

**ORDER SUPPRESSING THE NAMES, IDENTIFYING PARTICULARS AND  
ADDRESS OF THE FIRST AND SECOND INTERESTED PARTIES IN ALL  
PUBLICATIONS RELATING OR REFERRING TO THIS PROCEEDING  
(INCLUDING BUT NOT LIMITED TO  
JUDGMENTS AND REASONS FOR JUDGMENT).**

**IN THE HIGH COURT OF NEW ZEALAND  
CHRISTCHURCH REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
ŌTAUTAHI ROHE**

**CIV-2024-409-81  
[2026] NZHC 446**

UNDER	the Criminal Proceeds (Recovery) Act 2009
IN THE MATTER	of an application pursuant to ss 43, 44 and 49 of the Act
BETWEEN	COMMISSIONER OF POLICE Applicant
AND	UNKNOWN Respondent
AND	[GEOFFREY CAHILL] First Interested Party
AND	[MIRANDA WILLIAMS] Second Interested Party

Hearing:	9 February 2026
Counsel:	C C White and K A Courteney for Applicant M T Lennard for Interested Parties
Judgment:	4 March 2026

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**JUDGMENT OF OSBORNE J**

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This is an anonymised version of the Judgment.  
The name of the interested parties have been anonymised in this Judgment to  
Geoffrey Cahill and Miranda Williams.

[1] The Criminal Proceeds (Recovery) Act 2009 (the Act) makes provision for the Commissioner of Police (the Commissioner) to apply for a forfeiture order over property in circumstances where the property is linked to criminal offending.

[2] In this proceeding the Commissioner obtained a restraining order in respect of \$232,440 cash which had been located in May 2022 in the ceiling space of the home of the interested parties in Christchurch.<sup>1</sup>

[3] Following extensive enquiries the Commissioner then applied for a forfeiture order on the basis the cash is tainted property, as defined in the Act.<sup>2</sup>

[4] The interested parties opposed the forfeiture application. They asserted their possessory title in the cash; denied the cash is tainted; and asserted (if the Court found it is tainted) that the provisions of the Act which relate to severable and non-severable interests (ss 68 and 69) mean that the Crown must pay to the interested parties the full value of the cash.

[5] Comprehensive evidence was filed by the Commissioner for the hearing of the forfeiture application. Through counsel, the parties filed full and helpful written submissions, which counsel addressed at an oral hearing.

[6] Happily, through exchanges in the course of the hearing and discussions between counsel following the hearing, the parties were able to reach terms of settlement which they have now submitted to the Court for approval under s 95 of the Act.

[7] Having regard to my conclusion that the settlement reached should be approved, I will limit myself to a relatively brief summary of the unusual facts of this case before turning to explain my assessment of the interests of justice as they apply to the proposed settlement.

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<sup>1</sup> *Commissioner of Police v Unknown* [2024] NZHC 2016.

<sup>2</sup> Criminal Proceeds (Recovery) Act 2009, s 5(1), definition of “tainted property”.

## **The facts**

[8] The interested parties are a married couple with one child. They purchased their Christchurch home in December 2021. In May 2022, an electrician was working in the ceiling space of the property, accompanied by the first interested party, having accessed the space through a manhole accessible from a porch on the exterior of the property. On lifting the ceiling insulation, the electrician found five sealed plastic bags, with accumulated dust over them.

[9] The interested parties promptly contacted the police.

[10] The police on opening the bags identified they contained \$232,440 cash, predominantly in \$50 notes but also approximately \$20,000 in \$20 notes, together with a handful of \$100 and \$10 notes.

[11] Enquiries of the Reserve Bank of New Zealand established the notes had been issued between May 2016 and October 2018, and the bar codes indicated that the cash had been collected from a wide range of sources.

[12] Extensive police enquiries into the successive owners and occupiers of the property from 2013 did not identify who had assembled and hidden the money.

[13] The Commissioner filed affidavit evidence to establish the cash was “tainted property” in the sense it had been acquired as a result of significant criminal activity or directly or indirectly derived from significant criminal activity.<sup>3</sup> First, Detective Constable Allan Newton gave extensive evidence of his examination of the cash, the enquiries he had made and police experience from previous operations and discoveries of cash. Secondly, Detective Senior Sergeant Andrew Dunhill gave evidence as an expert explaining his conclusion that the cash was more probably than not derived from illicit activity.

[14] The interested parties did not file any evidence to contradict the factual and opinion evidence filed by the Commissioner.

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<sup>3</sup> Criminal Proceeds (Recovery) Act 2009, s 5(1), definition of “tainted property”, para (b).

[15] Unsurprisingly, in the course of the hearing, there was no real challenge to the conclusion that the cash constituted tainted property. The focus of submissions was on what orders if any should flow from the fact the cash was tainted.

[16] It was common ground at the hearing that the interested parties, as owners of their property, had a possessory interest on the cash which had been found on their property. That is in accord with the judgment of this Court in *Tamworth Industries Ltd v Attorney-General*.<sup>4</sup> Relevantly, an occupier who manifests an intention to exercise control over a building and the things which may be on or in it has a possessory interest in those things.<sup>5</sup> It makes no difference whether the occupier is aware of the things' existence. It also makes no difference whether the thing was mislaid or deliberately placed.<sup>6</sup>

### **The parties' settlement**

[17] Having heard submissions, I reserved my judgment.

[18] The basis upon which I was to write my judgment was overtaken by counsel filing a joint memorandum seeking approval of a settlement which the parties have reached.

[19] Section 95 of the Act requires this Court to approve any settlement if satisfied the settlement is consistent with the purposes of the Act and the overall interests of justice.

[20] Woolford J in *Commissioner of Police v Li* identified relevant factors under s 95(3) which I adopt:<sup>7</sup>

[32] A broad inquiry is required. Section 95(3) indicates that much, referring to the "overall interests of justice". But in making the s 95(3) determination, the following factors may be relevant:

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<sup>4</sup> *Tamworth Industries Ltd v Attorney-General* [1991] 3 NZLR 616 (HC).

<sup>5</sup> At 620, applying *Parker v British Airways Board* [1982] QB 1004 (CA) at 843.

<sup>6</sup> *Chairman, National Crime Authority and Another v Flack* (1998) 156 ALR 501 (FCA) per Heerey J at 511. See also *Johnson v Pickering* [1907] 2 KB 437 at 444-5; *Re Cohen (decd)*; *National Provincial Bank Ltd v Katz* [1953] Ch 88.

<sup>7</sup> *Commissioner of Police v Li* [2018] NZHC 1566 (footnotes omitted).

- (a) Whether the settlement amount adequately reflects the property allegedly derived from criminal activity or income unlawfully derived.
- (b) The strength of the Commissioner's case, the respondent's case, and accordingly, the likelihood of forfeiture if the case was not settled. Litigation risk should be considered. It may be appropriate to settle for less if the Commissioner's case has significant shortcomings.
- (c) If there is a shortfall between the settlement amount and the property allegedly derived from criminal activity or income unlawfully derived, the Court should consider the extent to which there are assets available to meet that shortfall.
- (d) The time, cost and resource savings that would flow from settlement.
- (e) Any other relevant matters, keeping in mind that decisions to settle proceedings can be made on economic and pragmatic grounds. Does the settlement reflect a common-sense compromise between the parties?

### **The proposed settlement**

[21] The parties' proposed settlement entails the Court making:

- (a) a type 1 assets forfeiture order vesting the \$232,440 cash in the Crown; and
- (b) an order for relief, requiring the Crown to pay the interested parties \$40,000.

### **Discussion**

#### *Adequate reflection of tainting?*

[22] The starting point is that the evidence establishes as a matter of probability the cash is tainted.

[23] The criminal proceeds forfeiture regime established under the Act is proposed, by s 3(2), to:

- (a) eliminate the chance for persons to profit from undertaking or being associated with significant criminal activity; and
- (b) deter significant criminal activity; and

- (c) reduce the ability of criminals and persons associated with crime or significant criminal activity to continue or expand criminal enterprise; and
- (d) deal with matters associated with foreign restraining orders and foreign forfeiture orders that arise in New Zealand.

[24] The highly unusual feature of this case lies in the fact the interested persons are wholly innocent citizens who discovered the cash and handed it to the police. But for their locating the cash in the first place and then handing it in, there would be no cash available to the Crown. None of the aims proposed for the criminal proceeds forfeiture regime under s 3(2) will be offended by the proposed settlement which would see more than 80 per cent of the forfeited cash vested in the Crown.

*The strength of the cases and the litigation risk*

[25] The case was conducted by the parties at hearing in a binary way, with the Commissioner seeking forfeiture of all cash (without relief) and the interested parties seeking the return of all the cash.

[26] My tentative assessment at the point I reserved my judgment was that neither party's "100 per cent" position was sustainable and that the interested parties needed to avail themselves of the Court's discretion under s 66 to grant relief it considers appropriate. That said, at the point the parties reached their proposed settlement, it was appropriate for each to recognise litigation risk, particularly in relation to the extent of relief the Court might find appropriate.

*Availability of other assets to meet any shortfall*

[27] This is not a case where there may be other assets available to meet a shortfall between the settlement amount and the full value of the tainted property. With approval of the proposed settlement, the Crown will (by paying to the interested parties \$40,000) suffer a shortfall to that extent.

*The time, cost and resource savings flowing from settlement*

[28] There will be minimal, if any, savings from the proposed settlement having regard to the 11<sup>th</sup> hour nature of the settlement. What is avoided is the prospect of an appeal by an unsuccessful party.

*Any other relevant matters*

[29] As observed by Woolford J in *Commissioner of Police v Li*, the consideration of other relevant matters can have regard to the appropriateness of settling proceedings on economic and pragmatic grounds — does the settlement reflect a common-sense compromise between the parties?<sup>8</sup>

[30] Through counsel, the Commissioner in this case has formally accepted that:

- (a) the interested parties have done the right thing by notifying the police of the presence of the cash;
- (b) through no fault of their own, the interested parties were caused stress by the presence of the cash and the risk the true owner might return for it; and
- (c) the interested parties have since incurred the cost of alterations to their home as a direct consequence of the discovery of the cash.

[31] There are strong public policy considerations weighing in favour of the approval of the proposed settlement responsibly reached by the parties. It is in the interests of the efficacy of the forfeiture regime under the Act that finders of potentially tainted property bring the property to the attention of the police. In the different context in *Tamworth*, where the Court was weighing the interests of an occupier against a casual licensee, Eichelbaum CJ observed:<sup>9</sup>

If the rules are weighted too heavily against the finder, they will encourage dishonesty.

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<sup>8</sup> *Commissioner of Police v Li*, above n 7.

<sup>9</sup> *Tamworth Industries Ltd v Attorney-General*, above n 4, at 624.

[32] A similar observation applies here. If this Court were to strip from innocent finders of cash such as these interested parties any prospect of some cash recognition for handing the cash to the authorities, dishonesty could be unintentionally promoted.

[33] Under s 95(3) of the Act, I am required to approve the settlement if satisfied it is consistent with purposes of the Act in the overall interests of justice. I am satisfied that the proposed settlement is consistent with the purposes of the Act. I am also satisfied the settlement is consistent with the overall interests of justice.

[34] This does not constitute a finding that a payment to the finders representing approximately 20 per cent of the found cash represents the “correct” proportion in this particular situation or a situation like it. By reason of the proposed settlement, I have not been required to determine a precisely appropriate proportion. What I recognise, in accordance with the “consistency” benchmark under s 95(3) of the Act is that the settlement has been reached fairly and responsibly and having full regard to the purposes of the Act.

### **Suppression**

[35] I am satisfied there should be an order suppressing the names, identifying particulars and address of the first and second interested parties in all publications relating or referring to this proceeding. This continues the interim suppression order made by Preston J on 10 May 2024 and accounts for the variation of the interim suppression orders granted by Dunningham J on 29 July 2024.

### **Orders**

[36] I order:

- (a) the property to which this order applies:
  - (i) vests in the Crown absolutely; and
  - (ii) is to be in the Official Assignee’s custody and control;

- (b) the order applies to the following property, namely \$232,440 cash located in the roof space at the interested parties' property in Christchurch, plus any accrued interest;
- (c) the Crown is to pay the interested parties \$40,000;
- (d) there is no order as to costs and disbursements;
- (e) there is an order for permanent suppression of the interested parties' names, address and identifying particulars.

**Osborne J**

Solicitors:  
Crown Solicitor's Office, Christchurch

Copy to: M Lennard, Barrister, Wellington for Interested Parties