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TWENTY  
SEVEN

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C H A M B E R S

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## Trouble in Paradise: Protecting privilege after Glencore

A system has been hacked and sensitive documents published online, their system and have posted everything on their website - what do you do?

Nicholas Andreatidis QC and James Green (Level Twenty Seven Chambers)

## >> Claim for return / restraint

- Will not be based on claim for LPP
- Will be based on breach of confidence
  - > Person to be restrained must have obligation of conscience arising out of the way in which the information was obtained
  - > Communications must have retained their confidential character
    - Publication on the internet may not be fatal to claim based on confidentiality
    - Not possible for IT specialist to ascertain how many times relevant information has been accessed on the internet
    - Limited disclosure does not waive privilege

## >> Limited disclosure does not waive confidentiality

- Confidentiality not an ‘absolute concept’
- Limited disclosure may be consistent with maintaining an action for breach of confidence:
  - > *Wee Shuo Woon v HT SRL* [2017] 2 SLR 94
  - > *Brand v Monks* [2009] NSWSC 1454