



COURT OF MAGISTRATES (MALTA)

**MAGISTRATE DR.
JOSEPH A. APAP BOLOGNA**

Sitting of the 16 th May, 2011

Avviz Number. 111/2011

**In the acts of the warrant of seizure number 2978/2010
in the names:**

**Richard Cranston
(English Passport number 540487406)**

Vs

**Kenneth William Donaldson
(Irish Passport number R 604691)**

The Court,

Having seen the application presented by the company ‘
The Mediterranean Wellbeing Company Limited (C-
40909) by means of which, the same company having
declared:-

1. Illi dan ir-rikors qed isir wara li nhar il-wiehed u
ghoxrin (21) ta’ Marzu tas-sena elfejn u hdax (2011) gie

eżegwit il-Mandat ta' Qbid kawtelatorju odjern fil-konfront ta' Kenneth William Donaldson gewwa l-indirizz 87, Triq Hal-Qormi, Santa Venera;

2. Illi l-fond sopraindikat huwa l-fond li minnu topera u tiggstixi n-negozju taghha s-socjeta' rikorrenti;

3. Illi l-oggetti li gew maqbuda permezz tal-Mandat odjern huma oggetti li jappartjenu esklussivament lis-socjeta' rikorrenti, u mhux lill-intiamt Kenneth William Donaldson, u ghalhekk m'humix soggetti ghall-qbid permezz tal-Mandat odjern;

4. Illi di piu' ghandu jigi rilevat ukoll li Kenneth William Donaldson huwa biss impjegat tas-socjeta' rikorrenti;

5. Illi l-istess oggetti huma necessarji sabiex is-socjeta' rikorrenti tkun tista' tkompli bin-negozju taghha, u fl-eventwalita' li dawn jigu elevati, ser jigu sofferti danni da parti tas-socjeta' rikorrenti stante li ser tigi forzozament inibita milli tkompli bil-gestjoni tal-kummerc taghha;

With due respect asked that this Court joghgobha tordna li l-oggetti maqbudin perez tal-Mandat ta' Qbid kawtelatorju bin-numru 2978/2010 fl-ismijiet Richard Cranston vs Kenneth William Donaldson jigu rilaxxjati mill-effetti tal-istess Mandat.

Having seen the acts of the above mentioned precautionary warrant especially the record as written down by the Court Marshall who executed the same warrant (page 8 of the same acts).

Having seen the preliminary decree delivered by the same Court on the 1st of April 2011 (page 11 and page 13 of the same acts).

Having seen the reply filed by Kenneth William Dondaldson wherein he stated –

1. Illi din ir-risposta qed issir wara r-rikors tas-socjeta' The Mediterranean Wellbeing Company Limited tat-23 ta' Marzu 2011, permezz ta' liema din l-Onorabli Qorti giet mitluba tordna li l-oggetti maqbudin permezz tal-Mandat ta' Qbid kawtelatorju bin-numru 2978/2010 fl-

ismijiet Richard Cranston vs Kenneth William Donaldson jigu rilaxxjati mill-effetti tal-istess Mandat.

2. Illi l-esponenti jaqbel mal-kontenut tal-istess rikors surriferit, u jaqbel illi l-fond 87, Triq Hal-Qormi, Santa Venera huwa l-lok li minnu tiggstixxi n-negozju taghha l-istess socjeta;

3. Illi di piu' l-esponent m'ghandu l-ebda jedd jew setgha fuq il-fond in kwistjoni;

4. Illi l-esponent jaqbel ukoll mal-fatt illi l-oggetti maqbudin permezz tal-mandat odjern m'humieq propjeta' tieghu izda huma propjeta' tal-istess socjeta' The Mediterrean Wellbieng Company Limited;

5. Illi l-esponent m'ghandu l-ebda oggezzjoni li t-talbiet tas-socjeta' The Mediterranean Wellbeing Company Limited kif maghmula permezz tar-rikors tat-23 ta' Marzu 2011 jigu akkolti minn din l-Onorabbli Qorti.

Having seen all the acts especially the record of proceedings on page 21 of the acts where it is stated that Richard Cranston did not file a reply within the time fixed by this Court.

Having heard the submissions of the parties.

Having considered

That:-

a) Richard Cranston did not file a reply as already stated above.

b) Applicant Company produced, as a witness Suzanne Schembri, its general manager, (page 28 and page 29 of the acts) and she declared that the premises where this warrant was executed, that is to say 87, Qormi Road, Santa Venera are in fact commercial premises besides being the registered office of the same company. In regard to Kenneth William Donaldson, he is one of the directors of the company involved although he hardly ever comes to the same office. Moreover when the Court Marshall executed the warrant at the same office, he was informed that all the objects seized were the property, exclusively, of the same company.

c) During the sitting held on the 9th of May 2011, applicant company exhibited by means of a note an invoice. From this document it appears that the same company bought the items of furniture therein listed, which objects are, in part, those seized by the Court Marshall.

d) On his part, Richard Cranston declared, under oath that he is aware that the warrant was executed in the registered address of applicant company.

Having considered

That, in view of the above, it seems that in actual fact, all the moveables seized, pertain and belong to the same company and not to Kenneth William Donaldson personally, in his own name.

For the above reason, the Court accedes to the request made by applicant company and orders that all the objects, as listed on page 8 of these acts and seized by means of the precautionary warrant in question number 2978/2010, be declared as being not subject to the same warrant.

In regard to the expenses in connection with this application each party is to bear its own costs.

< Final Judgement >

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