

Allen & Overy
Attn.: B.W.G. van der Velden, Esq.
(brechje.vandervelden@allenoverly.com)
Apollolaan 15
1077 AB Amsterdam
The Netherlands

Amsterdam, 15 May 2019

Concerning : Hohmann (IB Capital FX, Echadi,
Geurkink c.s.) / ING Bank N.V. Lawyer : J.Ph. de Korte
Email : dekorte@vosdk.nl

Dear colleague

Reference is made to our letter dated 3 October 2018 concerning the IB Capital fraud and the 30 November 2018 complaint filed at the Court of Appeal of The Hague on behalf of the victims of the IB Capital fraud against the 4 September 2018 ING settlement.

1. In our letter of 3 October 2018 we elaborated on the position of the victims vis-à-vis ING and ING was requested to accept within three weeks our client's invitation to meet, whether or not under guidance of a mediator, to seek to bring this matter to an amicable resolution. Your associate Mr. Thijs Geesink responded by e-mail of 9 October 2018 stating:

"We confirm receipt of your letter. Due to certain absences, we will only be able to discuss your letter and invitation with our client next week. Therefore, and also in view of the multiple jurisdictions involved, it may take longer than three weeks to respond to your letter and invitation. We trust that you will understand this and will strive to respond to your letter by the end of October".

2. Nothing further was heard from you, your firm or ING since, which constitutes not only a breach of the most basic conventions on courtesy but also a complete disregard of ING's responsibilities vis-à-vis the victims and a flagrant breach of the terms of the 4 September 2018 ING settlement. ING's "categorical" denial of any and all wrongdoing and ING's continued refusal to support in any way the victims' efforts to collect their damages from Echadi c.s. (see your letter of 26 June 2017) and ING's failure to respond to our letter of 3 October 2018, is the exact opposite of taking

“full responsibility” and taking its failings “very serious”. ING has failed our clients once in 2011-2012 and has now failed them again.

3. Note that Hohmann is fully authorised by the US courts to bring claims on behalf of the victims of the IB Capital fraud and that both the Dutch Prosecutor and the Dutch Criminal Court have recognised Hohmann as representative of the victims, authorised to bring claims on their behalf.
4. Note further that, at the request of Hohmann, the Dutch Criminal Court has on 29 October 2018 ordered the Dutch Prosecutor to provide us with a copy of the file that forms the basis of the prosecution of Echadi c.s. Most of this extensive file was provided to us by the Dutch Prosecutor by late November 2018.
5. We are in the process of analysing this file and conducting research on the basis of the additional facts that we have learned from that file. The file contains additional facts evidencing criminal and civil liability of ING and its representatives, including the witness statements of Mr. Timo Boer (in 2011-2012 relationship manager business banking at ING’s Haarlem branch) and Mr. Daan van Kan (in 2012 employed at the department of client monitoring at ING) dated 12 September 2012 and 2 June 2014. The description that Mr. Boer and Mr. Van Kan have provided to the Dutch criminal investigators in these witness statements of the then prevailing account opening and monitoring procedures at ING are at best inaccurate and at worst false in view of the serious structural deficiencies that have come to light as part of the 4 September 2018 ING settlement.
6. It has emerged from this criminal file that, in addition to a number of ING bank accounts in the name of IB Capital, Echadi and Geurkink seem to have also been able to open many more ING bank accounts in the name of a myriad of names of foreign entities, including in the name of the UK entity Maverick Venture Capital Holding Ltd (opened on 16 May 2012), Dutch Capital Ltd, Worldwide Venture Capital Ltd, the UK entity Hollands Beheer Ltd, Tailwind Venture Capital Ltd, Winston Venture Capital Inc, Winston VC Foundation, Triple M Venture Capital Inc and Triple M VC Foundation, and that these bank accounts were also used to perpetrate or continue the fraud and to hide the proceeds of the fraud.
7. The conclusions that can be drawn include:
 - It follows from the witness statement of Mr. Timo Boer of 12 September 2012 that ING was fully aware that private individuals were being instructed by IB Capital to transfer their investments in foreign exchange trades to the ING bank accounts with reference of their ‘own account number’, while ING was of course also fully aware that these accounts were in reality held in the name of IB Capital. ING was thus fully aware that such transfers would cause

all the investors to lose title to their funds, while those investors were being misled to believe that their investments would be transferred to accounts in their own name at ING or that they would not lose title to and control over their investment by making the transfer. ING was not only aware that the investors were being misled into thinking that they would maintain control and ownership of their funds, but was also aware of the risks that the investors were being exposed to by this scheme, including the risk that IB Capital could cause the monies to disappear, which risk has actually materialised.

- ING ignored evidently false information and relied on information while it possessed or had access to contradictory information. ING ignored the fact that the document titled "Partnership Agreement of IB Capital FX LLP" was signed by an evidently false 'witness'. In addition, the information set out in the "Partnership Agreement of IB Capital FX LLP" contradicts the hand-drawn corporate chart that Echadi provided to ING. ING ignored the fact that, while it had been informed by Echadi no later than in January 2012 that clients of IB Capital would transfer investments to the ING accounts with reference to 'their own account' and that these investments would take place via CFH Markets Ltd, the massive transfers out of the ING accounts to CFH Capital Ltd of which ING was or should have been aware could not possibly match day-to-day investments and online trading instructions of individual clients of IB Capital and did in fact not reflect trading on behalf of the private individuals who were made to believe they were making their own investments. Because of this mismatch alone and in view of the unusually large amounts involved, ING could and should have frozen the funds immediately and conducted additional investigations. The same applies to the highly unusual massive transfers virtually clearing out the ING bank accounts, carried out by ING within a short time span, to accounts that are not in the name of CFH Markets Ltd and even purport to be company investments of IB Capital itself as opposed to investments by clients of IB Capital.
- ING accepted incomplete information. ING relied on a document titled "Partnership Agreement of IB Capital FX LLP" that was not signed by any of the parties thereto. ING relied on a signature of "Luis Filipe Correia" without any verification of this person's identity. ING did not verify any information with respect to a company purported to be incorporated in Belize under the name "Allied International Investment Group Ltd" and purported partner and delegated member of IB Capital. ING did not identify the use of such vehicle as a key indicator of fraud. In violation of ING policy as purported by Mr. Boer and Mr. Van Kan, and even after doubts had arisen internally by the use of the foreign limited liability company IB Capital, the bank accounts were opened without even a check of the entry for IB Capital in any company

register. ING did not conduct additional research after it emerged that Echadi attached particular importance to sending all correspondence addressed to IB Capital to his home address in Haarlem. How could a 32-year old lone man have been trusted by ING to deal with very substantial amounts of investments of hundreds of private individuals without even the most basic independent verification of his business and background?

- ING relied on information without verifying the veracity thereof. On 17 January 2012 Echadi told Mr. Boer that he had several years of experience in foreign currency trade, that he had acquired IB Capital in December 2011 from a person that had decided to terminate his activity in the trade and that IB Capital was incorporated in New Zealand, but ING did not verify any of those statements in any way and did not request additional information such as whether Echadi had ever visited New Zealand or why a company purportedly incorporated in New Zealand was used for the purported trade and the identity of the person that purportedly sold IB Capital to Echadi in December 2011 and why that person had decided to terminate his activity in the trade. ING did not enquire how Echadi - with no relevant background or apparent legitimate income or capital - is supposed to have financed the purported purchase of the IB Capital business, not even after it became clear that the business generated many millions in transactions in a very short period of time after the bank accounts were opened. ING failed to establish that Echadi had been convicted by the Amsterdam District Court on 24 June 2009 for violation of art. 140 and 326 of the Dutch Criminal Code and art. 82(2) of the Dutch Banking Law 1992 and concerning investment fraud and also relating to Geurkink. Before opening bank accounts at the request of Geurkink, ING also failed to establish that Geurkink was convicted by the Amsterdam District Court on 15 November 2001 for violation of art. 140 and art. 326 of the Dutch Criminal Code and that, in addition, the Amsterdam Court of Appeal had convicted Geurkink on 25 May 2010 for violation of art. 225 of the Dutch Criminal Code in connection with the FX Nevis scheme. ING did not verify independently the registration and status of IB Capital as New Zealand Financial Service Provider. ING failed to establish that the Netherlands Authority for the Financial Markets (“AFM”) had initiated an investigation into potential criminal activity of the company trading under the name “IB Capital” and issued information requests to the New Zealand Financial Markets Authority regarding “IB Capital Limited” and the websites “www.ibcapital.com” and “www.ibcapital.co/nl” as early as by letter dated 8 August 2011, to CFH Markets Ltd regarding “IB Capital LP” and the website “www.ibcapital.co/nl” as early as by letter dated 8 August 2011 and to “IB Capital Limited” as early as by letter dated 10 November 2011. Due to ING’s failures, IB Capital was able to open bank accounts at ING in December 2011

and early 2012 after the AFM had raised these serious concerns over IB Capital's stated business. Echadi also told Mr. Timo Boer that the clients of IB Capital transferred monies to ING with a reference to 'their own account', while ING did not recognise this feature as a hallmark of a fraud and did not even verify whether IB Capital had adequately communicated the legal consequences of such transfer (i.e. co-mingling of funds and transfer of ownership of funds) to its clients. ING failed to establish that IB Capital's bank accounts at the ING and/or IB Capital's accounts at CFH Markets Ltd were being misrepresented to the clients of IB Capital as regulated "Client Trust Accounts" and to the AFM as IB Capital clients' own accounts, but could have easily found that out had it made even the most basic necessary and appropriate enquiries.

- ING did not adequately monitor and record who at ING took what action in order to meet ING's statutory and regulatory duties. ING knew that it was a new bank account, opened by a 32-year old individual from Haarlem. ING could have observed that from the start the accounts showed unusual transactions that did not match Echadi's profile. After all, virtually immediately many millions started to pour into the ING accounts, which is not to be expected of a new business and constitutes a key indicator of fraud. The payments collected from private individuals were then transferred in large batches to CFH Markets Ltd, which was intended or had the effect to obscure the origins of the funds for CFH Markets Ltd and is also a key indicator for fraud, and later on transferred to accounts of unknown foreign entities in countries such as Hungary. ING did not monitor this as it pursued a policy whereby the use of the bank accounts would not be checked for the first three years after opening. It follows from the witness statement of Mr. Boer and Mr. Van Kan that ING received an increasing number of complaints but that ING did not act upon these complaints until 7 September 2012. Mr. Boer has also declared that ING cannot verify who at ING was responsible for opening the first bank accounts of IB Capital, which constitute a complete dereliction of duty.
8. In view of these facts and Dutch law (including the 14 May 2019 Judgment of the Amsterdam Court of Appeal in the case of Footlocker / ING Bank) ING has clearly breached its duty of care vis-à-vis the investors of IB Capital and is liable to compensate our clients for the damages caused thereby.
 9. We have been informed that the Dutch Prosecutor did initiate prosecution of another facilitator of the IB Capital fraud: Haags Juristen College and/or its directors. It is understood that this trust company assisted Echadi c.s. to set up an international network of fake companies to transfer the proceeds of the fraud to various other

- bank accounts, including one or more bank accounts at ING in the name of the UK entity Maverick Venture Capital Holding Ltd and at the time controlled by Echadi.
10. Note further that on 7 May 2019 we were informed that the efforts of the Dutch Prosecutor to reach an agreement with Echadi and his mother on relinquishment of assets that were acquired as a result of the fraud have failed. The consequence thereof is that Hohmann will now have to seek recourse against these suspects through court action. So far ING has not shown a willingness to support or take over such action, but ING is considered to be liable for any and all costs of such action and for any part of the damages that the victims will not be able to recoup from the suspects.
 11. We note that ING's shareholders have resolved for ING to not waive claims for compensation of damages caused by mismanagement by the members of its board of directors and supervisory board. We also note the critical press coverage that ING continues to generate, and rightfully so, due to its structural and serious failures to prevent the wide use of ING bank accounts for fraud and other crimes in the period 2010-2016, and its continued and arrogant failure to adequately address the consequences thereof.
 12. One of the main grounds for the complaint against the 4 September 2018 ING settlement is the fact that ING has in fact not shown any willingness to adequately address the consequences of its serious shortcomings. The 4 September 2018 settlement is unjust and unacceptable as long as ING does not reach a reasonable resolution with the victims, as it cuts off the right of the victims to bring their claims against ING before the Dutch Criminal Court and/or to have the facts of ING's criminal violations in connection with the IB Capital fraud established by the Dutch Criminal Courts. As you are aware, the hearing of the complaint will take place on 22 May 2019. To avoid further cost and reputational damage, ING is (again) invited to seek a practical and reasonable financial settlement of the claims of the victims.

A copy of this letter is sent to Mr. Guy Hohmann.

Sincerely yours,



J.Ph. de Korte