محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

In the name of His Highness Sheikh Tamim bin Hamad Al Thani,

Emir of the State of Qatar

Neutral Citation: [2024] QIC (F) 23

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 28 May 2024

CASE NO: CTFIC0071/2023

AMBERBERG LIMITED

Claimant

v

PRIME FINANCIAL SOLUTIONS LLC

1st Defendant

AND

THOMAS FEWTRELL

2nd Defendant

AND

NIGEL PERERA

3rd Defendant

AND

SOUAD NASSER GHAZI

4th Defendant

AND

~~**REMY ABBOUD**~~

~~**5th Defendant**~~

AND

~~**MARC REAIDI**~~

~~**6th Defendant**~~

AND

INTERNATIONAL BUSINESS DEVELOPMENT GROUP WLL

7th Defendant

AND

~~**QATAR GENERAL INSURANCE & REINSURANCE COMPANY QPSC**~~

~~**8th Defendant**~~

JUDGMENT

Before:

Justice Fritz Brand

Justice Ali Malek KC

Justice Yongjian Zhang

Order

1. The Claimant is to provide security for the Second and Third Defendants' costs in these proceedings, such security to be in the amount of £144,000 by way of a payment into Court.

2. The sum in (1) is to be paid by way of 3 staged payments on dates and amounts to be agreed within 14 days of this judgment or, failing agreement, by the Registrar.

3. The costs of the Application are to be paid forthwith by the Claimant to be assessed by the Registrar if not agreed.

Judgment

Introduction

1. The Second and Third Defendants (the '**Defendants**') by an application dated 14 March 2024 (the '**Application**') seek an order that the Claimant provides security for costs in the sum of £144,000.

2. In summary, the Application is made on the basis that (i) the Claimant would be unable or unwilling to pay an adverse costs order, and (ii) there is a real risk that the Defendants would be unable to enforce a costs order against the Claimant because they would

encounter substantial obstacles to enforcement.

3. The Claimant rejects these contentions. But it also asserts that the Court lacks jurisdiction to make an order for security for costs.

4. Ms Koureas-Jones (of FWJ Legal Limited trading as Francis Wilks & Jones) provided two witness statements on behalf of the Defendants dated 14 March 2024 and 8 May 2024.

5. A virtual hearing of the Application took place on Sunday 12 May 2024. Mr Thomas Williams appeared on behalf of the Defendants. Mr Lionel Nichols appeared for the Claimant. At the end of the hearing, the Court reserved judgment. For the reasons which follow, the Application is granted.

Background

6. What follows is a brief overview of the background to the Application to put it into context. It is not necessary for the purpose of this judgment to consider the details of the claim.

7. The claims against the Defendants are in the context of long running litigation brought by the Claimant that was commenced on 11 November 2023. The Claimant is a company incorporated in the British Virgin Islands (the '**BVI**'). Ms Koureas-Jones' evidence is that it is not a trading entity and does not have any assets in the State of Qatar. Its sole director and shareholder is Mr Veiss.

8. The Claimant's case against the eight defendants involved in this case arise from the Claimant's acquisition of shares in the First Defendant and its holding and divestment of those shares. In summary, the Claimant's case is as follows:

    i. The First Defendant owed a duty of care to its investor and shareholder to make certain disclosures, refrain from making misrepresentations, and to comply with the Qatar Financial Centre ('**QFC**') regulations.

ii. The Second to Sixth Defendants in their capacities as directors and senior employees of the First Defendant were under statutory duties and therefore owed a duty of care to the Claimant as an investor in and shareholder of the First Defendant to make certain disclosures, refrain from making misrepresentations, and to comply with QFC regulations.

iii. The First to Sixth Defendants breached those duties by failing to make certain disclosures, making misrepresentations, and failing to comply with QFC regulations.

iv. As a result, the Claimant has suffered loss that it seeks to recover from all defendants jointly and severally.

v. As to the Seventh Defendant, as the parent company of First Defendant, it has confirmed its support to First Defendant and would honour its commitments.

vi. It is alleged that the Eighth Defendant, as the professional indemnity insurer of the First Defendant, is liable to a claim for the First-Seventh Defendants' breaches.

9. As to the position of the eight defendants. The First Defendant has not engaged in the proceedings. The Second and Third Defendants on 6 February 2024 served a defence. The Fourth Defendant is yet to serve a defence. On 4 April 2024, the Court accepted the jurisdictional challenges of the Fifth and Sixth Defendants, and also upheld the Eighth Defendant's summary judgment application. The Seventh Defendant is a party to a disclosure application by the Claimant which was heard at the same time as this Application. In a separate judgment, the Court has dismissed this application as wholly without merit (also dismissing a disclosure application as against the First Defendant).

Legal Framework

10. The legal framework falls to be considered into two parts. First, the Court deals with the issue of jurisdiction to make an order for security for costs. Second, it sets out the

discretionary factors that need to be considered in deciding whether to make an order for security for costs. Having set out the background, the Court turns to the Application.

Jurisdiction

11. It is common ground that there is no express provision under the Court's Regulations and Procedural Rules (the '**Rules**') comparable to Rule 25 of the Civil Procedure Rules ('**CPR**') in England and Wales to make an order for security for costs. However, the Court has power to make interim measures under article 10 of the Rules.

12. These provide as follows (so far as is material):

> *10.1 The Court has the power to take all steps that are necessary or expedient for the proper determination of a case.*
>
> *10.2 Without prejudice to the generality of article 10.1 above, the Court may:*
>
> > *10.2.1 make such orders as it considers appropriate in relation to the management of cases;*
> >
> > *……*
> >
> > *10.2.6 make orders as to the costs of proceedings, including assessing any costs on a summary basis.*
>
> *10.3 The Court may grant all such relief and make all such orders as may be appropriate and just, in accordance with the overriding objective as set out in Section 4 above.*
>
> *10.4 Without prejudice to the generality of article 11.3 above, the Court has the power to grant or order the following remedies:*
>
> > *10.4.1 an order that a party pay a sum of money;*
> >
> > *……*
> >
> > *10.4.10an order that one party pay the costs of another.*

13. It is also necessary to refer to two other provisions of the Rules. First, article 4 dealing with the Overriding Objective which provides:

> *4.1 The overriding objective of the Court is to deal with all cases justly.*
>
> *4.2 The Court must seek to give effect to the overriding objective when it exercises its functions and powers given by the QFC Law, including under these Regulations and Procedural Rules and under QFC Regulations.*

4.3 Dealing with all cases justly includes, so far as practicable:

4.3.1 ensuring that litigation before the Court takes place expeditiously and effectively, using appropriately no more resources of the Court and the parties than is necessary;

4.3.2 ensuring that the parties are on an equal footing;

4.3.3 dealing with the case in ways which are proportionate to the amount of money involved, to the importance of the case, to the complexity of the issues, facts and arguments, and to the financial position of each party;

…….

4.4 It is the duty of the Court to deal with all cases in accordance with the overriding objective.

4.5 It is the duty of the parties to any case before the Court to assist the Court in determining that case in accordance with the overriding objective.

14. Second, article 33 (which provides so far as is material):

33.1 The Court shall make such order as it thinks fit in relation to the parties' costs of the proceedings.

33.2 The general rule shall be that the unsuccessful party pays the costs of the successful party. However, the Court can make a different order if it considers that the circumstances are appropriate.

15. The Claimant contends that the Court does not have the power to make an order for security for costs. Its arguments are as follows:

    i. It contends that the Court is a creature of statute, and as such has no inherent jurisdiction or inherent powers. Article 10 of the Rules sets out the Court's powers. No express power is granted to order security for costs.

ii. The Court's general case management powers in article 10.1 empower it not to take any case management decision it wishes, but only those steps that are "*necessary and expedient for the proper determination of the case*". Any case may be determined without an order for security for costs, so the making of such an order cannot be said to be "*necessary*" for the determination of the dispute. Moreover, security for costs applications distract and delay from the merits of a dispute, so are contrary to the "*expedient*" determination of a case.

iii. The Rules contain detailed provisions on costs (article 33) and enforcement (article 34) but are silent on the issue of security for costs. This suggests that the drafters of the Rules and the Council of Ministers did not intend to confer a power on the Court to order security for costs. Had they so intended, express provision would have been made in article 33 and/or article 34 of the Rules.

iv. The Court is under a duty to "*deal with all cases in accordance with the overriding objective*" (article 4.4). This requires the Court to ensure that litigation takes place "*expeditiously and effectively, using appropriately no more resources of the Court and the parties than is necessary*" (article 4.3.1). Security for costs applications prevent disputes from taking place expeditiously and utilise more Court and party resources than is necessary.

v. Finally, it points out that the Application is for the Claimant to pay the amount of security "*into court*" (security to be paid into the Registry). However, the powers and function of the Registry (articles 7 and 8 of the Rules) are limited to communications, the filing of documents and the issuance of orders. Nowhere is the Registry given the power to handle the parties' money.

16. The starting point is that it is common ground between the parties that there is no reported decision where the Court has determined the issue of whether it has jurisdiction to make an order for security for costs. The Court was referred to the decision in *Mohamed Abdulaziz Mohamed Ali Al Emadi v Horizon Crescent Wealth LLC* [2020] QIC (F) 18 where the Claimant in that case applied for security for costs against the Defendant. The Court refused the application.

17. At paragraphs 24-26 the Court stated:

24. While we are prepared to accept – without needing to decide the point – that in exercise of our powers under Article 10 of the Rules, we may have jurisdiction to make orders for security for costs and/or security for claim, and that any such jurisdiction should be exercised having regard to the overriding objective, we are utterly unpersuaded that the mere fact of the Defendant's potential impecuniosity could make it just to make the orders for security sought in this case. Indeed, rather the reverse.

25. If we were to make the orders sought against a Defendant who may well

lack the means to fulfil them, we would, in effect, shut it out from defending a claim which, while it has a prima facie chance of success seems to us to turn on contested evidence, and therefore, equally, may fail. Given that the Claimant is a man of means, whose solvency he positively avers, he can take his own decision as to whether it is worthwhile to sue a Defendant which may not ultimately be able to fulfil the judgment. However, if we were to make the orders sought, the Defendant may effectively be prevented from defending itself, irrespective of the merits of the claim against it. That would be a serious inequality of arms in access to the court.

26. We have not disregarded the Claimant's reliance on the Defendant's history of noncompliance with court and tribunal rules and directions, in this litigation and elsewhere in this jurisdiction. The risk that an unsuccessful defendant may, in the end, not satisfy an order for payment judicially made against it is not, at least ordinarily, a ground for ordering it during the litigation to provide security for costs or for the sum claimed. However, persistent non-compliance with rules and directions may potentially so prejudice the other party that such sanctions may in some circumstances be warranted. The Defendant should bear this in mind when addressing the directions now and in future issued by this Court".

18. The Court does not consider that this passage takes the issue of jurisdiction very far. It was in the context of an application by a Claimant against a Defendant. Not only were the remarks of the Court obiter (because it refused the application for security), the Court left open the question of jurisdiction.

19. The Court concludes that it does have jurisdiction to make an order for security for costs. It reaches this conclusion for the following reasons.

20. First, the Court applies the general rule that that the unsuccessful party pays the costs of the successful party (see article 33 of the Rules). If this rule is going to be effective, the successful party must have some degree of assurance that it will be able to recover its reasonable costs from the losing party.

21. Second, it is in the interests of justice that successful litigants are able to recoup the costs of litigation (or a substantial part of them) against the unsuccessful party. The

Court considers that the Overriding Objective requires this subject to discretionary considerations which fall to be considered when determining whether to make an order.

22. Third, the language of article 10.4 is apt to cover interim measures requiring the payment of costs by security. It refers expressly to costs.

23. The Court notes that the User Guide to the Court (the Maroon Book) at Chapter 4 paragraph 4, lists the specific orders that a Court might make (by reference to article 10.4 of the Court Rules) and this includes – by sub-paragraph v – "*Ordering that money is paid on account or that money is paid into Court by way of Security*" (emphasis added). This accurately reflects the Rules.

24. Finally, the Court rejects the Claimant's argument that a security for costs application results in delay and affects the progress of proceedings contrary to the Overriding Objective. In most cases it should be possible for the parties to work out for themselves whether security is appropriate. Applications should be made promptly and usually at the time of the first Case Management Conference.

Discretion

25. Whether an order for security should be made involves an exercise of discretion by the Court. That the unsuccessful party pays is an important principle. But it is equally important that the Court should not make orders that denies access to justice for impecunious parties particularly where it is alleged that wrongful acts of the party seeking security for costs, caused the impecuniosity complained of.

26. The Defendants argued that the Court should follow the guidance from the English Courts and referred to 3 authorities: *Pisante v Logothetis* [2020] EWHC 3332 (Comm.) ('**Pisante**'), *Ras Al Khaimah Investment Authority v Azima* [2022] EWHC 1295 (Ch.) ('**Azima**'), and *Eminent Energy Ltd v Krässik Oü* [2016] EWHC 2585 (Comm.).

27. The Defendants contended that these authorities show that applications for security for costs will be granted where:

    i. There is reason to believe that the Respondent will be unable or unwilling to pay an adverse costs order: see *Pisante* at paragraphs 42 and 71, and 75- 83; and *Azima* at paragraphs 18, 20, 36, and 37- 39.

ii. There is a real risk of (a) non-enforcement of an adverse costs order, due to substantial obstacles to enforcement; and/or (b) an additional burden in terms of cost or delay: see *Pisante* at paragraphs 39 to 41, and *Azima* at paragraph 10(4) and (5).

28. The Court considers that these principles are indeed relevant to consider in deciding whether or not to make an order for security for costs. However, the CPR has its own detailed rules for security for costs and it will be rare for it to be necessary to refer to English materials when deciding whether this Court should order security.

29. The Court suggested in argument a framework involving a three-factor approach when deciding whether or not to make an order for security for costs against a Claimant. This approach picks up the arguments made by the parties and provided a structure for consideration of the issues.

i. Factor 1: This involves considering whether it is possible to decide that the Claimant would succeed in its claim, or that the Defendant would succeed in its defence. So, for example, if the Claimant was bound to succeed in its claim, there would be no risk of the Claimant having to pay the costs of the Defendant. If the Defendant was bound to succeed in its defence, it was likely that there would be a costs order in its favour against the Claimant.

ii. Factor 2: This involves looking at the financial position of the Claimant and the prospects of the successful enforcement of a costs order against the Claimant.

iii. Factor 3: this involves a decision as to whether it is fair and reasonable to make an order for security. This involves a multifactorial investigation and is fact specific.

30. The Court understood that the parties were content for the Court to decide the Application taking into account this three-factor approach and they made submissions by reference to them.

31. The Court notes that this approach is similar to other regimes dealing with security for costs. For example, Rule 243 of the ELI/UNIDROIT Model European Rules of Civil Procedure states:

> *(1) A party may apply for the other party to provide reasonable security for costs.*
>
> *(2) In deciding an application for security for costs, the court shall take into account:*
>
> *(a) the likelihood that the applicant will be able to claim reimbursement of the costs of the proceedings,*
>
> *(b) the financial means of the parties and the prospect of enforcement of the cost decision against the other party,*
>
> *(c) whether such security for costs is compatible with the parties' right of access to justice and a fair trial.*

32. In the context of international arbitration, the 2016 publication by the Chartered Institute of Arbitrators, *International Arbitration Practice Guideline: Applications for Security for Costs* has proved to be influential. Article 1 provides:

> *Article 1 — General principles*
>
> *1. The General principles stated in Article 1 of the Guideline on Applications for Interim Measures are equally applicable to applications for security for costs.*
>
> *2. When deciding whether to make an order for security for costs, arbitrators should take into account the following matters:*
>
> *i) the prospects of success of the claim(s) and defence(s) (Article 2);*
>
> *ii) the claimant's ability to satisfy an adverse costs award and the availability of the claimant's assets for enforcement of an adverse costs award (Article 3); and*
>
> *iii) whether it is fair in all of the circumstances to require one party to provide security for the other party's costs (Article 4).*

3. This list is not exhaustive and arbitrators should also take into account any other additional considerations they may consider relevant to the particular situation of the parties and the circumstances of the arbitration.

Discussion

33. The Court will now consider each of the three factors identified above as they apply to the Application. The Court stresses that these three factors are not exhaustive when it comes to considering whether or not to order security for costs. The discretion of the Court is broad.

Factor 1 (prospects of success)

34. The Defendants invited the Court to take a view as to the merits of the claim for the purposes of determining this Application. They contend that the Claimant's claims against them are weak and will fail. In Ms Koreas-Jones's first statement, she pointed to a number of factors made in the Defence in support of her contention that the claim had "*insuperable weaknesses*".

35. The Court has carefully considered the points that have been made and reviewed the Defence but concludes that it cannot be said that the Claimant is bound to fail. The Court points out the following matters in reaching this conclusion.

36. First, it is important that the Court does not prejudge or predetermine the dispute between the parties unless it is clear cut. The Claimant referred to the Commercial Court Guide which sets out the practice of the Commercial Court in London where it is stated at Appendix 10 paragraph 4:

> *Investigation of the merits of the case on an application for security is strongly discouraged. It is usually only in those cases where it can be shown without detailed investigation of evidence or law that the claim is certain or almost certain to succeed or fail that the merits will be taken into consideration.*

37. The Court is of course expected in due course to resolve the disputes between the parties after hearing and considering all the arguments in depth and the all the evidence. The idea that a Court should at this stage be expressing any views on the merits is unattractive and is only appropriate if the matter is clear cut.

38. Second, it is premature to form any view about the merits of the claim at this stage. The Court considers the application for security for costs can be determined without looking into the merits of the claim. In addition, on any view, the resolution of the dispute will depend on factual evidence and legal submissions that the parties have not yet had an opportunity to put forward in any detail.

39. Third, it seems to the Court based on the materials before it that neither the Claimant nor the Defendants have either a hopeless case or a case that is bound to succeed.

40. In short, the Court concludes on this first factor, that it is not appropriate to consider the merits of the dispute.

Factor 2 (satisfaction of costs order)

41. As to the second factor, there is no evidence that the Claimant has any assets that could be applied to satisfy a costs order. As Ms Koureas-Jones explains in her first witness statement, the Claimant's annual financial statements are not available publicly as there is no requirement in the BVI for companies to file annual accounts or other financial information. The Claimant has declined to adduce evidence about its financial position.

42. The Claimant is incorporated in the BVI. For the purposes of the Application, the Defendants sought the advice of the BVI Office of Ogier on a number of issues relating to BVI companies and enforcement of judgments in the BVI. The Court does not need to consider these issues because there is no evidence that the Claimant has any assets in the BVI.

43. The Court is satisfied that if the Claimant's claim fails in these proceedings and costs are awarded against it, the Claimant would be unable to pay those costs from its own resources.

44. It is necessary to consider the main argument made by the Claimant to the effect that there is no reason to think that the Claimant will not voluntarily honour an adverse award of costs.

45. In this context the Claimant points out that: (i) the Court has previously made a costs order against the Claimant: *Amberberg v Fewtrell and Ors* [2023] QIC (C) 3; and the Claimant has complied with this order; (ii) the Court has ordered Claimant to pay the

costs of the jurisdictional challenges and the summary judgment application referred to above and that the Claimant is complying with these orders; and (iii) Mr Veiss is resident in the jurisdiction and therefore if he takes steps to prevent Claimant from complying with an adverse costs order, this would potentially expose him to individual sanctions from the Qatari courts.

46. The Court rejects these arguments for the following reasons.

47. First, as pointed out above, the Claimant has adduced no evidence suggesting that it has assets (whether in Qatar or in any other jurisdiction) to satisfy a costs order. The Claimant pointed out that it is under no legal requirement to provide information about its financial position but this misses the fact that the Claimant could have provided this information to show that it was in a position to satisfy an adverse costs order.

48. Second, the Court considers that it is irrelevant that Mr Veiss is the sole shareholder of the Claimant. He is not a party to these proceedings and there is no jurisdiction to make an order for costs against him. He has not volunteered to provide a bank guarantee to cover any costs liability on the part of the Claimant. As to the suggestion that there might be sanctions against him if the Claimant does not pay a costs order, this argument does not begin to run in the absence of evidence that the Claimant has any assets.

49. Third, an indication of an intention to pay costs by the Claimant or Mr Veiss personally does not change the position. This has all the indications of hard fought litigation and it is unrealistic to rely on trust alone.

50. The Defendants have also raised concerns as to whether Mr Veiss is a person who can be trusted. They rely on the judgment of the QFC Regulatory Tribunal dated 12 October 2023, case citation [2023] QIC (RT) 3, where various findings were made against Mr Veiss. Paragraph 13 of the Defence of the Defendants notes as follows:

> *13. As recorded in the Veiss Judgment, the Regulatory Tribunal made the following findings of fact and/or law against Mr Veiss:*
>
> *13.1 Mr Veiss on-boarded new clients to IFSQ during a period where IFSQ was restricted from doing so by a Supervisory Notice. See paragraphs 96 to 117 of the Veiss Judgment.*
>
> *13.2 Mr Veiss manually altered the dates on documents (called Letters of Authority) by which the new clients were on-boarded, by changing those*

dates from their actual dates to later dates. In doing so, Mr Veiss acted without integrity, and without due skill, care and diligence. See paragraphs 118 to 130 of the Veiss Judgment.

13.3 Mr Veiss failed to provide IFSQ's complete and full client lists to the QFCRA. In doing so, he acted without due skill, care and diligence. See paragraphs 131 to 145 of the Veiss Judgment.

13.4 Mr Veiss failed to conduct adequate due diligence in respect of a number of IFSQ's clients, in breach of the Anti-Money Laundering and Combating the Financing of Terrorism Rules 2019, and the Customer and Investor Protection les 2019. In doing so, Mr Veiss acted without due skill, care and diligence. See paragraphs 146 to 157 of the Veiss Judgment.

13.5 Mr Veiss gave untruthful evidence. See paragraphs 77 and 127 of the Veiss Judgment.

13.6 Mr Veiss failed to show any concern for the "appalling situation" in which investors in IFSQ had been placed by his actions. See paragraph 94 of the Veiss Judgment.

13.7 Mr Veiss engaged in conduct which, in certain respects, was "egregious". See paragraph 182 of the Veiss Judgment.

51. It follows that the Defendants have real concerns as to whether Mr Veiss can be relied upon to procure the payment of costs awarded in favour of the Defendants.

52. Accordingly, the Court finds within the meaning of the second factor that there are good reasons for concluding that there is a substantial risk that the Defendants will be not able to enforce a costs order in their favour.

Factor 3 (fairness)

53. Both parties have an equally strong expectation that whoever prevails in this litigation will receive a costs award as part of any relief that the Court orders. The Court finds that unless an order for security for costs is made, there is a substantial risk that the Defendants (if successful) will be unable to recover their costs.

54. This third factor is concerned with the question of whether it is fair and appropriate to make an order for security against the Claimant. It is unnecessary to seek to list all of the examples of where it might be inappropriate to make an order for security. For example, if the Court considered that it would be impossible for the Claimant to comply with an order for security for costs, that could be a strong factor against ordering

security as it would stifle the claim. If the application for security was made too late, this may be a reason to refuse security.

55. The Claimant advances a stifling argument. It alleges in the submission headed "The Claimant's Response to the Security Cost Application" as follows:

> *32. The Respondent submits that based on the Applicants professional code of conduct especially during the case CTFIC0014/2021 proceedings, this application appears to be an ongoing practice of putting so much financial and otherwise pressure on the Respondent with an attempt that the party is unable to bring proceedings at all. In case the court reasonably believes the claimant is not able to provide security and that in granting a costs order, the claimant potentially be placed under such immediate financial and otherwise pressure that it would prevent us from effectively and adequately arguing the case. This is a critical consideration to be made. This should seen in context of Article of 4.3.2 of the Court Rules "ensuring that the parties are on an equal footing'.*
>
> *33. Therefore, the Court is respectfully invited to conduct a balancing act between considering if the other party is under enough financial or otherwise constraints that they would be unlikely to be able to pay costs at the of the trial while not stifling the party from bringing its claim. At the same time, the Applicants do not suggest that they would lose their legal representation if the Security Cost Application are not awarded to them in a single payment in advance.*

56. This evidence is wholly insufficient to indicate that the Claimant cannot raise sufficient monies to pursue this litigation if security for costs is ordered. There is nothing to indicate that a security for costs order may have the effect of denying the Claimant access to justice. On the contrary, there is every indication that the Claimant can pursue this litigation: it has retained experienced solicitors and counsel to act on its behalf.

57. In summary, the Court considers that this is a case where it is fair and appropriate to make an order for security for costs. This is because of the combination of the following facts, namely (i) the Defendants having a reasonable prospect of success of defending the claim in the litigation, (ii) the Defendants have no realistic prospect of recovering their costs from the Claimant or Mr Veiss if it succeeds in the litigation; and (iii) the Claimant can raise the funds necessary to pay costs and its claims are not stifled.

The quantum and form of security, the time for its provision and terms

58. Having decided that it is fair and appropriate to make an order for security for costs, three further issues arise, namely (i) the quantum of the security to be ordered, (ii) the

time within which the security should be provided, (iii) the form of the security to be ordered.

59. Turning first to the issue of quantum, the Defendants have provided details of the amount of incurred costs and their estimates of future costs up to the conclusion of the trial of the merits. The details are set out in the second witness statement of Ms Koureas-Jones. This statement was served after the Claimant had contended that there were shortcomings in the material supporting the application for security. The Court considers that the details appear accurate and reliable. In short, the security sought is 60% of £240,000, namely £144,000.

60. Based on its experience in cases of this nature, the Court considers that this is a reasonable sum to seek by way of security. The Claimant did not identify any good reason for contending that the figure claimed was unreasonable.

61. As to the second issue, the Claimant argues that if the Court is minded to grant security, it is reasonable to order security in stages rather than the full amount at the outset.

62. The Court agrees with this argument and considers that provided that the Defendants are not exposed to the risk of non-payment of costs, it is appropriate to permit staged payments.

63. The Court considers that the sum of £144,000 is to be paid by 3 staged payments on dates and amounts to be agreed by the Claimant and the Defendants. Agreement should be reached within 14 days of this Judgment. Failing agreement, the Registrar will direct the dates and amounts.

64. As to the form of the order for security, the Court considers that the security should be paid into Court. The Claimant argued that money cannot be paid into Court because the Registry lacks capacity to hold monies by way of security. There is nothing in this point and the Registry in carrying out its functions must have the power to receive money by way of security. In any event it is not an argument that assists the Claimant because if security could not be ordered by a payment into Court, the Court would require the security to be provided by other means such as bank guarantee or payment into an escrow account. The point goes nowhere.

65. The Defendants have succeeded in obtaining an order for security for costs. The costs of the Application are to be paid by the Claimant to be assessed by the Registrar if not agreed.

By the Court,

[signed]

Justice Ali Malek KC

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant was represented by Mr Lionel Nicholls of Counsel (4 New Square, London, UK) and Eversheds Sutherland (International) LLP (Doha, Qatar).

The Second and Third Defendants were represented by Mr Thomas Williams of Counsel (Kings Chambers, Manchester, United Kingdom), and Francis, Wilks & Jones (London, United Kingdom).