**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

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| IN RE:<br><br>APPLICATION OF YULIA GURYEVA-MOTLOKHOV FOR AN ORDER SEEKING DISCOVERY PURSUANT TO 28 U.S.C. § 1782 | Case No. 25-MC-98 (JMF) |

# MEMORANDUM OF LAW IN SUPPORT OF THE ANTIGUAN MOVANTS' MOTIONS TO INTERVENE, TO VACATE THE COURT'S MARCH 17, 2025 ORDER, AND TO QUASH THE SUBPOENAS ISSUED PURSUANT THERETO

**(ORAL ARGUMENT REQUESTED)**

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## INTRODUCTION

Movants are Gaston A. Browne, the Prime Minister of Antigua & Barbuda, a foreign sovereign State; three members of the Prime Minister's family;[1] four family-owned Antiguan companies;[2] the Accountant General of Antigua & Barbuda;[3] and the Director of the Port Authority of Antigua & Barbuda.[4] They are all named as "subjects" of two subpoenas issued pursuant to the Court's March 17, 2025 Order—to the Federal Reserve Bank of New York and the Clearing House Payments Company L.L.C. (the "Subpoenas")—which seek production of *every wire transfer of funds that mentions their names for the past six years, involving any transaction of any kind*.[5]

There is no justification whatsoever for such oppressive, limitless, and entirely unnecessary discovery of confidential financial information pertaining to these Movants. Accordingly, Movants seek leave to intervene in these proceedings, to vacate the Court's March 17, 2025 Order granting Applicant leave to serve the Subpoenas, and to quash the two Subpoenas issued pursuant thereto.

The foreign judicial proceedings upon which the application for discovery under 28 U.S.C. § 1782 are purportedly based—in Antigua and Russia—concern only a single transaction: the sale of a yacht by the Government of Antigua & Barbuda in 2024. The yacht, known as the *Alfa Nero*, had been owned previously by the Applicant's father, a Russian oligarch subject to U.S. sanctions, and transported to Antigua where it was seized by the Government and sold after obtaining the necessary license from the U.S. Government to dispose of blocked property under the U.S. sanctions regime. The proceeds were received by the public treasury; part was disbursed to pay

[1] Maria Bird-Brown, Gaston Andron Browne III, and Hyacinth Harris.

[2] IF Antigua Inc., Farmer DG Browne Co. Limited, Cove Head Development Limited, and Cove Head Communications Limited.

[3] Ickford Roberts, in his official capacity.

[4] Darwin Telemaque.

[5] *See* ECF No. 4-11 at 11; ECF No. 4-12 at 11.

debts and charges incurred by the vessel itself, and the remainder became revenue to the nation. In both foreign proceedings, the Applicant has claimed an interest in the seizure and sale of the *Alfa Nero*.

The invocation of Section 1782, and the documents sought under the Subpoenas, however, are not related to the sale of the *Alfa Nero*. Instead, Applicant seeks wire transfer records belonging to Antiguan government officials, their family members, and private entities, supposedly to unveil patterns of financial misconduct dating back years. She asks for enormous quantities of confidential material, most of it predating not only the sale of the *Alfa Nero* but its arrival in Antigua.

Why does she seek information that is entirely unrelated to this transaction? Why does she want documents relating to *every* wire transfer—regarding *any and all* transactions, however unrelated to the sale of the *Alfa Nero*—in which any one of the Movants is so much as mentioned over the past six years?

The Applicant herself answers these questions, not in her pleadings before the Court, but in the public declarations of her counsel. The purpose of these proceedings is to defame, disgrace, and humiliate the Prime Minister of Antigua & Barbuda and his family, and to bring the economy of the country to a virtual halt through reckless and malicious allegations of systemic corruption and money laundering, in a scheme to coerce a multimillion dollar payoff to which the Applicant is not lawfully entitled. In short, this is not a good faith discovery request. It is a holdup, minus the mask and gun.

By way of illustration: shortly after the Section 1782 Application was filed, counsel for the Applicant posted on LinkedIn that the Application's purpose has nothing to do with the *Alfa Nero*, but to "expose the financial web behind [Prime Minister Browne's alleged] corruption," referring

to "years [of Prime Minister Browne allegedly]… us[ing] his position to enrich himself and his associates while advancing the interests of foreign regimes hostile to the United States."[6] On X (formerly known as Twitter), counsel stated that this Application seeks to uncover "Browne's [purported] ties to foreign interests hostile to the U.S."[7] Counsel further declared publicly that:

> Browne's government operates in secrecy, from rigged asset sales to selling passports to highest bidder [through] the Citizenship by Investment Program, repeatedly allowing bad actors to acquire Antiguan passports. … The Citizenship by Investment Program under Browne … [amounts to] just more backroom deals that have allowed notorious bad actors to improperly secure even diplomatic passports, threaten U.S. security and now the ability of all Antiguans to travel freely. Antigua's leaders should stop enabling Browne's corruption, demand accountability, and fix the transparency issues that have put every Antiguan passport holder at risk.[8]

The Application itself confirms that its real motive is to attack the Prime Minister and his Government and to immerse them in scandal. Reflecting this, the Applicant and her counsel initially captioned this proceeding "*In re Gaston Browne Corruption Discovery Application.*" This Court properly changed this to "*In re Application of Yulia Guryeva-Motlokhov for an Order Seeking Discovery pursuant to 28 U.S.C. § 1782*."

This is not a good faith Application. It is an attempt at extortion. Movants trust that the Court will not allow this blatant abuse of the judicial process to succeed.

Apart from its bad faith, the Application is otherwise deficient, and the Subpoenas should be quashed, because Applicant has not met the standards for showing that the wire transfer

[6] Decl. of Nicholas M. Renzler, Ex. 1. While "foreign regimes hostile to the United States" may be a nice rhetorical flourish, it is meaningless in fact. Nor is such a claim relevant, except to demonstrate that the Subpoenas are intended to be used for something other than the foreign proceedings.

[7] *Id*., Ex. 2.

[8] *Id*., Ex. 3. *See also id*., Ex. 4 ("For years, Antigua was sold to the highest bidder—passports, banking licenses, diplomatic posts, all handed to criminals while its people were told to stay quiet. Now, Antiguans are demanding better and the world should stand with them.").

information is sought "for use in a proceeding in a foreign … tribunal," as the statute requires. In particular, the requested information would be useless in the Antiguan court proceeding, since the trial is over and final submissions have already been made by the parties. All that remains is the judgment of the High Court of Justice, the trial court, which is anticipated shortly. There is no opportunity to submit additional evidence. Further, Applicant conceded in those proceedings that the she does not currently hold valid title to the vessel, nor did she have a legally cognizable interest in it at any time before its sale.[9]

Likewise, it is difficult to fathom what use could be made of the requested discovery in the Russian case. Applicant's claim there, as described in her Application, is against the purchasers of the *Alfa Nero*, and is based on the fact that the sale and purchase were made "in accordance" with U.S. sanctions, which, under Russian law, she alleges, is illegal.[10] It is not explained how the information sought by the Subpoenas could have any relevance to those proceedings.

These circumstances further demonstrate why the Application is illegitimate. The proffered objective—to obtain evidence that could be useful in a foreign judicial proceeding—is a pretext. The real purpose is to cause the biggest scandal possible for the Prime Minister and Government of Antigua & Barbuda, to put the nation in jeopardy of a cutoff by the international banking system based on unsupported allegations of systemic corruption and money laundering, and thereby coerce a financial payoff to which the Applicant is not entitled.

The Court should not allow itself to be used in the promotion of such a scheme. The relief requested herein should be granted.

[9] ECF No. 4-2 ¶¶ 23.

[10] ECF No. 7 ¶ 15.

## BACKGROUND

Beginning shortly after the Russian Federation invaded Ukraine in February 2022, the United States, the United Kingdom, and the European Union imposed sanctions on specified Russian entities and persons believed to be instrumental in violations of international law. One of those was Applicant's father, Andrey Guryev,[11] a "known close associate of Russian Federation President Vladimir Putin, [who] previously served in the Government of the Russian Federation."[12] At the same time, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") identified the *Alfa Nero*, a Cayman Islands-flagged yacht that Guryev reportedly bought in 2014, as blocked property.[13] The practical effect of that order was to "bar[] the owners of the vessel from carrying out any financial transactions in relation to it."[14]

At the time, the *Alfa Nero* was moored in Falmouth Harbour in Antigua,[15] the center of Antigua & Barbuda's economically important yachting industry. The yacht sat unattended, and uninsured, for months, racking up expenses and falling into a state of disrepair.[16] According to the Port Manager, "leaving the vessel in [that] condition and location"—effectively abandoned—risked "irreparable damage to the marine environment and pose[d] a risk to the navigation of other vessels in the area."[17]

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[11] ECF No. 4-1 ¶ 2(2).

[12] Press Release, U.S. Department of Treasury, *Treasury Sanctions Elites and Companies in Economic Sectors that Generate Substantial Revenue for the Russian Regime* (Aug. 2, 2022), https://home.treasury.gov/news/press-releases/jy0905.

[13] ECF No. 4-1 ¶ 2(6); *see also* Press Release, U.S. Department of Treasury, *Treasury Sanctions Elites and Companies in Economic Sectors that Generate Substantial Revenue for the Russian Regime* (Aug. 2, 2022), https://home.treasury.gov/news/press-releases/jy0905 ("the *Alfa Nero* has reportedly shut off its location tracking hardware in order to avoid seizure.").

[14] ECF No. 4-1 ¶ 2(6).

[15] *Id.* at ¶ 2(3).

[16] ECF No. 4-2 ¶¶ 14, 26, 28.

[17] *Id.* at ¶ 28.

It was against that backdrop that, on March 20, 2023, the Parliament of Antigua & Barbuda adopted The Port Authority (Amendment) Act, which permitted the Government to seize and sell abandoned vessels.[18] The following day, the Port Manager published a notice in the *Official Gazette* declaring the *Alfa Nero* abandoned, and an "imminent threat to the environment, to the safety and security of the harbour or other vessels in the harbour, and a risk to the socio-economic development of Antigua and Barbuda."[19] The notice warned that if "all necessary steps to remove the *Alfa Nero*" from the harbor were not taken immediately by its owner, the Port Authority would sell it as provided by law.[20]

In May 2023, two British Virgin Islands companies linked with Applicant, Flying Dutchman, Ltd. and Vita Felice, Ltd., filed an action in Antigua to block the sale.[21] Their application was rejected by the court,[22] and the government proceeded with its plans to sell the *Alfa Nero.*[23] To do so, however, the Antiguan authorities needed a license from OFAC removing it from the list of blocked property,[24] and this was duly granted in June 2023.[25]

On June 15, 2023, Applicant filed a claim in the High Court of Justice, a division of the Eastern Caribbean Supreme Court, challenging the constitutionality of the law permitting the sale

[18] *Id.* at ¶ 8.

[19] Antigua Ministry of Justice & Legal Affairs, *Notices*, The Antigua and Barbuda Official Gazette 4 (March 21, 2023), http://gazette.laws.gov.ag/wp-content/uploads/2023/03/No.-19-Extraordinary-21st-March-2023-Editors-Final-Draft.pdf.

[20] *Id*.

[21] ECF No. 4-2 ¶ 15.

[22] *Id.* at ¶ 16.

[23] *Id.* at ¶ 18.

[24] *Id.* at ¶ 27.

[25] Office of Foreign Assets Control, *Counter Terrorism Designations; Sudan Designations; Russia-related Designation Removal; Issuance of Sudan General Licenses*, U.S. Department of Treasury (June 1, 2023), https://ofac.treasury.gov/recent-actions/20230601.

and seizure of abandoned vessels.[26] That case is one of the foreign judicial proceedings upon which Applicant purportedly bases her discovery request under Section 1782. The court refused to enjoin the sale of the vessel, and trial on the merits was held from November 19 to 22, 2024. Witnesses were cross-examined and oral arguments were presented.[27] Final submissions were filed on December 11, 2024 by Applicant, and on December 30, 2024 by the Government. There is no further opportunity to present additional evidence or argument. The court's final judgment is anticipated shortly.[28]

Meanwhile, at the end of June 2024, the Port Authority entered into an agreement with a yacht broker, Northrop & Johnson, to sell the *Alfa Nero*, and in July 2024, it was sold to YM Thunder 1 Shipping Ltd., a company linked to Ali Riza Yildirim, a Turkish businessman, for US$40 million.[29]

On March 3, 2025, Applicant instituted proceedings in the Commercial (Arbitrazh) Court of the Kaluga Region, Russian Federation, against Ali Riza Yildirim; his son, Robert Yildirim; YM Thunder 1 Shipping Ltd.; "as well as certain subsidiaries of the Yildirim Group"[30] "for recovery of damages … incurred as a result of [their] acquisition of the *Alfa Nero* after the vessel was sanctioned by the United States authorities and designated 'blocked property.'"[31] This is the other pending foreign judicial proceeding on which Applicant purportedly bases her discovery application.

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[26] ECF No. 4-2 at 2.

[27] *See* Renzler Decl. Ex. 5.

[28] ECF No. 6 ¶¶ 5, 9.

[29] *Sale and Purchase Agreement*, Antigua News Room,https://antiguanewsroom.com/wp-content/uploads/2025/03/ALFA-NERO-SALE-AND-PURCHASE-AGREEMENT_250321_121450.pdf (last visited Apr. 10, 2025).

[30] ECF No. 7 ¶¶ 7, 8, 17.

[31] *Id.* at ¶ 10.

Eight days later, on March 11, 2025, Ms. Guryeva-Motlokhov filed her Application with this Court seeking leave to serve discovery in the United States, purportedly "for use" in connection with the Antiguan and Russian proceedings.[32] Specifically, the Application requested this Court's approval to serve the Subpoenas on the Federal Reserve Bank of New York and the Clearing House Payments Company L.L.C. (the "Discovery Respondents").[33]

As indicated above, the Subpoenas have little or nothing to do with the *Alfa Nero*, its seizure by the Antiguan government, its sale to the Yildirim interests, or title to the sales proceeds. Rather, they seek documents concerning ***all*** wire transactions since January 1, 2019 that reference seven individuals and 12 separate entities,[34] including Prime Minister Browne and the other Antiguan Movants. Applicant also filed an *ex parte* Section 1782 application in the U.S. District Court for the Southern District of Florida on the same day.[35]

Both applications were captioned "*In re Gaston Browne Corruption Discovery Application*."[36] And consistent with this description, the briefs filed in support of these Applications devote nearly 30 pages to accusations of corruption and irregularities against the Prime Minister, various members of his family, and other Antiguan Government officials.[37] These accusations are based exclusively on an unsupported declaration executed by a private investigator hired by Applicant, and consist almost entirely of double and triple hearsay.[38]

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[32] ECF No. 2 at 41-45.

[33] *Id.* at 39.

[34] ECF No. 4-11 at 6-7, 11; ECF No. 4-12 at 6-7, 11.

[35] ECF No. 2 at 4, n. 1.

[36] ECF No. 1; *see also Ex Parte* Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in Foreign Proceedings, *In re Gaston Browne Corruption Discovery Application*, No. 1:25-MC-21129 (S.D. Fla. Mar. 11, 2025). This Court has not adopted that terminology, entering its Section 1782 Order on March 17 under the caption, "*In Re Application of Yulia Guryeva-Motlokhov for an Order Seeking Discovery Pursuant to 28 U.S.C. § 1782*."

[37] ECF No. 2 at 4-37.

[38] *See* ECF No. 5.

On March 17, 2025, this Court granted Applicant leave to serve the Subpoenas on the Discovery Respondents.[39] It also ordered her to "promptly file proof of such service on ECF."[40] To date, no such proof has been entered on the docket. Nonetheless, on April 4, 2025, counsel for Applicant represented to undersigned counsel that the Subpoenas were served "a few days" after March 19, 2025.[41]

The Court also ordered Applicant to provide actual notice and courtesy copies of the Subpoenas, Application, and supporting documents "to the party or parties against whom the requested discovery is likely to be used through any such party's counsel, or if the identity of such party's counsel is unknown, on that party directly."[42] On March 19, 2025, Applicant's counsel filed an affidavit asserting that notice had been served on the Permanent Secretary of the Office of the Prime Minister of Antigua, the Deputy Solicitor General of Antigua, and counsel to YM Thunder 1 Shipping.[43] Counsel have not reported that any of the other affected parties have been notified in accordance with the Court's Order.

## ARGUMENT

### I. The Court Should Grant the Antiguan Movants' Unopposed Motion to Intervene

At the outset, the Court should grant the Antiguan Movants' unopposed motion to intervene. There is no doubt that, as the focus of the requested discovery, they "have standing to challenge the district court's power to issue a subpoena under the terms of an authorizing statute," as this Court has already acknowledged.[44] Courts "routinely grant timely intervention motions by

[39] ECF No. 14.

[40] *Id.* at 1.

[41] Renzler Decl. ¶ 8.

[42] ECF No. 14.

[43] ECF No. 15 ¶ 3.

[44] ECF No. 14 (quoting *In re Application of Sarrio S.A.*, 119 F.3d 143, 148 (2d Cir. 1997)).

[such] 'ultimate targets.'" *In re Multistratégia*, No. 23-MC-208 (JGLC) (GS), 2024 WL 555780, at *6 (S.D.N.Y. Jan. 18, 2024) (citing *In re Niedbalski*, No. 21-MC-00747 (JGK) (BCM), 2023 WL 5016458, at *3 (S.D.N.Y. May 8, 2023)); *see also, e.g.*, *In re Devine*, No. 22-MC-133 (VSB), 2022 WL 1658586, at *3 (S.D.N.Y. May 25, 2022) ("[T]he ultimate targets of a § 1782 discovery order issued to third parties have standing to challenge" subpoenas issued pursuant thereto); *Ex parte in re Abdalla*, No. 20-MC-727 (PKC), 2021 WL 168469, at *1 (S.D.N.Y. Jan. 19, 2021) ("The Second Circuit has long held that a person whose information is the target of a Section 1782 application also has standing to challenge the validity of its issuance.").

The Antiguan Movants likewise satisfy the standards for intervention under Rule 24 of the Federal Rules of Civil Procedure. A party may intervene as of right when, on a timely motion, it "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2).[45]

*First*, the Antiguan Movants' motion, made 25 days after the Court granted Applicant's *ex parte* Section 1782 application, and before she has satisfied the Section 1782 Order's requirements to serve the Subpoenas,[46] is timely. *See, e.g.*, *In re Da Costa Pinto*, No. 21-MC-663 (VEC), 2022 WL 4088012, at *3 (S.D.N.Y. Sept. 6, 2022) (finding motion timely even when filed approximately "two months after the Court granted Applicant's § 1782 application"); *In re Bourlakova*, No. 24-MC-71 (JPO), 2024 WL 4839047, at *1 (S.D.N.Y. Nov. 20, 2024) (accepting a motion filed over one month after the Court granted discovery under §1782).

[45] In the alternative, permissive intervention is also appropriate under Fed. R. Civ. P. 24(b).

[46] *See* ECF No. 14.

*Second*, the Antiguan Movants have an obvious interest in the confidentiality of their financial information that is the subject matter of the Subpoenas, which would be impaired if they were not permitted to intervene. The Subpoenas seek information concerning financial transactions over more than six years.[47] As this Court has affirmed, privacy and confidentiality interests in financial records are sufficient for the purposes of intervention. *See, e.g.*, *In re Hornbeam Corp.*, No. 14-MC-424, 2015 WL 13647606, at *3 (S.D.N.Y. Sept. 17, 2015) (permitting intervention to allow party "to vindicate any confidentiality interests he might have" in wire transfer records); *In re Da Costa Pinto*, 2022 WL 4088012, at *4 (permitting intervention to vindicate "privacy interests" in wire transfer information).

*Third*, there is no certainty that the Discovery Respondents are well-placed to protect the Antiguan Movants' interests. Indeed, to date, neither has appeared to challenge the Section 1782 Order or to quash the Subpoenas, and it is unknown whether they will do so once they are properly served. *See In re Niedbalski*, 2023 WL 5016458, at *4 ("It is well-settled, however, that intervention is appropriate where the § 1782 applicant seeks banking records to use against the proposed intervenor […] from third-party financial institutions that are unaffiliated with the intervenor and thus are unlikely to adequately protect its interests.").

Counsel for Applicant have indicated to the undersigned that they do not oppose the Antiguan Movants' motion to intervene.

## II. The Court Should Vacate the Section 1782 Order and Quash the Subpoenas

The Court should vacate the Section 1782 Order and quash the Subpoenas because (A) Applicant has not satisfied the statutory requirement that she show that the information sought be

[47] ECF No. 4-11 at 7; ECF No. 4-12 at 7.

"for use" in a foreign proceeding, and (B) even if she did, the Court should exercise its discretion not to permit the requested discovery.

A. Section 1782 Does Not Authorize the Subpoenas Because the Information Sought Is Not Intended "for Use" in a Proceeding before a Foreign Tribunal

A District Court may authorize discovery of evidence in the United States "for use in a proceeding in a foreign or international tribunal," 28 U.S.C. § 1782, only if the applicant can demonstrate that, *inter alia*, (i) the discovery is in fact to be used in a matter before a foreign tribunal, and (ii) the application is made by an interested person, *Certain Funds, Accounts &/or Inv. Vehicles v. KPMG, L.L.P.*, 798 F.3d 113, 117 (2d Cir. 2015). Applicant bears the burden of establishing both of these factors. *See Mangouras v. Squire Patton Boggs*, 980 F.3d 88, 97 (2d Cir. 2020); *In re Postalis*, No. 18-MC-497 (JGK), 2018 WL 6725406, at *4 (S.D.N.Y. Dec. 20, 2018) (denying discovery when the applicant "[had] not carried its burden to show that the information sought … is for use in a foreign proceeding") (cleaned up).

Applicant falls far short of carrying her burden. The Subpoenas seek "[a]ll documents concerning all wire transfers … in which the names of the subjects [12 entities and 7 individuals, including the Antiguan Movants] … appear in the wire or payment message" created at any time since January 1, 2019,[48] years before the *Alfa Nero* was sold. This outrageously broad reach is based on nothing more than the entirely unsupported assertion that Prime Minister Browne "orchestrated the sale of the *Alfa Nero* for self-interested purposes."[49] There is no explanation of how records from 2019 might be relevant to demonstrating that fact, even if it were a fact, which of course the Antiguan Movants roundly and emphatically deny.

[48] ECF No. 4-11 at 11; ECF No. 4-12 at 11.

[49] ECF No. 2 at 20.

The Court should vacate the Section 1782 Order and quash the Subpoenas as unauthorized under that statute because (1) the application seeks to use the wire transfer records to support a campaign to destroy the reputation of Prime Minister Browne and the Government of Antigua & Barbuda, and have nothing to do with the Government's sale of the *Alfa Nero*; and (2) the wire transfer records are not relevant to either the Antiguan or Russian judicial proceedings, let alone any imagined future proceedings in the United Arab Emirates.

*1. Applicant Seeks to Use the Wire Transfer Documents Only to Attack Prime Minister Browne and the Government*

The Second Circuit has explained that Section 1782's statutory requirement that a document be "'for use in a proceeding' indicates something that will be employed with some advantage or serve some use in the proceeding." *Mees v. Buiter*, 793 F.3d 291, 298 (2d Cir. 2015). Applications made with other motives do not meet Section 1782's requirements. For example, in *In re Postalis*, Judge Koetl found that where the applicant's "public statements" made it clear that its Section 1782 application was intended to serve a purpose other than "use in a foreign proceeding"—there, "to gain pre-litigation discovery for a prospective lawsuit in the United States"—it did not justify a Section 1782 order. 2018 WL 6725406, at *4. The Court concluded that "assertions that the requested discovery is for use in [foreign] proceedings [were] not credible." *Id.* That is the case here, too.

Applicant's representation to the Court that the wire transfer information would be used in the foreign judicial proceedings is nothing more than a pretext for the real motive: to embarrass Prime Minister Browne and his Government. This much is evident from the caption Applicant gave her Section 1782 request, which does not so much as mention Applicant or the *Alfa Nero*:

"*In re Gaston Browne Corruption Discovery Application*."[50] Yet the Antiguan and Russian proceedings are about the seizure and sale of the yacht, not the character of the Prime Minister or the integrity of his Government.

Revealingly, Applicant's counsel, Martin de Luca, has openly admitted in the media and on the internet that the information his client is seeking is intended for illegitimate uses entirely unconnected to the Antiguan and Russian cases. Some of his public declarations have been quoted above. Why is he pleading his case in this way to the international media, if not to pressure the Prime Minister and Government, through character assassination and malicious allegations of corruption and money laundering, to cave in to Applicant's extortionate demands? These statements, made for public consumption and not for the Court, disclose Applicant's real motives. They contradict any suggestion that the Application genuinely seeks information "for use" in any foreign judicial proceeding, as required by Section 1782.

*2. The Wire Transfer Documents Are in Any Event Not Relevant to, and Cannot Be Used in, Any of the Purported Foreign Proceedings*

To qualify as "for use" in a foreign proceeding, the information sought must be at least "minimally relevant" to that action. *BonSens.org v. Pfizer, Inc.*, 95 F.4th 75, 80 (2d Cir. 2024), *aff'g* Mem. Op. and Order, *In re Application of Bonsens.org for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in a Foreign Proceeding*, No. 22-MC-352 (JMF) (Feb. 14, 2023) (citing *KPMG*, 798 F.3d at 120 n.7) ("[I]t is difficult to conceive how information that is plainly irrelevant to the foreign proceeding could be said to be 'for use' in that proceeding.")). Here, Applicant has not shown the Court how the wire transfer information would be helpful to her in any of the foreign proceedings in which she claims the need for it.

[50] ECF No. 1 at 1.

The wire transfer records are supposedly sought to buttress the allegation that Prime Minister Browne "orchestrated the sale of the *Alfa Nero* for self-interested purposes."[51] Yet the only support proffered for this accusation is the declaration of James Hayes, a private investigator retained by Applicant and her counsel to conduct "an investigation into allegations of government corruption and mismanagement within the government of Gaston Browne …, the Prime Minister of Antigua and Barbuda."[52] The allegations reported by Mr. Hayes, who was plainly hired to carry out a hit on the Prime Minister, are attributed, unsurprisingly, to anonymous "sources" or unsourced articles in opposition newspapers.[53] None of them are corroborated or supported by any documents or other evidence tendered to the Court.[54] They are entirely lacking in credibility.

To the extent that Applicant and her counsel are open as to their true motives—to use the subpoenaed records to "prove the allegations of Browne's corruption and self-dealing"[55]—they toss off their own disguises and make the case for the Antiguan Movants. Nothing tendered to this Court comes close to satisfying the "for use" requirement in Section 1782 relating to "foreign proceedings."[56]

[51] ECF No. 2 at 20.

[52] ECF No. 5 ¶¶ 1-2.

[53] *See, e.g.*, ECF No. 5 ¶¶ 5, 53.

[54] *See, e.g., id.* at ¶¶ 51, 54.

[55] ECF No. 2 at 51-52.

[56] To be sure, Applicant asserts that such proof "will support Applicant's efforts to recover the *Alfa Nero* or reveal assets from which Applicant may seek compensation or damages." ECF No. 2 at 52. Yet this conclusory statement, even if true, does not satisfy Section 1782's "for use" requirements, either. No foreign proceeding seeks the recovery of the vessel or the execution of an award of damages. *See In re Especiais*, No. 24-MC-119 (LJL), 2024 WL 4169550, at *8 (S.D.N.Y. Sept. 12, 2024) (finding that discovery concerning location of assets was not "for use" in foreign proceedings when the applicant did not have an enforceable judgment for damages or a pending pre-judgment attachment request) (citing *BonSens.org*, 95 F.4th at 80-81)).

**a. Antigua and Barbuda**

In Antigua, Applicant initiated a case in the High Court of Justice of the Eastern Caribbean Supreme Court, a trial court, in June 2023 to challenge the seizure of the vessel, alleging that it interfered with property rights protected under the Antiguan Constitution.[57] That action is pending, which is to say the outcome is not known as of the date of this submission. Applicant now says that she needs the wire transfer information of all 19 subjects of the Subpoenas, not for her current trial court action (in which the record is now closed and a decision is pending), but in an appeal that she may someday bring should the lower court ruling be unfavorable.[58]

Applicant's Antiguan counsel asserts that the wire transfer records will permit her "to identify critical details about the confiscation and sale of the *Alfa Nero* and the disposition of the proceeds of the same."[59] Yet neither Applicant nor counsel makes any effort to demonstrate just how ***all*** wire transfer records of all transactions of any kind containing the name of any of 19 different individuals and entities dating back to *2019* are relevant to any "critical detail[]" about a sale that occurred in 2024, or the subsequent disposition of the proceeds. The wire transfer documents therefore do not qualify as "for use" in the Antiguan proceedings. *See In re Postalis*, 2018 WL 6725406, at *4 (if a subpoena "is not limited to any specific issues" in the foreign proceedings, the documents it seeks cannot be described as "for use" in those proceedings).

Applicant's Antiguan counsel also asserts that the wire transfer records "may show financial transfer information for [Prime Minister] Browne and his inner circle that identify the individuals and entities that [allegedly] acted on Browne's behalf and for his benefit."[60] Yet

[57] ECF No. 6 ¶ 8.

[58] *Id.* at ¶¶ 9, 10.

[59] *Id.* at ¶ 19.

[60] *Id.* at ¶ 19.

nothing in the record suggests how this trove of personal and confidential information dating back six years could be used to identify any person or entity who improperly benefited from the vessel's sale by the Port Authority in 2024.[61] Counsel's vague and conclusory statements,[62] without further explanation, are not sufficient to demonstrate the relevance of the information now being sought. *See In re Lloreda*, 323 F. Supp. 3d 552, 558 (S.D.N.Y. 2018) (denying Section 1782 application because the applicant did "not adequately explain[] … how any of the information … request[ed was] relevant" to its intended ultimate purpose); *In re Republic of Turk.*, No. 20-C-5012, 2021 WL 3022318, at *4 (N.D. Ill. July 16, 2021) (finding "persuasive" the argument that applicant's "failure to provide specific details about … how [it] plans to use the requested discovery forecloses it from satisfying the second statutory requirement").

The requested information also fails to meet the "for use" requirement with respect to the Antiguan proceedings because Applicant has not established that she has "the practical ability to inject the requested information" into that case. *Bouvier v. Adelson (In re Accent Delight Int'l Ltd.)*, 869 F.3d 121, 132 (2d Cir. 2017). To qualify, "the intended use of the discovery [must be] more than merely speculative." *BonSens.org*, 95 F.4th at 80. Where "an applicant's ability to initiate a proceeding in which the requested discovery may be used 'depends on some intervening event or decision,' the applicant must 'provide an objective basis on which to conclude that the event will occur or the requisite decision will be favorable.'" *Id*. (quoting *IJK Palm LLC v. Anholt Servs. U.S.*, 33 F.4th 669, 680 (2d Cir. 2022)).

[61] Applicant's Antiguan counsel also refers to "financial records for the *Alfa Nero*'s sale and/or charter," *id.* at ¶ 19; *see also id*. at ¶ 18 ("sale records regarding the sale of the *Alfa Nero*"), but the Subpoenas do not seek those records.

[62] *See, e.g.*, ECF No. 2 at 44.

Here, as Applicant's Antiguan counsel explains, she is awaiting a judgment from the High Court of the Eastern Caribbean Supreme Court.[63] It is only "*[i]f* the Judgment is unfavorable" that "the Applicant *intends* to appeal the decision to the Court of Appeal of the Eastern Caribbean Supreme Court,"[64] raising an entirely new constitutional claim for which Applicant would "seek to adduce the Requested Discovery."[65] Since Applicant makes no attempt to "provide an objective basis on which to conclude" that this sequence of events will occur, she has not satisfied the "for use" requirement. *BonSens.org*, 95 F.4th at 81 (internal citation and quotation marks omitted).

**b. Russian Federation**

In the Russian Federation, Applicant has brought a claim against the purchaser of the vessel and others (but not any of the Antiguan Movants) for "recovery of damages … incurred as a result of [their] … acquisition of the *Alfa Nero* after the vessel was sanctioned by United States authorities and designated 'blocked property.'"[66] The legal basis of her claim appears to be that the purchase of the yacht was "unfair" under Russian law because it was "in accordance with sanctions imposed by 'unfriendly' states" (*i.e.*, the United States).[67] Applicant's Russian counsel asserts that the wire transfer information is relevant to those proceedings because it "will permit the Applicant to identify critical details about the confiscation and sale of the *Alfa Nero*" and to "identify the persons and entities who benefitted from the vessel's seizure and sale."[68] This is no more precise, no more substantive, and no more honest than the claims concerning the proceedings in Antigua.

[63] ECF No. 6 ¶ 9.

[64] *Id.* at ¶ 10 (emphases added).

[65] *Id.* at ¶ 11.

[66] ECF No. 7 ¶¶ 10, 14, 15.

[67] *Id.* at ¶ 15.

[68] *Id.* at ¶ 21.

There are two reasons why these assertions do not demonstrate the requisite relevance of the wire transfer information. *First*, like her Antiguan counsel, Applicant's Russian lawyer provides no explanation for how the requested wire transfer information—reaching back years prior to the sale of the *Alfa Nero* in 2024, and concerning transactions entirely unrelated to it—might be used "to identify persons and entities who benefitted from the vessel's seizure and sale."[69] The information is obviously not relevant to that stated purpose, and therefore the request for it is not justified under Section 1782. *See In re Lloreda*, 323 F. Supp. 3d at 559; *In re Republic of Turk.*, 2021 WL 3022318, at *4. *Second*, even if the information could, as Applicant's Russian counsel imagines, "identify [any] financial entanglements between the [Russian Defendants], the possessors of the *Alfa Nero*, and [Prime Minister] Browne,"[70] nothing on the record demonstrates how the discovery of any such relationship would be of use in the Russian proceedings against the Yildirim interests.[71]

**c. The United Arab Emirates**

Finally, the wire transfer information cannot be relevant to any purportedly "contemplated" criminal case in the United Arab Emirates, for the simple reason that there are no "proceedings" pending there. Applicant claims that she "is *considering* initiating legal proceedings … against Gaston Browne … and potentially others connected to Browne, based on the confiscation and sale of the motor yacht [the] *Alfa Nero*, which Applicant *believes* was the result of corruption and self-

[69] *Id*.

[70] *Id*.

[71] Applicant's Russian counsel asserts that the "financial records for the *Alfa Nero*'s sale and/or charter … will establish that Respondents [*i.e.*, the defendants in the Russian action who are *not* the Antiguan Movants] were the purchasers of the *Alfa Nero*, and now benefit from the operation or charter of the vessel, as alleged in the Russian Proceedings." *Id*. But there is no doubt as to who purchased the yacht: their identity is a matter of public record. *See Sale and Purchase Agreement*, Antigua News Room, https://antiguanewsroom.com/wp-content/uploads/2025/03/ALFA-NERO-SALE-AND-PURCHASE-AGREEMENT_250321_121450.pdf (last visited April 10, 2025).

dealing by Browne and certain members of his inner circle."[72] She thus admits that the Application is nothing more than a fishing expedition into every one of the Prime Minister's confidential financial transactions via wire transfer over the past six years, undertaken in hopes of building a case against him that she cannot now make. Her stated goal here is to use access to these wire transfers to help her "to determine *whether and how* Browne, *possibly* with the assistance of others, executed a self-interested seizure and sale of the vessel."[73] Conclusory statements like these are facially insufficient and should not be credited. *See In re Postalis*, 2018 WL 6725406, at *4; *In re Republic of Turk.*, 2021 WL 3022318, at *4. Applicant has not shown how the wire transfer information "would provide grounds for lodging a criminal action under UAE law."[74] In any event, Applicant concedes that there are no "proceedings" underway in the Emirates; it follows that the information is not sought "for use" in any such case.

Further, according to the declaration of Applicant's Emirati counsel, the decision to initiate a criminal prosecution will be made not by Applicant, but by an Emirati government prosecutor. What she is "considering" is bringing a matter "before the UAE Federal Public Prosecution," which would need to assess whether "a prosecution will be successful."[75] Obviously, this has not yet happened.

The absence of pending proceedings, or any that are reasonably contemplated, means that the wire transfer documents cannot be "for use" in the so-called Emirati Proceedings. The "requirement that a [foreign] proceeding be within 'reasonable contemplation' forms an outer limit

[72] ECF No. 8 ¶ 6 (emphases added).

[73] *Id.* at ¶ 12.

[74] *Id.* Nor, incidentally, is it indicated how the Emirati court could assert personal jurisdiction over Prime Minister Browne, the head of government of a foreign State who has no known connection with the United Arab Emirates.

[75] *See Id.* at ¶¶ 6-7, 10.

on which proceedings may constitute the basis of a § 1782 application." *Mangouras*, 980 F.3d at 100. At a minimum, a Section 1782 applicant "must present to the district court some concrete basis from which it can determine that the contemplated proceeding is more than just a twinkle in counsel's eye." *KPMG*, 798 F.3d at 124. Merely "retain[ing] counsel and … discussing the possibility of initiating litigation" is not a sufficient objective indicium that an action is "contemplated." *In re Asia Mar. Pac., Ltd.*, 253 F. Supp. 3d 701, 707 (S.D.N.Y. 2015) (citing *KPMG*, 798 F.3d at 124). And here, as has been conceded by her own counsel, Applicant cannot bring criminal charges in the U.A.E., but would need to persuade the public prosecutor to do so, creating one more level of remove: it is not Applicant's but the prosecutor's "contemplation" that will determine whether proceedings are ever initiated. This confirms that the information is not "for use" in the U.A.E.; as this Court observed in *In re Ex parte Klein*, when "the most [an applicant] appears able to do is to forward the evidence [they] obtain[] to [a criminal prosecuting authority], which, exercising its discretion, will decide whether to initiate a formal criminal prosecution," that evidence does not qualify "'for use' in a future criminal prosecution." No. 23-MC-211 (PAE), 2023 WL 8827847, at *9, 15 n.6 (S.D.N.Y. Dec. 21, 2023) (citing *IJK Palm*, 33 F.4th at 678).

Nor is it enough for the Applicant to "hope" that a discovery request will "turn up sufficient factual information to support a colorable claim." *Banoka S.à.r.l v. Alvarez & Marsal, Inc.*, No. 22-MC-00182 (GHW) (KHP), 2023 WL 143368, at *6 (S.D.N.Y. Feb. 1, 2023) (rejecting a Section 1782 application where the applicant's "broad demands [for information] reveal[ed] th[at] discovery sought is more in the nature of a fishing expedition."); *see also Mangouras*, 980 F.3d at 101-02 (rejecting a Section 1782 application for discovery to determine *whether* crimes occurred in Spain on the basis that the anticipated proceedings were not reasonably contemplated); *In re*

*Harbour Vict. Inv. Holdings Ltd.*, No. 15-MC-127 (AJN), 2015 WL 4040420, at *8 (S.D.N.Y. June 29, 2015) ("nonexistent, purely hypothetical proceedings" are unlikely to satisfy the "for use" requirement).[76] Under these precedents, Applicant cannot possibly meet the "for use" standard in regard to the non-existent Emirati criminal proceedings.

### B. Even if Section 1782 Authorized the Requested Discovery, the Court Should Nonetheless Vacate the Order and Quash the Subpoena

Even if Applicant could satisfy the requirements of Section 1782, which she cannot for the reasons already set out, the Court should nonetheless vacate the Section 1782 Order and quash the Subpoenas, exercising its inherent discretion and applying the so-called *Intel* factors. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 265 (2004); *Mees*, 793 F.3d at 298; *In re Especiais*, 2024 WL 4169550, at *16 ("[t]aken together, the discretionary factors counsel in favor of granting Intervenors' motion to vacate the subpoena").

Three reasons support the exercise of that discretion: (1) the 1782 Application was made in bad faith and for the purpose of harassment, (2) the Subpoenas are "unduly intrusive or burdensome," *Intel*, 542 U.S. at 265, and (3) "the character of the proceedings underway abroad," *id*. at 264, weighs in favor of vacating the 1782 Order.

#### *1. Applicant's Section 1782 Request Was Made in Bad Faith*

Where a Section 1782 "application is made in bad faith [or] for the purpose of harassment," that is "grounds for a discretionary denial of discovery." *Mees*, 793 F.3d at 299 n.10 (internal citation and quotation marks omitted); *see also Brandi-Dohrn v. IKB Deutsche Industriebank AG*,

[76] Emirati counsel states that if the information sought "reveals that the Contemplated [Emirati] Criminal Proceedings would be more appropriately brought in a jurisdiction other than the UAE, [he] intend[s] to consult with counsel in the appropriate jurisdiction to have criminal charges, and if appropriate, civil charges brought there." *Id.* at ¶ 15. This reinforces the inevitable inference that the prerequisites of Section 1782 are not met, because "the statute is not designed to provide potential litigants with information that will help them decide whether and where to commence proceedings." *Jiangsu S.S. Co. v. Success Superior Ltd.*, No. 14-CV-9997 (CM), 2015 WL 3439220, at *6 (S.D.N.Y. Jan. 6, 2015).

673 F.3d 76, 81 (2d Cir. 2012) ("a district court may deny the [S]ection 1782 application where it suspects that the discovery is being sought for the purposes of harassment"); *Euromepa, S.A. v. R. Esmerian, Inc.*, 51 F.3d 1095, 1101 n.6 (2d Cir. 1995) ("[I]f the district court determines that a party's discovery application under section 1782 is made in bad faith, for the purpose of harassment, or unreasonably seeks cumulative or irrelevant materials, the court is free to deny the application in toto, just as it can if discovery was sought in bad faith in domestic litigation.").

As shown above, Applicant has made her request for the purpose of harassing Prime Minister Browne, his family, and the Government of Antigua & Barbuda. This constitutes bad faith. The fact that Applicant seeks "a broad range of information … not all of [which] clearly bears" on any Foreign Proceeding, "suggest[s] that the application is made in bad faith [or] for the purpose of harassment." *In re Diligence Glob. Bus. Intelligence S.A.*, No. 21-MC-401 (JPO), 2021 WL 2156278, at *6 (S.D.N.Y. May 27, 2021) (cleaned up) (citing *Mees*, 793 F.3d at 299 n.10).

*2. The Requested Discovery Is Overbroad and Irrelevant*

The Section 1782 Order should be vacated and the Subpoenas quashed also because they are "unduly intrusive or burdensome," *Intel*, 542 U.S. at 265. In this regard, the Second Circuit has explained that "a district court … should assess whether the discovery sought is overbroad or unduly burdensome by applying the familiar standards of Rule 26 of the Federal Rules of Civil Procedure." *Mees*, 793 F.3d at 302. Where the objecting party is not directly commanded to produce information, as here, it may nonetheless "object to the subpoena as overbroad." *In re Salem*, No. 24-MC-5 (JPC), 2024 WL 3026670, at *16 (S.D.N.Y. June 17, 2024) (internal citation omitted).

Here, the requests for wire transfer records are impermissibly overbroad on their face. Applicant seeks from the Discovery Respondents "all documents concerning all wire transfers …

in which the names of [19 different] SUBJECTS … appear in the wire or payment messages."[77] This Court has held that "[r]equests for 'all' documents are inherently overbroad unless the 'all' refers to *a very discrete* set of documents." *Associacão dos Profissionais dos Correios v. Bank of New York Melon Corp.*, No. 22-MC-0132 (RA) (KHP), 2022 WL 4955312, at * 8 (S.D.N.Y. Oct. 4, 2022) (emphasis added). The set of materials that Applicant is now seeking is the opposite of "very discrete." Indeed, it likely would contain details on nearly every international U.S. dollar-denominated transaction, for any purpose and of any nature, involving all 19 subjects listed in the Subpoenas,[78] without regard to whether there is any connection whatsoever to the sale of the *Alfa Nero* or the disposition of the proceeds of that sale.

The Subpoenas violate Rule 26 also because the information they seek is not tailored to the "claims and defenses or proportional to the needs of the case." *Id.* at *23. As explained above in Section II(A)(2), the wire transfer records are not relevant to any claim or defense made in the Foreign Proceedings. Counsel for Applicant admitted this when he told the *Associated Press* that "'[t]he disappearance of millions from the sale of the *Alfa Nero* is *just the beginning.*"[79]

*3. The Nature and Character of the Foreign Proceedings Weigh in Favor of Vacating the Order and Quashing the Subpoenas*

The Supreme Court has directed courts to consider the nature and character of the foreign proceedings in ruling on Section 1782 requests. *Intel*, 542 U.S. at 264. That too counsels in favor of granting the Antiguan Movants' motion to quash.

[77] ECF No. 4-11 at 11; ECF No. 4-12 at 11.

[78] *See* ECF No. 2 at 39 (the Clearing House Payments Company LLC "estimate[s] that it handles 95 percent of all U.S. dollar payments transiting between countries").

[79] Dánica Coto, *US Attorneys for a Russian Woman Seeking to Recover a Megayacht Target Antigua*, Associated Press (March 12, 2025), https://apnews.com/article/antigua-russia-yacht-alfa-nero-guryev-bac7a1c879b9cf0814adacf39845658d.

As has been shown, in the case before the Antiguan courts, the parties are awaiting judgment and Applicant has no practical ability to use additional discovery material. *See supra* Section II(A)(2)(a). The Russian Proceedings are nothing more than an attempt to circumvent policies of the United States, particularly sanctions against Russian collaborators with those who orchestrated the invasion of Ukraine. Applicant's Russian counsel openly proclaims that the cause of action in Russia has as its goal the investigation of "the actions of persons in accordance with sanctions imposed by 'unfriendly' states."[80] That is to say, its intent is to target the purchasers of the *Alfa Nero*, not the Antiguan Movants, for having acted "in accordance" with U.S. sanctions on the vessel and its previous owner. And there are no "proceedings" underway in the United Arab Emirates in which the subpoenaed documents could be useful. *See supra*, Section II(A)(2)(c).

The nature and character of all the Foreign Proceedings thus provide additional reasons for the Court to vacate the 1782 Order and quash the Subpoenas.

**CONCLUSION**

For all of the foregoing reasons, the Court should grant the Antiguan Movants' motions: (i) to intervene in this proceeding; (ii) to vacate the Section 1782 Order; (iii) to quash the Subpoenas issued pursuant thereto; (iv) grant such further relief as the Court deems proper and just.

[80] ECF No. 7 ¶ 15.

Dated: April 11, 2025

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(c)**

I, Nicholas M. Renzler, counsel for the Antiguan Movants, hereby certify that the foregoing memorandum of law complies with the word count limitation set forth in the Rule 7.1(c) of the Local Rules of the U.S. District Court for the Southern District of New York. this document memorandum contains 7,864 words, excluding the caption, table of contents, table of authorities, signature block, and required certificates, as permitted by Local Rule 7.1(c).

/s/ Nicholas M. Renzler
Nicholas M. Renzler

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system, will be sent electronically to counsel for Applicant as identified on the Notice of Electronic Filing on April 11, 2025.

Additionally, in accordance with Rule 5(b)(2)(C) of the Federal Rules of Civil Procedure, service will be made on Respondents on April 11, 2025 by mail to:

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