IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL SIDE

IND. NOs: 0002 + 0004/2020

THE QUEEN

V

CHARMAINE ELIZABETH MOSS
CANOVER NORBERT WATSON

Appearances:	**Mr. Andrew Radcliffe Q.C. with Ms. Toyin Salako for the Crown**
	Mr. Charles Miskin Q.C. instructed by Mr. Nicholas Dixey of Nelsons for Ms. Moss
	Mr. Stephen Kamlish Q.C. instructed by Ms. Amelia Fosuhene of Brady Attorneys for Mr. Watson
Before:	**Justice Roger Chapple (Actg.)**
Heard:	**15th, 17th 18th & 19th March 2021**

HEADNOTE

Criminal Law – Conspiracy to Defraud contrary to Common Law - Transferring Criminal Property contrary to s.133(1) of the Proceeds of Crime Law - *Application to Adjourn*

JUDGMENT

ON APPLICATION BY THE PROSECUTION TO ADJOURN

1. Ms Charmaine Moss ("CM") and Mr Canover Watson ("CW") face an indictment containing five counts. Counts 1 and 2 allege conspiracies to defraud. Counts 3, 4 and 5 allege money laundering offences. These offences are said to have taken place within a 2-year time bracket, from September 2012 to November 2014.

2. The conspiracy alleged in count 1, in very short summary, involves the submission of false invoices, by companies owned and operated by CM, to the Confederation of North, Central American and Caribbean Football Association ("CONCACAF"). At the material time, Jeffrey Webb ("JW") was the President of CONCACAF. CM was, and had for a long time been, in a relationship with JW. The conspiracy is said to involve CM, JW and others. It is charged as an open conspiracy. CW does not figure in count 1. A total of US$207,000 or thereabouts is said to have been fraudulently obtained and thereafter dissipated.

3. Count 2 alleges another open conspiracy. Both defendants are indicted in count 2. JW is a named co-conspirator. Again, the conspirators are alleged to have defrauded CONCACAF, this time in respect of office premises leased in George Town. The conspirators are alleged, by the device of what the prosecution describe as a dummy lease, to have dishonestly obtained $100,000 a year from CONCACAF. The conspirators had arranged to rent the office premises for $160,000 a year, but provided a false lease to CONCACAF, who were under the impression that the rent was $260,000 which they were duly paying, with the conspirators pocketing the difference. There were also renovations to the offices, which, although carried out, were, it is said, charged at over inflated prices. It is impossible to provide an accurate figure for the sums said to be dishonestly obtained, but I take $500,000 as a very rough figure.

4. Although these offences are said to have taken place between 2012 and 2014, the investigation of these alleged offences began, I think I'm right in saying, in 2016. In the course of interviews, CW made no comment to all questions asked of him. CM gave full comment interviews, setting out at length her position – in essence that she was merely a nominee, unaware and uninvolved in whatever fraudulent activities were taking place. Such benefits as she had obtained were for work and/or services properly rendered.

5. The defendants were charged in December 2019 and this case began its journey through the courts. A dismissal application on behalf of CW was indicated but following discussions, amendments to the indictment were made – particularly the removal of CW from the conspiracy alleged in count 1 – and the dismissal application was not pursued further. CW was arraigned and pleaded not guilty to the counts that concerned him on 4 May 2020. CM had earlier pleaded not guilty to the counts that concerned her. The trial was fixed for 23 November 2020, with a time estimate of 2-3 weeks.

6. Thereafter, this court has, as is emphasised and prayed in aid on all sides, endeavoured, at all stages to ensure close management and control of the case, in accordance with its duties, powers and responsibilities pursuant to the ***Criminal Procedure Rules***, 2019 – the object of course being to achieve the overriding objective of dealing with the case justly, efficiently and expeditiously[1].

[1] (para 4 of CPR 2019)

7. At a hearing on 4 May 2020, orders were made in this case as well as in two other cases in which CW (but not CM) was involved. The first was one for confiscation proceedings following his conviction and sentence in what has been referred to as the Care Pay case. The second was in respect of a single indictment, numbered 79, 80 and 89 of 2019[2]. This indictment contains allegations of offences contrary to the ***Anti-Corruption Act*** and money laundering offences, involving CW and Mr Bruce Blake - again allegations of defrauding CONCACAF. That trial is scheduled to commence on 7 April 2021.

8. At a Case Management Hearing ("CMH") on 8 October 2020, Ms Fosuhene for CW confirmed that so far as she was concerned, disclosure of unused material in this case was complete; she had no outstanding requests. Mr Dixey for CM said that he had no disclosure issues to raise. All parties confirmed that they were, or would be, ready for trial on 23 November 2020. It follows that the prosecution at that stage was satisfied that it had complied with its duties in respect of unused material.

9. On 2 November 2020, Mr Dixey applied for the fixture to be broken – essentially because leading Counsel, then instructed, was not available, for a variety of reasons – principally, I think, because leading Counsel was stranded or at least delayed in Europe as a result of Covid-19 restrictions. The application to adjourn was strenuously opposed both by counsel on behalf of Mr. Watson, and by Mr Simon Russell-Flint QC, then instructed to conduct this prosecution with Ms Salako. I granted the application, since the interests of justice required it.

[2] In its original form. There has since been a voluntary bill.

10. On 18 November 2020, the case was re-fixed to commence on 1 March 2021. I had earlier stressed that this case should be re-fixed as soon as possible in 2021, for a number of reasons, not the least of which was Mr Dixey's urging, given what he said was the considerable stress and anxiety under which CM was labouring. Further, this was predicted to be a considerably shorter case than ***Watson & Blake***. Separate jury panels were of course essential, in order to avoid any danger of contamination. It was then anticipated that this trial would have been completed in ample time before a new panel of jurors began a 3-month period of jury service on 7 April 2021.

11. All leading Counsel now appearing were instructed relatively late in the day. Mr Radcliffe QC told me at a CMH on 9 February 2021 that he had only been instructed a matter of weeks ago. Mr Miskin QC was, I understand, instructed at about the same time. Mr Kamlish QC, indicated in an email to Mr Radcliffe and Ms Salako dated 1 March 2021 that he had only been instructed on 17 February 2021 - less than two weeks before trial.

12. Inevitably, newly instructed Counsel will see aspects of a case differently, and there will be differences of emphasis and approach. That has, it seems to me, had a number of unfortunate consequences, particularly for the management of the case, although they pale into relative insignificance when viewed against the events that were to unfold.

13. Mr Radcliffe and Mr Miskin travelled from England to be here for the trial, with all the attendant difficulties involved as a result of the pandemic, including of course a period of 2 weeks' quarantine on arrival on island. Mr Kamlish was unable to travel and has appeared throughout by zoom. At the CMH on 9 February 2021, the Court endeavoured to make sure that this case was indeed trial ready. For the avoidance of any doubt, my lengthy note of all that was discussed was circulated to all parties and

is now annexed to this ruling as 'Appendix A'. As can be seen, disclosure of unused material was discussed and no problem signalled from any quarter. Ms Fosuhene and Mr Dixey confirmed that they "*did not foresee any significant matters of law arising in this trial*."

14. It was then disappointing, to say the least of it, that no sooner had jury selection begun (on the 1st March, continuing on the 3rd March) than Mr Kamlish said that he had what he described as, a "global objection" to the admissibility of all exhibits produced by one of the Crown's principal witnesses and a number of exhibits produced by another witness, that he had further requests for disclosure and some 20 unresolved objections to Mr Radcliffe's draft opening. At the same time, Mr Miskin indicated that he would be making an application to sever the money laundering counts from the conspiracy counts.

15. Further, Mr Radcliffe explained that there was a problem with one of his principal witnesses, Mr Kevin Brandt, a director of Admiral Financial Center Ltd, the owners of the building in which office space was leased by CONCACAF. In the course of his evidence, it was intended that he would produce the landlord's part of the documentation relating to the leasing of the office space. Mr David Cruz, of CONCACAF would produce the tenant's documentation. Mr Brandt is based in Virginia, USA. He had indicated in each of his various witness statements (including one obtained by the defence) that he was willing to give evidence via video-link. An application to permit him to do so, pursuant to s.37 of the ***Evidence Act*** 2019, had earlier been made and granted. He had however more recently indicated reluctance, followed by a refusal to give evidence. The Crown then applied for his statement to be read to the jury, pursuant to s.33(2)(b) of the ***Evidence Act*** – on the grounds that he was outside the islands and it is not reasonably practicable to secure his attendance

– or alternatively, pursuant to s.33(6) on the ground that it was in the interests of justice to admit his statement. That application was strenuously contested, principally by Mr Kamlish.

16. The application was still being argued on Friday 12 March 2021 when, as the Court resumed, Mr Radcliffe told the court, with obvious embarrassment, that he had only recently been made aware of the existence of a substantial amount of potentially disclosable material, contained on a hard drive referred to as "HD1" which it transpired, was in the possession of the Anti-Corruption Commission.

17. This prosecution, I should say, is being handled by the Financial Crime Unit of RCIPS. It was understood that HD1 contained downloads from a number of electronic devices - a laptop, a Tablet, some cell phones and so on – belonging to or attributable to CW, seized during a search of his home when he was arrested in 2014 in connection with the Care Pay case. The contents of HD1 needed to be examined further. It was envisaged that this would take at least the weekend, with several deployed to assist. The circumstances in which HD1 came to light would of course need to be explained to the defence. The case was accordingly adjourned.

18. When the case resumed on Monday 15 March, Mr Radcliffe reported that examination of the material on HD1 had thus far taken nine man days. He added that there was "a mass of material" stored on the hard drive, consisting of downloads from two IPhones, a Samsung cell phone, a Seagate hard drive, an IPad, a Microsoft Surfer Tablet, a laptop computer and a Samsung Chromebook. Mr Kamlish's subsequent description that they constituted CW's "life on devices" seems apt. I should note that, for various reasons, three of the devices were inaccessible. Searches

for various keywords returned hits revealing data that may be relevant in this case. As Mr Radcliffe put it:

> "*There is new material that the prosecution would want to rely on and there is material on the Surfer Tablet that may support CM's version of events: i.e. that she was merely a nominee. The enquiries made this morning are that there is more material at the Anti-Corruption Commission*."

19. Mr Radcliffe concluded that it was not realistic or feasible to seek to continue this trial with the present jury and applied for the case to be adjourned.

20. Mr. Radcliffe did not at that stage indicate for how long the case should be adjourned but clearly envisaged a matter of weeks if not months. Examination of material was by no means complete. Mr Radcliffe had earlier posed the question: "*is there anything else – i.e. relevant material – out there?*" and answered it, saying, "*we don't know*." It was agreed on all sides that the jurors selected, but not put in charge, should be discharged.

21. The case was further adjourned for all parties to take stock, for Mr Radcliffe to provide such explanation as he could for what was, on any view, a substantial failure of disclosure and for the defence to provide such written submissions and material as they felt might assist me in the forthcoming contested application to adjourn. Mr Radcliffe made clear that if the application to adjourn were refused, the case could not continue and no evidence would be offered.

22. I indicated that in the course of my initial consideration of at least some of the relevant authorities in this area, I had found the approach and judgment of Lord Thomas, LCJ in ***R v Salt and Salt***[3] helpful, and suggested it would provide a useful

[3] [2015] EWCA Crim 662

framework for submissions, listing as it did at least some of the matters I should consider in arriving at my decision. I stressed then, as I do now, that the case of ***Salt*** (relating to an application to stay proceedings) was very different – both in its facts and in the situation in which the trial judge made his decision – from the case before me.

23. I am grateful to all counsel for their submissions, both written and oral, which have, of course, assisted me in arriving at my conclusions.

24. In his "Further submissions on behalf of the Crown – application to adjourn trial" dated 17 March, Mr Radcliffe candidly accepts:

> *"Opportunities presented themselves at each stage of the investigation and prosecution to address the issues that have led to the failure of disclosure. It is plain that there was an absence of coordination at each level and a series of missed opportunities."*

25. I had of course asked, at the conclusion of his oral application to adjourn on 15 March, how the court could have confidence in the disclosure process in the future given recent events. In his written submissions of 17 March, Mr Radcliffe set out a number of procedures and safeguards which would be put in place to ensure the more efficient handling of material in the future.

26. The emergence of HD1 was not the first cause for concern about the disclosure process in this case. At a CMH held on 22 February 2021, Mr Miskin complained bitterly – with every justification – that he had only recently been served with 1460 emails on a flash drive that at first could not be opened. Eventually, the defence was able to access this material but not in a format that lent itself to easy consideration of the material. In an effort to ease the task of the defence team, the prosecution provided hardcopies of 56 of the 1460 emails, assuring the defence that only those

56 emails were relevant. Mr Radcliffe was later to concede that by relevant, he meant disclosable. Asked then to explain why 1460 rather than 56 emails had been disclosed in the first place, adding considerably to the burden on the defence, Mr Radcliffe was at something of a loss, but I of course appreciate that there was a great deal for him to consider and he had only recently been instructed.

27. These emails had been provided by Maitland, the successor to Admiral Financial, on 17 May 2018, following a production order obtained by the prosecution. According to a statement from DC Murray dated 21 January 2021, an initial word search was conducted but produced no hits. He reviewed the material on 14 October 2020. His statement does not explain what prompted him to do that. There is no explanation as to why the material was not disclosed to the defence until 18 February 2021.

28. I return to the application before me. As I say, I have been assisted by all the written material provided by all Counsel and particularly by a detailed disclosure chronology and bundle of supporting documents prepared by Mr Miskin. The dates and events set out in that chronology are not disputed by Mr Radcliffe although he does not of course accept the comments therein contained.

THE LAW

29. I have been referred to a number of authorities in addition to ***Salt***. Of particular relevance and assistance are the cases of ***R v Boardman***[4] and ***R v R and others***[5], in which both Mr Miskin and Mr Radcliffe appeared. Nevertheless, ***Salt*** has been of the most practical help in focussing these submissions.

[4] [2015] EWCA Crim 175
[5] [2016] 1 WLR 1872

30. As has been emphasised by all counsel and I repeat, the allegations the jury had to try and the facts and circumstances which presented themselves to the trial judge and the Court of Appeal were very different. The defendants in ***Salt*** faced allegations of rape, assault by penetration and false imprisonment. The trial by jury had been underway for eight days before the judge ordered a stay as a result of the way in which disclosure had been handled. The case came before the Court of Appeal by way of a prosecutor's appeal against the trial judge's terminating ruling to stay the proceedings.

31. In ***Boardman***, the trial judge refused to admit crucial prosecution evidence served only a few days before trial which brought the case to an end.

32. Here, the application is to adjourn for a substantial period. If I refuse the application, it brings the case to an end. Clearly, these are different scenarios, but in all cases, the question was whether, in the light of prosecution failures, the case should nevertheless be allowed to continue. The essential question for me, clearly, is whether it is in the interests of justice to grant the adjournment sought. As was said in ***Salt***,

> *"thus, although the way in which the judge proceeded in Boardman was by refusing to admit evidence under s78 of PACE and the present case involved a stay for abuse of process, the court should approach both types of application on the same basis, namely by balancing the material considerations and determining whether it was in the interests of justice, including the interest in the integrity of the criminal justice system, that the proceedings should be allowed to continue……. we have no doubt that there are failures of the prosecution where the court should act so that the proceedings do not continue.*"

33. Thomas, LCJ continued:

> *"it is necessary to examine more widely the various factors and to balance the public interest in ensuring that those charged with grave crime should be tried and the rights of the complainants against the need to ensure the proper integrity of the criminal justice system and the fairness of any future trial."*

34. The Court then went on to list the particular factors to be taken into account in that case and to examine each in turn. All Counsel have done likewise and so shall I.

THE GRAVITY OF THE CHARGES

35. The more serious the crime of course, the greater the public interest that the case should be tried. I have already referred to the allegations faced by the brothers in the case of ***Salt***. Here it is alleged that the defendants fraudulently obtained $700,000 or thereabouts from CONCACAF. These allegations are not in the same league of seriousness as rape. Public concern for the effective prosecution of serious sexual assaults generally ranks considerably higher than the effective prosecution of fraudsters. As Mr Kamlish observed, the likely sentences of imprisonment for rape on the one hand and fraud of this kind on the other, are very different. Nevertheless, fraud on this scale is undoubtedly a serious offence. This was a fraud, on the prosecution's case, of some sophistication, involving the setting up of a company to facilitate the fraud; it was persistent; one of the co-conspirators took blatant advantage of his position as president of CONCACAF, depriving that organisation of funds that could have been put to very much better use. It took place in this jurisdiction, known throughout the world as a centre of excellence for financial services. Crimes such as these, if proved, risk reputational damage to these islands. Albeit these allegations date back, the best part of, 10 years, all other things being equal, there is a clear and pressing public interest in this case being placed before a jury for its consideration.

DENIAL OF JUSTICE TO THE COMPLAINANTS

36. This was a powerful consideration in ***Salt***, which is absent in this case. As Mr Radcliffe succinctly put it in his submissions, here the complainant was corporate rather than human.

THE IMPORTANCE OF DISCOVERY IN SEXUAL CASES

37. Again, this is a crucial consideration in sexual cases. However, the importance of a reliable and effective disclosure regime in cases of serious fraud is obvious.

THE NECESSITY FOR PROPER ATTENTION TO BE PAID TO DISCLOSURE/THE NATURE AND MATERIALITY OF THE FAILURES

38. It is convenient to deal with both these ***Salt*** headings together as there is a considerable degree of overlap. The timescale in ***Salt*** allowed more enquiry as to the cause of disclosure failures than has been possible here. The Chief Constable of North Yorkshire Police provided a statement to the Court of Appeal. The Lord Chief Justice reiterated what was said in ***R v Olu Wilson & Brooks***[6] and ***R v Malook***[7], emphasising:

> *"the importance of proper procedures being put in place for an intelligent approach to disclosure and a necessity for disclosure officers to receive proper training."*

The trial judge in ***Salt*** found that the officer in the case had exhibited gross incompetence and there was clear evidence of lack of training and supervision.

[6] [2010] 1 Cr App R 33
[7] [2011] EWCA Crim 254

39. That something has gone badly wrong in this case is plain. Mr Radcliffe's concession that there was "*an absence of coordination at each level and a series of missed opportunities*" bears repeating.

40. There is, as Mr Miskin put it, a "coincidence of personalities" at various stages of this and other cases involving CW. HD1 was seized in 2014 in the context of the Care Pay case and it was to loom large in that case. Ms Salako was junior counsel for the Crown in that case, as she is in this case. In the Care Pay case, she was led by Mr Patrick Moran, now the DPP. In September 2015, two months before the Care Pay trial was due to begin, Mr Moran and Ms Salako applied for and were granted an adjournment, principally in order properly to consider the material contained on HD1. As Mr Kamlish observes, in essence, the same application is being made now, five years later, in the context of this trial.

41. The very same exhibit, HD1, was entered on the schedule of unused material in the case of ***Watson and Blake*** on 12 August 2020. It is right that I should note that Ms Salako is not involved in that case but there is a "coincidence of personality": Mr Walkington of the DPP's office is the disclosure officer in both this case and in ***Watson and Blake***. Mr Radcliffe notes that Mr Walkington is "*widely known to be a disclosure officer of significant experience*."

42. I understand that HD1 was brought to DC Murray's attention as a result of recent enquiries he made of the Anti-Corruption Commission. These enquiries, I further understand, were made by way of insurance as it might be. In the event of the application to read Kevin Brandt's statement – in which he produces the Admiral leases – failing, was there another route by which the leases could properly and admissibly be placed before the jury?

43. It is on the face of it extraordinary that whilst the Anti-Corruption Commission was apparently the first port of call when there was a perceived difficulty in the prosecution case, no enquiry of that same body had earlier been made as to whether they held material that might assist the defence.

44. In the short time available since these difficulties came to light, there has been no proper opportunity to investigate these failures of disclosure.

45. Regardless of my conclusion in this case, I anticipate that the Director of Public Prosecutions and the Royal Cayman Islands Police Service (RCIPS) will launch an investigation into the reasons for these admitted failures, missed opportunities and absence of coordination. Indeed that is foreshadowed in Mr Radcliffe's written submissions.

46. The defence have invited me to conclude that what happened here was a systemic failure. I cannot begin to do so on the very limited information presently available. It would be irresponsible for me to do so. By the same token, it would be altogether wrong to seek to attribute blame to any individual. Mr Kamlish, characteristically not mincing his words or allegations, sought to do so. That approach is to be deprecated. There is no sufficient information for such allegations to be made and the individuals to whom he attributes blame have had no opportunity to respond. I cannot go further, neither should I go further than Mr Radcliffe's concessions of a series of missed opportunities and an absence of co-ordination that have led to a serious failure of disclosure, necessitating the abandonment of this trial after the best part of 3 weeks of argument, submissions and delay.

FAILURES BY THE DEFENCE LAWYERS

47. It is not suggested that the defence contributed to the disclosure failure that has brought things to this position. I note here only that some of the matters Mr Miskin sought to deploy in his submissions as demonstrating further failures of disclosure I do not regard as matters of significance or relevance to this application.

48. Disclosure in a case such as this is a mammoth task and it should be a collaborative process with the active participation of the defence. By way of example, if the disclosure of emails from CONCACAF was thought to be incomplete and/or selective, as Mr Miskin now alleges, this could and should have been mentioned by the defence at an earlier stage.

THE WASTE OF COURT RESOURCES AND THE EFFECT ON THE JURY

49. Court time is a precious commodity in any jurisdiction. The pressures on court rooms, judicial time and attorney's availability in this jurisdiction are intense. It is now 3 weeks since jury selection began. The jury never was put in charge; thankfully it was only necessary for them to attend on two days. The inconvenience to them was thus minimised. More seriously, the best part of 3 weeks of valuable court time has been wasted with nothing very much to show for it. Mr Miskin and Mr Dixey appear pursuant to legal aid certificates. If the case is adjourned, Mr Radcliffe and Mr Miskin will need to travel from overseas to Cayman again and may, again, have to quarantine. The cost to public funds is substantial. CW is funding his representation privately and again, one anticipates, the cost is substantial.

THE AVAILABILITY OF SANCTIONS

50. This has no pressing relevance to the decision I have to make.

OTHER CONSIDERATIONS

51. That exhausts the list of factors mentioned in ***Salt***. However, it seems to me there are further important considerations present in this case which were not of any particular moment in ***Salt*** – where the trial could continue within a short time after being remitted back to the Crown Court, the Court of Appeal being satisfied that the disclosure achieved was such that a fair trial was possible. Here, disclosure is far from complete. HD1 has been provided to those representing CW in the ***Watson & Blake*** trial although it appears not until very recently, in readable form. HD1 has not yet been served on those representing CM.

52. In any event, until there has been a proper investigation into what went wrong and the reasons for the serious disclosure failures in this case are understood, there can be no confidence that further failures will not occur.

53. If the application to adjourn is granted, it is clear that it will be many months before this case will be trial ready. CW's representatives' availability is very limited. Even were it not for those difficulties, when pressed, Mr Radcliffe said that he was asking for an adjournment "in the first instance" of six months. I would like to think that, at the end of that period, assuming that there had been a thorough investigation, the court could have confidence in the disclosure regime in this case.

54. I am confident that the question I should ask myself is not, as suggested by Mr Kamlish, that I must be satisfied so that I am sure that there will be no further disclosure failures. Rather, the question is whether I can be reasonably confident that, given sufficient time resources and attention, disclosure will be appropriately handled. I would like to think so.

55. The additional factors not present in ***Salt*** but of considerable importance in this case, are then:

i. the substantial delay that the granting of an adjournment would cause; and

ii. the effect and consequence of that delay, including the likely prejudice that would be caused to these defendants, were I to grant the prosecution's application to adjourn.

56. The offences are alleged to have taken place between 2012 and 2014. Albeit that they were not charged until December 2019, the defendants have been under suspicion since 2016. The case was to have been tried in November 2020; the defendants were no doubt preparing themselves for that date. It was vacated, through no fault of theirs. They then had to wait another four months, until March 2021, and again prepared themselves for a trial which again has not taken place – and if the application is granted, will not take place for many months. They are of course entitled to trial within a reasonable time. The anxiety and strain of a criminal trial, particularly a complex one, where, as here, on conviction, prison sentences of some length are likely, should not be underestimated. CM and CW have attended this court for the last 3 weeks on an almost daily basis.

57. Delay should of course be avoided wherever possible. In the course of his written submissions in support of his application to admit hearsay evidence, rather than adjourn for perhaps a month or so in order for Mr Brandt's evidence to be taken pursuant to the Mutual Legal Assistance Treaty that exists between the Cayman Islands and the USA, Mr Radcliffe prayed in aid that "*the present fixture would have to be broken and the trial re-fixed in a matter already between 7 and 9 years old.*" He now urges a course that would delay the hearing of this case by at least six months. It can, though, properly be said that this is a case that relies very largely on documents rather than recollection and to that extent delay is less damaging to justice.

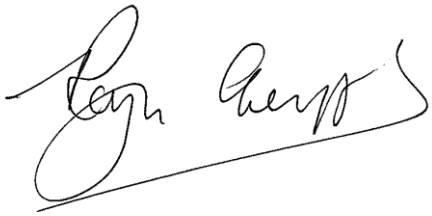
58. CM is a woman of good character, presently on a fixed term government contract of employment, due to expire in April. She has been suspended from that employment as a result of these proceedings. She understandably fears that her contract will not be renewed. It is said that if the case is adjourned, CW can no longer fund his legal representation. If that be right, then the likelihood is that he will become legally aided. The burden of this trial upon the legal aid fund, has already been, I anticipate, considerable. Further expenditure of public money, with two legally-aided defendants, whilst far from a deciding factor, is one of the many matters I take into account.

CONCLUSION

59. My approach must be a holistic one. I take into account all the matters I have already discussed in the course of this judgment. Despite the considerable public interest in cases such as this being tried, despite the considerable resources already expended on this case and the considerable efforts and dedicated work by many, I am driven – and firmly driven – for all the reasons referred to above, to the conclusion that the

interests of justice require that I refuse this application to adjourn, appreciating as I do that this puts an end to this prosecution.

Dated this the 22nd day of March 2021



Justice Roger Chapple
Acting Judge of the Grand Court

APPENDIX A

IN THE GRAND COURT
CRIMINAL SIDE
INDICTMENTS 2 & 4 of 2020

THE QUEEN

-v-

CHARMAINE ELIZABETH MOSS
CANOVER NORBERT WATSON

Note of CMH held 9/2/21

Prosecution: Andrew Radcliffe QC and
Toyin Salako

Defence:
Moss: Nick Dixey
Watson: Amelia Fosuhene

AR explained that he had only been instructed a matter of weeks ago and was in the course of preparing a number of schedules, to be used as working documents and possibly for use by the jury. He hoped to reduce substantially the number of documents that needed to be referred to at trial; summaries of Moss' (lengthy) interviews were in the course of preparation.
AR would be preparing draft admissions, since all confirmed that a great deal of the evidence (including all the banking evidence) was not in dispute.
He made it clear that the opening note prepared by Simon Russell-Flint QC remained an accurate statement of the way in which the Crown put its case – although made it clear that he would not be following it slavishly. AF indicated that she may have some objections to the way in which some matters were being put.

Representation at trial:	Leading Counsel for the prosecution (AR), and for Ms Moss (Charles Miskin QC) will be on island for this trial; leading Counsel for Mr Watson, Stephen Kamlish QC would appear via zoom. TS, ND and AF would be in court for the trial. Normal court sitting hours (approx. 10am-4pm) would be observed, despite the time difference for SK	
The issues at trial:	ND confirmed that Ms Moss' position remains as she explained it in the course of her police interviews. All invoices presented by Moss International were for work properly done / expenses properly incurred. AF explained that Mr Watson's position at trial would be that everything done was above board. All that he did he was entitled to do.	

	ND and AF confirmed that the banking evidence was not in dispute. ND and AF confirmed that they did not foresee any significant matters of law arising in this trial	
Pre-trial interviews	The prosecution will be conducting pre-trial interviews next week with witnesses Cruz, Brandt and MacLean. Notes of those interviews will be served on all parties	To be served prior to 22/2/21
Witness orders:	Final witness orders to be confirmed ASAP. ND indicates that he requires the following witnesses: MacLean, Cruz, Brandt, Van Der Bol, Rankin and Armitage. No additional witnesses required by AF Pros will be applying for a number of witnesses to give evidence via video link. No objection in principle from ND or AF	Prosn application for evidence to be given via live TV link to be served prior to 22/2/21
Unused material:	ND and AF confirmed there were no outstanding issues here.	
Trial Bundle	TS arrange delivery to Ms Livingston of an up to date hard copy trial bundle for my use at trial	ASAP
Notices of further evidence	The Crown does intend to serve further evidence – mostly additional statements from existing witnesses. This will be done as quickly as possible.	Hopefully to be served before 22/2/21
Summaries of interviews (Moss)	Were in the course of preparation	To be served prior to 22/2/21
Jury questionnaire	AF said that a jury questionnaire would be required, as in previous trials involving Mr Watson	AF to provide draft questionnaire to TS and ND ASAP – to be discussed 22/2/21
Trial date	The trial remains fixed to commence on 1/3/21 – on this date, a jury will be selected and any outstanding matters addressed. The trial will commence in earnest (the prosecution will open its case) on 2/3/21.	
Presentation of evidence	AR explained that the way in which the evidence was to be placed before the jury was still under consideration. Schedules were being prepared. Electronic presentation of evidence was being considered.	To be discussed further 22/2/21. If electronic presentation is to be used, this to be discussed with Court IT team as soon as possible. If otherwise, proposed jury bundle (or at least an index) to be served prior to 22/2/21.

Time estimate	The majority view was that the original time estimate of 3 weeks remained accurate although some thought it may last longer.	
Prosecution opening		Any areas of objection to be notified prior to 22/2/21

Case to be listed for further CMH on 22/2/21 at 9.15am. At that hearing, all outstanding matters will be discussed, with a view to ensuring the smooth-running of this trial. Amongst other things, the following will be discussed:

- The presentation of evidence: if electronic, arrangements to be discussed; if paper, contents of jury bundle
- Admissions
- Final witness requirements and applications for video link to be used
- Summaries of defendants' interviews
- Jury questionnaire
- 7 man jury or 12 – 7 I'd have thought – not that complex
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END OF APPENDIX A