

STATEMENT OF FACTS

Tomorrowland is a highly populated erstwhile Colony that gained Independence in 1930. Its war for Independence is etched in the annals of its history for the bloodshed and carnage caused during it. For the last 60 odd years, through exemplary leadership and bold decisions, Tomorrowland has developed into an ideal model for successful developing economies.

One of the reasons for the general success and in particular, economic success of Tomorrowland is Mr. Ferrero Williams. Mr. Williams comes from one of the oldest and wealthiest families whose foreign ancestors had settled and married natives in Tomorrowland. Regarded as natives due their mixed blood, they joined the war against its colonial masters. His ancestors are regarded as the founding fathers due to their overt actions which were instrumental in winning the war of Independence of Tomorrowland.

Mr. Williams has capitalized on the public confidence in his family by establishing a number of successful business concerns in Tomorrowland. His "Get Lucky Group" ["GLG"] is involved in all aspects of a Tomorrowland citizen's life from household groceries in the form of a giant (and some say monopolistic) retail chain to automobiles, real estate, hospitality, luxury tourism etc. GLG was one of the first conglomerates to take advantage of removal of FDI caps with heavy investment in the insurance, defence, retail and atomic energy sectors on the national economy.

Labour is not regulated in Tomorrowland and due to abundance of cheap skilled and unskilled labour, GLG is able to sustain an aggressive model of low cost manufacturing and is a success story in the continent of Westeros. A substantial portion of their income is generated through exports of their products to developed economies as well as neighbouring countries.

However not everyone in Tomorrowland has been pleased with GLG's strong and growing influence and financial clout in Tomorrowland. In Boom Town, the Capital of Tomorrowland, a group of activists, known as the "Ultra House Mafiya" ["UHM"] have been protesting against the virtual monopoly of the GLG. Mr. Chivas, the leader of the UHM has been actively campaigning against GLG and Mr. Ferrero Williams in electronic, print and social media; in particular, claiming that the Government of Tomorrowland has been in cahoots with GLG for a long time. Initially Mr. Chivas was not paid much attention by either GLG or the Government of the day.

Recently UHM membership has grown in number and has received a lot of favourable media coverage. So much so that Mr. Williams, while appearing on prime time talk show on National Television in June 2015, was asked about his opinion on the allegations made by Chivas and the UHM that GLG is siphoning off government funds to its own bank accounts and paying kick backs which go up to the highest levels in the Tomorrowland Government. Responding to these allegations, Mr. Williams, in his typical fashion stated:

"I am a servant of Tomorrowland, my family gave up everything for our great nation and it is my wish to continue that tradition. As far as these jokers go, they are being funded by our business rivals - the RARA group to destabilize us but we shall not be moved off course. We are preparing for the greatest spectacle this Country has ever seen. As a patriotic citizen and as the head of a responsible corporation, I will be personally overseeing all the arrangements to ensure that Tomorrowland citizens are proud of the Games."

The 'spectacle' Mr. Williams was talking about was the upcoming One World Games ("OWG") which were to be held in Tomorrowland for the first time. Tomorrowland's bid to host the Games had been the dark horse, and had surprisingly won the right to host the global sporting spectacle.

To host an event of the magnitude of the OWG would require a very large and sophisticated level of infrastructure. Unsurprisingly it was Mr. Williams who used his international influence to get renowned sport stars, past and present, to support Tomorrowland's bid to host this mega event which turned out to be successful.

The OWG was to be the biggest international event in not only the modern history of Tomorrowland but the history of the entire continent of Westeros. Thousands of sportspersons from across the eleven seas were to descend upon Boomtown to participate in the Games.

As is the practice for such events, the Ministry of Sports of the Government of Tomorrowland sanctioned the building of the One World Games Village to house athletes from all over the world. It was also to contain state of the art facilities. Since the One World Games Village would be a reflection on Tomorrowland itself, the Ministry of Sports decided to form an Overseeing Committee ("OC") which would be responsible for construction of the entire Village based on world class standards. The OC was formed in execution of an executive order of the Federal Government and consisted of five members (two renowned ex-sportspersons of Tomorrowland, two Officers of the Ministry of Sports and one representative of the national Games Association) under the Chairmanship of Mr. T. Lannister, the head of Tomorrowland's Games Association. Since GLG was the only entity that could complete the mammoth task of constructing the Village, a contract was signed by the OC with GLG Constructions to build the One World Games Village.

With less than four months to go, the construction of the Games Village was confronted with various hurdles. A newspaper report by Mr. Janujaz, a internationally renowned journalist (also a member of UHM) caused severe reputational harm to Tomorrowland - if one were to believe press statements sent out by the Ministry of Regulation and Control of Free Speech, Government of Tomorrowland. An extract of the said newspaper report in the National Daily, The Times of Tomorrowland (TTT) read as under:

"Another week, another storm of teargas and rubber bullets in Tomorrowland. This time, the clashes were in the capital, Boomtown, where 15,000 protesters from the UHM marched from the Mano Kakifootball stadium to the office of the Ministry of Sports and the OC. The Special Police (security wing of Tomorrowland, using batons and teargas fought off several attempts to invade the building. The demonstrators threw stones and tore down railings which they used as weapons. Hosting the OWG was intended to show that Tomorrowland – the land long condemned as the "country of the future – and always will be" – had finally arrived. It seemed a shoo-in for success. Those glib assumptions have taken a battering in the last eight months as people are still being killed in protests, while workers are dying in the rush to complete unfinished Games Village. The Village which was supposed to be ready two months ago is still under construction, prompting panic among International Committee's executives. Last month, its president, Mr. Ferguson, said Tomorrowland was further behind schedule more than any host nation since 1975, even though it has had the most time to prepare. Organisers in the city have two weeks left to prove they have accelerated the pace of building and they have been warned the venue could be changed at the last minute. GLG which in the past has given much to Tomorrowland is under intense public scrutiny. The issue is further complicated by relentless protests by the UHM who allege large scale corruption in the building of the Games Village."

On 20th December 2015, just two weeks before the deadline set by the International Committee overseeing the implementation of the Games in Tomorrowland, an exasperated Mr. T. Lannister called Mr. Ferrero Williams on his mobile phone and told him to do whatever it takes to ensure the deadline is met. Mr. Williams was travelling out of the country on work commitments so he transferred the call to the Vice President of GLG Constructions, Mr. Peter Bailish. During the course of the call, Mr. Bailish made demands of Mr. T. Lannister to the point of blackmailing the OC and termed the demands "speed money". Unaware that this call was under surveillance by the Special Police of Tomorrowland, Mr. T. Lannister agreed to pay Mr. Bailish US\$ 8 Million for speeding up the construction of the Games Village and completing the project on time. A date and place was immediately set for the transfer of the 'speed money' on the next day.

On 21st December at 10.00 AM, the Special Police recorded information of an offence by filing a Information Report ("IR") under Section 101¹ of the Tomorrowland Criminal Justice Code and prepared to apprehend both

¹**101. Information Report:** Every information relating to the commission of an offence, whether given orally, in writing or otherwise to an officer of the Special Police, shall be reduced to writing by him or under his direction, and entered in a register as prescribed by the Government.

parties red handed while the money was exchanging hands. The IR reflects the record of all of the information as recorded in the call.

The Special Police arrived at the office of GLG Constructions where money was to be exchanged and apprehended Mr. T. Lannister and Mr. Peter Bailish during the exchange. The office of GLG Constructions (a wholly owned subsidiary of GLG) was raided and US\$ 7 Million was recovered in cash from the private office of Mr. Bailish.

This case came to be known as the "OWG Scandal" and caused a media frenzy in Tomorrowland. It was on the front page of every newspaper and on every TV Channel in Tomorrowland. The Times of Tomorrowland contained an article titled "*Williams denies any wrongdoing but for how long?*" by Mr. Janujaz which caused a sensation in Tomorrowland for its revelation that Mr. Williams was also involved. It claimed to have confidential information from sources that Williams was in fact told that the bribe had been set up and did not discourage or stop it in any manner. It also alleged that Williams was deliberately delaying the construction of the Games Village to extort and squeeze more money out of the Government.

Subsequently on 10th January 2016, the Special Police filed a Conclusive Report under Section 105² of the Tomorrowland Criminal Justice Code before the Boomtown Criminal Court alleging that Mr. Bailish, GLG Constructions and Mr. Lannister were guilty of corruption under Section 15 of the Corrupt Activities (Prevention and Punishment) Act. It was further stated in the Conclusive Report that even though Mr. Ferrero Williams was the Managing Director of GLG Constructions, no evidence was found against him though it was a matter of record that he had had several meetings (five in total) with Mr. Lannister at his office in the days preceding the IR and these meetings also included Mr. Bailish. Under the Tomorrowland Criminal Justice Code, once a Conclusive Report is filed by the Special Police, the presiding Judge of

²105. Conclusive Report of Special Police on completion of investigation:

- (1) Every investigation under this law and any other criminal law shall be completed without expeditiously
- (2) (i) As soon as it is completed, the officer of the Special Police in charge of the Investigation shall forward to the concerned presiding Judge of the Criminal Court empowered to take cognizance of the offence on a Conclusive Report, a report in the form prescribed by the Government, stating—
 - (a) the names and details of all known accused persons; details and reasons for dropping persons suspected as accused earlier
 - (b) the nature of the information and the provisions of law under which accused persons are to be charged;
 - (c) the names of the persons who appear to be acquainted with the circumstances of the case and are to be called as witnesses;
 - (d) whether the accused has been arrested;
 - (f) Documents (including search and seizure memos) to be relied on by the Special Police

the concerned Criminal Court can take cognizance³ of the case and summon the accused persons if it so deems fit. However notably the Tomorrowland Criminal Justice Code and the Corrupt Activities (Prevention and Punishment) Act does not contain a provision enabling an individual to be held "vicariously liable" for the acts of a Company/firm.

Taking lead from this newspaper report, the UHM, long standing enemies of GLG and Williams in particular filed an Objection Petition under Section 195⁴ of the Tomorrowland Criminal Justice Code before the Boomtown Criminal Court for not making Ferrero Williams an accused in the case. In its Petition UHM made the following allegations and submissions.

1. Williams was told by Mr. T. Lannister about the bribe. This is confirmed by call records obtained from the official network provider of Mr. T. Lannister which show that after setting up the bribe with Mr. Bailish, he immediately made a phone call to a private number which the UHM revealed as belonging to Ferrero Williams. (Call records were annexed along with the Objection Petition)
2. Williams being the head of GLG had to be aware of all going-ons of the Government and GLG Constructions, especially after one considers press statements/pronouncements made by him.
3. Since this is a matter of public importance with widespread misuse of public funds, Williams ought to be made an accused in the case.

The Boomtown Criminal Court decided to have a common hearing to decide the Objection Petition filed by UHM and for consideration of the Conclusive Report filed by the Special Police. After a detailed hearing spanning three days where extensive submissions were made by the parties concerned (except Mr. Williams since he was not yet an accused person), Judge Leonard Kunis Avacat of the Boomtown Criminal Court passed the following order on 30th January 2016:

"1. I have heard the arguments at the bar and have carefully gone through the documents on record and relevant case law. I find that a case is made out against Mr. Peter Bailish, Mr. T. Lannister and GLG Constructions.

2. With regard to the Objection Petition filed by the UHM, I hold that while third parties generally have no locus in criminal trials,

³ Cognizance is not defined but understood as the proceeding where a Criminal Court applies its mind to a Conclusive Report to determine what, if any, offences are made out for which an accused can be summoned for prosecution

⁴**195. Objection Petition:** Any person who is in possession of material evidence in relation to a concluded investigation of the Special Police may file an Objection Petition before the concerned presiding Judge of the Criminal Court.

Explanation: What is "material evidence" shall be made upon the determination of the concerned presiding Judge of the Criminal Court.

but in this case they are in possession of crucial evidence which has been peculiarly missed out by the Special Police. How they received such evidence is not known, but the genuineness of their claim will be tested at Trial. Accordingly the Objection Petition is allowed.

3. Keeping in mind the television pronouncement where he has accepted responsibility for the conduct of the Games, I also find that at the relevant time, Mr. Ferrero Williams was Chairman-cum-Managing Director of GLG Constructions and used to chair the meetings of its board. In that capacity, he was/is, prima facie, in control of affairs of the GLG. As such, he represents the directing mind and will of the GLG Constructions. He was/is the "alter ego" of GLG Constructions. In this fact situation, prima facie the acts of GLG Constructions and Mr. Peter Bailish, a highly placed employee of GLG are to be attributed and imputed to Mr. Ferrero Williams. Consequently, I find enough material on record to proceed against him also and any defence he may have will depend upon the evidence that may be led at the stage of trial."

This order caused havoc all over Tomorrowland, especially for its decision to proceed against Mr. Ferrero Williams. Everywhere from the smallest roadside joint, to the largest hotels had only one topic of conversation.

There was already widespread discontent amongst the working classes against Mr. Williams due to his predatory labour practices. His image had taken a battering and share prices of his Companies were dropping constantly. In light of the public outrage in relation to the OWG scandal, the Supreme Court of Tomorrowland (the highest Court in Tomorrowland) took judicial notice of the proceedings and passed the following order on 14th February 2016 under Article 23⁵ of the Constitution Act of 1930:

"Any prayer for any relief made by any of the parties (directly or indirectly) which may impede the progress of the Trial can be made only before this Court and no other court shall entertain the same. The trial must proceed on a day-to-day basis."

This was the first time in the judicial history of Tomorrowland that such an order came to be passed. In the usual course, all challenges to any order passed by the Boomtown Criminal Court would lie to the High Court of Boomtown being the first Appellate Court.

⁵**23. Inherent Power of Supreme Court:** The Supreme Court in the exercise of its inherent power may pass such judgment, decree or order necessary for doing complete justice in any cause or matter pending before it or any other Court in Tomorrowland.

Due to the interpretation espoused by the Special Police of the Order passed by the Supreme Court of Tomorrowland, Mr. Williams challenged the order of the Boomtown Criminal Court making him an accused in the OWG scam directly before the Supreme Court of Tomorrowland under Article 24⁶ of the Constitution Act of 1930. Mr. Williams challenged the order of the Boomtown Criminal Court on the following grounds:

1. That the Boomtown Criminal Court has no power to disagree with the Conclusive Report of the Special Police and make him an accused without any evidence (filed by the Special Police) before it.
2. That the reasoning of the Boomtown Criminal Court making him an accused on the theory of "Alter Ego" and "Attribution" was patently erroneous and contrary to settled principles of law
3. That it is settled law that third parties have no locus in criminal trials, and evidence collected by third parties cannot be introduced at any stage of a criminal trial.

Additionally Mr. Williams challenged the validity of Order dated 14th February passed by the Supreme Court of Tomorrowland under Article 25⁷ of the Constitution Act of 1930 and sought recall of the same on the ground that it violated Articles 3⁸ and 6⁹ of the Constitution Act of 1930. Mr. Williams claims that the Supreme Court Order had the effect of violating the rights guaranteed to Mr. Williams and other accused by denying them the right to approach the High Court of Boomtown under Article 55¹⁰ of the Constitution Act of 1930 and Section 126¹¹ of the Tomorrowland Criminal Justice Code.

⁶**24. Appeal to Supreme Court:** Any person aggrieved by any judgment, decree, determination, sentence or order in any cause or matter passed or made by any Court in the territory of Tomorrowland may Appeal to the Supreme Court of Tomorrowland.

⁷**25. Supervisory Powers of Supreme Court:** The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Act is guaranteed. The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Act.

⁸**3. Right to life and liberty:** No individual shall be deprived of his life or liberty except according to the due process of law.

⁹**6. Equality before law:** All human beings are born free and equal in dignity and rights and are entitled to the equal protection of the laws within the territory of Tomorrowland.

¹⁰**55. Power of High Courts:** Notwithstanding anything in Article 25, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by this Act and for any other purpose.

¹¹**126. Appellate Powers of High Court:**

(1) The High Court on its own motion or by application of any party may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or

The UHM was impleaded as a Party by the Supreme Court of Tomorrowland and claimed that the question of *locus standi* does not arise in matters relating to large scale corrupt practices in the high offices of the Government in connivance with and to benefit private individuals. They claim that any public spirited citizen of the Country can bring any information regarding a crime to the knowledge and notice of the Court.

The Special Police resisted Mr. Ferrero Williams's Petition before the Supreme Court claiming that the Boomtown Criminal Court was well within its power to make Mr. Williams an additional accused in the OWG scandal and invoked Section 199¹² of the Tomorrowland Criminal Justice Code which contains the power of a court to make any person an additional accused. Moreover the Special Police defended order dated 14th February passed by the Supreme Court of Tomorrowland arguing that it only facilitates the progress of the trial by ordering that the trial must proceed on a day-to-day basis. They argued that a large backlog of cases in the courts is often an incentive to the litigants to misuse the courts' system by indulging in unnecessary and fraudulent litigation, thereby delaying the entire trial process. The longer the trial, witnesses will be unavailable, memories will fade and evidence will be stale. Taking into consideration all those aspects, the Special Police hailed the Supreme Court Order as it felt that it is in the larger public interest that the trial of OWG Scandal be not hampered.

Seeing that all these cases arose out of the same transaction, the Supreme Court of Tomorrowland decided to have a common hearing of these cases.

The following issues arose before the Supreme Court of Tomorrowland:

1. Whether the Order dated 14th February 2016 passed by the Supreme Court of Tomorrowland is violative of Articles 3 and 6 of the Constitution Act of 1930?

propriety of any finding. Sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court.

Explanation: All presiding Judges of Criminal Court shall be deemed to be inferior Criminal Courts to the High Court.

Nothing in the Code can limit or affect inherent powers of the High Court to pass such orders necessary to give effect to any order under this Code, to prevent abuse of the process of any Court or to secure the ends of justice.

¹²**199. Power to summon persons as Additional Accused:**

(1) Where, in the course of an inquiry or trial of an offence it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

2. Whether the order of the Boomtown Criminal Court making Ferrero Williams an accused in the OWG Scam was valid?
3. Whether UHM has any *locus standi* to participate, make submissions and give evidence in the case against Ferrero Williams?

Any additional legal issues that arise may be raised subject to points in notes below.

NOTES:

- I. Teams are to argue for the Appellant (Mr. Ferrero Williams in issues 1,2,3) **OR** for the Respondent (State of Tomorrowland through the Special Police in issue 1,2 and UHM in issue 3)
- II. The burden of proof under the Tomorrowland laws is on the prosecution to prove the guilt of the Accused beyond reasonable doubt.
- III. Participants are expected to apply principles of criminal law prevalent in common law jurisdictions and demonstrate the rational and desirability of applying the same in a cogent manner. Tomorrowland courts consider leading common law precedents as being highly persuasive.
- IV. The maintainability of the appeals is not in issue in these proceedings. Participants must proceed on the basis that the abovementioned criminal appeals are maintainable.