



REDACTED FOR PUBLICATION

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**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NOS.:FSD 146, 147, 148, and 196 of 2018 (IKJ)

**IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)
AND IN THE MATTER OF THE EXEMPTED LIMITED PARTNERSHIPS ACT (2022
REVISION)
AND IN THE MATTER OF THE SUCCESSION ACT (2006 REVISION)**

**IN THE MATTER OF INVESTAR GENERAL PARTNER LIMITED
AND IN THE MATTER OF INVESTAR FOF PORTFOLIO L.P.
AND IN THE MATTER OF OSAN INVESTMENT PARTNERS L.P
AND IN THE MATTER OF WAFR HOLDINGS LIMITED
AND IN THE MATTER OF THE ESTATE OF OSAMA I ABUDAWOOD
(Consolidated Proceedings)**

IN CHAMBERS

Before: The Hon. Justice Kawaley

Appearances: Mr. Andrew De La Rosa of counsel with Mr. Charles Moore, Mr Greg Coburn and Ms Samantha Conolly of Harneys, on behalf of the Administrator

Mr. Ben Valentin KC of counsel with Mr. Bhavesh Patel and Bryan Little of Travers Thorp Alberga on behalf of the “TTA Parties”

Heard: 12 July 2024

Date of decision: 24 July 2024

Draft Reasons**Circulated:** 6 August 2024**Reasons delivered:** 14 August 2024

Administration of the Cayman Islands estate of a deceased domiciled in Saudi Arabia - application for directions in relation to the final distribution of the estate

REASONS FOR DECISION**Introductory**

1. The Applicant, Michael Pearson of FFP (Cayman) Limited (the “Administrator”), is the Administrator of the Cayman Islands Estate of the late Mr Osama Abudawood (the “Deceased”), who died domiciled in the Kingdom of Saudi Arabia (“KSA”) on June 13, 2017. By Summons dated May 17, 2024, the Administrator sought an Order that, *inter alia*:

“1. Pursuant to section 48 of the Trusts Act (2021 Revision), Order 85, rule 7 of the Grand Court Rules and the inherent supervisory jurisdiction of the Grand Court over the due execution of trusts and the due administration of estates, the advice, directions and sanction of the Court to a final distribution of the assets comprised in the Cayman Estate amongst the Deceased’s heirs . . . as determined under the inheritance laws of the Deceased’s domicile being the Kingdom of Saudi Arabia...”

2. Litigation was spawned in, principally, California over the special entitlement of the Deceased’s American widow and their daughter (“A and B”) who wished this Court to go beyond awarding them their prescribed entitlement to distribution from the Cayman Estate. This broader dispute was ultimately resolved through a Memorandum of Understanding dated 2 June 2022 (the “MOU”). Both beneficiaries by the time of the hearing of the Summons for Directions were no longer represented before the Court and were further ignoring requests to communicate with the Administrator and declining to comply with orders of the Californian arbitrator and Court. The

MOU contemplated that the interests of A and B in, *inter alia*, the Cayman Estate would be purchased by the “Buyers”. As this was a transaction which had not yet been consummated, concern was expressed on behalf of the Administrator that it might never be.

3. Against this background, the Administrator was understandably anxious not to conclude the administration without ensuring that his duties to those beneficiaries not legally represented were properly met.
4. After hearing relatively brief argument, it became clear that, subject to the need to refine their precise terms, it was agreed that the Court should grant the principal directions sought. I signified my approval in principle, subject to the parties submitting a hopefully agreed form of Order to the Court. An agreed form of Order was perfected on 24 July 2024.
5. I indicated in the course of argument that I would give brief reasons for approving the Order, essentially to allay the Administrator’s understandable concerns of potential claims which might be asserted by A and B in the event that the MOU was not consummated. These are the reasons for that decision.

The 24 July 2024 Order (the “Order”)

6. The Order provided in summary as follows:
 - (a) the Administrator is to execute transfer documents in order to distribute the illiquid Cayman Estate to the “Recipients” (all of the Deceased’s beneficiaries apart from A and B and the Buyers as per the MOU) within 28 days in the proportions prescribed by KSA law;
 - (b) the Administrator is to make an interim distribution of the cash (net of his costs and a retainer in respect of closing expenses) in the Estate to the Recipients in the same proportions upon receipt of KYC compliance information from them;

- (c) the Administrator is “*indemnified and held harmless in respect of his conduct of the Administration jointly and severally by each of the above recipients*”, who shall execute deeds of indemnity in the prescribed form;
- (d) after all steps contemplated by the Order are completed, the Administrator shall make a final cash distribution;
- (e) service of all documents relating to the Summons for Directions on A and B by email shall be good service pursuant to Grand Court Rules Order 65 rule 4 (1); and
- (f) general liberty to apply was granted.

7. No directions were given at all in relation to the MOU. In approving the Order, I took into account the following background matters:

- (a) litigation in relation to A and B’s entitlement as heirs generally took place in California. The MOU dated 1 June 2022 resolved all claims between the disputing parties and A and B (the ‘Sellers’) agreed to give up any claims to relief in respect of the Cayman Estate in return for the consideration contemplated by the MOU. It was expressly agreed that the Sellers’ shares in the Cayman Estate would be purchased by the ‘Buyers’;
- (b) having entered into the MOU, A and B have apparently (for reasons which are unclear to me) sought to challenge its validity. However, the validity of the MOU was confirmed by a Final Arbitration Award made in California on 13 October 2023;
- (c) the most obvious cause for the MOU not being consummated at this juncture appeared to me to be A and B failing to vindicate their rights rather than the Buyers seeking to extinguish or frustrate their rights. However, it was clear that the essential basis for the Administrator being directed by this Court to distribute the Cayman Estate to the Recipients (and not A and B) was their representation that they considered themselves bound by the terms of the MOU and the fact that they positively relied upon the Final Award;

- (d) if these representations that the Buyers intended to complete the MOU and respect the Final Award subsequently proved to be false, this would furnish straightforward grounds for setting aside the Order (a point I made in the course of the hearing);
- (e) A and B, before the present application was heard, ceased communicating with the Administrator and their former attorneys applied for leave to come off the record. Their precise whereabouts were unknown, but emails had been sent to addresses they had previously used and were seemingly effectively delivered. In these circumstances it was clearly appropriate to approve service by email of all documents related to the Administrator's Summons for Directions.
8. It was clearly appropriate for the Administrator to choose to conclude the administration of the Cayman Estate by making distributions in accordance with terms of the MOU and the Final Award. The Award could potentially be formally relied upon as a Convention award under Cayman Islands law. Keeping the administration open for an indefinite period to ensure that the MOU was fully implemented would have been contrary to the legitimate interests of all beneficiaries.
9. There is no discernible basis for contesting the validity of that contractual bargain, nor challenging this Court's direction to the Administrator to give effect to it when distributing the Deceased's Cayman Estate.

Conclusion

10. For these reasons on 24 July 2024, I granted an Order directing the Administrator to take the steps which were agreed by all parties before the Court to be appropriate to conclude the administration of the Cayman Estate of the Deceased.



THE HONOURABLE MR JUSTICE IAN RC KAWALEY
JUDGE OF THE GRAND COURT