

**SQUIRELL LTD (Applicant) v NATIONAL WESTMINSTER BANK
(Respondent) & CUSTOMS & EXCISE COMMISSIONERS (Intervenor) (2005)**

[2005] EWHC 664 (Ch)

Ch D ([Laddie J](#)) 22/4/2005

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CRIMINAL LAW - BANKING AND FINANCE

BANK ACCOUNTS : PROCEEDS OF CRIME : TIPPING OFF : FREEZING
BANK ACCOUNT WITHOUT WARNING OR EXPLANATION : FROZEN
BANK ACCOUNTS : ANTI-TIP OFF : s.328 (1) PROCEEDS OF CRIME ACT
2002

A bank had acted in accordance with Proceeds of Crime Act 2002 s.328(1) by freezing a client's account without warning or explanation once it suspected that the account contained the proceeds of crime.

The applicant company (S) applied to unfreeze a bank account held by them at the respondent bank (N). S had been involved in the business of buying and selling mobile phones. N froze S's bank account without any warning or explanation. N argued that they were forced to freeze the account because of the provisions of the [Proceeds of Crime Act 2002 s.328\(1\)](#) and that they were furthermore prevented from explaining their reasons because of the anti-tip off provisions in that legislation.

HELD: The purpose of s.328(1) was not to turn innocent third parties like N into criminals. It was to put them under pressure to provide information to the relevant authorities to enable the latter to obtain information about possible criminal activity and to increase their prospects of being able to freeze the proceeds of crime. Once N suspected that S's account contained the proceeds of crime it was obliged to report that to the relevant authority. It was also obliged not to carry out any transaction in relation to that account or to make any disclosure which could affect any inquiries the authorities might make. Although the provisions could cause hardship it had to be assumed that the legislature intended s.328(1) to be of wide scope and for the time limit provisions to be of sufficient protection to parties in S's position. The course adopted by N was unimpeachable. It did precisely what the legislation intended it to do. To order N to operate the account in accordance with S's instructions would have been to require N to commit a criminal offence.

Application refused.

Counsel:

For the applicant: Ike Khan



For the respondent: Peter de Verneuil Smith
For the intervenor: Sam Grodzinski

Solicitors:
For the respondent: DLA Piper Rudnick Gray Cary
For the intervenor: Customs and Excise Solicitor

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