

## INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

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### WITNESS STATEMENT ARTHUR MILLS

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I, Arthur Mills, of professional address Madison Building, Midtown, Queensway Gibraltar, GX11 1AA, **WILL SAY** as follows:

1. I am the co-head of the IT department at Hassans International Law Firm Limited (“Hassans”). I am authorised by Hassans to make this witness statement.
2. The facts which I address in this witness statement are within my own knowledge and are true. Where I address any matters not within my own personal knowledge, I shall identify the sources and I believe them to be true to the best of my information, knowledge and belief.
3. I make this witness statement in response to a letter from Triay Lawyers dated 19 April 2024, solicitors to the Inquiry, which I explain as follows (adopting the same numbers used in that letter and adding paragraph 12 in response to its penultimate paragraph):
  1. *The policy at Hassans (if any) in relation to the backing up of a lawyer’s phone when it is in use and the handling of data held on lawyer’s phones when the lawyer concerned is changing their phone. In particular, is it the policy of the firm (i) to back up data held on a lawyer’s handheld device to the cloud (or to a server) (ii) to transfer data from the original phone to the successor phone if the lawyer changes phone.*

(a) No such policy exists as lawyers’ mobile devices are personal property and Hassans does not use Whatsapp Business. Hassans has no such Cloud or On Prem facility to back up lawyers personal applications/data. When lawyers change phones, it is primarily their own responsibility to transfer their personal data\applications accordingly, although we do assist the “less technically orientated” lawyers in the transfer of data applications to their new devices if asked.

(b) The only applications\data controlled by Hassans on lawyers’ personal mobile devices are: Blackberry Work Email Client which combines Hassans corporate email, calendar and work contacts within a secure ring-fenced container and Duo Mobile 2FA Authenticator which secures lawyers’ VPN logon. No other applications or data on a lawyers’ phone are controlled or backed up by Hassans. I would stress that in fact with the exception of the above-mentioned applications Hassans IT have no visibility whatsoever of a lawyer’s personal mobile device.

2. *Whether all emails and messages (including whats app messages) from Mr Levy's original phone were copied to his replacement phone on 12 May 2020 prior to the original phone being handed over to the RGP on 12 May 2020.*

Yes. As per my instruction, I proceeded to copy, via a direct mobile transfer, the content of Mr Levy's original iphone to a copy mobile ("the copy phone"). I assumed all the content was copied as the process concluded and a notification confirming the process had completed would have been visible on the screen, although I did not personally check or compare the data prior to handing Mr. Levy's original phone over to the RGP later that evening.

3. *Why what's app messages are not accessible from the original phone (or the copy which was made on 12 May) prior to the seizure of the original phone or from the replacement phone (to which it is understood the emails and messages (including whats app messages) were copied and/or backed up).*

In short, because neither the original mobile phone nor the copy phone, which later "collapsed" were interrogated. They were never checked to establish whether all their content was copied on to the new phones. Both mobiles were wiped and disposed of as explained below.

4. *Whether the what's app messages accessible on the original phone, which were copied to the replacement phone were backed-up to any cloud-based system or anywhere else (eg a server).*

No, and as I mentioned above, the copy was a direct mobile transfer.

5. *Whether Mr Levy's original phone went to somebody in the IT department at Hassans after it was returned to Mr Bonfante at Hassans on 6 November 2020. If so, who was it given to, when and what instructions were given in relation to the phone?*

I can't recall with absolute certainty when the device was given to IT, but I accept at some point the mobile device was returned to me and I subsequently wiped the device and we used it internally at IT to test the Blackberry Work App compatibility and approximately 6 months later disposed of it. I cannot recall any instructions being given and neither can my fellow Head of IT.

6. *What happened to the data held on the original phone following its return to Hassans on 6 November 2020? Was it preserved and if not, why not? If it was not preserved, please confirm why it was not preserved and who decided the data should not be preserved.*

I wiped the phone and reused it and later disposed it as explained above. I took this decision.

7. *Whether Mr Levy give any instructions to the IT department for the preservation of data on the original phone following its return on 6 November 2020 and if so, when? Please provide copies of any such written communications from Mr Levy to the IT department or from the IT department to Mr Levy in relation to the original phone and what became of it? If so, please provide.*

I cannot recall any such instructions. There was no written communication. There would not have been any reason to preserve any data on the original phone after it was returned to Hassans because I believed the copy phone had all of that data on it.

8. Whether after the collapse of the replacement phone, data (including whats app messages and emails) was recovered and if so, remains accessible on the third phone Mr Levy was provided with and if so, from what date/during what periods? In that respect, it is noted that Mr Levy stated in evidence that he now uses a third phone which does contain some messages from before 12 May 2020 [transcript day 8 / pg 200 lines 21-23].

(a) The copy mobile collapsed some time in March 2023. It appears to me that this was most likely caused by an automatic apple IOS update which never fully completed which consequently left the mobile in a very unstable state as it powered off every 15- 20 minutes.

(b) The data from the copy phone was copied to a replacement phone. It took me numerous attempts to try and repair the copy phone IOS via an application called Reiboot before transferring the content via direct mobile transfer.

(c) I transferred the data from the corrupted copy phone to the replacement phone. The transfer should have included all data present on the copy phone as the transfer was a direct mobile transfer, and no parameters were set to limit the transferred content. I did not verify if everything had been copied and cannot guarantee this because the copy phone became corrupted upon completion of the transfer (the only function it permitted at that stage was restoring it to factory settings) to the replacement phone and I consequently wiped it and disposed of it.

(d) In relation to emails, these are saved on a server and via a ring-fenced Blackberry work app.

(e) Shortly after copying the copy phone to the replacement phone, I do recall Mr Levy complaining to IT that the replacement phone was missing contacts in the native Apple contact list (not contacts on the Blackberry Work App). We could not interrogate the copy phone as explained above and it is technically possible that a transfer of data from an unstable/corrupted mobile device to another mobile device can result in

partial data loss. I can confirm that the replacement phone was definitely missing contacts as I compared it against the synced contacts in the Hassans Corporate Email client and numerous contacts were missing.

(f) I was subsequently asked by Mr Levy to check his replacement phone to see whether there were any whats app messages between him and the Chief Minister or the Attorney General. I used an app called Coolmuster iphone data recovery. There were no messages between Mr Levy and the Chief Minister between 12 May 2020 – 9 June 2020. In relation to the Attorney General there were some whats app messages, the dates of which I cannot recall, and which I provided to Mr Levy. These were not deleted messages that I recovered but messages that were on Mr Levy's phone. I provided Mr Levy with a printout of the messages.

9. *The dates(s) when Mr Levy instructed the IT department to try to recover whats app messages (and/other electronic communications) for the purpose of disclosure to the Inquiry.*

Mr Levy has requested that I recover missing whats app messages and contacts on numerous occasions although I cannot recall the exact dates. I can confirm I have attempted to retrieve these from the only available device (the replacement phone) unsuccessfully via the recovery application known as Coolmuster iphone data recovery.

10. *The reason why some messages are preserved and currently held on Mr Levy's third phone following the transfer or uploading of data to this phone but others are not.*

It is technically possible that a transfer of data from an unstable/corrupted mobile device, via direct mobile transfer, to another mobile device can result in partial data loss. I can only conclude that this is the cause.

11. *Why the IT department is unable to provide any relevant whats app messages from the cloud or back up.*

Hassans does not backup any whats app messages on a cloud or have a backup system for lawyers' phones as explained above. Mr. Levy does not use personal icloud storage to backup his whats app content.

12. *(i) Why Mr Baglietto's deleted whats app messages are unrecoverable (either from his phone or from a backup (cloud or locally based server) and (ii) what steps (if any) have been taken to try to recover the deleted whats app messages?*

(a) I have interrogated two mobile phones provided by Mr Baglietto (his current phone and a previous phone which Mr Baglietto was using in 2020) using the Coolmuster iphone data recovery app and I have been unable to

recover any deleted whats app messages between him and the Chief Minister or the Attorney General.

(b) As explained above, Hassans does not have a cloud storage system or local server for Mr Baglietto's whats app messages. Having interrogated Mr Baglietto's phones, I do not believe that any deleted messages would be stored anywhere else given that the cloud replicates only what is on the phone at certain intervals (if at all) and depending on the users settings.

## **STATEMENT OF TRUTH**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt for court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

# Personal Data

Name: Arthur Mills

Date: 3 May 2024