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December 22, 2017

VIA ECF

Hon. William H. Pauley III
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Prevezon Holdings, Ltd., et al., 13 Civ. 6326 (WHP)

Dear Judge Pauley:

We write on behalf of the Defendants in the above-mentioned case in response to the Government's letter of December 21, 2017, which attached a set of documents received from the Government of the Netherlands (the "Newly-Produced Dutch Documents"). (Dkt.755 & 755-1.) The Newly-Produced Dutch Documents evidence the actions taken by the Government of the Netherlands subsequent to the Government's request, pursuant to the parties' Settlement (Dkt. 716), that the Government of the Netherlands lift the restraint placed upon the asset known as the AFI Europe Debt. In contrast to the Government, Defendants believe that the Newly-Produced Dutch Documents *do* have significance to the motion pending before the Court. (Dkt. 743.)

First, the Newly-Produced Dutch Documents confirm that the lifting of the US-requested seizure and the imposition of the seizure related to the Netherlands investigation took place simultaneously. (*See* Dkt. 755-1 at 2 ("on 10 October 2017, the claims as referred to above are/will be seized again and, at the same time, the previous seizure as regards these claims from 22 January 2014 at 13.30 hours (01.30 PM) will be lifted.")) The Newly-Produced Dutch Documents thus show that the AFI Europe Debt was never "released." (*See* Dkt. 716 at ¶ 4.)

Second, the Newly-Produced Dutch Documents corroborate prior documentation from the Netherlands authorities, which stated that the Netherlands held the request from the Government to lift the restraint on the AFI Europe Debt in abeyance for over five months while it determined whether to seize the AFI Europe Debt independently. (Ex. 1 at 2 ("On June 1, 2017 the Dutch ministry of Justice (AIRS) as the formal authority for legal aid received an additional request from the United States to lift the restraint of this AFI Europe NV debt. This

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additional request was ‘on hold’ regarding the complaint which was filed by Hermitage Capital Management on May 16, 2017.”) (emphasis in exhibit added.) The Government did not tell Prevezon that the Government’s request was being held in abeyance by the Government of the Netherlands, nor did the Government tell Prevezon that the reason that the Government of the Netherlands made the decision to hold the request in abeyance was so that Netherlands authorities could arrange to prevent the release and for the uninterrupted restraint of the AFI Europe Debt. Rather than providing this information to Prevezon, the Government, in response to our inquiry, merely stated that the Government of the Netherlands had taken “no action” on the Government’s request that the AFI Europe Debt be released. (Dkt. 749-2.)

Based on the Newly-Produced Dutch Documents, as well as previously-produced materials, Prevezon maintains its good faith belief that the Government improperly and secretly assisted the Government of the Netherlands in continuing the restraint of the AFI Europe Debt, notwithstanding its obligations to request the release of the AFI Europe Debt and to act consistently with the parties’ justified expectations under the Settlement. *RUS, Inc. v. Bay Indus., Inc.*, 322 F. Supp. 2d 302, 315 (S.D.N.Y. 2003) (“To breach the implied covenant, the party must act in a way that is inconsistent with the justified expectations of the other party, or act for reasons other than the ones it discloses.”). Prevezon thus reiterates its request for discovery concerning the interactions between the Government and Netherlands authorities concerning Prevezon.

We appreciate the Court’s consideration.

Respectfully submitted,

/s/ Faith Gay

Faith Gay

EXHIBIT 1

From: Monteleoni, Paul (USANYS) <Paul.Monteleoni@usdoj.gov>
Sent: Tuesday, October 10, 2017 8:11 AM
To: Faith Gay; Kevin Reed
Cc: LaMorte, Tara (USANYS); Phillips, Cristine (USANYS) 2
Subject: Prevezon
Attachments: Red Alert letter to DoJ october 2017.doc

In advance of our call, we have obtained the attached summary from the Dutch of their actions, which they first advised us they would take yesterday. One further update, after this document was sent to us, is that the Dutch authorities have advised us that the lifting of the restraint and the new seizure of funds referenced in the letter was accomplished at 1 PM Netherlands time today.

We can discuss this action and its implications on our call at 4:30 PM today.

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Mr. P. Monteleoni
United States Attorney
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October 10, 2017

Dear Mr Monteleoni,

With reference to our previous telephone call I inform you as follows.

On behalf of their client Hermitage Capital Management the Dutch law firm Prakken D'Oliveira filed an official complaint with the Dutch prosecutors office against Prevezon Holdings Ltd and/or AFI Europe N.V. The complaint was filed on May 16, 2017. The complaint reflects money laundering of financial flows – 3.068.946 euros - related to a massive tax fraud in Russia.

In my function as Dutch national prosecutor on money laundering I have asked the police (FIOD: Fiscal Information and Investigation Service) to start investigations. Hermitage Capital Management further provided us with an impressive amount of information with respect to the illegal origin. In the last couple of months the FIOD has carried out an investigation on these money flows.

Based on the results of these investigations I have made the decision to carry on with an investigation with respect Prevezon holdings Ltd (5 Goudiou Street, Agios Andreas, Nicosia Cyprus) and the aforementioned amount of 3.068.946 euros. At this point in time AFI Europe N.V. is no suspect in our investigations.

On January 22, 2014 the Dutch authorities –implemented at the request of the authorities of the United States - restrained a debt of 3.068.946 euros, which debt is owed by AFI Europe NV to Prevezon Holdings Ltd. On June 1, 2017 the Dutch ministry of Justice (AIRS) as the formal authority for legal aid received an additional request from the United States to lift the restraint of this AFI Europe NV debt. This additional request was “on hold” regarding the complaint which was filed by Hermitage Capital Management on May 16, 2017.

I have asked the formal authority (AIRS) today to formally send me the additional request from the U.S. to lift the restraint.

Today we will lift the restraint as requested by the U.S. authorities and seize it at the same time with respect to our own Dutch investigation regarding Prevezon Holdings Ltd . as the debt is suspected to be a financial asset from an illegal source. Under Dutch law there is therefore a suspicious transaction and moneylaundering taken place in The Netherlands. The lift and seizure today is only possible if there is a competent person at the premises of AFI in Amsterdam.

Best regards,

J.J.M. van Dis-Setz
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National Prosecutor's office for serious fraud, environmental crime and asset confiscation
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