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REPUBLIC AND CANTON OF GENEVA
Judiciary
Public Prosecutor's Office

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P. O. Box 3565
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Ref: P/9893/2011 - MSC
to be quoted in all correspondence

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**CRIMINAL COURT
ORDER
OF 16 JULY 2015**

HAVING REGARD TO THE PROCEEDINGS P/9893/2011

The Accused: Ronald Edward LEKARZ
Date of Birth: 9 September 1955
Country of origin: USA
Domicile: 4883 Montgomery Road, P.O. Box 2120, Ellicott City MD,
USA
Represented by (principal): Mr Olivier PECLARD, attorney, chemin Kermely 5, P.O. Box
473, 1211 Geneva 12
Place of detention: ---
Plaintiff(s) or other participant(s): *Thule Drilling AS* in liquidation, assisted by Mr Pierre BYDZOVSKY,
attorney, Etude Borel & Barbey, Rue de Jargonnant 2, P.O. Box 6045,
1211 Geneva 6

Detta må vi få se

IN FACT

The criminal proceedings P/9893/2011 were opened on 7 July 2011 by Geneva's Public Prosecutor following money laundering information from the Money Laundering Reporting Office of Switzerland (MROS), which was suspicious of two financial intermediaries of Geneva.

Thule Drilling AS, in liquidation to date, has consequently filed a complaint on 2 December 2013 and is the plaintiff.

Mutual legal assistance proceedings CP/349/2011 were in parallel initiated by the Public Prosecutor's Office of Geneva, upon request of prosecuting authorities of Norway, which filed actions closely linked to those of these proceedings against Hans Eirik QLAV.

Two mutual legal assistance requests, of 26 September 2012 and 16 January 2015, from the Public Prosecutor's Office of Geneva to the prosecuting authorities of Norway have allowed the submission of a copy of the proceedings of Norway in the proceedings of Geneva. A request of 27 November 2014 to Malta allowed the submission of banking documents.

On the merits, the complaint established the following acts, perpetrated between 2007 and 2011 in Geneva, of which Ronald LEKARZ is accused in these proceedings:

Ronald Edward LEKARZ,

- acting jointly with Hans Eirik OLAV,
- acquired *Strategic Alliances Corporation BVT* (hereinafter: SAC) with the latter from Tournaire et Associés in Geneva at the end of 2007;
- then attempted at first, at the end of 2007, to open an account for SAC with *UBS* in Geneva under the no. 0240-477 346, for the purposes of receiving the proceeds of a breach of trust committed to the detriment of *Thule Drilling AS* (under Norwegian law, specialising in the construction of oil drilling platforms) and sent the account details to Peter GJESSING of *Thule Drilling* on 27 December 2007 for these purposes;
- subsequently, following the failure of this attempt, has opened another account 304'1411 in the name of SAC with *Julius BÄR* in Geneva, for the purposes of receiving the proceeds of the same breach of trust committed to the detriment of *Thule Drilling AS*;
- has provided the details of the successive banks accounts of SAC to *Thule Drilling's* employee responsible to make payments;
- has received unlawfully and in order to make illicit profits, on the account 304'1411 of SAC with *Julius BÄR*, which he controlled together with Hans Eirik OLAV, USD 5'500'000 transferred from the account of *Thule Drilling AS* with *Skandinaviska Enskilda Banken* in Oslo on 24 January 2008, namely the proceeds of the breach of trust committed by Hans Eirik OLAV to the detriment of *Thule Drilling AS* - Hans Eirik OLAV having, in his capacity of chairman of the board of directors of *Thule Drilling AS*, unlawfully ordered the transfer of USD 5'500'000 to the account 304'1411 of SAC with *Julius BÄR* and of USD 500'000 to an account held and controlled by Ronald LEKARZ in the United Arab Emirates, that is a total of USD 6'000'000, for the deceitful purpose of a remuneration which was in fact not due, and in order to unlawfully obtain those amounts together with Ronald LEKARZ;
- then on 31 January 2008, transferred USD 740'000 from the account 304'1411 of SAC with *Julius BÄR* to the account 0240-802'986 held by Hans Eirik OLAV with *UBS Geneva (UBS* account from which the funds were then withdrawn in cash and respectively transferred to different accounts in Switzerland or abroad to the profit of OLAV or of third-parties, the *UBS* account which was finally closed on 8 May 2009);
- transferred on 1st February 2008 USD 1'000'000 from SAC's account 304'1411 with *Julius BÄR* to the account 15.9267 which he held in his name with *Julius BÄR*;
- transferred on 6 May 2008 USD 500'000 from his account 15.9267 with *Julius BÄR* to buy shares on *Norinvest's* account 581748 with *EFG Bank* in Zurich;
- transferred on 8 May 2009 USD 1'000'000 from SAC's account 304'1411 with *Julius BÄR* to buy shares on *Norinvest's* account 581748 with *EFG Bank* in Zurich;
- transferred on 15 December 2009 USD 644'875 in gold from his account 15.9267 with *Julius BÄR* to the digital account 0128394 "Asagranite" which he held in his name with *BSI* in Geneva and NOK 596'596 on 18 December 2009 (after which his account with *Julius BÄR* was closed on 18 December 2009) – being emphasised that *the assets of BSI account are attached*;

- debited yet again from SAC's 304'1411 account with *Julius BÄR* (further to which, the latter [account] was closed on 2 December, 2009):
 - USD 1'500'000 on 6 February 2008 on the account of Profilgest with *Nordea Bank* in Oslo for the purchase of shares;
 - USD 300'000 on 6 February 2008 and USD 150'000 on 2 July 2008 on Mohammed AL GOSAIBI's account 0306735792 with *Samba Financial Group Al Khobar*, with respect to legal fees according to the wording;
 - EUR 30'000 on 23 September 2009, NOK 86'799 and NOK 153'200 on 29 September 2009 in cash in favour of Saelid Cato;
 - NOK 100'000 and NOK 200'000 on 13 October 2009 in cash in favour of Hans Olav ELDRING;
 - NOK 1'900'000 NOK on 29 October 2009 on the account 40018527328 of *Otto Malta Ltd.* with *Bank of Valetta* in Malta, controlled by Eirik Hans OLAV;
 - USD 1'130'000 in gold on 30 October 2009 on the 17743 account of *Otto Malta Ltd* with *Bank of Valetta* in Malta, controlled by Eirik Hans OLAV;
- used USD 500,000 received on his account in Dubai for different payments made to the United Arab Emirates;
- it being understood that these acts have led to the unjust enrichment of Ronald LEKARZ, Hans Eirik OLAV and third parties, up to a total amount of USD 6'000'000 USD, and have caused to *Thule Drilling AS*, prejudice of similar magnitude, and that these have also prevented, if not grievously complicated, the reconstitution of the flow of funds and the confiscation respectively the restitution of the proceeds of crime.

Ronald Lekarz's assets on the 0128394 digital account "*Asagranite*" with BSI - totaling to date the equivalent of around 660'000 CHF - have been seized as being the proceeds of crime. *Thule Drilling AS* claims a refund thereof.

Ronald Lekarz sought the services of an attorney, requested the lifting of the attachment of his assets and offered to come and explain his case in Geneva.

Ronald Lekarz was placed in custody on 6 November 2013 for breach of trust and money laundering in respect of the acts described above. He was then informed of the proceedings.

Ronald Lekarz contested any unlawful activity, stating that he was or at least thought he was the sole shareholder of SAC, that he was not aware of the amounts being debited from the account of SAC with *Julius BÄR* account in favour of OLAV's friends, that SAC was set up to help *Thule Drilling* solve the problems in the Persian Gulf, and that the amount of USD 6'000'000 USD was due as success fee.

Ronald Lekarz did not appear at the hearing of 8 January 2014, during which the liquidators of *Thule Drilling* confirmed their plaint.

Ronald Lekarz was heard again on 8 April 2014. He stated he had to hold the shares of SAC in a fiduciary capacity, namely as trustee for Gulf investors whose identities he refused to reveal. He confirmed that the 6,000,000 USD was owed to him

for his work, and explained that these constituted the initial investment for the business which SAC intended to develop in the Gulf.

Ronald LEKARZ did not attend the hearings of 17, 18 and 19 September 2014.

Ronald LEKARZ subsequently pretended to be in financial difficulty and went on to announce – usually at the last moment – that he would not attend the hearings conducted, the last one being on 14 April 2015, despite the fact that he was informed that he could request that his costs be borne and that safe-conducts would be issued to him.

Ronald LEKARZ again promised to indicate his availability, to submit his air tickets to Europe and to attend the new hearings. He eventually, through his lawyer, requested the Legal Assistance Service to apprise him of the cost of his travel to Geneva, so that his lawyer was able to purchase and dispatch air tickets for him to attend a preliminary hearing on 16 July 2015.

On the eve of the hearing, namely on 15 July 2015, Ronald LEKARZ apprised his lawyer that a swollen knee prevented him from traveling, without producing however any medical certificate demonstrating that an occurrence of this nature would prevent him from traveling and being questioned. Ronald LEKARZ promised to come during the week of 27 July 2015.

The Public Prosecutor held that Ronald LEKARZ was not validly excused since his behavior showed a lack of interest in the proceedings and a lack of consideration for the victim and the prosecutors. Scheduling a new hearing would have likely met with a new postponement.

However, the inquiry is complete and the bankruptcy estate of *Thule Drilling* should retrieve the assets which are still available.

The proceedings showed that the transfer instructions were given by Ronald LEKARZ and Hans Eirik OLAV, through *Profilgest*.

On 12 January 2015, the District Court of Oslo sentenced Hans Eirik OLAV to 4 years of imprisonment for breach of trust of USD 6'000'000 occasioned to the detriment of *Thule Drilling*. The Norwegian judges noted that OLAV was unjustly enriched by these criminal acts amounting to 4,050,000 USD, LEKARZ by USD 2'350'000 and AL GOSAIBI, their partner in the Gulf, by USD 450'000 USD.

During his hearing in the USA on 6 October 2014 in connection with the Norwegian proceedings, Ronald LEKARZ stated that he knew that OLAV was the other shareholder of SAC (minutes, p. 64 *et seq.*), while contending that neither him nor OLAV were actually the beneficial owners, but that he acted as trustee for the Gulf investors. LEKARZ also denied having a personal account in Switzerland (minutes, p. 141) before acknowledging the contrary (*ibid.* p. 152 *et seq.*), while claiming to be unaware that USD 1 million had been transferred from SAC's account with *Julius BÄR* (*ibid.*, p. 155) and then asserting that it was in fact related to the funds of SAC (*ibid.*, p. 158). LEKARZ also admitted to having transferred funds from the Maltese account but stated that he was unaware that it was OLAV's account (*ibid.*, p. 159-160). LEKARZ finally denied having received funds from OLAV, before refusing to answer to this question (*ibid.*, p. 160).

However, it has been concluded from the Norwegian inquiry and a rogatory commission in Malta in these proceedings is that *Otto Malta Ltd* or at least the assets on the account

which it held in Malta with *HSBC* actually belonged to Hans Eirik OLAV, and that the latter had instructed *HSBC* in May 2011 to sell gold and transfer its equivalent value to a personal account which he had just opened with *Bank of Valletta* in Malta. On 15 June 2011, USD 60'000 were credited from this account with *Bank of Valletta* held by OLAV to an account held by LEKARZ with *Wells Fargo Bank* in Philadelphia in the USA.

In addition, USD 1'557'000 were then transferred from the Hans Eirik OLAV's account to the *Bank of Valletta* in Malta to *CSCS Partners Inc.*'s account with UBS Monaco, of which the official beneficial owner is Alexander VIK (former shareholder of *Thule Drilling*). From the latter account, USD 60'000 had, yet again, been transferred on 30 September 2011 to the account held by LEKARZ with *Wells Fargo Bank* in Philadelphia in the USA.

The facts shall be held as proven, and the denials and explanations of Ronald LEKARZ shall be deemed implausible.

It will be noted that there was a particularly poor collaboration on the part of Ronald LEKARZ. Ronald LEKARZ systemically lied and made up fancy explanations and has demonstrated a nonchalant attitude, to say the least, towards authorities investigating his acts. Ronald LEKARZ has not even made any effort to compensate the victim. In particular, he never offered to refund part of the proceeds of the offence which were still available in Switzerland.

The accused is 59 years old, married and has children. He works as consultant and claims to have no income or wealth. However, he is seemingly the owner of his house in the USA. He submitted US tax returns showing a gross revenue of USD 48'000 in 2009, USD 24'100 in 2010, USD 8'770 USD in 2011, USD 11'700 in 2012 and USD 33'000 in 2013. It is noted that his tax return in 2011, also the smallest, makes no mention of the USD 120'000 received during that year into an account in the United States nor the USD 1'000'000 USD kept in Switzerland.

The accused has no criminal record in Switzerland.

IN LAW

The alleged facts are established. They are constitutive of concurrent breach of trust (Art. 138 CC) and money laundering (Art. 305 *bis* CC).

These offenses were carried out concurrently, in that each party acted in concert with the other, that is by joining and participating fully and without reserve in the decision, organisation and materialisation of the offenses to the extent that and in conditions which made it seem like they are the main authors, each of them wishing the acts perpetrated to be acknowledged as his own action, whether or not he participated in the actual execution thereof.

The sentence is determined according to the guilt of the perpetrator, in particular according to the severity of the facts, his intent, his background and his personal situation (Art. 47 CC).

Since these offenses run concurrently, the penalty of the most serious offense will be increased by a reasonable degree (Art. 49 para. 1 CC).

Financial gain is the sole purpose of the accused's intentions, without any consideration whatsoever for the property of others. His collaboration was particularly poor.

Given the seriousness of the offences and considering the statutory limit of the sentence provided for the Criminal Court Order, the offender shall be sentenced to pay a monetary fine of 180 daily penalty units.

Taking into consideration the resources of the offender, the daily penalty unit is fixed to an amount of CHF 500.

The sentence shall be conditional and the probation shall be fixed to a period of five years (Art. 42 paras. 1 and 2 CC).

A forthwith fine of CHF 10'000 shall be immediately upheld (Art. 42 para. 4 CC). Alternatively, the offender shall be subject to a custodial sentence of three months if he fails to pay the fine.

The attached balance of the assets in the digital account 0128394 *Asagranite* held by Ronald LEKARZ in his own name with *BSI Geneva* shall be returned to *Thule Drilling AS*, in liquidation (Art. 70 para. 1 *in fine* CC, Art. 267 para. 3 and Art. 353 para. 1 let. h CPC). In addition, *Thule Drilling* shall bring civil action against the offender.

The offender shall be sentenced to pay the procedural costs, except the costs relating to the *ex officio* defence (Art. 422 and Art. 426 para. 1 CPC), subject to any reimbursement of the lawyer fees as per Art. 135 para. 4 CPC.

A subsequent decision shall be taken regarding the offender's lawyer's fees.

RULING

Therefore, the Public Prosecution:

1. Declares Ronald Edward LEKARZ **guilty of breach of trust** (Art. 138 CC) and money laundering (Art. 305*bis* CC).
2. Sentences him to a monetary fine of 180 daily penalty units.
Fixes the daily penalty unit to an amount of CHF 500.
Grants the benefits of a conditional sentence to the convict.
Fixes the probation to a period of five years.
Upholds a forthwith fine of CHF 10'000.
States that the convict shall be subject to a custodial sentence of three months if he fails to pay the fine.
3. Orders **the restitution** to *Thule Drilling AS*, in liquidation, on its behalf to Mr. Pierre BYDZOVSKY, Etude Borel & Barbey, Rue de Jargonnant 2, P.O. Box 6045, 1211 Geneva 6 – of the remaining balance of the attached assets in the digital account 0128394 *Asagranite* held by Ronald LEKARZ with *BSI Geneva*.
Refers *Thule Drilling AS*, in liquidation, **to bring civil action** against Ronald Edward LEKARZ for its civil claims resulting from the offences.
4. Sentences Ronald Edward LEKARZ to pay the procedural costs – excluding the *ex officio* lawyer's fees (to be determined later) and the translator's fees (CHF 4'553) – amounting to **CHF 4'500**, including criminal fees amounting to CHF 2'000.

States that the fees of the *ex officio* lawyer shall be subject to a separate decision.

5. Notifies this Order to:

- **Ronald Edward LEKARZ**, residing at 4883 Montgomery Road, P.O. Box 2120, 21043 Ellicott City MD, USA, but electing domicile at the office of Mr. Olivier PECLARD, attorney, chemin Kermely 5, P.O. Box 473, 1211 Geneva 12;

- **Thule Drilling AS**, in liquidation, represented by its counsel Mr. Pierre BYDZOVSKY, attorney, Etude Borel & Barbey, Rue de Jargonnant 2, P.O. Box 6045, 1211 Geneva 6;

6. Sends a copy of this Order, once final and binding, to:

- Cantonal Population and Migration Office (*Office cantonal de la population et des migrations*)

- Money Laundering Reporting Office (*Bureau de communication en matière de blanchiment d'argent*).

Geneva, 16 July 2015

[Signature]

Ana DI LENARDO

Bailiff

[Signature]

Claudio MASCOTTO

Prosecutor

[Stamp: Public Prosecutor's Office – Republic and Canton of Geneva]