

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil
Case No. 23/2928 SC/CIVL

BETWEEN: Michael Karl Klatt
Claimant

AND: API Limited (10825)
First Defendant

AND: Waterford Limited (3375)
Second Defendant

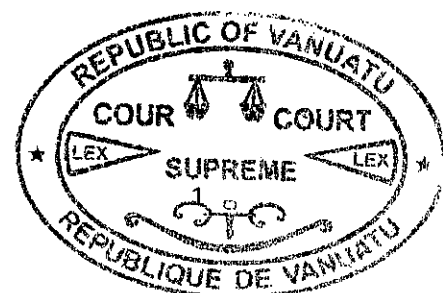
AND: Mark William Conway trading as
Conway & Co.
Third Defendant

AND: Mark David Morton
Fourth Defendant

AND: Vanuatu Financial Services
Commission
Interested Party

Date: 18 March 2025
Before: Justice V.M. Trief
Counsel: Claimant – Mrs M.N. Ferrieux Patterson & Ms L. Raikatalau
First Defendant – Mr J.C. Malcolm
Second & Third Defendants – Mr M. Hurley
Fourth Defendant – Mr N. Morrison
Interested Party – in person

DECISION AS TO CLAIMANT'S APPLICATION TO LIFT STAY ORDERS

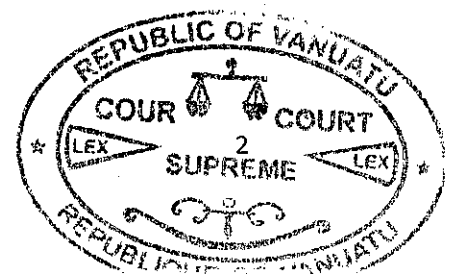


A. Introduction

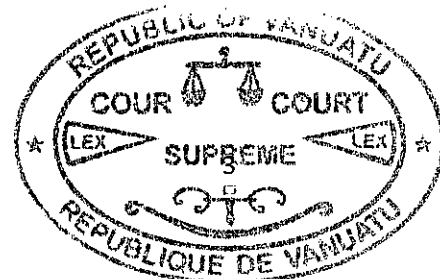
1. This was a contested application by the Claimant Michael Karl Klatt to lift or vary the stay orders dated 23 July 2024. Those stay orders stayed the present proceeding CC 23/2928 pending the determination of the Defendants' appeal in the Court of Appeal CAC 24/2757 and the determination of CC 24/926 filed by the Fourth Defendant Mark David Morton in the Supreme Court.

B. Background

2. The Claimant Mr Klatt is the Administrator with the Will of the estate of Malcolm Roy Smith (deceased) ('Mr Smith').
3. Mr Smith died in Australia on 4 April 2021. He was ordinarily resident in Papua New Guinea.
4. Mr Klatt is the administrator of the will of Mr Smith pursuant to an order of the Supreme Court of Queensland dated 18 May 2022 and to Letters of Administration with a Will attached dated 25 May 2022.
5. The Letters of Administration with a Will were resealed in the Supreme Court of Vanuatu by Order dated 31 August 2023 in Probate Case No. 2027 of 2023 (the 'reseal proceedings').
6. The First Defendant API Limited (10825) ('API') is an international company registered in Vanuatu under the *International Companies Act* [CAP. 222] (the 'Act'). Its records are confidential: ss 125A and 125B of the Act.
7. The Second Defendant Waterford Limited (3375) is a local company and a Director Services Provider under the Company and Trust Services Providers Act No. 8 of 2010 ('CTSP Act') and is the registered agent of API ('Waterford'). Waterford as the registered agent of API must be presumed to have extensive and relevant records of API about its membership.
8. The Third Defendant Mark Conway trades under the business name Conway & Co, a general services provider under the CTSP Act and at various times since at least 1992, has provided and continues to provide general corporate services to API. He is a director of Waterford.
9. The Fourth Defendant Mark Morton has been the Authorised Representative for API, appointed by API subsequent to Mr Smith's death.



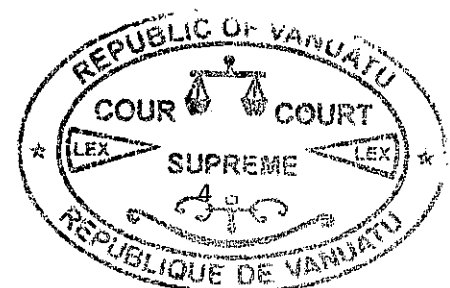
10. In order to satisfactorily administer the Will of Mr Smith, Mr Klatt is both entitled to and obliged to enquire into the assets of Mr Smith's estate at his death, which included his interest in API. Mr Klatt made approaches to the Defendants to provide information concerning API's shareholdings and membership at the time of Mr Smith's death but was denied all information. Hence Mr Klatt filed the Claim in the present proceedings on 27 October 2023. He also applied to the Court for an order for disclosure of those records.
11. The disclosure application resulted in 2 sets of Court Orders. The first dated 17 January 2024 directed the disclosure of significant documentation by each Defendant. The second Orders dated 8 May 2024 moderated the 17 January 2024 to some extent but otherwise maintained those Orders (as a result of the Defendants' Application to Revoke the 17 January 2024 Orders).
12. The Defendants instructed their lawyers to appeal the 17 January 2024 and 8 May 2024 Orders to the Court of Appeal. I directed that they make their applications for leave to appeal those interlocutory decisions directly to the Court of Appeal as the applications would be contentious: Stage Four Ltd (as Trustee for the Montreal Trust) v 100% Pur Fun Ltd [2024] VUCA 3 at [13].
13. In the meantime, on 25 March 2024, Mr Morton filed the Claim in CC 24/926 seeking to have the resealing of the Letters of Administration by the Court on 31 August 2023 revoked pursuant to Rule 24(a) of the *Succession of Probate and Administration Regulation 1972* on the basis that the grant was obtained unlawfully.
14. The Defendants also filed in the present proceedings CC 23/2928 on 7 June 2024 an application for security for costs and an application to stay proceeding. I listed those applications for hearing on 23 July 2024.
15. On 5 July 2024, Mr Klatt filed in CC 24/926 Defendant's Application for Security for Costs.
16. Having heard counsel in the present proceeding CC 23/2928, I issued the following Minute and Orders dated 23 July 2024 staying both the present proceeding CC 23/2928 and the disclosure orders dated 17 January 2024 and 8 May 2024 pending the determination of the Defendants' application for leave to appeal filed in the Court of Appeal and the determination of CC 24/926 (and the application for security for costs was stood over pending the determination of CC 24/926 and the Defendants moving the Court as and when required following such determination):
 1. *Having considered the Defendants' Application to Stay Proceeding filed on 7 June 2024 (the 'Application'), the Sworn statement of Mark William Conway filed on 7 June 2024, the Sworn statement of Mark David Morton filed on 10 June 2024, and the Claimant's Response to Stay Application filed on 5 July 2024, and having heard counsel, I granted the Application for the following reasons:*



- a) *The Defendants have filed an application for leave to appeal against the interlocutory orders dated 17 January 2024 and 8 May 2024 (disclosure orders in respect of an international company), in Civil Appeal Case No. 1757 of 2024 in the Court of Appeal (the 'appeal application');*
- b) *Unless the stay is granted in the terms sought, irreversible disclosure may be made in relation to an international company which otherwise would not have been required to be made (if the Defendants' contentions in the present proceeding and as to the appeal application are correct);*
- c) *The Defendants would therefore suffer considerable disadvantage if the disclosure orders and the present proceeding are not stayed;*
- d) *I agree with the Defendants' submission that the disadvantage to the Claimant, if the stay is ordered, does not outweigh the disadvantage to the Defendants, if a stay is not ordered given the potential for irreversible disclosure about an international company to be made compared to the delay to the Claimant discharging his duties as Administrator of the deceased's estate;*
- e) *For those reasons, I consider that both the Orders dated 17 January 2024 and 8 May 2024, and the present proceeding, should be stayed pending the determination of the appeal application;*
- f) *In addition, the Fourth Defendant has commenced proceedings in Civil Case No. 926 of 2024 ('CC 24/926') seeking to have the resealing of the Letters of Administration by the Court on 31 August 2023 revoked pursuant to Rule 24(a) of the Succession of Probate and Administration Regulation 1972 on the basis that the grant was obtained unlawfully;*
- g) *If the Fourth Defendant is successful in CC 24/926 and the 31 August 2023 Orders are revoked, the Claimant will no longer have any standing (locus standi) in the present proceeding therefore I consider that both the Orders dated 17 January 2024 and 8 May 2024, and the present proceeding, should also be stayed pending the determination of CC 24/926; and*
- h) *Finally, given the time and costs already incurred in the present proceeding, it is in all of the parties' interest that no further steps are taken to pursue disclosure under the Orders dated 17 January 2024 and 8 May 2024 until both the appeal application and CC 24/926 have been determined.*

2. *I then ordered as follows:*

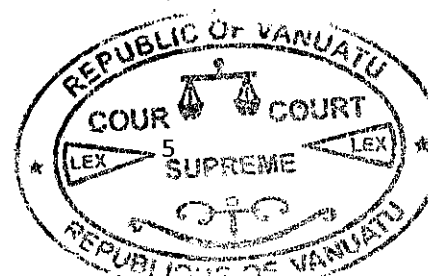
- a) *The present proceeding Klatt v API Limited; Civil Case No. 2928 of 2023 is **stayed** pending the determination of the Defendants' Application for Leave to Appeal filed with the Vanuatu Court of Appeal and the determination of CC 24/926 filed by the Fourth Defendant in the Supreme Court on 25 March 2024;*
- b) *The interlocutory Orders dated 17 January 2024 (as amended on 8 May 2024) are stayed pending the determination of the Defendants' Application for Leave to Appeal filed with the Vanuatu Court of Appeal and the determination of CC 24/926 filed by the Fourth Defendant in the Supreme Court on 25 March 2024; and*
- c) *The costs of the Application are reserved.*



3. *The Defendants' Application for Security for costs filed on 7 June 2024 is **stood over** pending the determination of CC 24/926 and the Defendants moving the Court as and when required following the determination of CC 24/926.*
17. By decision dated 16 August 2024, the Court of Appeal granted the Defendants leave to appeal but dismissed the appeal: *Api Ltd v Klatt [2024] VUCA 25*.
18. More interlocutory applications followed: on 28 August 2024, Mr Klatt as the Defendant in CC 24/926 filed Application to Consolidate Proceedings namely CC 24/926 and CC 23/2928, and on 24 September 2024, Mr Klatt as the Claimant in the present proceedings CC 23/2928 filed Application to Lift or Vary the Stay Orders dated 23 July 2024.
19. By decision dated 25 November 2024, I declined and dismissed Mr Klatt's (Defendant's) application filed on 5 July 2024 in CC 24/926 for security for costs: *Morton v Klatt [2024] VUSC 348*.
20. By decision dated 31 December 2024 in CC 24/926, I declined and dismissed Mr Klatt's (Defendant's) Application filed on 28 August 2024 in CC 24/926 to Consolidate Proceedings: *Morton v Klatt [2024] VUSC 397*.
21. I now determine Mr Klatt's Application filed on 24 September 2024 to Lift or Vary the Stay Orders dated 23 July 2024 (the 'Application').

C. The Application

22. The grounds for the Application are as follows:
 - (i) That the matters in paras 1(a)-(e) of the Minute and Orders dated 23 July 2024 are now spent, the Defendants' appeal in CAC No. 24/1757 was dismissed and that disclosure can be ordered;
 - (ii) That it is just and fair for the stay orders to be lifted when assessing paras 1(f)-(g) of the Minute and Orders dated 23 July 2024 against the overriding objective of the *Civil Procedure Rules* ('CPR') and the observations of the Court of Appeal in *Api Ltd v Klatt [2024] VUCA 25* (decision dated 16 August 2024) at [11] (from second sentence), [12], [18] (last sentence), [28] and at [31]; and
 - (iii) That the overriding objective of the CPR requires:
 - (a) *the Court to attend to the proportionality principle, by assessing the conduct of the parties, in particular as to the steps already available to the Defendants under the Rules and in this CC 23/2928 claim, including for the filing of Defences (r. 4.5), evidence (Part 11), preliminary issues (12.4), questions of law (12.8), for other steps including r3.3 and r. 3.4 for joining*

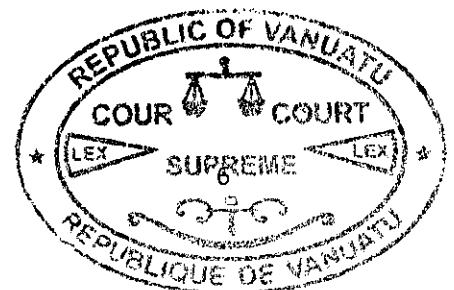


of and consolidating proceedings **and** in respect of Mark Morton, where a counter-claim for false and misleading statements could have been filed instead of separate proceedings.

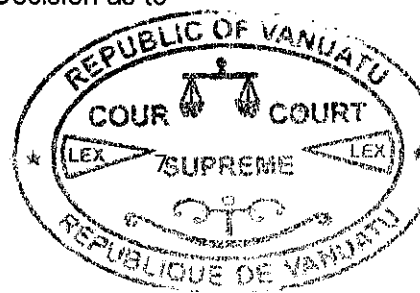
- (b) ...
- (c) *Putting the parties at an equal footing, in the situation where the CC 24/926 attacks the credibility of Mr Klatt in the probate reseal while at odds with paras [11] and [18] of the Appeal Court decision in CAC 24/1757.*
- (d) *The issue of credibility raised in that way in CC 24/926 is disguised as if a genuine challenge to the probate reseal when it is really a frivolous and vexatious claim.*
- (e) *Under the circumstances there are competing issues of credibility if witnesses that ought to be equally placed through a trial of all issues presented in both CC 23/2928 and CC 24/926.*
- (f) *The fair and effective conduct of the proceedings though consolidation of claims.*

23. On 4 February 2025, the Claimant filed Further Grounds for Application to Lift or Vary Stay Orders setting out the following:

- (i) That paras 6(b), 7-10 of the grounds of the Application are redundant to as they were directed to Mr Klatt's Application filed in CC 24/926 to Consolidate Proceedings, which the Court has already determined by its decision dated 31 December 2024;
- (ii) Setting out a further ground for the Application, namely, that there has been a movement of shares out of API immediately after the Court of Appeal judgment dated 16 August 2024 and Mr Klatt's stay application filed on 28 September 2024 which will make it more costly for Mr Smith's estate to trace in Singapore where those shares were transferred on 23 October 2024. The particulars given are shares held by API over Asia Pacific Aerospace Pty Ltd (an Australian company) were transferred to Tomen Pte Ltd in Singapore;
- (iii) It was alleged that this further ground, "*is crucial and requires urgent attention*" as there is new evidence that the Defendants are moving shares out of the jurisdiction of Australia and out of the known API group of companies. In addition, that there is an urgent need to progress this matter and that any further delay may endanger the other assets of API held in other companies; and
- (iv) That there is "*more urgent need*" to lift or vary the stay orders to allow disclosure to the Court specifically anticipated by the Court of Appeal at [33] of its judgment where the Court stated:

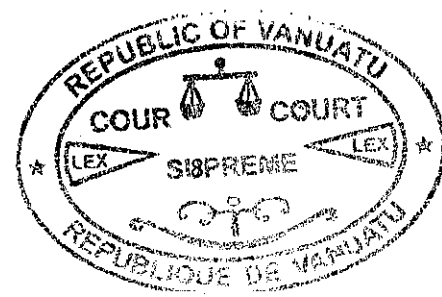


33. Counsel for Mr Klatt also sought an order for prompt disclosure. We are aware that the primary judge has suspended the disclosure obligations pending the outcome of this appeal and of separate proceedings challenging the resale proceedings validity. So any variation of that suspension order is a matter for the primary judge. We note that, having regard to Section 125B of the Act, the Court could direct the disclosure obligations to be progressed by the disclosure being made to the Court but not otherwise released to Mr Klatt until, and depending on, the resolution of the resale proceedings challenge. That would facilitate a more speedy disclosure, if disclosure to Mr Klatt is finally ordered.
24. The Sworn statement of Breanna Emelee was also filed on 4 February 2025 in support of the Further Grounds.
25. The Defendants opposed the Application by submissions filed on 24 February 2025. On 11 March 2025, the Claimant filed submissions in reply.
26. No submissions have been filed by the Interested Party the Vanuatu Financial Services Commission ('VFSC').
- D. Consideration
27. Mr Klatt is seeking to lift or vary the Orders dated 23 July 2024 Orders which stayed the present proceeding CC 23/2928 and the disclosure Orders dated 17 January 2024 and 8 May 2024 pending the determination of: (i) the Defendants' application for leave to appeal in the Court of Appeal; and (ii) the proceeding CC 24/926.
28. Whilst the application for leave to appeal has been determined, CC 24/926 has not. Thus, one of the conditions for the lifting of the stay orders has not been fulfilled.
29. That said, Mr Klatt may apply for the stay orders to be lifted or varied where one of the conditions of the stay orders has not been fulfilled. However, such application must be founded on a material change of circumstances since the original application was heard, or the discovery of new material which could not reasonably have been put before the court on the hearing of the original application: *Brimaud v Honeysett Instant Print Pty Ltd* (1988) 217 ALR 44, 46–47; *Woods v Sheriff of Queensland* (1895) 6 QLJ 163 at 164-5; *Hutchinson v Nominal Defendant* [1972] 1 NSWLR 443 at 447-8; *Lister v Mundell* (1799) 1 Bos. & Pul. 427.
30. The first ground of the Application summarised above is that, "the matters in paras 1(a)-(e) of the Minute and Orders dated 23 July 2024 are now spent, the Defendants' appeal in CAC No. 24/1757 was dismissed and that disclosure can be ordered." This ground overlooks that disclosure orders have already been made but have been stayed pending not just the Defendant's application for leave to appeal in the Court of Appeal but also the determination of CC 24/926 for the reasons given at para. 1(g) of the Minute and Orders dated 23 July 2024 and at para. 6(c) of the Decision as to



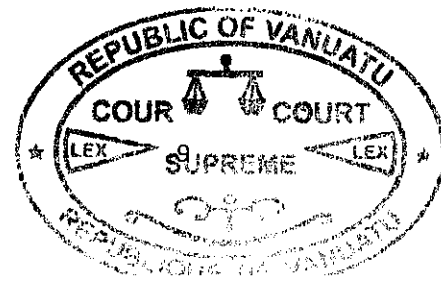
Defendant's Application to Consolidate Proceedings dated 31 December 2024 in CC 24/926.

31. In the decision dated 31 December 2024, I determined at para. 6(c) that the present proceedings CC 23/2928 and CC 24/926 raise different questions. I had previously noted at para. 1(g) of the Minute and Orders dated 23 July 2024 that if Mr Morton was successful in CC 24/926 and the 31 August 2023 reseal orders were revoked, that Mr Klatt would no longer have any standing (*locus standi*) in CC 23/2928 therefore I considered that both the disclosure orders and CC 23/2928 should be stayed pending the determination of CC 24/926.
32. No Amended Claim has been filed in either CC 23/2928 or CC 24/926. Accordingly, the nature of each Claim remains unchanged. It follows that there has been no material change of the circumstances that the outcome of CC 24/926 will determine whether or not Mr Klatt continues to have standing in CC 23/2928.
33. For the foregoing reasons, I dismiss the first ground of the Application.
34. The second ground of the Application summarised above is that, *"it is just and fair for the stay orders to be lifted when assessing paras 1(f)-(g) of the Minute and Orders dated 23 July 2024 against the overriding objective of the Civil Procedure Rules ('CPR') and the observations of the Court of Appeal in Api Ltd v Klatt [2024] VUCA 25 (decision dated 16 August 2024) at [11] (from second sentence), [12], [18] (last sentence), [28] and at [31]."*
35. I note as follows in relation to the passages of the Court of Appeal judgment referred to:
 - a) The Court of Appeal's observations at [11]-[12] of its judgment concluded with it making the point that, *"Mr Klatt is both entitled to and indeed obliged to enquire into the assets of Mr Smith's estate at this death including his interest in API."* I have adopted that description of Mr Klatt's duty and claim in the present decision;
 - b) The last sentence in [18] of the judgment does not assist Mr Klatt as it was simply an observation that the factual assessments that I made of the quality of the materials supporting the disclosure application, *"would not routinely be the subject of leave to appeal from an interlocutory decision."* That point is not relevant to the present application to lift or vary the stay orders which were made on 23 July 2024;
 - c) In [18] of the judgment, the Court of Appeal held that there was no foundation for the applicants' (Defendants') contention that this Court is prohibited from making a disclosure order and stated that the contrary is



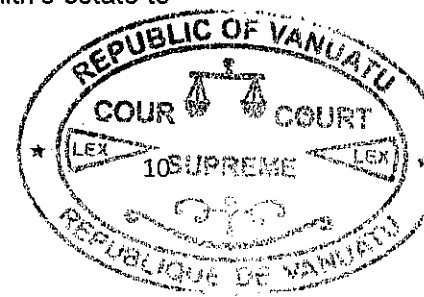
the case as provided in s. 125 of the *International Companies Act*. That point also does not assist Mr Klatt in the present application to lift or vary the stay orders which were made on 23 July 2024;

- d) As to [31] of the judgment, the Court of Appeal held that given the assertion by Mr Conway in his sworn statement that he is the sole shareholder of API and that there is significant material which suggests that Mr Smith was either the sole shareholder or a significant shareholder of API shares, and that he was actively involved in its management up to the time of his death, it was both appropriate and necessary for this Court in those circumstances to require disclosure for the purposes of determining the state of affairs at the time or and prior to Mr Smith's death, and then to explore the extent to which or the manner in which Mr Conway came to be the sole shareholder of API. It concluded that it would be an affront to justice, in those circumstances, to preclude the Court from having the power to direct the disclosure which it has directed. These observations of the Court of Appeal are directed to this Court's power to order disclosure. Disclosure has been ordered. However, given the filing of the proceedings in CC 24/926, those disclosure orders have been stayed pending the determination of CC 24/926 for the reasons given in the Minute and Orders dated 23 July 2024. With respect, the Court of Appeal judgment at [31] also does not assist Mr Klatt in the present application to lift or vary the stay orders dated 23 July 2024; and
- e) As I have already stated, the nature of the Claim in CC 24/926 and the outcome of CC 24/926 being determinative as to whether or not Mr Klatt will continue to have standing in CC 23/2928 – which I summarised in paras 1(f)-(g) of the Minute and Orders dated 23 July 2024 – remain unchanged. Accordingly, there has not been any material change in circumstances since the original application was heard which resulted in the stay orders dated 23 July 2024.
36. Defendants' counsel submitted that it would be inconsistent with the Court's active case management duties to lift (entirely) the stay orders as the proceedings are fundamentally different, requiring the Court to "*decid[e] the order in which issues are to be resolved*". CPR r. 1.4 and 1.4(2)(d). They also submitted that the lift of the stay orders and the running of parallel cases whilst discrete outstanding issues remain (which are unique to each case) would not create efficiencies in time or cost, nor be consistent with the overriding objective of the CPR. I agree.
37. For the foregoing reasons, I reject the second ground of the Application.
38. The third ground of the Application summarised above as to what the overriding objective of the CPR requires is from para. 6 of the Application. In Mr Klatt's Further Grounds filed on 4 February 2025, it was stated that para. 6(b) is redundant as it



related to the Application filed in CC 24/926 to Consolidate CC 23/2928 and CC 24/296 which has already been determined by the decision dated 31 December 2024. However, my reading of the remaining paras 6(a) and (c)-(f) is that those paras are also submissions directed at the consolidation application. They are not relevant to the present application to lift or vary the stay orders dated 23 July 2024.

39. The wholesale lifting of the stay orders resulting in the progression of CC 23/2928 simultaneously with CC 24/926 would necessarily require the parties to incur costs and utilise Court resources in proceedings that would have to be instantly discontinued if the outcome of CC 24/926 meant that Mr Klatt lost his standing (*locus standi*). I accept the Defendants' submissions that this would cause prejudice to them but would add, with respect, that this would also cause prejudice to Mr Klatt.
40. For the foregoing reasons, I reject the third ground of the Application.
41. There is an allegation in the Further Grounds for the Application filed on 4 February 2025 that, "*there has been a movement of shares out of API Limited immediately after the Court of Appeal decided on 16 August 2024 to allow disclosures of API's company records.*" However, the sworn statement in support by Breeanna Emelee contains no evidence that the shareholding of API has changed. The Defendants' counsel submitted that if there is a concern that assets are being disseminated out of API, the correct procedure is to bring an application for freezing assets: CPR rule 7.8. I agree. No such application has been brought.
42. The particulars provided in the Further Grounds appear to refer to the sale of shares held by API in Asia Pacific Aerospace Pty Ltd (an Australian company) on 18 November 2024. Defendants' counsel submitted that this sale of shares is not relevant to the disclosure application (presumably the question of whether or not to lift or vary the disclosure orders). I agree. The Claim in CC 23/2928 is concerned with whether or not the beneficial ownership of API is an interest that Mr Smith held at the time of his death and if yes, whether or not this amounted to a revocable trust held by Waterford in Mr Smith's favour during his lifetime, which upon his death became irrevocable and subject only to beneficiaries' rights and permissions: see *Klatt v API Ltd (10825) [2024] VUSC 165* at [97]-[98]. Therefore, the sale of shares held by API (as opposed to the shareholding of API itself) is not relevant to the issues raised by the Claim in CC 23/2928 and is also not relevant to the disclosure orders currently stayed nor to the question of whether or not those stay orders should be lifted or varied.
43. There is also an allegation in the Further Grounds for the Application filed on 4 February 2025 that the movement of shares out of API will make it more costly for Mr Smith's estate to trace in Singapore where those shares were transferred. However, Mrs Emelee's sworn statement does not contain any evidence that the sale of shares by API would in any way make it more costly for Mr Smith's estate to



trace in Singapore. In any event, the purpose of the disclosure orders is to allow access to API's records, not to 'trace' into foreign shares.

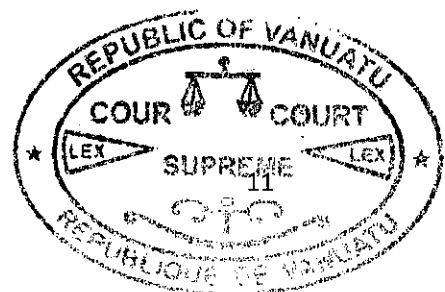
44. It was also alleged that this further ground, "*is crucial and requires urgent attention*" as there is new evidence that the Defendants are moving shares out of the jurisdiction of Australia and out of the known API group of companies. As already stated, the sale of shares held by API is not relevant to the question of whether or not the stay orders should be lifted or varied.
45. Mr Klatt has alleged via para. 4 of Mrs Emelee's sworn statement that Mark Morton and Mark Conway's names appear in the Australian online companies register, being the extract attached as "Annexure A" to that sworn statement. However, although Mr Morton's name is disclosed on that extract, Mr Conway's is not.
46. The final ground of the Application to be addressed is to the effect that there is "*more urgent need*" to lift or vary the stay orders to allow disclosure to the Court specifically anticipated by the Court of Appeal at [33] of its judgment where the Court stated:

33. *Counsel for Mr Klatt also sought an order for prompt disclosure. We are aware that the primary judge has suspended the disclosure obligations pending the outcome of this appeal and of separate proceedings challenging the resale proceedings validity. So any variation of that suspension order is a matter for the primary judge. We note that, having regard to Section 125B of the Act, the Court could direct the disclosure obligations to be progressed by the disclosure being made to the Court but not otherwise released to Mr Klatt until, and depending on, the resolution of the resale proceedings challenge. That would facilitate a more speedy disclosure, if disclosure to Mr Klatt is finally ordered.*

47. The Defendants' counsel submitted that Mr Klatt was again asserting that the Court of Appeal 'suggested' at [33] of its judgment that the proceedings be consolidated to allow controlled disclosures to be made. However, this reference to "controlled disclosures" was in para. 8 of the Application and as I have already noted above, Mr Klatt accepted that that ground was redundant as it related to the consolidation application which has already been determined.
48. I understand the Court of Appeal's suggestion at [33] of its judgment to assist with the interpretation of s. 125B of the *International Companies Act* which provides as follows:

125B. (1) *If a company record under section 125A is likely to be disclosed in a Court proceeding, the Court may decide whether:*

- (a) *the disclosure is to be made in open Court; and*
- (b) *any confidential company information is to be disclosed in any written judgment, orders or minutes of the proceeding.*



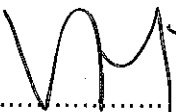
(2) *Subject to subsection (1), civil or criminal proceedings relating to international companies commenced in any Court:*

- (a) *under the provisions of this Act; or*
- (b) *for the purpose solely of determining the rights or obligations of officers, members or holders of debentures; or*
- (c) *relating to any appeal from the proceedings referred to in paragraphs (a) or (b),*

may be held in an open Court.

49. Defendants' counsel's submission was that if the Court were to extraordinarily allow disclosure (which they submitted it should not, for the reasons in their submissions), then disclosure should be made to the Court without granting access to Mr Klatt until the question of locus standi is resolved through the determination of CC 24/926. This submission of the Defendants is in accordance with the Court of Appeal's suggestion at [33] of its judgment.
50. I have not been persuaded by any of the other grounds advanced on Mr Klatt's behalf however, as to this ground, there is common ground between Mr Klatt and the Defendants as to the course suggested by the Court of Appeal in [33] of its judgment.
51. Accordingly, I am prepared to **vary** the stay orders dated 23 July 2024 to the limited extent of **directing** that the Defendants' and the VFSC's disclosure obligations be progressed by the disclosure being made to the Court **by 4pm on 2 April 2025** but not otherwise released to Mr Klatt until, and depending on, the determination of CC 24/926. This will facilitate a more speedy disclosure, if disclosure to Mr Klatt is finally ordered. I so order.
52. The costs of the Application are reserved.

**DATED at Port Vila this 18th day of March 2025
BY THE COURT**


.....
Justice Viran Molsa Trief

