

ROYAL COURT
(Samedi Division)

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23rd August, 1996

Before: The Judicial Greffier

In the Matter of the Representation of Mayo Associates S.A. & others

Between Mayo Associates S.A.,
Troy Associates Limited,
T.T.S. International S.A.,
Michael Gordon Marsh and
Myles Tweedale Stott Representors
And The Finance & Economics Committee
of the States of Jersey Respondent

Application for further and better particulars of the Respondent's amended Answer.

Advocate P.C. Sinel for the Representors.
The Solicitor General for the Respondent.

JUDGMENT

THE JUDICIAL GREFFIER: This Representation is effectively an application for Judicial Review and in it the Representors seek orders that a decision of the Respondents be quashed, that the Respondent be condemned to admit certain complaints of the Representors and to investigate the activities of a bank, that the Respondent be ordered to suspend the activities of the bank pending the completion of such investigation and that the Respondent be condemned to exercise its powers pursuant to a particular statute in such a manner as to prevent the bank or a subsidiary of a related bank from behaving in the future in the manner complained of by the Representors. The matters complained of relate to actions 94/6 and 94/254 which are complaints of the Representors in relation to the bank and various other parties in relation to monies which have allegedly gone missing and in relation to commissions by reason of investment programmes with regard to the currency markets.

On 3rd May, 1996, the Representors filed a re-amended Representation and on 14th May, 1996 the Respondents filed a re-amended Answer in response to the re-amended Representation.

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By a Summons dated 2nd August, 1996, the Representors sought various particulars in relation to the re-amended Answer and the Respondent has consented to paragraphs 2, 5 and 6 of that request. This present Judgment relates to paragraphs 1, 3 and 4 of that request which I have refused and provides the reasons for that refusal.

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In paragraph 6A of the re-amended Answer the Respondent admitted that Senator Pierre Horsfall received emoluments in respect of his directorship of "Cantrade". The Representors have sought particulars relating to the emoluments or benefits in question including the quantum and date of each payment. However, the allegation that Senator Horsfall received emoluments was first made in the re-amended Representation and the Respondent has simply admitted this. There is, therefore, no matter in issue between the parties that Senator Horsfall received such emoluments and it is, therefore, not appropriate for me to Order these particulars as they are not relevant to a matter in issue.

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In paragraph 9 of the re-amended Answer the Respondent referred to a request that Doctor Young be permitted to occupy accommodation in Jersey. That paragraph was an answer to paragraph 27 of the re-amended Representation which paragraph referred to Doctor and Mrs. Young taking up residence in Jersey pursuant to permission granted by the States of Jersey Housing Committee. The Representors sought particulars of the request made for Doctor Young to be permitted to occupy accommodation including particulars of who made it, when it was made and what the request said.

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It is obvious that if a consent has been granted by the Housing Committee then a request must have been made for such consent and the Respondent in the said paragraph 9 of its re-amended Answer was simply trying to explain the way in which various States Departments had dealt with this matter. It is not in issue between the parties that an application was made and it is not part of the Respondent's case that this was made by anyone in particular. If it is part of the Representor's case that the request was made by "Cantrade" or by any other particular person then this allegation should be made in the Representor's pleadings and it is not appropriate that the Representors should seek by an application for particulars to obtain the admission of a fact which is not part of their case and not part of the Respondents' case.

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In paragraph 14B(2) of the re-amended Answer the Respondent pleaded, in response to an allegation of apparent or real bias on the part of Senator Horsfall by reason of the allegation that Senator Horsfall was formerly a director of "Cantrade", that the only duties of Senator Horsfall as a director were to attend board meetings in that capacity. Request 4 is for details as to

how many board meetings Senator Horsfall attended and as to the date of each meeting. Advocate Sinel indicated to me that the reason why this information was being sought by the Representors was because they wanted to show that the director's fees paid to Senator Horsfall were disproportionate to the time which he spent and that "Cantrade" by appointing him a director had been seeking to buy political influence. That allegation is not made anywhere in the re-amended Representation and it is not part of the Respondent's case that Senator Horsfall attended particular meetings on particular days. Again, it is open to the Representors to make this particular allegation and it is not appropriate for them to seek to obtain some kind of admission in relation to a matter which is not part of their case and not part of the case of the Respondent. Accordingly, this request for particulars is not in relation to any matter in issue between the parties.

Even if I were wrong on the matter of relevance in relation to requests 3 and 4 they would also have failed the test of being necessary as they deal with peripheral side issues to the application for Judicial Review.

Accordingly, I dismissed these applications and ordered that the Representors pay the taxed costs of and incidental to the hearing on 23rd August, 1996, in any event.

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No Authorities.