

COURT OF APPEAL SITTING
TERRITORY OF THE VIRGIN ISLANDS
Monday, 16th November 2015

		<u>APPLICATION AND APPEAL</u>
Case Name:		[1] Norvalo (Overseas) Limited [2] Minco Enterprises Limited [3] Mikhail Golub [4] Ian Smith [5] Ruma Devi Anuradha Kissoondharry [6] Attendus Trust Company Ag [7] Curatus Trust Company (Mauritius) Limited [8] Curatus Nominee Services One Limited v [1] Storca Intertrans. Corp [2] Evgeny Mulyukov [BVIHCMAP2015/0013 and 0014]
Before:		The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Robert Levy, QC, for the First and Second Appellants Mr. John Wardell, QC, with him, Mr. Alistair Abbott for the Third Appellant Mr. Andrew Willins for the Forth to Eighth Appellants
	Respondents:	Mr. Neil Kitchener, with him, Mr. David Welford
Issues:		Application to set aside indefinite freezing order – Order made ex parte – Non-compliance with CPR 17.4(4), (6) and (7) – No risk of dissipation of assets – No realistic prospect of success – Inordinate delay in bringing application – Full and frank disclosure – Jurisdiction of the court – Inappropriate comments made in email

		containing order – Whether comments inextricably linked to order made – Apparent bias
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The order made by the Honourable Justice Barry Leon by email dated 18th September 2015 be set aside. 2. The claimants/respondents are at liberty to file and serve a fresh application for injunctive relief (the "Fresh Application") within 28 days of this order. 3. The fresh application shall be heard by a judge of the High Court of the British Virgin Islands other than the Honourable Justice Leon. 4. If the claimants/respondents do not file and serve a fresh application for injunctive relief within 28 days, the first, second and third defendants/appellants shall each be immediately released from their respective undertakings set out above without the need for any further order. 5. The sixth and seventh defendants/appellants are ordered not to vote their shares in the first claimant/respondent to appoint or remove directors unless ordered to do so by the court in Mauritius. 6. Any future civil proceedings, wherever located, between the second claimant/respondent and one or more of the sixth, seventh and eighth defendants/appellants arising out of the second claimant's/respondent's directorship of the first claimant/respondent, may be served on the second claimant at Mishcon de Reya, Africa House, 70 Kingsway, London, UK, WC2B 6AH. Service at this address shall be deemed to be valid service of such proceedings (without prejudice to any argument the second defendant might make as to jurisdiction). 7. The parties shall make submissions as to costs of the appeal in writing within 14 days of the order herein.