



**Courts and
Tribunals Judiciary**

SAM GOOZÉE

DISTRICT JUDGE (MAGISTRATES' COURTS)

**National Crime Agency
(Applicant)**

v.

**Marinette Soumery
(Respondent)**

**In the matter of an application for forfeiture of frozen funds under
s.303Z14 Proceeds of Crime Act 2002 (POCA)**

Introduction

1. This is an application for forfeiture of \$258,656.24 (plus any accrued interest) contained in the a UK based Bank of Baroda Account in the Respondents' name. Account number 91002702. Sort Code 94-10-01.
2. An Account Freezing Order was made at Westminster Magistrates' Court on the 12th March 2024 in relation to the funds. It was subsequently varied by way of a three month extension on the 9th September 2024. The application for an Account Forfeiture Order was made on 27th November 2024 and the account has thereafter remained frozen until determination of the application.
3. I received 3 bundles of evidence from the Applicant and Respondent
4. At the final hearing I heard live evidence from Senior NCA Officer Brendan Bannon who adopted his three statements together with exhibits as evidence in chief and was cross examined. I also received live evidence on behalf of the

Respondent from Varun Zaiwalla who also adopted his affidavit, statements and exhibits and was cross examined. I have also considered the various documentary evidence with the hearing bundle.

5. I do not intend to summarise all the evidence which has been provided to me but in my findings will refer to just the evidence which I consider relevant and probative to the challenges and issues I must determine. It does not mean I have not considered all the evidence and documents submitted by the parties.
6. I did not receive live evidence from the Respondent Marinette Soumery, or her witness Mukesh Valabhji. Miss Soumery is resident in the Seychelles and Mr Valabhji was in prison awaiting trial in the Seychelles, but now on bail. When their statements were served in these proceedings the NCA gave notice that they required Marinette Soumery and Mukesh Valabhji to be called for cross examination under Rule 4 of the Magistrates' Court (Hearsay Evidence in Civil Proceedings) Rules 1999. I gave leave at a Case Management Hearing on the 6th October 2025 for cross examination on the content of their affidavits. However, such arrangements for evidence to be provided by video link would be a matter for the parties to provide confirmation that no objection was taken by the authorities in the Seychelles. It appears international letters of request were sent, however the process of receiving permission from the Seychelles Supreme Court were not completed by the NCA after they became aware these witnesses would not be called. So, they have not been cross examined on the contents of their affidavits.

The Law

7. This is a civil application and the burden is on the NCA and the standard of proof is the civil standard.
8. Section 303Z14(4) Proceeds of Crime act 2002 [POCA 2002] provides that a Court may order forfeiture of the funds in the accounts, or any part of it, if it is satisfied that it is:

- a) "recoverable property", or
 - b) "is intended by any person for use in unlawful conduct"
9. For the purposes of s.303Z14(a) "*recoverable property*" is defined as "*property obtained through unlawful conduct*". Section 242(2)(b) POCA 2002 states that "*..in deciding whether any property was obtained through unlawful conduct...it is not necessary to show that the conduct was of a particular kind if it is shown that the property was obtained through one of a number of kinds, each of which would have been unlawful conduct.*"
10. For the purposes of s.303Z14(4)(b) the relevant test is in the judgment of *Sandhu v. Chief Constable of West Midlands Police [2019] EWHC 3316 (admin) at para [29]*. The Court ruled that forfeiture may be ordered if the court is satisfied that the money originated from some form of unlawful conduct, even where the exact nature of the conduct cannot be identified. The Court may infer unlawful conduct "*by evidence of the circumstances in which the property is handled which are such as to give rise to the irresistible inference that it can only be derived from crime*". Once the Court is satisfied that the cash has come from criminal activity, the appellant's intended use of it would amount to money laundering offences and therefore the cash is criminal property and the appellant's use of it would be "unlawful conduct".
11. In *SOCA v. Namli & another EWHC 1200 (QB) at [49]* the court stated "*putting this in crude terms, and not forgetting the complainant's burden of proof, if a transaction looks like money laundering and has not been satisfactorily explained by a defendant who ought to be in a position to explain it if there is an innocent explanation, that is probably what it is*".
12. In *SCOA v. Namli and Topinvest Holding International Ltd [2013] EWHC 1200 (QB)* emphasised that the standard of proof in these matters is the balance of probabilities. However, in view of the serious nature of an allegation of unlawful conduct and the serious consequences which follow from such a

finding, the courts have repeatedly emphasised that careful and critical consideration must be given to the evidence relied on and that cogent evidence will be required in order for such an allegation to be established.

13. POCA also affords certain defences under which property should not be considered recoverable property. A general exception includes a situation where a person disposes of recoverable property and the person who obtains it does so in good faith, for value and without notice of it being recoverable property. In those circumstances the property ceases to be recoverable. Section 308(1) POCA. General exceptions

Initial challenge - Limitation Period

Respondent's submissions

14. The Respondent submits that civil forfeiture proceedings brought under the summary procedure in Chapter 3B of POCA are subject to the standard 6-year limitation period in s.9(1) of the Limitation Act 1980 (LA 1980). Section 9 applies to "*an action to recover any sum recoverable by virtue of any enactment*", which includes account forfeiture proceedings under POCA.
15. The Respondent contrasts Chapter 3B forfeiture with civil recovery under Chapter 2 Part 5 of POCA, where Parliament has expressly disapplied ordinary limitation periods and substituted a 20-year limitation period via s.27A LA 1980. The existence of s.27A demonstrates that, where Parliament intended a longer period to apply under POCA, it expressly said so. No such extension applies to summary forfeiture.
16. The Respondent submits that time begins to run when the property is obtained, not when the NCA becomes aware of it. This follows from the wording of s.9 LA 1980 ("*when the cause of action accrued*"). That contrast with other limitation provisions that turn on knowledge and Sections 27A–27B LA 1980, which define accrual for POCA purposes as "*when the property is so*

obtained". Accordingly, it is submitted that limitation is not postponed by late discovery of the account or funds. It is submitted that the wording of s.27A(4) in terms of when a cause of action accrues must apply to "any recoverable property" not just by limitation to Chapter 2 Part 5 and recovery in the High Court.

17. Therefore, by application to the facts of this case,

- a) The last transfer into the account occurred on 21 November 2007.
- b) The limitation period therefore expired no later than 21 November 2013.
- c) The NCA's application (commenced many years later) is therefore statute-barred, regardless of when the NCA was notified by the Seychelles authorities.

18. The Respondent submits that the NCA is wrong to rely on the 6-month time limit in s.127 Magistrates' Courts Act 1980 (MCA 1980), because these are not criminal proceedings, even if procedurally treated as a "complaint". Section 127 applies only "*except as otherwise expressly provided*", and limitation for sums recoverable by statute is expressly governed by the LA 1980. The NCA's approach would lead to an absurd result, whereby summary forfeiture could be brought decades after acquisition, while High Court civil recovery is capped at 20 years.

19. The NCA alternatively relies on deliberate concealment under s.32(1)(b) LA 1980 to postpone limitation. The Respondent submits this argument fails in law and fact, relying heavily on *Potter v Canada Square Operations Ltd* [2023] UKSC 41. "Deliberate" and "concealment" are distinct elements and both must be proved. Concealment requires intentional hiding, by act or omission. Recklessness is insufficient — the defendant must intend that the claimant does not discover the relevant facts. The burden of proof lies on the NCA.

20. Again, applying to the facts of this case:

- a) The account was opened openly, with full "Know your customer" documentation required under anti-money laundering compliance;
- b) The banking relationship was normal, transparent, and conducted in the Respondent's own name;
- c) The absence of account activity is consistent with savings, not concealment or laundering;
- d) There is no evidence that the Respondent deliberately chose not to inform the NCA (or its predecessors) in order to prevent proceedings.

21. Authorities relied on by the NCA (e.g. *Szepietowski, Gale*) are said to be factually distinguishable, involving active dishonesty, which is absent here.

22. Finally, the NCA argues that limitation does not apply where forfeiture is sought on the basis of intended future unlawful conduct under s.303Z14(4)(b) POCA. The Respondent submits this is misconceived:

- a) Section 9 LA 1980 still applies to claims for sums recoverable by statute;
- b) Time would run from the point when the funds were first held with the alleged unlawful intent;
- c) On the NCA's own case, that intent must have existed by 21 November 2007 at the latest, producing the same limitation expiry;
- d) In any event, s.32 deliberate concealment would still need to be proved, which the NCA cannot do.

23. In conclusion, the Respondent submits that the entire forfeiture application is statute-barred under s.9 LA 1980. The Court is therefore required to refuse the application without reaching the merits, unless limitation can lawfully be displaced, which, the Respondent argues, it cannot.

Applicant's submissions

24. The primary position of the NCA is that limitation is governed by s.127 Magistrates' Courts Act 1980 not the Limitation Act 1980. Account forfeiture proceedings under s.303Z14 POCA are treated as "complaints" under the Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017. Section 127 MCA 1980 therefore applies, imposing a 6-month time limit from when the "matter of complaint arose".
25. When the "matter of complaint" arose. The NCA submits that the "matter of complaint" did not arise when the funds were deposited (2001–2007), but when the NCA considered it had sufficient evidence to satisfy the statutory forfeiture test under s.303Z14 POCA. The forfeiture application was made on 27 November 2024, within six months of the NCA reaching that conclusion. The NCA says it was lawfully investigating under an Account Freezing Order (AFO) from March 2024. An AFO is characterised as a preliminary investigatory step until late 2024, the NCA claims it had reasonable suspicion only, not sufficient grounds for forfeiture. Accordingly, the forfeiture application was made in time under s.127 MCA 1980.
26. Even if the Court rejects s.127 MCA 1980 and holds that the Limitation Act 1980 applies, the NCA submits the claim is still in time. s.9 LA 1980 provides a 6-year period for actions to recover sums recoverable by statute. The 20-year extension in s.27A LA 1980 applies only to High Court civil recovery, not Magistrates' Court forfeiture. The NCA suggests this statutory structure supports its primary case that s.127 MCA 1980 is intended to govern Magistrates' Court forfeiture.
27. If the Limitation Act 1980 applies, the NCA argues that s.32 LA 1980 must also apply, postponing the start of limitation. The NCA relies on *ARA v Szepietowski* [2007] EWCA Civ 766 and *SOCA v Gale* [2009] EWHC 1015 (QB), submitting that s.32 applies to in rem recovery proceedings. Time does

not begin to run until the authority has discovered or could reasonably have discovered both the unlawful conduct and the existence of recoverable property. The Respondent is said to have deliberately concealed the existence of the Bank of Baroda account, and the true source of the funds. Factors relied upon include:

- a) Long-term inactivity of the account (said to be "hidden");
- b) Account opened in a different jurisdiction;
- c) Involvement of third parties unconnected to the Respondent;
- d) Attempts to add a company (KJUK) as a signatory;
- e) Failure to explain the source of funds to the bank;
- f) Failure to provide explanations during the frozen funds investigation until after forfeiture proceedings were initiated.

28. These matters are said to support an inference of deliberate concealment within s.32(1)(b). The NCA submits that it did not have the knowledge required to bring proceedings until 2023:

- a) Earliest awareness of the account: May 2023 (Bank of Baroda disclosure);
- b) Identification of the funds as potentially subject to an AFO: October 2023;
- c) AFO application: 5 February 2024;
- d) Forfeiture application: 27 November 2024.

29. On this analysis, limitation only began to run in 2023 at the earliest, so the proceedings are comfortably within six years.

30. Finally, the NCA submits that limitation cannot apply because the application is based on intended future unlawful conduct under s.303Z14 POCA. Intended

use for unlawful conduct is said to be continuing for limitation purposes. The NCA argues:

- a) From the moment of deposit until now, the funds have been “concealed”;
- b) Continued concealment constitutes an ongoing offence under s.327 POCA;
- c) Any future use would necessarily involve money laundering;
- d) Accordingly, unlawful conduct is continuing, and limitation cannot bar the application.

31. It is submitted the Magistrates’ Court forfeiture regime uniquely permits reliance on intended future use, the NCA submits that no limitation period can fetter the Court’s jurisdiction. Overall, the NCA submits that:

- a. The Respondent bears the burden of establishing a limitation defence and has failed to do so;
- b. The application is in time under s.127 MCA 1980;
- c. Alternatively, if the Limitation Act applies:
 - i. Time is postponed by deliberate concealment under s.32, and/or
 - ii. The alleged unlawful conduct is continuing by reason of intended use;

32. The Court is therefore invited to find that the forfeiture application is not time-barred.

Findings on the Limitation Argument

33. Neither Mr Fletcher nor Ms Scott KC are able to point to any definitive case on this point and the applicability of either s. 127 Magistrates’ Courts Act 1980 or

the Limitation Act 1980 to civil proceedings for summary forfeiture of sums within a frozen bank account under Chapter 3B POCA.

34. S.240 POCA confirms that forfeiture proceedings before the Magistrates' Court are civil proceedings. It was Parliament's intention for cash forfeiture proceedings to be resolved in the magistrates' court and that was determined in *Capper v. Commissioner of the Police of the Metropolis* [2010] EWHC 1704. (ch).

35. Sections 303Z1 – 303Z19 provide powers to freeze and subsequently forfeit money held in a bank, building society, electronic money and payment institutions, collectively "relevant financial institutions". Unlike cash detention and forfeiture under Part 3 POCA, only has two parts to the proceedings, namely freezing and forfeiture.

36. In terms of freezing, s. 303Z1 applies if "*an enforcement officer has reasonable grounds for suspecting*" money held in an account is recoverable property or intended by any person for use in unlawful conduct. The enforcement officer may apply to a Magistrates' Court for an account freezing order in relation to the account. Whereas with cash detention an enforcement officer may develop a reasonable suspicion based on the circumstances in which the cash is being treated, transported or stored. The position with accounts with relevant financial institutions is less straightforward and less amenable to proactive policing. Unless an enforcement agency has pre-existing suspicions about a person and decides to investigate their accounts, AFOs regularly result from reports or information relating to the account. Where a Court is satisfied that the enforcement officer has "reasonable grounds for suspecting all or part of the money in the account is recoverable property or intended for use in unlawful conduct it may make an Account Freezing Order. Unlike the cash detention regime, Chapter 3B POCA does not set out any conditions which must be met in order for an Account Freezing Order to be made or extended beyond the initial period granted (such as continued detention being justified either to further investigate the derivation of the cash or to consider bringing of criminal proceedings in connection with

the cash). The only test is that the Court must be satisfied on the balance of probabilities that there are reasonable grounds for suspicion that money in the account is either recoverable property or intended for unlawful conduct. The specified period of an Account Freezing Order may not exceed 2 years starting with the day on which the account freezing order is made. The only restriction on the making of an AFO is that the money in the account must not be less £1000.

37. Where a relevant enforcement agency has completed its enquiries into the money in the frozen account and considers it has sufficient evidence on the balance of probabilities to establish that the money in the account or any part of it is recoverable property or intended by any person for use in unlawful conduct, may make an application for forfeiture, s.303Z14. This must be done while the Account Freezing Order is within effect, so in essence must be made before the expiry of the Account Freezing Order (which could be in effect for up to 2 years).

38. As distinct from powers to freeze an account under s.303Z3(2) there is no express requirement for the Court to be satisfied either at the time the freezing order was made or beforehand, that the relevant enforcement agency had "reasonable grounds" for suspecting that money in the account was recoverable property or intended for unlawful conduct. The only question that the Court need concern itself with is whether it can be satisfied on a balance of probabilities that the money is recoverable or intended for use in unlawful conduct. These are proceedings *in rem* directed against the contents of the account.

39. The Magistrates' Courts (Freezing and Forfeiture of Money in Bank and Building Society Accounts) Rules 2017 specifies in Rule 16 (2) that applications for Account Forfeiture Order or Account Freezing order to be regulated in the same manner as proceedings on a complaint and an application shall be treated deemed a complaint.

40. Under s. 127 Magistrates' Courts Act 1980 a "*magistrates court shall not try an information or hear a complaint unless the information was laid, or complaint made, within 6 months from the time when the offence was committed or the matter of complaint arose*".

41. When did the matter of complaint arise? The Account Freezing Order was made on 12th March 2024. From Officer Bannon's third statement the earliest the officer had "reasonable grounds for suspecting" that money held in the account was recoverable or intended for unlawful conduct was January 2024. (Para 24 of the statement). This was following Officer Bannon's role in providing assistance to the Seychelles authorities around international mutual legal assistance. In early 2023 the NCA had submitted a request in respect of a number of UK Bank of Baroda accounts. In May 2023 the Bank of Baroda produced a statement exhibiting a number of accounts and opening documentation which included the account which is the subject of this application. In October 2023, while on a second deployment to the Seychelles, Officer Bannon identified the funds in the account could potentially be the subject of an Account Freezing Order. In January 2024 Officer Bannon sought information from the Bank of Baroda in relation to the Respondent's account (paragraph 28 of his statement). It was by January 2024 Officer Bannon had assessed the potential for submitting an AFO application to avoid dissipation of funds and conduct his investigation. That was the point I find the matter of complaint must have arisen as the grounds for making an AFO application were established and such an application was made within 6 months. Thereafter, AFO being in place and granted by District Judge Leake on 12th March 2024 for 6 months and thereafter extended on 9th September 2024 by 3 months. By December 2024 Officer Bannon had completed his enquiries into the money in the frozen account and considered he has sufficient evidence on the balance of probabilities to establish that the money in the account or any part of it is recoverable property or intended by any person for use in unlawful conduct. He therefore made an application for forfeiture, s.303Z14 dated 27th November 2024. POCA cannot allow an application for forfeiture to be made without an Account Freezing Order being in force. That theoretically

could be in force for up to 2 years and at any point during that period an Officer could make an application for forfeiture. Jurisdiction to make a Forfeiture Order is predicated on the Account Freezing Order being in place. It is clear from Officer Bannon's evidence that he made the application while the AFO was in force and as soon as he had sufficient evidence on the balance of probabilities to establish the money in the account met the test for forfeiture. That, if s.127 MCA 1980 is applicable was within 6 months of the matter of complaint for making a forfeiture order arose.

42. I find s. 127 Magistrates Court Act 1980 would apply to these proceedings, by virtue of proceedings by way of complaint but I also find that neither the application for the AFO or the Forfeiture Order infringes the statutory time limits under s. 127 MCA 1980 in any event.

43. If I am wrong in that regard, I go on to consider the Limitation Act 1980. By virtue of s.9(1) LA 1980 "*An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of 6 years from the date on which the cause of action accrued*".

44. In light of the specific wording of s. 27A LA 1980 which specifically extends the limitation period for civil recovery proceedings in the High Court, it can be argued that the Limitation Act must apply to summary proceedings for forfeiture. I do not accept the submissions made by Ms Scott KC that the definition in s.27(4) LA 1980 in terms of when a person's cause of action accrues in respect of any recoverable property arises "when the property is so obtained". This subsection is specifically in relation to proceedings brought under Chapter 2 of Part 5 of POCA. It is of no application to any other civil proceedings brought under POCA including summary proceedings in the Magistrates' Court for forfeiture. If such a definition was to apply to all proceedings under POCA then statute would specifically include other Parts of POCA.

45. Therefore, returning to s.9 LA 1980 I must consider the "*date on which the cause of action accrued*". There is no further definition in this section of when

a cause of action accrues and for the reasons, I have set out in paragraph 44, I do not find that definition in s.27A(4) LA is applicable to these summary proceedings for cash forfeiture.

46. Ascertainment of a date from which a cause of action has accrued can often be a question of difficulty. As I have previously highlighted there is no definition of the term "cause of action" in the Act, other than the example above of where a cause of action in civil recovery in the High Court under Part 5 Chapter 2 is specifically defined in s.27A(4) LA. I am not drawn by the parties to any case which is determinative of this point.
47. The following is trite law. *Reeves v. Butcher [1891] 2 QB 509* Lindly J said "*it has always been held that the statute runs from the earliest time at which an action could be brought*". In addition, in *Board of Trade v. Cayzar, Irvine & Co [1927] AC 610* cause of action was defined to mean "*that which makes action possible*". There must be in existence at this moment and competent claimant and defendant.
48. In terms of the proceedings for the Account Forfeiture Order the earliest time at which action could be brought by Officer Bannon is the point at which he had concluded his investigation and had sufficient evidence on the balance of probabilities to establish the money in the account met the test for forfeiture. In addition, an action or proceedings to make an Account Forfeiture Order is co-dependent on an Account Freezing Order being in force. Once the NCA had sufficient evidence of unlawful conduct and of the recoverable property the Application for the Account Forfeiture Order was made.
49. I find that despite the transactions dating back to 2001 – 2007, the earliest time at which action could be brought under s.303Z14 Proceeds of Crime Act 2002 for forfeiture of the sum in the account was firstly dependent on an Account Freezing Order being in place, which was not until 12th March 2024. Secondly, the point at which Officer Bannon had sufficient evidence from his investigation to meet the test for forfeiture under s.303Z14(4) was the point at which he made the application on 27th November 2024.

50. Therefore, based on Officer Bannon's evidence the earliest point at which action could be brought for Forfeiture was the date of the application, namely 27th November 2024.

51. Equally, I do not find the application is statute barred under the Limitation Act 1980.

52. I do not need to go on to consider the Applicant's and Respondent's arguments under s.32 LA relating to "deliberate concealment". Those arguments add a layer of unnecessary complexity in terms of the findings I have made on limitation, within the framework of the civil applications under Chapter 3B POCA. In addition, these are summary proceedings under POCA for forfeiture. It was Government's intention for cash forfeiture proceedings to be resolved summarily in the Magistrates' Court.

Substantive Forfeiture Application

53. I do not intend to summarise all the evidence which has been provided to me but in my findings will refer to just the evidence which I consider relevant and probative to the challenges and issues I must determine. It does not mean I have not considered all the evidence and documents submitted by the parties.

54. In relation to the substantive forfeiture application the submissions are set out clearly by Mr Fletcher and Ms Scot KC in their respective skeleton arguments which I also do not intend to rehearse in relation to the statutory framework and law I must apply which I have summarised above.

Findings on the evidence

Background and unchallenged factual matrix

55. The following factual matrix which forms the background to this investigation is not challenged and this evidence is drawn from the evidence of Officer Bannon. Ms Soumery is a national and resident of the Seychelles. At the time the bank account was opened she was employed as secretary working for the

Seychelles Marketing Board ("SMB") in Victoria, Seychelles. She described herself as the Executive Secretary to a Mr Mukesh Valabhji, who in turn was the head of the SMB. Mr Valabhji was also Economic Advisor to the late President of the Seychelles, Mr France Albert Rene from the late nineties until Mr Rene's death in 2019. He was also the Executive Chairman of Compangnie Seychelloise de Promotion Hoteliere Ltd ("COSPROH") which was a state owned company and owned and ran hotels in the Seychelles. Currently the Anti-Corruption Commission of the Seychelles ("ACCS") are prosecuting Mr Valabhji and Ms Sarah Rene, the widow of the late President for a range of offences linked to alleged corruption in the Seychelles.

56. There is a worldwide restraint in place in relation to the assets of Mr Valabhji and Ms Rene.

57. The Respondent Ms Soumery remains a person of interest to the ACCS but is not currently an active part of their investigation.

58. On the 8th April 2001 a request to open a bank account (a personal deposit account) in the name of the Respondent was made to the London Branch of the Bank of Baroda. The account was being opened with the assistance of a company Karimjee Jivanjee & Co (UK) Ltd ("KJUK") to which Mr Valabhji had links.

59. KJUK is a long-established UK based import / export business. The nature of its business is described at Companies House as "agents involved in the sale of a variety of good" and "credit granting by non-deposit taking finance houses and other specialist consumer credit grantors". The directors of KJUK are Mr Karimjee and his wife Suraiya Karimjee.

60. SMB was a government owned, sole importer of essential basic commodities such as sugar, maize, basmati rice into the Seychelles and acted as authorised wholesale distributor of these goods to retail outlets. KJUK was the main supplier of these goods to SMB.

61. Mr Valabhji and Mr Karimjee enjoyed a close business relationship over many years. Officer Bannon's evidence is that Mr Karimjee played an active role in managing Mr Valabhji's bank accounts and was an authorised person to instruct transfers in relation to his personal and corporate accounts.
62. A letter from the company secretary of KJUK, Mrs Eilee Gray, to the Bank of Baroda in London dated 10th April 2001 enclosed account opening forms plus relevant paperwork pertaining to the Respondent. (Tab 11)
63. In September 2021 the Respondent requested that Mr Latif Karimjee of KJUK be an authorised signatory over her account. This was never sanctioned by the Bank. (Tab 13)
64. On 10th October 2001 an initial deposit was made into the account by cheque of US \$1500, which was drawn on KJUK's bank account.
65. It appears that the account was finally opened on 6th December 2001.
66. On 9th April 2002, the account then received a deposit of US\$100,000 from KJUK.
67. In November 2006, Ms Soumery wrote to the Bank of Baroda to inform them of a change of correspondence address c/o Capital Management and Consultancy Ltd. This was because Ms Soumery had resigned from SMB and was pursuing her career with Mr Valabhji in the private sector. Mr Valabhji had also resigned from SMB.
68. There appears to be one withdrawal on the account of US\$3000 requested by Ms Soumery in 2009.
69. The account thereafter remained dormant until 21st November 2017 US\$100,000 was transferred into the account from Brent International Investments Ltd ("BIIL"). BIIL was a company incorporated and registered in the British Virgin Islands.

70. In November 2021, Mr Vilabhji's address was searched by ACCS. A document was seized during the search (Tab 18)) which demonstrates money movements made by Mr Karimjee of KJUK on behalf of Mr Valabhji. A payment made to KJUK on 6th July 2001 of \$2m from SMB. The NCA say that this the initial deposit paid by KJUK ultimately derived from Mr Valabhji via that sum. In relation to the second deposit into the account, that transaction also appears on the spreadsheet, again drawn from KJUK. In relation to the payment by BIIL, it appears Mr Valabhji was the beneficial owner of BIIL. During the search of his address a Personal Profile Questionnaire was located which showed BIIL as one of many companies under the umbrella of the "Kestrel Group" which remains under the control of Mr Valabhji. The search located an email dated 21st November 2007 in which Miss Soumery provides Mr Valabhji with details of her bank account. There is no documentary context as to why this exchange took place. On the same day Mr Valabhji requests transfer of \$100,000 be transferred from BIIL account to Miss Soumery.

71. Around 2024 the Bank of Baroda was going to close and the account balance was due to be transferred a Nat West Account however, the Account Freezing Order intervened.

Evidence of Officer Brendan Bannon

72. As already set out above, the factual matrix to these transactions is unchallenged and I have drawn that evidence from the statements made by Officer Bannon.

73. I do not intend to make any findings in relation to the proceedings against Mr Valabhji in the Seychelles. It is unnecessary to do so in my view other than note the nature of the corruption, fraud and money laundering offences he faces. My findings will relate to the circumstances of the account opening and the transactions that led to the funds in the frozen account.

74. During a search of Mr Valabhji's address by ACCS on 24th November 2021 a series of financial documents in relation to accounts held or controlled by Mr Valabhji were seized. (Tab 18). The document is entitled "MV: US Dollar Account". Albeit the document appears to demonstrate some legitimate trading with KJUK, three significant credits are shown. On 6th July 2001 US\$2,000,000 from SMB. On 1st August 2001 US\$624,975.50 from HIT Holding Italiana Turi SMO and finally 27th September 2001 US\$ 4,562,927.71 from Central Bank of Seychelles. I note that these are very significant credits compared to any evidence of legitimate trading. The document also shows a debit of US\$1500 to Ms Soumery on 12th October 2001.
75. Also, during the search of Mr Valabhji's property was located a Personal Profile Questionnaire (Tab 19) which demonstrates his investment companies and trusts are recorded under an umbrella of "The Kestrel Group". Included within these companies / trusts are BIIL.
76. The credit from HIT Holding Italiana Turi SMO is currently the subject of one of the charges Mr Valabhji faces in the Seychelles, in that while being employed in public service and Chairman of COSPROH he corruptly obtained property while employed in public service. COSPROH is a state owned entity which managed state owned hotels in the Seychelles., including Cote D'Or Lodge Hotel. He is accused of selling leases on the state owned hotels for US\$ 12,300,000.00 but declaring that he sold them for US\$7,500,00.00 and retaining US\$4,800,00.00 while employed as the Chairmen.
77. A letter from Cote D'or Lodge Hotel to HIT dated 25th July 2002 records that a final lease payment in the sum of US\$625,000 was overdue and to be paid (Tab 23) The letter copies in Mr Valabhji as Chairman of COSPROH. A second letter I note requests that the lease payment is made to KJUK. There is no explanation for this. The financial documents seized from Mr Valabhji's property records a credit from HIT of £624,927.50. This is then corroborated in KJUK's bank accounts (Tab 25). I find the only conclusion that can be

drawn is that this credit related to the lease payment. I find this is significant as it relates to payment for leases on state owned property in the Seychelles but paid into the bank account of a small UK based trading company primarily dealing with commodities.

78. I find the initial deposit made into Ms Soumery's account on 12th October 2001 via a KJUK cheque payable to Ms Soumery is from the same company whose accounts have been credited in August 2001 with US\$624,972.5. In the evidence provided there is no legitimate reasons provided for KJUK receiving such funds and none has been provided. It would appear that as this transaction also appears in Mr Valabhji's financial documents the inevitable conclusion is that the funds are controlled by Mr Valabhji. There appears to be no other legitimate reasons to have those funds paid into KJUK's bank account.

79. Around this time, Ms Soumery's bank account was being opened with the assistance of KJUK. Officer Bannon accepted in cross examination that Ms Soumery opened the account and corresponded with the Bank of Baroda providing all relevant documents for due diligence checks by the Bank and was doing so transparently and openly. However, the alternative narrative as expressed by Officer Bannon is that opening a bank account with a small deposit would not immediately cause suspicion with a Bank and ultimately could be used to conceal funds.

80. The second credit to Ms Soumery's account of US\$100,000 on 9th April 2002 was also paid by KJUK. I equally find it unusual that at the time, the Secretary to the Economic Adviser of the Seychelles, Mr Valabhji has been transferred a significant sum of money into a personal account but paid by a small UK trading company, which has apparent links to Mr Valabhji but no personal connection to Ms Soumery. Prior to the payment of money into the account, it of note that Mr Valabhji's financial documents show a significant credit from SMB in the sum of US\$1,800,000.00 on the 2nd April 2002. SMB as outlined above was a government owned company under the control of Mr Valabhji.

Thereafter the documents then show a series of significant debits including the one to Ms Soumery. However, this deposit was made by KJUK and not by Mr Valabhji even though the transaction appears in his financial documents. There is no explanation provided for the significant credit received from SMB and then a payment made to Ms Soumery through KJUK.

81. The final deposit of US\$100,000 from BIIL on 21st November 2007. Ms Soumery provided the account details to Mr Valabhji by email on the same date (Tab 29). BIIL is owned and controlled by Mr Valabhji and appears as one of the companies within the umbrella of the Kestrel Group, under the control of Mr Valabhji as evidenced by the Personal Profile Questionnaire recovered from his property during the search. Officer Brennan provides detailed evidence regarding the connections between Mr Valabhji, Hotel Properties Limited and BIIL, regarding the sale of Fisherman's Cover Hotel Ltd which was one of the hotels owned by COSPROH of which Mr Valabhji was managing director. I do not need to make any detailed findings in relation to these transactions but note they are the subject of one of the charges Mr Valabhji is facing. However, I do find that the evidence from Officer Brennan and the exhibited documents supports a finding that proceeds of sale from Fisherman's Cove Hotel Ltd were transferred to BIIL and then followed the payment into Ms Soumery's account from BIIL. BIIL is a company that has no connection to Ms Soumery.

Affidavits of Marinette Soumery

82. In summary Ms Soumery states that the funds in the account represent earnings over a period of many years working as executive assistant and secretary for companies and organisations led by Mr Valabhji.

83. Ms Soumery is currently employed as the executive assistant to the Board and CEO of Inteklvison Ltd and has done so since 2022. Prior to that she was employed by Capital Management and Consultancy Company Ltd as executive assistant to Mr Valabhji. It appears prior to that she worked for Mr Valabhji at

SMB. It was during this work that she met Mr Karimjee through the trading between KJUK and SMB.

84. In early 2000, Mr Valabhji informed her there was a new telecommunications project, Intelvision, that was coming to the Seychelles. They were looking to recruit an executive assistant for 5 years over the pre and post launch period. Intelvision provides cable, TV, telephone and internet services. Intelvision is owned by Intelvision Network and is a Turks & Caicos Island company which *"was the company which would be paying for my time"*. She wanted to do the work outside of her role at SMB as did not want to lose that job. She was offered the role and it was agreed she would be paid in US dollars and was an equivalent of US\$20,000 per annum. The agreement was she would be paid in a lump sum once the project was launched, 2 years in arrears and 3 years in advance. As a consequence of the payment she would have savings in foreign currency and it would act as her health insurance.

85. In anticipation of the lump sum, she set out to open a foreign exchange account which she could not open in the Seychelles. She approached Mr Karimjee for assistance and his offices helped her set up the account. She asked for Mr Karimjee to be added as a signatory to the account as she wanted someone in the UK to operate her account. Mr Karimjee agreed to pay the opening deposit to activate the account. She says KJUK was one of the suppliers who provided equipment and supplies for the Intelvision project and this company would pay the fee. She assumed KJUK would be credited by Intelvision.

86. In October 2006 she says Mr Valabhji left SMB and started Capital Management and Consultancy Services and she took on the role as his executive assistant. They negotiated a salary, they negotiated a lower salary but she would receive a lump sum of US\$100,00 as a retirement fund. The money was transferred into her account in November 2007.

87. Ms Soumery says that she has not had to draw on the account. It was an investment.

88. In relation to documentary evidence supporting the payments into her Bank of Baroda account she believes there will be notes on the Intelvision Project files and her personal files but they have been seized from Mr Valabhji's addresses.

Affidavit of Mukesh Valabhji

89. Mr Valabhji believes that the purpose behind the cash forfeiture application is driven by ACCS, forcing him to answer questions relating to a set of allegations without the benefit of due process. A significant amount of his statement deals with grievances against ACCS.

90. In relation to Ms Soumery he confirms that she worked for him at SMB and then in the private sector. Around 2000, he agreed with Ms Soumery that she would take on the role of executive assistant to a telecommunications project he was handling. This project became Intelvision. We agreed she would be paid US\$100,000.00 for her work over a 5 year period. He agreed to pay the sum in 2002. It was paid from KJUK as they were involved in the Intelvision project.

91. After Ms Soumery joined him at Capital Management in 2007 she agreed to take a lower salary but receive a lump sum in US\$ as an investment. She arranged for the payment from Brent International Ltd (BIIL) which was a company he had an interest in at the time.

Findings on the evidence of Marinette Soumery and Mukesh Valabhji

92. The accounts given by Marinette Soumery and Mukesh Valabhji have not been subject to scrutiny by the Court as despite leave being given to the NCA for them to be cross-examined following service of their affidavits, they were not cross-examined. Mr Valabhji was on remand in the Seychelles but was granted bail in December. I have received no proper explanation as to why Ms

Soumery or Mr Valabhji's could not have attended court for cross examination even if live link was not permissible. Mr Valabhji's affidavit is tinged with resentment towards the investigating agencies including the NCA. Albeit I have considered with care their affidavits and the supporting documents, it would have been reasonable for Ms Soumery to have attended court to be cross examined and her explanation of the money in the account and how and why the account had been opened could have been tested and explored. I note from Officer Bannon's evidence that she has been many opportunities to meet with the NCA to discuss the account and has chosen not to do so. That gives the impression, that she does not wish that evidence to come under proper scrutiny. Her allegiance to Mr Valabhji is evident both from her affidavit and that of Mr Valabhji and both would have a motive, in view of the ongoing proceedings and investigation in the Seychelles to give accounts concealing the truth. There has been no ability for the Court to properly evaluate their evidence other than consideration of documentary evidence provided and the evidence given by Officer Bannon.

93. Ms Soumery wanted to open a personal foreign exchange bank account. This was because she was to receive the lump sum agreed for her work with Intelvision. As she says in her affidavit, Intelvision "*was the company which would be paying for my time*". However, Intelvision did not pay her for her time, KJUK did. I am told KJUK were providing supplies for the project but that does not explain why that company would pay her "salary" for undertaking the executive assistant role. Intelvision, even at that time was a trading company, albeit Mr Valabhji was involved in the project. A cable, TV and internet business wanting to hire an executive assistant would do so in transparent and legitimate manner. Instead, the payment came not from Intelvision but a small UK based trading company, KJUK.

94. I note that every piece of documentary evidence submitted by the Respondent relating to Ms Soumery, even her utility bills (electricity bill) always state "c/o" and then her employer at the time whether it is SMB or Capital

Marketing Ltd. The application to open a personal bank account, an account she intended to invest in both for health insurance purposes and her retirement, would have no reason to have any connection with her employer Mr Valabhji. She has always used his business addresses for banking correspondence. The account opening is initially started by KJUK on her behalf and she asks for Mr Karimjee to be authorised to act on her behalf. This was a personal bank account. Her explanation of how the account was opened and her reasons for linking it to KJUK lack credibility. When you consider the foundations for the opening this account, the manner in which it is being opened and those she was seeking to have authority over it set against the evidence of Officer Bannon and in particular the financial documents seized from Mr Valabhji home address, this account has all the hall marks of not being set up as a personal investment account for Ms Soumery but to become part of Mr Valabhji's broad network of accounts and trusts in which to manoeuvre money and conceal transactions.

95. The letter of appointment to Capital Management & Consultancy Ltd (Tab 4 of Respondents' evidence) sets out her salary but makes no reference to it being a reduced salary with any agreement to pay a lump sum of US\$100,000. Taking into account that Capital Management and Consultancy Ltd were responsible for paying her salary, they would equally be responsible in terms of transparency of paying her the lump sum. However, that company did not pay it. It was paid by BIIL for which there is no plausible explanation.

96. Albeit I accept, the account was opened transparently, and Ms Soumery complied with all due diligence checks undertaken by the Bank of Baroda, the alternative narrative put forward by Officer Bannon that opening an account with a Bank with a minimal deposit with not cause suspicion. However, once opened that account can be used to conceal funds and based on Officer Bannon's evidence, I am satisfied it was.

97. I attach little weight to the accounts given by Ms Soumery and Mr Valabhji for the reasons set out above and I found Officer Bannon's evidence compelling and cogent following a thorough and diligent investigation.

98. I find the circumstances in which Ms Soumery's account were opened are highly suspicious, inextricably linked to Mr Valabhji and his associate Mr Karimjee. The two significant payments made to Ms Soumery are not consistent with salaries which she had negotiated and intended for investment for health care and retirement purposes. Two deposits are made by KJUK, the second deposit purportedly a salary for working as an executive assistant on the Intelvision project but never paid by that company. Her employment with Capital Management & Consultancy Ltd and her salary is set out in her letter of appointment, devoid of any mention of any lump sum payments but when it is paid, it is not paid by the company, it is received via an unconnected company BIIL. The payments are made shortly after significant moneys are received by Mr Valabhji and evidenced in his account records. Those proceeds are linked to criminal proceedings in the Seychelles.

99. I find the transactions have all the hallmarks of money laundering and have been insufficiently explained. The trail of evidence and the evidence from Officer Bannon clearly links the sources of the funds to companies and individuals associated with Mr Valabhji. No credible explanation has been provided to explain references to the deposits in Ms Soumery's account in the financial documents seized from Mr Valabhji's property, yet payments were made by KJUK. The account opened with the assistance of this company. The company has no real connection with Ms Soumery but inextricably linked to Mr Valabhji. A personal bank account opened for investment, personal healthcare and retirement yet a close associate of Mr Valabhji seeking to have authorisation over the operation of the account. There is no cogent or reliable evidence to explain why the third payment was made by BIIL and not by Capital Management and Consultancy, who she was contracted to work for. Again, Ms Soumery had no links to that company, but it was inextricably linked to Mr Valabhji.

100. There is no documentation to support the legitimacy of those funds or credible evidence as to why Ms Soumery would be paid lump sums into a UK based account for secretarial or executive assistant roles engaged in the Seychelles.

Conclusion:

101. Having considered all the evidence, both oral and documentary, in view of my findings above I am satisfied on a balance of probabilities that the money in the account has been obtained by unlawful conduct and is intended for use in unlawful conduct, namely money laundering. The evidence is both cogent and compelling in my assessment.

102. Taking into account my findings above the circumstances give rise to an irresistible inference that the money in the account could only have been acquired through criminal activity. Therefore, the Respondent's intended use of that money would be a money laundering offence. The cash is criminal property and the Respondent's use of it would be unlawful conduct. None of the transactions have been satisfactorily explained by the Respondent.

103. As was stated in *SOCA v. Namli & another (supra)* setting to one side the burden on the NCA, which I am entirely satisfied they have discharged, the transactions into the account look like money laundering, and that is probably what it is.

104. The NCA having discharged the burden upon them to meet the statutory pre-conditions for making a Forfeiture Order, I am invited to make a finding that the Respondent Ms Soumery gave value in good faith for the funds pursuant to s. 308(1) POCA. For the reasons I have given above in terms of the credibility and reliability of the account given by Ms Soumery and Mr Valabjhi this defence fails. There is no credible evidence that these sums

represented "salary" or lump sum payments received in good faith by Ms Soumery.

Abuse of Process Argument

105. I have dealt with final argument on behalf of the Respondent at the end of my judgement as my findings are equally relevant to any finding of abuse.

Submissions of the Respondent

106. The Respondent submits that even if the limitation defence fails, the NCA's forfeiture application should be stayed as an abuse of process. The abuse arguments are advanced on two distinct but related grounds.

- a) Serious prejudice to the Respondent's ability to defend the proceedings
- b) The NCA's case is tainted by its dependence on information and evidence from the ACCs investigation which is abusive.

107. In summary, although the Respondent has never been charged in Seychelles, she remains a "subject of interest" in the ACCS investigation. She was interviewed under caution in 2021 and released without charge, but has never been informed that she is no longer a suspect. The NCA previously relied on specific corruption counts against her employer and explicitly alleged her receipt of proceeds linked to those counts; its later attempt to disavow that case does not remove the practical risk that evidence given in the UK proceedings could be used against her abroad. The ACCS has demonstrated an active interest in the UK forfeiture proceedings, including public statements anticipating that the recovered funds would be repatriated to Seychelles. Due to the ongoing investigation, the Respondent's evidence has been adduced by hearsay affidavit rather than oral testimony. Giving oral evidence would expose her to the risk that her statements could be manipulated or deployed by the ACCS in overseas proceedings. This constraint substantially impairs her ability to respond to the NCA's case, particularly where the NCA invites

adverse inferences from alleged “failures” to explain the funds. Two material witnesses who could have corroborated the account-opening process are unavailable through no fault of the Respondent. The NCA nonetheless seeks to rely on their involvement as suspicious, while dismissing the prejudice caused by their absence. In parallel, the ACCS seized large quantities of documents from relevant premises without any inventory, and the Respondent remains unable to access them while the Seychelles proceedings continue. Despite this, the NCA criticises the Respondent for failing to produce records relating to transactions more than 20 years old. Taken together, the delay, lost evidence, unavailable witnesses, and ongoing criminal jeopardy create a level of prejudice sufficient to justify a stay for abuse of process.

108. The Respondent’s second abuse argument focuses on the tainted evidential foundation of the NCA’s case. Demonstrable abuses by the ACCS in the Seychelles.

Submissions of the Applicant

109. In summary, the NCA submits that the Respondent’s abuse of process arguments are unparticularised, misconceived, and fall far short of the high threshold required to justify staying forfeiture proceedings. Properly analysed, the application is a lawful and proper use of the statutory scheme under POCA, and any issues raised by the Respondent can be adequately managed within the proceedings themselves.

110. There has been no improper conduct by the NCA. The Respondent has identified no conduct by the NCA that could amount to an improper use of statutory powers. The Account Freezing Order was lawfully obtained and not challenged. The forfeiture application was brought while the AFO was in force and in accordance with s.303Z14 POCA. These are civil, in rem proceedings directed at the funds, not at putting any individual “on trial” and arguments about self-incrimination are therefore misconceived. The Respondent is not a defendant in the Seychelles criminal proceedings, and no one’s criminal liability is being adjudicated in these proceedings. Complaints about delay,

unavailable witnesses, or lost evidence do not demonstrate abuse. Such issues are common in historic cases and can be dealt with by the court when assessing weight and reliability of evidence. The Respondent is best placed to explain the opening of an account in her own name; absence of corroborating witnesses does not render the proceedings unfair. If the Respondent cannot explain matters that are prima facie suspicious, that is a matter going to the merits, not abuse of process. Indeed, there is no evidence that the Bank of Baroda account or the frozen funds form part of any criminal proceedings in Seychelles

111. The Respondent's assertion that the NCA investigation is an extension of alleged abusive conduct by the ACCS is unsupported by evidence. The NCA maintains that its investigation is independent; this is confirmed in Mr Bannon's evidence. Any concerns about the weight or reliability of ACCS derived material are matters for the Court to assess and do not justify a stay. The Respondent has failed to identify any specific document relied on by the NCA that is said to be false or fabricated.

Findings on the Abuse argument

112. The only question for the Court is whether the statutory test for forfeiture is as a matter of fact, met, applying s.303Z14 POCA. The Court is fully equipped to determine that question on the evidence before it. I find there is no evidence that the proceedings have been brought by the NCA for any improper or unlawful purpose, as established by Officer Brennon's evidence.
113. The NCA are not seeking to try Mr Valabhji or Ms Soumery in these proceedings. This is an application focussed on the frozen funds in the Bank of Baroda Account in Ms Soumery's name. As I have addressed in relation to my findings in the substantive application the Respondent has had an opportunity to file evidence, which she has done so, along with affidavits from other witnesses and significant supporting material. She has been able to present a positive case to explain the provenance of the funds in the account. She has

not been prevented from doing so. I gave leave at the Case Management Hearing for the NCA to cross-examine the Respondent, Mr Valabhji and Varun Zaiwalla. That was in accordance with Magistrates' Court (Hearsay Evidence in Civil Proceedings) Rules 1999. I gave permission for such evidence to be given by live link if the Seychelles authorities would grant permission. The process was started but in due course the NCA received confirmation that they would not be giving evidence. Albeit Mr Valabhji is remanded in prison in the Seychelles, there would have been no issue with the Respondent either attending court in person in the UK or agreeing to give their evidence by live link. The Respondent has never been prevented from her ability to freely give evidence in this application as is submitted by Ms Scott KC. The statutory framework itself allows for civil recovery whether or not proceedings have been brought for an offence in connection with the property under s. 240(2) POCA and in any event I have been provided with no evidence that Ms Soumery's account in the Bank of Baroda is even part of the criminal prosecution against Mr Valabhji in the Seychelles.

114. In addition, Officer Brennan has given evidence that the Respondent ahead of the Forfeiture application has had numerous opportunities to engage with the NCA which she chose not to avail herself of, leaving it until the Forfeiture application was made to file any evidence advancing a positive case. The ongoing criminal case in the Seychelles does not prevent the Respondent from adducing evidence that the funds derive from legitimate remuneration from employment. In relation to submissions that the NCA application is not independent of the ACCS and that they are "pulling the strings" of the NCA. Officer Bannon evidence explains he became involved in the investigation in the Seychelles through proper channels, namely via international mutual legal assistance arrangements and deployment to the Seychelles to assist ACCS with a corruption investigation relating to Mr Valabhji. He has given evidence that he has had no other involvement with their investigations other than relating to financial charges. In his statement of 14th June 2025 he states *"I have not been asked or instructed by anyone from ACCS or any other body in the Seychelles to investigate this matter"*.

Suggestions that interest the ACCS has in these proceedings based on a statement made by its Commissioner, May de Silva to the Seychelle's Assembly regarding the proceeds of a civil forfeiture case in the UK, which it is submitted is the Respondent's case, is a statement made without foundation it appears. It is clear from Officer Brennon's live evidence that the NCA have no knowledge of any agreement that the funds will be sent to the Seychelles.

115. The abuse of process argument is without merit and must fail.

Order

116. I therefore order the forfeiture of the balance of the Bank of Baroda Account (Account Number 91002702 Sort Code 94-10-01) in the name of Marinette Soumery in the sum of £258, 656.24 together with any interest accrued.

117. Costs to be determined.

22nd April 2026.

City of London Magistrates' Court.