diretturi nominati dawn id-dokumenti ma kienux jgħaddi taħt idejhom.

Doc 5 – (*assignment of subscription of two shares in Egrant Inc*) hija għarfet li dan kien dokument li bħalu kien jinħarġu ħafna fl-uffiċju fejn kienet taħdem, iżda ma kienetx f'qagħda tikkonferma jekk dan id-dokument għaddhiex minn taħt idejha peress li ma kienx iġib il-firma tagħha, qalet li ma kienetx taf.

Doc 6 dan id-dokument kien iġib il-firma tagħha, iżda peress li kien dokument tal-2013 ma kienetx tiftakarx eżattament meta setgħet iffirmatu.

Ma kienetx tagħraf id-dokumenti minn doc 7 sa doc 11. Kwantu għal doc 12 tgħid li huwa ċertifikat tal-ishma, għalkemm ma kkonfermatx iċ-ċertifikat innifsu. Ma kienetx tagħraf id-doc 13 sa doc 19. Kwantu għal doc 20 tgħid li dan kien att pubbliku, iżda xorta ma kienetx taf bih.

A.1.5.4. Yenny Martinez twieġeb il-mistoqsijiet li sarulha b'mod simili għal dawk preċedenti ta' Hercibelle Gonzales, meta tgħid li ma setgħetx tirrispondi minħabba li ma kienet taf xejn dwar *Egrant Inc*, inkluż min kienu s-sidien tagħha jew dwar xi transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc*. L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Dwar min għand min kienet tieħu struzzjonijiet relattivament għal *Egrant Inc*, ix-xhud qalet li fl-uffiċju fejn kienet taħdem kien hemm proċedura stabbilita fejn dejjem kien ikun hemm avukat li kien jivverifika id-dokumenti

imbagħad kienu jgħaddu dawn id-dokumenti għall-firem tagħha skont in-natura tas-servizz li hi kienet toffri – jew bħala direttur nominali jew bħala segretarju.

Mistoqsija tagħti informazzjoni dwar kwalunkwe għarfien li setgħa kellha fuq *ATC Administrators Inc* u jekk din il-kumpanija kellhiex ishma jew parteċipazzjoni f'*Egrant Inc,* ix-xhud wieġbet li hija ma kienet taf xejn dwar dan.

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li ma kienetx tiftakarhom eżattament u dan għaliex hija kienet taġixxi bħala direttur nominali u wkoll ma kienx possibbli għaliha li tiftakar id-dokumenti kollha li kienet iffirmat peress li hija kienet involuta f'ħafna kumpaniji. Biss kienet tagħraf il-firma tagħha fuq id-dokument numru 6 li huwa minuti tal-laqgħa tal-bord tad-diretturi t'*Egrant Inc.*

A.1.5.5. Yakeline Perez tixhed li ma kellhiex informazzjoni disponibbli għaliha dwar din il-kumpanija *Egrant Inc,* inkluż min kienu s-sidien tagħha. u għalhekk ma kienetx f'qagħda li tikkonferma informazzjoni. Kwantu għal xi tagħrif dwar transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc.* u li kienet setgħet taf bihom ix-xhud, din tgħid li f'termini ta'

tranżazzjonijiet, kien l-istess klijent li kien jittrattahom u jagħmilhom, u peress li ma kellhiex il-file in kwistjoni, ma setgħax tirrispondi għall-mistoqsija.

L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Fuq il-mistoqsija dwar mingħand min kienet iġġib l-istruzzjonijiet fir-rigward tal-kumpanija Egrant Inc, ix-xhud wieġbet li hija setgħet tagħti informazzjoni b'mod ġenerali. L-informazzjoni dwar it-twaqqif ta' kumpanija kienu jirċevuha mingħand il-klijent innifsu. Il-proċedura tagħhom kienet li l-klijent jew l-amministratur tiegħu kien jagħti l-istruzzjonijiet fuq il-kumpanija. Biss fir-rigward ta' *Egrant Inc* ma setgħetx tagħti aktar informazzjoni għax ma kellhiex il-file relattiv u l-anqas kellha aċċess għas-sistemi tal-uffiċju.

Mistoqsija tagħti informazzjoni dwar kwalunkwe għarfien li setgħa kellha fuq *ATC Administrators Inc* u jekk din il-kumpanija kellhiex ishma jew

parteċipazzjoni f'*Egrant Inc*, ix-xhud wieġbet li hija ma kellhiex informazzjoni dwarha, għalkemm kien jidhirlha li *ATC Administrators Inc* kienet soċjeta tagħhom, għal użu intern. Biss ma setgħetx tistabbilixxi relazzjoni bejn *ATC Administrators Inc* u *Egrant Inc*.

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li kwantu għal dak li jirrigwarda d-doc 4, hija kienet tagħraf li hija kienet parti mill-Bord tad-Diretturi t'*Egrant Inc* u dan kien jidher kemm mill-artikoli tal-inkorporazzjoni ta' *Egrant Inc* kif ukoll miċ-ċertifikat tar-Reġistru Pubbliku.

Għarfet ukoll doc 5 li kien id-dokumenti li bih ġew trasferiti s-*subscription shares* ta' *Egrant Inc* u dan kien jifforma parti mill-pakkett li l-klijent kien ordna.

Kwantu għad-doc 6, dan kien jikkostitwixxi kopja ta' prokura li fuqha kien jidher isimha u għarfet ukoll il-firma tagħha u fuq dan id-dokument kienu qegħdin jingħataw poteri lil persuni li hi ma kienetx taf min huma. Iżda bażata fuq dak li rat fid-dokument, peress li hi kienet parti mill-Bord u d-diretturi huma dawk mogħtija s-setgħa li jagħtu l-poter, dawn għandhom jitqiegħdu fil-fajl korrispondenti jew l-istruzzjonijiet tal-klijent għal dan.

Għarfet ukoll id-doc 7 bħala dak id-dokument li bis-saħħa tiegħu il-klijent jindennizzahom għas-servizzi li jkunu qegħdin jipprestaw bħala segretarji jew bħala diretturi.

Għalkemm fehmet x'inhu d-doc 8, u ċjoe dikjarazzjoni mingħand *ATC Administrators Inc,* hija ma għarfitx dan id-dokument.

Id-doc 9 kien traduzzjoni għall-ingliż taċ-ċertifikat maħruġ mir-Reġistru Pubbliku li kien jikkorrispondi għad-doc 4. Doc 10 kien ċertifikat tal-aġent reġistrat. Id-doc 11 sa 15 kienu dokumenti korporativi li kienu jiġu bħala parti mill-pakkett ta' dokumenti fil-mument meta jkun sar it-trasferiment tal-kumpanija; u f'dan il-każ kien jirreferi għal *Egrant Inc.*

Kwantu għal doc 17, ix-xhud tgħid li grazzi għal ftit ingliż li kienet taf, dan kien dokument li fih is-sid aħħari kien qiegħed jikkomunika ma Mossack Fonseca fuq il-kwalita tiegħu ta' sid aħħari; u l-istess setgħa jingħad għad doc 18 u 19. Id-doc 20 kien jikkostitwixxi l-iskrittura tal-istralċ tal-*Egrant Inc* li kienet ġiet reġistrata mar-Reġistru Pubbliku.

A.1.5.6. Konklużjonijiet mix-xiehda tad-Diretturi t'Egrant Inc

Mix-xiehda tad-Diretturi t'*Egrant Inc* jirriżulta li ħadd minnhom ma kien jaf eżattament min kien l-*UBO* ta' din il-kumpanija u min kien dak inkarigat li jagħti struzzjonijiet għal din il-kumpanija. Mix-xiehda tagħhom joħroġ li dawn kienu jkunu involuti biss biex jiffirmaw dokumenti varji li kienu jiġu mgħoddija lilhom mid-Dipartimenti varji tad-ditta Mossack Fonseca u li ma kienx ikollhom involviment dirett veru fit-tmexxija tal-kumpaniji li għalihom kienu jiffirmaw id-dokumenti. Ħadd minnhom ma kien jaf iwieġeb għal mistoqsijiet bażiċi, għalkemm importanti, dwar l-amministrazzjoni ta' din il-kumpanija u dwar aspetti ta' transazzjonijiet finanzjarji – li normalment ikunu meritu ta' responsabbilta tad-Diretturi ta' kumpanija jew almenu jkun mistenni minnhom li jkollhom għarfien dwarhom. Dawn jidhru li kienu persuni li kienu joqogħdu bħala Diretturi jew Uffiċjali ta' kumpaniji biss għan-nom u ma kienux ikunu direttament involuti fl-operat u tmexxija ta' dawn il-kumpaniji. Ħadd ma kien jaf jgħid sewwasew mingħand min kienu jieħdu l-ordnijiet biex jiffirmaw dokumenti jew jaġixxu fil-kapaċitajiet rispettivi tagħhom.

A.1.6. Ir-rwol ta' *ATC Administrators Inc* bħala azzjonisti ta' *one issued share* minn *Egrant Inc*

Minn naħa l-oħra sar ukoll tentattiv biex jiġu interrogati Leticia Montoya u Yvette Rogers bħala rappreżentanti ta' *ATC Administrators Inc.*

A.1.6.1. Leticia Montoya ġiet mistoqsija dwar jekk kienetx taf bl-ittra ta' Brian Tonna datata 19 ta' Jannar 2017 (doc 18) u jekk kienetx deheret personalment fuq l-att pubbliku relattiv għall-istralċ ta' *Egrant Inc* u f'każ li hija ma deheritx personalment min deher f'isimha, u wieġbet li minn naħa tagħha ma kienetx ratu jew ġie f'idejha iżda dan kien magħmul mill-persuna li ħadmet fuq l-iskrittura tal-istralċ ta' din il-kumpanija. Din hija s-setgħa li persuna ingħatat sabiex tiffirma l-minuti fl-assenza tal-azzjonisti; xi ħaġa ta' rutina. Hi ma kienetx preżenti u ma tafx min kien preżenti.[149]

Mistoqsija dwar jekk kellhiex informazzjoni dwar *Egrant Inc,* inkluż min kienu s-sidien tagħha jew dwar xi transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc* Montoya tgħid li ma kellhiex informazzjoni dwar dan. L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-

[149] L-istess ġiet mistoqsija Francis Perez li qalet li ma kienetx taf bil-prokura mogħtija lilha minn Brian Tonna biex tkun tista' taġixxi ta' stralċjarja kif jidher f'doc 19. L-ewwel darba li kienet rat dak id-dokument kien meta marret tixhed quddiem l-Awtorita Ġudizjarja Panamensi.

preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Fir-rigward tal-mistoqsija mingħand min kienet tirċievi struzzjonijiet dwar *Egrant Inc,* Montoya tgħid li kienet tirċievi direttament minn kulħadd!

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li doc 4 kien ċertifikat mir-Reġistru Pubbliku filwaqt li doc 5 kien id-dokument tas-*subscription of shares* u li kien jintuża meta l-kumpanija hija inkorporata, u fejn l-ishma jingħad li huma *bearer*, id-dokument li jsegwi huwa l-att ta' twaqqif tal-kumpanija. Id-doc 6 huwa d-dokument li bih il-Bord tad-Diretturi qed jagħti s-setgħat lil Brian Tonna. Id-doc 7 huwa dokument li bih il-klijent jiffirma li jindennizza lid-diretturi li jidhru għalih fil-kumpanija għal dak li jagħmlu għal kumpanija. Id-doc 8 huwa dokument li huwa wkoll iffirmat fejn jingħad li xi ħadd huwa l-benefiċjarju tal-kumpanija u għandu ċertifikati ta' ishma tant, u jista' jkun il-firma tiegħi bħal din mhix oriġinali. Id-doc 9 huwa ċ-ċertifikat mir-Reġistru Pubbliku. Id-doc 10 huwa c-*certificate of incumbency* fejn l-aġent reġistrat jikkonferma dak li jkun jidher fl-istatut tal-kumpanija u li jkun ġie reġistrat mar-Reġistru Pubbliku. Id-doc 11 huwa dokument li huwa intiż li jiċċertifika li l-kumpanija ma tkunx għamlet negozju fil-Panama. Doc 12 huwa ċ-ċertifikat tal-ishma li jkunu ħarġu. Doc 13 huwa r-reġistru tal-azzjonijiet li jkunu ġew

maħruġa jew kanċellati. Doc 14 huwa d-dokument li bih id-diretturi jawtorizzaw il-ħruġ taċ-ċertifikati jew taċ-ċertifikat. Doc 15 huma traduzzjoni bl-ingliż tal-istatut tal-kumpanija. Doc 16 huwa ċertifikat jew dokument li jinħareġ bid-data tal-kumpanija jew jekk hemm poteri maħruġa. Doc 17 huwa dokument fejn il-klijent talab għall-istralċ tal-kumpanija. Doc 18 huwa d-dokument li permezz tiegħu il-klijent qiegħed jagħti s-setgħa lil persuni dežinjati sabiex jipproċedu għall-istralċ. Doc 19 din hija l-ewwel darba li kienet rat dan id-dokument. Tgħid li dan huwa dokument iffirmat mill-klijent li permezz tiegħu inħareġ fil-każ li kienet meħtieġa xi kjarifikatorja. Doc 20 huwa l-att pubbliku li bih ġiet stralċjata *Egrant Inc.*

A.1.6.2. Yvette Rogers ġiet mistoqsija dwar jekk kellhiex informazzjoni dwar *Egrant Inc,* inkluż min kienu s-sidien tagħha jew dwar xi transazzjonijiet finanzjarji li fihom setgħet kienet involuta *Egrant Inc* Rogers wieġbet li ma kellhiex informazzjoni dwarha. L-anqas kienet taf jekk *Egrant Inc* setgħetx kienet involuta, jew kellhiex xi relazzjoni ma istituzzjonijiet ta' kreditu fil-Panama jew madwar id-Dinja jew informazzjoni dwar kontijiet bankarji li *Egrant Inc* setgħa kellha fil-preżent jew fil-passat jew dwar transazzjonijiet finanzjarji li setgħet kienet involuta fihom, u f'każ pożittiv ma min.

Fir-rigward tal-mistoqsija mingħand min kienet tirċievi struzzjonijiet dwar *Egrant Inc,* Rogers tgħid li hi l-anqas biss kienet direttriċi ta' din il-kumpanija.

Mistoqsija jekk kienetx tagħraf id-dokumenti eżibiti doc 4 sa doc 20, ix-xhud qalet li doc 4 kien ċertifikat mir-Reġistru Pubbliku filwaqt li doc 5 kien id-dokument tat-trasferiment tas-*subscription of shares* u kien hemm ukoll l-att pubbliku (ta' twaqqif tal-kumpanija). Id-doc 6 huwa d-dokument tal-Bord tad-Diretturi qed jagħti l-prokura lil Brian Tonna. Id-doc 7 huwa dokument t'indennizz. Id-doc 8 huwa dokument li huwa wkoll iġib il-firma li tidher li hija tagħha, għalkemm din kienet kopja. Id-doc 9 huwa traduzzjoni taċ-ċertifikat mir-Reġistru Pubbliku. Id-doc 10 huwa c-*certificate of incumbency*. Id-doc 11 huwa dokument li juri l-attivitajiet tal-kumpanija. Doc 12 huwa ċ-ċertifikat tal-ishma. Doc 13 huwa r-reġistru tal-azzjonijiet. Doc 14 huwa d-dokument tad-diretturi. Doc 15 huwa l-istatut tal-kumpanija. Doc 16 ma setgħat tagħraf x'kien. Doc 17 fehmet li kien xi dokument tal-benefiċjarju tal-kumpanija *Egrant Inc*. Doc 18 huwa prokura mogħtija mill-benefiċjarju. Doc 19 hija karta maħruġa mill-benefiċjarju. Doc 20 huwa att pubbliku. Spiċċat biex qalet li hi kienet tirċievi struzzjonijiet mingħand il-klijenti, għalkemm f'dan il-każ ma kienetx taf min kien il-klijent.

A.1.6.3. Konklużjonijiet mix-xiehda tar-rappreżentanti ta' *ATC Administrators Inc*

Indefinittiva, l-anqas ir-rappreżentanti ta' *ATC Administrators Inc*, li l-firma tagħhom dehret fuq dokumenti maħruġa għal *Egrant Inc* ma kienu jafu jwieġbu sewwa sew għall-kweżiti l-aktar importanti għal din l-inkjesta in kwantu jixhdu li ma kellhomx informazzjoni dwar min kien l-*UBO* tal-*Egrant Inc* jew xi transazzjonijiet finanzjarji setgħu saru minn *Egrant Inc.* Dan kollu f'kuntest fejn id-dokumenti kienu juru li Brian Tonna kien is-sid aħħari ta' *Egrant Inc.*

Mill-banda l-oħra, dawn id-diversi funzjonarji jikkorroboraw wieħed lill-ieħor fis-sens li huma ma kienux ikunu direttament involuti fl-operat tal-kumpaniji varji u li wħud minnhom kienu jirċievu struzzjonijiet mingħand l-Avukati tal-Mossack Fonseca. Huwa sinjifikanti f'dan il-versant li mix-xiehda tal-Avukat Luis Quiel, li jidher li kien involut fil-kollaborazzjoni bejn Mossack Fonseca u *BTI Management Limited* u Karl Cini sa mill-bidu nett tal-koperazzjoni bejniethom, jgħid li id-doc 8 u ċjoe l-ittra li kienet ġiet mibgħuta minn *ATC Administrators Inc* lil Brian Tonna datat 8 t'Awissu 2013 (u li fiha kien hemm imniżżel min kien *id-detentur reali tal-ishma*) li dik hija ċertifikazzjoni valida, u tikkorrobora b'mod effettiv l-informazzjoni li kienet tinsab fl-arkivji tad-ditta Mossack Fonseca. Luis Quiel ikkonferma li dik l-informazzjoni għandha tkun ukoll fil-*files* ta' Mossack Fonseca. Għalkemm id-doc 8 huwa biss kopja, Luis Quiel ikkonferma definittivament li l-firma fuq dak id-dokument

kienet tiegħu. B'hekk skont Luis Quiel, l-Avukat direttament involut f'diversi mill-operazzjonijiet li saru bejn Mossack Fonseca u *BTI Management Limited* u Karl Cini jikkorrobora dak li qalu Brian Tonna u Karl Cini fir-rigward tal-fatt li Brian Tonna kien is-sid aħħari t'*Egrant Inc.*

A.1.7. Id-dokumenti eżibiti mir-Reġistru Pubbliku tal-Panama jaqblu ma dawk misjuba fil-faxxiklu tal-*Egrant Inc* sekwestrat mill-Uffiċini ta' Nexia BT.

Id-dokumenti eżibiti mir-Reġistru Pubbliku tal-Panama kienu jikkonfermaw u jaqblu ma dokumenti oħra analogi ottjenuti fil-kors ta' din l-inkjesta, inkluż mill-faxxiklu stampat relattiv għall-kumpanija *Egrant Inc* li ġie elevat mill-Uffiċji tad-Ditta Nexia BT, nonche mix-xiehda ta' Brian Tonna u ta' Karl Cini, nonche dokument oħra sottomessi minnhom. Dan jingħad fir-rigward tal-mod ta' kif il-kumpanija *Egrant Inc* kienet ġiet kostitwita, il-kapital soċjali tagħha, il-fatt li kienet kumpanija bil-possibilta' ta' ħruġ ta' ishma *nominative* jew *bearer*, id-data tat-twaqqif tagħha, min kienu s-*subscribers* tagħha, min kienu d-diretturi u l-uffiċjali tagħha mid-data tat-twaqqif sad-data tal-istralċ tagħha, inkluż ir-rappreżentanza ġuridika tagħha u min kien l-aġent reġistrat ta' *Egrant Inc* fil-Panama.

A.2.1. Konklużjonijiet milħuqa mill-ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet Ġudizzjarji tal-Panama

A.2.1.1. Il-kopja tar-reġistru tal-ishma t' *Egrant Inc*

Wieħed mid-dokumenti li kien ġie mgħoddi lil minn Brian Tonna kien jikkonsisti f'kopja tar-reġistru tal-ishma t'*Egrant Inc.* Ħassejt li kelli nivverifika dan id-dokument mal-persuna li tagħha kienet tidher il-firma fuqu u ċjoe l-Avukat Josette Roquebert, li kienet diġa xehdet fl-atti tal-ittra rogatorjali oriġinali.

A.2.1.1.1. L-Avukat Josette Roquebert reġgħet ġiet mitkelma nhar is-17 ta' Jannar 2018 u ġiet mistoqsija mistoqsija tixhed dwar id-doc 2 u ċjoe ċ-ċertifikat maħruġ minn *MF Legal Services* bħala aġent reġistrat t'*Egrant Inc* li bih ġie allegatament konfermat li r-reġistru tal-ishma kien kopja fidila tar-reġistru tal-ishma oriġinali tal-kumpanija maħruġ nhar id-9 ta' Lulju 2013 u kien ukoll il-verżjoni valida li kienet teżisti nhar id-19 ta' Jannar 2017 meta *Egrant Inc* kienet ġiet stralċjata.

Roquebert wieġbet li mill-memorja ma setgħetx tikkonferma il-kontenut ta' dan iċ-ċertifikat għaliex bħalu kienu jinħarġu ħafna għall-kumpaniji kollha li għalihom *MF Legal Services* kienet toqgħod bħala aġent residenti. Għaldaqstant kull jum kien ikollha tiffirma ċertifikati ta' dan it-tip għal diversi kumpaniji u dan fil-kapaċita tagħha ta' firmatarja awtorizzata ta' *MF Legal Services*. Tgħid ukoll li hi ma tkunx il-persuna inkarigata mill-proċess innifsu, hemm assistent responsabbli mill-immaniġġjar tal-proċess dak iż-żmien, li jirrevedi l-fajl u joħroġ id-dokument mitlub mill-klijent skond dak li jara fil-fajl jew huwa inkluż fil-fajl; iżda l-proċedura innifisha mhix magħmula minn din ix-xhud. Mistoqsija tgħid min kien dan l-assistent li kien jagħmel dan ix-xogħol, Roquebert wieġbet li ma kienetx tiftakar mill-memorja tagħha u kien meħtieġ li wieħed jikkonsulta l-files tad-Ditta legali sabiex ikun stabbilit min kien l-uffiċjal inkarigat.

Mistoqsija minn meta kienet saret rappreżentant ta' *MF Legal Services*, Roquebert wieġbet li kienet minn meta bdiet taħdem magħhom fl-2008. Mistoqsija tgħid x'kien ix-xogħol tagħha ma *MF Legal Services* u minn meta bdiet, ix-xhud tgħid li hija kienet bdiet taħdem fl-2008 u hi kienet responsabbli mid-dipartiment tal-kumpaniji. Parti mix-xogħol tagħha kien jinvolvi l-aspett amministrattiv u operattiv ta' dan id-dipartiment.

Minn din ix-xhieda tal-Avukat Josette Roquebert iċ-ċertifikat tar-reġistru tal-ishma depożitat fl-atti tal-inkjesta minn Brian Tonna ma setgħax jiġi konfermat minnha, għaliex tgħid li bħalu kienet tiffirma ħafna bħala parti mix-xogħol tagħha. Biss minn naħa l-oħra ma ċaħditx li l-firma fuq id-dokument kienet tagħha jew li ma kienetx hi li ffirmat dan id-dokument. Mill-banda l-oħra minn *e-mails* konsenjati lill-inkjesta mill-Awtoritajiet tal-Ġermanja irriżulta li Roquebert kienet fil-fatt konxja minn talbiet li kienu sarulha minn Karl Cini għal dan iċ-ċertifikat, minn fejn jirriżulta wkoll li huwa kien talab li għal menu dan it-timbru jkun iffirmat. Prima faciae għalhekk jidher li dan iċ-ċertifikat inħareġ minn Mossack Fonseca u ġie ffirmat mill-Avukat Josette Roquebert skont informazzjoni li kellhom fil-files relattivi.

A.2.1.2. Il-bidla fil-*Micro-jacket* number tal-*Egrant Inc* – l-"(S)" li ma kienetx oriġinarjament parti minn numru u li pero dehret fil-kopji tad-*declarations of trust*

Punt ieħor interessanti li kien ħareġ minn eżami tal-kopji tad-*declarations of trust* depożitata fl-atti tal-inkjesta minn Pierre Portelli kien il-fatt li l-*micro-jacket number* tal-*Egrant Inc* miktub fuqhom, u a differenza ta' dak li kien jidher fid-dokumenti t'inkorporazzjoni oriġinali u sussegwenti li l-inkjesta kienet ġja stabbiliet l-eżistenza tagħhom (u li issa ġew ikkonfermati bid-

dokumenti miġjuba mill-Awtoritajiet tar-Reġistru Pubbliku tal-Panama), kien iġib in-numri 807956**S.** Għalhekk kien meħtieġ jiġi stabbilit jekk dan kienx xi żball ta' tipa, jew inkella kienx intenzjonalment miktub minn min għamel dawn id-*declarations of trust*. Jekk kien hekk, ried jiġi stabbilit għaliex kien hemm dan in-numru differenti.

A.2.1.2.1. Għal dan il-għan ġiet mismugħa Katja Solis, li nhar it-18 ta' Jannar 2018 wieġbet li meta kienet ġiet reġistrata oriġinarjament il-kumpanija *Egrant Inc*, in-numru tar-reġistrazzjoni tagħha (ossija l-*micro-jacket number*) kien 807956. Biss meta r-Reġistru Pubbliku bidlu s-sistema tagħhom fl-2014, il-moduli kollha reġistrati qabel dik id-data fis-sistema ġew identifikati b'ittri. Fil-każ ta' kumpaniji, dawn ġew identifikati bl-ittra "S". Għalhekk fir-Reġistru Pubbliku tal-Panama, mill-2014 il-quddiem in-numru ta' *Egrant Inc* issa kien jidher miktub bin-numru 807956(S) li huwa n-numru tas-sistema l-ġdida.

Minn din ix-xhieda jirriżulta li min għamel id-*declarations of trust* ġab informazzjoni dwar *Egrant Inc* li kienet bilfors ħarġet wara li r-Reġistru Pubbliku tal-Panama kien biddel il-modalita tan-numri tar-reġistrazzjoni kif spejgat aktar il-fuq. Altrimenti kien jistrieħ fuq in-numru oriġinali tar-reġistrazzjoni tal-*Egrant Inc* skont kif kien jinstab fir-Reġistru Pubbliku

tal-Panama, fil-faxxikoli ta' Nexia BT u ta' Mossack Fonseca mnejn ir-riferenza għall-micro jacket number ma kienetx iġġib l-ittra "S".

A.2.1.3. Id-dikjarazzjoni tal-posizzjoni azzjonistika u soċjali tal-*Egrant Inc* maħruġa mill-*ATC Administrators* dwar l-istess *Egrant Inc* wara li din ġiet stralċjata

Minbarra dan ried jiġi stabbilit ukoll jekk id-dokument maħruġ mill-*ATC Administrators Inc* li kien jiċċertifika li *ATC Administrators Inc* :

(a) kienu dejjem l-azzjonist waħdieni t'*Egrant Inc;*

(b) li l-*UBO* ta' din il-kumpanija kien vestit fi Brian Tonna;

(c) li ma kien hemm ebda trasferiment tal-*UBO* minn isem Brian Tonna lil terzi;

(d) li *Egrant Inc* kienet ġiet xolta permezz ta' reżoluzzjoni datata 19 ta' Jannar 2017 u li ġiet debitament reġistrata mar-Reġistru Pubbliku tal-Panama;

kienx dokument awtentiku u veritjier.

Għalhekk ġew mitluba li jinstemgħu Edilberto Reyes u Olga Londono li tagħhom id-dokument 4 iġib il-firem.

A.2.1.3.1. Edilberto Reyes xehed nhar id-19 ta' Jannar 2018 fejn wara li ġie mistoqsi fuq id-dokument 4, huwa wieġeb li din hija kopja, u li fiha l-firma tiegħu u fil-fatt il-proċess li jiġi eżegwit minn dipartiment legali, imbagħad jgħaddi għal għand avukat u aktar tard ma tgħaddilhomx għall-firma. Ix-xhud qal li huma joffru biss servizz ta' dokumentazzjoni bħal dan li jiġi ffirmat kuljum. Ix-xhud jgħid li huwa ma jitkellimx bl-Ingliż.

Mistoqsi jwieġeb jekk huwa kienx fehem il-kontenut tad-dokument li huwa ffirma, Reyes jgħid li mhux għal kollox; iżda kien ġie spjegat lilu mid-dipartiment legali li dan kien jikkonsisti f'dokument li kien jgħid li Brian Tonna kien il-benefiċjarju u li l-Kumpanija *Egrant Inc* kienet ser tiġi stralċjata. Jgħid ukoll li kien hemm diversi skrivani li attendew diversi każijiet fl-istess ħin, għalhekk l-isem tagħhom ma kienx jiftakru, għalkemm kien biss mid-dipartiment legali. Ikkonferma wkoll li din is-sitwazzjoni kienet waħda normali fl-uffiċju tagħhom u kienet issir b'ċerta frekwenza.

A.2.1.3.2. Olga Londono xehdet nhar is-26 ta' Jannar 2018. Mistoqsija dwar id-dokument 4 din qalet li rat li kien hemm il-firma tagħha, għalkemm kienet

murija kopja u mhux l-oriġinal. Tgħid ukoll li kienet tifhem bl-ingliż u kienet fehmet il-kontenut tad-dokument 4. Dan id-dokument kien jgħid li l-benefiċjarju aħħari ta' *Egrant Inc* kien Brian Tonna, li huwa kien is-sid ta' l-ishma ta' din il-kumpanija, kif ukoll li din il-kumpanija kienet ġiet xolta permezz ta' riżoluzzjoni tal-azzjonisti tagħha liema stralċ ġie debitament reġistrat mar-Reġistru Pubbliku. Mistoqsija x'kellha xi tgħid fir-rigward ta' kif dik it-talba kienet ġiet magħmula, Londono tgħid li hija kienet toffri servizzi segretarjali lid-Ditta Legali. Dawn id-dokumenti kienu jintbagħtu mid-Dipartiment tal-kumpaniji u dawn ikunu riveduti minn avukat. Qalet ukoll li hija kienet timmaġina li l-avukat kien jagħmel dan fuq talba tal-klijent, jew xi ħaġa simili. Mistoqsija tgħid isem l-avukat jew avukati li kienu involuti fir-reviżjoni ta' dawn id-dokumenti, ix-xhud twieġeb li ma kienetx taf; iżda ġeneralment kienu jkunu l-avukati li jkunu hemmhekk dak il-ħin għax ma kien hemm ħadd speċifikament inkarigat minn dan ix-xogħol ta' reviżjoni. Mistoqsija jekk din kienetx xi proċedura normali jew kienetx issir b'mod frekwenti fuq il-post tax-xogħol tagħha, ix-xhud wieġbet fil-pożittiv u ġeneralment dawn id-dokumenti kienu jiġu riveduti minn avukat.

A.2.1.3.3. Konklużjonijiet mix-xiehda ta' Edilberto Reyes u Olga Londono

Mix-xiehda ta' Edilberto Reyes u Olga Londono għal *ATC Administrators Inc*, jirriżulta li dawn ma kienux ċari fi kliemhom mhux daqstant li kienu

ħarġu d-dokument de quo daqskemm fuq l-għarfien tagħhom tal-kontenut tiegħu. Anke f'dawn id-deposizzjonijiet ħareġ ċar li dawn innies kienu jiġu mqabdin minn Mossack Fonseca biex jiffirmaw dokumenti li qajla jkollhom għarfien sħiħ tal-kontenut tagħhom. Bħal ma diġa ġie stabbilit fir-rigward tax-xiehda tad-Diretturi t'*Egrant Inc*, anke dawn li huma rappreżentanti ta' *ATC Administrators Inc* kienu jkunu jirċievu struzzjonijiet mingħand l-Avukati ta' Mossack Fonseca sabiex jiffirmaw għadd ta' dokumenti bħala parti mir-rutina tas-servizzi li kienu jagħtu lil Mossack Fonseca, (liema Avukati jibqgħu mhux identifikati mix-xhieda), liema struzzjonijiet huma kienu jobdu u jiffirmaw dokumenti meta ma jkunux jafu sewwa sew il-kontenut u l-veraċita tad-dikjarazzjonijiet li jkunu qegħdin isiru. Minn din ix-xiehda joħroġ ukoll li dawn il-persuni kienu jistrieħu fuq ix-xogħol li jkunu għamlu l-Avukati tal-Mossack Fonseca li kienu xi drabi jispjegawlhom, donnu mhux f'wisq dettall il-kontenut tad-dokumenti li jkunu qegħdin jiffirmaw. Jidher li din kienet prattika kostanti fl-operat ta' din id-ditta. L-attendibilita ta' dawn id-dokumenti għalhekk tkun trid tistrieħ mhux daqstant fuq dak li l-persuni li l-firem tagħhom ikunu jidhru fuq id-dokument daqskemm fuq ix-xogħol li jkun sar mill-Avukati tad-Ditta Mossack Fonseca, li pero jibqgħu mhux identifikati. Dawk l-Avukati li ġew intervistati u li kienu direttament involuti f'dan il-każijiet ta' *Egrant Inc* intwera li ftit li xejn kienu jagħtu dettalji speċifiċi – għajr għax-xiehda tal-Avukat Luis Quiel li kkonferma min kien il-klijent.

A.2.1.4. L-użu tal-indirizz ta' Nexia BT f'San Ġwann, Malta għall-iskop tad-*declarations of trust* tal-*Egrant Inc*

L-indirizz tal-*Egrant Inc* indikat fuq il-kopji tad-*declarations of trust* mogħtija lili kien dak ta' Nexia BT u mhux l-indirizz uffiċjali ta' *Egrant Inc* reġistrat fil-Panama skont ma kienu jixhdu d-dokumenti uffiċjali ta' *Egrant Inc* reġistrati fir-Reġistru Pubbliku tal-Panama u fil-faxxikli ta' Mossack Fonseca u Nexia BT. Għalhekk ġie mitlub li jitressaq rappreżentant ta' Mossack Fonseca sabiex jispjega jekk kienetx prattika normali għal Mossack Fonseca li meta jagħmlu dikjarazzjonijiet simili għal dawk in disamina kienux jużaw indirizzi oħra għajr dak indikat b'mod uffiċjali fuq id-dokumenti t'inkorporazzjoni tal-kumpaniji inkorporati u mibjugħa minnhom.

A.2.1.4.1. Jeurgen Mossack xehed bi tweġiba għal dan il-kweżit fit-30 ta' Jannar 2018. Mistoqsi jekk kienx jaf bil-kumpaniji *Aliator S.A.* u *Dubro Limited S.A.*, Jeurgen Mossack wieġeb fin-negattiv.

Meta saritlu riferenza għall-fatt li l-indirizz tal-*Egrant Inc* imsemmi kien dak ta' Nexia BT u mhux dak reġistrat fil-Panama skont ma kienu jixhdu d-dokumenti uffiċjali ta' *Egrant Inc.* dan ix-xhud wieġeb li r-raġuni kienet li l-

utent jew il-klijent ta' din il-kumpanija kienu f'Malta. Mossack ikkonferma li Nexia kienu klijenti tad-Ditta tiegħu u kienu Nexia li kienu talbu għat-twaqqif tal-kumpanija *Egrant Inc.* u għal din ir-raġuni kien qiegħed jassumi li kienet qed tidher is-sede ta' Malta. Qal ukoll li minn perspettiva ta' persuna mhux mill-Panama, għalkemm din il-kumpanija hija kostitwita għal klijent li joqgħod barra l-Panama, kien normali li jitqiegħed l-indirizz tal-aġent residenti tal-kumpanija (allura l-indirizz ta' Mossack Fonseca f'dan il-każ) daqslikieku kienet il-post fejn il-kumpanija teżerċita attivitajiet meta fil-verità l-attivitajiet jiġu eżerċitati fil-post fejn ikun jirrisjedi l-klijent.

Mistoqsi jgħid jekk kienetx prattika normali għal Mossack Fonseca li jużaw indirizz differenti minn dak reġistrat tal-kumpanija skont kif jidher fid-dokumenti t'inkorporazzjoni, Mossack jgħid li l-persuni li huma l-utenti tal-kumpaniji li huma kostitwiti fil-Panama, huma dawk li jiddeċiedu li jpoġġu l-indirizz tal-aġent residenti fil-Panama bħala dak li kien il-post minn fejn topera l-kumpanija meta fir-realta r-rwol tal-aġent residenti huwa biss dak li jħallas it-taxxa annwali tal-kumpaniji lil gvern tal-Panama u li jżomm il-komunikazzjoni mal-klijent sabiex jiġi mħarsa l-liġijiet riċenti dwar l-eżerċizzju tad-due diligence u f'ebda każ dawn il-kumpaniji ma realment joperaw mill-Panama.

A.2.1.4.2. Konklużjonijiet mix-xiehda ta' Juergen Mossack dwar l-użu tal-indirizz ta' Nexia BT f'San Ġwann, Malta fuq il-kopji tad-*declarations of trust*

Mix-xiehda ta' Jeurgen Mossack għalhekk joħroġ li huwa ma kellux idea min kienu l-kumpaniji *Aliator S.A.* u *Dubro Limited S.A.* Din kienet stqarrija kemxejn sorprendenti għaliex dan id-diriġent ta' Mossack Fonseca kont nistenna li jkun jaf min huma dawn il-kumpaniji li kienu involuti direttament fix-xogħol t'inkorporazzjoni ta' kumpaniji mid-ditta tiegħu.

Ħareġ ukoll li Jeurgen Mossack ġie muri l-kopja tad-*declarations of trust* annessi mar-rogatorja, għalkemm huwa ma daħalx fuq il-punt jekk kienux awtentiċi jew le, ikkonkluda li l-indirizz t'*Egrant Inc* kif kien jidher fuq dawn id-dikjarazzjonijiet kien f'Malta għaliex il-klijenti kienu Nexia BT u kienu Maltin u għal dan il-għan kien qiegħed jassumi li f'dawn id-dikjarazzjonijiet kienet qed tidher is-sede ta' Malta. Biss normalment fil-prattika normali, l-utenti tal-kumpaniji kostitwiti fil-Panama kienu jniżlu l-indirizz tal-aġent residenti tal-kumpanija fil-Panama daqslikieku kien il-post fejn il-kumpanija teżerċita attivitajiet meta fil-verità l-attivitajiet jiġu eżerċitati band'oħra u meta r-rwol tal-aġent resident kien dak li jara li

jitħalsu t-taxxi lil gvern tal-Panama nonche li jagħmlu eżerċizzju ta' *due diligence*.

A.2.1.5. L-awtentiċita u l-attendibbilita tal-kopji tad-*declarations of trust* depożitati fl-atti tal-inkjesta minn Pierre Portelli flimkien ma dikjarazzjoni redatta minnu.

Kif diġa intqal, l-aktar punt kruċjali għal din l-ittra rogatorjali supplimentari kienet sabiex tistħarreġ fid-dettall l-awtentiċita o meno tal-kopji taż-żewġt *declarations of trust* li kienu fil-bażi tal-allegazzjonijiet ta' Daphne Caruana Galizia li s-sid aħħari tal-ishma ta' *Egrant Inc* kienet Michelle Muscat iżda bl-ishma tagħha miżmuma għaliha minn *Mossack Fonseca nominees*.

Persuna li setgħet titfa' dawl fuq dan kienet l-istess Jaqueline Alexander u għalhekk din ġiet ikkonfrontata b'dawn iż-żewġt dokumenti u intalab lill-Awtoritajiet tal-Panama sabiex jistaqsuha s-segwenti mistoqsijiet :

1) To hear as witness **Jaqueline Alexander**, bearer of the Panamanian identity card with number 8-729-1090, with the aim of:

➢ confirming or otherwise the fact that she wrote and signed the original documents shown in copy in Annex 'Doc. 1';

- confirming or otherwise the contents of the said Annex 'Doc. 1' and if possible to provide any supporting documentation to this effect;

- confirming whether, and in which capacity, in August 2015 she could act and sign both on behalf of Aliator S.A. and Dubro Limited S.A.;

- confirming or otherwise whether Ms. Alexander was a director for Dubro Limited S.A. and whether she acted in such capacity;

- confirming or otherwise whether Ms. Alexander signed any other declarations of trust with similar format and wording;

- to provide a specimen of her signature (for Maltese Law it is necessary to provide a minimum of ten signatures);

A.2.1.5.1. Jaqueline Alexander reġgħet xehdet nhar is-26 ta' Jannar 2018. Murija d-dokument 1, u ċjoe l-kopji taż-żewġt *declarations of trust*, (li kienu ġew mgħoddija lili minn Pierre Portelli) u Alexander tgħid li hi ma kitbitx dawk id-dokumenti, ma għamlithomx hi u li l-firem fuq dawn iż-żewġt dokumenti ma kienux il-firem oriġinali tagħha.

Mistoqsija tgħid kienetx f'qagħda li tikkonferma l-kontenut tad-dokumenti f'doc 1 u f'każ pożittiv li tipprovdi dokumentazzjoni biex issaħħaħhom, ix-xhud qalet li ma kienetx taf b'dawk id-dokumenti għax qatt ma għamlithom u qatt ma ffirmathom.

Mistoqsija tgħid jekk u f'liema kapaċita, f'Awissu tal-2015 hija kienet taġixxi u tiffirma f'isem *Aliator S.A.* u *Dubro Limited S.A.*, Alexander

wieġbet li f'Awissu 2015 hija kellha l-kapaċita li tiffirma bħala parti mill-Bord tad-Diretturi ta' *Aliator S.A.* u *Dubro Limited S.A.*

Mistoqsija speċifikament jekk kienetx tikkonferma li kienet direttriċi ta' *Dubro Limited S.A.* u jekk aġixxietx f'din il-kapaċita Alexander wieġbet li f'Awissu 2015 kienet direttriċi ta' *Dubro Limited S.A.*; madanakollu ma aġixxietx bħala direttur għaliex hi ma ffirmathomx dawk id-dokumenti.

Mistoqsija speċifikament jekk kienetx tikkonferma li kienet direttriċi ta' *Aliator S.A.* u jekk aġixxietx f'din il-kapaċita, ix-xhud wieġbet li f'Awissu 2015 kienet direttriċi ta' *Aliator Limited S.A.*; madanakollu ma aġixxietx bħala direttur għaliex hi ma ffirmathomx dawk id-dokumenti.[150]

Mistoqsija jekk hija kienetx iffirmat xi dikjarazzjoni oħra ta' *trust* b'format jew bi kliem simili, Alexander wieġbet li ma kienetx iffirmat xi dikjarazzjoni oħra simili. Mistoqsija jekk kienetx titkellem bl-ingliż, ix-xhud wieġbet fl-affermattiv. Wieġbet ukoll li kienet fehmet il-kontenut ta' dawn iż-żewġt dokumenti, iżda hi ma ffirmat ebda wieħed minnhom.

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[150] Mix-xiehda tal-Avukat Soshi Santos għar-Reġistru Pubbliku tal-Panama rriżulta li għalkemm Jaqueline Alexander kienet reġistrata bħala Direttur u sotto-segretarju ta' *Dubro Limited S.A.*, hija ma kienetx ukoll tidher reġistrata bħala Diretriċi ta' *Aliator S.A.*!

Alexander ġiet mitluba biex tagħti wkoll kampjun tal-firma tagħha. Tlabtha tagħti għaxar kampjuni biex inkun nista' ngħaddihom għal analiżi teknika ulterjuri. Mistoqsija jekk dawk il-firem kienux jikkostitwixxu l-firem li hi dejjem użat fuq id-dokument tal-identita personali tagħha, Alexander wieġbet fl-affermattiv u li dik kienet il-firma li dejjem użat.

Konklużjonijiet mit-tieni deposizzjoni ta' Jaqueline Alexander u Juergen Mossack

In definittiva jirriżulta li Jaqueline Alexander innifisha, wara li rat id-dokumenti li kienu ġew mogħtija lili minn Pierre Portelli bħala dawk li kienu d-*declarations of trust* meritu tal-allegazzjonijiet ta' Daphne Caruana Galizia ma ġew qatt miktuba, redatti jew iffirmati minnha u Alexander tisħaq li l-firem fuq dawk iż-żewġt dokumenti ma kienux il-firem oriġinali tagħha. Alexander tikkonferma wkoll li hija qatt ma ffirmat dokumenti jew dikjarazzjonijiet simili.

Ix-xiehda ta' Juergen Mossack trid tinqara fid-dawl ta' din ix-xiehda ta' Jaqueline Alexander – għalkemm Jeurgen Mossack ma kienx mgħarraf

bix-xiehda ta' Jaqueline Alexander qabel jew waqt li kien qed jixhed. B'hekk huwa ma ġiex konfrontat bix-xiehda ta' Jaqueline Alexander li kkonfermat li d-*declarations of trust* ma kienetx kitbithom jew iffirmathom hi. Meta xehed, Mossack kienx mgħarraf b'dan. Minkejja dan, mix-xiehda tiegħu ħareġ li normalment fid-dikjarazzjonijiet tagħhom il-klijenti akkwitenti ta' kumpaniji fil-Panama jagħżlu li xorta waħda jżommu l-indirizz tal-aġent reġistrat tal-kumpanija imwaqfa fil-Panama u mhux l-indirizz ta' fejn ikunu suppost qegħdin joperaw – għalkemm l-għażla fuq dan il-punt tibqa' f'idejn il-klijent.

Dan għalhekk ifisser li mhux biss li l-kopji tad-*declarations of trust* ma kienux awtentiċi iżda wkoll li l-kontenut tagħhom ma kienx miktub jew iffirmat minn Jaqueline Alexander. Alexander ikkonfermat li l-firma fuq iż-żewġt dokumenti ma kienetx il-firma oriġinali tagħha. Dan ifisser għalhekk li dawn kienu dokumenti falsifikati.

Min iffalsifika dawn id-dokumenti inkluda fihom l-indirizz ta' Nexia BT f'San Ġwann, Malta b'mod li skont ix-xiehda ta' Jeurgen Mossack innifsu, dan il-fatt kien jidderoga wkoll mill-prassi normali segwita mill-klijenti ta' Mossack Fonseca li fir-rigward tal-indirizz tal-kumpaniji li jkunu waqfu fil-Panama, jagħżlu li jżommu u jużaw l-indirizz tal-aġent reġistrat fil-Panama.

Ir-relazzjoni tal-*Forensic Document Analyst Elisabeth Briggs* dwar il-firem ta' Jaqueline Alexander : -.

L-ewwel analiżi ta' Elisabeth Briggs.

Il-posizzjoni ta' Jaqueline Alexander kienet kristallizzata fix-xiehda tagħha. Iżda inħasset il-ħtieġa li l-allegati firem ta' Jaqueline Alexander ikunu sottomessi għall-analiżi teknika wkoll – indipendentement x'tgħid dwarhom Jaqueline Alexander. B'hekk fl-ewwel ittra rogatorjali Jaqueline Alexander ġiet mitluba twieġeb mistoqsijiet dwar it-test tal-**kopji tat-traskrizzjoni** tad-*declarations of trust* li kienet ippubblikat Caruana Galizia. Biss wara li fid-19 ta' Ġunju 2017 Pierre Portelli kien iddepożita fl-atti tal-inkjesta dikjarazzjoni mhux datata bil-miktub tiegħu flimkien ma żewġt karti li kienu kopji li ta' *declarations of trust* li kienu jġibu l-firma ta' Jaqueline Alexander u li kienu jidhru simili ħafna għal dak li kienet diġa ppublikat Daphne Caruana Galizia preċedentement fil-21 t'April 2017 bħala t-test taż-żewġ "*declarations of trust*" li in bażi tagħhom kien qiegħed jingħad li l-*UBO* t'*Egrant Inc* kienet Michelle Muscat inħasset il-ħtieġa li anke dawn jiġu sottomessi kemm għax-xiehda ta' Jaqueline Alexander kif ukoll għall-analiżi teknika.

Nomina tal-espert Elisabeth Briggs datata 28 ta' Ġunju 2017

Għalhekk Ġiet maħtura *Elizabeth Briggs* minn *Keyforensic Services Limited*, ta' *University of Warwick Science Park* f'Coventry, l-Ingilterra. In-nomina tagħha hija s-segwenti : -

Illi in segwitu għal abbokkament mitlub minn Pierre Portelli u li seħħ nhar id-19 ta' Ġunju 2017 fis-sigrieta tal-Maġistrat Inkwirenti, l-istess Portelli għadda lil Maġistrat Inkwirenti żewġ dokument intestati "Declaration of Trust" (u li aktar l-isfel ser ikunu magħrufa bħala "Declarations of Trust") allegatament maħruġa minn Aliator S.A. u Dubro Limited S.A. u li kienu jikkontjenu d-dikjarazzjoni segwenti : -

We, undersigned, Aliator S.A., in position of subscriber (suscriptor) hereby acknowledge and declare that we hold a share of:

EGRANT INC., 807956S of THE PENTHOUSE, SUITE 2, CAPITAL BUSINESS CENTRE, ENTRANCE C,TRIQ TAZ-ZWEJT, SAN GWANN SGN3000, MALTA, ISLAND MALTA

and this share is being held as Nominee of and Trustee for

Ms. Michelle Muscat nee Tanti; Date of Birth: *16/05/1974;*

Place of Birth: Rabat, Malta

and we undertake and agree not to transfer, deal with or dispose this share, and we assign the right to receive any share of profits which may be paid or payable for this share to the above-mentioned owner.

Dated this 20th day of August 2015

U

We, undersigned, Dubro Limited S.A., in position of subscriber (suscriptor) hereby acknowledge and declare that we hold a share of:

EGRANT INC., 807956S of THE PENTHOUSE, SUITE 2, CAPITAL BUSINESS CENTRE, ENTRANCE C, TRIQ TAZ-ZWEJT, SAN GWANN SGN3000, MALTA, ISLAND MALTA

and this share is being held as Nominee of and Trustee for

Ms. Michelle Muscat nee Tanti; Date of Birth: *16/05/1974;*

Place of Birth: Rabat, Malta

and we undertake and agree not to transfer, deal with or dispose this share, and we assign the right to receive any share of profits which may be paid or payable for this share to the above-mentioned owner.

Dated this 20th day of August 2015

Illi dawn id-dokumenti jġibu l-firma ta' "Jaqueline Alexander";

Illi l-Maġistrat Inkwirenti sab illi fl-atti ta' din l-inkjesta, wara li kienet saret perkwiżizjoni fl-Uffiċju ta' Nexia BT fil-21 t'April 2017 u fil-jiem ta' wara, Uffiċjali tal-Pulizija elevaw tlieta u għoxrin dokument u li fuqhom tidher il-firma ta' ċerta "Jaqueline Alexander", f'kapaċitajiet differenti li hija kienet taġixxi fihom matul is-snin 2012 u 2015.

Illi minn analiżi tad-dokumenti rintraċċjati u mix-xhieda miġbura fl-atti ta' din l-inkjesta jirriżulta li ċerta "Jaqueline Alexander" kienet abitwalment u bħala parti minn xogħol li kienet tagħmel ma' kumpaniji b'interessi jew immexxija minn uffiċjali jaħdmu għad-ditta Mossack Fonseca bis-sede tagħha fil-Panama, kienet taġixxi bħala direttur jew firmatarju għal soċjetajiet, *inter alia*, bħal Dubro Limited S.A. jew Aliator S.A.

Illi bosta drabi mill-evidenza miġbura jirriżulta wkoll li Jaqueline Alexander kienet ukoll tiffirma dawn id-dokumenti wara kuntatti preċedenti li kienu jkunu minn uffiċjali li jaħdmu mad-ditta Mossack Fonseca (inkluż ċertu Adrian Dixon) u dawk li jaħdmu mad-ditta b'sede f'Malta jisimha Nexia BT, fosthom Karl Cini u li jkunu l-preludju għall-firem tad-dokumenti de quo u li fihom ikun hemm ir-riżultat tal-kuntatti preċedenti imsemmija;

Illi f'dan il-kuntest il-Maġistrat Inkwirenti ma għandux raġuni għaliex jiddubita li dawn id-dokumenti li ġew elevati għall-għarrieda mill-Uffiċini tad-ditta Nexia BT fil-21 t'April 2017 u fil-jiem ta' wara mill-Uffiċjali tal-Pulizija jirriflettu l-firma vera u ġenwina ta' "Jaqueline Alexander";

Illi dawn id-dokument jikkonsistu f':

A. Dokumenti fl-oriġinal li jġibu l-firma bil-linka ta' "Jaqueline Alexander" : -

1. Tliet (3) assignment of subscription of shares (Egrant Inc. datata 8 ta' Lulju 2013, Hearnville Inc. datata 9 ta' Lulju 2013 u Tillgate Inc. datata 15 ta' Lulju 2013);
2. Żewġt (2) Articles of Association (Egrant Inc. datata 4 ta' Lulju 2013 u Tillgate Inc. datata 9 ta' Lulju 2013);
3. Dokument ta' Willerby Trade Inc. - share certificate - datat 19 ta' Marzu 2013;
4. Prokura (Willerby Trade Inc. datata 15 ta' Ottubru 2014);

B. Dokumenti in fotokopja jew scanned li jġibu l-firma ta' "Jaqueline Alexander" :

1. Sett ta' Articles of Association (Hearnville Inc. datat 4 ta' Lulju 2013);
2. Prokura ta' Lester Holdings Group Ltd datata 5 ta' Lulju 2013;
3. Prokura oħra ta' Lester Holdings Group Ltd datata 5 ta' Lulju 2013;
4. żewġ kopji ta' passport ta' Jaqueline Alexander (wieħed bil-kulur u wieħed iswed fuq l-abjad datati 24 t'April 2012);
5. Sett ta' minuti ta' laqgħa tad-diretturi ta' Torbridge Services Inc. datati 29 ta' Mejju 2013;
6. Sett ta' minuti ta' laqgħa tad-diretturi ta' Torbridge Services Inc. datati 26 ta' Frar 2015;
7. Share certificate ta' Colson Services Limited datat 7 ta' Mejju 2013;
8. Prokura ta' Colson Services Limited datata 5 ta' Lulju 2013;
9. Prokura oħra ta' Colson Services Limited datata 5 ta' Lulju 2013;
10. One set of Willerby Trade Inc minutes of meeting of directors dated 19th March 2013;
11. Dokument ta' Willerby Trade Inc. - share certificate - datat 19 ta' Marzu 2013;
12. Ftehim bejn BT International Limited u Willerby Trade Inc. datat 1 ta' Marzu 2014;
13. Prokura ta' Willerby Trade Inc. datata 15th October 2014;
14. Prokura oħra ta' Willerby Trade Inc. datata 15th October 2014;
15. Minuti ta laqgħa tad-diretturi ta' Willerby Trade Inc. datati 19 ta' Marzu 2013;

Għalhekk il-Maġistrat Inkwirenti ħass il-ħtieġa li dawn il-firem misjuba fuq dawn iż-żewġt dokumenti li l-Maġistrat Inkwirenti irċieva mingħand Pierre Portelli (aktar l-isfel magħrufa bħala id-"Declarations of Trust") jiġu analizzati minn espert kalligrafu u forensic document analyst mhux Malti jew b'rabtiet ma Malta billi tiġi mqabbla mal-firem ta' "Jaqueline Alexander" li jidhru fuq id-dokumenti (in oriġinali kif ukoll in fotokopja) li jinsabu fl-atti tal-inkjesta u li ġew meħuda mill-Uffiċju ta' Nexia BT (aktar l-isfel magħrufa bħala d-"dokumenti Nexia BT");

Illi għal dan il-għan il-Maġistrat Inkwirenti qiegħed jinnomina lil **Elisabeth Briggs,** Forensic Document Examiner ta' Key Forensic Services Limited, bl-indirizz fil-University of Warwick Science Park, Sir William Lyons Road, Coventry CV4 7EZ, Renju Unit u li għandha n-numru telefoniku 0044 02477 712235 (internal extension 4025) kif ukoll in-numru tal-fax 0044 02476 690800 u li għandha l-e-mail address tagħha elisabeth.briggs@keyforensic.co.uk jew elisabeth.briggs@keyforensic.co.uk.cjsm.net bħala espert kalligrafu u forensic document examiner u li qegħda tiġi mogħtija s-setgħa li :

(a) Tistabbilixxi l-grad ta' korrispondenza bejn il-firem ta' "Jaqueline Alexander" kif jidhru fuq id-Declarations of Trust mal-firem ta' "Jaqueline Alexander" li jidhru fuq id-dokumenti Nexia BT;

(b) In bażi għall-punti kollha ta' korrispondenza stabiliti, tistabbilixxi l-grad ta' probabbilita li l-firem misjuba fuq id-Declarations of Trust jaqblux mal-firem ta' "Jaqueline Alexander" fuq id-dokumenti Nexia BT;

(c) Tistabbilixxi l-grad ta' probabbilita li l-firem ta' "Jaqueline Alexander" li jidhru fuq id-Declarations of Trust kienu ġew magħmula mill-istess id tal-persuna li ffirmat bħala "Jaqueline Alexander" fuq id-dokumenti Nexia BT jew jekk il-firem fuq id-Declarations of Trust jirriżultawx li ġew falsifikati;

(d) li tirrelata lill-Maġistrat Inkwirenti bil-miktub billi ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija qegħda tiġi mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

F'dak l-istadju dak li l-inkjesta kellha għad-disposizzjoni tagħha kienu dawn il-kopji tad-*declarations of trust* li fuqhom kien hemm il-firma allegatament ta' Jaqueline Alexander u li setgħet tiġi mibgħuta għall-analiżi. Mid-dokumenti li ġew elevati mill-Uffiċini ta' Nexia BT u mill-Bank Pilatus kien hemm dokumenti li kienu jġibu l-firem oriġinali ta' Jaqueline Alexander. B'hekk ġew magħżula għadd ta' dokumenti dokumenti li kienu jġibu l-firma ta' Jaqueline Alexander u li kienu mifruxa fuq diversi snin u b'riferenza għal kumpaniji diversi f'kuntest li l-awtentiċita tagħhom ma kienetx dubbjuża għax kienu jirreferu għal diversi klijenti ta' Mossack Fonseca u Nexia BT anke ferm qabel ma feġġew l-allegazzjonijiet fil-Panama Papers. B'hekk din l-espert setgħet tiġi provduta b'dokumenti li *prima faciae* kienu jidhru li jġibu l-firma awtentika ta' Jaqueline Alexander u li setgħu għalhekk jiġu mqabbla mal-firma fuq dawn il-kopji tad-*declarations of trust* li kienu ġew depożitati minn Pierre Portelli.

Elizabeth Briggs ippreżentat l-ewwel relazzjoni tagħha datata 22 t'Awissu 2017, li sussegwentement ġiet ikkonfermata bil-ġurament fl-4 ta' Settembru 2017, qed tiġi mehmuża ma dan il-*Proces Verbal* fejn hija kkunsidrat u kkonkludiet is-segwenti : -

4. Items Examined

I have examined the items listed below according to instructions from the Courts of Justice, Malta. The items were delivered to the company premises by Ms Maria Fenech on 10th August 2017.

Questioned Documents : -

Item A Declaration of Trust re. Dubro Limited S.A. dated 20/08/15 (copy)

Item B Declaration of Trust re. Aliator S.A. dated 20/08/15 (copy)

Specimen Documents – Jaqueline Alexander
Item 1 Articles of Incorporation for Egrant Inc. re Deed 17,935 dated 04/07/13

Item 2 Articles of Incorporation for Tillgate Inc. re Deed 9,850 dated 09/07/13

Item 3 Assignment of Subscription of Two Shares re. Egrant Inc. dated 08/07/13

Item 4 Assignment of Subscription of Two Shares re. Hearnville Inc. dated 09/07/13

Item 5 Assignment of Subscription of Two Shares re. Tillgate Inc. dated 15/07/13

Item 6 Share Certificate for 50,000 shares for Willerby Trade Inc. dated 19/03/13

Item 7 Power of Attorney for Willerby Trade Inc. dated 15/10/14

Item 8 Articles of Incorporation for Hearnville Inc. re. Deed 17,937 dated 04/07/13 (copy)

Item 9 Power of Attorney for Lester Holdings Group Ltd. dated 05/07/13 (copy)

Item 10 Power of Attorney 2 for Lester Holdings Group Ltd. dated 05/07/13 (copy)

Item 11 Passport No. 1880677 issued 24/04/12 (copy)

Item 12 Minutes of Meeting for Torbridge Services Inc. dated 29/05/13 (copy)

Item 13 Minutes of Meeting for Torbridge Services Inc. dated 26/02/15 and Power of Attorney dated 26/02/15 (copies)

Item 14 Share Certificate for 50,000 shares for Colson Services Limited dated 07/05/13 (copy)

Item 15 Power of Attorney for Colson Services Limited dated 05/07/13 (copy)
Item 16 Power of Attorney 2 for Colson Services Limited dated 05/07/13 (copy)

Item 17 Minutes of Meeting for Willerby Trade Inc. dated 19/03/13 (copy)

Item 18 Agreement between BT International Limited and Willerby Trade Inc. dated 01/03/14 (copy)

Item 19 Share Certificate for 1 share for Willerby Trade Inc. dated 19/03/13 (copy)

Item 20 Power of Attorney for Willerby Trade Inc. dated 15/10/14 (copy of item 7)

Item 21 Power of Attorney 2 for Willerby Trade Inc. dated 15/10/14

Item 22 Minutes of Meeting for Willerby Trade Inc. dated 19/03/13 (copy) and Share Certificate for 1 share for Willerby Trade Inc. dated 19/03/13 (copy of item 6)

Images of the questioned and specimen signatures have been extracted from the documents and are attached to the end of this report.

5. Purpose

5.1. I have compared the questioned signatures on items A and B with the specimen signatures attributed to Jaqueline Alexander on items 1 - 22. The purpose of this was to determine whether or not Jaqueline Alexander signed the documents in question.

6. Examination and Results

6.1. My interpretations and conclusions are based on the background information available to me at present. If any of this information changes, or is found to be incorrect, then I may need to reassess my findings. Unless otherwise specified copy documents are taken as true copies of their originals.

6.2. I carried out all examinations, measurements, tests or experiments to which I have referred in this report.

6.3. I have been informed that items A and B are copies of the documents in question and that the originals of these documents are not available. From the copies, it has not been possible to examine the questioned signatures for some of the common signs of forgery such as minor hesitations and poor fluency. However there are certain features in the signatures that are suitable for comparison, although the effectiveness of my examination has been limited to an extent.

6.4. For the purposes of my examination I have taken items A and B to be true copies of their originals. However, I cannot exclude the possibility that these copies do not derive from original documents and/or that they have been amended electronically.

6.5. Items 1 - 22 have been submitted as documents bearing specimen signatures attributed to Jaqueline Alexander. These signatures are dated between 24/04/12 and 26/02/15 and will not therefore be fully representative of the variation to be found in Ms Alexander's signature over time, particularly given that the questioned documents are dated 20/08/15.

6.6. Nevertheless, the specimen signatures are fluently written and similar from one to another, and I can accept them as the normal signature of one person.

6.7. The questioned signatures shown by items A and B both show a close pictorial similarity to the specimen signatures of Jaqueline Alexander. In my opinion they must either be genuine signatures written by her, or they are signatures written by another person (or persons) attempting to copy a genuine

signature. The complex nature of the signatures is such that the possibility of a coincidental match with the signature or writing of another person can be excluded.

6.8. I have noted that there is a close similarity in the size and shape of the two questioned signatures as shown below, where the signature from item B (in red) is superimposed on the signature from item A (in black).

6.9. I have also made a brief comparison between the questioned signatures and all of the specimen signatures and found that they resemble, most closely, the signature shown on item 14. Overlays of item A and B onto this signature are shown below, where the questioned signatures are in green and the specimen signature is in black, and the sizes/proportions have been amended to allow for changes due to the copying process(es):

6.10. The questioned signature shown by item A shows a number of structural differences, in detail, when compared with the specimen signatures of Jaqueline Alexander. Examples of some of these differences are shown below compared with item 14:

Item A
Item 14
(1) Break in loop of **J** in questioned
(2) No loop in formation of **q** in questioned
(3) Loop on left side of **A** in questioned does not lead out from the cross-bar
(4) Structure of **A** and **l** combination in surname in questioned differs from specimens
(5) No clear letter **a** after **x** in questioned
(6) Final retrace in questioned is too short, sharp and straight unlike the fluent curve in the specimens

6.11. The questioned signature shown by item B also shows a number of structural differences, in detail, when compared with the specimen signatures of Jaqueline Alexander. Examples of some of these differences are shown below compared with item 14:

Item B
Item 14
(7) No loop in formation of **q** in questioned
(8) Loop on left side of **A** in questioned does not flow out from the cross-bar

(9) Break in the formation of the **A** in questioned
(10) No clear letter **a** after **x** in questioned
(11) Final retrace in questioned is too short, sharp and straight unlike the fluent curve in the specimens

6.12. In addition, although it is not possible to be certain from the copy documents available, the questioned signatures do not appear to be fluently written.

6.13. It is not possible to offer a definite opinion in this case due to the copy nature of the questioned documents. Despite this limitation, taking all of the findings above together, in my opinion there is very strong evidence that the questioned signatures shown by items A and B are not genuine signatures of Jaqueline Alexander and are both traced copies from a genuine signature; it is possible that they were traced from the signature shown by item 14, although I cannot be certain of this. I therefore consider it most unlikely that Jaqueline Alexander wrote the signatures shown by items A and B.

7. Conclusions

7.1. In my opinion there is very strong evidence that the questioned signatures shown by items A and B were not written by Jaqueline Alexander and it is most unlikely that she was the author.

The laboratory records relating to the examinations undertaken will be stored for 30 years. If there are any circumstances in which longer retention periods are required then please contact Key Forensic Services. After the retention period has expired the records will be destroyed without further communication.

Expert's Declaration

1. I confirm that I understand my duty to the court and have complied and will continue to comply with that duty.
2. I confirm that I am aware of the requirements of Part 35 of the Civil Procedure Rules and Practice Direction 35 and the Guidance for the instruction of experts in civil claims.

Statement of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Din il-konklużjoni kienet diġa bdiet tagħti direzzjoni lil din l-inkjesta in kwantu l-firem fuq il-kopji tad-*declarations of trust* issa kienu ġudikati minn espert tekniku bħala li ma humiex ġenwini.

<u>It-tieni analiżi ta' Elisabeth Briggs</u>

Fl-ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet tal-Panama, l-inkjesta setgħet ukoll titlob lil Jaqueline Alexander sabiex tforni kampjuni tal-kitba tagħha. L-inkjesta ma kienetx f'qagħda li tagħmel dan fl-ewwel ittra rogatorja minħabba li a differenza tal-kopji sottomessi minn Pierre Portelli, ma kienx hemm firma ta' Jaqueline Alexander fuq it-test tad-*declarations of trust* li kienet ippublikat Daphne Caruana Galizia fl-artiklu omonimu fir-*Running Commentary* fil-21 t'April 2017 u li kien disponibbli għall-inkjesta meta ġiet mibgħuta l-ewwel ittra rogatorja lill-Awtoritajiet Panamensi.

B'dawn il-kopji tad-*declarations of trust* issa kien possibbli li Jaqueline Alexander tiġi mitluba biex tagħti kampjun tal-firma tagħha biex tiġi

analizzata u b'hekk l-inkjesta ma jkollhiex il-konklużjonijiet tal-*Forensic Document Analyst* minn fuq firem preżumibbilment oriġinali ta' Jaqueline Alexander, iżda firem mogħtija minnha fil-preżenza tal-Prosekutur Pubbliku Panamense. Naturalment dawn setgħu jiġu mqablin mal-kopja tad-*declarations of trust* fornita minn Pierre Portelli u mhux mal-oriġinal tagħhom għax dik qatt ma ġiet mogħtija lill-inkjesta. Biss ir-riżultat tal-analiżi ta' Elisabeth Briggs setgħa jakkwista aktar saħħa b'dawn il-firem verifikati awtentiċi ta' Jaqueline Alexander.

Fil-fatt dan l-eżerċizzju sar u n-nomina ta' Elisabeth Briggs ġiet estiża fis-16 t'April 2018 : -

> Peress illi in eżekuzzjoni ta' ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet Ġudizzjarji tar-Repubblika tal-Panama il-Maġistrat Inkwirenti ġie fil-pussess ta' kampjun verifikat t'għaxar firem oriġinali tax-xhud Jaqueline Alexander liema firem jinsabu fuq id-dokument, fl-oriġinal tiegħu qiegħed jiġi markat bħala dokument "A" l-inkarigu tal-Forensic Document Analyst Elisabeth Briggs qiegħed jiġi estiż sabiex :
>
> vii. Tistabbilixxi l-grad ta' korrispondenza bejn il-firem ta' "Jaqueline Alexander" kif jidhru fuq id-Declarations of Trust mal-kampjun verifikat tal-firem oriġinali ta' "Jaqueline Alexander" li jidhru fuq id-dokument markat bħala Dokument "A";
>
> viii. In bażi għall-punti kollha ta' korrispondenza stabiliti, tistabbilixxi l-grad ta' probabbilita li l-firem misjuba fuq id-Declarations of Trust jaqblux mal-firem ta' "Jaqueline Alexander" fuq id-dokument markat bħala Dokument "A"
>
> ix. Tistabbilixxi l-grad ta' probabbilita li l-firem ta' "Jaqueline Alexander" li jidhru fuq id-Declarations of Trust kienu ġew magħmula mill-istess id tal-persuna li ffirmat bħala "Jaqueline Alexander" fuq id-dokument markat bħala Dokument "A" jew jekk il-firem fuq id-Declarations of Trust jirriżultawx li ġew falsifikati;

x. li tirrelata lill-Maġistrat Inkwirenti bil-miktub billi ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija qegħda tiġi mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Elisabeth Briggs għamlet relazzjoni supplimentari, datata 19 t'April 2018 u konfermata bil-ġurament bil-proċedura tal-video-konferenza nhar it-22 ta' Mejju 2018.

F'din ir-relazzjoni, din l-espert tenniet is-segwenti : -

1. Introduction

1.1. This report is in addition to my previous report dated 22nd August 2017 and should be read in conjunction with that report. I have now been provided with the following additional document:
Item 23 Certified document dated 26/01/2018

1.2. Item 23 was received by email on 17th April 2018; this is a scanned copy of the original document but is of a good quality and is suitable for examination purposes.

1.3. I have been requested to examine the signatures shown by item 23 and consider them in relation to my previous examination.

2. Examination and Results

2.1. My interpretations and conclusions are based on the background information available to me at present. If any of this information changes, or is

found to be incorrect, then I may need to reassess my findings. Unless otherwise specified copy documents are taken as true copies of their originals.

2.2. I carried out all examinations, measurements, tests or experiments to which I have referred in this report.

2.3. Item 23 is a certified statement dated 26/01/18 bearing signatures of Jaqueline Alexander; ten of the signatures have been provided as formal specimens but the statement bears thirteen signatures in total. All of these signatures appear to be naturally and fluently written and show many significant similarities to the signatures on items 1 – 22, previously used as specimens of Ms Alexander. I have therefore used all of these signatures as examples of her normal signature.

2.4. In my previous report I noted that the questioned signatures shown by items A and B showed a number of structural differences, in detail, when compared with the specimen signatures of Jaqueline Alexander on items 1 - 22. These differences can also be found in a comparison between the questioned signatures and the specimen signatures in item 23. Examples of these are shown overleaf for item A:

Item A

Example signature - Item 23

(1) Break in loop of **J** in questioned
(2) No loop in formation of **q** in questioned
(3) Loop on left side of **A** in questioned does not lead out from the cross-bar
(4) Structure of **A** and **l** combination in surname in questioned differs from specimens
(5) No clear letter **a** after **x** in questioned
(6) Final retrace in questioned is too short, sharp and straight unlike the fluent curve in the specimens

Differences as noted previously are also present between item B and the specimen signatures in item 23.
2.5. As noted in my previous report, it is not possible to offer a definite opinion in this case due to the copy nature of the questioned documents. Despite this limitation and taking all of the findings together (including the similarities between the two questioned signatures as noted in my previous report), my

opinion remains the same: there is very strong evidence that the questioned signatures shown by items A and B are not genuine signatures of Jaqueline Alexander and are both traced copies from a genuine signature. It is possible that they were traced from the signature shown by item 14 (as detailed in my previous report), although I cannot be certain of this. I therefore consider it most unlikely that Jaqueline Alexander wrote the signatures shown by items A and B.

3. Conclusions

3.1. In my opinion, there is very strong evidence that the questioned signatures shown by items A and B were not written by Jaqueline Alexander and it is most unlikely that she was the author.

The laboratory records relating to the examinations undertaken will be stored for 30 years. If there are any circumstances in which longer retention periods are required then please contact Key Forensic Services. After the retention period has expired the records will be destroyed without further communication.

Expert's Declaration

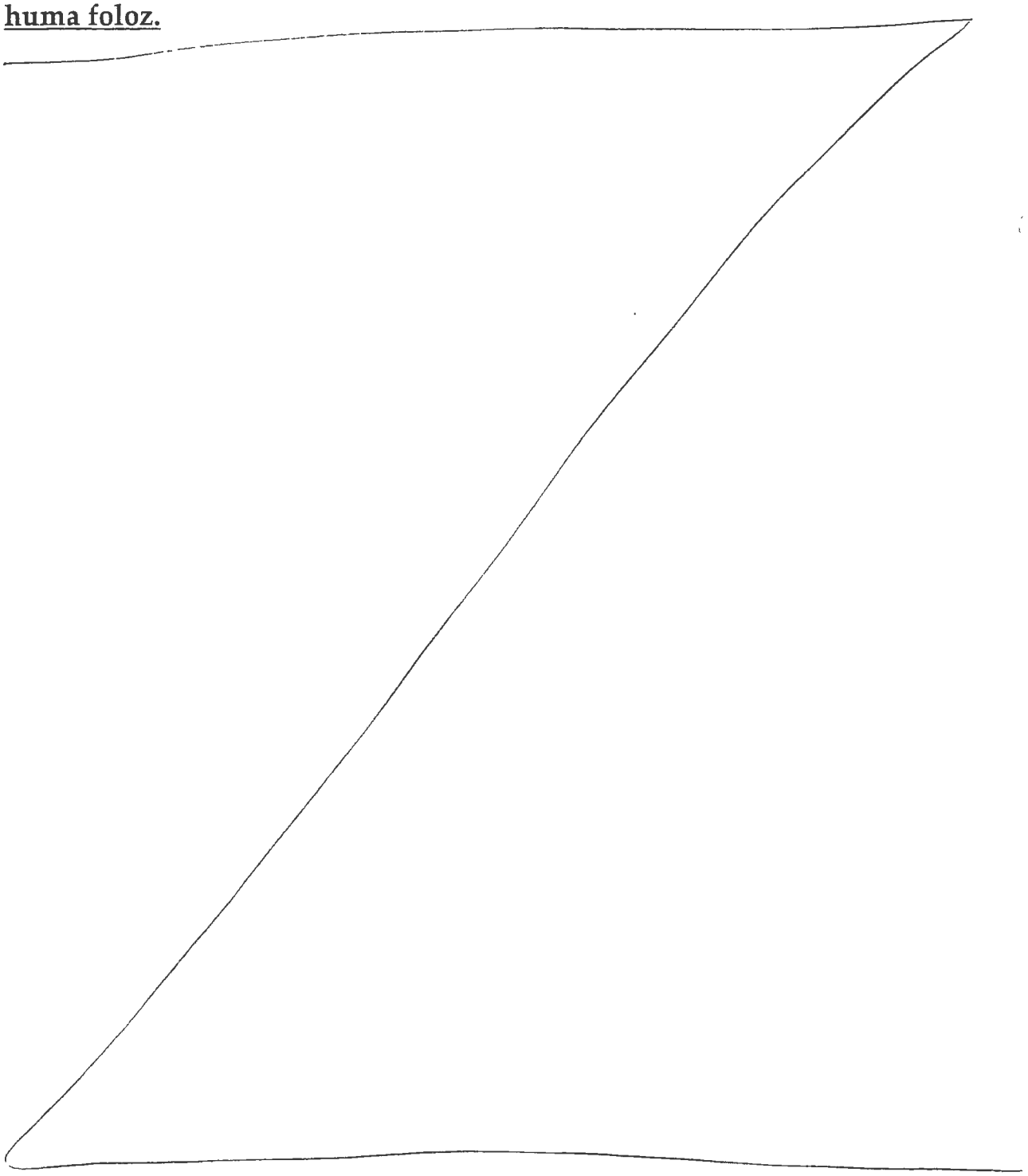
1. I confirm that I understand my duty to the court and have complied and will continue to comply with that duty.
2. I confirm that I am aware of the requirements of Part 35 of the Civil Procedure Rules and Practice Direction 35 and the Guidance for the instruction of experts in civil claims.

Statement of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Konklużjoni : -

B'din il-konklużjoni tal-espert tekniku Elisabeth Briggs, magħquda max-xiehda ta' Jaqueline Alexander li d-*declarations of trust* depożitati fl-atti tal-inkjesta minn Pierre Portelli huma dokumenti kontraffatti b'firem li huma foloz.



Ix-Xhieda l-iktar importanti minn Nexia BT

Ix-xiehda ta' Michael Satariano

Michael Satariano kien jaħdem ma Nexia BT bejn April 2015 u Mejju 2016 fil-kariga *t'Assistant Manager*. Huwa kien jipprepara proceduri għal *corporate services* għal *BT International Limited*. Id-Direttur u *boss* tiegħu kien Karl Cini u l-*manager* tiegħu kienet Katia Tonna. Kellu rwol fil-*Compliance*. Lejn l-aħħar tal-2015 u bidu tal-2016 kienu għaddew minn *Compliance process* biex jassiguraw li d-*Due Diligence Documentation* ta' BT International Limited kienu f'posthom. Din il-kumpanija kienet tipprovdi *Corporate Service provider licence* u kienet ukoll *file due shareholder*. Dil-kumpanija kellha ħafna negozju fil-qasam tal-*IIP*. Il-maġġor parti tal-klijenti tagħhom huma barranin. Kellhom portfolio ta' klijenti li jipprovdulhom servizzi. Kull kumpanija kellha *client file* u *due diligence* file li kien separat u kien jinżamm imsakkar.

Mistoqsi jekk bħala klijenti ta' *BT International Limited* jew xort'oħra jekk forsi qadtx iltqata ma' klijenti jew *contacts* jew inkella jew kemm il-darba qattx ra isem f'xi korrespondenza tal-kumpanija *Al Sahra* Satariano wieġeb li safejn

kien jiftakar ma kienx iltaqgħa magħha. L-anqas *Tillgate Inc., Hearnville Inc, Egrant Inc.* Dwar individwi bħal Negarin Sadr Hasheminejad huwa qal li ma setgħax jaħlef għax l-isem kien qisu familjari. Mill-banda l-oħra ma kienx iltaqa' mal-ismijiet ta' Leyla Aliyeva, Ilham Aliyev, jew ta' Heydarov, għalkemm ma kienx żgur jekk kienx xi klijent li applika għaċ-ċittadinanza.

Eskluda li qatt kellu klijenti jew *contacts* jew inkella ra isem f'xi korrespondenza tan-negozju fejn jaħdem l-isem ta' Michelle Muscat, nee Tanti jew ta' Joseph Muscat, jew ta' Konrad Mizzi jew Sai Mizzi Liang. L-anqas dak ta' Keith Schembri jew martu Josette Schembri Vella jew Michelle Buttigieg.

Meta ppressat dwar il-fatt li Keith Schembri kien klijent kbir ta' Nexia BT Satariano saħaq li dan kien klijent iktar illi kien fuq *accounts* u ma jaqgħax taħt *BT International Limited.* Satariano ma kienx jafu personalment lil Keith Schembri għalkemm jaf li kien klijent ta' Nexia BT, iżda ma kienx jaf jekk kienx klijent ta' *BT International Limited* ukoll. Inoltre jikkonferma wkoll li John Dalli kien klijent, jekk mhux sejjer żball ta' *BT International Limited.* Pero ma kienx ċert. Dwar *Dubro Limited S.A.* jgħid li din ma kienetx iddoqlu. Iżda dwar *Aliator S.A.* qal li issa minħabba li kien hemm il-*Panama Papers* fil-gazzetti ma' kienx ċert jekk il-familjarita kienetx ġejja minn hekk.

Jaf li Nexia BT u Mossack Fonseca kien jaħdmu flimkien u oriġinarjament kienu jadħmu fl-uffiċċju fejn kienu jaħdmu *BT International Limited*. Dan kien Adrian Hernandes (Dixon) li kien mill-Panama. Wara kien ġie trasferit f'wieħed mill-Uffiċini fil-*back offices*. Il-klijenti ta' *BT International Limited* li riedu jiftħu kumpaniji fil-*BVI* eċċetra kienu jiġu riferiti lil Mossack Fonseca li minn naħa tagħhom kienu jagħtuhom rati favorevoli, u bil-maqlub għal dawk il-klijenti ta' Mossack Fonseca li riedu jiftħu kumpaniji f'Malta. *BT International* ma kellhiex x'taqsam mal-klijenti ta' Mossack Fonseca; huma kienu jeżegwixxu l-ordnijiet biss. Meta klijent kien imur għand *BT Internaitonal Limited* għal servizz tagħhom dawn kienu jinfurmawh li kienu jaħdmu ma Mossack Fonseca mill-qrib u li setgħu iwaqfulhom kumpaniji wkollu bis-servizzi ta' Mossack Fonseca. Sa fejn jaf hu il-klijent kien jibqa' ta' *BT International* u din tiddelega x-xogħol lil Mossack Fonseca. Il-kont kien jintbagħat lil *BT International Limited* u dawn joħorġu l-kont lill-klijent.

L-impjegat ta' Mossack Fonseca li kien jaħdem mill-uffiċini ta' Nexia BT ma kienx impjegat ta' *BT International Limited*. Ma kienx jaf fejn kien qiegħed wara Mejju tal-2017 għax ma kellux kuntatt miegħu.

Magistrat Inkwerenti: Issa minn u sa fejn taf inti sakemm domt tahdem ma BT International hadd minn dawn in-nies semmejtek qabel f'dik il-lista ma tiftakar illi kien ta istruzzjonijiet x'jinfethu xi kumpaniji jew xi trust, jew xi affarijiet jew xi mezzi.

Michael Satariano: Sa fejn naf jien le.

Magistrat Inkwerenti: Through BT International.

Michael Satariano: Sa fejn naf jien through BT International. Issa jekk sarx ...

Magistrat Inkwerenti: Imma kien hemm.

Michael Satariano: Xi haga indirettament ma Mossak Fonseca I wouldn't know.

Kwantu għall-bidu ta' relazzjonijiet ma *PEP*, Satariano jgħid li kulħadd kien jiddielja magħhom, pero kien hemm livell għola ta' *due diligence* li ried isir u ried ikun hem mil-permess tal-*MLRO* biex tali klijent jiġi aċċettat bħala tali. Id-deċiżjoni aħħarija jekk jaċċettawx *PEP* bħala klijent kienet tittieħed *at partner level.*

Magistrat Inkwerenti: Issa u kif kontu tikkomunikaw bejnietkom jigifieri li inti kont an Assistant Manager jigifieri inti kont qieghed biex nghid hekk fit-tear tan-nofs.

Michael Satariano: Bejn wiehed u iehor.

Magistrat Inkwerenti: Tal-isttruttura biex nifhtemu bejn wiehed u iehor ta' dan l-ufficcju, kif kontu tikkomunikaw ma xulxin inti u l-impjegati l-ohrajn is-Sur Balterni *(sic! subalterni!)* li hu u inti flok li jigu fuqek?

Michael Satariano: Ara sippost Balterni *(sic! subalterni!)* peress li veru vera difficcli timmagina imma kont ... tmienja min-nies go kamra zghira konna nitkellmu bejnietna sakemm jekk hi xi haga importanti per ezempju isma jew u rrid nuri in-nies ta' fuqi, isma jien iddiljajt isma dik kont nibghat email lil xi hadd per ezempju jien ghamilt ... u nikkopja l-card

Magistrat Inkwerenti: Ok.

Michael Satariano: Karl Cini.

Magistrat Inkwerenti: Karl Cini, u allura hemm hekk jkollok komunikazzjoni bl-email.

Michael Satariano: ezatt.

Magistrat Inkwerenti: Kontu qed tuzaw programme tal-kompjuter hekk partikolari?

Michael Satariano: Iva konna nuzaw programm tal-kompjuter li huwa ddedikat attapposta ghal biex taghmel due diligence, dan barra li jintuza deposit 3 fejn iz-zomm l-informazzjoni fuq il-klijenti u fejn tista' ... kopji tad-dokumenti ta' due diligence kien ukoll joroglok risk management profile fuq il-klijent partikolari.

.....

Michael Satariano: Iva, il-programm fuq il-kompjuter huwa dan cdds issa cdds tahdem hi tahdem li bazikament kuljum tidawnloadja mill-head office taghhom mill-Lussemburgu li stat update tan-nies li saru pps forsi, marru l-Habs eccettra, jigifieri inti kuljum jekk xi hadd per ezempju mil-klijenti tieghek sar pp ha it's going to highlight that person became a pp jew mar il-Habs eccettra, eccettra.

Mistoqsi jekk kienx ikollu rapporti ma banek Satariano jgħid li :

Michael Satariano: Jekk iva, rarament jigifieri my main concern kienet peress li kont specjalment iktar my compliance role, peress li hemm hafna compliance meta xi hadd jiftah bank account, ok kont iktar involut f'dak l-istadju milli fl-istadju ta' jien naf issir transfer u niccekkja jekkx sarx eccettra.

Supr. Ian Joseph Abdilla: Jigifieri jekk kelli nsaqsik jekk il-bank Pilatus idoqqlokkx?

Michael Satariano: Iva.

Supr. Ian Joseph Abdilla: F'liema role idoqqlok?

Michael Satariano: Ara nista' nghid il-Pilatus bhala bhala persuni kienet tahdem hemm kelli x'naqsam maghha ma zewg klijenti li niftakar wiehed kien applicant ghac-cittadinanza u mort mieghu fuq il-head office tal-

> Pilatus Tax-Xbiex u ltqajna ma s-Sur Gambari u bazikament il-klijenti hawn jikkompila l-forms eccettra u that was it…
>
> Magistrat Inkwerenti: Kien hemm klijent x'jismu?
>
> Michael Satariano: Jack Sung.
>
> Magistrat Inkwerenti: Jack?
>
> Michael Satariano: Jack Sung, mis-South Korean.
>
> Magistrat Inkwerenti: Ok, imbagħad?
>
> Michael Satariano: Kien hemm kumpanija ohra il-beneficcjarju il-beneficial owners kienu taljani, ma rnexxilhomx ma rnexxilniex nifthu bank account ghalihom ma l-Bank of Valletta, ghax it-tip ta' business kienet out of the risk epitight tal-Bank of Valletta, pruvajna ma' l-Pilatus Bank u jekk mhux sejjer zball accettah.
>
> Magistrat Inkwerenti: U din il-kumpanija x'jisimha?
>
> Michael Satariano: Ma niftakarx dik il-problema.[151]

Mistoqsi dwar l-artiklu li kienet kitbet Daphne Caruana Galizia fir-*Running Commentary* tal-20 ta' April, 2017 at 4:41pm u dwar l-allegati pagamenti miljunarji bejn *Al Sahra FZCO* u *Egrant Inc*, u b'mod partikolari dwar jekk, minn-naha tiegħu qatt kienx involut bħala impjegat ta' Nexia BT, biex jagħmel l-arranġamenti biex titwaqqaf *Egrant Inc* fil-Pananma, minn Mossack Fonseca fit-2013, Satariano iwieġeb fin-negattiv u jgħid ukoll li dan ma kienx possibbli għax fl-2013 huwa ma kienx għadu jaħdem ma Nexia BT. Huwa ma jikkonfermax li kien għamel dawk it-telefonati lil Bank Pilatus minħabba li l-allegat pagament ma setgħax jgħaddi kif allegat fl-artiklu

[151] Li Satariano kien qiegħed jagħmel xogħol għal klijenti Taljani instab ukoll mill-Forensic Accountants Harbinson Forensics li identifikaw ukoll korrispondenza bl-email bejnu u bejn Maria Efimova, fejn Satariano kien beda jipprotesta magħha minħabba li ma kienx qiegħed jiġi moqdi b'mod effiċjenti.

minħabba intopp mal-*US Correspondence Bank*. U l-anqas kien jaf min setgħa kien dan l-impjegat. Satariano jirribadixxi li huwa ma kellu ebda konnessjoni mat-twaqqif ta' *Egrant Inc, Tillgate Inc* u *Hearnville Inc.* u huwa qatt ma kien involuti ma *opening of bank accounts* ta' dawn il-kumpaniji. L-anqas kien jef jekk kienx hemm xi ħadd minn Nexia BT li kien involut fil-ftugħ ta' dawn il-kontijiet bankarji.

Ix-xiehda ta' Brian Tonna

Brian Tonna xehed fil-5 ta' Mejju 2017 u stqarr li huwa Awditur u *Managing Partner* ta' Nexia BT, ditta ta' servizzi *t'accountancy* u awditjar, fost attivitajiet oħra. Huwa xehed li ilu mill-bidu nett li waqqaf din id-ditta madwar 25 sena ilu. Stqarr li huwa mixħut fuq *business development* u fir-rigward tal-*fiduciary services, trusts* u relazzjonijiet ma' Mossack Fonseca kien aħjar li jiġi mistoqsi Karl Cini għax Cini kien il-persuna esperta u responsabbli.

Mistoqsi dwar l-*Egrant Inc* Brian Tonna jgħid hekk : -

> Mela, le Egrant bhal zewg kumpaniji ohrajn li nxtraw bhala shelf Companies biex meta jkollna id-domanda ghax dan it-tip ta' servizzi illi nenfasizza llum li ma humiex servizzi li ahna xi main core services, pero kienu servizzi li ovvjament noffru u li kien hemm xi domanda ghalihom, din hija procedura normali li ahna jkollna shelf companies u Egrant kienet wahda minn dawn is-shelf companies... Ovvjament f'dan

l-istadju u Karl jista' jikkonferma eventwalment tliet kumpaniji li qed nitkellmu fuqhom kienu taht ismi mhu dakinhar biss, jigifieri kienu kollha taht ismi jigifieri kollha meta nxtraw taht shelf companies, bdew tahti kollha t-tlieta... Le, as far as I know UBO Brian Tonna... Le, ahna bhala procedura normali jiddecidi id-dipartiment tal-foreign fejn jara s-suq dana bhad-dipartimenti ohra jiddecidu jiehdu azzjonijiet id-dipartiment tal-foreign taghna, iddecida li jixtru dawn it-tliet kumpaniji u ma nafx inxtrawx kienux xi kumpaniji ohrajn ukoll xi haga normali li ghamilniha mhux dak iz-zmien biss imma anka qabel u anka wara because it is a service, ahna kif joffru id-ditti kollha ta' Malta nistghu noffruh so dik hi id-decizjoni...

Brian Tonna jgħid li Nexia kienu xtraw minn dawn il-kumpaniji kemm qabel kif ukoll wara. It-tip t'arranġament li kellhom ma Mossack Fonseca għamluh magħhom biss. Użaw is-servizzi ta' Mossack Fonseca għal Nexia għax ma kellhomx in-*know how* bħal Mossack Fonseca. Nexia kienu jiftħu kumpaniji f'Malta bħala parti mill-*core business* tagħhom. L-arranġament kien amministrattiv bejn *BTI Management Limited* u Mossack Fonseca fejn Mossack Fonseca jirriferulhom klijenti għal Malta u jiftħu kumpaniji hawn u bil-maqlub. Mossack Fonseca kellhom uffiċju f'Malta b'rappreżentant.

Mistoqsi jekk kienx hemm xi relazzjoni partikolari bħal partnership ma Mossack Fonseca wieġeb : -

Le, partnership ma kienx hemm assolutament li zgur kien hemm sa fejn naf jien kien hemm uzu ta' ufficcju pero kien Karl naf li kien hemm agreement u Karl jista jipproducieh.

Kellhom diġa kumpaniji lesti għal klijenti bħal :

> per ezempju kumpaniji jkunu qieghdin jillikwidaw jew ser jillikwidaw ruhom u flok jillikwidaw ruhom specjalment jkunu trading nghidulhom zommhom il-klijenti ghax jaf ikollna xi hadd ghada jigi ghal kumpanija gdida ghal kumpanija naqbdu u tkun lesta f'qasir zmien.

Id-deċiżjoni li jinfetħu dawn il-kumpaniji kienet ittieħdet minnu u minn Karl Cini madwar April tal-2013. Kienu xtraw dan it-tliet kumpaniji qabel ma nqalgħet id-domanda għalihom u ħallewhom hemm sakemm ikun hemm domanda. Ma kellux group ta' kumpaniji fil-Panama. *ATC Administrators* mhix tiegħu jew Karl Cini jew Nexia. *ATC Administrators* kienu n-*nominees* tiegħu bħala *UBO* t'*Egrant Inc.* Dwar *Egrant Inc.* jgħid hekk :-

> Assolutament ma kien hemm qatt konnessjoni mhux ma' Joseph Muscat u Ma' Michelle Muscat imma ma' hadd... Fir-rigward ta' Egrant, l-Egrant il-UBO kont jien qatt ma' hadmet bqajt jien sakemm taghjt l-istruzzjonijiet li huma dokumentati llum biex tigi likwidata.

Id-deċiżjoni li *Egrant Inc.* tiġi likwidata ħaduha għax illum ma riedux jibqgħu jagħtu dak is-servizz u jekk ikun hemm domanda jibgħatuh għand ħaddieħor. Brian Tonna jixhed li la Joseph Muscat u l-anqas Michelle Muscat ma qatt kellhom xi diskussjonijiet ma' Nexia BT fejn urew ix-xewqa li jagħmlu xi forma ta' *financial package* jew jagħmlu xi forma ta' struttura biex tieħu ħsieb l-assi tagħhom jew għamlu appuntament magħhom biex jitkelmu dwar dan is-suġġett magħhom.

Brian Tonna kien jagħmel l-*income tax returns* ta' Joseph Muscat. Lil Michelle Muscat kien jipprovdulha servizz biex timpjega *nanny* u jħalsulha l-bolol eċċ u jibgħatulha l-FS3.

Mistoqsi dwar l-istruttura ta' *Egrant Inc.* huwa wieġeb hekk –

> U specjalment minhabba li din il-kumpanija ma ghanda assolutament qatt ma intuzhat u qatt ma hadmet jiena ma kelliex naqsam. Xejn taf kif lanqas ma' transazzjonijiet ma' Egrant allura ... was ... and a liquidation and in the process of information, because there is some complex in the Panamanian Law nippreferim li jispjega Karl jigifieri mhux biex ma nirrispondiex imma ma nixtieqx nirrispondi xi haga li ma inhiex cert minnha....Iva, imma tant Egrant hija xi haga semplici tant ma hemmx x'hin nghid din diskursata hames minuti? Jigifieri din Egrant qatt ma ghamlet xejn, ma trasferejna is-shares lil hadd, ma tantx kien hemm xi tghid hlief li konsistentement kemm fil-media, u kul meta gejt mistoqsi minghand xi awtoritajiet ohrajn kienu min kienu dejjem irrispondejt fuq Egrant kif jista' jiccekkja kulhadd kul meta saqsewni kemm il-media jew hadtiehor fuq iz-zewg kumpaniji l-ohra jiena kont marbut bis-sigriet professjonali u b'din irrispondejt lil gurnalisti irrispondejt lil kulhadd u anki lil awtoritajiet heq u ovvjament dak li kont nghid li jaqbel ma ... qed igibuh dak li kont nghid li ma naqbilx kienu jgibuh jigifieri jiddipsjacini ghax nghida din imma hekk hu filfatt jigifieri hi diskursata fil-boghod ma tantx kienet twila, ahna spjegajna lil board Egrant kienet tieghi qatt ma ghamlet xejn u l-likwidajniha.
>
> Magistrat Inkwerenti: milli qed nifhem, inti qed tgħidli li ma kontx holder ta' dawn is-shares to bearer imma very clearly listed as the UBO ta' din il-kumpanija?
>
> Brian Tonna: iva.
>
> Magistrat Inkwerenti: pero meta inti listed bħala UBO ta' din il-kumpanija, inti listed bħala presta nome, inti qed taġixxi f'isem ħadd ieħor?
>
> Brian Tonna: le, le, le, le.
>
> Magistrat Inkwerenti: jew inkella inti qed taġixxi f'isem id-ditta tiegħek b'kumpanija li qiegħda hemm hekk għal min jista' jinqala'?
>
> Brian Tonna: le nagixxi f'isem id-ditta tiegħi u f'ismi għal dak li jista' jinqala'.
>
> Magistrat Inkwerenti: u ma kontx qed taġixxi f'isem ħadd ieħor?
>
> Brian Tonna: ma kontx definately qed nagixxi f'isem ħadd ieħor.

Magistrat Inkwerenti: la f'isem Joseph Muscat , la f'isem Michelle Muscat u lanqas f'isem ħadd ieħor?

Brian Tonna: mija fil-mija.

Magistrat Inkwerenti: fir-rigward ta' din il-kumpanija Egrant?

Brian Tonna: Hekk hu, hekk hu.

Brian Tonna jgħid li *Egrant Inc.* ma għandhiex kontijiet bankarji la Malta u lanqas barra minn Malta.

Supr. Ian Joseph Abdilla: għada mhux qiegħda fil-process. L-allegazzjoni li kienet ħarġet is-Sinjura Daphne Caruana Galizia dwar il-fatt li l-Ultimate Beneficial Owner ta' Egrant kellu jingħad lil Mossack Fonseca permezz ta' Skype, x'tgħidilna fuqu?

Brian Tonna: nippreferi jirrispondikom Karl għax Karl jiftakar eżatt x'gara dak innhar pero assolutament għax din hija xi ħaġa li ddiskutejna ovvjament minħabba li nqagħlet, ma kienx jirrelata la għas Sinjura Muscat, la għal Joseph Muscat imma għal xi terz, jiġifieri to a third party assolutament ma kellhomx x'jaqsmu, qatt ma kellhom x'jaqsmu Joseph u Michelle Muscat.

Brian Tonna jsostni li f'mument minnhom *Egrant Inc.* kienet maħsuba li tinbiegħ lil terza persuna, barranija, iżda ma jiftakarx min kienet dil-persuna. Ma jiftakarx kemm kien hemm *shares* meta xtraha u ma jafx x'pagamenti saru. Jgħid li huma qatt ma taw struzzjonijiet lil Mossack Fonseca sabiex jiftħulhom kumpanija partikolari. Huma xtraw it-tliet kumpaniji bħala *shelf companies* wara li kienu diġa ġew inkorporati. Huwa qatt ma ltaqa' malpersuni indikati bħala l-uffiċjali u diretturi tal-*Egrant Inc.*. Ma Mossack Fonseca huwa kien iltaqa' biss ma Adrian Dixon. Kif kellhom ikunu lkumpaniji u kif kellhom iħalsu għalihom kienet deċiżjoni li ħa Karl Cini.

Brian Tonna kien jaf li *Dubro Limited* u *Aliator S.A.* kienu l-amministraturi oriġinali tal-*Egrant Inc.* Pero hu ma kellux interess partikolari fl-*Egrant Inc.* għax riduha biss bħala *shelf company*.

Brian Tonna jgħid li sakemm kienet imwaqfa *Egrant Inc.* huwa ma tax struzzjonijiet sabiex ikun hemm bdil fid-diretturi tagħha – minkejja li huwa kien l-*UBO* tagħha. Id-diretturi kienu jagħżluhom Mossack Fonseca għax hekk hija s-sistema fil-Panama. Għalkemm l-*issued share capital* huwa 100, bħala *issued share capital* kien hemm sehem wieħed biss u huwa akkwista dak is-sehem wieħed.

Meta mistoqsi għaliex, skont fol 18, Yakeline Perez, bħala direttur tal-*Egrant Inc.* kienet tat prokura lilu u lil Karl Cini - meta huwa kien l-*UBO* ta' *Egrant Inc.* Brian Tonna ma kienx jaf iwieġeb għaliex. Id-deċiżjoni li *Egrant Inc.* tiġi stralċjata (dokument numru 3 datat 15/03/2016) għamilha hu. L-indirizz mogħti kien dak tiegħu. L-ittra kien ippreparaha Karl Cini u wara iffirmaha hu. Lil Mossack Fonseca intbgħatitilhom l-oriġinal. Ma jafx jispjega kif is-sinjal[152] li jidher fuq id-dokument fuq il-firma tiegħu kif ġie. Id-deċiżjoni li tiġi stralċjata *Egrant Inc.* għalhekk qed jingħad li ttieħdet fil-15/03/2016. Jgħid li d-deċiżjoni biex tingħalaq *Egrant Inc.* ittieħdet għax kienu ħerġin il-

[152] li huwa sinjal dritt li jaqsam il-karta fi tnjen bħal meta jkun hemm karta fuq oħra u ż-żewġ karti fuq xulxin jiġu photocopied

Panama Papers. L-*Egrant Inc.* kienet diġa ħarġet fil-pubbliku u kien hemm diċeriji li kienet ta' Joseph Muscat.

Muri ittra datata 19/01/2017 fejn Brian Tonna qed jitlob li ssir il-*winding up* tal-*Egrant Inc.* (wara l-ittra tal-15/03/2016), iżda fl-istess jum 19/01/2017 hemm ukoll *resolution* ta' Brian Tonna lil Mossack Fonseca għall-*winding up*, Brian Tonna jgħid : -

> jiġifieri ma neskludix il-possibilita' li dak in-nhar Karl Cini qalli nillikwidaw il-kumpanija ma nafx għal fejn domtu daqs hekk biex tillikwidawha, vera ma nafx għal fejn pero probabbli dak iz-zmien this was not followed up, ħsibna li ittra biss tkun biżżejjed, naħseb b'telefonata lil Karl Cini bagħatulu dan id-dokument u bagħatilhom mill-ewwel follow up tar-rizoluzzjoni.

Mistoqsi kif setgħu għamlu kollox dakinhar tad-19/01/2017 meta kienu ilhom mill-ittra tal-15/03/2016 biex jiċċaqalqu wieġeb hekk :

> ma noħodhiex bi kbira u nagħtik żewġ raġunijiet, waħda illi l-ewwel ittra ma ġietx segwita minn naħa tagħna u aħna kif jiġri Malta tikteb ittra għal likwidazzjoni u timla l-formoli and that is it jidher li kien hemm bżonn ... dik ir-risoluzzjoni jiġifieri aħna fir-realta' bagħatna biex nillikwidaw pero ma kellniex xi pressjoni kbira, meta imbagħad issa ddecidejt jien, din ma rridx nisma' biha iżjed, irrid nillikwidaha, naħseb iccekjajna l-procedura u mill-ewwel gara li gara, issa kif aħna bagħatna d-dokumenti u l-istess ġurnata, I cannot explain.... pero fl-aħħar ta' l-ġurnata, this is what happened, issa again I mean Karl will tell you exactly kif ikkorrisponda magħhom. Dan li gara pero żgur kien hemm perjodu wara s-16, għax jiena kont ... għal żewġ raġunijiet, waħda jiena ma segwejnihiex aħna u l-oħra li għamlu ħabta kienet impossibbli li taqbad ma' Mossack Fonseca, kienet impossibbli jiġifieri wara li ħareġ il-kaz qisu taf kif it was impossible to communicate.

Mistoqsi speċifikament, Brian Tonna jgħid li ma saru ebda dokumenti li kienu *backdated*. Brian Tonna talab ukoll dikjarazzjoni minn Mossack Fonseca li *Egrant Inc.* kienet tiegħu. F'dak il-punt pero l-komunikazzjoni ma Mossack Fonseca kienet saret diffiċli u xi impjegati kienu bdew jitilqu minn magħhom.

B'riferenza għad-dokument numru sitta,[153] Brian Tonna jgħid li dan irċevewh mingħand Mossack Fonseca. Dan id-dokument ma kienux għamluh Brian Tonna jew Karl Cini. Sa fejn jaf hu Ricardo Samaniego huwa persuna t'awtorita f'Mossack Fonseca.

Mal-Bank Pilatus kellu relazzjoni kummerċjali. Qatt ma kien hemm diskussjonijiet mal-Bank Pilatus biex jinfetaħ kont bankarju f'isem *Egrant Inc.* *Egrant Inc.* m'għandhiex kontijiet f'Dubai u qatt ma kellha kont bankarju ma' xi bank ieħor f'Malta :

> meta qed nghidlek kont ifhimni anka servizzi ta' natura bankarja jew relazzjoni ma xi bank jew istutuzzjoni fejn finanzjarja ohra qed nkun wiesa ghal tal-apposta, jew Malta jew barra minn Malta.

[153] *Minutes of a meeting of the Board of Directors of Egrant Inc. dated 12 August 2013 and attached Power of Attorney by Yakueline Perez dated 12 August 2013 in favour of Brian Tonna and Karl Cini.*

Bħala Nexia ma jafx li hemm xi *partner company* jew persuna li jikkomunikaw magħha f'Dubai biex jiftħu kumpaniji. Pero għandhom ditta li tieħu ħsieb ix-xogħol tar-residenza (IIP).

Għad-differenza ta' *Tillgate Inc.* u *Hearnville Inc.* ma kien hemm ebda *trust* li ġiet abbinata ma *Egrant Inc.*

Mistoqsi dwar dak li kitbet Daphne Caruana Galizia fis-sens li *"the declarations of trust were provided to the Bank by Brian Tonna"*, Brian Tonna jinnega dan u jżid li huwa qatt ma pprova jiftaħ kont mal-Bank Pilatus. Dan kien japplika wkoll għal *Tillgate Inc.* u għal *Hearnville Inc.* Hu qatt ma ra *account opening form* mingħand il-Bank Pilatus għal *Egrant Inc.* Brian Tonna jgħid li huwa qatt ma kellu negozju ma' *Al Sahra* u ma jafx li din il-kumpanija teżisti. *Egrant Inc.* la qatt ħadet self u l-anqas ma offriet xi self lil xi ħadd. Brian Tonna jgħid li huwa ma kienx involut f'xi kumpanija oħra jisimha *Egrant*. Ma jafx min hi Farnoush Farsiar, Heydarov jew Aliyev – u qatt ma offrewlhom servizzi professjonali. U bħala Nexia BT ma jidhirlux li għandhom klijenti mill-Ażerbajġan sakemm mhux tal-IIP.

Meta faqqgħu il-*Panama Papers* kellhom *partner*, Gordon Cordina li telaq mil-*partnership* u jgħid li *"kellna partnership mieghu u ghajtitlu Caruana Galizia ...*

beza u telaq dak li telaq". Ma jiftakarx li kien hemm xi impjegati li telqu mill-*firm* kif faqqgħet il-*Panama Papers*. Dawn ma kellhomx involviment fl-*Egrant Inc.*

Brian Tonna jgħid li Michael Satariano kien jaħdem ma Nexia BT, biss ma kienx involut fl-*Egrant Inc.* Brian Tonna jisħaq li Karl Cini biss kien involut fl-*Egrant Inc., Tillgate Inc.* u *Hearnville Inc.* u ebda impjegat ieħor. Iżid jgħid:-

> Id-declarations of trust zgur ma hadtthomx issa jekk hemm xi impjegat li hadilhom minn wara dari opening forms ...ma nafx hux qed tifhem pero li baghtu jien zgur li le.

Brian Tonna jgħid li hu qatt ma kellu dokumenti intitolati *declarations of trust* jew dokument ieħor li fih il-kontenut tad-*declarations of trust* imsemmija. Dak id-dokument qatt ma rah u saħaq li dak id-dokument huwa falz.

Mistoqsi dwar ir-relazzjoni li Brian Tonna kellu mal-Bank Pilatus, Brian Tonna jwieġeb li kellu relazzjoni professjonali li kienet tmur lura sentejn u nofs jew tliet snin :

> Jigifieri meta ahna interessati f'kul bank li jiftah, fetah sata bank u jiena xogholi immur u naghmel dak kif ghidtlek fil-bidu business develop, naghmel business development ovvjament wiehed mill-banek li kont ic-cekkjajtu lil Pilatus Bank u morna niccekkjaw x'servizzi joffri l-Pilatus Bank u dik l-istorja per ezempju semma ukoll mort xi mitt darba jien hem mil-logs tas-security dawk li jkunu ta' isfel kif tidhol u li darba li mort jien il-Pilatus bank iffirmajt ismi, ...il-logs u tikkonferma .. kwazi gabitha Daphne

Caruana Galizia mort fil-ħogs u nghidlek jekk f'dawn is-sentejn u nofs mort ghaxar darbiet mort hafna."

Brian Tonna jgħid li bejnu u bejn Ali Sadr qatt ma kien hemm disgwid. L-anqas ma Hamidreza Ghanbari. L-anqas kien hemm xi argument bejniethom.

Ix-xiehda ta' Karl Cini

Karl Cini xehed fil-5 ta' Mejju 2017 u stqarr li huwa *accountant* u jaħdem bħala *partner* fid-ditta Nexia BT. Hu *in charge* mill-*International Clients Department* li ġie mwaqqaf fl-2005. Karl Cini jieħu ħsieb il-*business development* u *structuring of companies* għal klijenti barranin. Fin-Nexia BT, minbarra hu stess kienu qiegħdin erba' *partners* : - Manuel Castagna li jieħu ħsieb l-*Audit Department*, Anita Aloisia li tieħu ħsieb l-*Advisory Section*, Brian Tonna li l-funzjoni tiegħu huwa l-iktar fuq klijenti lokali u anka għandu l-funzjoni ta' *Managing Partner*.

Karl Cini jmexxi l-*International Clients & Tax Department* li fih ċertu kumpaniji jirrikjedu liċenzji separati per eżempju l-*BT International Limited* li hija l-kumpanija li tipprovdi servizzi fiducjarji mhux ta' *trustees* u wkoll tipprovdi servizzi ta' immigrazzjoni fuq il-programmi *"li hawn bhal issa ġewwa Malta"*.

Hemm kumpanija oħra li taqa' ukoll taħt ir-*remit* tiegħu li hija *BTI Management Limited* li tieħu ħsieb l-aspetti l-oħra ta' *Corporate Services provision* jiġifieri twaqqif ta' kumpaniji, servizzi relatati mat-taxxa, servizzi t'*accountacy,* fejn ikun hemm x'jaqsmu klijenti barranin.

Karl Cini ilu *full time* mit-2001 u *partner* mill-2007. Nexia BT jġibu x-xogħol billi jattendu konferenzi kif ukoll bil-ħidma ta' *introducers*. Huma jispjegaw il-vantaġġi tas-sistema Malti u jippruvaw li jġibu negozju lejn Malta. L-aktar li jagħmlu huwa li jippruvaw jimirħu barra minn Malta u jwaqfu kumpaniji f'Malta. Nies li jiftħu kumpaniji barra minn Malta tramite s-servizzi tagħhom huma ftit li xejn. Nexia ma humiex esperti ta' ġurisdizzjonijiet barranin u għalhekk meta jkollhom xi rikjesta huma jirreferuhom lil xi avukat jew *accountant* f'dik il-ġurisdizzjoni.

Ir-relazzjoni ma Mossack Fonseca bdewha xi l-2011. Kien il-Lussemburgu u kienu laqqgħuh ma' Eduardo Fonseca li huwa t-tifel ta' wieħed mill-*partners* ta' Mossack Fonseca li wera interess li jistabbilixxi kuntatt f'Malta għax kellhom klijenti li riedu jużaw lil ġurisdizzjoni Maltija, minbarra ġurisdizzjonijiet oħra bħan-*Netherlands*. Talbuh jgħinhom u aċċetta. Wara li spjegalhom Malta x'timporta mill-lat regolatorju u fiskali, Mossack Fonseca għażlu li jwaqfu kumpanija u uffiċju f'Malta.

4

Mossack Fonseca kien mar il-*head office* tagħhom u huma ġew Malta. Mossack Fonseca riedu anke jiftħu kumpaniji Maltin għall-klijenti tagħhom. Ftehmu li jiftħu kumpanija separata u li din tkun ukoll b'rappreżentant tagħhom f'Malta. Din il-kumpanija fetħuha lejn l-aħħar tal-2012 u l-impjegat tagħhom ġab il-*work permit* u bdew il-promozzjoni tas-servizzi tagħhom. Dan ir-rappreżentant tagħhom kien Adrian Dixon, Panamen u kien direttur tal-kumpanija taghhom f'Malta. Karl Cini ma jafx illum fejn jinsab dan Adrian Dixon.

L-iskop ta' Mossack Fonseca f'Malta kien li jiftħu kumpaniji Maltin. Mossack Fonseca ma jiddiljawx direttament mal-klient. Il-klijenti tagħhom ikunu dawk li jsejħulhom intermedjarji jiġifieri jkunu l-banek, ditti legali u *accountants* madwar id-dinja. Il-prassi tagħhom kienet li min irid is-servizz jgħaddi tramite l-aġent tagħhom, ghalkemm setghu xorta waħda jgħaddi direttament għandhom. Biss il-maġġor parti tal-klijenti tagħhom kienu jiġu tramite l-aġenti tagħhom madwar id-dinja.

Dan l-uffiċju f'Malta ta' Mossack Fonseca kien esklussivament tagħhom u ma kienx *joint venture* bejn Nexia BT u Mossack Fonseca. Nexia BT ma kellhiex interess f'dan l-uffiċju per se għalkemm kienu jipprovdu servizzi

fiduċjarji għal *shareholder* minnhom. Nexia BT ma kellhomx interess dirett jew indirett fis-*shareholding* ta' din il-kumpanija.

Mossack Fonseca Malta kellhom kuntatti u sorsi ta' klijenti differenti minn dawk tan-Nexia BT. Mossack Fonseca ma kienux jirriferu klijenti lil Nexia BT izda Nexia BT kienu jipprovdulhom assistenza fejn per eżempju jkun hemm mistoqsijiet tekniċi jew per eżempju jagħtu servizzi ta' konsulenza.

Jekk Mossack Fonseca Malta kellhom klijent li ried jiftaħ kumpanija f'Malta, Mossack Fonseca Malta kienu jissettjawlu l-kumpanija huma stess. Iżda Nexia BT kienu jtuhom konsulenza dwar jekk l-istruttura taħdimx, jekk il-*memorandum* huwiex tajjeb eċċetra. Mossack Fonseca Malta kienu joperaw mill-uffiċju ta' Nexia BT billi Nexia BT kienu jikrulhom parti mill-uffiċini tagħhom. Minbarra dil-kera Nexia BT kienet tibbenefika mis-servizz ta' konsulenza li kienet tagħtihom li Mossack Fonseca Malta – bħal pariri dwar taxxa, abozzar ta' memoranda eċċetra u ta dan Nexia BT kienu jitħalsu.

Minn naħa taghhom Mossack Fonseca Malta għenuhom biex ikunu jistgħu jwaqfu kumpaniji fil-Panama għal-klijenti ta' Nexia BT. Nexia BT pero ma kellhomx uffiċju fil-Panama. Lil Karl Cini kienu laqqgħuh ma' ċerta Sofia Johnson – *Coordinator* fl-uffiċċju. Sofia Johnson ħadet ħsieb is-*set up* tal-

ġurisdizzjoni Maltija għalkemm din ma kienetx avukata jew *accountant*. Wara daħal fix-xena wkoll Luis Quiel li kien avukat jaħdem magħhom fil-*Head Office* tagħhom fil-Panama.

Nexia BT waqfet tliet kumpaniji fil-Panama - *Egrant Inc, Tillgate Inc* u *Hearnville Inc.* Minbarra dawn waqfu wkoll *BVI companies* li kienu *Comerco Services Limited, Durail Family Limited u Real Estate, Real Trade Investments Limited* u *Willerby Trading Inc.*

Fil-Panama jeżisti l-kunċett ta' *shelf companies* fejn wieħed jista jixtri kumpaniji ġja mwaqfin. Nexia BT ġiethom l-idea li jippruvaw dan il-kunċett u Karl Cini għamlilhom *request* għal tliet kumpaniji :

> and we got them as shelf companies. Eventwalment għal tnejn mill-kumpaniji ta' l-Panama inqalgħu l-klijenti u għat tielet waħda li hija Egrant baqa' ma inqala' ħadd u baqgħet shelf company sa kemm imbagħad iddecidejna li it is not worth keeping it any more għax kienet ovvjament bħala annual acquiring cost, ma kienetx worth it u aħna ma konniex nippromowtjaw dan is-servizz daqs tant kif konna nippromowtjaw kumpaniji Maltin eċċetra so it was left there and remained on the shelf bażikament.

Dawn it-tlieta oriġinarjament kienu intiżi bħala *shelf companies* u nżammew bħala *shelf companies* biss u mhux għax kien hemm xi ħadd u għamillhom talba għalihom. Jigifieri l-ewwel xtrawhom imbaghad wara inqalgħu il-

klijenti għal tnejn minnhom. Il-kumpaniji tal-*BVI* ma żammewhomx bħala *shelf companies* in kwantu dawk *"issettjajnihom għax xi ħadd għamilli request"*.

Karl Cini jgħid li :

> Dan bħala naħseb kull line of business. Għal kemm forsi ma nsejjaħlux line of business jiġifieri definately not a core service tagħna, tipprova bi ftit u tara jekk jimexxix, tara jekk mhux vera ħa jkun hemm domanda u ma kienx hemm għal fejn wieħed jieħu ġurisdizzjonijiet differenti.

Mistoqsi jekk Nexia BT għamlux it-talba għat-twaqqif ta' dawn il-kumpaniji u wara ġew imwaqfin jew inkella xtrawhomx wara li kienu ġew imwaqfin, Karl Cini jgħid li huma xtrawhom wara li Mossack Fonseca kienu waqfuhom.

Il-mod kif kumpaniji jiġu mwaqfin fil-Panama huwa billi l-ewwel ikun hemm is-*subscribers* li almenu jridu jkunu tnejn li jidhru fuq att notarili biex tiġi nkorporata l-kumpanija. Hemm is-sistema ta' *subscribers* li hawn Malta m'hawnx. F'Malta hemm il-kunċett ta' *shareholders*. Hemm reġistru li jirreġistra l-kumpaniji. F'Malta is-*shareholders* jissottoskrivu għal *share capital.*

F'Malta dejjem għandek is-shareholders u diretturi li jidhru fuq l-istatut mill-bidu nett li tiġi reġistrata. Meta jiġu mogħtija *fiduciary services* fuq il-*memorandum* jidher il-fiduċjarju u mhux l-*UBO*. L-*UBO* jidher fil-kotba interni tal-kumpanija. Il-funzjoni tas-*subscribers* fil-Panama hija differenti minn dik ta' azzjonisti f'Malta. Is-*subscribers* huma dawk li jissottoskrivu l-ishma inizjali; iżda l-ishma inizjali m'għandomx il-funzjoni ta' *shares* f'Malta. Dawn is-*subscribers* jibqgħu hekk sakemm il-kumpanija ma tibqax aktar *shelf company* meta tiġi mibjugħa lil klijent. *Subscriber* jista' jkun individwu jew soċjeta. Fil-fatt Mossack Fonseca jużaw żewġ kumpaniji bħala *subscribers* li huma *Aliator S.A.* u *Dubro Limited S.A.* Huwa mandatorju li dawn is-*subscribers* jissottoskrivu almenu *share* kull wieħed.

Fil-Panama għandek il-kunċett ta' *authorised share capital* u *issued share capital*. Iżda is-*subscribers' shares* ma jifformawx parti mill-*authorised* jew l-*issued share capital*. Fl-istatut tal-kumpanija jkollok kemm il-kumpanija trid toħroġ ismha bħala *authorised* u *issued share capital*. Iżda huwa d-direttur fl-ewwel laqgħa tal-kumpanija li jiddetermina kemm ikun l-*issued share capital* li joħroġ wara l-*initial subscription*. B'hekk *Dubro Limited S.A.* u *Aliator S.A.* kienu s-*subscribers* tal-*Egrant Inc.* biss Karl Cini ma kienx jaf eżatt x'kienu l-poteri tagħhom u l-jeddijiet tagħhom f'dak l-istadju.

Is-*shelf company* għalhekk tiġi mwaqfa qabel ma tinbiegħ lill-klijent aħħari. Karl Cini jimmaġina li meta ġiet imwaqfa ried ikun hemm struttura li tipprovdi għad-Diretturi.

Wara li *shelf company* tiġi mwaqfa, Mossack Fonseca jagħtuk indikazzjoni ta' x'kumpaniji għandhom disponibbli. Jagħtuk tagħżel minn lista ta' kumpaniji differenti bl-ismijiet differenti u inti tagħżel li trid. Ma jkunx hemm differenza bejniethom għajr ħlief l-isem u meta jkunu ġew inkorporati. Waħda hija *carbon copy* tal-oħra. Mossack Fonseca kienu jirreġistraw dan it-tip ta' kumpaniji regolarment għax kellhom domanda qawwija.

Għal Nexia BT ma kienet tagħmel differenza meta din is-*shelf company* kienet tiġi inkorporata, għalkemm kienu jippreferu li tkun viċin id-data tal-inkorporazzjoni biex ma jkunx hemm ħafna żmien. Dawn is-*shelf companies* ma kienx ikollhom kontijiet bankarji inklużi. Biss ma jafx jekk il-*one dollar* li kien jiswa' s-*share* oriġinali tas-*subscribers* ikunx ġie mħallas. Karl Cini xtara minn dawn il-kumpaniji u ma qalulux dwar il-ħlas ta' dawn l-ishma.

Il-klijent ta' Nexia BT jiġi informat bid-disponibblita' tal-kumpaniji għand Mossack Fonseca u wara li l-klijent itihom dawk l-ispeċifikazzjonijiet li jkun

irid, huma jirriżervawlu dik il-kumpanija għal perjodu ta' żmien qasir u kif il-klijent itik l-awtorizzazzjoni għax-xiri, jibgħatulek *order form.* Lill-aġent ituh xi erba mitt dollaru biex ikun jista' jmexxi. Il-*fee* tal-aġent hija US$75 fis-sena. Ma għandhomx obbligu li jżommu *audited accounts*. Iżda tkun trid tappunta diretturi fil-Panama u dan jiġi jiswa' l-flus.

Fl-*order form* jingħataw ċerti dettalji dwar ċertu servizzi li tkun trid li jtuk; joħorġu l-fattura, tiġi mħalsa u mbagħad dak il-ħin jgħaddu s-*share transfers* jew jissettjaw *shareholders meetings*. Hemmhekk jiddeterminaw l-*issued share capital* biex il-kumpanija tiġi ssettjata formalment f'isem il-klijent.

Fir-rigward tal-kumpaniji li huma akkwistaw kienu ddeċidew li bħala shareholder joqgħod Brian Tonna. Wara li jkun sar dan is-*shareholders meeting* is-*subscription shares* jaqgħu (fis-sens li tgħaddi li t-*treasury of the company*) u l-kumpanija tgħaddi għand sidha. Fil-każ tagħhom iż-żewġ *shares* għaddew f'isem Brian Tonna.

Id-deċiżjoni li jixtru it-tliet *shelf companies* ħaduha lejn Lulju 2013.[154] Fl-2011 u fl-2012 ma ħassewx li kellhom interess li jippruvaw jidħlu f'dan is-suq.

[154] Brian Tonna jgħid li din id-deċiżjoni kienu ħaduha f'April 2013.

Nexia BT kienu impenjati ħafna bit-twaqqif tal-kumpaniji ta' Mossack Fonseca u kien għadhom iffukati fuq li l-ewwel joħorġu bil-materjal promozzjonali fuq il-ġurisdizzjoni Maltija. Is-servizz tas-*shelf companies* ma kienx xi *Core Service* tagħhom. Meta bdew jiddiskutu l-affarijiet ta' Adrian Dixon imbagħad bdew jifhmu aktar l-operat tagħhom u raw dik l-opportunita'.

Mill-analiżi tal-korrispondenza ta' Nexia BT ma' Mossack Fonseca kif jirriżulta wkoll mir-relazzjoni tal-*Forensic Accountants* Harbinson Forensics, Karl Cini permezz t'email datata 14 ta' Marzu 2013 fis-1:36:00PM UTC intitolata *panama company and trust* kien qiegħed jagħmel talba lill-Avukat Luis Quiel ta Mossack Fonseca għall-informazzjoni dwar it-twaqqif ta' kumpanija fil-Panama u trust. Jgħid hekk : -

> Hi Luis I need you to send me a formation document pack for a company in Panama and possibly a trust. If you have time today give me a call on skype for a general update and to talk about this. Thanks Karl Cini.

Din il-konversazzjoni hija imbagħad segwita minn email oħra datata 25 ta' Marzu 2013 fl-11:17:00AM UTC minn Karl Cini lil Cristina Rios u kopjata lil Luis Quiel intitolata *RE: transfer of companies*, minn fejn jirriżulta s-segwenti : -

> Dear Cristina
> All is well thanks. Hope same with you and Luis.
> I presume the information and documents you sent me relate to the setup of the new company in Panama and for the Trust. We will prepare the requested information but the UBO will not be Nexia BT. It will be an individual and i will speak to Luis on skype to give him more details.
>
> In respect of the transfer of the 3 companies I mentioned below and for which I attached the intial documentation, what would you require to make the transfer ? as indicated I need that :
> - The current directors are replaced with a nominee director of your choice
> - The shareholding is transferred to Mossfon as a nominee shareholding, still retainint the current UBOs (for which you already have the information as the companies are already set up)
> - All future correspondence in respect of these companies is directed to me
>
> I also need to set up a new BVI Company for a client of ours. Please send me the necessary forms.

Dan juri li fl-istadju inizjali ta' din il-korrispondenza ma kienx hemm indikazzjoni li Nexia BT riedu li jiġu akkwistati tliet kumpaniji fil-Panama; iżda għal massimu kumpanija waħda fil-Panama u Trust. Din il-korrispondenza trid tittieħed in konsiderazzjoni wkoll fl-isfond tal-fatt li kif jirrimarkaw il-*Forensic Accountants* Harbinson Forensics huwa diffiċli ħafna biex jiġi determinat għall-liema klijenti kienu qegħdin isiru dawn it-talbiet stante li Nexia BT kellhom diversi talbiet minn nies differenti għal servizzi differenti li f'dak l-istadju kienu jinvolvu lil Mossack Fonseca.

Qabel Lulju 2013 ma kellhomx xi rikjesta speċifika għal xi tip ta struttura jew kumpanija fil-Panama mingħand xi klijent tagħhom.[155]

Magistrat Inkwerenti: qabel July, 2013 kellkom xi rikwest speċifika għal xi tip ta' struttura jew xi tip ta' kumpanija fil-Panama mingħand xi klijenti tagħkom?

Karl Cini: le.

Magistrat Inkwerenti: le, jiġifieri lanqas per eżempju kellkom xi forma ta' domanda anki żgħira tagħhom dawn?

Karl Cini: le, le dak iz-zmien anka ma kontx intiż ukoll f'dawn il-gurisdizzjonijiet ukoll jiġifieri ma stajtx nippromwovi għal kemm kont naf li jintużaw f'ħafna strutturi speċjalment meta narawhom fl-ambitu ta' kumpaniji Maltin owned minn kumpaniji f'dawn il-gurisdizzjonijiet familjari oħra pero kellna l-opportunita' li nissettjawhom ukoll għal klijenti tagħna.

Magistrat Inkwerenti: mill-esperjenza tiegħek jiġifieri ilek ma' Nexia BT għidtli mit-2001, partner mit-2007 jekk fhimtek sew, qatt kellkom xi domanda jew xi rikjesta f'xi ġurisdizzjonijiet ta' dan it-tip illi jkunu off shore apparti BVI għax dik għandi nifhem li ilha ħafna dik imma fir-rigward ta' l-Panama eżempju qatt ma kellkom xi request minn klijenti tagħkom Maltin u minn klijenti tagħkom barranin?

Karl Cini: le ta' pjuttost le għax ... aħna bdejna BT international mit-2005 konna pjuttost klijenti lokali biss jiġifieri kien fit-2005 li ddecidejna li niggonjaw an international network u dak iz-zmien kienet BT international imbagħad we joined Nexia u kemm jien, kemm Brian u kemm Manuel dak iz-zmien ma konniex intiżi fl-affarijiet internazzjonali pero konna qed naraw li Malta qed tieħu spinta anki fl-ambitu internazzjonali anka minn naħa ta' klijenti u ddecidejna li nibdew il-process. Il-process kien twil u ovvjament sa kemm wieħed jitgħallem is-sistema fejn Malta u hekk, għal fejn Malta popolari, għal fejn Malta x'toffri eċċetra it took some time jiġifieri it was qed ngħidu hekk li kienet towards 2008 and 9/10 li bdejna naraw interess mill-klijenti internazzjonali so our international sphere qisu beda lejn dak iz-zminijiet.

[155] L-*emails* aktar il-fuq imsemmija juru li fil-fatt kien hemm interess da parti ta' xi klijent jew klijenti għal kumpanija waħda f'Marzu 2013.

Nexia BT bdiet tikkonċentra fuq l-issettjar ta' kumpaniji f'Malta. Iżda kellhom ukoll interess dwar settjar ta' *holding companies* fil-*BVI* – biss fil-bidu ma kellhomx dawk is-servizzi. Kienu qed jaraw li xi klijenti qabel ma jiftħu kumpanija Malta riedu jiftħu kumpanija fil-*BVI* jew fil-Panama u wara jinkorporaw f'Malta. Raw li jekk ikollhom aċċess diga' bħala *shelf company*, il-process ta' inkorporazzjoni ta' kumpaniji Maltin kien ser ikun aktar mgħaġġel.

Mistoqsi dwar x'inhuma l-benefiċċji li wieħed jixtri kumpanija fil-Panama jgħid li :

> wieħed jiftaħ kumpanija hemm hekk u mostly ukoll in-nuqqas ta' requirements li inti on a yearly basis anka bħala forsi accounts, jew VAT returns u affarijiet bħal dawn li wieħed jista' jżomm issa ovvjament kulħadd ikollu r-ragunijiet tiegħu in terms of jurisdiction reference..... it is a mixture of perception ta' l-gurisdizzjoni, it is a mixture of confidentiality, of commercial sensitivity u affarijiet hekk, kull ħadd differenti jiġifieri kull ġurisdizzjoni għandha l-appeal tagħha għal persuna partikolari li tkun qed tfittixha.

Dil-kumpanija fil-Panama tista' tiftagħha sabiex tagħmel negozju, iżda tista' tħalliha bħala holding company *"rieqda for eventual use"*. Mistoqsi fir-rigward tal-fattibilita' finanzjarja li tiġi miżmuma kumpanija fil-Panama fid-dawl tal-ammont ta' persuni li jridu jiġi maħtura fuq l-istatut, Karl Cini jgħid li dan huwa rekwiżit minn naħa tal-Liġi tal-Kumpaniji fil-Panama li jkollhom dawn il-funzjonarji kollha. Ma jfissirx li dawn kollha jiġu

remunerati. L-ispiża li żżomm kumpanija fil-Panama titla' għal madwar ħames mitt jew seba' mitt dollaru Amerikan fis-sena. Għalkemm hemm marġini għola għall-aġent li jirreġistraha, jekk dil-kumpanija tibqa' *shelf company* għal perjodu ta' żmien ma tiġix taqbillek.

Karl Cini ma jafx ma min kien tkellem sabiex titwaqqaf l-*Egrant Inc* jekk hux Sofia, Luis Quiel jew Adrian Dixon. Mistoqsi jekk għandux xi *emails* jew xi ittri fir-rigward ta' l-*instructions* illi ta biex dawn il-kumpaniji jkunu jistgħu jiġu akkwistati jgħid li jiftakar li kien irċeva din il-lista ta' dawn it-tlett kumpaniji bl-*email*.

Fuq rimarka tal-ġja Supretendent Abdilla li dawn id-dokumenti ċjoe l-*order form*, la l-*email*, la forsi xi *record* ta' li ħallas il-USD400 ma jeżistu fil-*file* ta' *Egrant Inc* jgħid li kien jaħseb li l-kollega tiegħu kienet ħadithom minn *file* ieħor għax kien hemm *file* aħdar waqt li kienu fl-ufficcju tiegħu. Ma kienx hemm *administration file* għax li kien hemm kienet "*mostly the corporate documentation*". Mistoqsi fir-rigward ta jekk id-deċiżjoni dwar it-tip ta' kumpanija li kienet *Egrant Inc* kienetx deċizjoni tiegħu jew jekk ħadux parir jew diskussjonijiet ma' klijenti li kellu jgħid li l-kontenut ta' l-*articles of association* rahom l-ewwel darba meta rċieva d-dokumentazzjoni. Nexia BT ma kienux involuti fis-set up tal-kumpaniji fl-4 ta' Lulju 2013 għax dawn kienu *standard articles of association*. Hu ma staqsiex u mar direttament għal

dik li hija kumpanija normali. Meta għamlu t-talba għal dawn il-kumpaniji dawn kienu diġa mwaqfin. Iċ-ċertifikat oriġinali huwa *Mercantile Section* l-ekwivalenti tar-Reġistru tal-Kumpaniji, mhux l-*MFSA*. Hu ma jafx min huma Jaqueline Alexander jew Verna de Nelson għax qatt ma ltaqa' magħhom. Jista' jkun li kellu l-kopji tal-passaporti tagħhom fil-file. L-anqas qatt ma ltaqa' ma Ricardo Samaniego, Jadira Debaud, Jaqueline Perez, Siene Martinez u Elsibiel Gonzalez u ma jafx jekk jaħdmux ma' Mossack Fonseca jew humiex *sub-contractors*. Ma jafx x'inhi r-relazzjoni magħhom. Biss mistoqsi jekk kienx jaf li l-indirizz tal-ewwel Diretturi u uffiċċjali ta' din il-kumpanija huwa *all of Mos Fon Building, second floor, east 64 Street, Panama, Republic of Panama,* Karl Cini jgħid li dan jagħti l-indikazzjoni li kienu jaħdmu hemm hekk għax Mossfon Building huwa l-indirizz reġistrat tagħhom. L-anqas ma Josette Roquefor ma ltaqa'. Jaf pero li M. F. Legal Services huma Mossack Fonseca ukoll. Hu kien mar hemmhekk u kellhom numru ta' sulari f'dan il-bini u jaħseb li kien hemm xi 200 jew 300 persuna jaħdmu hemm hekk.

Mistoqsi dwar li il-fatt li magħqud mad-dokument tal-inkorporazzjoni tal-*Egrant Inc* kien hemm ukoll ċertifikat ta' *assignment of shares to bearer* f'isem Jacqueline Alexander f'isem id-*Dubro Limited S. A.* u Verna De Nelson f'isem *Aliator S. A.* (is-*subscribers* ta' *Egrant Inc*), li qed jgħidulek dawn li the *assignee of this document is entitled to the bearer* u b'hekk iffirmaw iċ-ċessjoni ta' dawn

it-*two shares to bearer* Karl Cini jgħid li din hija standard ukoll u l-istess ġara fir-rigward ta' *Tillgate Inc* u *Hearnville Inc.*

Dawn id-dokumenti flimkien mal-*articles of association* intbagħatulu *f'pack* meta *Egrant Inc* ġiet *"ippasjata lilna"* u wara li għamilu l-*order form,* ipprovdew id-dokumentazzjoni li kellhom jipprovdu. Dan kien pakkett standard li wieħed jirċievi meta jwaqqaf kumpanija ta' dak it-tip fil-Panama. Dik il-kumpanija kienet intitolata li l-ishma tagħha jiġu *"entitled to bearer".* Kif imbagħad joħroġ is-*share capital,* dak iċ-ċertifikat jiġi invalidat ukoll. Dan ifisser li kieku l-*Egrant Inc.* għaddiha lil xi ħaddieħor, dawn iċ-ċertifikati ma kienu jiswew xejn.

Mill-lat ta' timeline, wara li ġew mixtrija l-kumpaniji kien hemm l-*issue* tas-*share capital.* Mistoqsi minni biex jispjega x'ġara bejn it-8 ta Lulju 2013 u s-7 t'Awissu 2013 Karl Cini jgħid li wara eżatt li kien hemm it-transfer ta' *share* datat 8 ta Lulju, fid-9 ta Lulju (dokument 10) kien hemm il-*meeting* tal-*board of Directors* u b'hekk ġurnata wara sar s-*"subscribtion shares were returned by Dubro u Aliator back to the treasury of the company".* Sa dak il-punt is-*share capital* kien għadu ma nħariġx u għalhekk *Dubro* u *Aliator* ma kellhomex sehem minn dawn l-*issued shares.* Fil-fatt is-*subscription shares* ġew ritornati lura. Sa dak il-punt dawk iż-żewġ *subscription shares* kienu jirrapreżentaw l-interessi fil-kumpanija. Il-100 shares kienu għadhom iridu jiġu maħruġa fil-

mument tas-*subscription*. Karl Cini jifhimha li dawn iż-żewġt *subscription shares* ma kellhom x'jaqsmu xejn mal-100 *shares* li kellhom jiġu *issued*. Dawn iż-żewġt *subscribers* iridu jkunu mill-Panama. Kif jifimha Karl Cini, dawn is-subscription shares għandhom titlu ta' subscription shares meħtieġa biex tiġi mwaqfa l-kumpanija.

Fir-rigward ta' dak li ġara wara t-8 ta' Lulju 2013, Karl Cini jgħid li : -

> mela jekk wieħed jassumi li dawn is-shares kif spjegajt jien return back to the treasury and now the share capital is intact, hemm hekk hemm l-opportunita' fejn id-Diretturi joħorġu the actual issued share capital, this time in the name of a shareholder u hawn hekk fejn jidhol ATC Administrators Inc. ATC Administrators Inc hija kumpanija li jużaw ukoll Mossack Fonseca to provide fiduciary services. Issa meta aħna we requested a company, we requested ukoll fiduciary services so meta huma ħarġu il-one share on this particular day, the one share hareg on the name of the fiduciary parallel ukoll u simili kif jinħareġ dokument Malta meta jkun hemm fiduciary involut, li ħareġ lil fiduciary company.

Dan ifisser li fit-8 ta' Lulju 2013, fil-*meeting* tad-Diretturi ġie deċiż li jinħareġ *share* wieħed favur t'*ATC Administors Inc* b'valur nominali ta' 100 Dollaru. Ir-rimanenti 99 *shares* baqgħu mhux *issued*. *ATC Administrators Inc.* hija l-kumpanija ta' Mossack Fonseca li tipprovdi *fiduciary services* u li tista' żżomm *"fiduciary shares on a fiduciary basis"*. Jiġifieri *Dubro* u *Aliator* irritornaw żewġt *subscription shares* u nħareġ *issued share* wieħed. Dan jista' jsir għax il-minimu ta' *issued shares* jista' jkun wieħed u ma jibqax aktar meħtieġ li jkun hemm tnejn. B'hekk tiġi li hemm *ten thousand shares* (li huma maqsuma f'100 *shares* ta' USD100 dollaru Amerikan il-wieħed) li huma l-

authorised share capital iżda li minnhom *share* wieħed ta' USD100 biss ġie *issued*. Dan l-*issued share* waħdieni kellu imbagħad ir-*rights* kollha fil-kumpanija. Jidher li d-Diretturi baqgħu l-istess.

La Nexia BT u l-anqas Brian Tonna jew Karl Cini jew it-tnejn li huma, ma għandhom interess ta' *shareholders, directors,* jew *subscribers* fl-*ATC Administrators Inc,* li kienu *nominee shareholders* f'isem Brian Tonna. Brian Tonna kien l-*UBO* fit-tliet kumpaniji li xtraw u dan peress li rieduhom bħala *shelf companies*. Ma kienx hemm raġuni partikolari għaliex riedu li Brian Tonna jkun l-*UBO* aktar milli d-ditta tagħhom Nexia BT jew xi kumpanija oħra fi ħdan in-Nexia BT. Brian Tonna għażel li joqgħod hu bħala *UBO*.

Bħala parti mill-*package* li kien irċieva għat-twaqqif ta' dawn it-tliet kumpaniji kien hemm ukoll is-*share register* li kien maħruġ minn Mossack Fonseca stess u li huwa meħtieġ skont il-Liġi tal-Panama. Skont dak li Karl Cini jaf, dan id-dokument ma jeħtieġx li jkollu firma, timbru jew xi formalita oħra. Dan id-dokument ma jiġix maħruġ jew sottomess lir-Reġistru Merkantili tal-Panama.

Karl Cini jgħid li x-*share certificate* jgħid li x-*shareholder* huwa *ATC Administrators Inc.*, u dan id-dokument kien ġie għandhom bħala parti mill-

package. Ma hemm ebda riferenza għall-kumplament tad-99 *share* ieħor għax dawn ma ġewx *issued.* F'dak l-istadju huma żammew *share* wieħed biss għax ma kienx jagħmel sens li għal *shelf company* jagħmlu issue ta' 99 *shares* oħra li l-ammont tagħhom kien ilaħħaq USD9900! Kien ikun ammont ta' *share capital* maħruġ għalxejn. Imbagħad meta tinbiegħ ix-*shareholder* l-ieħor setgħa jagħmel *issue* ta' dawk id-99 *share*. Il-*one share* li ġie *issued* ġie *fully paid up.*

Id-dokument li juri li Brian Tonna kien qiegħed iżomm dan is-*share* f'ismu bħala *UBO* huwa numru sittax.[156] Dan id-dokument ġie maħruġ fid-9 t'Awissu 2013. Biss meta mistoqsi jekk qabel dak id-dokument kienx hemm xi ieħor li kien juri li *ATC Administrators Inc* kienu qegħdin iżommu dan is-*share* għal Brian Tonna, Karl Cini jgħid li ma jidhirlux li għandu dan id-dokument u l-anqas għandu xi dokument li juri r-relazzjoni bejn *ATC Administrators* ma' Brian Tonna għax l-*ATC Administrators Inc "ma jżommux shares in their own account, ATC dejjem jaġixxu bħala fiduciaries".*

[156] Din hija d-dikjarazzjoni ta' *ATC Administrators Inc* li kienet tgħid li *ATC Administrators* kienu s-sidien u kienu qegħdin iżommu azzjoni waħda (*hold ownership and beneficial interest in one share*) f'*Egrant Inc* li kienu *exclusively vested in favour of Brian Tonna "the client"* kif ukoll li dan is-sehem jew ishma oħra li setgħu jiġu *issued to us* fir-rigward ta' dawn l-ishma kienu sejrin jinżammu f'kull waqt f'isimhom *upon trust for the client* u ddikjaraw ukoll li huma kienu lesti li jħalsu lill-klijent kull dividend u dues li għalihom setgħu ikunu intitolati bis-saħħa tal-fatt li huma kienu sidien ta' dawn l-ishma u qablu wkoll li jeżegwixxu trasferiment ta' dawn l-ishma jew jeżerċitaw is-setgħat tal-vot jew li jagħmlu minn dawn l-ishma skont kif ikunu diretti mill-klijent. Din id-dikjarazzjoni kienet iffirmata minn Letitia Montoya, Yvette Rogers u Luis Quiel.

L-ittra immarkata bħala dokument 13 kienu rċevewha bħala parti mill-*package*. Din hija datata 19 ta Lulju, 2013, iffirmata mid-Diretturi ta' *Egrant Inc* indirizzata lil BTI Management Limited fejn jingħad li *Egrant Inc, "has never traded, entered into any contracts or obligations what so ever, nor have it's directors been active on its behalf in any manner. Consequently the company has no assets or liabilities at this time"*. Meta mistoqsi għaliex din id-data ta' din l-ittra hija qabel id-9 t'Awissu 2013 Karl Cini jgħid li safejn jiftakar dik tkun parti mill-*package* u hija intiża li turik li din il-kumpanija qatt ma tkun intużat u b'hekk ittik ċertu serħan il-moħħ. Din ma kienetx parti mir-rikjesta li kienu għamlu Nexia BT u dan għaliex huma riedu kumpanija *standard, shelf company* li ma tkunx għamlet negozju.

Mistoqsi għaliex din l-ittra tidher li ma ħarġitx fuq *letterhead* ta' *Egrant Inc*, Karl Cini jgħid li forsi dan ma kellhomx il-*fancy letterheads* għax dawn l-ittri joħorġu minnhom bil-mijiet. Mistoqsi għaliex imbagħad l-ittra li ġġib in-numru 6 fil-file tal-*Egrant Inc* (datata 16 ta' Frar 2017 – dwar li *Egrant Inc* kienet fi stralċ) kienet miktuba fuq letterhead ta' Mossack Fonseca, Karl Cini jgħid li f'dak il-każ kien huwa stess li talab li tkun fuq *letterhead* sabiex ikunu jistgħu jippreżentawha lil media.[157] Mentri din l-ittra dokument 13 ma

[157] Ittra mibgħuta minn Ricardo Samaniego li permezz tagħha informa li *Egrant Inc* kienet ġiet stralċjata. Wara li sar dan l-eżami u li nġieb għall-attenzjoni tal-Forensic Accountants *Harbinson Forensics* dawn sabu prova teknika li din l-ittra kienet ġiet abozzata minn Karl Cini u mibgħuta għall-firma lil Mossack Fonseca. Ricardo Samaniego jixhed li huwa għaraf il-firma tiegħu fuq dan id-dokument pero qajla kien jaf għal xiex

kellhiex letterhead għax ma talbuhomx u ma kellhomx interess stante li Karl Cini kien jaf li ġejja mingħand Mossack Fonseca. Ladarba rċeviha mingħand Mossack Fonseca, Karl Cini kellu moħħu mistrieħ.

Fuq id-dokument datat 7 t'Awissu 2013 li huwa c-*certificate of incumbancy* m'hemmx indikat min huwa l-*UBO* għaliex fuq dan iċ-ċertifikat ma jkunx hemm indikat min huwa l-*UBO*. B'riferenza għad-dokument 11, li huwa s-*share register*,[158] Karl Cini jgħid li dan jindika wkoll li dak il-*one share* huwa *nominative* u li mhux *bearer* u dan ifisser li huwa *issued* f'isem individwu. Kieku kien maħruġ *to bearer*, kien ikun hemm imniżżel li qiegħed maħruġ *to bearer*.

B'riferenza għad-dokument numru 15, li huwa t-traduzzjoni taċ-ċertifikat maħruġ mill-*Pubic Registry* tal-Panama datat 8 t'Awissu 2013 huwa traduzzjoni tas-*certificate of good standing* tal-*Egrant Inc.* Dan ma jgħidlekx min huwa l-*UBO*.

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kien qiegħed jiffirma. Karl Cini hawnhekk mhux biss talab li din tkun fuq letterhead iżda kien hu stess li abozza din l-ittra.

[158] Kopja tas-*share register* li kien juri li sehem waħdieni *nominative* bil-valur ta' mitt dollaru Amerikan (US$100) kien ġie maħruġ f'isem *ATC Administrators Inc.* bħala azzjonist ta' dan is-sehem waħdieni.

Supr. Ian Joseph Abdilla: Mela f'dan l-istadju x-xhud qed jiġi muri speċifikament Dok. YF 13 u qed nagħmlu referenza għad divider li qiegħed immarkat Egrant?

Karl Cini: mela fuq din għandek iz-zewg invoices ta' s-set up biex tara li the cost due add up minħabba ċertu dokumentazzjoni li wieħed jordna ma' l-incorporation imbagħad eżatt wara.

Supr. Ian Joseph Abdilla: ippermettieli waħda jekk jogħġbok?

Karl Cini: mela le. ... u dawk hafna dokumentazzjoni li għandna annessi hawn hekk ċertu dokumentazzjoni, provision for directors eċċetra eċċetra għal hekk huwa provision for the power of attorney, ok imbagħad għandek l-order form fejn you select the jurisdiction, ... u tagħżel, tagħżel liema huma s-subject clauses li jindicate the purpose ġenerali holding u konsulenza, company subject clauses ... fil-fatt aħna sselectjajna ... l-ebda interess ieħor imbagħad għandek section three standard authorised capital, għandek imbagħad skont il-gurisdizzjoni li ħa tagħżel the vary standard u kif qed tara l-istandard f'dan il-kaz kien 10, 000 Dollars authorised share capital divided into two hundred shares with a value of 100 Dollars each u qiegħda ttikjata hemm hekk, imbagħad fejn għandek the various individuals li għandek ikunu bħala directors / officers li dehru fuq l-articles, għandek jiena kkonfermajtilhom that they need to be appointed by them so the directors, three directors, President, treasurer, secretary indikajnilhom li jkunu jridu jappuntawhom huma.

Supr. Ian Joseph Abdilla: alright, dak id-dokument għal li jista' jkun huwa xi standard format u forsi bid-drop box jew bid-drop x'jgħidulu hawn, għandek id-drop down list?

Karl Cini: id-drop down list, no, no, no, mhux hekk u fil-fatt imbagħad is-share certificate, section, fil-fatt għandek sub section two għandek article 4, sub section 2 li hija additional information forseeing the appointment of directors jirreferilek għal kemm diretturi / officers iridu jiġu appuntati so that is all by law. Is-section ta' wara jiġifieri section five, għandek is-share certificate, infatti aħna ttikjajna that we own them registered shares u name of shareholder Brian Tonna under nominee provided by Mossack Fonseca, that is where ATC status was appointed.

Supr. Ian Joseph Abdilla: u għandek number of shares, one, value of shares 1, number of certificates one.

Karl Cini: ... jekk trid extra certificates u jiena għidtilhom le ma għandhiex bżonn extra share certificates. Additional requests, ... ikollok bżonn corporate seal u hekk, aħna ma kellniex bżonn dawk l-affarijiet u tlabniha ukoll certificate of good

standing u certificate of incumbancy, id-differenza bejniethom ic-certificate of good standing johrog mill-merchantile registry, public registry fejn it is in good order minn naħa ta' r-registry u c-certificate of incumbancy johrog mid-diretturi ta' l-kumpanija stess fejn jillistjaw min huma d-diretturi, shareholders eċċetra. Jekk hemm bżonn certification requirements, kellhom bżonn ikunu authorized jew legalised, aħna optjajna dak iz-zmien illi they are not, additional instructions ... billing instructions and that basically our correspondance kif ħa jibgħatuhom u meta eventwalment for August, 2013 intbagħatet the actual form.

Supr. Ian Joseph Abdilla: jiġifieri dik imlejtha inti imma l-firma hija ta' Brian Tonna?

Karl Cini: ... in the mean time tinsiex li during July, kien hemm ukoll korrispondenza fejn diga' qed ninfurmawhom who is going to be the ultimate beneficiary biex huma jgħaddu share certificate ...

L-*order form* kienet iffirmata minn Brian Tonna pero huwa ma jafx kienx bagħtha *b'email* jew *by courier*, għalkemm *"affarijiet oriġinali hekk nibgħatuhom courier pero ma niftakarx"*. Ma jafx jekk id-dokument innifsu hux *saved* fuq xi *computer* jew *server*. Żgur li żamm kopja tal-oriġinal. Jekk qegħdha fl-*e-mail* trid tkun fl-*inbox* tiegħu, fil-*main server*. L-*emails* jorganizzahom xahar b'xahar skont id-data.

It-tliet kumpaniji segwew l-istess *pattern*, għalkemm għad-differenza ta' *Tillgate Inc* u *Hearnville Inc, Egrant Inc* ma ġietx segwita bi *trust*. Ma jiftakarx jekk fir-rigward ta' *Tillgate Inc* u *Hernville Inc* it-*trusts* fi New Zealand ġewx imwaqfa qabel jew wara illi l-*UBO* tagħhom ġew Keith Schembri u Konrad Mizzi.

B'riferenza għad-dokument datat 9 th August, 2013, markat 16, hemm din id-dikjarazzjoni – :

> ATC Administrators Incorporation do hereby acknowledge and declare that the beneficial interest in and ownership of one share represented by share certificate number one of Egrant Inc, Incorporation was registered, with registered address at Mos Fon Building, second floor, East 54 street, Panama, Republic of Panama and in respect of which we are registered as the holder are exclusively vested in favour of Brian Tonna with address Flat number 6, Delano Flats, Triq ..., Marsascala eċċetra, eċċetra client and that such shares together with all other shares here after issued to us in respect of such shares by way of capitalization of the profits or reserves in any other manner are and will at all times be held in our name upon trust for the client and we under take and declare that we will upon request dully account and / or pay to the client, all the dividends and other moneys or rights paid or accruing to which we may be entitled by virtue of our holding of the said shares and further under take and agree that we will execute a transfer there off or exercise the holding powers there by confered or otherwise deal with the said shares in such manner as we need from time to time by directed by the client.

Din hija dikjarazzjoni mhux maħruġa fuq *letterhead* u Karl Cini ma jafx iwieġeb għaliex dak id-dokument għandu dak il-format li huwa l-istess bħal dawk taż-żewġ kumpaniji l-oħra. Għalkemm jaf li Luis Quiel jaħdem ma Mossack Fonseca fir-rigward ta' Yvette Rogers u Leticia Montoya jassumi li jaħdmu ma Mossack Fonseca. Hu kien iltaqa' ma Luis Quiel biss. Mistoqsi jekk jagħrafx li dan id-dokument 16 jixbaħ it-tipa u l-mod ta' kif jiktbu Mossack Fonseca, Karl Cini jgħid li hekk jidher *"nifhem li for the standard documentation qed nassumi li iva"* għalkemm jinnota wkoll li c-*certificate of incumbency*, dokument 14 juri li huwa f'tipa differenti, għalkemm dan huwa f'format ta' ċertifikat u mhux ittra. Karl Cini jikkonferma li dan huwa l-ewwel dokument li kien jindika li Brian Tonna huwa l-*UBO* ta' *share* wieħed

fl-*Egrant Inc.* Dan id-dokument ma jiftakarx meta rċevieh għalkemm kien parti mill-*package* li rċieva fil-perjodu tal-2013. Dan id-dokument ma talbuħx wara li nqala' l-każ u ġew żvelati l-*Panama Papers*. Jgħid hekk : -

> Karl Cini: no, no, no assolutament. Dan jibgħatuhulek bil-fors biex jgħidulek għal min qed iżommu, that is standard. Ma neskludix li kieku tlabtu pero ovvjament kien ikollu ġurnata u data differenti.

Id-dokument a fol 17 huwa l-*indemnification letter* datata 12 t'Awissu 2013 iffirmata minn Karl Cini f'isem *BTI Management Limited*, għalkemm l-*UBO* tal-*Egrant Inc.* huwa Brian Tonna personali. Mistoqsi għaliex din l-ittra ta' indennizz hija ffirmata minnu għal *BTI Management* u mhux minn Brian Tonna personali dato l-oneru assunt fuqha, Karl Cini jgħid li :

> Karl Cini: għax huma ma' l-agenti tagħhom li aħna BTI Management Limited konna at that stage aġenti ukoll tagħhom għandhom relazzjoni kif taqbad tgħid ċertu relazzjoni iktar viċin u jaċċettaw fil-fatt meta għamel l-order form vera iffirma Brian Tonna imma ddraftjajniha aħna bħala BTI Management, that is the document li talbuni huma biex nipprepara u niffirma u dak li tajthom u staqsewnix biex jagħmlu Brian jew biex nagħmluha aħna, BTI Management staqsewni għax aħna konna l-agenti ta' l-kumpanija. Nifhem il-punt tiegħek ukoll Sur Magistrat pero.

Dan huwa d-dokument li Mossack Fonseca talbuh jipproduċi f'isem *BTI Management Limited* u huwa tahom lilu – fuq talba tagħhom.

B'riferenza għad-dokument numru 18 li huwa l-*board resolution* ta' *Egrant Inc* datata 12 t'Awissu 2013 li biha ġiet maħtura Yakeline Perez biex tagħti

prokura lil Brian Tonna u Karl Cini, meta Brian Tonna kien ilu *UBO t'Egrant Inc.* għal madwar xahar, Karl Cini jikkonferma li din kienet prokura ġenerali u li kellha tibqa fis-seħħ sat-12 t'Awissu 2016. Karl Cini jgħid li huwa ġie mogħti wkoll il-prokura ġenerali għax hu kien l-iktar li jikkorrispondi ma' Mossack Fonseca *"jiġifieri kien hemm bżonn li jsir xi ħaġa fil-kumpanija"*. Din kienet prokura ġenerali da parti tad-diretturi u mhux tas-*shareholders*. Huma setgħu għażlu li jkollhom diretturi Maltin jew oħrajn iżda fl-*order form* huma għażlu li jkollhom dik it-tip ta' struttura. Safejn jaf hu m'hemmx ħtieġa fil-Liġi tal-Panama li d-diretturi jridu bilfors ikunu mill-Panama.

Mistoqsi x'kien l-iskop illi tiġi eżegwita din il-prokura mid-Diretturi fil-Panama lilu u lil Brian Tonna, Karl Cini jgħid :-

> qed tgħid il-prokura hija xi ħaġa standard li jagħtuha kif ikun hemm diretturi appuntati minnhom, again it is a standard proċess, pero kif qed tagħti l-prokura stess qed tagħti l-power li jekk qed tagħmel xi ħaġa, any way nassumu li Brian kien iqum filgħodu u jgħid nixtieq nuza l-kumpanija jien seta' jagħmilha.

Mistoqsi dwar l-ittra datata 15 ta' Marzu 2016 markata bħala dokument 3 li fiha Brian Tonna jgħid li ried li l-*Egrant Inc* tiġi stralċjata, Karl Cini jgħid li l-oriġinali tagħha kienet intbagħtet bil-posta, għalkemm ma jiftakarx jekk kienetx posta reġistrata. Karl Cini jgħid li din l-ittra kitibhielu hu. Ma jafx kif ġie s-sinjal fuq l-isem ta' Brian Tonna u l-firma tiegħu, sinjal dritt li jaqsam il-pagna kollha u dan għaliex fil-korrispondenza l-oħra ma kienx hemm

sinjali dritti jaqsmu l-karti b'dan il-mod.[159] Ma jafx għaliex ġie jidher hekk. Ma jiftakarx jekk kienx hemm dan is-sinjal fuq l-oriġinal ukoll u ma jafx jekk dan id-dokument kienx ġie *saved*. Jista' jkun li ma ġiex *saved*. Għalkemm meta konfrontat :

> Magistrat Inkwerenti: pero jkun hemm xi raġuni għaliex ma tkunx issejvjajtu peress li hija deċiżjoni importanti hawn hekk, hawn hekk qed tgħidulhom nehhu n-nofs?
>
> Karl Cini: Zammejt kopja hux.
>
> Magistrat Inkwerenti: imma hemm xi raġuni ma tħallihx ukoll fuq il-computer, naħseb normalment tissejvja inti?
>
> Karl Cini: iva, iva mhux hekk.

Mistoqsi x'raġuni kien hemm għaliex bagħatu din l-ittra lil Mossack Fonseca fil-15 ta' Marzu ta' t-2016, Karl Cini jgħid li r-raguni primarja kienet li f'dak iż-żmien :

> inqala' dak li nqala' and we decided that we don't really need it any more because shelf company kienet u shelf company baqgħet, qatt ma intużat sewwa sew iktar ridna neħilsu minnha kemm jista' jkun malajr.
>
> Magistrat Inkwerenti: sa fejn naf jiena l-ikbar kjass, dak iz-zmien kien qam fuq il-Hern Ville u fuq it-Till gate?
>
> Karl Cini: ehe.
>
> Magistrat Inkwerenti: Egrant dak iz-zmien kienet diga' bdiet tissemma'?
>
> Karl Cini: iva iz-zgur.
>
> Magistrat Inkwerenti: kienet żgur?

[159] Dan is-sinjal jidher li huma dots stampati u mhux qarsa jew fil-photocopy jiġi ħażin.

Karl Cini: ehe.

Magistrat Inkwerenti: u f'liema kunċett bdiet tissemma' l-Egrant?

Karl Cini: kienet qed tissemma fil-kuntest li ma kienux jafu ta' min hi.

Magistrat Inkwerenti: so il-fatt li ma kienux jafu ta' min hi kien hemm għal fejn li tiġi likwidata għaliex l-inkwiet?

Karl Cini: fl-istess żmien ukoll anka minħabba l-link li kien hemm ma' l-Mossack Fonseca u l-kjass li nqala' fuqhom ukoll, we decided ukoll to terminate.

Magistrat Inkwerenti: ir-relazzjoni ta' l-ufficcju?

Karl Cini: mhux ir-relazzjoni magħhom imma fejn kont qed nieħu ħsieb il-kumpaniji li semmejtlek ukoll bagħatna instructions li aħna ma nixtieqx inkunu iktar intermedjarji tagħhom u biex jeħduhom huma over as direct clients. F'dan il-kaz partikolari peress li Brian kien beneficial owner seta' mill-ewwel jillikwidaha.

Magistrat Inkwerenti: issa ara mela l-Hern Ville u t-Till gate some where along the line, inqala' klijent għalihom, l-Egrant ma inqalgħax klijent għaliha?

Karl Cini: qatt.

Magistrat Inkwerenti: sorry?

Karl Cini: qatt.

Magistrat Inkwerenti: lanqas xi klijent barrani?

Karl Cini: lanqas.

Magistrat Inkwerenti: interess fiha ma ntwera mingħand hadd mhux qed ngħidlek Joseph Muscat ta' jiena jew Michelle Muscat jiġifieri klijent barrani?

Karl Cini: le, le ta' għax kelli wara li ssettjat Egrant kelli rikjesti għal kumpaniji kelli klijenti barranin u marru fuq il-BVI company ma riedux ...

Magistrat Inkwerenti: for BVI mhux għal Egrant?

Karl Cini: ma riedux Panama company for some reason.

Magistrat Inkwerenti: ma riedux Panama company issa mela 15 th March, 2016 allura qed tgħidli li għamel Brian Tonna din ir-rikjesta biex il-kumpanija tiġi magħluqa?

Karl Cini: pero ma rcevejtx konferma fuqha din, ma rcevejtx lanqas risposta, acknowledgement xejn allura wisq bdejt nimmaġina li dak iz-zmien kull ħadd kien b'panic attack u ma tawx kasha.

Magistrat Inkwerenti: fir-rigward ta' Hern Ville u TIll gate għamilt talba simili?

Karl Cini: le ma għamiltx talba simili jien.

Magistrat Inkwerenti: u x'raguni kien hemm għax dawk naħseb kienu iktar in the lime light minn Egrant għax Egrant ħadd ma kien jaf ta' min hi mentri ta' dawn?

Karl Cini: mhux il-kompitu tiegħi kienet x'jagħmlu dawn.

Magistrat Inkwerenti: għax kienet up to them u ma dħaltx fiha, mentri din peress li kienet ta' Brian Tonna iddecidejtu li jistgħu jgħalquha pero jidher illi skont dak li qed nara hawn hekk ħaduha relax mhux ħażin dawn?

Karl Cini: le kif qed ngħidlek ma rrispondinix fuq din, ircevewha, ma ircevewhiex, acknowledgement ma kellhiex.

Magistrat Inkwerenti: fhimtek.

Karl Cini: tant hu hekk li.

Magistrat Inkwerenti: dak iz-zmien naturalment kienu maqbudin allura qed nifhem?

Karl Cini: qed nimmaġina jiena wkoll li hekk.

Magistrat Inkwerenti: pero baqgħu jaħdmu dawn imbagħad il-Mossack Fonseca sa fejn taf inti? Baqgħu joperaw?

Karl Cini: iva ta.

Magistrat Inkwerenti: baqgħu joperaw.

Karl Cini: baqgħu joperaw.

Magistrat Inkwerenti: imma jiġifieri mhux eżempju ...

Karl Cini: they ... għax filfatt ħafna minn dan il-persuni li kont nikkorrispondi miegħu ma għadux hemm.

Magistrat Inkwerenti: ma għadux hemm. Pero effettivament sa fejn taf inti kienu baqgħu jaħdmu b'xi mod?

Karl Cini: sa kemm ilu, sa Jannar meta għamilt ir-request, Brian għamel ir-request for the dissolution, kienu għadhom joperaw u fil-fatt sa Frar / Marzu meta irċevejt ... id-documents

B'riferenza għad-dokument 5, li hija ittra datata 19 t' Jannar 2017 iffirmata minn Brian Tonna lil Mossack Fonseca Karl Cini jgħid li din hija *follow up* għall-ittra markata dokument 3 tal-15 ta' Marzu 2016[160] għax ma kienux irrispondewh għaliha u għalhekk bagħtulhom din l-ittra fejn wara Mossack Fonseca infurmawhom li din mhux biżżejjed, u ried ikollha *wording* partikolari, għamel dan il-*wording* kif mitlub u Brian Tonna iffirmaha u bagħatuhielhom. Fl-*emails* żgur li hemm kopja mehmuża. Din mibgħuta *b'email* fid-19 ta' Jannar 2017.

Magistrat Inkwerenti: taf għaliex qed nistaqsik għaliex it-tnejn li huma dawn jidhru illi mibgħut cioe' li huma datati 19 th of January, 2017 tajjeb issa, ħin jekk intbagħatux bl-email jew le hawn hekk ma għandniex pero meta imbagħad tara d-dokument a fol. 1, number 1 illi huwa allura l-istrument of dissolution, dak id-dokument li dissolution, li wassal għad dissolution ta' l-Egrant, hawn hekk qed jingħad illi l-meeting ta' s-shareholders ta' l-Egrant seħħ on the same date, 19 th January, 2017 at 11.45 u li qed nara naqra diffiċli jiena illi tgħidli tibgħathielhom by email, I mean ħa taslilhom by email, tgħidli aħna hawn hekk qiegħdin ma nafx sitt siegħat / seba' siegħat qabilhom jiġifieri jekk bagħatilhom wara nofs in-nhar dawn waslitilhom filgħodu bl-email imma possibbli li ħa jieħdu deċiżjoni bħal din illi they abide by your instructions on the same day meta dawn ma għandhomx il-karta iffirmata l-originali ta' r-resolution?

Karl Cini: ma talbunix karta oriġinali, talbuhieli by.

Magistrat Inkwerenti: lanqas?

Karl Cini: le.

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[160] Ittra minn Brian Tonna lil Mossack Fonseca Head Office li permezz tagħha Tonna talabhom biex jistralċjaw lil kumpanija Egrant Inc. Tonna talabhom jagħmlu kuntatt ma *BTI Management Limited* għal dan.

Magistrat Inkwerenti: nara daqs xejn libertini dawn, ma nimmaginanhiex nagħmel hekk jien Malta, talba biex inxolji kumpanija u nirċievi email?

Karl Cini: jiena ma nagħmilhiex.

Magistrat Inkwerenti: but they do it, it seems. Hi daqs xejn.

Karl Cini: jiġifieri huma ħa jkollhom fir-records, is-share register u ... jiġifieri colloboration li l-Brian is actual u li ġejja mingħandna bħala let's say l-agenti tagħhom.

Supr. Ian Joseph Abdilla: l-issue naħseb li hija anka li nistgħu nieħdu hawn hekk mhux just li they abided by your instructions imma marru għand Nutar jiġifieri jekk tara Dok. 1, id-Dok 1 mhux just biċċa karta li forsi xi ħadd irċieva l-email u jagħmel a document of dissolution imma dak l-istess document of dissolution huwa att pubbliku jiġifieri dan.

Magistrat Inkwerenti: jiġifieri dan marru għand nutar, marru bil-karta għand in-nutar dan fl-aħjar ipotesi ta jiġifieri.

Supr. Ian Joseph Abdilla: sa kemm ma kellhomx nutar fl-istess kamra li xogħolu kien jagħmel biss dawn l-affarijiet magħhom 100 % mingħajr ma kellhom kju, mingħajr ma kellhom back log, imqar ma kellhom imqar ġurnata xogħol b'lura u dawn tipo qdew lilna mill-ewwel malli irċevew l-instructions tagħna tipo, kieku tgħid ħadu ġimgħa biex jagħmluha, tgħid imma dawn qishom they were sitting down just in the midst of all this, of all what was going on with Mossack Fonseca just waiting for our instructions to disolve one of the companies bhal ma naħseb taf inti aktar minni, ma kellhomx kumpanija waħda jiġifieri min jaf kemm f'dan il-perjodu irċevew instructions, din li jiena tidher ftit stramba ukoll?

Karl Cini: jiena meta irċevejt id-dokumenti ta' d-dissolution issa, issa jekk huma irċevew l-istruzzjonijiet ... issa forsi jekk għamluha sitt ijiem wara u għamluha according to the instructions ...

Magistrat Inkwerenti: hawn hekk li qed jingħad huwa illi l-meeting ta' s-shareholders biex inkunu ċari, il-meeting ta' s-shareholders hawn hekk qed jingħad illi sar on the 19 th January, 2017 at 11. 45 am issa imbagħad il-kuntratt notarili jidher illi huwa ffirmat?

Karl Cini: għandek it-timbru 23 rd February.

Magistrat Inkwerenti: jiena qed nara it-text l-ispanjol ta', illi mbagħad dan jidher illi dan gie iffirmat fil-15 th February, 2017 quddiem in-Nutar jiġifieri mhux daqs hekk sorpriż bl-att notarili daqs kemm.

Supr. Ian Joseph Abdilla: jew huwa back dated skont meta rċevew l-instructions bħal ma naħseb meta aħna.

Magistrat Inkwerenti: in-nutar nara diffiċli jiena.

Supr. Ian Joseph Abdilla: naħseb bħal meta aħna Sur Magistrat, nipprezentaw il-Form K?

Karl Cini: u għandek 14 days biex tissabmitjaha.

Supr. Ian Joseph Abdilla: 14 days u ngħidu isma' with effect from jew by resolution dated of.

Magistrat Inkwerenti: jiġifieri l-kuntratt notarili li jsir on the 15 th of February, it makes sense, li qed nistaqsi hu kif is-share holders ta' l-Egrant jagħmlu dan l-extraordinary ġeneral meeting biex ixolju l-kumpanija on the same day illi l-karti l-originali għadhom ma waslulhomx, I mean that beats me. Tgħidli u iva mhux bl-email ... imma tidher naqra stramba qed tifhem, that is it u allura qed tgħidli li din ġiet xolta b'resolution tan-19 th January, 2017 u formalizzata fil-15 th February, 2017 qed nifhem hux hekk?

Karl Cini: u t-timbru tar-registru ħareġ 23 rd.

Magistrat Inkwerenti: u mbagħad irregistrawha 23 rd February, 2017.

Karl Cini: għax inti imbagħad għandek il-process għax kif fhimt jien jagħmlu xi adverts fuq il-gazzetta wkoll.

Magistrat Inkwerenti: issa imbagħad niġu għal Dok. 6 l-aħħar dokument li hawn, hawn hekk u huwa 16th February, 2017 iffirmat minn Riccardo Sameniego, Director and President, din id-darba fuq il-letter head ta' l-Mossack Fonseca, l-ittra iffirmata minn Riccardo Sameniego li għandi nifhem li huwa fil-Panama dan?

Karl Cini: hekk hu.

Magistrat Inkwerenti: allura l-original fejn hu ta' din l-ittra?

Karl Cini: qatt ma bagħatuhieli, bagħatuhieli email.

Magistrat Inkwerenti: bi scanned copy ta' l-email ukoll?

Karl Cini: iva.

Magistrat Inkwerenti: u qatt ma bagħatulek l-originali?

Karl Cini: no. Again this is a document, ma huwiex standard, tlabtu jiena speċifikament matul ovvjament il-mistoqsijiet varji li bdejna nirċievu mingħand il-media u ridt dokument għal inqas in scanned format biex nippreżenta għal inqas

dokument li qed jgħid li Brian kien baqa' għax effettivament share register baqa' l-istess, ma inħarigx share register ġdid għax ma ħarġux shares ġodda jiġifieri min jistaqsini għal share register updated, l-unika wieħed li pprezentajt li huwa l-originali huwa l-unika wieħed.

Magistrat Inkwerenti: huwa dan?

Karl Cini: huwa dak.

Muri l-ittra dokument 3 (mingħuta minn Brian Tonna lil Mossack Fonseca) u l-ittra dokument 6 (mibgħuta fuq letterhead ta' Mossack Fonseca iffirmata minn Ricardo Samaniego) u li hemm sommiljanza kbira bejn il-font u l-mod tal-kitba tad-dokument Dok. 3 u Dok. 6, bl-istess stil u li huwa stil differenti minn kif jiktbu fil-Panama (kif hemm indikat eżempju dokument 13) Karl Cini jgħid li iva :

Magistrat Inkwerenti: fejn fil-Panama jiktbulek l-ismijiet bold u ħafna affarijiet hekk, il-fond li jidher li kienu jużaw dawn kienet l-Arial mentri hawn hekk f'daqqa waħda qed naraw illi l-fond inbidel għal Times New Roman u b'mod partikolari jekk inti tara t-title – l-istess jiġifieri huwa prattikament kważi mhux eżatt, imma kważi copy and paste, għal li jista' jkun din l-ittra?

Karl Cini: dak jiena bagħathielu t-text.

Magistrat Inkwerenti: it-text inti ktibtulu hux?

Karl Cini: iz-zgur mela.[161] Għax din it is not a standard document, it-text jiena bagħatulu għaliex what is that you wanted to say għax ma nafx ovvjament għax huma ma jafux x'mistoqsijiet qed jistaqsuni, what we wented to cover so jiena kelli nagħmillu eżatt what we wanted to cover.

Magistrat Inkwerenti: u bagħatlu t-text, iffirmahulek, skenjahulek u bagħatilek.

Karl Cini: proset.

Supr. Ian Joseph Abdilla: għandna insibuh fl-email?

[161] Kif intqal aktar il-fuq, dan huwa konferma mir-relazzjoni tal-*Forensic Accountants* Harbinson Forensics.

Karl Cini: hekk suppost iva.

Magistrat Inkwerenti: imma importanti l-originali din ma indenjax ruħu jibgħata?

Karl Cini: le.

Magistrat Inkwerenti: ta' min jitolbhielu naħseb hu?

Karl Cini: le nitolbhielu.

Magistrat Inkwerenti: ta' min jitolbhielu l-originali għax naħseb li importanti li jkollok l-original fil-file ta' l-Egrant qed jattestjalek xi ħaġa importanti bħal dik. Issa xi ħaġa oħra Supretendent?

Supr. Ian Joseph Abdilla: inti ma' Mossack Fonseca għandkom kuntatt?

Karl Cini: iva. Again ħafna minn nies issa qed jitilqu jiġifieri anka biex ħriġt din id-dissolution għax issa differenti n-nies.

Kuntatt ma' Jacqueline Alexander u Verna De Nelson le direttament qatt ma kellu u l-anqas ma Ricardo Samaniago.

Mad-Ditta Nexia BT hemm b'kollox madwar 120 ruħ impjegat. Taħt *BT International Management* qegħdin madwar 22 ruħ u maż-żmien ftit inbidlu nies. Hu qiegħed *partner* imbagħad hemm żewġ diretturi. Isemmi isem l-impjegati li hemm miegħu.

Egrant Inc qatt ma kellha kontijiet bankarji. Qatt ma rċeviet flus. Ma hemmx relazzjoni bejn *Egrant Inc* u l-Bank Pilatus. Ir-relazzjoni tiegħu mal-Bank Pilatus kienet fis-sens li ġieli ħadulhom klijenti biex jiftħu kontijiet bankarji hemmhekk. Hu ġieli mar hemmhekk personalment. Kien jinnegozja ma

Hamidresa Ghanbari. Ġieli ltaqa' ma' Ali Sadr ukoll, biss dawn kienu jkunu laqgħat każwali – *"it is more ikun għaddej hello, how are you u daqs hekk"*. Meta ltaqgħu huma ltaqgħu fil-Bank Pilatus u qatt ma ltaqgħu in-Nexia BT.

Magistrat Inkwerenti: mela ara din l-investigazzjoni kollha bdiet minn artiklu li kitbet is-Sinjura Daphne Caruana Galizia?

Karl Cini: hekk hu.

Magistrat Inkwerenti: fejn fost affarijiet oħrajn għamlet diversi allegazzjonijiet ta' ċertu serjeta' fil-konfront ta' l-mara ta' l-Prim Ministru u diversi nies oħrajn. Issa l-artiklu in kwistjoni huwa dak li kien gie ippubblikat fl-20 ta' April, 2017 fis-7. 59 pm intitolat - *Declarations of Trust in Pilatus Bank safe in Egrant Inc shares held for Michelle Muscat* . Kemm ilek taħdem fuq dan id-dossier, fuq dan il-file ta' l-Egrant, jiġifieri Hern Ville ġiet miftuħa u eventwalment akkwistaha Conrad Mizzi, Till gate ġiet miftuħa u eventwalment ħadha Keith Schembri, Egrant qatt ma kien interessat fiha l-Prim Ministru jiġifieri din?

Karl Cini: le.

Magistrat Inkwerenti: jew il-mara tiegħu?

Karl Cini: lanqas.

Magistrat Inkwerenti: jew forsi kellek xi rikjesta minn naħa tagħhom?

Karl Cini: le lanqas.

Magistrat Inkwerenti: aħna nafu li dawn huma klijenti ta' l-ufficcju tagħkom fuq affarijiet personali?

Karl Cini: le mhux klijenti tiegħi.

Magistrat Inkwerenti: ta' l-ufficcju tagħkom għedtlek, ta' l-ufficcju tagħkom, Nexia BT jiġifieri fuq affarijiet personali tagħhom?

Karl Cini: jien ma nafx biha din, ma nafx jekk humiex klijenti no.

Magistrat Inkwerenti: le, alright.

Karl Cini: għal min qed tgħid inti?

Magistrat Inkwerenti: għal Joseph Muscat u għal mara tiegħu, huma f'isimhom personali?

Karl Cini: jiena qatt ma ddiljajt ma' d-dokumentazzjoni tagħhom ħa ngħid hekk.

Supr. Ian Joseph Abdilla: meta iltqajtu l-partners naħseb fuq dan il-kaz tkellimtu?

Karl Cini: fuq il-kaz ta' l-Egrant?

Supr. Ian Joseph Abdilla: naħseb wara dawn l-allegazzjonijiet xi meeting fuq il-partners kellkom hux vera?

Karl Cini: tkellimna ovvjament mela le.

Supr. Ian Joseph Abdilla: you are not aware li l-Prim Ministru Joseph Muscat , intom tagħmlulu d-dikjarazzjoni ta' t-taxxa?

Karl Cini: jiena mhux involut fiha.

Magistrat Inkwerenti: mhux reat kriminali?

Karl Cini: naf imma Onestament ma nafx.

Supr. Ian Joseph Abdilla: jiġifieri ħadd ma qallek just for your information wieħed mill-klijenti tagħna intom bħala partners jiġifieri ħadd ma, wieħed mill-partners lil partners l-oħra jew id-Direttur, wieħed mid-diretturi lid-Diretturi l-oħra, lanqas jiġifieri as a passing comment isma' just for information lil Prim Ministru nagħmlulu t-tax declaration u lil Michelle Muscat għamilnielha dokumenti relatati ma' l-ETC fuq in-Nanny tagħha u t-tax declaration tagħha?

Karl Cini: lili ħadd qatt ma qalli.

Supr. Ian Joseph Abdilla: this is news, l-ewwel darba li qed tismagħha?

Karl Cini: iva....

Karl Cini: fl-ambitu tiegħi peress li niddilja ħafna ma' international clients u klijenti li huma international related ġieli ħa jkun hemm klijenti li ma nkunx naf bihom, inti qed tgħidli persuna ta' ċertu prominenza ...

Supr. Ian Joseph Abdilla: le mhux qed ngħidu li jiġi hemm biex tagħmlulu t-taxxa imma li tipo?

Karl Cini: irrespective imma hemm 'il fuq minn sitt mitt klijent jiġifieri żgur ma nafhomx kollha u ...

Magistrat Inkwerenti: f'dan il-kaz pero fir-rigward ta' Egrant inti qed tgħidli li qatt ma kellek informazzjoni mogħtija lilek la minn Brian Tonna u minn ħadd ieħor illi dina l-Egrant hija intiża għal Prim Ministru?

Karl Cini: le.

Magistrat Inkwerenti: le. Jew li forsi Joseph Muscat jew Michelle Muscat jew xi ħadd ieħor tkellem miegħek fuq l-interess tagħhom li jkollhom l-Egrant?

Karl Cini: no.

Supr. Ian Joseph Abdilla: inti ma' Michelle Muscat jew ma' Joseph Muscat qatt iltqajt?

Karl Cini: ġieli iltqajt, ma' Michelle forsi f'xi function u ma' Joseph fuq xi function ukoll.

Supr. Ian Joseph Abdilla: qatt ma kellkom diskussjonijiet?

Karl Cini: qatt ma kelli.

Supr. Ian Joseph Abdilla: jiġifieri just minimament qed jagħmel query dwar his future, meta jitlaq mill-Politika?

Karl Cini: no, no, no assolutament. L-unika li darba cempilli biex jikjarifika x'inhu dak id-dokument li ħarġet is-Sinjura Caruana Galizia.

Magistrat Inkwerenti: issa niġu għaliha dik. Issa niġu għaliha. Dan fost affarijiet oħra is-Sinjura Caruana Galizia qiegħda tgħid illi fil-Pilatus Bank insomma kien hemm safe u li f'dan is-safe kien hemm dawn id-dokumenti li jikkonsistu f'declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for Mrs. Michelle Muscat , x'taf tgħidli fuqha din l-istqarrija?

Karl Cini: li mhux vera.

Magistrat Inkwerenti: qatt rajt xi ħaġa ta' dan it-tip inti kemm ilek taħdem f'dan l-ufficcju ma' s-Sur Tonna u kemm ilek tieħu ħsieb din l-Egrant Incorporation?

Karl Cini: le u ngħidlek kważi impossibbli għax hafna mill-korrispondenza jekk ħa jkun hemm xi korrispondenza ma' Mossack kienet tgħaddi through me.

Magistrat Inkwerenti: int personali probabbilment kont tagħmilha minħabba li kont tikkorrispondi regolament ma' Mossack Fonseca?

Karl Cini: ehe.

Magistrat Inkwerenti: issa hawn hekk tgħidlek *Declaration of Trust*, jiena l-ewwel staqsejtek għidlek mela Hern Ville għandha trust, Till gate għandha Trust u Egrant ma għandhiex trust?

Karl Cini: hekk hu.

Magistrat Inkwerenti: u allura d-declarations of trust li qed tgħid li għandha hawn hekk x'inhuma?

Karl Cini: le d-definition ta' declaration of trust ma tindikax li hemm trust, declaration of trust is what we refer to as the confirmation of mandate jiġifieri declaration li l-mandatur jiġifieri f'dak il-kaz ATC Administrators fil-kaz ta' Egrant qed taġixxi bħala nominee. That is in the Financial Services World is the document ta' mandate. That is what it is imma ma jfissirx li hemm trust no għal kemm hemm il-kelma trust inkluża.

Magistrat Inkwerenti: jiġifieri inti qed tifhem biha id-declaration of Trust jiġifieri qed tirreferi għal dokument illi jindika min huwa l-ultimate beneficial owner iddikjarat minn nominee shareholder?

Karl Cini: korrett.

Magistrat Inkwerenti: pero f'dan il-kaz jekk kienx hemm xi nominee shareholder fil-fatt kif qiegħdin naraw probabbilment illi kellhom ikunu l-Mossack Fonseca għax il-Mossack Fonseca kienu qed jaġixxu through ATC Administrators Incorporation?

Karl Cini: Fil-kaz ta' Egrant, ATC Administrators kienu the fiduciary shareholders.

Magistrat Inkwerenti: jista' jagħti l-kaz li Brian Tonna fil-fatt qed jaġixxi bħala presta nome għal Prim Ministru jew il-mara tiegħu? Presta nome jiġifieri?

Karl Cini: le naf x'jigifieri presta nome imma l-ewwel nett għax Malta irid ikollok liċenzja jiġifieri the only licencee li għandha aħna hija BT International.

Magistrat Inkwerenti: jekk tkun trid taħdem b'mod legali hekk suppost. Pero taf inti jekk kemm il-darba per eżempju Brian Tonna huwiex qed jaġixxi bħala f'isem il-Prim Ministru imma ma jidhirx il-Prim Ministru?

Karl Cini: le ma nafx u ma għandhiex għal fejn ikolli dak is-suspett.

Magistrat Inkwerenti: dak is-suspett, issa imbagħad din tkompli, din ma tieqafx hawn, mela din imbagħad tkompli tgħidilna hekk, *illi these declarations of trusts were provided to the bank by Brian Tonna as a pre requisite for opening an account for Egrant Inc for which the identity of the Ultimate Beneficiary Owner is required.* Kemm ilek responsabbli inti minn dan il-file ta' l-Egrant, qatt kien hemm xi rikjesta jew xi talba magħmula li lilek minn Brian Tonna jew minn kwalunkwe persuna oħra sa biex tagħti struzzjonijiet biex jinfetaħ kont bankarju għal Egrant jew hawn Malta jew barra minn Malta?

Karl Cini: le.

Magistrat Inkwerenti: jew xi servizzi bankarji oħrajn jew finanzjarji għal Egrant jew minn Egrant lil ħadd ieħor?

Karl Cini: le.

Magistrat Inkwerenti: lanqas. Imbagħad din qed tgħid hekk *Mrs. Muscat's name is also given on another document held in the bank safe, the account opening form for Egrant Inc* jiġifieri lanqas ma' l-Pilatus, qatt ma saret talba biex jinfetaħ bank account f'isem Egrant?

Karl Cini: jiena qatt ma ssottomettejt l-ebda dokumentazzjoni.

Magistrat Inkwerenti: jew jekk tafx li Brian Tonna għamilx dan għax din Brian Tonna qed tgħidlek hawn?

Karl Cini: ma jidhirlix li qatt iffalja dokument bħal dak.

Magistrat Inkwerenti: alright, imbagħad tgħidlek illi telgħawhom fil-cloud u ma nafx fejn iktar. Issa kompli?

Supr. Ian Joseph Abdilla: taf jekk Egrant infetħitx biss Malta?

Magistrat Inkwerenti: cioe' infetħet il-Panama?

Supr. Ian Joseph Abdilla: jekk ma hawx Egrant waħda, qatt għamilt query ma' Mossack Fonseca biex tara teżistix another Egrant?

Karl Cini: qatt ma għamilt u qatt ma kelli għal fejn.

Magistrat Inkwerenti: jew Egrant S. A. jew Egrant P. V. Jew Egrant what ever?

Karl Cini: qatt ma għamilt din il-query u qatt ma kelli bżonn nagħmel din l-enquiry ħa ngħidu hekk. I mean meta ssetjajt il-kumpaniji, that was the name and that is it.

In-negozju li għandhom f'Dubai u l-Emirati Għarab Magħquda huwa konċentrat fuq il-promozzjoni tal-*Malta Residence and Visa Programme*. Isiefer spiss hemmhekk u għandhom preżenza ta' *Service Office* bil-local partner jinsab f' Riyadh fis-Saudi Arabia jismu Iman Segini. Apparti minn hekk bħala *BTI Management Limited* jew Nexia in ġeneral, għandhom klijenti illi huma Azerbajgani jew inkella b'interessi mill-Ażerbajgan u kellhom numru

t'applikazzjonijiet għal *IIP*. Minbarra dawn kien hemm wieħed minnhom li kellu diga' kumpanija Malta li kienet ilha issetjatha mit-2008 / 2009 meta ippproponilu *"qed nisimgħu dan il-programme ukoll kien interessat u x'jismu u mbagħad apparti din l-IAP kien hemm klijent partikolari li decided to set up a number of holding companies in Malta ukoll"*. Dan la kien Heydarov u l-anqas Aliyev.

Mal-Bank Pilatus, Karl Cini kellu relazzjoni professjonali iżda mhux waħda soċjali. Huwa ġieli mar f'dal Bank fuq xogħol tal-klijenti. Biss hu personali ma kellux kont mal-Pilatus.

> Magistrat Inkwerenti: issa ara pero midħla ta' xi klijenti ta' l-bank Pilatus inti bħala Service provider lil diversi kumpaniji?
>
> Karl Cini: iva wieħed partikularment għax kien introdott mill-Pilatus Bank innifsu, dak il-klijent li qed ngħidlek li set up a number of holding companies was actually a referral from Pilatus Bank.
>
> Magistrat Inkwerenti: u dana huwa?
>
> Karl Cini: ismu daqs xejn diffiċli, Manucer Adapanganca something like that.
>
> Magistrat Inkwerenti: ok kollox irreġistrat. Issa jekk insemmielek il-kumpanija Al Sahra Free Zone Company ta' Dubai, does it ring a bell?
>
> Karl Cini: no.
>
> Magistrat Inkwerenti: Al Sahra?
>
> Karl Cini: no.
>
> Magistrat Inkwerenti: ara f'dan l-artiklu ipprubblikat minn Caruana Galizia fl-20 ta' April, 2017 f'4. 41 pm intitolat US Dollars 1.017 million in single transaction from Azerbajgan owned company to Egrant Inc, qed jingħad illi f'Marzu ta' s-sena l-oħra, 2016 jigifieri Al Sahra FZCO a company incorporated in Dubai Free Zone

made a single payment transaction of US Dollars 1.017 million to Egrant Inc, a company incorporated in Panama in 2013. X'taf tgħidli fuqha din?

Karl Cini: ma nafx min fejn ġabitha l-informazzjoni.

Magistrat Inkwerenti: ma teżistix jiġifieri?

Karl Cini: ma teżistix għax la lanqas kellha kont, impossibbli tirċievi flus.

Magistrat Inkwerenti: issa dan qed jgħid hekk, *the transaction which was descibed as a loan payment was made from Al Sahra FZCO from Pilatus Bank in Malta to an account which Egrant Inc holds with a bank in Dubai. This was not the only loan payment which Egrant received from Al Sahra FZCO but it was the largest single transaction. Other loan payments were of around 100, 000 Dollars each and made twice a week over several weeks in January, February and March, last year.* Again x'taf tgħidli fuqha din?

Karl Cini: sfortunatament xejn għax ma nafx b'dawn it-transazzjonijiet x'inhuma.

Magistrat Inkwerenti: issa qed jingħad hawn hekk ukoll illi the bank accounts opening form for Al Sahra FZCO in Pilatus Bank gives Layla Aliyeva daughter of Ilham Alyev, ruler of Azerbajgan as the ultimate beneficial owner of the company, payment instructions of Al Sahra were given by Famous Farsiad.

Karl Cini jgħid li lil Farnoush Farsiar ma jafx min hi. Hu minn naħa tiegħu qatt ma fetaħ kont għal *Egrant Inc* mal-Bank Pilatus, u mkien ieħor la f'Malta u l-anqas barra. Mistoqsi jekk setgħax kien Brian Tonna li fetah dan il-kont, ġaladarba anke hu kellu l-prokura ġenerali, Karl Cini jgħid :

Karl Cini: id-dokumentazzjoni dejjem kienet f'idejja jigifieri hu la qatt ma gie jistaqsini għal dokumentazzjoni, la qatt ma gie jgħidli biex niftah kont ... qed nara impossibbli.

Fis-*setting up* ta' *Egrant Inc* Karl Cini kien direttament involut personalment pero waqt li qed tagħmel dan ix-xogħol hu ma ddelega lil ħadd. Il-

komunikazzjoni ma' Mossack Fonseca kien jieħu ħsiebha hu u hu biss kien involut fit-twaqqif ta' *Egrant Inc.* Inoltre ħadd ma kien jaf bit-twaqqif tal-*Egrant Inc.* apparti Brian Tonna. Michael Sapiano kien diġa telaq minn Nexia BT f'Marzu 2016. U fi kwalunkwe każ huwa ma kienx involut fit-twaqqif jew fl-affarijiet tal-*Egrant Inc.* u d-dettalji tagħha ma kienux aċċessibbli għalih. L-anqas Gordon Cordina jew xi ħadd minn nies tiegħu ma kienu involuti fl-*Egrant Inc* jew fl-affarijiet tagħha jew fuq konsulenza dwarha.

Apparti minn hekk hu qatt ma fetaħ kontijiet bankarji lil *Tillgate Inc* jew *Hearnville Inc,* la fil-Bank Pilatus u mkien ieħor mad-dinja. Ma Konrad Mizzi u Keith Schembri kienu jagħmlu kuntatti kemm hu kif ukoll Brian Tonna. Jista' jkun li Keith Schembri kien iżur l-uffiċji tagħhom minħabba li kellu l-kumpaniji li kienu jirrendulhom servizzi. Konrad Mizzi ma kienx imur l-uffiċji tagħhom.

Meta ġew biex jagħmlu t-twaqqif ta' *Tillgate Inc* u *Hearnville Inc* kienu marru Brian Tonna u Karl Cini fuq il-post tax-xogħol tagħhom. Ħadd ieħor mill-impjegati ta' Nexia BT ma kienu jafu b'dan. Is-*soft copies* tal-files ma kienux ikunu aċċessibbli. L-anqas ma għandhom l-ismijiet tagħhom *soft copy* fid-*database* tagħhom fejn setgħa jarahom kulħadd. Il-*MLRO* ta' Nexia BT huwa Karl Cini stess. Meta mistoqsi jekk Daphne Caruana Galizia kienetx qegħda tirreferi għalih meta ssemmi l-impjegat ta' Nexia BT fl-artikolu tagħha tal-

USD1.017 million, Karl Cini jgħid li assolutament ma kienx hu. Dwar il-kontijiet bankarji f'Dubai Karl Cini jgħid li safejn jaf hu qatt ma nfetħu kontijiet f'Dubai għal *Egrant Inc.*

Fir-rigward test tad-*declarations of trust* ippublikati minn Daphne Caruana Galizia fl-artiklu tagħha, Karl Cini jgħid li hemm numru t'affarijiet li ma humiex f'lokhom. Qabel xejn l-*ATC Administrators Inc* kienu qed jaġixxu bħala li qegħdin iżommu *shares* f'isem Brian Tonna. Dan jirriżulta wkoll kemm fil-każ ta' *Tillgate Inc* kif ukoll fil-każ ta' *Hearnville Inc.* Dawn id-*declarations of trust* ma humiex veritjieri. Fihom ineżattezza fis-sens li Jaqueline Alexander ma kienetx dehret f'isem *Aliator S.A.*, iżda kienet dehret Verna de Nelson.

Inoltre l-indirizz ta' *Egrant Inc* huwa indikat bħala li huwa *The Penthouse.* Dak huwa l-indirizz ta' Nexia BT. Mill-banda l-oħra meta wieħed jara d-*declaration of trust* li ħarget minn *ATC Administrators* favur Brian Tonna datata 9 t'Awissu 2013 jirreferi għar-*registered address* ta' *Egrant Inc* bħala li huwa l-indirizz ta' Mossack Fonseca jiġifieri Mossfon Building li huwa r-*registered address* fil-Panama. Karl Cini jgħid li Daphne Caruana Galizia ma kellhiex aċċess għal dak id-dokument u fir-Reġistru Merkantili tal-Panama ma jkunx hemm l-indirizz registrat tal-kumpanija. Jgħid li meta l-*ICIJ* ħarġu l-lista tal-kumpaniji u riedu jikkategorizzawhom :

l-unika mod li setgħu jikkategorizzawhom huwa by the registered address of the agent who incorporated the company so meta wieħed jikkategorizza Egrant Inc under Malta, huma tefgħu l-indirizz ta' l-agent Malti għax kieku ma kellhomx mod kif ikollhom.

Meta s-Supretendent Ian Joseph Abdilla ikkummenta dwar il-fatt li Karl Cini kien bagħat l-*order form* u għalhekk ladarba bagħthielhom Mossack Fonseca kellhom dan id-dokument u allura l-*ICIJ* setgħa kellhom aċċess għalih, Karl Cini wieġeb li mhux bilfors li l-*ICIJ* kellhom aċċess għal dan id-dokument għax *MF* mhux neċessarjament kienu skenjawha u żammewha fuq is-*servers* tagħhom.

L-indirizz li jidher fid-*declarations of trust* jista' jiġi ritenut bħala l-*billing address*, iżda żgur mhux ir-*registered address* t'*Egrant Inc*.

Iżda apparti minn hekk *Dubro Limited S.A.* u *Aliator S.A.* huma s-*subscribers*, li waqfu l-kumpanija *Egrant Inc.* f'isem Mossack Fonseca. Mill-banda l-oħra wara li dawn irreġistrawha, Mossack Fonseca biegħuha lil Brian Tonna u Brian Tonna qabbad lil *ATC Administrators Inc* bħala *nominee shareholder* għalih. Għalhekk *Dubro Limited S.A.* u *Aliator S.A.* suppost ma kienux jafu min kien l-*UBO*, stante li huma ma kienux involuti fit-trasferiment ta' l-ishma ta' *Egrant Inc* lil Brian Tonna.

Ir-*registered address* tal-*Egrant Inc.* hija dik imsemmija minn *ATC Administrators Inc.* u fuq dokument importanti bħal ma huwa *declaration of trust* ma jiġix inserit il-*billing address*, iżda jiġi inserit ir-*registered address*.

Issa s-Sinjura ovvjament ma kellhiex access għar registered address għax ma kellhiex kopja ta' dak id-declaration of trust allura sabet l-unika indirizz li kien available fil-pubbliku, li kien l-indirizz li kkwotaw l-ICIJ fir-reporting tagħhom li huwa parzjalment korrett għax biss qed jirreferi għal indirizz ta' l-agent mhux ta' l-indirizz ta' l-kumpanija so that is one.

Secondly, 20 th August, 2015 kif qed tgħid inti sew Sur Spettur, Dubro u Aliator kienu diga' ħargu mill-picture way back in 2013 pero s-Sinjura Caruana Galizia ma kellhiex access għal dak is-share transfer għax l-unika access li hemm in the public registry of companies ta' l-Panama huma the original subscribers li jibqgħu jidhru anka meta kien hemm the actual share capital issued so meta wieħed jassumi wieħed jidħol illum jew jidħol meta gie ippubblikat l-artiklu, subscribers xorta ħa ssib lil Dubro u Aliator għax huma ħa jibqgħu jidhru bħala the original subscribers pero ma jfissirx li kienu shareholders at that particular point in time u fil-fatt ma kienux. Issa nkompli inzid ukoll jekk aħna fin-9 th July, Dubro u Aliator irritornaw lura z-zewg shares u ħareg one share only li huwa kkonfermat ukoll mic-certifikat li ħargu Mossack Fonseca stess bħal li huwa c-certificate number one so meaning that there is only one share issued which was held in the name of Brian Tonna, kieku u hawn hekk nagħmel ipotesi, kieku Brian Tonna ried jitrasferixxi the ownership of the company to Mrs. Muscat jew to any one else, kien jitrasferixxi the one share u kien imur jgħid lil ATC Administrators u jagħmel notifika u jgħidilhom mill-lum 'il quddiem ħa nitrasferixxi l-one share lil din is-Sinjura rather than having another two shareholders li ma tagħmilx sens jigifieri kont acting again Dubro and Aliator u l-funzjoni tagħhom anka kkonfermajtha ma' Mossack Fonseca u huma biss bħala subscribers to go into all the hassle to issue another share biex tagħtiha lil istess persuna li stajt tagħtiha one share which represented the whole share capital in the first instance so even the reasoning.

Supr. Ian Joseph Abdilla: għax teknikament kieku kien hemm, ejja ngħidu vera kien hemm Michelle Muscat , ATC Administrators kellhom ikunu jafu li Michelle Muscat hemm wara Egrant?

Karl Cini: hekk hu.

Supr. Ian Joseph Abdilla: mhux Aliator u Dubro?

> Karl Cini: pero is-Sinjura Caruana Galizia ma kellhiex informazzjoni fuq ATC Administrators għax probabilment ma kellhiex dokumentazzjoni li għaddejt Sur Magistrat fil-file so all she could see publically available kienet il-Memorandum and articles fejn issemmew Dubro u jissemmew Aliator u tissemma ukoll Jacqueline Alexander u l-fatt li kien hemm subscribtion – one share u one share u għal hekk iddecidiet li tagħmel dan ...

Karl Cini jgħid li huwa ma talabx il-*memorandum* ta' *Aliator S.A.* jew *Dubro Limited S.A.* iżda kienu ċċekjaw minn fuq *opencorporates.com*. Karl Cini jgħid ukoll li :-

> Karl Cini: u fil-fatt naħseb kien hemm ukoll xi ġurnalist jew li ddowlowdjaw ukoll the full report fuq Egrant Inc u ovvjament because to the registry ma jigux sottomessi dokumentazzjoni bħat-transfer u l-issue of share capital, l-unika dokumentazzjoni li hemm fir-registru huwa li l-Memorandum and Articles u li Dubro u Aliator subscribed to the initial one share each.... jigifieri at that particular date, apparti li ma kienetx vera dan il-x' jismu, id-dokument innifsu apparti li jekk jiena ħa noqgħod nieħu l-bicca xogħol kollha biex nagħmel transcription u għal inqas nippubblika d-dokument shih iffirmat mhux nitfa' transcription, id-dokument minnu nnifsu għandu l-izbalji kif semmejna aħna. I mean l-isem ta' l-kumpanija, the 807956 S, dawk huma kollha affarijiet li wieħed jista' jara openly in the public registry, the registered address le, il-fatt li Dubro u l-Aliator ħarġu on the date of the 8 th July, bħala subscriber dik ma kienx hemm so ma setgħetx tkun taf li dak iz-zmien ma kienux għadhom fil-picture.

Peress li parti essenzjali mix-xiehda ta' Karl Cini kienet titratta aspetti tekniċi li kienu jirrigwardjaw il-liġi li tirregola l-kumpaniji fil-Panama, inħasset il-ħtieġa li din ix-xiehda ta Karl Cini tiġi verifikata minn espert fil-qasam. Dan kellu skop dupliċi – dak li jifli sewwasew kemm Karl Cini kien jaf x'inhu jgħid fix-xiehda tiegħu, kif ukoll kemm kien jaf x'inhu jagħmel meta flimkien ma Mossack Fonesca ħa ħsieb tat-twaqqif tal-kumpaniji Egrant Inc, Tillgate

Inc u Hearnville Inc nonche ż-żewġt Trusts fin-New Zealand għall dawn l-aħħar żewġt kumpaniji. Iżda dan l-eżerċizzju kien ukoll meħtieġ sabiex jiġu ċċarati ċerti aspetti fundamentali dwar kif taħdem il-Liġi fil-Panama fir-rigward ta' kostituzzjoni, tmexxija u stralċ ta' kumpaniji, b'mod partikolari meta dawn il-kumpaniji jkollha ishma maħruġa *to bearer* jew ikunu miżmuma minn *nominees*. Għal dan il-għan ġie maħtur espert tekniku l-Avukat Fernando Berguido mid-ditta legali Castro & Berguido ta' Edificio Vallarino, Piso 6, Apartado 0816 – 00598, Panama. Ġew sottomessi lilu tnejn u erbgħin mistoqsija li kienu jirriflettu fihom kemm aspetti varji li ġew imsemmija fl-artiklu ta' Daphne Caruana Galizia kif ukoll aspetti li ġew imsemmija minn Karl Cini fix-xiehda tiegħu.

In-nomina tal-Avukat Fernando Berguido tat-30 t'April 2018

L-Avukat Fernando Berguido ġie maħtur sabiex fil-kapaċita tiegħu t'avukat prattikanti u espert legali fil-Liġi Kummerċjali u tal-Kumpaniji fir-Repubblika tal-Panama jagħti parir legali dwar materji li ġew inklużi fi kwestjonarju ta' tnejn u erbgħin mistoqsija li huma relatati mal-meritu ta' din l-inkjesta skont kif joħroġ mill-allegazzjonijiet imsemmija fl-artiklu kif ukoll li huma relatati ma xiehda li inġabret fil-kors tal-Inkjesta *Egrant Inc.* u li jittrattaw aspetti differenti tal-Liġi Kummerċjali u tal-Kumpaniji fir-

Repubblika tal-Panama. L-espert tekniku għandu jirraporta bil-miktub it-tweġibiet tiegħu f'rapport li għandu jsir fi żmien xahrejn.

L-Avukat Fernando Berguido wieġeb permezz ta' relazzjoni bil-miktub li ġiet konfermata permezz ta' video-konferenza miżmuma nhar il-21 ta' Ġunju 2018 u fejn huwa wieġeb għad-diversi kweżiti li jidhru hawn taħt bil-mod segwenti : -

1. **Could you describe the general procedures for the setting up and incorporation of companies?**

In the Panamanian Legal System, the Commercial Code of 1916 regulates the incorporation of business companies in general. One type of business company, the *Sociedad Anónima* (Company by Shares), is specifically regulated by Law 32 of February 26, 1927 and its amendments, and sets out the requirements for the incorporation of companies by shares.

According to Law 32, two or more individuals of age may sign a Corporate Charter (*Pacto Social*) for the purpose of creating a company by shares (sociedad anónima) for any lawful purpose pursuant to the formalities provided by the law.

In 1997, an amendment to Law 32, intended to update several regulations of local business and companies, allowed for another existing business company to sign the Corporate Charter. Accordingly, Panamanian companies may be incorporated either by two or more individuals or companies.

The Corporate Charter should be executed by means of a public document (*escritura pública*) and be recorded at the Public Registry Office of Panama. The public document containing the Corporate Charter should include the terms and conditions governing the entity, particularly its objects, meetings, shareholders, officers and representations.

Law 32 requires, as a minimum, that a Corporate Charter should include: the name of the subscribers to the Corporate Charter, the name of the company, the general purpose or objects of the company, the domicile of the company, the duration of the company, the name and address of the directors and officers of the company, as well as provisions regarding the capital and its division into shares, the value and type of shares, including the number of shares that each subscriber agrees to subscribe.

2. What is exactly meant by a company bearing the suffix "incorporated" or "Inc."?

Law 32 mandates that the name of the company to be incorporated shall not be the same or similar to that of an existing company in order to avoid confusion. That name may be in any language but must indicate with a word or abbreviaition that it is a company. So companies need to include, after the name, the words *Sociedad Anónima, Corporación or* Corporation, *Incorporada* or Incorporated, or the abbreviations S.A., Corp., Inc.

3. Is there a distinction between the law and procedures govering the incorporation, management, transfer and dissolution of "normal" private companies and "shelf companies".

There is no provision in the law regarding "shelf companies". The term is not regulated by law. It is a term arising from a commercial practice whereby a lawyer or a law firm, for expedite sake, assign or transfer to a client a company already incorporated but without owners/shareholders. In other words, it is a company already formed but kept "on the shelf", ready to be assigned or transferred to a client that needs a company for immediate use or does not wish to go through all the incorporation procedures of forming a new one.

The so called "shelf" companies are governed by the same regulations and procedures than the rests of the "normal" *compañías anonimas*.

4. What is the role of the subscribers and what are the rights and powers of subscribers in the company?

The subscribers are the parties that sign the Corporate Charter in order to form a Company by Shares or *sociedad anónima*. A subscriber to a Corporate Charter has the right to also subscribe or acquire shares of the newly formed company. Section 2.6 of Law 32 states that a Corporate Charter shall set forth, among other requirements, "the number of shares of stock which each subscriber to the Corporate Charter intents to take".
As explained below, once the incorporation procedures are completed and the company is recognized, the subscribers to the Corporate Charter may or may not acquire shares of the new company. Subscribers do not become shareholders by the mere execution of the Charter or by expressing their mere intention to subscribe shares. They may become shareholders by acquiring and paying the value of shares, or they may transfer their "subscription rights" to others, which happens in the vast majority of cases.

As the Supreme Court of Justice have stated consistently, it is not sufficient "for a party to agree to subscribe one share in the incorporation agreement to assume that this fact turns the party into a shareholder." After reviewing an Appellate Court decision, the Justices of the Supreme Court concluded that the lower court "rightly confirmed that the mere fact that a person is identified in the incorporation charter as subscriber of shares does not immediately turn this person into a holder or owner of those shares nor as a shareholder of the company. For this to happen, other requirements need to be satisfied and additional acts completed." (Civil Chamber of the Supreme Court of Justice of Panama, July 8, 1998).
There is a special duty reserved for the subscribers to the Corporate Charter. A Corporate Charter may be amended by the consent of the majority of the shareholders of the company. However, in the special event that a company has not yet issued shares (so there are no shareholders whatsoever), Section 9 of Law 32 provides that "amendments to the Corporate Charter agreed prior to the issuance of shares must be signed by all subscribers to the Charter and those that have agreed to subscribe shares." On the contrary, if shares have already been issued, the amendments to the Corporate Charter will be approved by the shareholders in accordance to the provisions of the law and the Charter.

5. What type of shareholding do subscribers hold when incorporating "Inc." companies?

As explained before, subscribers do not become shareholders of the company by the mere execution of the Corporate Charter or by merely stating their intention to subscribe one or more shares of the company being formed.

If a subscriber becomes in fact owner of one or more shares of the company, he will then become a shareholder of the company. Law 32 allows for a company to have one or more different types of shares, depending on the provisions stated in the Corporate Charter. If a subscriber becomes a shareholder, he will have the same rights and privileges than the rest of the shareholders of the same class of shares, provided that there are more than one class of shares.

6. Do the subscribers' shares form part of the original shareholding of the company or if are they separate and distinct from the actual shareholding of the company that is normally divided into authorised and issued shareholding?

See above.

7. Is there a distinction between the subscribers' shares and the shareholders' shares and their different legal standing, if any?

No, there is no distinction, as explained above. There may be a very unique case whereby a Corporate Charter may expressly include a class of shares reserved for those subscribers to the Corporate Charter once they become shareholders of the company.

8. At what stages do the powers and duties of subscribers start and end?

Powers and duties of subscribers start once the Corporate Charter have been executed and the respective public document containing it has been filed and registered by the Public Registry Office.

We may consider that the powers and duties of the subscribers end once shares of the company have been issued. The Board of Directors of the company is responsible for the issuance of shares. So, once shares have been issued, further acts and decisions of the company belong to the officers, directors and

shareholders of the company. Any remaining power, duty or responsibility of the subscribers ceases.

9. How the assignment or transfer of the subscription of shares is regulated?

The right to subscribe shares of the company by the subscribers to the Corporate Charter may be transferred or assigned to another person. Although Law 32 does not contain a specific provision, the assignment or transfer of rights is regulated by general principles of civil and commercial law.

As a matter of common commercial practice, it is customary that a document containing the assignment or transfer of the rights to subscribe shares to another person be signed by the subscribers to the Corporate Charter. A simple letter or form signed by the subscriber will suffice.

It will be appropriate at this point to explain that the vast majority of the Corporate Charters incorporated according to Law 32 are subscribed by lawyers, members of local law firms or their staff as a way to comply and facilitate the bureaucratic formation process on behalf of clients. In these cases, letters containing the assignment or transfer of subscription rights are normally forwarded to the clients together with the Corporate Charter and corporate documents.

A similar procedure is employed in the formation of the so called "shelf companies", whereby a lawyer or law firm will incorporate a company with a "standard" charter and will keep in the office once incorporated until a client requires the use of it. A letter or form containing the transfer of subscription rights will be included likewise in the package containing the corporate documents of the company to be forwarded to the client.

10. Can subscription shares be assigned to bearer or should they be in the name of an identified person at all times?

Transfer or assigment of subscription rights should be to a person or a company. However, there is no prohibition in the law to assign those rights to "the bearer of the letter" or form. It will be quite unsual but it is not prohibited by law.

11. Whether the subscribers retain any decision making power on behalf of the company after that the subscription shares are assigned?

Once the right to subscribe shares have been transferred or assigned to another party, the subscriber shall not retain any further right.

12. Whether the subscribers would know who the assignee of the subscription shares would be?

It is common practice that, once a company is formed, the subscribers to the Corporate Charter will sign a letter or form assigning their subscription rights to the clients of the firm, meaning, the ultimate beneficial owner or owners of the company. The vast majority of companies incorporated according to Law 32 are formed by lawyers or law firms. There may be a case, not common whatsoever, that two or more people appeared before a Public Notary in Panama in order to subscribe in person the public instrument containing the Corporate Charter, follow by the issuance of shares to themselves. This situation accounts for a very limited number of incorporations.

If the subscribers to the Corporate Charter are members or staff of the law office, the subscribers may not know who the assignee of the subscription rights are. Their duties as subscribers will normally end with the incorporation of the company and the assignment of the subscription rights to the future shareholders of the company. Keep in mind that the members of the Board of Directors of the company (see below) are empowered to issue the shares and assess the rights of future shareholders.

13. Whether the subscribers would know who the ultimate beneficial owner of the company is: a) upon the formation of the company,
b) after that their subscription shares have been assigned.

Please see above.

14. Whether it is normal for the subscribers to sign *declarations of trust* denoting who the ultimate beneficial owner of the company is:
(a) upon the formation of the company;

(b) after the formation of the company;
(c) following assignment of the subscription shares;

It is not common for the subscribers to sign declarations of trust. First, subscribers to the Corporate Charter have a potential right only to become a shareholder of the company. So, they may transfer or assign that right but they are not shareholders so the only "good" that they may give in trust would be that right. Second, if they proceed to the next step, meaning, acquiring in fact a share of the company, they become shareholders leaving behind being a mere subscriber. Third, it may happens that a subscriber will give in trust his right to become a shareholder once the company is incorporated but not before the company exists nor after the assignment or transfer of such rights have been made.

15. Is there any pre-established document setup or format for declarations of trust under Panama Law or practice;

There is no pre-established document or format for declarations of trust under Panamanian Law.

16. Once that the subscriber's shares are assigned, who issues shares in the company and what is the procedure for the issue of such shares?

The business and affairs of the company shall be managed by the Board of Directors. According to Law 32, among the duties of the Board of Directors are those related to the issuance of the shares of the company. The Board, by means of a resolution, may authorised the issuance of shares. Shares titles or certificates, signed by the President or the Vice-President and the Secretary or the Treasurer, will then be extended.

The title or certificate of shares shall contain: the registration details of the company, the amount of capital stock, the number of shares owned by the shareholder, the class of shares (if there is more than one class) as well as the special conditions, designation, preferences or restrictions that a class of shares has over the others, if the shares represented by the certificate are fully paid

and non-assessable, and the name of the shareholder if the shares have been issued as a registered shares (as opposed to shares issued to the bearer).

17. Whether shares in the company can be issued by the ultimate beneficial owners while the subscribers are still in office and have not yet assigned their shares?

Shares are issued by the Board of Directors, not by the beneficial owner. A shareholder may ask the Board of Directors (not to a subscriber) to cancel a share certificate already issued and issue a new one if he wishes to transfer all or part of his stock. Likewise, a client to a lawyer or a law firm may instruct the Board of Directors to issue shares according to his wishes but not to the subscribers.

18. Whether shares in a company be issued while the subscribers are still in office and have not assigned their shares?

See above.

19. What shares can be issued by shareholders – nominative, bearer etc?

Shareholders do not issue shares. The Board of Directors issues shares. They may issue shares as registered or nominative shares and in bearer form.

20. Who maintains the shareholders' register with details on each and every share issued when shares in such a company are trasferred or assigned to third parties outside Panama jurisdiction?

Each company is required to keep a Share Register in which will be recorded the name and address of the shareholders, the number of shares, date of acquisition and the amount paid for them. In the case of bearer shares, the Share Register will indicate the number of shares issued, the date of issuance and that the shares have been fully paid.
The tranfer of shares should also be recorded in the Share Register to be valid, irrespectively that the tranferor or tranferee are in Panama or outside of the country.

21. Whether, following assignment of the subscription shares, it is possible for the shareholders to issue shares to bearer;

Shareholders do not issue shares. See above

22. What is the procedure that needs to be followed when shares are issued to bearer, eg – who issues bearer shares – the subscribers, the shareholders, or both;

Bearer shares should be issued by the same procedure as nominative shares. All shares are issued by the Board of Directors. Bearer shares should be fully paid before the Board can issue them.

Since the enactment of Law 47 of August 6, 2013, if a company issues bearer shares, those shares must be placed under an Authorized Custodian. Before the enactment of this law, bearer shares were held by their owners. Since 2013, if the company decides to allow the issuance of bearer shares then those shares should be placed under an Authorised Custodian to be valid.

Companies incorporated with bearer shares before the enactment of Law 47 were given two years to either convert those shares to nominative form or to place them under a custodian. Companies with bearer shares that have not yet complied with those provisions are deemed to be "disabled" and limited on their actions until they comply with the law.

23. Is there any registration requirement with the Mercantile Registry for shares issued to bearer?

No. If the company keeps open the possibility of issuing bearer shares then an special resolution by the Board of Directors should be enacted and filed before the Public Registry Office stating that the company will be subject to the Bearer Shares Regime and Custodian Practices according to Law 47.

24. Who issues share certificates, how are they issued and whether they are registered with the Mercantile Registry?

The Board of Directors issues share certificates by means of a resolution and extending the appropriate title or certificate, as explained above. Share Registers are not of public domain and they are not filed before the Public Registry Office.

25. What are the powers of the Directors of a company?

The Board of Directors has broad powers to manage the affairs of the company. The first members of the Board are designated in the original incorporation documents filed at the Public Registry Office. After the incorporation, the Directors will be elected by the shareholders of the company.

26. Whether Directors of a company issue shares in favour of other companies or persons offering nominee services on behalf of beneficial owners;

See above.

27. Once that shares are issued in the name of nominee companies, what are the powers that are normally granted to nominee companies?

So called "nominee" companies act on behalf of their owners. Then, those companies should act according to the wishes of the owners. Accordingly, if a nominee company appears as subscriber to a Corporate Charter, it should be understood that the company is acting on behalf of the lawyer or law firm incorporating the company.

If the nominee company, on the other hand, belongs to the client, then it should be understood that its actions are taking according to the wishes of the client.

28. Whether nominee companies are required to know who the ultimate beneficiary owner is.

I believe to be pertinent to make some clarifications before answering this question.

Beginning in 1994, the Government of Panama by means of Executive Decree No.468 of September 19, 1994 imposed on lawyers and law firms acting as Registered Agents of companies incorporated according to Law 32 the obligation of knowing their client and to ask for sufficient information in order to identify the client that requested the incorporation in case of a judicial inquiry.

Those initial requirements where hence extended. Law 2 of February 1, 2011 imposes on lawyers, law firms and any entity acting on behalf of third parties incorporating a company or acting as Registered Agent for companies to obtain and keep in their offices full due diligence information of the beneficial owners of each company.

Accordingly, nominee companies provided by lawyers or law firms for incorporating other companies are likewise subject to the obligations described before.

29. Whether they are by law obliged to make any specific due diligence.

Please see explanation above.

30. Whether there are any enhanced due diligence requirements when the ultimate beneficial owners of companies are politically exposed persons;

Yes. According to Law 23 of April 27, 2015 there is an enhanced due diligence procedure for politically exposed persons. In addition to fulfilling the requirements of regular clients, Registered Agents should double check and perform enhanced verification procedures, including world data basis verification, double check and special approvals, and enhanced risk management, for politically exposed persons.

31. In case of a typical company having an authorised capital of USD10,000 divided into 100 shares (nominative or to bearer) with a nominal value of USD100 each whether the Directors of the company issue only one share (out of the hundred available) with a nominal value of USD100 in favour of a nominee company in Panama.

It is possible that the Directors of a company shall issue just one share. There are no limitations in our legislation for a company with a sole shaholder.

32. What happens with the remaining ninety nine shares – whether they remain un issued; who would be entitled to issue those shares in the company : the ultimate beneficial owners, the shareholders, the Directors of the company, the officers of the nominee company?

The company may remain with 99 shares, out of 100 of the authorized capital, unissued.

33. What happens if no other shares are issued apart from the one single share? Who would have the controlling interest in the company?

The company will have a sole shareholder, thus he will be the only owner and will have total control of interest in the company.

34.If the other shares can be issued, can they be issued to bearer and if positive, who can issue those shares?

Yes, other shares can be issued to bearer provided that they comply with the procedures explained above.

35. Whether there is any obligation for any such bearer shares to be registered with the Mercantile Registry.

All companies shall keep a Register of Shares. The issuance and transfer of all shares, either bearer shares or those issued nominatively, should be recorded in such registry. The Register of Shares, however, is not of public record.

Notwithstanding the above, please keep in mind that since the enactment of Law 47, all shares issued in bearer form shall be deposited with an Authorised Custodian as explained before.

36. Whether there is any any way to know if such bearer shares would have been issued in the first place;

The issuance of any type of shares, whether to bearer or nominative, should be recorded in the Register of Shares.

37. If from the documentation available there is record of the issue of only one share how is it possible to know if other shares would have been issued – nominatively or to bearer.

The company shall keep a Minutes Book and Register of Shares. The issuance of shares shall be approved by the Board of Directors, so any issuance of shares shall be recorded in the minutes of the board. Also, the issuance of shares – nominative shares as well as shares issued to the bearer- shall be recorded in the Register of Shares.

38. If it is possible for the Directors of the company to give powers of attorney to the ultimate beneficiary owner by-passing the nominee shareholders and if positive what is the use of giving powers of attorney with very wide powers to the ultimate beneficiary owner and not the nominee shareholders.

The Board of Directors of the company may give powers of attorney to whomever they see fit. It is not uncommon to grant a general power of attorney to the ultimate beneficial owner of the company.

39. What is the procedure for winding up of companies in Panama?

The procedure to initiate the voluntary dissolution and winding up of a Panamanian company starts with a decision of the Board of Directors. It is up to the Board to decide if it is advisable the winding up of the company. Final saying regarding the decision to dissolve the company rest with the shareholders.

If the Board of Directors deems it advisable that the company be dissolved by a majority vote of its members, it will propose an agreement for dissolution to the shareholders of the company. The Board of Directors should convene and

submit to a special meeting of the shareholders the proposed resolution to dissolve the company within the ten 10 days of its approval.

The notice of such meeting should be send to all registered shareholders in writing, sign by the President, Vicepresident, Secretary of the Board of Directors (or by such other person authorized by the Corporate Charter or the By-Laws, if exist) stating the purpose for which the meeting is called and the place and time of the meeting.

If the company has issued shares to the bearer, notice shall be given or publish in such manner as the Corporate Charter or the By-Laws provide.
Shareholders may be represented to all meetings of shareholders by proxy, unless prohibited by the Corporate Charter or By-Laws.

Once convened, and after a proper quorum of at least 51% of the outstanding shares are duly represented, either by the holders or by proxies, the Board of Directors will submit a resolution containing the Articles of Dissolution. If in the meeting of shareholders, the holders of the majority of the issued shares adopt the resolution approving the Articles of Dissolution, then a copy of that resolution shall be executed by means of a public instrument and filed before the Public Registry Office.

Once it is tendered to the Public Registry Office, a copy of the resolution shall be published, at least once, in a newspaper in the place where the office of the company is situated.

All companies which existance terminates by dissolution shall nevertheless continue for a term of 3 years for the specific purpose of winding up. The Directors of the company shall act as trustees of the company during the winding up period in order to settle its affairs, collect its credits, sell and convey its assets, pay the debts of the company and devide its assets among the shareholders afterwords. The trustees have also the power to initiate judicial proceedings with respects to the credits and assets of the company and to defend the interest of the company in any proceeding against it.

Whenever all the shareholders with voting rights of a company shall set forth in writting their consent to dissolve the company, no meeting of the Board of Directors nor a meeting of the shareholders shall be necessary.

40.What are the necessary resolutions to be carried out and who does them?

Please see above.

41. Whether winding up resolutions have to be registered with the Mercantile Registry and if positive, whether the Mercantile Registry issue any dissolution certificate.

Yes, a copy of the resolution approving the Articles of Dissolution shall be filed with the Public Registry Office. The Public Registry Office of Panama may issue, upon request, a certificate of dissolution. All corporate resolutions filed before the Public Registry Office are of public record.

42. Once shares in a company are trasferred or assigned to a person outside Panama jurisdiction what legal obligations are required to be observed by this person in terms of Panama Law?

There are no specific duties or obligations in Panama for nationals or foreigners for the mere fact of being a shareholder of a Panamanian company according to Law 32.

However, it is important to point out that, since the enactment of the due diligence legislation, the Registered Agent of a company is under the obligation of requesting sufficient information (such as copy of passport, due diligence forms, exact address and prove of residence and utilities) on the shareholders and ultimate beneficial owners of each company. Thus, shareholders should comply with such requests by the Registered Agent.

The Board of Directors has the duty of keeping the corporate records of the company and updating any transfer of shares, as explained before.

To continue to be in good standing, the company shall also pay its annual license fee (*tasa anual*) to the Government of Panama once a year on or before the anniversary of its incorporation.

Biex ikunu ċċarati ċerti aspetti tal-parir legali miktub matul il-video-konferenza miżmuma nhar il-21 ta' Ġunju 2018 ġew ukoll sottomessi mistoqsijiet addizjonali lill-Avukat Berguido u li kienu jsegwu t-tweġibiet li huwa kien forna bil-miktub. Il-mistoqsijiet u t-tweġibiet tiegħu qegħdin jiġu riprodotti integralment għall-aħjar istruzzjoni ta' din l-inkjesta.

Seduta mizmuma illum il-Ħamis 21 ta' Ġunju, 2018

Frenando Berguido Guizado, son of Alfredo and Ileen, born in Panama, Attorney at Law admitted to the Republic of Panama, in the English Language and under oath states:

Magistrate: Can you explain your practise in Panama? Which is your main practise:

Witness: I practise Law in Panama especialised in commercial incorpoate law and I have been practising since 1987.

Magistrate: As you know you have been tasked by the inquiry to provide legal advice in relation to law governing companies; company information and company management in Panama. You have also provided the inquiry with your written report. Do you confirm this?

Witness: I confirm that I submitted a written reply to the inquiry magistrate. The date that I submitted the request was May 23rd 2018.

Magistrate: Now I am going to go throught the questions and the answers rapidly in order to confirm that we are dealing with the same report. So the first question: "Could you describe the general procedures for the setting up and incorporation of companies?

In the Panamanian Legal System, the Commercial Code of 1916 regulates the incorporation of business companies in general. One type of business company, the Sociedad Anónima (Company by Shares), is specifically regulated by Law 32 of February 26, 1927 and its amendments, and sets out the requirements for the incorporation of companies by shares. According to Law 32, two or more individuals of age may sign a Corporate Charter (*Pacto Social*) for the purpose of creating a company by shares (sociedad

anónima) for any lawful purpose pursuant to the formalities provided by the law.

In 1997, an amendment to Law 32, intended to update several regulations of local business and companies, allowed for another existing business company to sign the Corporate Charter. Accordingly, Panamanian companies may be incorporated either by two or more individuals or companies.

The Corporate Charter should be executed by means of a public document (*escritura pública*) and be recorded at the Public Registry Office of Panama. The public document containing the Corporate Charter should include the terms and conditions governing the entity, particularly its objects, meetings, shareholders, officers and representations.

Law 32 requires, as a minimum, that a Corporate Charter should include: the name of the subscribers to the Corporate Charter, the name of the company, the general purpose or objects of the company, the domicile of the company, the duration of the company, the name and address of the directors and officers of the company, as well as provisions regarding the capital and its division into shares, the value and type of shares, including the number of shares that each subscriber agrees to subscribe.

What is exactly meant by a company bearing the suffix "incorporated" or "Inc."?

Law 32 mandates that the name of the company to be incorporated shall not be the same or similar to that of an existing company in order to avoid confusion. That name may be in any language but must indicate with a word or abbreviation that it is a company. So, companies need to include, after the name, the words *Sociedad Anónima, Corporación or* Corporation, *Incorporada* or Incorporated, or the abbreviations S.A., Corp., Inc.

Is there a distinction between the law and procedures govering the incorporation, management, transfer and dissolution of "normal" private companies and "shelf companies".

There is no provision in the law regarding "shelf companies". The term is not regulated by law. It is a term arising from a commercial practice whereby a lawyer or a law firm, for expedite sake, assign or transfer to a client a company already incorporated but without owners/shareholders.

In other words, it is a company already formed but kept "on the shelf", ready to be assigned or transferred to a client that needs a company for immediate use or does not wish to go through all the incorporation procedures of forming a new one.
The so called "shelf" companies are governed by the same regulations and procedures than the rests of the "normal" *compañías anonimas."*

One question here. Is this a common practise in Panamanian Cmmercial undertakings and proctises?

Witness: The on the shelf companies?

Magistrate: Yes.

Witness: Yes it is a very common practise.

Magistrate: The formation of shelf companies is it normally undertaken by professional law firms or accountancy firms or are there any other persons who are not lawyers or accountants who offer sych a service?

Witness: You may find second hand people offering those companies by regulation in Panana should be formed by a lawyer or by a law firm. Accountants are not allowed financial sector because the company needs to have a lawyer practising in Panama or a law firm.

Magistrate: "4. What is the role of the subscribers and what are the rights and powers of subscribers in the company?

The subscribers are the parties that sign the Corporate Charter in order to form a Company by Shares or *sociedad anónima*. A subscriber to a Corporate Charter has the right to also subscribe or acquire shares of the newly formed company. Section 2.6 of Law 32 states that a Corporate Charter shall set forth, among other requirements, "the number of shares of stock which each subscriber to the Corporate Charter intents to take".

As explained below, once the incorporation procedures are completed and the company is recognized, the subscribers to the Corporate Charter may or may not acquire shares of the new company. Subscribers do not become shareholders by the mere execution of the Charter or by expressing their mere intention to subscribe shares. They may become shareholders by acquiring and paying the value of shares, or they may transfer their "subscription rights" to others, which happens in the vast majority of cases.

As the Supreme Court of Justice have stated consistently, it is not sufficient "for a party to agree to subscribe one share in the incorporation agreement to assume that this fact turns the party into a shareholder." After reviewing an Appellate Court decision, the Justices of the Supreme Court concluded that the lower court "rightly confirmed that the mere fact that a person is identified in the incorporation charter as subscriber of shares does not immediately turn this person into a holder or owner of those shares nor as a shareholder of the company. For this to happen, other requirements need to be satisfied and additional acts completed." (Civil Chamber of the Supreme Court of Justice of Panama, July 8, 1998).
There is a special duty reserved for the subscribers to the Corporate Charter. A Corporate Charter may be amended by the consent of the majority of the shareholders of the company. However, in the special event that a company has not yet issued shares (so there are no shareholders whatsoever), Section 9 of Law 32 provides that "amendments to the Corporate Charter agreed prior to the issuance of shares must be signed by all subscribers to the Charter and those that have agreed to subscribe shares." On the contrary, if shares have already been issued, the amendments to the Corporate Charter will be approved by the shareholders in accordance to the provisions of the law and the Charter."

Magistrate: So you seem to make a distinction between subscribers on one hand and shareholders on the other. At times subcribers can become shareholders in the company if they decide to acquire shares but they are not obliged to be shareholders in a compnay. Is that correct?

Witness: Yes it is correct because normally it confuses the subscriber. You have the subscriber as two people or more that signt he corporate charter ... public and do the politic. According to the law those people have the right to become shareholders also but they may transfer that right which is what nornmally happens that the subscriber normally transfer the right to the real person who ordered the incorporation to the law firm of the company.

Magistrate: So in concrete terms, if a subscriber as is mentioned by this case decides as it goes here, " a person is identified in the incorporation charter as subscriber of shares does not immediately turn this person into a holder or owner of those shares nor as a shareholder of the company." So it could be therefore that a subsciber may be mentioned as being subcribing to one share but that does not necessary make him a shareholder automatically. Is that correct?

Witness: Correct. You need to go further and in fact the board of directors, if you made the decision ... to become a shareholder of the company you need to go further and have a resolution by the board of directors each ... issue ... and receiving a certificate and be recorded as the shreholder of the company. So you need to step forward to become a shareholder of the company.

Magistrate: And therefore if I understand you correctly if the subcribers who would had one share each are not mentioned in the share register as being shareholders they would not be deemed to be shareholders at law.

Witness: that is correct. They would remain as subcribers to the corporate charter. They are not share holders of the company.

Magistrate: And therefore the shares that they would be holding would not be deemed to form part of the authorised shares or of the issued shares.

Witness: Actually tehy do not hold the shares they have a right to become shareholders. In the vast majority of cases they would never become shareholders because mainly they will act in an administrative capacity ...of the law firm signed in the document and transferign that potential right to become shareholder to the right honourable, the true and official honour of the company.

Magistrate: And therefore normally these shares would be deemed to be separate and ver and above from the remaining authorised shares in the company. They are not the same.

Witness: No they are not shareholders yet. They have not been issued shares. They only have the right to become shareholders. The share has never been issued so they are really not shareholders. If they go ahead and decide to become shareholders, they will have the same type of shares that they have outside.

Magistrate: When it comes to the subscibtion shares, can the subscribers transfer their subscibtion shares to bearer or shoudl they or are they required to transfer their subscribtion rights to a named person?

Witness: They are transfering their sibscribtions rights and not the shares. Shares have not been issued. Yes it is quite unusual. Normally I see as a common practise that you transfer the rights to a bearer. We have checked on the law and there is no prohibits that possibility that you transfer those rights just to the bearer of that letter or of that transfer signature document. For the benefit of the Court I have some model if you want to see. For

example this would be a corporate document filed and the clinet would normally receive a corporate charter. This is an actual corporate charter that we receive by a client.

Magistrate: Can you please bring them closer to the camera?

Witness: This is the corporate charter. A pacto social which is included in the scritura publica that contains the corporate charter of the company. Normally a law prepares this document and ...office so you would receive the inscription and number given to the company and this is the charter. The setting up.

Magistrate: We refer to it as the memorandum.

Witness: "Such person and such person acting as subscribers appear before the notary public to sign a corporate chart." You have the name of the company, the objedcts of the company, the type of shares the company wil have. This will normally be a corporate charter. It could be longer. It could be shorter in depends on the requirements of the company or the future shareholders of the company. The law requires a couple of books. You need a .... this could be...it is not a specific form and needs to include number of shares, like a ledger. This would be a ...

Magistrate: That would be held by the company's secretary.

Witness: Correct. By officers of the company. The lawyer would send that to the client and there is a minutes book also. The minutes of the meetings or the minutes should be recorded. Its point out how the law provides that this could be kept electronically. This is a normal... paperbut the law allows this to have an electronic recording of the shareholders. This could be kept also electronically. There is a certain way of doing it and it is for the interest of to Court to see. This is an example of that. I have kept a model of the transfer of subcripture rights. So this 8% of the ....90% of the incorporations the subscribers are the members of the firms that are incorporated and two people could go with the lawyer and the person incorporated ... of the company go to the public notary and they will appear as the subscribers. The commercial custom is that you will call the lawyer and the lawyer will send his staff to the notary so they appeear as subscribers and you willinclude this which is the satchel of subscription rights. It is not provided by law. This is a format depending on the law firm.

Magistrate: May I please ask you to scan that document and scanned it over to me as a scanned document please?

Witness: This is not a format by law. It is a customary. The undersigned declares that for the value of one dollar, legal tender has received and transfered to and you put the name of John Doe all the rights, interest as sibscriber of this company and the name of the company and the company was organised on the laws of the Republic of Panama for the right of one share. The name and sign. This is the normal.

Magistrate: That would not render the subscriber as a shareholder.

Witness: Correct.

Magistrate: And therefore that nominal, the value that is mentioned in that document is not part and parcel of the issued or authorised shares of the compnay.

Witness: No. The right that he has to become shareholder of the company.

Magistrate: That position is clear.

Witness: With that transfer they do this priveleges of the subscribers.

Magistrate: Now it is very clear. I will move on to question number 5 " What type of shareholding do subscribers hold when incorporating "Inc." companies?

As explained before, subscribers do not become shareholders of the company by the mere execution of the Corporate Charter or by merely stating their intention to subscribe one or more shares of the company being formed.

If a subscriber becomes in fact owner of one or more shares of the company, he will then become a shareholder of the company. Law 32 allows for a company to have one or more different types of shares, depending on the provisions stated in the Corporate Charter. If a subscriber becomes a shareholder, he will have the same rights and privileges than the rest of the shareholders of the same class of shares, provided that there are more than one class of shares.

6. Do the subscribers' shares form part of the original shareholding of the company or if are they separate and distinct from the actual shareholding of the company that is normally divided into authorised and issued shareholding?

See above.

7. Is there a distinction between the subscribers' shares and the shareholders' shares and their different legal standing, if any?

No, there is no distinction, as explained above. There may be a very unique case whereby a Corporate Charter may expressly include a class of shares reserved for those subscribers to the Corporate Charter once they become shareholders of the company.

8. At what stages do the powers and duties of subscribers start and end?

Powers and duties of subscribers start once the Corporate Charter have been executed and the respective public document containing it has been filed and registered by the Public Registry Office.

We may consider that the powers and duties of the subscribers end once shares of the company have been issued. The Board of Directors of the company is responsible for the issuance of shares. So, once shares have been issued, further acts and decisions of the company belong to the officers, directors and shareholders of the company. Any remaining power, duty or responsibility of the subscribers ceases."

So essentailly this means that once that the subscribers move out of the picture because they would have either transfered their subscribtion rights or else if the third party who acquire or who decides to acquire the company gives his directions, his orders to the board of directors and they issue the shares, then the subscribers move out of the picture completely. Correct?

Witness: Correct. That is the case. Subscribers have no more say on the future of the company. The ony exception that the law provides and we will see this later is that if you want to emmend the corporate charter and there are no shareholders yet, that space of time where there is no shareholders, the board of directors have not issued shares so the company has n shareholders, then you go back to the subscribers and you can emmend the subscribers, you have a right to emmend the corporate charter. The moment they did transfer and the board issues shares then the duties, privileges and actions of the subscribers ends at that moment.

Magistrate: "9. How the assignment or transfer of the subscription of shares is regulated?

The right to subscribe shares of the company by the subscribers to the Corporate Charter may be transferred or assigned to another person. Although Law 32 does not contain a specific provision, the assignment or transfer of rights is regulated by general principles of civil and commercial law.

As a matter of common commercial practice, it is customary that a document containing the assignment or transfer of the rights to subscribe shares to another person be signed by the subscribers to the Corporate Charter. A simple letter or form signed by the subscriber will suffice.

It will be appropriate at this point to explain that the vast majority of the Corporate Charters incorporated according to Law 32 are subscribed by lawyers, members of local law firms or their staff as a way to comply and facilitate the bureaucratic formation process on behalf of clients. In these cases, letters containing the assignment or transfer of subscription rights are normally forwarded to the clients together with the Corporate Charter and corporate documents.

A similar procedure is employed in the formation of the so called "shelf companies", whereby a lawyer or law firm will incorporate a company with a "standard" charter and will keep in the office once incorporated until a client requires the use of it. A letter or form containing the transfer of subscription rights will be included likewise in the package containing the corporate documents of the company to be forwarded to the client.

10. Can subscription shares be assigned to bearer or should they be in the name of an identified person at all times?

Transfer or assignment of subscription rights should be to a person or a company. However, there is no prohibition in the law to assign those rights to "the bearer of the letter" or form. It will be quite unusual but it is not prohibited by law.

11. Whether the subscribers retain any decision making power on behalf of the company after that the subscription shares are assigned?

Once the right to subscribe shares have been transferred or assigned to another party, the subscriber shall not retain any further right.

12. Whether the subscribers would know who the assignee of the subscription shares would be?
It is common practice that, once a company is formed, the subscribers to the Corporate Charter will sign a letter or form assigning their subscription rights to the clients of the firm, meaning, the ultimate beneficial owner or owners of the company. The vast majority of companies incorporated according to Law 32 are formed by lawyers or law firms. There may be a case, not common whatsoever, that two or more people appeared before a Public Notary in Panama in order to subscribe in person the public instrument containing the Corporate Charter, follow by the issuance of shares to themselves. This situation accounts for a very limited number of incorporations.

If the subscribers to the Corporate Charter are members or staff of the law office, the subscribers may not know who the assignee of the subscription rights are. Their duties as subscribers will normally end with the incorporation of the company and the assignment of the subscription rights to the future shareholders of the company. Keep in mind that the members of the Board of Directors of the company (see below) are empowered to issue the shares and assess the rights of future shareholders.

13. Whether the subscribers would know who the ultimate beneficial owner of the company is:
a) upon the formation of the company,
b) after that their subscription shares have been assigned.

Please see above.

14. Whether it is normal for the subscribers to sign *declarations of trust* denoting who the ultimate beneficial owner of the company is:
(a) upon the formation of the company;
(b) after the formation of the company;
(c) following assignment of the subscription shares;

It is not common for the subscribers to sign declarations of trust. First, subscribers to the Corporate Charter have a potential right only to become a shareholder of the company. So, they may transfer or assign that right but they are not shareholders so the only "good" that they may give in trust would be that right. Second, if they proceed to the next step, meaning, acquiring in fact a share of the company, they become shareholders leaving

behind being a mere subscriber. Third, it may happen that a subscriber will give in trust his right to become a shareholder once the company is incorporated but not before the company exists nor after the assignment or transfer of such rights have been made.

15. Is there any pre-established document setup or format for declarations of trust under Panama Law or practice?

There is no pre-established document or format for declarations of trust under Panamanian Law.

16. Once that the subscriber's shares are assigned, who issues shares in the company and what is the procedure for the issue of such shares?

The business and affairs of the company shall be managed by the Board of Directors. According to Law 32, among the duties of the Board of Directors are those related to the issuance of the shares of the company. The Board, by means of a resolution, may authorised the issuance of shares. Shares titles or certificates, signed by the President or the Vice-President and the Secretary or the Treasurer, will then be extended.

The title or certificate of shares shall contain: the registration details of the company, the amount of capital stock, the number of shares owned by the shareholder, the class of shares (if there is more than one class) as well as the special conditions, designation, preferences or restrictions that a class of shares has over the others, if the shares represented by the certificate are fully paid and non-assessable, and the name of the shareholder if the shares have been issued as a registered shares (as opposed to shares issued to the bearer)."

So essentially this issue of shares of the company would be reflected in the shares certificates which certificates would be held by the company in the records of the company therefore private records and these are not registered or disclosed to the public registry or the ...registry. Correct?

Witness: Correct. Shareholder would receive a certificate or the title containign the ammount of shares that he owns in the company. The certificate would be registered in the register book of company, would be recorded by the secretary but all of this would be kept in the premises of the company, it is not a public record. It is not recorded in the public shareholders of the company.

Magistrate: " 17. Whether shares in the company can be issued by the ultimate beneficial owners while the subscribers are still in office and have not yet assigned their shares?

Shares are issued by the Board of Directors, not by the beneficial owner. A shareholder may ask the Board of Directors (not to a subscriber) to cancel a share certificate already issued and issue a new one if he wishes to transfer all or part of his stock. Likewise, a client to a lawyer or a law firm may instruct the Board of Directors to issue shares according to his wishes but not to the subscribers.

18. Whether shares in a company be issued while the subscribers are still in office and have not assigned their shares?

See above."

Magistrate: So therefore subscribers as such have no power to issue shares then. Correct?

Witness: Correct.

Magistrate: "19. What shares can be issued by shareholders – nominative, bearer etc?

Shareholders do not issue shares. The Board of Directors issues shares. They may issue shares as registered or nominative shares and in bearer form.

20. Who maintains the shareholders' register with details on each and every share issued when shares in such a company are trasferred or assigned to third parties outside Panama jurisdiction?

Each company is required to keep a Share Register in which will be recorded the name and address of the shareholders, the number of shares, date of acquisition and the amount paid for them. In the case of bearer shares, the Share Register will indicate the number of shares issued, the date of issuance and that the shares have been fully paid.

The transfer of shares should also be recorded in the Share Register to be valid, irrespectively that the transferor or transferee are in Panama or outside of the country."

Therefore am I to understand that if a share issue is not registered in the share register then it would not be considered to be valid?

Witness: Corect. The law says that to be valid the share has to be issued by the bpard of directors and registered in the register book of the company as well as to valid a further transfer, the transfer, I mean I can endorse or sign ... but to be effect you have to go to the company again, back to the segretary of the company and the segretary has to record in the book the transfer of the share. That is provided in the law.

Magistrate: So am I safe to conclude that if a board of directors issues an ammount of shares to bearer without them being registered in the shre register, that issue would not be valid at Panamanian Law?

Witness: It is to be completed that you need to record the issuance by resolution of the board to issue any type of share and then you need to record them in the book. The share certificat eneeds to have a signature by the officers of the company; by the president and the segretary. You need to have a resolution of the board to issue the shares and the law requires to be put in the book.

Magistrate: So therefore I understand that the presumption at Panamanian law is that what the share register contains is prima facie evidence of its contents. Right?

Witness: Correct.

Magistrate: And that you have to interpret those documents in good faith.

Witness: Correct.

Magistrate: In the sense if that a certifiace specifies that only one share would have been issued, then that share cetificate is prima facie valid and prioma facie is prove of its content.

Witness: You may have a certain difficulty but for some reason or anotherthe company has not traced the share certifiactes properly prima facie you have the right to - please ...share of mine ... that culd be the case but the law provides that any transfer of shares or any has to be valid recorded by the company in the shareholders register.

Magistrate: So therefore if you do not find any instructions given to the directors of the company who normally issue shares and if you do not find any specific reference in the share register, thereofre you can prima facie

conclude that the share register is indicating who the shareholders are. Correct?

Witness: The law provides that the share register all the issues of shares or transfer of shares all exist in the shareholders. It is the document by law obliged to have all the movements and issuance and cancellations of the company.

Magistrate: And then if there is a shoreholder who feels aggrieved or that he is a shareholder but his name is not registered in the shre register it would be up to him to go to the company secretary and show him prove that he is indeed a shareholder.

Witness: Correct. He pays for the shares.. that he is entitled and if not to go to Court with that action and ask the company to raise the shares in case of the secretary refuses to raise his certificate.

Magistrate: Unless anything happens or is shown to the contrary, what is mentioned in the share's certificate in deemed to be prima facie true and correct.

Witness: In the share register yes.

Magistrate: "21. Whether, following assignment of the subscription shares, it is possible for the shareholders to issue shares to bearer?

Shareholders do not issue shares. See above

22. What is the procedure that needs to be followed when shares are issued to bearer, eg – who issues bearer shares – the subscribers, the shareholders, or both?

Bearer shares should be issued by the same procedure as nominative shares. All shares are issued by the Board of Directors. Bearer shares should be fully paid before the Board can issue them.

Since the enactment of Law 47 of August 6, 2013, if a company issues bearer shares, those shares must be placed under an Authorized Custodian. Before the enactment of this law, bearer shares were held by their owners. Since 2013, if the company decides to allow the issuance of bearer shares then those shares should be placed under an Authorised Custodian to be valid.

Companies incorporated with bearer shares before the enactment of Law 47 were given two years to either convert those shares to nominative form or to place them under a custodian. Companies with bearer shares that have not yet complied with those provisions are deemed to be "disabled" and limited on their actions until they comply with the law."

The authorised custodian, who is he? Is he a givernment official or is he a company official?

Witness: Law 47 adopted this new institution that whereby law firms have to apply for a special licence to become custodians of bearer shares. It would be a private entity regulated by law.

Magistrate: So they would be lawyers normally who would be licences custodians.

Witness: Normally lawyers licenced who had apply for a special licence to hold that and comply with a couple of requirements were to keep the shares, the shares available in case of an authority to identify them ect.

Magistrate: And if these bearer shares issued before the law came into force are not registered with a custodian, would they be disabled for good or could they be rehabilitated once that the bearer shares would be registered with the authorised custodian?

Witness: Correct. The law is ...until you comply with the law. So if you comply with the law then you regulate your situation. So that transition period is given to people. The company has incorporated for 100 years so many people have the forms of signatures, the law gives them two years to comply. If they do not then the comapny is frozen until you comply with that.

Magistrate: "23. Is there any registration requirement with the Mercantile Registry for shares issued to bearer?

No. If the company keeps open the possibility of issuing bearer shares then a special resolution by the Board of Directors should be enacted and filed before the Public Registry Office stating that the company will be subject to the Bearer Shares Regime and Custodian Practices according to Law 47.

24. Who issues share certificates, how are they issued and whether they are registered with the Mercantile Registry?

The Board of Directors issues share certificates by means of a resolution and extending the appropriate title or certificate, as explained above. Share Registers are not of public domain and they are not filed before the Public Registry Office.

25. What are the powers of the Directors of a company?

The Board of Directors has broad powers to manage the affairs of the company. The first members of the Board are designated in the original incorporation documents filed at the Public Registry Office. After the incorporation, the Directors will be elected by the shareholders of the company.

26. Whether Directors of a company issue shares in favour of other companies or persons offering nominee services on behalf of beneficial owners?

See above.

27. Once that shares are issued in the name of nominee companies, what are the powers that are normally granted to nominee companies?

So called "nominee" companies act on behalf of their owners. Then, those companies should act according to the wishes of the owners. Accordingly, if a nominee company appears as subscriber to a Corporate Charter, it should be understood that the company is acting on behalf of the lawyer or law firm incorporating the company.

If the nominee company, on the other hand, belongs to the client, then it should be understood that its actions are taking according to the wishes of the client."

What happens if the ultimate beneficial owner does not want to appear on the record a sbeing the ultimate beneficial owner and transfers his share or shares to a nominee company administered by his lawyers? In that case the company would be administered directly by the nominee comapny or how do you normally go about it in Panama?

Witness: Now you have to know your client and do.. requirements legislation in Panama so lawyers are required by law today to know exactly the ultimate beneficial owner. It does not matter how many layers he put in the middle, you need to have in the office sufficient information to identify

who the ultimate beneficial owner of the company no matter how many layers you have of nominee companies and other companies and foundations and trusts who the beneficial owenrs are. So that information has to press in the office of the attorney at the moment. In the case of nominees, if you have a nominee company. Well that nominee comapny also has to have shareholders. So you need to know who the shareholders are, the nominee companies are. Fromt he line of question O gather you are trying to figure out because there is a practice since 1997 that subscribers could be nominee companies of a person. Well you need to know who the owners of that nominee, company that is subscribing to the corporate charter is. If it is a company that belongs to the law office, a nominee, a service to sign the corporate charter or if a company that belongs to the client, that the client may ask, "I want to subcribe to the corporate charter to the company of my own" so instead of being a person wgho appears in from of the notary public is a company, who are the owners of the companies and you go to the same rules of you can not have bearer shares, you need to have ultimate beneficial owenr of that company.

Magistrate: "28. Whether nominee companies are required to know who the ultimate beneficiary owner is.

I believe to be pertinent to make some clarifications before answering this question.
Beginning in 1994, the Government of Panama by means of Executive Decree No.468 of September 19, 1994 imposed on lawyers and law firms acting as Registered Agents of companies incorporated according to Law 32 the obligation of knowing their client and to ask for sufficient information in order to identify the client that requested the incorporation in case of a judicial inquiry.

Those initial requirements where hence extended. Law 2 of February 1, 2011 imposes on lawyers, law firms and any entity acting on behalf of third parties incorporating a company or acting as Registered Agent for companies to obtain and keep in their offices full due diligence information of the beneficial owners of each company.

Accordingly, nominee companies provided by lawyers or law firms for incorporating other companies are likewise subject to the obligations described before.

29. Whether they are by law obliged to make any specific due diligence.

Please see explanation above.

30. Whether there are any enhanced due diligence requirements when the ultimate beneficial owners of companies are politically exposed persons.

Yes. According to Law 23 of April 27, 2015 there is an enhanced due diligence procedure for politically exposed persons. In addition to fulfilling the requirements of regular clients, Registered Agents should double check and perform enhanced verification procedures, including world data basis verification, double check and special approvals, and enhanced risk management, for politically exposed persons.

31. In case of a typical company having an authorised capital of USD10,000 divided into 100 shares (nominative or to bearer) with a nominal value of USD100 each whether the Directors of the company issue only one share (out of the hundred available) with a nominal value of USD100 in favour of a nominee company in Panama.

It is possible that the Directors of a company shall issue just one share. There are no limitations in our legislation for a company with a sole shareholder.

32. What happens with the remaining ninety nine shares – whether they remain un issued; who would be entitled to issue those shares in the company: the ultimate beneficial owners, the shareholders, the Directors of the company, the officers of the nominee company?

The company may remain with 99 shares, out of 100 of the authorized capital, unissued.

33. What happens if no other shares are issued apart from the one single share? Who would have the controlling interest in the company?

The company will have a sole shareholder, thus he will be the only owner and will have total control of interest in the company.

34.If the other shares can be issued, can they be issued to bearer and if positive, who can issue those shares?

Yes, other shares can be issued to bearer provided that they comply with the procedures explained above."

To tie what we were saying before, so if these bearer shares wopuld not be issues according to the new law, would they be ddemed to be valid or invalid?

Witness: After the passing of the law if they issue, I believe they would be invalid because the law says you need tohave a special resolutional that would submit to the custodian, the regime so if you keep on issuing shares in in form after a law for me it would be invalid.

Magistrate: I think that is clear. "35. Whether there is any obligation for any such bearer shares to be registered with the Mercantile Registry.

All companies shall keep a Register of Shares. The issuance and transfer of all shares, either bearer shares or those issued nominatively, should be recorded in such registry. The Register of Shares, however, is not of public record.
Notwithstanding the above, please keep in mind that since the enactment of Law 47, all shares issued in bearer form shall be deposited with an Authorized Custodian as explained before.

36. Whether there is any way to know if such bearer shares would have been issued in the first place;

The issuance of any type of shares, whether to bearer or nominative, should be recorded in the Register of Shares.

37. If from the documentation available there is record of the issue of only one share how is it possible to know if other shares would have been issued – nominatively or to bearer?

The company shall keep a Minutes Book and Register of Shares. The issuance of shares shall be approved by the Board of Directors, so any issuance of shares shall be recorded in the minutes of the board. Also, the issuance of shares – nominative shares as well as shares issued to the bearer- shall be recorded in the Register of Shares.

38. If it is possible for the Directors of the company to give powers of attorney to the ultimate beneficiary owner by-passing the nominee shareholders and if positive what is the use of giving powers of attorney with very wide powers to the ultimate beneficiary owner and not the nominee shareholders?

The Board of Directors of the company may give powers of attorney to whomever they see fit. It is not uncommon to grant a general power of attorney to the ultimate beneficial owner of the company."

Magistrate: In relation to this business relating to the granting of powers of attorney to the ultimate beneficial owner, one other question that I had, I saw that normally Panama companies or other persons having companies in Panama normally seem to retain the registered agent's address in Panama even though they do not do business in Panama. Is this really the position in Panama in common commercial practise?

Witness: the law requires to have a domicile of the company so normally the domicile would put the domicile of the register of the company. That is for purpose of notification of actions so that is in the legal place for notification. That should mean that that is the place of business of the company; of the normal operation but depends if the company has a very active origins, the family company or whatever. We ask for the address of the director also. You have to state the name and address of the directors of the company. Also for the purpose of notifications and all that. It is normal that the comapny will have a domicile ...agent. the main function is that, an agnet for notifications and pay the licence fees and to grab the company in its own specific place of business.

Magistrate: So from you experience when companies registered in Panama having foreign shareholding are not really active in the business, would they normally retain the registered agent's address as their normal business address or would they normally use their own foreign address for corrispondence purposes?

Witness: For corrispondence purposes they may use whatever the shareholders or the beneficial owners leave. The normal function of the company if they want to have a letter head or give to the bank a specific address in which they are reachable, the address of the copmpany is basically the last resourceful legl procedures. If you need to get in touch with the company and it is a corporate in Panama you go to the public notary office, you look for the name of the company and you check who the ...is and you can notifiy the ...but it will not be sure that even a small company opens a bank account or holds a property or bank account in Spain we will giove to the bank or to the broker of the real estate the address of the beneficial ower or the power of attorney that represents the company. It depends on the activity of the company.

Magistrate: "39. What is the procedure for winding up of companies in Panama?

The procedure to initiate the voluntary dissolution and winding up of a Panamanian company starts with a decision of the Board of Directors. It is up to the Board to decide if it is advisable the winding up of the company. Final saying regarding the decision to dissolve the company rest with the shareholders.

If the Board of Directors deems it advisable that the company be dissolved by a majority vote of its members, it will propose an agreement for dissolution to the shareholders of the company. The Board of Directors should convene and submit to a special meeting of the shareholders the proposed resolution to dissolve the company within the ten 10 days of its approval.

The notice of such meeting should be send to all registered shareholders in writing, sign by the President, Vicepresident, Secretary of the Board of Directors (or by such other person authorized by the Corporate Charter or the By-Laws, if exist) stating the purpose for which the meeting is called and the place and time of the meeting.

If the company has issued shares to the bearer, notice shall be given or publish in such manner as the Corporate Charter or the By-Laws provide.

Shareholders may be represented to all meetings of shareholders by proxy, unless prohibited by the Corporate Charter or By-Laws.

Once convened, and after a proper quorum of at least 51% of the outstanding shares are duly represented, either by the holders or by proxies, the Board of Directors will submit a resolution containing the Articles of Dissolution. If in the meeting of shareholders, the holders of the majority of the issued shares adopt the resolution approving the Articles of Dissolution, then a copy of that resolution shall be executed by means of a public instrument and filed before the Public Registry Office.

Once it is tendered to the Public Registry Office, a copy of the resolution shall be published, at least once, in a newspaper in the place where the office of the company is situated.

All companies which existance terminates by dissolution shall nevertheless continue for a term of 3 years for the specific purpose of winding up. The Directors of the company shall act as trustees of the company during the winding up period in order to settle its affairs, collect its credits, sell and convey its assets, pay the debts of the company and divide its assets among the shareholders afterwords. The trustees have also the power to initiate judicial proceedings with respects to the credits and assets of the company and to defend the interest of the company in any proceeding against it.

Whenever all the shareholders with voting rights of a company shall set forth in writing their consent to dissolve the company, no meeting of the Board of Directors nor a meeting of the shareholders shall be necessary.

40.What are the necessary resolutions to be carried out and who does them?

Please see above.

41. Whether winding up resolutions have to be registered with the Mercantile Registry and if positive, whether the Mercantile Registry issue any dissolution certificate.

Yes, a copy of the resolution approving the Articles of Dissolution shall be filed with the Public Registry Office. The Public Registry Office of Panama may issue, upon request, a certificate of dissolution. All corporate resolutions filed before the Public Registry Office are of public record.

42. Once shares in a company are trasferred or assigned to a person outside Panama jurisdiction what legal obligations are required to be observed by this person in terms of Panama Law?

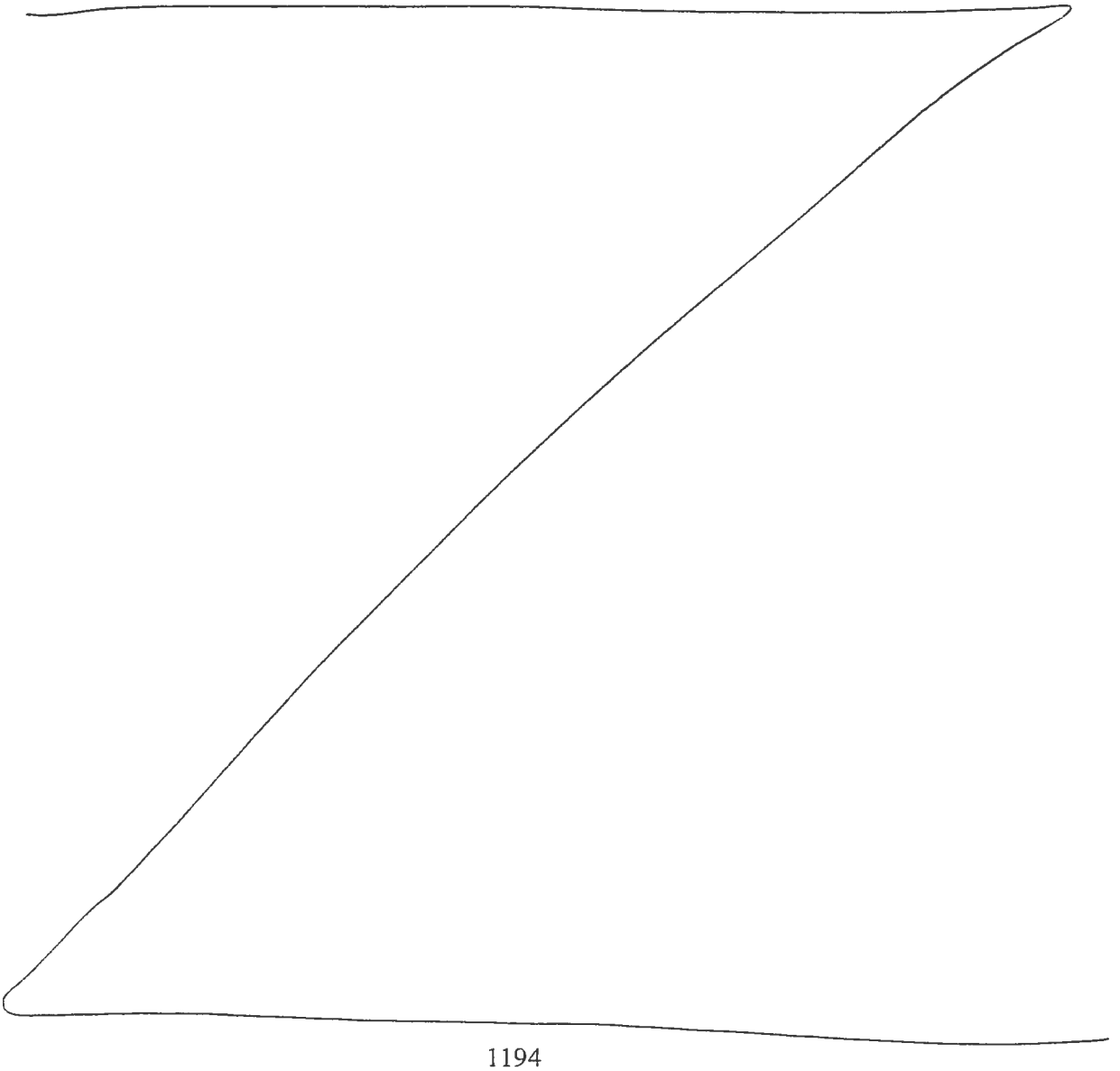
There are no specific duties or obligations in Panama for nationals or foreigners for the mere fact of being a shareholder of a Panamanian company according to Law 32.
However, it is important to point out that, since the enactment of the due diligence legislation, the Registered Agent of a company is under the obligation of requesting sufficient information (such as copy of passport, due diligence forms, exact address and prove of residence and utilities) on the shareholders and ultimate beneficial owners of each company. Thus, shareholders should comply with such requests by the Registered Agent.
The Board of Directors has the duty of keeping the corporate records of the company and updating any transfer of shares, as explained before.

To continue to be in good standing, the company shall also pay its annual license fee (*tasa anual*) to the Government of Panama once a year on or before the anniversary of its incorporation."

That seems to be the whole text of the questions and your legal advise. I wonder if the police officers present here have any further additional questions to pose. There does not seem to be any furhter questions from our side. Thank you for your report and for this conference of today.

Witness: Thank you.

Magistrate: I kindly request you to send over to me by scanned copes the documents that you made reference to during our conference today in order for me to be able to file with your report. Please send it by courier service.



Ir-relazzjoni tal-*Forensic Accountants Harbinson Forensics*

Stabbiti l-punti legali prinċipali li jdawru l-kontroversja prinċipali f'din l-inkjesta, u dan wara li ġiet analizzata x-xiehda ta' esponenti prinċipali ta' Mossack Fonseca fuq naħa u dawk ta' Nexia BT fuq in-naħa l-oħra, imiss issa li l-inkjesta tagħmel riferenza lejn ir-relazzjoni tal-*Forensic Accountants Harbinson Forensics* li analizzat l-informazzjoni diġitali kollha li ġiet elevata matul il-kors ta' din l-inkjesta, inkluż informazzjoni diġitali li ġiet elevata mill-Maġistrati Dr. Natasha Galea Sciberras u Dr. Josette Demicoli fl-inkjesti *Willerby* u *Hillman* rispettivament. Din ir-relazzjoni hija l-prodott ta' analiżi estensiva, li damet sejra kważi sena sħiħa mill-mument tat-teħid tal-informazzjoni għall-produzzjoni ta' din ir-relazzjoni.

L-għażla li jkun hemm żewġ timijiet ta' *Forensic Accountants* f'dan il-każ kienet waħda strateġika li tassigura t-taħlita ta' esperjenza professjonali mid-dinja kontintentali rappreżentata minn *Miroslava Milenovic* mal-esperjenza Anglo-sassoni riflessa fit-team ta' *Harbinson Forensics*.

Il-*Forensic Accountants* analizzaw dokumenti stampati u diġitali li ġiet ottjenuta mill-Bank Pilatus u mid-Ditta *Nexia BT* kif ukoll minn xiehda oħra,

fosthom il-Banek u Istituzzjonijiet Finanzjarji li r-rappreżentanti tagħhom xehdu fl-atti ta' din l-inkjesta. Dawn iż-żewġt timijiet ta' *Forensic Accountants* ġew mogħtija l-inkarigu sabiex jistħarġu bl-aktar mod wiesa minn dawn id-dokumenti stampati u diġitali rispettivament biex jistabbilixxu jekk u safejn l-allegazzjonijiet magħmula minn Daphne Caruana Galizia fl-artikli tagħha setgħu jiġu kkonfermati. Huma ingħataw aċċess għax-xiehda miġbura u għall-informazzjoni kollha li kienu jħoss li kienu jeħtieġu sabiex din l-inkjesta tkun kondotta bl-aktar mod oġġettiv, komprensiv u eżawrjenti. Inżammet komunikazzjoni kostanti u robusta bejn il-Maġistrat Inkwirenti u ż-żewġ timijiet ta' *Forensic Accountants* inkluż b'laqgħat f'Malta u barra, kif ukoll bil-mezzi tal-video-konferenza.

Il-Maġistrat Inkwirenti insista' li jkun hemm kuntatti bejn dawn iż-żewġt timijiet t'esperti skont kemm kien jidhrilhom meħtieġa bejniethom sabiex ikunu jistgħu jivverifikaw fatti jew provi jew riżultanzi jew konklużjonijiet bejniethom b'mod li b'hekk ikun hemm element ta' verifika interna bejn ix-xogħol rispettiv tagħhom.

Minħabba n-natura tal-*expertise* tal-esperti tekniċi *Harbinson Forensics,* dawn ġew ukoll mogħtija struzzjonijiet sabiex safejn kien possibbli u permissibbli jottjenu wkoll informazzjoni verifikabbli minn sorsi internazzjonali dwar il-meritu ta' din l-inkjesta li setgħu ikunu ta' rilevanza jew li joffru bażi għal

stħarriġ dettaljat ulterjuri dwar dak li kien qed jiġi allegat minn Daphne Caruana Galizia u dan sabiex it-tiftix għall-verita ikun wieħed kemm jista' jkun komprensiv.

Sabiex ix-xogħol tagħhom jiġi faċilitat u b'mod partikolari sabiex jiġi assikurat li, fid-dawl tal-kumplessita tal-informazzjoni u d-*data* li kienet qed tiġi miġbura, il-*focus* ta' dawn l-esperti jibqa' dejjem pernjat fuq il-parametri ta' din l-inkjesta, ġie suġġerit lill-*Forensic Accountants* sabiex jagħmlu l-konklużjonijiet tal-analiżi tagħhom b'riferenza għall-allegazzjonijiet imsemmija fl-artiklu meritu għal din l-inkjesta pubblikat minn Caruana Galizia fl-20 t'April 2017, iżda wkoll għall-artiklu preċedenti li kien pubblikat fl-istess jum u li kellu l-meritu tiegħu relatat mill-qrib mal-artiklu meritu għal din l-inkjesta.

Kif ġara fil-każ tan-nomina tal-*Forensic Accountant Miroslava Milenovic,* iż-żewġt artikli ġew maqsuma f'sebgħa punti kull wieħed minnhom u dawn l-esperti ġew mitluba sabiex janalizzaw jekk u safejn, mill-evidenza u mill-informazzjoni imqegħda għad-disposizzjoni tagħhom, dawn il-punti jew liema minnhom jew parti minnhom setgħu jiġu konfermati o meno sal-grad rikjest mill-Liġi u ċjoe b'riferenza għall – allegazzjonijiet li

1.In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

2.In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEPs, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

3. Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

4. The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

5. Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

6. The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

7. These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

Kif ukoll li :

1.In March last year (2016), Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

2.The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

3.The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.

4. Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country.

5. The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through.

6. Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up. This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.

7. The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta. Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

In-nomina tal-Forensic Analysts u Forensic Accountants Jeremy Harbinson, Joan Rice, Sam Sittlington, David Wright u David Churchill, adetti mad-ditta *Harbinson Mulholland* u /jew *Harbinson Forensics* u l-istess *Harbinson Mulholland* u *Harbinson Forensics* tat-28 ta' Ġunju 2017

Jeremy Harbinson, Joan Rice, Sam Sittlington, David Wright u David Churchill, adetti mad-ditta *Harbinson Mulholland* u /jew *Harbinson Forensics* u l-istess *Harbinson Mulholland* u *Harbinson Forensics* kemm separatament kif ukoll kollettivament qegħdin jiġu maħtura bħala esperti tekniċi *Forensic Accountants u Forensic Analysts* sabiex wara li jkunu ħadu konjizzjoni tal-informazzjoni diġitali u stampata fornita lilhom mill-Maġistrat Inkwirenti jew minn esperti tekniċi jew persuni oħra indikati lilhom mill-Maġistrat Inkwirenti jew esperti tekniċi jew persuni oħra maħtura minnu minn żmien għal żmien, jagħmlu l-analiżi tagħhom ta' bħala *Forensic Accountants u Forensic Analysts* fir-rigward ta' din l-informazzjoni kollha (li tinkludi, iżda mhux limitata għal) dik meħuda mir-*records* stampati u diġitali tal-Bank Pilatus u Nexia BT matul il-kors ta' din l-inkjesta jew skont kif dirett lilhom mill-Maġistrat Inkwirenti, kif ukoll xiehda u dokumenti oħra sottomessi lilhom għall-analiżi tagħhom skont kif jidhirlu l-Maġistrat Inkwirenti u dan sabiex ikunu jistgħu jiddeterminaw jekk minn tali informazzjoni disponibbli

lilhom kienx hemm evidenza biex ikunu jistgħu jiġu ritenuti bħala pruvati sal-grad rikjest mill-Liġi l-allegazzjonijiet meritu ta' din l-inkjesta.

L-esperti qegħdin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom għalihom u li jagħmlu dak l-iskambju jew ġbir t'informazzjoni u komunikazzjoni magħhom jew mingħandhom skont il-każ u skont ma jidhrilhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom kif ukoll li jkunu preżenti u jipparteċipaw fil-ġbir u l-analiżi tax-xiehda mill-Maġistrat Inkwirenti kull meta l-istess Maġistrat iqis li jkun hekk meħtieġ, kif ukoll li jużaw l-esperjenza u l-kuntatti professjonali tagħhom sabiex ikunu jistgħu iġibu jew jottjenu informazzjoni li tkun ta' interess għall-fini ta' din l-inkjesta.

Għal dan il-għan l-esperti ġew ordnati li jirrelataq proviżorjament bil-fomm jew bil-kitba minn żmien għal żmien skont il-ħtieġa tal-każ u ċ-ċirkostanzi u sussegwentement finalment jirrelataw bil-miktub billi jiġbru r-riżultanzi u l-konklużjonijiet kollha inkluż dawk proviżorji u li jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw ir-riżultanzi u l-konklużjonijiet tagħhom.

Sabiex l-istess esperti tekniċi jkunu jistgħu iwetqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

Illi permezz ta' relazzjoni miktuba datata 4 ta' Lulju 2018 u li ġiet konfermata mill-esperti tekniċi permezz ta' video-konferenza fl-istess jum, dawn il-*Forensic Analysts u Forensic Accountants Harbinson Forensics* ikkonkludew is-segwenti : -

RE: REPORT TO THE MAGISTRATE IN RELATION TO CASE 1

We thank you for your instructions and now present our report in this case.

Restrictions on circulation / duty of care

1. Our report is prepared for the Ministry of Justice and is Strictly Private & Confidential. It is not to be released to any party other than those who have an involvement in this case. No duty of care is accepted to any party other than those to whom the report is addressed. No responsibility is accepted for any reliance placed upon the report should it be used for any purpose other than that stated above.

2. Our report is based on our experience gained through similar cases and, as such, should not be taken to express an opinion on any legal matters.

Scope: this report deals only with evidence in relation to 14 specific assertions.

3. As instructed, in this report we have not attempted to cover all the findings of our investigations to date. You have asked us to highlight to you what evidence we have managed to discover that can prove or disprove fourteen specific assertions you have set out for us which we address in the body of the report below.

4. Our investigation and this report has therefore been focused on those fourteen points. During the course of our work we have become aware that the data sets of both NexiaBT and Pilatus contain a significant amount of documentation in relation to what appear to be suspicious transactions, concealed corporate relationships, and other indicators of probable money laundering and sanction evading activities. We have not investigated these activities but they appear to involve both citizens of Malta and elsewhere. You have directed that these matters fall outside the scope of the current investigation. We will be happy to provide further information on these matters if required.

Sections of this report

5. We have set out this report in four sections:-

I. Work carried out and processes utilised
II. Assertions made in the declarations of trust article
III. Assertions made in the US$1.017 million transfer to Egrant Inc from Al Sahra FZCO article
IV. Other matters

Work carried out and processes utilised

6. We understand that the digital exhibits which you have provided to us were seized by the Malta Cyber Crime Unit assisted by a court appointed expert, Dr Godwin Caruana. Computers, laptops and USB storage devices had been forensically imaged into E01 format using EnCase software. Servers had been copied as a combination of virtual copies and backup files. You have instructed us that they were uplifted from:-

- The Pilatus Bank, Ta'Xbiex, the items are listed in ITS/CCU244/2017
- Nexia BT, San Gwann, the items are listed in ITS/CCU245/20177

7. At the end of July 2017, ANSEC's Forensic IT specialists copied all of this digital evidence onto a Network Attached Storage (NAS) device enabling transportation to Northern Ireland and processing and examination without compromise of the original E01 files. Once transported the data was imported using EnCase forensic software for verification and processing.

8. In January 2018 ANSEC's Forensic IT specialists again travelled to Malta and obtained further data from another court appointed expert Mr Keith Cutajar. This data contained image files from computers and mobile devices belonging to Mr Brian Tonna and Mr Karl Cini. This data was transported to Northern Ireland for processing and examination.

9. In April 2018 ANSEC's Forensic IT specialists again travelled to Malta and obtained a hard disk drive from you, containing files obtained from the German authorities, described as material believed to be relevant to Malta originating from the "Panama Papers". This data was also transported to Northern Ireland for processing and examination.

10. In June 2018 you provided us with further files emanating from the Mossack Fonseca servers. We understand that these were provided to you from three different sources. Part 3 came from the German Authorities, Part 2 from a Journalist and the "emails main batch" were handed over to you by Dr. Simon Busuttil along with his first application in April 2017. We understand that all of these were taken from the Mossack Fonseca servers.

11. The digital evidence made available to us over this period of around 10 months was extremely voluminous and represented over 30 terabytes of data. If printed, we estimate it would fill several Empire State buildings.

12. To make the mirrored data amenable to searching and analysis it first needed to go through an intensive process of cleaning and filtering to remove items such as operating systems, software, cookies, irrelevant picture files and other irrelevant data – probably around 16 terabytes. As further explained below, some of the files could not initially be digitally searched and required further processing and conversion. This filtering and cleaning eventually distilled the data to be searched down to: -

1. Documents created in Word, Excel, PowerPoint, PDFs, relevant picture files, SMS texts, WhatsApp messages, Skype chat logs, etc. Once extracted these files represented around 1.5 terabytes.
2. Emails of Nexia BT partners and staff (see below) - around 110 gigabytes comprising over 650,000 individual email messages.
3. Oracle and APEX data for Pilatus and Nexia (including the accounting, payroll, VAT, and bookkeeping data for all its over 2000 clients),
4. Unallocated data (snippets of permanently deleted files, files viewed but not downloaded to the system, etc) and internet activity traces - these appear to represent around 8.5 terabytes.

13. There were also a number of media files which we listened to or watched as appropriate; these were mainly audio recordings of Pilatus phone instructions from clients to transfer money or recordings of board meetings. They did not contain any information that was not also in the documentary data.

14. The majority of the files at 1 and 2 above were eventually able to be indexed to enable key word searches (see below).

15. ANSEC identified the files at point 3 above as relating to accounting software that was running on several laptops as virtual machines in a Windows XP environment. This appears to be due to the age of the software. ANSEC were able to run the software in a virtual environment but noted that the software, known as APEX for Windows, was licensed using a dongle. In order to run the software a valid dongle would be required. After discussion

with you it was agreed that internal accounting records and software were not a priority for the inquiry at this stage and it was therefore agreed not to seek access to this data at this time.

16. Unallocated clusters noted at point 4 above are the areas of the file system that do not currently have files allocated to them. However, they can contain the remains of deleted files or partial files that have not yet been overwritten. In order to examine the unallocated clusters ANSEC indexed the data in order that it could be subjected to keyword searches.

17. To put all of this in context, one terabyte of data probably represents around 250 million pages of typical documents; even if only one percent of one percent of that gets selected for analysis by our keyword searches etc it is still around 25,000 pages (equivalent to around 20 War & Peace novels) which the team have to read, consider and, where necessary, record and discuss. For example, there are some 178,000 emails of Karl Cini alone quite apart from all the other documents in which he is mentioned.

18. We therefore broke the data down into smaller sub-sets which our analysts progressively worked through. This approach has also proved necessary because the various sets of data only became available to the analysts as they were progressively extracted, sifted, sorted, and indexed by ANSEC.

19. The work to filter out the items for analysis from the roughly 30 terabytes seized and make as many files as possible amenable to digital searching took around 10 months to complete. The first tranche of cleaned and filtered data became available to the analysts on 29 August with further data being progressively becoming available at roughly fortnightly intervals until early March 2018. A relatively complete set of the searchable data was therefore not available until early March 2018 with further work to tackle problem files continuing until early June 2018.

The fact that the data sets could only become progressively available to the analysts to search and analyse over that extended time period was unavoidable but added significantly to the complexity of the analysts' work.

20. In Appendix 1 we attach a diagram which overviews the stages in our examination and analysis Process.

Key word searches of indexable files

21. As the raw data was processed by ANSEC's IT specialists and made available to our analysts the majority of the files were able to be digitally indexed to enable key word searches to be carried out.

22. These key word searches flag up to our analysts all the documents containing each key word in the given data set. The analysts then view each document and extract each potentially relevant document for further analysis. The challenge is that many of the key word searches flag up thousands of documents even when the initial search terms are further refined.

23. With experience, our analysts can on occasions quickly identify documents (or even batches of documents) which are irrelevant to the enquiry. However, it is more often necessary to view at least part of each document to determine its relevance. It is therefore the case that although one might be able to work through one batch of 100 documents very rapidly, the next 100 files may require a much longer period of time due to the length, complexity, and relevance of the material.

24. We first analysed the documents in Word, Excel and PDF formats to inform our decision about which of the email caches to extract and analyse and also what searches should be made of the remaining data.

Searching the "unallocated clusters"

25. We also performed a limited amount of digital searching of the "unallocated clusters" of the data for snippets of deleted or overwritten key documents. ANSEC indexed the unallocated clusters for each device and carried out keyword searches. The snippets found were mainly already in the documents and emails already identified.

Limitations to what can be found by digital key word searches

26. Our key word search work led us to analyse in greater depth the data sets of some key individuals at both Pilatus and Nexia BT.

27. There are important limitations to investigation of data by key word searching. It appears sensible to assume that if individuals wished to write about matters they did not wish to become public they would either seek to encrypt the documents (by password protection etc.) or use oblique references to the entities and individuals concerned.

28. Oblique references to key subjects or individuals are extremely difficult to detect by keyword searches but may be identified by reading all the documents in particular data sets. This involves a heavy reliance on the experience and expertise of our analysts whilst sifting and reading the available documents and is clearly extremely time consuming.

Pilatus emails

29. As you are aware the emails of Pilatus Bank are stored on The Cloud and are not available to us. However, some emails of Pilatus staff were available to us having been backed up by the individuals onto their laptops. These formed part of our examination but they did not include emails of any of the senior management team at Pilatus.

Nexia BT's Emails

30. The NexiaBT email server actually contains a vast number of emails of the entire NexiaBT staff.

31. In agreement with yourself, ANSEC initially extracted and we then performed analysis based on key word searches on the emails of all Nexia BT's partners and of Tim Dambrauskas. Based on the findings of our initial searches it was then agreed to extend our work to include the emails of Luke Cann, Katrin Bondin Carter, Gordon Corduna, Caroline Dingli and Michael Satarianno.

32. From our analysis of these emails and all the other data sets we believe that it is unlikely that the remaining Nexia BT staff would have had key involvement in the matters under investigation or sent or received key emails without copying these to the individuals listed above. In discussion with yourself it was therefore agreed to exclude these from our analysis as it would be both impracticable and almost certainly unnecessary to analyse all of these individuals' emails and would have required many months of further work.

In-depth review of the emails of Brian Tonna, Karl Cini and Manuel Castagna (the Nexia BT Partners)

33. We decided to give further special attention (that is, beyond mere key word searching) to the emails of Brian Tonna and Karl Cini. This is because so much material was coming to light in our key word searches of their emails and because obscure but unguarded references to key issues (for example using indirect references, initial letters, nicknames, or code words) will not be detected simply by using key word searches. For this reason, our analysts examined all the emails of these two individuals looking for emails and attached documents of relevance. This involved reviewing over 200,000 emails.

34. From a search of around 5,000 of the emails of Manuel Castagna we concluded that any relevant correspondence of his was most probably being copied to Brian Tonna or Karl Cini and should therefore be found by our detailed review of their emails. It was therefore considered unnecessary to extend our analysis of his emails beyond key word searching.

Unindexable files

35. There were initially over 213,000 of the documents extracted which were not susceptible to indexing or digital searching. These included certain types of scanned or photographed documents, and encrypted documents. ANSEC however, were able to develop special software to identify and separate these files and developed an approach using OCR software to convert these files making them indexable and searchable by our analysts.

36. Some scans and photos of hand written documents (of which there are thousands of images) remained unindexable and simply had to be individually examined by our analysts.

Encrypted Files

37. We encountered just over 10,800 files that could not initially be indexed, searched or opened because they were protected. At the outset of our work it was agreed to leave such files until we knew their full extent and had examined more of the other material. This was in the hope that this might obviate the need to open these files (either by producing sufficient other evidence or even revealing documents containing lists of passwords). Extraction and sifting of the last of the key data sets was only completed in March; it was only then that we are able to judge the number of encrypted files to be dealt with and know their location, file name etc.

38. Having reviewed the number and type of these file during March, we made some preliminary attempts to digitally "break" the encryptions using specialized software. The software is programmed to first attack the encryption using specially constructed dictionaries of possible passwords and then progress to increasingly sophisticated batches of characters and numbers. Our work on the unencrypted files identified documents (for example WhatsApp messages) which disclosed passwords. These were added into the digital "Dictionary" of commonly used generic passwords which was further augmented by lists of names and terms generated from our "indexing" of the data we have been searching.

39. Using this "dictionary approach", ANSEC employed their specialised software to attempt to open each protected file. This approach enabled us to open around 5,600 or 50% of these files. These are the ones with relatively simple protection and less sophisticated passwords (i.e. generally relatively short words made up of letters and numbers).

40. For the files not opened by this digital "cracking" approach we therefore provided you with a list of around 550 encrypted files which we selected based on their location on the computers, date of creation, and file names and in the light of our knowledge to date (all other information about the file, such as who created or modified it, is encrypted).

41. We understand that you passed this list to the police to ask the relevant individuals for the relevant passwords and we received their responses in late May 2018. Passwords were not provided for all of the documents requested. However, by studying the format of the passwords provided we were able to update our "dictionary" approach and this enabled many more files to be opened.

42. In Appendix 13 we have set out a summary by device of the files which remain encrypted and unopened. These number 2,500 in total, 2082 of which are on the Nexia BT server. A list of these can be provided if you require. Of the 550 files we had specially selected above only around 20 remain to be opened and a list of these is set out at Appendix 14. Given that we have been able to examine well over 3 million files the fact that this relatively small number of files remain unopened may be considered an acceptable level of risk. We will be happy to discuss this further with you.

Panama Papers data

43. In May 2018 we were provided by Ansec with data they had collected from Malta in April and had subjected to processing to prepare for our analysts' work. This comprised a hard drive with 22 sub folders of data extracted from the Panama Papers by the German authorities. The extracted data is summarised under 14 headings based on the key words set out in Appendix 3.

44. We note in passing that none of these key search terms included "Karl Cini" and therefore the data we received does not include a complete record of all the emails between Mossack Fonseca and Karl Cini of Nexia BT. We note that in the original EIO request (in Annex C of the request) you did request a search including Karl Cini and Brian Tonna as keywords. However, we understand that the German Authorities viewed the original keyword list provided to them as too wide and generic and pressed for the list to be restricted and focused on the key persons involved. This necessity however meant that the data would not, for example, include an email from Karl Cini to Mossfon requesting 3 Panama companies and a Trust – if such an email does exist – unless that email included a reference to one of the key words – Egrant, Tillgate or Hearnville.

45. Our searches therefore will be complete as regards the 14 terms applied and will, for example, deal with occurrences of the word "Egrant". However any emails to and from the parties requesting off shore entities prior to the allocation of the name "Egrant" will not appear in this data set.

Three batches of Emails you received from various parties

46. We compared these three batches of emails you sent us in June 2018 to the emails in the Nexia BT data set. All of the emails contains in the batches from journalist and German authorities were all contained in the Nexia BT data sets.

47. The batch called "Mossack Fonseca Part 1" appear to be all emails talking retrospectively about Egrant and as such do not reveal anything new to the enquiry.

48. The batch called "Mossack Fonseca Part 2" do not appear to show us anything that we have not found in the main data sets.

49. However, when we compared those you received from Dr. Simon Busuttil this revealed 29 emails which were not present in the Nexia BT data set.

50. These are in the period between January 2015 and August 2015 and are between Karl Cini and various Mossfon representatives regarding the setting up of bank accounts for Tillgate and Hearnville in various banks in various jurisdictions – specifically Dubai. We discuss these later in the report.

51. The remainder of this report deals with the findings of our analysts from the processes and work set out above.

The assertions made by Daphne Caruana Galizia ("DCG")

52. You have provided an analysis of the key assertions made by DCG and asked us to comment on each one from our analysis of the digital data obtained.

53. In the sections below we reference the documents found and these are reproduced in printed form in the appendices to this report. If required we can provide full forensic digital references and the original files but due to pressure of time we have not attempted to provide these at this point.

A. Declarations of trust article –

1.In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

54. We have searched extensively, using the key word searcher, for information regarding the safe and its contents in Pilatus Bank. Closely focused searches revealed a number of interesting documents dealing with the use and contents of safes at Pilatus bank. These searches are shown in Appendix 4.

55. These search results were reviewed and numerous documents were found that mention a safe in Pilatus bank. The documents of interest are detailed below. However, none mention the safe being held in the kitchen or any Declaration of Trust for Egrant being held in any safe.

56. Use of a Safe is detailed in the Pilatus Operating Manual. We found many different versions of this Manual all of which seem very similar. The final Version, dated 26th December 2014 states on page 53 under Filling and Custody *" All related agreements including master loan agreements, pledge agreements, and guarantee agreements are to be placed in safe custody in the bank's safe under the responsibility of the Operations Department."*

57. Use of the Safe is further detailed on page 101 of the above version and states "... *Safes are located in the safe/storage room. Authority to enter the safe room lies with the CEO, Accounting Officer, Compliance Officer, Operations Manager, Operations Assistant. The safe can be accessed by imputing the applicable password, knowledge of which is split between 2 of the above mentioned person.* [Doc1]

58. There are four sets of the Pilatus Bank Management Committee Meeting Minutes that refer to the security of items in locked cabinets and in a safe:

- 20141202 (2nd Dec 2014) Item 5 -Segregation of AoF (Account Opening form) and KYC (Know Your Customer) forms. Claude-Anne Sant Fournier (CSF) advised that clients had requested Hamidreza Ghanbari (HRG) to assure them of the confidential treatment of any information and documentation provided by them to the bank. (HRG) and (CSF) proposed that KYC forms and supporting documentation should be retained by (CSF) in a locked cabinet within the Legal and Compliance office and that the Operations Department retain the Account Opening form. The process was to be discussed in greater detail at a later date.[Doc 2]

- 20141222 (22nd Dec 2014) Item - 5. (CFS) advised that (HRG) had re-iterated the opinion recorded at the 2 December 2014 meeting (above). The matter was to be discussed in greater detail in the coming weeks.[Doc 3]

- 20150218; (18th Feb 2015) Item 6 - External Audit (KPMG). The auditors requested that the cash in the safe be counted in their presence that day as a regular reconciliation procedure with the trial balance.[Doc 4)

- 20151203; (3rd December 2015) Item – page 3 c - MFSA Inspection. (HRG) stated that KYC forms are now being transferred from Operations to Compliance by (DC) [probably Denica Cebova] after she reviews the transferred forms and signs off on the transfer. The confidential and sensitive information and documents will be moved from Operations to be held in Compliance and Front Office. (AG) Antoniella Gauci stated the above documents are held in the cabinet in Compliance and the confidential documents are held in the locked document cabinet. [Doc 5]

59.
On 20/1/16 Maria Effimova created a Word document "ActiveDocs Safes

options" which she modified on 22/1/16 which appears to be her researching options for safes. There are downloaded pictures of safes pasted into the document with prices to show different options and dimensions. Possibly she was asked by a Pilatus leader to look into this. There is no indication as to whether or not this led to a purchase by the company. [Doc 6] This would appear to be consistent with her testimony.

60.
There is also a document created by Denica Cebova on 27/01/2016 called *"List of clients which KYCs are in the safe. Xlsx.* This list includes Keith Schembri and Sahra FZCO. However, the name Egrant does not appear on that list nor does the name Muscat. This list would however support the contention that there were important documents which were kept securely in a safe. [Doc 7]. We comment further on this document under Assertion 2 below.

61.
There is a are documents entitled "Safe Password.xlsx" and "Safe Password [1].pdf in PilatusServers\DR-DFS01\Documents which appear to have been created for staff to sign that they hold the safe password(s) at any given date. [Doc 8]

62.
We note that the testimonies of the Pilatus witnesses do not appear to refer to most of the above points. We have also noted some inconsistencies in the testimonies of Pilatus staff concerning the safe and we have briefly summarised these in a table in Appendix 5.

2. In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEPs, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

63. The documents we have seen also do not suggest to us that papers pertaining to Russian clients and Maltese PEPs were treated any differently from other clients of the bank.

Documents in the safe of Pilatus bank

64. As noted above there is a document [Doc 7] –created by Denica Cebova on 27/01/2016 called *"List of clients which KYCs are in the safe. Xlsx*. This includes at #12 CIF reference 100931 Keith Schembri and at #19 CIF reference 101150 Sahra FZCO. It does not however reference John Dalli.

65. We have searched but can find no further versions of this *"List of clients which KYCs are in the safe"*. No other client listing document was found which specifically refers to 'safe' in its title. We carried out several more searches on a number of combinations of KYCs and safe and contents and did not come up with any other more recent versions of this form.

66. We also found no similar documents which might shed light on what was held in the safe after January 2016. This might be because Denica Cebova appears to have been the person responsible for this list & she only appears to have started preparing client listings in 2016 – the other detailed Client lists were created by her in 2016 also. She appears to have made the initial listing of safe contents in January 2016 but then not updated it.[162]

[162] Denica Cebova kienet waħda minn dawk l-impjegati tal-Bank Pilatus li kienet f'kuntatt ma Claude Ann Sant Fournier u d-dokumenti tal-klijenti l-aktar sensittivi tal-Bank Pilatus. Anke mix-xiehda tagħha jirriżulta li Joseph Muscat jew Michelle Muscat jew *Egrant Inc* ma kienux imsemmija qalb il-lista tal-klijenti jew klijenti prospettivi tal-Bank Pilatus. Dan żgur sakemm damet taħdem hemmhekk hi jiġifieri sal-aħħar jiem ta' Frar 2016. Maria Efimova damet taħdem fil-Bank Pilatus xahar aktar minn Cebova għax l-impjieg ta' Efimova ġie terminat fid-29 ta' Marzu 2016. Inoltre l-lista imħejjija minn Denica Cebova qabel ma bdew

Clients of Pilatus bank

67. The data seized from the Pilatus computers does however contain numerous documents and emails referring to Russian corporate clients and individual Maltese PEPs who were clients of the bank.

68. An excel spreadsheet "List of client. xcls." (Doc 9) was created by Denica Cebova on 21 January 2016 which lists all of the Corporate and Individual clients of the bank at that date. It provides details of their directors, shareholders, UBOs, Nationality of directors, nationality of UBOs, country of registration etc. The spreadsheet is very large to append to this report however an extract is attached. What is apparent from the spreadsheet is that the corporate clients, particularly the Dubai companies owned by Azerbaijani PEPs as UBOs are all linked with common nominee shareholders, agents and account signatories. We will detail some of these companies later in this report.

69. There is also an excel spreadsheet (xlsx "20160406 Clients database.xlsx") on the Pilatus server which lists all clients as at April 2016 and there is a column which identifies PEP's. Keith Schembri is identified at Number 19 on this list and identified as a Maltese 'Domestic PEP', John Dalli is listed at Number 35 on the list and is also identified as a Maltese 'Domestic PEP'. (Doc 10).

70. There is also an email "Excel sheet with customer details" from Louis Zammit to CA Sant Fournier on 30 June 2016 which includes an excel sheet listing of all clients of Pilatus Bank as at that date. John Dalli (100213) and Keith Schembri (100931) are both listed in this document. Dalli's account is noted as closed and Schembri's account as still open at that date. [Doc 11]

71. Included in the Pilatus data also was a copy of the KPMG 2016 report dated 3 June 2016 on the operations of Pilatus bank which concluded that 24% of the bank's clients were foreign PEPs. [Doc 12].

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isiru l-allegazzjonijiet minn Caruana Galizia fi Frar 2017 turi li l-Bank kien ħa ħsieb jinkludi fil-lista dawk il-PEP Maltin li kienu klijenti tiegħu u li kellhom kont mal-Bank Pilatus u ma ħebiex din l-informazzjoni.

72. The spread sheets (USD Current Accounts_20170407 and KYC database 29/10/2016 – [Doc 13 & 14] list no account for Egrant ,Hearnville or Tillgate.

73. There do not appear to be any more recent client lists available in the data after this date.

74. It is interesting to note the dates when some notable Pilatus Bank customers opened their accounts. It gives an indication of how the bank's customer base developed:-

• 25/6/14	John Dalli
• 26/6/14	Titkan Pulp & Paper.
• 16/9/14	Kimberly Property Holdings is first of the Azerbaijan accounts.
• 28/11/14	Willerby
• Dec 14	Manuchehr, Farnoush
• 4/6/15	Keith Schembri
• 19/6/15	Torbridge and Lester Holdings
• 28/7/15	VAPP Ltd
• 3/8/15	Yasmin Aral (Ali Sadr's wife)
• 20/8/15	NC Yacht Malta
• 24/8/15	Sahra FZCO
• 26/8/15	EXIR LLC
• 16/9/15	Heriti & Facekart
• 18/11/15	Cormea
• 20/11/15	Robert Baker
• 2/2/16	VKS Money Transfer Ltd
• 2/2/16	Negarin
• 22/4/16	Shams Al Sahra
• 5/4/17	Seville Aliyeda

John Dalli, Keith Schembri and other PEPs

75. As noted above, the Maltese PEPs do include John Dalli and Keith Schembri both of whom had personal accounts with Pilatus bank in their own names. Schembri had 2 bank accounts in his personal name. We will detail both individuals' accounts in the next section of the report.

76.
The Pilatus WhatsApp messages contain further references to PEPs. For example, in message 329, Louis Zammit discusses with Antoniella Gauci that Hamidreza is getting the few missing docs re 'non-brother and sister PEPs'. [Doc 15].

3. Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

John Dalli & Pilatus

77. John Dalli opened accounts with Pilatus on 25 June 2014 in both USD and Euro (see his account opening form at Doc 17, KYC form at Doc 18. and bank statements for Dalli's accounts at [Doc 19].

78. On 8 August 2014 there is an email from Karl Cini to Caroline Dingli, Brian Tonna's PA, asking her to set up a meeting between Ali Sadr, Brian Tonna and John Dalli (JD) [Doc 20]. The meeting is then set for Thursday 14 August 2014. There is no indication as to the purpose of the meeting given that Dalli had already opened his account with Pilatus.

79. A review of the bank statements for these accounts confirms that neither of them was much used and the transactions are small. They do not appear to us to be suspicious.

Keith Schembri & Pilatus

80. The digital data shows that Keith Schembri had two Pilatus bank accounts (Account opening form is at [Doc 21], KYC forms are at [Doc 22]. His KYC documents run to 78 pages and we have not appended all of the due diligence attachments to his KYC form.

81. In our opinion, he could not be said to use his 'regularly' as there are only a handful of transactions through each account.

82. His statements do not show any transactions which appear to involve people in Azerbaijan. There are transactions with the off shore company, Willerby Trade Inc, which is the subject of a separate inquiry.

Tillgate Inc

83. We have seen no evidence that there is any bank account with Pilatus Bank in the name of Tillgate Inc. Searching the Pilatus data for "Tillgate" does not find any references to bank accounts or even proposed bank accounts for any entity by that name.

84. For completeness we would note that we did find that there are e-mails on 14 October 2014 relating to meetings between Karl Cini and Ali Sadr. There are references to account opening forms and terms and conditions [Doc 23] but no specific reference to Tillgate.

85. The bank statements for his account 100931CAINEUR012 [Doc 24] show that Keith Schembri used one of this account to make payment to Crowe Howarth, the auditors of his New Zealand trust. We understand that this trust was set up to hold the shares of his Panama company, Tillgate, which was purchased by BTI Management Ltd in July 2013 at the same time as Egrant and Hearnville. This is the only possible link between Pilatus Bank and Tillgate Inc that we have found in the data.

4. The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

Documents contained in a safe at Pilatus

86. As noted above, the data searched contains documents which appear to detail the use of, and what was in the safe at Pilatus Bank. They are as follows:

- The 'List of KYCs in the safe' document - which does not include any reference to Egrant or to its Ultimate Beneficial Owner. [Doc 7]
- Management Committee minutes as mentioned before which detail the keeping of account opening forms in the safe. [Doc 2-5]
- A document detailing the fact that Loans and Credit agreements are to be placed in safe. [Doc 1]
- As mentioned before the Pilatus Operating manual which portrays the use and location of the safe. [Doc 1]

87. The digital data does not therefore suggest that any documents relating to Egrant were contained in a safe at Pilatus.

Who owns Egrant Inc?

88. As this question is of central significance to the whole case, we have set out below a detailed analysis of all the digital data we found which pertains to Egrant Inc. We have broadened this analysis to include documents pertaining to Tillgate and Hearnville and the Nexia BT relationship with Mossack Fonseca (MossFon) so that key documents and

correspondence may be considered in the broader context of potentially related matters.

89. Our findings are set out in chronological order so that the "story of Egrant" may be followed from before it was formed until after it was dissolved. We begin by placing the acquisition of Egrant Inc in the broader context of other offshore companies with links to BTI Management.

Other offshore companies with links to BTI Management

90. The online Panama Papers Database suggests that, as asserted, Egrant was one of 3 companies set up in Panama and purchased by BTI Management. It was however, only one of 14 off-shore companies registered to BTI Management. We note that only these 14 companies in the whole Panama Papers database (495,000 companies) are registered to BTI Management.

Entities having their address at BTI Management Limited – (14 companies)

Name	UBO	Incorporation date	Jurisdiction
Colson Services Limited	Schembri	24-Jan-11	British Virgin Islands
Selson Holding Corp.	Scerri	24-Jan-11	British Virgin Islands
Lester Holdings Group Ltd	Hillman	19-Apr-11	British Virgin Islands
SPX Services Ltd	Tonna	01-Mar-12	British Virgin Islands

Willerby Trade Inc.	Tonna/Nexia BT	19-Mar-13	British Virgin Islands
Blue Sea Portfolio Limited	Pierre Sladden	14-May-13	British Virgin Islands
Torbridge Services Inc.	Cheng Chen	29-May-13	British Virgin Islands
Berdil Limited	Ivan Camilleri	03-Jul-13	British Virgin Islands
Egrant Inc.	Tonna	08-Jul-13	Panama
Hearnville Inc.	Konrad Mizzi	09-Jul-13	Panama
Tillgate Inc.	Schembri	15-Jul-13	Panama
Comerco Services Ltd	Mary Ellen Mercieca	09-Oct-13	British Virgin Islands
Durellie Family Limited	Rita Mizzi	12-Jun-14	British Virgin Islands
Real Trade Investments	Pereira		
Investments Global Corp		10-Dec-15	Panama

91. That database of intermediaries gives the "name" of the intermediary listed as "Nexia BT – PMA Client" and with the address of BTI Management.

92. The digital data seized appears to contain files in relation to many of these entities and we are happy to investigate further if required.

93. A search of the online Panama Papers database also reveals a further 42 "namesake" companies. These include:-

- Egrant Capital S.A., incorporated in BVI, March 2003, struck off October 2010 and
- Egrant Capital Assets S.A, incorporated in BVI, June 2003, struck off October 2015.

94. The similar names of the Egrant and other "namesakes" may simply be a co-incidence. However, we observe a surprising number of common links (dates of incorporation, addresses, and dates struck off.

95. 11 of the 14 companies connected to BTI Management were incorporated after Colson, Selson, and Lester. We will be happy to investigate these other entities further if required.

96. We also note that Mr Cini stated (starting at page 10 of his testimony) that only three companies were set up in Panama – he appears to have overlooked that Real Trade Investments Global Corp was also set up there (he referred to it as being set up in BVI). He also stated that he could only recall setting up 4 BVI companies – Comerco, Durellie, Real Trade Investments, and Willerby; he did not mention Colson, Selson, Lester, SPX, Blue Sea, Torbridge, or Berdil.

<u>Overview of the documentation found for Egrant in the digital data seized</u>

97. As part of our search methodology, whilst performing key word searches for "Egrant" we also searched on variations of that word to try to cover possible misspellings, abbreviations, etc. For example, one relevant file had been named "Engrant".

98. An overview of the results of our key word searches for Egrant (and its relevant variations) are summarised in the tables below:

	Number of documents
Found by Key Word Search	483
Duplicates (these are documents that have been found in multiple sources but are identical)	(132)
Collated in date order, printed and reviewed	**351**

99. The word Egrant cropped up in 483 documents of which 132 are duplications. By duplications we mean for example where Karl Cini sent an email to Brian Tonna; the email is found in both individuals' email datasets. Removing those duplicates leaves 351 unique items.

The table below summarises the occurrence of the documents by date and topic:

Date Profile	Total	Mossfon	Pana Comm	Press	News	Leader Opp	Other
Prior to 31 Dec 2013	11	10					1
1 Jan 2014 to 31 Dec 2014	6	6					
1 Jan 2015 to 31 Dec 2015	5	2					3
1 Jan 2016 to 31 Dec 2016	87	10		49	16		10
1 Jan 2017 to 31 March 2017	216	27	58	81	25	13	14
1 April 2017 and later	22	8		10	1		3
With no specific date	4						4
Total	**351**	**63**	**58**	**140**	**42**	**13**	**35**

LEGEND

Mossfon	Nexia correspondence and dealings with Mossfon relating to Egrant
Pana Comm	Nexia
Press	Press reports and Nexia discussions of them and responses to them
Leader Opp	Discussions and responses re leader of the opposition
Newspapers	Newspapers saved
Other	Other matters

100. There are a lot of documents in 2013 relating to the formation etc of Egrant; then there seems to be relatively little activity in 2014 and 2015. Two thirds of all the documents where Egrant gets a mention are in in the quarter ended 31 March 17. This is when Nexia BT were starting to deal with the EU Pana Commission enquiry, to respond to the press, and generally getting their story right.

Overview of the documentation found for Egrant in the Panama Papers data set

101. An overview of the results of our key word searches for Egrant in this data is summarised in the table below:

	Number of documents
Found by Key Word Search	159
Duplicates (these are documents that have been found in multiple sources but are identical)	(120)
Collated in date order, printed and reviewed	39

Duplicates

102. The word Egrant appeared in 159 documents of which 120 are duplications. By duplications in this data set, we mean exact duplicates where the document must have been extracted more than once using the 14 key search terms. Where, for example, an email mentions both Tillgate, Hearnville and Egrant, the same email would be found in the sub folder for each of the 3 companies. Removing those duplicates leaves 39 unique items.

Files which were difficult to open

103. Of these 39 files, 7 files were in a unique format which Ansec had to open. These turned out to be 3 email sequences, dated in August and September 2013, in Spanish, between Christina Rios of Mossack Fonseca and the Legal Department of Mossack Fonseca. Using Google Translate these emails which are very brief appear to relate to a change of administrator in respect of certain companies and the fact that there were outstanding bills to be paid before this could be done. The other 4 files were also duplicates.

The remaining 32 files

104. Of the remaining 32 files in this search, 7 files we had already viewed from our data searches in the Nexia data and they are included in the Chronology of our 'Egrant' searches. When we sort the remaining 25 files we found that they still contained copies of very similar type emails.

105. For completeness, we attach a list of these 25 files identified in the Panama Papers data which refer to the word "Egrant" – in date order. (Appendix 6). These can be provided to you on request if required. In our opinion these files do not contain any new additional information pertinent to this inquiry. The files confirm the dates on which the companies Tillgate, Hearnville and Egrant were held over for Nexia as a client of Mossack Fonseca.

106. However there is no email from Nexia or Karl Cini actually requesting these companies (other than the signed Purchase Orders in July and August 2013 which have turned up in our other searches). In our searches of the Nexia BT emails of Karl Cini, we could not find any request for 3 Panama shelf companies prior to the written order forms.

107. As detailed more fully later in this report (paragraph 197 to 199), the batch of emails supplied to you by Dr. Simon Busuttil along with his first application in April 2017 contained 29 emails apparently sent by Karl Cini to MossFon but which were not on the Nexia BT email server when they were seized by you. If there was an exchange of emails prior to those noted in the previous paragraph between Mossack Fonseca and Karl Cini of Nexia asking for these companies, it would not have referred to them by name as they were, by definition, shelf companies. Because the data that the German authorities were prepared to provide to you does not include all Karl Cini emails with Mossack Fonseca if such an earlier dated exchange existed then we would not find it in this selection of data.

108. It is still unknown as to exactly when Nexia decided that they required 3 Panama companies and not the one company and a trust referred to in the email of 25 March 2013 which became the subject matter of this inquiry.

109. This would lead us to assume that it must have been AFTER 25 March 2013, that the requirement increased from 1 Panama company to 3

Panama companies. To date, we have not found the Karl Cini email which specifically refers to requesting of 3 Panama companies – until the date of the signed Order forms for Tillgate, Hearnville and Egrant. The instruction could have been tendered verbally to Mossack Fonseca's employees.

Chronological analysis of the data found in relation to Egrant

110. At Appendix 7 and 8 we have prepared a detailed chronological analysis in relation to Egrant. The version in Appendix 7 is a condensed one, containing only the documents and events which were considered to be of most relevance to this inquiry. The version in Appendix 8 is a much larger chronology document containing references to nearly 1,000 items; the additional documents in relation to this fuller chronology can be provided to you on request.

111. The chronology is compiled from the documents which refer to Egrant, Hearnville and Tillgate and is augmented to include other potentially related documents and events. We denote facts taken from documents and emails with the letter "F" and allegations or events which are not backed by documentary evidence with "A". The chronologies include, for example, brief details of some of the DCG blog posts to reveal possible correlations. It does not attempt to include for example every email in a chain but seeks to develop an overview of the document trail by reference to chronological dates. The chronology excludes the additional emails noted above from the Panama Paper data set although there does not appear to be anything of significance in those. We will be happy to amend the chronology to include those, if requested.

112. The intention of listing the events and documents in this way is to enable the reader to see each item in the context of what had happened up to that point and what was happening around the same time. It thereby sheds light on possible relationships which might otherwise be overlooked. It aims to enable "a walk through" of Egrant's story and to identify potential anomalies and gaps in the data.

Events before March 2013

113. As noted above in the list of off shore companies, Nexia BT had already formed 8 overseas companies for themselves and their clients between

January 2011 and July 2013 before the formation of Egrant, Tillgate and Hearnville. The mostly recently incorporated of these was Berdil Ltd on 3 July 2013.

114. All 8 were incorporated in British Virgin Islands as were two further companies (Comerco Services and Durellie Family) incorporated in October 2013 and June 2014 respectively. The setting up of the 3 companies in Panama was therefore a departure from their usual practice.

Nexia BT's relationship with Mossack Fonseca in Panama

115. In September 2012 [Doc 25], Karl Cini requested and received an update from his Nexia staff on the status of PEPs. This highlighted the rigorous enhanced due diligence which would be required in banking transactions involving a PEP, including anti money laundering requirements.

116. On 28 November 2012 [Doc 26], it is evident in an email between Sofia Johnson of Mossack Fonseca and Karl Cini that there is a close business relationship building up with a view to Mossack Fonseca setting up offices in collaboration with Nexia BT in Malta. This process continues throughout the first quarter of 2013.

117. On 31 January 2013 [doc 27] Antoinette Scerri of Nexia BT asks Karl Cini about setting up a BVI company and possibly a trust or nominee shareholding and he refers the query on to Luis Quiel, Cristina Rios and Sofia Johnson-McKesey of Mossack Fonseca. This enquiry may have originated from Ivan Camilleri and appears to have resulted in the acquisition of Berdil Inc, (a BVI company) which was incorporated in July 2013 with Camilleri as the UBO.

118. The other 3 BVI companies set up around this time were Willerby Trade Inc (which was for Nexia BT / Brian Tonna and would therefore not have resulted from an enquiry via Antoinette Scerri), Torbridge Inc which was for Cheng Chen and Blue Sea which was for Pierre Sladden.

119. It is evident from various email exchanges taking place in February 2013 that Karl Cini visited the offices of Mossack Fonseca in Panama in early February 2013 [Doc 28]. On 4 February 2013 Jeannette Pisani of Nexia BT emailed travel arrangements for Karl Cini to fly to Panama via London and Mossack Fonseca confirmed they would pick up 50% of the travel costs.

120. On 15 February 2013 Sofia Johnson McKesey of Mossfon emailed Karl Cini with his agenda for his trip 'next week'. This included training of the Mossack Fonseca staff to be carried out by Karl Cini with a view to the opening of an office of Mossack Fonseca in Malta. There is a photograph dated 22 February 2013 of Karl Cini in the offices of Mossack Fonseca in Panama which was emailed to Karl Cini from Sofia.

121. On 22nd February 2013 Karl Cini received an enquiry from Mariella Baldacchino (also of Nexia BT) regarding a prospective client, Andrei Pyatibratov, who was enquiring about setting up a panama company. Karl passes on this enquiry to Luis Quiel and Cristina Riios at Mossfon. [Doc 29].

122. It can be seen therefore that during the early months of 2013, Nexia had a number of different lines of enquiry in process with Mossack Fonseca. This makes it difficult to follow one specific line of enquiry through a chain of emails which cover several separate business transactions in the one chain of emails.

123. One also has to be aware that there would have been other means of communication taking place between Nexia BT and Mossack Fonseca during this period and particularly once Adrian Dixon of Mossfon moved in to the Nexia BT offices in Malta working alongside Karl Cini.

124. The paper trail, based solely on emails, is not 100% reliable as the emails refer to couriers hand delivering documents which are not always attached to the emails and hard copies may have been placed on physical files without being scanned or copied onto the Nexia BT computer system.

Setting up Mossack Fonseca (Malta) Limited.

125. On 22nd February 2013, Karl Cini was also emailed documents for the incorporation of Mossack Fonseca (Malta) Limited.

126. On 28th February 2013 also (Doc 30) there is an email indicating Mossfon signing up BTI Management as their Professional Firm contact. There is then a series of ongoing negotiations between Karl Cini and Mossfon regarding the terms of the Service Agreement between BTI Management and Mossack Fonseca – including the payment terms which are to become the terms of business between them.

127. This may be of interest later in this chronology when we start to look at how the acquisition fees and annual fees of Egrant were settled between the parties. This on occasions led to long delays in MossFon acting upon instructions issued by Nexia BT.

128. On 14th March 2013 (Doc 31) there is an email "Corporate Information Forms" which include a Power of Attorney being granted to Karl Cini by Jurgen Mossack and Ramon Fonseca for the purposes of the incorporation of Mossack Fonseca & Co (Malta) Ltd and establishment of their business in Malta. This reflects the degree of trust existing between Nexia BT and Mossack Fonseca at this date. There follows an extended period of exchange of emails with incorporation documents and practical office arrangements being made between Mossack Fonseca and Nexia BT.

129. In an email on 17th April 2013 (Doc 32) Karl Cini states that he does not want Nexia to "have *to pay Mossfon fees if the client does not pay...me.*" This is an interesting statement for Karl Cini to make as it would confirm our opinion that it was not Nexia BT's intention to pay upfront for any offshore companies – they would only pay for them when the client paid them. With Egrant, it is clear that Nexia BT paid fees totalling US$ 6,439.04, (see a summary of the invoices paid by BTI Management Ltd to Mossack Fonseca below) in relation to Egrant (which was formed only 3 months after this email) when they consistently assert that there was never any client involved.

130. A summary of the costs paid by BTI Management Ltd to Mossack Fonseca in respect of Egrant Inc are as follows:

Invoices billed by |Mossack Fonseca to BTI Management Ltd re Egrant			
Annual fee =	Provision of directors/ custody of records/ registry fees		**US$**
4177561	2013	Incorporation & 1st annual fee	1,365.84
417709			267.50
4192941	2014	Annual invoice	1,145.30
4224793	2015	Annual invoice	1,295.10
2634139	2016	Annual invoice	1,612.60
	2017	Dissolution of Egrant	752.70
			6,439.04

131. The documents identifying these costs are attached at [Doc 33].

132. This makes it very unlikely that Nexia would have borne the cost of acquiring and maintaining the 3 Panama companies, Tillgate, Hearnville and Egrant, for a period of nearly 2 years without being reimbursed by the clients who requested these companies in the first instance. Yet that is what Nexia have stated in their testimony to be the case.

133. We have not been able to establish from our data searches whether Mizzi and Schembri paid for the costs of Hearnville and Tillgate in the period from 2013, when they were incorporated. to June 2015 when they took over as shareholders of these companies. All of the invoices for the 3 Panama companies were paid by BTI Management Ltd and we have not identified how or if these costs were reimbursed. The bills for all 3 companies

get paid for by Nexia BT up until dissolution. It may be that because of the very close relationship Brian Tonna and Karl Cini have with these individuals they are no longer regarded as normal clients and their financial dealings are handled differently than those of the general Nexia BT client base.[163]

134. On 7 April 2013 Mossack Fonseca (Malta) Limited was incorporated in Malta and Adrian Dixon arrived in Malta to act as Mossfon's agent. This timing and sequence of events seems to tie in with page 5 and 6 of part 1 of Mr Cini's testimony.

The election on 9 March 2013

135. On 9 March 2013, Joseph Muscat won the election and Keith Schembri was appointed as his Chief of Staff in the Office of the Prime Minister. This automatically meant that he became a domestic PEP for the purposes of banking transactions.

March to August 2013

136. The close collaboration between Nexia BT and Mossack Fonseca continued with the setting up of the Malta office of Mossack Fonseca in April.

The email of 14 March 2013 requesting a Panama company & possibly a trust

137. We have identified in the digital data the email of 14 March 2013 in which Karl Cini emailed Luis Quiel requesting "a Panama company and possibly a trust" [Doc 34]. He asked Luis to give him a call by skype to discuss this and other matters. It also refers to 3 companies. This is the email

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[163] Minn naħa tagħha pero l-Forensic Accountant Miroslava Milenovic li eżaminat id-dokumenti stampati tan-Nexia BT sabet is-segwenti : -

> Based on document review it has been identified that Mr. Konrad Mizzi has made two payments to BTI Management LTD in BOV: USD 550 on 23rd August 2016 and USD 4,750 on 30th July 2016. (*document reference: Box A Nexia, Dok YF26*).
>
> An invoice BTIM002507 issued to Mr Konrad Mizzi in Relation to the Engagement Letter dated 5th May 2015 (EUR 1,150.50) has been identified; however no Engagement Letter was attached (*document reference: Box B Nexia, Dok YF15*).

which he subsequently refers to and chased up at a later date in his email to Luis Quiel of 25 March 2013. It is this later email of 25th March 2013 (Doc 35) which became the subject of the allegation in the DCG blog that Nexia was setting up 3 Panama companies and would provide the UBO of one of these companies by skype.

138. We can also confirm that the Nexia BT data also contains the email from Karl Cini to Luis Quiel of Mossack Fonseca on 25 March 2013 (Doc 35) which states :

"I presume the information and documents you sent me relate to the setup of the new company in Panama and for the Trust. We will prepare the requested information but the UBO will not be Nexia BT. It will be an individual and I will speak to Luis on skype to give him more detail. In respect of the transfer of the 3 companies I mentioned below and for which I attached the initial documentation what would be required to make the transfer? As indicated that the current directors are replaced with a nominee director of your choice and the shareholding is transferred to Mossfon as a nominee shareholding still retaining the current UBOs (for which you already have the information as the companies are already set up)..."

139. It is necessary to unravel the complicated string of emails being exchanged between Nexia and Mossack Fonseca at this time in order to understand that there were a number of separate transactions taking place, and additional transactions which were being contemplated, at this date.

140. From our interrogation of the data, and specifically the emails of Karl Cini, we can comment as follows:

141. In the email thread between Luis Quiel, Cristina Rios and Karl Cini there are 3 separate references to '3 companies'. Each of the 3 references appears to us to be unique and to refer to a completely different set of circumstances, individuals and companies.

142. Firstly there is:

–the incorporation of 3 new BVI companies - Willerby, Blue Sea and Torbridge – for Brian Tonna (or the Nexia BT partnership) , Ivan Camerilleri and Chen Cheng respectively and

–the restructuring of 3 existing BVI companies - Colson, Lester and Selson - for Schembri, Hillman and Scerri and

–the purchase of 3 brand new Panama companies - Tillgate, Hearnville and Egrant which completed in July 2013. We do not know for certain if these last 3 companies were purchased in 2013 specifically for Schembri and Mizzi and some other third party - or whether Brian Tonna is correct in his testimony that all 3 companies were purchased as shelf companies and only 2 were then assigned almost 2 years later to Schembri and Mizzi in July 2015.

143. To add a further complexity to interpreting the emails between Mossfon and Nexia BT at this time, there were also other Nexia BT staff referring a number of one off enquiries for off shore companies from their clients' and prospective clients' to Mossfon. Three examples of these enquiries are noted later in this report – Andrei Pyatibratov, Ivan Camilleri and Richard E Grant – all 3 individuals were seeking quotes for the costs of the various jurisdictions, including Panama, which Mossack Fonseca had on offer.

144. In the earlier email of 14 March 2013, Karl Cini refers to only one new Panama company, and not 3 companies. On 15 April 2013, Karl Cini then chases up the *'transfer of companies'* – and urges that it is *"most pressing and urgent"* to get the nominee directors and shareholders in place. The 3 companies this email refers to are clearly Colson, Lester and Selson – owned by Keith Schembri, Adrian Hillman and Malcolm Scerri. The urgency in our view is that Cini wishes to have the ownership of Colson Ltd placed out of the hands of Keith Schembri, now a PEP, and into the ownership of nominee shareholders from Mossack Fonseca. Why it was also considered necessary to incur the cost of moving the ownership of Lester and Selson is not clear to us but may be related to the matters set out in the next few paragraphs.

145. -[Doc 36] is an email of 27 May 2013 from Karl Cini to Cristina Rios stating that all 3 companies, Colson, Lester and Selson will be holding companies that will hold shares in a Cyprus company. In our view this sets out the link between Schembri, Hillman and Scerri. They are linked in their

common ownership of a Cyprus company which they have used in their mutual business dealings.

146. In emails on 15 and 16 April 2013, (Doc 37,38 & 39) Karl Cini continued to press Mossfon to have the 3 BVI companies Colson, Lester and Selson restructured whilst at the same time exchanging all the documents required for the due diligence for the setting up of Mossack Fonseca (Malta) Limited. There was clearly intended to be a reciprocal business agreement set up between them whereby Nexia BT would act for Mossack Fonseca in respect of setting up Maltese companies for clients of Mossack Fonseca and likewise Mossack Fonseca would act for Nexia BT in the setting up of off shore companies for Nexia BT clients]. On 23 April 2013 there is a signed Agreement between BTI Management Ltd and MF Legal Servcies (Mossfon) that Nexia will hold the due diligence and KYC documents in respect of Mossfon clients. [Doc 40].

147. On 23 and 24 April 2013 there are emails sending all the detailed due diligence documents for Schembri, Hillman and Scerri across to Mossfon to allow Colson, Lester and Selson to be restructured and placed into nominee shareholdings with Mossack Fonseca directors and shareholders. This was finally completed on 7 May 2013, [Doc 41], with Jaqueline Alexander appointed as Director of Colson and the shares being transferred from Schembri to ATC Administrators Inc. [Doc 42] specifically identifies the 3 BVI companies being referred to throughout these email exchanges as Colson, Lester and Selson. [Docs 43 ,44 &45] show Colson, Lester and Selson being placed into the nominee ownership of Mossfon representatives and the UBOs signing up to fiduciary agreements with Mossfon.

148. In an email dated 9 May 2013 (Doc 25) we can see that Nexia is still seeking a BVI company. This is most likely to be in respect of Blue Sea – for Pierre Sladden – as on 10 May 2013 [Doc 46] we see Blue Sea has been incorporated with Pierre Sladden as UBO.

149. We note here that Pierre Sladden has a connection with Keith Schembri who, as the UBO of Tillgate, is relevant to this inquiry. Sladden is also a common shareholder in A2Z Consulta Ltd, a Cyprus company, with Hillman and Schembri. Sladden owns Redmap Construction Ltd, a company with links to Hillman, Schembri and Scerri, as it carried out the construction work for Allied Newspapers at their new printing press plant. There are

allegations that the tender for this work may not have been at arms length and that, like the purchase of the printing press itself, there may have been monies paid outside of the contracted sums between these individuals, and their off shore companies. If this is the case, it may explain why Pierre Sladden also required Nexia to provide him with an offshore company to continue any business transactions he may have with Schembri.

150. On 17th June 2013 in a reply from Cristina Rios of Mossfon we can see that SPX Services Ltd (UBO is Brian Tonna) has now been added to the 3 BVI companies which are to transfer into nominee ownership. Cristina is asking for the name and address of the Beneficial owner of SPX in that email [Doc 47] .

July 2013 – Incorporation of Tillgate, Hearnville and Egrant

151. On 3 July 2013 Karl Cini emailed Adrian Dixon confirming his replies in respect of Ivan Camilleri's due diligence details (Doc 48). This is in connection with the setting up of a new BVI company for Camilleri – Berdil Limited. Berdil is then incorporated in BVI on 3 July 2013 [Doc 49]

152. It is interesting to note that Karl Cini is emailing Camilleri with details of the costs of incorporation and Nexia BT bank account details. This is to enable Camilleri to immediately reimburse BTI Management for these costs. We do not see any similar emails to Schembri, Hillman, Scerri or Mizzi seeking reimbursement for the costs of setting up / or for restructuring their off shore companies for them. It may be that these costs are dealt with between the parties by some means other than direct invoice.

153. On 4 July 2013 (Doc 50) there is an email from Cristina Rios to Karl Cini setting out that there are Power of Attorneys attached in favour of BTIM for 5 companies now. The chain of emails shows the names of 4 .of these companies to be Colson, Lester, Selson and SPX Services. We cannot be certain whether the 5th company this email is referring to is Berdil or Willerby or even perhaps Mossack Fonseca & Co (Malta) Ltd.

154. On 8th July 2013, the company Egrant was incorporated in Panama – with Aliator & Dubro as its first subscribers.

155. On 9th July 2013 [Doc 51] the Minutes of a meeting of the board of directors of Egrant Inc. regarding the issue of 1 share of nominal value of US $100 in favour of ATC Administrators Inc. The minutes show 3 directors to be in attendance at the meeting – Ricardo Samaniego, Yadira de Boutard and Yenny Martinez. The minutes were signed by Ricardo Samaniego as Chairman and by Yadira de Boutard as Secretary. (The only copy we found of these minutes in the data are attached to an email of 25 February 2017 from Karl Cini to Henry Mizzi).

156. On 9 July Cristina Rios also emails scanned copies of the Declarations of Trust in respect of Colson, Lester and Selson stating that ATC Administrators hold the shares in favour of the UBOs. On 11 July 2013 she emails scanned copies of the CGSs (Certificates of Good Standing) in respect of the same 3 companies. On 17 July Karl Cini emails back to state there are errors in one of the Declarations and one of the certificates and asks for revised corrected copies. He also wants to know what is the current position regarding SPX Services.

157. On 19 July 2013 Mossack Fonseca send a standard template email to Karl Cini referring to an automatic message seeking confirmation if he wishes to complete an order form for the 3 companies he has reserved. The 3 companies reserved until 26 July 2013 are Tillgate, Hearnville and Egrant. On 23 July 2013 there is an email stating that the Case Update Egrant has been updated by Shahani Logan on 23 July 2013 and Egrant will be actioned within 5 days. [Doc 52].

158. On 31 July 2013 Karl Cini emails the Egrant Order form to Luis Quiel and asks him to review it for him – especially the section on directors - he wants to know how much it will cost him to have Mossack Fonseca representatives act as directors. [Doc 53].

159. On 9 August 2013 the Egrant Case Update is marked "Acquisition". [Doc 54]. It may be of interest that the Egrant company is purchased on its own, not in the batch of 3 in which had been 'reserved'. The enquiries about cost and prices are therefore specific to Egrant and might imply that a client is enquiring as to these costs. One might assume that if this were simply a case of purchasing a 'shelf' company then Nexia would have known all the prices which they had agreed upon only months previously in their terms of business with Mossfon.

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160. We can also observe in these emails the process whereby Mossack Fonseca create a constant stream of readily available shelf companies which they can provide at very short notice. We would question therefore why Karl Cini chose to specifically purchase Egrant on 31 July 2013? It seems to us that he must have had a client in mind when doing this. Why not make an arrangement for Nexia BT to have a number of shelf companies available on request?

161. On 9 August, [Doc 55], there is a copy of a Declaration of Trust for Egrant signed by ATC Administrators Inc stating that they hold the shares in favour of Brian Tonna. (We note that the only copy of this document we found in the data was attached to an email of Karl Cini dated 24 February 2017. We discuss emails and related documents being created by Karl Cini in February 2017 later in this report under the heading "30 January to 25 February 2017 – creating documents to show who owns Egrant.)

162. On 15 August 2013 there is a further email marked Egrant case – Acquisition and later the same day an update regarding the Egrant case marked Power of Attorney.

163. On 26 August there is then an "Assignment of Case" notification from Mossfon regarding a "Change Of Administration" for Egrant Inc. [Doc 56] It is not clear to us what this was for or why is this coming 19 days after ATC Administrators Inc declared on 9 August that they held the shares of Egrant in trust for Brian Tonna. The term "Change of Administration" had in previous cases referred to a transfer of the Representative Agent in respect of the company – for example when Colson Lester and Selson changed from Mossfon as their professional agent to BTIM and SPX Services changed its agency from Unifin Services to BTIM. We are not clear why Egrant should have required a Change of Administration.

164. The three companies Tillgate, Hearnville and Egrant were not incorporated by Mossack Fonseca until 8, 9 and 13 July and were not "reserved" for Karl Cini until 19 July 2013. The "Order form" to purchase the three companies from MossFon is not signed by Brian Tonna until 7 August.

165. On 9 August 2013, there is a Fiduciary declaration in which ATC Administrators Inc. declare they hold the share in Egrant for Brian Tonna . On 12 August 2013 Karl Cini confirmed instructions for a Power of Attorney

for Egrant . We cannot locate a copy of any Power of Attorney in respect of Egrant in the data – it is referred to in the declarations which Karl Cini requested from Mossack Fonseca but we have not found a copy of the actual document.[164]

Conclusion on the reference to 'transfer of companies'

166. It is now clear from the data, and specifically the emails of Karl Cini, that the 3 companies referred to in the email of 25 March 2013, which was leaked to the media by DCG's blog, were not Tillgate, Hearnville and Egrant but rather the transfer of the ownership of Colson, Lester and Selson to nominee shareholders.

The reference to '1 Panama company and its UBO'

167. The email of 25 March 2013 refers to only one Panama company and its UBO not being Nexia BT. It is not clear from the data exactly which company or UBO this reference relates to, even when the complete string of emails is pieced together. There does not appear to be any email communication in the period between 25 March 2013 and 7 July 2013 that demonstrates when Karl Cini increased his request from one Panama company to three Panama companies. We have also examined carefully the emails from this time extracted from both the Panama papers and from the email batches provided to you by both journalists and by Simon Busuttil but we cannot identify any email which increases the request for 1 company to the reservation of the 3 shelf companies from Panama.

168. The first indication of the fact that Nexia BT now required 3 Panama companies and not just 1 is the email with the automated message of 19 July 2013 confirming the reservation of 3 companies.

Summary of events Jan – July 2013

[164] Kopja tagħha irriżultat fil-folder tal-Egrant Inc li ġie elevat mill-Uffiċju ta' Nexia BT. *Harbinson Forensics* ma kellhomx il-kopja stampata tal-istess li nstabet fil-*folder t'Egrant Inc.* li kien ġie elevat.

169. Nexia were doing a number of different transactions with Mossack Fonseca in the period between Jan to July 2013. The leak by the media, and by DCG's blog, of emails and extracts from emails between the parties at this time has confused a number of these different transactions. In our opinion this has led to a number of inaccuracies in the reports leaked by the media. Unfortunately, with only the data we have to hand, it is not possible to be as conclusive as we would like to be about each of the different transactions. However, we do believe that it is important to note that there are inconsistencies in the interpretation put forward by the media and that their 'story' is inaccurate.

170. It appears to us from the gaps in the email trail that some of the communications between Mossfon and Nexia must have taken place either in person at meetings, by telephone, by Skype or by some means other than by email. The full details of each transaction cannot therefore be identified from the emails we have had sight of. However, we believe it may be useful to this inquiry to note the nature of the different transactions between Mossack Fonseca and Nexia BT, involving separate individuals, which were taking place at that time.

171. What we do know for a fact is that the request made by Karl Cini on 14 March 2013 for 1 Panama company and possibly a trust developed into the purchase by Nexia of 3 Panama shelf companies by July 2013. We may not see a specific email or instruction in which the request for one company increased to a requirement for 3 companies – however we know that in the 3 months of April to June 2013 Nexia decided their requirement for Panamian shelf companies had increased from 1 company to 3 companies. This resulted in the purchase of Tillgate, Hearnville and Egrant.

<u>The request for 1 Panama company on 14th March 2013</u>

172. The original request on 14 March 2013 may not even have been related to the subsequent acquisition of the 3 companies in July 2013. For example it could have been a response to one of the enquiries referred to above - it could have been for Andrei Pyatibratov who on 22 February 2013 emailed Mariella Baldacchino [Doc 29] seeking either a Panama, Cyprus, Maltese or Seychelles company.

173. It could have been for Konrad Mizzi although we have no evidence of contact between him and Nexia BT in 2013. In fact there is a notable absence of emails between Mizzi and Cini regarding the acquisition of Hearnville and we can only assume that communication may have been done either at meetings or by telephone. There are several meetings noted in the calendar between Tonna, Cini and Mizzi during the period in question – 2013 to 2015 - with no minutes of what business was conducted at those meetings. Karl Cini would have been aware that Mizzi was now a domestic PEP which would make transacting business in his own name much more regulated. As far as we are aware, he did not own any previous off shore company in Panama or BVI.

174. There are therefore a number of possibilities as to who Nexia needed the 3 Panama companies for.

175. It appears from the documents that in 2013, all 3 Panama companies were recorded as being held by ATC Administrators Inc. on behalf of Brian Tonna. That would imply that for example Hearnville in 2013 and throughout 2014 was being held by, and paid for, by Tonna himself.

176. We know who the UBOs ended up being for Tillgate and Hearnville – Schembri and Mizzi – but we do not know if Egrant was purchased with any specific client in mind. As we have commented above, in our opinion, it does not fit in with the way Nexia BT operated its business for it to pay for and hold on to these companies unless they had already been allocated to a client, and those costs could be recouped. Unfortunately it is difficult to ascertain whether Nexia BT was reimbursed for those costs given the structure of Nexia BT and the number of operating entities and bank accounts.

177. Even if those specific company secretarial costs were not recouped from Schembri and Mizzi, there would have been a number of ways in which Nexia could ensure they were repaid for holding these companies on their behalf given the other client services Nexia performed for both individuals. We do know that the actual Mossfon bills were paid by BTI Management Ltd, partly by way of set off against amounts that Mossfon owed to Nexia as discussed in [Doc 57]).

178. It is also not clear exactly why Schembri would require a Panama company. He already had an off shore company, Colson Ltd, set up in BVI as far back as 2011. After April 2013, Colson Ltd should also have been able to operate without disclosing Schembri as its shareholder or director because of the restructuring of that company carried out by Nexia BT and Mossack Fonseca.

179. If we think about the logic of seeking off shore companies for clients who were to become PEPs by virtue of the March election, and assuming that Schembri was already catered for by Colson Ltd in BVI, then the client who remained exposed to the new 'PEP' regime would have been Konrad Mizzi, the new Energy Minister. We note that there is very little email communication between Konrad Mizzi and Nexia BT in the period between Nexia BT acquiring Hearnville as a 'shelf' company in July 2013 and Konrad Mizzi taking ownership of the company in July 2015.

180. There is also a much later email (discussed below) between Mossfon and Karl Cini dated 26 February 2016 in which Karl Cini is very adamant that there is no need for Mossfon to concern themselves about who the UBO of Hearnville was prior to Mizzi. [Doc 58]. He tells them just to focus on the fact it was not his company until 2015. It is not stated why Karl Cini should care whether Mossfon state who the former UBO of the company was. It may be that if the press knew that Brian Tonna was the stated UBO prior to 2015 they may well have viewed Brian Tonna as acting on behalf of his client, Konrad Mizzi. That of course may well be what he was doing between 2013 and 2015.

Rational for Panama over BVI in 2013

181. It may be that the actions Nexia BT was taking during the first half of 2013 were in response to wider political moves to curb the use of off shore companies for tax evasion. On 4 April 2013 the Guardian Newspaper in London reported *"David Cameron urged to act over British Virgin Islands: Secret offshore havens 'stain face of Britain', says Lib Dem peer, as evidence grows over sham directors and hidden cash. The prime minister has come under pressure to act against Britain's secretive offshore industry at June's G8 summit, as leaked evidence continued to mount that politicians and tycoons from all over the world have used*

the British Virgin Islands to hide funds." We understand that following that G8 Summit, Panama may have become more popular than BVI as a favoured location for secret offshore companies. If the BVI jurisdiction were to lose its attraction as an off shore destination then Nexia BT would have an alternative vehicle set up and ready to transfer their clients' business transactions into.

182. There may also have been a saving of cost by getting the Panamian jurisdiction somewhat cheaper given the close relationship with Mossack Fonseca Malta and the fact that their contact with Mossfon was going to be within their own suite of offices with reciprocal business dealings between the two entities.

September 2013 to May 2014 – no activity of note

183. During this period there is an apparent 9 months lapse in activity in relation to the three companies except for a lengthy exchange of emails where MossFon are seeking payment of their fees.

June 2014 - Exploring the possibility of Panama bank accounts

184. On 9 June 2014 Mossack Fonseca lawyer Luis Quiel confirmed to Karl Cini that an off shore, on line bank account was not feasible in Panama ([Doc 59]. . We have not found prior correspondence from Karl Cini asking about this.

185. It may be just a co-incidence but 2 weeks later, on 25th June 2014, John Dalli opened a bank account with Pilatus in Malta.

186. On 15 July 2014 there is an email from Karl Cini to Luis Quiel, copied to Egbert Wetherborne of MossFon, with subject "structure on top of panama companies". In this Cini states:

"As Luis might know we have 3 ***panama companies*** *registered with you. We are now close to start using* ***them*** *and* ***the BO*** *has asked us to look into establishing an additional layer on top of the companies instead of a nominee shareholding… what I need to know is whether an individual who is married can enter into a trust without his wife having to sign the deed as well. Additionally I need to have a update on the*

process and costs of opening a bank account for the existing panama companies we have and one for the trust (assuming we would do it in NZ)..." [emphasis added]

187. It is notable that he makes no distinction between the three Panama companies and is apparently looking to set up trusts and bank accounts for all three.

188. It is also notable that he talks of *"the BO"* and it is not clear to us whether this is refers to Brian Tonna or someone else. As noted above, the email of 25 March 2013 refers to only one Panama company and its UBO not being Nexia BT. As also noted above in Karl Cini's email dated 26 February 2016 he is very adamant that there is no need for Mossfon to concern themselves about who the UBO of Hearnville was prior to Mizzi. [Doc 58]. This would seem strange if the real UBO before Mizzi was Brian Tonna.

189. The question in relation to the wife not having to sign the deed is also intriguing. We are aware that Brian Tonna was going through a separation at this time.[165]

<u>September 2014 – viewing Egrant Certificate of Incumbency</u>

190. After several further months of inactivity in relation to Egrant, and apparently out of the blue, Karl Cini emailed Brian Tonna a scan of an Egrant Certificate of Incumbency (using file name CiniK_092849-001.pdf) on 8 September 2014. The same file is saved a few minutes later (apparently by Brian Tonna) presumably once he had read Karl Cini's email. This sudden

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[165] F'din l-*email* jidher li r-riferenza li qegħda ssir fir-rigward tal-*UBO* hija fis-singular u mhux fil-plural. Għalhekk jagħtik x'tifhem li qiegħed jirreferi għal persuna waħda, jekk mhux ukoll l-istess persuna. Apparti dan din il-persuna kienet ukoll trid taf jekk il-firma tal-mara hix meħtieġa – rekwiżit skont il-Liġi Maltija fil-każ li jkun japplika l-komunjoni tal-akkwisti – u mhux neċessarjament fil-każ ta' liġijiet esteri. Hawnhekk jista' jkun hemm apprensjoni dwar dan il-fatt li tkun teħtieġ il-firma tal-mara – fatt li juri li l-mara riedet tinżamm għall-oskur minn kollox jew inkella ma kellhiex tiġi involuta f'dawn it-transazzjonijiet minn din il-persuna riferita bħala l-*UBO*. L-*UBO* fi kwalunkwe każ jiġi riferit bħala li huwa għat-tliet kumpaniji. Apparti minn hekk jidher li Karl Cini kien iżomm livell ta' formaliżmu qawwi meta ma' Luis Quiel ta' Mossack Fonseca jikteb f'isem l-UBO, mingħajr ma jsemmi ismu. L-*UBO* fis-singular għat-tliet kumpaniji li huwa mħasseb dwar il-firma tal-mara, kif jikkummentaw *Harbinson Forensics* huwa kompatibbli mal-profil ta' Brian Tonna. Iżda jekk kien hekk allura għaliex Karl Cini żamm dan l-isem mistur fl-*email* tiegħu mal-kollega tiegħu Luis Quiel?

interest in Egrant is followed by many months of apparent further inactivity (save for emails with MossFon about payment of ongoing fees.)

191. We can find neither any indication of what suddenly kindled the interest of Karl Cini and Brian Tonna in Egrant early in the morning on 8th September 2014 nor any evidence of any follow up by them. It is probably not related but we note that around two weeks earlier Karl Cini had requested forms etc to open a bank account (perhaps for Willerby) with Pilatus Bank and enquired about linking Centtrip cards to it.

October 2014 to May 2015 – no activity

192. Apart from correspondence about payment of outstanding MossFon invoices there appears to be no activity regarding the three companies during this 8 month period.

193. There is correspondence in October 2014 , noted previously, between Brian Tonna and Karl Cini regarding Ali Sadr urging further collaboration with Pilatus Bank on a range of issues [Doc 23] .[166]

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[166] Din il-korrispondenza bejn Tonna, Cini u Ali Sadr hija interessanti għaliex turi li f'dak il-perjodu, madwar għaxar xhur wara li l-Bank Pilatus kien ġie liċenzjat jopera bħala bank privat f'Malta, Tonna juri interess li jibda jagħmel negozju ma dan il-Bank. Tant li f'e-mail tat-22 t'Ottubru 2014 fil-16:54 mibgħuta minn Brian Tonna lil Karl Cini (u li tifforma parti mill-appendiċi ta' dokumenti annessi mar-relazzjoni ta' Harbinson Mulholland) intitolata *RE: Ali Sadr - confidential* Brian Tonna jordna lil Karl Cini b'dawn il-kliem :

> *Karl PLEASE give me reply today. This is an important client we must react quick too. Reply should incorporate .... Confirmation we will pass account openings to them ... Companies we set up with them already including ours... A clear proporsal on incorporation, accounts and audit and maintenance (including nominee fees) for companies they bring in... A proposal for an offshore jurisdiction regime... An IIP proposal (remember we will not share commissions so charge less than normal fees) Karl this could lead to a lot of work! So let"s act fast please!! He spoke to me a week ago! Bounce off with me first please Brian.*

Din l-email imbagħad kienet segwita minn oħra mibgħuta dakinhar stess fil-5:21:32PM minn Karl Cini lil Brian Tonna b'abbozz ta' risposta lil Ali Sadr. Din l-abbozz ta' email intbagħtet lil Brian Tonna għall-approvazzjoni tiegħu u kienet taqra hekk : -

> Dear Ali Many thanks for the meeting last week. I have spoken to Karl who already met you in relation to referring clients for opening of bank accounts. We have now received the full pack of documents and information required for opening a bank account and we will be shortly submitting the first application. We also hope to follow that with some IIP clients we are currently processing who are now in a position to open a bank account in Malta. In relation to using our firm in relation to corporate services, tax advice (corporate and personal) and audit, while every new company set up would need to be looked at separately, we are happy to propose a "standard" set of fees that would be applicable to the run of the mill holding and trading company set ups. In this regard we propose as attached.. Through a close collaboration that we have with one of the leading offshore service providers worldwide we are also

June and July 2015 – setting up New Zealand Trusts for Schembri and Mizzi

194. In June, Keith Schembri and Konrad Mizzi appear to start the process of setting up Trusts with Orion Trust of New Zealand and in July 2015 transferred their shareholdings in their Panama companies (Tillgate and Hearnville) into these New Zealand Trusts. We have found no documents to suggest that any similar move was explored in relation to the third Panama Company set up at the same time, Egrant.

195. In July 2015 , Keith Schembri and Konrad Mizzi also appear to transfer their shareholdings in their Panama companies (Tillgate and Hearnville) into these New Zealand Trusts.

196. It is interesting to note that, at the same time as he was apparently exploring having an offshore Trust, Keith Schembri set up a personal bank account with Pilatus. He opened this account on 4th June 2015 and a month later on 16th July closed the bank account of his other off shore BVI company, Colson Ltd, with Sparkasse bank and moved its funds, first to BTIM Client Account and then to an account with MFSP. It is not clear whether these moves were connected or indeed whether they were in contemplation of activity with Tillgate or Willerby (from whom Schembri received significant funds which are the subject of a separate investigation.

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able to set up companies in the following jurisdictions : Belize, British Virgin Islands, British Anguilla, Costa Rica, Hong Kong, Nevada USA, New Zealand, Republic of Panama, Samoa, Seychelles, The Bahamas, The Netherlands, United Kingdom, Wyoming USA. If there would be any requirement for part of the structure to involve any one of these jurisdictions we will be happy to provide you with a quotation. Finally in relation to any IIP clients you would kindly want to introduce to us we propose the following discounted professional fees : Main applicant €40,000; Spouse €€7500, Children under the age of 18 years €€5,000, Dependant over 18 years of age €€5,000. The above fees do not include Government fees in relation to the application, due diligence, passport, bank fees and the Contribution. The Client will be guided by us to when these fees would be due to be paid and how. Regards, Karl Cini.

Dawn l-emails juru u jikkonfermaw dak li ħareġ mix-xiehda ta' Ali Sadr, Hamidreza Ghanbari, Brian Tonna, Karl Cini u diversi impjegati tal-Bank Pilatus u Nexia BT fis-sens li r-relazzjoni bejn Nexia BT u l-Bank Pilatus kienet waħda fejn Nexia BT kienu *corporate services providers* tal-Bank Pilatus u li jidher li din ir-relazzjoni bdiet timmatura ferm wara li l-Bank Pilatus kien ġie liċenzjat bħala bank f'Jannar 2014. Ma jirriżultax għalhekk li l-allegazzjonijiet li kien hemm xi rabta preċedenti bejn Nexia BT u l-Bank Pilatus, jew li l-Bank Pilatus ġie mwaqqaf speċifikament għan-negozji ta' Nexia BT jew għal xi klijenti tagħhom hija *prima faciae* fondata.

Gaps in the emails of Karl Cini available from the seized data

197. It may be of interest to note that a number of emails between Mossfon and Karl Cini appear to be missing in the data seized from Nexia BT. They appear in the copy email data which were handed over to you by Dr. Simon Busuttil along with his first application in April 2017. We have listed these at Appendix 9. As noted earlier in this report, most of these were already in the data sets seized from Nexia BT. However, 29 of these emails were not in that data set and these are listed in Appendix 10 (please note that there are only 19 document references as some of the documents contain more than 1 email in a chain).

198. These 29 emails were created in the period between January 2015 and August 2015 between Karl Cini and various Mossfon representatives.

199. All of the emails relate to the setting up of bank accounts for Tillgate and Hearnville in various banks in various jurisdictions – specifically Dubai. This may be a coincidence or may indicate that Cini may have wished to delete any reference to Dubai bank accounts in connection with Mizzi and Schembri – this might lead one to speculate whether such accounts were indeed set up, albeit perhaps in the names of different entities.

September and December 2015 - Further attempts to open bank accounts

200. In September and December 2015 there are a series of emails between Karl Cini and Mossfon in relation to the opening of bank accounts for Tillgate and Hearnville. We have found no documents to suggest that any similar move was explored in relation to Egrant. There are however a wealth of emails between the parties during these months (which include the 15 emails referred to above which appear to have been deleted from Nexia BT but appear in the batch received from Dr Simon Busuttil) which refer to seeking bank accounts in several jurisdictions, including Dubai.

201. On 17 December 2015, Karl Cini emails Juan Carlos Martinez of MossFon describing the source of funds and activities of Tillgate and Hearnville for the purposes of opening a bank account [Doc 60].

202. It is interesting to note that although the information states that the companies have not started trading yet, their main target clients will be :

a. 17 Black Ltd (registered in Dubai), and

b. Macbridge Ltd (registered in Dubai)

203. It was estimated in that email that the companies would generate around US$ 2 million within a year. There appear to be no further mentions of 17 Black or Macbridge in the data sets.

Ongoing fees were paid to maintain Egrant

204. On 29 September 2015, Amanda Vassallo, a Nexia employee, was looking for a template to know how to pay a Mossfon invoice for a Panama company which is billed in US$ rather than euros. She emailed Karl Cini seeking a precedent as to how Mossfon invoice and how Nexia pay them [Doc 61]. Karl replies attaching a copy of 2 Mossfon invoices – one for the incorporation of Egrant in 2013 and one for the Annual fees for Egrant for 2015 dated 1 January 2015. The Incorporation invoice was for $1,365.84 and the 2015 Annual fee invoice was for $1,295.10.

205. Apart from the viewing of the Certificate of Incumbency noted above, our searches of the data suggest that Egrant had been dormant for some 18 months since its acquisition by Brian Tonna in August 2013 and continued to be dormant up to the Spring of 2016 when the publication of the Panama Papers and related attention led to moves for it to be dissolved.

206. In December 2015 MossFon issued BTI Management Ltd with further invoices for annual maintenance fees for the period January to December 2016 for the three companies. It is interesting that Nexia BT felt it worth paying fees of US$ 1,295.10 per year to maintain Egrant, an apparently

dormant shelf company, on the off chance that some client might in future want an overseas company when such a company could apparently be speedily acquired from MossFon at a fee of US$1,365.84.

207. Brian Tonna states at page 3 of part 1 of his testimony that Egrant was purchased so that Nexia BT could have a Panamanian 'shelf' company available should a client have need of one.

208. It therefore seems notable that just such a Panamanian company was required by Nexia BT client Pereiro in December 2015. However, rather than transferring Egrant to this client, a new Panama company, Real Trade Investments Global Corp, was purchased from Mossfon. We see no logic as to why Egrant Inc was not assigned to Pereiro at this time instead of going through the process of acquiring another new Panama company and then continuing to pay annual fees to maintain Egrant. This seems to imply that Egrant Inc was already assigned to a specific UBO. We can see no logic in Brian Tonna originally purchasing Egrant or retaining it for as long as he did if, as he alleges, it was merely a shelf company.

January to March 2016.

209. DCG would later allege that this was the period in which Egrant received $1,017,000 and bi-weekly transfers of $100,000 from Leyla Aliyeva's company. It is also the period in which DCG started a series of blogs which revealed that Messrs Tonna, Schembri and Mizzi had set up secret overseas companies and trusts. It may not be a co-incidence that lots of email correspondence between Nexia BT and MossFon commenced on 24 February and that documentary evidence of who owned what started to be assembled by them.

210. On 28 February 2016 DCG's blog stated that Keith Schembri had set up a company in British Virgin Islands shortly before the general election. However, this does not appear to have sparked any activity in Nexia BT. This blog presumably refers to Colson Services which was actually incorporated there in January 2011. What occurred in the period immediately prior to the March 2013 election was the restructuring of Colson with a 'new' nominee shareholder, ATC Administrators Inc, to replace Schembri.

24 February 2016 – the start of a period of high activity

211. On 24 February 2016 DCG posted a blog with the headline "Konrad Mizzi says: "TRUST me""; we do not know at what time she posted it. Please also note that the time stated on emails between Nexia and Mossfon is sometimes difficult to interpret and may be subject to time zone differences. At any rate, this day marks the start of a lot of activity over the next few months. This is initially focused on Hearnville, then Tillgate and then Egrant, the activity apparently linked to the progression of revelations in DCGs blog.

212. The first in the stream of emails that we have seen was at 6.00am on 24 February 2016 when Karl Cini sent an urgent email to MossFon asking for signed statements confirming the directors and trustees in relation to Hearnville.

213. The same day (possibly later that morning) Mossfon emailed Karl Cini about opening a bank account for Hearnville / NZ Trusts with 2 signed certificates attached. One of these stated that Hearnville had not traded to date nor had any assets or bank accounts, the other form stated that Orion Trust owned Hearnville.

214. The next day, 25 February, DCG posted her blog "Mossack Fonseca, Brian Tonna, Konrad Mizzi and his Panama "shell"". (It is intriguing that seemingly unconnected accounts for Bankok Ltd were saved at Nexia BT that same day with the file name "MuscM_20160222". As detailed above under Assertion 5, this small company appears to have little to connect it to Michelle Muscat).

215. On 26 February 2016 there are a series of emails between KC and MossFon regarding a Declaration of Trust for Hearnville [Doc 62]. It is interesting that the emails on this day reflect the progressive editing of a document dated 2 July 2015 (but apparently signed on 2 June 2015.) The editing and correspondence continues over the next four weeks or so.

216. On 2 March 2016 DCG blogs "Michael Cassar, Commissioner of Police, should have ordered the start of an investigation last week". KC then asks MossFon for 2 declarations to be prepared stating

1 that the the shares of the company were acquired by Keith Schembri in July of 2015 prior to the acquisition by Keith Schembri of such shares, there were no transactions made by the company;... the company has never opened a bank account,... and does not have a bank account .....regarding shares [etc] for Tillgate. Doc x – request for declaration

2 a declaration by the trustees of Haast Trust stating that they acquired the shares in Tillgate on 21 July 2015 the trust has no other assets except the shares in Tillgate and that it has no bank account

217. On 6 March 2016 DCG blogs "Baku/Millions/Muscat/Nexia/Brian Tonna: Big story in the Sunday Times". It appears that this may trigger MossFon compliance department to email KC on 10 March 2016 asking for details about Egrant including names & addresses of directors and the UBO. MossFon state "Please provide the share register as we do not have it". (Doc 63] - RE:EGRANT INC. / Pending information

218. It seems significant to us that on this date MossFon confirm that they do not have any of this information which they apparently are subsequently being asked by Karl Cini to confirm at the later date of 3 March 2017. [Doc 64]. Karl Cini replies immediately to MossFon stating Egrant has not traded and that he provided all this information to them previously.[167]

219. Also on 10 March 2016 the FIAU request all documentation for Hearnville and Tillgate from Karl Cini – [Doc 65] "Secret Documents re trusts and companies".

220. There is a letter dated 15 March 2016 which KC later says he sent to MossFon but which they did not appear to receive and did not act upon in which he asks for Egrant to be wound up. It is interesting that on 18 March 2016 Karl Cini is again emailing MossFon with changes that he wants on the resolution and share certificates for Hearnvillle because of errors in the

[167] Mill-Panama Papers Cache tal-2017 mgħoddija lill-inkjesta mill-Awtoritajiet Ġermaniżi jidher li f'ittra datata 29 t'April 2016 bil-firma tal-Avukat Sara Montenegro, fit-22 t'April 2016 l-*FIU* tal-Panama kienu qegħdin jistaqsu lil Mossack Fonseca informazzjoni dwar *Egrant Inc.* Għal dan ġew infurmati li in bażi għall-informazzjoni li huma kellhom fir-*records* tagħhom l-*UBO* t'*Egrant Inc* kien Brian Tonna, li l-ishma kollha ta' din il-kumpanija kienu maħruġa f'isem *ATC Administrators Inc* kif ukoll li din il-kumpanija *ATC Administrators Inc* kienet tifforma parti minn grupp ta' kumpaniji li kienu rikonduċibbli lid-Ditta Bufete MF & Co u li kienu jipprovdu servizzi segretarjali (lil soċjetajiet kummerċjali). Interessanti li din id-dikjarazzjoni kienet qegħda ssir lil *FIU* tal-Panama u għalhekk din l-ittra kienet komunikazzjoni uffiċjali da parti ta' Mossack Fonseca u liema dikjarazzjoni kienet iġġorr responsabbilta' kbira magħha.

wording of both resolution about the issuance of shares and in the certificates. He requests revised resolutions and certificates for both companies – Hearnville and Tillgate. He also emails MossFon on 9 April saying he is preparing a letter for the dissolution of Egrant.

April 2016 – the Panama Papers story is first published

221. The Panama Papers story was first published (according to Wikipedia) on 3 April 2016 having been apparently leaked to journalists a year earlier. The next day MossFon compliance email Karl Cini to ask for the UBO, passport etc of Egrant and the source of funds (which is a blank template form). KC replies that Egrant never traded and the UBO is now preparing a letter for its dissolution. MossFon reply on 11 April with part of the short message in Spanish.

222. However, Juan Carlos Martinez of MossFon also sends an email that day regarding Egrant but immediately recalled it so that we can not see what he said. This obviously raises the suspicion that in it he disclosed something confidential or perhaps he simply made an error. At any rate we have been unable to find his original message.

223. On 12th April 2016 BT International Ltd (as fiduciary) transferred the shares of Mossack Fonseca & Co (Malta) Ltd to MF Private Holdings Ltd (Bahama's) and Mission Holdings Ltd (Grand Cayman). It would appear that Nexia BT and MossFon decided to make their relationship less obvious.

224. There are letters dated 15 April from Karl Cini to MossFon to revoke Powers Of Attorney regarding BTI Management for Hearnville & Tillgate. It is not clear if these were actually sent or received as they do not appear to have been acted upon by MossFon. There appears to be no parallel granting and revoking of Powers of Attorney for Egrant.

225. On 26 April 2016 Karl Cini emailed Alex Sciberras (who we understand is Prime Minister Muscat's special envoy and a practising lawyer) revoking a Power Of Attorney and resigning from 'providing representation services to Hearnville inc'. [Doc 66].

June 2016 – further moves to open bank accounts for Tillgate and Hearnville

226. On 17 June MossFon issued a standard "Case Update" notice recording that they had been instructed to draw up Powers of Attorney (in favour of Luis Queil) and to open bank accounts for Tillgate and Hearnville. We can find no record of when these instructions were given to them. Also this month, Crowe Horwath in New Zealand were instructed to audit Haast Trust for Keith Schembri and issued their engagement letter. It is interesting to note that their fees for this work appear to have been subsequently paid from the Pilatus Bank account he opened in June 2015.

July 2016 onwards – developing the "final script" to deal with enquiries in relation to Egrant

227. On 11 July, Brian Tonna emailed himself what he called the 'final script' in relation to DCGs commentaries. [Doc 67]. There are various other instances of him emailing himself to record his thoughts on issues. This is the first in a series of emails and other documents developed between July 2016 and April 17 which articulate and edit what will be said in response to questions from the press, the Pana Committee, and others.

228. These documents were developed principally by Brian Tonna and Karl Cini. However, one point that may be of interest is who else was advising on this. For example, we see Brian Tonna email Henry Mizzi then "BCC" a blind copy to Alex Sciberras who we understand is Prime Minister Muscat's special envoy as well as a lawyer in the firm of Sciberras and Co. He is also one of those named by Daphne Caruana Galezia in her blog.

229. Some of the emails are blind copied to him and then later on they are openly copy to him. [Doc 66] This appeared noteworthy as itis not clear to us what his role is though he seems to be a publicity lawyer. (From other email communications, it appears as if Alex Sciberras may have been instructed by Konrad Mizzi to represent him after the media had published various stories involving his off shore company and his New Zealand trust. We cannot confirm this to be the case but it wold explain his involvement in email communications concerning Mizzi and Hearnville with Karl Cini).

230. They also initially took the view that they would not respond to or say anything to the local press and only respond to the Australian press who had done an expose over there. However, in the end Brian Tonna did send replies to Xavier Alsam of Malta media saying "these are for your eyes only. And depending on how you interpret the timings of the emails it appears he actually sent his story to Xavier Alsam before he finalised it with his legal advisor, Henry Mizzi.

231. Out of all the documents found that mention Egrant:-

- 58 relate to the EU enquiry and either getting the story right internally within Nexia or communicating with Mr Weitz who was the man leading it.
- 140 are getting stories right for the press and these are mainly emails to and fro between Brian Tonna, Karl Cini, and their lawyer Henry Mizzi.
- 42 which are just downloaded copies of newspaper articles.
- 13 which deal with a personal letter from Brian Tonna to the leader of the opposition, Simon Bussutil, and trying to get a wording agreed for that.

232. These "final script" type documents and the interactions with the press and PANA Committee are voluminous and are included in the Chronology in Appendix 8. They do not however, appear to us to add anything to the information already contained in the other digital documents pertaining to Egrant and we do not discuss them further here.

<u>September 2016 – changes to the New Zealand Trusts</u>

233. In September 2016 there are documents dealing with further changes to the New Zealand Trusts of Schembri and Mizzi which seem to include new Powers of Attorney been drawn up by MossFon. Again, we can find nothing similar relating to Egrant.

<u>October 2016 to January 2017 - Moves to have Egrant wound up.</u>

234. Starting in October 2016 there is a long saga concerning the winding up of Egrant (as noted above this had been mooted as early as April 2016). The process became protracted due to a dispute between Nexia BT and

MossFon over the payment of MossFon invoices; this continued from October 2016 to April 2017and had to be rectified before MossFon would process the dissolution of Egrant. Egrant was finally dissolved in 7 April 2017. We understand that through letters rogatory you obtained an authenticated copy of the public deed that led to the dissolution of Egrant Inc. This deed was published as bearing number 2377 on 15 February 2017 in the records of the Notary of the Eighth Circuit of Panama and it was then registered at the Panama Public Registry on 6 April 2017.

235. The process by which Nexia BT worked to get Egrant dissolved does not appear to us to shed any further light on who, other than Brian Tonna, may have had any involvement with Egrant

236. On 19 October 2016 Karl Cini emailed MossFon in BVI – "Christian, some other clients also wish to have their companies struck off in the same manner as Selson Holdings. The companies are: SPX Services Ltd – BVI Company number 1698869· Willerby Trade Inc- BVI Company number 1765606· Egrant Inc - Panama Company Microjacket 807956 – Document 2421806". [Doc 68]. What is strange about this is why Karl Cini would email MossFon BVI about a Panama company (Egrant). Also strange is that there are also documents purportedly from March and April 2016 (noted above) where Karl Cini apparently had already asked MossFon to wind up Egrant. You have also informed us that in the printed Egrant file retrieved from Nexia BT there is a letter to Mossack Fonseca dated 15 March 2016 signed by Brian Tonna wherein he requests the dissolution of Egrant Inc.

237. On 28 October 2016 Mossfon email Karl Cini confirming his instructions regarding "Company Inactivation for Egrant" and estimate that this should take just 4 days. We find no further emails or documents on this subject until 18 January 2017; it is not clear why there is this long gap although it may be that MossFon took no action as there were outstanding fees due to them.

238. On 18 January 2017 Karl Cini emails Brian Tonna attaching letters he says were sent to MossFon on 15/3/16 asking for Egrant to be wound down and on 15/4/16 to revoke a Power Of Attorney re BTI Management for Hearnville & Tillgate. He claims neither were acted on. We can see from his emails that those earlier emails were in fact sent to Mossfon.

239. Curiously, on 20 January there is then a fee quote from MossFon to "re-activate" Egrant, an invoice for its dissolution, and an email from MossFon to Karl Cini confirming instructions for the dissolution of Egrant and estimating it will take 15 days. There are similar documents on the same day for TIllgate and Hearnville. It is interesting that they decided to dissolve all three companies together and not just Egrant.

240. Over the following week there is a long email chain between Karl Cini and MossFon regarding payment for outstanding invoices and getting Egrant, Hearnville and Tillgate dissolved. Karl Cini emailed MossFon signed Proxies for Dissolution of Egrant and Tillgate on 14 February but the dissolution of Egrant was not finally confirmed until 7 April 2017.

30 January to 25 February 2017 – creating documents to show who owns Egrant

241. As noted above, on 10 March 2016 MossFon stated that they did not know who the officers and UBO of Egrant were. Having formed the company, it appears everything after that was a matter for the owners and their agents, Nexia BT.

242. It therefore appears to us of note that on 30 January 2017 Karl Cini (with input from Brian Tonna) started creating documents which would purport to come from MossFon to demonstrate who the officers and UBO of Egrant were and the type of shares it issued. Mr Cini dealt with this in his testimony to you at Part 4 page 19 and explained that he provided the text of what he wanted MossFon to confirm. This however, seems at odds with the testimony of Brian Tonna at Part 3 page 4 in which he appears to deny that the letter was prepared by his office and simply sent to MossFon for signature. We have therefore set out below what emerges from our examination of these documents.

243. The documents went through several drafts between 30 January and 25 February and versions are distributed to Jacob Borg of Times of Malta and possibly to the PANA Committee as evidence to back up the statements Nexia BT were making concerning Egrant.

244. The key documents are:-

Title	Doc.	Type	Created	Dated	Signed
"happy with this?"	69	Email	30/1/17		
"confirmation – mf legal – egrant inc.dcox"	70	Word doc	30/1/17	30/1/17	Unsigned
"confirmation – directors – egrant inc"	71	Word doc	30/1/17	16/2/17	Unsigned
"confirmation – director – shareholding – egrant inc.docx"	72	Word doc	24/2/17	24/2/17	Unsigned
"Egrant – Confirmation letter – no bearer shares"	73	JPG scan	24/2/17		Signed
Request for confirmation by director	74	Email	3/3/17		

The key points are that:-

1. It is clear that these documents were in fact created by Karl Cini and Brian Tonna with no input from MossFon.

2. It appears that Ricardo Samaniego of MossFon in Panama signed the document on 24 February 2017 when it was emailed to him.

245. It is a matter for you to decide whether there has been any wrong doing in this and whether the fact that Nexia BT felt the need to create documents in this way has any significance for your inquiry.[168]

[168] Mix-xiehda ta' Ricardo Samaniego għall-ittri rogatorji jirriżulta li huwa għalkemm verament kien direttur ta' *Egrant Inc*, huwa ma kellux idea dwar min kienu s-sidien ta' din il-kumpanija u wisq anqas kien jaf dwar transazzjonijiet li setgħet għamlet din il-kumpanija. Ricardo Samaniego għalhekk ma kkonferma x dak li kien jidher mid-dokumenti tal-*Egrant Inc* li skonthom is-sid kien kien Brian Tonna. Huwa wieġeb li ma kien jaf xejn dwar it-transazzjonijiet finanzjarji ta' *Egrant Inc.* Huwa jgħid li kien jirċievi struzzjonijiet mingħand l-Avukati ta' Mossack Fonseca fis-sens li d-dokumenti li kien jiffirma kienu riveduti minn avukati esperti fil-qasam u huma kienu jispjegawlhom is-suġġett jtuhom il-parir jiffirmawx id-dokumenti. Huwa jikkonferma li kien iffirma l-ittra datata 16 ta' Frar 2017 mibgħuta minn Mossack Fonseca għax kien direttur t'*Egrant Inc* (li kienet tgħid li Egrant Inc kienet kumpanija reġistrata fil-Panama u li Brian Tonna kien l-UBO tagħha sas-16 ta' Frar 2017 u li din il-kumpanija dakinhar kienet *currently in dissolution* (meta fil-fatt l-att tal-istralċ tal-kumpanija kien ġie firmat fil-ġurnata ta' qabel) u li ma kienx hemm prokura oħra maħruġa mid-Diretturi lil persuna oħra għajr ħlief lil Brian Tonna u lil Karl Cini. Biss din id-dikjarazzjoni tiegħu trid tinqara fid-dawl ta' dak li qal dwar l-għarfien tiegħu reali dwar dak li għalih kien qiegħed jiffirma). Biss fir-rigward tal-ittra datata 24 ta' Frar 2017 fid-dawl ta' dak mistqarr mill-esperti forensiċi irid

246. The activity starts on 30 January 2017 which is probably when Brian Tonna and Karl Cini received a letter from the European Parliaments Inquiry Committee (PANA) inviting them to answer questions on 20 February. This appears to have been a paper document and we can not find a copy on the digital data to know its date.

247. The creation of documents starts with an email from Karl Cini to Brian Tonna entitled "happy with this?" on 30 January 2017. It most probably follows a discussion between them and appears to set out what they would want MossFon to put in writing to them. Brian Tonna immediately replies "Yes – can we add intention shelf?" Karl Cini answers "I can try – whether they put it in or not I don't know."

248. A few minutes later Karl Cini then appears to convert the draft wording from these emails (without adding "intention shelf") into a Word document named "confirmation – mf legal – egrant inc.dcox" which he emails to himself.

249. The 30 January draft was then used as the basis for a new document "confirmation – directors – egrant inc" which has the date typed as "Today 16 February 2017". However, the digital properties for both documents suggest that both were actually created on 30/1/17. The metadata for the document "confirmation – directors – egrant inc" show that it was created by Nexia BT on 30/01/2017 at 16:29, on 16/02/17 at 15:53, and then copied or moved to Karl Cini's laptop PC20 on 23/02/17 at 16:41.] In this revised document, minor cosmetic changes were made (and the font is changed) but the matters confirmed remain the same. For example, the date of dissolution is changed from xxxxxx to "is currently in dissolution". This was despite the fact that it would subsequently transpire that Egrant was not "currently in dissolution" until April 2017.

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jinqara wkoll fid-dawl tal-korrispondenza li ġiet skambjata u li ħarġet mill-*Panama Papers Cache* tal-2017 li ser tkun rintraċċjata aktar l-isfel minn fejn jirriżulta li dawn l-ittri, għalkemm kif qalu l-*Forensic Accountants* kienu abozzati minn Karl Cini, kienu pero mibgħuta lil Mossack Fonseca biex jiġu pproċessati. Wara jirriżulta li kienu ġew mibgħuta lil Karl Cini l-ewwel permezz ta' kopji *scanned* u wara saret talba wkoll minn Cini biex jintbagħtulu fl-oriġinal. Minn naħa tagħhom Mossack Fonseca, kwantu għal dawn l-ittri ma kellhom oġġezzjonijiet. Huwa evidenti wkoll li dak li kien jieħu ħsieb il-komunikazzjoni ma Mossack Fonseca kien Karl Cini u mhux Brian Tonna li evidentement ma kienx jaf sewwasew x'kien qiegħed jagħmel u jikkomunika Karl Cini ma' Mossack Fonseca fir-rigward.

250. The earlier version also had no names of signatories but the names of Ricardo Samaniego and four other officers were added (they would be removed in a later version to leave only Samaniego). It is not clear that this version was sent to MossFon or anywhere else at this time.

251. On 8 February Benoit Wets emailed Brian Tonna with subject "Pana Committee – delegation to Malta 20 February" reminding him of a letter inviting him to speak to the European Parliaments Inquiry Committee (PANA). BT replied on 13th that he will receive and answer questions only in writing.

252. On the 18th very detailed and far reaching written questions were then sent by Mr Wets to Brian Tonna and Karl Cini. Brian Tonna replied on the 20th setting out some answers and claiming client confidentiality as a reason not to answer others.

253. Brian Tonna states, *"We have also attached to our replies in this instance a document signed by the director of Egrant Inc. which clearly confirms that the ownership of Egrant Inc. is as we are stating above."* This appears to refer to the letter they had drafted to come from MossFon. However, no such document is attached to this email and it remains unclear whether it was ever forwarded to PANA.

254. On the 24th Jacob Borg of Times of Malta emailed questions to Brian Tonna with the subject "Egrant". Brian Tonna forwarded this to Karl Cini with the subject "Re: Times questions – Egrant" saying *"Karl. Can you illuminate me as understood nothing?"* Karl Cini emails Brian Tonna a draft response which is then sent to Henri Mizzi and Diane Bugeja for their input.

255. Later that afternoon of the 24th Karl Cini emails Mossfon legal *"... kindly refer to the attached confirmation which is being requested for the company Egrant Inc. I would appreciate if I could have a signed scanned copy by today."* He attaches the document "confirmation – director – shareholding – egrant inc.docx". This document had been modified that afternoon by Karl Cini from the earlier document, "confirmation – directors – egrant". The heading, first paragraph and the names of the 5 directors who were to sign it are the same. A new paragraph replaced the one which confirmed that Brian Tonna was the UBO with one confirming that there is only one share, it is held by ATC

Administrators, and vested in favour of Brian Tonna. The typed date is changed from 16 February to read "Today 24 February 2017".

256. There appear to be two replies from Mossfon to this email – one later on 24 February apparently providing the signed letter and another one on 3 March saying they cannot' provide such a letter.

257. The first email was on the evening of 24 February was from email address Legal@Mossfon.com to Karl Cini with no message but attaching a JPG file scan of "Egrant – Confirmation letter – no bearer shares". We assume this file is called "Letter ENGRANT INC..jpg. It also appears on Karl Cini's laptop PC20 as a result of him opening the email. We cannot say who created the file but this is not unusual for picture files. It was created on 24/02/2017 at 21:20. It was last accessed on 25/02/2017 at 08:53. NB These times may need to be adjusted to take account of time zones: For example: 21:20 is GMT/UTC, but Panama is 5 hours behind so it is 16:20 and Malta is 1 hour ahead so it is 22:20. We have also checked the headers of the email and can confirm that it did originate from IP address 200.46.144.4, which resolves to Mossfon.com in Panama

258. This JPG has the same text as "confirmation – director – shareholding – egrant inc.docx" except that someone has changed "I/We, the director/s, confirm that" to "I, President and Director, confirm that" and instead of the names of 5 directors there is now only Ricardo Samaniego.

259. On 25 February Karl Cini then emails this JPG file to Brian Tonna, Henri Mizzi and Diane Bugeja saying *"I have obtained a signed declaration from the director to confirm the composition of the share capital"* and suggesting a draft reply to Jacob Borg. This draft together with a number of documents including the JPG was then sent by Brian Tonna to Jacob Borg later that morning.

260. The second email reply from Mossfon is on 3 March and is from Eilyn Relux – Production -LTS – Ereluz@mossfon.com. She states, "... *order to proceed with the execution of this document, due diligence information of the company must be completed. Please provide the following information: Address where the accounting records and underlying documentation are held, Name of the person who maintains / controls the company's accounting records. As this company is in the*

process of Dissolution, payment in advance must be received. Attached is the quotation for your reference…"

261. Karl Cini replies, *"I believe that the matter has been now sorted already…"*[169]

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[169] Ġie nnutat ukoll li mill-*Panama Papers Cache* sussegwenti l-*leaks* mis-*servers* tal-Mossack Fonseca tal-2017 u li ġew mgħoddija lill-inkjesta mill-Awtoritajiet Ġermaniżi in eżekuzzjoni għall-Mandat t'Investigazzjoni Ewropew, jirriżulta li f'dan il-perjodu kienet għaddejja korrispondenza bejn Karl Cini u Mossack Fonseca u li kienet fuq din il-linja li jispjegaw il-*Forensic Accountants Harbinson Forensics* fis-sens li Karl Cini u Brian Tonna kienu qegħdin jippruvaw jagħmlu arranġamenti biex id-dokumenti relattivi għall-*Egrant Inc* ikunu kordinati skont dak li Brian Tonna u Karl Cini kienu jtennu dwar min kien l-*UBO* t'*Egrant Inc*, jiġifieri Brian Tonna kif ukoll li jxejnu l-allegazzjonijiet li kienu qegħdin isiru fir-rigward tal-allegati *declarations of trust*. Dan jirriżulta minn sensiela *t'emails* li ġew skambjati wara li bdiet din l-inkjesta, u ċjoe wara l-20 t'April 2017.

Fit-23 t'April 2017 fil-16:51 Karl Cini jibgħat *email* lil Leida de Leon fejn jitlobha li ssir stqarrija uffiċjali minn Jaqueline Alexander f'isem il-kumpaniji *Dubro* u *Aliator* fis-sens li hija fl-ebda mument ma għamlet jew ffirmat *declarations of trust* datat 20 t'Awissu 2015 f'isem dawk iż-żewġ kumpaniji fl-interess ta' Michelle Muscat. Karl Cini talab żewġ dikjarazzjonijiet - waħda f'isem kull kumpanija u fuq *letterhead* tal-kumpanija rispettiva. Interessanti hawnhekk li Karl Cini għamel din it-talba tiegħu biex jikkonfermawlu li ma kienux saru dawn id-*declarations of trust* minn Jaqueline Alexander *after doing your own internal checks*. Jiġifieri hawnhekk, għalkemm Cini jidher qiegħed jippressa għall-informazzjoni u għad-dikjarazzjonijiet, huwa ma kienx qiegħed jgħidilhom biex jagħmlu dawn id-dokumenti mingħajr ebda verifika ta' xejn. Għal kuntrarju huwa jassoġġetta din it-talba tiegħu għal verifika preċedenti fuq dan il-punt minn naħa tal-impjegati ta' Mossack Fonseca. Din id-dikjarazzjoni trid tinżamm fl-isfond svelat mill-*Forensic Accountants Harbinson Forensics* li sa ftit aktar minn sena qabel kienu Mossack Fonseca stess li kienu qegħdin jitolbu dettalji dwar l-*UBO* ta' *Egrant Inc* lil Karl Cini. Biss din it-talba li għamel Cini kienet speċifika ħafna.

Il-fatt li jassoġġetta t-talba tiegħu għal din il-kundizzjoni ta' verifika preċedenti per se tista' tinftiehem b'modi differenti. Setgħa kien jaf li dawn id-dikjarazzjonijiet ma kienux saru u tant kien kunfidenti minn din il-ħaġa li kważi kważi t-talba tiegħu tassumi karattru ta' "sfida" lil Mossack Fonseca. Mill-banda l-oħra tista' tinftiehem li huwa ma kienx jaf għal kollox x'setgħa kellhom jew x'setgħa ġara minn naħa ta' Mossack Fonseca u għalhekk ma setgħa ikun kategoriku u eżiġenti mija fil-mija fit-talba tiegħu għax setgħa li fil-fatt dawn kellhom xi ħaġa simili fil-files tagħhom. Din hija frażi li għandha *chiave di lettura* diffiċili. Li hu żgur pero hu li bit-talba tiegħu Cini ma riedhomx li jagħmlu dikjarazzjoni li ma kienetx riflessa fir-*records* ta' Mossack Fonseca. Altrimenti ma kienx jagħmel din il-kundizzjoni.

Is-sitwazzjoni tassumi karattru ftit aktar stramb meta fis-26 t'April 2017 fl-22:01 Cini jibgħat *email* oħra lil Leida de Leon fejn jitlobha sabiex b'żieda ma dawn id-dikjarazzjonijiet tibgħatlu wkoll dikjarazzjoni mid-diretturi li ffirmaw ir-riżoluzzjoni tal-istralċ biex ikollu konferma ta min kien l-*UBO* fil-jum ta' meta dil-kumpanija ġiet stralċjata. Dan peress li fl-ittra li kienet datata 16 ta' Frar 2017 imsemmija, (li jidher li skont il-*Forensic Accountants* ġiet abozzata minn Karl Cini u li jidher li, skont dak li xehed Ricardo Saminiego ġiet iffirmata minnu bħala direttur ta' *Egrant Inc* mingħajr pero ma kien jaf pero jekk dik l-informazzjoni kienetx vera jew le) din l-informazzjoni Cini stess kien niżżel min kien l-*UBO* ta' *Egrant Inc* u ċjoe li skontu kien Brian Tonna. Din id-darba pero għamel din it-talba lil Mossack Fonseca biex ikunu Mossack Fonseca li

jtuh din l-informazzjoni (li allura suppost hu diġa kellu). Għaliex għamel hekk huwa wkoll punt interrogattiv. Biss wieħed irid iżomm quddiem għajnejh li meta inkitbet dik l-*email*, ċjoe fit-23 t'April 2017, din l-inkjesta kienet diġa infetħet u possibilment Karl Cini kien qiegħed jieħu attitudni aktar kawta dwar dak li jikteb lil Mossack Fonseca. B'hekk jista' jkun dan il-motiv għaliex kien qiegħed ikun aktar attent x'jikteb fit-talbiet tiegħu lilhom.

Minbarra din id-dikjarazzjoni, Cini talab ukoll li jingħata kopja tas-*share register* tal-kumpanija *Egrant Inc*, debitament ittimbrat, li jikkonferma li *ATC Administrators Inc* kienu l-azjonisti t'*Egrant Inc* fil-mument meta *Egrant Inc* ġiet stralċjata. Saħaq li dawn id-dokumenti jintbagħtulu urġentement. F'dak l-istadju l-inkjesta kienet fil-bidu tagħha u wieħed jifhem li Karl Cini ried li jippreżenta dak kollu li setgħa juri t-teżi tiegħu u ta' Brian Tonna dwar x'inhi u ta' min hi *Egrant Inc.* Din l-urġenza hija wkoll riflessa *f'email* oħra li bagħat Cini lil De Leon fit-2 ta' Mejju 2017 fil-17:29 peress li kienu għadhom ma wieġbuhx. Jidher li kompla jsegwi r-raġuni għaliex ma wieġbuhx b'mezzi oħra għax *f'email* li bagħat l-għada lil Ruben Hernandez fis-05:42 Cini jirrimarka li sar jaf li De Leon kienet irriżenjat ma baqgħetx taħdem ma Mossack Fonseca. Talab lil Hernandez biex jibgħatlu d-dokumenti, anke permezz ta' scan kemm jista' jkun malajr. Hernandez wieġbu lura dakinhar stess fis-17:40 li kien ser jassenja lil xi ħadd fuq it-talba ta' Cini. L-għada Cini jerġa jibgħat jistaqsih jekk qabbadx lil xi ħadd.

It-tweġiba waslet fit-8 ta' Mejju 2017 fis-19:25 minn Jurielys Cedeno li qaltlu li kienu qegħdin jaħdmu fuq it-talba tiegħu. Biss dakinhar stess fl-22:09 Cini jibgħat jitlob lil Cedeno li minbarra dawk id-dokumenti, jgħid li :

> I would also like to receive in original the documents that were prepared earlier this year. I attach a copy of the emails where the documents were attached (as these documents were never sent in original to me).

Hawnhekk wieħed jifhem li Cini kien qiegħed jirreferi għad-dokumenti li kienu intbagħtu fi Frar 2017 u li l-*Forensic Accountants* itennu li kienu ġew abozzati minn Cini nnifsu u mibgħuta għall-firma tad-Diretturi t'*Egrant Inc*. Peress li jidher li kienu bagħtulu kopja *scanned* biss u mhux l-originali ffirmati issa ried li jkollu l-oriġinali. Fil-11 ta' Mejju 2017 reġgħa bagħtilhom *reminder*. Peress li baqgħu ma wieġbux għat-talbiet tiegħu fis-16 ta' Mejju 2017 fl-10:32 Karl Cini reġgħa bagħat email lil *Jurielys or anyone that can assist* biex jibgħatulu d-dokumenti li ried.

Fis-16 ta' Mejju 2017 fl-21:40 Mirzella Tunon mil-*Legal Services* infurmatu li kienu qegħdin proceeding *with the preparation of the draft of the Certification to be executed by the Company's Subscribers for your approval.* Hawnhekk nifhem li riedet tirreferi għal-dawk id-dikjarazzjonijiet li ried li jiġu ffirmati minn Jaqueline Alexander għan-nom ta' *Dubro Ltd S.A.* u *Aliator S.A.* Iżda aktar minn hekk Tunon kienet interessata li qabel xejn jitħalsu tal-ispejjeż u d-drittijiet tagħhom bil-quddiem.

Tunon tagħmel ukoll mistoqsija interessanti li tista' tinftiehem li ssaħħaħ dak li rrimarkaw il-*Forensic Accountants* fir-rigward tal-firma ta' Ricardo Samaniego fl-ittra tal-24 ta' Frar 2017. Tunon tistaqsih: *At last can you please confirm who provide you with the copy of the letters attached duly signed by the President of the Company?*

Dakinhar stess fit-03:19pm Cini jibgħatilha lura u dwar min kien qiegħed jieħu ħsieb dawk id-dokumenti jgħidilha hekk : -

> The confirmations that i have attached were prepared by your legal team 1, coordinated by Luis Quiel and his colleague Leida. I will check tomorrow who exactly sent me the scanned image as i dont have access at the moment

Imbagħad jgħidilha biex tkellem lil Ricardo (Samaniego) biex l-ispejjeż ikunu paċuti ma ammonti li kienu dovuti jitħalsu lil Nexia BT minn Mossack Fonseca. Tunon hekk tagħmel u tibgħat *email* lil Samaniego dwar l-ispejjeż – aktar milli għall-firma tiegħu fuq id-dokument *de quo*. Ricardo Samaniego, mill-*Accounting Department* ta' Mossack Fonseca jikkonferma dakinhar stess li din it-tpaċija setgħet issir. Fit-18 ta' Mejju 2017 fis-18:37 Karl Cini jirringrazja lil Ricardo Samaniego u jgħid lil Tunon biex tibgħatlu dawk id-dokumenti kemm jista' jkun malajr. L-għada jibgħatilha e-mail oħra – jkompli jippressaha għal kopja anke permezz ta' *scan*.

Mirzella Tunon twieġbu fid-19 ta' Mejju 2017 fis-17:53 fejn tgħidlu li kienet qegħda tistenna l-approvazzjoni tal-abbozz tad-dikjarazzjoni mingħand l-Avukat (li pero ma ssemmix min hu). Meta kien ikollha l-approvazzjoni kienet tibgħatlu. Biss jidher ukoll li fil-frattemp Karl Cini kien għamlilha xi mistoqsija dwar x'inhu r-rwol tas-*Subscribers* f'Kumpanija fil-Panama. Hi twieġbu lura dwar dan u ttih il-parir tagħha. Jiena minn naħa tiegħi ottjenejt il-parir mingħand Avukat indipendenti mill-Panama dwar it-tifsira u r-rwol tas-*Subscribers* u l-Parir tiegħu huwa jifforma parti minn dan il-Proces Verbal.

Dakinhar stess jidher li bagħtitlu wkoll waiver documents b'attachment li pero ma humiex disponibbli. F'email li bagħtilha fl-11:52am ħin tal-Panama, Cini jisħaq magħha li kien importanti li d-dikjarazzjonijiet li talab ikunu jgħidu preċiżament dak li kien kitbilha u dan sabiex l-affarijiet ikunu inekwivokabbilment ċari. Karl Cini ried li d-dikjarazzjonijiet ikunu jgħidu li :

> Jaqueline Alexander on behalf of Dubro Limited S.A. and Aliator S.A. confirming, after doing your own internal checks, that no declaration of trust has been issued and/or signed by her dated 20 August 2015 on behalf of the mentioned entities Dubro Limited S.A. and Aliator S.A. saying that these entities hold a share each in the panamanian corporation Egrant Inc (now dissolved) on behalf of Ms Michelle Muscat. Two declarations should be issued, one for each entity under the letterhead of each entity.

Hawnhekk id-dikjarazzjoni li t-talabha ta' Cini hija ċara u inekwivokabbli u tagħti l-impressjoni li kienet ġiet abozzata minn xi moħħ legali f'Malta. Ir-risposta ta' Mirzella Tunon ma ddumx ma tasal lil Cini għax fl-istess jum fl-20:43 ħin ta' Malta, jiġifieri fis-13:43 ħin tal-Panama tibgħatlu abbozz ta' dikjarazzjoni li ma kienx jirrifletti dak li kien qed jitlob Cini. Mirzella Tunon tgħid lil Cini li s-*Subscribers* setgħu biss jiċċertifikaw li huma ma kellhom ebda informazzjoni oħra dwar il-ħruġ jew trasferiment t'ishma wara li s-*subscription* tal-ishma tagħhom kienet saret fit-8 ta' Lulju 2013. Dan fil-fatt jaqbel ukoll mal-parir li dwar l-istat u r-rwol tas-*Subscribers* mill-Avukat Panamense Fernando Berguido. Fil-fatt it-test tad-dikjarazzjoni li Mossack Fonseca kienu lesti li jagħmlu lil Karl Cini kien is-segwenti : -

> I, Jaqueline Alexander, acting on behalf of Dubro Limited Inc., Subscriber of the Articles of Incorporation of Egrant Inc. a company duly incorporated by means of Public Deed 17935 of 4th July 2013 issued by the 5th Notary Public and filed at Page 807956 as of 8th July 2013, do hereby confirm the following:
> According to the Article Seventh of the Articles of Incorporation each of the subscribers of the Aritlces of Incorporation agree to take one (1) share.
> Through the Assignment of Subscription of Two Shares, all the rights, title and interest on my subscription, of one (1) share, were assigned and trasfer to THE BEARER on 8th July, 2013. In the records of the company there are no additional documents referring to the transfer or assignment of these shares.
> That the company EGRANT INC. has been dissolved through a Shareholders Resolution dated 19th January 2017, duly filed at the Panamanian Public Registry at Page 807956 as of 6th April, 2017.
> Yours Sincerely,
> Jaqueline Alexander
> Acting on behalf of Dubro Limited Inc.

Din id-dikjarazzjoni tidher li hija waħda mill-aktar li kien għamlu Mossack Fonseca u li ġew għall-attenzjoni ta' din l-inkjesta u li kienet fil-kontenut tagħha taqbel mal-evidenza miġbura. Hemm diversi punti interessanti li joħorġu minn dan l-abbozz li ssottomettew lil Karl Cini. Qabel xejn it-test tad-

dikjarazzjoni ma kienx dak li ried Cini mingħandhom. Jidher hawnhekk li Mossack Fonseca segwew sew l-invit li għamillhom Cini li qabel jagħmlu verifiki interni. Mela qabel xejn dan juri li Mossack Fonseca ma kienux sempliċiment *rubber stamp* għal dak li Cini kien irid mingħandhom. Din id-dikjarazzjoni turi li Mossack Fonseca kienu qegħdin joqgħodu attenti x'dikjarazzjonijiet jagħmlu. Juri li Mossack Fonseca kienu lesti li jiffirmaw għal dikjarazzjonijiet li anke jkunu abozzati minn Karl Cini, dment pero li dak li jkun dikjarat ikun jaqbel ma dak li huma jkollhom fir-records tagħhom. Altrimenti jidher li ma kienux disposti li joħorġu għonqhom għal Nexia BT.

Pero aktar minn hekk dak li hemm miktub f'din id-dikjarazzjoni jaqbel ma evidenza oħra miġbura fil-kors ta' din l-inkjesta. Minbarra l-aspett legali dwar l-istat tas-*subscribers* li ġie spejgat lili mill-Avukat Fernando Berguido u riportat f'dan il-*Process Verbal*, u li jaqbel mal-interpretazzjoni mogħtija, hemm aspetti oħra li huma korroborati.

Ġie stabbilit bil-provi li Jaqueline Alexander dehret fuq l-att kostituttiv ta' *Egrant Inc* f'isem *Dubro Limited S.A.* u kienet *subscriber* ta' sehem wieħed li skont iċ-ċertifikat ta' trasferiment oriġinali kien maħruġ *to Bearer* f'*Egrant Inc.* Il-persuna l-oħra li kienet dehret għal *Aliator S.A.* kienet Verna de Nelson u kienet ukoll *subscriber* ta' sehem wieħed f'*Egrant Inc.* Jaqueline Alexander ma setgħetx għalhekk tagħmel dikjarazzjoni wkoll f'isem *Aliator S.A.* kif talab Karl Cini u dan għaliex hi ma kienetx deheret fuq l-att kostituttiv ta' *Egrant Inc.* f'isem *Aliator S.A.* Anzi ġie stabbilit mix-xiehda tar-rappreżentant tar-Reġistru Pubbliku tal-Panama l-Avukat Sochi Santos li Jaqueline Alexander ma kienetx tidher reġistrata bħala direttriċi ta' *Aliator S.A.* Din għalhekk hija waħda mill-anomaliji prinċipali li jaħkmu waħda mill-kopji tad-*declarations of trust* li t-test tagħhom ġie pubblikat minn Caruana Galizia u li l-kopji tagħhom ġew mgħoddija lill-inkjesta minn Pierre Portelli. Ma kienx possibbli għal Alexander tagħmel *declaration of trust* f'isem *Aliator S.A.* għax la kienet hi r-rappreżentant ta' *Aliator S.A.* fuq il-*memorandum of association* ta' *Egrant Inc* u fi kwalunkwe każ ma tidherx li kienet direttur ta' *Aliator S.A.* fiż-żmien rilevanti għal din l-inkjesta. Min iffalsifika d-*declarations of trust* ried joqgħod attent li ma jinkludix lil Jaqueline Alexander fiż-żewġt *declarations of trust*, iżda biss almenu f'waħda minnhom – dik li kienet rikonduċibbli lil *Dubro Limited S.A.* u mhux ukoll lil *Aliator S.A.* li għaliha suppost kellu jkun hemm l-isem ta' Verna de Nelson u mhux dak ta' Jaqueline Alexander! Dan juri nuqqas ta' attenzjoni għal dan id-dettall u tal-fatti kif kienu formalment jidhru mid-dokumenti uffiċjali minn min iffabbrika dawn id-*declarations of trust*.

Inoltre huwa minnu li Jaqueline Alexander ma baqgħetx aktar involuta bħala *Subscriber* ta' sehem f'*Egrant Inc* għaliex permezz ta' *Assignment of subscription of two shares in Egrant Inc* is-*subscription shares* wieħed ta' *Dubro Limited S.A.* u wieħed t'*Aliator S.A.* ġew trasferiti *to bearer* u maħruġa fis-6 ta' Lulju 2013. Fuqhom hemm kemm il-firma tagħha kif ukoll ta' Verna de Nelson. Dan l-assignment ġie konfermat mix-xiehda kemm ta' Alexander kif ukoll minn dak ta' de Nelson. Aktar importanti minn hekk pero jirriżulta li l-oriġinali tal-iskrittura ta' dan l-*assignment of subscription of two shares* kien u għadu jinstab fil-file oriġinali ta' *Egrant Inc* li ttieħed mill-Uffiċini ta' Nexia BT matul il-perkwiżizzjoni li kienet saret fil-21 t'April 2017.

Apparti minn hekk ma nstabet ebda evidenza li kien hemm xi *issue* ta' ishma oħra f'*Egrant Inc* minbarra dawn is-*subscription shares* u s-sehem wieħed li ġie meħud minn *ATC Administrators Inc* u miżmum f'isem Brian Tonna. Għalhekk huwa verosimili dak li kien qiegħed jiġi dikjarat fl-abbozz li fil-*file* ta' Mossack Fonseca ma kienx hemm dokumenti oħra li kienu jirreferu għal trasferiment jew ċessjoni ta' dawn is-*subscription shares*. Inoltre l-fatt li *Egrant Inc* kienet ġiet stralċjata permezz t'att notarili fil-15 ta' Frar 2017 u debitament reġistrat fis-6 t'April 2017 ġie pruvat ukoll mill-evidenza miġbura mir-Reġistru Pubbliku tal-Panama.

Din id-dikjarazzjoni li kienet lesta tagħmel Jaqueline Alexander għalhekk taqbel ma dak li Mossack Fonseca setgħa kellhom fil-*files* tagħhom dwar *Egrant Inc.* Ma kienetx disposta li tagħmel dikjarazzjonijiet li ma setgħux jiġu vverifikati minn dokumenti li ma kienux jinsabu fil-*files* ta' Mossack Fonseca. Minbarra dan wieħed irid iżomm quddiem għajnejh ukoll li dan huwa korroborat mill-fatt li fix-xiehda tagħha Jaqueline Alexander eskludiet kompletament li l-kopji tad-*declarations of trust* murija lilha fix-xiehda tagħha setgħet kitbithom, għamlithom jew iffirmathom hi. Anzi hija qalet ċar li ma kientx tagħraf il-kontenut tagħhom u li l-firem fuqhom ma kienux tagħha. Dan huwa wkoll konfermat mir-relazzjoni peritali ta' Elisabeth Briggs li kkonkludiet li l-firem fuq il-kopji tad-*declarations of trust* ma kienux jaqblu ma dawk ta' Jaqueline Alexander. F'dan is-sens għalhekk huwa verosimili li dawn id-*declarations of trust* ma kienu qatt jinstabu fil-files ta' Mossack Fonseca fil-Panama u dan peress li kienu l-frott ta' fabbrikazzjoni li ma jidherx li kienet marbuta mal-Panama. F'dan is-sens għalhekk ma kienx possibbli għal Jaqueline Alexander li tagħmel dik id-dikarazzjoni mitluba minn Karl Cini għaliex dawk id-dokumenti qatt ma kienu fil-*file* ta' Mossack Fonseca u b'hekk ma setgħetx tagħmel dikjarazzjoni simili. Jidher li dak li ma kienx jidher fil-*files* ta' Mossack Fonseca ma setgħax ikun imniżżel minn dikjarazzjoni li huma kienu jirrilaxxjaw – anke jekk id-dikjarazzjonijiet li kienu jagħmlu jidher li kienu jsiru b'mod laxk għall-aħħar minn min jagħmilhom – dment li jkun hemm xi dokument li jikkorrobora b'xi mod dik id-dikjarazzjoni.

Wieħed jista' jipotizza li Alexander ma għamlitx din id-dikjarazzjoni li talabha Karl Cini bil-mod kif talabha għax ma kienetx ċerta jekk dik l-allegazzjoni kienet vera jew le u allura ma riedetx tikkommetti ruħha. Biss għal darb'oħra din il-ħaġa tibqa' fir-relm tal-ipoteżi possibbli u ma tikkostitwix prova. Dak li jikkostitwixxi prova inekwivokabbli huwa li kwantu għal dak li kien jikkonċerna il-kopji tad-*declarations of trust* u l-kontenut tagħhom, Alexander ikkonfermat fix-xiehda tagħha li hi kienet totalment estraneja għalihom u għall-oskur tagħhom.

Karl Cini ma kienx wisq impressjonat b'din il-verżjoni u *f'email* mibgħuta lil Tunon dakinhar stess fis-02:08pm jinsisti li Alexander kellha tikkonferma li wara t-8 ta' Lulju 2013 hija ma ffirmat ebda *declaration of trust* favur Michelle Muscat fir-rigward t'*Egrant Inc.* la f'isem *Dubro Limited S.A.* u l-anqas f'isem *Aliator S.A.* Apparti minn hekk talab ukoll li jkollu kopja iffirmata u ttimbrata tar-reġistru tal-membri tal-kumpanija *Egrant Inc.* li turi d-data ta meta saret ir-riżoluzzjoni li biha *Egrant Inc* kienet ġiet stralċjata. Jgħid li ried ikollu prova dokumentarja li *ATC Administrators Inc* kienu baqgħu sal-aħħar bħala l-uniċi azjonisti f'*Egrant Inc* sa minn meta twaqfet din il-kumpanija u l-ħruġ tal-ewwel reġistru tal-ishma tagħha.

Nhar l-24 ta' Mejju 2017 fit-20:37 Mirzella Tunon għarfet lil Karl Cini b'email li s-*Subscribers* ma setgħux jiċċertifikaw li ma ffirmaw ebda *declaration of trust* favur Michelle Muscat. Ir-raġuni għal dan ingħatat mill-Avukat Fernando Berguido fil-parir tiegħu fis-sens li :-

> If the subscribers to the Corporate Charter are members or staff of the law office, the subscribers may not know who the assignee of the subscription rights are. Their duties as subscribers will normally end with the incorporation of the company and the assignment of the subscription rights to the future shareholders of the company. Keep in mind that the members of the Board of Directors of the company (see below) are empowered to issue the shares and assess the rights of future shareholders.

Kemm Alexander kif ukoll de Nelson kienu jaħdmu jew jikkollaboraw mad-ditta Mossack Fonseca u għalhekk huwa verosimili li huma ma jkunux jafu min ikun l-*UBO* tal-kumpanija li għaliha jkunu qagħdu bħala *subscribers* oriġinali u dan peress li f'dak l-istadju, kif jispjega aktar il-quddiem l-Avukat Berguido, huma ma jkunux involuti fir-rigward ta' min ikun eventwalment xtara dik il-kumpanija li huma jkunu waqfu jiem, ġimgħat jew xhur qabel. F'dak is-sens għalhekk anke legalment bħala *subscribers* oriġinali ma jkunux jistgħu jagħmlu dawn id-*declarations of trust* huma.

Apparti minn hekk pero, Mirzella Tunon tirrimarka lil Karl Cini li kienu ħasbu li d-dokumenti li kienu bagħtulu datati 16 ta' Frar 2017 u 24 ta' Frar 2017 kienu biżżejjed għall-fini tat-talba tiegħu. Hawnhekk jidher li Mirzella Tunon kienet qegħda tirreferi għal dawk l-*emails* li l-*Forensic Accountants* itennu li kienu ġew ippreparati minn Karl Cini u li mbagħad ġew mibgħuta għall-firma lil Mossack Fonseca. Indirettament għalhekk hawnhekk Tunon qegħda tikkonferma li dawk l-ittri kienu bagħtuhom lil Karl Cini huma, wara li kienu ġew analizzati u sottomessi għall-firma tagħhom. Fil-fatt kif irrimarkat aktar il-fuq, Ricardo Samaniego kien ikkonferma fix-xiehda tiegħu li kien iffirma l-ittra datata 16 ta' Frar 2017.

Minbarra dan Tunon informatu li kienu f'qagħda li joħorġulu ċertifikat tagħhom bħala *Registered Agent* għal *Egrant Inc.* dwar ir-reġistru tal-membri ta' din il-kumpanija kif ukoll kopja tar-reġistru tal-ishma u d-dokumenti relattivi għall-istralċ. Apparti minn hekk għarfitu li kienu qegħdin *reviewing your request* fir-rigward tat-talba li għamlilhom biex issir dikjarazzjoni minn *ATC Administrators Inc.* kienu baqgħu sal-aħħar bħala l-uniċi azjonisti f'*Egrant Inc* sa minn meta twaqfet din il-kumpanija u l-ħruġ tal-ewwel reġistru tal-ishma tagħha.

It-tweġiba ta' Karl Cini għal din l-ittra ġiet mibgħuta fl-istess jum fil-05:45p.m. ħin tal-Panama. Huwa juri l-iskantament tiegħu għall-fatt li s-*subscribers* ma setgħux jikkonfermaw li ffirmaw *declarations of trust* addizjonali u jgħid li kieku kien hemm din id-dikjarazzjoni kien jassumi li kienet tkun tinstab fil-*file*. Hawnhekk wieħed jifhem il-frustrazzjoni ta' Karl Cini meta titqies ix-xiehda ta' Jaqueline Alexander li tikkonferma li dawk id-declarations of trust ma kienux iġibu l-firem tagħha u li ma kienetx tagħraf il-kontenut tagħhom u li ma għamlithomx hi. Cini forsi hawnhekk ma fehemx ir-raġuni legali għaliex dik id-dikjarazzjoni ma setgħux iformuha s-*subscribers*.

Cini pero jikkonferma li l-abbozz ta' d-dikjarazzjoni li għamlulu ma kienetx tiswih għax huwa diġa kellu d-dokument li kien jikkonferma li s-*subscribers* kienu trasferew is-seħem waħdieni rispettiv *to bearer*. Dan il-fatt huwa konfermat in kwantu dan iċ-ċertifikat fl-oriġinal tiegħu kien jinsab fil-folder tal-*Egrant Inc.* li kellu Cini fl-uffiċju tiegħu.

Kwantu għall-ittri tas-16 ta' Frar 2017 u l-24 ta' Frar 2017, huwa jgħid li dawn kienu tajbin, għalkemm huwa ried li jkollu l-oriġinal f'idejh u mhux kopja, u dan peress li l-oriġinal qatt ma kienu mibgħuta lilu. Jgħid ukoll li diġa kellu l-oriġinali tad-dokumenti tal-istralċ; iżda ried li jkollu kopja tas-*share register* datat almenu ġurnata qabel l-istralċ kif ukoll iċ-ċertifikat maħruġ mir-*Registered Agent*. Dawn riedhom fl-oriġinali, ittimbrati u ffirmati. Jilmenta li kienu ilu tliet ġimgħat jitħabat għal dawn id-dokumenti.

Fil-25 ta' Mejju 2017 23:02 Mirzella Tunon reġgħet bagħtet *email* lil Cini fejn infurmatu li kelmu bit-telefon lill-Avukat Quiel dwar id-dokumenti li ried li jiġu ffirmati minn Jaqueline Alexander u li kien ser jispjegalu r-raġunijiet għaliex din iċ-ċertifikazzjoni ma kienetx meħtieġa mingħand is-*subscribers*. Hawnhekk hu mifhum li dan l-Avukat kien ser jispjegalu r-raġunijiet simili għal dawk spjegati mill-Avukat Fernando Berguido fil-parir tiegħu.

Biss minbarra li informatu li *ATC Administrators Inc* kienu għadhom qatt ma ħarġulhom kont għas-servizzi ta' azzjonist li pprovdew lil *Egrant Inc* u bagħtitlu kont t'elfejn dollaru Amerikan fis-sena li sa mill-2013 kien jammonta għal total ta' US$10,000! Dan juri wkoll li dan is-servizz kien ingħata lil Nexia BT għax altrimenti diffiċli wieħed jisterna li tibgħatlu kont ta' dan it-tip. Biss bagħtitlu wkoll abbozz ta' dikjarazzjoni ta' *ATC Administrators Inc* li kienet ser iġġib il-firma ta' Edilberto Reyes u Olga Londono u li permezz tagħha kienu ser jiċċertifikaw id-dettalji ta' meta ġiet imwaqfa l-*Egrant Inc,* kif ukoll li l-*UBO*

tagħha kien Brian Tonna kif ukoll li din il-kumpanija ġiet stralċjata b'riżoluzzjoni tal-azjonisti tad-19 ta' Jannar 2017 u liema stralċ ġie reġistrat mar-Reġistru Pubbliku fis-6 t'April 2017. Anke hawnhekk l-Avukati ta' Mossack Fonseca qagħdu attenti x'dikjarazzjoni jagħmlu għaliex id-dettalji fid-dikjarazzjoni huma kollha konfermati minn dokumenti li ġbart matul il-kors ta' din l-inkjesta. Din hija indikazzjoni ċara li għal darb'oħra l-Avukati ta' Mossack Fonseca straħu fuq dokumenti li setgħa kellhom fil-files tagħhom.

Dakinhar stess Cini weġibha b'email fil-23:19 u kwantu għall-kont t'US$10,000 qallha li kellu bżonn jivverifika l-kontijiet għax kien jidhirlu li dawn id-drittijiet kienu diġa ġew imħasla. Id-dikjarazzjoni minn *ATC Administrators Inc* kienet aċċettabbli għalih. Iżda insista li jintbagħtulu l-oriġinali tal-ittri tas-16 ta' Frar 2017 u l-24 ta' Frar 2017. Fid-29 ta' Mejju 2017 jerġa jibgħatilha reminder. Tunon wieġbet fl-istess jum fl-22:10 fejn bagħtitlu *scanned copy* tad-dikjarazzjoni ta' *ATC Administrators Inc* debitament iffirmata, għalkemm iċ-ċertifikat tar-reġistru tal-ishma kien għadu mhux lest. Mill-banda l-oħra jidher li t-telefonata bejn Luis Quiel u Karl Cini dwar id-dikjarazzjoni li Cini ried mingħand is-*subscribers* saret u ftehmu li tintbagħtlu xi verżjoni maqbula bejniethom.

Kwantu għad-dikjarazzjoni ta' *ATC Administrators Inc* din l-inkjesta ġabret ix-xiehda ta' Edilberto Reyes u Olga Londono dwar dan id-dokument. Edilberto Reyes ikkonferma d-dokument u muri kopja kkonferma li dik hija kopja, u li fiha l-firma tiegħu u fil-fatt il-proċess li jiġi eżegwit minn dipartiment legali, imbagħad jgħaddi għal għand avukat u aktar tard ma tgħaddilhomx għall-firma. Ix-xhud qal li huma joffru biss servizz ta' dokumentazzjoni bħal dan li jiġi ffirmat kuljum. Ix-xhud jgħid li huwa ma jitkellimx bl-Ingliż. Mistoqsi jwieġeb jekk huwa kienx fehem il-kontenut tad-dokument li huwa ffirma, Reyes jgħid li mhux għal kollox; iżda kien ġie spjegat lilu mid-dipartiment legali li dan kien jikkonsisti f'dokument li kien jgħid li Brian Tonna kien il-benefiċjarju u li l-Kumpanija *Egrant Inc* kienet ser tiġi stralċjata. Jgħid ukoll li kien hemm diversi skrivani li attendew diversi każijiet fl-istess ħin, għalhekk l-isem tagħhom ma kienx jiftakru, għalkemm kien biss mid-dipartiment legali. Ikkonferma wkoll li din is-sitwazzjoni kienet waħda normali fl-uffiċju tagħhom u kienet issir b'ċerta frekwenza.

Olga Londono qalet li rat li kien hemm il-firma tagħha fuq dan id-dokument, għalkemm kienet murija kopja u mhux l-oriġinal. Tgħid ukoll li kienet tifhem bl-ingliż u kienet fehmet il-kontenut tad-dokument 4. Dan id-dokument kien jgħid li l-benefiċjarju aħħari ta' *Egrant Inc* kien Brian Tonna, li huwa kien is-sid ta' l-ishma ta' din il-kumpanija, kif ukoll li din il-kumpanija kienet ġiet xolta permezz ta' riżoluzzjoni tal-azzjonisti tagħha liema stralċ ġie debitament reġistrat mar-Reġistru Pubbliku. Mistoqsija x'kellha xi tgħid fir-rigward ta' kif dik it-talba kienet ġiet magħmula, Londono tgħid li hija kienet toffri servizzi segretarjali lid-Ditta Legali. Dawn id-dokumenti kienu jintbagħtu mid-Dipartiment tal-kumpaniji u dawn ikunu riveduti minn avukat. Qalet ukoll li hija kienet timmaġina li l-avukat kien jagħmel dan fuq talba tal-klijent, jew xi ħaġa simili. Mistoqsija tgħid isem l-avukat jew avukati li kienu involuti fir-reviżjoni ta' dawn id-dokumenti, ix-xhud twieġeb li ma kienetx taf; iżda ġeneralment kienu jkunu l-avukati li jkunu hemmhekk dak il-ħin għax ma kien hemm ħadd speċifikament inkarigat minn dan ix-xogħol ta' reviżjoni. Mistoqsija jekk din kienetx xi proċedura normali jew kienetx issir b'mod frekwenti fuq il-post tax-xogħol tagħha, ix-xhud wieġbet fil-pożittiv u ġeneralment dawn id-dokumenti kienu jiġu riveduti minn avukat.

L-għada 30 ta' Mejju 2017 fid-01:56pm Karl Cini, eżiġenti, jinsisti għax-*share register*, li kien għadu mhux lest. Fid-21:09 Mirzella Tunon tgħidlu li l-oriġinal kien għadu mhux għandhom għax l-Avukat (ma semmietx min hi) kienet barra mill-uffiċju u bagħtulha d-dokument biex tiffirmah id-dar tagħha stess. L-għada 31 ta' Mejju 2017 fis-18:02 u fl-21:55 u 02:57pm Karl Cini, dejjem aktar eżiġenti għax iż-żmien għaddej jistqasiha jekk kienetx ser tibgħatlu s-*share register* dakinhar stess, u aktar tard riedhom f'dak il-lejl stess.

Mirzell Tunon bagħtitlu l-kopja tar-*register of members, duly certified* dakinhar stess fl-22:21 ħin ta' Malta. Għal din l-email Karl Cini jwieġeb fil-04:46 ħin tal-Panama fejn jilmenta li l-parti tad-dokument li juri l-lista tal-azzjonisti riedet tkun ittimbrata u ffirmata u dan minħabba li mingħajr it-timbru u l-firem jgħid li faċilment setgħet tiġi riprodotta.

Mirzella Tunon tgħarraf lil Cini permezz t'email tal-1 ta' Ġunju 2017 fil-15:55 huma kienu qegħdin jipprovdu evidenza biżżejjed biex iserħulu rasu li d-dokument li bagħtulu kien is-*share register* awtentiku. Minbarra dan iż-żewġt faċċati kienu ser ikunu mehmuża ma xulxin permezz *t'eyelets*. Apparti dan qaltlu wkoll li d-Diretturi ta' kumpaniji fil-Panama mhumiex obbligati li jkollhom timbru u għalhekk ma setgħux jittimbraw id-dokument. Offrietlu l-għażla li d-dokument ikun iffirmat minn Nutar, f'liema każ id-dokument ikun irid iġorr id-data kurrenti. B'dan nifhem li riedet tgħid li ma setgħax għalhekk jiġi *backdated*.

Biss il-preokkupazzjoni ta' Karl Cini tidher minn email tal-1 ta' Ġunju 2017 fid-09:05 li kienet li huwa ried li jkollu l-kopja tas-*share register* li kienet turi l-posizzjoni tal-kumpanija fid-19 ta' Jannar 2017, anke jekk id-dokument ikun iġib id-data ta' dakinhar stess. Hawnhekk Cini juri li ma kienx interessat li jkollu dokumenti *backdated* u mingħand Mossack Fonseca kull ma ried huwa li jkollu ċ-ċertifikazzjoni ta' min kienu l-azzjonisti dakinhar ta' meta saret ir-riżoluzzjoni għall-istralċ tal-*Egrant Inc*. Ried assikurazzjoni li dan iċ-ċertifikat kien ser jintbgħatlu dakinhar stess. Fl-16:48 ħin ta' Malta wieġbet Tunon li l-Avukat ma kienetx preżenti fl-uffiċju għall-firma iżda kienu ser jippruvaw jaqbduha.

L-Avukat in kwistjoni irriżulta li kienet Josette Roquebert li xehdet ukoll darbtejn fl-atti ta' din l-inkjesta – l-ewwel darba dwar ic-*certificate of incumbency* maħruġ għal *Egrant Inc* u t-tieni darba fir-rigward tad-dokumenti meritu ta' din il-korrispondenza bejn Cini u Tunon. Josette Roquebert ġiet mistoqsija mistoqsija tixhed dwar iċ-ċertifikat maħruġ minn *MF Legal Services* bħala aġent reġistrat t'*Egrant Inc* li bih ġie allegatament konfermat li r-reġistru tal-ishma kien kopja fidila tar-reġistru tal-ishma oriġinali tal-kumpanija maħruġ nhar id-9 ta' Lulju 2013 u kien ukoll il-verżjoni valida li kienet teżisti nhar id-19 ta' Jannar 2017 meta *Egrant Inc* kienet ġiet stralċjata. Roquebert wieġbet li mill-memorja ma setgħetx tikkonferma il-kontenut ta' dan iċ-ċertifikat għaliex bħalu kienu jinħarġu ħafna għall-kumpaniji kollha li għalihom *MF Legal Services* kienet toqgħod bħala aġent residenti. Għaldaqstant kull jum kien ikollha tiffirma ċertifikati ta' dan it-tip għal diversi kumpaniji u dan fil-kapaċita tagħha ta' firmatarja awtorizzata ta' *MF Legal Services*. Tgħid ukoll li hi ma tkunx il-persuna inkarigata mill-proċess innifsu, hemm assistent responsabbli mill-immaniġġjar tal-proċess dak iż-żmien, li jirrevedi l-*file* u joħroġ id-dokument mitlub mill-klijent skond dak li jara fil-*file* jew huwa inkluż fil-*file*; iżda l-proċedura innifisha mhix magħmula minn din ix-xhud. Mistoqsija tgħid min kien dan l-assistent li kien jagħmel dan ix-xogħol, Roquebert wieġbet li ma kienetx tiftakar mill-memorja tagħha u kien meħtieġ li wieħed jikkonsulta l-*files* tad-Ditta legali sabiex ikun stabbilit min kien l-uffiċjal inkarigat. Mistoqsija minn meta kienet saret rappreżentant ta' *MF Legal Services*, Roquebert wieġbet li kienet minn meta bdiet taħdem magħhom fl-2008. Mistoqsija tgħid x'kien ix-xogħol tagħha ma *MF Legal Services* u minn meta bdiet, ix-xhud tgħid li hija kienet bdiet taħdem fl-2008 u hi kienet responsabbli mid-dipartiment tal-kumpaniji. Parti mix-xogħol tagħha kien jinvolvi l-aspett amministrattiv u operattiv ta' dan id-dipartiment. Din ix-xiehda li tat Roquebert fis-17 ta' Jannar 2018 trid tittieħed fil-kuntest ta' dak li kien qiegħed jiġi mitlub minnha.

Fit-2 ta' Ġunju 2017 Tunon bagħtet lil Karl Cini pakk bid-DHL li fih kien hemm l-oriġinali tal-ittri tas-16 ta' Frar u tal-24 ta' Frar 2017 iffirmati minn Ricardo Samaniego, id-dikjarazzjoni tal-25 ta' Mejju 2017 ta' *ATC Administrators Inc* iffirmata minn Edilberto Reyes u Olga Londono, ir-*Registered Agent Certification* iffirmata mill-Avukat Josette Roquebert intiża li tiċċertifika :

li the document printed in the back is a true and full copy of the original Share Register of the Company issued on 9th July 2013, and the valid version existing on 19th January, 2017 when the company's resolution was resolved.

Din iċ-ċertifikazzjoni kienet iġġib id-data tal-1 ta' Ġunju 2017 flimkien mad-dikjarazzjoni ta' *ATC Administrators Inc* taħt il-firma ta' Edilberto Reyes u Olga Londono ġew mgħoddija lill-inkjesta permezz ta' nota minn Brian Tonna nhar id-9 ta' Ġunju u l-14 ta' Ġunju 2017.

Din hija l-informazzjoni li toħroġ mill-Panama Papers Cache li ġiet mgħoddija lill-inkjesta mill-Awtoritajiet Ġudizzjarji Ġermaniżi. Biss sors kunfidenzjali ieħor provda b'sett ta' *emails* li huwa simili ħafna għal dak li kienu provdew l-Awtoritajiet Ġermaniżi. L-awtenticita' u l-attendibbilita' tagħhom dawn l-*emails* hija diskutibbli. Iżda ser issir riferenza għalihom kemm għall-fini ta' kompletezza kif ukoll biex jiġi muri kemm huwa riskjuż li wieħed jistrieħ fuq dawn l-*emails* biss. Dawn l-*emails* l-oħra juru mhux biss il-korrispondenza skambjata bejn Karl Cini u Leida de Leon, kif ukoll Karl Cini ma Mirzella Tunon, iżda wkoll korrispondenza interna bl-Ispanjol bejn Mirzella Tunon u l-Avukat Josette Roquebert. Dawn l-aħħar komunikazzjonijiet interni fi ħdan Mossack Fonseca ma kienux jidhru qalb il-*cache* tal-emails tal-Panama Papers li ġew mgħoddija lill-Inkjesta mill-Awtoritajiet Ġermaniżi.

Fi kwalunkwe każ, jekk dawn l-*emails* għandhom jingħataw kreditu, juru l-komunikazzjoni interna bejn Mirzella Tunon u l-Avukat Josette Roquebert dwar it-talbiet li kien qiegħed jagħmel Karl Cini fiż-żmien meta Cini kienet qiegħed jitħabat biex jingħata tweġiba u azzjoni fuq it-talbiet tiegħu. Per eżempju skont dan il-*cache t'emails*, waqt li fis-27 t'April 2017 Karl Cini fl-*email* tiegħu lil Leida de Leon kien qiegħed jistaqsi għal risposta urġenti, tirriżulta *email* datata 2 ta' Mejju 2017 10:49 mibgħuta minn Jurielys Cedeno lil Mirzella Tunon tistaqsiha jekk il-mistoqsijiet dwar il-*file* dwar *Egrant Inc* li kien qiegħed jagħmel Karl Cini kienx ġie riferit lilha. Fl-istess jum Mirzella Tunon fl-03:42pm bagħtet *email* lil Josette Roquebert intitolata *FW: Urgent statement required // APROBACION PARA EMISION DE DOCUMENTOS* fejn Tunon tagħmel riferenza għall-file tal-*Company/Case name Egrant Inc* f'isem il-klijent *36772 NEXIA BT – PMA CLIENT; Reference : KARL CINI, Type of Case : Dissolution, Case number 2634144; File number 72422 Open Cases, "This case has some files attached" We received payment for Quotation#: C-2634144* fejn wara li tinkludilha t-talba li għamel Karl Cini għad-dikjarazzjoni mingħand Jaqueline Alexander kif ukoll għad-dikjarazzjoni mid-diretturi tal-*Egrant Inc* li ffirmaw ir-risoluzzjoni għall-istralċ dwar min kien l-*UBO* fil-jum ta' meta ġiet stralċjata *Egrant Inc* kif ukoll iċ-ċertifikat ittimbrat minn *ATC Administrators Inc* li juri li kienu l-azzjonisti fil-jum li fih *Egrant Inc* ġiet stralċjata.

Tunon tistaqsi lil Josette Roquebert jekk kienetx f'posizzjoni li tagħmel dawn id-dikjarazzjonijiet li ried il-klijent. Hija talbitha wkoll tagħmel stima tal-ispejjeż u drittijiet anke peress li kien jidher li dik il-kumpanija kienet ġiet stralċjata u dan biex jitħalsu bil-quddiem!

Roquebert tweġibha erba' minuti wara u tistaqsi lil Tunon jekk kellhom id-dokumentazzjoni biex ikunu f'qagħda li jikkonfermaw min kien l-*UBO* t'*Egrant Inc* fil-mument tal-istralċ. Tgħidlha wkoll li ladarba kienu tliet dokumenti dawn kienu jiġu jiswew $250 il-wieħed. Hawnhekk jidher li Mirzella Tunon kellha tagħmel xi ftit tar-riċerka għax twieġeb lil Josette Roquebert fis-16 ta' Mejju 2017 fis-2:12PM. Tunon tgħidilha li waqt li kienet qegħda tanalizza l-*file* tal-*Egrant Inc* kienet sabet l-*order form*. Tgħidilha li l-azzjonijiet tal-*Egrant Inc* kienu maħruġa fuq isem *nominee*, iżda xorta kien imsemmi min kien l-*UBO*. Din l-informazzjoni kienet diġa ġiet riveduta fid-database ta' MFT u ma kien hemm ebda antecedent ieħor. Minn dan id-*database* kien jidher li l-isem tas-*shareholder* kien *Brian*

Tonna (under nominee provided by Mossack Fonseca) li kellu sehem wieħed. Tunon iżżid tgħid lil Roquebert li fil-mument tal-istralċ l-*UBO*, allura Brian Tonna, iffirma r-risoluzzjoni għall-istralċ. Titlob lil Roquebert biex tikkonfermalha jekk il-kopja tar-risoluzzjoni li kkupjatilha kienetx tajba biex tkun tista' tipproċessa t-talba ta' Karl Cini.

Interessanti wkoll li Tunon issemmi li hija kienet sabet ukoll ir-risposta li kienu taw lill-*FIAU* tal-Panama fl-ittra tagħhom tad-29 t'April 2016 fir-rigward ta' min kien l-*UBO* t'*Egrant Inc.* Minn din l-*email* jirriżulta wkoll li kien hemm talba oħra mill-*FIAU* tal-Panama datata 2 ta' Mejju 2017 fejn kien hemm rikjesta oħra għar-rigward ta' min kien l-*UBO* jew dawk li kienu l-*proxies* ta' *Egrant Inc.*

Annettitilha żewġ dokumenti għall-attenzjoni tagħha. Imbagħad tehmeż żewġ dokumenti oħra li huma ffirmati minn Ricardo Samaniego. Dwar dawn Tunon tirrimarka li ma kienetx sabet kif dawn id-dokumenti ġew approvati jew jekk kienux għamlu talba għall-ħlas għalihom, iżda li kellha l-kopji tagħhom għax il-klijent kien qiegħed jitlob li jingħata l-oriġinali. Dawn id-dokumenti kienu jikkonfermaw min kien l-*UBO*, min kien il-*proxy* kif ukoll il-kwistjoni dwar l-ishma. Dawn huma ż-żewġt ittri ffirmati minn Ricardo Samaniego u li jagħmlu riferenza għalihom il-*Forensic Accountants Harbinson Forensics* datati 16 ta' Frar 2017 u 24 ta' Frar 2017 u jsaħħaħ ukoll dak li qalu l-*Forensic Accountants* dwar il-provenjenza ta' dawn id-dokumenti. Tunon tikkonkludi l-email billi tgħidlha li b'dawn parti mit-talba tal-klijent setgħet tiġi mwieġba għalkemm kien għad fadal pendenti d-dikjarazzjoni ta' Jaqueline Alexander, u talbitha tikkonfermalha jekk kellhiex problema biex tmexxi l-karti l-quddiem.

Josette Roquebert wieġbet l-għada 17 ta' Mejju 2017 fl-4:01PM billi qaltilha li fl-opinjoni tagħha dawn kienu biżżejjed, dment li kienu qegħdin jitkelmu fuq l-istess persuna imsemmija fir-risposta li kienu taw lill-FIAU tal-Panama. Tgħid ukoll li pero ċ-ċertifikazzjoni kienet tgħid biss li kien l-UBO fil-mument ta' meta ġiet stralċjata *Egrant Inc.*

Mirzella Tunon tidher li baqgħet taħdem fuq id-dikjarazzjoni ta' Jaqueline Alexander li kien qiegħed jitlob Karl Cini. Fil-fatt l-għada, 18 ta' Mejju 2017 fl-04:04 p.m. reġgħet kitbet email lil Josette Roquebert fejn, fuq l-istess tema, ikkonfermatilha li kienet l-istess persuna (imsemmija fir-risposta li kienu taw lill-*FIAU* tal-Panama) u għalhekk irrimarkat li b'dak id-dokument ma kellux ikun hemm problema.

Tunon pero ppreparat ukoll abbozz ta' dikjarazzjoni biex tiġi ffirmata minn Jaqueline Alexander. Iżda tirrimarka wkoll li meta vverifikat id-*database* fir-rigward tad-*declarations of trust* u tgħid li ma sabet ebda dokument simili li kien jitratta jew marbut ma *Egrant Inc* fir-*records* tagħhom. Anzi tgħid ukoll li kienet irrevediet dan ma ċertu Carlos, li qalilha li din kienet informazzjoni li huma ma setgħux allura jiċċertifikaw. B'hekk talbitha tgħidilha l-opinjoni tagħha dwar dan il-meritu. Għalhekk jirriżulta mill-istess email li dik il-parti li tal-abbozz tad-dikjarazzjoni li kienet ser taqra *Therefore, no declaration of trust has been issued and/or signed by Dubro Limited S.A. on 20th August 2015 saying that this entite hold a share in the Panamanian corporation Egrant Inc. on behalf of Mrs. Michelle Muscat* kienet ġiet kanċellata. L-abbozz tad-dikjarazzjoni li kellha tiġi ffirmata minn Jaqueline Alexander li ġiet mibgħuta lil Karl Cini minn Mirzella Tunon fid-19 ta' Mejju 2017 għalhekk hija identika għal dik li kienet bagħtet għal konsultazzjoni lil Josette Roquebert fil-jum ta' qabel bil-paragrafu hawn fuq imsemmi kanċellat.

Other points which emerge from the Chronological analysis of the digital data

262. Whilst reviewing the documents worked on by Brian Tonna on his laptop during the period of increasing pressure from the DCG revelations, we noted something apparently unusual. On 20 February 2017 during a day of intense work preparing answers for the Pana Committee and various journalists concerning Egrant, at 15:05 in the afternoon he suddenly broke off and saved 9 pdf documents regarding SPX Services Ltd in a 10 minute period. He then reverted to dealing with Egrant related matters for the rest of the day.

263. Upon investigation we discovered that SPX Services was incorporated in BVI in March 2012. SPX Services Ltd (BVI 2135166) was incorporated on 1 March 2012 in British Virgin Islands, BVI. Agent was Mossack Fonseca. Share Certificate No 1 was for 50,000 shares issued to Unifin Services Ltd and nominee director was Albert Muscat. On 24 March 2013 it is transferred over to Mossack Fonseca. On 29 July 2013 Unifin Services Ltd shares are cancelled and Certificate 2 is issued for 1 share to ATC

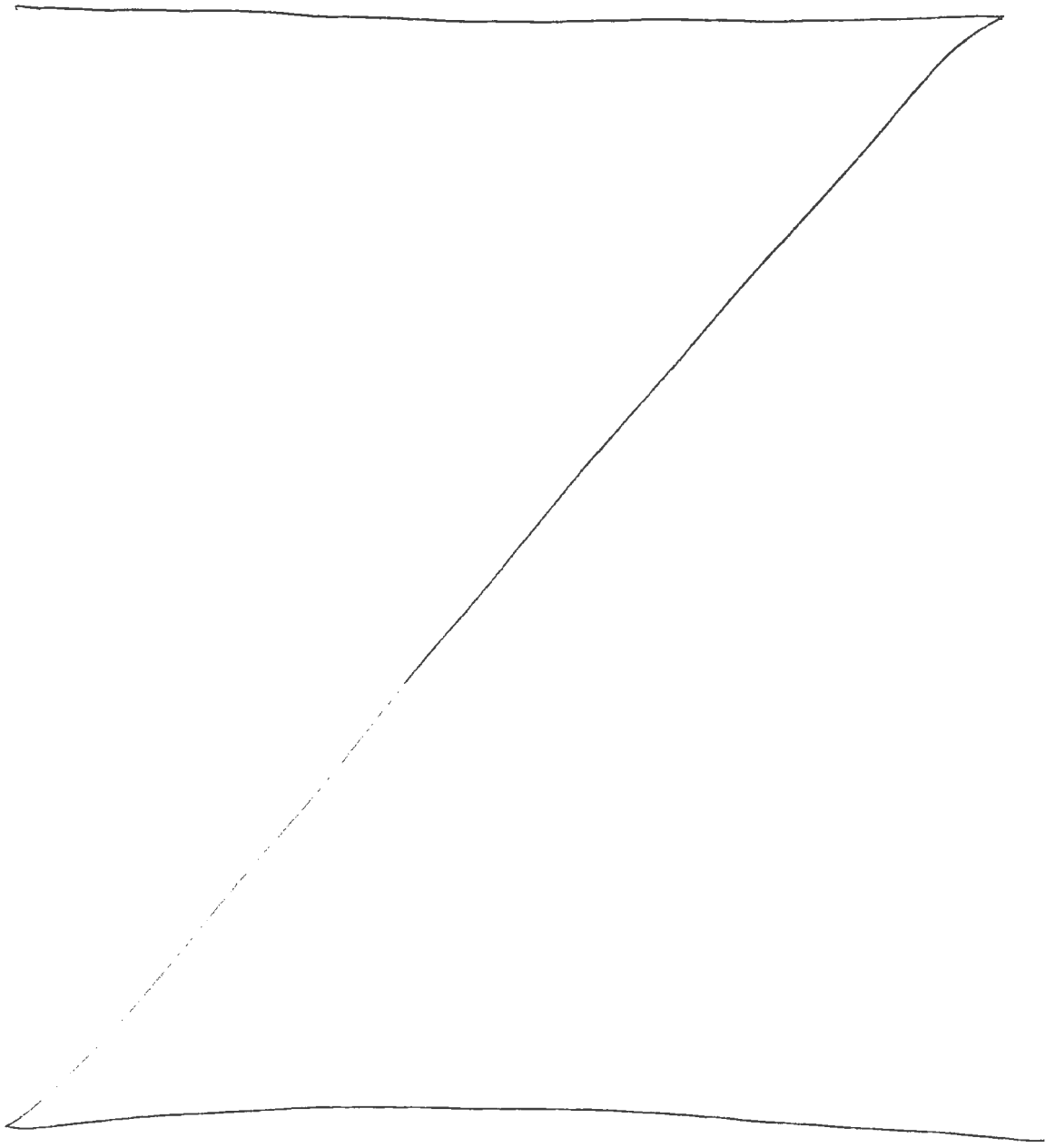
Hawnhekk allura minn din l-*email* joħroġ ċar li r-raġuni għaliex Mossack Fonseca m'akkomodawx it-talba ta' Karl Cini għal dik id-dikjarazzjoni kif riedha hu kienet minħabba l-fatt li fir-*records* tagħhom Mossack Fonseca ma kellhom ebda indikazzjoni jew traċċa tad-*declaration of trust* in kwistjoni u għalhekk minħabba li ma kellhom xejn imsemmi fil-*file* dwar dawn id-*declarations of trust* ħassew li dik id-dikjarazzjoni ma setgħux jagħmluha għax wara li anke li rrevedietha ma' ċertu Carlos, dan qalilha li din kienet informazzjoni li huma ma setgħux allura jiċċertifikaw.

Fil-fatt fir-risposta tagħha bl-*email* tad-19 ta' Mejju 2017 fit-19:59 Josette Roquebert taqta' għad-dritt u tweġibha li hija kienet taħseb li l-aħjar ħaġa kienet li jillimitaw ruħhom li jgħidu biss li ma kellhomx aktar informazzjoni fir-rigward tal-azzjonijiet ta' din il-kumpanija, mingħajr ma joqgħodu jidħlu f'ħafna aktar dettall. Fil-verita, jekk fil-*file* ta' Mossack Fonseca ma kienx hemm traċċa tad-*declarations of trust* de quo, allura t-tweġiba proposta minn Roquebert kienet tkun korretta. Aktar minn hekk irriżulta li kienet korretta anke grazzi għax-xiehda ta' Jaqueline Alexander u l-konferma tal-espert Elisabeth Briggs.

Dawn l-*emails* għalhekk jipprovdu stampa aktar dettaljata tal-mod ta' kif kienu jaħdmu Mossack Fonseca fir-rigward tat-talbiet tal-klijenti tagħhom. Dment li jkunu jistgħu jikkonfermaw talbiet minn *backing documentation* li kien jinstab fil-*files* tal-klijenti tagħhom, allura kienu jkunu lesti li jagħmlu ċertifikati u dikjarazzjonijiet. Altrimenti ma jagħmluhomx kif ġieb u laħaq. Jindikaw ukoll li għalkemm il-prattiċi ta' Mossack Fonseca kienu kemxejn laxki fir-rigward tal-verifika tal-veraċita u l-korrettezza tal-kontenut tal-*files* tal-klijenti tagħhom, mill-banda l-oħra kienu joqgħodu attenti li l-informazzjoni li jkunu qegħdin jagħtu lil klijenti tagħhom tkun konformi ma dak li jkunu wieġbu lill-*FIAU* tal-Panama meta dawn ikunu staqsewhom xi ħaġa u jkunu tawhom tweġiba lura.

Administrators Inc. held as nominee for the UBO who is stated to be Brian Tonna.

264. It is listed by Brian Tonna amongst his assets in a statement prepared for his investigation by the tax authorities. However, the registered address is BTI Management Ltd and not his own name or his private address. We understand that the MFSP post log shows "Hold all mail" for SPX – it is sent by courier. The documents he saved included incorporation details and valuations of the share transactions and investment portfolio held in the company's name with MFSP. It remains unclear whether the UBO of this company is Brian Tonna or whether he acts for someone else.



Trace of external memory device relating to Egrant

265. Our searches of the "unallocated clusters" found only one Egrant related item not found elsewhere. This was a small system file which indicated that an external memory device (possibly a USB) had been attached to a laptop and contained a subfolder called Egrant. There is no further evidence to show what this folder contained or to identify the memory device. It does raise the possibility that there were digital files in relation to Egrant which were not held on or copied onto the digital devices seized. Its present whereabouts is unknown.

Other instances and variations of the keyword/ letters "egrant' which appear in the data

266. During our investigation we have also sought to identify any previously unidentified people or entities who might be connected to Egrant.

Elvin Grant

267. One example of this appeared in the data extracted from the Panama Papers database by the German authorities. This was an email from the email address of "egrant@tridenttrust.com" to the Private Compliance Department of Mossack Fonseca & Co from Trident Trust Company (BVI) Ltd dated 28th January 2008. The explanation for this email turning up in our keyword search is in the initials of the individual in Trident Trust. This individual was called Elvin Grant – with the email address of egrant.

Richard Grant (Norfield)

268. A further example of the keyword 'egrant' appearing in proper names is demonstrated by a client of Nexia BT called Richard E Grant Norfield – whose name appears to be shortened in email communications to Richard Grant.

269. As noted above, we searched not only for the word "Egrant" but for variations on that word to try to cover possible misspellings, abbreviations, etc. Whilst searching for such variations we found references to Richard Grant Norfield. He is generally referred to simply as "Richard Grant" which seems linguistically close to the actor "Richard E Grant" and therefore to the unusual name "Egrant". It highlights some of the issues that arise when you expand keyword searches beyond the pure keyword itself.

270. Our interest was raised as this individual was a client of Nexia BT dealing with Antoinette Scerri and Karl Cini and raising questions about setting up a new company in Malta to receive dividends from an existing company he owned in Panama, Datamax. He was exchanging emails with Karl Cini, Nexia staff and Mossack Fonseca during the same period in March 2013 that the enquiries regarding Egrant, Hearnville and Tillgate were being set up.

271. Richard Grant and Richard Grant Norfield are the same person Passport reference 463871726, address - 1592 Portomaso, St Julian's, Malta. Most of the correspondence and the billing information in the records of Nexia BT refers to him as "Richard Grant" and exclude the surname Norfield. However, in a letter sent to him for signature in August 2015 he is shown as Richard Grant Norfield.

272. All the emails around Richard Grant are from Karl Cini and they appear to have first made contact in 2012. There is an engagement letter on 27 August 2012 between himself and Nexia BT for them to do his taxes and other work with Datamax, his company in Panama.

273. On 28 February 2013 Richard Grant was looking for a bank in Panama or Cyprus. The emails [Doc 75] confirm that Karl Cini was in Panama in early February 2013. We note that this was just before Mr Muscat's election and the commencement of efforts by Nexia BT to acquire the three Panama Companies – Egrant, Tillgate and Hearnville.

274. There are share transfers on 30 April 2013 from Richard Grant's company, Datamax in Panama, to Ikonic Ltd through Triad Company Services Ltd (there is an integrity letter for this company). He set up a further company Jackpot Millionaire in BVI. There is also reference to another Maltese registered company, Iconomic Ltd, C59779.

275. On 3 July 2013 (just before the incorporation of Egrant) there is a reference to Richard Grant and the incorporation of a company called Ikonic. On 5 July 2013 there is a draft letter of integrity (ie a letter of good standing) for Richard Grant from Karl Cini to Triad Company Services.

276. We have not found any links of Richard Grant to Egrant. However, it appears that his relationship with KC broke down for some reason. On 7 August 2015 a further reference letter is requested for Richard Grant to set up a gaming licence in Curaaco. Brian Tonna is the author of the draft letter. Referring to this second reference Karl Cini states he now knows what kind of guy Richard Grant is and the request is refused. There are further complaints about Richard Grant on 22 August 2015.

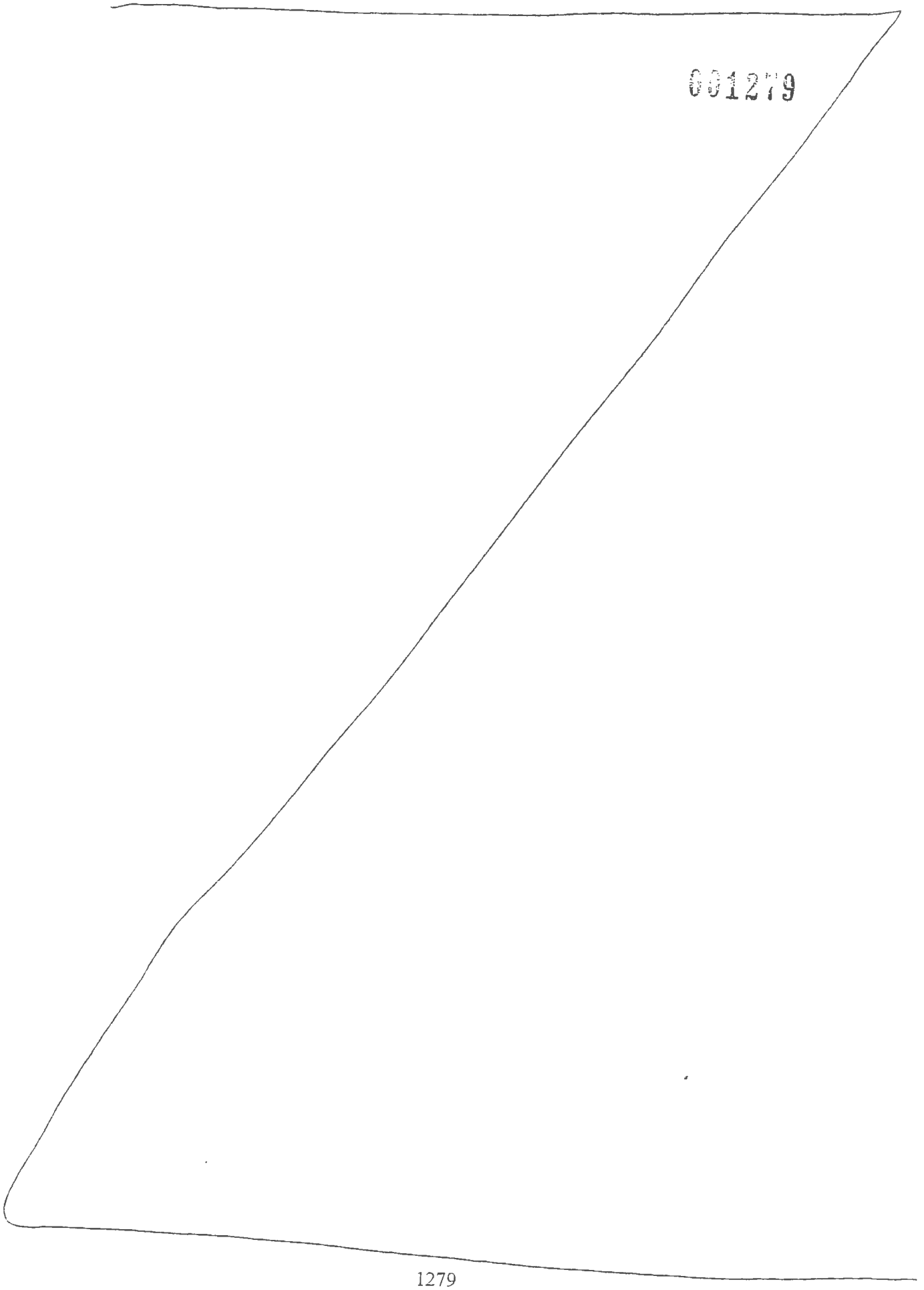
<u>Conclusions in relation to Egrant</u>

277. We have therefore now carried out extensive searches of all data sets for references to Egrant and potentially related entities. From this we conclude:

1. We have found nothing in the digital data to suggest that Mrs Muscat, either personally or through companies she may own, had anything to do with Egrant.
2 We have not seen any documents revealing that the UBO of Egrant was anyone other than Brian Tonna.
3 There is also nothing to suggest that there was ever a bank account opened in the name of Egrant.

278. We would mention that there is actually a much greater certainty of completeness with the searches for the word "Egrant" than in relation to any of the topics in the other 14 assertions. The other allegations contain a number of non specific terms and phrases which make it very difficult to search the data with any great degree of certainty. However when applying just one word or the proper name "Egrant" we can be very specific in reporting our findings within the data. This is because the degree of certainty that you have found everything relating to the topics of the other assertions is somewhat diluted as we are having to devise sophisticated key word searches to cover the scope of the assertion that was made.

001279



5. Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

279. We have not found any digital versions of the Declarations of Trust you have been given which allegedly show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat". We understand that these were allegedly provided to Pilatus by Brian Tonna when it is alleged he opened a bank account for Egrant Inc. Their absence from the data sets of Nexia BT, Pilatus Bank and the Panama Papers would suggest that the Declarations of Trust you have been given were not created in either Pilatus or NexiaBT or by Mossack Fonseca.

280. We carried out searches of the data using various Boolean variations related to the name "Michelle Muscat" and abbreviations thereof.

281. We understand that the Prime Minister's wife is the Michelle Muscat with ID reference 260174M and DOB 16/5/74. A search of the data for "Michelle Muscat" (or variations thereof) returns 605 files. Unfortunately, most documents do not refer to any ID number to enable us to filter our searches and it appears that the Prime Minister's wife has a number of "namesakes".

282. The searches therefore found files which link the name Michelle Muscat to a number of other entities. To illustrate this point, searching the data for the name "Michelle Muscat" reveals links which include:-

1. Maltese company numbers 15286, 26746, 105107, 142636 - (in the file "ccr_business register" on Pilatus Server) – no names are given
2. Lemon Grass Company Limited, Malta
3. Mr David Vella, David Vella Trading Limited, Malta
4. 8 Point Services Ltd 30/11/08. [Doc 5.3] - a Michelle Muscat with ID references ID 260174M DOB 16/5/74 was employed in 8 Point Services Ltd C34327 by Brian Tonna. Her role was to provide assistance with MEP activities. There is an agreement between Brian Tonna and this Michelle Muscat involving the organisation of visitor groups and technical activities in

Malta, Brussels and Strasbourg in relation to duties with Mr Luis Grech (MEP) in the period up to 3/6/09

5. Noi Tre Ltd – a Michelle Muscat is listed as a director of this company in a NexiaBT client listing of "One off clients" on 16/2/17

6. Wonka Co Ltd – a Michelle Muscat is listed as a director of this company in Nexia client listing of "One off clients" on 16/2/17. Also in "Full List – Local – Clients- 07.10.2016" "Ms Michelle Muscat" is listed under Wonka with email address michmus68@gmail.com and contact 2 is Mr. Noel Mifsud. She is also listed again as a private individual on this list.

7. Bankok Products Ltd - a PDF file created 25/2/17 is named MuscM - it contains accounts for Bankok Products Ltd – a small company with no apparent links to any M Muscat. However, the file name could be an abbreviation for Michelle Muscat. We also note that there is a Nexia BT WIP report for November 2016 that has an entry for this company which states "Discussions with BOV + email to Michelle re temporary excess". This company appears on client lists as being a client receiving services from each of the many Nexia BT companies despite appearing to be a very small entity.

8. a list of "Locked accounts" 23/4/13 re interest charges in relation to Energy Malta & ARMS– (it lists Michelle Muscat among the names with locked accounts)

9. capital projects of OPM re a Fashion Museum / Atelier discussed in an email to B Tonna on 15/10/14 [Doc 76]

10. Co-Ops - 4/10/13 there is an email from michelle.b.muscat@gov.mt – Michelle Muscat at CO-OPS. The text is in Maltese. A later email in the chain in English suggests it's about the liquidation of a Co-Op. [Doc 77]

11. Chairperson of "The Marigold Foundation" - 21/7/15 Authorisation "The Marigold Foundation" V0/0942 "Presidents Trust". Michelle Muscat and Elvia George. [Doc 78]

12. hospitality - 15/7/16 in Email List of Nexia her email is given as michmus68@gmail.com and her business type as hospitality [Doc 79]

13. correspondence to people in connection with events like charity swims, invites to Xmas Networking receptions, gala dinners, Women Ahead forum

14. There is a 'Linked in' snippet re "Michelle Muscat, Operations Manager at Amstel Capital Malta Ltd".

15. The "confidential list" re "WDM" directors includes Ms Michelle Muscat of GANADO Advocates - michelle.muscat@gmail.com

283. As it is not clear to us which, if any of the above, relate to the Prime Minister's wife, further searching and investigation of the above entities appears to be outside the scope of our work in relation to the 14 specific assertions. We are happy to carry out further work on these entities if you require.

Conclusion on declarations of trust and "Mrs Michelle Muscat".

284. As noted above, we have not found any digital versions of the Declarations of Trust you have been given nor we have seen any other documentation that links Michelle Muscat to Egrant Inc either through Mossack Fonseca nominees or in any other way.

Joseph Muscat

285. The DCG blog assertion also appears to imply a connection to Prime Minister Mr Joseph Muscat although it does not specifically name him. The digital data of both Nexia BT and Pilatus contain many references to Joseph Muscat and to entities and transactions linked to this name (some of which may not relate to the Joseph Muscat who is the Prime Minister). These documents are not detailed in this report as they fall outside the scope of the specific assertions though none that we have seen reveal any link to Egrant. We are happy to carry out further work on these names if you require.

6. The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

286. Our searches revealed that the Pilatus computer systems contain many lists and ledgers detailing all Pilatus customers and their accounts. None of these documents reveal any bank account in Pilatus Bank in the name of Egrant.

287. There is also no account opening form or mention of any request for an account to be opened for any entity containing the word Egrant within the data seized from both Pilatus and Nexia BT.

288. The only documents within the Pilatus Bank server that we have seen that contain the name of either Michelle Muscat or Egrant are digital downloads of newspaper reports and DCG blogs.

289. In the Pilatus Bank records there is however a reference to "E". In the Bank's Board of Director's meeting No 12 - on 6th October 2016 (minutes dated 17th November 2016) [Doc 80]. In those minutes Ali Sadr (AS) pointed out that there were only two unsecured loans, namely that granted to E and to A. (AS) queried when these loans would closed and HRG confirmed that E's two year loan would end in November 2017. We therefore searched the data to try to identify who Ali Sadr might be referring to by the letter "E".

290. The 2016 Audited Accounts of the bank [Doc 81] were still at final draft stage on 20/4/17 (auditors KPMG) but record the Pilatus loan book as at 31 December 2016 to comprise:

Customer	Amount
Rynt Corp Limited	USD 5m
Titkan Pulp and Paper FZC	EUR 31m
Altitude Capital LLC	USD 1.5m
IW Beligica Holdings	EUR 10m

Exir LLC			USD 1m
Kimberley Holdings	Gamma	Property	EUR 15.6m
Negarin Sadr			USD 1.5m
Yasemin Aral			USD 1.22m
Yasemin Aral			USD 2.53m
KR Holdings			GBP 2.4m
Lonalta			GBP 0.88m
Raphael Investment			USD 73M
Ashborn Overdraft			USD 1m

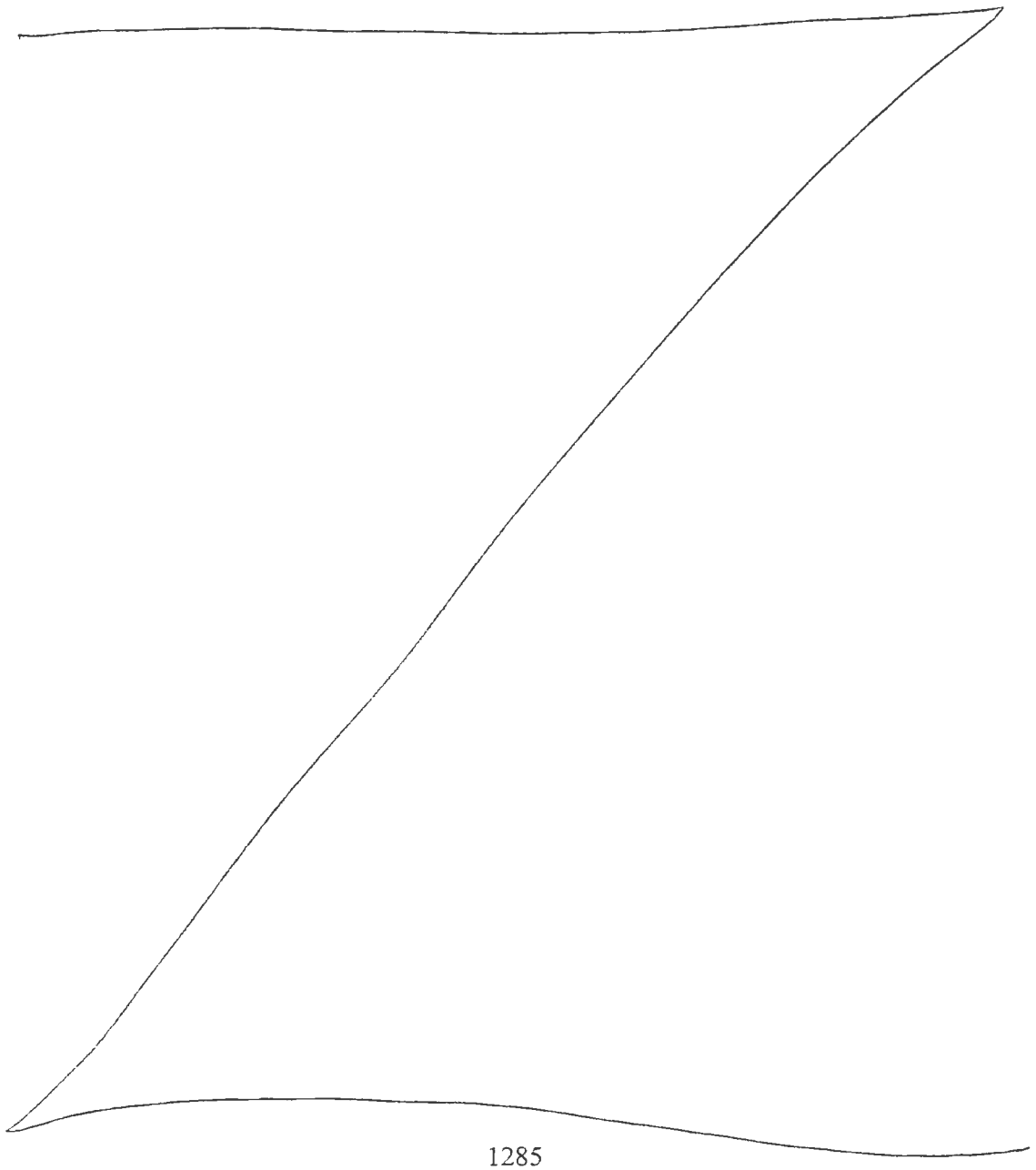
291. It seems probable therefore that the references to "E and to A" are referring to Exir LLC and to Altitude Capital LLC. From checking the credit applications of both companies it is clear that they both have unsecured loans. [Doc 82 & 83]. We therefore conclude that it is probable that Ali Sadr was not referring to Egrant when he used the abbreviation "E" in this context.

Conclusion

292. We have found no documents which suggest that any declarations of trust in relation to any entity containing the word Egrant were provided to Pilatus by Brian Tonna or anyone else.

7. These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

293. The data seized does not contain any trace, either in files or in snippets of files remaining in the "Unallocated clusters" data, of these files being scanned or uploaded to the internet. Our searches therefore have not found any digital records to suggest that such documents were ever in the banks possession or uploaded.



B. US$1.017 million transfer to Egrant Inc from Al Sahra FZCO article: -

8. In March last year (2016), Al Sahra FZCO — a company incorporated in Dubai's free zone — made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

294. Our searches have found no evidence that this specific transaction ever occurred in Pilatus Bank. For completeness we have set out below our findings on entities and transactions which might bear some resemblance to the asserted transaction.

Al Sahra FZCO

295. If an entity called Al Sahra FZCO exists, it does not have a bank account in Pilatus bank according to the digital records. Therefore if this specific payment was made it was made from another bank and it was paid to a separate bank account which was also not held at Pilatus Bank in Malta.

296. Carrying out a Boolean search of the digital data for files containing "Al Sahra" and not "Shams Al Sahra" returns only three documents as follows: .

- Weekly activity report from Carmichael Fisher, Executive Search & Selection dated 4.6.09 [Doc 8.2]. This states *"03/03/2009 Ez Al-sahra Retained 3 rd 05/05/2009 Offer/VISA Waiting for visa"* [Doc 8.2] and "31/3/2009 – Ex-Al-Sahra Retained 2nd 5/5/2009" [Doc 84]
- Dubai weekly activity report from Carmichael Fisher, Executive Search & Selection dated 10/5/09 – apparently for Arienne Gaerty [Doc 85]
- Homily Recording – email from Stefan Borg to Anita Aloisio and others 4/9/16 [Doc 86]

297. These documents do not appear to be relevant to this inquiry.

298. The Nexia computers also make reference to a "Sahra Group" under a list of contacts which lists "Jamal Alkaf, managing director, info@sahraconsulting.com. [Doc 87].This entity has not been found on the Pilatus computers, does not appear to have a Pilatus bank account, and appears simply to be a contact of the bank.

Shams Al Sahra FZCO and Al Sahra FZCO

299. There are accounts with Pilatus in Malta for both Shams Al Sahra FZCO (customer number 101731) and Sahra FZCO (customer number 101150). Due to the similarity of names to the "Al Sahra FZCO" mentioned in the assertion we set out below our findings on these.

Shams Al Sahra FZCO

300. Shams Al Sahra FZCO has 4 accounts (for which we exhibit bank statements), as follows:

- AED a/c 101731CACOAED103 [Doc 88]
- EUR a/c 101731CACOEUR108 [Doc 89]
- GBP a/c 101731CACOGPB102 [Doc 90]
- USD a/c 101731CACOUSD105.[Doc 91]

There is a Pilatus 'KYC' ('Know Your Customer') form - SAS – 8/3/16 [Doc 92] which records that:-

- It is an UAE based holding company which has been set up to hold the real estate assets -both commercial and residential- of the UBOs, the Heydarovs, in Dubai.
- the 50/50 shareholders are Tale and Nijat Heydarov.
- the contact is Robert Baker
- the signatories on the bank account are Robert Baker and Farnoush Farsiar.

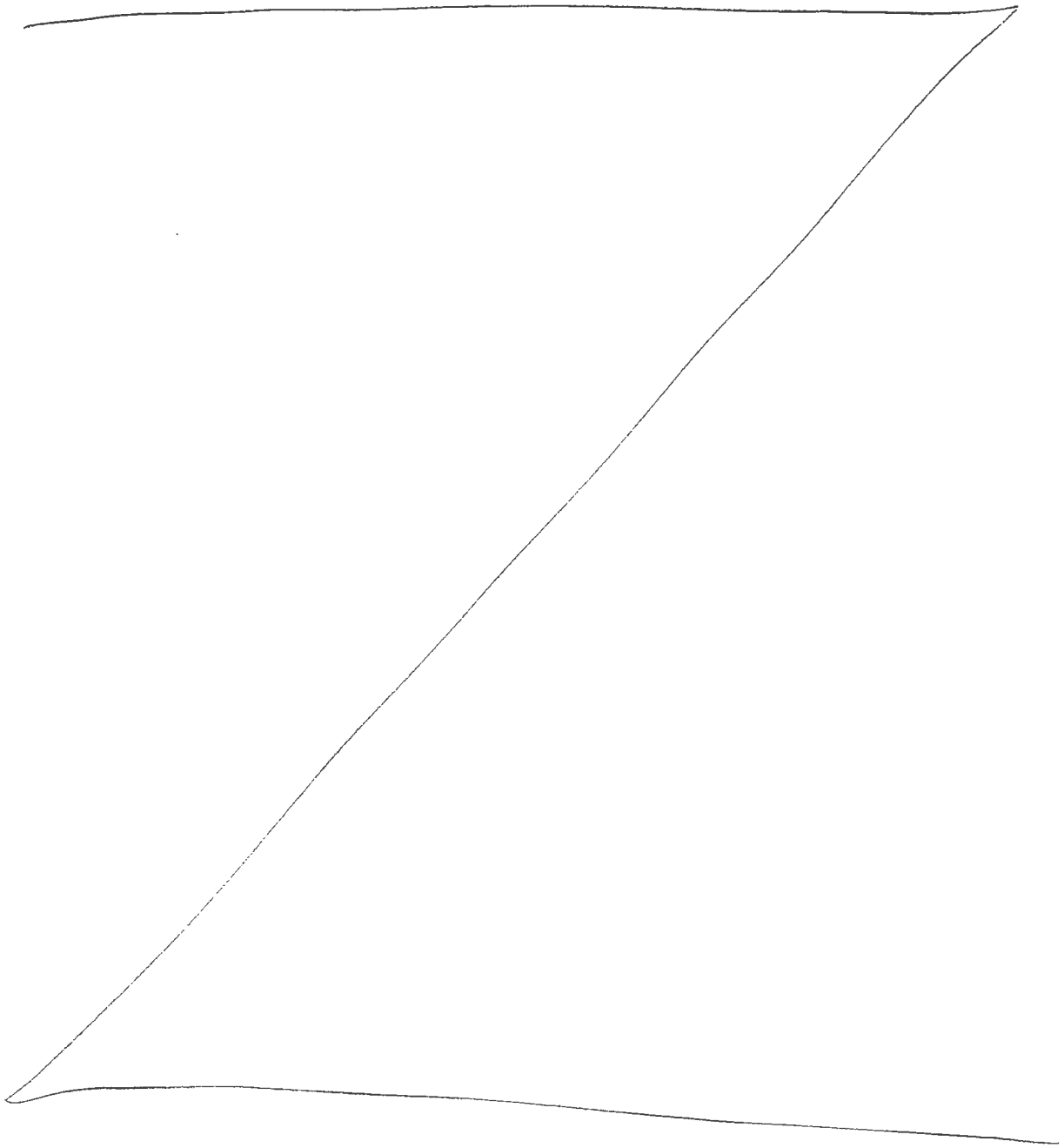
301. There is an Account Opening Form, ('AOF'), dated 13 December 2015. However, there is then a delay of around two months before it is signed off by the Heydarovs and Robert Baker on 20 February 2016 [Doc 93]. This then goes for approval and a Know Your Customer form, ("KYC") is dated and signed off on 8 March 2016 (Doc 92).

302. The formal written letter opening the accounts was dated 22 April 2016. The account was not actually used until 9 February 2017.

303. The bank statements suggest that the USD, EUR, and GBP accounts have never been used since they were opened. The AED bank account received only three receipts totalling AED 931,941 between 9 February 2017 and 13 April 2017.

304. It seems to us unlikely that the company which DCG was referring to in her assertions could have been Shams Al Sahra because:

- Leyla Aliyeva is not recorded as a UBO of Shams Al Sahra FZCO.
- The recorded transaction activity is clearly a year after the transfer which is alleged by DCG to have taken place in March 2016.
- Whilst documents in contemplation of an account being opened were being prepared while Maria Efimova was with Pilatus Bank the account was not apparently opened until after the date when she left it.



Sahra FZCO

Sahra FZCO had 4 accounts (for which we exhibit bank statements) as follows:

- AED a/c 101150CACOAED106 [Doc 94]
- USD a/c 101150CACOUSD108 [Doc 95]
- EUR a/c 101150CACOEUR100 [Doc 96]

GBP a/c 101150CACOGBP105 [Doc 97]

The Pilatus 'KYC' ('Know Your Customer') forms we have seen "Sahra FZCO – 20/8/15" [Doc 98] record that:-

- The shares are owned 50/50 by Arzu & Leyla Aliyeva.
- The contact persons and Account Signatories are Farnoush Farsiar & Robert Baker.
- It's a UAE based holding company which has been setup to hold the real estate assets -both commercial and residential - of the Ultimate Beneficial Owners (UBOs) in Dubai.
- It's a Jebel Ali Offshore Company incorporated 2004 in Dubai controlled from UAE, UK, Azerbaijan.
- It's source of income is dividend distributions from "Yassat Gloria Hotel Apartments" which is 100% owned by the UBOs, the Aliyevas.

305. There is a handwritten Account Opening form for Sahra FZCO dated 13 August 2015 which is signed by Leyla Aliyeva and Farnoush Farsiar see [Doc 99).

306. There is a very high value of transactions on the Sahra FZCO accounts. For example, AED 87,670,389 is paid in between September 2015 and March 2016. There are also a substantial number and value of transfers from this company to various companies in Dubai, including Palma Management Consulting DMCC.

307. On the basis of the number and value of transactions on this company's bank accounts with Pilatus in the relevant period, in our opinion it

is more likely that it is this company which is the subject of the assertion made by DCG and Maria Efimova. This possibility is also supported by the fact that it was Maria Efimova who signed off on some of the transfers on the Sahra FZCO account.

US$ transactions by Sahra FZCO with in the relevant time frame of the DCG assertion

308. We do not see any single payment transaction of US$1.017 million at any time on any of the Sahra FZCO accounts and certainly not in March 2016. Its Euro and GBP accounts were not even used in the period between 23 August 2015 and 22 August 2017. We also do not see any transfer from any of these accounts to a company called Egrant. For completeness we have reviewed other activity on these accounts in and around the period of the asserted transfer.

309. On 4 September 2015 Sahra FZCO transferred AED 58,000,000 (apprx.$15.8m) from their newly opened AED bank account AED a/c 101150CACOAED106 to the company's US$ a/c 101150CACOUSD108. Palma Management Consulting DMCC is a consultancy company based in Dubai.

310. Then on 7 December 2015, $252,522.48 was transferred out of Sahra's USD$ account 108 to Palma Management Consulting DMCC (a/c ref: AE560260001014897823101) marked DEWA DEPOSIT.

311. On 18 January 2016 a further amount of $624,058 was transferred out of Sahra's USD$ account 108 to Palma Management Consulting DMCC (a/c ref: AE560260001014897823101) also marked DEWA DEPOSIT.

312. These transactions are the only US$ transactions which appear on the Sahra FZCO bank statement within the relevant period of the DCG's assertion (say December 2015 to March 2016.)

Palma Management Consulting DMCC

313. One possibility for a transfer having taking place in March 2016 would be if the payments which Sahra FZCO made to Palma Management Consulting

DMCC were in turn used to make payments from Palma's Dubai bank account to a separate Dubai account set up in the name of Egrant or to a company whose beneficiary could be Muscat. If Palma Management Consulting DMCC were the conduit for such transfers we have no means of tracing the onward recipients of the transfers made by Palma in Dubai to third parties.

314. We note a banking reference on Sahra's bank statement - a/c ref: AE560260001014897823101. This may or may not correspond to that of the Palma bank account in Dubai and may be of use if requesting further information regarding the Palma bank account in Dubai.

315. There are clearly very substantial transfers taking place between the Pilatus bank account of Sahra FZCO in Malta to Dubai in the relevant period stated in DCG's assertions. We do not however have any evidence linking the recipient of the funds in Dubai (Palma Management Consulting DMCC) to any onward payments to Michelle Muscat or to a company called Egrant.

Sahra FZCO and Shams Al Sahra FZCO are closely linked

316. Our searches reveal that Sahra FZCO and Shams Al Sahra FZCO are closely linked. They jointly own property in Emirates Hills First, Dubai and also both have the same authorised signatories for their Pilatus Bank accounts - Robert Baker and Farnoush Farsiar [Doc 100 and Doc 101] The two companies, their UBOs and their agents therefore appear very closely linked.

The Aliyeva and Heydarov families and their business networks

317. The data seized from Pilatus Bank contains a large number of files relating to the Aliyeva and Heydarov families, their business networks, agents, transactions and methods of operation. We carried out some preliminary searches to broadly identify their key entities and agents and some of their connections. This was originally to gain some understanding of the context of the asserted transfer.

318. Our preliminary listing of the individuals and entities identified is reproduced in Appendix 11. However, as this wider network of entities are

not specified in the DCG blog assertion, it was considered to be outside the scope of our work to investigate the complex web of companies and business entities further. We will be happy to carry further work on this if requested.

The number 1,017,000

319. The number stated in the DCG blog of USD 1,017,000 strikes us as unusually precise from our examination of the data. We have not found a transfer of this figure in March 2016 in Pilatus bank records. There are however other transfers of around this amount or greater than this which could conceivably cover a transfer of this amount to some other party.

320. If this specific transfer did not exist we wonder why this figure was asserted. Searching Pilatus computers and servers for "1.017" returns 4,842 documents. Many are Pilatus accounts and statements with transactions or balances of 1.017 million; so it is not that uncommon. For example:

- Shams Al Sahra has the account number 101731 [Doc 102]. Clearly this is not a transaction but an account number.
- Ashborn Corp balance (Principle – it appears to be a loan roll over on 1/9/16 is USD1,017, 204. [Doc 103]
- Lonalta Limited has an account number of 101730 – it has a transfer of £1,094,605 to Harrow Law Practice, London on 13/5/16. [Doc 104]
- The figure appears also in emails from Tatiana re "Transaction Costs for Test Securities" [Doc 105]

321. Of these findings it is interesting to note that the word "Al Sahra" and the number "1017" are linked by that company's Pilatus account number; this may or may not be just a co-incidence.

322. In relation to the Ashborn Corp balance we note that the interest is calculated on different examples at 18.2% and 31.4% and is described as penalty interest. There are a series of emails with the title "Ashborn overdraft penalty interest" between Tatiana Zammit and Mehmet Tasli. [Doc 106] There are several thousand documents containing Ashborn - including bank statements etc – and a huge number of transactions. Many appear to us suspicious (including several in March 2016) but we see no obvious link to the asserted transaction with Egrant.

323. With no obvious or direct link with the asserted transaction involving Egrant, further investigation of these matters appears to us to be outside the scope of our work and has not to date been undertaken. We will be happy to investigate further if required.

Conclusion

324. We have seen no evidence in the digital data of any transfer from an entity with "Sahra" in its title to an entity with Egrant of US$1.07 million in March 2016 as mentioned in the DCG blog.

325. If an entity called Al Sahra FZCO exists, then according to the digital records it does not have a bank account in Pilatus Bank in Malta. Therefore if this specific payment was made, it was made from another bank and it was paid to a separate bank account which was also not held at Pilatus bank.

9. The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

Egrant bank account in Dubai

326. Key word searches of the Pilatus data for files containing both "Egrant" and "bank account" returned no files. Similar searches on all other data sets found 88 files which are mainly downloads of newspaper reports and none of which provide any evidence of a bank account in the name of Egrant. The data seized has not been found to hold any details of accounts held in banks in Dubai (we would not expect that it would).

327. We have made enquiries through our international intelligence banking contacts to establish if a bank account in the name of the company Egrant existed in Dubai. No Egrant company bank account has been found by these contacts.

Loan payments from "Sahra"

328. Our searches have found no evidence of any "loan payment" being made from any Pilatus customer with the word "Sahra" in its name. Therefore, if Egrant received payments from any entity with Sahra in its name they must either have been paid through a bank other than Pilatus in Malta or via another company.

329. We have also located a Pilatus spread sheet (16 Pilatus Bank Financial Statement v9_final_after_tax&dividends.xlsx [Doc 107]) that shows loans by Pilatus to customers in 2016. There are 15 entities on this sheet but none of the customer names contain the word "Sahra".

Loan payments from other entities

330. There are five Pilatus customers whose bank statements contain the entry "Loan payment" or "loan repayment". These are:-

- NH investments GBP
- NH investments USD
- TKH Investment Limited GBP
- Hereti Holdings Limited USD x2 for different dates
- Heritage Collection S.A. EUR

331. However, from our analysis these entries all appear to relate to the repayment of loans taken by the customer from Pilatus. We have seen no instances of any payments to any entity other than Pilatus being described as the payment of a loan.

332. A possible exception to this was one transaction on the 13/07/2016 from Heritage Collection S.A. to TKH Investment Limited for 2.5m EUR.

333. Some WhatsApp messages within Pilatus (for example between Mehmet and Hamidreza between 4/4/16 and 13/6/16 [Doc 108]) contain references to the funding of substantial loans but they do not mention who these are for and it seems probable they are simply referring to loans from Pilatus to customers.

Payments from Sahra FZCO to other entities with bank accounts in Dubai

334. The data does reveal that Sahra FZCO made substantial payments to other bank accounts in Dubai during the relevant time period.

335. Sahra FZCO's USD account shows that on 18 January 2016 USD $624,058 was transferred to a Dubai account in the name of Palma Management Consulting [Doc 109]. This of course could cover several onward transfers of $100.000 to Egrant.

336. Palma Management Consulting DMCC (usual abbreviation – PMC) is closely related to both Robert Baker and Thamer Aidi (husband of Farnoush Farsiar) [Doc 110]

337. Baker and Aidi run a business called Paddington Partners Ltd registered in Guernsey. Baker and Thamer signed a letter of engagement to run all the business interests of the Heydarov Family business signed on 27th May 2012 and renewed on 22nd January 2014. These documents are signed by Tale and Nijat Heydarov.

338. Palma Management Consulting issues relatively large invoices (for example. $200,000) to the Aliyeva / Heydarov companies for "Administration fees" (sometimes the document is described as rent, travel expenses, reimbursements etc) [Doc 124]. The email instructions for the related transfers are usually from Robert Baker [Doc 125] and are accompanied by all the invoices supposedly being paid.

339. The Sahra FZCO bank statement ("Account Statement with Tax References standard (70) [2]]" Doc 126]) shows a receipt of AED 1,789,826 on 03 March 2016 from Mirk General Trading in Dubai. There is then a payment on the same day of AED 180k to Pulma Management Consulting (this is probably a typo for Palma). This followed on 5 April 2016 by a payment of AED 300k to Salam Advocates Legal Consultants in Dubai. These transactions clearly do not specifically correlate with the transfers alleged by DCG but we note them for completeness due to the co-incidence of time and location.

Payments from Palma to an un-named bank account

340. This company acts for both the Aliyeva and Heydarov families and has a bank account operating in United Arab Emirates [Doc 111] (Invoice with bank account details on it). Transactions with PMC feature in 12 customer accounts at Pilatus and for almost all of the Azerbaijani companies (both Aliyeva & Heydarov) . A copy of these bank statements are included at Docs 112 to 123].

341. If we consider document 123, it can be seen that it is a bank statement showing transactions with PMC - 2 amounts of 105,000 in transfers to an 'unnamed' bank account. This looks suspicious as we understood that all transactions within Pilatus operated within a defined account framework.

342. On further research, it would appear that these transactions may be related to foreign exchange suspense accounts because the transfers were made in AED currency. There is an email on 16 August 2016 between Antoniella Gauci, an accounting manager and Mehmet Tasli, discussing unmatched transactions which are highlighted. Mehmet says the Palma transactions 'are pending for closure as we do not have facility with BoV anymore.'

Other "loan payments" of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

343. Our searches of the data found no evidence of payments in these amounts from the account of any entity with Sahra in its name.

344. We do note that there are payments of US$100,000 each made on 15 and 20 January and 8 and 29 February through the accounts of Ali Sadr and people and companies related to him. These are summarised in Appendix 12.

345. There is no evident connection between these payments and the assertion made by DCG and we have not investigated the matter further. We will be happy to investigate further if requested.

10. The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsiar.

346. As noted above we have found no account in the name "Al Sahra FZCO".

347. As also noted above the Pilatus KYC and account opening forms we have seen for customer names containing the word "Sahra" record:-

- Sahra FZCO – 20/8/15 - Shares are owned 50/50 by Arzu & Leyla Aliyeva. Contact person is Farnoush Farsiar/Robert Baker [Doc 98]

- Shams Al Sahra FZCO SAS – 8/3/16 – Shareholders are 50/50 Tale and Nijat Heydarov, contact Robert Baker, signatories are Robert Baker and Farnoush Farsiar. [Doc 93]

348. This would suggest that the entity being referred to in the assertion is in fact Sahra FZCO.

349. The Pilatus KYC forms found in the digital data do identify Arzu Ilham Qizi Aliyeva & Leyla Ilham Qizi Aliyeva as daughters of Mr. Ilham Aliyev the current President of the Republic of Azerbaijan. They state that Leyla Ilham Qizi Aliyeva was born in Moscow Russia, 3 July 1984 with Arzu born there on 23 January 1987. The KYCs for both give their address as The Palm Jumeira, PO Box.116939, Dubai, UAE, and their source of wealth as "Sofitel Dubai-The Palm Resort & Spa" & "Yassat Gloria Hotel Apartments. As noted earlier in this report they are the UBOs of multiple companies (including Sahra FZCO) having accounts with Pilatus Bank.

350. Searching for Leyla Aliyeva finds around 7,000 files. These searches reveal Leyla Aliyeva and Farnoush Farsiar to be involved with Pilatus bank accounts opened in the names of several companies and individuals.

351. The digital data states that Farnoush Farsiar is British, born on 13 July 1981, with address, Flat 1, 4 Upper Belgrave, SW1X 8BD, London. She is described as a career private banker with ENBD and Barclays and a former colleague of Hamidreza Ghanbari. She is described as working with the patriarchs of Ultra High Net Worth families. A list of 9 of her directorships is included in ActiveDocs_Appendix I FF PQ [Doc 127]; a further list of entities which appear associated with her is set out in Appendix 12.

352. As noted earlier in this report Farnoush Farsiar is a signatory on the Pilatus Bank Accounts of both Sahra FZCO and Shams Al Sahra [Doc 100 & 101] and along with Robert Baker appears to play a significant role in the financial management of both the Aliyeva and Hedarov families. Not surprisingly therefore she features in almost 5,000 files in the Pilatus data.

Conclusions

353. We therefore conclude that assertion 10 is partially correct if the word "Al" is removed from the name of the entity involved. However, even then the assertion is not precise and correct. Leyla Aliyeva is an UBO of Sahra; but she is not the only UBO as the allegation seems to imply. Her sister Arzu is also UBO of Sahra, and yet the assertion omits this important detail. Moreover, whilst it is true that payment instructions were given by Farnoush Farsiar, there is no evidence showing that she gave payment instructions in relation to the alleged transaction mentioned in the article.

Other points

354. Robert Baker and Farnoush Farsiar have multiple business interests, several of which have accounts with Pilatus Bank and they appointed James Muscat of Muscat Azzopardi & Associates as their lawyers in January 15.

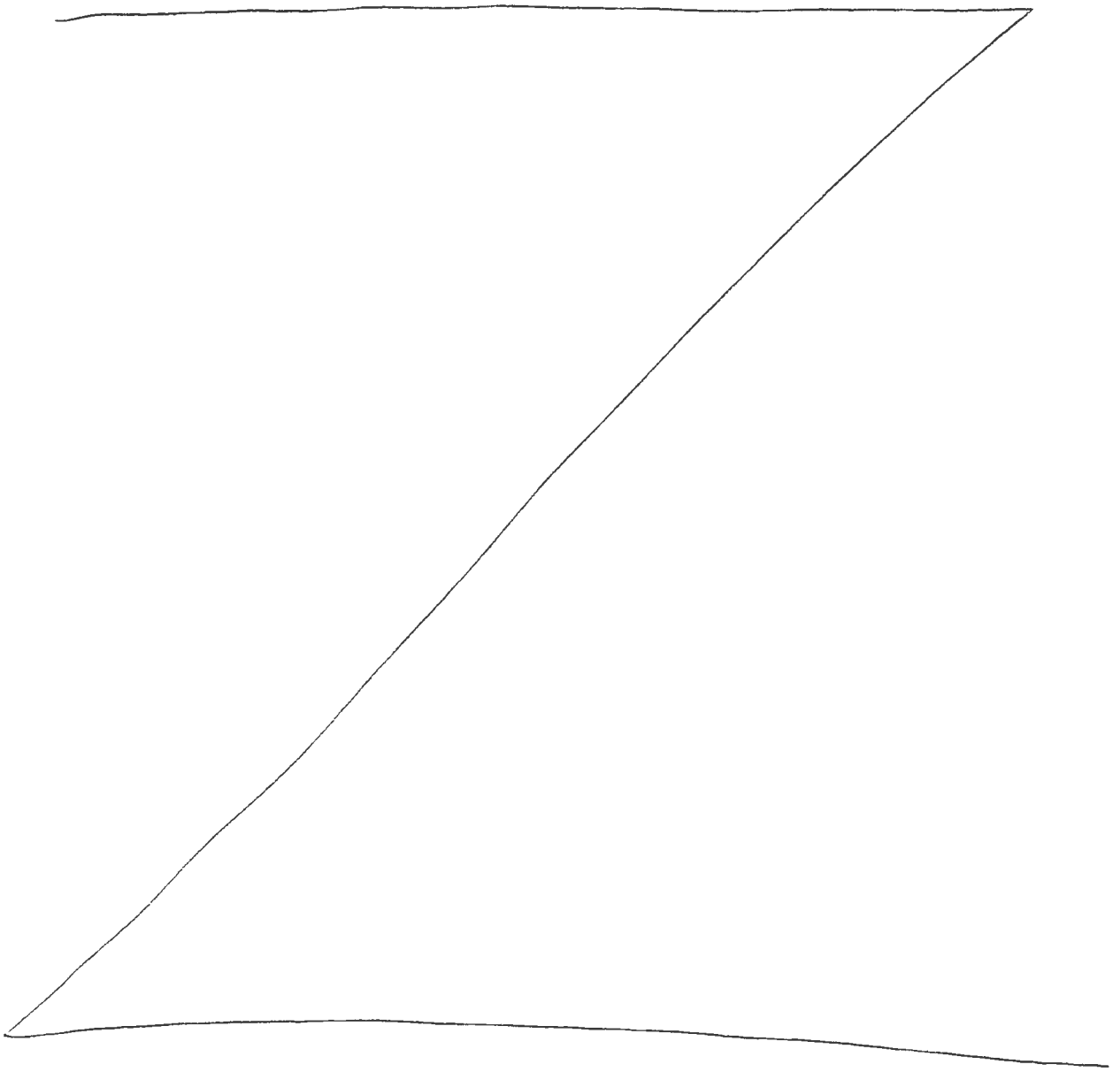
355. The digital data also shows that a Power of Atorney was given to Mr Thamer Aidi (he is Farnoush Farsiar's husband) on 30/3/14 by both Arzu & Leyla Alyeva [Doc 127).

356. The data also shows that another bank used by Leyla Alyeva is First Gulf Bank.

11. Egrant Inc also has an account at Pilatus Bank in Malta, but the money was - significantly - not paid into that account. It was moved out of the country.

357. As noted earlier in this report, our searches have found no evidence that there was ever a bank account opened for Egrant at Pilatus Bank in Malta. The word Egrant does not appear in any of the digital documents relating to Pilatus bank accounts, customers, or transactions.

358. Pilatus Bank in Malta was of course significantly involved in international transfers. However, we have not seen any evidence of any international movement of money in which Egrant is mentioned.



12. The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US Correspondent banks) stopped it. After several days of negotiations, it went through.

359. As noted above, we have seen no evidence of entities with the name of either "Al Sahra" or "Egrant" having accounts with Pilatus Bank Malta.

360. We also have not seen any such questions from corresponding banks in relation to transactions from accounts with the word "Sahra" in the title.

361. We would also note that over the period in question Pilatus was involved on an almost daily basis with a large number of multi-million dollar transactions and it therefore seems to us unlikely that a transaction of only USD 1 million would by its size alone raise any questions.

362. In our review of the emails of Michael Satariano, there is an interesting exchange of emails with Maria Efimova of Pilatus in mid March 2016 involving chasing up transactions. We discuss these below under Assertion 13.

363. The digital data does reveal activity in relation to the Pilatus bank accounts of Negarin, Yasemin Aral, Exir Ltd and Ashborn Corporation leading up to and during February 2016 which closely resemble this assertion (and others made by DCG in other blogs which are not the subject of this enquiry). As these do not appear to have a direct correlation with your enquiry we have not detailed them in this report but will be happy to advise further on this if requested.

13. Until the payment was released, an employee at Nexia BT which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 - rang Pilatus Bank several times a day, every day, to check on progress and to chase it up. This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.

365. Our data searches have found no evidence to support any of the points made in this assertion.

366. The data reveals that it was Karl Cini of Nexia BT made the arrangements to set up Egrant with Mossack Fonseca in 2013. We understand that he is still with Nexia but one employee who did work with Cini at that time, and left in 2016, was Michael Satariano.

Michael Satariano - Nexia BT employee

367. In our review of the emails of Michael Satariano, there is an interesting exchange of emails with Maria Efimova of Pilatus in mid March 2016. [Doc 128]. Satariano is complaining to Maria Efimova and Hamidreza Ghanbari about delays in getting a bank account at Pilatus opened for Privilege Limited and Exiat Holdings Limited, which are companies linked to Italian persons called Fiore and Corrado. The emails are all marked URGENT, and there seems to be a lot of urgency about having to go back to the clients and it not being good enough. Satariano and Nexia appear to be under pressure from the client.

368. We can see no obvious connection between the UBOs (Fiore and Corrado) of these companies, Privilege, Exiat and Gordon Trading and either Egrant or Michelle Muscat. However, the 'pattern' of these emails fits in exactly with the assertion made in DCG's blog which apparently came from Maria Efimova herself.

369. If you replaced the name 'Egrant' with 'Exiat' or 'Privilege' and replaced the name Muscat' with 'Corrado' as the UBO then the email exchange would fit closely with the scenario Efimova claimed around the USD $ payment to Muscat.

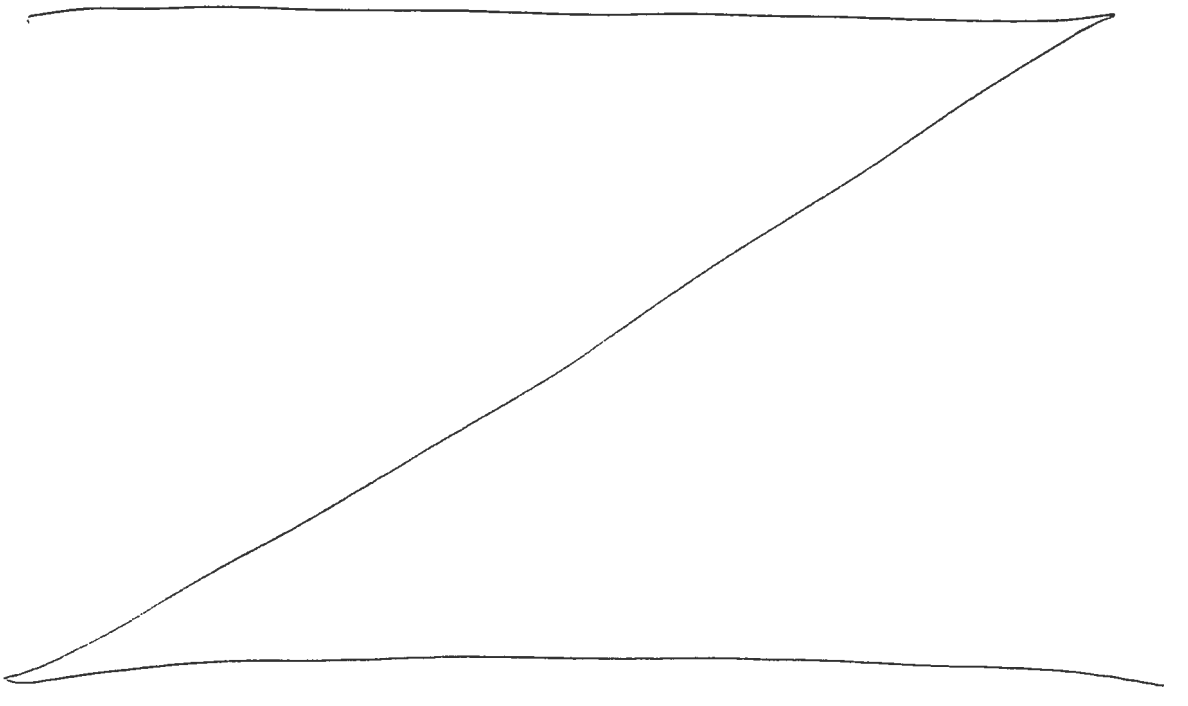
14. The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta. Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

370. The Pilatus records searched do not show any bank accounts being opened, nor any discussion of the possibility of opening bank accounts at Pilatus for Egrant, Tillgate (UBO Keith Schembri) or Hearnville (UBO Konrad Mizzi).

371. For example, the spread sheets (USD Current Accounts_20170407 and KYC database 29/10/2016 – [Doc 129 & 130] list no account for Egrant ,Hearnville or Tillgate.

372. What accounts may or may not be held in a bank or banks in Dubai has not been revealed, nor is it likely to be revealed, by searches of the digital data made available to us.

373. We have discussed under assertion 4 above the evidence found of attempts to open bank accounts elsewhere for Tillgate and Hearnville.



OTHER MATTERS

Maria Efimova

374. Maria Efimova is not mentioned in the DCG blogs but we understand that she appears to have provided information to Daphne Caruana Galezia. We have identified a number of documents which give insight into Ms. Efimovas involvement and role at Pilatus Bank and have briefly outlined some of these below.

Her employment status

375. In her testimony [Doc 131] she stated that she was working with the bank from 18 January 2016 until 28 March 2016. This seems borne out by the documents we found as follows:

- An unsigned Contract of Employment dated 15 January 2016 to be signed by Ali Sadr, Hamidreza Ghanbari and Maria Efimova (Doc 132) ;
- this Contract stipulates a salary of $25,000 payable monthly in arrears;
- It describes her role as that of Executive Assistant.
- An unsigned consultancy services agreement (Doc 133) also dated 15 January 2016 which stipulates a period of Consultancy services from 15th January 2016 to 31st January 2016.
- The consultancy agreement stipulates a payment of 1,040 payable to the Consultant for that portion of the month, payable on 31st January 2016.
- An unsigned letter of termination of employment dated 29 March 2016 (Doc 134) with signatory to be Hamidreza Ghanbari - this is formal notification stating that the Bank does not intend to pursue further the Contract of Employment proposed to her on 15 January 2016.
- A draft letter from a Dr Joseph Giglio LLD, lawyer for Pilatus dated 18 April 2016 (Doc 135) to the Dept of Industrial and Employment Relations stating her claim that she was not paid for her work was unfounded.

Her work in Pilatus Bank

376. The data contains a number of 'Know Your Customer', 'KYC' forms she has assisted in completing .(Doc 136)

377. There are also many transfer requests where it is recorded she was involved in call backs to confirm the transactions. One of these forms involves Sahra FZCO in February / March 2016 requesting a transfer of AED 100,000 to Palma Management Consulting limited. There are also four similar documents involving Picasso Holdings Ltd transferring sums to Palma. The details on these forms are summarized as follows:

1. AED 180,000 – 15/2/16 – Sahra FZCO – transfer of AED 180,000 to Palma Management Consulting, Emirates Bank – execution 3/3/16, 2nd call back was Maria Efimova – the form states it was "handled by Maria Efimova"; [Doc 137]
2. 001FOUR160190007 – 19/1/16 - Picasso – transfer AED 6,175 to Palma Management Consulting, execution date not given, , 2nd call back was Maria Efimova [Doc 138]
3. AED 149,308 – 20/1/16 – Picasso – transfer AED 149,380 to Palma Management Consulting, executed 3/3/16,, 2nd call back was Maria Efimova [Doc 138]
4. AED 57,500 – 15/2/16 - Picasso – transfer AED 57,500 to Palma Management Consulting, executed 3/3/16, , 2nd call back was Maria Efimova – the form states "handled by ME" [Doc 138]
5. AED 8,470 – 22/2/16 - Picasso – transfer AED 8,470 to Palma Management Consulting, execution date 3/3/16, , 2nd call back was Maria Efimova – the form states handled by Maria Efimova. [Doc 138]

378. Dealing with these forms may have given her an insight into the way that Pilatus handled its business with its Azerbaijani PEP clients and their financial advisors such as Robert Baker and Farnoush Farsiar. She would also have had sight of the huge transfers of Millions of AED and US$ made by the Azerbaijani companies.

379. The data also include letters of 12 May and 2 August 2016 addressed to Ms. Efimova from Silverlake Investment Holding Ltd, Guernsey instructing the transfers of money. These letters were received after Ms. Efimova had left the bank but suggest she had previous dealings with Silverlake (a significant

customer of Pilatus) prior to her departure and some awareness of those parties involved. (Doc Reference;- Silverlake Investment Holdings Limited-1205-2016 -01 - Instruction from Silverlake by mail to Ms Efimova.).[Doc 139]

380. We also note that the profile of her twitter account ("@MariaEfimova7") states *"Certificate in Anti Money Laundering - International Compliance Association; Compliance in Financial Services and MLRO Professional Certificate -NCHFE Level 5"*. We note in this regard she retweeted on 25/4/18, *"Many people told me that my story about Pilatus sounds fantastic, asking why other employees would not suspect that something was amiss. So, most of the bank's employees did not have enough experience and education, plus, they were intimidated by bank's COO Luis Felipe Rivera."* She retweets again concerning money laundering on 2 June.

381. She also claims to have submitted STRs – on 27 April, she retweeted *"FIAU and MFSA should go back to the STRs I was sending them back in August - December 2016. Those STRs have evident leads."* We note that Ms Efimova had left the employment of Pilatus before those dates.

<u>Documents in relation to the Pilatus bank event at Schlosshotel Kronberg in February 2016</u>

382. The data contains various documents in relation to this event which apparently lead to her dismissal from the bank. The suggestion by Pilatus Bank is that Efimova took her family to this event which was paid for by the bank and not Efimova.

- letter of offer in relation to a weekend event to be held by Pilatus Bank from the 19th February 2016 [Doc 140 - Pilatus bank _event_19_21 Feb]. This letter is from the Schlosshotel Kronberg dated 25th January 2016 and addressed to Mrs Maria Efimova at Pilatus Bank providing a quote for an event for Pilatus Bank between Friday 19th February until Sunday 21st February 2016. The initial quote suggests this event is for one night only but on closer inspection it appears the hotel was booked from the Friday evening with guests leaving on Sunday. The title of the document also supports this. The quote was signed on 2nd February 2016 by Efimova who titles herself as an Executive Assistant at the bank.

• a printout headed 'Single Customer Credit Transfer' timed and dated 16th February 2016 for a sum of €3868.8 payable to Schloss Hotel Krongerg. [Doc 141 - payment dd09.02.16 Pilatus Bank]

• an invoice from Enrico Travel dated 13th Feb 2016 sent to Pilatus Bank for air tickets in the names of Maria Efinova, Pantelis Varnavas and Stucchi with Air Malta to the value of €1493.00, to be paid by 14th March 2016. [Doc 142 Enrico Travel Invoice 02132016]

• an Enrico Travel invoice dated 18th Feb 2016 sent to Pilatus Bank for air ticket in the name Mr. Varnava/Varnavas. Value - €216.50.To be paid by 19th March 2016. [Doc 143 - Enrico Travel Invoice 02182016]

• an Enrico Travel invoice dated 18th March 2016 sent to Pilatus Bank for air tickets in the names of Maria Efinova, Mr. Pantelis Varnavas and children Marina and Leonida Varnavas. Value - Total €3040.00. To be paid by 18th April 2016. [Doc 144 - Enrico Travel Invoice 02182016]

• a copy of handwritten envelope to Enrico Travel Ltd. Not dated. The writing looks similar to the of other samples of Efimova's handwriting but it would be necessary for forensic examination if actual evidence is required. [Doc 145-Enrico Travel Ltd]

Other information

383. The digital data suggests that Ms Efimova had a bank account at the Bank of Ireland [- Maria Efimova Bank Details [Doc 146 - Maria Efimova Bank Details - (The date of entry on computer is 28/01/2016)]. The account details are written on the document. Note that her first name on the account details is spelt MARIIA .

384. Pantelus Vamavus is believed to be the partner of Marie Efimova. An open source search suggests he is a Customer Service Officer at the bank of Cyprus (no indication as to where.)

Similarities noted to actual transactions and occurrences

385. As noted above, our examination has in general not produced evidence to support the assertions made by Daphne Caruana Galizia in her blog 'The Running Commentary'. However, from our analysis it seems possible that the assertions are based on certain actual events which did occur, albeit with a different cast of characters acting out the main roles. We believe it may be of interest to you to point out the occasions where we did find corporate entities, transactions and occurrences which in our opinion closely mirror those depicted in DCG's blogs with the exception that there is absolutely no link to the specific company 'Egrant' or to the Prime Minister's wife, Mrs Michelle Muscat.

386. We note the following points solely for the purpose of providing some possible explanation as to the source of certain of the more specific assertions raised against Mrs Muscat and focusing on the company Egrant. The data reveals that:

1. Nexia BT did (and still does) act as accountants, tax advisors and financial advisors to a large number of domestic and foreign PEPS.

2. Nexia BT did set up, and manage the finances for, a number of off shore companies in both Panama and BVI for John Dalli, Keith Schembri and Konrad Mizzi (all domestic Maltese PEPs) and for a number of foreign Azerbaijani PEPs – (the Aliyevas, the Heyadarovs and Mammadovs).

3. The partners in Nexia BT also set up off shore companies for themselves in BVI and there were in fact transactions between their BVI company, Willerby, and the Maltese PEP, Keith Schembri which are the subject of a separate inquiry.

4. Immediately prior to the Prime Minister winning the election, Nexia BT did contact Mossack Fonseca to set up a dedicated Maltese operation to which they are closely linked.

5. Mossack Fonseca was then used to provide Nominee shareholders and directors for the off shore companies set up by Nexia. This is specifically the case with Colson Ltd, which Nexia had previously set up for Keith Schembri. The ownership was moved to MossFon nominees when Mr Schembri became a Maltese PEP in March 2013, by virtue of the election. The

off shore companies owned by his associates Hillman and Scerri, namely Lester and Selson, were also altered to hide their UBOs at this date.

6. We have established that there was a history of substantial payments and transfer of funds between Schembri, Hillman and Scerri and their off shore companies. We also know that post election it would become almost impossible to continue these transactions by virtue of Schembri's new status as a domestic PEP – unless his shareholdings were placed under nominees. Using Mossfon nominees, the banking transactions between a PEP and third parties could continue, albeit with more difficulty.

7. When Mossack Fonseca act as nominee shareholder, they provide, on request, a Declaration of Trust to the actual shareholder, or UBO, of the companies they act for. Such Declarations are generally in a standard template format, with similar terminology and similar names of the Panamian individuals who are employed by Mossack Fonseca to act as nominee shareholders and directors. The format of such declarations is therefore common to most off shore companies.

8. Such Declarations of Trust are required for anti money laundering purposes (AML) for the opening of a bank account. There are copies of Declarations of Trust in respect of Tillgate and Hearnville but not for Egrant in the data seized.

9. Nexia BT acts in a number of consultancy roles to the OPM, including involvement in various roles in the very lucrative contracts awarded to the Azerbajani companies (who are Nexia clients) and are foreign PEPs.

10. In order to facilitate transactions between a PEP and a third party, this requires the services of a clearing Bank. None of the local Banks appear to have keen to act for a PEP without enhanced due diligience which appears to have been an unattractive option for Nexia and its clients. Into this void came Pilatus Bank, obtaining its banking licence soon after Muscat's election victory.

11. Pilatus Bank did have a large proportion of its client base as domestic and foreign PEPs.

12. There were very substantial transactions of millions, US$, AED and €, transacted through the Azerbaijani PEPs bank accounts in Pilatus.

13. There were also very substantial transactions of millions, US$,AED and €, transacted through the bank accounts in Pilatus under the control of the owners of the bank itself – through a complex web of companies, trusts and entities worldwide – Rynt, Ashbourne, Pilatus Capital, etc.

14. There is no doubt that Maria Efimova ,even in her very short time of working in Pilatus, would have seen evidence of the close working relationship between the Bank, its Azerbaijani PEP customers and facility which allowed Nexia BT to provide the documentation required by Pilatus to open and operate bank accounts for these entities.

A

15. Some of the events and transactions mentioned by DCG in her blog show remarkable similarities to the actual events and transactions involving the apparently unrelated Pilatus accounts of EXIR Ltd, Yasmin Aral (wife of Ali Sadr), Negarin X (sister of Ali Sadr), Privilege and Exiat.

16. The unusual figure of 1,017, whilst not a transaction appearing on the bank statement of Shams Al Sahra FZCO, is actually the account number on those statements.

387. The above statements all bear remarkable similarities to the content of Daphne's blogs but are also crucially different from the assertions she actually made.

Closing

388. The 14 Assertions examined in detail above cover many different topics. However, in our view the key assertion made by Daphne Caruana Galizia in her blog was that the company Egrant Inc was owned by Michelle Muscat and that it received funds from an account held at Pilatus Bank in Malta.

389. From our extensive searching of the data sets you have provided to us, nothing has come to light to suggest that Egrant Inc was owned by Michelle Muscat, or that it ever had any bank account, or that it directly received any funds from any account held at Pilatus Bank in Malta.

We will be happy to assist further as required.

Yours faithfully

Proċeduri speċjali inċidentali matul il-kors tal-inkjesta *Egrant Inc*

1. Rikors minn Dr. Simon Busuttil, fil-kapaċita tiegħu ta' Kap tal-Opposizzjoni fis-26 t'April 2018 (il-każ *Willerby*)

Permezz ta' dan ir-rikors iffirmat mill-Avukat Dr. Jason Azzopardi, Dr. Simon Busuttil ippremetta s-segwenti : -

Illi l-esponent jirrileva li l-lbierah filghaxija huwa ta konferenza tal-ahbarijiet fil-vesti ufficjali tà' Kap tal-Oppozizzjoni ftit wara li waslitlu informazzjoni konkreta, verifikata u sensittiva immens dwar fatti ta' gravita bla precedent fl-amministrazzjoni governattiva Maltija u li huma s-suggett mertu ta' din l-inkjesta Magisterjali;

Illi in succint u filwaqt li qed issir referenza ghall-punti annessi (Dok.A) li

ffurmaw il-mertu tal-konferenza tal-ahbarijiet li l-esponent Kap tal-Oppozizzjoni tal-bierah filghaxija, l-fatti saljenti li waslu ghand il-Kap tal-Oppozizzjoni huma ssegwenti:

1. Jirrizulta li fil-bank maghruf bhala Pilatus Bank plc kien hemm kont bankarju fl-isem tal-kumpanija Willerby Trade Inc. registrata fil-British Virgin Islands, *shell company* sigrieta u allura mhux maghrufa mill-erarju pubbliku Malti;
2. Is-sid u benefiecjarju tal-kumpanija Willerby Trade Inc inkixef fil-leaks ta Panama Papers li huwa l-konsulent tal-Prim Ministru Malti l-accountant u awditur Brian Tonna;

3. F'okkazjoni minnhom, fil-kont bankarju tal-kumpanija ta' Brian Tonna, u cjoe ta' Willerby Trade Inc f'Pilatus Bank plc dahlu flus li jammontaw ghal €166.83 1.90.

4. Il-pagamenti, li mhux suppost saru lil Willerby Trade Inc peress li din m'hijiex *accredited agent* taht l-Individual Investor Programme, saru minn tliet persuni ta' nazzjonalita' Russa wara li dawn applikaw biex jixtru c-cittadinanza Maltija taht l-Individual Investor Programme (IIP).

5. Illi l-Individual Investor Programme huwa promoss u riklamat b'assidwita partikolari mill-Ufficju tal-Prim Ministru, fejn jahdem Keith Schembri bhala Chief of Staff u *politically exposed person* per eccellenza, tant li fkull *roadshow* li saret barra minn Malta (mal-erbat irjieh tad-dinja) biex jigi promoss I-IIP u allura l-bejgh tac-ciuadinanza Maltija, huwa l-istess Prim Ministru Malti li dejjem immankabilment jattendi sa mit-tnedija tal-IIP u hafna drabi jkun akkumpanjat minn Keith Schembri, fsitwazzjoni effettivament fejn il-Prim Ministru tal-pajjiz jistinka ghall-bejgh tac-cittadinanza Maltija li minnha l-id il-leminija tieghu Keith Sehembri jdahhal *il-commissions* illegali;

6. L-esponent ghandu l-ismijiet ta' dawn it-tliet persuni ta' nazzjonalita Russa;

7. Jirrizulta wkoll li fil-bank Pilatus Bank plc kien hemm ukoll kont bankarju F'isem ic-Chief of Staff tal-Prim Ministru Malti, is-Sur Keith Schembri.

8. Ftit wara li l-kumpanija Willerby Trade Inc ta' Brian Tonna ircieviet il-flus msemmija minghand it-tliet persuni ta' nazzjonalista Russa, din ghamlet zewg pagamenti lic-Chief of Staff tal-Prim Ministru Keith Schembri ta' €50,000 il-wiehed ghal total ta' €100,000 fil-kont bankarju tieghu f'Pilatus Bank plc.

9. Il-flus ghaddew ghand Keith Schembri mill-istess kumpanija ta' Brian Tonna li rceviet il-flus minghand il-barranin, jigifieri mill-kont tal-kumpanija Willerby Trade Inc.

Illi l-esponent irid li jaghti din l-informazzjoni u iktar lil Magistrat Inkwirenti taht gurament biex il-Magistrat Inkwirenti ikun f'pozizzjoni li jistabilixxi l-verita shiha f'dan il-kaz car ta' hasil ta' flus u tixhim li jakkwista gravita partikolari meta tqis li l-persuna li xxahmet huwa effettivament l-id il-leminija tal-Prim Ministru Malti u sabiex il-Magistrat Inkwirenti ikun jista' jinvestiga u jiehu kull provvedimenti u azzjonijiet skond il-ligi;

Illi l-esponent jinforma lil din l-Onorabbli Qorti li huwa jinsab ghad-disposizzjoni tal-Magistrat Inkwirenti jekk il-Magistrat Inkwirenti hekk jidhirlu;

Ghaldaqstant l-esponent umilment jitlob lil Magistrat Inkwirenti jisma' x-xhieda tal-esponent taht gurament u dan taht kull provvediment li din il-Qorti joghgobha timponi.

Illi b'digriet tas-26 t'April 2017 ġie deċiż li sabiex ikun jista' jiġi valutat aħjar jekk il-meritu tar-rikors jissubentrax fil-parametri tad-denunzja meritu ta' din l-investigazzjoni Dr. Simon Busuttil kellu jiġi mismugħ bil-ġurament nhar is-27 t'April, 2017 fid-9.00.

Dakinhar Dr. Busuttil spjega d-denunzja tiegħu taħt ġurament u eżebixxa dokumenti.

Fit-28 ta' April 2017 ġie ordnat li ai termini tal-Artikolu 546(4A) tal-Kodiċi Kriminali r-rikors jiġi notifikat lil Keith Schembri u lil Brian Tonna li ġew mogħtija jumejn għar-risposta, u dan sabiex wara jkun jista' jiġi deċiż jekk humiex stabbiliti l-prerekwiżiti meħtieġa sabiex ikun jista' jsir aċċess ossia investigazzjoni dwar l-*in genere* skont il-Liġi. Dan wara li ġie osservat is-segwenti:

(a) r-rikors għandu parti mill-fatti tiegħu li jitrattaw l-allegata eżistenza ta' kont bankarju da parti ta' Keith Schembri mal-Pilatus Bank u d-depożiti li allegatament saru f'dan il-kont: fatti li huma in parti komuni ma' din l-inkjesta. Biss fis-sustanza tagħha d-denunzja kontenuta fir-rikors promotur, tmur lil hinn mill-parametri tal-istħarriġ li qiegħed isir mill-Maġistrat Inkwerenti skont kif rifless fid-denunzja magħmula lilu, kif tirriżulta kemm mid-denunzja formali ppreżentata lill-Kummissarju tal-Pulizija mill-Avukati Dr. Pawlu Lia u Dr. Edward Gatt kif ukoll mir-rapport miktub tal-Kummissarju tal-Pulizija datat 20 t'April, 2017.

(b) Illi fil-fehma tal-Maġistrat Inkwerenti, is-setgħat tiegħu fl-investigazzjoni dwar l-*'in genere'* huma wiesgħa mhux ħażin; iżda dawn is-setgħat jistgħu biss jiġu eżercitati fil-parametri u fil-limiti tan-*notitia criminis* li tkun ġiet magħmula lilu u li in bazi tagħha tkun infetħet l-investigazzjoni dwar l-*in genere*.

(c) Il-Maġistrat Inkwerenti m'għandux is-setgħa jintraprendi investigazzjoni dwar l-*in genere 'ex officio'* stante li skont l-Artikolu 546 tal-Kodiċi Kriminali dejjem tinħtieġ *notitia criminis* biex Maġistrat ikun jista' jiddeċiedi jekk jordnax investigazzjoni. *Multo magis* ma jistax hu stess iwessa' l-parametri ta' investigazzjoni kondotta minnu billi jimbarka fuq stħarriġ bażat fuq *notitia criminis* differenti minn dik oriġinali u li tkun mogħtija lilu fl-ambitu t'inkjesta maġisterjali *in corso* u li tkun inbdiet in bażi ta' *notitia criminis* b'meritu u b'finalita' differenti. Jekk jagħmel dan huwa jkun qed jaġixxi 'ultra vires' id-denunzja originali.

(d) Minbarra dan pero, u aktar minn hekk, għalkemm għar-raġunijiet premessi huwa ma jistax jintraprendi l-investigazzjoni mitluba mir-rikorrent fl-ambitu tal-preżenti investigazzjoni dwar l-*in genere*, xorta waħda huwa ma jistax iwarrab il-fatt li, qua Magistrat *'ut sic'* huwa jiġi li rċieva denunzja mingħand persuna li mhux il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali. F'dan is-sens għalhekk jiskattaw id-disposizzjonijiet imsemmija fl-artikoli 546(4A)(4B)(4C) tal-Kodiċi Kriminali.

Fir-risposta tiegħu Keith Schembri filwaqt li rrikonoxxa li d-denunzja msemmija fir-rikors promotur tmur lil hinn mill-allegazzjonijiet ta' Daphne Caruana Galizia u li in bażi tagħhom Dr. Joseph Muscat u martu Michelle Muscat għamlu d-denunzja tagħhom, huwa kien tal-fehma li l-Maġistrat sottofirmat kellu diskrezzjoni sabiex jinvestiga xi allegazzjoni li huwa jkun irriskontra fil-kors tal-indaġini tiegħu. Huwa tenna li l-Maġistrat sottofirmat kellu jeżerċita d-diskrezzjoni tiegħu u jinkludi f'din l-inkjesta it-talba imresqa minn Dr. Simon Busuttil.

Fir-risposta tiegħu Brian Tonna filwaqt li ċaħad bil-qawwa l-*"allegazzjonijiet kalunnjuzi u diffamatorji"* li saru fil-konfront tiegħu (kemm fir-rikors ta' Dr. Busuttil kif ukoll fid-dokument anness, u li huwa t-traskrizzjoni tal-konferenza stampa mogħtija mir-rikorrent) saħaq li huwa ma kellu ebda diffikulta' li ssir l-investigazzjoni mitluba mir-rikorrent. Huwa tenna wkoll li anke jekk il-fatti *"u mhux allegazzjonijiet kongetturati"* jirriżultaw li seħħew dawn ma jwaslux għall-konklużjoni li sar reat. B'hekk qal li waħda mill-prerekwiżiti hija nieqsa.

Inoltre ġie kunsidrat illi : -

> Illi f'dan l-istadju l-Maġistrat hu konfrontat b'denunzja tal-Kap tal-Opposizzjoni (li mhux il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali) dwar allegati "tixħim" u "ħasil ta' flus". Ir-rikors tiegħu sar sabiex issir investigazzjoni dwar l-*in genere* ukoll fuq il-fatti denunzjati minnu. L-*in genere* imbagħad jistabbilixxi jekk hemmx lok għall-azzjoni penali o meno. F'dan l-istadju il-Maġistrat irid jiddetermina jekk humiex soddisfatti l-prerekwiżiti meħtieġa sabiex issir investigazzjoni dwar l-*in genere* fir-rigward tal-allegati reati denunzjati fil-konfront ta' Keith Schembri u Brian Tonna. Ikun fl-aħħar tal-investigazzjoni dwar l-*in genere* li jkun jista' jingħad jekk hemmx lok għal azzjoni kriminali o meno; u f'każ pożittiv fir-rigward ta' liema reati tkun trid tiġi istitwita l-azzjoni penali u fil-konfront ta' min.
>
> Il-prerekwiżiti għall-investigazzjoni dwar l-*in genere* huma dawk imsemmija fl-Artikolu 546(1) tal-Kodiċi Kriminali li jgħid : -
>
> > **546.** (1) Bla ħsara tad-disposizzjonijiet tas-subartikoli li jiġu minnufih wara dan, wara r-rapport, id-denunzja jew il-kwerela ta' reat li jista' jingħata l-piena ta' priġunerija għal iżjed minn tliet snin, u jekk is-suġġett materjali tar-reat ikun għadu jeżisti, għandu jiġi deskritt l-istat tiegħu, bid-dettalji kollha wieħed wieħed, u għandu jiġi msemmi l-istrument u l-mod li bih dan l-istrument seta' jġib l-effett.

F'dan il-każ saret denunzja u ġiet ukoll konfermata bil-ġurament tad-denunzjant. Huwa pproduċa wkoll għadd ta' dokumenti biex jissostanzja l-imsemmija denunzja.

Id-denunzja saret fir-rigward ta' fatti li jekk avverati fi ħdan investigazzjoni dwar l-*in genere*, jistgħu jagħtu lok għal azzjoni penali li bħala riżultat tagħha, fil-każ ta' sejbien ta' ħtija lil hinn minn kull dubju dettat mir-raġuni, jistgħu jimportaw piena:

(a) fir-rigward tal-allegat "tixħim" f'ċerti ċirkostanzi tista' tiżboq it-tliet snin priġunerija;
(b) fir-rigward tal-allegat ħasil ta' flus, definittivament li taqbeż il-piena ta' tliet snin priġunerija.

L-allegati fatti denunzjati, jagħtu lok għal "suġġett materjali tar-reat" li għadu jeżisti u li jrid jiġi priżervat. L-allegazzjoni tista' twassal għal azzjoni penali għal reati ta' natura finanzjarja li jeħtieġu konservazzjoni u preservazzjoni ta' diversi dokumenti li jkunu jridu jiġu deskritti u dettaljati wieħed wieħed u debitament analizzati ukoll minn esperti tekniċi. Dan minbarra xhieda okulari li jkunu jridu jiġu mitkelma. Id-dokumenti eżibiti mid-denunzjant ikunu jridu jiġu wkoll analizzati fid-dawl tal-ammissibbilita legali tagħhom.

Il-prerekwiżiti meħtieġa sabiex issir investigazzjoni dwar l-*in genere* huma soddisfatti.

Jibqa l-punt sollevat mill-Abbli Avukati Difensuri tad-denunzjat Keith Schembri dwar is-setgħa diskrezjonarja li huma jgħidu li jgawdi l-Maġistrat Inkwirenti.

Mingħajr ħtieġa ta' ripetizzjoni ta' dak li l-Maġistrat Inkwirenti diġa ddekreta fid-digriet tiegħu tat-28 t'April 2017, fiċ-ċirkostanzi ta' dan il-każ, huwa ma jistax *ex officio* jaqbad u jintraprendi investigazzjoni dwar l-*in genere* fuq denunzja differenti, separata u distinta minn dik oriġinali – mhux għax ma jridx, iżda għax ma jistax.

F'dan il-każ, din id-denunzja differenti ġiet magħmula minn persuna li mhix il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali. Dr. Simon Busuttil, għal raġunijiet li ġew spjegati minnu fix-xiehda tiegħu, għażel li ma jmurx jagħmel din id-denunzja mal-Kummissarju tal-Pulizija (jew l-Avukat Ġenerali) iżda għażel li jadixxi lil Maġistrat Inkwirenti bit-talba tiegħu u bil-konsiderazzjoni tal-fatti preżentati minnu.

Ix-xenarju maħluq b'dan il-*modus operandi* skatta l-proċedura legali, aktar unika milli rari, kontemplata bl-Artikolu 546(4A) tal-Kodiċi Kriminali. L-Abbli Difensuri ta' Keith Schembri irrikonoxxew li d-denunzja ta' Dr. Busuttil ma tistax titqies bħala parti jew estensjoni tad-denunzja oriġinali stante li l-meritu legali tagħha huwa ben distint; iżda huma xorta jallokaw diskrezzjoni lil Maġistrat sottofirmat biex jinkludi fl-ambitu ta' din l-inkjesta d-denunzja ta' Dr. Busuttil. Biss hija l-Liġi stess li ma tħallix diskrezzjoni lill-Maġistrat.

Għalkemm hemm ħafna aspetti tal-Liġi regolanti l-investigazzjonijiet dwar l-*in genere* li ma humiex ċari, f'dan ix-xenarju maħluq bir-rikors tal-Kap tal-Opposizzjoni, il-proċedura li għandha tiġi segwita hija ċara u spjegata fl-Artikoli 546(4A)(4B)(4C) tal-Kodiċi Kriminali. Hija l-Liġi stess li f'dak ix-xenarju tneħħi d-diskrezzjoni minn idejn il-Maġistrat Inkwirenti u titfa' l-għażla ta' liema Maġistrat jieħu konjizzjoni tal-investigazzjoni dwar l-*in genere* **fuq ix-xorti** billi tgħid li l-Maġistrat li jkun irid jikkonduċi l-investigazzjoni dwar l-*in genere* jintagħżel bil-polza minn fost il-Maġistrati kollha. Dan huwa kjarament stabbilit bl-Artikolu 546(4C) tal-Kodiċi Kriminali. Jekk il-Maġistrat ma jimxix skont dan l-Artikolu, ikun il-Maġistrat li jkun qed jonqos milli jobdi u jimxi ma disposizzjoni ċara tal-Liġi. Il-Maġistrat sottofirmat ma jistax jagħmel dan.

F'dan ix-xenarju, il-Maġistrat ma għandux għażla. Il-Liġi għażlet din il-proċeduri sabiex jiġi evitat kull forma ta' *forum shopping*, kemm mid-denunzjant kif ukoll mid-denunzjat. Għalhekk hija x-xorti li tiddetermina min jikkonduċi l-*in genere* u mhux il-Maġistrat li jkun irċieva d-denunzja mingħand persuna li mhux il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali.

Apparti minn hekk pero, l-investigazzjoni dwar l-*in genere* li tkun tista' tiġi ordnata għandha bħala għan aħħari tagħha li tiġi stabbilita l-verita ġudizzjarja tal-fatti. Huwa għalhekk meħtieġ li l-integrita ta' din l-investigazzjoni dwar l-*in genere*, b'mod partikolari f'każ delikat bħal dan, tiġi mħarsa f'kull aspett tagħha – kemm dak sostantiv, kif ukoll dak formali. Il-Maġistrat sottofirmat ma jistax jagħti l-interpretazzjoni suġġerita mill-Abbli Avukati Difensuri ta' Keith Schembri fid-dawl ta' disposizzjonijiet tal-Liġi ċari. Jekk jagħmel dan jirriskja li jintakka l-integrita tal-investigazzjoni.

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L-aċċertament ġudizzjarju tal-fatti b'mod integru u rett rifless f'investigazzjoni dwar l-*in genere* għandu jkun l-aqwa tarka kemm għal min hu innoċenti kif ukoll għal min mhux. U huwa meħtieġ ukoll li għal dan il-għan ma jkun hemm ebda dubju mhux biss fuq il-meritu tal-investigazzjoni dwar l-*in genere per se* jew dwar il-konklużjonijiet eventwali, iżda wkoll fir-rigward ta' min ikun qiegħed jikkonduċiha u kif ikun wasal li jikkonduċiha hu. U huwa għalhekk li l-Liġi tħalli l-għażla tal-Maġistrat Inkwirenti f'idejn ix-xorti u mhux l-għażla ta' xi waħda mill-partijiet involuti jew mill-Maġistrat.

In bażi għal dak premess ġie deċiż li mill-fatti preżentati f'dak l-istadju, kien jirriżulta li ġew soddisfatti l-prerekwiżiti meħtieġa sabiex issir investigazzjoni dwar l-*in genere* fir-rigward tal-fatti allegati fir-rikors promotur relattivament għar-reati denunzjati fil-konfront ta' Keith Schembri u Brian Tonna kif imsemmi fir-rikors u ġie ordnat li din id-deċiżjoni tiġi notifikata lid-denunzjant Dr. Simon Busuttil kif ukoll lid-denunzjati Keith Schembri u Brian Tonna fejn kull wieħed minnhom jista', fi żmien jumejn tax-xogħol mid-data tan-notifika tad-deċiżjoni, jagħmel rikors lill-Qorti Kriminali biex tiġi revokata d-deċiżjoni tal-Maġistrat sottofirmat u fejn dik il-Qorti kellha tagħti d-deċiżjoni tagħha fuq ir-rikors bl-urġenza u fejn eventwalment jekk ma jsirx tali rikors jew, jekk isir, il-Qorti Kriminali tkun tal-fehma wkoll li l-investigazzjoni dwar l-*in genere* kellha ssir, il-Maġistrat li jmexxi l-aċċess kellu jingħażel bil-polza minn fost il-Maġistrati kollha.

Stante li ma kienx hemm proċedura ta' reviżjoni quddiem il-Qorti Kriminali minn dan id-digriet, eventwalment kienet saret il-proċedura tal-

għażla tal-isem tal-Maġistrat bil-polza immexxija mill-Prim'Imħallef u din l-inkjesta ġiet fdata f'idejn il-Maġistrat Dottor Natasha Galea Sciberras.

2. **<u>Rikors mill-Bank Pilatus sabiex jingħata lura d-dokumenti oriġinali li ġew prelevati mill-Uffiċji tiegħu matul il-perkwiżizzjoni eżegwita f'din l-inkjesta.</u>**

Permezz ta rikors datat 28 t'April 2017 iffirmat mill-Avukat Dr. Stefano Filletti, il-Bank Pilatus talab li jsiru kopji tad-dokumenti li kienet ġew prelevati mill-Uffiċini tiegħu matul il-kors tal-perkwiżizzjoni magħmula in segwitu għal din l-inkjesta sabiex dawn jiġu miżmuma mill-inkjesta u l-oriġinali jiġu ritornati lura lill-istess Bank.

Ġiet ordnata notifika ta' dan ir-rikors lill-*FIAU*, l-*MFSA* u l-Kummissarju tal-Pulizija. L-*FIAU* u l-*MFSA* wieġbu b'mod kważi identiku fis-sens illi rrimettew ruħhom għad-deċiżjoni tiegħi dwar it-talba b'dan pero li f'każ li d-dokumentazzjoni oriġinali f'xi stadju ma tkunx aktar meħtieġa li tifforma parti mill-atti tal-inkjesta jew li jkunu fil-pussess tal-Kummissarju tal-Pulizija, kien ikun indikat li dawn jiġu ritornati lill-Bank sabiex dan ikollu d-

dokumenti għad-disposizzjoni tiegħu fl-oriġinal kif inhuwa meħtieġ fl-attivitajiet bankarji.

Fit-tnejn (2) ta' Mejju 2017, minħabba li din it-talba kienet saret fi stadju bikri u kien għadu prematur li t-talba tiġi milqugħa, din it-talba ġiet miċħuda.

3. **<u>Rikors minn Pierre Portelli tal-5 ta' Mejju 2017 – (Compliance report tal-*FIAU* fil-konfront tal-Bank Pilatus)</u>**

Permezz ta' dan ir-rikors iffirmat mill-Avukat Dr. Peter Fenech, Pierre Portelli, fil-kwalita tiegħu ta' Direttur (Kontenut) tal-gazzetta *The Malta Independent* kien ippremetta s-segwenti:-

> Illi l-esponent jirrileva li kif pubblikat fil-gazzetta *The Malta Indepenent* fil-harga ta' llum, il-Gimgha, 5 ta' Mejju 2017, il-gazzetta rceviet informazzjoni dwar numru ta' kontijiet bankarji mizmuma minn persuni li huma politikament esposti *(politically exposed persons)* gewwa Malta u l-Azerbaijan gewwa l-Pilatus Bank, kif ukoll dwar tranzazzjonijiet suspettuzi u ta' kwantitajiet sostanzjali ta' flus li saru minn u f'dawn l-istess kontijiet bankarji. Jinghad li dawn it-tranzazzjonijiet ma kinux sostanzjati bid-dokumenti u dettalji necessarji ghal tali tranzazzjonijiet, senjatament dawk li kellhom jirrizultaw mill-użu tal-programm *SWIFT*.
>
> Illi l-esponent huwa f'pozizzjoni li jixhed dwar din l-informazzjoni u dwar il-verifiki li jistghu jsiru fl-inkjesta odjerna sabiex tigi stabbilita l-verita.

Illi l-informazzjoni li hija fil-pussess tal-esponent turi li l-Pilatus Bank mhux biss ma kellux proceduri interni sabiex jottempra ruhu mar-regolamenti rigwardanti persuni li huma politikament esposti, izda talli ma kellux il-proceduri interni sabiex jassikura osservanza mar-regolamenti dwar il-glieda kontra l-hasil ta' flus.

Illi l-esponent jemmen li ghandu jghaddi din l-informazzjoni lill-Magistrat Inkwirenti taht gurament sabiex jghinnu jistabilixxi l-verita fdan il-kaz u jinvestiga u jiehu kull provvediment u azzjoni skont il-ligi.

Illi l-esponent jinforma lill-Magistrat Inkwirenti li huwa jinsab ghad-dispozizzjoni tieghu jekk il-Magistrat Inkwirenti hekk jidhirlu.

Ghaldaqstant l-esponent umilment jitlob lill-Magistrat Inkwirenti jisma' x-xhieda tal-esponent taht gurament, u dan taht kull provvediment li joghgbu jimponi.

Pierre Portelli, *Content Director* ta' *The Malta Independent* xehed l-nhar il-5 ta' Mejju 2017 fejn stqarr li kien resaq lejh persuna fil-kapaċita tiegħu ta' ġurnalist biex jgħaddilu xi informazzjoni u wrieh dokument li kien rapport magħmul mill-*FIAU* u li ntbagħat f'forma ta' ittra liċ-*Chairman* tal-Bank Pilatus fl-2016 wara li kienet saret investigazzjoni interna fil-Bank. Ir-rapport ġie riprodott fil-gazzetta *The Malta Independent* tal-5 ta' Mejju 2017 (għalkemm hemm xi affarijiet nieqsa minnu). Is-sors qallu li ma setgħax jagħtih dan ir-rapport għax kien fih ċerti *security features* u b'hekk kien jiġi identifikat min kien qiegħed jillikjah. Ħalla lil Pierre Portelli jagħmel transkrizzjoni kelma b'kelma tiegħu. Dil-persuna provdietlu *soft copy* u ħa' l-ħin biex ivverifika kelma b'kelma dak li hemm fir-rapport u dak li kellu

f'idejh. Sa hemm hekk kienet biss għal fini tagħhom li bħala *The Malta Indipendent* jagħmlu l-istorja.

Ħa deċiżjoni jekk jiżvelawx li dan huwa rapport tal-*FIAU*. Bħala l-persuna inkarigat f'*The Malta Independent* li jieħu l-aħħar deċiżjonijiet editorjali għax Direttur tal-Kontenut, hu ddecieda illi jingħad li dan kien rapport tal-*FIAU* għaliex fil-media kien hemm diga' *hints* t'affarijiet li jinsabu f'dan ir-rapport pero qatt ma kellhom il-piż ta' min għamel ir-rapport. Kien hemm żewġ raġunijiet għaliex ħass li kellu jiġi quddiem il-Maġistrat Inkwirenti b'dan id-dokument.

> L-ewwel nies daħalli s-suspett u l-inkwiet illi il-Bank Pilatus illi qal fil-media apertament, anzi rrid inzid illi insista biex jgħid dawn id-dikjarazzjonijiet għax ġara hu wara l-media houses biex jagħti d-dikjarazzjonijiet, qal illi kkoopera kompletament ta' l-Magistrat, miegħek jiġifieri f'din l-inkjesta. Jiena daħalli s-suspett li forsi din l-ittra li rċeva c-Chairman bi t-twissijiet ta' l-FIAU ma ġietx mgħoddija lilek, jista' jkun li jien żbaljat pero ma ridtx nieħu s-sogru u deherli li biex inti tagħmel il-ħidma tiegħek, inti għandu jkollok dak li għandi jien.
>
> It-tieni punt għaliex dan is-suspett kompla jikber fija huwa rilatat ma' xi ħaġa li grat nhar il-Ħadd illi għadda. Nhar il-Ħadd illi għadda, il-gazzetta The Malta Independent on Sunday ippubblikat rakkont ta' l-persuna li inti ltqajt magħha li hija l-Whistleblower, jiena kelli imbagħad l-opportunita' li niltaqa' magħha t-Tnejn u wara li ħareġ dak ir-rapport u wara li ovvjament għamel ir-rounds tiegħu Malta kollha naħseb li qratu wara nofs in-nhar sar kuntatt bl-email mill-bank magħna, ma' The Malta Indipendent l-ewwel mhux miegħi imma imbagħad spiċċa għandi u tkellimt jien f'isem il-gazzetta biex aħna mmorru urġentement wara nofs in-nhar ġewwa l-bank għaliex qalulna iridu juruna dokumenti sensittivi bil-kundizzjoni illi la nieħdu ritratti, la nieħdu video u lanqas nistaqsu mistoqsijiet, pero ma kienx hemm il-kundizzjoni li minn dak li naraw ma nirrapurtawx. Jiena ma qbiltx ma dawn il-kundizzjonijiet u għamilt kundizzjonijiet oħra lil bank fosthom anki li nieħu l-avukat miegħi u dawn ma gablux u waqfet hemm hekk l-istorja b'semplici email issa l-gimgħa d-dieħla naraw jekk niltaqgħux. Sussegwentement nara f'media oħra jiġifieri

fit-Times u fil-Malta Today, rapporti illi dawn intalbu jmorru fil-bank u hemm hekk intwerew CCTV footage ta' l-ex impjegata ta' l-bank tingħata xi flus f'xi envelope u wkoll xi smses minn xi mobile. Jiena jidhirli li bank serju u mbagħad ukoll wara li qrajt dan żgur tlift il-fiducja f'kemm hu bank serju, jidhirli li ma għandux jagħmel dawn l-affarijiet illi jċempel lil media biex juriha filmati ta' ex impjegata, ma jidhirlix li dawn huma metodi u allura l-fiducja tiegħi fil-bank illum hija kważi żero u ħassejt illi jien ma nagħmilx biss xogħoli ta' ġurnalist u nippubblika dak li għandi hawn hekk pero ngħaddilek ukoll it-test kollu issa jekk dan diga' għandek ma gara xejn, jiġifieri tkun, inkun ġejt għal xejn.

Pierre Portelli jżid jgħid li r-rapport kien jindika ċar illi l-*FIAU* għamlet investigazzjoni dettaljata speċifikatament fuq kif il-Bank Pilatus jittratta l-*PEP* li għandhom kontijiet fil-Bank Pilatus. Fl-istess rapport hemm enfażi fuq żewġ istanzi fejn innota illi l-ewwel transazzjoni ta' miljun u mbagħad kien hemm tranżazzjoni ta' nofs miljun press a poco għax hemm ħamsin elf euro differenza fejn tindika li dawn huma żewġ transazzjonijiet li għaddew f'kontijiet, f'kumpaniji ta' *PEP* u l-*FIAU* kienu għamlu enfażi fuqhom. Jingħad li l-*PEP* huma kemm Maltin u nies fl-Ażerbajġan. Hemm bosta riferenzi rilevanti għall-fini tal-Inkjesta *Egrant* jiġifieri l-ammont tal-miljun, il-perjodu ta' żmien li anki semmiet il-whistleblower, l-Ażerbajġan fih innifsu, il-Bank Pilatus.

Din l-inkjesta stħarġet dawn l-allegazzjonijiet billi ġew imħarkin diversi xiehda fosthom rappreżentanti tal-*MFSA* u l-*FIAU* li kienu involuti direttament f'dawn l-allegazzjonijiet li kienu saru minn Pierre Portelli. Ix-xiehda tan-nies mismugħa u d-dokumenti preżentati minnhom jifformaw

parti mill-faxxikolu ta' dan ir-rikors li jinsab fl-atti ta' din l-inkjesta. Fost dawk in-nies li smajt kien hemm l-Uffiċjali tal-*MFSA* li kienu għamlu jew kienu involuti fl-ispezzjonijiet bejn it-18 ta' Settembru 2015 u d-19 t'Ottubru 2015 mill-*MFSA* u ċjoe Raymond Camilleri, Ruth Grioli, Anthony Sacco, Raymond Vella, Matthew Scicluna, Kurt Spiteri Lucas. Ġie wkoll analizzat l-*On Site Inspection Report* datat Frar 2016 magħmul minnhom fejn, inter alia, ġew spejgati nuqqasijiet minn naħa tal-Bank Pilatus.

Ġie mismugħ ukoll lil persunal tal-*FIAU* fosthom lid-Direttur Preżenti Kenneth Farrugia li eżibixxa diversi dokumenti. Ġie mismugħ ukoll Dr. Manfred Galdes, li kien id-Direttur tal-*FIAU* fiż-żmien meta kienu saru l-ispezzjonijiet bejn it-18 ta' Settembru 2015 u d-19 t'Ottubru 2015 kif ukoll f'Marzu 2016 u wara sakemm irriżenja fis-sajf tal-2016, lil Sarah Scerri, *Senior Compliance Officer* u lil Martina Scalpello, *Compliance Officer* u li kienu t-tnejn li huma għamlu l-ispezzjoni fil-Bank Pilatus f'Marzu 2016 u li kienu ħadmu fuq din l-ispezzjoni u għamlu x-xogħol relatat. Ġew analizzati wkoll id-dokumenti li kienu produċew Martina Scalpello u Sarah Scerri b'riferenza partikolari għal dik il-parti tal-allegazzjoni li kienet saret minn Portelli.[170]

[170] Fejn jgħid li *"fl-istess rapport hemm enfażi fuq żewġ istanzi fejn innota illi l-ewwel transazzjoni ta' miljun u mbagħad kien hemm tranżazzjoni ta' nofs miljun press a poco għax hemm ħamsin elf euro differenza fejn tindika li dawn huma żewġ transazzjonijiet li għaddew f'kontijiet, f'kumpaniji ta' PEP u l-FIAU kienu għamlu enfażi fuqhom. Jingħad li l-PEP huma kemm Maltin u nies fl-Ażerbajġan. Hemm bosta riferenzi rilevanti għall-fini tal-Inkjesta Egrant jiġifieri l-ammont tal-miljun, il-perjodu ta' żmien li anki semmiet il-whistleblower, l-Ażerbajġan fih innifsu, il-Bank Pilatus."*

Ġiet analizzata wkoll l-ittra li kienet mibgħuta mill-*FIAU* lil Bank Pilatus nhar is-17 ta' Mejju 2016 fejn kienu ġew indikati xi nuqqasijiet oħra minn naħa tal-Bank Pilatus, li kien ġie mogħti sat-8 ta' Ġunju 2016 biex jagħti r-reazzjoni tiegħu għal dawn ir-riżultanzi;

Ġew mismugħa wkoll ix-xiehda da' parti tal-Bank Pilatus ċjoe s-*CEO* Hamidresa Ghanbari u s-*COO* Luis Felipe Rivera, nonche d-dokumenti li ġew eżebiti minnhom, fosthom l-ittra ta' tweġiba tat-8 ta' Ġunju 2016 taħt il-firma tac-*Chairman* tal-Bank Pilatus Ali Sadr fejn il-Bank Pilatus irribatta bil-qawwa l-kontenut tal-ittra tal-*FIAU* datata 17 ta' Mejju 2016 u dan in bażi għal pariri legali li qal li ħa mingħand l-Avukati *Camilleri Preziosi*, nonche r-rapport li l-Bank ikkommissjona mill-Awdituri *KPMG*. Ġew analizzati wkoll l-i *statements* bankarji u dokumenti ta' support għal transazzjonijiet finanzjarji eżibiti tal-kumpanija *Sahra FZCO, Hereti Holdings Limited, Frater LLC, NH Investments Limited* u *TKH Investment Limited*.

Ġiet ukoll analizzata l-ittra ta' Settembru 2016 li permezz tagħha l-*FIAU* kien iddeċieda li jipproċedix ulterjorment minħabba li f'dak l-istadju l-kwistjonijiet prinċipali kienu ġew indirizzati mill-Bank Pilatus.

Din l-allegazzjoni kienet ġiet ukoll ġiet mitluba sabiex tistħarriġha l-*Forensic Accountant Miroslava Milenovic.* Din analizzat iċ-ċifri u t-transazzjonijiet involuti, nonche l-*workings* ta' Scalpello u Scerri mill-*FIAU.* Wara li għamlet dan hija spejgat lill-Maġistrat Inkwirenti li dawn it-transazzjonijiet ma kellhom xejn x'jaqsmu ma l-allegazzjonijiet magħmula u li huma meritu tal-inkjesta *Egrant.* Iżda li hija rat f'dan ir-rapport u li setgħu kienu riferibbli għall-dawn it-transazzjonijiet (anke meta tqis ix-xiehda tar-rappreżentanti tal-*FIAU* kif ukoll lil Hamidreza Ghanbari u Luis Felipe Rivera u d-dokumenti eżibiti minnhom) kienu jinvolvu :-

(a) *payment instructions* magħmula f'isem *Mirk General Trading LLC* fir-rigward tat-transazzjonijiet lil *TKH Investments Limited* hawn taħt imsemmija:

a. Fit-12 t'Awissu 2015 għal AED 3,195,286;
b. Fil-21 ta' Diċembru 2015 għal AED473,235;
c. Fit-3 ta' Marzu 2016 għal AED334,374.

(b) *Payment instructions* magħmula f'isem *Mirk General Trading LLC* fir-rigward tat-transazzjonijiet lil *NH Investments Limited*:

a. Fit-12 t'Awissu 2015 għal AED 3,195,286;
b. Fil-28 ta' Jannar 2016 għal AED473,235;
c. Fit-3 ta' Marzu 2016 għal AED334,374

(c) *Payment instructions* magħmula f'isem *Frater LLC* fir-rigward tat-transazzjonijiet lil *Hereti Holdings Limited*:

a. Fit-18 ta' Settembru 2015 għal USD 971;

b. Fit-22 ta' Settembru 2015 għal USD 569,975.

(d) *Payment instructions* magħmula f'isem *Mirk General Trading LLC* fir-rigward tat-transazzjonijiet lil *Sahra FZCO* hawn taħt imsemmija:

a. Fit-22 ta' Diċembru 2015 għal AED 3,612,614.09

b. it-3 ta' Marzu 2016 għal AED 1,789,826.12

Mix-xiehda ta' Hamidreza Ghanbari joħroġ ċar li ż-żewġ paragrafi fl-ittra tas-17 ta' Mejju 2016 mill-*FIAU* lil Bank Pilatus u li huma meritu tal-kummenti ta' Pierre Portelli li skontu setgħa kien hemm rabta mal-każ *Egrant Inc,* kienu miktuba f'termini ġeneriċi mingħajr indikazzjoni għall-liema transazzjonijiet kienu qegħdin jirreferu. Verament li min għamel dan ir-rapport kiteb dawn il-paragrafi b'mod sibillin mingħajr indikazzjoni għall-liema klijenti jew transazzjonijiet kienu qed jirreferu għalihom b'mod li ma kienx faċli li wieħed jasal għall-konklużjoni. Il-biċċa hi l-Uffiċjali tal-*FIAU* Scalpello u Scerri li ħadmu fuq din l-analiżi kellhom idea ċara ħafna dwar dak li kienu dawn it-transazzjonijiet tant li anke l-*workings* tagħhom

ipproduċew. Biss fl-ittra tal-*FIAU* ta' Mejju 2016 dan il-fatt ma kienx spjegat ċar.

Hamidreza Ghanbari żied jgħid li l-Bank Pilatus ma kienx informat liema kienu dawn it-transazzjonijiet u kien kostrett jipprova jindovina hu stess għall-liema transazzjonijiet kien qiegħed jirreferi l-*FIAU*. Tant hu hekk li meta xehed Hamidreza Ghanbari huwa eżebixxa kemm dokumenti relattivi għal transazzjoni li kienet tirreferi għal trasferiment magħmul minn *Mirk General Trading LLC* lil *Sahra FZCO* f'dinari tal-Emirati Għarab Magħquda (*AED*) f'ammonti li kienu pressapoco jammontaw għal madwar miljun Euro, kif ukoll eżebixxa dokumenti li jirrelataw għal transazzjonijiet li kienu saru bejn *Mirk General Trading LLC* u *TKH Investments Limited, Mirk General Trading LLC* u *NH Investments Limited*, kif ukoll *Frater LLC* lil *Hereti Holdings Limited* li setgħu b'xi mod jaqblu ma' dak mistqarr fl-ittra tal-*FIAU*.

Mill-banda l-oħra l-impjegati tal-*FIAU* li għamlu l-analiżi fil-Bank Pilatus u ċjoe Martina Scalpello u Sarah Gauci jagħmluha ċara, anke grazzi għan-notamenti meħuda minnhom eżibiti fl-atti li fir-rigward ta' dawk iż-żewġt paragrafi (indikati wkoll minn Pierre Portelli) fl-ittra tal-*FIAU* lil Bank Pilatus tas-16 ta' Mejju 2016, huma kienu qiegħdin jikkonċentraw fuq it-transazzjonijiet bejn *Mirk General Trading LLC* u *TKH Investments Limited* u *NH Investments Limited* kif ukoll fuq dik ta' bejn *Frater LLC* u *Hereti Holdings*

Limited – u mhux daqstant fuq dik ta' bejn *Mirk General Trading LLC* u *Sahra FZCO*.

Din il-kwistjoni ma kienetx marbuta ma dak li kien il-meritu ta' din l-inkjesta u għalhekk ma kienx jaqa' fil-parametri tal-analiżi tagħha. Mill-banda l-oħra, minħabba li kien qiegħed jintwera' tħassib dwar il-proċeduri ta' *compliance* minn naħa tal-Bank Pilatus, kienet ġiet mogħtija assigurazzjoni formali da parti tad-Diriġenti tal-*FIAU* li dan il-Korp kien sejjer jibqa' jagħmel il-monitoraġġ fuq l-operat tal-Bank Pilatus, b'mod partikolari mill-aspett ta' *compliance*.

F'dak l-istadju tal-inkjesta l-*FIAU* ġew ordnati sabiex ikomplu jsegwu mill-qrib l-operat tal-Bank Pilatus sabiex jittieħdu l-azzjonijiet meħtieġa u li l-*FIAU* għandha s-setgħa tieħu skont il-Liġi. Fil-fatt f'Novembru 2017 id-Diriġenti tal-*FIAU* infurmaw lill-Maġistrat Inkwirenti li kienu imbarkaw fuq analiżi dettaljata mill-ġdid u bl-aktar mod estensiv u dettaljat dwar l-aspett ta' *compliance procedures* tal-Bank Pilatus.

Kwantu għall-meritu ta' dan ir-rikors, kien ċar li kien jeżorbita l-parametri tal-istħarriġ ta' din inkjesta *Egrant Inc* u dan peress li l-allegazzjonijiet ta' Pierre Portelli li dan ir-rapport tal-FIAU tas-16 ta' Mejju 2017 kellu xi

indikazzjoni jew rabta mal-allegazzjonijiet meritu tal-inkjesta *Egrant Inc* ma kienux konfermati; iżda fi kwalunkwe każ, il-meritu tar-rikors fir-rigward ta' allegati nuqqasijiet ta' *compliance* da parti tal-Bank Pilatus l-*FIAU* kien ordnat li jkompli jindirizzahom u l-*FIAU* wera assigurazzjoni li l-aspett ta' *compliance* kien qiegħed jiġi mistħarreġ anke bl-għajnuna t'esperti tekniċi barranin li kienu qegħdin jagħmlu stħarriġ mill-ġdid u ferm aktar dettaljat minn dak li kien sar qabel.

4. **<u>Rikors ta' Dr. Simon Busuttil bħala l-Kap tal-Opposizzjoni tat-18 ta' Mejju 2017 (il-każ *Hillman*)</u>**

Fit-18 ta' Mejju 2017 Dr. Simon Busuttil bħala Kap tal-Opposizzjoni ippreżenta rikors iffirmat mill-Avukat Dr. Jason Azzopardi fl-atti tal-Inkjesta *Egrant Inc,* fejn bil-ġurament tiegħu ikkonferma illi

> Illi l-esponent jirrileva li rega' rcieva informazzjoni kunfidenzjali, li huwa vverifika u anke issa kkorobora, li hija mhux biss ta' gravita kbira u dettaljata, izda krucjali ghall-iskop tal-indagini u inkjesta li qed issir f'din l-Inkjesta. Din l-informazzjoni tikkoncerna hasil ta' flus u tixhim minn persuni vicin il-Prim Ministru odjern fuq livelli elevati immens;

Illi l-esponent jaghmilha cara li huwa vverifika din l-informazzjoni, liema informazzjoni qed tassallu wara d-diversi appelli li huwa ghamel fil-pubbliku biex kulmin ghandu informazzjoni relattiva ghal din l-inkjesta jersaq il quddiem;

Illi in succint, u biex il-Magistrat Inkwirenti jkollu idea dwar x'tip ta' informazzjoni waslitlu lill-esponenti, jirrizulta li s-Sur Keith Schembri (ID 331975M) li jokkupa l-kariga ta' Chief of Staff tal-Prim Ministru Malti, ghadda flejjes kbar, ammontanti mijiet ta' eluf ta' euro, lil terzi personalment u anke lil kumpaniji ta' terzi registrati fil-British Virgin Islands fuq medda ta' snin, fil-passat recenti, forst l-ohrajn permezz tal-bank Pilatus bank li huwa fic-centru tal-investigazzjoni odjerna;

Illi dawn it-trasferimenti ta' flejjes kbar baqghu ghaddejjin sal-2015, u dejjem mis-Sur Keith Schembri, sija minnu personalment u sija mill-kumpaniji proprjeta tas-Sur Schembri;

Illi dawn il-flejjes ghaddew ghand terz li kellu impjieg ta' certu portata fil-pajjiz u ta' certu influwenza;

Illi l-esponenti ghandu infonnazzjoni dettaljata, inkluz hemel dokumenti, dwar kif inholqot struttura, permezz ta' diversi kumpaniji sigrieti u intermedjarji finanzjarji, sabiex dawn il-mijiet ta eluf ta' ewro gew trasferiti, ammontanti mas-€650,000, minghajr ebda process ta verifiki kif titlob il-ligi dwar il-hasil ta' flus u l-istess flus gew immedjatament riciklati inkluz permezz ta xiri ta *bonds* f'qasir zmien hafna, hafna drabi f'temp ta' 24 siegha biss u wara, il-bejgh tal-istess bonds biex il-flus mahmugin jitnaddfu;

Illi jirrizulta lill-esponenti li Pilatus Bank plc qatt ma aderew mal-obbligi taghhom taht il-ligijiet u regolamenti kontra l-hasil tal-flus, u cjoe qatt ma informaw lill-awtoritajiet koncernati b'dawn it-transazzjonijiet suspettuzi immens u dan, maghdud mal-fatt li l-azzjonist principali tal-Pilatus Bank plc (Sur Ali Sadr) huwa vicin ferm u ferm mas-Sur Keith Schembri jkompli jindika agir maqbul u miftiehem ghal evazjoni ta' taxxa fuq skala massicca, jekk mhux ukoll tixhim u hasil ta' flejjes kbar;

Illi ghall-ahjar infonnazzjoni u gwida lill-Magistrat Inkwirenti, l-esponenti qed jannetti bhala Dok. A traskrizzjoni tal-konferenza tal-ahbarijiet li huwa stess ta lbierah filghaxija fis-6.45pm, trasmessa live fuq Net TV ukoll;

Illi dan hu biss succint tal-informazzjoni dettaljata li l-esponent ircieva u li hu jemmen li hu krucjali li tingieb ghall-attenzjoni tal-Magistrat Inkwirenti peress li l-informazzjoni li huwa ghandu taqa' fil-parametri ta' uhud mill-objettivi ta' din l-Inkjesta Magisterjali, fl-istess waqt li jinforma lil din l-Onorabbli Qorti li huwa jinsab ghad-disposizzjoni tal-Magistrat Inkwirenti jekk il-Magistrat Inkwirenti hekk jidhirlu;

Ghaldaqstant l-esponent umilment jitlob lil Magistrat Inkwirenti jisma' x-xhieda tal-esponent taht gurament u dan taht kull provvediment li din il-Qorti joghgobha timponi.

Dakinhar stess tat-18 ta' Mejju 2017 ġie deċiż li sabiex jiġi evalwat jekk il-meritu tar-rikors jissubentrax fil-parametri ta' din l-inkjesta kellu jinstema' Dr. Simon Busuttil bil-ġurament tiegħu. Fid-19 ta' Mejju, 2017 fid-9.00 Dr. Busuttil spjega d-denunzja tiegħu taħt ġurament u eżebixxa għadd ta' dokumenti fi tminn *box files*.

Fl-istess jum tad-19 ta' Mejju 2017 ġie ordnat li ai termini tal-Artikolu 546(4A) tal-Kodiċi Kriminali r-rikors jiġi notifikat lil Keith Schembri u lil Adrian Hillman li ġew mogħtija sat-Tnejn, 22 ta' Mejju 2017 u dan sabiex wara jkun jista' jiġi deċiż jekk kienux ġew stabbiliti l-prerekwiżiti meħtieġa sabiex tkun tista ssir inkjesta dwar l-*in genere*. Dan wara li ġie osservat illi :

(a) Illi fis-sustanza tagħha d-denunzja kontenuta fir-rikors promotur, tmur lil hinn mill-parametri tal-istħarriġ li qiegħed isir mill-Maġistrat Inkwerenti skont kif rifless fil-kwerela ppreżentata lill-Kummissarju tal-Pulizija mill-Avukati Dr. Pawlu Lia u Dr. Edward Gatt kif ukoll mir-rapport miktub tal-Kummissarju tal-Pulizija datati 20 t'April, 2017.

(b) Illi fil-fehma tal-Maġistrat Inkwerenti, is-setgħat tiegħu fl-investigazzjoni dwar l-*'in genere'* huma wiesgħa mhux ħażin; iżda dawn is-setgħat jistgħu biss jiġu eżerċitati fil-parametri u fil-limiti tan-*notitia criminis* li tkun ġiet magħmula lilu u li in bazi tagħha tkun infetħet l-investigazzjoni dwar l-*in genere*.

(c) Il-Maġistrat Inkwerenti m'għandux is-setgħa jintraprendi investigazzjoni dwar l-*in genere 'ex officio'* stante li skont l-Artikolu 546 tal-Kodiċi Kriminali dejjem tinħtieġ *notitia criminis* biex Maġistrat ikun jista' jiddeċiedi jekk jordnax investigazzjoni. *Multo magis* ma jistax hu stess iwessa' l-parametri ta' investigazzjoni kondotta minnu billi jimbarka fuq stħarriġ bażat fuq *notitia criminis* differenti minn dik oriġinali u li tkun mogħtija lilu fl-ambitu t'inkjesta maġisterjali *in corso* u li tkun inbdiet in bażi ta' *notitia criminis* b'meritu u b'finalita' differenti. Jekk jagħmel dan huwa jkun qed jaġixxi 'ultra vires' id-denunzja originali.

(d) Minbarra dan pero, u aktar minn hekk, għalkemm għar-raġunijiet premessi huwa ma jistax jintraprendi l-investigazzjoni mitluba mir-rikorrent fl-ambitu tal-preżenti investigazzjoni dwar l-*in genere*, xorta waħda huwa ma jistax iwarrab il-fatt li, qua Maġistrat *'ut sic'* huwa jiġi li rċieva denunzja mingħand persuna li mhux il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali. F'dan is-sens għalhekk jiskattaw id-disposizzjonijiet imsemmija fl-artikoli 546(4A)(4B)(4C) tal-Kodiċi Kriminali.

Keith Schembri in suċċint, wieġeb li:

(a) In-*notitia criminis* kontenuta fir-rikors ta' Dr. Busuttil ma għandha x'taqsam xejn man-*notitia criminis* taħt investigazzjoni mill-Maġistrat sottofirmat. L-intavolar ta' dan ir-rikors fl-atti ta' din l-inkjesta ġie ritenut bħala li huwa "abbuż akkademiku" tal-proċedura;

(b) Li l-kontenut tar-rikors u tan-*news press release* biss ma humiex biżżejjed biex jista' jwassal lil Maġistrat jikkonkludi li jeżistu l-pre-rekwiżiti biex tissejjah inkjesta; dan ukoll peress li l-ilmenti u r-referenzi msemmija huma ġeneriċi għall-aħħar u ma jilħqux ir-rekwiżiti meħtieġa;

(c) Illi wara dawn ir-rikorsi hemm strateġija biex il-Maġistrat jiġi mxekkel milli jkompli bl-aċċess dwar l-in genere meritu tal-inkjesta fl-okkju mhux għal raġunijiet legali iżda għal raġunijiet partiġġjani għall-aħħar; u l-Maġistrat ma għandux jippresta ruħu għal dawn it-tattiċi ;

(d) Illi t-talba ta' Dr. Busuttil hija proċeduralment skorretta; il-Maġistrat ma għandux jispezzetta it-talba "b'pezzi bukkuni" billi jiddeċiedi li t-talba tmur lil hinn

min-notitia criminis oriġinali iżda li tkun xorta timmerita li tiġi mistħarġa. Dan għandu jsir mill-Maġistrat li eventwalment jiġi biex jeżamina r-rikors u dan għaliex altrimenti l-Maġistrat sottofirmat ikun qiegħed jikkundizzjona lit-tieni Maġistrat fuq deċiżjoni sensittiva;

(e) Illi l-istitut tal-Maġistrat tal-Għassa huwa bażat fuq kunċetti storikament stabbiliti intiżi sabiex jiġu evitati sitwazzjonijiet abbużivi bħal dik in eżami; u jekk il-Maġistrat sottofirmat jiddeċiedi b'mod simili huwa jkun qiegħed

(i) Jilleġittima talba in parte skorretta;

(ii) Itawwal il-possibilita li l-in genere tiġi konkluża fi żmien raġjonevoli;

(iii) Jikkundizzjona in parte deċiżjoni li jekk ikun il-każ korrettament għandha tispetta lil Maġistrat ieħor u

(iv) Jiddisturba l-konswetudni li ħadmet b'tant suċċess tal-kunċett amministrattiv tal-Maġistrat tal-Għassa;

(f) Stante li l-animu wara dan ir-rikors huwa wieħed li jtawwal il-proċedura inutilment, hemm lok li l-Maġistrat għandu jekk xejn jagħti twiddiba aktar iebsa minn dik li ġja ingħatat f'digrieti preċedenti.

Adrian Hillman li da parti tiegħu qal li :

(a) ikkontesta r-rilevanza tat-talba ta' Dr. Busuttil għall-fini tal-inkjesta de quo in kwantu li s-sustanza tar-rikors jittratta allegati misfatti da parti ta' Keith Schembri u/jew Pilatus Bank;

(b) minn eżami tar-rikors promotur ma jirriżultax li huwa indikat bħala bniedem suspettat ta' reat u li semmai huwa indikattiv b'mod ċar li l-persuna suspettata hija effettivament ħaddieħor;

(c) li huwa ma għamel xejn ħażin jew illeċitu u konsegwentement ma għandux jiġi investigat f'ebda inkjesta fl-*in genere*.

Ġie kkunsidrat ulterjorment mill-Maġistrat sottofirmat illi :

Illi f'dan l-istadju l-Maġistrat hu konfrontat b'denunzja tal-Kap tal-Opposizzjoni (li mhux il-Kummissarju tal-Pulizija jew l-Avukat Ġenerali) dwar allegati "evażjoni ta' taxxa", "tixħim" u "ħasil ta' flus"u dan sabiex issir inkjesta dwar l-*in genere* fuq il-fatti denunzjati minnu.

Għal dan Keith Schembri wieġeb li din it-talba ma għandha x'taqsam xejn mal-meritu tal-inkjesta Egrant in segwitu għan-*notitia criminis* tal-Prim Ministru u martu datata 20 t'April 2017.

Fuq dan il-punt, Schembri għandu raġun. Importanti li jiġi puntwalizzat minn fejn telqet l-inkjesta Egrant. Dr. Joseph Muscat u martu Michelle Muscat ħassew li artikli pubblikati fuq il-blog "Running Commentary" miktub minn Daphne Caruana Galizia, (u b'mod partikolari b'uħud pubblikati nhar l-20 t'April 2017) fejn ġie allegat *inter alia* li Michelle Muscat kienet is-sid aħħari tal-kumpanija Egrant kif ukoll li kienet b'xi mod il-benefiċjarja ta' versamenti ta' ammonti ta' flejjes enormi minn persuni jew kumpaniji skont kif imsemmija fl-istess artikli, kienu bażati fuq allegazzjonijiet foloz u kalunjużi, msejsa fuq fabbrikazzjoni ta' fatti. Fuq dawn il-premessi Dr. Muscat u martu talbu lill-Kummissarju tal-Pulizija sabiex jintraprendi investigazzjoni dwar l-allegazzjonijiet kontenuti fl-artikli msemmija. Il-Kummissarju tal-Pulizija imbagħad irraporta lill-Maġistrat Inkwirenti li minn naħa tiegħu ra li ġew stabbiliti l-pre-rekwiżiti meħtieġa sabiex issir dik l-inkjesta. Minn hemm bdiet l-inkjesta Egrant.

F'dan is-sens għalhekk il-fatti miġjuba fir-rikors ta' Dr. Busuttil imorru lil hinn mill-parametri tal-inkjesta Egrant.

Schembri jtenni wkoll li r-rikors ta' Dr. Busuttil mhux biss imur lil hinn mill-parametri ta' din l-inkjesta, iżda wkoll li huwa msejjes fuq raġunijiet partiġġjani għall-aħħar u li l-Maġistrat sottofirmat ma għandux jippresta ruħu għal dawn it-tattiċi, bażati fuq talba li hija proċeduralment skorretta. Jisħaq li l-Maġistrat ma għandux jispezzetta it-talba "b'pezzi bukkuni" billi jiddeċiedi li t-talba tmur lil hinn min-notitia criminis oriġinali iżda li tkun xorta timmerita li tiġi mistħarġa għaliex dan għandu jsir mill-Maġistrat li eventwalment jiġi biex jeżamina r-rikors (u dan għaliex altrimenti l-Maġistrat sottofirmat ikun qiegħed jikkundizzjona lit-tieni Maġistrat fuq deċiżjoni sensittiva). Schembri jibbaża l-argument tiegħu fuq il-fatt li l-istitut tal-Maġistrat tal-Għassa huwa bażat fuq kunċetti storikament stabbiliti intiżi sabiex jiġu evitati sitwazzjonijiet abbużivi bħal dik in eżami; u jekk il-Maġistrat sottofirmat jiddeċiedi b'mod simili huwa jkun qiegħed jilleġittima talba in parte skorretta, jtawwal il-possibilita li l-in genere tiġi konkluża fi żmien raġjonevoli; jikkundizzjona in parte deċiżjoni li jekk ikun il-każ korrettament għandha tispetta lil Maġistrat ieħor u jiddisturba l-konswetudni li ħadmet b'tant suċċess tal-kunċett amministrattiv tal-Maġistrat tal-Għassa.

It-Titolu II Fuq l-"*In Genere*", l-Aċċessi u r-"*Reperti*" tal-Kodiċi Kriminali jipprovdi s-setgħa ta' aċċessi u l-prova tal-"*in genere*" tiġi eżerċitata minn Maġistrat. Din hija waħda mit-tliet funzjonijiet prinċipali li Maġistrat jaqdi fis-sistema ġuridiku Malti.[171] Żewġ funżjonijiet prinċipali huma eżerċitati bħala istruttur fil-Qorti tal-Maġistrati bħala Qorti Istruttorja kif ukoll dik ta' ġudikant fil-Qorti tal-Maġistrati bħala Qorti ta' Ġudikatura Kriminali. It-tielet funzjoni hija dik ta' *inkwirenti* fuq il-prova tal-*in genere*, aċċessi u *reperti*. Fil-qadi tat-tielet funzjoni tiegħu, Maġistrat jaġixxi bħala Maġistrat *ut sic* u mhux bħala Qorti. Din il-funzjoni toħroġ ċara kemm mill-Liġi kif ukoll mill-ġurisprudenza.

Il-Liġi imkien ma ssemmi **liema** Maġistrat jista' jiżvolġi s-setgħa ta' inkwirenti. Dan peress li **kull** Maġistrat għandu l-funzjoni ta' inkwirenti bħala parti essenzjali mir-rwol tiegħu ta' Maġistrat eżerċenti fir-Repubblika ta' Malta u dan indipendentement mis-setgħat istruttruri jew aġġudikattivi tiegħu. Din hija funzjoni intrinseka fil-mansjoni ta' kull Maġistrat. Għalhekk kull Maġistrat jista' jiġi msejjah u adit sabiex jaqdi r-rwol ta' inkwirenti – irrispettivament mill-assenjazzjonijiet u irrispettivament mill-arranġamenti amministrattivi jekk ikunx tal-għassa jew le. Din mhix kwistjoni akkademika.

Hekk per eżempju fis-sentenza tal-Qorti tal-Appell Kriminali fl-ismijiet ***Ir-Repubblika ta' Malta vs. Jason Calleja*** deċiża nhar it-3 ta' Lulju 1997 jingħad b'mod ċar li : -

(1) Il-Maġistrat inkwirenti jaġixxi mhux bħala Qorti iżda bħala Maġistrat *ut sic*. Kull Maġistrat għandu responsabbilta inerenti u intrinseka għall-eżerċizzju tal-funzjonijiet tiegħu dik li jkun inkwirenti jekk u meta jirċievi *notitia criminis*; u dan irrispettivament jekk ikunx tal-għassa jew le.
(2) Il-Liġi qatt ma ssemmi lil-Maġistrat tal-Għassa bħala tali. L-għassa hija funzjoni amministrattiva għaqlija ta' tqassim ta' xogħol bejn il-Maġistrati li pero mhix riflessa b'mod espress mill-Liġi. Din hija sistema li tassigura li kull jum, f'kull ħin tal-ġurnata jkun hemm Maġistrat li jista' jiġi faċilment kontattat b'kull *notitia criminis*. Biss dan l-arranġament bl-ebda mod ma jidderoga r-responsabbilta' ta' kull Maġistrat li jirċievi *notitia criminis* anke jekk ma jkunx tal-għassa.

Id-dmir ta' kull Maġistrat li jirċievi *notitia criminis* hija intrinseka fil-kariga ta' kull Maġistrat irrispettivament jekk ikunx tal-Għassa jew le. L-għassa tassikura li jkun

[171] U dan apparti funzjonijiet oħra speċifiċi stabbiliti mill-Liġi, bħal dik ta' Uffiċjal Reviżur, eċċetra.

hemm ċertu ordni fit-tqassim tax-xogħol tal-Maġistrati kif ukoll ikun hemm punt ta' riferiment ċar għal min ikun irid jagħti *notitia criminis*. Biss dan xejn ma jżomm li persuna tagħti *notitia criminis* lil kwalunkwe Maġistrat irrispettivament jekk ikunx dak li jmissu t-turn jew le. Mill-banda l-oħra xejn fil-Liġi ma jobbliga li persuna bilfors trid tagħti n-*notitia criminis* lil-Uffiċjal tal-Pulizija jew lill-Avukat Ġenerali. Anzi, kull persuna hija mogħtija d-dritt li tadixxi lil kull Maġistrat. Maġistrat huwa mogħni, jew aħjar mgħobbi, bis-setgħa ta' Maġistrat erbgħa u għoxrin siegħa kuljum.

Kemm dan huwa minnu joħroġ ukoll minn diversi disposizzjonijiet ta' dan it-Titolu, li dejjem jirreferu għal figura tal-Maġistrat, fis-singolar, mingħajr ma hemm kwalifika aktar diretta jew preċiża għal xi Maġistrat partikolari.

Joħroġ ukoll mill-fatt li anke l-Liġi stess, f'dawk id-disposizzjonijiet li bihom trid tassigura li ma jkunx hemm *forum shopping*, u b'mod partikolari fl-artikolu 546(4C) tal-Kodiċi Kriminali, fejn huwa preskritt li meta l-għażla tal-Maġistrat trid issir bil-polza din għandha ssir minn fost il-Maġistrati **kollha** – u mhux minn xi Maġistrat jew Maġistrati partikolari. Dan ikompli juri kemm is-setgħa tal-inkwirenti hija fil-qalba nett ta' dak li jsawwar il-funzjoni tal-Maġistrat Malti.

Isegwi għalhekk li Maġistrat, in kwantu tali, jekk jiġi mogħti r-responsabbilta ta' *notitia criminis* huwa obbligat li jsegwiha, irrispettivament jekk hux tal-għassa jew jekk għandux assenjazzjoni partikolari. Dan japplika kemm jekk dik in-*notitia criminis* tiġix mogħtija lilu minn uffiċjal tal-Pulizija, kemm jekk mill-Avukat Ġenerali kif ukoll minn persuna oħra. Id-differenza li toħroġ mill-Liġi hija li f'dak il-każ fejn in-*notitia criminis* tiġi mwasla lil Maġistrat minn persuna li ma jkunx uffiċjal tal-Pulizija jew l-Avukat Ġenerali, tiskatta l-proċedura speċjali kontemplata fl-Artikoli 546(4A)(4B) u (4C) tal-Kodiċi Kriminali.

F'dan il-każ Dr. Simon Busuttil adixxa lil Maġistrat sottofirmat b'*notitia criminis* fil-forma ta' denunzja ta' fatti li jallega li jikkostitwixxu reati kriminali. Id-denunzja tiegħu ma ġietx magħmula lil Uffiċjal tal-Pulizija jew lill-Avukat Ġenerali. Issa huwa minnu li Dr. Busuttil setgħa mexa skont il-prassi u ressaq id-denunzja tiegħu quddiem il-Kummissarju tal-Pulizija u b'hekk il-proċedura tiegħu tiġi stradata quddiem il-Maġistrat tal-Għassa b'mod li jintraprendi proċedura aktar sempliċi u li tieħu anqas ħin minn dik prevista fl-Artikoli 546(4A)(4B) u (4C). Iżda mill-banda l-oħra, il-Liġi

ma żżomx lil Dr. Busuttil milli, bħal kull persuna oħra, jagħmel denunzja diretta lil Maġistrat – ikun min ikun dak il-Maġistrat.

Kif inhi l-Liġi illum, ħadd ma huwa obbligat **bilfors** li jagħti n-*notitia criminis* tiegħu lill-Avukat Ġenerali jew lil uffiċjal tal-Pulizija, anke jekk dan huwa aktar desiderabbli u jagħmel il-kors tal-ġustizzja aktar faċli u b'ritmu mgħaġġel. L-anqas ma huwa ħadd obbligat bil-Liġi li jagħti n-*notitia criminis* tiegħu lil Maġistrat tal-Għassa. Lanqas ma huwa ħadd preklużmilli jagħti n-*notitia criminis* tiegħu lil kwalunkwe Maġistrat. Li hu żgur hu li Dr. Busuttil, bħal kull persuna oħra, ma jistax jagħżel liema Maġistrat irid hu biex jinvestiga denunzja imresqa minnu.

Mill-banda l-oħra l-anqas ma Maġistrat ma jista' jagħżel hu quddiem liema kollega tiegħu tiġi diretta *notitia criminis*. Il-Maġistrat sottofirmat ma jistax jirreferi hu d-denunzja ta' Dr. Busuttil lill-Maġistrat tal-Għassa, stante li kemm hu kif ukoll il-Maġistrat tal-Għassa għandhom l-istess kariga u rwol, irrispettivament mill-aspett amministrattiv li jirregola t-tqassim tax-xogħol bejniethom. Altrimenti jiġi li l-Maġistrat sottofirmat ikun qiegħed ifarfar mir-responsabbilta tiegħu qua Maġistrat *ut sic*.

Il-Liġi għalhekk tagħti d-dritt lil kull persuna li tadixxi mhux biss lill-uffiċjal tal-Pulizija iżda wkoll kwalunkwe Maġistrat bin-*notitia criminis*. Verament li dan jista' jinftiehem li jdgħajjef il-prassi tal-Maġistrat tal-Għassa. Iżda l-aspett amministrattiv irid ibaxxi rasu għar-realta legali prevalenti. Ladarba l-Liġi ma tobbligax lin-nies li jagħtu n-*notitia criminis* lill-Kummissarju tal-Pulizija, l-Avukat Ġenerali jew il-Maġistrat tal-Għassa, bħal kull persuna oħra, Dr. Busuttil setgħa jadixxi wkoll lil kull Maġistrat bin-*notitia criminis* tiegħu.

Verament li Dr. Busuttil setgħa wkoll jagħżel li jagħti n-*notitia criminis* tiegħu lill-Maġistrat tal-Għassa. Iżda anke f'din l-ipoteżi, kieku Dr. Busuttil għażel li ma jagħtix in-*notitia criminis* tiegħu direttament lill-Kummissarju tal-Pulizija jew l-Avukat Ġenerali u minflok għażel li jmur quddiem il-Maġistrat tal-Għassa, il-Maġistrat tal-Għassa li jkun irċieva d-denunzja ta' Dr. Busuttil kien jiġi rinfaċċjat bl-istess sitwazzjoni identika għal dik li sab ruħu fiha l-Maġistrat sottofirmat fejn, stante li d-denunzja tkun qed issirlu minn persuna li mhux l-Avukat Ġenerali jew uffiċjal tal-Pulizija, xorta waħda jkun obbligat li jmexxi skont il-proċedura stabbilita fl-Artikolu 546(4A) *et seq* tal-Kodiċi Kriminali! Dan għaliex din il-proċedura speċjali ma tagħmilx

differenza bejn jekk il-Maġistrat li jkun irċieva n-*notitia criminis* ikunx il-Maġistrat tal-Għassa jew le. U b'hekk xorta waħda kienet tiskatta l-proċedura aktar komplessa u li tieħu aktar ħin sabiex inkjesta tiġi mibdija minħabba l-proċedura msemmija fl-Artikolu 546(4A) et tal-Kodiċi Kriminali.

Verament li huwa importanti li kull inkjesta Maġisterjali tiġi magħluqa fi żmien kemm jista' jkun qasir; u b'mod partikolari meta si tratta ta' inkjesta ta' natura delikata u t'importanza nazzjonali bħal ma hija l-inkjesta "Egrant". Biss huwa fatt innegabbli li, għar-raġunijiet aktar il-fuq imsemmija, din l-inkjesta hija waħda ta' natura mhux biss delikata iżda wkoll komplessa. Il-Maġistrat sottofirmat, flimkien mal-Uffiċjali tal-Pulizija kollha adetti ma din l-inkjesta, ilhom għaddejjin bla waqfien, sa mill-lejl tal-20 t'April 2017, bl-investigazzjonijiet tagħhom : Sibtijiet, Ħdud u festa pubblika inkluża. In-natura ta' din l-inkjesta hija tali li teħtieġ approfondiment, inkluż bl-għajnuna ta' diversi esperti, prinċipalment barranin, fuq livell kemm lokali kif wkoll fuq livell internazzjonali u teħtieġ li jsiru proċessi, eżamijiet, analiżi u ġbir ta' provi li minn natura tagħhom jirrikjedu żmien tekniku konsiderevoli u spejjeż enormi. Dan apparti mill-fatt li għad hemm diversi miżuri oħra li jridu jittieħdu fil-mument opportun u li jiddependu mill-eżitu ta' wħud mill-eżamijiet, analiżi u provi li qegħdin jinġabru.

L-impenn tal-Maġistrat soffirmat u tal-Uffiċjali tal-Pulizija adetti għal din l-investigazzjoni qiegħed hemm, kostanti u bla waqfien biex din tiġi magħluqa fl-aqsar żmien possibbli, anke minħabba l-fatt li qegħda tiġi kondotta fi żmien partikolarment sensittiv għall-pajjiż. Iżda għalkemm il-Maġistrat sottofirmat għandu poteri enormi meta jiġi biex iwettaq investigazzjoni bħal din, huwa ma jistax jieħu *short cuts* u l-anqas m'għandu dik is-setgħa li jtawwal ġurata aktar minn erbgħa u għoxrin siegħa, jew ġimgħa aktar minn sebat ijiem.

Inoltre il-Maġistrat sottofirmat ma jaqbilx li bid-deċiżjoni tiegħu huwa jkun qiegħed jispezzetta it-talba "b'pezzi bukkuni" billi jiddeċiedi li t-talba tmur lil hinn min-*notitia criminis* oriġinali iżda li tkun xorta timmerita li tiġi mistħarġa. Dan għaliex anke jekk id-denunzja ta' Dr. Busuttil tmur lil hinn mill-parametri tal-inkjesta Egrant, xorta waħda huwa bħala Maġistrat *ut sic* u li għandu l-mansjoni intrinseka għall-kariga tiegħu li jieħu konjizzjoni ta' *notitiae criminis,* ikunu mingħand min ikunu.

Kwantu għall-punt sollevat minn Schembri fis-sens li għandu jkun il-Maġistrat li eventwalment jiġi biex jeżamina r-rikors li għandu jiddeċiedi fuq l-eżistenza tal-prerekwiżiti meħtieġa biex issir inkjesta, il-Maġistrat sottofirmat jidhirlu li hija l-Liġi stess li tgħid li għandu jkun dak il-Maġistrat li jirċievi n-*notitia criminis* li għandu jiddeċiedi fuq l-eżistenza tal-prerekwiżiti biex issir l-inkjesta. Ai termini tal-Artikolu 546(4A) tal-Kodiċi Kriminali :-

> (4A) Meta r-rapport, id-denunzja jew il-kwerela jsiru lil Maġistrat taħt dan l-artikolu minn xi persuna li ma tkunx l-Avukat Ġenerali jew uffiċjal tal-pulizija, ir-rapport, id-denunzja jew il-kwerela għandhom isemmu ċar lill-persuna suspettata li għamlet ir-reat (hawn izjed 'il quddiem f'dan l-artikolu msejjħa "il-persuna suspettata"). Il-Maġistrat għandu jordna li r-rapport, id-denunzja jew il-kwerela, skont ma jkun il-każ, jiġi notifikat lill-persuna suspettata filwaqt li jagħtiha żmien għal risposta u wara li jgħaddi dak iż-żmien il-Maġistrat għandu jiddeċiedi jekk jagħmilx l-aċċess. **Il-Maġistrat għandu jiddeċiedi li jagħmel l-aċċess biss jekk ikun stabbilixxa li l-prerekwiżiti meħtieġa biex isir dak l-aċċess ikunu jeżistu.**

Din il-Liġi bl-ebda mod ma taqleb dan l-oneru minn fuq Maġistrat għal fuq Maġistrat ieħor. Dak li l-Liġi trid huwa li l-Maġistrat li jkun irċieva n-*notitia criminis* jara jekk hemmx il-prerekwiżiti bażiċi biex tinfetah inkjesta. F'każ pożittiv, dak il-Maġistrat li jkun magħżul bix-xorti minn fost il-Maġistrat kollha biex jikkonduċi l-inkjesta imbagħad ikun irid jara jekk jeżistux l-estremi fattwali u ġuridiċi għalbiex tkun tista tinbeda l-azzjoni kriminali kontra persuni li jkunu suspettati li wetqu reati kriminali.

Il-Maġistrat sottofirmat ma jistax jifhem kif huwa, bid-deċiżjoni tiegħu dwar jekk jeżistux il-prerekwiżiti għalbiex tinfetah inkjesta, jista' jinfluwenza Maġistrat ieħor li jkun qiegħed eventwalment jikkonduċi l-inkjesta. Dan l-argument ma jistax jilqgħu għaliex bl-istess argument ikun jista' jingħad (u *a maggior ragione*) li l-Maġistrat li jkun ikkonduċa inkjesta u fl-aħħar tagħha jsib li hemm provi biżżejjed biex tkun tista' tinbeda l-azzjoni kriminali kontra persuna suspettata ikun qiegħed, bil-konklużjoni tiegħu, jinfluwenza lil Qorti tal-Maġistrati jew lill-Qorti Kriminali skont il-każ, fid-deċiżjoni aħħarija tagħha dwar jekk l-imputat jew akkużat ikunx ħati jew le.

Bid-dovut rispett id-deċiżjoni ta' ħtija o meno tispetta biss lill-Qorti kompetenti wara li jkun sar proċess kriminali sħiħ kontra persuna, bil-garanziji kollha li trid il-Liġi, u wara li l-Qorti kompetenti tkun ġabret u analizzat l-evidenza u l-argumenti kollha

skont il-Liġi. Bl-istess argument allura kull konklużjoni misjuba fi proċess verbal tal-Maġistrat li jordna lill-Kummissarju tal-Pulizija sabiex jibda l-azzjoni penali kontra persuna suspettata għandha dejjem tiġi riflessa f'sejbien ta' ħtija mill-Qorti kompetenti. Min huwa midħla sew ta' dan il-kamp legali, l-Abbli Avukati inklużi, jafu ben tajjeb li dan mhux dejjem ikun il-każ.

Dak li l-Maġistrat sottofirmat irid jagħmel f'dan il-każ huwa biss li jara jekk hemmx il-prerekwiżiti meħtieġa biex tibda inkjesta. Dan jimporta eżami bażiku ħafna, mingħajr ħtieġa ta' elaborazzjoni u analiżi approfondit tal-provi li jistgħu jingiebu quddiemu. Il-prerekwiżiti għall-investigazzjoni dwar l-*in genere* huma dawk imsemmija fl-Artikolu 546(1) tal-Kodiċi Kriminali li jgħid : -

> **546.** (1) Bla ħsara tad-disposizzjonijiet tas-subartikoli li jiġu minnufih wara dan, wara r-rapport, id-denunzja jew il-kwerela ta' reat li jista' jingħata l-piena ta' priġunerija għal iżjed minn tliet snin, u jekk is-suġġett materjali tar-reat ikun għadu jeżisti, għandu jiġi deskritt l-istat tiegħu, bid-dettalji kollha wieħed wieħed, u għandu jiġi msemmi l-istrument u l-mod li bih dan l-istrument seta' jġib l-effett.

F'dan il-każ saret denunzja u li ġiet ukoll konfermata bil-ġurament tad-denunzjant li pproduċa għadd ta' dokumenti biex jissostanzja l-imsemmija denunzja. Id-denunzja saret fir-rigward ta' fatti li jekk aċċertati fi ħdan inkjesta dwar l-*in genere*, jistgħu jagħtu lok għal azzjoni penali li bħala riżultat tagħha, fil-każ eventwali ta' sejbien ta' ħtija lil hinn minn kull dubju dettat mir-raġuni, jistgħu jimportaw piena:

(e) fir-rigward tal-allegat "tixħim" f'ċerti ċirkostanzi tista' tiżboq it-tliet snin priġunerija;
(f) fir-rigward tal-allegat ħasil ta' flus, definittivament li taqbeż il-piena ta' tliet snin priġunerija,
(g) nonche pieni pekunjarji li jistgħu ikunu applikabbli wkoll fir-rigward ta' evażjoni fiskali.

L-allegati fatti denunzjati, jagħtu lok għal "suġġett materjali tar-reat" li għadu jeżisti u li jrid jiġi priżervat. L-allegazzjoni tista' twassal għal azzjoni penali għal reati ta' natura finanzjarja li jeħtieġu konservazzjoni u preservazzjoni ta' diversi dokumenti li jkunu jridu jiġu deskritti u dettaljati wieħed wieħed u debitament analizzati ukoll minn esperti tekniċi. Dan minbarra xhieda okulari li jkunu jridu jiġu mitkelma. Id-

dokumenti eżibiti mid-denunzjant ikunu jridu jiġu wkoll analizzati fid-dawl tal-ammissibbilita legali tagħhom.

Il-prerekwiżiti meħtieġa sabiex issir investigazzjoni dwar l-*in genere* huma sodisfatti. Issa jmiss lill-Maġistrat li jrid jikkonduċi l-inkjesta dwar l-*in genere* li jrid jistabbilixxi jekk, meta jkunu nġabru l-provi kollha ammissibbli, hemmx lok għall-azzjoni penali o meno; u f'każ pożittiv fir-rigward ta' liema reati tkun trid tiġi istitwita l-azzjoni penali u fil-konfront ta' min. Skont il-kliem tal-Liġi stess, f'dan l-istadju il-Maġistrat sottofirmat għandu jiddeċiedi li jagħmel l-aċċess biss jekk ikun stabbilixxa li l-prerekwiżiti meħtieġa biex isir dak l-aċċess ikunu jeżistu.

Konklużjoni

Il-Maġistrat sottofirmat jidhirlu li ġew soddisfatti l-prerekwiżiti meħtieġa sabiex issir inkjesta dwar l-*in genere* fir-rigward tal-fatti allegati fir-rikors promotur fil-konfront ta' Keith Schembri u Adrian Hillman.

Għaldaqstant jordna li din id-deċiżjoni tiġi notifikata lid-denunzjant Dr. Simon Busuttil kif ukoll lid-denunzjati Keith Schembri u Adrian Hillman fejn kull wieħed minnhom jista' jipproċedi skont l-Artikoli 518 u 546(4B) tal-Kodiċi Kriminali.

Stante li ma kienx hemm proċedura għal reviżjoni ta' dan id-digriet quddiem il-Qorti Kriminali, il-proċedura għall-fini ta' estrazzjoni bix-xorti ta' din l-inkjesta saret mill-Prim Imħallef u din l-inkjesta ġiet fdata f'idejn il-Maġistrat Dottor Josette Demicoli.

Fil-frattemp, permezz ta' rikors datat 19 ta' Mejju 2017, il-Prim' Ministru Dr. Joseph Muscat ippreżenta rikors iffirmat mill-Avukat Dr. Pawlu Lia fejn ippremetta s-segwenti : -

1. Illi l-esponenti sam jafu *mill-Media* li Dr. Simon Busuttil, ghat-tieni darba, rikors quddiem din il-Qorti sabiex allegazzjonijiet fuq terzi ghal din l-Inkjesta, li huwa stess ghamel waqt konferenza stampajigu mismugha f'din l-Inkjesta flimkien mad-denunzja li saret mill-esponenti.

2. Illi huwa evidenti hafna li dawn l-allegazzjoni assolutament ma ghandhom x'jaqsmu xejn mad-denunzja tal-esponenti u jidher li, ghat-tieni darba, Dr. Busuttil qieghed idahhal dawn l-allegazzjonijiet f'din l-Inkjesta bl-iskop car li jtawwal l-gheluq taghha, tant mistenni mill-esponenti, minhabba l-pregudizzju kbir li qed isofru bl-allegazzjonijiet li sam.

3. Illi apparti li r-rikors sar biex itawwal, l-esponentijikkontendu li bil-manuvrar u d-dikjarazzjonijiet pubblici tieghu Dr. Busuttil qed jipprova jtellef is-serenita' ta' din il-Qorti waqt li qed tikkonduci *I-in genere.*

4. Illi meta denunzjant irid juri li hemm elementi biex tinzamm inkjesta, il-ligi tipprovdi metodu car ta' kif ghandujimxi, u x'ghandujaghmel. Dr. Busutttil dan jafu tajjeb, u jaf ukoll li flok isegwi il-procedura stabbilita', qieghed jitfa' kollox f'hogor din il-Qorti b'allegazzjonijiet li fil-meritu ma ghandhom x'jaqsmu xejn mad-denunzja tal-esponenti.

5. Illi din il-Qorti, fid-digriet taghha tal-4 ta' Mejju 2017, wara l-ewwel rikors ta' Dr. Busuttil, diga' ddecidiet li s-setghat taghhajistghujigu ezercitati biss fil-parametri u fil-limiti tad-denunzja maghmula lilha, li ghab-bazi taghha tkun infethet 1-investigazzjoni *in genere,* u l-Magistrat ma jistax huwa stess iwessa' l-parametri talinvestigazzjoni kondotta minnu billi jimbarka fuq stharrig bazat fuq denunzja differenti minn dik originali.

6. Illi sfortunatament Dr. Busuttil jahseb li huwa ghandu xi dritt li jaghzel hu Magistrat, lijkun qedjikkonduci Inkjesta fuq suggett, u b'rikorsjidhol f'dik l-Inkjesta biex tigi kunsidrata talba tieghu fuq suggett differenti.

7. Illi madankollu, biex jimxi korrett u skond il-ligi, Dr. Busuttil kellu jimxi skond il-procedura u, jekk verament u genwinament irid li tinzamm inkjesta fuq l-allegazzjonijiet li qed jaghmel, kellu, kif isir dejjem, jitlob lill-Magistrat tal-Ghassa biex jiddeciedi jekk hemmx elementi bizzejjed biex tinzamm inkjesta bl-in *genere*. B'dan il-mod, Dr. Busuttil ma jbati assolutament ebda pregudizzju, u ma jkomplix itellefujfixkell-andament seren ta' dawn il-proceduri, dirett lejn l-gheluq taghhom.

8. Ghaldaqstant l-esponenti jitolbu bir-rispett li din il-Qorti joghgobha, prevja jekkjidhrilha opportun li tisma' lill-esponenti, tidderiegi lil Dr. Simon Busuttil sabiex jipprocedi skond il-ligi, ai termini tal-art. 546 *et seq.* tal-Kodici Kriminali, quddiem ilMagistrat tal-Ghassa.

Dan ir-rikors ġie miċħud għar-raġunijiet segwenti : -

Illi t-Titolu II Fuq l-"*In Genere*", l-Aċċessi u r-"*Reperti*" tal-Kodiċi Kriminali jipprovdi s-setgħa ta' aċċessi u l-prova tal-"*in genere*" tiġi eżerċitata minn Maġistrat. Din hija waħda mit-tliet funzjonijiet prinċipali li Maġistrat jaqdi fis-sistema ġuridiku Malti.[172] Żewġ funżjonijiet prinċipali huma eżerċitati bħala istruttur fil-Qorti tal-Maġistrati bħala Qorti Istruttorja kif ukoll dik ta' ġudikant fil-Qorti tal-Maġistrati bħala Qorti ta' Ġudikatura Kriminali. It-tielet funzjoni hija dik ta' *inkwirenti* fuq il-prova tal-*in genere*, aċċessi u *reperti*. Fil-qadi tat-tielet funzjoni tiegħu, Maġistrat jaġixxi bħala Maġistrat *ut sic* u mhux bħala Qorti. Din il-funzjoni toħroġ ċara kemm mill-Liġi kif ukoll mill-ġurisprudenza.

[172] U dan apparti funzjonijiet oħra speċifiċi stabbiliti mill-Liġi, bħal dik ta' Uffiċjal Reviżur, eċċetra.

Il-Liġi imkien ma ssemmi **liema** Maġistrat jista' jiżvolġi s-setgħa ta' inkwirenti. Dan peress li **kull** Maġistrat għandu l-funzjoni ta' inkwirenti bħala parti essenzjali mir-rwol tiegħu ta' Maġistrat eżerċenti fir-Repubblika ta' Malta u dan indipendentement mis-setgħat istruttruri jew aġġudikattivi tiegħu. Din hija funzjoni intrinseka fil-mansjoni ta' kull Maġistrat. Għalhekk kull Maġistrat jista' jiġi msejjah u adit sabiex jaqdi r-rwol ta' inkwirenti – irrispettivament mill-assenjazzjonijiet u irrispettivament mill-arranġamenti amministrattivi jekk ikunx tal-għassa jew le.

Hekk per eżempju fis-sentenza tal-Qorti tal-Appell Kriminali fl-ismijiet ***Ir-Repubblika ta' Malta vs. Jason Calleja*** deċiża nhar it-3 ta' Lulju 1997 jingħad b'mod ċar li : -

(1) Il-Maġistrat inkwirenti jaġixxi mhux bħala Qorti iżda bħala Maġistrat *ut sic.* Kull Maġistrat għandu responsabbilta inerenti u intrinseka għall-eżerċizzju tal-funzjonijiet tiegħu dik li jkun inkwirenti jekk u meta jirċievi *notitia criminis*; u dan irrispettivament jekk ikunx tal-għassa jew le.

(2) Il-Liġi qatt ma ssemmi lil-Maġistrat tal-Għassa bħala tali. L-għassa hija funzjoni amministrattiva għaqlija ta' tqassim ta' xogħol bejn il-Maġistrati li pero mhix riflessa b'mod espress mill-Liġi. Din hija sistema li tassigura li kull jum, f'kull ħin tal-ġurnata jkun hemm Maġistrat li jista' jiġi faċilment kontattat b'kull *notitia criminis*. Biss dan l-arranġament bl-ebda mod ma jidderoga r-responsabbilta' ta' kull Maġistrat li jirċievi *notitia criminis* anke jekk ma jkunx tal-għassa. Id-dmir ta' kull Maġistrat li jirċievi *notitia criminis* hija intrinseka fil-kariga ta' kull Maġistrat irrispettivament jekk ikunx tal-Għassa jew le. L-għassa tassikura li jkun hemm ċertu ordni fil-ħajja lavorattiva tal-Maġistrati kif ukoll ikun hemm punt ta' riferiment ċar għal min ikun irid jagħti *notitia criminis*. Biss dan xejn ma josta li persuna tagħti *notitia criminis* lil kwalunkwe Maġistrat irrispettivament jekk ikunx dak li jmissu t-turn jew le. Mill-banda l-oħra xejn ma jobbliga lill-persuna li bilfors trid tagħti n-*notitia criminis* lil-Uffiċjal tal-Pulizija jew lill-Avukat Ġenerali. Anzi, kull persuna hija mogħtija d-dritt li tadixxi lil kull Maġistrat.

Kemm dan huwa minnu joħroġ ukoll minn diversi disposizzjonijiet ta' dan it-Titolu, li dejjem jirreferu għal figura tal-Maġistrat, fis-singolar, mingħajr ma hemm kwalifika aktar diretta jew preċiża għal xi Maġistrat partikolari.

Joħroġ ukoll mill-fatt li anke l-Liġi stess, f'dawk id-disposizzjonijiet li bihom trid tassigura li ma jkunx hemm *forum shopping*, u b'mod partikolari fl-artikolu 546(4C) tal-Kodiċi Kriminali, fejn huwa preskritt li meta l-għażla tal-Maġistrat trid issir bil-polza din għandha ssir minn fost il-Maġistrati **kollha** – u mhux minn xi Maġistrat jew

Maġistrati partikolari. Dan ikompli juri kemm is-setgħa tal-inkwirenti hija fil-qalba nett ta' dak li jsawwar il-funzjoni tal-Maġistrat Malti.

Isegwi għalhekk li Maġistrat, in kwantu tali, jekk jiġi mogħti r-responsabbilta ta' *notitia criminis* huwa obbligat li jsegwiha, irrispettivament jekk hux tal-għassa jew jekk għandux assenjazzjoni partikolari. Dan japplika kemm jekk dik in-*notitia criminis* tiġix mogħtija lilu minn uffiċjal tal-Pulizija, kemm jekk mill-Avukat Ġenerali kif ukoll minn persuna oħra. Id-differenza li toħroġ mill-Liġi hija li f'dak il-każ fejn in-*notitia criminis* tiġi mwasla lil Maġistrat minn persuna li ma jkunx uffiċjal tal-Pulizija jew l-Avukat Ġenerali, tiskatta l-proċedura speċjali kontemplata fl-Artikoli 546(4A)(4B) u (4C) tal-Kodiċi Kriminali.

Ikkunsidra : -

Li f'dan il-każ, għal darb'oħra, Dr. Simon Busuttil adixxa lil Maġistrat sottofirmat b'*notitia criminis* fil-forma ta' denunzja ta' fatti li jallega li jikkostitwixxu reati kriminali. Id-denunzja tiegħu ma ġietx magħmula lil Uffiċjal tal-Pulizija jew lill-Avukat Ġenerali.

Il-Liġi ma tipprekludix lil Dr. Busuttil, bħal kull persuna oħra, milli jagħmel denunzja diretta lil Maġistrat – ikun min ikun dak il-Maġistrat. Kif inhi l-Liġi illum, ħadd ma huwa obbligat **bilfors** li jagħti n-*notitia criminis* tiegħu lill-Avukat Ġenerali jew lil uffiċjal tal-Pulizija. Ħadd ma huwa obbligat bil-Liġi li jagħti n-*notitia criminis* tiegħu lil Maġistrat tal-Għassa. U ħadd ma huwa preklużmilli jagħti n-*notitia criminis* tiegħu lil kwalunkwe Maġistrat. Li hu żgur hu li Dr. Busuttil, bħal kull persuna oħra, ma jistax jagħżel liema Maġistrat irid hu. Mill-banda l-oħra l-anqas ma Maġistrat ma jista' jagħżel hu quddiem liema kollega tiegħu tiġi diretta *notitia criminis*. Il-Maġistrat sottofirmat ma jistax jirreferi hu d-denunzja ta' Dr. Busuttil lill-Maġistrat tal-Għassa, stante li t-tnejn li huma għandhom l-istess rwol ġuridiku, irrispettivament mill-aspett amministrattiv.

Anke jekk *gratia argomenti* t-talba tar-rikorrent tiġi milqugħa, l-ostaklu reklamat mir-rikorrent dwar il-mod ta' kif saret in-*notitia criminis* xorta ma jiġix sorvolat. Jekk Dr. Busuttil jiġi ordnat li jagħmel id-denunzja tiegħu quddiem il-Maġistrat tal-Għassa, xorta jibqa' l-fatt li stante li l-Liġi ma tobbligaħx li jagħti n-*notitia criminis* tiegħu **bil-**

fors lil uffiċjal tal-Pulizija jew l-Avukat Ġenerali, il-Maġistrat sottifirmat ma jistax jordnalu li jmur jagħti n-*notitia criminis* lil uffiċjal tal-Pulizija jew lill-Avukat Ġenerali. Dan peress li l-Liġi ttih id-dritt li jadixxi mhux biss lill-uffiċjal tal-Pulizija *et al*, iżda wkoll kwalunkwe Maġistrat bin-*notitia criminis*. Għalhekk, bħal kull persuna oħra, Dr. Busuttil jista' jadixxi wkoll lil Maġistrat tal-Għassa bin-*notitia criminis* tiegħu.

F'din l-ipoteżi, il-Maġistrat tal-Għassa li jkun irċieva d-denunzja ta' Dr. Busuttil jiġi rinfaċċjat bl-istess sitwazzjoni tal-Maġistrat sottofirmat fejn stante li d-denunzja tkun qed issirlu minn persuna li mhux l-Avukat Ġenerali jew uffiċjal tal-Pulizija, xorta waħda jkun obbligat li jmexxi skont il-proċedura stabbilita fl-Artikolu 546(4A) *et seq* tal-Kodiċi Kriminali!

B'dan il-mod, jekk it-talba tar-rikorrent tiġi milqugħa, il-Maġistrat sottofirmat ikun qiegħed itawwal iż-żmien ta' din il-proċedura inutilment filwaqt li jabdika mir-responsabbilta tiegħu ta' Maġistrat *ut sic* milli jieħu konjizzjoni ta' *notitia criminis* rivolta lilu minn persuna li mhux l-Avukat Ġenerali jew uffiċjal tal-Pulizija.

Fil-frattemp, nhar it-22 ta' Mejju 2017, kienet saret rikjesta mill-Maġistrat Dottor Doreen Clarke li kienet qegħda tmexxi inkjesta dwar ħruġ t'informazzjoni mill-Korp għall-Analiżi t'Informazzjoni Finanzjarja (*FIAU*) fejn il-Maġistrat Clarke b'digriet li jġib l-istess data infurmat lill-Maġistrat sottorimat li fil-kors ta' l-inkjesta li kienet qegħda tiġi kondotta minnha, kien ġie allegat li l-kontenut ta' *analytical report* tal-*FIAU* datat 2 ta' Novembru 2016 bin-numru tar-referenza 107359/16 rapport li kien jirrigwarda xi transazzjonijiet li setgħu saru bejn ċertu Keith Schembri u ċertu Adrian Hillman (u dan sia direttament bejniethom kif ukoll indirettament tramite soċjetajiet terzi) huwa riprodott f'dokument li jifforma parti mill-inkjesta jew transazzjonijiet pendenti quddiem il-

Maġistrat sottofirmat. Il-Maġistrat Clarke saħqet li dan id-dokument huwa prova essenzjali fl-inkjesta kondotta minnha. B'hekk talbet lill-Maġistrat sottofirmat sabiex tiġi provduta lilha kopja awtentikata ta' dan id-dokument billi tiġi ppreżentata fl-atti tal-inkjesta minnha kondotta tramite r-Reġistratur tal-Qorti.

Ġie osservat li wieħed mid-dokumenti eżibiti fil-faxxikolu ta' dokument preżentati minn Dr. Simon Busuttil kien hemm dokument li kien intestat bħala *brief overview of the facts of the case.* Dan id-dokument kien jirrferi għal xi xogħol li l-*FIAU* kienet għamlet in konnessjoni tal-meritu ta' dak ir-rikors u d-dokumenti li kienu preżentati f'din l-inkjesta minn Dr. Simon Busuttil.

It-talba tal-Maġistrat Doreen Clarke ġiet milqugħa u kopja awtentikata tad-dokument eżebit quddiemi ġie mogħti lilha.

5. <u>Rikors mill-Bank Pilatus sabiex jingħata kopja tad-dokumenti diġitali oriġinali li ġew prelevati mill-Uffiċji tiegħu matul il-perkwiżizzjoni eżegwita f'din l-inkjesta.</u>

Permezz ta' rikors datat 22 ta' Mejju 2017 iffirmat mill-Avukat Dr. Stefano Filletti il-Bank Pilatus għamel riferenza għal diversi *USB pendrives, computers* u *hard disks* li kienu ġew prelevati mill-Bank Pilatus matul il-kors tal-perkwiżizzjoni li kienet saret fil-kors ta' din l-inkjesta u wara li lmenta li ma kellux kopja tagħhom, u fil-waqt li għamel lista tal-apparat diġitali kollu li għalih kien qiegħed jirreferi talab li jsiru clones a spejjeż tal-Bank liema clones kellhom jiġu mogħtija lil Bank. Dan ir-rikors ġie preżentat fit-23 ta' Mejju 2017.

B'digriet ta' dakinhar stess, it-talba ġiet milqugħa.

6. **<u>Rikors minn Pierre Portelli fil-kwalita tiegħu ta' Direttur (Kontenut) tal-gazzetta The Malta Independent datat 29 ta' Mejju 2017 (allegat estratt mit-tielet rapport tal-*FIAU* dwar *LNG tanker*)</u>**

Pierre Portelli ippreżenta rikors iffirmat mill-Avukat Dr. Peter Fenech fejn premetta illi :

> Illi l-esponent jirrileva li kif pubblikat fis-sit elettroniku *The Malta Independent Online* nhar il-Ġimgha, 26 ta' Mejju 2017 permezz tal-artikolu intitolat *"Proof of kickbacks to Mizzi and Schembri from LNG tanker - FIAU,"* kif ukoll permezz ta' artikolu pubblikat

fil-gurnal *The Malta Independent* ta' nhar is-Sibt, 27 ta' Mejju 2017 u artikolu pubblikat fil-harga tal-ghada, nhar il-Hadd, 28 ta' Mejju 2017 fil-gurnal *The Malta Independent on Sunday*, l-esponent ghandu fil-pussess tieghu informazzjoni u provi dwar ammonti ta' flus *(kickbacks)* li rcevew persuni li huma politikament esposti *(politically exposed persons)* b'rizultat ta' kuntratt dwar ix-xiri *tal-LNG tanker* mill-Gvern ta' Malta, senjatament *it-Chief of Staff* tal-Prim Ministru, Keith Schembri u l-Ministru minghajr Portafoll Konrad Mizzi.

Illi l-esponent huwa f'pozizzjoni li jixhed dwar din l-informazzjoni u dwar il-verifiki li jistghu jsiru fl-inkjesta odjerna sabiex tigi stabbilita l-verita,

Illi l-esponent jemmen li ghandu jghaddi din l-informazzjoni lill-Magistrat Inkwirenti taht guramment sabiex jghinnu jistabilixxi l-verita f'dan il-kaz u jinvestiga u jiehu kull provvediment u azzjoni skont il-ligi,

Illi l-esponent jinforma lill-Magistrat Inkwirenti li huwa jinsab ghad-dispozizzjoni tieghu jekk il-Magistrat Inkwirenti hekk jidhirlu.

Ghaldaqstant l-esponent umilment jitlob lill-Magistrat Inkwirenti jisma' x-xhieda talesponent taht gurament, u dan taht u dan taħt kull provvediment li jogħġbu jimponi.

Dakinhar stess tad-29 ta' Mejju 2017, sabiex jiġi evalwat aħjar jekk il-meritu tar-rikors kienx jissubentra fil-parametri ta' din l-inkjesta ir-rikorrent ġie ordnat sabiex ikun preżenti l-Qorti fis-14:00 ta' dakinhar stess sabiex jixhed u jippreżenta dawk d-dokumenti li jidhirlu xierqa.

Matul is-seduta, Pierre Portelli allega li s-sors tal-informazzjoni tiegħu kien qallu li dan ir-*"rapport"* ma ġiex konkluż għax wara li bdew ħerġin ir-

rapporti fil-media ta' *leaked reports* tal-*FIAU*, dan ir-rapport ġie *"mwaqqaf u shelved"* peress li kien hemm deċiżjoni li l-istess rapport *"jiġi mwarrab u ma jkomplux jinvestigaw fuqu"*.

Ried jiġi għalhekk stabbilit jekk dak li kien qiegħed jibbaża t-talba tiegħu Pierre Portelli fuqu kienx fil-fatt estratt minn rapport analitiku verament maħruġ mill-*FIAU*.

Fil-fatt kien tressaq rikors ieħor mill-Korp għall-Analiżi ta' Informazzjoni Finanzjarja (*FIAU*) datat 30 ta' Mejju 2017 fejn wara li ppremetta li

> dan l-hekk imsejjah rapport tal-FIAU ghadu m'huwiex konkluz u ghadu ma giex ezaminat u approvat mill-istrutturi u skont il-processi nterni tal-FIAU u ghaldaqstant m'huwiex rapport finali...ghalhekk l-imsemmi abbozz ta' rapport f'dan l-istadju ma jirriflettix xi konkluzjonijiet tal-FIAU

kif ukoll saħaq li l-ħruġ tal-istess abbozz ta' rapport kien jikkostitwixxi reat kriminali taħt l-Artikolu 33 tal-Kapitolu 373 tal-Liġijiet ta' Malta, l-Maġistrat Inkwirenti ġie mitlub sabiex jieħu konjizzjoni ta' dawn il-fatti u tas-sitwazzjoni *"ghal kollox alegali u partikolari"* b'mod li jiġi kunsidrat jekk dan l-abbozz bħala li ma jikkostitwix rapport tal-FIAU qabel ma jiġi deċiż ikunx hemm proċediment b'inkjesta abbażi tiegħu.

In vista ta' dawn l-iżviluppi ġew ordnati jixhdu Kenneth Farrugia, Direttur tal-*FIAU*, Alfred Zammit, Deputat Direttur tal-*FIAU*, Jonathan Ferris, *Manager* fit-Taqsima tal-Analiżi u lil Ruth Gauci, *Senior Analyst* in rappreżentanza tal-*FIAU*. Wara li x-xiehda tagħhom ġiet meqjusa ġie deċiż is-segwenti : -

Illi f'dan il-każ, huwa importanti li jiġi puntwalizzat minn fejn telqet l-inkjesta Egrant. Dr. Joseph Muscat u martu Michelle Muscat ħassew li artikli pubblikati fuq il-blog "Running Commentary" miktub minn Daphne Caruana Galizia, (u b'mod partikolari b'uħud pubblikati nhar l-20 t'April 2017) fejn ġie allegat *inter alia* li Michelle Muscat kienet is-sid aħħari tal-kumpanija Egrant kif ukoll li kienet b'xi mod il-benefiċjarja ta' versamenti ta' ammonti ta' flejjes enormi minn persuni jew kumpaniji skont kif imsemmija fl-istess artikli, kienu bażati fuq allegazzjonijiet foloz u kalunjużi, msejsa fuq fabbrikazzjoni ta' fatti. Fuq dawn il-premessi Dr. Muscat u martu talbu lill-Kummissarju tal-Pulizija sabiex jintraprendi investigazzjoni dwar l-allegazzjonijiet kontenuti fl-artikli msemmija. Il-Kummissarju tal-Pulizija imbagħad irraporta lill-Maġistrat Inkwirenti li minn naħa tiegħu ra li ġew stabbiliti l-pre-rekwiżiti meħtieġa sabiex issir dik l-inkjesta. Minn hemm bdiet l-inkjesta Egrant.

Din l-inkjesta ma ġietx imsejħa biex tinvestiga kull transazzjoni finanzjarja li kienu involuti fiha l-kwerelanti jew il-PEP's imsemmija fil-Pilatus Bank iżda kif jidher ċar mill-artikoli publikati u li huma l-bażi tal-kwerela u tar-rapport tal-Kummissarju tal-Pulizija, huma dawk it-transazzjonijiet finanzjarji allegatament suspettużi u li saru fi ħdan il-Pilatus Bank frott ta' atti ta' allegati atti ta' korruzzjoni u ħasil ta' flus ma persuni mill-Ażerbajġan li huma fil-mira ta' din l-*in genere*. Meta wieħed janalizza sew il-kwerela kif bażata fuq l-allegazzjonijiet kontenuti fl-artikli pubblikati minn Caruana Galizia jirriżulta li dawn ma jagħtux setgħa lill-Maġistrat Inkwirenti li jeżamina kull transazzjoni jew involviment li PEP's bħal Konrad Mizzi jew Keith Schembri setgħu kienu involuti fih jew li setgħa kellhom fi ħdan il-Pilatus Bank.

F'dan is-sens allura joħroġ ċar li l-informazzjoni mogħtija lil Maġistrat sottofirmat ma taqgħax fil-parametri ta' din l-inkjesta, minkejja l-impressjoni jew l-interpretazzjoni li setgħa għandu r-rikorrent, li da parti tiegħu, meta għamel it-talba ma kellux il-

parametri tal-inkjesta riżultanti mill-kwerela u r-rapport tal-Pulizija ċari f'idu bħal ma għandu l-Maġistrat sottofirmat. L-istess Maġistrat għalhekk ma jistax hu stess jinvestiga dak kontenut fid-dokument t'erba' faċċati jew xi dokument jew fatti oħra li ma jaqgħux fl-ambitu ta' din l-inkjesta Egrant.

Biss it-talba ta' Portelli fir-rikors tiegħu hija waħda wiesa' ħafna u ma hija bl-ebda mod speċifika fis-sens li hija talba biex il-Maġistrat jistabbilixxi l-verita' f'dan il-każ u li jinvestiga u jieħu kull provvediment u azzjoni skont il-Liġi. Is-setgħat tal-Maġistrat Inkwirenti ma humiex onnipotenti iżda huma ċirkoskritti b'dak li tipprovdi l-Liġi. Il-Maġistrat Inkwirenti ma jistax iwessa' l-parametri t'inkjesta lil hinn minn *notitia criminis* mgħoddija lilu. Jista' pero jara jekk, fiċ-ċirkostanzi partikolari tal-każ, ikunx hemm l-estremi ta' *notitia criminis* skont il-Liġi li in bażi tagħha jkun jista' jipproċedi skont il-Liġi.

Ikkunsidra : -

A differenza tar-rikorsi simili preċedenti preżentati fl-atti ta' din l-inkjesta,[173] f'dan il-każ ma ġiex preżentat xi kopja jew almenu traskrizzjoni ta' rapport analitiku finali sħiħ, iżda dokument kontenenti erba' faċċati li r-rikorrent Portelli tenna li kienu estratti minn "rapport" redatt mill-FIAU. Inoltre f'dan l-istadju, a differenza tar-rikorsi preċedenti, il-Maġistrat Inkwirenti ma kellux informazzjoni ulterjuri dwar dak kontenut fir-rikors ta' Portelli minn sorsi jew persuni oħra.

In segwitu għar-rikors ta' Portelli u tal-FIAU il-Maġistrat sottofirmat semgħa x-xiehda ta' rappreżentanti tal-FIAU jiġifieri d-Direttur, id-Deputat Direttur, il-*Manager* tat-Taqsima tal-Analiżi tal-FIAU u s-*Senior Analyst* fi ħdan it-Taqsima tal-Analiżi tal-FIAU.

Mill-kumpless ta' din ix-xiehda irriżulta li :

1. F'April 2016 l-FIAU kienet bdiet tinvestiga informazzjoni varja li kienet waslitilha in segwitu għall-ippublikar tal-*Panama Papers*. Dawn l-investigazzjonijiet involvew diversi persuni u nġabret informazzjoni kemm minn sorsi u entijiet lokali

[173] Kemm mir-rikorrent Portelli, fejn huwa kien ippreżenta kopja ta' rapport ta' *compliance* parzjali redatt mill-FIAU kif ukoll iż-żewġt rikorsi preżentati fl-atti ta' din l-inkjesta mill-Kap tal-Opposizzjoni flimkien mad-dokumenti hemmhekk eżibiti (aktar l-isfel magħrufa bħala "r-rikors preċedenti").

kif ukoll esteri. In segwitu l-FIAU bdiet tħejji rapporti analitiċi, tnejn minnhom kienu ġew mgħoddija lill-Kummissarju tal-Pulizija għal investigazzjoni ulterjuri. L-investigazzjonijiet mill-FIAU komplew ukoll, *inter alia*, fir-rigward ta' diversi allegazzjonijiet fil-konfront ta' Dr. Konrad Mizzi u Keith Schembri reklamati mir-rikorrent Portelli.

2. L-investigazzjoni tal-FIAU fir-rigward tal-meritu tar-rikors ta' Portelli kienet għadha għaddejja. Id-dokument t'erba' faċċati eżibit mir-rikorrent Portelli kien traskrizzjoni (xi drabi b'xi ineżattezzi li ġew identifikati fil-kors tax-xiehda) t'estratti minn dokument li kien beda jiġi redatt mis-*Senior Analyst* (hawn aktar l-isfel magħruf bħala d-"dokument qafas").

3. L-Uffiċjali tal-FIAU raw li din kienet investigazzjoni li kienet tinvolvi ġbir u analiżi ta' kwantita kbira ta' biċċiet t'informazzjoni li kienet trendi din l-investigazzjoni waħda kumplessa u sensittiva. Ġie maqbul li l-proċedura interna ta' kif kellu jsir il-proċess ta' verifika f'dan il-każ kellu jsir b'mod aktar rigoruż fis-sens li l-ewwel kellu jibda jiġi redatt dokument qafas li jiġbor fih l-informazzjoni varja sabiex ikun jista' jiġi stabbilit b'aktar faċilita' *timeline of events*. Dan id-dokument qafas kellu imbagħad ikun il-bażi ta' diskussjoni preliminari bejn id-Direttur, id-Deputat Direttur u l-*Manager* tat-Taqsima tal-Analiżi tal-FIAU u s-*Senior Analyst*. Din l-analiżi u diskussjoni preliminari kellhom imbagħad jiġu segwiti bl-abbozz tar-rapport analitiku li kellu eventwalment jiġi mgħoddi mill-proċedura ta' verifika interna solita tal-FIAU. Ikun wara li jitlesta dan l-istadju li kellha tittieħed id-deċiżjoni jekk dan ir-rapport analitiku imbagħad jiġix mgħoddi lill-Kummissarju tal-Pulizija għal investigazzjoni ulterjuri o meno.

4. Id-dokument qafas beda jiġi miktub mis-*Senior Analyst* għall-ħabta ta' Frar ta' din is-sena u ġie ċirkolat mad-Direttur, id-Deputat Direttur u l-Manager tat-Taqsima tal-Analiżi tal-FIAU sabiex fuqu tibda d-diskussjoni preliminari. L-estratt t'erba' faċċati ippreżentat f'dawn l-atti għalhekk huwa estratt minn dan id-dokument qafas li kien għadu mhux diskuss (ħlief għal xi paġna u nofs minnu) u l-anqas kien ġie verifikat b'mod preliminari. Jiġifieri dan id-dokument l-anqas kien abbozz ta' rapport analitiku in segwitu għad-diskussjoni preliminari aktar il-fuq imsemmija.

5. Il-proċess ta' ġbir t'informazzjoni u *intelligence* minn naħa tal-FIAU kompla għaddej, inkluż wara li inbdiet l-inkjesta Egrant. Dan minħabba li fil-frattemp kienu baqgħu ħerġin diversi biċċiet t'informazzjoni fuq mezzi tal-media u li kienu jolqtu wkoll il-meritu ta' din l-investigazzjoni. Is-*Senior Analyst* ħadet ix-xhur ta' Frar u Marzu 2017 sabiex tħejji dan id-dokument qafas. Fir-redazzjoni tiegħu hija ħadmet fil-qrib mal-*Manager* tagħha, Jonathan Ferris. Wara li kien lest dan id-dokument qafas, hija għaddiet kopja tiegħu lid-Direttur, id-Deputat Direttur u l-*Manager* fi ħdan it-Taqsima għall-Analiżi.

6. L-ewwel laqgħa bejniethom saret nhar l-4 t'April 2017, fejn dawn l-Uffiċjali bdew janalizzaw xi punti msemmija f'dan id-dokument. Kull wieħed minnhom għamel xi kummenti jew korrezzjonijiet li deherlu xierqa. Biss minħabba l-volum tad-dokument nonche l-kontenut delikat tiegħu, matul dik l-ewwel laqgħa kienu ġew diskussi biss ftit punti, li kienu jkopru xi paġna u nofs minn dan id-dokument li, skont

ix-xiehda ta' dawn ir-rappreżentanti, għandu 'l fuq minn mitt paġna. Kull wieħed minnhom kien beda jagħmel l-analiżi u r-reazzjonijiet u suġġerimenti tiegħu dwar dak li kien misjub fl-informazzjoni miġbura, bl-interpretazzjoni tiegħu għal dik l-informazzjoni kontenuta. Għalkemm din l-ewwel laqgħa damet ħin twil, huma mexxielhom janalizzaw biss madwar paġna w nofs minn dan id-dokument qafas.

7. Ġie maqbul ukoll li ssir laqgħa oħra nhar il-25 t'April 2017 ċjoe data li fiha setgħu ikunu preżenti kollha kemm huma biex ikomplu l-analiżi tal-fatti msemmija fid-dokument qafas. Biss peress li wara l-20 t'April 2017 ħarġu fil-media diversi allegazzjonijiet oħra u informazzjoni ġdida, u minħabba kostrizzjoni ta' ħin u impenji ġodda li ġew għall-għarrieda fuq dawn l-Uffiċjali minħabba l-iżviluppi li kienu qegħdin iseħħu, din l-investigazzjoni waqfet hemm.

8. Mill-20 t'April 2017 il-quddiem, dawn l-ogħla Uffiċjali tal-FIAU sabu ruħhom impenjati mhux biss f'din l-inkjesta iżda wkoll ġew imsejħin jipparteċipaw jew jixhdu f'inkjesti maġisterjali varji. Uħud minn dawn l-inkjesti tnisslu wara diversi episodji ta' *leaks* ta' rapporti redatti mill-istess FIAU. Dan kollu wassal sabiex dawn l-Uffiċjali ma setgħux ikomplu jikkonċentraw fuq ix-xogħol l-ieħor tagħhom, inkluż ix-xogħol li kienu qegħdin jagħmlu fuq din l-investigazzjoni. Is-*Senior Analyst* qalet ukoll li hija kienet baqgħet tagħmel xi tibdiliet fid-dokument qafas anke sal-aħħar jiem t'April 2017.

Ikkunsidra : -

Kif intqal, ir-rikorrent Portelli allega li s-sors tal-informazzjoni tiegħu kien qallu li dan ir-"rapport" ma ġiex konkluż għax wara li bdew ħerġin ir-rapporti fil-media ta' *leaked reports* tal-FIAU, dan ir-rapport ġie "mwaqqaf u shelved" peress li kien hemm deċiżjoni li l-istess rapport "jiġi mwarrab u ma jkomplux jinvestigaw fuqu".

Ir-rappreżentanti tal-FIAU jiċħdu dan u juru li huma kienu u għadhom disposti li jkomplu għaddejjin bix-xogħol investigattiv tagħhom. Kien biss riżultat tal-iżviluppi li seħħew matul ix-xahar t'April 2017 aktar il-fuq imsemmija li waslu biex din l-investigazzjoni ma tkomplix u mhux għaliex kien hemm xi pressjoni interna jew esterna sabiex din l-investigazzjoni tieqaf jew tiġi mwarrba.

In definittiva dawn l-Uffiċjali tal-FIAU kienu ċari li kieku kien għalihom u li kieku ma kienx għall-intoppi li nqalgħu fil-frattemp, din l-investigazzjoni kienet tkompli għaddejja fil-kors normali tagħha.

Ikkunsidra : -

L-Att kontra l-*Money Laundering* jipprovdi li l-informazzjoni akkwiżita mill-FIAU hija koperta b'kunfidenzjalita stretta.[174] Din il-kunfidenzjalita' hija tali li l-anqas il-Qorti jew il-Maġistrat Inkwirenti ma għandhom xi jedd t'aċċess liberu għal din informazzjoni; iżda dawn jingħataw informazzjoni biss fil-każijiet imsemmija fil-Liġi. L-istess Uffiċjali tal-FIAU huma preklużi li jagħtu l-informazzjoni għajr ħlief fil-każijiet li trid il-Liġi.

Il-fatt li ċertu informazzjoni dwar parti żgħira minn din l-investigazzjoni ġiet *leaked* b'mezzi kontra l-Liġi ma jġibx il-konsegwenza li issa din l-investigazzjoni ssir ta' dominju pubbliku u li kollox jista' jiġi pubblikat mingħajr ma ħadd jinkorri fis-sanzjoni tal-Liġi. Għall-kuntrarju d-disposizzjonijiet tal-Kapitolu 373 tal-Liġijiet ta' Malta dwar il-kunfidenzjalita jibqgħu japplikaw kemm qabel kif ukoll wara l-*leaks*.

Ġie stabbilit mix-xiehda tar-rappreżentanti tal-FIAU dwar id-dokument qafas u l-kontenut tat-traskrizzjoni tal-erba' faċċati *de quo* li dawn l-erba' faċċati kien fihom traskrizzjoni ta' siltiet provenjenti mill-istess dokument qafas. F'partijiet minnhom pero kien hemm xi ineżattezzi jew tibdiliet bejn it-test tad-dokument qafas u din it-traskrizzjoni. Il-kontenut ta' dan id-dokument qafas, għajr ħlief għal dawn l-erba' faċċati li ġew eżibiti, għadu ma ġiex żvelat. Għalhekk dan il-kontenut għadu jgawdi l-istat ta' kunfidenzjalita' li kien igawdi qabel il-kxif tat-traskrizzjoni ta' dawn l-erba' faċċati.

La d-dokument qafas u wisq anqas id-dokument t'erba' faċċati ma jistgħu jitqiesu bħala r-"rapport" analitiku finali tal-FIAU. It-talba tar-rikorrent Portelli titratta allegazzjonijiet ta' ħasil ta' flus minn rikavat ta' reati kriminali li kienet qegħda tiġi mistħarġa mill-FIAU skont il-Liġi. B'hekk f'dan l-istadju ta' kif seħħew l-avvenimenti, din trid qabel xejn titqies kemm fl-isfond tal-istess dokumenti kif ukoll fid-dawl :

(a) tal-istatus ġuridiku tal-FIAU bħala l-Korp imwaqqaf b'Liġi b'delega speċifika li jinvestiga fatti li allegatament jistgħu jitqiesu bħala ta' ħasil ta' flus minn rikavat ta' reati kriminali;

[174] Għalhekk il-*leak* t'informazzjoni miġbura u li tkun qegħda tiġi analizzata mill-FIAU huwa fatt serjissimu li jista' mhux biss jimmina l-isforzi ta' dan il-Korp fil-ġlieda kontra l-ħasil ta' flus iżda wkoll li jista' jkollu effetti destabbilizzanti li jmorru lil hinn mill-operat tal-istess Korp.

(b) tan-natura speċjalizzata u komplessa tar-reat ta' ħasil ta' flus minn rikavat ta' reati kriminali;
(c) tal-fatt li l-FIAU kienet bdiet tagħmel l-analiżi tagħha;
(d) tal-istadju li kienet waslet fih l-investigazzjoni u l-analiżi tal-FIAU fuq dan id-dokument qafas;
(e) ta' x'natura legali jista' jassumi rapport analitiku finali maħruġ mill-FIAU.

L-istatus ġuridiku u l-funzjonijiet tal-FIAU huma stabbiliti fl-Artikolu 16 tal-Att kontra *Money Laundering*.[175] Minn din il-Liġi joħroġ ċar li l-FIAU huwa l-Korp delegat espressament bil-Liġi sabiex *inter alia* :

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[175] **16.** (1) Bla ħsara għad-disposizzjonijiet l-oħra ta' dan l-Att umingħajr preġudizzju għal kull poter ieħor jew funzjoni oħra mogħtija lilu b'dan l-Att jew minn xi liġi oħra, il-Korp ikun responsabbli għall-ġabra, l-kollazzjoni, l-ipproċessar, l-analisi u t-tixrid ta' informazzjoni bil-għan li jiġi miġġieled *money laundering* u finanzjar ta' terroriżmu u mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi għandu b'mod partikolari jkollu dawn il-funzjonijiet li ġejjin:

(*a*) li jirċievi rapporti ta' operazzjonijiet jew attivitajiet li jkunu suspettati li jinvolvu *money laundering* jew finanzjar ta' terroriżmu jew proprjetà li setgħet inkisbet direttament jew indirettament minn, jew li tkun tikkostitwixxi r-rikavat ta', attività kriminali magħmul minn xi persuna suġġetta skont kif jingħad f'xi regolament magħmul taħt l-artikolu 12, li jissupplementa dawk ir-rapporti b'dik l-informazzjoni addizzjonali hekk kif tista' tkun disponibbli għall- Korp jew hekk kif dan jista' jitlob, li janalizza r-rapport flimkien ma' dik l-informazzjoni addizzjonali u li jfassal rapport analitiku fuq ir-riżultat ta' dik l-analisi;

(*b*) li jibgħat rapport analitiku bħal dak imsemmi fil-paragrafu (*a*) lill-Kummissarju tal-Pulizija għal kull investigazzjoni ulterjuri jekk wara li jkun ikkonsidra r-rapport li jkun ġie riċevut taħt il-paragrafu (*a*), il-Korp ikollu wkoll tassew għaliex jissuspetta li l-operazzjoni jew l-attività tkun waħda suspettuża u li tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu jew proprjetà li setgħet inkisbet direttament jew indirettament minn, jew li tkun tikkostitwixxi r-rikavat ta', attività kriminali;
.....

(*d*) li jibgħat lill-Kummissarju tal-Pulizija flimkien ma' kull rapport analitiku mibgħut skont il-paragrafu (*b*) jew f'kull waqt wara dan kull informazzjoni, dokument, analisi jew materjal ieħor b'sostenn tarrapport; .....

(*f*) li jiġbor informazzjoni dwar l-attivitajiet finanzjarji u kummerċjali fil-pajjiż għal finijiet analitiċi bil-għan li jikxef oqsma ta' attivitajiet li jistgħu jkunu vulnerabbli għal *money laundering* jew finanzjar ta' terroriżmu; ....

(a) iwettaq investigazzjonijiet dwar materji tekniċi ta' ħasil ta' flus ġej minn rikavat ta' xi reat kriminali;
(b) jottjeni informazzjoni mingħand diversi persuni jew entijiet kemm lokali kif ukoll barranin grazzi għall-fatt li huwa mgħammar b'persunal kwalifikat u speċjalizzat fil-qasam tal-analiżi finanzjarja;
(c) iħejji, fil-każijiet kongruwi, rapport analitiku li jista' wkoll jiġi mgħoddi lill-Kummissarju tal-Pulizija għal-investigazzjoni ulterjuri.

Din id-delega legali speċifika ssib ġustifikazzjoni fil-fatt li l-qasam tar-reati tal-ħasil tal-flus huwa wieħed tekniku, speċjalizzat u bosta drabi kumpless ħafna. Grazzi għall-ispeċjalizzazzjoni tal-mezzi u tal-persunal adett miegħu, dan il-Korp jista' jservi ta' mezz aktar effettiv għall-istħarriġ u kxif ta' ħasil ta' flus. Frott tal-ħisma tiegħu huwa jistabbilixxi jekk ikunx hemm dak il-"fatt bl-irqaqat kollha tiegħu"[176] li jista' jservi bħala l-bażi ta' rapport analitiku li jgħaddi għand il-Kummissarju tal-Pulizija għal investigazzjoni ulterjuri. Din il-mansjoni speċifika konferita lill-FIAU hija mezz

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(*i*) li jikkonsulta ma' kull persuna, istituzzjoni jew organizzazzjoni li jistgħu jkunu adatti għall-fini li jwettqu l-funzjonijiet tagħha; ....

(*k*) fuq talba li ssirlu jew minn jeddu, li jiskambja informazzjoni ma' xi għaqda, awtorità jew aġenzija barranin li huwa jikkonsidra bħala li għandhom funzjonijiet ekwivalenti jew analoġi għal dawk imsemmija f'dan is-subartikolu u ma' awtorità sorveljanti f'Malta jew ma' xi awtorità sorveljanti barra minn Malta li tqis bħala li jkollha funzjonijiet ekwivalenti jew analoġi bħala awtorità sorveljanti f'Malta, bla ħsara għal dawk il-kondizzjonijiet u restrizzjonijiet li tista' tistabbilixxi, inkluż l-għemil minn qabel, jekk ikun iqis li jkun hekk xieraq, ta' memorandum ta' fehma jew xi qbil ieħor, li jirregola kull tali skambju ta' informazzjoni, meta dik linformazzjoni tista' tkun relevanti għall-ipproċessar jew l-analisi ta' informazzjoni jew għal kull investigazzjoni li tirrigwarda operazzjonijiet finanzjarji jew attivitajiet li jkollhom x'jaqsmu ma' *money laundering* jew l-attività kriminali sottostanti jew finanzjar ta' terroriżmu u l-persuni naturali jew legali li jkunu involuti;

(*l*) li jirrapporta lill-Kummissarju tal-Pulizija kull attività li huwa jissuspetta li tkun tinvolvi *money laundering* jew l-attività kriminali sottostanti, jew finanzjar ta' terroriżmu u li tista' ssir taf biha filwaqt li tkun qed twettaq xi waħda mill-funzjonijiet tagħha.

[176] L-Artikolu 536 tal-Kodiċi Kriminali jgħid li *"Id-denunzjant għandu jfisser ċar il-fatt bl-irqaqat kollha tiegħu, u għandu jagħti, kemm jista' jkun, dawk il-partikularitajiet kollha meħtieġa li jaċċertaw ir-reat, li jistabbilixxu x-xorta tiegħu kif ukoll li juru min huma l-awturi u l-kompliċi."*

aktar elaborat u sofistikat minn dak komunement misjub fil-Kodiċi Kriminali dwar kif informazzjoni dwar is-seħħ t'allegat reat tista' tiġi mistħarġa u denunzjata lil Kummissarju tal-Pulizija. Huwa meta l-investigazzjoni tal-FIAU tikkulmina f'dan ir-rapport analitiku finali, li dan ikun jista' jitqies bħala *notitia criminis* vera u proprja u mhux qabel.

Kif ġie stabbilit f'dan il-każ l-FIAU kien diġa beda l-investigazzjoni tiegħu. Id-Direttur tal-FIAU jixhed li din l-investigazzjoni kienet qegħda ssir bi skrutinju partikolari biex jekk l-FIAU jasal biex jipprepara rapport analitiku finali dan ikun fih dawk ir-riżultanzi investigattivi kollha kemm jista' jkun ċari u sodi biżżejjed biex fuqhom il-Kummissarju tal-Pulizija jkun jista' jinvestiga ulterjorment.[177] Fi ftit kliem riedu li din l-investigazzjoni ma twassalx għal xi *false positive*. Biss dan l-istadju kien għadu ma ntlaħaqx fl-investigazzjoni li kienet qegħda ssir mill-FIAU.

Id-dokument t'erba' faċċati eżibit ma jagħtix l-istampa kollha tal-fatti bl-irqaqat kollha li kienu qiegħdin jiġu investigati mill-FIAU; u r-rikorrent ma eżebiex id-dokument qafas sħiħ. Iżda anke kieku *gratia argomenti* ippreżentah, l-anqas jista' jingħad li f'dan l-istadju tal-investigazzjoni tal-FIAU dan kien ekwiparabbli mar-rapport analitiku finali li jissarraf fin-*notitia criminis*.[178] Id-dokument qafas kien għadu ma stabbiliex b'mod definittiv l-eżistenza tal-**fatt bl-irqaqat kollha tiegħu** meħtieġ għal denunzja valida. L-informazzjoni kontenuta fih setgħet twassal għal diversi allegazzjonijiet u ipoteżi li kienu għadhom qegħdin jiġu interpretati u analizzati fil-kuntesti speċifiċi tagħhom. Id-dokument qafas f'dan l-istadju għalhekk kien jagħti biss stampa parzjali ta' din l-analiżi u l-interpretazzjoni. Huwa biss fl-aħħar ta' dan il-proċess t'analiżi li l-FIAU setgħa jasal għal konklużjonijiet tiegħu li setgħu jkunu tant l-istess daqskemm differenti minn dawk li huma kontentuti fid-dokument t'erba' faċċati jew fid-dokument qafas. Ikun prematur wisq li wieħed jieħu dan id-dokument qafas, fl-istadju attwali tal-elaborazzjoni tiegħu mill-FIAU, bħala li jiġbor fih l-elementi kollha ta' denunzja skont il-Liġi u li biha tista' tiskatta l-proċedura msemmija fl-Artikolu 546(4A) tal-Kodiċi Kriminali – u dan mingħajr ma tiġi turbata l-investigazzjoni tal-

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[177] *Kenneth Farrugia: le għar raġuni li aħna konna ħa nagħmlu hekk, in view ta' c-cirkostanzi li aħna kellna, konna qed ngħaddu rapporti lil Pulizija forsi ma kienetx għad reasonable suspicion, ma nafx x'kienet il-kaz ta' l-Pulizija, aħna għaddejna rapporti oħra lil Pulizija, aħna xtaqna li dan ir-rapport kien kemm jista' jkun ikun iktar b'saħħtu ok. Issa l-process li aħna konna ħa nadottaw kien dan.*

[178] U dan a differenza ta' żewġ rapporti oħra li kienu preżentati fl-atti ta' din l-inkjesta mill-Kap tal-Opposizzjoni.

FIAU innifsu. Dan ukoll għaliex l-FIAU, li huwa l-Korp armat b'setgħat, proċeduri u mezzi investigattivi speċjalizzati kien diġa beda jagħmel xogħolu.

B'hekk l-FIAU għandu jitħalla l-ispazju kollu li jwettaq il-mansjoni tiegħu sal-aħħar biex l-investigazzjoni tieħu l-kors naturali u ordinarju tagħha mingħajr aktar xkiel. S'issa, ma ġewx pruvati dawk l-estremi gravi fejn l-intervent Ġudizzjarju kien ikun altrimenti meħtieġ minħabba li l-iter proċedurali investigattiv ordinarju ikun ġie ostakolat, imwaqqaf jew suspettat tali, kif stqarr ir-rikorrent fix-xiehda tiegħu. Ladarba din l-investigazzjoni inbdiet mill-FIAU u kienet miexja, mhux proċeduralment korrett u għaqli li nofs triq l-FIAU jiġi sfrattat minn xogħolu biex tiġi adita l-Awtorita Ġudizzjarja fuq l-istess materja li tkun qegħda tiġi investigata mill-FIAU ħin qabel il-waqt meta dan ma kellux xkiel biex jagħmel jew ikompli jagħmel xogħolu. L-Istituzzjonijiet imwaqfin b'Liġi għandhom jitħallew jaħdmu fis-serenita' biex iwetqu l-mansjonijiet tagħhom; u l-iter proċedurali stabbilit b'saħħa ta' Liġi speċjali m'għandux jiġi sfrattat, aktar u aktar b'mezzi illegali, meta dan l-iter ikun qiegħed jiġi mwettaq u ma jkunx ġie b'xi mod imxekkel.

Dan l-isfond ta' fatti u ċirkostanzi preżenti aktar il-fuq imsemmi huwa differenti ħafna minn dawk riskontrati mill-Maġistrat Inkwirenti fir-rikorsi preċedenti, li kienu imsejsa fuq rapporti analitiċi finali tal-FIAU li kienu wkoll mgħoddija lill-Kummissarju tal-Pulizija għal investigazzjoni ulterjuri u li kienu magħquda ma informazzjoni oħra li ġiet mogħtija lil Maġistrat Inkwirenti kemm mir-rikorrent kif ukoll minn sorsi separati u li fuq tnejn minnhom il-Maġistrat sottoskritt għadda biex iddekreta f'dak l-istadju ai termini tal-Artikolu 546(4A) tal-Kodiċi Kriminali.

Konklużjoni

Għaldaqstant il-Maġistrat Inkwirenti jiddisponi mir-rikorsi billi

(a) jiddikjara li r-rikors ta' Pierre Portelli ma jistax jitqies li jaqa' fil-parametri tal-Inkjesta Egrant u b'hekk ma jistax jissokta hu stess bl-analiżi tal-istess; u
(b) fid-dawl tal-fatt li l-investigazzjoni fuq il-meritu tar-rikors kienet diġa ġiet mibdija mill-Korp prepost mill-Liġi għal tali investigazzjonijiet, jidderieġi lill-FIAU sabiex ikompli għaddej bix-xogħol investigattiv u analitiku skont il-Kapitolu 373 tal-Liġijiet ta' Malta.

Inoltre, il-Maġistrat Inkwirenti jordna li dan id-digriet jiġi notifikat lill-FIAU u lill-Avukat Ġenerali.

Illi nhar it-12 ta' Lulju 2017, il-Maġistrat Dr. Doreen Clarke li kienet qegħda tmexxi inkjesta dwar ħruġ ta' informazzjoni mill-Korp għall-Analiżi ta' Informazzjoni Finanzjarja (*FIAU*) premettiet li fil-kors tal-inkjesta kondotta minnha ġie allegat li parti minn *draft analytical report* tal-*FIAU* datat 16 ta' Marzu 2017 bin-numru tar-referenza 162168/16, rapport li kien jirrigwarda transazzjonijiet li allegatament saru mill-Onorevoli Dr. Konrad Mizzi, kien riprodott f'dokument li kien jifforma parti mill-inkjesta li kienet pendenti quddiem il-Maġistrat sottofirmat. Il-Maġistrat Doreen Clarke tenniet li dan id-dokument kien prova essenzjali fl-inkjesta kondotta minnha. Għalhekk talbet lil Maġistrat sottofirmat sabiex ikun jista' jipproduċilha kopja awtentika tad-dokument fl-atti tal-inkjesta kondotta minnha tramite r-Reġistratur tal-Qrati Kriminali.

Din it-talba ġiet milqugħa ġiet mgħoddija kopja ta' dan id-dokument.

Fil-frattemp il-Maġistrat Inkwirenti baqa' jsegwi l-iżviluppi li kienu qegħdin isir f'dan il-każ billi żamm kuntatt kontinwu mal-*FIAU* li d-

Diriġenti tiegħu baqgħu jaġġornawh b'*timeline of events* relatati max-xogħol li kellu jwassalhom sabiex jiffinalizzaw ir-rapport analitiku dwar dan il-każ. Fil-fatt permezz ta' nota datata 26 ta' Marzu 2018, l-*FIAU* infurmaw lill-Maġistrat Inkwirenti li l-analiżi f'dan il-każ kienet ġiet konkluża u l-*FIAU* kien dakinhar stess issottometta rapport analitiku lill-Kummissarju tal-Pulizija għal aktar investigazzjonijiet.

7. **<u>Rikors tal-Onorevoli Dr. Simon Busuttil datat 28 ta' Novembru 2017 biex jiġu ottjenuti kopja tal-Panama Papers mingħand l-Awtoritajiet Ġudizzjarji Ġermaniżi</u>**

F'dan ir-rikors iffirmat mill-Avukat Dr. Jason Azzopardi, Dr. Simon Busuttil ppremetta li : -

> Illi fl-24 ta' November 2017 fis-6.06pm il-gurnal influwenti u awtorevoli tedesk Suddeutsche Zeitung ippublika artiklu dwar il-Panama Papers intitolat "Nach dem Beben" (Wara t-terremot) (hawn anness bhala Dok. A), u fih inghatat l-ahbar li l-Ufficju tal-Prosekutur Federali Germaniz ghadu kemm baghat jew jinsab fil-process li jibghat lill-Pulizija f'Malta kull informazzjoni mill-Panama Papers li jikkoncemaw lill-Malta;
>
> Illi f'dan l-artiklu jinghad li l-Ufficju tal-Prosekutur Federali fi Munich nefaq iktar minn zewg miljun euro biex xtara l-informazzjoni kollha tal-Panama Papers migjuba

mis-servers tad-ditta Mossack Fonseca tal-Panama, u parti minn din l-informazzjoni tikkoncema lil Malta u persuni Maltin li huma msemmijin fil-Panama Papers;

Illi d-ditta Mossack Fonseca kienet rapprezentata f'Malta mid-ditta ta' Brian Tonna, Nexia BT, liema ditta kienet responsabbli biex twaqqfu u gew registrati fil-Panama kumpaniji sigrieti jumejn biss wara l-elezzjoni generali tal-2013, wahda ghall-Ministru Konrad Mizzi, l-ohra ghac-Chief of Staff tal-Prim Ministru, s-Sur Keith Schembri u l-ohra ghal xi hadd iktar importanti minn dawn it-tnejn peress li isem il-beneficcjarju kien inghata permezz ta' Skype minn Karl Cini ta' Nexia BT lil Mossack Fonseca fil-Panama;

Illi matul l-ahhar xhur is-sidien ta' Mossack Fonseca gew arrestati fil-Panama mill-Pulizija tal-Panama taht investigazzjoni fuq hasil ta' flejjes u korruzzjoni ingenti;

Illi din l-informazzjoni li l-gurnal Tedesk qal li intbaghtet jew tinsab fil-process imminenti li tintbaghat Malta ghand il-Pulizija Maltija tikkoncerna u tikkomprendi kumpaniji proprjeta ta' imwaqqfa, jew imhaddma fuq struzzjonijiet ta' Brian Tonna, Karl Cini, Adrian Dixon (cittadin mill-Panama impjegat ta' Brian Tonna f'Malta), is-Sur Keith Schembri (Chief of Staff tal-Ufficju tal-Prim Ministru), il-Ministru l-On. Konrad Mizzi, Malcolm Scerri, Pierre Sladden, Adrian Hillman, is-Sinjura Sai Mizzi, Cheng Chen (cittadin Ciniz detentur ta' passaport Ciniz bin-numru G32458221 involut fin-negozjati biex Shanghai Electric akkwistat 33% tal-Enemalta u x-xiri tal-power station ta' Delimara u li ghandu kumpanija sigrieta fil-British Virgin Islands (Torbridge Services Inc) imwaqqfa ghalih minn Brian Tonna ft-2013), Andre Micallef, Lorraine Falzon, Mathew Pace

(dawn it-tlieta lkoll rapprezentanti ta' MFSP, ditta li tipprovdi servizzi finanzjarji), Rita Mizzi, Carmen Mizzi u Emanuel Mizzi minn Haz-Zabbar;

Illi din l-informazzjoni tinkludi emails, dokumenti PDF, ritratti, Office documents u hafna iktar;

Illi peress li din l-informazzjoni tinsab f'format digitali, ir-riskju li kif tasal Malta din l-informazzjoni tkun manipulata jew imbaghbsa huwa kbir;

Illi huwa impellenti li l-Magistrat Inkwirenti jkollu **kopja** ta' dak kollu li l-awtoritajiet Germanizi baghtu jew ser jibghatu lill-Pulizija Maltija originanti mis-servers tal-Mossack Fonseca u biex din il-kopja tigi parti integrali mill-atti tal-Inkjesta *de quo;*

Illi huwa impellenti ghas-serhan il-mohh tal-integrita tal-investigazzjoni mertu ta' din l-inkjesta u ghar-ricerka tal-verita li l-Magistrat Inkwirenti jkollu **huwa wkoll, apparti l-Pulizija**, taht il-kontroll tieghu u ghad-disposizzjoni tieghu l-informazzjoni kollha, li hija f'ammonti kbar hafna, u dan mill-iktar fis biex ikun evitat kull tbaghbis jew intralc tal-provi inkluzi f' din l-informazzjoni u biex jigi evitat kull tkaxkir tas-saqajn jew aghar mill-Pulizija stante r-rifjut tal-Pulizija Maltija li jagixxu fuq rapporti mimlija evidenza, inkluz dokumentarja, tal-Financial Intelligence Analysis Unit fl-ahhar xhur fil-konfront ta' Maltin msemmijin hawn fuq, inkluz ufficjali pubblici u politici involuti fkorruzzjoni u hasil ta' flus;

Ghaldaqstant l-esponenti umilment jitlob lil Magistrat Inkwirenti sabiex jordna u jaghti dawk l-ordnijiet immedjati kollha necessarji u impellenti biex kopja awtentika tal-informazzjoni mill-Panama Papers u mis-servers tal-Mossack Fonseca li l-Pulizija Maltija irceviet jew hija fil-process li tircievi mill-Ufficju tal-Prosekutur Federali Germaniz tkun ippreservata taht l-awtorita tal-Magistrat Inkwirenti u tkun inserita fl-atti tal-Inkjesta Magisterjali, u dan prevja kull talba mill-Magistrat Inkwirenti lill-Ufficju tal-Prosekutur Federali Germaniz biex dan jipprovdi *"checksum 'files"* ghal kull digital file li l-awtoritajiet Germanizi baghtu jew jinsabu fil-process li jibghatu lill-Pulizija f'Malta biex l-integrita tal-files digitali kollha tkun ippreservata u tkun tista' tkun verifikata fil-mori tal-Inkjesta, u dan dejjem taht kull provvediment iehor li l-Magistrat Inkwirenti jrid jordna fl-ahjar amministrazzjoni tal-Gustizzja u ghar-ricerka tal-vera verita shiha.

In segwitu għal dan ir-rikors ġiet mismugħa x-xiehda ta' Dr. Simon Busuttil. Fil-frattemp pero bil-għan li jkun hemm kordinazzjoni aħjar tal-azzjoni li riedet tittieħed interament mill-Awtoritajiet Ġudizzjarji Maltin relattivament għall-inkjesti li kienu minnhom kondotti kien sar kuntatt mal-ġja Maġistrat Dottor Anthony Vella sabiex jiġi ċċarat sewwasew x'azzjoni kienet laħqet

ittieħdet minn naħa tal-inkjesta tiegħu fid-dawl ta' dak imsemmi fl-artiklu *Nach dem Beben* bil-għan li ma jiġux duplikati sforzi, spejjeż u aktar trapass ta' żmien.

It-talba ta' Dr. Busuttil kienet taqa' fil-parametri ta' dak li l-Maġistrat Inkwirenti kien diġa bi ħsiebu jagħmel. Għalhekk fl-1 ta' Diċembru 2017 ġie deċiż is-segwenti:-

> Illi sa minn nhar it-Tnejn 27 ta' Novembru 2018 il-Maġistrat Inkwirenti deherlu li dak imsemmi fl-artiklu pubblikat nhar l-24 ta' Novembru 2017 mil-ġurnal Sueddeutsche Zeitung "Nach dem Beben" setgħa kien t'interess dirett għall-inkjesta de quo, u dan peress li huwa importanti li huwa jkun f'qagħda li jkollu għad-disposizzjoni tiegħu kull informazzjoni li tista' tixħet dawl fuq il-meritu tal-inkjesta "Egrant". B'hekk għamel kuntatt mal-Assistent Kummissarju tal-Pulizija Ian Joseph Abdilla fejn ġie informat x'azzjoni kienet ittieħdet sa' dakinhar. Wara ġie mgħarraf ukoll li kienu saru kuntatti mal-Awtoritajiet Ġudizzjarji Ġermanizi mill-Avukat Ġenerali u mill-Maġistrat Dottor Anthony Vella in konnessjoni mal-inkjesta maġisterjali li qed tistħarreġ l-omiċidju ta' Daphne Caruana Galizia.
>
> Illi bil-ħsieb li jkun hemm ko-ordinazzjoni aħjar tal-azzjoni li tkun trid tittieħed internament mill-Awtoritajiet Ġudizzjarji Maltin relattivament għall-inkjesti rispettivi kondotti minnhom, il-Maġistrat Inkwirenti għamel ukoll kuntatt mal-Maġistrat Anthony Vella sabiex ikun jista' jifhem sewwasew x'azzjoni laħqet ittieħdet minn naħa tiegħu fid-dawl ta' dak imsemmi fl-artiklu u dan biex ma jiġux duplikati sforzi u spejjeż.
>
> Illi b'hekk din it-talba għall-ġbir ta' kopja awtentika tal-informazzjoni li l-Awtoritajiet Ġudizzjarji tar-Repubblika tal-Ġermanja għandhom dwar il-Panama Papers u informazzjoni oħra li dawn setgħu akkwistaw mis-servers ta' Mossack Fonseca taqa' fil-parametri tal-azzjoni li kienet diġa bdiet tittieħed mill-Maġistrat Inkwirenti.

Għaldaqstant il-Maġistrat Inkwirenti qiegħed jilqa' t-talba fis-sens illi b'riferenza għall-kwerela u r-rapport li taw lok għal din l-inkjesta u fil-parametri tal-istess huwa sejjer jipproċedi bil-kuntatt dirett mal-Awtoritajiet Ġudizzjarji tar-Repubblika tal-Ġermanja sabiex dawn, safejn huwa possibbli għalihom u sakemm huma disposti li jagħmlu dan, fil-qafas tal-Koperazzjoni Ġudizzjarja bejn Stati Membri tal-Unjoni Ewropea, jipprovdulu kopja awtentika tal-informazzjoni li huma għandhom fil-pussess tagħhom mill-Panama Papers u/jew mis-servers ta' Mossack Fonesca, f'kull forma disponibbli, kemm kartaċeja kemm diġitali, inkluż ċ-"*checksum files*" u dan sabiex din l-istess informazzjoni tkun miġbura, priżervata u analizzata fil-qafas ta' din il-preżenti inkjesta.

Jordna li dan id-digriet jiġi notifikat lir-rikorrent u jibqa' fit-termini tal-Artikolu 518 tal-Kodiċi Kriminali.

Għalhekk saru l-arranġamenti meħtieġa sabiex kopja tal-*Panama Papers cache* li kienet rilevanti għall-fini tal-inkjesta *Egrant Inc* li kienu fil-pussess tal-Awtoritajiet Ġudizzjarji Ġermaniżi tiġi konsenjata fl-atti ta' din l-inkjesta. Dettalji dwar dan il-punt huma esposti fil-parti li titratta l-Mandat t'Investigazzjoni Ewropew mar-Repubblika tal-Ġermanja.

8. <u>Rikors ta' Jonathan Ferris tal-11 ta' Jannar 2018 biex jipprovdi informazzjoni rilevanti għall-fini tal-Inkjesta *Egrant Inc*</u>

Permezz ta' dan ir-rikors iffirmat ukoll mill-Avukat Dr. Jason Azzopardi, Jonathan Ferris, issa ex-*Manager* tat-Taqsima tal-Analiżi fi ħdan l-*FIAU* ppremetta li huwa kellu informazzjoni li setgħa jgħaddi lill-Maġistrat Inkwirenti fil-kors ta' din l-inkjesta u talab lill-Maġistrat Inkwirenti sabiex jibgħat għalih biex jixhed bil-ġurament taħt dawk il-provvedimenti l-Maġistrat Inkwirenti kienu jidhirlu xierqa.

Dakinhar stess it-talba ta' Jonathan Ferris ġiet milqugħa u ġie msejjaħ għall-għada t-12 ta' Jannar 2018 f'12:00, b'dan li ġie espressament marbut kemm hu kif ukoll il-konsulent legali tiegħu Dr. Jason Azzopardi u kull persuna oħra li tkun saret taf b'dan ir-rikors biex bl-ebda mod ma jiżvelaw mal-media l-fatt li sar dan ir-rikors u kull azzjoni jew proċedura li titnissel minnu u dan taħt l-Artikolu 518 tal-Kodiċi Kriminali.

Jonathan Ferris stqarr is-segwenti bil-ġurament tiegħu : -

Sur Maġistrat: X'informazzjoni tista' tipprovdi fir-rigward tal-inkjesta Egrant?

Xhud: Se nmorru lura fi żmien meta jien kont għadni pulizija. Niftakar li f'Ottubru, lejn l-aħħar ta' Ottubru jien kont għadni qed ninvestiga l-każ ta' John Dalli u t-trip tal-Bahamas.

Sur Maġistrat: Ottubru 2016?

Xhud: 16 iva sur Maġistrat. U jien peress li kont naf li se niċċaqlaq għall-FIAU għaliex jien għandi anke d-dokumenti li l-FIAU kienu qed jiġru warajja biex jiena I join their

ranks, jiġifieri għandi emails mingħandhom, huma jiġru warajja, jien imbagħad kont iddeċidejt wara li kien hemm dak l-indħil li anke ħareġ fil-gazzetta fejn il-Ministru pprova jagħmel pressjoni fuqi biex nagħtih dettalji ta' każ, nagħmel referenza għall-email tal-Ministru Carmelo Abela fejn jien imbagħad bgħattu jixxejjer u għedt, "jien hawn m'għadx għadu posti" għax jien mhux obbligat li lill-Ministru nagħtih informazzjoni fuq każ ta' terza persuna. Jien kien polite enough li għedtlu "jekk il-complainant irid xi sodisfazzjoni, jiġi hu u jien nagħtih li rrid. Imma jien mhux se noħroġ informazzjoni." Sussegwentament imbagħad kelli xi ngħid l-issues mas-superior ranks għax bdew jagħmlu qisha dik it-tip ta' pressjoni politika u hemmhekk the straw that breaks the camel's back, meta għedtli "jien m'għadux posti hawn" għax jew se nimxi kif suppost jew inkella se noqgħodu nitgħawġu. U kien hemmhekk fejn l-FIAU, darba minnhom konna qegħdin konferenza j'alla kontx hemmhekk inti l-MFSA, kont fuq il-mejda jien mal-Maġistrat Joe Mifsud, kellna dak l-exercise tal-barranin tal-money laundering. Kien dakinhar meta Manfred Galdes, kont qed nitkellem miegħu x'ġara u x'ma ġarax speċi ta' qalli "isma, għandna bżonn persuna biex tmexxi l-analysis unit. Kelli bżonn ikolli wieħed tal-kalibru tiegħek! Join our ranks." Imbagħad ma tantx tajt widen. Se nkun onest. Xi erbat ijiem wara ċempilli Alfred Zammit li huwa d-deputy qalli "Isma kellimni Manfred." Għedtu "issa nibgħatlek Cv mur ara." Baqgħet il-pressjoni għaddejja sakemm fl-aħħar iddeċidejt li I join their ranks. Tlabt is-secondment u lili ma tawhulix allavolja jien kont sejjer minn mal-gvern għal mal-gvern – imma dikhija kwestjoni oħra li qed niġġilidha f'fora oħra u jien ftehimt magħhom li nibda 1st November mal-FIAU. Allura jien f'Ottubru meta kont qed nagħmel il-handing over tal-każijiet li kelli, int taf x'portata ta' każijiet kelli. Wieħed minnhom kien il-każ ta' Dalli u niftakar li bagħat għas-sur John Dalli, bgħatt għal Claire, Louisa ma ġietx għax kieent qiegħda Gaħwdex u għedtilhiom li jien se nispiċċa minn hawnhekk, li jien sejjer l-FIAU u għaldaqstant il-każ, għalkemm minnaħa tiegħi kien magħluq, il-każ jien se ngħaddi lis-supretendent u jassenjah hu lil ħaddieħor biex eventwalment fejn hemm prosecution titkompla minn ħaddieħor però per kirjanaz ajien qed ninfurmahom. Mhux lil Dalli biss għamiltha din imma ma' kulħadd għax il-każijiet taż-żejt li kelli,kollha kemmhuma u niftaakr wara li spiċċa kollox aħna u ħerġin fil-kuritur, int għandek amment bejn l-economic Crimes u s-Cyber Crime, niftakat li s-sur Dalli kien qal lil Claire u qalilha, "ibqa' ħierġa ħa nkellmu ftit." Jien kont qiegħed hekk, hands across u niftakar lis-sur Dalli qabadni minn hawnhekk, ġibidni lejh u qali "isma waħda, u li se ngħidlek se ngħidhielek għax ġol-korp qatt ma ltqajt ma' persuna bħalek. Jekk trid tagħmel ħoss, jekk trid tkun tafg ta' min hi l-Egrant, l-Egrant hija l-kumpanija l-Election Grants. Hija l-kumpanija tal-Partit Laburista." U jien dakiż-żmien qajla tajt kas. Se nkun onest miegħek. Ma mortx l-FIAU bit-tir li nmuru naqbad u ninvestiga l-Egrant. Anqas xejn. Għedtlu "Thank you very much", tfajtha fl-arkivju ta' moħħi u daqshekk. Storja bdiet, wara li mort l-FIAU u on my second day niftakar li niffirma r-rapport ta' Keith Schembri vs Adrian

Hillman. Issa jien fl-investigazzjoni per se għalkemm iffirmajt bħala head of department, ħlief l-Ingliż u xi naqra grammatics ma kkoreġejtx għax xi trid nikkorġeji jekkjien iffirmajtu on my second day, jien ma kontx involut fl-investigazzjoni, per se jien ma nistax. Però in paralell kienet qed tingħabar ukolkl informazzjoni fuq Mizzi, fuq Conrad Mizzi. In the meantime jien sifirt kemm-il darba nirrappreżenta lill-FIAU u bdejt ninduna jien li kien hemm .... u hemmhekk fejn ġieni lura dak li kien qalli s-sur Dalli. Bdejt nara li Dubai, l-FIU ta' Dubai ad diversi rikjesti li aħna konna qegħdinnagmlu, għax jien kelli huntch li l-kontijiet ta' dawn in-nies qegħdin ġo Dubai, mhux veru ġol-Panama – u issa ngħidlek għaliex – kienet qiegħda tirreżisti. Fis-sens li l-liġi tagħhom, mela l-FIAU għandek l-FIAU tal-Ewropa li jaħdmu b'sistema ta' platform FIU net u għandek l-FIUs l-oħra tad-dinja inklużi bl-Ewropa li jaħdmu bi platform, jiġifieri exchange of information jisimha Egmont. Jien bdejt ninduna li l-FIU ta' Dubai meta nitolbuha informazzjoni, mhux għax ma tridx tagħtina, imam għax il-liġi tagħhom ma tippermettix dan ix-sharing of information. Tant hu hekk li meta jien kont qiegħed il-Qatar bejn l-aħħar ta' Jannar tas-17 u l-5 ta' Frar tas-17, konna qegħdin il-Qatar, l-Egmont plinary, jiġifieri l-FIUs kollha tad-dinja, jien kont qed nitkellem ma' tal-Qatar għax jien kont bdejt ninsisti. "Isma tini din l-informazzjoni. Jien naf li l-kontijiet qegħdin ġo Dubai kemm tal-Black 17, kemm tal-Macbridge, kemm possibilment anke tal-Egrant u tal-bella kumpanija l-oħra." U għedtlu "int ma tistax iżżommha din l-informazzjoni. Hawnehkk aħna qegħdin ġo club, club għandu dan l-istatut. Int titlob l-informazzjoni mingħandi, jien ngħaddhielek. Mela allura jekk jien se nitlob mingħandek int trid tgħaddihieli. Ma tistaxz tgħidli għax il-liġi tiegħi ma tippermettihiex. Inkella oħra barra mill-club." And it came to this political level. Pero ftehmna li subsequently in the early days of July jiġifieri 2nd jew 3rd July, meta konna se nerġgħu niltaqgħu għas-second prelinary ġo Macau, kellna nagħmlu finalisation ta' din il-biċċa tax-xogħol. Keep this in mind, early July u ara jien meta spiċċajt. Just kemm kont qiegħed on the right tracks jiena. In the meantime bqajt daqqa nmur Brussels fuq l-FIU net u ġej u sejjer u r-rapport ta' Konrad Mizzi beda jitlaħħam. In the meantime komplejna niġbru xi informazzjoni però the straw that hits kollox faqqgħet nhar is-27 ta' April. Jien nirċievi Whatapp message mingħand Alfred Zammit, id-deputy director għaliex jien – ħa nkun onest miegħek – nhar ta' Sibt kont nidħol l-uffiċċju biex dak li ma nlaħħaqx nagħmel matul il-ġimgħa, li kien ikun ħafna għax hemmhekk kelli n-nies taħti, kulħadd ġej għall-pariri, nirċievi message "isma, are you planning to come to the office today?" jien għedt "dan x'kien jien. X'ġaralu fit-8:30am?" u ċempiltlu. Għedtlu "iva Alfred. X'ġara?" Tinsiex, dan kien is-Sibt filgħodu, il-Ġimgħa kienet ħarġet Daphne Caruana Galizia l-issue li l-Egrant hija ta' Michelle Muscat.

Sur Maġistrat: Dak kien 21st of April. Il-Ġimgħa kien 21st of April.

Xhud: Issa jien qed inmur b'ġimgħa lura. 27.

Sur Maġistrat: Il-Ġimgħa ta' wara jiġi.

Xhud: Il-Ġimgħa ta' wara eżatt. Għedtlu "iva. Ġara xi ħaġa?" Qalli, "Le. Għax illum se jkun hemm laqgħa kunfidenzjali jekk jista' jkun tidħolx." Għedtlu "isma Alfred, mhux għal xi ħaġa ta'! jien qiegħed fit-tielet sular, it-tieni sular hemm il-compliance, jekk se jkun hemm il-laqgħa se tkun f'tad-direttur fl-ewwel sular. Insomma milli jidher qed tgħidulu biex ma nersaqx lil hinn. Jien ma niġix lil hinn. Għaldaqshekk! Aħjar." U in the meantime bdiet l-issue ta' Maria Efimova. Issa jien Efimova kulħadd jaf li jien kont għamiltha kawża għad-defamation, jien, Lara u Dennis u kellna anke l-kawża kriminali. Niftakar la ma dħaltsx l-uffiċċju jien, mort il-bak l-HSBC u sakemm mort il-bank l-HSBC ċemplitli Lara Butters u qaltli "isma qed iċempluli mill-AG għax iridu jkunu jafu fuq il-kawża tagħna ta' Maria Efimova." U jien infqajt nidħaq. Għedtilha "Dan x'kien daħal f'kawża mhux kumpilazzjoni l-AG?" Din kawża żgħira mhux xi kawża ta' barra minn hawn. In the meantime ċempilli John Spiteri mill-Police Board u qalli "Irridek terġa' titla' tixhed." Għedtlu "isma jien mhux diġà xhedt fuq il-każ fi Frar li għadda fil-police board?" u ċempilt lil Arthur Azzoaprdi u qalli "tibżax niġi miegħek jien. Aħna la se nżidu u anqas se nnaqsu minn dak li għedna." U hekk għamilna. In the meantime imbagħad bdejt nara ċertu press releases għax bdiet tieħu xejra politika. 1st May kien on a Monday, 2nd May ġejt mgħajjat jien l-uffiċċju ta' Kenneth Farrugia tad-direttur. Qalli "l-investigazzjonijiet kollha li għandhom x'jaqsmu mal-gvern int aqla' 'l barra minnhom." Jien bqajt inħares lejh. Għedtlu "Mela bħaal head of department jien nista' naqla' 'l barra minnhom? Jiġifieri int qed tgħidli li n-nies ta' taħti jien ma nkunx naf x'inhuma jagħmlu?" Qalli "le, se tkun in the loop imma peress li int għandek conflict of interest ma' Maria Efimova ma tidhirx int tkompli tmexxi dawn l-investigazzjonijiet."

Sur Maġistrat: Jiġifieri meta qed tgħid f'dak li għandu x'jaqsam il-gvern jiġifieri fil-każijiet ta' Keith Schembri, Konrad Mizzi, Egrant.

Xhud: Fil-verità kien għad fadal Egrant li kienu għadhom ma bdewx u l-każ ta Konrad Mizzi għax l-oħrajn kienu diġà f'Novembru u f'Lulju. Jien infqat nidħaq fis-sens għedtlu "isma int qed tiġbidli saqajja għax conflict of interest se mai kien ikolli li kienu jien fil-pulizija u m'għamiltx xogħli u ma arrestajtiex lil din u ma tellajthiex il-Qorti mhux għax għamitl xogħli." Issa we are on the same line. The FIAU is a law enforcement .... hija awtorità. Il-pulizija hija awtorità. Jiġifieri qegħdin fuq l-istess linja. Konflitt kien ikolli kieku jien kontniġi għala biebi u ma nmexxix kontriha din il-persuna. Insomma bdejt ninduan li kien hemm xi mekkaniżmu minn taħt jinħema u I did not give two shits – skuži l-kelma – imma hekk ħassejtha. Għedtlu "Alla jarak. Grazzi, inqas xogħol għalija." Qalli "Le, se tibqa' in the loop inti." U jien għedtlu "Alright, mela mhux problema. Mhux xorta se nibqa' in the loop!" Però bdejt ninduna li bdew isiru ċertu manuvri minn wara dahri. Ħafna sigretezzi.

Sur Maġistrat: meta qed tgħid kienhemm manuvri fis-sens li ma bqajtx tkun aktar involut?

Xhud: Ma bdew jgħiduli b'xejn lili. Imma in the meantime kienu laħqu tawni kopja tar-rapport ta' Konrad Mizzi datat 22 ta' Marzu 2017. Aħna konna ftehmna in the meantime li naqrawh kollu, sa fejn naf jien kien hemm erba' kopji. Kelli jien, Gauci l-analista, Kenneth Farrugia u Alfered Zammit. Naqrawh, niddiskutuh u nibgħatuh għand il-pulizija. Jien qrajtu. Bħalma tista' tara huwa mħażżeż bin-noti tiegħi. Dawn huma l-workings tiegħi għax ir-rapport proprija li kienu tawni jien xxredjajtu. Però l-workings żammejthom għax jien peress li kont qed nara li kienet qed issir logħba politika, ma ridt lil ħadd, għada, pitgħada jiffrejmjani jew jilgħabni bħalma kienu ppruvaw jagħmlu u issa ngħidlek għaliex qed nagħmel din l-allegazzjoni. Meta wasal iż-żmien, tajna lil xulxin għaxart ijiem ċans għax biex taqra dawk il-faċċati kollha u tifhem. Niftakar kien it-Tnejn għax kien it-Tlieta u konna ftehmna għat-Tlieta ta' wara, li dakinhar se nagħmlu ġurnata niddedikawha minn filgħodu sa filgħaxija biex neħilsuh u nibgħatuh għandil-pulizija. Meta kien it-Tnejn, lejliet li, suppost li se niltaqgħu, għedtilhom – jien kont qrajtu, kont għamilt in-noti tiegħi, għandi n-noti hawn, "aħna kollox sew għal għada?" Dahru lejja u Kenenth qalli "jien ma qrajtux ta'!" Alfred qalli "għadni anqas biss qrajtu." Għedtilhom "Mela x'se niltaqgħu nagħmlu għada?" Qalli "issa se nieħdu miegħi d-dar." Kehnneht qalli "noqgħod naqra." Għedtlu "jiġifieri int lili se tgħidli li se taqra dawk il-faċċati kollha l-lejla bedtime reading? Apparti minn hekk alla ħares qatt ikollok inċident bil-karozza għandek dokument bħal dak jiġi fl-idejn." Qalli "Veru ta' għandek raġun. Nibqa' hawnhekk u noqgħod nagħmlu." To cut the long story short meta ġejna t-Tlieta, l-għada, ftaħt il-file qalli "se nibdew minn wara mill-conclusions." "Conclusions għal-liema raġuni se nagħmlu review tal-conclusions?" Għedtlu "Kenneth int ma intx midħla tal-money laundering, kif se tasal għar-raġunament ta' konkklużjoni li... nara l-ista mingħajr biss ma taqra l-fatti li ġiegħlu jasal għal din il-konklużjoni?" Qalli "insomma jien meta kont l-IID hekk imdorri nagħmel u hemm se nagħmel." U kellna xi ngħidu. L-ewwel nett jien ħadtha b'offiża għax jien kont nagħmel tas-7:00pm naqra u nħażżeż u nieħu n-noti.

Sur Maġistrat: Dak ir-rapport allura min kien irredieh dak id-dokument?

Xhud: Kienet għamlitu Ruth Gauci.

Sur Maġistrat: U kienet Ruth Gauci li kieent ġabret id-*data*?

Xhud: Hekk hu.

Sur Maġistrat: Jiġifieri Ruth Gauci ġabret l-intelligence u ħejjiet dak ir-rapport.

Xhud: Dan ir-rapport. U kellna xi ngħidu nsomma.

Sur Maġistrat: Int u Kenneth?

Xhud: Indunajt li Alfred anqas biss fetħu l-file għax int tinduna file infetaħx jew le u minn dakinhar lil hawn jien tlift il-fiduċja kollha li kelli fl-FIAU. U moħħi dejjem iberren li xi ħadd qed jiftaħli l-uffiċċju. Dejjem iberren. Xi ħadd qed imissli l-karti. Kont noqgħod nagħmel ċertu affarijiet. Ma tafx int meta tidħol f'ċertu paranoja! U on the 30th of May fettilli, peress li jien kelli aċċess għall-cameras tal-FIAU għax kont qed nara lil Abdilla ġej u sejjer, ġej u sejjer, ġej u sejjer ħinijiet odd u dejjem b'karozza dfifferenti. U darba minnhom iddejjaqt jien u waqqaft lix-xufier tiegħu u għedtlu "mela wassal lil ma'm Yvonne?" għax kien bil-karozza ta' Yvonne. Qalli "le. Wassalt lis-super." Kien Jurgen l-878. Qalli "għax għandna l-karozza bil-ħsara." Għedtlu "alla jbierek ilha bil-ħsara il-karozza tagħkom għax ġejtu hawn ħames darbiet, ħames darbiet ġejtu b'karozza differenti." Hu nħasad għax bija mhux se titnellaħ. Niftakar 30th May kien il-birthday tat-tifel, għamilnilu festin żgħir u qisu f'moħħi kelli dik ix-xi ħaġa, qed jiħġri xi ħaġa, qed jiġri xi ħaġa u l-mara qaltli "qed tiddejjaq int, qed iddejjaq lin-nies li għandna magħna. Mhux tidħol tara fil-cameras! Iffissajt." U funnily enough ġbidt balla ritratti fejn kien hemm dawn il-laqgħat li suppost jien kont in the loop – għax lili hekk qaluli, li se jżommu in the loop meta fil-verità lili qatgħuni kompletament, wara li jien kelli l-argument ma' Kenneth fuq dawk il-konklużjonijiet għax jien ma' dawn il-konklużjonijiet ma qbiltx ma' kollox. Kien hemm affarijiet fejn għandi messaġġi fejn dawn kienu qed joqgħodu Ruth Gauci l-ewwel waħda, qiegħda toqgħod fuq il-blog ta' Daphne. Mela l-FIAU konna wasalna fi stat ta' miżerja biex aħna noqgħodu fuq il-blog?

Sur Maġistrat: Din qed nifhem jiena bħala intelligence hux kienet qed tiġi użata?

Xhud: Hekk għadni nifhem. Aħjar ngħidlek hekk hu! Ma nistax nikkonfermalek għax mhux jien imma check blog, check blog. Ruth Gauci. Check blog Mario Frendo as...commisisoner of police re. FIAU reports. Qed tifhem!

Sur Maġistrat: Sewwa.

Xhud: meta bdejt nara dawn iċ-ċuċati jien f'kollox. Mela hawnhekk qegħdin 30th May 2017. Il-ħin kienu s-6:30. L-għada filgħodu 31st nirċievi telefonata mingħand Rennie Stivala li int ridt tkellimnni lili biex jien nixhed quddiemek. Tiftakar? U liol Rennie għedtlu, "mhux se noqgħod ġej u sejjer bħalma għamiltuli meta xhedt quddiem Consuelo għax daqqa ridt dak id-dokument. Għidli xi trid għax qiegħed bil-mutur għax mhux se noqgħod ġej u sejjer għax jekk inweġġa', inweġġa' jien." Qalli "kif se naqbad ngħidlek!". "fuq xiex iridni l-Maġistrat ħalli jekk għandi nġib xi ħaġa nġibha miegħi." Qalli "fuq dak li ħareġ l-aħħar." U jien m'għandix ħajta f'ilsieni. Għedtlu "Jiġifieri fuq l-LNG tanker?" Għax dak ħareġ 26 jew 27 May. Qalli "iva." "Għaldaqshekk! Minn hawn u għaxar minuti oħra tagħrani hemm Rennie." Dan ir-rapport kien ġo file aħmar, mhux dan għax dan hu l-photocopy għax jien qatt ma

naħdem fuq l-oriġinal. Dejjem nagħmel photocopy tiegħu. Għamiltu ġo file aħmar under lock and key, għax kif għedtlek ma bdejt nafda lil ħadd u qbadtu. Kif qbadtu tela' jiġri Kenneth Farrugia b'nifsu maqtgħu. Dan tela' mill-ewwel sular għat-tielet sular gass down. Baqa' dieħel fl-uffiċċju tiegħi qalli "x'se tagħmel bih dak?" Għedtlu "Bagħat għalija l-Maġistrat Aaron Bugeja, irid ikellimni fuq l-aħħar żviluppi , se nara xi jrid." Qalli "Le dak irid ikellmek biss fuq l-aħħar erba' faċċati." U jien ta' moħħ tal-pulizija m'għedtlux li lejliet hu kellu l-laqgħa ma' Abdilla and Co. Għedtlu "int fejn taf fuq xiex iridni l-Maġistrat?" In very simple terms. "Kif qed tgħidli li jien kull m'għandi nieħu l-aħħar erba' faċċati meta l-Mapġistart lilek ma kellmitx?" Ovvjament! Imma jien naf allura assumejt mill-ewwel x'klien intqal fil-laqgħa tat-30 ta' Mejju, x'kienet il-logħba. Fil-fatt ikkonfrontajt lil Stivala qalli "Jien lil Kenneth ma kellimtux." U jien dakinhar kont ġej b'dan kollu sħiħ. L-oriġinal. Meta fil-verità jien lilek tajtek dawk il-faċċati u mmarkajthom ovvjament jien li ġejt dakinhar on the 31st. Forsi għandek amment li jien kelli l-issue ma' Abdilla għax beda jgħidli li tani dan it-text Pierre Portelli. Għedtli biex nikkonfermahulek u Abdilla beda jgħidli "ikkonfermah in toto." U jien għedtlek "le. Se naqra linja b'linja u fejn hemm l-iżbalji nimmarkahom."

Sur Maġistrat: Jien kont smajt lil kulħadd dakinhar. Lil FIAU kont smajthom ukoll. Jiġifieri apparti lilek kont smajthom ukoll.

Xhud: Imma l-issue tiegħi kienet...kif wasal li tela' jiġri u qalli "l-aħħar erba' faċċati biss."

Sur Maġistrat: Jista' jkun, issa din hija suppożizzjoni għax ma niftakarx min kien xehed l-ewwel.

Xhud: Jien xehedt l-ewwel wieħed.

Sur Maġistrat: Ma nafx min kien xeehd l-ewwel. Quite frankly ma nafx jekk kontx xehedt inti, ma nafx kenux xehdu huma għax jien kont bagħat għal Kenneth Farrugia, Alfred Zammit, Ruth Gauci u int. Erbgħa. Jiġifieri l-erbgħa li intom jien smajtkom. Issa l-ordni minn ġie l-ewwel ma niftakarhiex frankament. Dik ma niftakarhiex min xeehd l-ewwel.

Xhud: L-issue tiegi għaliex l-aħħar erba' faċċati? Għax l-aħħar erba' faċċati ġew illinkjati.

Sur Maġistrat: Għax l-aħħar erba' faċċati kienu l-mertu tar-rikors ta' Pierre Portelli. Qed nipprova niftakar għax jista' jkun hemm spjegazzjoni sempliċi għal dan li qed tgħid.

Xhud: Agħar u agħar għalfejn mela, moħħi hawnhekk ħadem.

Sur Maġistrat: Ma nafx. Jien qed nagħmel suppożizzjoni biex nipprova nifhem għalliema raġuni għaliex jien li ġie għandi u jien li tlabt lill-membri tal-FIAU u ridt inkellimhom dwar dak li wasal għandi. Jiġifieri awtomatikament jekk kien hemm erba' faċċati, jien lilek fuq dawk l-erba' faċċati kellimtek.

Xhud: Eżatt.

Sur Maġistrat: U bħalma kellimt lilek fuq dawk l-erba' faċċati kellimt lil oħrajn. Issa li ma niftakarx min kien ġie l-ewwel to be frank.

Xhud: il-kwestjoni tiegħi baqgħet sejra. Jien ma bdejtx inċedilhom waħda għax bdejt nara ċertu affarijiet però on the 15th of June, l-ewwel għamel il-kummenti fil-vojt il-Ministru u ma tajtx kasu għax qal li r-rapporti inkitbu biex jiġu leaked. Kif jista' jkun? Jekk rapport minnhom biss biss kien juri li nkiteb minn Lulju tas-sena ta' qabel! It is a political question. Ħaseb hekk, alla jgħinu fl-injoranza tiegħu. On the 15th of June lili kienu bagħtuni ngħallem l-akkademja lill-pulizija Ġermaniża tliet siegħat fuq money laundering. Meta ġejt lura qaluli "il-kwestjoni tal-Egrant?" "Il-kwestjoni tal-Egrant."...

Sur Maġistrat: Min staqsiek?

Xhud: Kont qed nitkellmu Kenneth, jien u Alfred.

Sur Maġistrat: L-FIAU stess.

Xhud: L-FIAU stess. Tgħedtilhom "sempliċi ħafna biex issolvuha. You are making a mountain minn żrara. Gino Cauchi għadu kemm ħareġ jgħid li l-kampanja ġiet tiswa 1.3 million. Stat ta' fatt. Aħna bil-liġi tagħna għandna dritt nagħmlu call in u billi jiġi tal-finanzi tal-partiti, iż-żewġ partiti ngħidlu agħtini lista tal-isponsorships tiegħek kollha. Agħtinhomli. Indur fuq Marvin Carthy u ngħidlu "aqbad dawn l-individwi tini t-tax returns tagħhom tal-aħħar sentejn tlieta." Ħalli nara jien il-profile jiffitjax l-isponsorships li ta. Dak li ma jiffitjax nibgħatulu tax, audit assessment, id-dipartiment tiegħu jarah hu. Dak li jiffitja jiffitja." Kont indur fil-bank u ngħidlu "ġo dawn il-kontijiet tini t-transazzjonijiet kollha li kienu ġew minn barra" u jekk kien veru dak li kien qalli s-sur John Dalli li l-Egrant hija l-kumpanija Elections Grants, transfer kien se jkun hemm. Mal-ewwel erba' ittri kulħadd kien se jkun jaf." Kif għedtilhom dan id-diskors l-għada jien fil-11:45 bagħtu għalija u tajruni 'l barra. So I hit the nail on the head. Huma indunaw li bija ma jistgħu jaqgħu. I was too advanced for them, il-mod kif kont naħdem jien. Huma ovvjament ma riedux li jaslu għal ċertu affarijiet. Pereżempju jien kont l-aktar wieħed kritiku lejn l-FIAU. Kont ngħidilhom "L-FIAU qatt ma tista' taqa' taħt il-Ministeru tal-Finanzi. L-FIAU trid tkun bħall-Avukat Ġenerali awtonoma tirrispondi l-Parlament direttt. Kif Ministru jista' jikmandani?" U dejjem iġibu d-dinja fit-tarf. Għedtilhom "x'inhi din tal-Egrant? L-Egrant 48 hours, 72 hours tkun taf ta' min hi." U żgur li jtajruni lili fl-aħħar ta' Ġunju meta kienu jafu li fit-2 ta' Lulju tiela' Macau u se nirranġa ma' Dubai biex inġib l-exchange of

information fejn huma l-kontijiet! Il-kontijiet hemmhekk qegħdin ġo Dubai. Mhumiex il-Panama għax il-Panama kkoperat mal-FIAU. Qed tifhimni?

Sur Maġistrat: Qed nifhmek.

Xhud: U qbadthom point blank. Imbagħad x'għamlu? Imbagħad bdew jippruvaw jisskreditawni ovvjament.

Sur Maġistrat: Għandek xi indikazzjoni però, int għedst tasal għall-konklużjoni li dawn il-flejjes iridu jkunu Dubai minħabab xi raġuni. X'inhi r-raġuni li int qed tikkonkludi? Insa l-Panama għax Panama....min-naħa ta' Dubai x'inhu dak li ġiegħlek temmen li Egrant għandha kont f'Dubai? Se nagħmililek ċara. It-terms of reference tiegħi mhumiex dawk li nindaga Egrant ta' min hi. Biex anke int ikollok l-idea ċara.

Xhud: Dubai l-liġi tagħhom matagħtix il-poter lill-FIAU to exchange information with other FIUs.

Sur Maġistrat: Dik tifhimha. Jekk għandhom liġi hekk għandhom liġi hekk. Stramba imma jekk hi hekk...

Xhud: Mhux jekk hi hekk. Tista' ġġib lil Manfed Galdes xhud għax Manfred Galdes ukoll kellu xi jgħid mal-head of FIU ta' Dubai.

Sur Maġistrat: Jiġifieri dan anke jekk tkun taf Egrant ta' min hi, biex iġġib l-informazzjoni minn hemmhekk probabilment you are ggoing to hit a damn concrete wall.

Xhud: Rienforced concrete ngħidlek jien.

Sur Maġistrat: Ma hemmx indikazzjoni pereżempju, qatt iltqajt...kemm-il bank hemm id-Dubai?

Xhud: Bl-amment ma nafx però hemm.

Sur Maġistrat: Għax anke indikazzjoni ad esempio, ta' kontijet bankarji speċifiċi jew banek almenu speċifiċi għax dan imbagħad...

Xhud: Għalhekk inti tmur FIU għax l-FIU tagħmillek il-homework hi.

Sur Maġistrat: Eżatt. Imma jekk l-FIAU ssib li ukoll l-FIAU għandha ħajt tal-ażżard quddiemha, is-sitwazzjoni ma tantx tkun pjaċevoli.

Xhud: Jien ngħidlek li l-FIAU ta' Dubai taf fejnhom għax ir-request tagħna it was acknowledged. Jiġifieri ġabruhom. Il-problema qiegħda t-transfer of information.

Sur Maġistrat: Li jgħidulek li l-liġi tagħhom ma tippermettihomx.

Xhud: Dik hija l-problema.

Sur Maġistrat: Għax jekkint għaoll-grazzja tal-argument għandek raġuni għaliex temmen il-kontijiet qegħdin f'Dubai allura awtomatkament sakemmint mġ'għandekx ir-rekapiti ċari ta' fejn int trid tattakka.

Xhud: Għandek żgur għaliex għandek il-Black 17 li qiegħda ġo Dubai, il-Balck 17 kien hemm transfer mill-Bank of Valletta għal hemmhekk. Black 17 hija ta' ċertu Mario Pullicino mill-Mellieħa.

Sur Maġistrat: Dik hija parti mill-meritu ta' dawk l-erba' faċċati.

Xhud: Mario Pullicino huwa ukoll is-segretarju tal-LNG li tillisja t-tanker. Dik hemm xi tliet kumpaniji, tliet company structure for the leasing.

Sur Maġistrat: Meta kont ġejt tixhed inti fir-rigward ta' dawk l-erba' faċċati, dik l-istorja ma waqfitx hemm. So much I can say. Dak ir-rikors ma raqadx.

Xhud: Issa jekk aħna nafu mill-Orion, il-kumpanija Maltija għaddew dawn it-200 fuq il-Black 17 li għandha l-kont ġo Dubai, mela aħna nafu li l-kont qiegħed ġo Dubai. Il-Black 17 u l-Macbridge huma listed bħala żewġ kumpaniji li minnhom Schembri u Mizzi kienu se jibbenefikaw miljun kull wieħed. Din skont id-declaration of assets li għamlu ma' Mossack Fonseca.

Sur Maġistrat: Dak il-mertu ma raqadx.

Xhud: Għalhekk qed ngħidlek jien Dubai żgur. Peress li hemm dik it-transazzjoni mill-Bank of Valletta u mar ġo Dubai mela l-kont bilfors ġo Dubai qiegħed!

Sur Maġistrat: Int qe dtasal by deduction you are deducing li la darba kien hemm dak il-pattern, il-probabilità hija l-pattern ġie segwit.

Xhud: Hemmhekk biss hija l-unika gurisdiction li hija black hole għax anqas il-Panama għax il-Panama tista' tmur l-FIAU u tara – għax aħna konna ngħidu li l-Panama hija secret. Il-Panama kkooperat bi sħiħ. Dubai black hole. Insiha. Ma se tagħtik xejn. U meta tibda tara inti ċertu...

Sur Maġistrat: Waqt li kont qiegħed hemmhekk inti, l-FIAU apparti dan l-episodju ta' John Dalli li semmejtli qatt ioltqajt ma' xi intelligence, ma' xi informazzjoni li torbot speċifikament lil Muscat mal-Egrant? Qatt iltqajt ma' xi dokument? Ma'xi ħaġa jew ntelligence li torbot lil Muscat, mhux bħala partit Laburista jew bħala...

Xhud: Lili ma tawnix iċ-ċans għax jien meta għedtilhom kif se naħdem, l-għada tajruni.

Sur Maġistrat: Int kont għedtli li l-FIAU fuq l-Egrant kienu għadhom ma bdewx jaħdmu. Jien qed nifhem li huma kienu bdew jaħdmu fuq ċertu intelligence tal-Panama papers meta faqqgħet il-Panama Papers minħabba li la kien hemm ir-rapporti

finali li waslu għand il-pulizija, it follows li kienu bdew jinvestigawhom. Però sa fejn naf jien the knowledge about Egrant, Hearneville u Tillgate kienet relattivament kmieni. Kmieni fis-sens li meta bdiet tikteb fuqhom Daphne Caruana Galizia kien presa poco l-istess żmien li bdiet tikteb ukoll fuq Keith Schembri u Konrad Mizzi.

Xhud: Iva. Però huma kif investigaw, int ma tistax tinvestigahom it-tlieta f'daqqa għax kieku one m'għandkex ir-riżorsi u teo timbligħ għax tanthemm trusts u kumpaniji. Huwa attakkaw one one. Issa fejn jidħol Schembri daħlu tnejn għax daħallek il-... ta' Brian Tonna imbagħad kellek l-oħra fejn kien hemm ta' Adrian Hillman. Jiġifieri feħet. Imbagħad wara dik daħal hu.

Sur Maġistrat: Però fuq Egrant kienu għadhom ma bdewx l-FIAU.

Xhud: Le għax fil-fatt meta għedtilhom il-frame of mind tiegħi, kif se naħdem jek kif xtaqt li naħdem, and I would have got that – u ngħidlek ukoll kemm jien konvint li qegħdin ġo Dubai. Tinsiex li biex qalli dak id-dikors f'Ottubru s-sur Dalli. Is-sur Dallki għandu ħafna interessi kbar ġo Dubai. Ġej u sejjer. Tanthu hekk li anke meta mietet il-mara tiegħu, fejn kien? Kien ġo Dubai. He has got alot of business and contacts there. In fatti meta mietet Josette, il-mara tiegħu, f'Diċembru tas-sena li għaddiet...

Sur Maġistrat: 2016.

Xhud: Kien l-airport ta' Dubai ġej lura Malta. X'interess kellu s-sur Dalli li lili jgħidli hekk biex jiżgwidani meta hu anqas kellu forsi l-ħsieb li jien eventwalment se nmiss ma' din il-karta. Qed tifhimni?

Sur Maġistrat: Però informazzjoni fir-rigward li din il-marelli kumpanija kienet rekonduċibbli lil Muscatijiet jew hekk, Dalli ma....

Xhud: M'għandi però fil-compliance report – li kienet għamlet l-FIAU...

Sur Maġistrat: Liema wieħed?

Xhud: Il-compliance report fuq il-bank Pilatus, hemmhekk hemm issue ta' interess.

Sur Maġistrat: Jiġifieri l-compliance report li kien sar f'Marzu?

Xhud: Eżatt dak li hemm inkjesta quddiem il-Maġistrat Consuelo. Dak jien kont sibt li kien hemm transfer ta' miljun minn kont ta' Leyla... ġie minn barra through Pilatus, as DVA, same day value, 600,000 minnhom għaddew għall-kumpanija Buttardi ġo New York. Il-kumpanija Buttardi hija kumpanija ta' Michelle Muscat u Michelle Buttigieg.

Sur Maġistrat: Din qed tgħidli li qiegħda fil-compliance report?

Xhud: Iva.

Sur Maġistrat: Tal-FIAU?

Xhud: Iva. Għaddew 600,000 immarkati bħala loan. Issa ħafna nafu min ikun fil-finanzi li bħala loan tweġġagħli naqra rasi lili. Fil-fatt meta jien kont il-Qatar, lil Amerikan tal-FinCEN, li hija l-FIAU Amerikana għedtlu "Dawn kif għaddewlkom?" Għal kull ċuċata twaqqfu u dawn 600,000.

Sur Maġistrat: U dawn is-600,000 minn fejn għaddew jiġifieri?

Xhud: Għaddew minn fuq il-Pilatus.

Sur Maġistrat: Mill-kontijiet tal-Pilatus jiġifieri.

Xhud: Mill-kont ta' Leyla...tal-Pilatus.

Sur Maġistrat: Dan id-dokument jiġifieri inti rajtu?

Xhud: Jien ma rajtux. Jien rajt ir-rapport tal-compliance għax jien ma kontx naħdem fil-compliance. Imma dan ħareġ meta l-MFSA u l-FIAU kienu għamlu din il-visit u sabu balla breaches. Pereżempju kelli diversions of ... u kkritikajtu bl-aħrax lil Alfred Zammit għax ma jistax ikun f'Marzu nsib, ikun hemm rapport – li għandi kopja tiegħu jien hawnhekk – imlaħħam sew tal-breaches li sabu f'Settembru toħroġ an all clear note.

Sur Maġistrat: Jiġifieri se nistaqsik din, veru strictly speaking it is not pretinent to Egrant però se nistaqsihielek biex ikolli naqra kjarezza f'moħħi. Din li qed tgħid, din tit-ransfer li kienet saret minn kont ta' Leyla Aliyeva lil Buttardi...

Xhud: Lejn il-Buttardi.

Sur Maġistrat: Lejn il-Buttardi, lejn il-Buttardi bħala Buttardi jew f'isem xi ħadd? F'isem Michele Buttigieg? F'isem William Buttigieg?

Xhud: Jekk niftakar sew f'isem il-Buttardi. Se nipprova nsib, nara jekk għandi il-compliance report. Dan huwa l-Whatsapp message li kien bagħatli Alfred Zammit dakinhar biex ma nersaqx lejn l-uffiċċju. Compliance...ma nafx jekk għandekx inti.

Sur Maġistrat: Ħa nara liema wieħed hu.

Xhud: Għandek kopja tiegħu int dan?

Sur Maġistrat: Ma nafx. Ħa nara liema hu għax issa bl-amment mhux se ngħidlek.

Xhud: Se ngħaddiehel. Dan huwa l-compliance report u dak żammejtu jien għax jien kont wieħed mit-tnejn li kellna, xi ħadd minn tlieta li kellna u xi ħadd illikjah però l-Maġistrat Consuelo għedtilha li se nżomm kopja tiegħu għax dak hemm ċerta noti fuqu, għedtilha "biex int tkun taf li jien se nżomm photocopy" għħax in-noti li kelli, li tajtha, tal-oriġinali kienu kollha bil-lapes u l-Maġistrat Consuelo kienet akkordat.

Sur Maġistrat: mela qed tagħmel referenza, qed nifhem jien, għal din il-parti. "Non particular bank account be acquivalent to approximately one million..."

Xhud: Għax Daphne kienet qalet li kien hemm transfer ta' miljun. Jien ħdimt imbagħad il-median rate bejn Jannar – ara jekk titla fuq – u Marzu u ma qbiltx għal dak il-miljun li keient qed atirreferi għalih u hemm xinoti tiegħi.

Sur Maġistrat: Jiġifieri hawnehkkint qed tgħid li l-informazzjoni li għandek li dawn il-miljun kienu dawn li għaddew mill-kont ta' Leyla Aliyeva lil Buttardi.

Xhud: Għax hi kienet qalet li hemm transfer ta' miljun. Tiftakar l-istorja kif kien ilqalgħet? Għedtilhom "ma jistax ikun li kien dak." Issa jekk int trid kopja tiegħu kemm jagħmlulek photocopy tiegħu għax dak se jginek żgur lilek.

Sur Maġistrat: Naħseb li diġà għandi. Naħseb li dawn iċ-ċifri konna diġà eżaminjanihom. Issa qed nistrieh wisq fuq il-memorja. Li kienet qalet Daphne Caruana Galizia kien li t-trasferiment li kien sar lil Buttardi, kien sar mhux minn Leyla Aliyeva imma minn Negarin Sadr li tiġi oħt iċ-chairman tal-Pilatus. Dik l-allegazzjoni li kieent għamlet.

Xhud: Imma s-sors kien ġej minn Aliyeva u għadda ta' malajr. Daħal u ħareġ dak il-flus. Ma tgħidx kienu hemm iddepositati imbagħad sar l-outward transfer. Jiġifieri daħlu u ... sparat 'il barra.

Sur Maġistrat: Issa din nivverifka għal li jista' jkun. Strictly speaking ti is not part of my remit imma nara daqsxejn mad-dokumenti ħalli nara naqra għal li jista' jkun dan il-miljun fejn mar. Naturlament l-investigazzjoni li qegħdin nagħmlu bħalissa, l-ewwelnetthija fir-rigward l-allegat owenrship ta' Muscat fir-rigward tal-Egrant għax hemm il-qofol ta' kollox u dak ix-xogħol li għadu għaddej.

Xhud: U l-problema hi li qegħdin ġo Dubai.

Sur Maġistrat: Issa jekk kemm-il darba din jirriżulta li l-Egrant hija ta' Michelle Muscfat, allura imbagħad wieħd irid jara naqra sewwa sewwa dawn l-allegazzjonijiet ta' dawn it-trasferimenti għax jekk l-Egrant hija tiegħi se sar trasferiment ta' miljun mhumiex ta' Muscat mod jekk hija ta' Muscat mod ieħor hu! Dik hija l-istorja. Għax wieħed irid jara imbagħad l-affarijiet.

Xhud: In the complexity of things.

Sur Maġistrat: Sar ħafna xogħol u x-xogħol għadu għaddej għax mhix ħaġa sempliċi. Pereżempju llum tajtni ħsibijiet oħrajn inti.

Xhud: Jien rajtha staramba li meta għedtilhom kif se naħdem, iva marelli, eżatt sur Maġistrat! Għedtilhom "Qed tagħmlu muntajna minn żrara għax fil-verità sempliċi u kont tkun taf. Għax int taf li meta se jkun hemm transfer, pereżempju se jkollok BOV

MT, jiġifieri taf int li ġej mill-Bank of Valletta ta' Malta u n-numru mhux se ngħidlek ta' minhu imma almneu għandi indikazzjoni. Tliet kwarti tax-xogħol lest. kemm inmur fuq dak il-bank u ngħidlu "Dan il-kont lil min jappartjeni?" daqshekk. Mhux se ngħidlek x'bilanċ fih." Kif għedtilhom hekk, l-għada...

Sur Maġistrat: Ara fir-rigward ta' dan jidhirli li tas-17th May jidhirli li għandi, justin case m'għandix, fil-kas nibgħatlek nota biex...

Xhud: Nagħmillek kopja tiegħu. Mhux problema Sur Maġistrat.

Sur Maġistrat: Pero jidghirli li danil-compliance report, għalhekk ridt nistaqsik għax din l-allegazzjoni ta' dan il-miljun jidhirli li konna stħarriġniha.

Xhud: Dak il-miljun mhux l-istess miljun li kienet qed tirreferi għalih Dapghne. Le hemm hemmhekk għax jien ħdimt bil-median rate, kien hemm Anton Bartolo, qed ngħidlek il-verità, bdew imeruni.

Sur Maġistrat: Dak il-miljun jekk mhux sejjer żball konna stħarriġnih ukoll. Jiġifieri it was looked at. I think it was that. Kien differenti minn dak li qalet Daphne. Fil-fatt hekk hu. Sewwa qed ngħid. Coming to think of it dan jidhirli li kont rajtu. Jekk kemm-il darba għandek something to back-up din li qed tgħidli li dan proventi minnhom dawk il-505 thousand għaddew lil Buttardi. Għandek xi dokument? Informazzjoni?

Xhud: L-FIAU għandhom.

Sur Maġistrat: I will take it there.

Xhud: Żgur għax jien li għandi notamenti li kienu tiegħi u dan żammejtu għax l-oriġinal tajtu lil Consuelo. Pero għedtilha għax jien inħobb naħdem bil-lapes, għedtilha li peress li jien għamiltu bil-lapes.

Sur Maġistrat: Verament jekk kemm-il darba kien hemm danit-trasferiment lil Buttardi trid tistabbilixxi imbagħad...

Xhud: Għandek line of thought differenti.

Sur Maġistrat: Whatever.

Xhud: Pereżempju dakinhar jien ridt inġib dan. Hawnehkk ħawn ħafna informazzjoni fuq il-wind farm ta' Montenegro. Pereżempjku għandek ħafna użu tal-credit personali ta' Konrad Mizzi. Għandek biss biss 17-il darba, għax analizzajthom jiena, per suppost iċ-Ċina, 17-il dabra visits lejn iċ-Ċina. Għala unannaounced visits lejn iċ-Ċina? Meta jien bħala pulizija meta noħroġ barra mill-pajjiż irid noqgħod navża lil kulħadd? Għandek ħafna informazzjoni fuq il-wind farm ta' Montenegro.

Sur Maġistrat: Dik fil-verità ma nistax nidħol fil-mertu tagħha għax inkun qed inmur lil hinn minn dak li qed ... però x-xogħol rigward dak jien ħallejtu għaddej.

Xhud: Għax jien dakinhar ridt niġi b'dan. Fis-sens bl-oriġinal ta' dan.

Sur Maġistrat: Ix-xogħol fir-rigwrad ta' dak jien ħallektu għaddej. Issa naturalment meta jimmatura wieħed irid jara xiex immatura. Imma x-xogħol ħallejtu għaddej.

In vista ta' dawn id-dikjarazzjonijiet li għamel Jonathan Ferris f'din id-deposizzjoni, għal darb'oħra reġa' ġie inġunt John Dalli, din id-darba fuq l-allegazzjoni ta' Ferris dwar il-konversazzjoni li allegatament kellhom bejniethom; kif ukoll reġgħu ġew inġunti r-rappreżentanti tal-*FIAU* passati u preżenti – Dr. Manfred Galdes, Sarah Scerri, Martina Scalpello, Alfred Zammit, Ruth Gauci u lil Kenneth Farrugia sabiex jixhdu dwar l-allegazzjoni magħmula minn Ferris bil-ġurament tiegħu relattivament għall-allegata transazzjoni bejn Leyla Aliyeva u Buttardi (ċjoe Michelle Buttigieg u Michelle Muscat). It-traskrizzjoni tax-xiehda tagħhom kollha qegħda inkluża ma' dan il-*Proces Verbal.* Ħadd minn dawn ix-xiehda ma kkonfermaw l-allegazzjonijiet li għamel Ferris u f'diversi aspetti tax-xiehda tagħhom jikkontradiċu dak illi stqarr.

Jonathan Ferris jgħid li John Dalli kien qallu ras imb'ras li *Egrant Inc* kienet proprjeta tal-Partit Laburista, teżi din li kienet tiddipartixxi radikalment minn dak allegat minn Caruana Galizia fl-artikli tagħha u dak li Maria Efimova xehdet li rat fil-Bank Pilatus. John Dalli ċaħad kategorikament li qatt kellem lil Jonathan Ferris bil-mod kif Ferris stqarr

jew li qallu kliem fis-sens li *Egrant Inc* kienet tappartjeni lil Partit Laburista jew li kien hemm xi konnessjoni bejn *Egrant Inc* ma *Election Grants* kif allegat minn Ferris.

L-istqarrija ġuramentata ta' Jonathan Ferris dwar min huwa s-sid aħħari tal-*Egrant Inc* hija kompletament differenti u inkompatibbli ma dak li ħareġ mill-artikli ta' Caruana Galizia u x-xiehda ta' Efimova. Anzi jekk dak li stqarr Ferris bil-ġurament għandu mis-sewwa u jitwemmen allura jfisser li l-allegazzjonijiet ta' Caruana Galizia u x-xhieda ta' Efimova ma jkollhomx mis-sewwa u l-kwerelanti jkunu ingħataw raġun fiċ-ċaħda tagħhom. Dawn iż-żewġt verżjonijiet ma jistgħux jiġu rikonċiljati bejniethom għax jekk ix-xiehda ta' Jonathan Ferris titwemmen, allura *prima faciae* jkun ifisser li l-ishma f'*Egrant Inc* ma humiex ta' Michelle Muscat, iżda huma tal-Partit Laburista. Jekk skont din il-verżjoni ta' Ferris dawn l-ishma ma humiex ta' Michelle Muscat, allura waħda mill-kweżiti ta' din l-inkjesta tkun ġiet imwieġba. John Dalli pero ma jikkonfermax li qal dan id-diskors lil Jonathan Ferris. Din il-verżjoni ta' Ferris tnissel kunflitt fil-provi miġbura mhux daqstant fuq is-sustanza ta' jekk l-ishma f'*Egrant Inc* humiex rikonduċibbli lil Michelle Muscat.

Din l-inkjesta ma ġietx imqabda biex tistħarreġ ta' min huma l-ishma ta' *Egrant Inc* fl-astratt jew b'mod ġenerali, iżda hija mibdija fuq *notitia*

criminis pernjata fuq l-allegazzjonijiet magħmula minn Daphne Caruana Galizia li l-ishma f'*Egrant Inc* huma proprjeta ta' Michelle Muscat miżmuma għaliha minn persuni imqabda minn Mossack Fonesca. Ix-xiehda ta' Ferris tikkontradiċi dan.

Mill-banda l-oħra hemm diverġenza wkoll bejn dak li jixhed Ferris dwar ir-raġunijiet għaliex huwa ma tħalliex ikompli jkun involut fl-investigazzjonijiet li kienu qegħdin isiru bi tħejjija fir-rigward tat-tielet rapport analitiku li ħareġ mir-rivelazzjonijiet tal-*Panama Papers* nonche t-terminazzjoni tal-impjieg tiegħu minn mal-*FIAU* max- mogħtija mir-rappreżentanti tal-*FIAU.*

Jonathan Ferris għamel ukoll riferenza għall-kontenut tal-*Compliance Report* tal-*FIAU* tas-17 ta' Mejju 2016 li kien sar wara l-ispezzjoni magħmula fil-Bank Pilatus. Ferris jgħid li dik il-parti li kienet titratta dak il-paragrafu fejn kien issemma' li kien hemm pagament ta' madwar miljun (ewro) li ma kienx ġie reġistrat b'mod suffiċjenti kif jixraq mill-Bank Pilatus. Jonathan Ferris itenni li dan it-trasferiment kien sar minn Leyla Aliyeva u li l-benefiċjarju kienet "Buttardi" (u skont ix-xiehda tiegħu kumpanija ta' Michelle Buttigieg u Michelle Muscat). Anke hawnhekk dak li kien qiegħed jallega Jonathan Ferris kien imur kontra dak miktub minn Caruana Galizia u minn dak li qalet li rat Maria Efimova fil-Bank

Pilatus fis-sens li kien sar trasferiment ta' erba' mitt elf dollaru Amerikan ($400,000) mis-self li kienet ħadet Negarin Sadrhasheminejad direttament lil Michelle Buttigieg. Skont Jonathan Ferris issa dan it-trasferiment kien sar minn Leyla Aliyeva lil Michelle Buttigieg.

Biex inkun assigurat li ma tħalla xejn barra fuq dan il-punt, reġgħu ġew inġunti l-istess xhieda li kienu diġa xehdu xhur qabel meta ġie trattat ir-rikors li kien sar minn Pierre Portelli dwar dan il-*Compliance Report* li kien ġie *leaked* lilu. Reġgħu ġew ikkonfrontajt lil-impjegati tal-*FIAU*, preżenti u passati, din id-darba ordnati jġibu l-*working documents* tagħhom li fuqhom ġew bażati l-konklużjonijiet tagħhom li fuqu sar il-*Compliance Report*. Kemm mix-xiehda tagħhom, kemm mill-*working documents* tagħhom kif ukoll mill-*Compliance Report* de quo din l-allegazzjoni ta' Ferris ma ssib ebda sostenn.

Anzi din l-interpretazzjoni li kienu qegħdin jagħtu r-rappreżentanti tal-*FIAU* għal din il-kwistjoni ġiet ukoll sottomessa għall-analiżi tal-*Forensic Accountant Miroslava Milenovic* sabiex tistħarreġ dawn iċ-ċifri u t-trasferimenti kollha li kienu saru minn Leyla Aliyeva jew il-kumpanija tagħha *Sahra FZCO* u li kienu għaddew mill-Bank Pilatus. Kif jirriżulta mir-relazzjoni tal-*Forensic Accountant Miroslava Milenovic* mid-dokumenti prelevati mill-Bank Pilatus din it-transazzjoni allegata minn

Jonathan Ferris ma kellha x'taqsam xejn ma' Buttardi, Michelle Buttigieg jew Michelle Muscat.

Jidher għalhekk li l-allegazzjonijiet li għamel Jonathan Ferris <u>ma jistgħux</u> jiġu konfermati *prima faciae* korretti.

9. **<u>Rikors ta' Emanuel Delia u tal-Profs Godfrey Leone Ganado tad-29 ta' Jannar 2018 biex jipprovdu informazzjoni relattiva għal Michelle Buttigieg (Buttardi)</u>**

Illi permezz ta' rikors iffirmat mill-Avukat Dr. Jason Azzopardi, r-rikorrenti stqarrew li huma kellhom informazzjoni li kienu jafu *di scientia propria* informazzjoni dettaljata li kienet attinenti direttament fuq is-suġġett meritu ta' din l-inkjesta u ħassewhom fid-dover li jgħadduha lill-Maġistrat Inkwirenti taħt ġurament. B'hekk talbu sabiex jitħallew jixhdu taħt ġurament u jgħaddu din l-informazzjoni lill-Maġistrat Inkwirenti.

Ir-rikorrenti ġew mismugħa nhar il-31 ta' Jannar 2018. L-informazzjoni li provdew kienet relattiva għall-informazzjoni li kienet ħarġet mill-artiklu

pubblikat minn Daphne Caruana Galizia dwar l-allegat trasferiment ta' flus li kien sar minn Negarin Sadrhasheminejad lil Michelle Buttigieg eżerċenti l-kummerċ taħt l-isem Buttardi fl-ammont ta' erba' mitt elf dollaru Amerikan ($400,000).

Din ma kienetx waħda minn dawk l-allegazzjonijiet prinċipali kienu jiffurmaw il-meritu tal-Inkjesta *Egrant Inc.* Biss kienet bdiet issir ftit analiżi ta' dan l-artiklu fl-isfond biex ikun jista' jiġi ċċarat kemm u safejn l-allegazzjonijiet ta' Caruana Galizia u x-xiehda t'Efimova setgħu kienu bażati fuq il-provi f'dan il-każ. Kien ġie stabbilit ġja li fuq bażi *prima faciae,* anke grazzi għall-dik il-parti tar-relazzjoni tal-*Forensic Accountant Miroslava Milenovic* li kienet tittratta s-self ta' Negarin Sadrhasheminejad li din l-allegazzjoni ma kienetx *prima faciae* sorretta minn provi diretti u indiretti attendibbli miġbura matul il-kors ta' din l-inkjesta.

Stante li dan l-artiklu u l-fatti kontenuti fih ma kienux fil-*focus* prinċipali ta' din l-inkjesta, u stante li fi kwalunkwe każ, l-allegazzjoni ma kienetx *prima faciae* sorretta minn provi diretti u indiretti attendibbli miġbura matul il-kors ta' din l-inkjesta l-informazzjoni mogħtija mir-rikorrenti ma ġietx mistħarġa ulterjorjment.

10. Rikors tal-*MPE* David Casa sabiex jipprovdi informazzjoni relattiva għal allegat tixħim konness mal-*LNG Tanker*

Illi permezz ta' rikors iffirmat mill-Avukat Dr. Jason Azzopardi, ir-rikorrent ippremetta li : -

Illi l-esponent huwa Membru tal-Parlament Ewropew;

Illi l-esponent diversi gimghat ilu waslet ghandu informazzjoni u dokumentazzjoni dettaljata immens li jolqtu **mill-vicin hafna l-mertu** ta' din l-Inkjesta;

Illi l-esponent ghamel il-verifiki u analizi necessarji ta' din l-informazzjoni li waslet ghandu u issa jinsab f'pozizzjoni li b'serenita jghaddi din I-informazzjoni Iii Magistrat Inkwirenti;

Illi din l-informazzjoni dettaljata tinkludi inkartament u rapport ta' 110 pagna li hu ta' **gravita u serjeta inawdita;**

Illi hu d-dover tal-esponent li jghaddi taht gurament lil Magistrat Inkwirenti din l-evidenza gdida u li l-awtoritajiet tal-pajjiz **hbew** mill-Magistrat Inkwirenti;

Illi b'sens ta' dover u lealta lejn il-Magistrat Inkwirenti l-esponent ma zvelax 'l pubbliku jew media il-kontenut ta' din l-evidenza u informazzjoni dettaljata (anke jekk tali evidenza hi prettament ta' interess pubbliku ghax titratta skemi, sistemi, agir u kolluzjoni f'korruzzjoni u hasil ta' flus fuq skala **ingenti** minn membri tal-Ezekuttiv u ufficjali pubblici ohra fl-Ufficju tal-Prim Ministru, li qatt ma rajna bhalha f'pajjizna) hlief li dalghodu huwa informa 'l pubbliku f'konferenza tal-ahbarijiet qasira hafna li

kien ser jintavola dan ir-rikors u li l-evidenza hi msejsa fuq rapport dettaljat tal-Financial Intelligence Analysis Unit u x'kienet il-konkluzjoni ta' dan it-rapport biss. Dwar il-kontenut u provi akkwiziti fir-rapport tal-FIAU u li hu l-bazi tal-evidenza ghand l-esponent, l-esponent ma zvela xejn u ma qal xejn;

Illi l-esponent minn issa jinforma 'l Magistrat Inkwirenti li hu jinsab ghad-disposizzjoni tal-Magistrat Inkwirenti mill-lium stess sa nhar it-Tlieta li gej kmieni filghodu peress li t-Tlieta fl-12pm isiefer Brussel ghal seduta fil-Parlament Ewropew;

Ghaldaqstant l-esponent umilment jitlob 'l Magistrat Inkwirenti jaghtih udjenza b'urgenza, possibilment anke llum stess ikun f'liema hin ikun, biex taht gurament huwa jkun jista' jghaddi lil Magistrat Inkwirenti l-evidenza u informazzjoni li huwa ghandu u dan taht kull provvediment li l-Magistrat joghggbu jordna.

Illi l-inkjesta tkun f'qagħda aħjar li tevalwa l-meritu ta' dan ir-rikors David Casa ġie ordnat sabiex jidher personalment nhar it-Tnejn 19 ta' Frar 2018 fid-09:00.

Qabel ma ġie deċiż jekk David Casa għandux jixhed bil-ġurament, ġie mistoqsi mingħajr ġurament tiegħu jekk dak li kien ser jixhed dwaru kienx relatat mal-meritu ta' rikors preċedenti li kien ippreżenta Pierre Portelli dwar l-allegazzjonijiet imnissla minn dokument qafas tal-*FIAU* li kien qiegħed jistħarreġ allegati involvimenti ta' Keith Schembri u Konrad Mizzi fir-rigward allegati tixħim fl-ikkummissjunar tat-*Tanker LNG*. Casa ikkonferma li l-meritu ta' dak li ried jistqarr kienet informazzjoni li

tirrigwarda dan, għalkemm f'dak l-istadju ma stqarrx din l-informazzjoni x'kienet u mnejn kien ġabha.

Għalhekk stante li l-meritu ta' dak kien ser jistqarr Casa kien identiku għall-meritu ta' dak li diġa kien preżenta Pierre Portelli fir-rikors preċedenti tiegħu u li kien ġie dekretat fid-19 ta' Ġunju 2017, u stante li l-*FIAU* kienu ġew ordnati sabiex jibqgħu għaddejjin bl-analiżi tagħhom u li jibqgħu jaġġornaw lill-inkjesta perjodikament bl-iżviluppi li kienu qegħdin isiru minn żmien għal żmien permezz ta' *timeline of events*, ġie deċiż li r-Rappreżentanti tal-*FIAU* jerġgħu, għal darb'oħra jinstemgħu bil-ġurament sabiex jaġġornaw it-*timeline of events* biex jiġi aġġornat il-progress li huma kienu rreġistraw.

Nhar il-21 ta' Frar 2018 xehdu bil-ġurament lil Kenneth Farrugia, Alfred Farrugia u lil Ruth Aisthrope Gauci li ppreżentaw *timeline of events* aġġornat li kienu juri x-xogħol li kien sar u kien għadu għaddej fil-ġbir t'iktar informazzjoni qabel jiġi konkluż ir-rapport analitiku finali tagħhom lill-Kummissarju tal-Pulizija.

Wara li nstemgħet din ix-xiehda, ġie deċiż li, qabel xejn, bħal ma kien ir-rikors ta' Pierre Portelli qablu, dan ir-rikors ta' David Casa ma kienx jaqa fil-parametri tal-inkjesta *Egrant Inc.*

Iżda stante li r-rikors ta' Pierre Portelli kien ġie diġa dekretat fid-19 ta' Ġunju 2017 u l-Maġistrat Inkwirenti kien ordna lill-*FIAU* biex ikomplu jaħdmu fuq l-istħarriġ tagħhom u jaġġornaw l-inkjesta perjodikament bl-iżviluppi tal-istħarriġ li kienu qegħdin jagħmlu, ġie deċiż li din il-posizzjoni tibqa' dik prevalenti, u dan fid-dawl tal-iżviluppi li kienu saru sa' dak il-punt, in linea ma dak iddekretat fid-19 ta' Ġunju 2017.

Din id-deċiżjoni tat il-frott tagħha għax permezz ta' nota datata 28 ta' Marzu 2018 l-*FIAU* l-inkjesta ġiet infurmata li l-analiżi tal-*FIAU* dwar allegati tixħim fl-ikkummissjunar tat-*Tanker LNG* kienet ġiet konkluża u l-*FIAU* kien issottometta rapport analitiku lill-Kummissarju tal-Pulizija għal aktar investigazzjonijiet skont l-Artikolu 31 tal-Att kontra l-*Money Laundering* nhar is-26 ta' Marzu 2018.

11. <u>Rikors tal-Kummissarju tal-Pulizija għall-informazjoni miġjuba in segwitu għall-eżekuzzjoni tal-Mandat t'Investigazzjoni Ewropew mar-Repubblika tal-Ġermanja</u>

In segwitu għall-eżekuzzjoni ta' dan il-Mandat t'Investigazzjoni Ewropew permezz ta' rikors datat 17 t'April 2018 il-Kummissarju tal-Pulizija talab li jingħata kopja tad-dokumentazzjoni li l-Awtoritajiet Ġermaniżi għaddewli wara li ppremetta li xtaq li jkollu din l-informazzjoni sabiex ikun jista' jużaha b'rabta ma investigazzjonijiet oħra, inkluż dawk li s'issa ma kienux parti la minn din l-inkjesta u l-anqas minn inkjesti oħra.

Illi b'digriet tas-27 t'April 2018, wara li ġie ikkunsidrat li l-informazzjoni miġjuba mingħand l-Awtoritajiet Ġermaniżi kienet tolqot mhux biss il-meritu ta' din l-inkjesta iżda wkoll kienet rilevanti għal diversi investigazzjonijiet li kienu kurrenti jew li setgħu jinbdew fil-ġejjieni, it-talba ġiet milqugħa. Kopja tal-informazzjoni diġitali ġiet mgħoddija lill-Kummissarju tal-Pulizija.

12. <u>Informazzjoni mogħtija lili mill-Ġurnalist tat-Times of Malta Jacob Borg.</u>

Nhar it-Tlieta 12 ta' Ġunju 2018 fl-10:00 Jacob Borg, Ġurnalist mit-Times of Malta iddepożita fl-atti tal-inkjesta faxxiklu ta' dokumenti għall-analiżi tal-Maġistrat Inkwirenti. Dawn id-dokumenti kienu simili għal parti mill-faxxiklu ta' dokumenti li kienu ġew riċevuti mingħand l-Awtoritajiet Ġudizzjarji Ġermaniżi bħala parti mill-Panama Papers Cache li kienu meħuda minn *leaks* li kienu saru fis-sena 2017. Biss kellhom siltiet li kienu jirrelataw għal emails interni li kienu ġew skambjati bejn impjegati ta' Mossack Fonseca, prinpilament bejn Mirzella Tunon u Josette Roquebert li ma kienux jifformaw parti minn din l-informazzjoni sottomessa minn Jacob Borg. Kopja ta' dawn id-dokumenti ġiet mgħoddija għall-analiżi tal-*Forensic Accountants Harbinson Forensics.*

Laqgħa mal-Membri Parlamentari Ewropej Ana Gomes, Sven Giegold u David Casa

Nhar it-30 ta' Mejju 2018 fis-1351 il-Maġistrat Inkwirenti irċieva *email* indirizzata lilu personali mingħand il-Membru Parlamentari Ewropew Ana Gomes (GOMES Ana Maria [anamaria.gomes@europarl.europa.eu]) li kienet taqra hekk : -

Magistrate Aaron Bugeja

Dear Mr. Bugeja,

I, along with colleagues Sven Giegold and David Casa, will come to Valetta on the 1st of June to have a series of meetings in follow up of the European Parliament ad hoc Delegation on the rule of law in Malta (30 November – 1 December 2018).

We would appreciate if you could meet with us to discuss the inquiry you lead on the Egrant case at Europe House, or in another place of your preference, at 13:00.

Please let us know of your availability.

Thank you.

Best regards,

Ana GOMES

Member of the European Parliament

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Din l-email ġiet imwieġba dakinhar stess fil-16:36 permezz ta' *email* li kienet taqra hekk : -

Honourable Gomes,

Many thanks for your invitation.

I shall consult with the Chief Justice and revert back to you as soon as possible.

Thanks and best regards,

Aaron M. Bugeja

Magistrate

Sussegwentement, din l-email ġiet segwita bl-email datata 30 ta' Mejju fl-22:13: -

Honourable Gomes,

I would like to inform you that I accept your invitation for a meeting which, at this stage of this ongoing inquiry and in line with my Judicial duties, will have to concentrate on general legal matters and on non case-specific issues as I am, by Law, precluded from divulging any of the findings in the inquiry.

May I please suggest to host your Delegation this Friday at 13:00 at the Conference Room of the Courts of Justice in Valletta.

While awaiting your reply, I remain,

Yours truly

Aaron M. Bugeja

Magistrate.

Il-MPE Gomes wieġbet lura permezz ta' *email* datata 31 ta' Mejju 2018 fid-0935 fejn qalet li :

Dear Magistrate,

Thank you. We will be there at 13:00.

Best regards,

Ana GOMES

Member of the European Parliament

ASP 14G 205, Rue Wiertz 60,
B-1047 Brussels

+3222847824

anamaria.gomes@ep.europa.eu

www.anagomes.eu

Din ġiet imwieġba lura fis-1407: -

Honourable Gomes,

Thanks a lot.

See you tomorrow at 13:00.

Best regards.

Aaron M. Bugeja

Magistrate

Din il-laqgħa saret nhar il-Ġimgħa l-1 ta' Ġunju 2018 fil-*Conference Room* tal-Qorti. Preżenti għaliha kien hemm it-tliet MPE Gomes, Giegold u

Casa filwaqt li kien hemm ukoll żewġ funzjonarji tal-Parlament Ewropew f'Malta. Mal-Maġistrat Inkwirenti kien hemm tassistih id-Deputat Reġistratur Christianne Borg.

Il-ftuġħ tal-laqgħa sar mill-MPE Gomes li spjegat l-iskop tal-viżita tagħhom f'Malta kif ukoll dwar it-tħassib li huma għandhom dwar is-sistemi Ġudizzjarji u taż-żamma tal-ordni f'Malta. Qalet li kienu jafu bl-inkjesta *Egrant Inc.* u li kellhom interess fiha u kellhom xi mistoqsijiet li kienu jolqtu din l-inkjesta, li pero kienu jafu li jiena ma setgħux jiġu imwieġba mill-Maġistrat Inkwirenti.

Il-Maġistrat sottoskritt saħaq dak li kien diġa kiteb fis-sens li huwa kien prekluż milli jitkellem ma terzi fuq materji speċifiċi li jolqtu l-inkjesta *Egrant Inc* inkwantu marbut bis-sigriet istruttorju. Iżda kien lest li jaqsam magħhom informazzjoni ġenerali dwar in-natura ta' inkjesti maġisterjali f'Malta, kif huma regolati u xi proċeduri hemm dwar kif tibda, tkompli u meta tispiċċa inkjesta Maġisterjali. Dawn il-proċeduri ġew spjegajti skont dak li joħroġ mill-Liġi u mill-ġurisprudenza Maltija, senjatament s-sustanza tal-Artikoli 546 sa 569 u d-dettami tas-sentenza tal-Qorti tal-Appell Kriminali (Superjuri) fl-ismijiet *Ir-Repubblika ta' Malta vs. Jason Calleja.*

Fl-ebda ħin ma ġew żvelati dettalji speċifiċi dwar l-inkjesta *Egrant Inc*, għajr ħlief dak li kien ovvju f'kull inkjesta ta' dan it-tip fis-sens li jkun hemm ħatra ta' esperti tekniċi, li f'dan il-każ ma kienux Maltin, għajr ħlief wieħed; li l-proċess tal-ġabra tal-provi sar kemm minn sorsi diretti Maltin kif ukoll minn sorsi barranin, li fil-qadi ta' dmiru l-Maġistrat kien jaħdem id f'id mal-Pulizija Eżekuttiva, li l-Inkjesta kienet qegħda tanalizza kwantita enormi t'informazzjoni miġbura, fosthom informazzjoni minn mijiet ta' xhieda; li l-inkjesta tiffoka fuq it-termini tan-*notitia criminis* u r-rapport li jkun magħmul mill-Kummissarju tal-Pulizija.

Ġie spjegajt lilhom ukoll mhux biss ir-rwol tal-Maġistrat Inkwirenti matul inkjesta iżda x'jiġri wkoll meta inkjesta tiġi magħluqa. Ġie imfiehem xi jkun l-interazzjoni li jista' jkun hemm bejn il-Kummissarju tal-Pulizija u l-Avukat Ġenerali, fis-sens li f'każ ta' dubju, il-Kummissarju tal-Pulizija jista' jitlob il-parir tal-Avukat Ġenerali u d-deċiżjoni aħħarija tkun dik tal-Avukat Ġenerali.

Ġie spjegajt ukoll li f'Malta il-Maġistrat Inkwirenti ma għandux *skwadra* ta' Pulizija Ġudizzjarja responsabbli direttament lilu, iżda huwa meħtieġ

li juża s-servizzi tal-Pulizija Eżekuttiva kapeġġjata mill-Kummissarju tal-Pulizija. Ġiet ribadit ukoll li a differenza tal-Prosekuturi barra minn Malta, li normalment ikunu titolari tal-inkjesti (u mhux Maġistrati bħal ma qegħda s-sistema f'Malta) il-Maġistrat Malti ma għandux *skwadra* ta' nies jaħdmu miegħu u li magħhom jista' jaqsam l-ideat tiegħu dwar l-inkjesta għax f'Malta huwa jrid jagħmel ix-xogħol tiegħu waħdu, bl-għajnuna tal-esperti u bl-awżilju tal-Pulizija Eżekuttiva.

Saru ċerti mistoqsijiet li peress li dehru wisq speċifiċi ma ġewx imwieġba mill-Maġistrat Inkwirenti - bħal mistoqsija dwar Ali Sadr, il-Bank Pilatus u l-informazzjoni meħuda minnu, jekk ġietx riċevuta informazzjoni mingħand l-Awtoritajiet f'Dubai, dwar f'liema stadju waslet l-Inkjesta *Egrant Inc.* nonche mistoqsija oħra dwar Maria Efimova.

Fuq domanda tal-MPE Sven Giegold (li mill-mod kif saret kien evidenti li jidher infurmat dwar il-mawra tiegħi fil-Ġermanja in konnessjoni mal-Panama Papers) ikkonfermajt li kont f'kuntatt ma' diversi awtoritajiet esteri fosthom mal-Awtoritajiet Ġudizzjarji Ġermaniżi.

Il-laqgħa ħadet madwar siegħa u l-Maġistrat Inkwirenti ġie infurmat li kellhom jibgħatu kopja formali tar-rapport tagħhom meta kien ikun lest.

Sal-ġurnata tar-redazzjoni ta' dan il-*Proces Verbal* ebda tali rapport ma ġie riċevut mill-Maġistrat Inkwirenti.

Konklużjonijiet Prinċipali

tal-Inkjesta *Egrant Inc.*

In segwitu għar-rapport tal-Kummissarju tal-Pulizija datat 20 t' April 2017 li jgħid :

> Illi illum 20 ta' April 2017, il-Kumissarju tal-Pulizija ircieva rapport minghand Dr. Edward Gatt LL.D u Dr. Pawlu Lia LL.D ghan-nom u in rapresentanza ta' l-Onorevoli Prim Ministru Dr. Joseph Muscat, fejn dawn talbu lill-Kummissarju tal-Pulizija jinvestiga allegazzjonijiet li saru mill-gurnalista Daphne Caruana Galizia fin-newsblog taghha f'artikolu intitolat *"Declarations of trust in Pilatus Bank safe: Egrant Inc shares held far Michelle Muscat"*;
>
> f'dan l-imsemmi artikolu, qed jigi allegat illi s-Sinjura Michelle Muscat hija l-*Ultimate Beneficial Owner* ta' Egrant Inc; u li l-Prim Ministru jew membri tal-familja tieghu jew *Politically-Exposed Persons* ohra (u cioe' John Dalli, Keith Schembri, u Konrad Mizzi) setghu kienu involuti f'xi forma ta' korruzzjoni, u/jew hasil ta' flus, u/jew transazjonijiet finanzjarji suspetti, provenjenti minn kontijiet ta' *Politically-Exposed Persons* mill-Azerbaijan, u dan tramite kontijiet fil-Pilatus Bank.
>
> Illi dawn l-allegazzjonijiet serji jimminaw kemm l-amministrazzjoni tal-pajjiz, kif wkoll l-industrija finanzjarja ta' Malta;
>
> Illi f'dan l-istadju l-Pulizija qieghdha titlob lill-Magistrat Inkwerenti sabiex tiftah inkjesta halli dawn l-allegazzjonijiet jigu investigati, anki bl-assistenza ta' esperti li jistghu jigu mahtura tul din l-investigazzjoni; u sabiex jigu ippriservati u analizati d-dokumenti kollha relativi ma' din l-investigazzjoni;

It-test ta' dan l-artiklu jaqra hekk :-

Declarations of trust in Pilatus Bank safe: Egrant Inc shares held for Michelle Muscat

In the kitchen at the offices of Pilatus Bank in Ta' Xbiex, there is a safe in which certain files are kept, and also particular documents marked for extreme secrecy. The safe used to be in the bank CEO's office, but for some reason was moved to the kitchen.

In this safe, documents are held pertaining to Russian clients of the bank, and to Maltese PEP, including John Dalli, consultant to Prime Minister Muscat, and Keith Schembri, the Prime Minister's chief of staff, both of whom have accounts with the bank in their own personal names.

Dalli's account is not used much, but the Prime Minister's chief of staff uses his regularly and his statements show highly suspicious transactions involving people in Azerbaijan. This bank account is separate to the one held in the name of his once-secret Panama company, Tillgate Inc.

The safe in the kitchen at Pilatus Bank also contains the documents that answer the question which the whole of Malta has been asking this past year: who owns Egrant Inc, the third company Brian Tonna set up in Panama, for somebody so important that the name had to be given over Skype, rather than in an email as it was for Konrad Mizzi and Keith Schembri.

Those documents in the Pilatus Bank kitchen-safe are declarations of trust which show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat".

The declarations of trust were provided to the bank by Brian Tonna, as a prerequisite for opening an account for Egrant Inc, for which the identity of the ultimate beneficial owner is required. Mrs Muscat's name is also given on another document held in the bank's safe: the account opening form for Egrant Inc.

These documents have been scanned and uploaded to the cloud, for security purposes, by third parties so that they cannot be destroyed by the bank.

Dan l-artiklu kien preċedut minn ieħor li kien intitolat *US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*

It-test ta' dan l-artiklu huwa s-segwenti :

US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc

In March last year, Al Sahra FZCO – a company incorporated in Dubai's free zone – made a single payment transaction of US$1.017 million to Egrant Inc, a company incorporated in Panama in 2013.

The transaction, which was described as a "loan payment", was made from Al Sahra's account at Pilatus Bank in Malta, to an account which Egrant Inc holds with a bank in Dubai. This was not the only "loan payment" which Egrant Inc received from Al Sahra FZCO, but it was the largest single transaction. Other "loan payments" were of around US$100,000 each and made twice a week over several weeks in January, February and March last year.

The bank account opening form for Al Sahra FZCO at Pilatus Bank gives Leyla Aliyeva, daughter of Ilham Aliyev, ruler of Azerbaijan, as the ultimate beneficial owner of the company. Payment instructions for Al Sahra were given by Farnoush Farsian.

Egrant Inc also has an account at Pilatus Bank in Malta, but the money was – significantly – not paid into that account. It was moved out of the country.

The transaction was so large and raised so many questions that Pilatus Bank's US correspondent bank (it was a dollar transaction, and at the time the bank had two US correspondent banks) stopped it. After several days of negotiations, it went through.

Until the payment was released, an employee at Nexia BT – which made the arrangements to set up Egrant Inc in Panama with Mossack Fonseca in 2013 – rang Pilatus Bank several times a day, every day, to check on progress and to chase it up.

This website has the name of the employee, who left Nexia BT for other employment when the Panama Papers scandal broke worldwide the following month, but has not spoken to him.

The Nexia BT employee who followed up on this banking transaction is the same one who submitted to Pilatus Bank the bank account opening forms for Egrant Inc and for Tillgate Inc (UBO Keith Schembri) and Hearnville Inc (UBO Konrad Mizzi), which also have accounts at Pilatus Bank in Malta.

Like Egrant Inc, the other two companies have accounts at a bank in Dubai, too.

F'din l-inkjesta inġabret evidenza estensiva minn diversi sorsi li kienu jinkludu :

1. Dħul, perkwiżizzjoni, qbid u żamma ta' dokumenti stampati u diġitali mill-Uffiċini tad-Ditta Nexia BT kif ukoll tal-Bank Pilatus, kif ukoll ta' Brian Tonna u Karl Cini, nonche persuni oħra involuti fl-inkjesti in re Willerby (per Maġistrat Dottor Natasha Galea Sciberras) u in re Hillman (per Maġistrat Dottor Josette Demicoli).
2. Smiegħ ta' 477 testimonjanza ta' persuni involuti direttament jew indirettament mal-allegazzjonijiet meritu ta' din l-inkjesta, fosthom ix-xhieda prinċipali infushom – Daphne Caruana Galizia, Maria Efimova, Dr. Joseph Muscat, Michelle Muscat, Keith Schembri, Dr. Konrad

Mizzi, John Dalli, Brian Tonna, Karl Cini, Ali Sadr Hasheminejad, Hamidreza Ghanbari, Claude-Ann Sant Fournier, Antoniella Gauci, kif ukoll l-Awdituri tal-Bank Pilatus *KPMG, PWC* u *Deloitte Malta*, nonche xiehda oħra bħal Pierre Portelli li fornew informazzjoni utli għal din l-inkjesta. Dan minbarra x-xiehda tal-Kummissarju tal-Pulizija u l-oghola uffiċjali tal-Korp, kif ukoll dawk direttament involuti fl-investigazzjonijiet, l-informazzjoni miġjuba mill-eżekuzzjoni tal-ittri rogatorji, fosthom dawk mill-Panama fejn xehdu Jaqueline Alexander, Verna de Nelson, Luis Quiel kif ukoll Juergen Mossack, kif ukoll l-informazzjoni l-oħra kollha li tinsab inkluża f'dan il-*Proces Verbal*.

3. Talbiet għal evidenza bil-mezz t'ittri rogatorjali jew talbiet għal assistenza oħra lejn diversi pajjiżi li kellhom x'jaqsmu mal-allegazzjonijiet meritu ta' din l-inkjesta :

    a. Ir-Repubblika tal-Panama;
    b. Ir-Renju tal-Belġju;
    c. L-Emirati Għarab Magħquda; u
    d. Ir-Repubblika tal-Ġermanja – fil-forma ta' Mandat t'Investigazzjoni Ewropew.
    e. Stati Uniti tal-Amerika fil-forma ta' talba għal preservazzjoni ta' informazzjoni diġitali.

4. L-operat ta' esperti tekniċi maħtura fosthom : -

a. Esperti fil-ġbir, preservazzjoni u analiżi ta' data diġitali : Dr. Godwin Caruana, l-Ispettur Timothy Zammit u *Ansec IA Limited* tal-Irlanda ta' Fuq, ir-Renju Unit li ġabru u ppreservaw u ħadmu fuq id-data diġitali miġbura mill-Bank Pilatus u Nexia BT kif ukoll Karl Cini u Brian Tonna personalment, nonche l-kumpanija *MFSP Financial Management Limited* u Matthew Pace.

b. Esperti dwar is-*software* Bankarju *Oracle Flexcube Universal Banking System* li ħadmu fuq is-software bankarju tal-Bank Pilatus u kkonfermaw l-integrita tal-programm *Oracle Flexcube* użat mil-Bank Pilatus fl-operazzjonijiet tiegħu sa mill-ewwel jum tal-operazzjonijiet tiegħu il-quddiem u li l-informazzjoni li hemm kontenuta fl-istess *core banking system* hi ta min jorbot fuqha.

c. Il-*Forensic Accountant Miroslava Milenovic* li analizzat prinċipalment id-dokumenti stampati u l-informazzjoni bankarja meħuda mill-*core banking system* tal-Bank Pilatus, nonche d-dokumentazzjoni stampata elevata mingħand Nexia BT u l-kumpanija *MFSP Financial Management Limited* u Matthew Pace.

d. Il-*Forensic Accountants Harbinson Forensics* tal-Irlanda ta' Fuq, Renju Unit li analizzaw id-data diġitali elevata mingħand il-Bank Pilatus, Karl Cini, Brian Tonna, Nexia BT u l-kumpanija *MFSP Financial Management Limited* u Matthew Pace;

e. Il-*Forensic Digital Analyst* Elisabeth Briggs ta' *Key Forensic Services* ta' Coventry fl-Ingilterra, Renju Unit li analizzat il-kopji tad-*declarations*

of trust eżibiti fl-atti ta' din l-inkjesta minn Pierre Portelli flimkien ma dikjarazzjoni tiegħu u li wara li qablithom mal-firem oriġinali u awtentiċi ta' Jaqueline Alexander sabet li dawn ma kienux jaqblu mal-firem ta' Jaquneline Alexander.

f. L-Avukat mill-Panama Fernando Berguido li forna parir legali dwar il-Liġi li tirregola l-kumpaniji fil-Panama..

g. *Scene of Crime Officers* li ġabru footage minn CCTV cameras mill-MIA u mill-Bank Pilatus kif ukoll li ħadu diversi rittratti

Din l-evidenza diretta u *expertise* teknika waslet biex stabbiliet li kien hemm diversi punti li kienu jikkontrastaw serjament mal-allegazzjonijiet magħmula minn Daphne Caruana Galizia, b'mod partikolari dawk id-dettalji li kienu jistrieħu fuq l-istorja mistqarra lilha minn Maria Efimova nonche informazzjoni oħra li rriżulta li ġiet interpretata b'mod ħażin miġjuba minn leaks mill-*FIAU*.

Dwar dan ir-rapport imsejjes kif inhu fuq l-artikli ta' Daphne Caruana Galizia mistħarġa, mill-evidenza u mill-analiżi li saret mill-esperti maħtura, irriżulta pruvat sal-grad rikjest mill-Liġi li -

1. Ix-xiehda tal-impjegati tal-Bank Pilatus ma kienux kollha jaqblu dwar l-eżistenza ta' *safe* jew *filing cabinet* miżmum fil-kċina tal-Ufficini tal-Bank

Pilatus; iżda mill-assjem tal-provi miġbura jirriżulta li dan il-Bank kellu *filing cabinet*, magħruf ukoll minn bosta impjegati bħala *safe*, li kien jissakkar u li għal xi żmien, probabbilment kien fil-kċina. Fil-Bank Pilatus instabu diversi dokumenti li kienu jagħmlu riferenza għall-użu ta' *safe* u dwar il-kontenut tiegħu prinċipalment konsistenti f'dokumenti kunfidenzjali ta' klijenti importanti għal Bank, inkluż *PEP* Maltin.

2. Ma nstabu ebda dokumenti, la fis-*safe* jew *filing cabinet* li kien fil-kċina u l-anqas band'oħra, konsistenti f'*declarations of trust* li kienu juru li l-ishma f'*Egrant Inc.* kienu miżmuma minn *nominees* ta' Mossack Fonseca f'isem ta' jew għall-interess ta' Michelle Muscat. L-uniċi declarations of Trust li rriżultaw lil din l-inkjesta huma dawk li l-kopja tagħhom ġiet depożitata fl-atti tal-inkjesta minn Pierre Portelli flimkien ma dikjarazzjoni tiegħu (aktar l-isfel magħrufa bħala id-*declarations of trust*) u li saret riferenza għalihom minn Daphne Caruana Galizia fl-artikli tagħha, u minn Maria Efimova fix-xiehda tagħha.

3. Id-*declarations of trust* ġew analizzati minn *Forensic Document Analysts Keyforensic Services Limited* tar-Renju Unit għal darbtejn u nstab li l-firem ta' Jaqueline Alexander indikati fuqhom meta imqablin mal-firem ġenwini ta' Jaqueline Alexander ma kienux jaqblu. Jaqueline Alexander xehdet fl-atti tal-ittra rogatorja mibgħuta lill-Awtoritajiet tal-Panama u

kkonfermat li hija ma kienetx kitbet jew għamlet dawk id-*declarations of trust* u l-firem fuq dawk id-dokumenti ma kienux tagħha u b'hekk ma setgħetx tikkonferma l-kontenut tagħhom. Dawn id-*declarations of trust* għalhekk huma dokumenti foloz, magħmula minn xi ħadd li f'dan l-istadju għadu mhux magħruf. Fil-paragrafu 279 tar-relazzjoni tagħhom, il-*Forensic Accountants Harbinson Forensics* jirrimarkaw is-segwenti : -

> We have not found any digital versions of the Declarations of Trust you have been given which allegedly show that shares in Egrant Inc are held by Mossack Fonseca nominees for "Mrs Michelle Muscat". We understand that these were allegedly provided to Pilatus by Brian Tonna when it is alleged he opened a bank account for Egrant Inc. Their absence from the data sets of Nexia BT, Pilatus Bank and the Panama Papers would suggest that the Declarations of Trust you have been given were not created in either Pilatus or Nexia BT or by Mossack Fonseca.

4. Din l-inkjesta sabet ukoll li min iffalsifika dawn id-*declarations of trust* kellu aċċess għall-informazzjoni b'riferenza għal *Egrant Inc.*, Joseph Muscat u Michelle Muscat u Nexia BT, liema informazzjoni setgħat tinstab faċilment minn *open sources* fuq l-*internet*, u dettalji oħra dwar il-kumpaniji involuti setgħu ukoll jinstabu minn fuq il-*website* tal-*ICIJ* jew minn sorsi oħra bħal *Dato Capital* kif ukoll *Opencorporates.com*, nonche minn *Google searches* ta' diversi ġurnali Maltin u barranin.

5. Ġaladarba rriżulta soddisfaċentement li dawn id-*declarations of trust* kienu falsifikati, dawn ma jistax jitqiesu li jikkostitwixxu prova skont il-

Liġi. Il-*Forensic Accountants Harbinson Forensics* fil-paragrafu 277 jikkonkludu li :

> 1. We have found nothing in the digital data to suggest that Mrs Muscat, either personally or through companies she may own, had anything to do with Egrant.
> 2. We have not seen any documents revealing that the UBO of Egrant was anyone other than Brian Tonna.
> 3. There is also nothing to suggest that there was ever a bank account opened in the name of Egrant.

6. Apparti minn hekk ma nstabet ebda rabta dokumentarja stampata jew xiehda oħra li torbot lil Michelle Muscat mal-proprjeta tal-ishma tal-*Egrant Inc.* L-evidenza ċirkostanzjali mhix univoka; anzi hija ambigwa u mhux magħquda. F'paragrafu 288 tar-relazzjoni tagħhom il-*Forensic Accountants Harbinson Forensics* jgħidu li *the only documents within Pilatus Bank server that we have seen that contain the name of either Michelle Muscat or Egrant are digital downloads of newspaper reports and DCG blogs.* Dokumenti stampati oħra sekwestrati mill-Bank Pilatus juru l-istess ħaġa msemmija minn dawn il-*Forensic Accountants*. F'dan l-isfond probatorju ma jistax jitqies pruvat sal-grad li trid il-Liġi li s-sid aħħarija t'*Egrant Inc* kienet Michelle Muscat.

7. Ma rriżultax li ġew depożitati minn Brian Tonna fil-Bank Pilatus xi *declarations of trust* għall-kumpanija *Egrant Inc.* F'paragrafu 292 tar-relazzjoni tagħhom *Harbinson Forensics* jgħidu li *We have found no*

documents which suggest that any declarations of trust in relation to any entity containing the word Egrant were provided to Pilatus by Brian Tonna or anyone else. L-istess jista' jingħad għad-dokumenti stampati sekwestrati jew xiehda okulari oħra minn fejn ebda tali prova ma tirriżulta.

8. Ma rriżultax li fis-*safe* jew fil-*filing cabinet* li kien fil-kċina jew f'xi post ieħor fil-Bank Pilatus kien hemm xi *bank account opening forms* għal *Egrant Inc.*, għal Dr. Joseph Muscat jew għal martu Michelle Muscat jew membri tal-familja tagħhom.

9. Ma rriżultax li *Egrant Inc.* kellha kont bankarju miftuħ, magħluq jew pendenti mal-Bank Pilatus.

10. Ma nstabx li fil-Bank Pilatus jew tramite s-servizzi tal-istess Bank kien hemm transazzjonijiet bankarji li kienu jinvolvu lil *Egrant Inc* bħala benefiċjarju ta' ħlasijiet minn *Sahra FZCO* jew minn persuni oħra, inkluż mill-Ażerbajġan.

11. Ma rriżultax li Joseph Muscat jew Michelle Muscat jew membri tal-familja tagħhom kienu klijenti tal-Bank Pilatus jew li kellhom xi kont bankarju personali mal-Bank Pilatus. Irriżulta li Joseph Muscat u

Michelle Muscat kienu jafu lil u ġieli ltaqgħu ma Ali Sadr u kienu mistednin għat-tieġ tiegħu, li għalih attendew ukoll nies Maltin oħra.

12. Wieħed mill-aspetti li din l-inkjesta stħarġet hija l-allegazzjoni li fil-lejl tal-20 t'April 2017 Ali Sadr inqabad ħiereġ mill-bieb tal-ġenb tal-Bank Pilatus b'żewġ bagalji tqal mimlija dokumenti li huwa kien ħa bil-moħbi mill-Bank Pilatus u li huwa deher iġorr il-barra mill-Bank fil-filmati mxandra minn NET TV. Din l-inkjesta semgħet bil-ġurament lir-rappreżentant tal-linja tal-ajru Deutsche Lufthansa A.G. Dr. Andrew Chetcuti Ganado, li eżebixxa dokumenti li kienu juru li nhar l-20 t'April 2017 Ali Sadr kien fuq l-ajruplan mat-titjira 1276 minn Frankfurt lejn Malta, inkluż is-seat number li kien prenota taħt l-isem Sadr Hashemi Nejad Ali u kien ġie *boarded* fuq dik it-titjira lejn Malta. Huwa ġie rintraċċjat fuq is-*CCTV cameras* tal-MIA ħiereġ mill-ajruport għall-ħabta ta' 11:40am. L-inkjesta ġabret is-*CCTV footage* tal-Bank Pilatus għal-jum tal-20 t'April 2017. Minn dan is-*CCTV footage* Ali Sadr jidher dieħel fl-Uffiċju tal-Bank Pilatus għall-ħabta tas-12:45. Minn hemm il-quddiem l-inkjesta għandha u rat il-footage fejn jidher Ali Sadr il-ħin kollu li qatta' hemmhekk fil-Bank Pilatus sa' xid-21:15. Ġie reġistrat li huwa daħal fl-Uffiċju tal-Bank Pilatus bil-bagalji li dehru wkoll fil-filmat ta' NET TV meta ġie miġbud ħiereġ. Ali Sadr jidher jidħol fil-*Boardroom* u jitfa' l-bagalji warajh mal-ġenb. Jidher joħroġ *tablet, mobile phone,* xi karti u xi *stationery* minn din il-bagalja li l-parti ta' fuq nett tagħha baqgħet tidher

mis-*CCTV camera*. Jibqa jaħdem hemmhekk sa ma ħareġ f'xil-21:15. Matul dan il-ħin jidhru diversi impjegati deħlin u ħerġin, l-aktar fosthom Claude-Ann Sant Fournier. Għall-ħabta ta' xi 19:24 jiħdol Luis Felipe Rivera u jħallilu xi karta li Ali Sadr jitfagħha fil-ġenb u bil-kemm jagħti każha. Meta ġie biex joħroġ mill-Bank Pilatus, huwa daħħal fil-bagalja t-tablet u l-karti li kien ħareġ qabel u dik il-karta li deher li tah Rivera għalaq kollox u ħareġ il-barra. Minn dan is-*CCTV footage* jirriżulta li l-allegazzjoni li dakinhar tal-20 t'April 2017 fil-għaxija Ali Sadr klandestinament ħareġ kwantita kbira ta' dokumenti li kellhom x'jaqsmu mal-allegazzjonijiet li kienet qegħda tippubblika Daphne Caruana Galizia ma rriżultatx pruvata.

13. Dwar allegazzjoni oħra li fil-lejl tal-21 t'April 2017 kien hemm titjira minn Malta lejn Baku fl-Ażerbajġan li baqgħet sejra lejn Dubai, l-inkjesta sabet li verament kien hemm din it-titjira. L-inkjesta semgħet ix-xiehda ta' persuni li kienu involuti fl-organizzazjoni u eżekuzzjoni ta' din it-titjira, fosthom lil Nicholas van der Meer li huwa d-Diriġent tal-linja *VistaJet* kif ukoll dik ta' Ludwig Wright, pilota, nonche Kenneth Chircop minn *Malta Air Traffic Services* u Martin Dalmas mill-*Malta International Airport* fost l-oħrajn. Irriżulta li l-ajruplan in kwistjoni tal-*Vistajet* kien wasal Malta mill-ajruport ta' Ben Gurion, f'Israel fid-19 t'April 2017 b'żewġ persuni abbord u ma kellux titjira skedata. Biss fl-20 t'April 2017 għal 15:43 daħlet talba għal titjira minn Baku fl-Ażerbajġan għal Dubai.

Peress li dan l-ajruplan li kien jinsab fl-ajruport ta' Malta kien l-eqreb ajruplan li din il-kumpanija kellha lejn Baku, ġie assenjat biex imur l-Ażerbajġan mingħajr passiġġieri sabiex imbagħad minn hemm ikun jista' jwassal il-persuni li prenotaw it-titjira lejn Dubai. Dan jidher minn *email* li ġiet mibgħuta nhar 24th Awissu 2017 12:17 minn Rui Goncalves, *VistaJet Limited*, Malta lil Nick van der Meer. Jidher pero li l-ekwipaġġ ġie infurmat xi ftit fit-tard dwar din it-titjira li kienet sejra u kien jeħtieġ li titlaq kmieni fil-għodu tal-21 t'April 2017. Dan jikkonfermaw ukoll l-istess pilota meta xehed. Laħqu saru l-arranġamenti meħtieġa sabiex l-ajruplan setgħa jitlaq minn Malta għal ħabta tat-03:30 – 04:00 tal-21 t'April 2017 lejn Baku, fl-Ażerbajġan u minn Baku dan jipproċedi lejn Dubai. Telaq fi 03:56 lejn Baku. Skont ix-xiehda tal-Pilota Ludwig Wright f'dik it-titjira li telqet minn Malta fis-siegħat bikrin ta' fil-għodu tal-21 t'April 2017 bħala *positioning flight*. Ma kienx hemm passiġġieri jew *cargo* għajr ħlief l-ekwipaġġ u l-effetti personali tagħhom konsistenti fi suit case. Kienu tlett piloti u *flight attendant*. Qabel telqu l-ajruplan kien siġillat u msakkar. Matul dik it-titjira bejn Malta u Baku, il-bdot kellu wkoll l-*annual check* tiegħu u l-*instructor* kien Andre Pereira. Il-bdot l-ieħor kien Alexander Schmidt bħala *training captain*. *Flight attendant* kienet Melanie Primus.

Fid-dokumentazzjoni relattiva għal dawn it-titjiriet u li ġiet eżebita instabu xi diskrepanzi, fosthom fejn fit-tieni e*mail* mibgħuta lil Nick van

der Meer kien imniżżel li fuq it-titjira lejn Dubai kellu jkun hemm sitt passiġġieri mentri *f'email* oħra mibgħuta minn Rui Goncalves lil Nick van der Meer kien hemm formula mehmuża li kienet tgħid li dik it-titjira kellha ħames passiġġieri – erba' adulti u minuri. In-numri tal-passaporti bejn dawn iż-żewġt listi ma kienux jaqblu kollha. L-ismijiet tal-passiġġieri ma kienux jidhru li kienu xi ismijiet li l-inkwirenti ltaqgħu magħhom matul il-kors ta' din l-inkjesta. In definittiva, għalkemm id-data, lok, ħin, kuntest u diskrepanzi fid-dokumentazzjoni eżibita jistgħu jagħtu lok għal suspetti, ma ġiex pruvat sal-grad rikjest mill-Liġi li fit-titjira bejn Malta u Baku fl-Ażerbajġan kien hemm xi dokumenti li kienu marbuta mal-meritu ta' din l-inkjesta li ttieħdu minn Malta lejn l-Ażerbajġan u/jew mill-Ażerbajġan lejn Dubai.

14. Fid-dokumenti misjuba fil-Bank Pilatus kien hemm dokumenti li jindikaw min kienu l-klijenti tal-Bank Pilatus, inkluż min kienu l-*PEP* li kellhom kontijiet ma dan il-Bank. Dokument minnhom kien miktub minn Denica Cebova fis-27 ta' Jannar 2016 intitolat "*List of clients which KYCs are in the safe.xlsx*". Din il-lista kienet tinkludi kemm lil Keith Schembri (*#12 CIF reference 100931 Keith Schembri*) kif ukoll lil *Sahra FZCO* (*#19 CIF reference Sahra FZCO*). Ma nstabet ebda riferenza għal John Dalli f'din il-lista. Mill-banda l-oħra f'din il-lista ma kien hemm ebda riferenza għal *Egrant Inc.* jew għal persuni bil-kunjom Muscat. L-anqas kien hemm xi dokument ieħor fil-Bank Pilatus li kien jagħmel riferenza għal xi

declarations of trust għal *Egrant Inc* li kienu miżmuma f'tali *safe*. Din il-lista kienet miġbura u magħmula f'Jannar 2016 – u għalhekk qabel ma saru r-rivelazzjonijiet tal-*Panama Papers*.

15. Il-Bank Pilatus kellu dokumenti li kellhom x'jaqsmu ma interessi ta' persuni Russi. Instabu diversi dokumenti u *emails* li kienu jirreferu għal *Russian corporate clients* u għal *PEP* Maltin. Instabet ukoll *spreadsheet* oħra *"xlsx 20160406 clients database.xlsx"* miktuba f'April 2016 fejn kemm John Dalli kif ukoll Keith Schembri kienu imsemmija bħala *Domestic PEP* Maltin. Ma kienx hemm riferenza għal Joseph Muscat jew Michelle Muscat jew għal *Egrant Inc*.

16. F'*excel sheet with customer details* mibgħuta minn Louis Zammit lil Claude Ann Sant Fournier nhar it-30 ta' Ġunju 2016 jirriżulta li kemm John Dalli kif ukoll Keith Schembri huma indikati bħala klijenti tal-Bank Pilatus. Il-kont ta' John Dalli kien jirriżulta magħluq u dawk ta' Keith Schembri kienu miftuħin. Ma kienx hemm riferenza għal Joseph Muscat jew Michelle Muscat jew għal *Egrant Inc*.

17. F'dawn id-dokumenti ma hemmx imsemmi li *Egrant Inc.*, *Tillgate Inc.* jew *Hearnville Inc.* kienu klijenti tal-Bank Pilatus jew li kellhom kont miftuh jew li sar tentattiv għal ftugħ ta' kont bankarju. Il-*Forensic Accountants Harbinson Forensics*, fil-paragrafu 371 jgħidu li :

The Pilatus records searched do not show any bank accounts being opened, nor any discussion of the possibility of opening bank accounts at Pilatus for Egrant, Tillgate (UBO Keith Schembri) or Hearnville (UBO Konrad Mizzi).

18. John Dalli kien klijent tal-Bank Pilatus u kellu kont bankarju f'ismu personali li fil-mument tal-bidu inkjesta kien diġa magħluq. Il-kont ta' John Dalli ma kienx juri attivita' kbira u ma jirriżultax li John Dalli kien juża dan il-kont regolarment jew li kellu xi transazzjonijiet ma persuni mill-Ażerbajġan. It-transazzjonijiet li kien fih il-kont tiegħu kienu jikkonsistu fi ġbid ta' ammonti żgħar ta' flus u ħlasijiet ta' *overdraft fees, closure of account fees* eċċetra.

19. Keith Schembri kien klijent tal-Bank Pilatus u kellu żewġ kontijiet bankarji f'ismu personali. Il-*KYC* forms tiegħu kienu dettaljati (78 paġni). Ma nstabx li Keith Schembri kien juża dawn il-kontijiet tiegħu regolarment in kwantu kien hemm ftit transazzjonijiet mifruxa fuq ammont ta' żmien. L-*istatements* tal-kontijiet tal-bank tiegħu ma jurux li saru transazzjonijiet ma persuni mill-Ażerbajġan. Instabu transazzjonijiet mal-kumpanija *Willerby Trading Inc,* li pero huma suġġetti għall-inkjesta separata kondotta mill-Maġistrat Dottor Natasha Galea Sciberras in re *Willerby*. Tidher ukoll transazzjoni bankarja datata 16 t'Awissu 2016 minn fejn jirriżulta li Keith Schembri bagħat flus lil

Crowe Howarth, l-Awdituri f'Wellington, New Zealand li kienu dawk responsabbli mill-*Haast Trust* imwaqfa minnu fit-22 ta' Lulju 2015.

20. Ma nstabx li kien hemm kontijiet bankarji f'isem Konrad Mizzi jew membri tal-familja tiegħu fil-Bank Pilatus.

21. Ma rriżultax li kienet teżisti kumpanija bl-isem ta' *Al Sahra FZCO* u li kienet klijent tal-Bank Pilatus jew li kellha xi kont mal-Bank Pilatus. Għalhekk din il-kumpanija ma setgħetx tibgħat flus mill-Bank Pilatus lil *Egrant Inc* jew lil persuni oħra. Ma nstabet ebda riferenza għal *Egrant Inc* fis-sistemi bankarji tal-Bank Pilatus.

22. Jirriżulta li kien hemm żewġ kumpaniji reġistrati f'Dubai bl-isem ta' ***Sahra FZCO*** u ***Shams Al Sahra FZCO*** li kienu klijenti tal-Bank Pilatus u li kellhom kont bankarju miftuh hemmhekk u kienu jagħmlu transazzjonijiet bankarji mill-Bank Pilatus barra minn Malta, inkluż f'Dubai. Iż-żewġ kumpaniji kienu jappartjenu lil persuni mill-Ażerbajġan u klassifikabbli bħala *Politically Exposed Persons*.

23. L-*UBO* ta' *Sahra FZCO* huma l-aħwa Leyla Aliyeva u Arzu Aliyeva, ulied il-President tal-Ażerbajġan Ilham Aliyev. L-*UBO* ta' *Shams Al Sahra FZCO* huma Nijat u Tale Heydarov, ulied il-*Minister of Emergency*

Situations tal-Ażerbajġan Kamaladdin Heydarov. Dawn il-kumpaniji jidher li hemm rabta bejniethom u l-firmatarji awtorizzati tat-tnejn li huma jirriżultaw Farnoush Farsiar u Robert Baker.

24. Jirriżulta li ħadd minn dawn il-kumpaniji ma għamlet trasferimenti jew ħlasijiet ta' flejjes mill-kontijiet tagħhom fil-Bank Pilatus lil *Egrant Inc.* la fil-Bank Pilatus u l-anqas f'xi kont f'Dubai kif imsemmi fl-artiklu.

25. Il-*payment instructions* għall-kumpanija *Sahra FZCO* kienu jingħataw minn Farnoush Farsiar u Robert Baker. Fil-Bank Pilatus ma rriżultat ebda *payment instruction* jew *payment transaction* minn *Sahra FZCO* lil *Egrant Inc.* mill-kont ta' *Sahra FZCO* lil *Egrant Inc* f'Dubai jew fil-Bank Pilatus.

26. Il-*Forensic Accountants* jaqblu li ma nstabet ebda transazzjoni ta' ħlas ta' US$1,017,000 mill-kont ta' *Sahra FZCO* lil *Egrant Inc* jew xi transazzjoni oħra bejn dawn iż-żewġt kumpaniji. Jaqblu wkoll li fil-perjodu imsemmi minn Daphne Caruana Galizia fl-artikli tagħha kien hemm transazzjonijiet ta' miljuni kbar ta' euro li saru minn *Sahra FZCO* mill-Bank Pilatus lejn Dubai. Pero dawn ma sarux lejn xi kont ta' *Egrant Inc.* jew *Tillgate Inc.* jew *Hearnville Inc.* mill-Bank Pilatus. *Harbinson Forensics* jgħidu li ma għandhomx evidenza li torbot lil persuni li rċevew dawn il-ħlasijiet mingħand *Sahra FZCO "to any onward payments to Michelle Muscat or to a company called Egrant".*

27. Ma ġiet identifikata ebda transazzjoni minn *Al Sahra FZCO, Sahra FZCO,* jew *Shams Al Sahra FZCO* bid-deskrizzjoni ta' *loan payment* kif allegat fl-artiklu u minn Maria Efimova. L-anqas ma ġew misjuba transazzjonijiet deskritti bħala *loan payments* ta' madwar €100,000 kull wieħed magħmul darbtejn fil-ġimgħa maqsuma fuq diversi ġimgħat bejn Jannar u Marzu 2016. Il-*Forensic Accountants* sabu ħlasijiet ta' US$100,000 magħmula minn Ali Sadr lil kumpaniji jew persuni relatati miegħu. Ma nstabet ebda evidenza li saru xi pagamenti lil *Egrant Inc* mill-Bank Pilatus f'xi bank barra minn Malta. *Harbinson Forensics* jikkonkludu li *Pilatus Bank in Malta was of course significantly involved in international transfers. However we have not seen any evidence of any international movement of money in which Egrant is mentioned.*

28. Għalkemm sar tentattiv mill-inkjesta biex tinġieb informazzjoni jekk *Egrant Inc., Tillgate Inc. u Hearnville Inc.* kellhomx kont bankarju f'Dubai permezz t'ittra rogatorja mibgħuta lill-Awtoritatjiet tal-Emirati Għarab Magħquda, sal-jum tar-redazzjoni ta' dan il-*Proces Verbal,* ebda risposta ma kienet ingħatat u waslet lura mingħand dawn l-Awtoritajiet. Mill-banda l-oħra, il-*Forensic Accountants Harbinson Forensics* fil-paragrafu 327 jikkonfermaw illi :

> We have made enquiries through our international intelligence banking contacts to establish if a bank account in the name of the company Egrant

existed in Dubai. No Egrant company bank account has been found by these contacts.

29. Mir-risposta għall-ittri rogatorji mibgħuta mill-Awtoritajiet tal-Panama ma jirriżultax li *Egrant Inc* kellha xi kont bankarju miftuħ fil-Panama. Mill-evidenza miġbura mill-Banek f'Malta l-anqas jirriżulta li *Egrant Inc* kellha xi kont bankarju miftuħ f'Malta jew li kienet benefiċjarja ta' servizzi bankarji f'Malta, inkluż fil-Bank Pilatus.

30. Ma rriżultat ebda transazzjoni daqshekk kbira li l-*US Correspondence Bank* tal-Bank Pilatus waqqafha kif allegat fl-artiklu. Il-*Forensic Accountant Miroslava Milenovic* tgħid li *No documents, not even MT199, were found to proof these statements*. *Harbinson Forensics* mill-banda l-oħra jgħidu li :

> We would also note that over the period in question Pilatus was involved on an almost daily basis with a large number of multi-million dollar transactions and it therefore seems to us unlikely that a transaction of only USD 1 million would by its size alone raise any questions.

31. Irriżulta li Nexia BT kienu *corporate service providers* tal-Bank Pilatus u kellhom ukoll klijenti tagħhom li kellhom kontijiet mal-Bank Pilatus. Irriżulta wkoll li kien ikun hemm kuntatt professjonali bejn Nexia BT u l-Bank Pilatus fuq bażi regolari bit-telefon, bl-*email* u xi drabi anke viżiti personali minn Karl Cini jew Brian Tonna. Iżda ma rriżultax li Nexia BT jew xi impjegat minn tagħhom qatt kienu involuti f'xi waħda mit-

transazzjonijiet bankarji imsemmija fl-artiklu minn Daphne Caruana Galizia u dan peress li tali trasferimenti ma rriżutlawx li saru.

32. Irriżulta li Michael Satariano kien impjegat ta' Nexia BT bejn April 2015 u Mejju 2016 fil-kariga *t'Assistant Manager*. Huwa kien jipprepara proċeduri għal *corporate services* għal *BT International Limited*. Irriżulta li f'Marzu 2016 verament kien ċempel u bagħat *emails* ripetuti lil Maria Efimova minħabba li kien qiegħed isostni li l-proċeduri bankarji kienu qed jitwalu żżejjed – iżda dan kien episodju li ma kellu xejn x'jaqsam ma' *Egrant Inc* u kien jirrelata ma każ ta' klijenti Taljani ċerti Corrado u Fiore dwar il-kumpaniji *Privilege Limited* u *Exiat Holdings Limited*. Filwaqt li Daphne Caruana Galizia xehdet li Maria Efimova kienet qaltilha bid-dettalji tal-involviment ta' Michael Satariano kif deskritt minnha fl-artiklu de quo, mill-banda l-oħra Maria Efimova xehdet li dan ma kienx minnu u li għal darb'oħra Daphne Caruana Galizia kienet ħawdet dak li Efimova kienet qaltilha.

33. Ma rriżultax li Michael Satariano kellu x'jaqsam mal-inkorporazzjoni tal-kumpanija *Egrant Inc.* u dan peress li f'Lulju 2013 l-anqas biss kien għadu beda jaħdem ma Nexia BT. Ix-xogħol relatat mat-twaqqif ta' *Egrant Inc* kien ħa ħsieb iwetqu Karl Cini.

34. Ma jirriżultax li Michael Satariano kien involut fil-konsenja tal-*bank account opening forms* għal *Egrant Inc* u *Tillgate Inc* u *Hearnville Inc* in kwantu ebda tali *bank account opening forms* ma rriżulta li ġew sottomessi lil Bank Pilatus. Michael Satariano jiddikjara li ma għamilx tali konsenja.

35. F'sensiela t'*emails* li dehru mill-14 ta' Marzu 2013 il-quddiem Karl Cini wera' l-interess għall-inkorporazzjoni ta' kumpanija waħda fil-Panama u *Trust* bis-servizzi ta' Mossack Fonseca. Il-*Forensic Accountants Harbinson Forensics* jirrimarkaw li ma nstabet ebda *email* mingħand Nexia BT jew Karl Cini minn fejn tirriżulta li wara din l-*email* kienet saret xi talba minnhom għat-twaqqif ta' tliet kumpaniji (eventwalment mixtrija bl-isem ta' *Egrant Inc., Tillgate Inc.* u *Hearnville Inc.*) – għajr ħlief għall-*purchase orders* li saru f'Lulju 2013 u Awissu 2013 iffirmati minn Brian Tonna.

36. Qabel dawn l-*order forms* ma nstabet ebda *email* jew dokument miktub li bih jidher li saret xi bidla fil-ħsieb ta' Nexia BT li minn kumpanija Panamense waħda u *Trust* dawn jiżdiedu għal tliet kumpaniji Panamensi. B'hekk mhux possibbli li jingħad li ġiet pruvata sal-grad rikjest mill-Liġi rabta dokumentarja jew ċirkostanzjali univoka bejn l-intenzjoni ta' ftugh ta' kumpanija Panamense u *Trust* imsemmija fl-*emails* ta' Karl Cini datati Marzu 2013 mal-iżvilupp sussegwenti

t'inkorporazzjoni ta' tliet kumpaniji Panamensi li saret f'Lulju 2013 u li l-ordni u l-akkwist tagħhom ġie perfezjonat f'Awissu 2013.

37. L-anqas ma tirriżulta rabta dokumentarja jew ċirkostanzjali univoka li turi li l-*panama company* u *trust* oriġinalment mitluba minn Karl Cini fl-*email* tiegħu tal-14 ta' Marzu 2013 kienet intiża għal Joseph Muscat jew Michelle Muscat. L-aktar li l-provi juru li f'dak l-istadju t-tliet kumpaniji li jissemmew fl-*emails* ta' Marzu u April 2013 kienu l-kumpaniji *Colson, Selson u Lester* rikonduċibbli għal Keith Schembri, Adrian Hillman u Malcolm Scerri u x-xogħol relattiv li Karl Cini kien qiegħed jitlob lil Mossack Fonseca sabiex is-sidien aħħarija ta' dawn il-kumpaniji jiġu mibdula *b'nominees* għalihom minn Mossack Fonseca stess.

38. Minbarra dan kien hemm ukoll talbiet minn persuni oħra mhux relatati ma din l-inkjesta li fl-istess żmien wrew interess ma Karl Cini jew Nexia BT għal twaqqif ta' kumpanija fil-Panama u fil-*BVI*. *Egrant Inc, Tillgate Inc* u *Hearnville Inc* ma kienux l-ewwel jew l-uniċi kumpaniji imwaqfa fuq talba ta' Nexia BT għax instab minn *Harbinson Forensics* li bejn Jannar 2011 u Lulju 2013 huma kienu waqfu diġa tminn kumpaniji oħra fil-*BVI*. Biss l-iskema ta' akkwist ta' tliet kumpaniji fil-Panama kienet għalhekk tiddipartixxi minn dik preċedenti li wriet preferenza għall-ġurisdizzjoni tal-*BVI*.

39. Jirriżulta pruvat li *Egrant Inc.*, *Tillgate Inc.* u *Hearnville Inc* kienu kumpaniji bi struttura identika u li ġew imwaqfa f'Lulju 2013 u li Brian Tonna kien l-*UBO* tagħhom. *Egrant Inc* jirriżulta li ġiet stralċjata fuq talba ta' Brian Tonna. L-istralċ ġie konkluż madwar ħmistax il-jum qabel ma ġie publikat l-artiklu meritu għal din l-inkjesta.

40. Jirriżulta wkoll li wara Ġunju 2015 it-tliet kumpaniji *Egrant Inc, Tillgate Inc* u *Hearnville Inc* qabdu perkors differenti in kwantu filwaqt li *Tillgate Inc* u *Hearnville Inc* irriżulta li ġew akkwistati minn Keith Schembri u Konrad Mizzi u li f'Lulju 2015 dawn ikkostitwew ukoll it-*Trusts* Haast u Rotorua rispettivament u li magħhom dawn il-kumpaniji ġew imwaħda, ma rriżultax pruvat li ġiet krejata wkoll *Trust* simili għal *Egrant Inc.* Inoltre filwaqt li jirriżulta wkoll li minn Awissu 2015 il-quddiem Karl Cini għamel diversi sforzi ma Mossack Fonseca biex jinfetħu kontijiet bankarji għal *Tillgate Inc* u *Hearnville Inc* barra minn Malta, filwaqt ebda tali tentattiv ma ġie pruvat li sar ukoll fil-konfront t' *Egrant Inc.*

Fl-evalwazzjoni ta' din l-inkjesta ix-xiehda ta' Daphne Caruana Galizia u dik ta' Maria Efimova ingħataw importanza kbira minn din l-inkjesta inkwantu huma l-pern tad-diversi allegazzjonijiet li kienu qegħdin isiru minn Daphne Caruana Galizia fl-artiklu tagħha. Biss din l-inkjesta sabet diffikulta kbira biex, fl-aktar aspetti importanti tirrikonċilja l-verżjonijiet mogħtija minn

Maria Efimova fuq naħa u Daphne Caruana Galizia u Pierre Portelli fuq oħra mal-kumplament tal-evidenza miġbura fuq xaqliba oħra.

Dan jagħmilha ferm diffiċli biex tiġi stabbilita l-verita storika dwar dak li seħħ mix-xiehda tagħhom. F'ċerti aspetti, anke kruċjali għal din l-inkjesta, hemm verżjonijiet tant kontrastanti li bilfors wieħed irid jieħu posizzjoni lil min jemmen u f'xiex jista' jemnu. Hemm diversi punti li Maria Efimova u Daphne Caruana Galizia ma bdewx jaqblu fuqhom kemm bejniethom kif ukoll separatament mal-kumplament tal-evidenza miġbura. Kemm Daphne Caruana Galizia kif ukoll Maria Efimova instabu li xehdu fuq diversi fatti li matul il-kors ta' din l-inkjesta irriżultaw minnhom. Iżda kien hemm aspetti oħra, kemm żgħar u marġinali, iżda agħar minn hekk, oħrajn li kienu importanti u kruċjali għal din l-inkjesta li rriżultaw jew inkompatibbli ma xulxin, jew kompletament meruti mill-provi miġbura.

Eżempju ta' whud minn dawn ix-xiehda huma s-segwenti -

1. Daphne Caruana Galizia teskludi li fil-kċina tal-Bank Pilatus kien hemm *CCTV camera*. Maria Efimova tgħid li ma tiftakarx li kien hemm *camera* fil-kċina. Irriżulta li kien hemm *camera* fil-kċina bin-numru 13. Ma kienx hemm *camera* fil-kitchenette żgħira li kien hemm f'kantuniera, iżda kien hemm *camera* faċċata tagħha fil-kuridur li kienet taqbadha wkoll. Din il-kċina il-kbira għanda bieb estern laterali u jagħti għal fuq barra. Għalhekk iktar u iktar kien meħtieġ li jkun

hemm *CCTV camera* installata fiha. Fil-fatt diversi impjegati tal-Bank Pilatus jikkonfermaw li f'din il-kamra kien hemm *CCTV camera*.

2. Maria Efimova tgħid li ltaqgħet ma Daphne Caruana Galizia xi tliet jew erbgħa darbiet, bl-ewwel kuntatt isir f'Marzu 2017 fid-dar ta' Efimova. Fit-tieni xiehda tagħha Maria Efimova tgħid li l-intervista lil Caruana Galizia tagħthielha ftit wara l-Għid tal-2017. Fit-tielet xiehda tagħha tgħid li l-ewwel laqgħa li kellha ma Daphne Caruana Galizia kien f'Marzu 2017, jew ftit qabel jew ftit wara l-Għid – iżda –l-Għid fl-2017 ġie ċelebrat fis-16 t'April u mhux f'Marzu! Aktar minn hekk, fl-intervista pubblika li sussegwentement tat lil Carlo Bonini ta' *La Repubblica,* Maria Efimova stqarret li kienet iltaqgħet l-ewwel darba ma Daphne Caruana Galizia madwar sitt xhur wara li ġiet liċenzjata mill-Bank Pilatus – jiġifieri madwar Settembru jew Ottubru tal-2016.

3. Daphne Caruana Galizia tixhed li hi rat dawn id-*declarations of trust* mingħand Maria Efimova li kellha *scans/soft copies jiġifieri printouts* tagħhom. Daphne Caruana Galizia tgħid li Maria Efimova kienet qaltilha li kienet għamlet *scan* tad-*declarations of trust* u għamlet *upload* fil-*cloud* tagħha personali, iżda ma ħadithomx mis-*safe*. Pierre Portelli jaqbel ma Daphne Caruana Galizia fis-sens li jixhed li kien laħaq intiża ma Maria Efimova li ttih kopja tad-*declarations of trust* wara li hija tkun daħlet fil-*iCloud account* tagħha bil-*VPN*, iżda qal li spiċċat li dawn id-dokumenti qatt ma tagħthomlu. Biex tkun tista' tagħti kopja tad-

declarations of trust tramite l-*iCloud*, bilfors li tkun trid ottjenejt kopja diġitali tagħhom. U dan allura jfisser li Caruana Galizia u Pierre Portelli jaqblu ma xulxin li Maria Efimova kellha kopja ta' dawn id-*declarations of trust* u tal-*bank account opening forms* imsemmija minn Maria Efimova. Dan imur kontra u huwa bil-maqlub ta' dak li xehdet Maria Efimova fl-inkjesta.

4. Għalkemm fix-xiehda tas-27 t'April 2017, għall-mistoqsija tal-ġja Supretendent Abdilla jekk hija kienetx żammet kopja ta' dawn id-dokumenti li hija rat kopja tagħhom jew inkella kienux ġew mgħoddija kopji lilha mis-sors tagħha, Daphne Caruana Galizia kienet wieġbet *"għandi kopja iva"*; iżda fit-tieni xiehda tagħha fil-31 ta' Mejju 2017 Daphne Caruana Galizia wieġbet *Ehe, jien li xtaqt infisser li naf fejn qiegħdin mhux għandi fil-pussess tiegħi, u f'dak l-istadju ma' stajtx niċċara iżjed dwar il-whistleblower għax ħadd ma kien jafha, jiġifieri jien kelli aċċess għalihom imma ma kienux fil-pussess tiegħi, fil-fatt biex nagħmel it-transcript kelli bżonnhom.* Anke fit-tieni xiehda tagħha Caruana Galizia tibqa' tinsisti li Maria Efimova kellha l-kopji tad-*declarations of trust* fil-forma ta' *scans*, li hi kienet rat *printout* tagħhom u mhux *digital copy*, u kienet biss Maria Efimova li wriethomlha.

5. Imbagħad fl-artiklu pubblikat minn Daphne Caruana Galizia fis-13:18 tal-22 t'April 2017 *Point 1 : The safe in the kitchen. The documents were taken in March last year* Daphne Caruana Galizia tgħid li dawn id-dokumenti kienu meħuda *"taken"* mill-Bank Pilatus. Biss din kienet l-ewwel darba li xi ħadd semma' li dawn id-dokumenti kienu *"taken"* mill-Bank Pilatus.

6. Għalkemm Pierre Portelli ma jsemmix li huwa ingħata l-kopji tad-*declarations of trust* mingħand Maria Efimova, Daphne Caruana Galizia tgħid li l-persuna l-oħra li rathom mingħandha *"qaltli li* **ġabhom** *mingħandha"*. Fi kwalunkwe każ is-sors tad-*declarations of trust* kemm dawk li qalet li rat Daphne Caruana Galizia kemm dawk li ra' l-persuna l-oħra skont ma xehdet Daphne Caruana Galizia xorta waħda kienet Maria Efimova.

7. Maria Efimova pero tiċħad dan kollu u tgħid li kienet Daphne Caruana Galizia li wrietha d-*declarations of trust* u li staqsietha dwarhom u dwar il-*bank account opening forms* ta' *Egrant Inc* u *Sahra FZCO*. Maria Efimova tgħid li hi qatt ma ħadet kopji jew ritratti ta' dawn id-dokumenti mill-Bank Pilatus. Tgħid ukoll li Daphne Caruana Galizia qatt ma wrietha l-*bank account opening forms* u qatt ma qaltilha minn fejn kienet ġabet il-kopji tad-*declarations of trust* li Daphne Caruana

Galizia kienet urietha. Anzi fir-raba' xiehda tagħha Maria Efimova żżid li Daphne Caruana Galizia ma kienetx ġabet id-*declarations of trust* mingħandha ċjoe' l-eżatt oppost ta' dak li xehdet Daphne Caruana Galizia.

8. Daphne Caruana Galizia tikteb li d-*declarations of trust* li kienu datati f'Awissu 2015, kienu ġew depożitati fil-Bank Pilatus minn Brian Tonna. Iżda din l-istqarrija l-anqas Maria Efimova ma tgħidha u ħadd mill-impjegati tal-Bank Pilatus li kien jaħdem dak iż-żmien ma jikkonfermaha. L-anqas mill-*Panama Papers Cache* analizzat ma tirriżulta din l-informazzjoni. Wisq anqas mix-xiehda ta' Brian Tonna u Karl Cini. Biss it-tismija ta' din id-data kienet strateġika meta titqies il-korrispondenza skambjata bejn Karl Cini u Mossack Fonseca f'Awissu 2015 biex jinfetħu kontijiet bankarji għall-kumpaniji *Tillgate Inc* u *Hearnville Inc,* xahar wara li twaqfu *Haast Trust* u *Rotorua Trust* filwaqt li fir-rigward t'*Egrant Inc* ma jissemma' xejn fil-*Panama Papers Cache* analizzat u l-informazzjoni mis-*servers* u *computers* ta' Nexia BT f'dan ir-rigward.

9. Fir-raba deposizzjoni tagħha Maria Efimova qalet li kienet rat il-*bank account opening forms* ta' *Egrant Inc., Tillgate Inc.* u *Hearnville Inc.* f'Marzu 2016 u kienet rathom *f'batch* flimkien ma oħrajn *"because it was*

a question about one account opening pending, so I was reviewing documents which in this like, painting batch. So I saw those forms as well between the other ones". Dawn il-*bank account opening forms* ma kienux fis-*safe.* Mill-banda l-oħra fil-Bank Pilatus ma nstab xejn li kien rikonduċibbli għal dawn il-kumpaniji u ħadd mill-impjegati tal-Bank Pilatus ma jsemmi li qatt ra dawn id-dokumenti. L-anqas fl-evidenza miġbura mingħand Nexia BT jew fil-*Panama Papers Cache* ma jissemma xejn dwar dan il-punt.

10. Daphne Caruana Galizia xehdet li Maria Efimova kienet <u>fil-pussess</u> ta' żewġ *bank account opening forms* ta' *Egrant Inc.* u *Al Sahra FZCO* u fuq domanda tal-ġja Supretendent Ian Joseph Abdilla wieġbet li Efimova kienet **<u>urietha</u>** il-*bank account opening form* ta' <u>*Al Sahra*</u>. Maria Efimova tiċħad dan u tgħid li hija rat il-*bank account opening form* ta' *Sahra FZCO* (<u>u mhux *Al Sahra FZCO*</u>) fil-Bank Pilatus iżda ma kellhiex kopja ta' dawn id-dokumenti.

11. Fl-ewwel xiehda tagħha mistoqsija dwar il-*bank account opening forms* tal-*Egrant Inc,* Maria Efimova semmiethom biss wara li kien ġie suġġerit lilha jekk fost il-*bank account opening forms* kienet rat ukoll dik tal-*Egrant Inc,* u wieġbet fl-affermattiv, għalkemm tgħid li ma tafx jekk kienx miftuħ jew le il-kont għal *Egrant Inc.*

12. Hu stramb kif Daphne Caruana Galizia tgħid li hija **rat** il-*bank account opening form* ta' *Al Sahra FZCO*, meta din il-kumpanija irriżultat lill-inkjesta li ma kienetx teżisti bħala *Al Sahra FZCO* u ma kienetx klijenta tal-Bank Pilatus. Aktar u aktar meta minn dak li xehdet Daphne Caruana Galizia stess kienet bdiet titħasseb dwarha għax ma bdiet issib xejn dwarha fir-riċerka li kienet qed tagħmel. Fit-tieni xiehda tagħha tal-31 ta' Mejju 2017 mistoqsija mill-Maġistrat Inkwirenti jekk kienetx rat xi ħaġa bil-miktub dwar dawn il-*bank account opening forms*, Daphne Caruana Galizia marret lura minn dak li kienet xehdet fis-27 t'April 2017 u qalet *"ma nistax naħlef imma ma nistax naħlef"* minkejja li fis-seduta preċedenti kienet ħalfet li rathom.

13. Daphne Caruana Galizia tgħid ukoll li kienet rat il-*bank account opening form* ta' *Egrant Inc* meta din ma rriżultat minn imkien fil-kotba u *records* stampati u diġitali tal-Bank Pilatus, jew l-evidenza l-oħra miġbura. Biss Daphne Caruana Galizia tgħid li kienet Maria Efimova li wriethomlha. Jekk Daphne Caruana Galizia titwemmen fuq dan il-punt ikun ifisser li Maria Efimova kienet fil-pussess ta' kopji ta' dawn id-dokumenti u kienet Efimova li setgħet twieġeb jekk dawn il-*bank account opening forms* li wriet lil Daphne Caruana Galizia kienux veri u

ġenwini jew le. Biss Maria Efimova tixhed li hi qatt ma ħadet kopji tagħhom u hi rathom biss fil-Bank Pilatus.

14. Maria Efimova tgħid li Pierre Portelli kien qiegħed jistaqsiha dwar il-*bank account opening forms* biex tgħaddilu dawn id-dokumenti u hi wieġbitu li ma kienux fil-pussess tagħha. Pierre Portelli jixhed li kemm Daphne Caruana Galizia kif ukoll Maria Efimova kienu qalulu li d-dokumenti kienu għaddewhom lil Maġistrat Inkwirenti meta fil-fatt dawn la qatt urew u wisq anqas ipproduċew dokumenti fl-atti tal-inkjesta!

15. Irriżulta li l-kumpanija *Al Sahra FZCO* ma kienetx reġistrata bħala klijent ta' dan il-Bank Pilatus. L-anqas instabet li kienet teżisti din il-kumpanija f'Dubai minn *open source search* kondott matul il-kors tal-inkjesta fis-sit relattiv f'Dubai. Mix-xiehda ta' Daphne Caruana Galizia kien stabbilit li anke hi kellha ċertu dubju dwar din il-kumpanija tant li kienet staqsiet lil Maria Efimova dwar *Al Sahra FZCO* u dan għaliex minn riċerki li kienet qegħda tagħmel Caruana Galizia minn fuq l-*internet* ma setgħetx issib riferenza għal *Al Sahra FZCO*. Caruana Galizia saħqet fix-xiehda tagħha li kienet Maria Efimova stess li assikurata li l-isem tal-kumpanija involuta fit-transazzjonijiet li

kienet qalet li rat ma *Egrant Inc* kienet *Al Sahra FZCO.* Mill-banda l-oħra meta xehdet fl-atti tal-inkjesta Maria Efimova ċaħdet li hija kienet tat dak l-isem *Al Sahra FZCO* lil Daphne Caruana Galizia għax hi kienet taf li l-kumpanija kien jisimha *Sahra FZCO.*

16. Daphne Caruana Galizia u Maria Efimova ma jaqblux l-anqas fuq l-aspett dwar jekk it-transazzjonijiet li kienu jsiru mill-Bank Pilatus kienux isiru bil-mezz tal-i *Swift.* Daphne Caruana Galizia tgħid li ma kienetx taf li saru *swift transfers,* iżda Efimova tisħaq li transazzjonijiet fid-Dollari Amerikani kienu jsiru bl-i *Swift.* Il-provi miġbura juru li l-Bank Pilatus kien iħaddem il-pjattaforma *Swift* tramite l-programm *TAS* għat-transazzjonijiet bankarji esterni tiegħu. *Swift* ma kienx jintuża għal trasferimenti interni fil-Bank Pilatus u kien jintuża għal trasferimenti esterni mill-Bank.

17. Dwar il-pagamenti bl-*iSwift* fir-raba xiehda tagħha Maria Efimova tgħid li ma kienetx tiftakar jekk kienux jibgħatulha *swift confirmations* bl-*email.* Tgħid ukoll li hi qatt ma rat *swift transfer documentation* peress li ma kienetx taħdem fl-*Operations Department.* L-aktar li kienet tara kien *payment instructions.* Louis Zammit mill-banda l-oħra jixhed li meta toħroġ l-i*Swift copy* kienu jibgħatuha lil Maria Efimova fil-*Front Office* u meta tkun bagħtitha Maria Efimova kienet ħafna drabi

ssegwiha Maria Efimova stess mal-klijent u imbgħat kienet tkun hi li tibgħathielu lil klijent!

18. Fir-rigward tal-allegata transazzjoni bejn *Sahra FZCO* u *Egrant Inc* Maria Efimova l-ewwel tgħid li kienet semgħetha f'konversazzjoni bejn Ali Sadr u Brian Tonna, liema konversazzjoni kienet imqanqla. Mistoqsija dwar jekk kienetx rat xi transazzjonijiet, xi statements dwar pagamenti bejn *Sahra* u *Egrant*, kienet wieġbet *No, about Egrant I only remember this conversation they (I?) heard (had?)* – suppost bejn Brian Tonna u Ali Sadr. Aktar tard fix-xiehda tagħha tgħid li kienet semgħet il-konversazzjoni dwar dawn it-transazzjonijiet bejn Emilia Maria Vacaru u Mehmet Tasli. Fir-raba' deposizzjoni tagħha, Efimova tgħid li l-konversazzjoni li semgħet dwar it-transazzjonijiet bejn *Sahra FZCO* u *Egrant Inc* kienet bejn Ali Sadr u Mehmet Tasli. Iżda hawnhekk tinqabad f'kontradizzjoni bejn dak li xehdet fl-ewwel deposizzjoni għal dak li qalet fir-raba' deposizzjoni. Fir-raba' desposizzjoni tgħid li kienet **rat** l-isem tal-benefiċjarju tat-transazzjoni: *Yes I'm sure that I **saw** the name of the beneficiary and it was Egrant Inc.* Biss fl-ewwel deposizzjoni tagħha, meta ġiet speċifikament mistoqsija dwar jekk kienetx rat xi transazzjonijiet, xi statements dwar pagamenti bejn *Sahra FZCO* u *Egrant Inc*, kienet wieġbet *No, about Egrant I only remember this*

conversation they (I?) heard (had?) – li f'dak l-istadju suppost kienet saret bejn Brian Tonna u Ali Sadr.

19. Anke dwar ir-rwol ta' Michael Satariano hemm nuqqas ta' qbil bejn Daphne Caruana Galizia u Maria Efimova. Daphne Caruana Galizia tgħid li kienet Maria Efimova li qaltilha li l-impjegat tan-Nexia BT li kien segwa t-transazzjoni bankarja miljunarja fil-Bank Pilatus bejn *Al Sahra FZCO* u *Egrant Inc* u li ma għaddietx kien Michael Satariano, li kien dak li skontha iddepożita l-*bank account opening forms* għal *Egrant Inc* fil-Bank Pilatus. Satariano jiċħad li għamel dan. Iżda anke Maria Efimova tiċħad li kienet qalet din l-istorja fuq Michael Satariano lil Daphne Caruana Galizia u tgħid li Caruana Galizia kitbet hekk għaliex kienet reġgħet ħawdet dwar dak li kienet qaltilha.

20. Apparti minn hekk Daphne Caruana Galizia tgħid li l-informazzjoni li *Egrant Inc, Tillgate Inc* u *Hearnville Inc* kellhom kontijiet Bankarji mal-Bank Pilatus, kif ukoll l-istorja tas-self ta' Negarin Sadr u l-allegat pagament lil *Buttardi* kienet Maria Efimova stess li tagħthomlha. Ġie stabbilit li mill-*records* diġitali u stampati tal-Bank Pilatus u minn analiżi tad-data kontenut fil-*core-banking system* tal-istess Bank Pilatus (li l-integrita tiegħu kienet ġiet ġja ċertifikata mill-esperti tad-ditta *Oracle* li kienu l-arkitetti tal-*Flexcube* – il-*core-banking system* tal-Bank

Pilatus) analizzati miż-żewġ timijiet ta' *Forensic Accountants* ma kien hemm ebda kontijiet bankarji f'isem *Al Sahra FZCO* u *Egrant Inc* jew *Tillgate Inc* jew *Hearnville Inc* u li ma kien hemm ebda transazzjoni bankarja bejniethom li kienet għaddiet mis-sistemi tal-Bank Pilatus u l-anqas mill-kont eżistenti ta' *Sahra FZCO* jew dak ta' *Shams Al Sahra FZCO*. L-anqas irriżulta l-allegat pagament ta' US$400,000 mill-kont ta' Negarin Sadr sar lil Michelle Buttigieg ta' *Buttardi*.

21. Maria Efimova tgħid li *Tillgate Inc* u Brian Tonna personali kellhom kont mal-Bank Pilatus. Dawn ma rriżultawx fl-analiżi tal-evidenza meħuda mill-Bank Pilatus mill-*Forensic Accountants*.

22. Maria Efimova tgħid li d-*declarations of trust* li rat hi fil-Bank Pilatus kienu mingħajr *letterhead*. Dan jikkontrasta dak li kien ġie pubblikat minn Caruana Galizia fl-artiklu intitolat ***This is the text of the two declarations of trust which were in the kitchen-safe at Pilatus Bank*** nhar il-21 t'April 2017 fl-10:02pm, (li Caruana Galizia tgħid li rathom mingħand Maria Efimova), kif jikkuntrasta mal-kopji tad-*declarations of trust* li ddepożita Pierre Portelli fl-atti tal-inkjesta. Jirriżulta li l-kopji tad-*declarations of trust* depożitati minn Pierre Portelli kienu jaqblu f'kollox ma dak li semmiet Maria Efimova, inkluż il-kelma (*suscriptor*)

iżda kienu magħmula fuq *letter head* stampata tal-kumpaniji *Dubro Limited S.A.* u *Aliator S.A.* rispettivament.

23. Pierre Portelli jixhed li kemm Daphne Caruana Galizia kif ukoll Maria Efimova lilu kienu qalulu li dawn id-*declarations of trust* kienu ġew murija lill-Maġistrat Inkwirenti meta kienu xehdu. Iżda dan mhux minnu għax la Daphne Caruana Galizia u l-anqas Maria Efimova ma qatt urew lil Maġistrat Inkwirenti dawn id-dokumenti matul ix-xiehda tagħhom u wisq anqas iddepożitawhom fl-atti tal-inkjesta. Anzi Daphne Caruana Galizia qalet li dawn id-dokumenti uriethomlha Maria Efimova filwaqt li Maria Efimova qalet li hija qatt ma ħadet kopja tagħhom u li kienet Daphne Caruana Galizia li wriethomlha matul l-ewwel laqgħa li kellhom flimkien.

24. Maria Efimova ma tikkonfermax id-dettalji tal-pagamenti li semmiet Daphne Caruana Galizia fl-artikolu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc.*** tal-20 t'April 2017 fil-4:41pm. Maria Efimova tgħid biss hekk – *"no by that time I wasn't paying attention on Egrant in particular. I saw transacting with Sahra but Sahra was transacting with other companies as well. So the surname caught my attention not the company"*. L-inkjesta konvinta sal-grad rikjest mill-Liġi li l-informazzjoni li Daphne Caruana Galizia

ippubblikat fl-artikolu ***US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc*** dwar l-allegati pagamenti magħmula minn *Sahra FZCO* lil *Egrant Inc* huma l-prodott ta' interpretazzjoni żbaljata ta' informazzjoni li rriżultat daqstant ieħor żgwidata ta' dawk it-transazzjonijiet li kienu meritu tal-*Compliance Report* tal-*FIAU* maħruġ lil Bank Pilatus f'Mejju 2016. Dan qiegħed jingħad fid-dawl tax-xiehda tal-impjegati tal-*FIAU* f'żewġ episodji separati (marbuta ma proċeduri imnissla minn żewġ rikorsi separati – wieħed minn Pierre Portelli u l-ieħor minn Jonathan Ferris – kif irriżulta fil-parti li titratta dawn iż-żewġt rikorsi) kif ukoll mix-xiehda ta' Hamidreza Ghanbari u Luis Felipe Rivera, nonche l-analiżi tal-figuri magħmula mill-*Forensic Accountant Miroslava Milenovic*. Pierre Portelli wasal li jagħmel il-kollegament bejn il-"pressapoco *miljun*" hemmhekk imsemmi (li suppost ħarġu mill-kont ta' *Sahra FZCO)* mal-allegati ħlasijiet li suppost irċeviet *Egrant Inc* li kitbet dwarhom Daphne Caruana Galizia fuq naħa; u lil Jonathan Ferris sabiex jikkonkludi li dawn kienu l-pagamenti li qal li sab u li saru mill-kont ta' *Sahra FZCO* u li skontu tħalsu direttament lil Michelle Buttigieg ta' *Buttardi*. Kemm mix-xiehda tal-impjegati tal-Bank, nonche tal-Awdituri *KPMG*, u aktar importanti tal-*Forensic Accountant Miroslava Milenovic* ebda tali kollegamenti jew pagamenti ma jirriżultaw li saru. Il-pagamenti relattivi kienu spjegati u indikati fit-taqsima dwar

proċeduri speċjali u jirreltaw għal persuni oħra li ma humiex la *Egrant Inc* u l-anqas Michelle Buttigieg jew *Buttardi.*

25. Fir-raba' xiehda tagħha Maria Efimova ġiet mistoqsija jekk kienetx qatt semgħet xi konversazzjonijiet bejn kollegi tagħha dwar transazzjonijiet speċifiċi bejn *Sahra FZCO* u *Egrant Inc,* tgħid li kienet semgħet lil Emilia Maria Vacaru li kienet tipproċessahom titkellem ma Mehmet Tasli dwarhom. Maria Efimova żiedet dawn id-dettalji fuq il-verżjoni li kienet tat xahar u nofs qabel, fejn ma kienetx semmithom. Kemm Maria Emilia Vacaru kif ukoll Mehmet Tasli ma jikkonfermawx dak li qalet Maria Efimova dwar din il-konversazzjoni.

26. Dwar l-allegati diffikultajiet biex jgħaddi l-allegat pagament miljunarju favur *Egrant Inc.* imsemmi minn Daphne Caruana Galizia fl-artiklu tagħha, fl-ewwel xiehda tagħha Maria Efimova bl-ebda mod ma torbtu mal-allegat pagament li skont Daphne Caruana Galizia sar minn *Al Sahra FZCO* lil *Egrant Inc.* Anzi Maria Efimova tgħid li hija ma kienetx tiftakar min kien il-benefiċjarju u ma kienetx taf jekk kienetx *Tillgate Inc.* Biss fir-raba' xiehda ta Maria Efimova imbagħad, meta ġiet mistoqsija fil-kuntest ta' dak li kienet qalet bħala li kien allegat trasferiment ta' flus bejn *Sahra FZCO* u *Egrant Inc,* kif saret taf li kien hemm dik il-problema mal-*US Correspondent Bank,* Efimova

tgħid li Ali Sadr kien qiegħed iċempel ħafna drabi lil Tasli jew lil Ghanbari minn barra minn Malta.

27. Fl-ewwel xiehda tagħha Maria Efimova ma tgħidx li kien hemm transazzjonijiet bejn *Sahra FZCO* u *Egrant Inc.* Anżi fir-rigward t'*Egrant Inc* mistoqsija jekk kienetx rat transazzjonijiet jew *statements* dwar pagamenti magħmula minn *Sahra FZCO* lil *Egrant Inc.*, Efimova twieġeb li le għax dwar *Egrant Inc.* kienet tiftakar biss il-konversazzjoni li qalet li semgħet bejn Brian Tonna u Ali Sadr. Anzi tgħid aktar il-quddiem li t-transazzjonijiet li rat minn *Sahra FZCO* kienu saru ma *Tillgate Inc.* fil-kont li qalet li *Tillgate Inc.* kellha f'Dubai u t-transazzjonijiet kienu saru f'valuta Sterlina u kienu saru wara li kien sar self minn *Sahra FZCO* lil *Tillgate Inc.* Ma kienetx ċara dwar jekk il-problemi mal-*US Correspondence Bank* kienx dovut għal din l-allegata transazzjoni bejn *Sahra FZCO* u *Tillgate Inc.* Għalkemm aktar tard, kif intwera' aktar il-fuq dawn il-problemi ikkollegathom mal-allegat trasferiment bejn *Sahra FZCO* u *Egrant Inc.*

28. Fir-raba' xiehda tagħha Maria Efimova tgħid li kienet **rat** il-*payment instructions* bejn *Sahra FZCO* u *Egrant Inc.* Anzi żżid li l-allegati problemi mal-*US Correspondence Bank* kienu fil-kuntest ta' din it-

transazzjoni li semmiet bejn *Sahra FZCO* u *Egrant Inc.* F'din ir-raba' xiehda tagħha żżid ukoll li hija ġiet konxja li l-problemi fil-pagament kienu relattivi għal din it-transazzjoni bejn *Sahra FZCO* u *Egrant Inc* mhux minn konversazzjoni li kien hemm bejn Ali Sadr u Hamidreza Ghanbari (għax il-konversazzjoni telefonika kienet bl-Ingliż u mhux bil-Farsi – l-lingwa li kienu jitkelmu biha normalment Ali Sadr u Hamidreza Ghanbari bejniethom) u għalhekk il-konversazzjoni kienet bejn Ali Sadr u Mehmet Tasli. Kemm mix-xhieda tal-Awdituri *KPMG* kif ukoll mir-relazzjoni tal-*Forensic Accountants* dawn it-transazzjonijiet diretti mill-Bank Pilatus bejn *Sahra FZCO* u *Tillgate Inc.* jew *Egrant Inc.* ma rriżultawx li saru mill-Bank Pilatus.

29. Maria Efimova tgħid li hi kienet tiftakar li kien hemm transazzjonijiet bejn *Sahra FZCO* u *Tillgate Inc.* fis-sens li kien hemm *loan* li permezz tagħha *Sahra FZCO* kienet tħallas lil *Tillgate Inc.* fi transazzjoni diretta mill-Bank Pilatus fi Frar jew Marzu 2016 u kien hemm involviment tal-*Correspondence Bank* ukoll bl-użu ta' *Swift*. Fl-ipproċessar ta' dan il-*loan* kienet involuta Denica Cebova. Maria Efimova tgħid ukoll li Denica Cebova kienet bagħtitlha messaġġ dwar xi *loan* li ma kienx iffirmat bejn *Hearnville* u *Tillgate* u kumpanija oħra, iżda t-transazzjoni kienet għaddiet u l-messaġġ marret turih lil Claude-Ann Sant Fournier; iżda l-kumpanija li kienet *transacting* ma *Hearneville Inc.* ma kienetx *Sahra*

FZCO, iżda xi kumpanija oħra. Denica Cebova tixhed li ma tafx dwarhom dawn il-*loan agreements* li semmiet Efimova. Dan is-self u t-transazzjonijiet allegati minn Maria Efimova ma rriżultawx mir-*records* stampati u diġitali bankarji tal-Bank Pilatus analizzati kemm minn *KPMG* u kif ukoll u aktar rilevanti għal din l-inkjesta mill-*Forensic Accountants.*

30. Maria Efimova tgħid li kienet rat il-*bank account opening form* ta' *Sahra FZCO* minn fejn kien jirriżulta li l-*UBO* kienet Leyla Aliyeva u li kienet waħedha. Anke hawn jirriżultaw żewġ anomaliji fix-xiehda tagħha għax (a) dan kien jikkontrasta dak li qalet Daphne Caruana Galizia meta qalet li Efimova wrietha l-*bank account opening form* ta' ***Al*** *Sahra FZCO* u mhux *Sahra FZCO* (b) Irriżulta lill-inkjesta li l-*UBO* ta' *Sahra FZCO* ma kienetx Leyla Aliyeva waħedha kif tgħid Maria Efimova iżda l-*UBO* kienu tnejn – Leyla Aliyeva flimkien m'oħtha Arzu Aliyeva.

31. Dwar is-self ta' Negarin Sadr, Maria Efimova qalet li dan kien self għan-negozju tal-moda ta' Negarin Sadr fl-ammont ta' madwar miljun dollaru Amerikan u li skont il-*business plan* kienet ser tkun *cooperating with one brand for jewellery.* Dan is-self ġie *credited to her account ... in Pilatus Bank.* Pero daħlu struzzjonijiet oħrajn u US$400,000 minnhom

tħalsu lil mara Maltija li toqgħod l-Amerika u li kellha *brand name* jixbah lil *Trussardi - Bruttardi* jew *Badrtardi* xi ħaġa hekk, tgħid. Hi u Emilia Maria Vacaru qagħdu jiċċajtaw bl-isem. Irriżulta lill-inkjesta li verament Negarin Sadr kienet isselfet miljun u ħames mitt elf Dollaru Amerikan u dan is-self kien ġie pproċessat fi żmien qasir ħafna fit-2 ta' Frar 2016; iżda l-ammont kien ġie mħallas għax-xiri ta' 12,375% *interest* fi *"SMT Pistacho Ranch and Management LLC"* rikonduċibbli lil Mohsen Torabi u mħallas direttament fil-kont tiegħu fl-Amerika fil-Bank Wells Fargo. Emilia Maria Vacaru wkoll ma tikkonfermax li qagħdu jiżżufjettaw bl-isem *Buttardi.* Dan minbarra ċ-ċaħda ta' Michelle Buttigieg dwar xi konoxxenza ta' Negarin Sadr, negozju ma Negarin Sadr jew li rċeviet xi flejjes mingħandha.

32. Maria Efimova ssemmi wkoll li kienet involuta fl-ipproċessar ta' transazzjoni li kienet tinvolvi pagament ta' madwar ħames miljun lira sterlina depożitu li tħalsu mill-*Willerby Trading Inc.* (Brian Tonna) għal xi *mansion house* f'Londra li ried jixtri. Tgħid li kienet Emilia Maria Vacaru li talbitha tieħu din il-*payment instruction* lill-*Operations Department* biex tiġi proċessata. Emilia Maria Vacaru ma tiftakarx din it-transazzjoni u mill-analiżi magħmula mill-*Forensic Accountant Miroslava Milenovic* ma tirriżulta ebda tali transazzjoni fil-kotba jew *records* bankarji stampati jew diġitali tal-Bank Pilatus.

Id-dettalji dwar l-*Egrant Inc* u l-allegati transazzjonijiet finanzjarji li forniet Maria Efimova lill-inkjesta u li allegatament kellhom x'jaqsmu mal-proprjeta ta' Michelle Muscat tal-ishma aħħarija t' *Egrant Inc* u mal-allegati trasferimenti ta' flejjes mill-kont bankarju fil-Bank Pilatus tal-kumpanija *Sahra FZCO* proprjeta ta' *PEP* mill-Ażerbajġan lil *Egrant Inc* f'Dubai ma kienux jaqblu mar-riżultanzi fattwali u tekniċi li ingħataw minnha lill-inkjesta. L-anqas ma kienu jaqblu ma diversi aspetti ta' dak li Daphne Caruana Galizia xehdet li kienet qaltilha Maria Efimova meta dan jiġi mqabbel ma dak li xehdet dwaru Maria Efimova fl-atti ta' din l-inkjesta.

Mill-artiklu u mill-kitbiet ta' Daphne Caruana Galizia analizzati jirriżulta li hija kienet qegħda temmen dak li tgħid li qaltilha Maria Efimova. Anzi jista' jkun ukoll li Daphne Caruana Galizia riedet temmen dak li tgħid li qaltilha Maria Efimova. Saħansitra tiddefendi dak li tgħid li kienet qaltilha Maria Efimova – minkejja li, kif intwera', f'diversi aspetti relattivi għall-allegazzjonijiet l-aktar kruċjali għal din l-inkjesta, ix-xiehda ta' Maria Efimova u dik ta' Daphne Caruana Galizia (u sa' ċertu punt lil Pierre Portelli) ma qablux ma xulxin u f'ċerti dettalji huma bil-maqlub ta' xulxin.

Biss hemm punt li Daphne Caruana Galizia u Pierre Portelli jaqblu dwaru – u ċjoe li Maria Efimova kienet qaltilhom li kellha l-kopja tad-*declarations of trust* u l-*bank account opening forms* li kellha aċċess għalihom għax maħżuna fil-*cloud account* tagħha. Dan Maria Efimova tiċħdu kompletament.

Mill-banda l-oħra hemm partijiet mix-xiehda ta' Maria Efimova li ġew konfermati bħala veri u korretti. Dan jidher l-aktar f'dawk id-dettalji li Maria Efimova riedet tiġbed l-attenzjoni dwar ċerti attivitajiet li hija kien jidhrilha li ma kienux f'lokhom. Per eżempju fix-xiehda tagħha hija ssemmi l-isem tal-kumpanija "Straturk" u l-kuntest t'interessi Torok t'Ali Sadr u l-konnessjonijiet passati tiegħu f'kuntest fejn ma kellu x'jaqsam xejn mal-allegazzjonijiet li kienet għamlet dwar l-*Egrant Inc.* u fi żmien fejn ħadd ma kien għadu jaf bir-raġuni għaliex semmiet l-isem ta' din il-kumpanija u l-konnessjonijiet l-oħra t'Ali Sadr. L-istess għamlet fir-rigward tal-operat ta' *Sahra FZCO*.

Ġie pruvat ukoll li Maria Efimova kienet suġġetta għal proċeduri kriminali f'Malta miftuħa kontriha fuq istanza tal-Bank Pilatus. Maria Efimova kellha *un conto in sospeso* ma' Ali Sadr u rnexxielha tiġbed l-attenzjoni internazzjonali dwar l-operat ta' Ali Sadr u l-Bank Pilatus fi żmien meta ħadd ma kien jaf li Ali Sadr kien qiegħed jiġi mistħarreġ mill-Awtoritajiet tal-Istati Uniti għal ksur ta' sanzjonijiet imposti minn dak il-pajjiż. Mill-

banda l-oħra ħareġ ukoll li hija kellha element ta' riżentiment ukoll għall-mod kif tħossha li ġiet trattata mill-Awtoritajiet Maltin minħabba l-proċeduri kriminali miftuħa kontriha, kif issemma' aktar il-fuq – inkluż il-fatt li Joseph Muscat ma għamel xejn meta għamlet ilment lilu dwar il-fatt li ma kellhiex il-passaport f'idejha biex tkun tista żżur lil ommha.

Biss l-allegazzjonijiet tagħha kwantu jolqtu l-meritu tal-inkjesta *Egrant Inc* ma nstabux li huma msejsa fuq il-provi: la tax-xiehda okulari u l-anqas dawk dokumentarji - la fil-Bank Pilatus, la għand in-Nexia BT, la għand il-Mossack Fonseca u mingħand ebda ħadd mill-impjegati jew Awdituri jew aġenti tagħhom.

Mill-banda l-oħra, l-evidenza ċirkostanzjali analizzata fil-kors ta' din l-inkjesta, dettaljatament spjegata aktar il-fuq, wara li ġiet eżaminata b'attenzjoni u ċirkospezzjoni kbira[179] u analizzata b'mod li tara jekk permezz tagħha jistax jiġi stabbilit irbit bejn l-allegat reat jew fatt kommess u l-persuna inkriminanda jew li allegatament ikkommettietu, (u ħadd iktar ħliefhom) ma tistax titqies li hija univoka (u mhux ekwivoka jew saħansitra

[179] *if only because evidence of this kind may be fabricated to cast suspicion on another.*

ambigwa)[180] u magħquda *"bhal katina li tintrabat minn tarf ghal tarf, b'sensiela ta' ghoqiedi li jaqblu ma' xulxin u li flimkien iwasslu fl-istess direzzjoni."*[181]

Mitt suspett flimkien ma jsawrux prova waħda.

[180] *It is also necessary before drawing the inference of the accused's guilt from circumstantial evidence to be sure that there is no other co-existing circumstance which would weaken or destroy the inference.*

[181] Għal dawn il-kwotazzjonijiet ara s-sentenza *Il-Pulizija vs Berrad* aktar il-fuq ċitata.

Egħluq – Konklużjoni b'riferenza għar-rapport tal-Kummissarju tal-Pulizija

Għaldaqstant fuq dan ir-rapport tal-20 t'April 2017, mill-provi estensivi diretti u indiretti miġbura kemm f'Malta kif ukoll barra minn Malta, kif preservati fl-atti ta' din l-inkjesta, eżaminati mill-esperti tekniċi u analizzati mill-Maġistrat Inkwirenti, din l-inkjesta tikkonkludi, sal grad li trid il-Liġi, li: -

1. Ma nstabx li l-ishma fil-kumpanija *Egrant Inc* kienu jappartjenu lil Michelle Muscat jew li kienu rikonduċibbli lilha jew lil żewġha Dr. Joseph Muscat, jew lil membri tal-familja tagħhom;

2. Ma nstabx li Dr. Joseph Muscat, Michelle Muscat, Keith Schembri, Konrad Mizzi jew John Dalli setgħu kienu involuti f'korruzzjoni u/jew ħasil ta' flus u/jew transazzjonijiet finanzjarji suspetti provenjenti minn kontijiet ta' *Politically-Exposed Persons* mill-Ażerbajġan, u dan tramite kontijiet fil-Bank Pilatus u dan kemm skont kif allegat minn Daphne Caruana Galizia fl-artiklu *Declarations of trust in Pilatus Bank safe: Egrant Inc shares held far Michelle Muscat* tal-20 t'April 2017 fis-7:59pm kif ukoll f'dak pubblikat qabel fl-istess jum minn Daphne Caruana Galizia intitolat *US$1.017 million in single transaction from Azerbaijan-owned company to Egrant Inc. fil-4:41pm.*

Konklużjonijiet oħra

Azzjoni ulterjuri

Inkjesti diġa mibdija u oħrajn pendenti

Matul il-kors ta' din l-inkjesta, u in segwitu għal żewġ rikorsi imsemmija fil-parti li titratta l-proċeduri speċjali inċidentali, il-Maġistrat Inkwirenti kkonkluda li kien hemm il-pre-rekwiżiti meħtieġa sabiex :

(1) Tinfetaħ l-inkjesta *Willerby*;

(2) Tinfetaħ l-inkjesta *Hillman*.

Dawn iż-żewġt inkjesti għadhom pendenti u kondotti mill-Maġistrat Dottor Natasha Galea Sciberras u l-Maġistrat Dottor Josette Demicoli rispettivament.

(3) Jirriżulta lill-inkjesta li fil-preżent hemm ukoll proċeduri pendenti quddiem il-Qorti Kriminali għal fini ta' rieżami in segwitu għal digriet mogħti mill-Maġistrat Dottor Ian Farrugia nhar is-27 ta' Lulju 2017 fuq rikors preżentat minn Dr. Simon Busuttil tal-14 ta' Lulju 2017 u li permezz tiegħu ġie deċiż li hemm il-prerekwiżiti meħtieġa biex tinfetah inkjesta oħra dwar diversi allegazzjonijiet oħra, uħud minnhom ukoll relatati ma fatti u riżultanzi imsemmija f'din l-inkjesta kif rifless fir-relazzjonijiet tal-*Forensic Accountants* maħtura.

(4) Dan apparti digriet ieħor mogħti mill-Maġistrat Dottor Francesco Depasquale nhar il-21 ta' Mejju 2018 in segwitu għal rikors ieħor magħmul mill-MPE David Casa b'riferenza għal informazzjoni naxxenti minn informazzjoni meħuda mit-Taqsima tal-Analiżi tal-*FIAU* u li wkoll kienet relatata ma proċedura speċjali li kienet intavolata fil-kors ta' din l-inkjesta permezz ta' rikors magħmul l-ewwel minn Pierre Portelli u wara f'isem il-MPE David Casa.

(5) <u>*Leaks* t'informazzjoni kunfidenzjali mill-*FIAU*</u>

Jirriżulta lil din l-inkjesta li hemm ukoll inkjesti maġisterjali speċifiċi jistħarġu *leaks* magħmula mill-ġja Maġistrat Dr. Consuelo Scerri Herrera u

mill-Maġistrat Dr. Doreen Clarke. Dik magħmula mill-Maġistrat Clarke jirriżulta li għadha pendenti.

Dwar dawn l-allegazzjonijiet, fatturi u riżultanzi komuni misjuba mill-*Forensic Accountants* kif imsemmi fir-relazzjoni tagħhom f'din l-inkjesta u li tnisslu matul il-kors ta' din l-inkjesta, u li diġa hemm proċeduri li huma pendenti quddiem l-Awtoritajiet Ġudizzjarji Maltin li qegħdin jew għad iridu jiġu mistħarġa, mhix ser tiġi ordnata azzjoni ulterjuri mill-Maġistrat Inkwirenti f'dan il-*Proces Verbal* u dan sabiex jiġi evitat duplikazzjoni ta' proċeduri ġudizzjarji.

Azzjoni ta' investigazzjoni u prosekuzzjoni li trid tittieħed fuq ir-riżultanzi ta' din l-inkjesta

(6) Persuni li kienu fil-pussess t'informazzjoni kunfidenzjali u segretata tal-*FIAU* li ddivulgaw din l-informazzjoni fil-pubbliku

Kif ġie muri aktar il-fuq, il-maġġor parti tal-proċeduri speċjali inċidentali inbdew in segwitu għal, u in bażi ta' informazzjoni li kienet tifforma parti

minn rapporti analitiċi konklużi tal-*FIAU* jew dokumenti qafas jew informazzjoni oħra li kienet tifforma parti minn diskussjonijiet dwar analiżi t'informazzjoni kondotta mill-*FIAU* u li eventwalment setgħet twassal għal rapport analitiku finali skont l-Artikolu 16 tal-Kapitolu 373 tal-Liġijiet ta' Malta.

Fil-kors ta' din l-inkjesta wkoll irriżulta li *prima faciae* l-informazzjoni relattiva għall-ewwel żewġ rapporti analitiċi tal-*FIAU* li wasslu għall-ftugħ tal-inkjesta *Willerby* u għall-ftugħ tal-inkjesta *Hillman* kif ukoll l-informazzjoni li in bażi tagħha ġew żvelati siltiet minn dokument qafas li kien qiegħed jiġi analiżżat mill-*FIAU* b'riferenza għal allegati transazzjonijiet li inter alia kienu jikkonċernaw *LNG tanker,* (u li eventwalment wara li segwa l-proċess normali t'analiżi immaturaw fit-tielet rapport analitiku tal-*FIAU* fuq materji li tnisslu mir-rivelazzjonijiet tal-*Panama Papers)* kienu ġew żvelati pubblikament wara li d-dokumenti jew informazzjoni relattiva kienet ġiet *leaked* mir-*records* tal-*FIAU.*

Din l-informazzjoni, skont il-Liġi kellha tkun magħrufa mill-impjegati adetti mit-Taqsima tal-Analiżi tal-*FIAU* u mid-Diriġenti ta' dan il-Korp, nonche f'dawk il-każijiet fejn kien sar rapport analitiku finali, ukoll mill-Uffiċjal Ko-ordinatur tal-Pulizija u l-Kummissarju tal-Pulizija. Dawn huma kollha marbuta bil-Liġi li jikkunsidraw kull informazzjoni li tkun waslet għandhom

bħala li hija sigrieta u/jew kunfidenzjali. Anzi l-Korp, l-uffiċjali, l-impjegati u l-Aġenti tiegħu, sew jekk ikunu għadhom fis-servizz tiegħu sew jekk le, jibqgħu marbuta b'din ir-rabta. Mix-xiehda mismugħa matul il-kors ta' din l-inkjesta ġie *prima faciae* stabbilit li tali informazzjoni u dokumenti ġew pubblikament żvelati bi ksur ta' dawn ir-rabtiet u dak li jipprovdi l-Kapitolu 373 tal-Liġijiet ta' Malta.

F'soċjeta demokratika huwa meħtieġ u doveruż li jkun hemm skrutinju tal-operat ta' entitajiet u awtoritajiet pubbliċi. Biss dan għandu jsir b'mezzi li jkunu jirrispettaw il-Liġijiet tal-Istat. Altrimenti jirrenja l-kaos u d-diżordni – l-antiteżi tas-Saltna tad-Dritt. Stante li matul il-kors ta' din l-inkjesta irriżulta pruvat sal-grad *prima faciae* li :

(a) Ġew preżentati dokumenti li kienu jikkontjenu fihom informazzjoni li kienet kunfidenzjali u segretata formanti parti minn rapport analitiku maħdum mill-*FIAU* u li kien ġie preżentat lill-Kummissarju tal-Pulizija għall-azzjoni tiegħu jew li kienet għadha qegħda tiġi analizzata mit-Taqsima tal-Analiżi tal-*FIAU* jew ġiet żvelata pubblikament tali informazzjoni;

(b) dawn id-dokumenti jew l-informazzjoni kienu ġew żvelati b'mezzi li ma kienux dawk previsti mill-Kapitolu 373 tal-Liġijiet ta' Malta;

(c) għad hemm inkjesti Maġisterjali li għadhom pendenti u li jistgħu jolqtu wkoll parti mill-meritu ta' din il-vertenza;

fl-istadju opportun, il-Kummissarju tal-Pulizija għandu jinvestiga, u l-Avukat Ġenerali għandu janalizza jekk, f'soċjeta demokratika :-

(a) ir-riċezzjoni, aċċettazzjoni, żamma, pussess, l-użu u l-eventwali konsenja ta' dokumenti jew divulgazjoni t'informazzjoni kunfidenzjali u segretata minn persuni kemm jekk huma uffiċjali, impjegati jew Aġenti tal-*FIAU*, kemm jekk ma humiex,

(b) liema dokumentazzjoni jew informazzjoni kienet tifforma l-meritu jew parti mill-meritu ta' xogħol analitiku tal-*FIAU* jew ta' eventwali rapport analitiku magħmul mill-*FIAU* u preżentat lill-Kummissarju tal-Pulizija jew li kienet tifforma parti minn analiżi li kienet għadha għaddejja mill-istess Korp;

(c) liema ħruġ ta' dokumenti jew informazzjoni tkun saret b'modi u b'mezzi mhux skont kif imsemmija fil-Liġi, iżda bil-mezz ta' *leaks* (b'serq ta' informazzjoni jew teħid t'informazzjoni b'qerq jew b'reat kriminali ieħor),

(d) u liema informazzjoni ma tkunx ġiet denunzjata jew divulgata biss lill-Pulizija Eżekuttiva, lil Awtoritajiet Ġudizzjarji jew lil Awtorita kompetenti oħra għall-azzjoni leġittima li jidhrilhom xierqa fuqha, iżda li tkun ġiet divulgata lill-pubbliku f'diskorsi pubbliċi jew bil-mezzi tax-xandir,

kienux, jikkostitwixxu reati kriminali, fosthom dak ta' riċettazzjoni taħt l-Artikolu 334 tal-Kodiċi Kriminali jew ir-reat ta' min, malli jsir jaf li xi ħaġa li tkun ġiet fil-pussess tiegħu tkun ħaġa misruqa jew ħaġa meħuda b'qerq jew akkwistata b'reat, jonqos li jgħarraf lill-Pulizija b'dak il-fatt fi żmien ġimgħa minn meta jkun hekk sar jaf skont l-Artikolu 334A tal-Kodiċi Kriminali, minn min ikun għamel din l-azzjoni.

(7) Karl Cini u Brian Tonna

7.1 Fix-xiehda tiegħu Karl Cini jgħid li huwa waqqaf biss tliet kumpaniji fil-Panama mentri l-*Forensic Accountants Harbinson Forensics* sabu li huwa kien waqqaf ukoll il-kumpanija *Real Trade Investments Global Corp* fil-Panama (u mhux fil-*BVI* kif hu semma fix-xiehda tiegħu).

Karl Cini jtenni li kien waqqaf erba' kumpaniji fil-*BVI* ċjoe *Comerco, Durellie, Real Trade Investments* u *Willerby.* Irriżulta pero lil *Forensic Accountants Harbinson Forensics* li fix-xiehda tiegħu huwa ma semmiex ukoll lil kumpaniji *Colson, Selson, Lester, SPX, Blue Sea, Torbridge jew Berdil.*

Apparti minn hekk fl-*email* allegatament mibgħuta fit-2 ta' Ġunju 2017 jingħad li Mirzella Tunon bagħtet lil Karl Cini pakk bid-*DHL* li fih kien

hemm l-oriġinali tal-ittri tas-16 ta' Frar u tal-24 ta' Frar 2017 iffirmati minn Ricardo Samaniego, id-dikjarazzjoni tal-25 ta' Mejju 2017 ta' *ATC Administrators Inc* iffirmata minn Edilberto Reyes u Olga Londono, ir-*Registered Agent Certification* iffirmata mill-Avukat Josette Roquebert. Karl Cini jixhed li l-ittra tas-16 ta' Frar 2017 qatt ma bagħtithielu. Karl Cini jrid jispjega l-kontenut u l-verċita tad-dikjarazzjoni tiegħu fid-dawl ta' din l-*email*.

Għaldaqstant il-Kummissarju tal-Pulizija għandu jinvestiga dawn id-diskrepanzi fix-xiehda ta' Karl Cini stante li kif irriżulta mill-provi dokumentarji aktar il-fuq imsemmija juru li jista' jkun hemm *prima faciae* ġurament falz da parti tiegħu.

7.2 Fid-dawl tal-konklużjoni tal-*Forensic Accountant Miroslava Milenovic* intitolata *"2.2.5.2 Orders for Transfer from BTI Management – Client Bank Account in BoV"* il-Maġistrat Inkwirenti jordna lill-Kummissarju tal-Pulizija sabiex jinvestiga din ir-riżultanza tal-esperta *Forensic Accountant Miroslava Milenovic* għal kwalunkwe azzjoni li jidhirlu xierqa, jekk ikun il-każ.

(8) Jonathan Ferris

Matul ix-xiehda ta' Jonathan Ferris saru diversi stqarrijiet li ma kienux sorretti minn provi oħra miġbura. Uħud minnhom jirriflettu diverġenzi bejn il-mod kif hu interpreta ċerti fatti. Iżda hemm siltiet mix-xiehda tiegħu li jeħtieġu approfondiment ulterjuri bħal -

Sur Maġistrat: Però informazzjoni fir-rigward li din il-marelli kumpanija kienet rekonduċibbli lil Muscatijiet jew hekk, Dalli ma....

Xhud: M'għandi però fil-compliance report – li kienet għamlet l-FIAU...

Sur Maġistrat: Liema wieħed?

Xhud: Il-compliance report fuq il-bank Pilatus, hemmhekk hemm issue ta' interess.

Sur Maġistrat: Jiġifieri l-compliance report li kien sar f'Marzu?

Xhud: Eżatt dak li hemm inkjesta quddiem il-Maġistrat Consuelo. Dak jien kont sibt li kien hemm transfer ta' miljun minn kont ta' Leyla... ġie minn barra through Pilatus, as DVA, same day value, 600,000 minnhom għaddew għall-kumpanija Buttardi ġo New York. Il-kumpanija Buttardi hija kumpanija ta' Michelle Muscat u Michelle Buttigieg.

Sur Maġistrat: Din qed tgħidli li qiegħda fil-compliance report?

Xhud: Iva.

Sur Maġistrat: Tal-FIAU?

Xhud: Iva. Għaddew 600,000 immarkati bħala loan. Issa ħafna nafu min ikun fil-finanzi li bħala loan tweġġagħli naqra rasi lili. Fil-fatt meta jien kont il-Qatar, lil Amerikan tal-FinCEN, li hija l-FIAU Amerikana għedtlu "Dawn kif għaddewlkom?" Għal kull ċuċata twaqqfu u dawn 600,000.

Sur Maġistrat: U dawn is-600,000 minn fejn għaddew jiġifieri?

Xhud: Għaddew minn fuq il-Pilatus.

Sur Maġistrat: Mill-kontijiet tal-Pilatus jiġifieri.

Xhud: Mill-kont ta' Leyla...tal-Pilatus.

Sur Maġistrat: Dan id-dokument jiġifieri inti rajtu?

Xhud: Jien ma rajtux. Jien rajt ir-rapport tal-compliance għax jien ma kontx naħdem fil-compliance. Imma dan ħareġ meta l-MFSA u l-FIAU kienu għamlu din il-visit u sabu balla breaches. Pereżempju kelli diversions of ... u kkritikajtu bl-aħrax lil Alfred Zammit għax ma jistax ikun f'Marzu nsib, ikun hemm rapport – li għandi kopja tiegħu jien hawnhekk – imlaħħam sew tal-breaches li sabu f'Settembru toħroġ an all clear note.

Sur Maġistrat: Jiġifieri se nistaqsik din, veru strictly speaking it is not pretinent to Egrant però se nistaqsihielek biex ikolli naqra kjarezza f'moħħi. Din li qed tgħid, din tit-ransfer li kienet saret minn kont ta' Leyla Aliyeva lil Buttardi...

Xhud: Lejn il-Buttardi.

Sur Maġistrat: Lejn il-Buttardi, lejn il-Buttardi bħala Buttardi jew f'isem xi ħadd? F'isem Michele Buttigieg? F'isem William Buttigieg?

Xhud: Jekk niftakar sew f'isem il-Buttardi. Se nipprova nsib, nara jekk għandi il-compliance report. Dan huwa l-Whatsapp message li kien bagħatli Alfred Zammit dakinhar biex ma nersaqx lejn l-uffiċċju. Compliance...ma nafx jekk għandekx inti.

Sur Maġistrat: Ħa nara liema wieħed hu.

Xhud: Għandek kopja tiegħu int dan?

Sur Maġistrat: Ma nafx. Ħa nara liema hu għax issa bl-amment mhux se ngħidlek.

Xhud: Se ngħaddiehel. Dan huwa l-compliance report u dak żammejtu jien għax jien kont wieħed mit-tnejn li kellna, xi ħadd minn tlieta li kellna u xi ħadd illikjah però l-Maġistrat Consuelo għedtilha li se nżomm kopja tiegħu għax dak hemm ċerta noti fuqu, għedtilha "biex int tkun taf li jien se nżomm photocopy" għax in-noti li kelli, li tajtha, tal-oriġinali kienu kollha bil-lapes u l-Maġistrat Consuelo kienet akkordat.

Sur Maġistrat: mela qed tagħmel referenza, qed nifhem jien, għal din il-parti. "Non particular bank account be acquivalent to approximately one million..."

Xhud: Għax Daphne kienet qalet li kien hemm transfer ta' miljun. Jien ħdimt imbagħad il-median rate bejn Jannar – ara jekk titla fuq – u Marzu u ma qbiltx għal dak il-miljun li keient qed atirreferi għalih u hemm xinoti tiegħi.

Sur Maġistrat: Jiġifieri hawnehkkint qed tgħid li l-informazzjoni li għandek li dawn il-miljun kienu dawn li għaddew mill-kont ta' Leyla Aliyeva lil Buttardi.

Xhud: Għax hi kienet qalet li hemm transfer ta' miljun. Tiftakar l-istorja kif kien ilqalgħet? Għedtilhom "ma jistax ikun li kien dak." Issa jekk int trid kopja tiegħu kemm jagħmlulek photocopy tiegħu għax dak se jginek żgur lilek.

In segwitu għad-deposizzjoni ta' Jonathan Ferris, kienet saret talba *ad hoc* lill-*Forensic Accountant Miroslava Milenovic* sabiex tikkonferma jekk mill-analiżi tagħha tar-*records* stampati u *diġitali* tal-kontijiet tal-Bank Pilatus u t-transazzjonijiet hemmhekk imsemmija setgħetx issib riskontru ta' dak misjub fix-xiehda ta' Jonathan Ferris rigward dan l-allegat pagament. Il-*Forensic Accountant Miroslava Milenovic* wieġebt permezz ta' rapport preliminari 1.11 u li jridu jinqraw fl-isfond tar-relazzjoni finali tagħha imsemmija aktar il-fuq : -

1. Transactions related to Sahra

Below is presented an overview of number of transactions per years related to Sahra both as ultimate beneficiary (when Sahra received the money) and ordering customer (when Sahra sent the money) extracted from list_of_all_outgoing_settlement_data_partI.xlsx. for the period

	Ultimate Beneficiary	Ordering Customer
2014	/	/
2015	4	3
2016	7	11
2017	6	1
Total	17	15

1.1. Sahra as Ultimate Beneficiary

Based on account numbers of the extracted transactions, it has been identified that 12 of the 17 transactions received by Sahra (i.e. in which Sahra was identified as the ultimate beneficiary) originated from UAE, 2 originated from USA and 3 were internal transfers between Sahra's accounts held in Pilatus Bank Malta.

Country	Ultimate Beneficiary
UAE	12
USA	2
Malta	/
Internal transfers	3

1.2. Sahra as Ordering Customer

As for transactions ordered/paid by Sahra (i.e. in which Sahra was identified as ordering customer), 1 transaction was sent from Sahra's account held in UAE, 7 transactions were sent from its account held in Pilatus Bank Malta and 7 were internal transfers between Sahra's accounts held in Pilatus Bank Malta.

The transaction which was sent from Sahra's account in UAE was sent to an account in Malta, while the 7 transactions sent from Pilatus Bank's accounts were sent to accounts in UAE.

Country	Sahra's accounts from which the transfers were sent	Accounts to which the transfers were sent
UAE	1	7

Malta	7	1
Internal transfers	7	

During the search of key word "Sahra" a transaction related to Sahrai SRL has been identified:

Ordering customer: Sahrai SRL, Italy

Ultimate Beneficiary: Ashborn Corp. Limited, a company connected to Seyed Ali Sadr Hasheminejad (the company is on the same address as Brittstone Ltd. and Rynt Corp. Limited,)

Amount: 25,000 EUR

Date: 06/03/2015

2. Transactions related to Aliyeva

Only one transaction in relation to Aliyeva has been identified related to a payment performed by Leyla Aliyeva to Raphael Investment on 09/11/2016. Aliyeva as ordering customer transferred amount of AED 293,679,791 (80 milion USD) from bank account in UAE with IBAN /AE710350000006206186502 to the ultimate beneficiary, company Raphael Investment Limited, the company previously identified as related to Leyla Aliyeva, with bank account in Pilatus with IBAN MT42PLTS04019001018 93CACOAED101

3. Transactions related to JP Morgan

The only transaction which included JP Morgan has been identified in the excel spreadsheet TAS MT199.xlsx and is in relation to a transfer which has been blocked by JP Morgan.

No additional transaction with relation to JP Morgan has been identified- as a correspondent bank, sender's bank nor as a ultimate beneficiary's bank.

{1:F01PLTSMTMTAXXX0870032644}{2:O1991642170508GENODEDDAXXX7548720450170508183 2N}{3:{108:ZVR0000000186788}{433:/FPO/FALSE POSITIVE}}{4:

:20:INVES17050800109

:21:001FOUR171220001

:79:QUERY

We received the following inquiry to your payment

for USD 66.204,30

under a.m ref. Please check and revert soonest.

Kind regards

DZ BANK AG D/PASP

QUOTE

WE HAVE EFFECTED PAYMENT TO BARCLAYS BANK

LONDON WITH COVER VIA JP MORGAN CHASE NEW

YORK WE HAVE RECEIVED FOLLOWING REQUEST FOR

ADDITIONAL INFORMATION FROM JP MORGAN CHASE NEW

YORK QUOTE:PLEASE BE ADVISED THAT WE HAVE NOT

EFFECTED THE ABOVE MENTIONED TRANSACTION AS IT IS

UNDER REVIEW BY OUR COMPLIANCE DEPARTMENT FOR A

POSSIBLE SANCTION OR JPM RISK POLICY ISSUE. OUR

LEGAL COMPLIANCE DEPARTMENT HAS REQUESTED YOU

PROVIDE THE FOLLOWING INFORMATION: MORE INFO

REQUIRED:PLEASE PROVIDE THE DETAILS OF IRANIAN

OWNERSHIP OR INVOLVEMENT IN THIS TRN. . UNQUOTE

LOYDGB2L S ALSO REQUEST ADDITIONAL INFORMATION

REQUIRED FOR

PILATUS BANK: 1. WE REQUIRE FULL NAMES OF ALL

OWNERS, NATIONALITY AND THE FULL PERMANENT ADDRESS

OF ALL OWNERS.

2. IS THERE ANY IRANIAN INVOLVEMENT?

URGENTLY PROVIDE THE ADDITIONAL INFORMATION VIA AN

AUTHENTICATED MESSAGE.

UNQUOTE

-}{5:{CHK:183F5E18A459}{DLM:}}{S:{COP:P}{FAC:}}

JP Morgan- none

4. Transactions related to Buttardi

A search has been performed in relation to Buttardi business, by using following search terms:

- Buttardi
- Michelle Buttigieg
- William Buttigieg

No transactions have been identified.

5. Loans Provided

From the file All_loans.xlsx information has been extracted concerning loan agreements per company/individual. It has been identified that most of the loans agreement were used for refinancing of the initial loan. The table below provides an overview of identified loan agreements per company, with additional details including companies' Directors/UBOs/Signatories as per file containing information on all corporate companies' directors and all companies' signatories. Additionally, based on all gathered information, companies have been linked to Azerbaijan's PEPs, Hasheminejad, or other individuals, in case such linkage exist.

COMPANY	DIRECTOR/UBO/ SIGNATORY	LINKAGE	LOAN AGREEMENT	LOAN AMOUNT
ALTITUDE CAPITAL LLC	SEYED ALI SADR HASHEMINEJAD- UBO	Hasheminejad	001IOTA153410003	USD 1,500,000
		No official information identified that	001IOTA150700001	USD 5,575,000
			001IOTA151180001	USD 5,575,000

ASHBORN CORP.LIMITED	SEYED AMIR GHASEMI- role not specified	the company is related to Hasheminejad, however the company's address is the same as Brittstone Ltd- for which Hasheminejad is identified as UBO	001IOTA152220003	USD 5,575,000
			001IOTA153020001	USD 5,575,000
			001IOTA160290002	USD 5,575,000
			001IOTA161130004	USD 5,575,000
			001IOTA162250002	USD 5,575,000
			001IOTA162810005	USD 5,575,000
BRITTSTONE LTD.	SADR HASHEMINEJAD SEYED ALI- role not specified	Hasheminejad	001IOTF150610004	USD 6,500,000
EXIR LLC	ALI AKBAR TORAB- UBO TORAB REZA – UBO TORAB ALI- role not specified	Torab- in report 1.4 it has been identified that Seyed Mohsen Torab is one of the shareholders (50.50%) of SMT Pistacho Ranch and Management LLC USA	001IOTA153080001	USD 1,000,000
IW BELGICA HOLDINGS LIMITED	SIMON GRAHAM- role not specified FRANCIS PAUL SNODING- role not specified ANDREW THOMAS BAILEY- role not specified PAUL EMMANUEL O'NEILL- role not specified BRIAN MICHAEL O'MAHONEY- role not specified HELEN PATRICIA CROWTHER- role not specified GRANVILLE JONATHAN WEST- role not specified	Heydarov	001IOTA153100001	EUR 10,000,000

	LUKE JAMES HARDING- role not specified PATRICIA PREVEL- role not specified UBO100850-01- role not specified UBO100850-02- role not specified IRON INVESTMENT HOLDINGS LIMITED – role not specified WATER INVESTMENT HOLDINGS LIMITED- role not specified ERICA PATREICE HARRISON- role not specified RACHEL KIM BOUGARD- Signatory NICOLA CLAIRE MCGALL- Signatory CHANTELLE CAROL - ANN BOYD- Signatory NATALIE GAIL CHAMBERLAIN- Signatory AMANDA LOUISE CONNOLLY- Signatory			
KIMBERLEY GAMMA PROPERTY HOLDINGS L	ROBERT JOHN BAKER- role not specified GINETTE LOUISE BLONDEL- role not specified CRAIG MARTYN WILSON- role not specified	In the list of companies' corporate directors both Kimberly Holdings Limited and Argyle Holdings limited are listed. Both of the companies are	001IOTA153020005 001IOTA163020003	EUR 15,620,000 EUR 15,620,000

	KIMBERLY HOLDINGS LIMITED- Shareholder ARGYLE HOLDINGS LIMITED- Shareholder LUKE FRENDO- Company Secretary	connected to Heydarov family		
KR HOLDINGS LIMITED	RODERICK ZAMMIT PACE- Director, A Signatory JOANNE MICHELLE PACE- Director but not listed as signatory SARAH JANE MULLINS- Director, A Signatory AQUA TRUST SERVICES MALTA LIMITED- Shareholder KAVEH RAHBARY- UBO, but not listed as signatory JOANNE LUCE- A signatory STEPHEN MORGAN- A signatory KYLE BOUGEARD- B Signatory HAYLEY QUERIPEL- B Signatory MEGAN OREILEY- B Signatory JENNY VARRIE- B Signatory		001IOTA161340006	GBP 2,400,000

	LYDIA WILDING- A Signatory RAYMOND O'REILLY- A signatory			
LONALTA LIMITED	AUGUSTINE GEORGE DAVID JONES- Director, but not listed as signatory KIABOD TUTUNIAN MASHAD- Shareholder, UBO ARMIN AFSHARNEJAD- Signatory		001IOTA161340001	GBP 880,000
NEGARIN SADAT SADRHASH EMINEJAD	N/A Individual Account	Hasheminejad	001IOTA160350001	USD 1,500,000
RAPHAEL INVESTMENT LIMITED	ROBERT JOHN BAKER- Signatories JANINE MARGARET PEARSON- Director FARNOUSH FARSIAR- Signatories SUNEER KUMAR CHENOLI KOMATH- Director, but not listed as signatory DAVINCI HOLDING LIMITED- Shareholder PICASSO HOLDING LIMITED- Shareholder KENNETH ROSS HETHERINGTON- Signatory	Aliyev	001IOTA170720001	USD 73,000,000
			001IOTA151110001	USD 5,000,000

RYNT CORP. LIMITED	FYISAL EDALAVATH MEETHAL- Director	No official information identified that the company is related to Hasheminejad, however the company's address is the same as Brittstone Ltd- for which Hasheminejad is identified as UBO	Client: 100221	
			001IOTA151540001 Client:100221	USD 5,000,000
			001IOTA151620001 Client: 100950	USD 5,000,000
			001IOTA152430001 Client: 100950	USD 5,000,000
			001IOTA152470001 Client: 100950	USD 5,000,000
			001IOTA153410002 Client: 100950	USD 5,000,000
			001IOTA160600001 Client: 100950	USD 5,000,000
			001IOTA161970001 Client: 100950	USD 5,000,000
			001IOTA162390001 Client: 100950	USD 5,000,000
			001IOTA163420002 Client: 100950	USD 5,000,000
			001IOTA170580001 Client: 100950	USD 5,000,000
YASEMIN ARAL	N/A Individual Account	Hasheminejad	001IOFX162810005	USD 1,275,000
			001IOFX162840002	USD 1,260,000
			001IOTA160360001	USD 1,220,000
TITKAN PULP AND PAPER FZC	MOHSEN ZARRIN VEJDEH NEJAD- role not specified SADEGH KORD AHMADI- role not specified		001IOFX151910001	USD 20,000,000
			001IOFX151910002	USD 25,000,000
			001IOFX151910003	USD 21,000,000
			001IOFX151910004	EUR 20,000,000
			001IOFX151910005	EUR 25,000,000
			001IOFX151910006	EUR 21,000,000
			001IOFX153230001	EUR 22,000,000
			001IOFX153310003	EUR 20,000,000

			001IOFX153380001	EUR 20,000,000
			001IOFX153440001	EUR 10,000,000
			001IOFX153440002	EUR 10,000,000
			001IOFX153480001	EUR 10,000,000
			001IOFX153480002	EUR 10,000,000
			001IOFX153510001	EUR 10,000,000
			001IOFX153510002	EUR 10,000,000
			001IOFX153630001	EUR 22,000,000
			001IOFX160050001	EUR 24,000,000
			001IOFX160810001	EUR 11,000,000
			001IOFX160900001	EUR 6,000,000
			001IOFX160900002	EUR 5,000,000
			001IOFX161170001	EUR 10,000,000
			001IOFX161240001	EUR 5,000,000
			001IOFX161240002	EUR 5,000,000
			001IOFX161510001	USD 5,000,000
			001IOFX161510002	EUR 5,000,000
			001IOFX161580001	EUR 5,000,000
			001IOFX161580002	EUR 5,000,000
			001IOFX161720001	EUR 5,000,000
			001IOFX161750001	EUR 5,000,000
			001IOFX161800002	EUR 5,000,000
			001IOFX161800003	EUR 5,000,000
			001IOFX162110001	EUR 7,000,000
			001IOFX162140001	USD 6,000,000
			001IOFX162140003	EUR 6,000,000
			001IOFX162390001	EUR 8,000,000
			001IOFX162390002	EUR 5,000,000
			001IOFX162390004	EUR 5,000,000
			001IOFX163350001	EUR 9,000,000
			001IOFX163510002	EUR 14,000,000
			001IOFX163510003	EUR 14,000,000

			001IOFX163630001	EUR 5,000,000
			001IOFX163640001	EUR 6,000,000
			001IOFX170060001	EUR 6,000,000
			001IOFX170130002	EUR 7,000,000
			001IOFX170270001	EUR 10,000,000
			001IOFX170270002	EUR 10,000,000
			001IOFX170380002	EUR 5,000,000
			001IOFX170380004	EUR 5,000,000
			001IOFX170870005	EUR 8,000,000
			001IOFX170870006	EUR 7,000,000
			001IOFX170870007	EUR 5,000,000
			001IOTF150890002	EUR 20,000,000
			001IOTF150890004	EUR 25,000,000
			001IOTF150890005	EUR 20,000,000
			001IOTF150910001	EUR 22,000,000
			001IOTF151120001	EUR 21,000,000
			001IOTF151130001	EUR 21,000,000
			001IOTF151690001	EUR 20,000,000
			001IOTF151690002	EUR 25,000,000

In relation to company Rynt Corp. Limited it has been identified that the company has two client codes in Pilatus:

-Client code 100950 with address APT 202 BUR DUBAI, ALI BIN ABI TALEB ST, HORIZON SERVICED APARTMENTS, Dubai. CIF date: 11/06/2015. Email: femeethal@gmail.com
-Client code 100221 with address L1-2 MIRROR CENTRE , KOWLOON , 61 MODY ROAD TST EAST, Hong Kong. CIF date: 30/06/2014. Email: femeethal@gmail.com

In the list of signatories, no information was identified for Rynt Corp. Limited under the code 100950.

> Although no official information identified that Rynt Corp. Limited is related to Hasheminejad, the company's 100221 address is the same as Brittstone Ltd - for which Hasheminejad is identified as UBO.

Din ix-xiehda teknika trid tittieħed ukoll fl-isfond ta' dak li xehdu r-rappreżentanti preżenti u passati tal-*FIAU* li bl-ebda mod ma kkonfermaw dak li stqarr Jonathan Ferris. Dan irid jingħaqad ukoll ma dak misjub mill-*Forensic Accountant Miroslava Milenovic* fir-rigward tal-interpretazzjoni tal-*miljun* imsemmi minn Jonathan Ferris aktar il-fuq imsemmija. Jonathan Ferris kien stqarr bla ekwivoċi li :-

> Dak jien kont sibt li kien hemm transfer ta' miljun minn kont ta' Leyla... ġie minn barra through Pilatus, as DVA, same day value, 600,000 minnhom għaddew għall-kumpanija Buttardi ġo New York. Il-kumpanija Buttardi hija kumpanija ta' Michelle Muscat u Michelle Buttigieg

Għaldaqstant il-Kummissarju tal-Pulizija għandu jinvestiga din l-allegazzjoni magħmula minn Jonathan Ferris, li għandu jingħata d-dritt li jispjega kif wasal għal konklużjoni tiegħu relattiva għat-trasferiment tal-*miljun*, stante li kif irriżulta mill-provi diretti u dokumentarji aktar il-fuq juru li hemm *prima faciae* ġurament falz da parti tiegħu.

(9) <u>*2.2.4.3 Creation of Public Private Partnership*</u>

Fid-dawl tal-konklużjoni tal-*Forensic Accountant Miroslava Milenovic* intitolata *"2.2.4.3 Creation of Public Private Partnership"* il-Maġistrat Inkwirenti jordna lill-Kummissarju tal-Pulizija sabiex jinvestiga din ir-riżultanza tal-esperta *Forensic Accountant Miroslava Milenovic* għal kwalunkwe azzjoni li jidhirlu xierqa.

(10) L-operat tal-Bank Pilatus (*Pilatus Bank plc* u kull kumpanija affiljata magħha)

Fid-dawl tal-konsiderazzjonijiet magħmula mill-*Forensic Accountants Harbinson Forensics* u b'mod partikolari *Miroslava Milenovic* li tirreferi għal ċerti transazzjonijiet bħala li *"show commonly accepted red flags for money laundering"* għaddejjin fil-Bank Pilatus, il-Maġistrat Inkwirenti jordna li kopji awtentiċi tar-relazzjonijiet tal-*Forensic Accountants Harbinson Mulholland* u *Miroslava Milenovic* jiġu notifikati lill-*FIAU* bil-għan li dan il-Korp, bħala l-Korp prepost mill-Kapitolu 373 tal-Liġijiet ta' Malta li jwettaq tali analiżi biex ikun gwidat aħjar bir-riżultanzi u l-konklużjonijiet ta' dawn l-esperti Forensiċi maħtura matul il-kors ta' din l-inkjesta u fl-istess ħin jordna lill-Kummissarju tal-Pulizija sabiex jinvestiga dawn ir-riżultanzi imsemmija mill-*Forensic Accountant Miroslava Milenovic* fir-relazzjoni tagħha aktar il-fuq imsemmija għal kwalunkwe azzjoni li jidhirlu skont il-Liġi.

(11) Maria Efimova

F'din l-inkjesta irriżulta li x-xiehda ta' Maria Efimova fiha stqarrijiet li l-inkjesta stabbiliet li huma veri iżda fiha ħafna stqarrijiet li meta mqablin ma xiehda u dokumenti oħra jirriżultaw li ma humiex veri. Hemm diversi eżempji li ħarġu matul il-kors ta' din l-inkjesta u li ġew osservati matul l-analiżi tax-xiehda ta' Maria Efimova kif ukoll dawk ta' Daphne Caruana Galizia, Pierre Portelli u xiehda oħra, mhux l-inqas l-impjegati tal-Bank Pilatus u l-analiżi magħmula mill-*Forensic Accountants* dwar l-allegazzjonijiet tal-ħlasijiet u transazzjonijiet li kellhom x'jaqsmu mal-meritu ta' dan il-każ mistqarra minn Maria Efimova.

Għal dan il-għan il-Kummissarju tal-Pulizija qiegħed jiġi ordnat sabiex jibda proċeduri kriminali kontra Maria Efimova għar-reat ta' kalunja skont l-Artiklu 101 tal-Kap. 9 tal-Liġijiet ta' Malta u ta' ġurament falz ai termini tal-Artikolu 108 tal-Kodiċi Kriminali.

(12) L-azzjoni dwar id-*declarations of trust* foloz

Fid-dawl tal-fatt li ġie pruvat soddisfaċentement li d-*declarations of trust* eżibiti fl-atti ta' din l-inkjesta irriżultaw li kien dokumenti foloz in kwantu l-firem fuqhom kienu firem foloz, il-Kummissarju tal-Pulizija għandu jibda investigazzjoni sabiex jiġi determinat min kienet il-persuna jew persuni responsabbli minn tali ħolqien, użu u tixrid ta' dokumenti foloz.

Magħmula dawn il-kostatazzjonijiet, il-Maġistrat Inkwirenti jirrediġi l-preżenti *proċess verbal*, jgħaqqad miegħu ir-relazzjonijiet tal-esperti nominati u d-dokumenti kollha miġbura fil-kors ta' din l-inkjesta u l-atti l-oħra kollha ppreżentati u filwaqt li jagħmel tiegħu l-konklużjonijiet tal-esperti tekniċi tiegħu suġġett għal dak misjub fil-konklużjonijiet tal-istess Maġistrat Inkwirenti, jordna li filwaqt li kopja ta' dan il-*Proces Verbal* jiġi notifikat lill-Kummissarju tal-Pulizija għall-azzjoni lilu ordnata, kif ukoll li kopja tar-relazzjonijiet tal-*Forensic Accountants* tiġi notifikata lill-*FIAU*, jordna wkoll li dan l-inkartament jintbagħat lil Avukat Ġenerali fiz-zmien mogħti fil-liġi.

Aaron M. Bugeja

Maġistrat Inkwirenti

Nomina tal-esperti, lista tax-xhieda mismugħa u l-provi miġbura

1. Nomina tal-espert Dr. Godwin Caruana tal-21 t'April 2017

Dr. Godwin Caruana, bħala espert tekniku fil-qasam tal-informatika qiegħed jiġi nominat sabiex jagħmel dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u lid-Ditta Nexia BT (u kull kumpanija affiljata magħha) u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus u d-Ditta

Nexia BT (u kull kumpanija affiljata magħha) tkun tista tiġi prodotta b'evidenza f'din l-inkjesta.

L-espert qiegħed jiġi mogħti l-fakulta espressa li jkun jista' jagħmel kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmel dak l-iskambju t'informazzjoni li jidhirlu meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tiegħu.

Għal dan il-għan ġie ordnat li jirrelata proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tiegħu u sabiex l-istess espert tekniku jkun jista' jwettaq l-inkarigu tiegħu b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tiegħu huwa ġie mogħti wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

2. Nomina tal-Ispettur Timothy Zammit, bħala l-Ispettur Inkarigat mit-Taqsima tas-*Cybercrime* tal-Pulizija tal-21 t'April 2017

L-Ispettur Timothy Zammit, bħala l-Ispettur Inkarigat mit-Taqsima tas-*Cybercrime* tal-Pulizija qiegħed jiġi maħtur sabiex taħt id-direzzjoni u l-

ordnijiet tal-espert tekniku Dr. Godwin Caruana, jassistih fl-eżekuzzjoni tax-xogħol meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u lid-Ditta Nexia BT (u kull kumpanija affiljata magħha) u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) tkun tista tiġi prodotta b'evidenza f'din l-inkjesta. Għal dan il-għan ġie ordnat li jirrelata proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tiegħu.

3. In-nomina tas-*Scene of Crime Officers* tal-21 t'April 2017

PC959 Daniel Formosa ġie maħtur sabiex jagħmel xogħol ta' fotografija kollha meħtieġa fl-Uffiċji ta' Nexia BT, f'San Ġwann;

PS336 Francesco Imbroll ġie maħtur sabiex jagħmel xogħol ta' fotografija kollha meħtieġa fl-Uffiċji tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) f'Ta' Xbiex;

PS1147 Antoine Fenech, PS836 Joseph Vella u PC1342 Ryan Buttigieg ġew maħtura sabiex bħala esperti tekniċi jipprelevaw u jippreservaw *CCTV camera recordings* mill-Uffiċini tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) f'Ta' Xbiex;

Dawn l-inkarigi tagħhom jinkludu għalhekk : -

(a) xogħol ta' fotografija u/jew vidjografija billi jiġbud r-ritratti u/jew filmati tal-lok tal-inċident u tal-oġġetti u ċirkostanzi ambjentali kollha relatati mal-istess każ;

(b) analiżi dettaljata tal-lok ta' fejn ikunu ġew indikati mis-superjuri tagħhom b'mod partikolari biex jesploraw l-ambjenti kollha ċirkostanti għall-presenza ta' dokumenti miktuba jew stampati jew diġitali, jew kwalunkwe dokument ieħor, nonche li jiġbru u jippriservaw kull dokument, traċċi, materjali u indizji oħra relatati ma' din l-inkjesta u

(c) li jagħmlu dak kollu li huwa meħtieġ skont ix-xjenza u s-sengħa tagħhom sabiex il-ġbir u l-preservazzjoni tal-istess dokumenti, traċċi, materjali u indizji oħra jsir b'mod komplet u sħiħ u skont il-Liġi.

4. In-nomina tal-Forensic Accountant Miroslava Milenovic tal-24 t'April 2017

Miroslava Milenovic qegħda tiġi maħtura bħala espert tekniku *Forensic Accountant* sabiex wara li tkun ħadet konjizzjoni tal-informazzjoni diġitali u stampata fornita lilha mill-Maġistrat Inkwirenti jew minn esperti tekniċi jew persuni oħra indikati lilha mill-Maġistrat Inkwirenti jew esperti tekniċi jew persuni oħra maħtura minnu minn żmien għal żmien, tagħmel l-analiżi tagħha ta' bħala *Forensic Accountant* fir-rigward ta' din l-informazzjoni kollha (li tinkludi, iżda mhux limitata għal) dik meħuda mir-*records* stampati u diġitali tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u Nexia BT (u kull kumpanija affiljata magħha) matul il-kors ta' din l-inkjesta jew skont kif dirett lilha mill-Maġistrat Inkwirenti, kif ukoll xiehda u dokumenti oħra sottomessi lilha għall-analiżi tagħha skont kif jidhirlu l-Maġistrat Inkwirenti u dan sabiex tkun tista' tiddetermina jekk minn tali informazzjoni disponibbli lilha kienx hemm evidenza biex ikunu jistgħu jiġu ritenuti bħala pruvati sal-grad rikjest mill-Liġi l-allegazzjonijiet meritu ta' din l-inkjesta.

L-espert ġiet mogħtija l-fakulta espressa li tkun tista' tagħmel kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferiha għalihom u li tagħmel dak l-iskambju jew ġbir t'informazzjoni u komunikazzjoni magħhom jew mingħandhom skont il-każ u skont ma jidhrilha meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħha kif ukoll li tkun preżenti u tipparteċipa fil-ġbir u l-analiżi tax-xiehda mill-Maġistrat Inkwirenti kull meta l-istess Maġistrat iqis li jkun hekk meħtieġ.

Għal dan il-għan l-esperta ġiet ordnata li tirrelata proviżorjament bil-fomm jew bil-kitba minn żmien għal żmien skont il-ħtieġa tal-każ u ċ-ċirkostanzi u sussegwentement finalment tirrelata bil-miktub billi tiġbor il-konklużjonijiet tagħha kollha inkluż dawk proviżorji u li ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażat l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija ġiet mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

5. In-nomina ta' Antony Babu Martin u Shrisha Guruaj b'digriet tal-15 ta' Mejju 2017

Antony Babu Martin u Shrisha Guruaj qegħdin jiġu nominati sabiex bħala esperti tal-*Oracle Flexcube Universal Banking System* jagħmlu x-xogħol kollu meħtieġ fir-rigward tal-ġbir u l-analiżi tal-informazzjoni diġitali u stampata kollha li kienet meħtieġa minnhom mill-Bank Pilatus sabiex ikunu jistgħu jagħmlu analiżi tal-*Oracle Flexcube Universal Banking System* li kienet tinsab fis-sistemi informatiċi tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) *live* mill-Uffiċji tal-istess Bank Pilatus jew minn kwalunkwe post jew tramite kwalunkwe mezz u manjiera li jidhrilhom xierqa u dan sabiex ikunu jistgħu jivverifikaw l-awtentiċita u l-integrita tas-sistema *Oracle Flexcube Universal Banking System* skont kif kienet installata, imħadma u proċessata mill-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u mid-diriġenti u impjegati kollha tiegħu li kellhom aċċess għal din is-sistema informatika bankarja kif ukoll li joħorġu dik l-informazzjoni li kienet rilevanti għall-fini ta' din l-inkjesta jew dik ordnata lilhom mill-Maġistrat Inkwirenti. B'mod partikolari, huma ġew mogħtija speċifikament l-istruzzjonijiet sabiex jagħmlu dak l-istħarriġ u ġabra ta' informazzjoni u analiżi meħtieġa mis-sistemi u records tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) sabiex jivverifikaw u jottjenu l-informazzjoni kollha biex jipproduċu rapport finali tagħhom dwar:

1. FLEXCUBE Data & Systems Integrity
2. List of all external systems connected to FLEXCUBE
3. Full client list from 1st working day, including the below information
3.1. History of the name & address changes done in the client list

3.2. Configuration details of customer number generation logic
4. Full transaction list from the 1st working day
5. List of deleted transactions & Maintenances
6. Updated statement of accounts
6.1. List all the statement records available in FLEXCUBE including those generated on
demand for the customers
7. Full list of bank loans
8. Standing order created from 1st working day
8.1. Customer to Customer internal transfer from agreement to transfer or loan
9. Business Intelligence Publisher (BIP) report formatting capabilities and can BIP be used to
key in transactions directly to FLEXCUBE
10. Security transactions in FLEXCUBE
11. FLEXCUBE documentation including a list of all customizations done in PILATUS
12. Does Internet & Mobile banking exists in PILATUS & how is it being used? Read only or in
transaction posting mode?
13. Reliability of the data backups and how often is the Production data backed up?
14. Can users log into FLEXCUBE remotely and post transactions?
15. Full list of banks configured as correspondent banks in FLEXCUBE
16. Balance sheet analysis
16.1. List all the days when the bank's balance sheet weren't balanced
17. Reconcile all the messages generated in FLEXCUBE with the TAS System
18. Search in FLEXCUBE client list, account signatories list, incoming & outgoing SWIFT message
details for the following key words
1. Key word list 1

2. Key word list 2
3. Key word list 3

L-esperti qiegħedin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmlu dak l-iskambju t'informazzjoni li jidhirlhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom.

Għal dan il-għan l-esperti ġew ordnati li jirrelataw proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw il-konklużjonijiet tagħhom u sabiex l-istess esperti tekniċi jkunu jistgħu iwettqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom huma ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

6. In-nomina ta' ANSEC IA Limited u l-esperti tekniċi adetti magħha tal-11 ta' Lulju 2017

Stephen Clarke, Gary Edgeworth, Rodger Trotter, Jeffrey Nelson u Malcolm Mc Cully ġew maħtura sabiex bħala esperti tekniċi fil-qasam tal-informatika

u operanti taħt l-isem tad-ditta *ANSEC IA Limited,* u l-istess *ANSEC IA Limited* kumpanija reġistrata fl-Irlanda ta' Fuq, bin-numru tar-reġistrazzjoni NI 064909 bl-uffiċju reġistrat f'Unit E4, Plasketts Close, Kilbegs Business Park, Antrim, County Antrim, BT41 4LY, Irlanda ta' Fuq, Renju Unit, jagħmlu dak ix-xogħol kollu meħtieġ ta *Digital Forensic Services* sabiex

a. l-informazzjoni diġitali kollha miġbura u priżervata minn Dr. Gordon Caruana u t-Taqsima tas-*Cybercrime* tal-Pulizija Eżekuttiva Maltija (mill-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u lid-Ditta Nexia BT (u kull kumpanija affiljata magħha) u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi) tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju tad-Ditta *ANSEC IA Limited* fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra li magħha

l-*Forensic Accountants* u *Forensic Analysts* maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic,*

b. li jagħmlu dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li kienet tappartjeni lil jew rikonduċibbli għall-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u lid-Ditta Nexia BT (u kull kumpanija affiljata magħha) u lil kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) relattivament għall-operazzjonijiet professjonali u ta' negozju rispettivi tagħhom, kull fejn u għand min tali *hardware, software* u kull forma ta' informazzjoni kienu jinstabu maħżuna jew sitwati, inkluż jekk kienu sitwati jew miżmuma minn jew fuq faċilitajiet jew strutturi ta' terzi, u dan sabiex l-istess jiġu priżervati b'mod li l-informazzjoni diġitali kollha rilevanti għal din l-inkjesta misjuba għand il-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) u kull wieħed mid-diriġenti, impjegati u ex-impjegati tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u d-Ditta Nexia BT (u kull kumpanija affiljata magħha) tkun tista tiġi prodotta b'evidenza f'din l-inkjesta u dan skont kif ikun dirett lilhom mill-Maġistrat Inkwirenti u dan billi kull tali informazzjoni diġitali tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju

4

tad-Ditta *ANSEC IA Limited* fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra li magħha l-*Forensic Accountants* u *Forensic Analysts* maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic,*

c. li jagħmlu dak ix-xogħol kollu meħtieġ sabiex skont l-arti u s-sengħa u bl-aktar metodu effettiv u effikaċi fiċ-ċirkostanzi jiġu miġbura jew priżervati l-*hardware, software* u kull forma ta' informazzjoni u data diġitali oħra b'mod ġenerali li biex tkun tista tiġi prodotta b'evidenza f'din l-inkjesta kwalunkwe *hardware* jew *software* jew informazzjoni diġitali ta' kwalunkwe xorta u natura li tista' minn żmien għal żmien tiġi mogħtija lilhom mill-Maġistrat Inkwirenti jew xi ħadd mill-esperti maħtura jew persuna indikata lilhom mill-Maġistrat Inkwirenti u dan billi kull tali informazzjoni diġitali tiġi b'mod forensiku trasferita u maħżuna fuq *hardware* appożitu biex tittieħed fil-laboratorju tad-Ditta *ANSEC IA Limited* fir-Renju Unit u li jagħmlu dak ix-xogħol kollu meħtieġ sabiex l-istess informazzjoni diġitali tkun tista' tiġi prodotta *f'format* li tkun tista' tiġi analizzata mill-*Forensic Accountants* u *Forensic Analysts Harbinson Mulholland* jew *Harbinson Forensics* jew persuna jew kwalunkwe soċjeta oħra li magħha l-*Forensic Accountants* u *Forensic*

Analysts maħtura f'din l-inkjesta jkunu adetti u mill-*Forensic Accountant Miroslava Milenovic.*

d. L-esperti qiegħedin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom u jagħmlu dak l-iskambju t'informazzjoni li jidhirlhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom.

e. Għal dan il-għan l-esperti ġew ordnati li jirrelataw proviżorjament bil-fomm minn żmien għal żmien u sussegwentement finalment bil-miktub billi jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw il-konklużjonijiet tagħhom u sabiex l-istess esperti tekniċi jkunu jistgħu iwettqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom huma ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

7.In-nomina tal-Forensic Analysts u Forensic Accountants Jeremy Harbinson, Joan Rice, Sam Sittlington, David Wright u David Churchill, adetti mad-ditta *Harbinson Mulholland* u /jew *Harbinson Forensics* u l-istess *Harbinson Mulholland* u *Harbinson Forensics* tat-28 ta' Ġunju 2017

Jeremy Harbinson, Joan Rice, Sam Sittlington, David Wright u David Churchill, adetti mad-ditta *Harbinson Mulholland* u /jew *Harbinson Forensics* u l-istess *Harbinson Mulholland* u *Harbinson Forensics* kemm separatament kif ukoll kollettivament qegħdin jiġu maħtura bħala esperti tekniċi *Forensic Accountants u Forensic Analysts* sabiex wara li jkunu ħadu konjizzjoni tal-informazzjoni diġitali u stampata fornita lilhom mill-Maġistrat Inkwirenti jew minn esperti tekniċi jew persuni oħra indikati lilhom mill-Maġistrat Inkwirenti jew esperti tekniċi jew persuni oħra maħtura minnu minn żmien għal żmien :

a. jagħmlu l-analiżi tagħhom bħala *Forensic Accountants u Forensic Analysts* fir-rigward ta' din l-informazzjoni kollha (li tinkludi, iżda mhux limitata għal) dik meħuda mir-*records* stampati u diġitali tal-Bank Pilatus (*Pilatus Bank plc* jew kumpaniji affiljati) u Nexia BT (u kull kumpanija affiljata magħha) matul il-kors ta' din l-inkjesta jew skont kif dirett lilhom mill-Maġistrat Inkwirenti, kif ukoll xiehda u dokumenti oħra sottomessi lilhom għall-analiżi tagħhom skont kif jidhirlu l-Maġistrat Inkwirenti u dan sabiex ikunu jistgħu jiddetermina jekk minn tali informazzjoni disponibbli lilhom kienx hemm evidenza biex ikunu jistgħu jiġu ritenuti bħala pruvati sal-grad rikjest mill-Liġi l-allegazzjonijiet meritu ta' din l-inkjesta.
b. L-esperti qegħdin jiġu mogħtija l-fakulta espressa li jkunu jistgħu jagħmlu kuntatt mal-esperti tekniċi l-oħra kollha maħtura f'din l-

inkjesta jew ma dawk il-persuni li l-Maġistrat Inkwirenti jidhirlu xieraq u opportun li jirriferihom għalihom u li jagħmlu dak l-iskambju jew ġbir t'informazzjoni u komunikazzjoni magħhom jew mingħandhom skont il-każ u skont ma jidhrilhom meħtieġ għall-aħjar istruzzjoni u twettieq tal-inkarigu tagħhom kif ukoll li jkunu preżenti u jipparteċipaw fil-ġbir u l-analiżi tax-xiehda mill-Maġistrat Inkwirenti kull meta l-istess Maġistrat iqis li jkun hekk meħtieġ, kif ukoll li jużaw l-esperjenza u l-kuntatti professjonali tagħhom sabiex ikunu jistgħu iġibu jew jottjenu informazzjoni li tkun ta' interess għall-fini ta' din l-inkjesta.

c. Għal dan il-għan l-esperti ġew ordnati li jirrelataq proviżorjament bil-fomm jew bil-kitba minn żmien għal żmien skont il-ħtieġa tal-każ u ċ-ċirkostanzi u sussegwentement finalment jirrelataw bil-miktub billi jiġbru r-riżultanzi u l-konklużjonijiet kollha inkluż dawk proviżorji u li jsemmu l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbażaw ir-riżultanzi u l-konklużjonijiet tagħhom.

d. Sabiex l-istess esperti tekniċi jkunu jistgħu iwetqu l-inkarigu tagħhom b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħhom ġew mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

8.1 Nomina tal-espert Elisabeth Briggs datata 28 ta' Ġunju 2017

Illi in segwitu għal abbokkament mitlub minn Pierre Portelli u li seħħ nhar id-19 ta' Ġunju 2017 fis-sigrieta tal-Maġistrat Inkwirenti, l-istess Portelli għadda lil Maġistrat Inkwirenti żewġ dokument intestati *"Declaration of Trust"* (u li aktar l-isfel ser ikunu magħrufa bħala *"Declarations of Trust"*) allegatament maħruġa minn *Aliator S.A.* u *Dubro Limited S.A.* u li kienu jikkontjenu d-dikjarazzjoni segwenti :-

> We, undersigned, Aliator S.A., in position of subscriber (suscriptor) hereby acknowledge and declare that we hold a share of:
>
> EGRANT INC., 807956S of THE PENTHOUSE, SUITE 2, CAPITAL BUSINESS CENTRE, ENTRANCE C,TRIQ TAZ-ZWEJT, SAN GWANN SGN3000, MALTA, ISLAND MALTA
>
> and this share is being held as Nominee of and Trustee for
>
> Ms. Michelle Muscat nee Tanti; Date of Birth: *16/05/1974;*
>
> Place of Birth: Rabat, Malta
>
> and we undertake and agree not to transfer, deal with or dispose this share, and we assign the right to receive any share of profits which may be paid or payable for this share to the above-mentioned owner.
>
> Dated this 20th day of August 2015
>
> U

We, undersigned, Dubro Limited S.A., in position of subscriber (suscriptor) hereby acknowledge and declare that we hold a share of:

EGRANT INC., 807956S of THE PENTHOUSE, SUITE 2, CAPITAL BUSINESS CENTRE, ENTRANCE C, TRIQ TAZ-ZWEJT, SAN GWANN SGN3000, MALTA, ISLAND MALTA

and this share is being held as Nominee of and Trustee for

Ms. Michelle Muscat nee Tanti; Date of Birth: *16/05/1974;*

Place of Birth: Rabat, Malta

and we undertake and agree not to transfer, deal with or dispose this share, and we assign the right to receive any share of profits which may be paid or payable for this share to the above-mentioned owner.

Dated this 20th day of August 2015

Illi dawn id-dokumenti jġibu l-firma ta' *"Jaqueline Alexander"*;

Illi l-Maġistrat Inkwirenti sab illi fl-atti ta' din l-inkjesta, wara li kienet saret perkwiżizjoni fl-Uffiċju ta' Nexia BT fil-21 t'April 2017 u fil-jiem ta' wara, Uffiċjali tal-Pulizija elevaw tlieta u għoxrin dokument u li fuqhom tidher il-firma ta' ċerta *"Jaqueline Alexander"*, f'kapaċitajiet differenti li hija kienet taġixxi fihom matul is-snin 2012 u 2015.

Illi minn analiżi tad-dokumenti rintraċċjati u mix-xhieda miġbura fl-atti ta' din l-inkjesta jirriżulta li ċerta *"Jaqueline Alexander"* kienet abitwalment u bħala parti minn xogħol li kienet tagħmel ma' kumpaniji b'interessi jew immexxija minn uffiċjali jaħdmu għad-ditta

Mossack Fonseca bis-sede tagħha fil-Panama, kienet taġixxi bħala direttur jew firmatarju għal soċjetajiet, *inter alia,* bħal *Dubro Limited S.A.* jew *Aliator S.A.*

Illi bosta drabi mill-evidenza miġbura jirriżulta wkoll li Jaqueline Alexander kienet ukoll tiffirma dawn id-dokumenti wara kuntatti preċedenti li kienu jkunu minn uffiċjali li jaħdmu mad-ditta Mossack Fonseca (inkluż ċertu Adrian Dixon) u dawk li jaħdmu mad-ditta b'sede f'Malta jisimha Nexia BT, fosthom Karl Cini u li jkunu l-preludju għall-firem tad-dokumenti de quo u li fihom ikun hemm ir-riżultat tal-kuntatti preċedenti imsemmija;

Illi f'dan il-kuntest il-Maġistrat Inkwirenti ma għandux raġuni għaliex jiddubita li dawn id-dokumenti li ġew elevati għall-għarrieda mill-Uffiċini tad-ditta Nexia BT fil-21 t'April 2017 u fil-jiem ta' wara mill-Uffiċjali tal-Pulizija jirriflettu l-firma vera u ġenwina ta' *"Jaqueline Alexander"*;

Illi dawn id-dokument jikkonsistu f':

A. Dokumenti fl-oriġinal li jġibu l-firma bil-linka ta' "Jaqueline Alexander" : -

1. Tliet (3) assignment of subscription of shares (Egrant Inc. datata 8 ta' Lulju 2013, Hearnville Inc. datata 9 ta' Lulju 2013 u Tillgate Inc. datata 15 ta' Lulju 2013);

2. Żewġt (2) Articles of Association (Egrant Inc. datata 4 ta' Lulju 2013 u Tillgate Inc. datata 9 ta' Lulju 2013);

3. Dokument ta' Willerby Trade Inc. - share certificate - datat 19 ta' Marzu 2013;

4. Prokura (Willerby Trade Inc. datata 15 ta' Ottubru 2014);

B. Dokumenti in fotokopja jew scanned li jġibu l-firma ta' "Jaqueline Alexander" :

1. Sett ta' Articles of Association (Hearnville Inc. datat 4 ta' Lulju 2013);

2. Prokura ta' Lester Holdings Group Ltd datata 5 ta' Lulju 2013;

3. Prokura oħra ta' Lester Holdings Group Ltd datata 5 ta' Lulju 2013;

4. żewġ kopji ta' passport ta' Jaqueline Alexander (wieħed bil-kulur u wieħed iswed fuq l-abjad datati 24 t'April 2012);

5. Sett ta' minuti ta' laqgħa tad-diretturi ta' Torbridge Services Inc. datati 29 ta' Mejju 2013;

6. Sett ta' minuti ta' laqgħa tad-diretturi ta' Torbridge Services Inc. datati 26 ta' Frar 2015;

7. Share certificate ta' Colson Services Limited datat 7 ta' Mejju 2013;

8. Prokura ta' Colson Services Limited datata 5 ta' Lulju 2013;

9. Prokura oħra ta' Colson Services Limited datata 5 ta' Lulju 2013;

10. One set of Willerby Trade Inc minutes of meeting of directors dated 19th March 2013;

11. Dokument ta' Willerby Trade Inc. - share certificate - datat 19 ta' Marzu 2013;

12. Ftehim bejn BT International Limited u Willerby Trade Inc. datat 1 ta' Marzu 2014;

13. Prokura ta' Willerby Trade Inc. datata 15th October 2014;

14. Prokura oħra ta' Willerby Trade Inc. datata 15th October 2014;

15. Minuti ta laqgħa tad-diretturi ta' Willerby Trade Inc. datati 19 ta' Marzu 2013;

Għalhekk il-Maġistrat Inkwirenti ħass il-ħtieġa li dawn il-firem misjuba fuq dawn iż-żewġt dokumenti li l-Maġistrat Inkwirenti irċieva mingħand Pierre Portelli (aktar l-isfel magħrufa bħala id-*"Declarations of Trust"*) jiġu analizzati minn espert kalligrafu u forensic document analyst mhux Malti jew b'rabtiet ma Malta billi tiġi

mqabbla mal-firem ta' *"Jaqueline Alexander"* li jidhru fuq id-dokumenti (in oriġinali kif ukoll in fotokopja) li jinsabu fl-atti tal-inkjesta u li ġew meħuda mill-Uffiċju ta' Nexia BT (aktar l-isfel magħrufa bħala d-*"dokumenti Nexia BT"*);

Illi għal dan il-għan il-Maġistrat Inkwirenti qiegħed jinnomina lil **Elisabeth Briggs,** Forensic Document Examiner ta' Key Forensic Services Limited, bl-indirizz fil-University of Warwick Science Park, Sir William Lyons Road, Coventry CV4 7EZ, Renju Unit u li għandha n-numru telefoniku 0044 02477 712235 (internal extension 4025) kif ukoll in-numru tal-fax 0044 02476 690800 u li għandha l-e-mail address tagħha elisabeth.briggs@keyforensic.co.uk jew elisabeth.briggs@keyforensic.co.uk.cjsm.net bħala espert kalligrafu u forensic document examiner u li qegħda tiġi mogħtija s-setgħa li :

(a) Tistabbilixxi l-grad ta' korrispondenza bejn il-firem ta' "Jaqueline Alexander" kif jidhru fuq id-Declarations of Trust mal-firem ta' "Jaqueline Alexander" li jidhru fuq id-dokumenti Nexia BT;

(b) In bażi għall-punti kollha ta' korrispondenza stabiliti, tistabbilixxi l-grad ta' probabbilita li l-firem misjuba fuq id-Declarations of Trust jaqblux mal-firem ta' "Jaqueline Alexander" fuq id-dokumenti Nexia BT;

(c) Tistabbilixxi l-grad ta' probabbilita li l-firem ta' "Jaqueline Alexander" li jidhru fuq id-Declarations of Trust kienu ġew magħmula mill-istess id tal-persuna li ffirmat bħala "Jaqueline Alexander" fuq id-dokumenti Nexia BT jew jekk il-firem fuq id-Declarations of Trust jirriżultawx li ġew falsifikati;

(d) li tirrelata lill-Maġistrat Inkwirenti bil-miktub billi ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija qegħda tiġi mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

8.2Nomina Supplimentari ta' Elisabeth Briggs datata 18 t'April 2018

Peress illi in eżekuzzjoni ta' ittra rogatorja supplimentari mibgħuta lill-Awtoritajiet Ġudizzjarji tar-Repubblika tal-Panama il-Maġistrat Inkwirenti ġie fil-pussess ta' kampjun verifikat t'għaxar firem oriġinali tax-xhud Jaqueline Alexander liema firem jinsabu fuq id-dokument, fl-oriġinal tiegħu qiegħed jiġi markat bħala dokument "A" l-inkarigu tal-Forensic Document Analyst Elisabeth Briggs qiegħed jiġi estiż sabiex :

a. Tistabbilixxi l-grad ta' korrispondenza bejn il-firem ta' "Jaqueline Alexander" kif jidhru fuq id-Declarations of Trust mal-kampjun verifikat tal-firem oriġinali ta' "Jaqueline Alexander" li jidhru fuq id-dokument markat bħala Dokument "A";

b. In bażi għall-punti kollha ta' korrispondenza stabiliti, tistabbilixxi l-grad ta' probabbilita li l-firem misjuba fuq id-Declarations of Trust jaqblux mal-firem ta' "Jaqueline Alexander" fuq id-dokument markat bħala Dokument "A"

c. Tistabbilixxi l-grad ta' probabbilita li l-firem ta' "Jaqueline Alexander" li jidhru fuq id-Declarations of Trust kienu ġew magħmula mill-istess id tal-persuna li ffirmat bħala "Jaqueline Alexander" fuq id-dokument markat bħala Dokument "A" jew jekk il-firem fuq id-Declarations of Trust jirriżultawx li ġew falsifikati;

d. li tirrelata lill-Maġistrat Inkwirenti bil-miktub billi ssemmi l-fatti u ċ-ċirkostanzi kollha li fuqhom ibbaża l-konklużjonijiet tagħha u sabiex l-istess espert tekniku tkun tista' twettaq l-inkarigu tagħha b'mod sħiħ u skont is-sengħa u l-aqwa abbilta' tagħha hija qegħda tiġi mogħtija wkoll il-fakoltajiet kollha naxxenti mill-Artikoli 548, 650(5) u 653 tal-Kodiċi Kriminali.

9.In-nomina tal-Avukat Fernando Berguido tat-30 t'April 2018

L-Avukat Fernando Berguido ġie maħtur sabiex fil-kapaċita tiegħu t'avukat prattikanti u espert legali fil-Liġi Kummerċjali u tal-Kumpaniji fir-Repubblika tal-Panama jagħti parir legali dwar materji li ġew inklużi fi kwestjonarju ta' tnejn u erbgħin mistoqsija li huma relatati mal-meritu ta' din l-inkjesta skont kif joħroġ mill-allegazzjonijiet imsemmija fl-artiklu kif ukoll li huma relatati ma xiehda li inġabret fil-kors tal-Inkjesta *Egrant Inc.* u li jittrattaw aspetti differenti tal-Liġi Kummerċjali u tal-Kumpaniji fir-Repubblika tal-Panama. L-espert tekniku għandu jirraporta bil-miktub it-tweġibiet tiegħu f'rapport li għandu jsir fi żmien xahrejn.

10. L-esperti tekniċi maħtura fl-inkjesti Willerby Inc u Hillman

L-esperti tekniċi li kienu wkoll ġew nominati f'żewġ inkjesti oħra kondotti mill-Maġistrat Dr. Natasha Galea Sciberras (inkesta *"Willerby"*) u mill-Maġistrat Dr. Josette Demicoli (inkjesta *"Hillman"*) qegħdin ukoll jiġu formalment maħtura bħala esperti tekniċi f'din l-inkjesta.

Aaron M. Bugeja

Maġistrat Inkwirenti