



CL-2018-000297, CL-2018-000404, CL-2018-000590 and CL-2019-000487

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

CL-2018-000297

BEFORE THE HON. MR JUSTICE ANDREW BAKER

14 December 2020

(in public by remote hearing conducted via Microsoft teams)

BETWEEN:

SKATTEFORVALTNINGEN

(the Danish Customs and Tax Administration)

Claimant

-and-

**SOLO CAPITAL PARTNERS LLP (in special administration) &
OTHERS**

Defendants

IRBM CONFIDENTIALITY ORDER

UPON there being four sets of claims with numbers CL-2018-000297 (the "**First Claim**"), CL-2018-000404 (the "**Second Claim**"), CL-2018-000590 (the "**Third Claim**"), CL-2019-000487 (the "**Fourth Claim**"), which were consolidated by the Orders of Mr Justice Jacobs dated 27 June 2018 and Mrs Justice Cockerill dated 12 October 2018 and Mr Justice Andrew Baker dated 11 May 2020 (the "**Consolidated Proceedings**").

AND UPON the Consolidated Proceedings involving numerous parties alleged to have been involved (knowingly or unknowingly) in a fraud involving the submission of WHT Applications on behalf of Malaysian WHT Applicants, being every party to the Consolidated Proceedings except ED&F

Man Capital Markets Ltd and Lindisfarne Partners LLP (each, a “**Relevant Party**”).

AND UPON orders for disclosure being made in the Consolidated Proceedings, including an Order dated 16 January 2020 (as amended by an Order dated 24 April 2020) that the Claimant provide rolling disclosure on various dates of documents relevant to various issues for disclosure set out in the “**Disclosure Spreadsheet**” attached to the Order dated 16 January 2020.

AND UPON the Inland Revenue Board of Malaysia (“**IRBM**”) having sent or provided certain documents to the Claimant relating to the subject of the Consolidated Proceedings, which IRBM maintains are confidential and whose use and disclosure it wishes to restrict (the “**IRBM Confidential Documents**”).

AND UPON an application by the Claimant dated 13 November 2020 (the “**IRBM Confidentiality Application**”) for an order regulating the use and disclosure by any Relevant Party (and associated parties as set out in paragraph 4(b)(i) below, each an “**Associated Person**”) of the IRBM Confidential Documents and any information derived from any IRBM Confidential Documents of which such Relevant Party or Associated Person is not aware from any other non-confidential source (the “**IRBM Confidential Information**”, together with the IRBM Confidential Documents, the “**IRBM Confidential Material**”).

AND UPON the Claimant undertaking by its solicitors to make an application pursuant to paragraph 6 below for a further confidentiality order governing the use of IRBM Confidential Material at any trial hearing in the Consolidated Proceedings (which, for the avoidance of doubt, includes any preliminary issue trial).

AND UPON hearing the submissions of counsel for the Claimant.

AND UPON the Court being satisfied that the order below is necessary in the interests of justice.

IT IS ORDERED THAT:

1. When providing its Extended Disclosure, the Claimant shall signify any IRBM Confidential Material by the use of “CONFIDENTIAL: IRBM DOCUMENT” stamped on the face of the disclosed copy documents. Where only part of a document contains IRBM Confidential Material the document will be stamped “CONFIDENTIAL: IRBM DOCUMENT” and such part shall be identified through yellow highlighting. Where a stamped document contains no highlighting, the entirety of the document shall be subject to the terms of this Order.
2. Pursuant to CPR r39.2(3)(a), (c) and (g), and unless otherwise ordered hereafter, any and all references to the content of any IRBM Confidential Material at any hearing in the Consolidated Proceedings other than a trial hearing shall be heard in private and, pursuant to section 11 of the Contempt of Court Act 1981, there shall be no reporting of such content.
3. Pursuant to CPR r31.22(2), unless the court gives permission, no use may be made outside the Consolidated Proceedings of any IRBM Confidential Material, even where that material has been read to or by the Court or referred to at a hearing, other than a trial hearing, held partly or wholly in public.
4. Pursuant to CPR 5.4C(2), 5.4C(4)(c)(d), 5.4C(6) and 3.1(2)(m):
 - a) the IRBM Confidential Exhibit to the 8th Witness Statement of Alan Sheeley dated 13 November 2020 shall be treated as having been filed at Court under seal and shall remain sealed and held with the Court office on the terms of this Order;
 - b) to the extent that any Relevant Party to the Consolidated Proceedings or lawyer acting on behalf of such Relevant Party wishes to use any IRBM Confidential Material in the course of the Consolidated Proceedings otherwise than at a trial hearing (including but not limited to by considering or making reference to the content of the IRBM Confidential Material for the purpose of preparing any applications, statements of case, witness statements, expert reports or skeleton arguments):

- i) such Relevant Party or lawyer acting on behalf of such Relevant Party (each a “**Permitted Discloser**”) shall only disclose IRBM Confidential Material, on the terms set out in sub-paragraph (ii) below, to the following persons associated with a Relevant Party:
 - 1) any Relevant Party (including any litigant-in-person) or director, officer or employee of a Relevant Party;
 - 2) any lawyer acting for a Relevant Party (including a barrister or a solicitor or other legal professional acting for a Relevant Party);
 - 3) any expert acting for a Relevant Party to the extent that the Permitted Discloser considers in good faith that it is necessary for such expert to provide a written opinion, or to prepare to testify or assist the Relevant Party in the prosecution or defence of the Consolidated Proceedings;
 - 4) any individual that the Permitted Discloser considers in good faith to be personally indicated to be the author, addressee or a copy recipient of a document or to have personal knowledge of the content of IRBM Confidential Material;
 - 5) any actual or prospective witness of a Relevant Party to whom the Permitted Discloser considers in good faith that it is necessary to disclose the IRBM Confidential Material for the purpose of taking evidence or taking instructions for the purpose of the Consolidated Proceedings;
 - 6) any e-disclosure provider acting for a Relevant Party for the purposes of being uploaded to an e-disclosure platform.
- ii) any disclosure of IRBM Confidential Material by a Permitted Discloser pursuant to sub-paragraph (i) above shall be subject to the recipient first confirming in signed writing (including by an electronic signature) by execution of an agreement in the form of Schedule 1 to this Order that:

- 1) he or she agrees to abide by the terms of this Order, a copy of which has been provided to him/her;
 - 2) he or she will keep confidential and not disclose the content of any IRBM Confidential Material to any third party save in so far as permitted by this Order;
- c) where any Relevant Party wishes to include reference to the content of any IRBM Confidential Material in a document to be filed or served in the Consolidated Proceedings (including but not limited to any application, statements of case, witness statement, expert report or skeleton argument), such Relevant Party:
- i) shall prepare and file at Court a redacted version of such document(s), which does not reveal or disclose that content;
 - ii) prepare an unredacted version of the relevant document(s) clearly marked as “confidential” to be served on the Claimant and any other Relevant Party and, if necessary for a hearing, to be filed with the Clerk to Mr Justice Andrew Baker (or such other Judge before whom the relevant hearing will take place);
- d) unless otherwise ordered, the following documents shall only be included in confidential hard copy or electronic bundles for the purposes of the Consolidated Proceedings with access restricted to persons covered by sub-paragraph 4b)i) of this Order:
- i) the unedited versions of the skeleton arguments in relation to the IRBM Application;
 - ii) the IRBM Confidential Exhibit to the 8th Witness Statement of Alan Sheeley dated 13 November 2020;
 - iii) any other document which contains an unredacted reference to the content of the IRBM Confidential Material (including any document(s) covered by sub-paragraph 4c)ii) above).

- e) any non-party wishing to obtain a copy of any of the documents referred to in sub-paragraph 4d) above must file an application notice in accordance with CPR Part 23 and serve it on the Claimant via their solicitors Pinsent Masons, giving at least 14 days' notice of any such application.
5. The Claimant shall redact the following information in the IRBM Confidential Material:
- a) The name of any IRBM employee, officer or agent. Where the name of an IRBM employee, officer or agent is redacted in any IRBM Confidential Material, the redacted name shall be replaced by a cipher; and
 - b) The address, email address, telephone number, or other contact information for any IRBM employee, officer or agent.
6. The above orders shall remain in place pending further order of the Court, in respect of which there shall be a general liberty to apply for any Party in the Consolidated Proceedings.
7. Costs in the case.

Schedule 1 - Recipient Agreement (paragraph 4(b)(ii))

I have been provided with a copy of the Order of Mr Justice Andrew Baker dated 14 December 2020 in the matter of Skatteforvaltingen v Solo Capital Partners (in Special Administration) and others (Court File Nos. CL-2018-000297, CL-2018-000404, CL-2018-000590 and CL-2019-000487) (the "**Order**").

I agree to abide by the terms of the Order. I also agree to keep confidential and not disclose the content of any IRBM Confidential Material (as defined in the Order) to any third party save in so far as permitted by the Order.