



**Court of Magistrates (Malta)
As a Court of Criminal Judicature**

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Criminal Inquiry No.: 170/2017

**The Police
(Inspector Rennie Stivala)**

-vs-

Fredrik Gereon Ljungcrantz holder of Swedish Passaport number 90731566

Today, the 16th day of December, 2020

The Court,

Having seen the charges brought against the person charged **Fredrik Gereon Ljungcrantz** for having:

On the 20th February, 2017, and/or in the preceding months and years, in the Maltese Islands, by means of several acts committed by the accused, even if at different times, which acts constitute violations of the same provisions of the Law:

1. Without authorization he used a computer or any other device or equipment to access any data, software or supporting documentation held in that computer or any other computer, or used, copied or modified any such data, software or supporting documentation; where the offence was committed in any place by him as an employee to the prejudice of his employer or to the prejudice of a third party, where in his capacity, real or fictitious as employee, shall have afforded him facilities in the commission of the offence;
2. Without authorization outputted any data, software or supporting documentation from the computer in which it was held, whether by having

it displayed or in any other manner whatsoever; where the offence was committed in any place by him as an employee to the prejudice of his employer or to the prejudice of a third party, where in his capacity, real or fictitious as employee, shall have afforded him facilities in the commission of the offence;

3. Without authorization copied any data, software or supporting documentation to any storage medium other than that in which it is held, or to a different location in the storage medium in which it was held; where the offence was committed in any place by him as an employee to the prejudice of his employer or to the prejudice of a third party, where in his capacity, real or fictitious as employee, shall have afforded him facilities in the commission of the offence;
4. Without authorization taken possession of or made use of any data, software or supporting documentation; where the offence was committed in any place by him as an employee to the prejudice of his employer or to the prejudice of a third party, where in his capacity, real or fictitious as employee, shall have afforded him facilities in the commission of the offence;
5. Without authorization disclosed any data, software or supporting documentation unless this was required in the course of his duties or by any other law; where the offence was committed in any place by him as an employee to the prejudice of his employer or to the prejudice of a third party, where in his capacity, real or fictitious as employee, shall have afforded him facilities in the commission of the offence;
6. Operated or promoted or sold or abetted remote gaming in or from Malta without being in possession of a valid licence of the relevant class, as set down in the First Schedule, issued by the Authority or in possession of an equivalent authorization by the government or competent authority of an EEA Member State, or any other jurisdiction approved by the Authority.

The Court was requested that, in pronouncing judgement or in any subsequent order, sentence the person convicted, to the payment, wholly or in part, to the Registrar, of the costs incurred in connection with employment in the proceedings of any expert or referee, within such period and in such amount as shall be determined in the judgement or order, as per Article 533 of Chapter 9 of the Laws of Malta, together with the applicability of Articles 17 and 31 of Chapter 9 of the Laws of Malta.

Having seen the note by the Attorney General indicating the Articles of Law in terms of Article 370(3)(a) of Chapter IX of the Laws of Malta dated the 3rd December, 2018, namely:¹

- Articles 18 of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 337C(1)(a), 337F(3)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 337C(1)(b), 337F(3)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 337C(1)(c), 337F(3)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 337C(1)(f), 337F(3)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 337C(1)(j), 337F(3)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Article 3 and 58 of the Remote Gaming Regulations, Subsidiary Legislation 438.04;
- Articles 17, 31 and 533 of the Criminal Code, Chapter 9 of the Laws of Malta.

Having heard the person charged declare that he does not object to the case being tried summarily by this Court.

Having heard witnesses.

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions;

Considers,

Inspector Sean Scicluna explained how Evoke Gaming Limited filed a complaint alleging that their clients' database was compromised and was being used by Staybet.com, Stay Gaming Group registered in Curacao or Stay Gaming Group Ltd. registered in the UK.² Police embarked on a search of addresses related to Staybet.³ Ljungcrantz was arrested following information that he had resigned from Evoke to set up his own company coupled to the fact it was known that he was a Director in Stay Gaming Group Ltd. In the UK. Evoke's net gaming revenues decreased substantially upon Ljungcrantz's departure from Evoke. Moreover, on Evoke's internal addresses, which were

¹ Fol.777

² Fol.41

³ Fol.41-42

part of the players' data base or their clients' data base, heavy marketing of Staybet.com was taking place. Searches were carried out at the residence and addresses known to be frequented by Ljungcrantz or used by Staybet.com.⁴ Ljungcrantz was found at the Ta' Xbiex address where Staybet's operations were allegedly carried out; he cooperated fully referring police to his partner Derakhti who was the technical person who and thus best placed to inform police where the information requested was stored. Derakhti was located in the Ta' Xbiex address and told police the servers were located in Israel⁵ going on to provide access to the said servers remotely through his laptop. Information deemed pertinent to the investigation was downloaded by the court-appointed expert. A search in Ljungcrantz's residence, which he shared with three others, yielded business cards bearing his name and electronic equipment⁶ which items were exhibited.⁷ A sample of such business cards was exhibited and its print reads: "*Staybet, Fredrik Ljungcrantz CEO fredrik@staybet.com.*"⁸

When searching the Ta'Xbiex address, Ljungcrantz indicated a work station which was switched off leading police to doubt that this was truly his work station, yet the tower was seized.⁹ In a separate office various documents indicating that Ljungcrantz was CEO were found, and thus police seized the towers in this office believing that this was in fact his office.¹⁰ Following his arrest, Ljungcrantz released a statement.

Police Statement

In his statement Ljungcrantz stated that he is the CEO of Stay Gaming Group N.V, owned by Siamak Derakhti, an online gaming company licenced in Curacao which has a company by the same name in the UK. He used to work for Evoke Gaming Ltd where for three years he was the only one working as call centre manager.¹¹ Staybet is owned by Stay Gaming Group N.V. Siamak is his best friend and he writes him a cheque whenever he needs money, since given they are starting up a new business Magic Holding Ltd., he opted not to receive salary until this company was up and running.¹² He left Evoke Gaming Ltd to start Staybet.¹³Marketing for Staybet is done by affiliates who get a

⁴ Fol.42

⁵ Ibid.

⁶ Fol.44

⁷ **Doc.SS**

⁸ **Doc.SS3** a fol.54

⁹ Fol.45

¹⁰ **Doc.SSZ** a fol.52

¹¹ Fol.14-15

¹² Fol.15

¹³ Fol.16

commission. Although he also founded Staybet, it is only Siamak's name which appears on official documentation. The domain staybet@sourcelookout.net is not owned by Staybet although a partnership may exist. He denied sending Staybet spam mails to internal emails used for testing purposes which are not on public domain and are exclusive to Evoke stating "*Any other employee with Evoke could have had access to their clients' database*".¹⁴ This is a statement which receives confirmation from Evoke Gaming officials!

He denied having knowledge of Smartweb, Achraf Benfdela, Peter Griffiths of Blue River Group, Astral Consulting Malta.¹⁵ Ljungcrantz also denied diverting Evoke's net gaming revenue to Staybet through a marketing strategy, stating he left Evoke in April, 2016 and the emails were sent in June, 2016 by which time Staybet had 3040 affiliates sending out promotional emails. CMS Trust N.V is a company service provider based in Curacao which helped set up their gaming licence. Tain BP International N.V. was renting out to Staybet a platform, providing them with games, payment providers and a back office.¹⁶

The statement was confirmed by Inspector Scicluna¹⁷ and **PC967 Aiden Vella**¹⁸. **PS196 Dion Agius** explained his involvement in the various searches being carried out on premises frequented by Ljungcrantz, who co-operated fully with the police.¹⁹

L.P. Quentin Tanti in representation of the Registrar of Companies, exhibited documentation relating to Evoke Gaming Ltd. and Magic Holding Ltd. Evoke Gaming Ltd. was previously registered under different names, with the present name becoming effective on the 24th February, 2015.²⁰ The Memorandum and Articles of Association of Evoke Gaming Ltd. were exhibited.²¹ The Memorandum and Articles of Association of Magic Holding Limited was also presented²² wherein Ljungcrantz and Siamak Derakhti appear as directors for Magic Holding Ltd.²³ Reproduced Tanti exhibited once more the M&A of the said company which was registered on the 16th November, 2016. On the 31st July, 2017, Ljungcrantz resigned from director,²⁴ legal and judicial

¹⁴ Ibid.

¹⁵ Fol.17

¹⁶ Fol.17.

¹⁷ Fol.46

¹⁸ Fol.353

¹⁹ Fol.277-279

²⁰ **Doc.QT1** a fol. 289-293

²¹ **Doc.QTA** and **Doc.QTB** a fol. 287 -288

²² **Doc.QT4** a fol.306 et seq

²³ Ibid.

²⁴ Fol.721

representative although he remained company secretary retaining shares together with Siamak Derakhti.²⁵

Christabelle Calleja in representation of the Malta Gaming Authority testified that Magic Holding Limited never held a remote gaming licence.²⁶ In his statement Ljungcrantz confirms that his company Magic Holding was in the process of trying to acquire such licence.

Joe Saliba in representation of Jobsplus exhibited the employment history of the person charged wherefrom it appears that he was employed with Evoke Gaming Limited on the 24th February, 2015, until the 18th May, 2016, having been previously employed with Bonnier Gaming Malta Ltd since February 2012.²⁷

Carl Fredrik Stael Von Holstein, explained how an email²⁸ was sent to him and the CEO of Evoke Gaming, Alberto Alfieri, from an ex-employee, Mark Thorn, mentioning rumours that the person charged was in the process of setting up his own gaming company, Staybet. On the 15th of April, 2016, Ljungcrantz was warned that if he took any type of intellectual property from Evoke there would be legal repercussions;²⁹ Ljungcrantz denied the rumours.³⁰ Starting in July 2017 a very sharp decline of sales deposit revenues and net gaming revenues was noticed. Whilst January till June presented a stable situation where the monthly EGR was that between €1.2 and €1.8 million, in July sales dropped to 1.1 million and by November it reached €900,000. Deposit values plummeted overnight in July.³¹ In the beginning of October the Chief Intelligence Officer Hampus Eriksson asked if anyone was receiving emails from Staybet, and it turned out that both him and Alfieri had received such mails. They arrived at the conclusion that this was the same company Ljungcrantz had moved to. The next day he asked the person in charge of IT operations at Evoke, Svensson, to run a due diligence on their database, *“he quite quickly came back with an initial report stating that our alias emails, an alias email address is one which is not in the public domain, it is only used to internal IT test purposes, that we have been receiving a lot of emails from the company Staybet. So an alias email is an email address which is not in the public domain, it is only used for internal IT test purposes so it is not hotmail, it is not gmail and it is not a work email. Then we concluded that it was completely impossible that this was a coincidence because*

²⁵ Fol.724-725

²⁶ Fol.354

²⁷ **Doc.JS** a fol.390

²⁸ **Doc.VH** a fol.377

²⁹ **Doc.VH1** a fol.378

³⁰ Fol.367

³¹ Fol.368

*those email addresses are only used by our internal IT Operations Department. we summoned all the people that had been receiving emails from Staybet. Those were if I remember correctly, myself, Mr Mans Skoog, IT Operations our allias email our internal email addresses, Hampus Erikson our Chief Intelligence Officer, Alberto Alfieri, and I think also our HR Director Heidi Loftus.”.*³² The witness exhibited the information received regarding the sales levels.³³ An example of one such promotional email from Staybet received was also presented.³⁴

On cross-examination he confirmed that initially the drop in sales was attributed to it being summer since it is customary for sales to decrease in the summer months. The entire management team was receiving emails advertising Staybet.³⁵ Although previous occasions witnessed a drop in sales these were “*not as consistently as this time*”. Asked who had access to the company’s mailing list he replies “*Anyone within the gaming company who needs access to the database has access to the database.*” whilst confirming that during the same time period around 20 other persons left the company.³⁶ On further cross-examination he also confirms that whoever needed access to the database was given such access,³⁷ adding the finance department and the compliance department would similarly have had full access.³⁸ **He cannot exclude that others could have downloaded the data.**³⁹ A restructuring exercise was carried out some time before Ljungcrantz’s resignation due to losses the company was already experiencing.⁴⁰

Lara Falzon Gauci, chief finance officer of Evoke Gaming testified that around July 2016 the company suffered a drop in net gaming revenue of 28%.⁴¹ **Romina Soler**, auditor from PWC who audited Evoke’s financial statements, explained that in 2015 there was a net revenue of 12.9 million, in 2016 this decreased to 9.9 million.⁴² The audit⁴³ was based on information which Evoke provided her with.⁴⁴

³² Fol.369-370

³³ **Doc.VH2** a fol.379

³⁴ **Doc.VH3** a fol.381-382

³⁵ Fol.372

³⁶ Fol.375

³⁷ Fol.784

³⁸ Fol.786

³⁹ Fol.787

⁴⁰ Fol.785

⁴¹ Fol.540-541

⁴² Fol.564

⁴³ **Doc.RS** a fol.569-601

⁴⁴ Fol.566

Karl Diacono, Director of Evoke Gaming, described how in mid-2016 the company noted a drop in revenue and at the same time a number of people inside the company were receiving emails from Staybet, at times on “*addresses which were unknown to anyone*”. It was evident that data was moved out of the system on to another device, and knowing that an ex-employee had moved to Staybet, they came to the conclusion that he was responsible for this and brought in the police.⁴⁵ He received emails from Staybetnews.com.⁴⁶

Hampus Ericsson mentioned how he started receiving promotional emails from Staybet in October 2016 on his work inbox and his personal inbox hampus.ericsson@icloud.com and hampus.ericsson@whitebet.com, and exhibited these mails.⁴⁷ These mails offered bonuses to play with Staybet although he had never registered with the said company.⁴⁸

Heidi Lofthus, head of HR within Evoke Gaming, testified that Ljungcrantz was employed as call centre manager and exhibited his contract of employment with Bonnier Gaming Group.⁴⁹ In November 2016 she received a promotional email⁵⁰ from Staybet on heidi.lofthus@redbet.com, an address she last made use of sometime in 2014 although it was still active.⁵¹ The said contract of employment specifies Ljungcrantz’s job as that of Support Manager Bertil/Vinnarum.⁵² An addition to the Contract dated the 1st June 2015 shows Ljungcrantz as a call centre manager.⁵³ Further correspondence shows that Ljungcrantz resigned from Evoke on the 5th May, 2016.⁵⁴ The email she received promoting Staybet came from the domain sourcelookout.net and not from Staybet.⁵⁵

Alberto Alfieri Chief Executive Officer at Evoke Gaming, declared that Ljungcrantz was responsible for the call centre which was manned by another 3 employees.⁵⁶ The job of the call centre was to engage with players who had been dormant by presenting offers through phone calls, “*The list of customers were handled by software and in our database....The list belong to the Company*”

⁴⁵ Fol.602-603

⁴⁶ Fol.608

⁴⁷ **Doc.HE-HE5** a fol.507-511

⁴⁸ Fol.503-504

⁴⁹ **Doc.HL1** a fol.518

⁵⁰ **Doc.HL** a fol.517

⁵¹ Fol.513-514

⁵² Fol.518

⁵³ Fol.532

⁵⁴ Fol.534-535

⁵⁵ Fol.796

⁵⁶ Fol.229

and is made up of players who Ljungcrantz have registered an account with the company.⁵⁷ He was informed through an email sent by a colleague⁵⁸ that Ljungcrantz was in the process of setting up a company Staybet and so he spoke to Ljungcrantz about this, something the latter denied. An email⁵⁹ was sent attesting to what was said in that conversation.⁶⁰ After some time Ljungcrantz resigned. Alfieri goes on to explain how the company started suffering losses in sales and initially they could not decipher what was causing this.⁶¹ In October he was informed that colleagues that received emails from a new Casino, Staybet on their internal email address. The witness explains, "*Now the thing is that the similar addresses are used only internally for testing purposes on our websites or just for internal communication. So it is basically no chance that this email address to be known outside the Company or organisation. as I just said it is just internally in our system, in our database. So, if someone had access to that email address, is basically someone who has access to the full database of the customers.*"⁶² He soon discovered that several were the employees who received similar mails.⁶³

An internal investigation by Michael Follett was launched⁶⁴ and from where it transpired that the several domains from which the mails were sent pertained to a certain Achraf Benfdela and were all linked to Staybet.⁶⁵ It also turned out that Ljungcrantz was involved with Staybet.⁶⁶ The witness explains that the list was shared with Ljungcrantz who in turn passed on to his team so that players may be called by them and informed of offers from Evoke.⁶⁷ The list used to be sent by excel file but he changed this and created a system which noted who logs in to the file.⁶⁸ Ljungcrantz was tasked with distributing the list to the employees in his department "*The rest of the team basically was handling*".⁶⁹ Alfieri clarifies that although Ljungcrantz was the only person having access to the list of inactive clients "*He was the only one*" he would then distribute same to other people at Evoke.⁷⁰ Replying under cross-examination he confirms that 5

⁵⁷ Fol.230

⁵⁸ **Doc.AA1** a fol.246

⁵⁹ **Doc.AA2** a fol.256-257

⁶⁰ Fol.232

⁶¹ Fol.234

⁶² Fol.235

⁶³ Fol.236

⁶⁴ **Doc.AA2** a fol.247-255

⁶⁵ Fol.237

⁶⁶ Fol.238

⁶⁷ Fol.240

⁶⁸ Fol.241

⁶⁹ Fol.240-242

⁷⁰ Fol.243-244

employees were working in the call centre.⁷¹ All Evoke employees knew the addresses of co-workers internal email addresses, *“it was a very simple structure”*.⁷²

Given the importance and relevance of this list in substantiating or otherwise the first five charges, the Court must immediately highlight that although Alfieri speaks of a list belonging to the company, a list which the court expert states was **merely handed over to him on a USB stick and not an item received under oath**, Alfieri fails to confirm and authenticate the said list as contained on the USB and thus, **the said data, the yardstick by which the data found in the USB in Ljungcrantz’s apartment was be measured, cannot be taken cognisance of by this Court since it does not satisfy the best evidence requirement**. Consequently, the learned expert’s findings, which indicate a number of positive matches on the USB found in Ljungcrantz’s apartment, when compared to the data handed over by Evoke Gaming, are rendered superfluous.

Moreover, whilst mentioning that he created a system which kept an audit as to who could log into it, no mention was made by Alfieri as to whether an audit was carried out to assess whether Ljungcrantz ever logged into the system and/or downloaded the data. This would have provided the best evidence to substantiate the allegations made in Ljungcrantz’s regard! Whilst Follett never testified in these proceedings to confirm such a report he drew up, the court expert only analysed IT equipment found at Staybet and Ljungcrantz’s residence and was never in the course of these proceedings requested to perform an examination of the IT system at Evoke Gaming to assess who had accessed that data, when and whether it was downloaded using Ljungcrantz’s credentials!

Manne Skoog who worked on compliance with Evoke Gaming testified how he began receiving promotional emails on an address which was never used on any gaming site but was used once with Evoke when he was asked to create additional test accounts in 2013. He had registered these accounts on portal sites Vinnarum and Bertil which are websites providing online gaming targeting customers in Scandinavia and Sweden, which belong to Evoke Gaming.⁷³ Access to these specially created accounts was only to those using the back office system and the marketing systems at Evoke, *“Only employees at Evoke”*.⁷⁴ He started received promotional emails from Staybet on the

⁷¹ Fol.801

⁷² Fol.802

⁷³ Fol.392

⁷⁴ Fol.393

03/06/2016, promoting the websites Staybet.com in Swedish, giving bonus offers to register with Staybet.⁷⁵ Examples of these emails were exhibited by the witness.⁷⁶ Mails which were unsolicited and thus received as spam or junk. The witness confirmed that whilst on other email addresses he receives spam mail, it was the first time he got spam on that email address.⁷⁷ The emails exhibited show emails purporting to originate from Staybet⁷⁸ to the email address which Skoog indicated as having been used once with Evoke namely Manne.Skoog@utsiktem1.se.⁷⁹

Skoog's statement that Vinnarum and Bertil were websites which provide online gaming and belonged to Evoke Gaming, acquires relevance when considering the Court expert's findings on the data on the USB found in Ljungcrantz's apartment. However, this is of little value and falls well below the required evidentiary threshold to be met, in ascertaining that the addresses on these sites were the same as those listed in the list handed to the expert, given that no-one from Evoke Gaming confirmed the said list which, once being received in evidence as part of a magisterial inquiry, ought to have been received under oath and in default thereof, confirmed on oath in the course of these proceedings!

John Eric Svensson, system administrator with Evoke Gaming, explained he had received 5 emails on accounts he had only used within the company, internal addresses.⁸⁰ As an example he cites 'John.svensson@bertil.com', 'John.svensson@bingo.com' and 'john.svensson@redbet.com'. He adds "*they were promotional emails coming from Staybet. I had never received any emails at all and this happened just because only they had used to register accounts on our own website. Therefore, I noted straight ahead that this was something weird and I reported it on the same day. And sent a mail to my colleague explaining that someone had access and is using our accounts. ... Someone who had had access to our internal systems while using this, promoting ... I cannot have any other [explanation], because as I said I haven't used this account anywhere else*".⁸¹ These mails originating from Staybet were exhibited.⁸² Svensson argues that as call centre manager the person charged had full access to the company's customer data. The particular emails used would feature in extracts in order to promote marketing, "*All internal*

⁷⁵ Fol.393-394

⁷⁶ Doc.MS1-MS25 a fol.400 et seq

⁷⁷ Fol.397

⁷⁸ Doc.MS1-MS25 a fol.400 et seq

⁷⁹ Fol.392

⁸⁰ Fol.440-441

⁸¹ Fol.442-443

⁸² Doc.JS1-Doc.JS7 a fol.456-493

registered accounts are listed there".⁸³ These could be easily accessed by Ljungcrantz who would have had to download the list to call customers.⁸⁴ However he confirms soon after that the system does not track every single employee who has access, thereby contradicting Alfieri who said he had created a system which audits who logs on to it.⁸⁵

Svensson states "*It is a daily task, it is not an exception.... We had a whole call centre team. But as a call centre manager, he mostly did segmentation on the actual list and therefore decided who to call, but it was **a group of 5** doing that specific job.....not the same within the team and have access to all the systems. But **all of them, can get this list out**. It is the same as if you are in your office and you print out something that is confidential and you take it".⁸⁶ He started receiving these emails which total to around 40 or 50 in June 2016.⁸⁷ On cross-examination he confirms that although Ljungcrantz's position afforded him the perfect opportunity to access and download the list for marketing purposes, there were five other employees who had similar access, although generally one would only have used email if they failed getting through by phone.⁸⁸ Svensson confirmed that Ljungcrantz was given an old laptop to work on when his laptop broke which would normally have entailed having the drive formatted, although he cannot be sure that this is what happened in this case.⁸⁹ The witness again confirms "Everyone that works with customers have access to the customer database" and as such data could be downloaded by anyone having such access.⁹⁰ He confirms that the address on which he received the emails was on the clients' database.⁹¹*

A database of which a copy was given to the court expert without ever it having been confirmed on oath!

In his report **Keith Cutajar** explains that a search was carried out at the residence of Siamak Martin Derakhti, Ljungcrantz's business partner in Savoy Gardens, Gzira and "*commenced a data extraction procedure on Mr. Derakhti's laptop so as to extract remotely, from the gaming entity's backend portal, the current customer list involved in the marketing processes undertaken so as to expand their operations...the extracted data was saved on one of the undersigned portable wiped*

⁸³ Fol.445

⁸⁴ Ibid.

⁸⁵ Fol.241

⁸⁶ Fol.446

⁸⁷ Fol.447

⁸⁸ Fol.452

⁸⁹ Fol.789-790

⁹⁰ Fo.791

⁹¹ Fol.793

USB storage devices".⁹² Another search was carried out in Depiro Street, Sliema where Ljungcrantz lived with his flat mates.⁹³ In the bedside table a portable USB storage device was found LUSB01.⁹⁴ At Staybet's office in Ta' Xbiex the search continued and various electronic equipment was seized.⁹⁵ All equipment seized was recorded in receipts handed over to Mr. Ljungcrantz. The specific keywords search and the search for other keywords involving emails on the seized evidence, were performed on the seized IT equipment listed in the experts' report as having been seized in the course of the various searches. These keywords and emails were provided to the expert by representatives for Evoke Gaming Ltd.⁹⁶

It does not result that the expert received this data on oath!

On the loose hard drive storage device found in Ljungcrantz's residence, LHD01⁹⁷ *"a number of keyword searches returned some hits which corresponded with them....an item is an actual file containing a number of hits"*. These hits turned out to be on Vinnarum and Evoke.⁹⁸ On the USB portable storage device found in the same residence, LUSB01, the search revealed a number of hits on Evoke, and Vinnarum, and emails indicated by Evoke Gaming Ltd.'s legal representative.⁹⁹ *"The 'xlsx' files show various emails highlighted, representing those emails which are found common in both the Evoke mail lists and the spreadsheet's found in possession of Mr. Ljungcrantz. Furthermore, the emails listed in the affidavit documents.... where compared with the contents of these spreadsheets. In particular, two spreadsheets which bear the names as Vinnarumlistan.xlsx and vinnarum list delievered.xlsx were positive"* in containing emails indicated by Evoke concerning the names of John Svensson and Manne Skoog.¹⁰⁰ On a laptop seized from Staybet's office in Ta' Xbiex, PC01-HD01,¹⁰¹ a substantial number of keyword searches returned items and hits which corresponded to those indicated by Evoke.¹⁰² Similarly searches on 2 separate Acer computers¹⁰³ seized from the Ta' Xbiex office also yielded a

⁹² Fol.82

⁹³ Fol.84

⁹⁴ Fol.85-86

⁹⁵ Fol.86

⁹⁶ Fol.119

⁹⁷ Fol.86; Fol.129

⁹⁸ Fol.130

⁹⁹ Fol.132

¹⁰⁰ Fol.133

¹⁰¹ Fol.166 et seq

¹⁰² Fol.175

¹⁰³ PC02-HD01 a fol.176 et seq and PC03-HD01 a fol.184 et seq

number of such hits.¹⁰⁴ An analysis of Staybet's database extracted from Derakhti's laptop showing the current player list available at Staybet was carried out, yet there were no hits corresponding to the list of names/emails provided by Evoke.¹⁰⁵

Keith Cutajar explained that his search was carried out for emails and other documentation using a list of key words indicated to the said expert by Evoke Gaming Ltd.¹⁰⁶ Cutajar states that in his comparative analysis conducted on "*the pcs, which were seized directly from the premises of Staybet Ltd and which basically returned the number of hits and correspondences where the emails were found directly present in the pcs in question....the whole landscape of this procedure was related to a number of marketing material, sent out to these emails primarily. So our major concern is where these emails which were allegedly to be private emails totally used by Evoke Gaming Ltd, should not basically be present elsewhere apart from this Company.... basically these emails addresses were found present in the pcs in question And a number of matches have returned.*".¹⁰⁷ The learned expert explains that he conducted searches on the USB using the keywords which were indicated to him by Evoke Gaming to assess whether there resulted any hits. One such keyword was "**Vinnarum**" which he understood from Alfieri was the name of the database which Evoke Gaming used to operate with, "*There were 50 hits directly on this USB*".¹⁰⁸

Skoog however, states that Vinnarum was an online gaming website, thus highlighting how essential it was for an official from Evoke to explain the contents of the USB, and more importantly the significance to Evoke Gaming of the keywords passed on to the court expert. In default **anything which Cutajar was told when being handed the USB and its spreadsheets, remains hearsay and thus inadmissible as evidence!**

Cutajar went on to extract the contents of Evoke spreadsheets, five primarily, and subsequently conducted a comparative exercise which yielded a considerable number of direct matches.¹⁰⁹ This meant comparing email addresses found on Evoke's spreadsheets and the spreadsheets found on the USB, "*my searches were based on exact matches, so from start to finish of the email address that is an exact match. A full match*".¹¹⁰ Given that a number of

¹⁰⁴ Fol.183 and fol. 191

¹⁰⁵ Fol.192

¹⁰⁶ Fol.66

¹⁰⁷ Fol.67-68

¹⁰⁸ Fol.634

¹⁰⁹ Ibid.

¹¹⁰ Fol.635

spreadsheets, “*there are circa 11 to 12*”,¹¹¹ were found on the USB seized from Ljungcrantz’ residence, the expert began comparing those with the five spreadsheets given to him by Evoke. A copy of spreadsheets extracted from the USB is found on the DVD attached to his report.¹¹² The expert also carried comparative analysis on the other items seized from Ljungcrantz, which comparison was restricted to a limited number of keywords provided by Evoke so as not to expedite a process which, he declares, could take decades.¹¹³

The Court shall now consider the evidence brought forward to substantiate the charges.

Charges relating to Computer Misuse: Numbers One (1) to Five (5)

The Court has already made numerous observations regarding the fact that the data containing Evoke’s clients list remained unconfirmed on oath by an official from Evoke. As such the Court cannot attribute any evidentiary value to same and in turn to the learned expert’s findings of numerous positive matches between that data and that found at Staybet and in Ljungcrantz’s residence. Similarly, no one from Evoke Gaming testified as to the significance of the keywords provided to Cutajar such as ‘Vinnarum’.

Establishing this fundamental link between the keywords and Evoke Gaming through admissible evidence, was vital to substantiate the charges brought forwarded against Ljungcrantz. In the absence of sworn testimony on the data or at least of the keywords given to the expert, the Court is prevented from attributing any probative value to Cutajar’s findings. For the same reasons nor could this Court determine with the required certainty at law, that the data found on the USB seized from Ljungcrantz, could have been obtained solely from Evoke Gaming Ltd.

Thus, by the mere fact that the person charged was found in possession of data allegedly pertaining solely to Evoke, in the absence of Evoke confirming on oath that the data found at Staybet and on equipment under Ljungcrantz’s control, does not tantamount to a finding of guilt on the fifth charge.

¹¹¹ Fol.636

¹¹² Fol.225

¹¹³ Fol.637

Multo magis, there cannot be a finding of guilt on the first four charges, since these charges necessitate as a pre-requisite, that the data found on the USB pertained to Evoke Gaming Ltd, which as has been stated, remains unproven.

With respect to these charges, a secondary consideration lies with the fact that evidence was forthcoming attesting that the data was accessible not merely to Ljungcrantz and his team, but Van Holstein goes as far as confirming that “*Anyone within the gaming company who needs access to the database has access to the database*”;¹¹⁴ adding that it could not be excluded that others could have downloaded the data.¹¹⁵

This is precisely why the Court encounters difficulty in understanding how no efforts were made to establish, through an examination of the IT system in operation, who were the persons who could have not merely accessed the data, but downloaded it. And in considering downloads, mention must be made of the fact that at no point did it transpire when the data on the devices found at Staybet and Ljungcrantz’s residence, which resulted in positive hits, was installed or copied on to the said devices.

It is undeniable that Ljungcrantz, whose involvement in Staybet is firmly established, stood to benefit most from acquiring this data. However, in the realm of criminal proceedings, there is no place for hypothesis and suppositions but proof beyond reasonable doubt, a threshold which for reasons already mentioned, has not been reached.

Sixth Charge: Operating a Gaming Company without a licence

Claudio Muscat stated that licences are issued to gaming companies and not to physical persons.¹¹⁶ Reproduced he declared that no company in which Ljungcrantz was involved held a gaming licence. He states however that Stay Gaming Group NV had an intermediary agreement with Aspire Global, the licensed entity, wherein whilst the latter provided games and services, the former provided advertising and promotion of the website. The intermediary Stay Gaming would advertise the website of Aspire Global so that players go through the said website while its being operated by the intermediary, “*Stay Gaming is the entity which drives traffic to these websites*”.¹¹⁷ The intermediary agreement appears to be signed by representatives of Aspire Global Limited

¹¹⁴ Fol.375

¹¹⁵ Fol.787

¹¹⁶ Fol.664

¹¹⁷ Fol.674

and Stay gaming Group NV.¹¹⁸ The signatures and names appearing on the said agreement dated the 9th December, 2016, in representation of the said companies are illegible, in particular that of the latter company although it presumably reads Siamak Derakhti, a witness who was within reach, having been spoken to by police and the court expert, yet not produced as a witness.

Ljungcrantz himself, in his statement, makes reference to a setup such as that described by Muscat when asked about the relationship between Stay Gaming Group NV and Tain BP International NV; this in itself is an indication that police recognised the link between Stay Gaming and Staybet: *"Tain let us use their platform, we rent their platform and we pay a commission. They provide us with games, payment providers and back office"*.¹¹⁹ When asked about marketing emails of Staybet, he makes refers to *"an affiliate or another external partner that is doing it...When you are an iGaming company there are several ways of marketing that company. Affiliates is one of them,..."*. Then, in describing Staybet's relationship with affiliates, he states, *"We have about 80-90 affiliates and they promote us by their sites"*.¹²⁰

Consequently, the prosecution failed to prove that staybet.com, which is not an entity which can be granted a gaming licence, or Stay Gaming Group NV of which Ljungcrantz was CEO, were operating, promoting, selling or abetting remote gaming in or from Malta without being in possession of a valid licence.

In view of the foregoing, the Court cannot but acquit the accused of all the charges brought against him.

**Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law).
Magistrate**

¹¹⁸ **Doc.CM** a fol.677

¹¹⁹ Fol.17

¹²⁰ Fol.15-16