



CL-2018-000297, CL-2018-000404, CL-2018-000590, CL-2019-000487 &
CL-2020-000369

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

CL-2018-000297

Before: The Hon. Mr Justice Foxton

Date: 29 JANUARY 2021

(in public by remote hearing conducted via Microsoft teams)

BETWEEN:

SKATTEFORVALTNINGEN
(the Danish Customs and Tax Administration)

Claimant

-and-

**SOLO CAPITAL PARTNERS LLP (in special administration) &
OTHERS**

Defendants

BMF CONFIDENTIALITY ORDER

UPON there being five sets of claims with numbers CL-2018-000297 (the "**First Claim**"), CL-2018-000404 (the "**Second Claim**"), CL-2018-000590 (the "**Third Claim**"), CL-2019-000487 (the "**Fourth Claim**"), and CL-2020-000369 (the "**Fifth Claim**") which were consolidated by the Orders of Mr Justice Jacobs dated 27 June 2018, Mrs Justice Cockerill dated 12 October 2018 and Mr Justice Andrew Baker dated 11 May 2020 25 January 2021 (the "**Consolidated Proceedings**") involving numerous parties (each, a "**Party**").

AND UPON orders for disclosure being made in the Consolidated Proceedings, including an Order dated 16 January 2020 (as amended by an Order dated 24 April 2020) that the Claimant provide rolling disclosure on various dates of documents relevant to various issues for disclosure set out in the “**Disclosure Spreadsheet**” attached to the Order dated 16 January 2020.

AND UPON the Claimant having had confidential communications with the Bundesministerium der Finanzen (“**BMF**”) and the Finance Authority for Rhine-Westphalia (Finanzamt für Steuerstrafsachen under Steuerfahndung Wuppertal) (the “**Local German Authority**”) relating to the subject matter of the Consolidated Proceedings, which the BMF maintains are confidential and whose use and disclosure it wishes to restrict (the “**BMF Confidential Documents**”).

AND UPON an application by the Claimant dated 18 December 2020 (the “**BMF Confidentiality Application**”) for an order regulating the use and disclosure by any Party (and associated persons as set out in paragraph 4(b)(i) below, and actual or prospective witnesses, each an “**Associated Person**”) of BMF Confidential Documents and any information derived from any BMF Confidential Documents of which such Party or Associated Person is not aware from any other non-confidential source (the “**BMF Confidential Information**”, together with the BMF Confidential Documents, the “**BMF Confidential Material**”).

AND UPON the Claimant and the Godson Defendants having entered into a confidentiality agreement (the “**BMF Agreement**”) for the purpose of disclosing BMF Confidential Material contained in a “**BMF Confidential Exhibit**” filed under seal as part of the BMF Confidentiality Application on confidential terms to specified persons for the purpose of the hearing of the BMF Confidentiality Application.

AND UPON the Claimant undertaking by its solicitors to make an application pursuant to paragraph 6 below for a further confidentiality order governing the use of BMF Confidential Material at any trial hearing in the

Consolidated Proceedings (which, for the avoidance of doubt, includes any preliminary issue trial).

AND UPON hearing the submissions of counsel for the Claimant.

AND UPON the Court being satisfied that the order below is necessary in the interests of justice.

IT IS ORDERED THAT:

1. When providing its Extended Disclosure, the Claimant shall signify any BMF Confidential Material by the use of “CONFIDENTIAL: BMF DOCUMENT” stamped on the face of the disclosed copy documents. Where only part of a document contains BMF Confidential Material the document will be stamped “CONFIDENTIAL: BMF DOCUMENT” and such part shall be identified through yellow highlighting. Where a stamped document contains no highlighting, the entirety of the document shall be subject to the terms of this Order.
2. Pursuant to CPR r39.2(3)(a),(c) and (g), and unless otherwise ordered hereafter, any and all references to the content of any BMF Confidential Material in any hearings in the Consolidated Proceedings other than a trial hearing shall be heard in private and, pursuant to section 11 of the Contempt of Court Act 1981, there shall be no reporting of such content.
3. Pursuant to CPR r31.22(2), unless the Court gives permission no use may be made outside the Consolidated Proceedings of any BMF Confidential Material, even where that material has been read to or by the Court or referred to at a hearing, other than a trial hearing, held partly or wholly in public.
4. Pursuant to CPR 5.4C(2), 5.4C(4)(c)(d), 5.4C(6) and 3.1(2)(m):
 - a) the BMF Confidential Exhibit to the 13th Witness Statement of Alan Sheeley dated 18 December 2020 shall be treated as having been filed at Court under seal and shall remain sealed and held with the Court office on the terms of this Order;

- b) to the extent that any party to the Consolidated Proceedings (each, a “**Party**”) or lawyer acting on behalf of such Party wishes to use any BMF Confidential Material in the course of the Consolidated Proceedings otherwise than at a trial hearing (including but not limited to by considering or making reference to the content of the BMF Confidential Material for the purpose of preparing any applications, statements of case, witness statements, expert reports or skeleton arguments):
- i) such Party or lawyer acting on behalf of such Party (each a “**Permitted Discloser**”) shall only disclose BMF Confidential Material, on the terms set out in sub-paragraph (ii) below, to the following persons associated with a Party:
- 1) any Party (including any litigant-in-person) or director, officer or employee of a Party;
 - 2) any lawyer acting for a Party (including a barrister or a solicitor or other legal professional acting for a Party);
 - 3) any expert acting for a Party to the extent that the Permitted Discloser considers in good faith that it is necessary for such expert to provide a written opinion, or to prepare to testify or assist the Party in the prosecution or defence of the Consolidated Proceedings;
 - 4) any actual or prospective witness of a Party to whom the Permitted Discloser considers in good faith that it is necessary to disclose BMF Confidential Material for the purpose of taking evidence or taking instructions for the purpose of the Consolidated Proceedings;
 - 5) any e-disclosure provider acting for a Party for the purposes of being uploaded to an e-disclosure platform.
- ii) any disclosure of BMF Confidential Material by a Permitted Discloser pursuant to sub-paragraph (i) above shall be subject to the recipient confirming in signed writing (including by an electronic signature) by execution of an agreement in the form of Schedule 1 to this Order that:

- 1) he or she agrees to abide by the terms of this Order, a copy of which has been provided to him/her;
 - 2) he or she will keep confidential and not disclose the content of any BMF Confidential Material to any third party save in so far as permitted by this Order;
- c) where any Party wishes to include reference to the content of BMF Confidential Material in a document to be filed or served in the Consolidated Proceedings (including but not limited to any application, statements of case, witness statement, expert report or skeleton argument), such Party:
- i) shall prepare and file at Court a redacted version of such document(s), which does not reveal or disclose that content;
 - ii) prepare an unredacted version of the relevant document(s) clearly marked as “confidential” to be served on any other Party and, if necessary for a hearing, to be filed with the Clerk to Mr Justice Andrew Baker (or such other Judge before whom the relevant hearing will take place);
- d) unless otherwise ordered, the following documents shall only be included in confidential hard copy or electronic bundles for the purposes of the Consolidated Proceedings with access restricted to persons covered by sub-paragraph 4(b)(i) of this Order:
- i) the BMF Confidential Exhibit to the 13th Witness Statement of Alan Sheeley dated 18 December 2020;
 - ii) any other document which contains an unredacted reference to the content of BMF Confidential Material (including any document(s) covered by sub-paragraph 4(c)(ii) above).
- e) any non-party wishing to obtain a copy of any of the documents referred to in sub-paragraph 4(d) above must file an application notice in accordance with CPR Part 23 and serve it on the Claimant via their solicitors Pinsent Masons, giving at least 14 days’ notice of any such application.

5. The Claimant may redact the following information in the BMF Confidential Material:
 - a) The name of any BMF or Local German Authority employee, officer or agent. Where the name of a BMF or Local German Authority employee, officer or agent is redacted in any BMF Confidential Material, the redacted name shall be replaced by a cipher; and
 - b) The address, email address, telephone number, or other contact information but not including the name of the authority for any BMF or Local German Authority employee, officer or agent.
6. The above orders shall remain in place pending further order of the Court, in respect of which there shall be a general liberty to apply for any party in the Consolidated Proceedings.
7. Costs in the case.

Schedule 1 - Recipient Agreement (para 4(b)(ii))

I have been provided with a copy of the Order of Mr Justice Foxton dated 29 January 2021 in the matter of Skatteforvaltningen v Solo Capital Partners (in Special Administration) and others (Court File Nos. CL-2018-000297, CL-2018-000404, CL-2018-000590, CL-2019-000487, and CL-2020-000369) (the "**Order**").

I agree to abide by the terms of the Order. I also agree to keep confidential and not disclose the content of any BMF Confidential Material (as defined in the Order) to any third party save in so far as permitted by the Order.

SIGNED this ___ day of _____, 20__.

(Print Name)

(Signature)