

CAYMAN ISLANDS



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**THE CONFIDENTIAL RELATIONSHIPS
(PRESERVATION) LAW
(Law 16 of 1976)**

Date of operation: 27th September, 1976.
Notice of non-disallowance published in Gazette No. 9 of 1977.

Law 16 of 1976

I assent

L.S.

T. RUSSELL
Governor_____
13th September, 1976.

A Law to give sanction to the day of non-divulgence of information imparted under conditions of professional confidence express or implied.

ENATED by the Legislature of the Cayman Islands.

Short Title.

1. This Law may be cited as the Confidential Relationships (Preservation) Law.

Interpretation.

2. In this Law, unless the context otherwise requires —

Law 8 of 1966

"bank" "licensee" and "trust company" have the meanings ascribed to them in the Banks and Trust Companies Regulation Law, 1966;

"business of a professional nature" includes the relationship between a professional person and a principal, however the latter may be described;

"confidential information" includes information concerning any property which the recipient thereof is not, otherwise than in the normal course of business, authorized by the principal to divulge;

"criminal" in relation to an offence means an offence contrary to the criminal law of the Islands;

"entitled to possession of confidential information" means so entitled under the law of the Islands, in the normal course of business or by the specific consent of the relevant principal;

"Governor" means the Governor in Council;

"Inspector" means the Inspector of Banks and Trust Companies and to the extent of his authorization every person authorized by the Governor to

perform his functions as such;

"normal course of business" means the ordinary and necessary routine involved in the efficient carrying out of the instructions of a principal including compliance with such laws and legal process as arises out of and in connection therewith and the routine exchange of information between licensees;

"principal" means a person who has imparted to another confidential information in the course of the transaction of business of a professional nature;

"professional person" includes a public or government official, a bank, trust company, an attorney-at-law, an accountant, an estate agent, an insurer, a broker and every kind of commercial agent and adviser whether or not answering to the above descriptions and whether or not licensed or authorized to act in that capacity and every person subordinate to or in the employ or control of such person for the purpose of his professional activities;

"property" includes every present, contingent and future interest or claim, direct or indirect, legal or equitable, positive or negative, in any money, moneys worth, realty or personalty, movable or immovable, rights and securities thereover and all documents and things evidencing or relating thereto.

Application and scope.

3. (1) This Law has application to all confidential information with respect to business of a professional nature which arises in or is brought into the Islands and to all persons coming into possession of such information at any time thereafter whether they be within the jurisdiction or thereout.

(2) This Law has no application, unless otherwise herein provided, to confidential information received or given —

- (a) to any professional person acting in the normal course of business or with the consent, express or implied, of the relevant principal;
- (b) to constables investigating offences committed or alleged to have been committed within the jurisdiction;
- (c) to constables, specifically authorized by the Governor in that behalf, investigating an offence committed or alleged to have been committed outside the jurisdiction which if committed in the Islands would be a criminal offence;
- (d) to the Financial Secretary or the Inspector.

Offences and penalties.

4. (1) Subject to the provisions of sub-section (2) of section 3, whoever —

(a) being in possession of confidential information however obtained;

(i) divulges it; or

(ii) attempts, offers or threatens to divulge it to any person not entitled to possession thereof;

(b) wilfully obtains or attempts to obtain confidential information to

which he is not entitled,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or both.

(2) Whoever commits an offence under sub-section (1) and receives or solicits on behalf of himself or another any reward for so doing is liable to double the penalty therein prescribed and to a further fine equal to the reward received and also to forfeiture of the reward.

(3) Whoever, being in possession of confidential information, clandestinely, or without the consent of the principal, makes use thereof for the benefit of himself or another is guilty of an offence and on summary conviction liable to the penalty prescribed in sub-section (2) and for that purpose any profit accruing to any person out of any relevant transaction shall be regarded as a reward.

(4) Whoever being a professional person, entrusted as such with confidential information, the subject of the offence, commits an offence under subsections (1), (2) or (3) is liable to double the penalty therein prescribed.

(5) For the removal of doubt it is declared that, subject to subsection (2) of section 3, a Bank which gives a credit reference in respect of a customer without first receiving the authorization of that customer is guilty of an offence under subsections (1) and (4).

Savings.

5. Nothing in this Law shall by implication be deemed to derogate from the rule in *Tournier v. National Provincial and Union Bank of England* (1924) 1KB, 461, (which deals with the civil duty of banks to preserve the confidentiality of the business of their customers) which rule is declared to have application to the Islands.

Regulations.

6. The Governor may make regulations for the administration of this Law.

Attorney General's fiat.

7. No prosecution shall be instituted under this law without the consent of the Attorney General.

Passed the Legislative Assembly this 8th day of September, 1976.

T. RUSSELL
President

SYBIL McLAUGHLIN
Clerk of the Legislative Assembly.