

ORIGINAL

21.6.04

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN IN GEORGE TOWN, GRAND CAYMAN

IND. NO. 18 OF 2002

REGINA

- VS -

LEWIS DENTON ROWE

PATRICK THOMAS TIBBETTS

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Ruling delivered by THE HONOURABLE  
CHIEF JUSTICE SMELLIE on the 21st  
day of June 2004, George Town, Grand Cayman.

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APPEARANCES:

For the CROWN:

MS. C. RICHARDS

MR. A. MON DESIR

For the DEFENDANT ROWE:

MR. A. MALCOLM, Q.C.

INSTRUCTED BY MR. C.ALLEN

For the DEFENDANT TIBBETTS:

MR. M. WOOD, Q.C.

INSTRUCTED BY MR. S. DICKSON

(RULING BY THE COURT)

1           THE COURT: The use of promissory notes by  
2           the defendants issuing them or having them  
3           issued to investors, being aware that they  
4           provided no real form of security is a relevant  
5           issue on this money-laundering indictment.  
6           This will be to the extent it may be  
7           permissible for the jury to find that that kind  
8           of use of the notes was deployed as a means of  
9           securing that investors' monies were put into  
10          and kept within the Cash 4 Titles' scheme, and  
11          thus continued to be made available to  
12          Messrs. Homa and Gause. In that context, these  
13          promissory notes issued to Mr. Black's clients  
14          would therefore be relevant to the  
15          money-laundering issues on the indictment.  
16          However, the real cause of Mr. Wood's complaint  
17          here, is the evidence to be given about these  
18          notes which suggests that they were  
19          deliberately falsified for an illegal or  
20          dishonest purpose; that is, so as to enable  
21          Black's clients, and implicitly with their  
22          knowledge and consent, to evade United States'  
23          taxes. That is a different issue from any  
24          which arises on the indictment. The Crown does  
25          not assert that the evasion or attempted

(RULING BY THE COURT)

1 evasion of United States taxes could be a  
2 predicate to the money-laundering offences  
3 alleged in the indictment.

4 This evidence to be given by Mr. Black,  
5 would point to the willingness of the  
6 defendant, Tibbetts, to falsify documents (if  
7 knowledge of what his employee did can be  
8 attributed to him as principal of Everest) as  
9 evidence that he was willing to do whatever  
10 Homa and Gause or any other important client of  
11 Cash 4 Titles would bid him to do. That, to my  
12 mind, is too broad and dangerous an allegation.

13 I conclude that while the fact of the  
14 existence of these promissory notes can be  
15 adduced, the witness may not be asked to give  
16 his views as to the reasons for the alterations  
17 of the interest rates from twenty percent to  
18 six percent. The fact that they appear to have  
19 been issued with such impunity without regard  
20 to whether they provided any form of real  
21 security would, nonetheless, be evidence going  
22 to the general issue of the use of promissory  
23 notes and whether they were thought to be  
24 genuine instruments of security or not.

25 I direct therefore that the notes (in

## (RULING BY THE COURT)

1 original and altered form) may be adduced in  
2 evidence but the reason for the alterations of  
3 the interest rates may not.

4 The jury will be given an appropriate  
5 direction as to how they might treat with the  
6 evidence which will be adduced.

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