Neutral Citation Number: [2026] CIGC (FSD) 72

Cause No: FSD 2026-0193 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

BETWEEN:

GLOBAL CAPITAL PARTNERS LLC

Plaintiff

-and-

ALPHA CARTA, LTD.

Defendant

Appearances:	**Mr Luke Armitage of Eldridge Legal LLP for the Plaintiff**
	Ms Natasha Partos and Jordie Fienberg of Campbells LLP for the Defendant
Before:	**The Honourable Justice Jalil Asif**
Heard:	**17 August 2026**
Judgment:	**28 August 2026**

Civil procedure—interlocutory asset disclosure order—purposes of asset disclosure order post-judgment—whether to order defendant to provide further details of assets—whether to permit plaintiff to use documents and information obtained to pursue judgment enforcement in other jurisdictions

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JUDGMENT

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A. Introduction

1. On 23 June 2026, I made unusual and, in certain respects, extreme *ex parte* without notice orders against the Defendant on the application of the Plaintiff in support of enforcement of a judgment obtained by the Plaintiff against the Defendant from Vice Chancellor Laster sitting in the Delaware Court of Chancery. The Plaintiff applied to the Grand Court because the Defendant is a company incorporated in the Cayman Islands. The orders that I made include: a proprietary injunction in respect of a share in Vue Mer Signature Holdings SAS ("**VMH**"), a French company, which was part of the subject matter of the Delaware proceedings; a world-wide freezing order up to a limit of US $5.3 million, which was the sum that the Vice Chancellor had unusually ordered the Defendant and its co-defendant, Green Sapphire Holdings Inc. ("**Green Sapphire**"), to pay to the Plaintiff in respect of the Plaintiff's costs of the Delaware action; an asset disclosure order; an order restraining the Defendant from redomiciling its country of incorporation from the Cayman Islands to another jurisdiction until further order, in other words a corporate version of a passport order; and an order appointing receivers in respect of the Defendant for the purpose of ensuring the Defendant's /compliance with the Order.

2. I was persuaded to make those orders by Mr James Eldridge, of Eldridge Legal LLP, who argued the *ex parte* application on behalf of the Plaintiff on 23 June 2026. I considered that the exceptional relief granted was appropriate in light of a number of highly critical findings made by Vice Chancellor Laster in respect of the Defendant, Green Sapphire and the individuals behind those entities in his judgment on the trial of the Plaintiff's action against the Defendant and an associated company.

3. Following service of the Order on the Defendant, on 26 June 2026 Campbells LLP filed a Notice of Acting and filed a summons on behalf of the Defendant on the same date seeking to discharge the Order in return for the Defendant giving undertakings to preserve an investment said by the

Defendant to be worth more than US $5.3 million. The Defendant's summons was listed for hearing on 10 July 2026. However, on 9 July 2026, the Defendant indicated that it did not wish to proceed with the hearing, which was opposed by the Plaintiff. On 14 July 2026, I ordered by consent that the Defendant's summons be dismissed with costs reserved.

4. The matter is now back before me on a summons filed by the Plaintiff on 31 July 2026 seeking orders for further disclosure by the Defendant regarding its assets on the ground that the Defendant has failed properly or adequately to comply with my asset disclosure order made on 23 June 2026. The Plaintiff also seeks an order that it be released from the implied undertaking limiting any collateral use of information provided to it by the Defendant in these proceedings so that the Plaintiff can use that information in other proceedings to enforce the Delaware judgment in the United States and in France.

5. The evidence relied on before me comprises: the fourth and fifth affidavits of Rachel Nyman filed on behalf of the Plaintiff; the second, third and fifth affidavits of Johnathan Grant filed on behalf of the Defendant; a statutory demand served on the Defendant by the Plaintiff on 31 July 2026, after the commencement of the proceedings, and a default judgment obtained by the Plaintiff on 7 August 2026 on the ground that the Defendant has failed to file a Defence within the time permitted by the Rules. The Plaintiff's summons has been argued before me by Mr Luke Armitage of Eldridge Legal LLP and resisted by Ms Natasha Partos of Campbells LLP, and I am grateful to both of them for their helpful submissions.

B. <u>Summary of the parties' positions</u>

6. Mr Armitage says that it is clear that the Defendant has not complied with the asset disclosure requirements of the Order dated 23 June 2026. He characterises the Defendant's evidence as being an attempt to argue why the Defendant should not have to comply with the Order rather than explaining why it has not complied with it, in circumstances where the Order remains in full force. He says that there is no good reason why the asset disclosure order has not been complied with and that insofar as reasons are put forward by the Defendant why it has not done so, those reasons do

not stand up to scrutiny. He argues that, instead, the Defendant is continuing to adopt the obstructive approach that the Defendant and Green Sapphire deployed in Delaware and which contributed to the adverse findings made against them both by the Vice Chancellor.

7. Ms Partos's principal argument is that the purpose of the freezing order has now been achieved, and so there is no utility in requiring the Defendant to take further steps to comply with other provisions of the Order. She bases this argument on the deposit by the Defendant of a sum of US $5.2 million with its attorneys in Delaware, which is said to be held in an escrow account pending the determination of the Defendant's appeal against the judgment and orders of Vice Chancellor Laster, coupled with the identification by the receivers of an investment worth about US $18 million and some US $700,000 in bank accounts maintained by the Defendant in the Cayman Islands. In addition, the receivers have identified that the Defendant owns five parcels of land in the Cayman Islands through two subsidiary companies. Accordingly, Ms Partos argues, the sum of US $5.3 million has been sufficiently secured and the purpose of the freezing injunction has been materially achieved.

8. As regards the proprietary injunction, Ms Partos submits that the Plaintiff failed to disclose that it had successfully obtained a lien over the share in VMH question from the French court on 22 June 2026, the day before the *ex parte* hearing before me, which the Defendant intends to raise in due course. She complains that the Plaintiff is, in effect, seeking to administer interrogatories in circumstances where the requirements of GCR O.26, r.1 are not satisfied, and that the Plaintiff is seeking to go behind the Defendant's privilege in communications with its French lawyers.

9. Finally, Ms Partos contends that the Plaintiff has failed to show that there are exceptional reasons to justify allowing the Plaintiff to use the information provided to it by the Defendant in these proceedings for the purpose of proceedings elsewhere, which she says is the test to be applied, with the burden of satisfying that test lying on the Plaintiff.

10. Mr Armitage responds that there is nothing to stop the Defendant from paying the costs order made by Vice Chancellor Laster, and/or the judgment that it has now obtained from the Grand Court, or at the very least paying the sum of US $5.3 million into court in the Cayman Islands. The Plaintiff

would then be willing to discharge the freezing injunction and the requirement that the Defendant provide asset disclosure, but for so long as Defendant refuses to do so, the Plaintiff is entitled to continue to press for full compliance with the Order.

C. <u>The Defendant's preliminary arguments</u>

11. As I have indicated, the Defendant raises three preliminary arguments why it has substantially complied with the purpose of the freezing aspects of the Order dated 23 June 2026 and therefore should not have to comply with the asset disclosure requirements, so that I should not order the Defendant to provide further disclosure, as sought by the Plaintiff. In addition, the Defendant offers an undertaking not to dispose of any of the assets described in the following paragraphs. The Defendant argues that, as a result, the additional asset disclosure being sought by the Plaintiff is neither necessary nor reasonable.

12. The first of the Defendant's arguments relies on the deposit of US $5.2 million with its attorneys in Delaware to secure the costs award made in the Plaintiff's favour pending the determination of the Defendant's appeal against Vice Chancellor Laster's judgment. The Defendant relies upon a letter from Bayard PA dated 12 August 2026. The letter is addressed to Johnathan Grant of the Defendant and is in the following terms:

> *"Dear Jonny:*
> *This letter confirms that my firm has received $5,204,916.37 and is holding the same in our escrow for the benefit of Alpha Carta, Ltd. to be used as security for the Fee Order.*
> *Yours truly,*
> */s/ Peter B. Ladig*
> *Peter B. Ladig"*

Mr Grant offers an undertaking by the Defendant to maintain those funds with Bayard PA until the determination of the Defendant's appeal in Delaware.

13. I do not consider that this apparent deposit of funds should be treated as achieving the purpose of the freezing order made by this Court on 23 June 2026 sufficient to excuse the Defendant from performance of the asset disclosure provisions in the Order. I reach that conclusion because:

13.1 The letter is addressed to Mr Grant, not to the Grand Court. It is therefore questionable to what extent Mr Ladig intends to or would accept any direction from this Court regarding payment of the funds held by Bayard PA.

13.2 The letter indicates that Bayard PA are holding the funds *"for the benefit of Alpha Carta, Ltd"*, the monies are not said to be held for the benefit of the Plaintiff or to be held on behalf of both the Plaintiff and the Defendant jointly. The precise basis on which Bayard PA are holding the funds and the circumstances in which Bayard PA may disburse the monies is not specified in the letter. However, the fact that the money is said to be held for the benefit of the Defendant suggests that it is held to the Defendant's order. If that is right, the Defendant could remove the funds from Bayard PA at any time, without any notice to the Plaintiff or to this Court.

13.3 As the funds are apparently held in Delaware, they are not subject to the jurisdiction of this Court, other than through the Grand Court's possible contempt jurisdiction over the Defendant.

13.4 The evidence before me shows that the Defendant's application for a stay of Vice Chancellor Laster's judgment pending appeal was refused by the Vice Chancellor on 13 August 2026 unless and until the Defendant deposit the sum of US $26 million by way of security or bond, which it has not done. The Plaintiff is therefore fully entitled to continue to take steps before the Grand Court to enforce the Delaware judgment.

14. The second of the Defendant's arguments why it has substantially complied with the freezing order is that the Defendant has a limited partnership interest in a US domiciled close-ended fund named 10T K Holdings, LLC / 50T Funds. The receivers state in their first report to the Court that they obtained an unaudited capital statement dated 31 December 2025, which suggests that this interest has a value of about US $18 million. On 1 July 2026, the receivers were apparently told by the *"President, General Counsel and Partner of 50T"*, who they have not named, that the current value of this investment was *"essentially the same amount as before"*, and that the fund would not make distributions that would result in the value of the Defendant's investment becoming less than

US $5.3 million. However, the receivers make clear in their report that they have not yet been able independently to verify the reported value of the Defendant's interest.

15. The main difficulty with this investment is that I have no information regarding 10T K Holdings, LLC / 50T Funds to be satisfied that it is fully independent of the Defendant and any of the individuals behind the Defendant, against whom Vice Chancellor Laster has made adverse findings. I note that Vice Chancellor Laster's findings include that the primary individual behind the Defendant and Green Sapphire engaged in a tactic of pretending that various companies were independent of each other when in fact they were in common control. I have nothing from 10T K Holdings, LLC / 50T Funds nor, more usefully, from any independent valuer or auditor to confirm the value of the Defendant's apparent investment, and nothing from the fund to confirm that it stands by what was apparently said to the receivers. In addition, there is no information regarding the ability to make redemptions from the fund, and how any such power might be exercised, in order to fund the payment to the Plaintiff of the sum it is due. Accordingly, I am not sufficiently comforted by the Defendant's apparent ownership of this investment to conclude that the purpose of the freezing order has been achieved.

16. The third reason why the Defendant says that the purpose of the freezing order has been satisfied is that it owns two subsidiaries, which in turn own five parcels of land in the Cayman Islands. The ownership of the land in question by the subsidiary companies has been confirmed by the receivers, who have carried out Land Registry searches. However, I do not consider the currently available information regarding this land to be sufficient to demonstrate that the purpose of the freezing order has been satisfied, and that, as a result, there is no need for further asset disclosure by the Defendant. This is because:

16.1 In the list of the Defendant's assets exhibited to Mr Grant's third affidavit, certain land in the Cayman Islands is described as being owned by third parties. This is likely to be a reference to the five parcels of land owned by the two subsidiary companies identified by the receivers. However, the land is not an asset of the Defendant; it is an asset of the third parties in question. The Defendant's relevant asset is the shares in each of the subsidiary companies. There is no evidence to establish the value of the shares in the subsidiaries, and how that value is related to the value of the land owned by the subsidiaries. For example, there may be creditors of the subsidiary companies, who would rank before the Defendant, or at least *pari passu*, with a consequential reduction in the value of the Defendant's shares in the subsidiary.

16.2 Mr Grant's exhibit gives a value for the land apparently held by one of the two subsidiaries, the identity of which is not specified, in the sum of US $3,313,255. However, this is noted to be subject to unspecified *"loans"*. It is wholly unclear whether the stated value is gross or net of the outstanding loans, and no details are provided by the Defendant regarding the value and status of the loans. As regards the other land identified in the asset list in Mr Grant's exhibit, and assuming that this corresponds with the land owned by the other subsidiary company identified by the receivers, no value is given and the ownership is noted to be subject to unspecified litigation.

16.3 There is no indication how quickly value could be realised from the land in question in order to pay the Plaintiff the cash to which it is presumptively entitled as a result of the Delaware judgment and also, now, the default judgment obtained in the Cayman Islands.

In the circumstances, the value properly attributable to these parcels of land is wholly speculative, it is impossible to determine how that value should be carried through to the shares in the subsidiaries owned by the Defendant, and it is uncertain whether funds could be generated by a sale of the land in order to pay the Plaintiff within a reasonable time.

17. I am therefore not persuaded by the Defendant's arguments that the freezing order no longer serves a useful purpose or that the Plaintiff is now adequately secured as to the US $5.3 million by the assets identified by Ms Partos and that the asset disclosure requirements should not be enforced against the Defendant for those reasons.

D. The relevant terms of the Order dated 23 June 2026

18. So far as relevant, the Order dated 23 June 2026 provides as follows:

> *"**DISPOSAL OF ASSETS***
>
> *2. The Defendant must not (i) remove from the Cayman Islands any of the Defendant's assets which are in the Cayman Islands whether in the Defendant's own name or not and whether solely or jointly owned up to the value of US $5.3 million or (ii) in any way dispose of or deal with or diminish the value of any of the Defendant's assets whether they are in or outside the Cayman*

Islands whether in the Defendant's own name or not and whether solely or jointly owned up to the same value. This prohibition includes but is not limited to any land owned, either directly or indirectly, by the Defendant in the Cayman Islands. […]

4. If the total unencumbered value of the Defendant's assets in the Cayman Islands exceeds US $5.3 million, the Defendant may remove any of those assets from the Cayman Islands or may dispose of or deal with them so long as the total unencumbered value of the Defendant's assets still in the Cayman Islands remains above US $5.3 million. […]

DISCLOSURE OF INFORMATION

6. By 5:00 pm (Cayman Islands time) on Friday, 26 June 2026, the Defendant must inform the Plaintiff in writing of:

> *a) All the Defendant's assets whether in or outside the Cayman Islands and whether in the Defendant's own name or not and whether solely or jointly owned, giving the value, location and details of all such assets. For this purpose, "the Defendant's assets" includes, but is not limited to, any land owned, either directly or indirectly (including through subsidiaries), by the Defendant in the Cayman Islands.*
>
> *b) Full details of any disposal of any land formerly owned, either directly or indirectly (including through subsidiaries), by the Defendant in the Cayman Islands in the 12 months preceding the date of this Order.*

7. The Defendant must confirm the above information in an affidavit, which the Defendant must serve on the Plaintiff's attorneys within 14 days after this Order has been served on the Defendant.

8. Every 7 days from the date of this Order until varied or discharged, the Defendant must provide to the Plaintiff a timestamped and certified copy of VMH's share transfer register (registre des mouvements de titres) and shareholder account (compte d'actionnaire) showing the Defendant's registration as the owner of the VMH Shares, so as to demonstrate the Defendant's ongoing compliance with paragraph 1 of this Order."

E. <u>The further asset disclosure sought by paragraph 1 of the Plaintiff's summons</u>

19. The list of the Defendant's assets prepared by the Defendant in purported compliance with paragraph 6 of the Order is said to be dated as of 31 December 2025. At the time when it was served, it was, accordingly, at least six months out of date. The data contained in it comprises a stated value in US dollars, a location and *"details"* of the asset. The list identifies 67 assets. Of these, the value of 15 is said to be unknown, including three bank accounts in the Cayman Islands to which the Defendant says it no longer has access. The Defendant provides no explanation why it is unable to provide values for the assets in question nor why it no longer has access to the three bank accounts. It is possible that these are the bank accounts identified by the receivers, containing a total balance of about US $700,000, which the receivers appear to have been able to identify and obtain details of the balances relatively quickly and easily. The location data of the listed assets is wholly unspecific, other than stating the country in which the asset is based, namely, *"Canada"*, *"Cayman Islands"*,

"France", *"UK"* or *"USA"*. The *"details"* of the assets that are provided are equally vague and non-specific, being described only as: *"bank account"*, *"brokerage account"*, *"loan"*, *"private investment"*, *"real property"* or *"receivable"*.

20. The list of the Defendant's assets prepared by the Defendant in purported compliance with paragraph 7 of the Order and exhibited to Mr Grant's third affidavit is said to be dated as of 31 March 2026. It is therefore about 4 months out of date as at the date when Mr Grant's affidavit was sworn. Compared to the list prepared in purported compliance with paragraph 6 of the Order, the list includes two additional columns to identify by whom the asset is held and how it is owned. This version of the list includes one additional asset, not identified in the list served pursuant to paragraph 6 of the Order, resulting in 68 assets being included in the list. The same 15 listed assets are said to have an unknown value. Of the remaining 43 assets, the values of 18 are different from the previous version of the list, with a net increase in the total value of the Defendant's stated assets of just under US $2.1 million.

21. The exhibited version of the Defendant's list of assets provides no additional information regarding the location or details of the assets from the information in the previous version. As regards ownership, the list simply states "Company" or "Third Party", with no identification of the third party in question, and every asset is stated to be owned "solely", whether by the Defendant or by a third party.

22. Against that background, by paragraph 1 of its summons, the Plaintiff seeks orders that the Defendant should file a further affidavit providing full and proper details of each listed asset sufficient for the receivers to identify, locate and, where appropriate, preserve or take control of each asset. More specifically, the Plaintiff seeks the following details:

Asset type	**Details sought**
bank and brokerage accounts	• name and address of bank or financial institution • account name and number • names of authorised signatories • currency of the account • current balance of the account as at the date of the affidavit

Asset type	Details sought
	• copies of current bank account statements to verify the current balance
shares, securities and private investments	• name of the issuer, company or other entity in which the shares, securities or investments are held • the class of shares or interests, number of shares or interests and percentage ownership held by the Defendant directly or indirectly • whether there are any applicable transfer restrictions • documents evidencing ownership of the shares, securities or investments • whether the shares or interests are privately held or publicly listed and, if publicly listed, the exchange and ticker code • for any shares or interests not in a publicly listed entity, the basis for the Defendant's stated valuation • where valuations are listed as "unknown", an explanation why the Defendant is unable to provide a valuation and the Defendant's best estimate of value
loans and receivables	• identity of the debtor • details of the loan or debt instrument • amount of unpaid principal and accrued interest • maturity date • details of any associated security • whether the loan is in default • copies of the agreements evidencing the loan or receivable and any security given
real property	• the precise street address including street number, street name, suburb or locale, state, country and postcode • the lot/block/parcel or equivalent Land Registry identifiers • acquisition date and purchase price • copies of any valuations commissioned or obtained in the past two years • details of any mortgages or encumbrances including the amounts secured and the current loan balance • documents evidencing title

23. Ms Partos argues that: the purpose of any disclosure order ancillary to a freezing injunction is solely to police the freezing injunction and to ensure that it is effective; the Court will only order further evidence where that is necessary to make the freezing injunction more effective and there is practical utility in requiring it; and neither of these purposes is served by making the order now sought by the Plaintiff. Ms Partos relies on two English judgments to support her position. The first

is *Korchevtsev v Severa* [2022] EWHC 2324 (Ch), a judgment of Leech J sitting in the Chancery Division of the High Court in England. The learned judge said at paragraph 101:

> *"101. The legitimate purpose of a disclosure order in aid of a freezing injunction is to police the injunction and to ensure that it is effective. It is not to enable the applicant to obtain information to use for a collateral purpose or to justify committal proceedings. Further, the Court will only make a further disclosure order where further evidence is necessary to make the freezing injunction more effective and there is a practical utility in requiring the respondent to give such evidence: see* JSC Mezhdunarodniv Promyshlenniy Bank v Pugachev *[2015] EWHC 1694 (Ch) at [38] and [39] (Hildyard J). […]"*

24. The second judgment that Ms Partos relies upon is *JSC Mezhdunarodniv Promyshlenniy Bank v Pugachev* [2015] EWHC 1694 (Ch), cited by Leech J in the passage from *Korchevtsev* set out in the previous paragraph. In that case, the defendant was subject to a freezing order in support of ongoing proceedings in the Russian Federation. The court had ordered that the defendant attend for cross-examination as to his means in light of his affidavit of assets. Following that cross-examination, the claimant sought an order that the defendant swear a further affidavit of means. On that issue, Hildyard J said at paragraphs 38 and 39 of his judgment:

> *"38 I can be brief in this context: the test is in effect whether the court is satisfied that further evidence is necessary in order to make the freezing order more effective.*
>
> *39 As it seems to me, the court must be persuaded that there is practical utility in requiring such evidence and that it is necessary to enable the freezing order properly to be policed. It will be vigilant to prevent the abuse of seeking further evidence for some other purpose: such as to expose further inconsistencies, unduly pressurise a defendant who has already been cross-examined, yield ammunition for an application for contempt, or provide further material which might be of assistance, even if not actually deployed, in the main (foreign) proceedings."*

25. In response to this argument, Mr Armitage points out that both of the cases relied upon by Ms Partos concerned the position pre-judgment. He submits that this case concerns the post-judgment approach, both because the relief sought from the Grand Court is in support of a judgment of the Delaware Court of Chancery that is to be treated as final and conclusive between the parties and also because the Plaintiff has now obtained a default judgment in the Cayman Islands against the Defendant, which it is entitled to enforce. Mr Armitage therefore refers me to the judgment of Tomlinson J in the English case of *Vitol SA v Capri Marine Ltd and Others* [2010] EWHC 458 (Comm) to support his argument that the approach of the court to disclosure is different in a post-judgment case. At paragraph 37 of his judgment, Tomlinson J considered the purpose and correct approach to disclosure orders in a post-judgment situation, as follows:

> *"37. […]* ***it is in support of enforcement of the judgment that the disclosure was ordered to be given.*** *I do not accept [counsel's] submission that the disclosure ordered by Cresswell J was ancillary only to the world-wide freezing injunction as being required in order that the court could ensure that the injunction was observed. At that post-judgment stage* ***the disclosure ordered plainly had a dual purpose, both to assist in the identification or ascertainment of the location of assets which were subject or potentially subject to the freezing order and to assist the judgment creditor to locate assets against which enforcement could be sought****. […]*
>
> ***The court enjoys a free-standing power*** *derived from section 37(1) of the Supreme Court (now Senior Courts) Act 1981* ***to order disclosure after judgment in order to render the judgment effective, in the sense of capable of enforcement*** *– see* Maclaine Watson & Co. Ltd v International Tin Council (No.2) *[1989] 1 Ch 286 at page 303F per Kerr LJ. As Kerr LJ also observed at page 301,* ***'it is the policy of the law to assist persons in the position of the plaintiffs to obtain the fruits of their judgments'****. Further guidance as to the position post judgment is to be found in* Babanaft & Co. S.A. v Bassatne *[1990] 1 Ch 13 at pages 27G-28A, 32F and 34BE per Kerr LJ. Furthermore, as Nicholls LJ pointed out in that case at pages 42G-43D, in the post judgment regime where the judgment creditor is at liberty to attach assets of the judgment debtor in execution of the judgment a freezing order may often be ancillary to a disclosure order – for the obvious reason that the disclosure order is needed in order to ascertain the whereabouts of assets which may be attached but a freezing order may be necessary in order to prevent an unscrupulous judgment debtor from removing those assets from an identifiable location before attachment can be effected. Colman J made the same point in* Gidrxslme Shipping Co. Ltd v Tantomar-Transportes Maritimos LDA *[1995] 1 WLR 299 at 310F:*
>
>> *'Where, by contrast, one has the position that a judgment has been already obtained or an award made and where a Mareva injunction in aid of execution is justified, the jurisdiction to make a disclosure order arises both as a power ancillary to and in support of the injunction and independently of the injunction as a power in support of the execution of the judgment or award.'*
>
> *At page 312EF Colman J drew the distinction between the pre and post-judgment situations and pointed out that quite different considerations apply. He pointed out that* ***post-judgment or post-award 'it is just and convenient that the judgment or award creditor should normally have all the information he needs to execute the judgment or award anywhere in the world'****."*
>
> (emphasis added)

26. In my view, Tomlinson J's explanation of the approach of the English High Court in a post-judgment context applies with equal force to the Grand Court. It is just as much the policy of the Grand Court to assist judgment or award creditors to enforce and satisfy judgments or awards that they have obtained as in England, and it is equally just and convenient in the Cayman Islands to make orders for disclosure so that all relevant information is available to a judgment or award creditor to enable them to enforce their judgment or award in the Cayman Islands or elsewhere in the world.

27. I accept Mr Armitage's submission that this case is properly to be treated as a post-judgment one. The disclosure order therefore served two purposes: the first being to allow the Plaintiff to police the freezing injunction, and the second being to facilitate the Plaintiff's enforcement of the judgment

that it has obtained from the Court of Chancery in Delaware. I agree with Mr Armitage that neither of those purposes is served by the form of asset lists that the Defendant has provided, which are wholly lacking in any detail sufficient to enable the Defendant's assets in question to be identified. In addition, I consider that any reasonably competent firm of attorneys in the Cayman Islands should have advised their client that a list of assets in the form prepared by the Defendant was inadequate compliance with the disclosure order. I therefore conclude in principle that the Plaintiff is entitled to further asset disclosure from the Defendant in the terms sought by paragraph 1 of the Plaintiff's summons.

28. As far as the specific details sought by the Plaintiff are concerned, Ms Partos did not object to any of the categories or types of information sought by paragraph 1 of the Plaintiff's summons. I have independently reviewed those categories of information and I consider that they are relevant, are not disproportionate and that it is just and convenient that the Defendant should be required to provide them. I will therefore make an order to that effect. Bearing in mind Ms Partos's submission that the freezing order is for the value of US $5.3 million and the Defendant's complaints that the disclosure order affects its commercial information regarding investments it has made, I will caveat the disclosure order in the interests of justice between the Plaintiff and the Defendant so that if, and only if, the Defendant provides details of assets within the Cayman Islands that are independently valued by professional valuers at figures totalling US $5.3 million and the Defendant provides certificates of value signed by the valuers in question within 14 days, then it will be relieved of the need to provide disclosure in respect of its other assets outside the Cayman Islands.

F. <u>The further asset disclosure sought by paragraph 2 of the Plaintiff's summons</u>

29. Paragraph 2 of the Plaintiff's summons seeks further information regarding assets owned by the Defendant indirectly through third parties. There are four such assets included in the list of the Defendant's assets exhibited by Mr Grant, two of which are said to be private investments in the USA totalling US $550,000 and two of which are said to be real property in the Cayman Islands. It appears likely that the latter are the 5 parcels of land owned by the Defendant through the two subsidiaries identified by the receivers. The Plaintiff seeks: (a) confirmation from the Defendant of

the identity of the direct owner and its relationship to the Defendant; and (b) documents evidencing the Defendant's beneficial ownership through the third party or parties.

30. In support of the Defendant's objection to this paragraph of the Plaintiff's summons, Ms Partos relies on the arguments advanced in opposition to the relief sought under paragraph 1 of the summons, which I have already addressed, but also relies on the judgment of Kawaley J in *Linden Capital LP v Luckin Coffee Inc.* [2020] 2 CILR 356. In that case, Kawaley J considered at some length the jurisdictional basis for making disclosure orders in respect of assets owned by a third party, and a series of English cases in which that topic was addressed. Kawaley J noted that the orthodox position regarding assets owned by a subsidiary is that the defendant's assets comprise the shares in the subsidiary, and that, in effect, the court's focus should stop at the value of those shares. Accordingly, it is generally a stretch too far to require disclosure of information regarding assets owned by a subsidiary. This is not to say that the subsidiary's assets are not affected by a freezing order in the usual form – the defendant is usually required to notify the claimant of any dealing with assets that will have the effect of diminishing the value of the defendant's assets, which will catch a transaction involving the third parties' assets if it reduces the value of the defendant's interest in the subsidiary in any way.

31. In his helpful analysis of this area of the law, Kawaley J quoted from the judgments of Tomlinson LJ in *Lakatamia Shipping Co Ltd v Su* [2014] EWCA Civ 636, Gloster J (as she then was) in *JSC VTB Bank v Skurikhin* [2012] EWHC 3116 (Comm) and Christopher Clarke J (as he then was) in *Linsen Intl. Ltd v Humpuss Sea Transport PTE Ltd* [2010] EWHC 303 (Comm). Kawaley J summarised the position regarding disclosure of information regarding the assets of subsidiaries in paragraphs 49 to 51 of his judgment as follows:

> *"49. In my judgment there can be little room for doubt that, in appropriate circumstances, the court has jurisdictional competence to order a party in the position of the defendant to produce documents about the assets of its subsidiaries to police the freezing portions of a freezing injunction. However, whether it is appropriate to make such an intrusive order, as opposed to imposing, for instance, the less intrusive notification requirements ordered by Burton, J. and approved by the Court of Appeal in* Lakatamia Shipping Co Ltd v Su *[2014] EWCA Civ 636; is a more nuanced question. [...]"*

Kawaley J set out a passage from Tomlinson LJ's judgment in ***Lakatamia*** at paragraph 31, in which Tomlinson LJ quoted from Gloster J in ***JSC VTB Bank***, where Gloster J said at paragraph 35 of her judgment:

> *"[…] the assets caught by the injunction were Perchwell's legal ownership of the shares in the three subsidiaries, not the underlying assets of those subsidiaries themselves. There was no evidence before me providing any justification for me to disregard the separate corporate legal personalities of the underlying subsidiaries […] or to suggest that their assets were held or controlled in accordance with Perchwell's 'direct or indirect instructions'. On the contrary, the evidence showed that the shares in the subsidiaries were held pursuant to the nominee agreement to the account of Shawnee. Moreover there was no evidence to suggest that the three companies were not genuine holding or commercial companies in their own right. […] In my judgment, to have made such an order would not only have extended beyond the legitimate jurisdictional ambit of this court's powers […] but would have also disregarded the principle enshrined in* Salomon v A Salomon & Co Ltd *[1897] AC 22."*

Kawaley J continued:

> *"50. The quoted observations of Gloster, J. (as she then was) reveal that ordering the production of information about the assets of subsidiaries is an exceptional course. […]"*

Kawaley J then quoted from Christopher Clarke J's judgment in ***Linsen Intl. Ltd v Humpuss Sea Transport PTE Ltd*** at paragraphs 124 and 126 before concluding:

> *"51. The important principle to be extracted from this persuasive authority is that (a) the general rule is that information about the value of subsidiaries' assets will not be provided, but (b) such disclosure may be ordered in appropriate exceptional cases. A careful balancing act must be carried out to assess whether there is specific evidence which displaces the starting assumption that ancillary disclosure will not be ordered about the assets of indirectly relevant non-party subsidiaries […]"*

32. I take from this that I have jurisdiction to order that the Defendant provide the asset disclosure sought by the Plaintiff, namely (a) the identity of the direct owner and its relationship to the Defendant; and (b) documents evidencing the Defendant's beneficial ownership through the third party or parties. The question is whether, in the circumstances, I should exercise my discretion to make the order sought, bearing in mind that such an order should be exceptional.

33. In my view, it is a relevant factor that it is the Defendant itself that is relying on the indirect ownership of the assets in question to support its position that the Plaintiff is now adequately secured in respect of the Defendant's liability, at least in relation to the land situated in the Cayman Islands. It is also relevant that the identity of the direct owner of the assets is information that must be known by the Defendant and should be easy for the Defendant to provide. Further, I bear in mind that this is a post-judgment case, not a pre-judgment one, although that does not of itself justify overriding the important principle of separate corporate personality.

34. Taking those factors into account, I conclude that it is appropriate in the exercise of my discretion to order that the Defendant state the identity of the direct owner of the assets in question and explain the owner's relationship to the Defendant. This does not seem to me to trespass beyond what is appropriate by way of disclosure from the Defendant itself. However, I do not consider it is appropriate to order that the Defendant provide documents evidencing the Defendant's beneficial ownership of the underlying assets in question, which does require that the separate corporate personality of the third parties is ignored, and for which I am not satisfied there is an exceptional reason. Instead, I consider that the Defendant should provide details and documentary evidence of the Defendant's ownership interest in the third party, since this is the actual asset owned by the Defendant.

G. <u>The further information sought by paragraph 3 of the Plaintiff's summons</u>

35. Paragraph 3 of the Plaintiff's summons seeks a wide range of information regarding the Defendant's ownership of the share in VMH and is advanced in support of the proprietary injunction that I granted on 23 June 2026. The background to this is that Vice Chancellor Laster ordered that the Defendant transfer the share in VMH registered in its name to the Plaintiff and ordered Green Sapphire to transfer the other 439,849 shares in VMH to the Plaintiff, which the Defendant and Green Sapphire have failed to do. The Plaintiff therefore sought the proprietary injunction to prevent the Defendant from dealing with or disposing of the share in VMH other than transferring it to the Plaintiff. The Order dated 23 June 2026 required the Defendant to provide a timestamped and certified copy of VMH's share transfer register and shareholder account every 7 days so as to demonstrate the Defendant's compliance with the proprietary injunction.

36. In his second affidavit, sworn on 2 July 2026, Mr Grant asserts that the share was transferred from a Mme Annelisa Alden Gee to the Defendant on 21 June 2025 and exhibits a copy of the share transfer agreement and its metadata. He says that neither he nor his co-director is aware of any further share transfer agreement having been executed by the Defendant since 21 June 2025. However, Mr Grant then asserts that the Defendant is unable to confirm that it is the owner of the share and suggests

that there might have been some failure to register the Defendant's ownership with the relevant French authorities. Mr Grant says:

> *"8. Notwithstanding the aforesaid, and despite the enquiries it has undertaken, the Company does not have, and never has had, in its possession, custody or control copies of VMH's share transfer register (registre des mouvements de titres) or a shareholder account (compte d'actionnaire) evidencing the registration of the Share Transfer Agreement and/or the Company's current ownership of the VMH Share. I wish to make clear that this is in no way the result of any unwillingness on the part of the Company to comply with paragraph 8 of the Injunction Order; but it is not presently known if the Share Transfer Agreement was properly registered in France, and those documents are not within the Company's possession or control.*
>
> *9. Without any waiver of privilege, and as in furtherance of compliance with the Injunction Order, the Company has asked its French advisors to confirm whether the Company is the registered shareholder of the VMH Share and it has requested copies of the documents referred to in paragraph 8 of the Injunction Order. Notwithstanding the Company's efforts, that request remains outstanding, and the documents have not yet been provided to the Company. The Company will continue to liaise with its French advisers and to follow up on its request.*
>
> *10. On behalf of the Company, I confirm that:*
>
> *a) upon the documents identified in paragraph 8 of the Injunction Order being provided to the Company, it will provide them to the Plaintiff as quickly as is reasonably practicable.*
>
> *b) The Company will not dispose of, transfer, or encumber or otherwise deal with the VMH Share while the Injunction Order is in force or until further order of the Court.*
>
> *c) The Company intends to comply fully with its disclosure obligations under the Injunction Order, and it will continue to take all reasonable steps available to it to obtain and provide the relevant documents."*

Mr Armitage says that since service of Mr Grant's affidavit, the Defendant's purported compliance with paragraph 8 of the Order has consisted of the Defendant simply sending an email each week stating that the position has not changed from that stated by Mr Grant in his affidavit.

37. Mr Armitage accepts that the Plaintiff has been able to obtain a lien in respect of the VMH share from the French court but argues that that does not establish that the Defendant is the owner of the share, merely that the Plaintiff's right to prevent any dealings with the share on an interim basis has been accepted by the French court. Mr Armitage says that the Plaintiff therefore continues to require information and/or evidence from the Defendant to establish the Defendant's ownership of the share in question so that it can then enforce the judgment of Vice Chancellor Laster and obtain a transfer of the share into its own name. Mr Armitage complains that there is no good reason why the Defendant is unable to confirm whether or not it is the owner of the share in VMH. Further, he says that VMH is not independent of the Defendant, Green Sapphire and the individuals behind those companies since VMH is 100% owned by the Defendant and Green Sapphire, and so

production of a copy of VMH's *registre des mouvements de titres* and *compte d'actionnaire* by VMH to the Defendant and by the Defendant to the Plaintiff in compliance with the Order should be straightforward. Mr Armitage suggests that Mr Grant's evidence is an attempt at obfuscation.

38. On behalf of the Defendant, Ms Partos complains that paragraph 3 of the Plaintiff's summons is a clear attempt to interrogate the Defendant without the Plaintiff having properly satisfied the requirements of GCR O.26, which applies to interrogatories. She says that interrogatories must relate to a matter in question between the parties and must be necessary either for disposing fairly of the cause or matter or for saving costs. Ms Partos disputes that there is any question in issue between the Plaintiff and the Defendant before the Grand Court regarding ownership of the VMH share. She argues that that is an issue for the French court, which is the appropriate tribunal to determine the question. Ms Partos also disputes that the information sought by paragraph 3 of the Plaintiff's summons is necessary for disposing fairly of the cause or matter or for saving costs.

39. Ms Partos supports her argument that I should not allow the Plaintiff to administer the interrogatories in question by reference to the Northern Irish case of *HL v Facebook Inc.* [2014] NIQB 101. The Rules of Court applicable in Northern Ireland continue largely in the form of the Grand Court Rules and of the former Rules of the Supreme Court of England and Wales, and so decisions of the High Court of Northern Ireland on issues of civil procedure may be of assistance in construing the Grand Court Rules. Ms Partos relies on a passage in the judgment of Gillen J in *HL v Facebook Inc.* where he set out what he considered to be the guiding principles concerning when interrogatories will be allowed, based on a review of the Supreme Court Practice 1999 and a number of Northern Irish textbooks and cases. Gillen J said at paragraph 14:

> *"14. […] the following principles operate:*
>
> - *Interrogatories are a matter of discretion with which the Court of Appeal will not lightly interfere.*
> - *Interrogatories relating solely to credit and 'fishing interrogatories' are not allowed.*
> - *It is not necessary to interrogate to obtain information or admissions likely to be contained in discoverable documents unless exceptionally a clear litigious purpose would be served.*
> - *They are unlikely to be granted where the object is to obtain an admission of fact which can be proved by a witness who will in any case be called at the trial. That will not save costs or shorten a case by removing the need to call a witness to prove a particular matter and therefore the administration of interrogatories would constitute an unnecessary expense rather than a saving.*

- *Oppressive interrogatories will not be allowed in circumstances where they exceed the legitimate requirements of the occasion or put on the party sought to be interrogated a burden out of all proportion to the benefit to be obtained by the applicant. This will include a situation where the answer would require very substantial research but would result in only a small evidential contribution to the trial.*
- *Interrogatories as to the evidence of the party interrogated will not be allowed as distinct from the facts which he alleges. The interrogatories should relate to the primary facts, not to inferred facts and not on matters of conjecture, opinion or law.*
- *The court will consider any offer by the respondent to give particulars or make admissions or produce documents in considering whether or not the application for interrogatories is premature."*

40. Ms Partos argues that the Plaintiff's attempt to administer interrogatories breaches two of the principles identified by Gillen J, namely that they should not be permitted where the object is to obtain an admission of fact which can be proved by a witness who will in any case be called at the trial and that interrogatories as to the evidence of the party interrogated will not be allowed as distinct from the facts which he alleges.

41. Mr Armitage responds that the queries that are posed in paragraph 3 of the Plaintiff's summons are not interrogatories but, even if they are, they satisfy the requirements to be permitted because the answers will assist the fair disposal of the cause or matter in question, which is the enforcement of the proprietary injunction.

42. I consider that Ms Partos is right that the questions set out in paragraph 3 of the Plaintiff's summons are in the nature of interrogatories. However, that is not unusual in the context of an application for asset disclosure or for further information regarding assets that have been disclosed. Further, it is not a reason to relieve the Defendant from having to prepare and serve responses. Although some of the formal requirements of GCR O.26 will need to be complied with, for example specifying by whom the interrogatories must be answered on behalf of the Defendant.

43. I accept Ms Partos's argument that the applicable test is whether the interrogatories are necessary either for disposing fairly of the cause or matter or for saving costs. I have considered Ms Partos's objection that the interrogatories seek admissions of matters of fact that can be proved by a witness who will be called to give evidence at trial. I do not consider that this exception applies. The Plaintiff has obtained a default judgment against the Defendant: there will not be any trial. In my view, the

only live issues between the parties are the continuation, variation or discharge and enforcement of the proprietary injunction, the freezing injunction, the injunction preventing the Defendant from redomiciling its place of incorporation and the order appointing receivers, the adequacy of the Defendant's asset disclosure, and enforcement of the Plaintiff's money judgment. It is doubtful that there will be any hearing at which live evidence will be adduced. I am therefore not persuaded that ordering the Defendant to respond to the questions in paragraph 3 of the Plaintiff's summons is likely to lead to duplicated or increased costs. My view is that it is likely to help dispose of the matter fairly and to save costs because it should clarify the position regarding the ownership and registration of ownership of the one share in VMH that is apparently owned by the Defendant. I also reject Ms Partos's argument that the Plaintiff's queries are as to the Defendant's evidence, rather than going to substantive issues between the parties.

44. The second objection made by Ms Partos applies to two particular sub-paragraphs of paragraph 3 of the summons. These seek information that Ms Partos argues is privileged. The two requests are set out in paragraphs 3.2 and 3.6 as follows:

> *"3.2 As to the Defendant's claim at paragraph 8 of Grant 2 that it does not know whether the Share Transfer Agreement executed on 21 June 2025 pursuant to which the VMH Share was transferred from Ms Annelisa Alden Gee to the Defendant was 'properly registered in France', what specific enquiries has the Defendant made in this respect, of whom, on what date(s) have enquires been made, and what responses have been received?*
>
> *3.6 Has any response since been received from the Defendant's 'French advisors' and, if so, what is the content of that response (including copies of any documents relating to ownership of the VMH Share provided by said advisers)? If no and/or inadequate responses has been received from the Defendant's 'French advisors', why is that the case and what efforts has the Defendant made in this respect?"*

The foundation for the request in paragraph 3.6 of the Plaintiff's summons is Mr Grant's statement in paragraph 9 of his second affidavit that:

> *"9. […] the Company has asked its French advisors to confirm whether the Company is the registered shareholder of the VMH Share and it has requested copies of the documents referred to in paragraph 8 of the Injunction Order. […] that request remains outstanding, and the documents have not yet been provided to the Company. The Company will continue to liaise with its French advisers and to follow up on its request."*

45. Mr Armitage says that the information being sought is purely factual regarding the registration of ownership of the share, and so the question of privilege simply does not arise – he says there is no question of seeking to obtain disclosure of any advice given to the Defendant by its French attorneys-

at-law. Alternatively, if documents are potentially privileged then the dominant purpose behind sending them was to achieve compliance with the Order of 23 June 2026, and not to obtain legal advice, so that the documents are not privileged for that reason. In the further alternative, Mr Armitage argues that any privilege in the documents has been waived by the Defendant as a result of its reliance upon the communications with its French advisors to explain the Defendant's failure to comply with the Order. Mr Armitage relies on the well-known judgment of the Employment Appeal Tribunal in *Brennan v Sunderland City Council* UKEAT/0349/08; [2009] I.C.R. 479 at paragraphs 64-70, discussing the proper approach to determining whether or not privilege in a document has been lost as a result of reference to or reliance upon it within the proceedings, which Ms Partos agrees sets out the applicable law. Ms Partos also draws my attention to the judgments in the English cases of *Government Trading Corporation v Tate & Lyle International Ltd* (unreported, 19/10/84) and *Marubeni Corporation v Alafouzos* (unreported, 06/11/86) and *Dubai Bank v Galadari (No.2)* [1990] 1 WLR 731, where various English courts considered whether or not privilege had been waived on the facts of those cases.

46. In my judgment, the Defendant should be required to answer the questions posed by the Plaintiff for the following reasons:

46.1 The first point is that Mr Grant simply refers in his affidavit to *"French advisors"*. He does not state that these advisors are French attorneys-at-law. They may be, but that is not established on the evidence. It is for the Defendant to prove that they are as a necessary step to proving that it is entitled to raise privilege as an issue, which it has not done.

46.2 Secondly, I consider that the questions posed by paragraphs 3.2 and paragraph 3.6 do not necessarily encroach on the Defendant's privilege, assuming it to be applicable. Paragraph 9 of Mr Grant's affidavit describes the enquiry made by the Defendant regarding the status of the share in VMH in a way that indicates the query was purely factual in nature. Against that background, the Plaintiff is seeking to follow up on the factual position regarding the status of the share and its registration, and to obtain a definitive statement of the Defendant's position as to why the share in VMH has not been registered in its name. There is no reason to assume or to infer that the response from the Defendant's French advisors, assuming in the Defendant's favour that they are attorneys-at-law, contained any legal advice.

46.3 Thirdly, I consider that Mr Armitage is right that the dominant purpose for creating any correspondence between the Defendant and its French advisors that was generated as a result of the enquires described by Mr Grant in paragraph 9 of his affidavit was to assist the Defendant with compliance with the Order of 23 June 2026, not for the purpose of the Defendant seeking and obtaining legal advice. Accordingly, the documents would not be privileged for that reason as well.

47. On the other hand, I am not satisfied that the Defendant has relied upon the content of the correspondence with its French advisors to explain its non-compliance with the Order, as Mr Armitage argues, such that the Defendant should be treated as having waived any privilege that might be relevant, if I were to be wrong in my conclusions set out in the previous paragraph.

H. Lifting the implied undertaking as to collateral use of documents disclosed

48. The Plaintiff acknowledges that it is subject to an implied undertaking restricting its use of documents and information that it receives from the Defendant so as to prevent use of those documents and information in any other proceedings: see the English case of *Harman v Home Office* [1983] 1 AC 280. However, it argues that this is a case where it should be permitted to use the material obtained from the Defendant in these proceedings for the purpose of seeking to enforce the Delaware judgment in the United States of America and in France. Mr Armitage submits that the court will more readily grant permission to use documents for use in foreign proceedings aimed at enforcement of a judgment. In support of this argument, Mr Armitage relies again on the judgment of Tomlinson J in *Vitol v Capri Marine Ltd (No.2)* [2010] EWHC 458 (Comm).

49. In a passage starting at paragraph 36 of his judgment, Tomlinson J considered the correct approach to allowing the collateral use of information obtained by way of disclosure ordered in support of a freezing order, as follows:

> *"36. The essential thrust of Mr Hofmeyr's sustained submission was that the court will only in special circumstances allow documents to be used for a purpose collateral to that for which they were disclosed, and then only if such use will not occasion injustice to the party who has given disclosure. In that regard he naturally relied on the well known line of authority including* Crest Homes v Marks*, above, and in particular per Lord Oliver at page 860;* Prudential Assurance Co.

v Fountain Page Ltd [1991] 3 All ER 878 in particular per Hobhouse J at page 886, and Riddick v Thames Board Mills [1977] 1 QB 881. What are the interests of justice, Mr Hofmeyr asked rhetorically, which require the English court to prefer the interests of a judgment creditor to those of a third party which, in the eyes of the English court, could not properly be regarded as either the judgment debtor or the alter ego thereof? Why should the court lend its positive support by requiring a judgment debtor to provide documents for use by a judgment creditor for the purpose of enforcing against a third party its judgment obtained against the judgment debtor?

37. To these submissions there are I think a number of answers but the principal answer is that ***enforcement of the judgment is not collateral to the purpose for which disclosure was given or ordered. On the contrary, it is in support of enforcement of the judgment that the disclosure was ordered to be given.*** *I do not accept Mr Hofmeyr's submission that the disclosure ordered by Cresswell J was ancillary only to the world-wide freezing injunction as being required in order that the court could ensure that the injunction was observed. At that post-judgment stage* ***the disclosure ordered plainly had a dual purpose, both to assist in the identification or ascertainment of the location of assets which were subject or potentially subject to the freezing order and to assist the judgment creditor to locate assets against which enforcement could be sought****. That this is so is perhaps particularly borne out by paragraph 6 of Schedule C, which listed the further disclosure required from Capri. Paragraph 6 required disclosure of:*

> *'All documents regarding any claims or potential claims against the Respondent's insurers (including but not limited to P&I cover or club cover) resulting from the incident at Tallinn and subsequent litigation.'*

The court enjoys a free-standing power derived from section 37(1) of the Supreme Court (now Senior Courts) Act 1981 to order disclosure after judgment in order to render the judgment effective, in the sense of capable of enforcement – see Maclaine Watson & Co. Ltd v International Tin Council (No.2) [1989] 1 Ch 286 at page 303F per Kerr LJ. As Kerr LJ also observed at page 301, 'it is the policy of the law to assist persons in the position of the plaintiffs to obtain the fruits of their judgments'. Further guidance as to the position post judgment is to be found in Babanaft & Co. S.A. v Bassatne [1990] 1 Ch 13 at pages 27G-28A, 32F and 34BE per Kerr LJ. Furthermore, as Nicholls LJ pointed out in that case at pages 42G-43D, in the post judgment regime ***where the judgment creditor is at liberty to attach assets of the judgment debtor in execution of the judgment a freezing order may often be ancillary to a disclosure order – for the obvious reason that the disclosure order is needed in order to ascertain the whereabouts of assets which may be attached but a freezing order may be necessary in order to prevent an unscrupulous judgment debtor from removing those assets from an identifiable location before attachment can be effected****. Colman J made the same point in Gidrxslme Shipping Co. Ltd v Tantomar-Transportes Maritimos LDA [1995] 1 WLR 299 at 310F:*

> *'Where, by contrast, one has the position that a judgment has been already obtained or an award made and where a Mareva injunction in aid of execution is justified, the jurisdiction to make a disclosure order arises both as a power ancillary to and in support of the injunction and independently of the injunction as a power in support of the execution of the judgment or award.'*

At page 312EF Colman J drew the distinction between the pre and post-judgment situations and pointed out that quite different considerations apply. ***He pointed out that post-judgment or post-award 'it is just and convenient that the judgment or award creditor should normally have all the information he needs to execute the judgment or award anywhere in the world'.*** *"* (emphasis added)

50. In response to this, Ms Partos relies again on the passages in the judgments in *Korchevtsev v Severa* and *JSC Mezhdunarodniv Promyshlenniy Bank v Pugachev* that I set out earlier in this judgment

where Leech J and Hildyard J each stated, in a pre-judgment context, that asset disclosure should not be permitted to be used for a collateral purpose. Ms Partos also relies on a passage in the judgment of Trower J in *JSC Commercial Bank Privatbank v Kolomoisky* [2024] EWHC 1837 (Ch), where the learned judge considered the principles applicable to collateral use of documents disclosed by a party, and commented:

> *"32. Both parties agreed that the prohibition on collateral use of documentation disclosed by compulsion exists for important policy reasons. Two are of particular importance.*
>
> *33. The first is that the prohibition on collateral use serves an important role in recognising and protecting a person's private right to keep their own documents to themselves. As the compelled disclosure of private and confidential documentation amounts to a significant interference with the rights of the disclosing party, it should be subject to appropriate protections of which the prohibition on collateral use is an important one.*
>
> *34. The second is that the prohibition on collateral use serves to encourage those with documentation to make full and frank disclosure for the purposes of legal proceedings, whether or not the documents are helpful, on the footing that those documents will not be used save for the purposes of the proceedings in which disclosure was made. This serves to promote the administration of justice.*
>
> *35. It is also not in dispute that the prohibition on collateral use extends not just to the use of the documents themselves, but also to the use of the information contained in the documents (see* Crest Homes plc v Marks *[1987] AC 829 at 854 and* IG Index v Cloete *[2015] ICR 254, at paragraph 40), a principle which is recognised in the present case by the terms of the worldwide freezing order undertaking prohibiting as it does the use for collateral purposes of information obtained as part of the defendants' asset disclosure.*
>
> *36. When an application is made for permission to use documents to which the prohibition applies, the test also was established in* Crest Homes *(see the speech of Lord Oliver at 859G to 860C). The applicant must establish cogent and persuasive reasons why the undertaking should be released. There must be special circumstances and the release should not occasion injustice to the person who gave the disclosure (in this case D1 and D2)."*

51. Lastly, Ms Partos relies on the judgment of Laddie J in *Dendron GmbH v Regents of the University of California* [2004] EWHC 589 (Pat). This was a patent dispute, where the claimant had obtained evidence for use in the English proceedings from a witness in Germany and from a witness in the United States of America using the letter of request procedure. The claimant then sought permission to use that evidence in other patent proceedings between the parties before the European Patent Office and in the United States. Against that background, Laddie J said:

> *"50. It seems to me that in deciding what is just in all the circumstances involves considering what the foreign court wants. In our system all disclosure should be relevant and, to that extent, it can be said that releasing it to foreign courts helps the pursuit of justice. But if that is the approach we adopt, the restriction on collateral use would virtually vanish. The fact is that foreign courts have their own procedures for determining legal disputes and thereby achieving*

> *justice. It is primarily for them to decide whether they need to compel one or more of the parties to give evidence or produce documents. […]*
>
> *51. In this case, although the documents at issue relate to alleged public prior use by the defendants, I have not been persuaded that there is sufficient justification to lift the restriction on collateral use. As Lord Oliver said in* Crest Homes plc v Marks *[1987] AC 829, 860, the court will only lift the restriction in special circumstances. I have not been persuaded that this material would have sufficient impact on the German and Dutch proceedings or that this material could not have been obtained by application directly to the relevant national courts. There are no special circumstances here. […]"*

52. All of the cases relied upon by Ms Partos are pre-judgment cases, where the court understandably takes a more cautious view as to what is just between the parties. In my judgment, as I have indicated previously, I consider that the approach of Tomlinson J (as he then was) in ***Vitol v Capri Marine Ltd (No.2)*** applies in the Cayman Islands to post-judgment cases. It is clear from the terms of the passage that I have set out that Tomlinson J, and the other judges to whom he referred, considered that where the court is considering the use of documents and information post-judgment, the use of information obtained as part of an asset disclosure exercise to pursue enforcement action against those assets does not amount to a collateral purpose at all. This is because one of the purposes of such an asset disclosure order is to enable the judgment creditor to pursue enforcement.

53. That is what the Plaintiff wishes to do in this case: to use the documents and information obtained through the Grand Court proceedings to assist in its efforts in the United States of America and in France to enforce the judgment of Vice Chancellor Laster, issued from the Delaware Court of Chancery. Accordingly, the more cautious approach exemplified by the cases on which Ms Partos relies simply does not arise. In my view, the Grand Court should be pleased to be able to assist with the enforcement of the judgment of the Delaware Court of Chancery both for the policy reasons identified by Tomlinson J and also as a matter of comity.

54. Accordingly, I will permit the Plaintiff to use any documents and information obtained from the Defendant in these proceedings for the purpose of enforcement in the United States of America and in France of the judgment of Vice Chancellor Laster, but not for any other purpose without further order of this Court.

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55. I will hear the parties further on the issue of costs and the terms of the appropriate Order if they are unable to reach agreement on the same.

Dated 28 August 2026

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THE HONOURABLE JUSTICE JALIL ASIF
JUDGE OF THE GRAND COURT