

# Cristiana Crociani v Edoarda Crociani

<b>Jurisdiction:</b>	Jersey
<b>Judge:</b>	J. A. Clyde-Smith OBE., Jurats Blampied, Ronge
<b>Judgment Date:</b>	07 October 2019
<b>Neutral Citation:</b>	[2019] JRC 199
<b>Date:</b>	07 October 2019
<b>Court:</b>	Royal Court

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## Text

[2019] JRC 199

ROYAL COURT

(Samedi)

Before:

J. A. Clyde-Smith OBE., **Commissioner, and** Jurats Blampied **and** Ronge.

In the Matter of the Representation of BNP Paribas Jersey Trust Corporation Limited in  
Respect Of Contempt Proceedings

Between  
Cristiana Crociani  
First Plaintiff

and

A (by her guardian *ad litem*, Nicolas Delrieu)  
Second Plaintiff

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and

B (by her guardian *ad litem*, Nicolas Delrieu)  
Third Plaintiff  
and  
Edoarda Crociani  
First Defendant

and

Paul Foortse  
Second Defendant

and

BNP Paribas Jersey Trust Corporation Limited  
Third Defendant

and

Appleby Trust (Mauritius) Limited  
Fourth Defendant

and

Camilla de Bourbon des Deux Siciles  
Fifth Defendant

and

Camillo Crociani Foundation IBC (Bahamas) Limited  
Sixth Defendant

and

BNP Paribas Jersey Nominee Company Limited  
Seventh Defendant

and

GFIN Corporate Services Limited  
Eighth Defendant

and

Ocorian Trustees (Jersey) Limited  
Party Cited

**Advocate W. A. F. Redgrave for the Third Defendant**

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**Advocate D. S. Steenson for the Fifth Defendant****Authorities**

*Crociani v Crociani* [\[2017\] JRC 146](#).

*BNP Paribas Ors v Crociani Ors* [\[2018\] JCA 136A](#).

*Crociani C and Ors v Crociani E and Ors* [\[2018\] JRC 140](#).

*Leeds United Football Club v The Phone-in Trading Post* [\[2013\] JRC 058](#)

*Douherty v The Chief Constable of Essex Police* [\[2019\] EWCA Civ 55](#)

Borrie & Lowe: The law of Contempt Code of Civil Procedure

Trust — Representation by the Third Defendant re: contempt proceedings.

**THE COMMISSIONER:**

- 1 The third defendant (“BNP Jersey”) applies by way of representation dated 21<sup>st</sup> March, 2019, for declarations that the fifth defendant (“Camilla”) is in contempt of three orders made by the Court, namely:-
  - (i) an order for disclosure made on 14<sup>th</sup> December 2018;
  - (ii) an order for the payment of £4,000 on account of costs made on 6<sup>th</sup> February, 2019; and
  - (iii) a consent order for the payment of costs in the sum of £7,000 made on 21<sup>st</sup> February, 2019.
- 2 The orders for costs are discrete matters which can be dealt with relatively briefly in due course, but the allegation that Camilla is in breach of the disclosure order made against her necessitates going into the history in some detail.
- 3 In its substantive judgement of the 11<sup>th</sup> September, 2017 *Crociani v Crociani* JRC 146 the Court held that the first defendant (“Mme Crociani”) and BNP Jersey committed breaches of trust and were liable to reconstitute the trust fund in respect of substantial assets transferred from the Grand Trust all of which had been received by Mme Crociani.
- 4 The Court of Appeal ruled on 25<sup>th</sup> July, 2018 *BNP Paribas Ors v Crociani Ors* (JCA 136A) that of the two trusts comprised in the Grand Trust, BNP Jersey was not obliged to

reconstitute Camilla's trust. Camilla and her daughters have applied for permission to appeal that decision to the Privy Council, the outcome of which is not yet known.

- 5 BNP Jersey has paid out sums in excess of £100 million in satisfying the orders made against it and Mme Crociani jointly and severally and in paying adverse costs orders and its own costs. Mme Crociani was ordered to indemnify BNP Jersey in respect of the sums it has paid but has failed to do so.
- 6 On 4<sup>th</sup> August, 2016, some five months before the trial of the proceedings, the Court granted BNP Jersey *ex parte* a world-wide freezing order against Mme Crociani in support of its indemnity claim, which was confirmed *inter partes* on 25<sup>th</sup> November, 2016. It prohibited Mme Crociani from disposing of, dealing with or diminishing the value of assets held for her benefit or under her control up to US\$194 million. Particularly, it listed 29 valuable artworks that belonged to Mme Crociani following the revocation of the Fortunate Trust. She was ordered to disclose to BNP Jersey the location and nature of such assets but has failed to do so. BNP Jersey has been unable to locate and enforce against any assets of significant value belonging to Mme Crociani.
- 7 On 11<sup>th</sup> September, 2017, the Court also made a post judgment world-wide freezing order against Mme Crociani in support of the indemnity order made against her, which contained a new provision requiring Camilla (and others) to inform BNP Jersey “of all assets which they believe, whether on the basis of information held by them or for which they are entitled to call, are owned beneficially by the first defendant, or from which she is able to benefit or which are under her direct or indirect control.” We will refer to this as “the September 2017 Disclosure Order”.
- 8 As the Court found in its substantive judgment, Mme Crociani and Camilla worked in concert to deprive Cristiana of family assets. Camilla was heavily involved in the movement of assets and the setting up of numerous structures, including attending meetings with advisers, all with the apparent aim of depriving the first plaintiff (“Cristiana”) of these assets. BNP Jersey point by way of example to these passages in the substantive judgment:-
  - (a) From at least 2010 Mme Crociani had favoured Camilla over Cristiana (her only two children) and intended that Camilla should receive most of the family fortune (paragraph 846) including the bulk of the artworks (paragraphs 393 and 394).
  - (b) Following a breakdown in family relations in 2011 after Cristiana discovered the moves they were making against her, Mme Crociani and Camilla were determined to cut Cristiana off from all the family wealth: “From that time it became a question of Madame Crociani and Camilla taking whatever steps they could to prevent Cristiana from restoring to its proper place the wealth of which she felt she and her children had been deprived, wealth in part emanating from her late father.” (paragraph 849)
  - (c) Camilla's desire to make the shares in Croci NV (part of the group of companies

holding the Crociani family wealth) **'disappear'**. The Court commented that Camilla's statement recorded in a transcript "demonstrates little faith on Camilla's part in the propriety of the transfer of the shares in Croci NV". (paragraph 431(vii))

(d) Camilla's wish to see the Promissory Note (a key asset of the Grand Trust issued by Croci BV, another entity within the Croci group) **"disappear"**. (paragraph 431(vii))

(e) The Court concluded that the amendment to the Promissory Note, the appointment of GFin as new trustee and related actions "all formed part of a concerted plan by Madame Crociani and/or Camilla ... to place further impediments in the way of the plaintiffs' claims". (paragraphs 438–440)

(f) ***"Camilla has not only acquiesced in the breach of trust but has benefited to some extent from the funds improperly appointed out of the Grand Trust. It would be unjust for her to enjoy the fruits of this breach of trust and have the Grand Trust reconstituted."*** (paragraph 687)

(g) Camilla was jointly involved with her mother in steps taken to frustrate Cristiana's claim, including the appointment of Appleby Mauritius as trustee of the Grand Trust (paragraph 850), the Agate Appointment, which was also aimed at preventing the Plaintiffs from bringing the Jersey proceedings (paragraphs 497, 501, 529, 569), the 2016 extension of the repayment date of the promissory note and appointment of new Mauritian trustees in order to prevent the Jersey proceedings continuing. (paragraph 853)

9 During the course of lengthy correspondence Camilla has filed three affidavits pursuant to the September 2017 Disclosure Order (there is an unsigned fourth affidavit to which we make no reference):-

(i) In her first affidavit of 14<sup>th</sup> November, 2017, she deposed as to her belief that Mme Crociani's assets comprised:-

(a) Ownership of 1 share and a life use of 124 shares in a Monegasque company which owns a property in St Tropez.

(b) The ownership of 1 share and a life use of 124 shares in another Monegasque company which owns a portion of land in St Tropez.

(c) The life use of an apartment in Paris.

(d) The ownership of shares in a French company which did not own any property.

(e) Three bank accounts held in Luxembourg, Monaco and Rome respectively (but not the amounts within those accounts).

(f) Finally, two cars in Monaco.

(ii) In her second affidavit of 7<sup>th</sup> December, 2017, Camilla disclosed the arrangements by which she leased from Mme Crociani the property in Paris (in respect of which Mme Crociani has life use).

(iii) In her third affidavit of 26<sup>th</sup> January, 2018, Camilla gave further disclosure as to the arrangements in relation to the Paris property, confirming in particular that apart from small amounts of effects, the contents belong to her. In particular, she said there were no works of art subject to the world-wide freezing order situated in the apartment. She said this:-

*"I simply do not have any knowledge of assets other than those I have disclosed in my affidavits."*

10 Camilla's knowledge and belief as to her mother's assets is to be seen in the context of the immense wealth enjoyed by Mme Crociani as described by the Court in the substantive judgment:-

(i) A portfolio valued at some US\$100 million had been transferred to Mme Crociani. (paragraph 859(ii))

(ii) She owned artworks worth some US\$143 million. (paragraph 394)

(iii) She owned Croci International NV, which in turn owned numerous prestigious family properties, a yacht and the *"jewel in the Crown – Ciset"* the cash generating potential of which was illustrated by the fact that between 2004 and 2007, dividends of some €100 million had been received and used *inter alia* to acquire an additional apartment in Rome, a villa in Cortina, a villa in Rome, a villa in Circeo, land and a hotel in Sardinia and an additional apartment in Monaco. (paragraph 398)

(iv) Croci International NV was apparently sold to a company owned by Camilla in December 2011 for €44.9 million. (paragraph 444)

(v) Camilla and her family shared an apartment in Monaco with Mme Crociani. (paragraph 364)

(vi) Distributions of some €13.2 million and US\$2.4 million had been made out of the Grand Trust between December 2007 and March 2011 to Cristiana and Camilla and redirected to Mme Crociani. (paragraph 615)

11 In early 2018, BNP Jersey became aware that seven of the artworks named in the world-wide freezing order were located at an art storage facility called Museo Vault in Miami in the name of the Apollo Trust and which are now subject to an interim attachment. The trustee of the Apollo Trust is understood to be United Trust (Anguilla) Limited, whose Curaçao based director is Gregory Elias, who has close links with Mme Crociani (see paragraphs 21 – 26 of the Court's judgment of 31<sup>st</sup> July, 2018 *Crociani C and Ors v Crociani E and Ors* (JRC 140)).

- 12 Through disclosure orders made in the United States, BNP Jersey has obtained some information about the movement of artworks. These documents came either from discovery obtained from Huntington T Block (Art Insurers) in the United States, pursuant to an application by BNP Jersey or discovery obtained from the Museo Vault in Miami, again pursuant to an application by BNP Jersey. Further evidence was obtained from the deposition of Diane Jackson, an employee of Huntington T Block.
- 13 By 7<sup>th</sup> September, 2012, all of the artworks had been transferred into the ownership of Mme Crociani (see the judgment of 31st July 2018 at Paragraphs 13–15). The evidence acquired by BNP Jersey showed that Camilla was involved in the artwork and in particular, in the transfer of a large number of artworks (all but two insured in a policy in Mme Crociani's name) from Singapore to Zurich on 25<sup>th</sup> November, 2016, the day when the world-wide freezing order was confirmed by the Court in Jersey, from where seven of them were transferred on to Miami.
- 14 As a consequence of these developments, on 14<sup>th</sup> December, 2018, the Court granted BNP Jersey's application for a further disclosure order against Camilla ("the December 2018 Disclosure Order") in the following terms:-

**"ORDERED THAT:**

***(1) The Fifth Defendant shall within fourteen working days of service hereof, or such longer period as the Third Defendant may agree, inform the Third Defendant's Advocate in writing of her knowledge of assets held by or on behalf of the First Defendant since the 6th July 2015, including, but not limited to, the following:***

***(a) The Fifth Defendant's involvement in any movement of the 29 Artworks listed at paragraph 1(3)(a) of the WWFO ('the Artworks') from the 6th July, 2015, to the present including their movement from Singapore in November 2016;***

***(b) Full details of any such transfers, including in each case where each of the Artworks was moved to, and the reason for any such transfer;***

***(c) To the extent not already covered, everything the Fifth Defendant knows or believes about the location of all the Artworks from the 6th July, 2015, to the present;***

***(d) Full details of all third parties (including but not limited to art experts, valuation agents, insurers, shipping and transport companies, storage facilities and freeports) which have had any involvement with the Artworks from the 6th July, 2015, including in each case relevant individuals, contact details and a***



***description of their involvement with the Artworks; and***

***(e) In relation to the proceeds of the Grand Trust investment portfolio, everything the Fifth Defendant knows or believes about its location from the 6th July 2015, to the present;***

***(2) The Fifth Defendant shall within fourteen working days of service hereof, or such longer period as the Third Defendant may agree, inform the Third Defendant's Advocate in writing of her knowledge of transfers of any assets held by or on behalf of the First Defendant made since the 6th July, 2015, by the First Defendant (or her agents, employees, attorneys and anyone acting on her behalf, or any company, trust or other entity she controls directly or indirectly whether in whole or in part) to the Fifth Defendant (or to her agents, employees, attorneys and anyone acting on her behalf, or to any company, trust or other entity she controls directly or indirectly whether in whole or in part);***

***(3) The term "assets held by or on behalf of the First Defendant" used in paragraphs (1) and (2) above means assets which the Fifth Defendant believes, whether on the basis of information held by her or for which she is entitled to call, are or were owned beneficially by the First Defendant or from which the First Defendant is or was able to benefit or which are or were under her direct or indirect control (to include those assets held by a third party in accordance with the First Defendant's direct or indirect instructions) in the Island of Jersey or elsewhere whether such are or were held in her own name or not and whether such are or were solely or jointly owned.*** For the avoidance of doubt this includes any asset which is or was purportedly beneficially owned or controlled directly or indirectly by the Fifth Defendant, where it is reasonable to infer that in reality such asset may be or has been held for the benefit of the First Defendant. In each case, the Fifth Defendant shall, where she has such information, give brief particulars of the value, location and details of all such assets. Where the information which the Fifth Defendant has is not current, she shall specify the approximate date upon which she obtained such information. She is not required to disclose information which has already been disclosed in the trial papers in this action nor to disclose any documents which are subject to legal professional privilege. The information must be confirmed in an Affidavit exhibiting all relevant supporting documents, which must be provided to the Third Defendant's Advocate within fourteen working days after providing the information;

***(4) The Fifth Defendant's obligation to provide disclosure pursuant to the WWFO and this Order is not subject to a de minimis exception;"***

15 The order then contained this warning in capitals:-



**“YOU MUST OBEY THE ORDERS CONTAINED IN THIS ORDER. IF YOU DO NOT YOU WILL BE GUILTY OF CONTEMPT OF COURT AND MAY BE SENT TO PRISON. YOU ARE ENTITLED TO APPLY TO THE COURT TO RECONSIDER THIS ORDER.”**

- 16 Camilla was required to disclose her knowledge of the artworks and portfolio and any transfers by Mme Crociani of assets to her going back to 6<sup>th</sup> July 2015, because that is when BNP Jersey first put Mme Crociani on notice in writing that it would be relying upon the indemnity given by Mme Crociani in respect of any amounts that BNP Jersey was required to pay in the ongoing litigation. As Lynne Gregory of Baker & Partners in her third affidavit says at paragraph 48, this followed a telephone call on 12<sup>th</sup> May, 2015, between representatives of BNP Jersey on the one hand and Mme Crociani, Camilla and Virgilio Ranalli, an adviser to both Mme Crociani and Camilla, on the other hand, in which the question of the indemnities was raised and in which Mme Crociani and Camilla were said to have reacted with hostility to the suggestion that they be required to indemnify BNP Jersey (see also the affidavit of Kim Mary Deveney of BNP Paribas of 25<sup>th</sup> April, 2019). Lynne Gregory expresses the view that Mme Crociani and Camilla therefore had reason from that date to purport to move assets to Camilla to make BNP Jersey's future enforcement of the indemnity harder.
- 17 Compliance with the December 2018 Disclosure Order was extended by agreement to 25<sup>th</sup> January, 2019. On that day, Advocate Steenson, acting for Camilla, wrote to Advocate Redgrave, acting for BNP Jersey, enclosing advice from Camilla's lawyer in Monaco, Thomas Giaccardi, claiming that as a matter of Monaco law, she was not obliged to comply with the order.
- 18 Advocate Redgrave responded with two affidavits sworn by BNP Jersey's Monaco lawyer, Géraldine Gazo, confirming that there was no valid basis under Monaco law for Camilla's non compliance with the December 2018 Disclosure Order. As at the date of the representation, namely 21<sup>st</sup> March 2019, no information had been provided by Camilla in response to the December 2018 Disclosure Order.
- 19 On 29<sup>th</sup> March 2019, BNP Jersey filed a claim for damages against Camilla for conspiracy with Mme Crociani to injure BNP Jersey by unlawful means, by jointly breaching the world-wide freezing order dated 4<sup>th</sup> August 2016. The relief sought by BNP Jersey included an interim worldwide freezing injunction in respect of Camilla's assets, together with a disclosure order. The injunction and disclosure order were granted by the Court on 29<sup>th</sup> March, 2019, but Camilla has applied to set aside the interim injunction and is disputing the jurisdiction of the Court in relation to the conspiracy claim, which application is due to be heard on 19<sup>th</sup> and 20<sup>th</sup> September 2019.
- 20 By its Act of Court of 5<sup>th</sup> April, 2019, the Court gave the following directions for the filing

and service of pleadings, evidence and bundles in these contempt proceedings:-

Camilla did not file any evidence before the 31<sup>st</sup> May, 2019, and has failed to file an answer.

***“(i) The Fifth Defendant (“the Respondent”) shall file an Answer and any evidence to be relied upon, in affidavit form, by the 31<sup>st</sup> May 2019;***

***(ii) The Respondent shall file any further affidavit evidence by the 12<sup>th</sup> July 2018;***

***(iii) Skeleton arguments shall be exchanged and filed with the Royal Court by the 9<sup>th</sup> August, 2019;***

***(iv) The Representor shall file a joint bundle with the Royal Court by the 23<sup>rd</sup> August, 2019;***

***(v) A hearing with a time estimate of two days is fixed to commence on the 3<sup>rd</sup> September, 2019; and***

***(vi) There shall be liberty to apply.”***

21 Following disclosure ordered against the United Group in February/March 2019, BNP Jersey has been able to trace 11 artworks and one copy listed in the world-wide freezing order to an art storage facility in Geneva, Switzerland named Rodolphe Haller SA, which are the subject of an interim attachment.

22 On 19<sup>th</sup> June, 2019, Camilla filed a fifth affidavit in response to the representation of BNP Jersey, saying this:-

*“3 This affidavit is made in response to the Representation of the Third Defendant, as provided for by the Act of Court dated 5 April 2019. It is made in the utmost good faith and both its provision and its contents are in no way to be deemed as a derogation from my earlier evidence as to the prohibitions placed upon me by virtue of Monegasque law. I reserve my right to rely upon the same in the future.”*

23 She then stated that 7 artworks had been attached at Museo Vault, Florida and another group attached in Switzerland. In relation to this latter group, she said they:-

*“... do NOT belong to Mme Crociani, that were NOT part of the Grand Trust paintings and that have been purchased either directly or indirectly through a fully owned company by me are currently stored in Switzerland and have been attached. The paintings have ALL been purchased before the August 2016 WWFO against Mme Crociani and have been duly paid on accounts that have*

been indicated in the so called 'first disclosure affidavit' rendered in October 2017."

She then listed the artworks that had been purchased, the date of purchase (all after 6<sup>th</sup> July 2015) and the amount paid. She did not disclose who the artworks had been purchased from.

24 She then gave this explanation in relation to the transfer of artwork:-

*"7. Paintings which have been transferred to Zurich were either NOT belonging to my mother ("Suisse paintings") and therefore as such not object of the disclosure obligations or, as far as I know, still belonged to my mother and simply object of a transfer from a depository to another without change in ownership and as such they were not 'disposed' of by my mother. She simply decided to hold them in a different location.*

*8. I did not know where my mother's painting went from then on. (I have only discovered they currently are in Miami through the Apollo Trust freezing order)."*

25 In relation to the Apollo Trust, she said this:-

*"9. .... I wish to make clear that, beside my mother indicating me she wished me to be its Protector, she never shared ANY information about the assets of this trust with me, due to the experience she had with the Grand Trust, nor did I of course ask her anything at all. The trustee is a trustee my mother relied upon, and she considers the trust as a 'last will'. I accepted that and accepted to act as Protector knowing that when time would have come I would have dealt with the assets that may be in the trust according to the trust deed, the applicable laws and my mother's wishes."*

26 She then made these general points in relation to her knowledge of the artwork:-

*"10. There is no way I can oblige [Mme Crociani] to share information about whereabouts of the other paintings. This is in my opinion and unfortunately absolutely normal taken into consideration the litigation she had to endure after her own daughter, my sister, attacked her apprehending assets which were in the Grand Trust which my mother had created in 1987 with her own assets and that she considered to be for the benefit of the three of us.*

*11. To be clear, with regard to the other paintings referred to in the affidavit of Lynne Catherine Gregory dated 21 March 2019, I do not know where they are and my mother has not told me where they are, even though I have asked her.*

*12 It is a shame that BNP rather than asking directly my mother now exercises an incredible and undue pressure on myself as if I were responsible of my mother's actions.*

*13 Whether she will act against me in Monaco for undue sharing of information [which she could do] is not the question, the point is that I do NOT have any information about paintings and have no way to collect such information.*

*14. By the way my mother shares the Monaco apartment but is often in Rome (and I myself am often away as well) so inferring through the circumstances that in Monaco we share the same apartment that we share all and every information between us is absolutely absurd."*

27 It can be seen that the fifth affidavit of Camilla is entirely silent as to:-

Furthermore there was no supporting documentation exhibited to the affidavit.

(i) her belief, as opposed to knowledge, as to the current location of the remaining artworks that have not been attached;

(ii) her knowledge as to the reasons for the transfer of the artwork to Zurich, to which she does make reference;

(iii) details of the third parties involved in the artworks. Advocate Redgrave stressed the importance of this to BNP Jersey in its efforts to trace assets, in that third parties are more likely to provide reliable information if ordered to do so;

(iv) her knowledge and belief about the location of the US\$100 million portfolio.

28 On 16<sup>th</sup> July 2019, Lynne Gregory filed her fourth affidavit, pointing out these and other deficiencies in Camilla's fifth affidavit. The Swiss proceedings had revealed the existence of a new trust, namely The Nettuno Trust. The trustees of the Nettuno Trust, namely Renesis Financial Services Limited and Maxine Gorra (the person appointed guardian *ad litem* of Camilla's children in the application for leave to the Privy Council), together with Camilla, had applied to lift the Swiss attachment, with Camilla claiming ownership of 2 of the 11 artworks, subject to this attachment, and the Nettuno Trust claiming ownership of 8 artworks (and a copy) following a purported transfer of those artworks to it by Camilla in July 2016. It would seem from what BNP Jersey regard as the selective evidence filed in those proceedings, that Camilla was the settlor, protector and beneficiary, together with her daughters, of the Nettuno Trust, but she was excluded as a beneficiary on 22<sup>nd</sup> March, 2017. Maxine Gorra was appointed as a co-trustee on 1<sup>st</sup> April, 2017.

29 As to Camilla's assertion in her fifth affidavit that she had no information about the assets of the Apollo Trust, for which she said she was only asked to act as Protector, disclosure in the Curaçao proceedings shows her being named as the only beneficiary in the original trust deed. She had signed a deed of addition and exclusion, excluding herself as beneficiary of the Apollo Trust and appointing her two daughters and a further deed of addition and exclusion appointing her husband in place of her daughters until they come of age. It would seem that Maxine Gorra has now replaced Camilla as Protector.

- 30 On 9<sup>th</sup> August, 2019, Advocate Steenson filed a skeleton argument on behalf of Camilla, stating that she had deposed to all matters in respect of the representation which are in her knowledge. To the extent that she had been in contempt of the December 2018 Disclosure Order, he said her contempt was purged by her fifth affidavit.
- 31 On 2<sup>nd</sup> September, 2019, the day before this hearing, Advocate Miere, for Camilla, gave notice that his firm was instructed by Camilla to apply for an adjournment, because of an allegation made by Camilla's Curacao lawyer that BNP Jersey had failed to return certain documents dating from before June 5<sup>th</sup> 2015, as ordered by the Curacao court on 26<sup>th</sup> July, 2019, an allegation denied by BNP Jersey. Advocate Miere's letter did not identify any particular document that may have been contained within the documents filed in these contempt proceedings that arguably should not have been there.
- 32 At the start of the two day hearing on 3rd September, 2019, Advocate Steenson applied for an adjournment on much wider grounds, namely that being required to answer the allegations of contempt would compromise Camilla's position in the conspiracy proceedings brought by BNP Jersey. The affidavits sworn by Lynne Gregory made allegations, he said, that went beyond contempt, for example as to the authenticity of certain documents Camilla had filed in the Curaçao and Swiss proceedings. Issues were being conflated and, in his view, the Court should therefore adjourn the contempt proceedings until the jurisdictional challenge to the conspiracy proceedings had been finally determined. He said there was no real prejudice to BNP Jersey in such an adjournment, as it had taken no steps to expedite the contempt proceedings which form part of a tactical game it was playing. He regretted making the application so late in the day, but explained that Camilla had been travelling a great deal, funds of hers had been frozen and she had been heavily engaged in complicated settlement negotiations. Furthermore, his firm had to cope with language difficulties in obtaining instructions. He accepted that he could point to no single document before the Court that BNP Jersey had been ordered by the Curaçao Court to return.
- 33 The Court refused the application for an adjournment. There was no conflation of issues between the contempt proceedings and the conspiracy proceedings. The Court was concerned solely with whether Camilla had complied with the 2018 Disclosure Order. She had had ample notice of the hearing and the case against her, which had to be proved to the criminal standard, was clear. If she had the requisite knowledge or belief ordered by the Court, then she had to disclose it.
- 34 On the second day of the hearing, namely 4<sup>th</sup> September, 2019, Camilla filed a sixth affidavit with exhibits sworn on the 3<sup>rd</sup> September, 2019, which Advocate Steenson candidly accepted did not take the issue of the disclosure made by Camilla much further forward. In his submissions, he limited himself to issues of law and procedural fairness.

## Costs orders

35 As stated above, these orders were made on 6<sup>th</sup> and 21<sup>st</sup> February 2019 respectively. On 22<sup>nd</sup> February 2019, Advocate Redgrave wrote to Advocate Steenson asking whether his client intended to pay the sum ordered on 6<sup>th</sup> February, 2019, stating that Camilla would be aware of the consequences of breaching Jersey court orders. On the same day, Advocate Miere wrote to Advocate Redgrave asking for banking details, which were provided by return. No payment was made and a formal allegation of contempt was contained in the representation of 21<sup>st</sup> March, 2019. No payment has been made since.

36 On 30<sup>th</sup> August, 2019, Camilla wrote directly to the Court in these terms:-

*“Although my Advocates, Steenson Nicolls LLP have the bank details to which the sums are to be sent, they have not accepted payment from me to make the above payments via their client account. It has always been my position that I will not make payments directly, as my bank account details are private. Having spoken to someone about this situation and in order to close this matter, I have been informed that as an alternative, I am able to send the sum to the Court account, so that you could make the payment in compliance with the said Acts of court. I would be grateful if these details could be provided so that I can transfer the sums immediately. I would also ask that you do not disclose my bank details to any third party.”*

37 In her sixth affidavit, Camilla said this:-

*“In respect of the costs orders, I was uncomfortable making them directly to BNP. If it had been practicable, I would have paid through my Jersey lawyers' client account, but, in any event, I have now made arrangements to pay the funds into Court.”*

The Court is not aware of any payment having been made.

## The law

38 A helpful summary of the law of contempt is contained in the judgment of Sir Michael Birt, then Bailiff, in *Leeds United Football Club v The Phone-in Trading Post* [\[2013\] JRC 058](#) at paragraphs 31–34:-

### ***“Contempt of Court***

***31 There was no dispute between the parties as to the applicable law.*** As it is put in *Borrie & Law the Law of Contempt* (3rd edition) (“Borrie”) at 556:-

***‘The administration of justice can obviously only be effective if it has the***



**means to enforce court judgments or orders and it is in part upon the law of contempt that such enforcement depends.** It is a contempt to disobey a judgment or order either to do a specified act within a specified time or to abstain from doing a specified act ... further, it is a contempt not to comply with an **order for interrogatories, or discovery, or inspection of documents ...**'

**32 A breach of an order does not have to have been done intentionally in order to amount to a contempt.** This was decided in this jurisdiction in *Taylor v Chief Officer of States of Jersey Police* [2004] JLR 494 **where the Court said this:-**

**'30. ... We are in no doubt that Jersey law should adopt the same approach as English law. It is of the first importance that orders of the court should be obeyed. This is not for the purpose of upholding the court's dignity. The court makes orders because it believes them to be in the interests of justice. If parties are to be able to rely upon the court resolving disputes between them, they must have confidence that orders will be enforced. If it is open to a party to argue that although he has failed to comply with the court's order he did not mean to breach the order, there would be endless scope for argument and for parties to try and get out of their obligation to obey the order. ... Far better for there to be an absolute rule that orders must be obeyed with mitigation being available as necessary where the breach was not deliberate. The policy considerations which have led the English courts to adopt the approach which they have are equally applicable in Jersey .**

**31 In summary, the question of whether or not a contempt by reason of a breach of a court order has been committed involves an essentially objective test requiring the determination of whether or not the alleged contemnor has acted in a manner constituting a breach of the order.** If he has then a contempt will be established regardless of whether or not he acted contumaciously or with the intention of breaking the order, although whether any, and if so what, punishment ought to be imposed on him will or may be materially dependent on considerations of this sort.'

**33 Because contempt of Court may attract punishment such as imprisonment or a fine, it must be proved to the criminal standard i.e. beyond reasonable doubt .** *Skinner v Le Main* [1990] JLR 13B.

**34 Furthermore, because contempt involved possible punishment, a person is not to be held in contempt for breaching a court order unless that order is unambiguous as to what is required of him.** See *Iberian Trust Limited v Founders Trust and Investment Co Limited* [1932] 2 KB 87 **at 96 and the passage in *Borrie* at 560–561.**"

39 Advocate Steenson submitted that a breach of a costs order rarely led to findings of contempt and that in any event, a penal notice had to be issued before any contempt could



be found. There was a penal notice contained in the December 2018 Disclosure Order, but not in the two costs orders. He referred the Court to the case of *Douherty v The Chief Constable of Essex Police* [2019] EWCA Civ 55 in which this checklist was approved at paragraph 23:-

***“Before any court embarks on hearing a committal application, whether for a contempt in the face of the court or for breach of an order, it should ensure that the following matters are at the forefront of its mind:***

***(1) There is complete clarity at the start of the proceedings as to precisely what the foundation of the alleged contempt is: contempt in the face of the court, or breach of an order .***

***(2) Prior to the hearing the alleged contempt should be set out clearly in a document or application that complies with FPR rule 37 and which the person accused of contempt has been served with .***

***(3) If the alleged contempt is founded on breach of a previous court order, the person accused had been served with that order, and that it contained a penal notice in the required form and place in the order .***

***(4) Whether the person accused of contempt has been given the opportunity to secure legal representation, as they are entitled to .***

***(5) Whether the judge hearing the committal application should do so, or whether it should be heard by another judge .***

***(6) Whether the person accused of contempt has been advised of the right to remain silent .***

***(7) If the person accused of contempt chooses to give evidence, whether they have been warned about self-incrimination .***

***(8) The need to ensure that in order to find the breach proved the evidence must meet the criminal standard of proof, of being sure that the breach is established .***

***(9) Any committal order made needs to set out what the findings are that establish the contempt of court, which are the foundation of the court's decision regarding any committal order .***

***Counsel and solicitors are reminded of their duty to assist the court.*** This is particularly important when considering procedural matters where a person's liberty is at stake.”

40 Advocate Steenson relied in particular on (3) and the apparent requirement for a penal notice to be contained in the order. However, as Advocate Redgrave points out, *Douherty*

was concerned with an appeal against a committal to prison for contempt. We accept that ordinarily before the Court commits a person to prison for contempt a clear warning that imprisonment is a likely consequence is fair. As stated in Borrie & Lowe at paragraph 6.22:-

***“As in all cases of contempt the court will not lightly make a committal order. As Kay J said in Gay v Hancock ‘This Court should exercise very great care in putting into force its power of sending persons to prison’.”***

41 That was the purpose of the notice contained within the December 2018 Disclosure Order, namely a warning to Camilla that if she was found in contempt, she ***“may be sent to prison”***. First, there has to be a finding of contempt, and there is no requirement that before making such a finding, a penal notice warning of possible committal to prison is a prerequisite. All orders of the Court have to be obeyed and it is a contempt to disobey them. The sanction to be imposed if a contempt is found is a separate issue. In this case, the Court is being asked to determine whether Camilla is in contempt of any of the orders made against her, with the issue of the sanction to be imposed should a contempt be found being left over as being necessarily dependent on the prior findings of the Court. Advocate Redgrave made it clear, however, that if a finding of contempt was made against Camilla, BNP Jersey would not be seeking her committal to prison.

42 An issue could arise should the Court be dealing solely with failure to obey the costs orders. Borrie & Lowe made this point at paragraph 6.20:-

***“[6.20]***

***There are two types of judgment or order which direct a person to pay money, namely, that directing payment of money to another person and that directing payment of money into court.*** Disobedience to either type of order can amount to contempt. An order directing a person to pay money to another person when breached creates a debt, whereas the breach of an order to pay money into court does not necessarily imply the existence of a debt. In the former case the court's power to imprison contemnors is limited and can only be exercised in the circumstances provided for by the [Debtors Act 1869, s 4](#) and s 5.”

43 In this case, the two costs orders create a debt owed by Camilla to BNP Jersey, and, if the Court were dealing with that alone, then there may well be restrictions under Jersey Law upon its ability to commit to prison for refusal to discharge that debt.

## Decision

44 Advocate Steenson accepted that Camilla had not complied with the December 2018 Disclosure Order during the period from the 25<sup>th</sup> January, 2019, to the filing of her fifth affidavit on 19<sup>th</sup> June, 2019, a period of five months, but he submitted that before the Court

could find she was in contempt during that period, it would have to be satisfied beyond reasonable doubt that she was permitted under Monaco law to comply with the order. As Borrie & Lowe state at paragraph 6.10, it is a defence that compliance with the order is impossible, but:-

***“So far as disobedience to a positive order is concerned it has been held that it is the duty of the defendants to enquire and discover the proper means of obeying the order and although it may be a defence to show that compliance with the order was impossible, the burden of proving such impossibility is upon the defendants. In *Lewis v Pontypridd, Caerphilly, and Newport Rly Co*, a railway company had been ordered to construct a junction joining their line with the plaintiff's works. The defendants argued that since they never had any funds to build the junction they could not have complied with the order and therefore the breach could not be said to be ‘wilful’. The court rejected this contention. The defendants had failed to discharge their burden of proving that compliance was impossible, because they had not shown that they could not have obeyed the judgment.”***

45 We have considered the opinions produced by both Camilla's Monaco lawyer, Thomas Giaccardi and BNP's Monaco lawyer, Géraldine Gazo and the following emerges:-

(i) The December 2018 Disclosure Order is not directly enforceable by BNP Jersey against Camilla through the Monaco courts without the prior approval of the Monaco courts. We are not concerned here with direct enforcement in Monaco. Camilla has submitted to the jurisdiction of this Court in these proceedings.

(ii) Article 329 of the Code of Civil Procedure provides that in civil proceedings in Monaco, lineal descendants of an individual can refuse to testify orally against their relative without incurring any sanction. We are not concerned here with Camilla being asked to testify against her mother, Mme Crociani, in civil proceedings in Monaco.

(iii) Mme Crociani has issued what is called a ‘*sommation*’, some fourteen months prior to the December 2018 Disclosure Order, putting Camilla on notice that Mme Crociani may make claims against Camilla should she comply with a disclosure order. No proceedings against Camilla have, however, been commenced.

46 Leaving aside the fact that Camilla has now purported to comply with the December 2018 Disclosure Order, which in itself indicates that she is free to do so, she has not discharged the burden upon her of showing that compliance is impossible. Indeed, we are satisfied from the advice we have seen from both Monaco lawyers that there is no impediment under Monaco law to her complying with the December 2018 Disclosure Order.

47 It follows that we find proved beyond reasonable doubt that Camilla was in contempt of the December 2018 Disclosure Order from 25<sup>th</sup> January, 2019 to 19<sup>th</sup> June, 2019, a period of some five months which is a substantial period in the context of BNP Jersey's efforts to

trace the assets of Mme Crociani.

- 48 Although Advocate Steenson did not concede that Camilla had thereafter failed to discharge her obligations under the December 2018 Disclosure Order, he did not conduct an analysis of each of the orders made against her and the adequacy of her responses to them. He referred to this passage from Borrie & Lowe at paragraph 6.3:-

***“8 Although this aspect of contempt is designated civil, because of the penal sanctions that apply, it has been said to ‘partake of a criminal nature’ and many of the rules that normally apply when seeking to prove an accused guilty of a criminal offence apply when seeking to show that the defendant has committed civil contempt.*** in consequence, the rules safeguarding contemnors’ rights must be strictly complied with. This means that there must be a high standard of procedural fairness.”

- 49 Procedural fairness, he argued, required BNP Jersey, on receipt of Camilla's fifth affidavit, to formally amend its representation to set out clearly what allegations of contempt remained against her following the filing of the fifth Affidavit. The representation was, he said, in this respect akin to an indictment or charge sheet. As it was, Camilla was left with the *‘speculation, supposition and surmise’* contained within Lynne Gregory's affidavits, leaving it unclear precisely what breaches were now alleged, and what she had to respond to.
- 50 In response, Advocate Redgrave pointed out that the allegations against Camilla remain as set out in the representation; there was nothing new alleged against her. She had belatedly filed two affidavits and the issue is whether these affidavits fulfil her obligations under the December 2018 Disclosure Order. The affidavits of Lynne Gregory clearly set out those respects in which BNP Jersey argue she has not.
- 51 We see nothing unfair in the procedure adopted by BNP Jersey in this case, and reject the suggestion that the representation should have been formally amended following the filing of the fifth affidavit of Camilla. The allegation as originally set out in the representation remains, namely that she has not complied with her obligations under the December 2018 Disclosure Order and that is what has to be proved to the criminal standard.
- 52 The position in relation to the costs orders is straightforward. Those orders have not been complied with and we are satisfied beyond reasonable doubt that Camilla is in contempt of Court for failing to do so.
- 53 Turning to the December 2018 Disclosure Order, Advocate Redgrave fairly makes the point that in her fifth and sixth affidavits (as indeed in her earlier affidavits), Camilla has disclosed nothing material that was not either in the public domain already or in response to assets discovered in proceedings brought by BNP Jersey.

- 54 The disclosure that she has made needs to be seen in the context of the findings of the Court in the substantive proceedings, as summarised above, as to the close relationship between Mme Crociani and Camilla, the way they worked together and the immense family wealth. They still share the same accommodation in Monaco. As the Court said in the substantive judgment at paragraph 360, they had become very close, sharing the same social ambitions and interests with their social diaries being inextricably linked.
- 55 The starting point in relation to the artworks listed in the world-wide freezing order is that as at September 2012, they were all owned by Mme Crociani personally. By at least 6<sup>th</sup> July, 2015, Mme Crociani was on notice that BNP Jersey intended to rely upon the indemnity she had given. Through discovery proceedings brought by BNP Jersey in various locations, 7 of the artworks have been found in Museo Vault in Miami, apparently owned by the Apollo Trust, and others in Switzerland, of which Camilla claims to own 2 and the Nettuno Trust claims to own 8, which she says were transferred to it by her in July 2016.
- 56 The evidence discovered of Camilla's involvement in the transfer of the artworks from Singapore to Zurich in November 2016 as detailed in Lynne Gregory's first affidavit at paragraphs 30–35 justifies the conclusion that Camilla was actively involved in managing her mother's artworks, much of which has ended up in trusts with which she is closely connected. Her assertion in paragraph 33 of her sixth affidavit that her involvement in her mother's dealings with Huntington T Block, the insurers, was solely to assist in translation is, in the light of the evidence, unbelievable.
- 57 Camilla's claim that she acquired artworks from Mme Crociani before the imposition of the worldwide freezing order on 4<sup>th</sup> August, 2016, is not supported by the documentation disclosed by Huntington T Block which shows that as at 26<sup>th</sup> November, 2016, all but two artworks were insured in a policy in Mme Crociani's name.
- 58 We have a number of specific observations to make in relation to Camilla's sixth affidavit:-
- (i) At paragraph 40, she says that the changes to the Apollo Trust were instigated by her mother and certainly not by her, as she surmised that they would have reflected her mother's wishes. One of the documents discovered in the Curaçao proceedings is an e-mail from Gregory Elias of the United Group to Virgilio Ranalli, her advisor, dealing with a deed by which Camilla was excluded as a beneficiary and her daughters appointed in her place:-

*“As per the wish of the Princess dated May 8, 2017 I am herewith forwarding to you the relevant deed for which I ask you to complete the section where the 2 daughters are mentioned.*

*We need their D.O.B. and place where they [were] born.*

*Once completed kindly have the Protector and Settlor sign off and accommodate me with a copy which I will co-execute therewith formalizing this Deed of Addition and Exclusion of beneficiaries.” (our emphasis)*

The Princess, of course, can only be Camilla.

(ii) At paragraph 23 of her fifth affidavit, she refers to her company Ruysdael Investments Inc. (“Ruysdael”) which had purchased artworks from Mme Crociani. She states that Ruysdael is a company that is entirely owned by her, and did not belong to Mme Crociani. She exhibits to her sixth affidavit a declaration of trust signed by Gregory Elias on behalf of Centennial Management NV on 12<sup>th</sup> July, 2012, confirming that it holds a share in Ruysdael on trust for Mme Crociani, which had been shown to the Court at an earlier hearing (see paragraph 26 of the judgment of 31<sup>st</sup> July 2018). Also exhibited was another declaration of trust signed by Gregory Elias bearing the same date but this time in Camilla's favour, together with a letter from Gregory Elias dated the 30<sup>th</sup> April, 2019, saying that the former declaration was a mistake due to a *“misinterpretation of an instruction”*. He does not disclose who gave that instruction and what it said.

(iii) There are a number of exhibits appended to the sixth affidavit relating in part to demonstrating Camilla's ownership and that of the Nettuno Trust of the artworks attached in Switzerland, purchased ultimately from Mme Crociani, together with copy formal documentation relating to the Nettuno Trust. There was little time at the hearing to go through these exhibits, but they do not in any material way, as conceded by Advocate Steenson, advance the ambit of the disclosure made in the fifth affidavit.

59 Standing back, we take each of the orders in turn to see what in fact has been disclosed by Camilla:-

***“1. (a) The fifth defendant's involvement in any movement of the 29 artworks listed at paragraph 1(3)(a) of the WWFO (‘the artworks’) from 6<sup>th</sup> July 2015 to the present including their movement from Singapore in November 2016.”***

Camilla has disclosed nothing in relation to this order, save for the one movement in November 2016 of artworks from Singapore to Zurich discovered by BNP Jersey. Even then, she minimises her involvement to one of acting as a translator when the discovered documentation shows a far greater role.

***“(b) Full details of any such transfers, including in each case where each of the artworks was moved to, and the reason for any such transfer.”***

Camilla has not given any details even of the transfer she accepts she had some involvement in and has given no reasons for that transfer.

***“(c) To the extent not already covered, everything the fifth defendant***



***knows or believes about the location of all the artworks from 6<sup>th</sup> July 2015 to the present.”***

Camilla has only given the location of artworks which BNP Jersey, through its own efforts, has already located and attached. According to Lynne Gregory's third affidavit, there are still another 11 artworks which have not been located, including what we understand to be the most famous and valuable work owned by Mme Crociani, namely the Hina Maruru by Gauguin. It stretches credulity that Camilla does not at least have a belief as to where this painting is currently located.

***“(d) Full details of all third parties (including but not limited to art experts, valuation agents, insurers, shipping and transport companies, storage facilities and freeports) which have had any involvement with the artworks from 6th July 2015, including in each case relevant individuals, contact details and a description of their involvement with the artworks.”***

No details at all have been given of third parties involved in the artworks from 6<sup>th</sup> July 2015 to date. At the very least Camilla must know who currently insures the artworks she says she and the Nettuno Trust have acquired from Mme Crociani and who may well have some involvement in the remaining 11 artworks which have not been located.

***“(e) In relation to the proceeds of the Grand Trust investment portfolio, everything the fifth defendant knows or believes about its location from 6<sup>th</sup> July 2015 to the present.”***

No information has been disclosed as to the location of this substantial investment portfolio, and again, it stretches credulity that Camilla does not at least have a belief as to where these assets are currently located.

***“2. .... inform the third defendant's advocate in writing of her knowledge of transfers of any assets held by or on behalf of the first defendant made since 6th July 2015 by the first defendant ... to the fifth defendant ...”***

No disclosure of transfers of assets has been made, save to the extent that artworks were found and attached by BNP Jersey in Miami and Switzerland.

60 We find proved beyond reasonable doubt that through her fifth and sixth affidavits Camilla has not complied fully with the December 2018 Disclosure Order and is therefore in contempt of Court. The breach is serious. Given the context and background as shown by previous court findings, it is clear in particular, and we have no doubt, that she has been closely involved with the artworks from the 6<sup>th</sup> July, 2015, but has only disclosed information in response to artworks located and attached by BNP Jersey through its own efforts.

## Conclusion



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61 In conclusion we find proved beyond reasonable doubt that Camilla:-

- (i) Is in contempt of Court by failing to pay the two costs orders.
- (ii) Is in contempt of Court for failing to provide any of the disclosure ordered under the December 2018 Disclosure Order in the period from 25<sup>th</sup> January, 2019 to the 19<sup>th</sup> June, 2019, a period of some five months.
- (iii) Remains in contempt of Court notwithstanding the filing of her fifth and sixth affidavits.