

**THE EASTERN CARRIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE**

**SAINT CHRISTOPHER AND NEVIS
SAINT CHRISTOPHER CIRCUIT**

SKBHCV2024/0134

**IN THE MATTER of the Saint Christopher and
Nevis Citizenship Act Cap.1.05**

and

**IN THE MATTER of the Saint Christopher and
Nevis Citizenship Regulations, S.R.O. No. 52
of 2011 (as amended by S.R.O. No. 6 of 2015)**

BETWEEN:

ROSS CAMERON

Claimant

and

**HON. DR. TERRANCE DREW
(in his capacity as Minister of National Security)**

1st Defendant

**MICHAEL MARTIN
(in his capacity as head of the Citizenship by Investment Unit)**

2nd Defendant

**TECHNICAL COMMITTEE
(established pursuant to Section 9 of the Citizenship by
Investment Regulations)**

3rd Defendant

Appearances:

Mr. Damian Kelsick KC with him Ms. Hadya Dolphin for the Claimant

Mr. Christopher Forde for the Defendants

2025: May 12;
July 23.

JUDGMENT

[1] **GILL, J:** An applicant for citizenship by investment challenges St. Kitts and Nevis for rejecting his application.

The Application for Citizenship by Investment

[2] The claimant Ross Cameron, a citizen of the United States of America, applied for citizenship of St. Kitts and Nevis under the Federation’s Citizenship by Investment Program (“the application”). The application included the claimant’s family – his wife and two children.

[3] The application was submitted to the 2nd defendant Michael Martin, Head of the Citizenship by Investment Unit (“CIU”) under a cover letter dated 10th March 2023 from Dover Corporate Services Ltd, the claimant’s Citizen by Investment Agent (“Dover”).

[4] As stated in Dover’s submission letter dated 10th March 2023, completed forms and supporting documentation were enclosed which included, among other things, the following:

- a) Form C1;
- b) Original copy of FBI record showing no criminal record;
- c) Original professional reference, McCormick, Murtagh & Marcus;
- d) Original bank reference, TD Bank;
- e) Bank Statements (Nu View Trust), quarterly;
- f) Bank Statements (TD Bank), monthly ;
- g) Curriculum Vitae;
- h) **Warrior Operating Inc.:**
 - i. Articles of Incorporation, Notarised and with Apostille;
 - ii. Certified copy of filing of Articles of Incorporation;
 - iii. Certified copy Nevada State Business License;
 - iv. Incumbency Certificate showing the owner to be The Firehouse LLC, Notarised and with Apostille;

- v. Share Certificate in favour of The Firehouse LLC, Notarised and with Apostille;
- vi. Membership Certificate, showing ownership of The Firehouse LLC by The Sunshine Dynasty Trust, Notarised and with Apostille;
- vii. Certification of Irrevocable Trust instrument of The Sunshine Dynasty Trust, Ross Pierce Cameron as Grantor; and
- viii. **Copy of Stipulated Order in recent Federal Trade Commission civil, non-criminal matter (“the FTC Order”)** (*Emphasis added*)

[5] The C1 form contains 3 sections, A – Personal Details, B – Details of Applicant’s Family, and C – Declarations and Application for Citizenship.

[6] Section C comprises a list of questions (C43 to C55); two declarations (C56 and Source of Funds); and one certificate (C58).

[7] Part C49 of the application form posed the following question:

“Have you ever been under investigation by any law enforcement agency or tax authority in any country?”

[8] The claimant responded by checking **“No”**.

[9] Part C57 provides a page for an applicant to submit any additional information and attachments that may be relevant to an application. Here, the claimant submitted further details of his marital status only.

[10] The application was completed at Part C58 where the claimant certified that he had read and understood all the questions in the form and that the information supplied was complete, true and up to date in every detail. The claimant further authorised the Government of St. Kitts and Nevis to obtain further information the Government may deem necessary to decide whether the claimant and/or his family qualify for the grant of citizenship.

The Federal Trade Commission Order (“the FTC Order”)

[11] As stated above at paragraph 4, accompanying the application, and referenced in Dover’s cover letter submitting the application, was a copy of the FTC Order. It should be noted that the FTC Order was not mentioned or referred to on the application form.

- [12] The FTC Order, referred to by the claimant as the “FTC Consent Order”, is an order of the United States District for the District of Massachusetts Western Division. It is intituled “STIPULATED ORDER FOR PERMANENT INJUNCTION, MONETARY JUDGMENT, AND OTHER RELIEF”. The parties to the case are the Federal Trade Commission as the Plaintiff and three Defendants, namely (1) Warrior Trading, Inc., a corporation, (2) Warrior Operating Inc., a corporation, also d/b/a Warrior Trading, and (3) Ross Cameron, individually and as an officer of Warrior Trading, Inc., and Warrior Operating Inc. The FTC Order contained a recital that the FTC and Defendants “stipulate to the entry of [the FTC Order] to resolve all matters in dispute in [the complaint] between them”.
- [13] The FTC Order revealed that the FTC filed a complaint pursuant to the relevant sections of the Federal Trade Commission Act (“the FTC Act”) and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“the Telemarketing Act”) for a permanent injunction and other relief. The complaint charged that the Defendants participated in deceptive and unfair acts or practices in violation of the FTC Act and the Telemarketing Act, in connection with the advertising, marketing, distribution, and selling of a D-Trading strategy and related goods and services to consumers throughout the United States.
- [14] The Defendants in the complaint neither admitted nor denied the allegations in the complaint, except as specifically stated in the Order and solely for the purposes of the complaint, the Defendants admitted the facts necessary to establish the court’s jurisdiction.
- [15] The FTC Order contained prohibitions concerning earnings claims, prohibitions against misrepresentations and prohibitions regarding telemarketing. A money judgment was entered against the Defendants who were ordered to pay the FTC Three Million Dollars (US\$3,000,000.00). The Defendants were also subjected to compliance reporting, stipulations as to recordkeeping and compliance monitoring.

The CIU recommendation to the Technical Committee

- [16] By letter dated 16th June 2023, the CIU informed Dover that as “a result of the returned due diligence investigations”, the CIU decided “to recommend to the “Technical Committee” to deny the [application] pursuant to Regulations 33(2)(a) and (e) of the Statutory Rules and Orders (SR&O) No. 4 of 2023” and informed the claimant that he could submit verified further documentation or other

information to challenge the reasons for the recommended denial within twenty-one calendar days of the date of the letter. Although referencing the regulations, the letter did not specify how the regulations were purportedly breached.

[17] Regulations 33(2)(a) and (e) provide as follows:

A CBI applicant who—

(a) has provided false information on his or her application form;

...

(e) is involved in any activity likely to cause disrepute to Saint Christopher and Nevis; or

...

shall not be approved for Citizenship by Investment.

The claimant's further evidence and documentation

[18] By letter dated 20th July 2023, Dover submitted further information. This letter informed the CIU of the following:

- 1) As to Regulation 33(2)(a):
 - i. they were “given to believe” that the CIU was of the view that the claimant was dishonest in his answer to Question C49 by answering “No”;
 - ii. explained why the claimant formed the view that he answered the question truthfully, including the status of the FTC and the fact that a copy of the FTC Order was provided with the application;
- 2) As to Regulation 33(2)(e), Dover gave details of the history of the claimant and his company.
- 3) A letter dated 11th July 2023 from Nicholas Morgan of Paul Hastings LLP, who represented the defendants to the complaint, explained that:
 - i. The FTC does not bring criminal actions;
 - ii. The complaint against the claimant and his company involved “unproven allegations related to conduct from over two years ago involving certain implicit representations

about the efficacy of Warrior Trading's programs without (in the FTC's view) sufficient disclaimers or substantiation”;

- iii. Beginning years prior to the FTC Order, Warrior Trading engaged outside compliance consultants and law firms, including Paul Hastings, to improve its compliance practices. As a result, the FTC did not make any allegations complaining of ongoing conduct at the time of the FTC Order, and the FTC did not seek any exigent relief from the court to prevent Warrior Trading from continuing to operate its business. Indeed, Warrior Trading has continued to operate its business to this day, and, as always, takes its compliance obligations very seriously, continually looking for opportunities to improve its compliance practices;
- iv. “Rather than litigating the case and presenting the compelling factual and legal defenses available to them, Warrior Trading and the claimant elected to settle the matter without admitting any violations. One of the factors in their decision to settle the matter was an agreement by the FTC to distribute the settlement funds to Warrior Trading customers. Accordingly, on June 22, 2022, Warrior paid \$3 million in total satisfaction of the financial obligations in the Settlement Order, and in January 2023 the FTC announced that it would be sending payments to Warrior Trading customers. **Even setting aside the time and business disruption that the threatened litigation would have imposed on Warrior Trading, the cost to defend against the threatened FTC litigation through trial, regardless of whether or not Warrior Trading were to prevail in that litigation, would likely have exceeded the amount agreed upon to settle the matter without any admission or judicial findings of wrongdoing.**” (*Emphasis added*)

- 4) The Business Insider review of the Best Day Trading Courses of July 2024 showed Warrior Trading Inc as the runner up.

[19] Just short of seven months later (after Dover's letter of 20th July 2023), by letter dated 13th February 2024 from the CIU, the CIU responded indicating that the Technical Committee, after reviewing the application, recommended to the Minister of National Security the denial of the application and the

Minister upheld the recommendation. The letter referred to Regulations 33(2)(a) and 33(2)(f) (*sic*) of the Citizenship by Investment Regulations, No. 26 of 2023.

[20] By letter dated 4th March 2024, the claimant's Attorneys-at-Law wrote to the CIU indicating why in their view the denial was legally unjustifiable and seeking that the Minister revisit his decision.

[21] By letter dated 11th March 2024, the CIU acknowledged receipt of this letter indicating that the matter had been forwarded to the Legal Department for advice and that the CIU would revert to Counsel promptly, upon receipt of a response.

[22] By letter dated 28th May 2024, the claimant's Attorneys-at-Law wrote to the CIU indicating that the delay in their responding was unreasonable.

[23] By letter dated 30th May 2024, the CIU acknowledged receipt of this letter indicating that the correspondence had been forwarded to the Attorney General's office for update.

The Claim

[24] No response was forthcoming from the CIU, and on 15th July 2024, four months after the initial letter of Kelsick, Wilkin & Ferdinand to the CIU, the claim was filed.

[25] The fixed date claim was filed on 15th July 2024. The claimant filed an amended fixed date claim on 28th August 2024. The claimant claims against the defendants the following relief:

1. An order of certiorari to remove into the High Court and to quash:
 - a) the recommendation in or about February 2024 to the 1st defendant by the 2nd defendant to deny the claimant's application for citizenship of St. Kitts and Nevis on the grounds that he provided false information on his application and he was involved in an activity likely to cause disrepute to the Federation of St. Kitts and Nevis;
 - b) the decision of the 1st defendant in or about February 2024 to deny the claimant's said application on the grounds that he provided false information on his application and he was involved in an activity likely to cause disrepute to the Federation of St. Kitts and Nevis.
2. An order giving all necessary and consequential directions;

3. An order that the defendants pay the costs of the claimant;
4. Such further or other relief as to the court is just.

The Strikeout Application and Trial

[26] On 13th August 2024, the defendants filed an application to strike out the claim. An amended application was filed on 7th February 2025. The defendants asked the court to dispose of the claim, disputing the court's jurisdiction to try the claim, alleging abuse of process and that the claim did not disclose any reasonable ground for bringing it. The court determined that the application and the substantive hearing would be dealt with together, and ordered submissions on both the application and the claim.

[27] At the start of the trial, learned counsel for the defendants, Mr. Forde, withdrew this application. The application drew focus on section 13 of the Saint Christopher and Nevis Citizenship Act¹ which reads:

*13. The Minister shall not be required to assign any reason for the grant or refusal of any application under this Act, **the decision on which is at the Minister's discretion**, and the decision of the Minister on any such application shall not be subject to any appeal or review in any court. (Emphasis added)*

[28] On the submissions of learned King's Counsel Mr. Kelsick for the claimant/respondent, Mr. Forde agreed that a decision pursuant to Regulation 33(2) is not at the Minister's discretion.² The trial proceeded on the merits of the substantive case.

[29] Further, Mr. Forde indicated that the defendants were no longer defending the decision to deny the application under Regulation 33(2)(e) of the Citizenship by Investment Regulations, that is, that the claimant "is involved in any activity likely to cause disrepute to Saint Christopher and Nevis". However, the defendants maintained their position in relation to Regulation 33(2)(a), that the claimant provided false information on his application form. Therefore, the trial proceeded with submissions on the denial of the claimant's application pursuant to Regulation 33(2)(a).

[30] The only evidence for the trial was the affidavit with exhibits of the claimant in support of his claim. The parties agreed that this evidence and the arguments filed were sufficient for the trial. The

¹ Cap. 1.05 of the Laws of Saint Christopher and Nevis

² See *National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration and another v Chief Minister of Anguilla and 3 others* [2025] UKPC 14 at paras. 71 and 84

claimant filed pre-trial submissions and the defendants relied on their submissions for the strikeout application for the trial.

Issues

- [31] The concessions by the defendants narrowed the issues to a consideration of whether the defendants made an error of fact in determining that the claimant provided false information on his application form, which amounted to an error of law, rendering the decisions to recommend the denial of, and deny the claimants' application for citizenship of the Federation unlawful.

Claimant's submissions

- [32] The claimant submits that the denial of the application in reliance on Regulation 33(2)(a) involves issues of fact, in particular,

- i. What was the relevant information provided by the claimant on his application form(s)?
- ii. Was this information false?

- [33] The claimant contends that there has been no indication by the defendants, prior to, or in the course of, these proceedings what is alleged to have been the "false information" provided by the claimant. He submits that one is required to assess the entire application, including all explanations provided by the claimant, to determine whether he, in fact, provided false information on the form.

- [34] The claimant further submits that properly assessed, he did not provide false information in the application. Question C49 asked the claimant whether he was "under investigation by any law enforcement agency". The claimant points out that there is no definition on the C1 Form of "law enforcement agency". He answered this question "No". However, he also referenced, in the Dover letter of 10th March 2023, the FTC Order and provided a copy of it. In so doing, the claimant strenuously submits that he clearly provided accurate and true information to the defendants of the FTC complaint.

- [35] In Dover's letter of 20th July 2023, a full explanation was given as to why Question C49 was answered "No", including that the claimant thought this referred to criminal investigations and not civil proceedings.

[36] The claimant alleges that the defendants have not sought to explain the reasoning by which they found that this involved the provision of false information by the claimant. Further, they have not explained if, or how, they treated the explanations provided on behalf of the claimant, and in particular, if the explanations were rejected, why.

[37] In other words, the claimant contends that the defendants have failed to discharge their duty, that is, the often overlooked duty of candour “to give a true and comprehensive account of the way that the relevant decisions were arrived at.”³ He submits that this is because it is impossible to characterize him as having provided false information in these circumstances, and in finding to the contrary, the defendants erred.

[38] The claimant concludes [including in relation to Regulation 33(2)(e)] that:

- a) The only grounds proffered by the defendants for refusal of the application were bare references to Regulations 33(2)(a) and (e) of the Citizenship by Investment Regulations SRO No. 4 of 2023, without any indication of the factual bases;
- b) The factual bases of which Dover was made aware, unofficially, and referenced in the letter of 20th July 2023, was the claimant’s answering “No” to Question C49 and the existence of the FTC complaint;
- c) There was no denial by the defendants that these were the factual bases;
- d) Based on information provided by the claimant, there was no evidential basis for the defendants to find that either of these facts were made out;
- e) The defendants have failed to put forward any evidence which could, objectively, justify their decision;
- f) The refusal of the application was therefore unlawful.

³ See Supperstone, Goudie and Walker on Judicial Review at para. 19:50

Defendants' submissions

- [39] Notwithstanding the lack of specificity in the CIU letters of recommended denial and denial, the defendants submit that the claimant's application was determined to be in breach of Regulation 33(2)(a) for having provided false information on the application form.
- [40] The claimant exhibited a copy of the FTC complaint to his affidavit in support of the claim. The defendants refer to paragraph 6 of the FTC complaint which reads:
- "The FTC is an independent agency of the United States government created by the FTC Act, which authorises the FTC to commence this district court civil action by its own attorneys. 15 U.S.C. ss 41-58. The FTC **enforces** Section 5(a) of the FTC Act, 15 U.S.C. ss 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also **enforces** the Telemarketing Act, 15 U.S.C. ss 6101-6108. In accordance with the Telemarketing Act, the FTC promulgated and **enforces** the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices."* (Emphasis added)
- [41] The defendants point out that the FTC complaint clearly describes the FTC as a law enforcement agency which enforces the FTC Act and the Telemarketing Act. The FTC is duty bound to investigate allegations or suspicions and enforce the provisions of the law. Therefore, the defendants submit that the FTC is in fact a law enforcement agency as contemplated by Question C49 of the application form.
- [42] Further, the defendants highlight the letter from the claimant's attorney dated 11th July, 2023, contending that it describes the FTC as a law enforcement agency. The letter explained that the FTC brings "civil enforcement actions". The defendants submit that although Counsel sought to distinguish between civil enforcement actions (which the FTC can bring on its own), and criminal enforcement actions (which the FTC cannot attend to on its own), he established that the FTC was in fact a law enforcement agency, albeit a civil law enforcement agency.
- [43] In making the case that the claimant provided false information on the application form, the defendants argue that the claimant had a further opportunity to disclose his state of affairs with the FTC at Part C57 of the form. At Part C57, an entire section (39 lines) is dedicated for an applicant to disclose or submit any additional information and attachments that may be relevant to his application. The defendants allege that the claimant failed to submit any information as to the FTC investigation and subsequent charges against his companies and him personally at Part C57 of the application form.

[44] Dover submitted the application with the cover letter dated 10th March 2023. Under the claimant's list of documents, the FTC Order was listed as "*Copy of Stipulated Order in recent FTC civil, non-criminal matter*". However, the defendants signal that the FTC Order was not mentioned or represented on the application form.

[45] The defendants summarise that the FTC is a law enforcement agency which not only investigated the claimant, but also filed a complaint against him as an individual and as an officer of his companies alleging that he was in breach of the law. The claimant represented on the application form that he had never been investigated by any law enforcement agency, when in fact, he had been. The defendants submit that there were therefore clear and unambiguous grounds for the CIU and the Technical Committee to conclude and recommend, and for the Minister to determine, that the claimant had indeed provided false information on the CBI application form. Once the Minister determined that the claimant had provided false information, the defendants contend that he was duty bound to deny the application for citizenship by investment.

Judicial Review – applicable principles

[46] As a starting point, both sides cited the case of **Council of Civil Service Unions v Minister for the Civil Service**⁴ where Lord Diplock stated:

“Judicial review has I think developed to a stage today when ... one can conveniently classify under three heads the grounds upon which administrative action is subject to control by judicial review. The first ground I would call “illegality,” the second “irrationality” and the third “procedural impropriety.” That is not to say that further development on a case by case basis may not in course of time add further grounds. ...

By “illegality” as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. ...

By “irrationality” I mean what can by now be succinctly referred to as “*Wednesbury* unreasonableness” (*Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 K.B. 223). It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. ...

I have described the third head as “procedural impropriety” rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are

⁴ [1985] AC 374 at pp. 410 - 411

expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice.”

- [47] Judicial review does not extend to the court substituting its own findings for those of the decision-maker. Judicial review is not an appeal on the merits but a review of the decision-making process.⁵

Error of fact/error of law

- [48] The claimant in this case highlights the principle or category of illegality, which covers a wide range of grounds. A typical judicial review claim addresses errors of law, not errors of fact. The learned authors of Patterson & Karim on Judicial Review explain:

*“Mistake of fact. Judicial Review does not typically deal with disputes of fact. However, in limited circumstances, an error of fact can amount to an error of law. Similarly, there are narrowly defined situations where a precedent fact is disputed. Such facts unlock a public body’s powers and obligations, and will be reviewed by the court.”*⁶

- [49] A precedent fact is one which must exist before a statutory power or duty is exercised. It is “a fact that brings a case within a particular statutory scheme and triggers consideration under that scheme ... and the legal position is that a judicial review court can assess whether it is correct because it forms the legal basis of the exercise of the public body’s statutory powers. Furthermore, the court can decide the issue for itself.”⁷

- [50] In Halsbury’s Laws of England,⁸ it is stated as follows:

“There is a general presumption that a public decision-making body has no jurisdiction or power to commit an error of law; ...

...

*A public body will err in law if it acts in breach of fundamental human rights; misinterprets a statute or any other legal document, or a rule of common law; frustrates the purpose of a statute or otherwise acts for an improper purpose; takes a decision on the basis of secondary legislation, or any other act or order, which is itself ultra vires; takes legally irrelevant considerations into account, or fails to take relevant considerations into account; admits inadmissible evidence, rejects admissible and relevant evidence, or **takes a decision on no evidence or on the basis of a material mistake of fact**; misdirects itself as to the burden of proof; fails to follow the proper procedure required by law; fetters its discretion or*

⁵ See *Chief Constable of the North Wales Police v Evans* [1982] 3 All ER 141

⁶ Patterson & Karim on Judicial Review at para. 2.73(4)

⁷ *Ibid* at para. 2.103

⁸ Judicial Review (Volume 61A (2023)) at para. 13

improperly delegates the decision; fails to fulfil an express or implied duty to give reasons; acts arbitrarily or discriminately; or otherwise abuses its power.” (Emphasis added)

[51] It is further stated at paragraph 25:

*“In exercising their functions, public bodies evaluate evidence and reach conclusions of fact. The court will not ordinarily interfere with the evaluation of evidence or conclusions of fact reached by a public body properly directing itself in law. **The exercise of statutory powers on the basis of a mistaken view of the relevant facts will, however, be quashed where there was no evidence, or no sufficient evidence, available to the decision-maker on which, properly directing himself as to the law, he could reasonably have formed that view.** The court may also intervene where a body has reached a decision which is based on a material mistake as to an established fact. Although the general rule is that a judicial review is determined on the basis of the material that was before the decision-maker, where it is alleged that there has been a mistake of fact fresh evidence may be admitted.” (Emphasis added)*

[52] The claimant asserts that it cannot be concluded that he provided false information. By reference to Regulation 33(2)(a), coupled with information the claimant received from Dover, this is one of the grounds on which the application was denied. The Regulation stipulates that an applicant who provides false information on an application form, “shall not be approved for Citizenship by Investment”. Therefore, the providing of false information on an application form for citizenship is a precedent fact that must be established for the denial of the application.

[53] By answering “No” to Question C49, the claimant informed the CIU that he was never investigated by any law enforcement agency. His own evidence reveals that he was investigated and complained against by the FTC, a civil law enforcement agency. Question C49 did not specify any type of law enforcement agency, civil or criminal, and there is no allegation by the defendants that the claimant was involved in any criminal activity. The question did not involve any findings or admissions or settlement agreements. It simply queried whether the claimant had ever been investigated by a law enforcement authority.

[54] Therefore, in my respectful view, the claimant provided false information on his application form, and it was not unreasonable for the defendants to come to that conclusion, even in light of the claimant’s explanation (that he believed the question referred to a criminal law enforcement agency), and taking into consideration all the other relevant matters urged upon the CIU in the further information the claimant submitted. Notwithstanding his contention that he did not provide false information, in effect,

the claimant explained why he gave a false answer to the question. On the face of it, the form contained a false statement. Whether his answer was false is objective. The claimant answered in the negative when, in fact, he had been investigated by a law enforcement authority, which culminated in an action being brought against him and his companies. Whether he believed that he gave true and accurate information by the disclosure of the FTC Order or he had no intention to misrepresent the facts, does not negate the fact that the answer to the question was false. There is no legalese to the term “false information” in this context. The claimant is not being accused of any offence for which the elements are to be proved.

[55] Even so, it begs the question as to why the claimant did not, at least, refer to the FTC Order in the other part of the application form that asked for additional information and attachments. Although the claimant and his companies made no admissions and there were no findings in respect of the FTC Order, the “consent order” contained prohibitions against the claimant and his companies and ordered them to pay the significant sum of US\$3,000,000.00 to the FTC. In my view, the FTC Order ought to have been highlighted on the application form because its contents, disclosed, made by consent, or being civil in nature, would still attract major consideration in the grant or refusal of the application. By virtue of the regulations, the correct information must be on the application form. The cover letter is not the form.

[56] I am most cognizant of the fact that the defendants presented no evidence explaining the determination of the application. I will deal with this below. However, I cannot conclude that the defendants made an error of fact in this matter. The claimant provided false information on his application form when he answered “No” to the question as to whether he had ever been investigated by a law enforcement authority. In the exercise of their functions, the defendants had sufficient facts available to them to form the view that the claimant provided false information on the form. Accordingly, the claimant cannot succeed in showing that the defendants acted unlawfully in the recommendation, and ultimate denial of the application.

The duty of candour

[57] The claimant’s evidence is that he became aware of the alleged false information he provided from his agent Dover. Dover informed him that the CIU concluded that he had lied on the application form in response to Question C49, that he had never been under investigation by any law enforcement

agency or tax authority in any country. The reference to Regulation 33(2)(a) in the CIU letter was just that, with no indication of what was the false information the claimant provided. There is no evidence before the court as to how Dover came by the information regarding the alleged false information.

[58] The duty of candour is set out in Supperstone, Goudie and Walker on Judicial Review⁹ as follows:

“Although the standard civil rules of disclosure do not apply to judicial review proceedings, (unless the court orders otherwise) both claimants and public authorities who are defendants to applications for judicial review are subject to a duty of candour. Once a claim is issued, the duty requires the parties to assist the court by disclosure of materials that are reasonably required for the court to reach an accurate decision. The duty is a wide one. **The objective of the duty is to ensure that public law litigation is a process 'which falls to be conducted with all the cards face upwards on the table'**; however 'the vast majority of the cards will start in the authority's hands'. **As a result, consideration of the duty of candour has tended to focus on the defendant's duty.** The duty requires defendants to provide the court and the claimant with all documents and information that may help the claimant's case or give rise to additional grounds of challenge. **The duty requires defendants to give a true and comprehensive account of the way that the relevant decisions were arrived at and, if the court, at a later stage, discovers that this has not occurred, it may draw inferences against the [defendant] upon points which remain obscure.**” (*Emphasis added*)

[59] The recent Privy Council decision in **National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) and another v Chief Minister of Anguilla and 3 others**¹⁰ discussed the existence of this duty. At paragraphs 89 and 90, in delivering the judgment of the Board, Lord Reed and Lady Rose stated::

“Judicial review proceedings are not conducted in the same way as ordinary disputes between private parties concerned to protect their competing interests. The supervisory jurisdiction is designed to protect the public interest in the lawful use of the powers conferred under public law, as well as the private interests of those who may be affected by the abuse of those powers. It is intended to secure the constitutional value of the rule of law, to which public authorities, and the other parties to judicial review proceedings, are or should be committed. In consequence, the parties to such proceedings are expected to ensure that the court is in possession of all the information which it requires to decide the case correctly. This places a particular obligation upon parties in situations where it is not possible for the court to assess the merits of an issue that has been raised unless the parties in question (usually the public authority against whom the claim is brought, but potentially another party to the proceedings) furnish the court with information which they alone are in a position to provide.

⁹ Sixth Edition, Indian Reprint, at para. 19.47

¹⁰ [2025] UKPC 14

This obligation, usually described as the duty of candour, is well established... For example, in *Bahamas Hotel Maintenance & Allied Workers Union v Bahamas Hotel Catering & Allied Workers Union* [2011] UKPC 4, Lord Walker, giving the judgment of the Board, said at para 23 that judicial review proceedings “are meant to be conducted with cooperation and candour”. In *Graham v Police Service Commission* [2011] UKPC 46, Sir John Laws said at para 18 that it “is well established that a public authority, impleaded as respondent in judicial review proceedings, owes a duty of candour to disclose materials which are reasonably required for the court to arrive at an accurate decision”. More recently, in *Pyaneandee v Leen* [2024] UKPC 27, Lady Simler said at paras 42 and 47 (quoting Laws LJ in *R (Quark Fishing Ltd) v Secretary of State for Foreign and Commonwealth Affairs* [2002] EWCA Civ 1409, para 50) **that a respondent to a judicial review claim is under “a very high duty ... to assist the court with full and accurate explanations of all the facts relevant to the issue the court must decide”. Breach of the duty may (but will not necessarily) lead to the court drawing inferences which are adverse to the party in breach (R v Civil Service Appeal Board, Ex p Cunningham [1992] ICR 816, 822–824), as well as to the grant of orders for disclosure, or orders for costs to mark the court’s disapproval of the conduct of the party concerned.”** (*Emphasis added*)

- [60] Again, the defendants provided no evidence in this matter. However, their submissions confirm the claimant’s account from Dover, that one reason for the denial of the application was the deemed false information the claimant provided on his application form. Certainly, this was a glaring omission from the CIU recommendation letter dated 16th June 2023 which barely referenced Regulation 33(2)(a). This left one to speculate, having observed the regulation, as to the alleged false information being cited. The denial letter dated 13th February 2024, with reference to Regulation 33(2)(a), spelled out the words “has provided false information on his or her application form”.
- [61] The defendants have not furnished the court nor the claimant with any comprehensive account of the way they arrived at the decision to deny the application.
- [62] Nonetheless, the claimant certainly became aware of the specific allegation from Dover, and acted on the opportunity given to him by the CIU to submit further information and documentation. The claimant comprehensively addressed and explained the reason he answered “No” to Question C49, why he contends that he did not provide false information.
- [63] In the circumstances of this case, it is evident that the defendants determined that the claimant provided false information on his application form. To my mind, this is a straightforward issue. Given the opportunity, the claimant submitted further information. Clearly, the defendants maintained the recommended position and the application was denied.

[64] In coming to my conclusion that the claimant provided false information on his application form, I set out my reasons for so doing. As advanced by the claimant, the defendants have not sought to explain the reasoning by which they found that the claimant provided false information, and if and why they rejected his explanations. To my mind, the absence of any reasoning or comprehensive account on the part of the defendants is not fatal to their case. Simply put, on the evidence before the court, this was not necessary. The defendants determined that when the claimant answered “No” to Question C49, he provided false information. After he explained himself, it did not change the fact that his answer was false. The regulation makes it mandatory for an application to be denied in this circumstance. In submissions relating to the ouster of the court’s jurisdiction in answer to the defendants’ withdrawn strike out application, the claimant himself correctly submitted to this court that decisions to refuse an application under Regulation 33 are not dependent upon the discretion of the Minister, but rather upon the existence of facts. The Minister, having determined the precedent fact that the claimant provided false information on the application form, had no avenue for the exercise of any discretion on his part.¹¹

[65] Apart from the defendants’ duty to set out what was regarded as the false information in the recommendation letter (which information was eventually communicated to the claimant and which he acted upon), the omission of the defendants to provide a full and comprehensive account of the way they arrived at the decision, does not make the decision illegal. On this straightforward issue (false information), the court was provided with sufficient material in the claimant’s evidence and the submissions of the parties to properly arrive at a decision.

[66] Even if it can be said that the defendants breached the duty of candour in this matter, the consequence is not a quashing of the recommendation/decision of the defendants.¹²

[67] In the circumstances of this case, the claimant has not established to the satisfaction of the court that the defendants acted illegally, irrationally or procedurally improper in denying the claimant’s application for citizenship by investment of the Federation of St. Christopher and Nevis on the ground that the claimant provided false information on his application form.

¹¹ See *Khawaja v Secretary of State for the Home Department* [1983] 1 All ER 765

¹² See *National Bank of Anguilla (Private Banking and Trust) Ltd (in Administration) et al v The Chief Minister of Anguilla et al* [2025] UKPC 14 at para. 90

[68] The decision by learned counsel for the defendants not to defend the claim in respect of Regulation 33(2)(e) meant that the court was not required to review the recommendation and denial of the application on the ground that the claimant was involved in an activity likely to cause disrepute to the Federation. However, even if the defendants erred in relation to Regulation 33(2)(e), the denial of the application remains valid because the reasons for non-approval under Regulation 33(2) are disjunctive. The application could be denied for any of the grounds – (a) to (f) – set out in Regulation 33(2). The recommendation by the 2nd defendant and the decision by the 1st defendant to deny the application stand on the sole ground of providing false information on the application form. Therefore, the claimant is not entitled to an order to quash the recommendation or the decision.

Costs

[69] I see no reason to depart from the general rule in relation to applications for administrative orders. I do not consider that the claimant acted unreasonably, especially in light of the fact that the defendants did not defend their position with respect to Regulation 33(2)(e). Likewise, the defendants did not act unreasonably in bringing the strike out application.

Order

[70] In light of all the foregoing, I make the following orders:

- 1) The claimant's fixed date claim is dismissed.
- 2) There is no order as to costs.

Tamara Gill
High Court Judge

By the Court

Registrar