UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FBME BANK LTD., *et al.*, Plaintiffs, v. **JACOB LEW**, in his official capacity as Secretary of the Treasury, *et al.*, Defendants.	Case No. 15-cv-01270 (CRC)

DECLARATION OF GEORGE Z. GEORGIOU

I, **George Z. Georgiou**, declare as follows:

I. Background

1. I am a Cypriot Lawyer regulated by the Cypriot Bar Council and the Managing Partner of the law firm George Z. Georgiou & Associates LLC ("Georgiou Law Firm").

2. I obtained my Law degree from Bristol University, England in 1999, and I was called to the Bar of England & Wales by the Honorable Society of the Inner Temple in 2000. I was admitted to the Cyprus Bar in 2001 and I have practiced law in Cyprus since the date of my admission. I was also admitted to the Chartered Institute of Arbitrators in 2005 and the Royal Institution of Chartered Surveyors (RICS) in 2012.

3. I started the Georgiou Law Firm on my own in 2005. The firm now comprises 25 full time lawyers and legal consultants and focuses on dispute resolution, which is my area of expertise. I am (1) top ranked for dispute resolution in Cyprus by Chambers; and (2) ranked as a leading lawyer in the same category by Legal 500. A more detailed account of my professional qualifications is set forth in my Curriculum Vitae. *See* Exhibit A.

4. I currently serve as counsel to FBME Bank Ltd. ("FBME") in connection with several proceedings in Cyprus challenging actions by the Central Bank of Cyprus ("CBC") against FBME.

II. The CBC's Sale Resolution

5. On July 21, 2014, the CBC issued a resolution that provided for the sale of the operations of FBME's Cyprus branch (the "Branch"). *See* Ex. B, CBC Resolution Decree 356/2014 (the "Resolution Decree") regarding the sale of the FBME Cyprus Branch (July 21, 2014); Ex. C, Notification of Resolution (July 22, 2014). That same day, the CBC also appointed a Special Administrator to manage the Branch while in resolution. *See* Ex. C.

6. In response to the Resolution Decree, on July 25, 2014, FBME filed (1) an administrative recourse against the CBC in the Supreme Court of Cyprus challenging the Resolution Decree ("Administrative Recourse Action"); and within the framework of the recourse, (2) an application for an interim order (the "Interim Application Action") suspending the Resolution Decree until the Supreme Court issues a judgment in the Administrative Recourse Action. The CBC filed an objection to the Interim Application on August 4, 2014. On August 8, 2014, the Supreme Court dismissed the Interim Application. This dismissal did not have any effect on the administrative recourse which continued its normal course through the Court.

7. On August 5, 2014, and May 18, 2015, as part of the Administrative Recourse Action, I, together with other lawyers from the Georgiou Law Firm, inspected the CBC's administrative file relating to the Resolution Decree (hereinafter the "Initial Inspections").

8. Based on information provided by the CBC to the Supreme Court in connection with the Interim Application Action and the Administrative Recourse Action, I, and other lawyers from the Georgiou Law Firm, concluded that the CBC had failed to produce all relevant documents during the Initial Inspections.

9. Accordingly, on November 12, 2015, I, and other lawyers representing FBME, filed an application with the Court[1] seeking an order requiring the CBC to swear, under oath, that it had produced all relevant documents during the Initial Inspections. On November 23, 2015, CBC filed an objection to this application. After a hearing, the Court dismissed the application on December 18, 2015 on specific technical grounds.

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[1] Prior to July 21, 2015, Cyprus did not have Administrative Courts and all administrative recourses were heard at the first instance in the Supreme Court by a single judge and any appeals of such cases were heard at the Supreme Court by five judges. Thereafter, however, all administrative recourses were transferred to the newly founded Administrative Court which now has jurisdiction to hear these cases at first instance while appeals for these cases are filed with the Supreme Court.

10. On February 4, 2016, FBME filed a new application requesting a disclosure order ("Disclosure Application") requiring CBC to: (1) disclose certain documents, including (a) the "Report of the audit firm PricewaterhouseCoopers ("PwC")," which contains the conclusions of an audit conducted at FBME's premises between June 6 and July 4, 2014, (b) "Minutes of the Resolution Committee," (c) "Revised liquidity/financial state report," and (d) "Correspondence of the Respondents with [FBME], FinCEN, the correspondent banks, [and] the Statutory Manager in Tanzania;" (2) allow FBME's counsel to inspect these documents; and (3) provide copies of these documents to FBME's counsel. *See* Ex. D, Interim Judgment, Administrative Court, at 2 (Nov. 29, 2016); Ex. E, Translation of Exhibit D. CBC filed an objection to the Disclosure Application on April 12, 2016.

11. The Administrative Court held a hearing on the Disclosure Application on November 14, 2016 and issued an interim judgment/order on November 29, 2016 ("Interim Order") ordering CBC to allow FBME to inspect the following categories of documents at the CBC: (1) "Report of the audit firm of PricewaterhouseCoopers ("PwC")"; and (2) correspondence between CBC and FBME, FinCEN, the correspondent banks and the Statutory Manager in Tanzania for the period July 18, 2014 to present. *See id.* The Court also ordered that all disclosed documents, including any documents produced by the CBC during the inspection, should be filed with the Court at the clarifications (hearing) stage of the proceedings. The production of the administrative record at the clarification stage is standard practice in administrative proceedings in Cyprus.

III. Inspection at CBC

12. Following the service of the Interim Order to the CBC and after requesting an inspection as soon as possible, on December 6, 2016, I and four other lawyers representing

FBME, attended the inspection appointment at the CBC. During the inspection, we examined four boxes provided by CBC. CBC permitted us to take detailed and/or verbatim notes, which we did, but would not allow us to photocopy, photograph, or otherwise copy the documents. Accordingly, we do not possess any copies of the documents produced, but only detailed and verbatim notes of the inspection. The key documents identified during the inspection are summarized in Section IV below.

13. The Court held a hearing on January 12, 2017 during which it became clear that the release of the administrative record would not happen for several months. Accordingly, FBME likely will not have access to the documents produced during the December 6, 2016 inspection for some time.

IV. Key Documents and Emails Identified During the Inspection

14. During the inspection, we identified the following emails and documents, among others:

15. **February 13, 2015 Email from Katia C. Matsoukari of the CBC to Richard May of FinCEN** with the following individuals copied: George Syrichas (Executive Director of the Board of the CBC); Governor of the CBC; Jeanette Gundersson (FinCEN staff); Kyriacos Stavrou (Economics, Statistics and Financial Stability Division of CBC); Michalis C. Stylianou (Head of the Resolution Unit of CBC); Shannon Harrisson (FinCEN staff); Stelios Kiliaris (Executive Director of the Board of the CBC); Stephanie Brooker (FinCEN Staff).

- The subject of this email was "Re Request for a call with the director of FinCEN" and the attachments included "541/14 decision FBME Hadjiyiannis judgement.pdf; FBME Report Final Feb2015.PDF; ATTVUNHJ.pdf."

- The message reads: "Dear Mr. May, further to yesterday conference call with FinCEN regarding FBME, please find attached: (1) Supreme Court Judgment 8/8/14 – Parparinos J.; (2) **FBME Report- AML Onsite Examination 2014 (NO DATE)**; and (3) District Court Judgment 17/12/14 – losif PDC." (emphasis added).
- Although the CBC did not provide me with a copy of the FBME Report attached to this email, I attest that Exhibit F to this affidavit is to the best of my knowledge and belief a very similar, if not identical copy of the "FBME Report" that Richard May sent to FinCEN on February 13, 2015 and which I observed during the December 6, 2016 inspection.[2] I base this conclusion on the comparison of Exhibit F with my notes of the "FBME Report" made during the December 6, 2016, inspection.

16. **August 6, 2015 Email from Richard May (FinCEN) to the Governor and Board of Directors of the CBC.**

- The message reads "Madame Governor, Thank you again for the telephone call this morning. We also appreciate your willingness to provide us with an email or other writing reflecting our discussion from this morning that we could use with the US Courts as appropriate. Our understanding is: (1) CBC investigated Bank and in 2015 investigation found evidence that the bank was being used for criminal activity. (2) Notice by CBC does not mean liquidation. (3) CBC takes

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[2] I obtained Exhibit F from the shareholders of the Bank and their counsel, Quinn Emanuel Urquhart & Sullivan, LLP, in Paris, France. I understand that Exhibit F was produced by the CBC on December 9, 2016 in connection with the ICC matter. Exhibit F is the document referred to in the Motion for Reconsideration as the "February Report."

actions on its own supervising concerns, which are not contingent to final rule or effective duty. (4) FBME not operating in any way other than for CBC administrator to make small payments to depositors. No international correspondent accounts. A writing confirming the above would be most helpful. Separately can you confirm that the CBC would have to take additional steps with the ICC for liquidation? **Finally you previously provided FinCEN with your audit of FBME marked 'confidential' and we have treated it as sensitive. Can we now share with Court or in general?"** (emphasis added).

17. **August 8, 2015 Email from Richard May (FinCEN) to George Syrichas (CBC).**

- The subject is "FinCEN Report."
- The message reads "George, Thank you for participating in the recent calls between FinCEN and the CBC. As you know, we recently requested that the CBC provides to FinCEN certain information that we might submit to US Federal Court for its consideration in litigation regarding the FBME Final Rule. For purposes of clarity in your response, we request that the CBC submits its response to us either as a letter attached to a new email or in the body of an email that is entirely separate from any past correspondence. Additionally, I believe that the CBC may have submitted several witness statements to the ICC. Would you mind sharing with us a copy of those statements, and all other pleadings by the parties and orders from that court, so that we have a complete record of any statements on record? We anticipate that those documents may be presented in U.S. Federal

court in the course of litigation and would like to have access to them beforehand."

18. **October 21, 2015 Email from Y. Demetriou (CBC) to Richard May ("FinCEN)** with the following individuals copied: "Brown/Syrichas/Governor/Kettirou/Stylianou".

- The subject is "Conference Call."
- The message reads "Dear Mr. May, Following our recent communication on the captioned subject, and your response below and in line with the provision of the Cyprus banking legislation in relation to the exchange of information with foreign supervisors, I would like to inform you that it has been decided that, information reports in the hands of the CBC relating to activities of the subject bank in the US or of interest to your agency, will be sent to you given that you do not expect to visit Cyprus in the immediate future. It goes without saying that all information is confidential and will be provided from one supervisor to another strictly for your supervising purposes and cannot be disclosed to third parties. As this information is bulky and stored in about 9 to 10 box files, please indicate the most convenient and safest way that this can be dispatched to you. Meanwhile, I take this opportunity to inform you that it has come to our attention that FBME Bank is proposing to its depositors various schemes for the transfer of the Cyprus branch deposits to the head office in Tanzania. Copy of the letter sent to the depositors is attached for your information."

- During the inspection, I observed a handwritten signed note on top of this email stating that it was finally decided for the documents not to be sent and that they were not sent.

19. **March 3, 2016 Email from Richard May (FinCEN) to George Syrichas (CBC)** attaching Exhibit 41 to FBME's March 2016 Public Comment and asking **if the report listed as No. 2 in February 13, 2015 email (described above) can now be disclosed as similar to Exhibit 41 posted on regulations.gov.**[3]

20. **March 11, 2016 Email from George Syrichas (CBC) to Richard May (FinCEN).**

- The message reads "Richard, Some concerns were raised regarding the prospect of not treating the report in question as confidential. However, I revert the moment I have the final decision from our legal people."
- This is the last document in the file disclosed to us during the inspection.

V. Deficiencies of Inspection

21. During the inspection, it was apparent that CBC had not disclosed all the documents in its possession relating to the PwC report or the majority and most relevant correspondence with FinCEN, namely correspondence for the time periods (i) July 18, 2014 through February 15, 2015, (ii) December 3, 2015 through January 4, 2016, and (iii) March 2016 to present.

22. During the inspection, we asked Ms. Karia Kettirou, internal legal counsel for CBC, to provide us with the above correspondence, who responded: "The four box Files given

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[3] Exhibit 41 to FBME's Public Comment is the "September Report" discussed in the Motion for Reconsideration.

today contain the documents as mentioned in the order dated 11.29.16 and as far as I am aware there is no correspondence with FinCEN that was not included in the files." *See* Ex. G, Letter from Counsel for FBME, Markides, Markides And Co. LLC and George Z. Georgiou & Associates LLC, to Counsel for CBC, Alecos Evangelou & Co. (Dec. 15, 2016); Ex. H, Translation of Exhibit G.

23. In response to the deficiencies we identified during the inspection, on December 15, 2016, we sent CBC's counsel a letter stating that CBC "deliberately disobeyed the Order of the Court since there is Sworn Testimony as well as Sworn Affidavits whereby they admit that there was correspondence with FinCen during the abovementioned time periods." The December 15, 2016 letter also stated that "to avoid further legal action against [the CBC], notwithstanding a contempt of court application, with the relevant consequences, we request that you make the documents which are referred in the Order dated 29/11/2016, available for inspection by this coming Monday 19/12/2016." *See* Ex. G.

24. Counsel for CBC responded on December 19, 2016 stating that CBC "fully complied, and allowed you to inspect the documents, which were expressly referred to in the Order of the Court dated 29/11/2016."

25. On December 27, 2016, we sent a second letter to CBC's counsel highlighting the deficiencies in CBC's response to our December 15, 2016 letter and objecting to CBC's obvious withholding of certain documents from the inspection. *See* Ex. I, Letter from Counsel for FBME, Markides, Markides And Co, LLC and George Z. Georgiou & Associates LLC, to Counsel for CBC, Alecos Evangelou & Co. (Dec. 27, 2016); Ex. J, Translation of Exhibit I. In the December 27, 2016 letter, we once again requested that the CBC "enable us to inspect all of the documents and comply with the Order, because we honestly want to avoid, if possible,

further legal actions. However, we do note that, we have been instructed by our clients to proceed with further action, if your client compels us to do so." Ex. J.

26. CBC's counsel responded on January 3, 2017 that CBC had "fully complied, and allowed you to inspect the documents, which were expressly referred to in the Order of the Court dated 29/11/2016."

27. Based on CBC's failure to meaningfully respond to our December 15 and December 27, 2016 letters or to provide additional documents for inspection, we are seriously considering filing an application for contempt in the Administrative Court seeking, among other things, an order requiring CBC to comply with the Court's November 29, 2016 order. Under Sections 42 and 44 of the Cyprus Courts of Justice Law 14/60, if a person refuses or omits to comply with a Court order, the Court may hold them liable for contempt of Court. Section 42 empowers the Court with discretion to impose imprisonment and financial penalties against the person who refuses to comply.

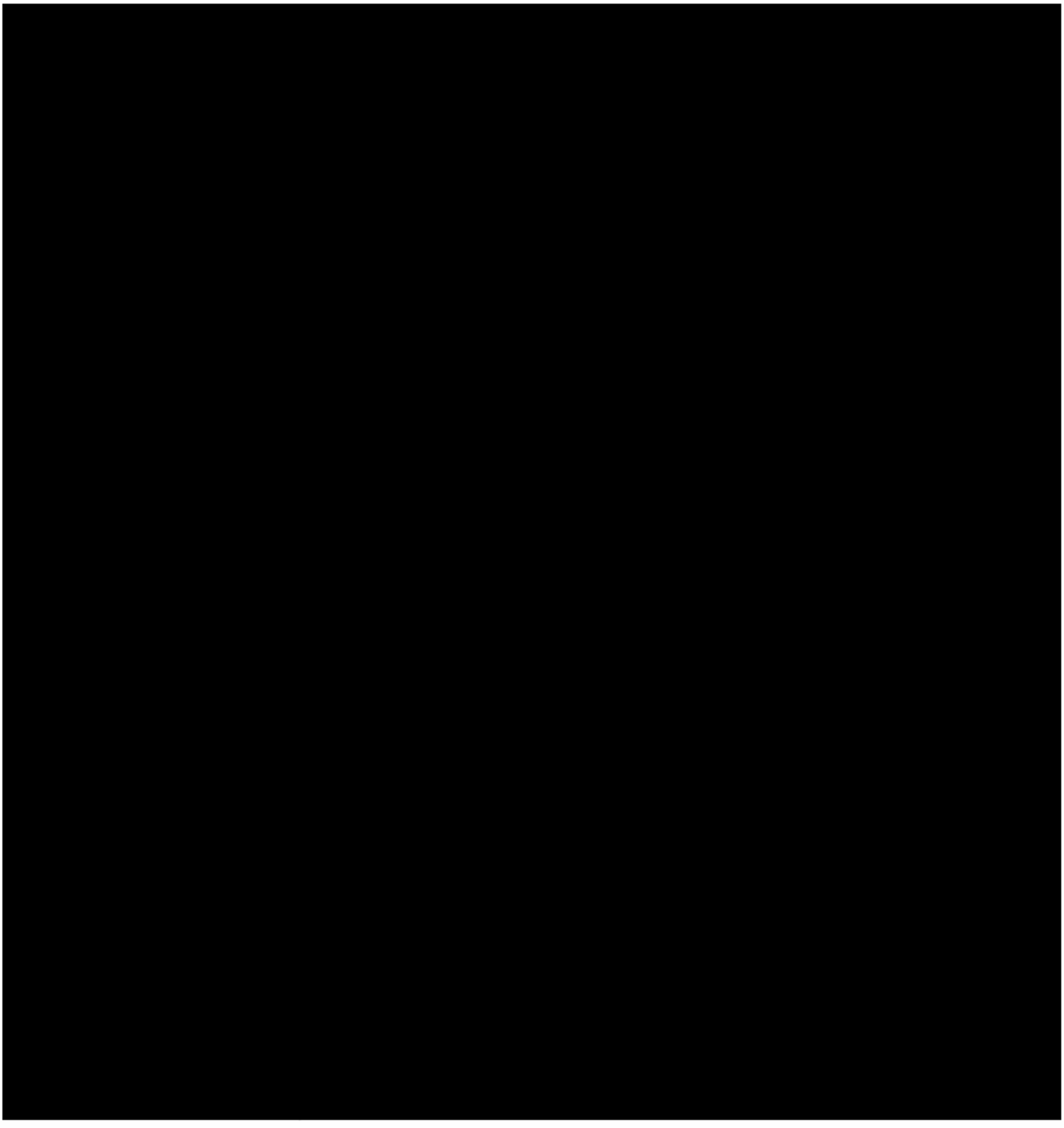
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed in Nicosia, Cyprus on January 17, 2017

George Z. Georgiou

EXHIBIT A

[redacted]



For more information on Europass go to http://europass.cedefop.europa.eu
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[redacted]

[redacted]

EXHIBIT B

[redacted]

EXHIBIT C

[redacted]

EXHIBIT D

[redacted]

EXHIBIT E

[redacted]

EXHIBIT F

CENTRAL BANK OF CYPRUS

EUROSYSTEM

CONFIDENTIAL

FBME REPORT

Findings -AML Onsite Examination 2014

I. Executive Summary

[redacted]

[redacted]

In relation to the effective implementation of due diligence measures on customers, it was noted that in the case of Onexim Group (23 companies) the bank failed to comply with article 61 of the AML Law and paragraphs 109-112 of the CBC Directive in relation to the identification of the ultimate beneficial owner. In particular, it was noted that in 23 companies the ultimate beneficial owner were persons acting as front men in favour of a Russian politically exposed person. The bank's MLCO admitted that the bank was aware of the above and hid the UBO in view of the fact Mr Prokhorov was a presidential candidate in Russia. It should be noted that article 68(c) of the AML Law provides that in the event that the customer of a person engaged in financial or other business activities, or a person who is authorised to act on behalf of the customer, or a third person according to paragraph (a) of subsection (2) of section 67, on whom the person engaged in financial or other business activities relies for the performance of the procedures for customer identification and due diligence measures, knowingly provides false or misleading evidence or information for the

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EUROSYSTEM

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whether to allow the account to continue operating, failing thus to comply with the requirements of paragraph 149 (vi) of the CBC Directive (Igor Balenko).

- In some cases, the bank failed to prepare a note summarising the results of the review, carried out by the responsible officer and submitting it to the Senior Management for consideration and approval failing thus to comply with paragraph 149 of the CBC Directive. Indicative examples of the aforegoing were observed in the files of Avicta Limited, Vladimir Smirnov, Bailey Ventures Ltd, Igor Balenko.
- The bank failed to take adequate measures to establish the source of wealth of the PEP as per article 64(1)(c) of the AML Law. Indicative examples of the aforegoing were observed in the files of Valery Kogan, Vladimir Smirnov, Bailey Ventures Ltd.

(iv) Misclassification of risk

According to Article 64(2) of the AML Law, banks must apply enhanced and additional customer due diligence in all instances which, due to their nature, entail a higher risk of money laundering or terrorist financing. In this connection, it was noted that customer risk classification is not properly implemented. In some cases, customers were categorised as Normal Risk instead of High Risk, failing thus to apply enhanced due diligence measures to reviewing the business relationship annually.

Such instances were observed in the business relationships with the following customers:

- Valery Kogan(064076): As per PEP Enhanced Due Diligence (dtd 10/06/2014), it is suggested by the CI to remove the customer from high risk PEP and to be classified as Normal Risk. We do not agree with CI's suggestion as the client is closely associated with PEPs (i.e. Dmitry Kamenshchik) [Note: Adverse publicity (involve in several Russian scandals) according to the webpage haaretz.com (Israel News)].
- Larisa Drozdova(400887): The client was indicated as normal risk. At the time of the first review she was wrongly indicated as high risk (her husband is an ex-PEP) and then at the last review she was reclassified as normal risk. It should be noted that her husband is still classified as high risk.
- WGVC Ltd: The customer should have been classified as high risk due to the fact that is part of the same group with Wargaming (same UBOs) (online gaming)
- Lionman Energy Ltd: The customer should have been classified as high risk. (Physical pertoleum trading, consulting on oil refinery management, on refining process optimazation, on oil terminal management, bunkering operations-trading, lubricant trading, shipping)

• Blue Way Aviation Ltd	• Business Access Pte Ltd
• Circa-Media Limited	• Classic Elements Corp
• Concordia Corporation Ltd	• Crossway Commerce S.A.
• E.V.A.L. Eastern Valve Alliance Ltd	• Edenbridge Investments Ltd
• Fortress Business Services Ltd	• Gyges Services Limited
• Hailington Ltd	• Hamilton Hargreaves Llc
• International Investment Finance Ltd	• Kelada Investment Group Ltd
• Language Link Ltd	• M.D Software Ltd
• Manicon International Ltd	• Mediafine Trading Ltd
• Mm Sports Promotion Lp	• Nsg Nicosia Software & Graphic House Limited
• Oriental Pharmaceutical Group Limited	• Paul Kenneth Davies
• Roman Consultancy Ltd	• Rosemount Holdings Ltd
• Rydale International Holdings Limited	• Scandec Incorporated
• Shale Impex Ltd	• Shinc Shipping Limited
• Trident Alliance Ltd	• Uzika Services Ltd
• Valery Kogan	• Vantouro Co. Ltd
• Vladimir Smirnov	• Winner Production Limited
• Minayma Finance Ltd	• Semira Ltd
• Vermania Ltd	• Chalbukhan Cyprus Ltd
• Global Smsden Llc	• Bromenso Enterprises Ltd (Dmitryi Palunin)
• Solitento Ltd	• Padiliano Holdings Limited
• M&C Smart Construction Ltd	• Business One LLC
• WW Consult BV	• Huri Holdings Inc. - The Huri Trust
• Alexander Gennadyevich Shishkin - Rusbiotech Intl Ltd	• Nataliya Tigipko - Genetron Limited
• Shiningstar Investments (Cyprus) Ltd	• Igor Balenko (Ralkom Ltd)
• Majestic Wealth S.A.	• Wincom LLC
• WGVC LTD	•

In addition to the above, it was noted that the Compliance department was far behind from such investigations, as Q1 of 2014 was not yet investigated. With regard to the quality of the investigation carried out it was noted that it was not always up to the expected standards. In the majority of cases the bank merely required an updated business profile (including a new declared turnover) to be submitted by the customer without challenging the said information or obtaining financial statements of the customer to justify the increase in turnover. In certain cases, no supporting documentation was found in relation to specific transactions, or the purpose of the contract was not in line with the declared activities, or the amounts stated on invoices did not match with the specific transactions. Indicative examples of the aforegoing were found in the case of Promero, Kontes Entertainment, Seureaship International ltd, 4Revenue Incorporation.