

**IN THE SUPREME COURT OF BERMUDA  
CIVIL JURISDICTION  
COMMERCIAL COURT  
2017: No. 293**

**BETWEEN:**

- (1) MR BIDZINA IVANISHVILI**
- (2) MRS EKATERINE KHVEDELIDZE**
- (3) TSOTNE IVANISHVILI (an infant, by his mother and next friend,  
Mrs Ekaterine Khvedelidze)**
- (4) MS GVANTSA IVANISHVILI**
- (5) MR BERA IVANISHVILI**
- (6) MEADOWSWEET ASSETS LIMITED**
- (7) SANDCAY INVESTMENTS LIMITED**

**Plaintiffs**

**and**

**CREDIT SUISSE LIFE (BERMUDA) LTD**

**Defendant**

---

**DRAFT ORDER**

---

**UPON HEARING** from Leading Counsel for the Parties

**AND UPON THE COURT FINDING that** as a matter of the duty to account under Article 400 of the Swiss Code of Obligations, subject only to the issue of relevance, the Defendant has the power to call for the Bank to provide and the Bank has an obligation to provide all documents within the categories set out below:

**IT IS HEREBY ORDERED** as follows:

**Documents of CS Life**

1 The Defendant shall by [insert date] file and serve an affidavit sworn by a current officer of the Defendant verifying the discovery of the Defendants (the **Affidavit**). The Affidavit shall provide the following information:

1.1 **Emails:** confirm that the Defendant has searched all email accounts of the 26 individuals referred to at paragraphs 14 and 15 of Coffey 4 and that all such documents relevant to the issues in dispute have been discovered in native / original format;

1.2 **Additional Documents referred to in Coffey 4:** confirm that the Defendant has searched the sources of documents referred to in paragraph 26 (i) to (v) of Coffey 4 and discovered all documents relevant to the issues in dispute located therein;

1.3 **Attendance Notes/Call Records of CS Life:** confirm that the Defendant has searched for meeting / attendance notes of CS Life personnel and / or created by and / or copied to CS Life personnel and discovered all such documents relevant to the issues in dispute;

1.4 **Documents evidencing Transactions Carried Out on the CS Life Accounts:** confirm that the Defendant has searched for documents in relation to transactions carried out on the CS Life Accounts including all reports, statements, marketing documentation, term sheets, and prospectus relating to any products invested in or offered for investment along with records of investment decisions, correspondence in any form relating to the same and account statements evidencing movements on the accounts and ledgers created in the course of the operation of the Policies, and discovered all such documents relevant to the issues in dispute;

**1.5 Documents evidencing investigations and reports into the collapse in value of the Policy**

**Assets in 2015:**

- a. Confirm that the Defendant has searched for documents evidencing investigations and reporting the collapse in value of the Policy Assets in 2015 including:
  - i. the PwC reports commissioned by Credit Suisse AG and all supporting material, insofar as they relate to the CS Life Accounts;
  - ii. any documents produced in the course of Credit Suisse AG's investigation into the conduct of Patrice Lescaudron, insofar as they relate to the CS Life Accounts; and/or;
  - iii. Any audits conducted in relation to the performance of the Policies and / or the CS Life Accounts.
- b. Confirm that the Defendant has searched for documents dated between 1 September 2015 and 31 December 2016 relating to the collapse in the value of the Policy Assets; margin calls on the CS Life Accounts; fraudulent conduct on the CS Life Accounts; "Project Dino"; the reports produced by PwC and surrounding documentation (including correspondence, whether by email or otherwise, any restructuring of the investments in the CS Life Accounts and/or other remedial action taken in relation to the CS Life Accounts, including board minutes of the Defendant's board, and documents which it has a right to call for from Credit Suisse AG);
- c. Insofar as the Defendant objects to the discovery of any document within this category 1.5 on grounds of privilege, explain with particularity the basis and justification for such claim of privilege.

**1.6 Audit, risk assessment and monitoring documents:** confirm that the Defendant has searched for documents in relation to audits and risk assessments in connection with the policies and all documents evidencing the monitoring of the CS Life accounts and/or Credit Suisse AG's management of the Policy assets and discovered all such documents relevant to the issues in dispute.

**1.7 Documents evidencing fees and commissions:** confirm that the Defendant has searched for documents evidencing fees and commissions in connection with the Policies and/or the CS Life Accounts and/or the investments entered into on the CS Life Accounts and/or

for the benefit of the Policies, and discovered all such documents relevant to the CS Life Accounts.

- 1.8 **Conduct of discovery and methodology:** in relation to each of the searches carried out, identify the parameters of the searches carried out including any word searches, the date range, identify the sources searched (including all electronic and hard copy sources), who conducted the search, the steps taken by Appleby (if any) to supervise the search, and whether back-up / archived / deleted documents have been searched.

#### **Further and Better List**

- 2 The Defendant provide a further and better list of all native documents emanating from the sources listed in Coffey 4 paragraphs 26(i) to (v) and the email accounts referred to in paragraphs 14 and 15 of Coffey, if not already discovered by the Defendant.

#### **Documents of the Bank**

- 3 Confirm, by way of the Affidavit referred to at paragraph 1 of this Order, that the Defendant has required the Bank pursuant to Article 400 to provide the following documents and categories of documents to the Defendant and provide copies of all letters of request and responses received from the Bank:

3.1 Attendance Notes/Call Records of the Bank relating to the Policies.

3.2 Documents evidencing transactions carried out on the CS Life Accounts, including all reports, statements, marketing documentation, term sheets, prospectus relating to any products invested in or offered for investment along with records of investment decisions, correspondence in any form relating to the same and account statements evidencing movement on the accounts and ledgers created in the course of the operation of the Policies (**Account Statements**).

3.3 Account Statements provided in Excel or CSV format.

3.4 Documents evidencing investigations and reports into the collapse in value of the Policy Assets in 2015 including:

- (a) PwC reports commissioned by Credit Suisse AG and supporting documents, insofar as they relate to the CS Life Accounts;
- (b) Any documents produced in the course of Credit Suisse AG's investigation into the conduct of Patrice Lescaudron, insofar as they relate to the CS Life Accounts;
- (c) Any audits conducted in relation to the performance of the Policies and/or the CS Life Accounts; or
- (d) Documents dated between 1 September 2015 and 31 December 2016 relating to the collapse in the value of the Policy Assets; margin calls on the CS Life Accounts; fraudulent conduct on the CS Life Accounts; "Project Dino"; the reports produced by PwC and surrounding documentation (including correspondence, whether by email or otherwise, any restructuring of the investments in the CS Life Accounts and/or other remedial action taken in relation to the CS Life Accounts.

3.5 Audit, risk assessment and monitoring documents in connection with the policies and all documents evidencing the monitoring of the CS Life accounts and/or Credit Suisse AG's management of the Policy assets.

3.6 Documents evidencing fees and commissions in connection with the Policies and/or the CS Life Accounts and/or the investments entered into on the CS Life Accounts and/or for the benefit of the Policies.

4 Insofar as the Defendant has not requested all documents relating to any of the categories of documents listed at paragraph 3 above from the Bank, the Defendant shall make such request of the Bank, such request and any response received from the Bank to be provided to the Plaintiffs.

#### **Redactions**

5 Confirm that the Defendant has examined the disclosed documents including the emails and the documents referred to at Coffey 4 paragraph 26 (i) – (v) in unredacted form and satisfied itself that

any redactions are appropriately made in accordance with Bermuda Law. To the extent that such redactions are not appropriately made in accordance with Bermuda Law, provide a further list of unredacted versions of the disclosed documents.

### **Definitions**

- 6 For the purposes of this Order all references to “searches” means forensic searches undertaken by / under the supervision of persons qualified to search and retrieve documents including for the avoidance of doubt the retrieval of electronically stored information in native / original format.
- 7 For the purposes of this Order the term “documents” encompasses all sources of electronically stored information and hardcopy documents howsoever stored.

### **Costs**

- 8 The Plaintiffs’ costs of and occasioned by the Plaintiffs Summons for Specific Discovery shall be paid by the Defendant in any event.

**DATED** this 22 January 2020

---

**The Honourable Chief Justice**

IN THE SUPREME COURT OF BERMUDA  
CIVIL JURISDICTION  
COMMERCIAL COURT  
2017: No. 293

**BETWEEN:**

- (1) MR BIDZINA IVANISHVILI
- (2) MRS EKATERINE KHVEDELIDZE
- (3) TSOTNE IVANISHVILI (an infant, by his mother  
and next friend, Mrs Ekaterine Khvedelidze)
- (4) MS GVANTSA IVANISHVILI
- (5) MR BERA IVANISHVILI
- (6) MEADOWSWEET ASSETS LIMITED
- (7) SANDCAY INVESTMENTS LIMITED

**Plaintiffs**

and

**CREDIT SUISSE LIFE (BERMUDA) LIMITED**

**Defendant**

---

**DRAFT ORDER**

---

**Hurrion & Associates Ltd**  
The Waterfront  
94 Pitts Bay Road  
Pembroke HM 08  
Bermuda  
**Attorneys for the Plaintiffs**