Neutral Citation Number: [2014] EWHC 2046 (Ch)

Case No: HC12C00507

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 26/06/2014

Before:

THE HONOURABLE MR JUSTICE PETER SMITH

- -

Between:

(1) Group Seven Limited
(a company incorporated under the laws of Malta)
(2) Rheingold Management Inc
(a company incorporated under the laws of Panama) — **Claimants**

- and -

(1) Allied Investment Corporation Ltd
(a company incorporated under the laws of Malta)
(2) Marek Rejniak
(3) Paul Sultana
(4) Larn Limited
(5) Luis Nobre — **Defendants**

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Mr J Chapman QC and Mr S Atrill (instructed by **Mischon de Reya**) for the **Claimant**
Mr R Tager QC and Mr P Kremen (instructed by **Hughmans**) for the **Third Defendant**
Mr J Harvie QC and Mr H Adamson (instructed by **Sillett Webb**) for the **Fourth Parties**

Hearing dates: 13, 14, 17, 18, 20, 21, 24, 25, 26, 27 February, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26 March and 3, 4, April 2014

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Judgment

TABLE OF CONTENTS PARAGRAPHS

APPENDICES

Peter Smith J:

INTRODUCTION

1. This action is a claim by the Claimants arising out of a transfer of €100m by the First Claimant Group Seven Limited, formerly Allseas Group SA ("Allseas") ultimately into a client account of a firm of solicitors Notable Services LLP ("Notable") on 2 November 2011.

2. The Second Claimant ("Rheingold") was joined into the action by an order I made on 10 March 2014 as Allseas had assigned all causes of action in respect of claims it might bring arising out of that transfer of funds. The assignment of the causes of action by Group Seven Limited to Rheingold by the Deed dated 16 November 2002 required a ***"a judicial act"*** under Maltese law in order for the assignment to be effective as against Mr Sultana until such time he contended in paras. (1A and 1B of his Re-Re-Re Amended Defence) that Group Seven Limited and not Reinhold was entitled to any relief. After I reserved judgment Mischon de Reya, Allseas solicitors wrote to me on the 9 June 2014 indicating that the Claimants had initiated the judicial process on 20 March 2014 and that the necessary steps to effect the assignment had now been completed. The Judicial Assignment dated 20 March 2014 confirms that the benefit of the claim against the Defendants has been properly transferred from Group Seven Limited to Rheingold. Mr Sultana was served with notice of that assignment on 19 May 2014 at the offices of his solicitors and by an order dated 15 May 2014, curators were appointed to receive such notice on behalf of AIC. Mr Rejniak has also been notified of the assignment on 20 March 2014. I am satisfied that all causes of action against AIC, Mr Rejniak and Mr Sultana have been validly assigned to Rheingold.

3. Allseas is a company incorporated in Malta on 20 April 2011. Its shareholders were Allseas ("Allseas Group") as to 1,499 shares and 1 share to a Mr Heerema. Its Directors were Mr Heerema and a Mr Cornelis Kooger. Mr Heerema is the President and ultimate beneficial owner of Allseas Group. He is the ultimate beneficial owner of Rheingold as well.

4. There are a number of different entities and individuals that are relevant to this judgment and I attach a dramatis personae.

5. The First Defendant Allied ("AIC") is a company which was registered in Malta on 4 October 2011. The Second Defendant ("Mr Rejniak") is registered as its director and shareholder. He is a Polish national. In addition he was a director of Allseas from 18 July to 23 November 2011.

6. He has an address in Hong Kong and an address in Canada at which he has been provided with the orders and pleadings to date. Neither AIC nor Mr Rejniak have participated in these proceedings. For the purposes of enforcement Allseas have not sought a default judgment against either of those Defendants and have sought to establish their liability at this trial.

7. The Third Defendant ("Mr Sultana") is a British national resident within this jurisdiction.

8. The Fourth Defendant ("Larn") is an English company which was incorporated on 26 September 2006. The Fifth Defendant ("Mr Nobre") is a Portuguese national and is registered as having interests as a director and shareholder in Larn. Allseas Group have compromised claims against Larn and Mr Nobre.

9. Thus it follows that the only active Defendant in the trial before me was Mr Sultana.

10. He has brought Part 20 proceedings against Mr Heerema, Mr Kooger and a Mr Visser and 4th Party proceedings against a Mr and Mrs Lucas.

BRIEF SUMMARY OF ALLSEAS CLAIM

11. It is Allseas Group's contention that it was induced to invest €100m by misrepresentation.

12. The money was transferred, the Claimants contended, on the basis of representations made to Allseas (acting principally by its director Mr Kooger) in connection with an investment opportunity. That investment opportunity ultimately was effected by Allseas advancing €100m to AIC on 15 October 2011 pursuant to a Loan Agreement of that date ("the Loan Agreement"). Pursuant to that Loan Agreement the €100m was transferred from Allseas' Bank of Valletta bank account to an account of AIC also in Malta. Subsequent attempts to transfer that money to Larn via Liechtensteinische Landesbank and Andbank were unsuccessful. Ultimately on or about 26 October 2011 Mr Sultana told Mr Visser that the best solution was for the €100m to be transferred to the client account of Notable.

13. The transfer of the monies from AIC to that client account for the benefit of Larn was pursuant to a further Loan Agreement ("the Larn Loan Agreement") also dated 15 October 2011. As I have said ultimately the monies were credited to Notable's client account at Barclays Bank London in respect of Notable's client Larn on 2nd November 2011.

14. The Claimants' contention is that the loan and consequential transfers of the €100m were procured by representations made to Group that the monies were to be used for trading in discounted Medium Term Notes ("MTNs") under the auspices of and with the approval of the Federal Reserve Board in Washington DC ("the Fed"), that the trading would be conducted by a trader with a ***"tier 1"*** authorisation of the Fed. It was represented that the trading would be facilitated and arranged by Mr Rejniak as an agent of or otherwise authorised by the Fed. He had been represented to Mr Kooger and Mr Visser when they visited Malta on 19 July 2011 as being a Fed agent and a person who could procure this special investment. The final important representation was that the monies could not remain with Allseas any longer for the purpose of trading but needed to be transferred from it for such purpose.

15. The Claimants contend that those representations give rise to a number of causes of action (as to which see below) contrary to Articles 1031, 1032, 1033, 1044, 1045 (1) and 1047 of the Civil Code of Malta.

MONIES TRANSFERRED

16. Between 15 and 17 November 2011 payments were made out of the Notable client account totalling about €15.9m. The amounts are set out in schedule 2 to this judgment. That left a balance of approximately €88m in the client account.

17. The Claimants contend that AIC and Mr Rejniak and Mr Sultana are liable for the fraudulent and or malicious misrepresentations contrary to the above mentioned provisions of the Maltese Civil Code in the sum of €100m (plus expenses) less whatever the Claimants are able to recover. Alternatively it claims interest under Article 1047 of the Civil Code at the rate of 8% per annum on the €100m of which it was deprived as set out in paragraph 40 (A) of the Re-Re-Re-Amended Particulars of Claim. It seeks tracing orders. Under the terms of a Tomlin Order dated 4 April 2012 between Allseas, Larn and Mr Nobre the balance of the money standing to the credit of Larn in Notable's client account (€88,337,799.41) as at 2 April 2012 plus accrued interest and monies standing to the credit of Mr Nobre in his account with Metro Bank London were transferred to Allseas on 10 April 2012 on the basis that all further proceedings against Larn and Mr Nobre were stayed except for the purpose of carrying the terms of settlement into effect. The Claimants give credit for the sums thus recovered from Larn and Mr Nobre (if any).

18. The Claimants in so far as there is no proprietary claim in respect of the payments made to Mr Rejniak amounting to $500,000 (paragraph 28 (ii) of the Re-Re-Re-Amended Particulars of Claim) contend he is liable either for dishonest receipt of the Claimants' money or dishonest assistance in the dissipation or conversion. They sought similar relief against Larn and Mr Nobre in so far as they have no proprietary claims against either of those.

19. They seek declaratory relief that the Loan Agreement and the Larn Loan Agreement are both null and void.

EFFECTIVE ISSUES AT TRIAL

20. As I have said neither AIC nor Mr Rejniak participated in the trial. Larn and Mr Nobre compromised the claims against them. The Claims against Mr and Mrs Lucas were compromised during the course of the trial.

21. Thus the only effective Defendant was Mr Sultana. He admitted that the representations pleaded in the Re-Re-Re-Amended Particulars of Claim were made to induce Allseas to handover the €100m but that such representations were made by AIC acting by Mr Rejniak. Mr Sultana's defence was that he too was deceived.

22. Thus somewhat unusually in cases like this the Claimants were able to open the case on the basis that a fraudulent scheme was established. Of course that concession by Mr Sultana did not bind AIC or Mr Rejniak. However I am quite satisfied on the evidence that was led before me as I shall set out below that the proposed investment was a fraudulent scam and that there never was any investment as intended. I am quite satisfied for the reasons that I have set out in this judgment that the Claimants have established the entirety of the claims they bring against AIC and Mr Rejniak.

THIRD PARTY CLAIMS

23. Under the Third Party claim Mr Sultana claimed that he was entitled to be indemnified by, or alternatively a contribution from, Messrs Heerema, Kooger and Visser on the grounds that they had been negligent and in breach of duties owed by them to Group as directors.

24. He claimed to be entitled to be indemnified by Mr and Mrs Lucas in respect of sums amounting to £1,755,000 and €480,000 received by them from the Larn account on the basis that they were liable to Allseas for those monies as they were dishonestly laundering monies stolen from Allseas by their dishonest assistance. That claim stopped when the Claimants compromised any claim they might have against Mr and Mrs Lucas. That settlement took place on 23 January 2014. The Claimants have given credit in the amount of all sums in fact received by the Fourth Parties. It is not relevant to the issues before me to investigate why the Claimants made that decision and it is impermissible to draw any adverse inference because the decision and drafting is based on legal advice which is privileged. As the amounts received by Mr and Mrs Lucas are fully credited in respect of any liability that Mr Sultana and the other Defendants might be liable to pay it does not in my view arise in the trial.

MALTESE LAW

25. It is common ground that all claims in the main action are governed by Maltese law. I heard expert evidence from a Dr Zammit for the Claimants and Professor Refalo for Mr Sultana (they being both members of the Faculty of Law of the University of Malta). Their evidence was given on days 23 and 24.

NATURE OF THE SCAM

26. The scam is not new. For instance I heard a trial involving a similar scam in the case of ***Manolakakie v John Constantinides [2004] EWHC 749***.

27. Basically a person is targeted because they have a large amount of monies to invest. This is particularly opportune in the present climate of low interest rates. It is suggested to that person that they have the honour of being invited to invest in a secret scheme which is operated in secret and produces fabulous returns. It is only available to special people and that is why it is unheard of. In some cases its existence is even kept from banks. Secrecy is essential and any attempt to challenge the scheme or raise questions invokes instant rejection. The victim is usually courted over a period of time and offered these large returns. It is initially offered on the basis that the victim's money can remain in his or her own account often designated a ***"blocked fund"***. Thus the money apparently never leaves the victim's account yet can make fabulous amounts of money. The Scheme then develops along the way by suggesting that the monies can be moved to another account which is similarly blocked or which the victim has apparently a measure of control.

28. The returns are quite extraordinary. In the present case it was suggested that the monies would double in value in a month and could over a period of 13 months with an initial investment of €100m produce as much as ***€1.3bn*** for the investor. I put aside the initial proposal which was made to the Claimants of handing over monies to the value of the total assets of Allseas company (€1.3bn) with a return of the same

amount in 24 hours. The scam operates by proposing a scheme which involves fabulous returns and for no risks. The proposed victim is either dazzled and goes along with it or he is not deceived in which case they move on to find another victim. The procedure then involves various convoluted proposals over a period of time which the victim just fails to participate in. All of those involve as I have said the money miraculously not leaving his account or being in a blocked account which is sold as a protection for him. Then at the last minute when the victim is well and truly ensnared and thinking he keeps missing these wonderful opportunities he is presented with the big final proposal which due to technical reasons requires the victim to release the control of his monies for a short time. Once that is done the money disappears.

29. As I have said that happened in the ***Manolakakie*** case. She was an unsophisticated investor as the $1m which she had were the proceeds of a sale of a business in Greece. Unfortunately she was defrauded by her own solicitor and it was not therefore difficult to see how she could have been misled. As this judgment will show the officials advising Allseas were apparently extremely experienced and sophisticated lawyers and accountants. Mr Heerema, the ultimate owner of Allseas was also a sophisticated business man. Yet their evidence is that they were all taken in by this scam and so taken in they put aside any kind of investigation as to the bona fides of the proposals or the scheme. At the end the loss was confined to €12m not because of anything the Claimants did but because of the efforts of the Metropolitan Police who protected the balance of the monies in the Notable account despite the protests on the part of Allseas. They actually threatened the Metropolitan Police with claims for damages if the monies were not released. The precise detail will be set out below because it is essential to understand the case to go through the chronology leading up to the removing of the €100m from the control of the Claimants in November 2011.

30. These types of scams are to be found all over the internet including warnings about them.

31. The final scam in this case involved the proposition that the Fed were willing to issue "MTNs" to various "special" investors via specifically authorised intermediaries at a discount of up to 20% of the face value of the notes. As these were Fed notes they were immediately marketable and the proposal was that the MTNs would be sold immediately on the open market which would then produce at least the face value of the notes. The 20% profit would be divided as to 10% back to the Fed and the balance (less expenses) to the Claimants. This was capable of being done over and over again hence the ability of the Claimants to make as much as €1.3bn over the course of 13 months.

32. It is an easy question to ask afterwards (and not really very difficult beforehand in reality) ***"why would the Fed give away so much money?"*** The answer provided by the fraudsters was this was the way of the Fed supporting various schemes and projects that it considered to be beneficial to mankind as a whole. What was it that Allseas were doing which was so philanthropic? Allseas' main business was making oil pipe lines and it was extremely profitable. However Mr Heerema had a project (and still has) to build a super catamaran type ship which would be able to sail up to oil rigs, lift them out of the water on to the body of the ship and repair them in situ. The suggestion was that it was such a good idea that the Fed wished to support it.

33. The ship was named the Pieter Schelte after Mr Heerema's late father in recognition of his reputation as being an international engineer. However he had a dark side to him as is demonstrated by the following cross examination (Day 4: 93-95):-

Q. So you left Malta, and, no doubt, when you got back you reassured Mr Heerema that, after the nine days, everything you heard was to the effect that whatever would happen to the money would always be safe. There was no -- zero risk of you losing the money?

A. At that time, yes.

Q. The only risk that had been identified months earlier by your CFO was the risk of the Bank of Valletta going bust.

A. Yes.

Q. So this was a zero -- not even a 0.001 per cent, a zero risk transaction with huge profits?

A. Yes.

Q. And because the American Government liked your ship. Is that right?

A. Yes.

Q. What was it about the ship that they liked?

A. Because the ship would -- offers safe, cheap solutions for the removal of oil platforms, so --

Q. Why is that of interest to the US Government?

A. Because that would also -- there will be no risk to the environment. So in the Gulf of Mexico and other areas in the world it could -- we could provide good services to -- that will be in the interest of the United States, but also of other countries and companies, of course, to do this work quickly, safely and good for the environment. So ...

Q. Who told you all that, that the American Government, as it were, were giving you 200 million -- the opportunity to earn USD 200 million a month because they liked the environmental advantages of using your ship as opposed to conventional methods for uploading and removing oil platforms?

A. Mr Rejniak did that. And the other two UN people did that as well.

Q. The UN people?

A. Yes.

Q. Is this project a little controversial in the United States?

A. Our shipbuilding?

Q. The ship, yes. What about its name? How well has the name of the ship gone down in the United States of America?

A. The name of the ship, the name being Pieter Schelte, has not caused any issues in the United States.

Q. Are you not aware of the fact that there has been a lot of fuss in the United States and, indeed, in Europe because of the choice of that particular name?

A. I am aware that the name causes issues mainly in Holland.

Q. Mainly in Holland, yes. Because how did Mr Heerema's father spend the war?

A. Mr Heerema's father was a member of the SS during the first part of the war.

Q. Yes.

A. And then changed his mind and became a -- somebody that was against the Germany army or the German – against it, yes.

MR JUSTICE PETER SMITH: He was in the Dutch SS, was he?

A. No, he was in the German SS.

MR JUSTICE PETER SMITH: The German SS.

MR TAGER: He joined the German SS. And then he left the SS you say in the middle of the war?

A. I don't know the exact time but that is -- he changed his mind, that is --

MR JUSTICE PETER SMITH: I didn't know you could leave the SS. I thought it was a job for life.

A. I have no comment on that, my Lord.

MR JUSTICE PETER SMITH: Was he in the Waffen SS or the non-Waffen SS? Do you know?

A. I do not know that.

MR TAGER: My Lord, some might regard that as a quibble. He was in the SS. And, after the war, he went to Argentina, didn't he?

A. He went to South America. I think he went to Venezuela.

Q. Venezuela. I'm so sorry. With the help of the Vatican?

A. I don't know.

Q. And that is why the name of the ship is very controversial, isn't it? They're not many ships afloat on the seas named after a former member of the SS, are there?

A. No.

Q. And yet you regarded the American Government as being so happy with this project that they were prepared to give you the opportunity to earn 200 million euros a month for 13 months?

A. That is what we have -- we were told, yes.

THE CREATION OF THE SCAM

34. I will set out in some detail as to how this scam started, its development and its culmination in the transfer of the €100m in November 2011. Thereafter I propose to deal with the specific allegations against the Defendants and Mr Sultana's response thereto.

ALLSEAS DESIRE TO INVEST

35. During 2010 Allseas was looking to find funding to build the ship. The cost would be €1.3bn. It is currently expected to be completed in June 2014. Allseas financed much of the cost of the building with its own resources including cash. In the autumn of 2010 it had the €100m on deposit but it did not require it in the short term and was prepared to invest it for up to a year.

36. Mr Heerema was contacted by a Mr Brouwer, a former CFO of the Allseas Group who had an investment opportunity for Allseas. Mr Heerema told him to contact Mr van Tiel, the Allseas CFO. Mr Brouwer put Mr van Tiel in contact with a Mr Ken Fulton who provided a long document describing certain international institutions and financial markets in general terms. The document actually said nothing about any particular form of recommended investments. It was explained to Mr van Tiel that the investment worked by very fast buying and selling of bonds which were bought at a discounted 2% and sold at full value with the profits split equally with special traders. Mr van Tiel apparently did not think much of the proposal and was sceptical. A meeting took place which was no more satisfactory and a further meeting took place where Mr Visser was delegated to attend. At this stage Mr Heerema and Mr

van Tiel agreed that Mr Kooger (the senior legal advisor to Allseas) and Mr Visser, Mr van Tiel's deputy, should investigate this opportunity. Mr van Tiel took no part in the investigations. It was suggested by Mr Sultana that he was excluded because he was unduly critical. Mr Heerema and Messrs Kooger and Visser were more open it was suggested. I do not think anything turns on that because it is certainly true in my view that Messrs Kooger and Visser were unbelievably inept and naïve in their dealings in respect of the €100m as the recitation of the uncontested facts will show.

37. In the autumn of 2010 Messrs Kooger and Visser met Mr Brouwer and Mr Buist to discuss possible investment opportunities. By this time this had become an investment involving MTNs with the involvement of the Fed in some way. On 4 November 2010 Mr Fulton and Mr Bruist on notepaper of the name Global Project Capital set out what was called a letter of interest. The letter still did not explain what the investment was but wanted a €100m commitment over 3 years. In fact the purpose of the letter was to see whether or not ***Allseas*** was good for its money as its request for information in the last paragraph shows. After a number of meetings ultimately a meeting took place between Mr Fulton and Mr Visser in London on 17th January 2011. Mr Fulton was still vague about the nature of the investments but he felt sufficiently emboldened to make a new proposal to Mr Visser in an email dated 19th January 2011:-

> ***"We look forward to receiving your project cashflow needs analysis.***
>
> ***We believe we may be able to offer an attractive total project funding plan (€1.3bn) and Contract – with a little more information.***
>
> ***We may be able to collatorise assets and give Allseas the benefit of obtaining funding for more, if not all the project cost requirements….."***

38. There followed the usual request for more financial information in respect of Allseas. Mr Visser replied on the same day within an hour stating that all of Allseas assets were unencumbered. The next day Mr Fulton replied confirming mysteriously that all assets would remain under Allseas control and ownership just as the bank account and any bank instrument would be in Allseas name. If they were able to structure a portfolio of €1.3bn Allseas would receive €1.3bn ***"in one day"***.

39. It was stated that the transaction and contract would likely be executed inside the bank with certain undertakings to ensure security and control.

40. In essence what is being suggested is that Allseas could offer up all of its total assets (but remain in control of them somehow) and by that offering obtain another €1.3bn in one day. How this happens is not explained. Mr Visser did not reject this preposterous scheme out of hand. It did not proceed (perhaps fortunately for Allseas). It apparently never occurred to Mr Visser to be sceptical about such momentous returns without the money even leaving Allseas' control. Mr Visser opted for the ***modest*** (sic) investment of only €100m.

41. Mr Fulton came back again on 9 February 2011 setting out the first difficulty namely that Allseas had lost the December offer proposal so a new one had to be put in place. This new one required the €100m to be deposited and committed and blocked for 14 months. A new bank account would have to be opened with a large bank in the name of Allseas. The contract would be to pay profits of €200m in 21 days which would have a ***"bank"*** underwriting in favour of Allseas and the contract would be ***"known and placed with a dispersing bank"***.

42. None of this makes any sense at all. The proposal involved doubling the €100m every month. Once again it was reiterated to Mr Visser that there was a very short time frame with which to put up the €100m.

43. Finally Mr Fulton did not give up on the €1.3bn and he was willing to try and arrange this. For the rest of February Mr Visser was strung along by Mr Fulton as to when the next tranche of investment funds would become available. On 1 March Mr Fulton said the structure of the offer was being finalised and that if the ***"contract offer of 30 days/x 2/14 months"*** deal would not be ready they should still meet to discuss and he would provide a ***"market driven"*** contract offer.

44. This is of course all nonsense and the language used does not in any way explain what the relevant transaction is. Mr Visser did the chasing again in early March.

MEETING 23RD MARCH 2011

45. This meeting took place in London. Only Mr Visser from Allseas was able to attend. Mr Fulton attended as did Mr Sultana and at least one other person. This was the first contact between Allseas and Mr Sultana. He had received from a Mr Livesey some of the documentation Allseas had already provided. The meeting took place at a private members club, Home House on Portman Square. This impressed Mr Visser no end as he set out in his witness statement. His version of events shows that Mr Sultana did most of the talking at the meeting and in the talking he made references to the United Nations a lot and presented himself as a UN agent. Mr Sultana did not seriously disagree with that in that he said he had a connection with the UN directive holder in Asia being a Mr Gary Johnston. Mr Sultana in his evidence (paragraph 54 of his witness statement dated 29 October 2013) stated he was ***"the actual trader in the UN Private Placement Program…."*** He also said that he had a special coded laptop issued by the UN which had contracts ready to be issued. All this is nonsense.

46. Prior to that meeting Mr Sultana had received from Mr Johnston supposedly a summary of the transactions. He sent these to Mr Ali Nasir (who looms large in this case as I shall set out below). It is instructive to see why Mr Sultana wanted the documentation.

47. It is revealed in his email of 12th February 2011. Thus whilst Allseas are being drawn in to these kind of investments Mr Sultana is also trying to persuade others to invest in them. He needed the document for a meeting he was going to have with Sir Philip Green of Topshop whom he claimed to know in his evidence before me. Similarly he wanted the information to show to the Board of Trustees of the Walker Trust based in Guernsey. This trust is one which was set up by the owner of a steel business in the UK which was bought out by British Steel. Mr Walker became extremely wealthy and (for example) provided funding to enable Blackburn Rovers to reach the Premier

League and indeed win the Championship. Thus Allseas contend this is significant as Mr Sultana is trying to draw people in to these kind of deals. It is of course now accepted by Mr Sultana that these deals were in fact non existent. His Defence is that he was a mere cipher and that he did not know they were not genuine. The Claimants contend that he was fully aware that the transactions were bogus and he played a positive role in the scam. I will set that out when I deal with the Claimants' comprehensive criticisms of Mr Sultana's veracity and his activities in relation to investments of the nature of the one which was fraudulently put to Allseas.

48. I unhesitatingly prefer Mr Visser's evidence about what took place at this meeting except I reject his evidence that he might have received this document at the meeting. Nothing turns on that as witnesses cannot seriously be expected to recall every detail of events that took place at a meeting 3 years earlier. It does not matter because Mr Sultana had sent the document to him on 23rd March after the meeting. That email is instructive in the sense that Mr Sultana tells Mr Visser ***"you have to read between the lines with the content of this summary".***

THE SUMMARY

49. This document like a lot of these fraud cases is something which looks technical and highly detailed but in fact when read carefully is full of incoherent phrases and expressions and is completely meaningless. For example the first opportunity is described as a private placement but it is not clear what that means. No details of the transaction are set out nor any details of the contract.

50. The second alternative is said to be under ***"a schedule B arrangement (screening and clearing)"*** with two large institutions in Hong Kong. This is incoherent. No explanation is provided as to what is the schedule B arrangement. Each contract is tailor made it is said and that all of the contracts are for fixed income securities (or vanilla bonds), whatever they might be.

51. The sting in the tail is provided by the bullet points at the end which require (inter alia) a lock in period of at least 60 days and clear evidence to their bankers that Allseas do actually have the money to invest.

52. Although Mr Sultana in his evidence attempted to suggest he was merely a conduit in respect of this I do not accept that. On 16 February 2011 Mr Sultana sent an email to Stuart Livesey where he copied him in on the information summary that he was intending to use but it had to be kept secret and confidential. The email to which Mr Livesey was copied in was one that Mr Sultana had sent to a David Brown 2 days earlier. He was preparing a report for the Jack Walker Settlement Trust. Somewhat prophetically Mr Sultana said this:-

> ***"I am conscious that you do not have enough details and one would understand your trustees thinking such a scenario was in fact a Ponzi scheme, which means giving the investor his own money back as a return! Unfortunately due to people not fully understanding, they automatically think it must be some kind of fraud or Ponzi scheme".***

53. He then set out in the body of the email the brief summary. However he added 3 paragraphs of his own. This too contained gobbledygook by referring for example to him explaining as much as he can ***"keeping within protocol"*** and emphasising that this was a very privileged opportunity for Mr Brown to bring to the Jack Walker Trustees.

54. Further Mr Sultana added paragraphs which were designed to comfort the victims by emphasising the funds would always be under the control of the principal of the trustees and in a ***"non depleting account".*** Although he created this expression for the purpose of this document he was unable to explain what it meant. This is because it is meaningless and he must have known that. He was unable to explain how he incorporated this wording into the document.

55. Mr Sultana had previously been provided with a document called by Mr Nasir "***The Rules of the Road"***. In sending the document to him Mr Nasir commented ***"I thought you might find the attached an interesting read as all good contracts issued have this page attached first for signing".***

56. Although Mr Sultana denied it he clearly lifted expressions from this document. For example the privilege to participate was set out in the summary provided to the Jack Walker Trustees above. The whole emphasis of this document is to ensure that people who decide to invest are deterred from questioning what they are investing in.

57. These are not in my view actions of a mere conduit. They show Mr Sultana being intimately involved in presenting these documents to various people with a view to persuading them to invest in the supposed schemes. However there are no schemes. Further Mr Sultana could not in my view honestly believe that any such schemes were available via the UN. It is not known as an organisation that has power to deal in securities or issue securities or trade in securities.

58. Mr Sultana could not and in my view did not have any genuine belief that the UN was in a position of issuing any of these investments. He acknowledged that in cross examination but at the last minute tried to rely on a point that Mr Tager QC, his counsel had suggested earlier that a government was issuing paper to the UN for their platform. In my view Mr Sultana made that up in the course of his cross examination by adopting what Mr Tager had suggested was a possibility. He had never referred to that as a possibility in any earlier part of his evidence (Day 20: 173:6-21).

59. The purpose of this document was to provide a smoke screen to the potential victims by using technically sounding expressions which people would be unwilling to challenge for fear of appearing ignorant about what was being discussed. Of course not all potential investors are like that. When Mr Sultana took the proposed investment to his friend Sir Philip Green he was dismissed summarily and told to come back when he had a scheme which Sir Green could understand. He said his policy was never to invest in anything that he did not understand. Not everyone of course is like that and it is quite clear to me that the activities of those who were perpetrating the fraud (to be neutral at the moment as to who they were) was to evaluate the potential victims to see whether they were gullible or not.

60. Mr Sultana was unable to explain why he did not seek clarification of what the document meant. He stated that he passed on the document because he was

pretending to Allseas he understood the transaction (Day 19: 225: 4-5). He claimed that he did not seek clarification from Mr Nasir because he was embarrassed. However that statement by him was made after adopting it from an observation that I had made earlier see Day 19: 223-224. This is one of a number of instances where Mr Sultana was quick to adopt things when it suited him during the course of his cross examination.

61. Shortly after this meeting a draft confidentiality, non disclosure and non solicitation agreement dated 24 March 2011 emerged. This was an agreement between Wealthstorm Ltd (Mr Sultana's company) and Allseas. The actual document in the trial bundle was recovered from the Police. There appears to be only two purposes for this agreement. The first part is to bind Allseas to a confidence in respect of information provided to it (recital C). The second purpose appears to be to set out a series of restrictions against Allseas even after termination of the agreement (clause 4 and 5) and finally clause 9 introduces an obligation to pay commission to Wealthstorm of 5% of the gross sums received from the introduction.

62. The fee is 5% of ***"each and every transaction".*** It follows therefore that Mr Sultana on this agreement would be entitled to as much as 5% of €1.3bn, a fantastic amount. Further the agreement by clause 10 covers any transactions for 5 years.

63. At a subsequent meeting in Malta in July 2011 Mr Sultana attempted to increase the percentage to 15% but backed off when Allseas threatened to walk away from the arrangements.

64. The commission percentage featured in the meeting in July 2011 in Malta when Mr Sultana sought to treble the amount of commission to be paid to 15%. Allseas objected on the basis that an agreement had already been reached that he would receive 5%.

65. Mr Sultana's response to the objection was illuminating. First he said ***"I never discussed the 15% as this had been set. The 15% will be paid to my corporation. Out of this are obligations on my behalf and I also have the obligations on paying ontourage (sic) that had brought you to me. With this in mind you have to appreciate with 1p (sic) bring you into a situation you will never possibly be in your entire working career is a privaledge (sic) you really should not concern yourselves on the percentages, rather gross profits you will see. This truley (sic) is a privaledge (sic) position to be brought in….Allseas are not doing you a favour in fact you are doing Allseas a favour in bringing them in to this position. One major thing to keep in your minds when looking at the percentages, you have no obligation to any projects relating to the UN or Washington in relation to the funds/profits in this transaction. Your profits will be clean and clear with no government auditing…."*** (emailed 12 July 2011 timed 15:48).

66. He asserted that whilst 5% might have been mentioned at the meeting in London he had not been involved in that conversation and did not contribute to it. He stated he could not structure the percentages. However Mr Heerema threatened to pull out of the deal and Mr Sultana changed his mind.

67. Mr Sultana's version of events in his witness statement was that Stuart Livesey alone referred to his expectation of a commission of 5%. That was untrue. Mr Sultana had

forgotten about the terms of the written commission agreement that he prepared on 24 March 2011 the day after the meeting in London to which I have already referred. This document was seized by the police and Mr Sultana claimed to have discovered it only a year after disclosure was ordered. It has a 5% commission arrangement in favour of Wealthstorm.

68. His email which I have quoted above includes the language to be found in these types of scams. The reference to Allseas being privileged to be invited to invest and the fact that the profits are clean profits are expressions to be found in scams of this sort. Mr Sultana is using the language to justify the 15%. He does that by pointing out the huge profits that are supposedly available to Allseas if they become part of the privileged coterie of investors.

69. There is a conundrum about the commission agreement which needs to be addressed. The whole of Allseas' case is based on the fact that there was never going to be any kind of transaction at all. Mr Sultana's defence is also based on his acceptance that there was never going to be a transaction (although he was not aware of that, he says). I put aside for the moment the suggestion that Allseas did not believe the transaction put forward as suggested by the Defendants but rather that it was some kind of illegal or dodgy deal that was being concealed from them because there is a difficulty. Despite doubts about his disclosure during the course of the freezing injunction Allseas have not demonstrated that Mr Sultana has received any of the €100m that was extracted from it. His only entitlement on the paperwork is predicated by an assumption that there ***will be*** a transaction. If there is never going to be a transaction and Mr Sultana knows that, what is the point of having an agreement to pay commission which (on Allseas' case) will never be payable?

70. Further what is the point of seeking a higher commission which on this analysis Mr Sultana will not be paid and which ultimately nearly caused Mr Heerema to withdraw anyway, which would have been disastrous?

71. This shows that Mr Sultana is anxious for his commission and because that is only payable on a successful transaction that demonstrates that he is not aware that the whole thing is fraudulent and there is no transaction.

72. Neither party in its closing has addressed this issue clearly.

73. The conclusion I draw is that first one must not overlook, as will be seen below, the overwhelming evidence which in my view Allseas has established that Mr Sultana is a patently dishonest individual. Second it might have been the case that Mr Sultana might have extracted something by an advanced fee but Mr Heerema was insistent upon no advanced fees. Consequently for the transaction to offer any form of credibility there must be a provision for Mr Sultana to be paid something out of it. The primary purpose of the agreement was actually to use it to silence any complaints by the investor with the complicated provisions about silence and the length of the silence obligations. It seems to me that the commission was an add-on to give further credibility to the genuineness of the transaction and nothing more. It does not in my opinion go anywhere near to showing that Mr Sultana was innocent. I cannot exclude the probability that he would have received monies later when they were all fully misappropriated.

MEETING IN GENEVA 11TH MAY 2011

74. This was the next meeting along the road of the investment. It was attended by Mr Sultana, Mr Fulton, Mr Kooger and Mr Heerema who met Mr Sultana for the first and only time.

75. Prior to that it is clear that Mr Sultana had a substantive role in leading Allseas to operate the investments via a bank account to be opened in Malta. This is logical. The only person who had any connection with Malta was Mr Sultana; he had dual Maltese and British nationality. Allseas has set out in its closing (paragraph 11.7) where the evidence points inexorably contrary to Mr Sultana's evidence that he was the one who was directing Allseas towards such an operation. As part of that activity he exerted pressure on Allseas to speed up the provision of paperwork and refused to go to Geneva unless documents were provided to the incorporation agents Corporate Services Limited ("CSL"). Further he told Allseas that he would be the person who would ***"enforce the orchestration of the trader flying in to carry out the trade"*** (email to Mr Heerema 21 April 2011).

76. This email is further illuminating in that it shows Mr Sultana is giving Allseas details of how the Fed will process their investment. Thus he says:-

> ***"Once we have the tear sheet/bank statement from Bank of Valletta we may then have you in a position to see the "instruments" necessary for choice. There will be transparency on the trade. The trade will most probably happen inside the Bank of Valletta along with a bank officer and trader. The trader will issue government paper. I will be more specific once we have the tear sheets/bank statements submitted. Once this is quantified a trader will fly in. I will be the person who will enforce the orchestration of the trader flying in to carry out the trade.***
>
> ***There are many factors that will require consideration by the 786 group on your specific funds i.e. on how they have been generated."***

Prior to that he said that he would present the tear sheet to the 786 group (a mysterious organisation in Washington). He also said there was a stipulation from that group that he would be required to be a joint signatory with any signatories on the account to assist the trade for realisation.

77. All of this was of course bogus. There was never going to be a trade so in reality there would never be any trade taking place in the Bank of Valletta with various people to provide protection sitting side by side. Nor would a trader ever issue paper as suggested. Mr Sultana would never go to Washington and he would not meet the 786 group because it did not exist.

78. It has to be appreciated that this is but one of the several bogus steps set up in the scam to lead the investors ultimately to a situation where at the last minute and under great pressure they are required for the first time to relinquish complete control of this money to the fraudsters.

79. The reality of this email is that it is trying to have Allseas money put in an account in the Bank of Valletta over which it will not maintain any control. It is then trapped into the investment. If Mr Sultana had been a co-signatory Allseas would never have been able simply to claim its money back if the matter did not proceed for example. All of this is designed to enable the fraudsters to be satisfied that Allseas is genuine and had the funds. They are not going to waste their time with somebody else who is a timewaster because they do not have any money.

80. Mr Sultana returned to technical discussions in an email of 9 May 2011 shortly before the meeting in Geneva. In that email he informed Mr Heerema that both he and Mr Kooger ***"had been passed over for checks to be carried out to avoid any embarrassing situation accruing in the future".***

81. He also stated that ING (Allseas Allseas Group's) was not an approved bank for these transactions but Bank of Valletta was. Thus he suggested that it was relevant to move the funds in question and that he emphasised the importance of the tear sheet coming from BOV on having the transaction cleared in Washington.

82. Unsurprisingly he was cross examined extensively on these emails. It is important to appreciate that he was the sole person at the meeting in Geneva on 11th May 2011 who was representing the people to whom the investment would be handed over. The cross examination is at T20 pages 48 et seq. He attempted to suggest in the cross examination that he was just a middle man. That is difficult to reconcile with his expression that ***he*** would present the information to the 786 group in Washington. He suggested that Mr Heerema knew that he was a middle man but forgot that he had never met him before the proposed meeting on 11th May 2011. He was asked about the 786 group and this was the group which he said earlier in his evidence sat on a floor in the Hyatt Hotel in Hong Kong. This was different from the all powerful ***"3"*** people he had identified in other evidence. These were apparently 3 people in Washington who were all powerful and had more power even than the President. The 786 group apparently takes instruction from this all powerful 3. He was unable to explain who in the 786 group had stipulated that he would be a joint signatory on the account. He had of course previously been introduced as the man who had connections with the UN but by the time of this email on 21st April the UN were off the radar and the matter was suddenly switched to Washington. The suggestion that these secret trades would take place in the back offices of the Bank of Valletta with the details of the transaction being kept secret from the Bank of Valletta is extremely unlikely to put it modestly.

83. Later on we had "The Committee of 300" and "The Illuminati".

84. In none of the emails does Mr Sultana indicate that he is merely a messenger boy in effect for those who are seeking investment monies from Allseas. His emails do not give that impression and I do not accept that he was merely a cipher. The consequence of that is that all of this material he is putting across to Allseas to draw them into the investment is bogus and he knows it is bogus. I simply do not accept that Mr Sultana believed any of this material was genuine. He acknowledged (T20: 75) that he was the only person representing those selling the investment. Although he suggested that was on the UN directive side this was all rather mysterious because as the emails show the investment appears to flit between the UN and the Fed during the period before the meeting. He was there in my judgment to sell the proposal and

to further the progress of bringing Allseas into the investment scam. He met Mr Heerema there for the first time and clearly impressed him. This in my view was his role in the fraud; to bring Allseas in on the investment which as I have said would only work as a fraud if ultimately the fraudsters obtain control of the funds.

85. Mr Sultana says he was merely setting out detailed instructions which he obtained from Mr Nasir. The difficulty with that is the paucity of communications with Mr Nasir detailing these instructions. Mr Sultana says he took notes but did not retain copies of them. In my view this is all implausible.

86. The only significant communications between March and May were from Mr Sultana. It is plain that he was centrally involved in bringing Allseas to the people who were going to provide the scheme to it. A number of examples of this demonstrate his role. For example his email of 12 April 2011 to Mr Visser sets out how ***he*** had directed CSL (a Maltese corporate services company) to fulfil Allseas requests in opening the bank account and Maltese corporation. That was on his recommendation as it was one of the most tax efficient jurisdictions in Europe. His complaint was that Allseas had not provided straight forward documentation to progress the matter. He emphasised that he was extremely busy and that if the information was not provided ***"then may we stop now and not waste anymore of our valuable time".*** He stated that they (unidentified) held Allseas' hands and gave direction. The BOV had already apparently been ***"certified"*** by the "directives' bankers" (i.e. the UN) and that they were fine to issue a bank guarantee and that the directives' bankers would pull the bank guarantee from Bloomberg once posted. This is meaningless. Mr Sultana's attempts to explain all of these involving dealings with the UN in undefined contracts at trial was incoherent (Day 30: Page 32). He never sought to obtain a full explanation or even any explanation as to how the transactions operated from those people he says were instructing him. The reason is of course that there are no transactions going to take place so there is no more explanation that can be given. His role as a salesman is to sell the product. He repeats the mantras and talks in vagaries and does not go into detail because there is no detail (as he clearly well knows) to provide. I have referred to the email of 21 April 2011 above which has similar incoherence but demonstrates that he is saying to Allseas that ***"I am the man".*** He is not a mere messenger or cipher as that email seeks to demonstrate. It gives the impression that he is directing matters and he is presenting things to the mysterious 786 group in Washington. He cannot be doing that because it does not exist and he was unable to explain how he was going to achieve such a non existent meeting.

PURPOSE OF MEETING 11 MAY 2011

87. This meeting was designed for Mr Heerema to meet Mr Sultana. According to Mr Heerema (and I accept his evidence without hesitation) Mr Sultana discussed with him the investment opportunity as being a dealing in the MTN market with selected secret clients only and that Mr Sultana had identified Allseas as a potential investor and as part of that exercise. He (Mr Heerema) was being screened as being suitable for the necessary funds to invest. The meeting lasted around 3 hours. Mr Sultana also appeared to be selling himself recalling that his uncle was a secretary to the Pope and the Vatican was sometimes involved in these kinds of investments and that Mr Sultana was well connected in Maltese financial society.

88. Mr Fulton also attended the meeting. Mr Sultana said in his evidence that he thought Mr Fulton was on the "***Allseas***" front. I do not accept that. Further of course, it is contrary to his main case that he is merely a cipher. If Mr Fulton is involved with the investors, the only person to put the details of the investment is again Mr Sultana. The reality is, in my view, that Allseas were the subject of a two-pronged approach. Mr Fulton is the introducer who introduces Mr Sultana, and Mr Sultana is the one who gives "***details***" of investments. This was foreseen by Mr Fulton, for example in his email to Mr Visser dated 10 April 2011. The email sets out matters that are required to open the bank account in the letter. None of these is particularly significant. What is significant is that Mr Fulton reminds Mr Visser that Allseas are in an extremely fortunate position to have the project, but the UN's Directive is said to be strict on timing and procedure and that all of the documents are to be received before "***we***" set a meeting dated for "***Johann Cees and Edward with Paul representing the UN Department***".

89. That demonstrates that Mr Fulton is on the opposite side to Allseas. It also reinforces that Mr Sultana is being brought in as the UN man. He reinforces that of course at the meeting when according to Mr Heerema's evidence he talked about his links with the UN and the Vatican. Once again, in my view, the reality of the meeting is for the worth of Allseas to be investigated and for Mr Sultana to pull Allseas into the scam.

90. Mr Sultana denied that he said that he had any uncle who was secretary to the Pope (cp what Mr Heerema and Mr Kooger said). I do not accept his evidence in that regard. The best piece of evidence to support that conclusion is first that Mr Kooger, to Mr van Wezel, in an email recounted that Mr Sultana had said such a thing (30 May 2011). There is no reason to suppose that it was made up in an email so close to the event. Further, there is evidence that he made similar claims to two other witnesses (see below: Mr Swan and Mr Pathuel).

91. The rest of the email is a report from Mr van Wezel who was the Security Officer at Allseas in respect of a large number of people (including Mr Fulton and Mr Sultana). He somewhat extraordinarily links Mr Sultana and two others with a well known private security company known as Blackwater and asserts that it is managed by people inside and outside the American Government but "***he is first and foremost loyal to the Pope and is thus a religious army at the service of Pope in Rome through the Order of Malta***". It is said that Blackwater like the Order of Malta is untouchable because they are inside the heart of the elite aristocracy. He then links Nazis with the Vatican Jesuits and Knights of Malta and lists a whole series of crimes that these people get involved in.

92. He summarised the investigation as saying "***these people cannot be trusted and only think about their own gain. Should we get problems with these people then the Russian Mafia is only child's play. I do not say that Allseas can financially benefit, I only warn of the consequences should problems arise…***" This is an extraordinary document.

93. Cross examination of Mr van Wezel on this (Day 12, Page 32 etc.) simply demonstrated how, despite the fact that he was an experienced investigative police officer, all he did was do an internet search and recount (without any comment) all the information which his internet searches showed. The list is so ludicrous that no possible significance can be placed on it.

94. It is unclear what was the nature of the investment discussed. Mr Heerema, in his evidence, states that the trading involved the Fed with Allseas money being safe at all times. That was to be Fed trading because Mr Heerema would not agree to move his funds to Asia (which was allegedly required by the UN deal). Further, Mr Sultana had, in his earlier emails, as set out above, referred to meeting people in Washington.

AFTER THE MAY MEETING

95. It obviously went well, whatever the disputes between the parties as to what was discussed. Mr Sultana dealt with events afterwards and brushed aside requests for details such as the contract until a later stage. Mr Visser suggested that he and Mr Kooger go to Malta to meet the Bank officials. This suggestion was made to Mr Sultana. The account was opened by Mr Sultana on 23 May 2011. He reminded them that the next stage was to transfer the €100m into that account in order that a bank statement can be produced showing that balance. Mr Sultana organised the stay in the hotel and a driver but that is not significant.

96. The meeting took place on 1 June 2011 and according to a Bank Note Messrs. Visser and Kooger provided an outline of the creation of Allseas and its Pieter Schelte project, but made no mention of the investment scheme which was the real reason for setting up the account. After that meeting, Mr Sultana on 6 June 2011 emailed Mr Heerema and Mr Kooger saying "***may I make you aware that I will not be able to keep a position open indefinitely***" and that he was still awaiting the tear sheet/bank statement.

97. The monies were credited to the BOV Account on 28 June 2011. BOV put the monies temporarily on a trading market and this attracted Mr Sultana's concern by an email on the same day suggesting that such an arrangement would cause problems, because the funds could not be placed on any form of market. He also said "***… take consideration that government paper will not wait around for Allseas. I have put my neck on the line to keep the position open. I am doing Allseas a service not the other way around, please remember this… Please then send instructions to BOV to issue you with a bank statement showing the balance unencumbered.***" Once the monies were back into the account, Mr Sultana contacted Mr Heerema by email dated 8 July 2011.

98. This email, again in my view, demonstrates Mr Sultana having a significant role in trying to bring in Allseas to invest in the Scheme. He tells them that the Government officers will be in Malta on 17 July "***to orchestrate administrative block on the Allseas BOV account. No monies will be moved or indeed can be moved from your control***". That of course is not being entirely frank because the proposals at this stage were first Mr Sultana and (shortly after this email) Mr Marek to be a joint signatory on the account. This in effect gives the fraudsters a control because Allseas cannot as of right remove monies out of their own account. The significance of this is to have elluded Allseas. They emphasise that Mr Kooger is to work with the Government officer and he will give details and that the trading will commence and be finished by 1 August. He says "***your conduct is important when meeting and working with these officers as this will be a reflection on myself in bringing you into this position. I trust you understand my anticipation on conduct***".

99. Mr Sultana, on 11 July 2011, having introduced Mr Rejniak earlier in the week, set out the requirements. The most significant one was that Mr Rejniak was to become an officer of the Maltese company with a provision on the bank mandate that either ***he or somebody put up by Allseas could sign***. He also stated that the money would stay in the Allseas account throughout. However there was to be an administrative block on the account "***on the issuing/cutting of the paper***" (a meaningless expression). He also said that "***you*** (i.e. Mr Visser) ***will be by Marek's side throughout***". This too is meaningless but is all designed to give the impression that Allseas money will remain safe. Of course, had the bank signing arrangements gone in place, Mr Rejniak would have been in position to remove all of the monies on his sole signature.

100. Mr Heerema was unhappy with that, although I note in the documents there is a bank mandate which has not been finalised by his signature to that effect. Mr Visser raised five questions of Mr Sultana. The major challenge was as to the need for Mr Rejniak to be a sole signatory and how there would be security that monies would not be moved out of the Allseas account. Mr Sultana's reply dated 12 July 2011 is illuminating. He explains that Mr Rejniak works for a Government agency and he is the only person who can request the paper from Washington and that is why it is so important that he is to be placed in the company. It is stated that he will give the Government the comfort required by way of a "***non-depletion contract***" (whatever that means) which will be physically placed in the bank in his name. He says then "***I will guide you and when you meet the people in person I assure you you will feel comfortable. Nobody wishes to access your funds and move them anywhere… I have managed to get them to come to Malta to take away any difficulties or uncomfortableness in sending funds elsewhere. I am not at liberty to disclose however I may confirm that Marek has under his control a significant amount of money***".

101. Once again, this is demonstrative of Mr Sultana leading for the fraudsters and providing material which is simply untrue. Mr Rejniak is not a Government Agent and the reference to non-depletion contracts and him (Mr Sultana) guiding Allseas is, in reality, part of the fraud.

102. His answers to the five questions are designed to show that Mr Rejniak is required by Washington to be shown to have the ability that he can sign on his own if required, and that the comfort that Allseas will have will be in respect of this so called non-depletion contract. As regards the administrative block, he simply says that Mr Rejniak will answer that question. He therefore obscures the fact that the so called administrative block is intended to operate in favour of the fraudsters and not in favour of Allseas.

103. This was resolved (after the above mentioned attempt to increase the commission to 15%) by a resolution dated 18 July 2011 whereby Mr Rejniak was given full authority to negotiate concerning the private placement of the €100m and to execute and deliver the documents. However he had no power to move or draw against the assets although he could reserve them and the assets should never be placed in a callable position. I can see that that puts obstacles in the way of Mr Rejniak having access to the monies as opposed to a joint and several power of removal of signatories but nevertheless it still gives Mr Rejniak sufficient control over the funds indirectly by virtue of the authority that he is given to negotiate in respect of those funds.

104. On 13th July 2011, Mr Sultana stated that a meeting had taken place for the revision of the signatories as proposed and that Mr Kooger was being put forward for approval by Washington. Being in a position with Mr Rejniak he will be in a position to have access to detailed information. Mr Sultana tried to hold out for the 15% but Allseas refused and they stated that they were not prepared to move from the 5% and transferred the money back into the account of Allseas Group.

105. It is clear that Mr Sultana could see the transaction slipping away. Accordingly, on 15 July 2011, he sent an email to Mr Heerema to try and salvage the position. In that email he said:

> "***I have had to give a guarantee for Cees Kooger personally to Washington as Cees will be privilege [sic] to every piece of information to sign jointly with Marek. I only met Cees once, however I made a judgment at the meeting and I am happy to give the guarantee*** "

106. That was untrue, as Mr Sultana accepted in cross examination (Day 21, Page 70-72). He attempted to say in that cross examination that he meant he had given a guarantee to Mr Nasir, but that of course is not what the email says. It is designed, in my view, to show his position as being more than the facilitator and to impress Allseas that he has put his own personal reputation on the line with Washington on their behalf. Of course, as he accepted in cross examination, if he attempted to do any of the things he said he was going to do, it would have been revealed to him that there was no investment scheme as stated. That is what an honest man would have done in his position. His email, in my view, is not that of an honest man and can only be explained on the basis that he knew that there was no Fed to whom he could give a personal guarantee.

107. At about the same time Allseas entered into a "***Confidentiality, Non-disclosure and Non-solicitation Agreement***" dated 15 July 2011. Although it was supposed to be between Allseas and Wealthstorm it was actually with Mr Sultana. Once again the purpose of this document, in my view, is primarily to create apparently enforceable restrictions as to stop Allseas from revealing information. It was designed to therefore reinforce the illusion of secrecy.

SECOND TRIP TO MALTA

108. Mr Sultana agreed to revert to the original 55%/45% split of profits on 15 July 2011. A revised agreement was signed on 18 July 2011. On the same day Mr Sultana forwarded it to Mr Nasir. Mr Rejniak was approved as a director of Allseas and the €100m was transferred back to BOV.

109. On the same day (and unknown to Allseas) Mr Nasir paid $200,000 in to Wealthstorm's account. The circumstance into which the payment was received are not clear. In his original Defence, Mr Sultana (paragraph 11) made no mention of it. He did refer to investments that he, through his company Wealthstorm, made in Mr Nasir's company Judicial Archives ($500,000) and Grand Strategy ($270,000). In the latter, $145,000 was pleaded to be invested in a PPP pursuant to which Mr Sultana was promised repayment of $290,000. In fact the only payment he originally pleaded as received was $200,000 in July 2011. That was all changed when he amended his

Defence on 10 January 2014. In that amendment he said he made $120,000 in Grand Strategy, which was used as part of its investment in a venture called Hong Kong Glamour Way Investment Limited ("Glamour Way"). That sum however was not then utilised and Mr Sultana asked Mr Nasir to return the $120,000 but he said he could not do so because the money had been used in an alternative investment. He then said that the $200,000 received on 19 July 2011 by Wealthstorm was treated by him as paid on behalf of Grand Strategy and that included repayment of the $120,000.

110. In his earlier Part 18 Response dated 20 June 2013, he said that the $200,000 was either payable to Wealthstorm or if it was treatable as part of a loan received by Wealthstorm on behalf of a friend of his (a Mr Belofsky) and was accountable by Wealthstorm to him then he contended that the Grand Strategy still owes him some money.

111. There is no documentary evidence to support any of these events. Further, during the course of his cross examination (T4/21 page 87 etc.), Mr Sultana asserted for the first time that Mr Nasir had promised him a further $200,000 four weeks later i.e. in August 2011 but never repaid it.

112. Allseas contend that this payment was a reward for Mr Sultana achieving the non-disclosure agreement, the return of the €100m and the appointment of Mr Rejniak as director of Allseas.

113. The coincidence to me seems to be significant. It is unclear whether or not there was actually an investment by Mr Sultana/Wealthstorm as alleged. What is quite clear is that those investments on his version of events had not been repaid and were overdue. This was despite the fact that Mr Nasir, with whom he was dealing, was supposed to be extremely wealthy and have access to large funds. There is a similar difficulty about his relationship with another company of Mr Nasir's (Digital Archives Inc.). He first met Mr Nasir in Claridges on 29 October 2009. Mr Sultana was unable to recall any details nor produce any documentation in relation to that meeting. There is (D3/1043) a loan agreement dated 8 December 2009 whereby Wealthstorm lent $500,000 US to Digital Archives. The loan was to be used by the debtor for financing equipment as well as any related costs. It was interest free and was for a term of two months. Mr Sultana also agreed that the loan was subordinated to any loans in any form granted by banks or financial institutions.

114. Despite its terms, and its generosity, Digital Archives never repaid the loan voluntarily nor did Mr Sultana, despite the fact that it was a very large sum out of his own assets, seek to recover any of the payment until commencing proceedings in California after the present proceedings. When those proceedings were commenced, ultimately they were settled on the terms that he recovered only $200,000 US inclusive of interest and costs. The terms of the settlement have never been disclosed. Mr Sultana clearly took a considerable hit.

115. It was suggested by Allseas that in reality the initial $500,000 US was a buy-in to AN's operations (T4/19 page 82). He accepted this but later attempted to row back from that answer (T28/20). His change of answers was because he was concerned that that meant he was admitting that he was buying into the fraudulent schemes. It will be recalled that he had advanced $575,000 US on 2 July 2009 in the Grand Strategy project. He was apparently promised a return of 30% per month. The effect

of Mr Sultana's evidence was that he was contacted by Mr D'Arcy who asked whether he would be interested in investing in what he described as a piggyback on a UN private placement trade. Mr D'Arcy promised him the prospect of doubling his money in a year and sent material which Mr Sultana no longer has. Shortly after that Mr Nasir contacted him, he said, and he had been put in touch by Mr D'Arcy. Mr Nasir told him that he and his partner John Yi based their business in Hong Kong although he and his family lived in Los Angeles and told him about the possible investment opportunity he had earlier discussed with Mr D'Arcy.

116. There followed the "***usual***" statements about Mr Sultana being in a privileged position in being invited to invest in these dealings with the United Nations via Grand Strategy with the fabulous promised returns. None of this materialised but Wealthstorm received back $570,000 US on 16th October 2009. Mr Nasir, on returning the monies, said that he was not satisfied with purported explanations about the scheme. That almost immediately led to the reinvestment of $500,000 US. I will deal with these transactions when I come to analyse Allseas' evidence, which it contends shows Mr Sultana was well aware these kind of schemes were dishonest and actually attempted to use them himself. For present purposes I am satisfied that whatever his state of knowledge was in 2009 by the time he came to be involved with Allseas in 2011 he well knew that these schemes were dishonest. Further, I am quite satisfied that the payment of $200,000 was not a coincidence but was in fact a reward for bringing along Allseas to that stage. I am quite satisfied that the second $200,000 promise was on the basis that he achieved the next stage, namely ensnaring Allseas into the scam and leading them to give up the control of the €100m. I do not regard Mr Sultana's varied attempts to explain this $200,000 payment with any credibility and I reject them.

DETAILS OF VISIT TO MALTA 19TH JULY 2011

117. The purpose of this visit was ostensibly an invitation by Mr Sultana to meet ***"the Team"***. I accept Mr Kooger's evidence, for example, that Mr Sultana introduced all of them to him and Mr Visser, who accompanied him, as the people he knew and could trust. Apparently Mr Sultana booked them into a hotel (at their expense) for 13 days. Mr Kooger could not believe the meetings would last for 13 days. In fact the meetings lasted only (sic) 9 days. Although no-one would admit this, it seemed to me that Messrs Kooger and Visser regarded a substantial part of this time in Malta as a bit of a "***jolly***". There were some meetings but there appeared to be large periods of time when there were no meetings but several meals and excursions. The purpose as seen by Messrs Kooger and Visser was to get to know the Team. They believed they got to know the Team well. The Team in question was Mr Rejniak, Mr Nasir, Mr Li and Amanda Chetcuti-Ganado (director of CSL), the incorporation agents.

118. In reality, in my view, the purpose of the meeting was for the Team (and for reasons set out in this judgment including Mr Sultana) to be satisfied from their point of view that they had a genuine victim who had €100m to invest and to lead them along. It also involved in my view an analysis of whether or not Messrs Kooger and Visser were likely to be duped. The Team obviously came to the conclusion (which was correct) that Messrs Kooger and Visser could indeed be duped and they were in effect bowled over by the performance of Mr Sultana and the team during this 9 days.

119. The scam proceeded successfully along its course. Thus Mr Kooger on 18 July 2011 executed a document appointing Mr Rejniak a special director of Allseas Group with full right and power of negotiating the final details and the execution and delivery of documents in relation to the Private placement of its €100m. It did state, however, that he was restricted from moving or drawing against the funds and that they might never be placed in a callable position. Mr Rejniak's appointment was approved by the Malta Financial Services Agency on 19 July 2011.

120. On 21st July 2011, BOV wrote to Mr Rejniak confirming the opening of the Allseas account with €100m with the notation that both Mr Kooger and Mr Rejniak were required to sign.

121. Things changed fairly significantly after that. On 22 July 2011 Mr Rejniak and Mr Kooger resolved to authorise Mr Rejniak to arrange to buy or sell bank instruments, US treasuries or private placement transactions in the amount of €100m. He was also given full authority to arrange all the documentation and paperwork and to sign it all. Although he did not have a several power to remove the money from the bank account he had a several power set out above to bind the company to enter into these transactions. As he was a joint signatory on the bank account he could in effect prevent Allseas removing its money without his agreement. Unwittingly, Allseas had thereby surrendered absolute control over its own money.

122. On the next day there was another resolution whereby Mr Rejniak and Mr Kooger resolved to give Mr Rejniak the authority to deal with the same monies but in respect of something to be done via the Royal House of Aragon. I shall refer to this organisation later but it was alleged to be the trading platform of the Vatican. In fact there is no evidence anywhere that this is a genuine organisation, although of course historically the House of Aragon had existed, at least until the 18th century.

123. This document was declared to be void. Finally, Mr Sultana wrote to Amanda (of CIS) and copied in Messrs Kooger and Visser on 24 July 2011 enclosing a direction for Amanda with an addition on the signatory card which set out clearly that Mr Rejniak had sole authority to commit funds available to 'XYZ' account for investment purposes. It reinforced that he, Mr Rejniak, was to have sole authorisation as he was travelling around in order to make the commitments. It also provided that in case Mr Kooger was not always available Mr Rejniak would have free access to funds in the current account in order to make commitments at any time and show on request to the vendors enough free funds available to make the commitment. This is Mr Sultana again having a significant role in the development of this stage of the scam in my view.

124. Mr Kooger was cross-examined about these various documents (T6/116-128). I found his answers quite extraordinary. He was the lawyer, yet he willingly signed all of these documents which gave Mr Rejniak a huge amount of control over the funds and business dealings. He never reported that to Mr Heerema. He never understood any of the transactions that he was being asked to authorise, saying that was down to Mr Visser, who was the financial person. His investigations, too, were non-existent. Sometimes, when presented with a document, Mr Kooger said his signature was a forgery, and then recanted. The net result is that Mr Kooger signed all these documents in my view, giving Mr Rejniak the authority, and he did this very early on in the 9 days. In doing that, he clearly asked no questions and simply agreed to

everything that was put in front of him. I reject his evidence that when he saw the note from Mr Sultana to Amanda he protested about it; there is no evidence to show any such protest. Why did he do this? In my view he did it because he simply believed everything that the Team (and this includes Mr Sultana) told him and was willing to sign virtually anything to facilitate the arrangements.

125. Mr Kooger reported to Mr Heerema by emails. The emails show little inquisitiveness on his and Mr Visser's part about what they were being asked to invest in.

126. The only matter which was challenged was the draft BOV letter that Mr Nasir sent to Amanda on 25th July 2011. This contained a statement that BOV confirmed that the funds were available to Mr Rejniak on first call and upon his instructions. That was changed to a form which ***was*** signed by the BOV officials, stating that the monies might be withdrawn or transferred in accordance with the terms and conditions. I have already set out the terms and conditions which, whilst they did not give Mr Rejniak any power to remove the funds, did give him power to commit Allseas Group to investments and also by reason of his joint account signatory status, prevented Allseas Group removing its monies unless he agreed.

127. On that basis the period in Malta ended.

ACTIONS OF ALLSEAS

128. There were a number of actions carried out by Allseas at the direction of Mr Heerema which at first sight appeared to be suspicious. First there is the removal of €100m from Allseas' accounts into Allseas Group's account, a company which is not in fact a subsidiary of Allseas but is controlled by Mr Heerema through its offshore shareholdings. Second, another company was created called Par Nobile Fratrum in Malta. This company was created to receive the profits. Thus the scenario was that the first €100m that the transactions generated would be used to repay the €100m which was owed to Allseas. Thereafter all the profits would be received and paid into Par Nobile. Mr Heerema was the 100% shareholder of Allseas. It was massively solvent.

129. Mr Sultana pleaded that he was not alleging any underlying wrongdoing by Messrs Heerema, Kooger or Visser. Mr Tager QC, during the cross-examination of Mr Heerema, went into these arrangements in some detail. He said he was doing this in relation to contributory negligence and the Maltese law concerning disregarding one's own interests.

130. I ruled that Mr Sultana was unable to advance a case that payment of the proceeds of the investment to Par Nobile involved a breach of fiduciary duty. One matter raised by me was whether or not these funds were to be directed to Mr Heerema as a kind of disguised dividend and therefore avoid income tax.

131. I have come to the conclusion that there is nothing on the evidence which entitles me even to consider whether anything that was done with relation to the profits being arranged to be paid into Par Nobile was wrongful.

THE VATICAN

132. Towards the end of the trip to Malta, Messrs Kooger and Visser were told by Mr Sultana that the investment would be made via a "***trading platform***" operated by the Vatican. Mr Sultana had emphasised his close links to the Vatican and the Pope earlier.

133. Mr Kooger asked Mr Rejniak for a document identifying the next stages of the deal which he provided. This document actually tells Allseas nothing about what is happening except from a timeline point of view. Nothing happens until September because of the vacation. By the time this document was provided, Messrs Kooger and Visser are well and truly hooked. Mr Kooger's reports to Mr Heerema demonstrate that. For example, in his email of 25th July 2011, he said:

> "***We had a meeting with the group this evening…[the] concern. The fact that Marek and I are authorised together for the bank account and his bank office wants him to be able to act alone to start trading…[Mr Sultana] played a sort of double game here by agreeing to joint authority. In a constructive atmosphere a solution has been found that we checked at the [BOV] on Monday. Marek and I will remain jointly authorised with a note that he has sole authority to handle the trading documentation.***
>
> ***Johann and I now know the men well and we are confident that they are good guys who do this type of deal day-in, day-out. Otherwise we have already signed a lot of documents showing that the money cannot be moved, not even for a period. Everything is open.***"

134. It must be remembered that there was never any kind of deal in prospect. This email once again shows, in my view, that Mr Sultana was an "***honest broker***" role in bringing Allseas on.

135. Mr Sultana then set in train a re-convening of the meetings in Malta at the end of August when the transactions were supposed to proceed. Mr Sultana requested fresh documentation from Allseas showing the money was still there. He also made a request on behalf of Mr Rejniak (email 1 September 2011) as to whether or not Allseas had a company seal/stamp, and could it be scanned. This seems an odd request but it was not pursued in cross-examination save to put to Mr Sultana that it showed he had a positive role as opposed to being a mere conduit. It seems to me that once again this is part of the Team (including Mr Sultana) in moving the scam forward. I can see no reason why Mr Rejniak would want a scanned copy of the corporate seal. It will be seen in later documents, that Mr Kooger says were forgeries, that the corporate seal (and another one purporting to be a corporate seal) are appended on documents. A copy was duly provided via Mr Sultana and it was also put on Allseas' letter heading. I cannot see a legitimate reason for the copy of the corporate seal to be provided to Mr Rejniak. It would be seen from these later documents which Mr Kooger said were forgeries that they had the Allseas corporate seal (and another one) on them. Thus Mr Sultana is facilitating the scam in my view.

It is done sotto voce via Mr Sultana, who is clearly trusted by Messrs Kooger and Visser by this stage.

136. Of course their confidence was misplaced, as the case demonstrates. Having armed Mr Rejniak with a scanned copy of the seal, it is interesting to see what he did with it. Within a matter of days he had created a letter on Allseas notepaper bearing the seal and an added seal (which Mr Kooger said he had never seen before). In this letter (11/9/2011; C6 565.5.1) it was asserted by him to two people, a Allan Clark and a Mr Mohammed, that he has:

> "***my personal exclusive full control and discretion, so, my company's cash funds are immediately available my first demand…"***

137. The monies that he is referring to is €100m and to make sure that the recipient of this email is convinced he includes the BOV statement showing the monies, a client information sheet about Allseas and the BOV letter of 27 July 2011 which confirmed the deposit and that the monies may be withdrawn or transferred in accordance with the terms and conditions. Of course the terms and conditions were subject supposedly to Mr Kooger's control. However the recipient of these documents are led to believe that Mr Rejniak has full authority and control over the €100m and he can invest them.

138. These communications were received by a Ms Birgit Mohr who gave evidence before me. Her evidence really shows the unbelievably low level of competence of Messrs Kooger and Visser and indeed Mr Heerema acting on their advice. I will deal with this evidence in more detail when I come to consider their evidence.

139. What the letter was plainly intended to do, in my opinion, was to set up an advance fee fraud. By that, unscrupulous people represent falsely that they have access to a large amount of funds which they are prepared to lend on favourable terms. The other alternative is that it is an attempt to reel in more investors into the investment scam. Either way Messrs Kooger and Visser, at the behest of Mr Sultana, have clothed Mr Rejniak with the ability to reproduce the Allseas seal on Allseas' notepaper any document which he wants to create. This is what he has done. There was never any question of Messrs Kooger and Visser being aware of, let alone approving of, this operation.

140. Mr Sultana thereafter updated Messrs Kooger and Visser as to the progress by his email of 5 September 2011. In that he stated that all documents had been submitted by Mr Rejniak and he would be told which platform the V (i.e. the Vatican) was using on Allseas' trade i.e. Frankfurt, Basel or Switzerland. Mr Kooger reported this on to Mr Heerema the next day and in that he said that there was no point in hauling Mr Sultana over the coals over these changes because he is only a "***disciple***". There was cross examination by Mr Tager QC in an attempt to show this demonstrated that Messrs Kooger and Heerema and Visser, contrary to their evidence, simply regarded Mr Sultana as an irrelevance and a mere messenger. I do not read it that way. It is clear on any view of the evidence that Mr Sultana had a secondary role. However that does not mean that he is a mere messenger; it is that he is part of the implementation of the scam to which Mr Rejniak and Mr Nasir are the main players.

FURTHER FORGERIES CREATED BY MR REJNIAK

141. On 11 September 2011 Mr Rejniak produced three documents. At least two of those were documents prepared by him but not shown to Allseas at the time. First is a resolution on Allseas' notepaper bearing Allseas' corporate seal and the invented one. This resolved to give Mr Rejniak authority to buy/sell bank instruments, US treasuries and/or private placement transactions in the amount of €100m held in the BOV account. When Mr Kooger was first shown this he said his signature was forged. He then changed his mind and acknowledged that it has his signature on it. The next one was the letter of interest to Messrs Clark and Mohammed referred to above. The third one was the statement of assets held on deposit by Allseas. Mr Kooger's evidence is therefore unreliable on this document. It is no good Allseas complaining (paragraph 21.3 of their closing) that the cross examination had to be treated with care because it took place without reference to the surrounding documents that assist in the exercise. That is a point for re-examination which was not followed up. In fact Mr Kooger had signed an identical resolution on 22 July 2011 [see 4/389.22]. My conclusion is that Mr Rejniak signed the resolution and the seals were put on after the event. It will be observed that the 22 July 2011 resolution does not have any seals on it. Mr Kooger would be willing to sign it, in my view, because he believed that by virtue of the mandate he had residual control over the funds. I have already pointed out that this is probably wrong and that Mr Kooger despite his experience as a lawyer failed to understand the interrelation of the various documents he was signing.

142. The other two documents were used as part of the further frauds which Mr Rejniak attempted to put into play almost immediately. Mr Kooger' signature was not of course appended to those documents because Mr Rejniak was able by putting together the three documents to pretend that he had sole control of the €100m.

SUBSEQUENT DEALINGS IN SEPTEMBER 2011

143. Mr Sultana on 11 September 2011 told Messrs Kooger and Visser that Allseas' bank account at BOV had been "**pinged**". This is intended to give some kind of technical impression that the Team are moving forward. I have no idea what pinging means. Historically it would be taken from ASDIC and is intended I suspect to give the impression that the Fed/Vatican side are checking out that the €100m was still there. After that Mr Sultana told Messrs Kooger and Visser that he would relay how he wished to orchestrate the trade; there are to be meetings with lawyers to see how they will deal with either or both signatories on the Allseas account. A potential difficulty is flagged up (for perpetuation of the fraud in my view) that whilst Mr Kooger had been cleared he was not as per Mr Rejniak. The solution put forward was to send the trader to the Bank and if that happened everybody would have to decamp to Malta to see whether the team would "***work out of BOV***". This too is meaningless. I have already commented that it is extremely unlikely that BOV are going to make available a room for somebody who would be a complete stranger to do some kind of trading about which they would know nothing and have no control because of the potential consequences that might visit them if it all went wrong.

144. All of the contents of this email are entirely false. Mr Sultana is proceeding with the fraud. I cannot accept that this material is simply being passed on by him and I am firmly of the view that once again this is part of Mr Sultana's role in the scam namely

to coordinate with Allseas to lead them on to the ultimate denouement which occurs in October 2011 when finally they surrender control over the €100m.

145. On 13 September 2011 Mr Sultana provided more information. An updated bank statement was sent across to the "***entity***". He said confirmation was still awaited as to how the transaction summaries would be dealt with. In relation to the booking of the account the trading platform would either be Frankfurt or Switzerland but the dealer was going to be trading in BOV itself. Further information was promised later that day. Once again all of this is bogus.

146. Clearly the important person to identify in this exchange is the "***Entity***". Mr Sultana's first shot was Mr Nasir (T21/172). However when it was pointed out that the Entity was supposed to be doing the trader he said it was "***Washington really***" (T21/173). He then suggested that it would be the trader, but he did not know who the trader was (Mr Keller see below was excluded at that time as he was not on the scene). Mr Sultana excluded Mr Rejniak. Mr Sultana then suggested that he did not know who the person was but "***they***" referred to it as the "***President of the platform***". At one stage Mr Sultana suggested (see his solicitors'' statement B2/67A at 470.11) that Mr Rejniak was the Entity. There was no evidence showing that he had sent the bank statement to the Entity as suggested in his email of 13 September 2011.

147. This is all vague and it is deliberately vague. It perpetuates the style of the fraud by talking in obscure and technical expressions which the victims do not really understand but they do not wish to look stupid by revealing that they do not understand what is going on. The reality is that Messrs Kooger and Visser are simply being told a pack of lies. Mr Sultana is the person telling the pack of lies and in my view it is impossible for him to suggest that he is simply repeating things told to him by Mr Nasir. He has no evidence showing Mr Nasir told him this detailed information to put up as a smokescreen to disguise the scam. The emails between him and Mr Nasir are sparse. Mr Sultana attempted to suggest that the bulk of the communications between him and Mr Nasir were on telephone and he scribbled down notes which he did not keep. I simply do not believe him. His role is to bring in Allseas and he is coached in the generalities and will not go beyond the generalities because he knows there is no detail to explain because there are no underlying transactions. His are the words of a persuasive salesman and he clearly persuaded Messrs Kooger and Visser.

148. Equally, the question of who is approved or not approved by Washington is simply made up and in my view was made up by Mr Sultana as he went along in his evidence. Once again it is part of the mystification of the procedures designed to confuse the victims with technicalities.

TRADING

149. On 14 September 2011 he told Messrs Kooger and Visser that the Allseas' transaction had started on the 12th but that there were two points of clarification, these being scenarios as to how they deal with the funds in BOV. First was a contract by the platform into BOV (pointing out BOV are yet to be approved) or second, a blocking letter issued by HSBC Zurich blocking the funds in the BOV account.

150. He stated that the second option would be easier but "***we***" have no influence in how the "***Entity***" have decided to administer the funds in BOV. Later in that day Mr Sultana stated that the blocking procedure would be the way that the ***trader*** would take this in to trade. That is not of course the Entity. He said that he "***awaits full coordinates from the trader***". This is a meaningless and unexplained statement. He then decided that Mr Visser should contact BOV to ask them for the cost to issue a Swift MT76O blocking reserve funds to Allseas and Mr Rejniak and the cost. Once the cost was set out it was stated the trader would cover the cost and send a transfer into BOV.

151. It must be appreciated that this blocking device by now is not intended to be for the benefit of Allseas; it is represented as being to protect the trade so that Allseas do not remove monies when the trader makes a commitment. The blocking was stated by Mr Sultana to be for one year and one month. On 16 September 2011, BOV informed Mr Rejniak that the cost of an MT76O for €100m for 13 months would be €600,000. This was passed on to Mr Sultana who passed it on to Mr Nasir. On the same day Mr Sultana in an email to Mr Nasir and Mr Rejniak, expressed his view that €600,000 was on the high side and he would try and have Mr Visser negotiate the figure down. They were then asked to refer to the ***trader*** and he awaited instructions. In a further email dated 19 September from Mr Nasir to Mr Sultana he talked about a Chinese transaction and suggested to Mr Sultana that he tell Mr Kooger that they were engaged and waiting for them to complete his instructions. He also said that Mr Rejniak is confident and very relaxed and "***we will get Malta done!***". Mr Nasir appended a letter from NatWest dated 15 September 2011. It is reasonably clear on looking at it that this is not a genuine document. It is littered with the kind of strange language found in these frauds and spelling mistakes. It is extremely unlikely that NatWest would issue a guarantee for $5 billion. NatWest have confirmed through their legal department that the letter is a forgery. Whilst the signatories are two genuine employees they did not sign this document. The telephone numbers are not NatWest numbers and never have been.

152. Mr Sultana checked the letter out because of concerns over the grammatical errors but appears to have formed the view that it was genuine.

153. At first blush the exchange between Mr Sultana and Mr Nasir does not look like an exchange between two fellow conspirators, as Allseas would have it. However one has to treat the analysis of informal documents like emails with caution. They are not legal documents to be subject to detailed scrutiny. Further the documents have to be considered in the light of the overall documentation. It seems to me that the exchange of emails is simply an exchange between them as to the progress of the two operations. Mr Sultana is naturally anxious at this stage. He invested $500,000 in 2009 and has not seen a return despite the supposed short-term nature of the loan. By this time his finances were such that he must have been stretched and consequently anxious. He received the $200,000 in June but the second tranche of $200,000 had not arrived. He was therefore in a very tight financial position as he acknowledged. That is why he asked as to the progress with the China deal because he hoped that if that deal worked he would expect some money from it. His analysis of the NatWest letter therefore on that basis was simply making sure that the document was effective and did not become immediately an obvious forgery when shown to third parties. He

was anxious to proceed with the Allseas' transaction and the communications were nothing more than that.

154. I asked Mr Chapman QC what Allseas' case was on these documents and his answer (T17/42) was that Mr Sultana went into business with Messrs Nasir and Li from the outset on the basis of fraudulent prospectuses knowing all the business was going to be fraudulent. He submitted that these documents were showing Mr Sultana egging on Mr Nasir and that it was not all one way (i.e. from Mr Nasir alone).

155. I am not sure about Mr Chapman's submission and it was not repeated in his closing. It seems to me that, as I have said, we can be overly analytical on individual emails. I have come to the conclusion that by the time the Allseas' operation started Mr Sultana was aware that the proposed investments were fraudulent and nonexistent. How he arrived at that knowledge is not clear but that is my conclusion for the reasons I set out below. Significantly, Mr Sultana was forced to acknowledge in cross-examination (T17/43) that his answer that Ms Gallucci who worked at NatWest confirmed that the letter was genuine when she did not. She merely said that the signatories did work for the bank and nothing more. His failure to send the document to her in my view was suspicious. His answer that it was confidential is unsatisfactory. It seems to me that he was just checking that there were genuine signatories which would help strengthen the authenticity of the document. Given the fact that the telephone numbers were bogus anybody would telephone those numbers and presumably would be diverted away from a genuine NatWest telephone number. An enquiry at NatWest would elicit the response that they did work for them. Mr Chapman put it to Mr Sultana that he was worried that the obvious lack of authenticity in the bank document would affect the China deal (T17/48). In my view that is quite correct. Mr Chapman made the point that if Mr Sultana was honest and he received a document from Mr Nasir that he thought was a forgery showing a large bank exposure, he should have told Allseas that they were dealing with somebody who was putting forged bank letters about (T17/55). There is no honest answer to that question if he does not thus communicate to them.

156. This bank document is one of the documents which Mr Sultana contends he relied upon as showing that Mr Nasir and Mr Li were to be trusted. **(The Re-Amended Defence, paragraph 6.3)**

157. As the cross-examination showed, he never had the confirmation that he originally asserted in the Defence that the documents were authentic. It was not therefore a document which he could properly say showed that Mr Nasir in particular was honest and trustworthy. To the contrary, his first view was that the document was a forgery. This undermines what he said (with a Statement of Truth) in his amended Defence and in the further information. He could not, in my view, believe that the document was genuine. Further, his initial plea in effect that these documents were in 2009 was wrong by two years. The overall conclusion is that these were letters in my view between fellow conspirators "finessing" two proposed scams. One must not lose sight of the fact that if the scams are successful they produce a large amount of money. In the Allseas case it was only the diligence of the Metropolitan Police which prevented them losing the entire €100m.

THE STING

158. The final stage of the sting starts with the communication from Mr Sultana to Messrs Kooger and Visser on 23 September 2011. He set out a considerable amount of detail of Mr Rejniak going to Zurich to an unidentified trading entity. To reinforce the secrecy he says in a guarded way there are some things which cannot be discussed on the telephone. He suggested that the Fed have given a preferred route which had the benefit of no MT760 block, thus saving $600,000 US. There is a suggestion that the funds might be moved to a bank account with HSBC in Malta. Mr Sultana became involved because he had prepared a document with Amanda for opening those accounts. He said that he had requested assistance from the Fed. This is the start of a situation where either Mr Kooger or Mr Rejniak can deal with monies in the HSBC account. That is shown by the authorisation for each of them to operate telephone banking in the draft prepared by Mr Sultana. It is a ***several*** power. Mr Sultana knows that there is an intent to be a several power of control because his email of 23rd September 2011 to Amanda refers to the need for Mr Rejniak to fly to sign forms but not Mr Kooger. BOV was asked to provide a MT760 but it did not have a standard form so Mr Rejniak drafted it and sent it to Mr Sultana. His draft is pure gobbledegook. One thing is clear: it is not a block as Allseas might have understood it. It was expecting, of course, a block on someone else removing funds from its account. In fact, paragraph 2 of the draft blocks ***Allseas*** from having any dealings because the funds are "***irrevocably reserved and fully callable and furthermore we have irrevocably blocked, assigned and transferred beneficiary rights to the aforementioned cash funds…***"

159. A second paragraph provided "***We hereby irrevocably confirm that these funds presented to be good clean and clear funds and of non-criminal origin and legally earned, these funds are free from any liens and incumbrances of any kind and are freely available to the beneficiary named herein.***" The beneficiary is the proposed recipient of the monies, not ***Allseas***.

160. The wording in respect of the good clean funds is a familiar wording in respect of these investment scams. Thus BOV, if it had signed this, would have warranted the legality of the Allseas monies.

161. Mr Sultana forwarded the document to Messrs Kooger and Visser. BOV predictably refused to sign it. On 25 September 2011 Mr Sultana communicated by email with Amanda and told her that she needed to be on standby, and he went on to explain the current situation. The trading entity was looking at a quick solution with BOV and it was assessing whether or not BOV was large enough to take in a €500m MTN. If it was happy with the strength of BOV then he would fly in to meet the chairman of BOV and introduce the trading entity along with the €500m MTN.

162. Although Mr Sultana asserted in evidence (T22/23) that he was merely passing things on, it does not look like that at all. He is to have an executive role in introducing the trading entity to the chairman of BOV for example. He is positively explaining to Amanda what is happening. It is unclear who the trading entity is. At this stage it does not appear to be Mr Rejniak in the light of his second email of 25th September 2011 which dealt with Mr Rejniak and the trading entity separately. Mr Sultana accepted that this looked like he had an executive role (T22/22).

163. The next significant email was one dated 27 September 2011 which he sent to Mr Nasir. This is a curious email. He appeared to be telling Mr Nasir the details of the transactions that would take place. There was apparently a different scenario proposed the night before. Again it does not look like emails passing between two fraudsters. Equally however, it does not show Mr Sultana as being a mere cipher through whom Mr Nasir channelled the misleading information to Allseas. I asked Mr Chapman what his case was on this. He suggested that he was putting to Mr Nasir things which Mr Heerema would not fall for.

164. It is clear that Mr Sultana is setting out an apparent detailed personal knowledge of these kinds of transactions.

165. Mr Chapman in his closing oral submissions (T30/118) suggested that Mr Sultana is discussing with Mr Rejniak here the type of things that would need to be put forward to convince a sceptical Mr Heerema, who will not be fooled like a less sophisticated investor.

166. I have come to the conclusion that that is the most likely interpretation of this email. I say so because on the face of it, it is a negation of Mr Sultana's stance throughout his case that he is an innocent conduit. Second, it is overwhelmed by all the other evidence which shows, in my view, Mr Sultana by this time was well aware there were no genuine transactions to be had.

167. The last paragraph is also significant in my view. Mr Sultana is plainly becoming anxious because he is in financial straits by this time, as he acknowledged in cross-examination. He is, I conclude, showing Mr Nasir, based on his analysis of Mr Heerema in particular, what needs to be put together to ensnare Mr Heerema.

MEET THE TRADER

168. The next stage was to introduce Allseas to the trader. Mr Sultana has a significant role in this. Mr Nasir sent him an email on 29th September timed at 16:20 setting out a draft email that he was proposing to send to Allseas. Mr Sultana considered this but the extent of his consideration is by no means clear. Mr Sultana says he does not know why Mr Nasir ran the email past him (T22/33). I do not believe that. It is plain why it is being run past him because it is his extensive contacts with Allseas which bring his knowledge as to what can and cannot be put to Allseas to progress the transaction.

169. Mr Sultana attempted to play down his role in the construction of this proposed communication (T22/34). First he suggested he said he was put under pressure by Mr Nasir to do it and he did it. He said that he did not make the amendments but that is simply untenable. A major amendment was in respect of upfront fees. The draft said there were no upfront fees required. That was apparently unacceptable to the proposed trader who was going to be brought along. The variation said "***Paul has kindly made commitment pelage (sic) on behalf of Allseas the trader is now prepared to come to Malta and act on site…***". Apparently this is what happened. Wealthstorm paid the required amount ($95,000) on 30th September 2011. He told Mr Kooger and Visser that he had done this by email. The only source of monies he had to make this commitment pledge was the $200,000 paid to him by Mr Nasir the previous July. He made the payment despite the fact that Mr Nasir had not paid the second promised

$200,000. This is surprising given the apparent wealth of Mr Nasir and Rejniak but it shows the desperate nature of Mr Sultana by this time. Mr Sultana had already taken the balance of the $200,000 out of Wealthstorm by a loan on 19 July 2011. He had no assets left of a significant amount. Ultimately this payment and a further sum of $11,000 that he paid out were repaid by Allseas after the transaction had gone through.

MEETINGS IN MALTA OCTOBER 2011

170. Mr Sultana asked Mr Kooger and Visser to hold themselves in readiness to arrive in Malta on short notice on 30th September. Mr Kooger told him he was not prepared to hang around in an hotel for days as before just to listen to vague stories. Mr Hereema suggested this stance and Mr Kooger confirmed there would be no question of doing a new deal. The deal was now in respect of MTNs and the high margin and turnover would generate unusual profits with 50% to go to the Government, 45% to Allseas and 5% to third parties. Mr Kooger and Visser met the new "***trader***" Rudolph Keller at the Hilton hotel in Malta on 3 October 2011. Mr Sultana and Mr Rejniak were also there as was Mr Nasir who introduced Mr Keller as a "***third category trader***". Mr Rejniak told them that he had done a number of deals with Keller and Mr Kooger recalls Mr Keller saying he had $50 billion of government paper acquired at a 20% discount. All this was untrue.

MEETINGS WITH BOV OCTOBER 2011

171. The next day (4 October 2011) Mr Visser and Kooger met representatives of BOV along with Mr Sultana, Mr Rejniak, Mr Keller and Miss Cetcuti-Ganado.

172. There were five bank officials there. The proposal put forward according to the minutes of the meeting prepared by BOV was for Allseas to use the funds deposited as collateral against an overdraft for the same amount for trading in Euro and US Dollars. It was proposed that the account would be blocked. Of course in this case the blocking will be for the benefit of BOV so that deposited funds could not be removed being its security for its exposure of the overdraft which being €100 million was not an insignificant amount.

173. Mr Sultana, Mr Kooger and Mr Visser gave evidence about this meeting. To say the evidence is confused is to understate the position.

174. Mr Sultana in cross examination said that Mr Keller told BOV that he was going to use BOV's trading department to buy and sell on the same day MTNs with at least 20% discount (T22/58-62). This echoed a statement that he had given to the police in interview. That statement was only obtained after day 10 of the trial and after Mr Kooger had already been cross-examined. In his cross-examination Mr Kooger had affirmed his agreement that the BOV file note was broadly accurate. It made no mention of this form of dealing but did mention dealings in Euros and Dollars without saying what they were.

175. Mr Kooger in his 4th witness statement (having been "***refreshed***" with Mr Sultana's statement to the police) then said that Mr Keller fully outlined the process to BOV. Mr Sultana's position in the statement was the same. It was not the position when he gave evidence although changed his mind in re-examination.

176. Mr Visser told an interesting story. He said that Mr Keller did not give BOV details, and Mr Rejniak told him afterwards that that was done deliberately to keep the confidential deal away from the bank. Mr Visser also gave evidence to the effect that Mr Rejniak told him before the next meeting that Mr Rejniak was going to do the same then. There was much cross-examination about this to show that Mr Visser was prepared to participate in a concealing of things from BOV.

177. Neither BOV note of the two meetings referred to the details of the deals. Mr Tager QC for Mr Sultana in his closing suggested that if BOV had been told what was going to be dealt they would have fallen about laughing.

178. I am inclined to agree. I do not think any person with a modicum of intelligence would believe that it were possible to make these vast amounts of money on such a short turn in the manner suggested. I do not believe that anybody when told that the Fed was going to issue its own bills at a 20% discount to enable "favoured" people to do a turn on it would think that that would be possible. Nevertheless that is the deal which Mr Kooger and Visser accepted. I shall say quite a bit more about this when I come to analyse their position in this action.

179. On balance I conclude that Mr Keller did a wonderful job talking about the programmes without giving any detail. I do not believe he told BOV at either meeting that they were going to trade in MTNs and obtain a quick mark-up of 20% in a matter of days. I agree with Mr Tager QC that any serious banker would have fallen about laughing with that kind of suggestion. I am of the opinion that what Mr Visser said spontaneously in cross-examination is more likely to be correct. Of course Mr Rejniak wanted to keep it secret not because it is "secret" in order to be kept from banks, which is the impression he gave to Mr Visser, but because he knows if this proposition is presented to any banker who has a modicum of intelligence they will not believe it is a credible operation. The same does not apply to Mr Kooger and Visser who so far as I can see left their brains at home when they left Holland and investigated these transactions, as to which I shall say some more below.

180. Mr Tager, in his closing submissions, submitted that the period from 3 to 15 October is of critical importance, which is correct in that it was during this period that control of the funds was obtained.

181. The strategy seems to have gone well for the Team because Allseas were going along with the proposal which would actually free up the funds if it was implemented. BOV would provide the finance on an overdraft and it would have recourse to Allseas' money on deposit. This of course is something Mr Heerema had always been totally against.

182. On the same day Allseas and the newly formed company, AIC Corporation Limited, entered into a Private Joint Participation Agreement ("PJPA").

183. This document has the usual irrelevant jargon that is to be found in these fraudulent documents but in the middle of it of course were provisions which progressed matters. First, Mr Rejniak is placed as a joint signatory on the account where the €100 million is held by Allseas group, but is given express powers to transfer the balance into a private placement and/or capital enhancement programme, or to raise credit lines using "***administrative hold of AGL account in favour of transaction account to be***

opened with BOV in the name of Allied Investment Corporation Limited". It also provided that AIC accepts that the credit line is not put at risk and that the use of the credit line is for a "***non-depletion transaction***" where the instrument to be purchased has a value equal to or greater than the principal value of the funds. AIC was appointed a manager under the PGPA. Finally it was provided that Allseas received half the profit and AIC received half from their profit. The agreement was to last for a year and one month and had confidentiality provisions in it. AIC was incorporated under the laws of Malta and was controlled by Mr Rejniak. Mr Kooger and Mr Rejniak on the same day signed a letter of authority whereby 45% of the profits were to be remitted to Mr Heerema and 5% to Wealthstorm in accordance with the agreement signed in July 2011.

184. At about this time Wealthstorm received €335,690 into its Med Bank Euro account from HSBC Hasipoglur & Akbilen, a firm of lawyers in North Cyprus. Mr Sultana told an unusual story about this, as I shall set out below.

185. The split of the proceeds above did have a technical hiccup as Amanda pointed out, in that it referred to a joint participation agreement dated 21 July 2011 between Allseas and AIC, but AIC was not incorporated until 4 October 2011. The agreement was duly amended to refer to the PGPA dated 4 October 2011.

186. Shortly before the next meeting Allseas received information from Miss Burgit Mohr which plainly showed that Mr Rejniak was attempting to defraud them. However Mr Kooger, Visser and even Heerema, were so connected in with the proposal that they simply ignored it despite its obvious implications for them in their dealings with the Team.

187. BOV sent a long list of questions that required answering on 10 October 2011. It would have been impossible for the Team to provide any of the information being sought. The reality is that (as was shown later in the day) BOV would not become involved. For example, it required a CV including the trading experience of Mr Keller, investment strategy, target monthly trading volumes and on receipt of the information it would have to be submitted to its Credit Committee. The accompanying JP Morgan questionnaire would not have been capable of being answered. It follows that the Team would know there would be no prospect of the proposed operations through BOV. Had the proposal gone through, I have no doubt the €100 million would have been spirited away through "***dealings***" in AIC, leaving BOV high and dry with its overdraft, but it would have recourse to Allseas' €100 million deposit. In an attempt to head-off BOV's enquiries, Mr Rejniak sent an email on 11th October to Marissa at BOV offering to attend at a "***top table meeting***" to explain the role required of BOV. The next stage he said was "***how BOV wished to deal with the pledging of Allseas' cash deposit to AIC…***" This was not copied to Mr Kooger and Visser, but shows that the Team were still trying to manoeuvre the situation with BOV whereby in effect they could take advantage of a pledging of Allseas' money. Mr Sultana drafted this letter for Mr Rejniak, which once again demonstrates his executive role in the scam in my view.

188. Mr Rejniak, together with Amanda, attended a meeting with BOV on 12th October 2011. There is a minute of that meeting prepared by BOV but nobody gave evidence. It is interesting to note that the so-called dealing was short-term debentures. AIC, it was said, would be purchasing single A-rated or higher bonds issued by Western

banks for a value of €100 million, selling them on a same-day value basis to US pension funds. It was explained that this would be done through the contacts of Mr Keller the appointed trader. BOV informed Mr Rejniak that this kind of facility would only be acceptable if Allseas' monies were provided as cash collateral. Mr Rejniak said that this would have to be decided by Allseas but that it would in all probability have agreed with the request. BOV were clearly concerned about its ability to deal with such high volume and the amount transactions. What is significant however is that Mr Rejniak did not tell them about the actual supposed transactions, namely short-term MTNs issued by the Fed at a 20% discount to be sold almost immediately.

ROYAL HOUSE OF ARAGON

189. On 12 October 2011, Allseas received in their Swiss office a letter dated 6th October 2011 from the Royal House of Aragon, and addressed to Allseas and Mr Rejniak. This organisation was supposed to be the investment arm of the Vatican but it was of course nothing of the sort.

190. The document followed the usual incoherent style. For example, the second paragraph said:

> ***"So, just to let you know and informed to avoid any personal, any group and/or any broker eventually involved with your company's investment file or part of it after the Royal House of Aragon interest, this or these anyone cannot involve back in any way for any reason and for any motivation, the Royal House of Aragon and/or our royal structures in any matter and for any question."***

191. The second paragraph said:

> ***"What above became immediately following the non-acceptability by our official licensed trading platform of your companies investment through your designated signatory [Mr Rejniak… it is clear that after our removing of your companies investment file, we not were as well as we are not involved and interested directly or indirectly anymore through any one with your company's file exactly from the same above right date of September 10, 2011."***

192. Mr Heerema was impressed with the quality of notepaper but his evidence otherwise was bereft of any kind of sensible observation.

193. Apparently it did not concern Allseas in any way. Mr Kooger thought it was ***"crap"*** but funny enough to have a look at the original. The covering letter said that Mr Rejniak was not acceptable and could not be accepted to enter into development trading investment opportunity directly with trader authority. Despite this it did not even lead Allseas to think about raising it with anybody with any significance. Mr Kooger discussed it with Mr Rejniak which was an unusual thing to do when Mr Rejniak was clearly at least having his authority to deal with the Vatican questioned. He was completely relaxed according to his witness statement because by that time

the Vatican trading platform was not going to be used as Mr Keller was involved. Mr Rejniak conveniently told him that he thought it was part of a set-up designed to derail the investment opportunity he having received a copy. By this stage, Messrs Kooger and Heerema it seems to me, are so enthralled with the opportunity and the team (including Mr Sultana) that they simply accept everything that he said without enquiry.

194. It is impossible to come to a clearly concluded view but, in my view, it is more likely than not that Mr Rejniak sent the letter. He did this to justify the switch to Keller so that when the matter all went wrong (i.e. when the money disappeared) there would be no questions raised at the Vatican because it was not involved. It is part of the way along to get possession of Allseas money.

MALTA 13-17 OCTOBER 2011

195. As Mr Tager said in his submissions, this too was a vital period. However, Mr Tager seeks to say that because of his submission that Mr Sultana had very little to do with what went on in this period and was not present when vital documents were signed releasing the money away from Allseas. That might be true but in my view it is not of significance. I am quite firm that by this time, Mr Sultana's role in the scam was finished beyond attending at the meetings and making the right sounding noises in support of the Team. His task had been to smooth the way for Allseas to be put in a position that after a whole series of unexplained delays and obstructions, finally they were in a position to be invited to do the privileged deal. However unfortunately, as shall be shown, a technicality required them to relinquish control over their own money. By the time this happened, in my view, Messrs Kooger, Visser and Heerema (and in particular Kooger and Visser) were completely dazzled and did not exercise the slightest amount of intelligent critical analysis.

196. In advance of the meeting, Mr Sultana sent an e-mail to Mr Rejniak detailing the arrival of Messrs Kooger and Visser, so that all the documentation and the transfer of funds i.e. from Allseas to AIC could take place on Friday. Mr Kooger was to be added as an additional security on AIC ***"either/or to sign".*** Mr Kooger missed that. If that went through, Mr Rejniak would be able to remove the funds on his sole signature. In any event, it never seemed to occur to anybody that even if it was a joint signatory, Mr Rejniak could stop Allseas taking its money back. This is a further example of Mr Sultana having an executive role in the arrangements and not merely being the cipher. He was setting everything up for the finalisation on Friday; he was setting up the transfer of the funds and setting up the vital mandate on AIC's bank account.

197. It was proposed that the €100m be lent by Allseas to AIC under a loan agreement which was extraordinarily generous to AIC. First the purpose of the loan was to be used for trading and investment purposes; it was provided free of interest and had a term of 13 months with possible extension. The parties also agreed that the loan was subordinated to any other loans in any form granted by banks or financial institutions. Messrs Kooger and Rejniak duly resolved that Allseas Group would enter into that arrangement on 14th October 2011. This loan agreement completely reverses the position that Allseas thought they were having. There is complete loss of title to the monies. It is not a "**non-depleting**" loan if that has any significance and its loan is subordinated to anything that a bank may provide. Thus, if BOV provided the €100m

to AIC by way of an overdraft, its loan would be subordinated. However this arrangement, of course, goes one better for the Team because BOV is not involved, as the money is simply transferred by Allseas to AIC without any restriction or protection.

198. On the same day, Mr Rejniak as director of AIC resolved to transfer the €100m to Larn Limited ("Larn") a GB company registered no. 5946381 represented by CEO Louis Nobre (the 4th and 5th Defendants respectively). Larn was given permission to use the money for investment purposes for 13 months to be repaid to AIC at the end of the term. The resolution reflected an identical one signed by Allseas (acted by Messrs Kooger and Rejniak on the same day). Mr Kooger in his relaxed style made a few alternations to the loan agreement but ultimately executed it on 15th October in the form set out above. That triggered the identical arrangement between AIC and Larn also dated 15 October 2011, signed by Mr Nobre on behalf of Larn and Mr Rejniak on behalf of AIC.

THE EMERGENCE OF NOBRE/LARN

199. The parties attended a meeting with BOV on 14th October 2011. A large number of representatives of BOV were present as were Messrs Kooger and Visser, Rejniak, Sultana and Ms Chetcuti.

200. The Bank started again by asking how the transactions would take place. Mr Rejniak told the same (wrong) story about purchase of bonds issued by Western banks and then sold on to the US pension funds. It was explained by BOV that the only way the Bank's position would be completely risk free was if the clients agreed to transfer the €100m which would be pledged in favour of it under a cash collateral framework. The clients according to the note, said it was not possible. The Bank's response was that they were very firm on it. What is clear is that nobody told BOV what the real transaction was and nobody interrupted Mr Rejniak when he gave the misleading description. After discussion the clients left and came back a couple of hours later. The Bank officials discussed it with their superiors and were told that the maximum that JP Morgan would entertain (it being associated with BOV) would be US $2m. It would be impossible for BOV to deal with €100m.

201. The clients came back and were told this and responded by saying that they would make alternative arrangements and they would be contacting BOV on Monday to withdraw the €100m.

202. They adjourned to CSI's offices. Clearly Messrs Kooger and Visser were disappointed about another non-deal not taking place at the last minute. As I have said above, I suspect that the Team knew it was not going to work with BOV once it made the detailed enquiries it did shortly before the meeting. The last chance was the simple transaction of transferring the money over to AIC in the way in which the documents were executed. However, that was frustrated because BOV would not allow the trading to operate through it either.

203. Back at CSL's offices, Mr Rejniak came up with a new proposal. Mr Sultana was at the meeting but he says that he was in and out of the meeting and did not really participate. In my view, that does not matter for the reasons I have already set out; his task was largely finished. The proposal was to introduce a new trader as being a

Washington approved Tier 1 Trader, specialising in $1bn for Eurotrade. According to Mr Sultana, Mr Rejniak described the trader's clients as including entities such as the FBI and the CIA. Mr Rejniak (and this is an old story) put forward this Tier 1 Trader as being willing to help Allseas at "***only***" €100m as a favour.

204. Predictably it turned out that the monies had to be moved to the Tier 1 Trader's account, in this case in Switzerland. According to Mr Sultana's evidence, Messrs Kooger and Visser accepted this without argument. Rejniak said that they could be covered because it would be covered by a Trust arrangement. Kooger and Visser were shown a document on Mr Rejniak's laptop which might well have been a proposed Trust Deed. Mr Kooger made it clear that new proposals would have to be approved by Mr Heerema. He left the meeting and returned saying Mr Heerema had approved them. This was around 4pm in the afternoon. Mr Kooger's evidence in his witness statement in respect of these transactions was extremely sparse. This was particularly surprising because it was the various transactions over these three days which unlocked and led to the departure of Allseas money.

205. Mr Visser's evidence is not much better. He barely deals with the discussion at the meetings with BOV and accepted that the proposal to use Allseas money for security for AIC's borrowing involved some "***theoretical***" risk but he did not regard this as a serious risk because the trading would involve acquiring high grade securities at a substantial discount. He concluded that there would be no risk that the securities would be worth less than the price they would be bought for. He relied upon the fact that the trade seemed possible and that the people involved had done transactions like this before.

206. This is quite extraordinary because he had no evidence for material to justify any of those conclusions. He did not even know clearly what the transactions were and never did. Nothing in the form of documentation was ever produced.

207. Mr Kooger reported back to Mr Heerema by e-mail (timed 16:20) on 14th October 2011. This was a follow up apparently on two calls and he summarised them. First, he reported back that BOV pulled out. Second, he stated (accurately in my view) that Mr Rejniak had already prepared two alternatives. The first was to loan €100m to AIC which placed the €100m in trust on which basis the trade would take place. After ten days, €100m from the proceeds would immediately come back the other way and trading would continue on the basis of the remaining first proceeds. The trader arranged cleared banking in Switzerland. Mr Rejniak could go to the trader and stay with him until the end of the ten days and the €100m is back at Allseas Malta. Visser is then to transfer it back to ING ending the venture for Allseas. The trade then continues and the shares and the profits are paid into a new Swiss account with the Maltese partner Pro Nobil Fratrum (PNF) to be opened in a reputable Swiss bank.

208. The security was stated to be the same as the one for the BOV option and that he would be a joint account holder on the bank account of Mr Rejniak's company as of tomorrow. He then said "***we have already quickly looked over the trust deed but we will do that a couple more times to maximise security when necessary".*** That meant they would stay over the weekend and return to Amsterdam on Monday but everything was prepared to execute all this on Monday because ***"everything is ready and no due diligence is needed. All parameters agreed earlier remain the same (13 months, distribution percentage and such like)."***

209. Mr Kooger was telling Mr Heerema first that he would have a measure of control by being a joint signatory on AIC's trading account and second, that the monies would in any event be protected in a trust. He would look over that latter document and everything else was acceptable

210. The bank mandate he signed actually gave a ***several power of*** disposition so he was wrong in that regard. Second, the first trust deed was one between Allseas represented by Mr Rejniak and Mr Kooger and Larn Limited. This is an unusual document for a number of reasons. First, it appears to have dates of creation on it of 27th September 2011 when neither Larn nor Mr Nobre were on the scene. Second, and more fundamentally, this document simply set out that Allseas was to transfer its money to Larn and that the assets would then remain under the control of the Trustee which was Larn. The document has the usual odd language but the gist of it is that Allseas is simply handing its money over to Larn and the latter simply does not provide any declaration of trust in respect of the monies at all. It gives no protection therefore.

211. A second one which was actually executed by Mr Rejniak and Mr Nobre on 17th October 2011 is a trust deed between AIC this time and Nobre. The provisions are the same but of course the protection is made even more unlikely because Allseas are not even a party to this trust deed. It operated when AIC obtained the €100m from Allseas. This document emanated from a meeting on 15th October 2011 between Messrs Rejniak, Kooger and Visser. Mr Visser can remember nothing about the arrangements at all beyond being told by Mr Rejniak that he and Mr Nobre were joint owners of Larn. Mr Nobre was the Tier 1 Trader who worked with Mr Rejniak before and had strong connections with the Fed and MTN trading. The importance in Mr Visser's mind was the fact that he was a Tier 1 Trader. In giving it such importance, it never occurred to Mr Visser to ask what a Tier 1 Trader was and how it could give Allseas better results and protection. On 17th October, the transfer and loan documents were given effect to. By those transactions the Allseas money was released without any protection whatsoever. Mr Kooger appeared not to understand that to be the case. He believed that the Trust Deed gave him security. He also believed that he was a joint signatory on an Allseas Bank Account when that was not a full picture as the authority was several and not joint. These arrangements gave the fraudsters what they wanted, namely control over the €100m.

212. Mr Kooger's evidence was so sparse on this that he was required by me to produce a further witness statement setting out what happened in respect of these transactions. He produced his fourth witness statement of 17 March 2014. He also availed himself to the opportunity to provide more evidence about the meetings of 4 and 14 October. His evidence only made matters worse in my view and what comes out of Mr Kooger's evidence is that it is completely unreliable and I can give no credence to anything that he says about what took place at the meetings. I can see what ensued as a result of the meetings and ultimately despite the fact that Mr Kooger with Mr Visser, two very experienced corporate officials, (Kooger being a lawyer and Visser being an accountant) being there to ensure that Allseas' €100m was protected, the exact opposite was achieved. They were totally unable to explain how that happened. It was not a complicated structure. If one was presented with contractual documents going into many dozens of pages, it might be possible that Messrs Kooger and Visser could be fooled. These documents are not like that and it is difficult to see how

anybody trained in reading legal documents as was Mr Kooger could believe they operated in any meaningful way beyond handing the documents over to somebody about whom they knew absolutely nothing at all.

213. This is demonstrated by paragraphs 226 and 227 of Mr Kooger's witness statement dated 23rd October 2013. When the name of Nobre was given to him on 16th October 2011, he obviously thought it was a good idea to see what he could find out about him. His ability to research however was limited to a search on the internet. He could find no trace of his name.

214. He then said ***"I believe this to be a good thing."*** This I find to be unbelievable. If there is no mention of Mr Nobre, he knows nothing about him. If things were said, it would depend on what was said.

215. This shows the low level of performance of Mr Kooger. The internet is an unwieldy engine to test the truth of things. It can provide pointers but whether those are truthful pointers is often open to question. However, Mr Kooger performs even worse than that. He is reinforced in his confidence about Mr Nobre because there was ***nothing about Mr Nobre.*** This is ridiculous.

216. His fourth witness statement was a woeful witness statement in respect of the meetings. I cannot believe somebody in his position could have been so deluded but that appears to be the case. He simply was led by the nose by Mr Rejniak aided and abetted by Mr Sultana and Mr Nasir where appropriate. It appears to be almost auto-suggestion. A good example of his complete inadequacy is what happened over the Trust Deed. Mr Rejniak assured him that the €100m would be returned within eleven days (they were going through the Trust Deed ***"line by line"***). (Fourth witness statement, paragraph 36). Mr Rejniak got tense and was irritated about putting in the obligation to repay within eleven days and said he would have to go back to the Tier 1 Trader and agree the inclusion. There was an obligation to pay within the first ten banking days of the first payment but not the €100m and it never seems to find its way into the Trust Deed. The ten day first payment clause is completely incomprehensible.

217. The Trust Deed does (on page 2) contain an obligation to repay the capital within eleven days of the receipt of the cleared cash. However, that provides no comfort to Mr Kooger because he has forgotten that Allseas is not a party to this trust deed. The parties are AIC and Larn. It would take quite an effort for Allseas to be able to claim to be a beneficiary of the trust or to have any rights to enforce that. Allseas has simply bargained its rights away to AIC in exchange for the unsecured loan.

218. Not only is the document incomprehensible and Mr Kooger as a lawyer really ought to have known it, he was also refused a copy of it even though this was supposed to provide the protection for Allseas €100m. He meekly accepted that refusal which I find quite extraordinary.

219. In his fourth witness statement, he also suggested that he told Mr Heerema that the second proposal involved the handing over of the €100m to the Tier 1 Trader without any security. Mr Heerema was adamant in his evidence that he was relaxed about these deals because Allseas never lost control of its money. He also said that when he discovered that Mr Nobre had managed to dissipate €12m he was completely

confused as to how that could have happened. Mr Kooger's email of 14th October 2011 clearly shows that there was intended to be security. However in reality there was none.

220. I reject Mr Kooger's evidence which was a belated attempt to change his stance, vis-à-vis what he told Mr Heerema. Why he did this I do not know but significantly Mr Heerema was not recalled to support Mr Kooger's position. No doubt there will be a meeting after the trial.

221. The signing away of the control marked the abject failure of Messrs Kooger and Visser properly to investigate what they are actually being sold and to protect Allseas in any way. For Mr Kooger to say (para. 38 of his fourth witness statement) ***"With hindsight, I should have been more suspicious"*** cannot be a serious observation. None of these matters can be dismissed as being capable of being seen only with hindsight and not at the time. It was there to be seen all the time. Messrs Kooger and Visser simply were dazzled by the wealth presumably and also the persuasive performance of Messrs Sultana, Rejniak, Keller and Nasir to varying degrees.

222. On Monday 17th October 2011, the parties went to BOV. Mr Rejniak and Ms Chetcuti were there but Mr Sultana and Mr Nasir were not. Mr Kooger in his fourth witness statement says Mr Rejniak seemed relaxed and professional and the documentation was signed and Mr Kooger went back to Amsterdam. I can well imagine that Mr Rejniak was relaxed. The signing of the documents unlocked the €100m.

223. Whilst Mr Sultana was not there, he clearly was fully aware of what was going on. His email at 9.37 on the same day to Mr Nasir telling what happened shows he is still doing more than really reporting. His desperation also is reinforced by his question as to whether or not funds had been sent to Wealthstorm.

SUBSEQUENT EVENTS

224. I can deal with this quite shortly but it is a woeful tale from Allseas' point of view.

225. The Team having secured the money, then tried to have it removed beyond the clutches of Allseas. The first attempt was made on the same day to have the monies transferred to the AIC account by transferring it to Larn's Liechtensteinische Landesbak account. However, the funds were returned by that Bank.

226. Not to be frustrated, AIC tried to transfer the money to the Andorra Bank but that bank transfer too was unsuccessful. On 2nd November 2011, Mr Heerema provided a notarised letter authorising the transfer of €100m from the BOV account to the accounts of AIC. On the same day, that money was transferred to Notable LLC's account to be held to the credit of Notable's client Larn. Notable is a small firm of North London solicitors.

227. Ms Bergit Mayer gave clear evidence at the trial that Mr Rejniak was trying to defraud Allseas, culminating in conversations between her and Mr Visser on 1 November 2011. He sent, however, a brush-off email on 2 November 2011. By this time the Team could do no wrong in reality in the eyes of Messrs Visser and Kooger. (see the documents referred to in paragraph 138 above).

228. On 15 November 2011, payments were made or sought to be made from Notable's client account totalling approximately €15.9m. This alerted Barclays Bank who notified the relevant authorities of potential money-laundering. On 15 December 2011, an Allseas employee received a call from the Metropolitan Police which raised concerns about the origin of the €100m at Barclays Bank. By this time, Allseas had not received any of the promised payments. It appears that the trading had been delayed. Mr Sultana is involved in dealing with these delays. There are no delays as no trades are taking place. The significant amount of money has already been removed prior to this correspondence.

229. DC Simon Hanrahan of the Metropolitan Police sent an email to Mr Visser, on 15th December. He revealed that they were investigating the €100m received into the UK solicitor's client account as its origins could not be determined and that the explanations were conflicting and inconsistent. Mr Nobre had been arrested and in his possession were several documents purporting to be bank guarantees and confirmation of assets held on deposit referring to sums of money in billions. The documents were fraudulent. He asked Mr Visser to help with various questions. Mr Visser answered them by return. DC Hanrahan requested a meeting. Mr Kooger discussed the situation with Mr Sultana and Mr Heerema separately. He and Mr Heerema took a decision not to respond to DC Hanrahan. On 16 December, Mr Sultana sent an email to Mr Kooger saying that Mr Rejniak had been advised that no reply should come from Allseas as it had already answered the questions. Intriguingly he said:-

> ***"On a separate note, if Edward feels the need, we will have Washington call him direct so he will have full transparency and he will know exactly who he will be talking to once on the telephone. Rest assured this is for Washington to resolve and the trader, not for Allseas or the Team. We have done nothing wrong and the said funds are from a reputable source."***

230. Once again Mr Sultana is having a substantive role and there can be nobody to call for Washington because Washington for these purposes does not exist. This was a bluff but it was not called. No doubt if it was taken up someone from Washington would have been found.

231. On 16 December 2011 however, Mr Kooger replied to DC Hanrahan. This letter in the light of what has happened and in the light of what Allseas really ought to have perceived is another extraordinary document in the saga of this case. It enclosed a joint statement signed by Messrs Nobre and Rejniak. The essence of the statement was to set out the transactions that took place except of course, it made no reference to the supposed dealing in MTN's and the large profits to make. It confirmed that Mr Nobre had complete discretion to use the funds loaned to Larn, to generate capital and ***"it is clear that Allseas Group is not the victim of any fraud. The fund is not there for proceeds of crime and there can no longer be any proper or lawful basis to maintain or assert that allegation even as a reasonable suspicion…. We now expect the fund to be released without any further delay."*** That was all untrue of course, because attempts had been made to remove at least €15.9 Euros a month earlier already.

232. Mr Kooger in his letter, demanded that the funds be released without further delay. He also instructed Mishcon's (the Claimant's present lawyers) to act on behalf of Allseas. At that time they were acting for Nobre and Larn. Although complaints had been made about Mr Sultana that is really a matter between those Defendants and the Claimants.

233. The letter went on to say that all rights in relation to losses being suffered by reason of the continued retention of the money were reserved both as against the Metropolitan Police and any other individual found to have acted unlawfully in the continued retention of the funds.

234. It was fortunate from the Claimants' point of view that the Metropolitan Police were not intimidated by that letter into releasing the funds. Had it done so, I have no doubt that the balance of the €100m would have disappeared fairly rapidly.

235. Mishcon's commenced to act for the Claimants and wrote to the Metropolitan Police seeking return of the funds. On 20 December 2011, the CPS replied including a witness statement by a DC Nicholls and a Draft POCA Restraint Order in respect of an application that was made before Mr Justice Cooke on 21st December 2011. The application was made and the restraint order was granted. This course of events has saved, in my view, the large part of the €100m. It must be a matter of great embarrassment to Allseas to realise that their stupidity and persistence in supporting the Team to the bitter end could have been quite disastrous for them.

236. The final email of note at this stage is that of Mr Sultana's dated 21st December 2011 to Mr Visser as follows:

> ***"Dear Johannes, a jolly holly Merry Christmas to all you and your loved ones.***
>
> ***May I also say, Marek, John, Ali, Luis, Washington and myself are all united in bringing Allseas and the Pieter Schelte project into trade despite the opposition. We remain galvanised and determined to bring you into this domain…."***

237. It is difficult to imagine a more cynical letter written at that time, in the light of the matters set out above.

DISCUSSION

238. I have set out what I accept is not inconsiderable length a detailed review of the transactions. This in my view is necessary so that the full nature and scale of the scam can be seen. There is no dispute that the whole operation was a fraud from beginning to end. The only question in effect before me is whether or not Mr Sultana was involved or whether he too was duped like Allseas. In my view, he was part of the scam.

239. I will set out why I have come to that conclusion. The first matter is a consideration of Mr Sultana and his activities.

PAUL SULTANA

240. Mr Sultana is 47 years of age and now lives in his parents-in-laws' house in Surrey having had to sell his house in Hertfordshire to enable him to fund his defence in his case.

241. His second wife gave evidence but did not provide me with any assistance. Although Mr Sultana was born in this country his father is Maltese and like him he has joint UK-Maltese nationality. He left school at sixteen and has been involved in a number of businesses and does not take exception to the description of himself as a ***"wheeler dealer"*** (although he preferred to be described as ***"entrepreneur".***)

242. He became involved in car valeting and selling of motor cars and commercial vehicles. His company vehicle for that was dissolved in September 2005. Since then he says that he worked in the property sector mainly in north London buying properties either on his own behalf or others obtaining planning consents and selling them on for profit. Between 2007 and 2011 he lived primarily in Malta although in 2009 his first marriage split up and his wife had returned to the UK.

243. He made a number of successful property transactions after 2005 and had around £1m profit as a result of those transactions. As has been seen above a substantial amount of that was handed over to Mr Nasir. In June 2009, he formed a company called Wealthstorm with a Mr Parris Meneloau.

244. As he says in his own witness statement, during this period he made a lot of money and had met and mixed with people of very serious wealth. Although he made a significant profit he clearly enjoyed the lifestyle of being associated with the seriously wealthy. His life thereafter was organised so as to become involved in schemes that generate wealth so that he too would in the future be seriously wealthy.

245. In May 2009, he was contacted by Alan D'Arcy who asked whether he was interested in what were described as a ***"piggy-back"*** on a capital UN private placement trade. Mr Sultana says he did not understand what the transaction was about although Mr D'Arcy made a suggestion of the possibility of funds being raised by the United Nations on the private market which would provide a doubling on the return in a year. All of this is of course nonsensical. The United Nations does not raise money this way and it has no means to create such large profits for investors.

246. Nevertheless shortly after that, Mr Sultana received a call from Mr Nasir who introduced himself and Mr Yi and their business in Hong Kong. He said that he had twelve US investors committed to the programme and he was looking to cover a shortfall over around of US $1.2m . As a result Mr Sultana and Mr Meneloau decided to set up Wealthstorm as an investment vehicle and through it invest in these UN private placements. As a result, a private placement agreement was signed between Wealthstorm and a company called Grand Strategy Limited ("Grand Strategy"). Mr Nasir explained to him that this was the investment company that had the ability to place money with the United Nations and that the opportunity (and this is a familiar theme) was a ***"privileged position"*** and of course had to be kept secret from the whole world. Wealthstorm entered into an agreement on 3 July 2009 and US $570,000 was transferred to Grand Strategy. In order to preserve this secrecy Grand Strategy pretended that it had invested in various real estate opportunities (as shown for

example by an email of 10 October 2009.) This was done supposedly to maintain the secrecy. Wealthstorm received some payments back totalling some US $44,300 in August and September 2009 and then on 16 October received US $570,000. Mr Nasir explained the return on the basis of him being given the run-around and no trade appeared to be taking place.

247. Shortly after that Mr Sultana met Mr Nasir at a meeting in Claridges. This was the first time he had met him and the result of that meeting was he was given a business plan of a company called Digital Archives Inc ("Digital"). It was explained that the company specialised in producing paperless medical records and that he had government contracts in the US but needed US $1m to secure a further contract. Despite apparently not being interested Mr Sultana did agree to give a short term loan of US $500,000 through Wealthstorm for a period of one month (although the documentation says two months). In January 2010, Wealthstorm transferred a further US $120,000 to Grand Strategy to be used to facilitate an investment of US $200m that Grand Strategy was to make in a company called Hong Kong Glamour Way Investment Limited ("Glamour Way"). In the same month, Mr Sultana increased the commission percentage that was payable to him if he introduced investors to eight per cent (it initially having been four per cent). In fact the loan agreement no.1 dated 8th December 2009 between Wealthstorm and Digital provided for a two month loan free of interest. Digital never actually repaid this US $500,000 and Mr Sultana commenced proceedings in California and ultimately settled those proceedings for a sum of $200,000 only inclusive of costs. The commission agreement which he signed was the same type of commission agreements which he obtained from Allseas in July 2011 except the percentages were changed. These agreements of course potentially gave him a large amount of money. I have already observed the large amount of money he would have made under the Allseas commission agreement. However, it must be appreciated that he would never have made that money because there were never going to be any transactions which would attract the commission. This is a point which Mr Sultana relies on strongly to show that he too was duped into entering into these fraudulent transactions. I have already commented on that earlier in the judgment and I do not think it is as significant as he says.

248. Nothing happened in respect of the Glamour Way investment because it appears it was not a genuine investment. Mr Nasir on 4th February 2010 told Mr Sultana that ***"I need you to be aware of the fact that Glamour Way is a fraud company...".***

249. On the same day Mr Sultana received from Mr Nasir a document sent by Gary Johnson which supposedly explained the scheme whereby there would be a hundred per cent return within ten calendar days. The profits do not have a risk because if they are ***"unable to engage immediately the funds remain on deposit."*** It is said that they have a ***"schedule B arrangement"*** (unexplained) with two large institutions in Hong Kong with the usual discount (in this case ten per cent). The contracts are of a fixed income securities or something called Vanilla bonds.

250. It was this arrangement which Mr Sultana took unsuccessfully to Sir Phillip Green a few days later. Mr Sultana asked for the return of $120,000 which Wealthstorm had transferred to Grand Strategy on 19th January 2010. This was supposed in some way to facilitate the supposed investment of US $200m that Grand Strategy was making to a company called Making the Glamour Way. When he asked for it back however, he was told by Mr Nasir that it could not be repaid because the money was used in an

alternative investment. In May 2010, Mr Nasir approached him again and asked whether Wealthstorm could be interested in investing £100,000 and doubling that money in a 30 day investment. Mr Sultana did not have those funds but a colleague of his, Simon Belofsky expressed interest in the deal. He transferred US $145,600 to Grand Strategy on 2nd June 2010 and that was the last he saw of it.

251. The Grand Strategy investment centred around the fact that it allegedly had this US $200m. The main piece of evidence was a purported print of a bank statement in the name of Grand Strategy with United Overseas Bank Singapore. Various statements purporting to show the US $200m credit in the name of Grand Strategy were produced as was a letter (for example) dated 14th January 2010 apparently coming from UOB Singapore branch confirming that it held US $200m. However the letter followed the familiar road of obscure sentences. The second paragraph says ***"Upon taking your written instruction and subject to our compliance review we shall including but not limited to transfer a signed, negotiate or blocked the said fund in favour of the designated beneficiary or financier by standard banking procedures through SWIFT NT 760 and NT 799".*** The document was signed by Mr Eng and Mr Yeow, Senior Executive Vice President and Executive Vice President respectively. Earlier (in October) it was suggested that to verify the $200m, there would be telephone calls between Mr Eng and Frances (sic) Gibson, Vice President, National Bank of Qatari. Mr Nasir headed off telephone calls (his email 20 October 2009). Eventually Mr Malouf was seen off by Mr Yi issuing an order under the supposed confidentiality arrangements to ***"cease and desist".*** This procedure is incomprehensible. Whatever it is, it cannot be an "order". Item 7 however purported to order him to stop threatening to call the bank instead of using a SWIFT cheque. The day before Mr Malouf had informed Grand Strategy that no transaction was going to take place because of Mr Sultana's involvement challenging everything and making a mess of the whole transaction.

252. This correspondence gives one the impression of two parties trying to defraud each other. What is clear however is that the bank documentation first sent out in 2009 and then repeated in January 2010 is obviously bogus. The latter was sent by an email from a Yahoo account which seems most unlikely for a bank official to operate from. Proof of funds frauds are well known. The fact that Grand Strategy had US $200m in a bank account on one particular day means nothing, even if the statement was not a forgery.

253. What is clear, however, and ought to have been clear to Mr Sultana, is that despite having the control allegedly of hundreds of millions of dollars, Grand Strategy was having difficulty repaying the sums due to him.

254. The Grand Strategy documentation that was apparently produced by Mr Yi consists of various minutes of Directors' Meetings and declarations suggesting that Grand Strategy has control over the US $200m. Some of them contain the usual irrelevant statements. The ***"letter of intent"*** dated 14 September 2009 contains the statement ***["Grand Strategy"]*** carry on the ***"hereby warrant and represent that we have available for hypothecation 200m United States Dollars (USD 200m) cash deposit held in United Overseas Bank Limited Singapore. The funds are free of all liens and encumbrances and are of non-criminal origin and herewith attached documentary evidence of the same. We further confirm that we are the actual legal and beneficial owner of this asset; that we have full signatory authority and control***

thereof; and that such asset is available for immediate placement at our sole discretion. We would also like to have the opportunity to increase the amount as we go". That last sentence was created in a later document by Mr Sultana (see his email of 13th October 2009). (Contrast with the letter of 7th October 2009).

255. Mr Sultana was given European authority over the US $200m (resolution 2 November 2009). He was purportedly authorised ***"with full signature authority to act on behalf of ["Grand Strategy Limited"] open bank accounts… for the purpose of protecting the corporation interest in all financial transactions and investments as pledged by this corporation to the full control of Mr Paul John Sultana…***

and to pledge to Mr Paul John Sultana corporate asset described as cash funds in the amount of US $200m currently on deposit with […, United Overseas Bank Singapore]". Allseas submit with some force in their closing (paragraph 9.3.4) that Mr Sultana could not have believed that they had given them control over US $200m at a time when they were having difficulty repaying his relatively modest sums.

SULTANA HAS TRUST AND CONFIDENCE IN NASIR AND YI

256. In his Re-Re-Amended Defence (paragraph 10) Mr Sultana stated that he had done due diligence and concluded that he was dealing with reputable and trustworthy people. This was based on three matters:-

i) the proof of funds that Grand Strategy controlled funds of US $200m

ii) various documents from the World Bank he was given by Mr Nasir

iii) A NatWest letter dated 15th September 2011. He said he had spoken to NatWest Bank who confirmed that a Mr Varsani and Mr Scorer both worked for it. They were signatories to the document addressed to a Mr Cheung of Standard Chartered Bank (Hong Kong) Ltd, confirming that the NatWest Bank had transmitted a SWIFT NT-760.

257. The rest of the letter is incoherent. In addition to being written in bizarre and largely incoherent language, the only telephone numbers are a mobile telephone number and the supposed NatWest account number does not have enough digits for a UK account and has no sort code. In Mr Sultana's original Defence, he pleaded that he had been told by Ms Gallucci, his contact at NatWest Bank that the letter was authentic but withdrew that pleading in January 2014 because he had not given her the letter but merely asked her if the signatories worked at NatWest.

258. He provided an Amended Further Information on 31st March 2014 where he maintained the plea that Ms Gallucci confirmed to him that the letter was genuine. He has eventually provided a version of that further information with a statement of truth on it. However he never called Ms Gallucci as a witness and she is plainly available. On 31st March 2014, Mr Sultana's solicitor, a Mr Jenkins produced his fifth witness statement. He corresponded with NatWest including Ms Gallucci about another letter dated 1st July 2009, addressed to Mr Sultana suggesting that the NatWest would be willing to issue a guarantee in favour of whomever Wealthstorm would name upon Wealthstorm's written instructions. She replied to that request by confirming in the letter of 26th March 2014 that the letter of 1st July 2009 was genuine and she said that

there was an exact soft copy in the bank's records. However, no such exercise was undertaken in respect of the other NatWest letter referred to above dated 15th September 2011. That letter in my view is an obvious forgery. When Mr Sultana was interviewed by the Metropolitan Police under caution on 30th July 2012 he gave No Comment answers in respect of this letter (page 30 et seq of the interview.) I accept such "no comment" position might be done under legal advice under a police interview and a caution. However "no comment" does not carry any weight in civil proceedings.

WORLD TRADE DOCUMENT

259. This is the second of the third documents which Mr Sultana says enabled him to place trust and confidence in Mr Nasir and Mr Yi and in the genus of their proposed investments. Mr Sultana was given this document by Mr Nasir on 27th December 2010. Mr Tager QC in his opening described it as a ***"ridiculous document"***. (T2/153). During cross-examination he described the document as ***"the most rubbishy document we have seen in this case."*** (T12/80). Even Mr Kooger when he saw it after Mr Sultana's arrest described it as obvious rubbish according to Mr van Wezel and that is a very low threshold of analysis in my view.

260. I have appended the first page and the signatory page at the end of this judgment. This document is very mysterious and is designed so to be. It is created by something called ***"The Committee of 300" "The World Bank Group USA"***. Each page has the Masonic pyramid sign to be found on US dollars on the right hand side. The document is described as top secret with Amendments. It is structured as a Deed Poll ("note to all men, these presents").

261. It carries on:

> ***"This Banking Institution, with fullest banking authorities has Forever Recertified, reconsidered, recognised, declared, Reapproved and reconfirmed; without furthermore protest and other negative means; below accounts, earning statements and its amendment information for Bank Charges and any alternation and/or erasures and/or amendments from its original figure and format dissimilar to the duplicative (sic) copies forwarded to the email address of ASM and to these Authorities shall be forcefully penalised under the rule of law:-…"***

262. On the next page is a statement headed ***"BANK ACCOUNT INFORMATION":-***

> ***"Below Account Information, has already D freeze (sic) (with code number ASBLPAM003 by ASM are subject and authorised for Mirroring and/or Paralleling programme and said cash funds must be laid, projected and associated with humanitarian national economic development projects as these banking institutions have no available cash funds but financially guaranteed and thereby omitted some of our technical and typed error of posting in some months of Monthly audited report…."***

263. There then follows a list of 852 bank statements with various institutions around the world. All of the accounts are in the name of ***"white spiritual boy"*** or ***"spiritual wonderboy"*** or even ***"white spiritual boy amended from Dart (sic) Vadar" (doubtless for Star Wars fans).***

264. The amount shown in each account is enormous.

265. On page 109 the document is stated to have been ***"sealed, amended and prepared by the Right Wing Parties of the Committee of 300 on this 7th day of June 2010 at the World Bank Headquarters, Washington DC USA."***

266. There then follows an impressive number of signatories including HM Queen Elizabeth II, Ban Ki-Moon United Nations Secretary General, President Sang Hyun Song, the International Criminal Court, Dominique Strauss-Khan on behalf of the IMF. President Misashi Owada of the International Court of Justice, Pope Benedict XVI, Ben Bernanke of the US Federal Reserve Bond and Timothy Geithner of the US Department of Treasury.

267. I do not believe anybody seeing this document who had a modicum of intelligence would think it was anything other than an elaborate fraud. Indeed that is what Mr Tager's view was. Mr Sultana however pleads in his Defence that this was one of the documents which led him to believe that he could have trusted confidence in Mr Nasir. I do not believe him.

268. Unsurprisingly he was cross-examined on it (T16/152). He only mentioned it briefly in his witness statement (paragraph 226) and then only to deny what Mr van Wezel said about the document (see below). He maintained the document was not a forgery (T16/159). He did searches on the internet but found them inconclusive. The Committee of 300 is the so-called ruler of the world. Its membership is wide ranging and it is allegedly headed by the Knights of the Garter which in turn are headed by HM Queen Elizabeth II. I do not believe anybody looking at this material on the internet would think that it was anything other than the kind of conspiracy theories which surface regularly and which are bogus. He ultimately accepted with hindsight it was a ridiculous document.

269. Mr Sultana is an intelligent individual. He gave his evidence in a calm and measured way and I simply do not believe he was fooled by this document for one minute. Equally whilst I accept he will not have necessarily looked at all of the pages, he would have looked at the front pages and seen who signed it at the back. Anybody looking at those would realise that the document is utter nonsense. Instead of saying this gave him confidence in Mr Nasir, the document ought to have had the opposite effect. That might explain why he never showed it to the Allseas team. His final stance on it in cross-examination (T16/165) was ***"Yes I trusted them [in view of the document]. And this was a document that came into me. It had "Top Secret" on it. I looked at it and I thought: Oh Wow. And I didn't give it a second thought."***

270. It was put to him that was ridiculous and a lie. In my view Mr Chapman QC is absolutely correct. It is ridiculous that anybody could have relied upon it and Mr Sultana is lying when he persists in saying he relied upon it.

271. Lastly in relation to the World Trade Document is the dispute between Mr Sultana and Mr van Wezel. Mr van Wezel gave evidence to the effect that Mr Sultana gave him the document from his briefcase and told him that he did not want the police to find the document on him in the event that he was arrested. This conversation took place at Mishcon's offices on the 29th December 2011. Mr Sultana was arrested at those offices when he attended. Mr van Wezel took the document back to Rotterdam instead of giving it to the police which is surprising for a former police officer. He showed it to Mr Kooger who (unusually for his expertise as demonstrated in this case) expressed the view that the document was an obvious forgery. The document then found its way to Mr Stubbs the Partner in Mishcon's acting for Allseas. He handed it to his assistant Ms Pigott on 11th January 2012 who then put it in a locked cabinet in her room. The next time she had recourse for that document was 5th April 2012 when the Metropolitan Police asked for the original. It was then collected by DC Andy Ledbetter on 11th April 2012 and taken away and examined for fingerprints. The results of the fingerprint test showed that one mark in photo E on the rear surface of the document was a fingerprint of Mr Sultana.

272. The only way in which the document on that analysis could have come into possession of Ms Pigott was via Mr Stubbs, Mr Kooger and Mr van Wezel. Mr Sultana could not explain why his fingerprint was on it.

273. Mr van Wezel had given a statement to the police on 25th January 2012 where (amongst other things) he told them that Mr Sultana had given him the document because he did not want the police to find it when he was arrested.

274. I accept that evidence and I reject Mr Sultana's. In so doing however, I am surprised Mr van Wezel (a former detective of considerable experience) did what he did. Mr Sultana when he was about to be arrested gave him this document because he wanted to hide it from the police. It clearly was an important document yet Mr van Wezel took it away to the Netherlands and it was then retained by Allseas solicitors and no attempt was made to give it to the police until the police asked for it in April 2012. It is a small point but the episode shows the unreliability of Mr van Wezel's evidence but that is not as serious as Mr Sultana's untruthful evidence.

275. I can only conclude that Mr Sultana wanted to hide it because it would be evidence of a fraud. Equally I reject Mr van Wezel's evidence that he did not look at this document to any serious degree. I would believe that his curiosity as a former detective would have overcome him. The idea that he would take away a document given to him to hide from the police and not look at it is quite extraordinary. Further he omitted to say in his original statement that the car that took him to the airport to fly back to the Netherlands was actually a police car. He therefore made a conscious decision to take the document to the Netherlands despite the fact that a suspect just arrested wanted to hide it from the Metropolitan Police. The reason he did this is that he seemed to be more concerned about getting the money back despite the relatively low chances (he estimated in cross-examination of 1%). Allseas' attitude to the police was not particularly co-operative (see above). It is another example of the inadequacy of the evidence of Allseas in this case.

OTHER CRITICISMS OF MR SULTANA

276. In its opening Allseas accepted Mr Sultana's honesty would be an important (probably the key in fact) point in deciding this issue.

277. The evidence falls into two categories. First Allseas in its closing submitted that it had evidence showing that Mr Sultana behaved dishonestly. The second category is evidence which shows that Mr Sultana himself was trying to promote dishonest schemes of the type that were being put to Allseas and that he was doing this from 2009. Allseas contend that that shows he was dishonest because he knew that the schemes were dishonest. His position therefore in the attempts to defraud Allseas is one of participating in the dishonesty rather than being somebody who equally was deceived.

FORGERY OF DOCUMENTS

278. Allseas contend that Mr Sultana has forged two or possibly three documents. The first is a letter purporting to come from BOV dated 19th June 2009 saying that it will issue a bankers guarantee in favour of whomever Wealthstorm Limited will name. He sent this guarantee to Mr D'Arcy at Grand Strategy the next day. This was obviously designed to show that Wealthstorm was going to be in a position to issue some kind of guarantee in respect of its funds. The document he sent to Mr D'Arcy is a forgery of a letter from BOV the same day. The original is properly typed in one typeface, does not have any spelling mistakes in respect of the word "Banker's" and it does not have the curious language "***whomever***" (repeated in his letter to Mr D'Arcy). The reason for there to be two BOV letters on the same day is because they say different things. The letter he sent to Mr D'Arcy showed BOV was prepared to issue a bank guarantee. The other letter from BOV shows that when the two documents are provided the bank will be in a position ***to consider*** subject to conditions which involve (for example) a fully cash secured bank balance.

279. Mr Sultana in his initial cross-examination accepted that the document was a forgery (T17/19 and/24) on his last day of evidence (T28/5) he attempted to resile from this asserting that he had revisited matters and there was correspondence with BOV regarding the wording. No such correspondence had been produced.

280. Further of course he could not explain why BOV would write a letter on 26 June 2009 ***refusing*** to give a guarantee having on the forged version of the letter before agreed to do so. He could not explain this (T17/10).

281. This is very early in the association between Mr Sultana and Mr Nasir and it has nothing to do with the Allseas claim obviously but it does demonstrate a willingness on the part of Mr Sultana to forge documents when it suits him.

282. A second forged document in my view is the Natwest Letter of 1st July 2009 which I have already covered. That too in my opinion I judge to be forged by Mr Sultana on the balance of probabilities.

283. Finally there is a "irrevocable payment order" in favour of Mr Belofsky.

284. I have evidence from Dr Audrey Giles to the effect that the signature was not that of Mr Nasir on the balance of probabilities. I accept that she did not have much material

and it is unfortunate that other signatures were produced during cross-examination for the first time. However, Dr Giles is too experienced as to fall into that trap and refused to take it into account. Mr Sultana could have produced an original signature of Mr Nasir on the Settlement Agreement signed by him in March 2013 for comparison but he chose not to do so.

285. Once again there is no coherent explanation why Mr Nasir would send a signed version of the payment order to Mr Sultana twice, once in favour of Mr Belofsky and once in favour of Wealthstorm.

286. Thus I am satisfied that Allseas have established Mr Sultana on three occasions forged documents.

CONCEALMENT OF ASSETS

287. Mr Sultana set up Wealthstorm with Mr Menalow. It was incorporated on 16 June 2009, and he and Mr Menalow each held 50% of the shares. Mr Menalow provided the entire share capital of €575,000. Mr Sultana was unable to explain how he came to acquire a 50% shareholding worth 100's and 1000's of euros. By April 2010 Mr Menalow was in financial difficulties. He resigned as a director of Wealthstorm and gave his entire shareholding to Mr Sultana. He claims not to have known the date of the demand but for some reason not only did Mr Menalow transfer his shareholding after the demand, the arrangements, despite the transfer of this valuable asset back to the company, did not address the possibility of writing off the €99,000 loan due to Mr Menalow. It is clear (as ultimately Mr Sultana accepted) he was assisting Mr Menalow to conceal his assets from trustee and bankruptcy and his claiming not to know the reason for Mr Menalow making the transfer, was in my view a lie.

288. Mr Menalow ultimately was made bankrupt in December 2011.

289. In addition to that he submitted an offer on Grand Strategy notepaper purporting to be an offer made on its behalf to buy some land in Milton Keynes and Totteridge for some £5,800,000.00. The offer was to Manches LLP who were selling the land which was in receivership. He had previously asked Mr Nasir to use Grand Strategy paper to make an offer "***merely… an offer on your corporate headed notepaper***" and Mr Nasir agreed for him to do it without knowing what it was all about. It is quite clear that the purpose of the letter was to put the receivers off selling the property by making a bogus offer. There was no prospect of either Grand Strategy or Mr Sultana raising this kind of money. In fact the land was subsequently sold for £520,000.00 plus 50% overage.

DISHONEST CHEQUE

290. Mr Sultana produced a cheque drawn from his bank account in sterling equivalent to US$ 3 million. He never had the funds to meet it. A photocopy was given to Mr Nasir. He could not give any honest reason for sending a copy of this cheque to Mr Nasir.

291. There are a number of other matters set out in Allseas closing. Mr Sultana has not to my mind explained any of them satisfactorily. An example is a transaction on 5th October 2011 when Wealthstorm received €335,690.00 to its Maltese bank account.

The monies were received from Northern Cyprus and the source was uncertain. Mr Sultana explained that it came from Mr Belofsky's company IDA Nurseries Limited and was to be used by Wealthstorm to acquire a Hunting Lodge. By this time Mr Belofsky had invested US$ 145,000.00 on Mr Sultana's advice in Grand Strategy which had promised a 100% return in a few days. A year later no money had arrived. The IDA accounts did not suggest it had this wealth and it seemed odd IDA (an English Company) buying Hunting Lodge in England would route funds via Northern Cyprus via a Maltese company. Mr Sultana could not explain this. Seven days later Wealthstorm transferred €215,485.00 to IDA Nurseries Natwest Account in England. Mr Sultana said this was a return of funds to IDA but could not explain why the funds went to an English bank account nor could he explain why he retained €120,000.00 especially when Mr Belofsky was owed a large sum from his investment in Grand Strategy. It is all very nebulous and Mr Sultana was unable to give any genuine explanation as to what was going on.

DISCOVERING THE FED

292. Despite it being significant to Mr Sultana his memory about how he came to discover the operations operated by the Fed was extremely vague. He made no mention of this in his witness statement but on cross-examination said that he was told of the existence of this arrangement by Jada and Molly. His evidence about this (T17/161-165) was in my view unbelievable. He said they introduced him to Phil Yokeln. He described Mr Yokeln as "a guy in the US and I can't think how I got introduced to him it involved a company called Spirit Seven at Jada a company that operated somewhere in the United States". Despite my encouraging him to do justice to his case, he described him as "***he was like a broker type who could introduce you to the platform***. He could not remember how he contacted him except that it was through emails and telephone calls and his evidence was completely unbelievable. This was an attempt by Mr Sultana for the first time in his evidence upon cross examination to try and put forward a dishonest case as to how he found out about the FED.

ATTEMPTS TO BRING OTHERS IN

293. I have already referred to the attempt to introduce Sir Philip Green. In September 2009 Mr Sultana on Wealthstorm headed notepaper wrote to a Mr Swan who lived in Canada. He at that time was a managing director of a housing project in Canada. The letter is in fact a similar sort of scam designed to lure Mr Swan to put money in the way of Wealthstorm. It contains a similar kind of language to be found in all the other enticement letters. Thus it refers to "***the privileged opportunities that [Wealthstorm] can bring to the First Nations*****"** (Mr Swan's company).

294. Similarly it describes Wealthstorm as "***being an approved stand alone UN client***". The programme (of course unidentified) was stated to generate funds on the capital of the First Nations which in turn would focus on developing an indefinite regeneration and restructuring scheme.

295. There follows the request for the usual proof of funds to show that First Nation has some money that it was worthwhile trying to expropriate and the suggestion that the income streams would take place four weeks after the documents were received. This was stated of course as a very privileged opportunity to enter into a UN programme.

296. Mr Swan gave evidence at the trial via video link. His evidence was not seriously challenged.

297. Mr Sultana conceded that whilst Wealthstorm was not "***an approved stand alone UN client***" he said that it was not a lie as he believed Mr Nasir was approved and that Wealthstorm would somehow become approved. Mr Sultana was unable to explain what this meant. He claims that he never checked the returns and merely passed on what Mr Nasir said to him.

298. At meetings Mr Swan said that Mr Sultana told him that he managed investments for the Vatican and had access to significant amounts of funds.

299. Once again this is the fraud perpetrated in the same old way.

300. Much later, in December 2011, Mr Sultana tried to defraud a gentleman called Jan Pathuel. He too gave evidence before me. In the latter part of 2011 he had US $100,000,000.00 to invest. He spoke to various contacts in Hong Kong and was introduced to Mr Sultana. He never met him, only speaking on the telephone. Mr Pathuel said that Mr Sultana told him that he had been trained at Langley CIA headquarters and that he was connected with Blackwater, the security group. Mr Sultana's email address was a Blackwater address. He said he had a special relationship with the UK government and that he had links to the Vatican. None of this was seriously challenged.

301. Mr Sultana received the introduction from a Mr Matthew on 11th December. On the very same day Mr Sultana emailed back saying "***the following opportunity is available to me by invitation only….***" He went on to say "***the funds have been already allocated and 2 billion is available from the project funding programme. I have satisfied all the other requirements and the commitment pledge for this position is to be made available***".

"I make it very clear that funds do not need to be moved, just merely a tear sheet and the verification funds are in the said account.

I can guarantee we will get paid out before Christmas".

302. At this point in time Allseas is getting uneasy and the response on the same day from Mr Li to Mr Sultana is to suggest that Mr Rejniak is a man of integrity and the best way forward is "hush, hush" and that Mr Sultana should relax. Mr Sultana on this same day then contacts David Matthew trying to find out where the £120 million is, so that he can inform the "***Entity***". On 13th December Mr Pathuel goes to Geneva to meet his bank. He was called by Mr Sultana the next day and in that conversation Mr Sultana recommended the funds be in MTNs and that the return would be up to 100% per month, which in turn could be compounded. Mr Pathuel was persuaded to do the deal by Mr Sultana's telephone conversation with the usual statement that this was a very discreet private market for a small community of high net worth investors and that it was not a public market and everything had to be confidential. There occurred, in my view, a fake conversation between Mr Sultana and Mr Fulton, which Mr Pathuel heard, designed to show that Mr Fulton was in a position to handle the Fed.

303. The timeline is intriguing, of course. On 15th December the concerns about the lack of money returned had crystallised in the sense that Allseas had been contacted by the Metropolitan Police, raising an issue of the fraud, and Mr Sultana knew that. Notwithstanding that, he carried on with the Pathuel investment.

304. Matters stretched out with Mr Pathuel, and by 23rd December he was becoming concerned as to whether the trade that Mr Sultana was putting up via the Fed was credible, and Mr Sultana said:

> "***The Fed have confirmed that Jan has been talking to there [sic] people. They will have me bring him in. Jan confirmed this was the case on the telephone.***
>
> ***The deal on the table right now is not with the Fed.***"

305. None of this is true in the sense that Mr Pathuel (i.e. Jan) had not spoken to the Fed.

306. On the same day Mr Sultana emailed Mr Nasir. It is a long email of complaint about everything going wrong. The last paragraph deals with Mr Pathuel.

> "***Where Jan is concerned I have already made sure that he will not discuss details with anybody. However I am not doing this again, what we have done with Allseas. I am just damaging myself.***"

307. Earlier in the email he commented that everything he told Edward [Heerema] now makes him look like a fake.

308. In my opinion, Mr Sultana has sent this email to protect himself if the fraud unravels.

309. According to Mr Pathuel, Mr Sultana called him several times on 28th December 2011 and his tone had changed. He now appeared to be desperate for Mr Pathuel to commit to the investment. He thought the later calls were threatening and said that Mr Sultana went so far as to say he would put him on a "***no-fly***" list if he did not commit the money. The telephone calls stopped the next day because Mr Sultana was arrested. Mr Pathuel believes that he was lucky that he did not invest with Mr Sultana.

310. I agree with that analysis. Everything that he was being told by Mr Sultana was untrue.

311. There can be no honest explanation by mid-December for Mr Sultana to be seeking the money from Mr Pathuel. The only possible inference is that they were trying to get the money from Mr Pathuel to use it to pay Allseas back in some kind of Ponzi scheme.

SIGNIFICANCE OF SWAN/PATHUEL

312. In my view, these two transactions by Mr Sultana have great significance. Mr Swan's is at the start of the period of involvement with Mr Nasir and Mr Pathuel's is at the end. Both involve the same kind of scam. There is nothing innocent about Mr Sultana in either of these, in my view. They show that he is using the schemes so-

called to try and reel in other victims. These are not the only ones that he was trying to reel in. For example, there were the communications with the Jack Walker Trust that I have already referred to in addition to the attempt to persuade Sir Philip Green to become involved. Accordingly I am of the opinion that from mid-2009 Mr Sultana has known that these are scams and was a willing participant in them and used them himself.

313. It is said on his behalf that such an analysis does not understand his investments in Digital in 2009. The short answer to that is that they were buy-ins. On 12th February 2010, Mr Nasir emailed Mr Sultana to say, "***Welcome to the club!!***" and Mr Sultana initially accepted that they were buy-ins (T19/82) but attempted to resile from that (T28). The other explanation is that Mr Sultana was persuaded to put these investments in, believing that they were genuine investments on the basis of what Mr Nasir said to him. Even if that is correct, he must have known there was something seriously wrong. Despite the short-term nature of the Digital loan, he never received any of the money back for many years. This is a quite extraordinary stance to take, bearing in mind his supposition that the people he was dealing with had access to hundreds of millions of dollars supposedly. It might have dawned upon him on this analysis that he had been defrauded and the only way in which he was going to get his money back was to "***join the club***". No intelligent person could have considered these transactions honest. What was being said about them would not have survived the barest scrutiny. Mr Sultana clearly failed to make any enquiries. In my view he did not make any enquiries because he knew there was nothing to enquire about because there were no such transactions. At the very latest, this penny must have dropped on him when he received the World Trade document in December 2010. In my opinion, however, that was not the case, as I have said. Mr Sultana in my view knew full well what was going on from June 2009. He knew it was dishonest and joined the club.

314. In fact it does not matter what date is chosen, because it is quite clear on the evidence that I have summarised above that Mr Sultana knew that this was a fraudulent scam well before he became involved in Allseas. He therefore participated in the Allseas investment, knowing it was a dishonest scam, and he was a willing party to it. The plain fact is that he had lost all of his money and he was desperate to get it back. These transactions, if they came off, would have given him a large amount of money, no doubt when the fraudsters divided up the funds. I have already rejected as irrelevant the fact that, under the Confidentiality Agreement, he was entitled to commission only if the transactions went through. He did not receive any monies from the Notable account, but that is simply because the removal of the money from there was stopped, in my view, before all the funds could be siphoned off. Then he would have received his payment. His conversations with Mr Pathuel showed how desperate he had become by the end of December 2011.

315. I therefore conclude that Mr Sultana was not an innocent, deceived by the other Defendant fraudsters, but was a willing participant in the scheme to defraud Allseas of €100m.

ALLSEAS' WITNESSES

316. Before I go on to consider the consequences of my factual findings above under Maltese law, I should say something about the Allseas witnesses, because that will be relevant to matters raised by Mr Sultana.

MR HEEREMA

317. Mr Heerema is the beneficial owner of Allseas. Clearly, he is a very successful engineer. However, he tried in his evidence to portray the impression that he was a good engineer but a bad financier. I remained unconvinced about the performance throughout. Whilst he might not understand technicalities of finance, no such technicalities were being paraded in this case. There are a lot of obscure-sounding words and expressions, but it would not, in my opinion, have required much inquisitiveness to have exploded the whole balloon completely. Mr Heerema accepted that he believed in these kind of investments and had done for many years. I was not persuaded by his evidence that he was actually convinced the proposition was credible. When told of the likely returns by Mr Visser, he simply smiled. He was careful to distance himself from the actual detail and left it all to Mr Kooger and Mr Visser. He clearly was sceptical, but if Mr Kooger and Mr Visser could bring it off, he was not going to look a gift horse in the mouth.

318. He was aware from the early investigations by his chief accountant, Mr van Tiel, that the latter was extremely sceptical about it. He told Mr Heerema that the proposal was a lot of nonsense. Although Allseas attempt in their closing to suggest that Mr van Tiel was not sidelined, in my view he plainly was. Mr Heerema attempted to suggest that in effect the matter was not significant to him because it was ***"only"*** €100m. Having seen Mr Heerema, my view is that he was sceptical about the proposal but he was content to allow it to be evaluated by his two employees, Messrs Kooger and Visser, because he believed he could rely upon them to see whether the proposal was a genuine one or not. Apart from meeting Mr Sultana in May 2011, he had no direct role in the ensuing negotiations, and left it to Mr Visser and, more importantly, Mr Kooger to conclude the transactions and report back to him.

319. He could not have been more misplaced in his trust. He believed at all material times, in my view, that Allseas' money was under its control. As long as it was under its control he felt there would be no risk. If the transactions did not work, the money would still be there. If the transactions did work, the money would be received.

320. There were suggestions that the way in which the diversion of the profits was to be organised and the way in which the monies were taken from Allseas was in some way improper. It is an easy thing to say when organisations operate through offshore companies. However, there was in my judgment no clear basis for suggesting the way in which the proposed profits were to be dealt with was somehow improper or illegal, and I discount it.

321. Equally, there were suggestions that Allseas' representatives were not fooled by the proposal. This then led to the development of that to suggest that if they were not fooled, then they must have known that there was some other proposal. It is self-evident that if they were not fooled but did not believe there was something else, they would not have handed their money over. It was therefore suggested that what was

being concealed was an illegal transaction such as money-laundering or drug-dealing. I do not accept that. Whatever the failings of Messrs Heerema, Kooger and Visser, I do not believe for one minute that they would be willing to become involved in something that they believed or knew was illegal in that way. I accordingly reject that suggestion.

322. In any event, such a suggestion was not open to Mr Sultana on his pleadings. Whilst he pleaded that Allseas acted irresponsibly, incompetently and recklessly, no allegation was made of any wrongdoing by Mr Heerema, Mr Kooger or Mr van Wezel, Mr Swan or Mr Pathuel (paragraph 26 of Amended Further Information).

323. It is true that Mr Tager asserted that Mr Visser had been dishonest, but I reject that and there was no basis for it in the cross-examination. Equally, I rejected an application mid-trial to allege that all of the witnesses and Allseas were dishonest.

MR KOOGER

324. Mr Kooger is the general legal counsel and director of Allseas group. He is also a director and company secretary of Allseas. He has been the general legal counsel for over 11 years. Prior to that he worked at the Dutch Treasury legal department, Rothmans, and British and American Tobacco. He has a close working relationship with Mr Heerema, and speaks to him on a daily basis.

325. He, with Mr Visser, was the one responsible for Allseas falling victim to the fraud.

326. It is impossible to overstate the level of incompetence demonstrated by Mr Kooger's evidence at this trial. He did no checks on the background of these people trying to sell this transaction to him. He was in Malta for 9 days and discovered nothing about them. He discovered nothing about the details of the transactions during that 9-day period that amplified what he had been told beforehand. He fell under the spell of Rejniak, Nasir (and Mr Sultana) to such an extent that he became subject to autosuggestion, in effect. He accepted without challenge anything they said. Finally, in October 2011, he signed away control over the €100m, despite being required by Mr Heerema never to agree anything like that and despite the assurances to the contrary that he gave to Mr Heerema in his last communication with him via his email of 14th October 2011. He took comfort from documents which were meaningless (the Trust Deed, for example). His excuse was that he was not a trust lawyer. I find that absurd. He was there as a lawyer to advise Mr Heerema. If he was uncertain as to the law, he should have obtained advice from somebody else. That is what one would expect of a senior in-house legal counsel who might have knowledge of generalities, but would not necessarily have knowledge of specifics. It is plain that he had no idea what the investments were, but was content to accept the vague descriptions provided by the Defendants and fell into the trap of believing in the secrecy of everything. I reject his evidence when he was recalled, that Mr Heerema knew that there was going to be a release. His email referred to above runs totally against that.

327. Even after that, both he and Mr Heerema rejected Miss Brigit Mayer's communications and rejected the blandishments of the Metropolitan Police when they told them that they were being defrauded (see paragraph 138 above).

MR VISSER

328. The same comments apply equally to Mr Visser. He has been the Treasurer of Allseas for 23 years. He has a role involving cash management, cashflow forecasting, the issuing of bank guarantees, hedging, foreign exchange and interest rate risks. One would have expected from that background that this Mr Visser would fall about laughing at the suggestion that €100m could be doubled in a matter of weeks. Nevertheless, that is the case that is put. Further, it is clear that Mr Visser was so dazzled by the story that was being put up about the need to maintain secrecy from the world (especially the banks) that he allowed Mr Rejniak to mislead BOV in meetings in October as to the nature of the transaction. I am quite satisfied that if BOV had been told what Allseas had been told was the transaction, it would not have regarded it as credible. This is of course the way in which the fraud operates. By closing off investigation by anybody else under the cloak of secrecy, the preposterous nature of the proposals remains confined to the knowledge of the victims.

CONSEQUENCES OF FAILINGS OF CLAIMANT'S ADVISERS

329. This is not like the ***Manolakakie*** case. It is easy to understand how she, a relatively unsophisticated person, fell foul of the blandishments of her solicitor. It is more difficult to understand how Messrs Visser and Kooger failed to spot the obvious. I say it is obvious because an extremely modest level of probing of the Fed deal would show that it would fall apart. Second, an element of cross-checking by contacting the Fed would equally have shown it falling apart. The only way in which that was headed off was by the suggestion that there should be no "***arrogance***" by being unduly inquisitive. Third, one would have expected experienced people like Messrs Kooger and Visser to be basically sceptical at such outrageous returns. The contrast between those returns and their normal business is quite stark.

330. Equally, they should have been sceptical about the various methods of the dealings taking place, such as through the Vatican and the Tier III and Tier I traders and the wholly unpersuasive language used by the fraudsters.

331. There are a number of difficulties about their performance as witnesses. First, it is not unreasonable to believe that it was so "hammed up" that it was unbelievable. If that is the case, one has to ask why they would perform like that. It can only be on the basis that they were not in fact fooled. That seems to me to be untenable for the reasons I have already set out. One cannot avoid the fact that they ***were*** misled because they released the €100m in the ridiculous and reckless manner set out above. I am afraid they were simply not as clever as they thought they were and they were taken in. That is why they were kept in Malta for nine days. They were charmed and deluded into the transaction. This is the way that fraudsters operate. They will evaluate the proposed victims and see whether the victims are gullible and then lead them up the merry dance to the ultimate denouement when they hand over control of their money. If during that evaluation exercise it appears they are not going to be fooled, then they pull out. There is no risk to them and the prospects of any one transaction are so huge that it is worthwhile persisting. For example in 2011 not only was Allseas reeled in for €100m, but Mr Pathuel was as well. Had Mr Sultana not been arrested in late December 2011, Mr Pathuel would have parted with €100m. Equally, but for the intervention of the Metropolitan Police I have no doubt that the balance of the €88m

would have disappeared and Mr Sultana would have received his share of the proceeds at some stage by offshore payments long after the dust had settled.

332. This is the distinction between the parties. In my view Messrs Kooger and Visser were fools not knaves. They may have exaggerated their stupidity because it suited them, but nevertheless there is no other logical explanation for the surrender of the €100m. Clearly if they did not believe there was a transaction, there would be no point in handing over the money. Clearly if they believed there was an illegal transaction, they would not have done it (it not being open to Mr Sultana in any event for the reasons I have set out above).

333. Mr Sultana is the opposite. He is not a fool despite his attempts to put forward that appearance. He is a knave. As I have set out above, I am quite satisfied that he was a knowing participator in the fraud. By the time he was drawn into the Allseas scam in March 2011 he knew the whole operation was bogus. If any clearer indication of that was needed, it is provided by the evidence of Mr Swan and Mr Pathuel, which largely went unchallenged. In both cases the major connection with the victims was Mr Sultana. He had received his training from Mr Nasir via the Rules of the Road document and he was armed with the World Trade document if he needed it to show to potential victims.

334. Having seen him in the witness box, he is a persuasive and clever talker. I can well understand why Messrs Kooger and Visser would be taken in by him. That was his role, in my judgment, namely to bring them ultimately to the final handover in October 2011. Once they were brought there, his purpose had been achieved and that is why it is not significant (despite the attempts in his closing to suggest otherwise) that he was not there in the vital period from 15th October to 17th October. By that time he had done his task and it was down to Mr Rejniak and Mr Nasir to bring the matter to a conclusion, which they did.

335. That is the explanation as to why it is possible to conclude that Mr Sultana knew that the scheme was bogus and yet conclude that Messrs Visser and Kooger did not know that the scheme was bogus despite their apparently greater business experience.

PLEADED CASE AGAINST THE DEFENDANTS

336. Having determined the facts as I have perceived them to be, as set out above, I now consider the pleaded case against the Defendants in the light of those findings. There is no doubt that there was a fraud and that the major persons involved in that fraud were Mr Rejniak and Mr Nasir, with Mr Sultana providing his role.

337. I am now going to consider how the Claimants put their case against the Defendants in the light of the above factual findings. Both of these claims against each of the Defendants are as follows:-

(1) AIC

338. First they seek an Order that the loan agreement between Allseas and AIC dated 15th October 2011 ("Loan Agreement") is declared null and void pursuant to Article 981 of the Maltese Civil Code: ***"Fraud shall be a case of nullity of the agreement when***

the artifice is practised by one of the parties such that without them the other party would not have contracted".

339. It is common ground that this requires Allseas to establish:-

i) bad faith (***"Dolus"***);

ii) use of significantly serious artifices to induce Allseas to adopt a mistaken perception of the contract;

iii) the contracting party (i.e. AIC) participated in the fraudulent artifices;

iv) the fraud played a significant role in inducing Allseas to contract.

ALLEGED WRONGDOING

340. AIC was not incorporated until 4th October 2011. On that date Allseas and AIC entered into a document entitled "Private Joint Participation Agreement". It contained reference to the facilitation and placement of €100m into a "***Private Placement and/or Capital Enhancement Programme"*** and also stated that the funds would be used exclusively "for the purchase of Bank instruments and especially MTNs or equivalent to be resale (sic) with a legal contractual agreed margin to genuine recognised and authorised third parties".

341. Mr Rejniak is of course the sole director and shareholder of AIC. At the meetings on 15th October 2011 Mr Rejniak represented with the failing of the facilities through BOV it was a new "Tier 1 Trader" with strong links to the Fed introduced. This was Mr Nobre, of course. As part of that exercise it would be necessary to have the monies with AIC rather than remaining with Allseas for the purpose of trading, but the trading would still be in MTNs and the moneys should be lent by Allseas to AIC, which in turn would lend them to the Tier 1 Trader for investment purposes. Also on 15th October 2011 AIC and Larn entered into the Larn Loan Agreement and on 17th October €100m was transferred from Allseas' BOV account to an account of AIC also in Malta. That money, as I have set out above, ultimately ended up in the client account of Notable Services LLP for Larn. The purpose of the loan to Larn was stated in the Larn Loan Agreement to be for the purpose of investment. Of the €15m that was attempted to be removed or was removed from the Larn client account in November 2011, none of the transactions can feasibly be said to be an investment as contemplated by the parties.

REPRESENTATIONS

342. In paragraph 25 of the Re-Amended Particulars of Claim, Allseas sets out its primary claim. There are six representations:

i) The monies were to be utilised for trading in discounted MTNs;

ii) Such trading would be under the auspices of and with the approval of the Fed;

iii) The trading would be conducted by a trader with Tier 1 authorisation from the Fed;

iv) The trading was facilitated by and arranged by Mr Rejniak as an agent of or otherwise authorised by the Fed;

v) It was not sufficient for the monies to remain with Allseas for the purpose of trading and the monies needed to be transferred from Allseas for that purpose.

343. It is pleaded that the representations were made by or on behalf of AIC, Mr Rejniak and Mr Sultana and were made fraudulently with the intention of inducing Allseas to pay away the €100m. Alternatively it is alleged that AIC (acting by its director Mr Rejniak), Mr Rejniak and Mr Sultana in making the representations acted maliciously with the intention of injuring Allseas by depriving it of the use of €100m contrary to Articles 1031, 1032, 1033, 1044, 1045(1) and 1047 of the Civil Code of Malta.

344. It is alleged that Allseas relied on those representations and the exhortations by Mr Sultana's conduct to invest in entering into the Loan Agreement and paying away the €100m, and that but for such representations would have done neither.

CONCLUSION ON REPRESENTATIONS

345. As I have set out in some detail above, in the chain of events which led ultimately to the transactions in October 2011 I am, as I have said quite satisfied as to the roles of Mr Rejniak, Mr Nasir, AIC and Mr Sultana. They were all complicit in the operation which was designed simply to steal Allseas' €100m. They all knew (AIC knew via Mr Rejniak) that what was being said, as set out above, was false. Accordingly all the representations are made out.

346. Equally (if this were necessary) it is clear that Allseas relied on these representations in entering into the transactions. That would be taken as understood in English law and I do not suppose that Maltese law is any different: see ***Howard Marine & Dredging Co Ltd v A Ogden & Sons (Excavations) Ltd*** **[1978] QB 574**.

347. The evidence against Mr Rejniak and thus of AIC and Mr Nasir is overwhelming. The position of Mr Sultana is as set out above. He too was complicit in the representations. I accept that he had a different role from that of Mr Rejniak, Mr Nasir and Mr Keller and Mr Nobre, but his role was nevertheless just as important. He brought them to the table on the basis of persuading them that they could make investments and make the fabulous returns. He is not a cipher or messenger.

348. Mr Sultana of course accepts that the representations were untrue and thus were made fraudulently because there was no investment scheme as alleged, but has said that the others were the parties to the fraud, not him. I have rejected that. On the basis of the evidence I determine that the representations were made as alleged by Allseas in its pleading by all the parties identified, namely Mr Rejniak, AIC, Mr Sultana and Mr Nasir (although of course he was not a party). The claims against Mr Nobre and Larn have been compromised, so I shall say nothing about their role in this fraud.

MALTESE LAW – APPLICABLE PRINCIPLES

349. I was assisted by two experts in Maltese law who gave evidence before me. For Allseas they had a report from Dr David Edward Zammit LLB PhD dated 21st November 2013.

350. He is a full time senior lecturer and Head of Department of Civil Law at the Faculty of Laws at the University of Malta. I refer to his personal background which shows he is clearly very experienced in Maltese law.

351. Mr Sultana's expert was Professor Ian Refalo whose report was dated 22nd November 2013. He is no less distinguished than Dr Zammit, being senior partner in Refalo and Zammit Pace Advocates, a law firm in Malta, the head of the firm's dispute resolution practice. He was educated at the University of Malta and the University of Cambridge and is currently the Professor of Public Law at the University of Malta. He is the Dean Emeritus of the faculty. In addition to those academic qualifications he has practised at the Bar for over 40 years.

352. The experts produced a joint report dated 27th January 2014.

353. Dr Zammit produced two supplemental reports dated 5th February 2014 and 6th March 2014.

354. Both gave evidence before me and were cross-examined.

355. As is the case in many aspects of Malta, the legal development is a number of complicated strands that developed over the centuries. It was ruled by the Knights Hospitaller from the 16th century until 1798 when Napoleon, whilst passing en route to conquer Egypt, decided to attack Malta (mostly for the purpose of confiscating the treasury of the Knights of St John, which he did). Some of the treasure thereby looted was still on the ships of the French navy when they were sunk at the Battle of the Nile. Malta came under French rule from 1798 to 1800 when following a rebellion it became a British protectorate in 1800, a colony until independence in 1964. It became a republic in 1974 and became an EU Member State in 2014. Adopting Dr Zammit's words, Malta's chequered history has shaped and been reflected in its legal system. In medieval times Roman law in the shape of the ***jus commune*** formed the basis of Maltese law. The law as enacted by the Knights reflected a broadly continental influence. After drawing on various strands ultimately the Maltese Civil Code was formed, drawing on in particular the French Civil Code and various Italian codes as well as those of Austria and Louisiana. It is still more closely allied to the continental approach. One particular feature of the continental law which a common lawyer would have difficulty understanding is the lack of application of the principle of ***stare decisis***. Decisions are not binding in the same way as they are in the common law. The cases build up cumulatively until a general consensus evolves.

356. The review of Maltese law in the Expert's reports was necessarily wide ranging because of the differing ways in which the case was pleaded. However, it seems to me that I only need to address Maltese law in the light of the findings that I have set out above and draw the conclusions of Maltese law when those facts are applied to that law.

357. I consider the claims in turn.

ANNULMENT AND RESCISSION

358. Allseas seeks an Order that the loan agreement between it and AIC dated 15 October 2001 ("***The Loan Agreement***") is declared null and void pursuant to article 981 of the Maltese Civil Code (which I have set out above).

359. It is common ground this requires proof of the following:-

i) Bad Faith (***Dolus***)

ii) The use of significantly serious grave artifices to induce Allseas to adopt mistaken perception of the contract

iii) That the contracting party (i.e. AIC) participates in the fraudulent artifices

iv) That fraud plays a significant role in inducing Allseas to contract (joint agreed experts statement paragraph 3)

360. The consequence of annulment of a contract is that AIC must refund to Allseas €100m plus interest pursuant to articles 1209 and 1210.

361. "Those provisions provide respectively as follows:-

> "1209. (1) The rescission of a contract shall, unless the law provides otherwise, operate, so as to restore the parties to the condition in which they were before the contract.
>
> (2) Each party shall be bound to restore to the other any thing received or obtained in consequence or by virtue of the contract.
>
> (3) With regard to the fruits collected or the interest received up to the date of the demand for rescission, the court may, having regard to the circumstances of the case, direct a set-off of such fruits or interest.
>
> (4) Where the contract is rescinded on the ground of fraud or violence, the party guilty of such fraud or violence shall also be bound to restore to the other party the fruits which might have been collected, and which, through his fault or negligence, have not been so collected.
>
> 1210. (1) Rescission shall operate also against third parties in possession.
>
> (2) It annuls any right or burden which may have been granted or imposed over or on the thing which, in consequence of the rescission is to be restored. "

362. The Experts are agreed that a Plaintiff must prove that the fraudulent devices used by the other contracting party were grave (agreed statement paragraph 6). Reference is made to the case of ***Piscopo v. Filletti*** (First Hall Civil Court 16 June 2003). "

363. In that case the claim for annulment failed when it had been fraudulently represented that the car was two years old when it was actually four years old because the buyer had failed to take necessary precautions such as examining the car in detail and asking for the log book before the sale in order to verify that the claimed age corresponded to the truth.

364. That is somewhat different to the law in England and Wales in relation to misrepresentation. It has never been a defence in England and Wales in response to a claim for misrepresentation that there are opportunities elsewhere to test the truth. The Experts agree therefore that this case provides authority for the principle that if the Claimant alleged to have been a victim to a fraud failed to discover the fraud because it did not employ diligence where a reasonable man would have done so, the Defendant would be entitled to plead in his Defence that the demands of the claimant need not be entertained (ibid paragraph 6).

365. Therefore in the present case, three issues arise. First was there a fraud by AIC? Second, was the fraud achieved by the use of significantly serious artifices to induce the Claimant to adopt a mistaken perception of the contract and third, was Allseas guilty of a failure to employ diligence where a reasonable man would have done so.

366. These are fact based matters. The fraud is plainly established in respect of AIC by the activities of Mr Rejniak. Those activities of course started many months before AIC was incorporated but to my mind that does not matter because all of those representations will be continuous down to the time that the Loan Agreement was entered into. In any event, the activities of Mr Rejniak in introducing the Tier 1 Trader in October 2011 were summarised above with representations made when AIC was incorporated up to the time of the Loan Agreement. Thus fraud is established. Mr Sultana played his role in the fraudulent scheme and was equally fraudulent and participated in grave fraudulent claims.

367. It seems to me that the fraudulent artifices as practised by Mr Rejniak, Mr Sultana and Mr Nasir over the period are sufficiently serious. There were the meetings in Switzerland, the long period in Malta, the repeated statements about first the United Nations then the intervention of the Papacy and ultimately the Fed. Finally there was the introduction of the Tier 3 Trader and then when everything appeared to go wrong, when BOV declined to provide the funding in October 2011, the introduction of the super important Tier 1 Trader. I accept the analysis of Dr Zammit in paragraph 76 of his report in that regard.

368. It seems to me that these fraudulent artifices as the Experts agree in paragraph 7 of their Joint Report must have played a critical role in introducing Allseas to the contract. It is difficult to see how the fraudulent artifices as summarised above could do anything other than play a critical role in inducing Allseas to invest. Messrs Kooger and Visser were completely hoodwinked.

369. That leads to the next requirement for rescission and namely a suggestion that Allseas did not employ due diligence where a reasonable man would have done so.

370. In this judgment I have been critical of the conduct of Messrs Kooger and Visser and their failings as regards investigation and verification of the proposed investment. It is clear that but for the conduct of the fraudsters summarised above, Allseas would

not have entered into the arrangements. It seems to me that whilst Messrs Kooger and Visser passed away any notions of common sense in the long drawn out negotiations that the performance of the fraudsters was so impressive and persuasive that a reasonable man would have been overborne by such activities. There is no other logical explanation for the conduct of Messrs Kooger and Visser. I therefore conclude that all of the requirements agreed by the Experts for a claim for rescission as against AIC are made out and I declare that the contract between Allseas and AIC is void and that it should be rescinded. AIC should consequentially repay all monies that it received under the Loan Agreement. In addition, it must pay interest pursuant to articles 1209 and 1210 of the Civil Code and Allseas must give credit for sums recovered.

371. Given the conduct of Mr Rejniak, a director of AIC, I do not need to become embroiled in the difficult argument as to whether or not any alleged fraud on the part of Mr Sultana can lead to annulment of the Loan Agreement. The reality is if Mr Rejniak's conduct is not such to attract the claim for rescission, Mr Sultana's will not. His conduct plainly does however.

DAMAGES

372. Dr Zammit's paragraph 86 of his report (which was not disputed by Professor Rafalo) was of the opinion that where there is fraud on the part of a party to a contract, there is liability in damages. That makes AIC liable in damages insofar as it failed to make full restitution of the entirety of the €100m.

373. In paragraph 88 of his report, Dr Zammit said that where the Loan Agreement is declared null and void, an action for damages would also lie directly against Mr Rejniak for his personal share of responsibility for the fraud. The courts would lift the corporate veil and consider him also personally responsible for the fraud and liable to refund the €100m and the other extra items.

374. I refer to the decision in ***Bugeja v. Muscat*** Court of Appeal 29 May 2009 and the parts of the judgment cited in that paragraph.

LIABILITY IN DAMAGES OF THE THIRD PARTY

375. Mr Rejniak has the liability because he is an officer of AIC. Mr Sultana is not in that position.

LIABILITY FOR DAMAGES BY MR SULTANA

376. One starts with Article 1031 "***Every person, however, shall be liable for the damage which occurs through his fault…"***

1032(1) ***"A person shall be deemed to be in fault if, in his own acts, he does not use the prudence, diligence, and attention of a bonus paterfamilias".***

377. Mr Sultana is not a party to the Loan Agreement and is not an officer of AIC.

378. There was a debate as to the interrelation between Dolus under Article 981 (Rescission) and Dolus under Article 1031 (liability for fault). In his report Professor Rafalo stated that Dolus was completely irrelevant for the purpose of Article 1031

(E3/92/946 para. 4 and E3/92/921 para. 4.3 - 4.4.1). Both Experts agreed that in the Joint Report (para. 34). However, when giving evidence Professor Rafalo purported to resile from that and was prepared to argue that the possibility for fraudulent artifices being unnecessary in article 103 should be reconsidered. I reject that analysis. Further, this had an impact on his credibility in that he appeared to be willing to take a stance which was more favourable to his client but which objectively he should not have taken.

379. This on the facts however, is irrelevant. The activities of Mr Sultana have been set out extensively in full. There is no question of there being anything other than fraudulent intent on his part i.e. Dolus. It follows therefore that whether or not Dolus is necessary under 1031, is irrelevant because if it is he has demonstrated such conduct.

380. Both Experts agreed that Mr Sultana would be liable whether or not he himself made representations (in the English Law sense) provided he was sufficiently involved in the build up to the entry into the investment and carried it out without honesty (or strictly without the care of a bonus paterfamilias). The latter is irrelevant because of the extent of Mr Sultana's participation in the build up which I have set up above.

381. If the matter were pressed to argument in my view I would reject the opinion of Professor Rafalo. Merely because Allseas failed to establish Dolus in the claim for rescission does not in my view mean that a claim under Article 1031-1033 necessarily fails. There may be circumstances where rescission is not available but a party might well have relied on the representations made by a Defendant in breach of 1031. Thus if I am wrong on the question of rescission that will not affect any liability in damages.

382. The Joint Report established that four elements are required for liability under article 1031:-

i) Dolus or culpa

ii) An unjust act or omission

iii) Damage

iv) A causal linkage between the Defendants conduct and the damage caused

383. All of those are established as against Mr Sultana for the reasons set out earlier in this judgment.

384. It is true that it is not easy to discern the individual role of each of the wrongdoers in respect of the fraud. However, that is a matter of contribution and the Code covers a number of eventualities. Articles 1049 provides that where two or more persons have maliciously caused any damage, their liability to make good should be joint and several. Article 1050 provides that where part of the damage which each has caused cannot be ascertained, the injured party may claim the whole damage be made good by any one of the persons concerned, even though some or all of them have acted without malice.

385. Article 1051(1) provides for the court to have the power to assess the contribution caused by persons in each case.

386. I have not heard any submissions on that at the moment and will consider that when I hand the judgment down.

SILENCE

387. There was a lot of material in the expert reports addressing the question as to whether or not Mr Sultana could be liable when he saw fraudulent activities on behalf of the other fraudsters but was merely silent. In my view this is an interesting but academic point on the facts of this case. Mr Sultana was not ***silent;*** he had his own part in the fraud and he carried that out. No question of silence therefore arises.

CAUSALITY

388. Equally there was a debate about the need to identify that the relevant Defendant's actions had ***caused the loss***. I accept that that is a requirement but in my view it is made out. It is not necessary to say that a particular act caused a particular loss. In the present case one looks at the whole pattern and the result that ensued. Mr Sultana was a willing participant in the fraud throughout. He might not have done every act that was done in the fraud but as I have said above, he had his role and the object was to obtain Allseas money dishonestly. He knew that and he had his role in it which led to the money being removed. It does not matter therefore that the actual transfer of monies took place after he had left Malta for example. He knew it was going to happen and that was the logical result of all of the activities of the fraudsters including Mr Sultana prior to that.

RESTITUTIONARY CLAIM AGAINST MR REJNIAK

389. This was addressed in Dr Zammit's second supplemental report dated 6 March 2014. The Maltese court apparently adopted the robust attitude that the claim for return of monies that were subsequently stolen. Dr Zammit cited a number of authorities and concluded that there would be a claim against Mr Rejniak for return of that part of the €100m that came into his possession.

390. Mr Sultana (for obvious reasons) did not challenge that and I accept Dr Zammit's report in that regard.

CONTRIBUTORY NEGLIGENCE

391. Article 1051 provides ***"if the party injured has by his imprudence, negligence for want of attention, contributed or given an occasion to the damage, the court, in assessing the amount of damages payable to him, shall determine, in its discretion, the proportion in which he has so contributed or given occasion to the damage which he has suffered, and the amount of damages payable to him by such other persons as may have maliciously or involuntary contributed to such damages shall be reduced accordingly."***

392. It is submitted on behalf of Mr Sultana that he is entitled to have the damages which he would otherwise be liable for reduced in this case because Allseas has caused or

contributed to its loss. This submission is made on the basis that that applies even in a case of Dolus.

393. Dr Zammit was unable to refer to any case where the principle of raising contributory negligence in a case of Dolus has been dealt with (see paragraph 159 of his report). Professor Rafalo had not found any case either but expressed the view (unsupported by any kind of authority) that it would be available in his opinion.

394. It seems to me that article 1051 expressly provides that the Contribution can be raised where other parties have maliciously or involuntarily contributed to such damage. I have no doubt that the word ***"maliciously"*** in this context covers Fraud and Dolus.

395. It is therefore in my view open to Mr Sultana to raise the question of contributory negligence and to seek to reduce Allseas damages by an appropriate amount because Allseas has ***"by its imprudence, negligence, or want of attention, contributed or given occasion to the damage…"***

396. I have already commented on the performance of Messes Kooger and Visser. It is clear that their conduct (attributable to Allseas) potentially falls within the type of conduct that would attract a claim for contribution under Article 1051. It is clear that they have been in breach of their duties as directors to Allseas to perform their duties with reasonable skill and care. I do not see that they have been in breach of their fiduciary duty in their conduct.

397. Mr Sultana seeks at least fifty per cent reduction.

398. Alternatively, Mr Sultana seeks contribution on the same basis against Messrs Kooger and Visser on the basis that they have caused loss by reason of their breach of their fiduciary and employment duties owed by them to Allseas. The only difference between them will be in the effect namely that if it is done as against Allseas, Mr Sultana's primary liability will be reduced whereas if it is done by way of a contribution claim against Messrs Kooger and Visser he will have the full liability to Allseas. Given the sums of money involved, this is likely to be an entirely academic exercise.

399. Dr Zammit was of the opinion that any amount of reduction in the case of fraud was in practice unlikely or likely to be small.

400. In England and Wales, such a plea is not available to a deceitful Defendant (see ***Standard Chartered Bank v Pakistan National Shipping Corp*** [2003] 1AC959.

401. It is also extremely unattractive for a fraudster in effect to say that a Claimant's damages should be reduced because the fraudulent Defendant has been more successful in deceiving the victim than he should otherwise have been.

402. In my view, the Maltese courts would accept that there is a possibility of reducing damages by contribution at the behest of a person guilty of Dolus but would be extremely unlikely ever to do that and if it did would reduce the damages minimally. It would be a question of fact in each case and would be subject to the courts overriding discretion conferred on it by Article 1051. There must be something extreme in the facts to justify such a reduction in the case of Dolus.

403. If I could draw an analogy it would be the law of frustration of leases where it is said that the doctrine "***hardly ever"*** applies. Each case would be fact sensitive. In the present case I can see no reason whatsoever to exercise discretion in favour of Mr Sultana in the light of the facts in this case.

404. I therefore conclude that in the exercise of my discretion it is inappropriate to reduce the damages payable to Allseas by reason of the clearly established incompetence of Messrs Kooger and Visser. I equally determine that in my discretion it is inappropriate to require them to make any payment towards Mr Sultana's liability.

PUBLIC POLICY CONSIDERATIONS

405. Allseas in its closing submitted that if contributory negligence was available to Mr Sultana in this case I ought not to give effect to that because it infringes Article 26 of the Rome II Regulation which provides ***"the application of the origin of the law of any country specified by this Regulation may be refused only if such application is manifestly incompatible with the public policy (ordre public) of the forum".***

406. Allseas submitted that in the light of the decision in ***Kuwait Airways Corporation v Iraqi Airways Co (nos 4 & 5)*** [2002] 2AC883. I need not set out the facts of that case which are firstly complicated and secondly far removed from the present. On the question of whether or not English Law should give effect to foreign law jurisprudence the matter was considered in all the judgments of their Lordships. The main judgment is that of Lord Nicholls at paras. 15-36.

407. Like all concepts involving public policy, it is an unwieldy horse. Allseas distilled four principles:-

i) The Court has a residual power to be excised exceptionally and with a greater circumspection to disregard a provision of foreign law when to do otherwise would affront basic principles of justice and fairness which the courts seek to apply in the administration of justice in the UK.

ii) The public policy principle eludes more precise definition but its flavour is captured by the dictum of Judge Cardozo when he said "[***The court will exclude] the foreign decree only when it would violate some fundamental principle of justice, some prevalent conception of good morals, some deep rooted tradition of the common weal". Loucks The Standard Oil Co of New York*** (1918) [120 NE198,202].

iii) The fact that foreign laws or even basic principles are different is not enough to engage the public policy principle

iv) The public policy principle is narrowly more limited in private international law than in international law. The local values ought not likely to be elevated into public policy on a transnational level."

408. Thus it is submitted the Maltese law allowing a plea of contribution at the behest of a fraudster against the victim should be disregarded.

409. It does not seem to me that I should disregard the provision in Maltese law for this reason. First, it is overwhelmingly the case that the normal position is that the courts in this jurisdiction recognise laws of foreign jurisdiction even when they are different. As Lord Nicholls said "***if the laws of all countries were uniform there would be no conflict of laws*** (ibid para. 15). I do not see that the concept provided of contributory negligence in Maltese law can lead to a result so wholly alien to the fundamental requirements of justice as administered by an English court. It is true that a lawyer in this jurisdiction would find difficult the concept of contributory negligence being open to a fraudster to reduce his liability to his victim but I am by no means persuaded that that surprise elevates the law as to such that it should be disregarded. I have had no argument on Maltese law or why this provision was enacted (see the observations of Lord Hope at para. 138). Further it must not be forgotten that the power is not mandatory: it is discretionary. In the circumstances of the present case in particular when one sees the elaborate fraud perpetrated by the Defendants on Allseas as I have said it would in my view be quite wrong to afford them any relief in respect of claims brought by Allseas albeit Messrs Kooger and Visser conduct was seriously inadequate as regards to the discharge of the duties that they owed to Allseas as officers and senior employees. In the circumstance of the present case as set out above, I do not see it would be appropriate for any of the Defendants to avail themselves of this in view of their success in so confusing Messrs Kooger and Visser by their conduct that they fell down in their duties and thus enabled the Defendants initially to be successful in their fraud.

410. For those reasons I do not accept that I should disregard this provision as to Maltese law.

BREAKING THE CHAIN OF CAUSATION

411. As is set out earlier in the judgment the monies were signed away to AIC which was controlled by Mr Rejniak. He then tried to transfer the money to bank accounts under Mr Nobre's control at either the Luxembourg or Andorra Banks but he was not successful. Mr Sultana (para. 126 of his closing) accepted that if those transfers had taken place and Mr Nobre was successful in dissipating the money, there could be no basis for contending there was a break in the chain of causation.

412. However, Mr Sultana submits that is otherwise in relation to the ultimate transfer to Notable the English lawyers. It is submitted that he did not obtain control over the money which was in Notable's client account and that when he gave instructions which he hoped would be complied with by Notable, in fact Notable ought not to have complied with the request as part of their legal obligation to undertake money laundering compliance.

413. Mr Sultana in his Defence pleaded that the release of monies by Notable out of their client account (which forms the entirety of the claim brought by Allseas in this action) was in breach of the Proceeds of Crime Act 2002 and/or the Money Laundering Regulations 2007 and/or the Solicitors Account Rules. It was then submitted that Notable's failure to report suspicion of money laundering and permitting their client account to be operated was in breach of those provisions.

414. Mr Sultana sets out in some detail the basis for the claim that Notable acted in breach of the above statute and regulations.

415. Notable's presence in the trial has Banquo like qualities. Mr Sultana although making serious allegations against them and seeking to rely upon them to escape liability to Allseas did not join them.

416. Even more surprisingly Allseas despite the serious allegations raised by Mr Sultana did not seek to join Notable either. Allseas did make a letter of claim against Notable in May 2013. At that time the trial was fixed for October 2013 but had to be adjourned because of the amendments made by Mr Sultana. That led to a re-fixing of the trial ultimately before me in February 2014. When Mischon's (Allseas' solicitors) received a reply on 9 July it was clear that Notable was going to rely upon the conduct of Stewart Law from whom they took advice at the time of the transaction and Barclays Bank. They also intended to raise conversations they had apparently had with Lichtenstein Landers Bank. The trial was already listed for six weeks and Allseas made a decision not to make the proceedings more complicated (and thus costly) and expose Allseas to potential cost of these later claims were in effect adopted by Allseas if they turned out not to be successful. The trial would also of course lengthen.

417. By the time the trial came on before me of course, any question of bringing Notable in would have had serious implications about the trial as it would inevitably have been adjourned, lengthened and would have gone off until late 2015 at the earliest. Faced with all of that (which I am bound to say arose out of the fairly languid approach taken by the parties to this problem last year) both Allseas and Mr Sultana had little enthusiasm for bringing in Notable. However, I was faced with a considerable difficulty in that there were serious allegations made against the firm of solicitors which it was said broke the chain of causation, yet I was going to have no evidence from any of the solicitors to explain what they did. In that light, I directed the transcript to be sent to the solicitors own lawyers and invited them to appear before me to see what their stance was. They duly appeared on day 9 by Mr Michael Pooles QC. He made it quite clear that he was not going to seek for Notable to be joined and as I have said none of the other parties were going to call them or invoke them. Mr Chapman refereed me to a decision called ***Rustenberg*** which suggested that I could call a witness of my own volition. I certainly had no intention of doing that because I would have no material to put before any such person called as a witness. It would be quite wrong of me on such an important point in effect to have somebody called as a witness, to have allegations of dishonesty and a breach of the solicitor's regulations put to him without him being represented. There the matter was left. From a judge's point of view, it was entirely unsatisfactory that such an important point was left imperfectly argued with me being required to adjudicate on the alleged failings of Notable despite its absence from these proceedings. That is even more so when the absence of them is made by deliberate actions on the part of Allseas and Mr Sultana who indicated in argument that if Mr Poole's QC had applied to be joined they would have objected. This does not lead necessarily to sensible justice. If I find that they were guilty of the breaches alleged against them that would not bind them as they are not a party to this action, they have not been heard and they have not laid any evidence. Against that Mr Sultana relies upon their conduct (or misconduct) as breaking the chain of causation for his benefit.

ALLEGATIONS AGAINST NOTABLE

418. The allegations are set out in para. 46.6B of Mr Sultana's Re-Re-Amended Defence. Mr Nobre (but not Larn) became a client of Notable in December 2010 and signed a retainer letter in respect of a prospective purchase of a property in Highgate. The fee was a fixed fee of £125,000 excl. of VAT. It is said that there was no other business which Mr Nobre, Larn or any other company associated with him led to a retainer of Notable prior to 2 November 2011 other than the Notarisation of certain documents.

419. That transaction did not proceed and left Notable out of funds for part of the fee it had paid to Savills on behalf of Mr Nobre to survey the property in question. Out of professional embarrassment, Notable had paid half of the Savill's fees together with a further sum claimed by another firm of solicitors, Gregory Rowcliffe Milners ("GRM").

420. By October 2011 when the property transaction was clearly dead or at least in suspended animation, Mr Nobre informed Notable that he was arranging the transfer of €100m to Notable's client account. A fee of £30,000 was offered for the mere receipt of the €100m and for an introduction of Mr Nobre to Barclay's Wealth which was a potential recipient of some of the €100m. After the money was received, the large number of transactions appended to this judgment took place. It included a sum of £250,000 to Notable itself for undefined "future services". In addition, Notable had an agreement that Mr Nobre/Larn agreed to waive Notable's obligation to account for the interest that would be earned on the €100m whilst it was in Notable's client account. It was suggested in Mr Sultana's Re-Amended Defence that it would be in the order of €20,000 per week on the basis of 1 per cent per annum.

421. Shortly after these matters were agreed Notable retained Stewarts Law LLP for advice on money laundering compliance obligations concerning the €100m. It is also said advice was sought from a Mr Choudhary, the Law Society's AML Co-ordinator within its Practice Advice Service. I have not seen the advice but I assume that it was not to the effect that the transactions were arguably in breach of regulations. Mr Sultana asserts in his Re-Amended Defence that the advice Notable received from either of them was worthless because of false misleading and incomplete instructions given to them on behalf of Notable. It is said that no mention was made of the fact that Larn had never been a client of Notable and none of the payments (including the ones made to Notable) were revealed.

422. Further Notable obtained a Dun & Brandstreet report on Larn which indicated its turnover was £48,000 with a net worth of only £6,000. That had no impact on Notable apparently.

423. In his closing, Mr Sultana accepted that the court should approach this issue on the basis that Notable were negligent rather than dishonest.

424. Regulation 14.5 of the SRA Account Rules 2011 provides:-

> ***"You must not provide banking facilities through a client account. Payments into and transfers or withdrawal from, a client account must be in respect of instructions relating to transaction (and the funds arising there from) or to a service forming part of your normal regulated activities."***

425. It is impossible in my view to come to any conclusion other than that the transactions that were run through Notable's bank account were not in compliance with that requirement. It is a regular theme of cases of money laundering that solicitors allow themselves to be used as bankers, see for example, *Attorney General of Zambia v. Meer Care and Desai* [2007] EWHC 952(Ch). In that case (inter alia) I determined that the First and Second Defendant firms of solicitors were guilty of dishonest assistance in effect by allowing large sums of money stolen from the Republic of Zambia by the late President Chiluba and others to be laundered through their accounts. It is important to appreciate the claim against them was for ***dishonest assistance;*** the best claim raised at the moment is negligence. Further of course, in the Zambia Court of Appeal with some agility on reading a few transcripts managed to acquit Mr Meer (the First Defendant) of dishonesty but found him guilty of gross negligence. However as the Attorney General of Zambia was not his client that meant that he had no liability. Allseas is in the same position. It is difficult to see what duty Notable owes it in respect of the regulations.

426. In respect of the present case, there is no plea of dishonesty. Mr Sultana is not a client and cannot bring a course of action. Nor can Allseas bring a claim for breach of the rules simplicitor because it too is not a client. It will only be able to bring a claim of breach of those as part of a claim as happened in the ***Zambia case*** i.e. dishonesty on the part of Notable. It makes no such allegation at the moment.

427. Further one must not forget that whilst a breach of Article 14.5 is clearly established in my view, the relationship between the parties here is governed by Maltese law. Having determined what the position is as regards Notable under English law, the next question to consider is what the consequence is in Maltese law.

428. Dr Zammit produced a supplemental report dated 6 March 2014 where he addressed (para. 10) this issue. He referred to article 1029 of the Civil Code which provides:-

> ***"Any damage which is produced by fortuitous event, or in consequence of an irresistible force, shall, in the absence of an express provision of the law to the contrary, be borne by the party on whose person or property such damage occurs".***

429. He said that in those cases the Maltese courts take a very restrictive attitude to a party who pleads ***force majeur*** and/or fortuitous cause as a Defence and they have repeatedly held that "***a fortuitous cause, force majeur or a state of necessity do not exculpate the defendant if he or she was at fault prior to the intervention of the extranea court".***

430. Thus under Maltese law, his evidence was that even if Mr Sultana established the matters pleaded against Notable, it would not interrupt the causal link between his liability and the harm complained of by Allseas.

431. Professor Rafalo did not refer to this in his report.

432. Dr Zammit was not cross-examined on this point.

433. Nor was he cross-examined on paragraphs 148 and 149 of his original report where he referred to this Defence. In paragraph 148 he submitted that there can be no break in the chain of causation provided Allseas established:-

i) First of all, Mr Sultana's representations were motivated by Dolus and/or culpa, thus satisfying the first limb of the causality test, and

ii) These representations were a direct and immediate cause of the harm complained of by Allseas such as the damage complained of would not have occurred or would not have been so serious had Mr Sultana's conduct not intervened.

434. In paragraph 149 he amplified this and submitted that if Allseas showed that when Mr Heerema authorised the transfer of the €100m by AIC to Notable he was relying on the representations made to him by Mr Sultana. That would not break the chain of causation as the authorisation to transfer the money to Notable was itself directly motivated by Mr Sultana's acts/omissions. Further, he submitted that the fact that others were responsible for misleading the client does not take away Mr Sultana's responsibility for his part in the fraud (see above). To argue otherwise would be to adopt the "single approximate cause" theory of causation. He said that was alien to Maltese Law and would also mean each several Defendants could escape liability because all of them said that the others caused the problem.

435. This was put to Professor Rafalo in cross examination. His evidence was a little difficult to follow. However, that was partly because the questions in my view were also a little difficult to follow. Article 1029 relied upon by Dr Zammit in his supplemental report was rejected by Professor Rafalo firmly (T24 184) because it related to intervening events for which there was no responsibility. He distinguished between fortuitous event and ***force majeur*** on the one hand and an intervening event and the fault of other persons (T24/186/1). Unfortunately that was not further evaluated. He rejected Dr Zammit's suggestion that there was a very restrictive attitude but nevertheless accepted (T24/188/6) that where there was simultaneous wrongful acts, Maltese law could apportion liability.

436. Neither side explored this further in their closing.

437. It is clear that the primary cause of the loss was the fraudulent conduct of the fraudsters which led to Allseas handing the money over to AIC. Without that there would have been no money for Mr Nobre to deal with. As is conceded by Mr Sultana if there can be no question of matters being done under the control of Mr Nobre and causing a loss. That is self-evident because Mr Nobre is of course one of the wrongdoers.

438. There is no suggestion of wrongdoing by Notable as regards Allseas at present. As I have said above, one looks at the difference between what happened in the Court of Appeal in the ***Zambia*** case in relation to Mr Meer when the Court of Appeal, with that agility the Court of Appeal sometimes exercises in being able to assess the credibility of a witness on the transcripts rather than on the live evidence, led to a finding of recklessness up against Mr Meer but that was not sufficient to make him liable for dishonest assistance.

439. I do not think article 1029 is intended to cover damage other than fortuitous damage or ***force majeur.*** The intervention of Notable does not fall into either category.

440. One therefore has to look in Maltese law for some other basis. I have had no clear evidence from either expert in this regard.

441. My conclusion (after some hesitation, I accept) is that when one looks at the evidence of Dr Zammit and Professor Rafalo as a whole, the courts will look at the relative acts complained of and see in a general way what has caused the loss. Doing that, the inevitable conclusion is that it is the act of the fraudsters which caused the loss because it was that which obtained the release of the money. What happened to the money afterwards is to my mind irrelevant. For example, if the fraudsters had dissipated the money so that they were not in a position to repay there would be no question of there being a break in the cause of chain of events. If, for example, they had gambled it away, that too would not have provided them with a defence. Nor I venture to suggest, if it had been stolen from them, would that assist them either.

442. Looking at all of that, why should the negligence of Notable, which is a failing which neither Allseas nor Mr Sultana can complain about, break the chain of causation? I do not think therefore that Maltese law, when looking at the overall facts in this case, would conclude that the negligence of Notable breaks the chain of causation and relieves Mr Sultana and the other fraudsters of their liability which had already accrued and which had led to them being successful in obtaining the €100m from Allseas.

443. In so concluding, I adopt what Allseas said in para. 33.6 of their closing on causation in relation to the facts. I am not persuaded that Allseas have established that the Maltese courts take a very restrictive attitude to a party who pleads ***force majeur*** and/or fortuitous cause of defence. In reality, neither of those is Mr Sultana's defence; his defence is that the break in the chain of causation is caused by the negligent actions of Notable. He had applied on day 22 to re-re-amend his defence to make wide ranging allegations of dishonesty. I rejected that application in view of its lateness in particular and the impact it might have on (for example) Notable, who were completely aware of such allegations against it.

ENGLISH LAW ON BREAKING CHAIN OF CAUSATION

444. I received very little assistance on this aspect from either party.

445. I refer to ***Clark and Lindsell*** on torts (20th Edition) at para. 2-101 et seq. It seems to me, distilling from the authorities referred to in that paragraph and the ensuing paragraphs that the following arise:-

i) Merely because the first wrongdoer's conduct satisfies the "***but for***" test (i.e. without his conduct the damage could not have occurred) is not necessarily determinative of whether he should be held responsible where other causally relevant events have played a role. Thus in the majority of cases where a plea of novus actus succeeds there will have been a prior finding that the original wrongdoing does indeed satisfy the "***but for***" test as a cause of damage. However, on the grounds of equity and policy the courts should then proceed

to find that in the light of subsequent events, the defendant should not be held answerable for consequences beyond his control.

ii) The act of intervention of the third party might be an act (or omission) by a third party. The present case is such.

iii) Whatever its form, a novus actus must constitute an event of such impact that ***"obliterates"*** the wrong doing of the Defendant. There is no consent to an intervening ***"contributory"*** event.

iv) It appears to be an instinctive view in each case where the courts resort to various metaphors which provide no clear picture (see Allseas closing, para. 33.6.6).

446. Further the nature of the intervening third party conduct is important. The more unreasonable the conduct the more likely it is to constitute a novus actus (ibid para 2-109). Nevertheless, negligent acts can constitute a novus actus (see the numerous cases involving surgery).

447. No clear picture emerges. However I have concluded that in English law, the negligence of Notable in failing to comply with the Solicitor's Account Rules would not operate to break the cgain of causation. My reasons are as follows. First, when one bounces that failing against the fraudulent activities of the fraudsters, the latter overwhelmingly is causity of the loss. Second, I am not convinced that had Notable complied with their duty, that would have been the end of the matter. It is not unreasonable to assume that Notable would have simply declined to accept the money. That would lead Nobre to continue its ***"hawking"*** of €100m around until another home could be found for it. At best that failing can only have been contributory in that there must have been an assessment as to whether or not Nobre would have found another haven for his ill gotten gains. Third, the reality is that it is no different to acts being done by Nobre himself which Mr Sultana concedes cannot be in vote. Fourth, the intervening act on the way the case is put before me, if negligent, is not actionable at the behest of Mr Sultana nor Allseas. Neither is the client of Notable, and he owes no duty to either of them. This is the difficulty posed by the bare complaint of non compliance with the Solicitors Account Rules. It has to be used as a platform for a claim against Notable and no such claim is alleged by either of them. Mr Sultana as a fraudster can hardly complain and as I have said Allseas are not a client.

448. In view of that conclusion I would determine that for the purpose of English law there would be no novus actus. Absent a clear picture as regards Maltese law, I would determine that Maltese law would follow English law and come to a similar result as the one I find in English law.

CONCLUSIONS

449. I determine that Allseas have established a claim of fraud against AIC, Mr Rejniak and Mr Sultana.

450. In the light of that finding and the matters I set out above, I determine that it is entitled to rescission of the Loan Agreement, return of the monies plus interest and damages from AIC.

451. In addition, it is entitled damages against Mr Rejniak and Mr Sultana for such fraud.

452. There is no basis for any plea of contributory negligence on the facts of the case as against Messrs Kooger and Visser and Allseas.

453. The breach of the Solicitors Accounts Rules by Notable does not operate as a Novus Actus Interveniens,

454. In the light of the above determinations I will discuss the form of any order when I hand-down this judgment.

IN THE HIGH COURT OF JUSTICE **Claim No. HC12C00507**

CHANCERY DIVISION

B E T W E E N:

GROUP SEVEN LIMITED
(a company incorporated under the laws of Malta)

Claimant

and

(1) ALLIED INVESTMENT CORPORATION LIMITED
(a company incorporated under the laws of Malta)
(2) MAREK REJNIAK
(3) PAUL SULTANA

Third Defendant/Part 20 Claimant/ Respondent

(4) LARN LIMITED
(5) LUIS NOBRE

Defendants

and

(1) EDWARD HEEREMA
(2) CORNELIS KOOGER
(3) JOHAN VISSER

Third Parties

and

(1) CHRISTOPHER MICHAEL LUCAS
(2) TAMARA JANE LAURA LUCAS

Fourth Parties

DRAMATIS PERSONAE

Name	Position
Allied Investment Corporation Limited	Maltese company; First Defendant in these proceedings; owned by Marek Rejniak, the Second Defendant
Allseas Group SA	Swiss company specialising in oil and gas exploration; holding company of the Claimant
Allseas Group Limited	Company registered in Malta for the purpose of effecting the Investment Opportunity; and whose ultimate beneficial owner is

	Edward Heerema
Andorra Bank	Andorran Bank
Bank of Valletta	Maltese Bank at which the Claimant, AIC and Mr Sultana held accounts
Beagleman, Michael	Concierge Service Provider to Luis Nobre; recipient of £150,000 from Notable Services LLP
Benton, DCI John	Head of International Proceeds of Corruption Unit at the Metropolitan Police
Brouwer, Dirk	Former CFO of Allseas Group SA
Buist, Henk	Former CC of Allseas Group SA
Chetcuti-Ganado, Amanda	Director of Corporate Services Limited; personal friend of Paul Sultana
Chetcuti-Ganado, Anton	Accountant and Director of Corporate Services Limited
Corporate Services Limited	Corporate Services Company in Malta
Ebron Wealth Management	Company controlled by Luis Nobre
Fernandes, Philip	Commercial Director of twice2much Limited and non-practicing Barrister
Fulton, Ken	CEO of Global Project Capital Limited (UK)
Group Seven Limited	The Claimant
Hanrahan, DC Simon	Detective Constable, Money Laundering Investigation Team at the Metropolitan Police
Heerema, Edward Pieter	President and ultimate beneficial owner of Allseas Group SA; Third Party in these proceedings
Holland, Tom	Businessman; trader in Asian handicap style bets on football matches; operated "White Falcon Fund" into which Mr Sultana offered to invest £5 million
ING Bank, Amsterdam	Allseas' Bank in the Netherlands
Keller, Rudi	"Tier 3 Trader"
Kooger, Cornelis Willem	General Legal Counsel and Director of Allseas Group SA; Third Party in these proceedings
Landman, Martin	Executive Chairman of Intrust Advisory Limited; former Chartered Accountant of Notable Services LLP
Larn Limited	Fourth Defendant; originally controlled by Luis Nobre; now in

	liquidation and known as Equity Trading Systems Limited
Licki, Olivier-Joachim	Ex Business Associate of Mr Nobre being investigated by the Belgian police
Liechtensteinische Landesbank	Liechtenstein Bank
Lindop, Jane	Solicitor; Former Executive Assistant of Luis Nobre
Lucas, Christopher	Fourth Party in these proceedings
Lucas, Tamara	Wife of Christopher Lucas; Director of Acumen Founded Limited; Fourth Party in these proceedings
Matthew, David	Former Senior Banker at Midland Bank / HSBC; Introducer of Paul Sultana to Jan Pathuel
Meduri, Francesco	Managing Partner of Notable Services LLP
Millar, John	Freelance private security advisor; former security guard of Luis Nobre
Millens, Jim	Commercial Banker at Coutts & Co
Nasir, Ali	Member of Paul Sultana's "Investment Team"; based in Los Angeles, now accepted to have been a fraudster by Mr Sultana; connected to Grand Strategy Limited
Nobre, Luis	"Tier 1 Trader", Director of Larn Limited and Ebron Wealth Management; Fifth Defendant in these proceedings
Notable Services LLP	Firm of Solicitors and Notaries; eventual recipient of €100m from Allied Investment Corporation Limited
One Blotter Limited	Company founded by Christopher Lucas
Pathuel, Jan	Danish citizen, Partner in asset management company, Shareholder in Girtech; individual almost convinced by Mr Sultana to invest €100 million in December 2011
Pieter Schelte Project	Project to build a pipe-laying vessel
Puillicino, Louis Cassar	Partner at Ganado Advocates, Malta
Rejniak, Marek	Director of Allied Investment Corporation Limited; the Second Defendant; lives in Hong Kong
Riordan, DI Paul	Detective Inspector, Money Laundering Investigation Team at the Metropolitan Police
Saliba, Marisa	Corporate Clients Relationship Manager at the Bank of Valletta
Schranz, Steve	Head of International Clients Centre at Bank of Valletta

Sultana (née Capel), Lucinda	Wife of Paul Sultana
Sultana, Paul	Maltese/British National; sole Director and Shareholder of Wealthstorm Limited; Third Defendant in these proceedings
Swan, Hugh	Former Managing Director of Ambiente Homes in Canada; retired government official
van Tiel, Peter	Allseas Group SA CFO
van Wezel, Leo	Head of Security at Allseas Group SA
Visser, Johannes	Treasurer of Allseas Group SA; Third Party in these proceedings
Wolfswinkel, Poulina Cornelia Brandina	Ex-wife of Edward Heerema
Yi, Jon	Member of Paul Sultana's "Investment Team"

Notable Services LLP General EUR Account . 15th-17th November 2011

Date	EUR Amount	GBP Amount	USD Amount	CHF Amount	Beneficiary	Details	Purpose
15/11/2011	11,070.76	9,150.90			Notable Services LLP	33 Wigmore Street, London W1U 1AU	Unknown
15/11/2011	12,043.12	9,954.64			Savills (L&P) Limited	132-134 Hills Road, Cambridge, CB2 2PA - Balance of Invoice SNBU218195	Outstanding fees re purchase of "Palladio" by NOBRE / invoice dated 31.01.11
15/11/2011	12,098.00	10,000.00			Intrust Limited	33, Wigmore Street, London, W1U 1AU	Unknown
15/11/2011	14,893.35	12,310.59			Gregory Rowcliffe Milners	Luis Nobre Proposed Purchase of Palladio, 10 Compton Avenue, Highgate	Outstanding fees re purchase of "Palladio" property by NOBRE
15/11/2011	17,305.32	14,304.28			M Landman	Reimbursement of electronic payment made to Savills	Reimbursement after Landman settled debt owed by NOBRE
15/11/2011	29,035.20	24,000.00			Intrust Limited	33, Wigmore Street, London, W1U 1AU	Unknown
15/11/2011	100,000.00				La Compagnie des Coutiers et Marcha	Invoice No LN/2107001 14/10/11 Larn Ltd	Acquisition of shares by NOBRE / Larn as per invoice dated 14.10.11
15/11/2011	100,000.00				Secure Communications Intl Ltd	Larne MB Security Systems Ref 100778/SPI	Invoice says. "Larne MB security systems partnerships investments"
15/11/2011	126,724.50	105,000.00			Fabian Redpath	Invoice No FCR - LARN - 1 04/11/11	Invoice says: 1 year board member & executive services fees in advance.
15/11/2011	180,755.25	150,000.00			Mr Michael S Beagelman	Invoice Ref / 100734 / SPI	Settle outstanding bill owed by NOBRE / invoice says: "For special services rendered"
15/11/2011	186,691.43		247,500.00		William E Boehringer	Larn Ltd - London Billing 01/01/11-01/11/11	Boehringer allows NOBRE to use his credit card, appears to be repayment of that expenditure.
15/11/2011	188,562.98		250,000.00		Marek Rejniak	Invoice 002 Larn Ltd	Credit of Marek Rejniak's Singapore bank account / handwitten on invoice is "Salary for 2011"
15/11/2011	188,562.98		249,995.08		Ben O'Rafferty Solicitors	Invoice 001 Larn Ltd Reference 786AIC Marek Rejniak	Credit of Marek Rejniak
15/11/2011	192,597.60	160,000.00			Accounts Centre CY Ltd	Formations House Invoice No /Ref BAR/1304	Formation of 3 companies by NOBRE and IT servers
15/11/2011	226,056.82		300,000.00		Emery Financial	Invoice No 3741 28/10/11 Larn Ltd - London UK	Bradford Sarvak paid NOBRE'S hotel & medical bills in August. Repayment of same.
15/11/2011	252,469.35	210,000.00			Notable Services LLP	33, Wigmore Street, London, W1U 1AU	Settlement of outstanding bill owed by NOBRE re provision of legal fees Dec '10 to Nov '11
15/11/2011	300,908.73	250,854.48			Travel and Lifestyle Ltd Clients AC	Proforma Invoice 000194377	Settle outstanding bill owed by NOBRE for Concierge services
15/11/2011	14,000.00				Mr Desimeur Thierry	Facture TD/0310001 03/10/11 Client No DP-59650-0009 Consultancy Fee -Implementation of IT infrastructure	Appears to be author of some PDF files on NOBRE USB
15/11/2011	41,304.05			50,000.00	Geneve Expat	Facture No 0220 07/10/11	
15/11/2011	105,000.00				SARL 2LC Maintenance	Facture No 10/10/001 Larn Ltd	Exact reasons unknown
16/11/2011	115,000.00				Christopher Michael Lucas	Invoice No Larn-CML-5, 3 10/11/11 Larn Ltd	Invoice dated 19.10.10 is not clear as to purpose of payment (invoice is 13 months old)
16/11/2011	115,000.00				De Heer CM Lucas	Invoice No Larn -CML-5,4 10/11/11 Larn Ltd	Appear to be investment related
16/11/2011	120,843.70	100,000.00			Christopher Michael Lucas	Invoice No Larn - CML -5,2 10/11/11 Larn Ltd	Appear to be investment related
16/11/2011	120,843.80	100,000.00			Christopher Michael Lucas	Invoice No Larn - CML -5,1 10/11/11 Larn Ltd	Appear to be investment related
16/11/2011	120,843.80	100,000.00			Tamara Jane Laura Lucas		Appear to be investment related
16/11/2011	120,843.80	100,000.00			Tamara Jane Laura Lucas	Invoice No Larn - CML- 5,6 10/11/11 Larn Ltd	Believed to be wife of Christopher Lucas
16/11/2011	120,843.80	100,000.00			Christopher Michael Lucas	Invoice No Larn - CML- 2 04/11/11 Larn Ltd	Believed to be wife of Christopher Lucas
16/11/2011	120,843.80	100,000.00			Tamara Jane Laura Lucas	Invoice No Larn - CML- 5,5 10/11/11 Larn Ltd	Appear to be investment related
16/11/2011	126,864.99	105,000.00			Tamara Jane Laura Lucas	Invoice No Larn - CML - 5,8 10/11/11 Larn Ltd	Believed to be wife of Christopher Lucas
16/11/2011	201,042.44		269,995.11		Christopher Michael Lucas	Invoice No Larn - CML - 1 04/11/11 Larn Ltd	Invoice says: "provide 2 board members as discussed for risk & compliance for 12 months"
16/11/2011	205,094.63	170,000.00			CM Darmudas	Invoice No 10050 03/11/11 Larn Ltd	Invoice says: "12 months board member & executive services fees in advance Start date to be agreed"
16/11/2011	250,000.00				Nisroy Investments Inc	Invoice No 008 01/11/11 Larn Ltd	Invoice says: Consultancy fees in respect of services rendered to LARN.
16/11/2011	300,359.50	250,000.00			Lycias Investment Ltd	Larn - CML -3 04/11/11 Larn Ltd	Invoice says: "services in connection with fairfax and introduction to vendor"
16/11/2011	412,668.65	345,000.00			HM Consultants	Invoice No 00104A 03/11/11 Larn Ltd	Purchase of Cypriot company by NOBRE, beneficiary appears to be Christopher LUCAS.
16/11/2011	418,717.95	350,000.00			Christopher Michael Lucas	Invoice No Larn - CML - 4 04/11/11 Larn Ltd	Security Services provided to NOBRE (recruitment of security / vetting) July - Sept 2011
16/11/2011	483,666.39	405,000.00			Share Capital Ltd	Larn Ltd - First London Capital Purchase of Share, Real Estate Portfolio	Invoice says: "funds for purchase of Alphacet Inc"
16/11/2011	594,619.00	500,000.00			Michael Amar	Larn Ltd Fees for 2011	Deposit re purchase of property by NOBRE / repay money paid by Nick Wallis to settle Landmark
16/11/2011	700,000.00				Acumen Founded Ltd	Invoice No Larn - CML - 5,9 10/11/11 Larn Ltd	Invoice says: Fees for chief of staff 2011 - not investment related.
16/11/2011	1,000,000.00				Mr Jean Marie Goeders	Project Advance Payment - Larn Ltd	Invoice says: Tranche 9 funds purchase for One Blotter Holdings, address is same used by LUCAS
16/11/2011	3,723,008.19		5,000,000.00		Renaissance Ltd	Financial Services Fee Lard Ltd	Investment "Jungle City" Project (agreement signed by NOBRE in April 2011 found in Landmark).
17/11/2011	16,082.77				Instasales Ltd	Further reference CMD Invoice No 10005 03/11/11	From invoice: financial services through creation of SPV's, estate planning services etc
17/11/2011	62,264.04			19,115.00	Etude de Me Didier O Pretot	Legal Services Fee Re Larn Ltd No 10/00112 15/07/10	Joint investment with Clair Marc Darmudas - rejected by Investec Bani
				75,500.00	David Paumier	Fee on the Intermediation of Acquisition - La Tour Du Moulerd - Bar a Vin and L Antidote Restaurant Geneve	Payment of Legal fees (12 March 2010 to 12 July 2010) re Nobre / Larn
17/11/2011	82,468.92			100,000.00	T Solutions Tetiana Zarubina	Facture No 1125 07/11/11 Larn Ltd	Legal Fees re apparent acquisition of a bar or similar premise by NOBRE
17/11/2011	90,684.25			110,000.00	David Paumier	Consultancy Services Fee Invoice No 220 07/11/1	unknown
17/11/2011	180,546.45	150,000.00			Mr GK Baker	Larn Ltd - Consultancy Services	Exact reasons unknown
17/11/2011	246,568.59			300,000.00	Ms Victoria Weir	Consultancy Services, Expenses and Bonuses re Larn Ltd	Repayment of money loaned by Baker to pay Landmark bill
[illegible]	652,069.60	550,000.00			L Nobre	L Nobre Transfer	Payment to NOBRE'S former girlfriend & mother of his new born child
[illegible]	831,257.08			[illegible]	L Nobre	Acquisition - Bar A[illegible] and L Antidote Restaurant, Geneva [illegible]	Credit of NOBRE'S personal bank account held at [illegible]
	15,968,969.28						Credit of NOBRE'S personal bank account held at Coop Bank, Switzerland

Pa[illegible]ents that were se[illegible] and then returned b[illegible] receiving ba[illegible]

Pa[illegible] e[illegible] e [illegible] AP K R[illegible]J[illegible]AK

F[illegible] ma[illegible]e [illegible]BRE

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

FINAL QUARTER BANK STATEMENTS

(Top Secret with Amendments)

Know to all men these presents,

This Banking Institution, with fullest banking responsibilities, has Forever Re-certified, Reconsidered, Recognized, Declared, Re-approved and Reconfirmed; without furthermore protest and other negative means; below accounts earning statements and its amendment information for Bank Charges and any alteration and/or erasures and/or amendments from its original figure and format dissimilar to the duplicative copies forwarded to the email address of ASM and to these Authorities shall be forcefully penalized under the rule of law:

GENERAL PARTY INFORMATION

Name of Signatory/Trustee/Keeper/Holder:	HM, King ASM (Coded Name)
Codename:	C3 – AM – 01, White Spiritual Boy, Spiritual Wonder Boy, Morning Star, King David, Prophet Muhammad, Demas and Saint Timothy
Passport no:	UN – 00191 – 01 (United Nation Organization) XX3794724 (Reconsidered Republic of the Philippines)
Status:	Statutory Single/Separated
Postal Address:	Rizal St., San Sebastian, Hagonoy, Bulacan 3002, Philippine Islands
Financial Authority Code no:	ASBLP – AM01
General Signatory/Trustee/Keeper/Holder Code no:	ASM0101 – 2000
Financial Control Authority Code no:	AM – 0101
Auditing/Accounting Authority Code no:	99811AM910
General Bank Manager Authority Code no:	337AM6102
Judicial Bar and Judge Authority no:	445 – AM01 – 15432
Criminal Clearance no:	ASBLP – 001 – AM – 01
Land Administrator no:	ASBLP – 01 – PI – 001
International Trader License no:	AM – 971 – 1
Committee of 300 Chairmanship Code no:	C3 – AM – 01
Documentary Code (ISO) no:	ISO90001 – 6
Documented Property Code (WIPO) no:	ASBLP – 1900
Documented Raison d'être Code no:	ASBLP – 120005 – BASBLP – 40
Name of Institution:	ASBLP Group (International)
Registry no:	ASBLP – 120005 – BASBLP – 10
Name of Institution:	ASBLP Group of Companies, Inc. (Philippine Islands)
Registry no:	CS201004379
International Trading License no:	ASBLP – 970 – 1
Commodity Claimed Authority Code no:	ASBLP – 120005 – BASBLP – 30
ICC Corporate Membership no:	ASBLP – 120005 – BASBLP – 20
Treasury Back up:	Infinite US Dollar/Philippine Peso/Sterling Pounds/Euro Dollar/Japanese Yen ($/₱/€/£/Php ∞)
Nature of Currency used:	any Treasury Bills worldwide
Precious Commodity Control no.	PI – 009
Standard Bid Rate:	$/₱/€/£/Php ∞
Nature of Deposits:	Physical and Eternal Deposits
Physical Trust Account no. (amended term):	886 – 2848 – PP48 – 20
Eternal Trust Account no. (amended term):	868 – 2884 – PP84 – 22
Engraving Treasury Bills Permit no:	ASBLP – UST/ECB/WBG/BSP – 001
Nature of Engraved Treasury Bills:	any Treasury Bill/Currencies worldwide
SWIFT Code:	ASBLPAM12000
ISIN/Cusip Code no:	ASBLPAM99900

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

SWIFT Financial Guarantee no:	MT760 (Automatic for Bank Guarantee)
SWIFT Financial Encashment no:	MT103 (Automatic for Encashment)
Euroclear Code no:	EUASBLPAM120 (Standard)
Securities Code:	ASBLPAM00001 (Standard)
Redemption Code:	ASBLPAM00002 (Standard)
Defreeze Code:	ASBLPAM00003 (Standard)
Freeze Code:	ASBLPAM00004 (Standard)
Blocking Code (1):	ASBLPAM00005 (Standard)
Clearance Code:	ASBLPAM00006 (Standard)
Trust Code:	ASBLPAM00007 (Standard)
Inventory Code:	ASBLPAM00008 (Standard)
Password Code:	ASBLPAM00009 (Standard)
Lock Code:	ASBLPAM00010 (Standard)
Unlock Code:	ASBLPAM00011 (Standard)
Demonetize Code:	ASBLPAM00012 (Standard)
SKR/IDR Code:	ASBLPAM00013 (Standard)
Archived Document Code:	ASBLPAM00014 (Standard)
Warrant Code:	ASBLPAM00014 (Standard)
Treasury Code:	ASBLPAM00015 (Standard)
Fiscal Insurance Code:	ASBLPAM00016 (Standard)
Access Code:	ASBLPAM00017 (Standard)
Automatic Approval no:	ASBLPAM00018 (Standard)
Blocking Code (2):	amended and given by C3 – AM – 01
General Owner (Global Funds and Philippine Islands):	People of the Philippine Islands
Rate of Ownership:	50% to 70%
General Beneficiary:	People of the Philippine Islands
Minority Beneficiary:	People of the World

Note: These Confirmed Accounts are Intended and Directed for the Humanitarian and National Economic Development for the People of the Philippine Islands (50% to 70% only) and the World (30% to 50% only) as stated herewith:

A. HUMANITARIAN ECONOMIC DEVELOPMENT PROGRAM:

1.) Livelihood Development Program
2.) Scholarship Development Program
3.) Healthcare Development Program
4.) Annuity Development Program

B. NATIONAL ECONOMIC DEVELOPMENT PROGRAM:

1.) Infrastructure Development Program
2.) Agricultural Development Program
3.) Mining Development Program
4.) Industrial Development Program

BANK ACCOUNT INFORMATION

Below Account Information, as already Defreeze with code no. ASBLPAM00003 by ASM, are subject and authorized for Mirroring and/or Paralleling Program and said cash funds must be Laid, Projected and Associated with Humanitarian and National Economic Development Project as these Banking Institutions have no available cash funds but financially guaranteed and thereby admitted some of our technical and typical error of posting in some months of Monthly Audited Report for the Official and Legal Funds of the People of the Philippine Islands represented by ASBLP Group (new amended company) still chaired by ASM and authoritatively sponsor, warrant, guarantee and

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

back-up for engraving any Treasury Bills worldwide and/or Philippine Treasury Bill in the Bangko Sentral ng Pilipinas (Central Bank of the Philippines) upon assumption and placement of ASM in the Official Highest Seat in the Philippine Islands as amended that it will be earned per four consecutive months or other legal terms as 3 quarterly audited maturity.

Note: The Colored Draft is defining deal that already moved and activated and the Amended Letter Fonts are defining the Authoritative Signatories of said particular Account, this good only for 100 pieces of ASBLP Accounts. And we noted that all herein accounts, except HSBC HK Account no. 876 – 3211 – 54AM – 22 – 2 and Bank of East Asia Account no. 5543333-AM101 – 1 that already exempted to open for a deal without Personal Blocking Code of ASM, are automatically locked and cannot be opened without Personal Blocking Code of ASM and all Prime Banks worldwide are instructed and restricted not to open any accounts without written consent addressed to ASBLP Group Registered Officers aforementioned below and without Personal Blocking Code of ASM. All ASBLP Officers are further Warned not to Disclose said Personal Blocking Code of ASM to any Party except the Bank Officer that should be held within Banking Premise that could enforced all our Law Enforcement Agencies to Arrest and Put said ASBLP Group Registered Officers into Imprisonment.

North and South American Continents

1. Special Federal Reserve Board (USA) Account no. 5525525424AM with account name of Spiritual Wonder Boy and with standing balance of US$ 7, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 6, 940, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 in the total of US$ 13, 940, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 (US$ 940, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 had been deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 13, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000.

2. Bank of America (USA) Account no. 58453 – 02221 – 1 with account name of White Spiritual Boy and with standing balances of US$ 5, 200, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 5, 161, 200, 000, 000, 000, 000, 000, 000, 000, 000 in the total of US$ 10, 361, 200, 000, 000, 000, 000, 000, 000, 000, 000 (US$ 61, 200, 000, 000, 000, 000, 000, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 10, 300, 000, 000, 000, 000, 000, 000, 000, 000.

3. Citibank (USA) Account no. 998552411 – 2212 with account name of Morning Star and with standing balances of US$ 5, 200, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 5, 161, 200, 000, 000, 000, 000, 000, 000, 000, 000 in the total of US$ 10, 361, 200, 000, 000, 000, 000, 000, 000, 000, 000 (US$ 61, 200, 000, 000, 000, 000, 000, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 10, 300, 000, 000, 000, 000, 000, 000, 000, 000.

4. Citibank (USA) Account no. 34P – 445412 – 201 with account name of White Spiritual Boy and with standing balances of US$ 70, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 69, 400, 000, 000, 000, 000, 000, 000, 000, 000, 000 in the total of US$ 139, 400, 000, 000, 000, 000, 000, 000, 000, 000, 000 (US$ 9, 400, 000, 000, 000, 000, 000, 000, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 130, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000.

5. Citibank (USA) Account no. 34P – 445412 – 202 with account name of White Spiritual Boy (amended from Dart Vader – 1 with Account no. 34P – 445412 – 261 – 1, Dart Vader with Account no. 34P – 445412 – 261 and Dart Hole with Account no. 34P – 445412 – 262) and with standing balances of US$ 1, 100, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 1, 092, 100, 000, 000, 000, 000, 000, 000, 000, 000 in the total of US$ 2, 192, 100, 000, 000, 000, 000, 000, 000, 000, 000 (US$ 92, 100, 000, 000, 000, 000, 000, 000, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 2, 100, 000, 000, 000, 000, 000, 000, 000, 000, 000 (activated by US Treasury).

6. Bank of America (USA) Account no. 1 – 23040 – AM21 – 241 with account name of White Spiritual Boy and with standing balances of US$ 110, 000, 000, 000, 000, 000, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 109, 210, 000, 000, 000, 000, 000, 000 in the total of US$ 219, 210, 000, 000, 000, 000, 000, 000 (US$ 9, 210, 000, 000, 000, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 210, 000, 000, 000, 000, 000, 000, 000.

7. Bank of America (USA) Account no. 1 – 23041 – AM21 – 241 with account name of White Spiritual Boy 1 (amended) and with standing balances of US$ 11, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 10, 921, 000, 000, 000 in the total of US$ 21, 921, 000, 000, 000 (US$ 921, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 21, 000, 000, 000, 000.

8. Bank of America (USA) Account no. 1 – 23042 – AM21 – 241 with account name of White Spiritual Boy 2 and with standing balances of US$ 11, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 10, 921, 000, 000, 000 in the total of US$ 21, 921, 000, 000, 000 (US$ 921, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 21, 000, 000, 000, 000.

9. Bank of America (USA) Account no. 1 – 23043 – AM21 – 241 with account name of White Spiritual Boy 3 and with standing balances of US$ 11, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 10, 921, 000, 000, 000 in the total of US$ 21, 921, 000, 000, 000 (US$ 921, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 21, 000, 000, 000, 000.

10. Bank of America (USA) Account no. 1 – 23044 – AM21 – 241 with account name of White Spiritual Boy 4 and with standing balances of US$ 23, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 22, 687, 000, 000, 000 in the total of US$ 45, 687, 000, 000, 000 (US$ 687, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 45, 000, 000, 000, 000.

11. Bank of America (USA) Account no. 1 – 23045 – AM21 – 241 with account name of White Spiritual Boy 5 and with standing balances of US$ 23, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 22, 687, 000, 000, 000 in the total of US$ 45, 687, 000, 000, 000 (US$ 687, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 45, 000, 000, 000, 000.

12. Bank of America (USA) Account no. 1 – 2431 – 546A – 1 up to account no. 1 – 2431 – 546A – 21 with account name of Falcon 1 up to Falcon 21 (entitled solely to ASM) and with standing balances, with amendments, of US$ 11, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 10, 921, 000, 000, 000 in the total of US$ 21, 921, 000, 000, 000 (US$ 921, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 21, 000, 000, 000, 000 per account.

13. Wells Fargo Bank (USA) Account no. 2A – 98736 – 1 with account name of Spiritual Wonder Boy and with standing balances of US$ 380, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 377, 180, 000, 000, 000 in the total of US$ 757, 180, 000, 000, 000 (US$ 7, 180, 000, 000, 000 had deducted automatically for bank charges and services for the last quarter of audit maturity) in the net balances of US$ 750, 000, 000, 000, 000.

14. American Express Debit (USA) Account no. 791121 – AM01 – 001 with account name of White Spiritual Boy and with standing balances of US$ 6, 600, 000, 000, 000, 000, 000 with reconfirmed and reconsidered matured earnings audited by the Financial Institution of the Committee of 300 for the month of May to December, 2010 worth of US$ 6, 565, 100, 000, 000, 000, 000 in the

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

Teresita Piano Dumapias	Australian Passport no. M8101408
Melvyn Santos Martin	Philippine Passport no. XX3972928
Shubert Delos Reyes Ancheta	Philippine Passport no. XX2734877
Alfredo Legaspi Coh	US Passport no. 450647959
Elias Santos Pagsibigan, Jr.	Philippine Passport no. XX0626855
Benjamin Dominguez Martin	Philippine Passport no. XX5065973
Wilfredo Sarabia Saurin	Philippine Passport no. XX5144658

All Power of Attorney's, Joint Ventures, Loan Agreements, Memorandum of Undertaking, Memorandum of Understanding and other related Contracts will be automatically declared as Null and Void and Invalid without, at least, 90% of the total Authorities executed by all herein Registered Shareholders and all amended written information contained herewith is not duly affected by the Declared Protocols. This Corresponding Paper is hereby confirmed and sealed, with real finality, as True and Accurate and we ceded to conduct our Auditing Authority to ASM from year 2010 and beyond with Automatic Reaffirmation and Approval. We automatically and forever Disapproved and Cease and Desist the Irrevocable Master Pay Protection Agreement signed by King ASM to Global Wealth Management LLC even plead by King ASM due to the absence of the Corporate Accounts of ASBLP Group needed to open per Bank Activated and this is to instruct all banks involved in the Irrevocable Master Pay Protection Agreement signed by ASM to Block and Close all Existing Accounts entitled to the beneficiaries due to absence of Corporate Account of ASBLP Group if they will insisted to file a protest and complaint against this instruction will be Immediately Arrested elsewhere they situated and send imprisonment and this is to further WARN, with finality, against King ASM that his Authority will be suspended if he will be again signed in any Irrevocable Master Pay Protection Agreement to the Interesting Parties deal by the Registered Officers of ASBLP Group without the presence of the Corporate Account of ASBLP Group. This instrument is valid and effective upon forward of this instrument to the International Agencies by the under-personnel of the Committee of 300 with and without acknowledgment of King ASM to this instrument.

Sealed, Amended and Prepared by the Right Wing Parties of the Committee of 300 on this 7th day of June, 2010 at the World Bank Headquarters, Washington D.C., USA.

H.E. Pres. Robert Zoellick
The World Bank Group

HM, Queen Elizabeth Windsor II
The British Royal Family

H.E. Sec. Gen. Ban Ki-Moon
The United Nation Organization

H.E. Pres. Sang-Hyun Song
The International Criminal Court

H.E. Man. Dir. Dominique S. Kahn
The International Monetary Funds

H.E. Sec. Gen. Peter Bittus
The Bank for International Settlement

The Committee of 300
The World Bank Group
USA

Reference no: ASBLP – 00004 – 2010

H.E. Pres. Hisashi Owada
The International Court of Justice

H.E. Pres. Paul Vlaanderen
The Financial Action Task Force

HH, Pope Benedict XVI
The Vatican

H.E. Vice Pres. Lars Thunell
International Finance Corporation

H.E. Chairman Ben Bernanke
The US Federal Reserve Board

H.E. Sec. Timothy Geithner
The US Department of Treasury

Cc: Committee of 300

Acknowledged with date by ASM only but may signed all officers and send to inquiries@un.org