



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) 22

**IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
FIRST INSTANCE CIRCUIT**

Date: 21 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 disclosure application against the First Defendant is dismissed as wholly without merit.
2. The disclosure application against the Seventh Defendant is dismissed as wholly without merit.
3. The Claimant shall pay the costs occasioned by this application on the indemnity basis, to be assessed by the Registrar if not agreed.

Judgment

1. This judgment is confined to a disclosure application by the Claimant against the First and Seventh Defendants. The Claimant in this matter, Amberberg Limited, is a company incorporated in the British Virgin Islands. The First Defendant is Prime Financial Solutions LLC, a corporate entity established and licenced to do business in the Qatar Financial Centre ('QFC'). The Seventh Defendant, International Business Development Group WLL, is the sole shareholder of the First Defendant.
2. In November 2023, the Claimant instituted action against eight defendants. Its Statement of Claim runs to over 49 pages. It relates to various disputes between the Claimant and the various Defendants arising from its acquisition of the shares and consequent shareholding in the First Defendant between November 2019 and August 2022. All this renders the background facts rather complicated. But, because the present dispute is confined to a disclosure application against two of the Defendants only, we

shall limit ourselves to background facts which are strictly necessary for a proper understanding of our conclusion with regard to this confined dispute and our underlying reasoning.

3. The Claimant's case against the First Defendant is in sum that it owed a duty of care to the Claimant, as an investor, to comply with various QFC regulations; that it breached that duty by failing to comply with these regulations; and that in the result the Claimant had suffered loss which it seeks to recover from all of the Defendants. According to paragraphs 58 and 59 of its Statement of Claim, the Claimant's claim against the Seventh Defendant is based on an alleged written undertaking to be liable for all the commitments of the First Defendant.
4. On 25 March 2024, the Claimant applied for disclosure by the Seventh Defendant of any "*contractual indemnity arrangement*" between the Seventh and First Defendants. On 9 April 2024, the Claimant's solicitors sought disclosure from the First and the Seventh Defendants of:
 - i. professional indemnity insurance documents for the period between 26 January 2021 and 25 January 2024; and
 - ii. "*the letter of comfort dated 2022 that seventh defendant provided in relation to first defendant pursuant to GENE 8.2.4 and QFC FSA Article 37*"
5. The disclosure applications came before us at a remote hearing on 12 May 2024. The Claimant was represented by Mr Lionel Nicols, instructed by Eversheds Sutherland (International) LLP, while the Seventh Defendant was represented by Mr Mushin Rafee of the Hassan Mohamed Al-Marzouqi law firm. The First Defendant did not appear and was not represented.
6. As to the request for professional indemnity insurance policies, it should be borne in mind that the Claimant's claim against the Eighth Defendant insurance company on the basis of a professional indemnity insurance policy issued in favour of the First Defendant was dismissed by this Court on 4 April 2024 as "*entirely without merit*" ([2024] QIC (F) 16). In this light, it should be patently clear to anyone, including the

Claimant, that no indemnity policy in favour of First Defendant can be of any possible relevance to the claims against the remaining Defendants, and that its persistence in seeking disclosure of such policy borders on abuse.

7. As to the letter of comfort sought, an enquiry into the possible existence of such letter was embarked upon by this Court in a joint hearing of two applications by the Claimant's sole shareholder Mr Rudolphs Veiss in CTFIC0035/2022 and CTFIC0040/2023. The two applications were heard together because the same purported letter of comfort was relied upon by Mr Veiss as the sole basis for his claim against the present Seventh Defendant in both those cases.
8. The conclusion arrived at by the Court in those two applications appears from the following paragraphs in its judgment ([2024] QIC (F) 19; paragraphs 18-21, 26-28, 30, and 31(iii)):

If Mr Veiss is to have an indemnity claim against IBDG, he must set out the basis upon which such a cause of action is founded. Initially his case was that there must be in existence a letter of indemnity similar to that which was the subject of cases in this Court, namely Tarek Choudhury v Prime Financial Solutions LLC; Twanette Murray v International Business Development Group WLL and Prime Financial Solutions LLC; and Nancy Kilany v International Business Development Group WLL and Prime Financial Solutions LLC [2023] QIC (F) 44 (the 'Murray Case'; as explained below, the basis for the current applications has changed).

In support of the basis on which Mr Veiss initially put this application he sought, on 25 March 2024, and obtained disclosure of the 'letters of comfort' which were referred to in the Murray Case, which he said (in correspondence with the Court) would demonstrate that IBDG had given him an indemnity against any claims which he may have against Prime. At paragraph 3 of his application for disclosure of those letters, he claimed that "IBDG has confirmed the commitment to support the Defendant to meet its all (sic) obligations..."

On 31 March 2024, the Murray Case so-called 'letters of comfort' were disclosed to Mr Veiss by the Court Registry. This was a letter on Prime headed paper, and were noted as an amendment to the employment contracts of the specific individuals to whom they were addressed. Mr Veiss was not among them, and the letters simply noted that the full remuneration of the addressees would be paid directly to them jointly and severally by the shareholder (i.e. IBDG). Clearly those documents provided no ground upon which Mr Veiss could claim an indemnity against IBDG on the basis of a binding commitment to help Prime, still less Mr Al-Tawil, to meet any obligations which they might have towards Mr Veiss. In the wake of the provision of this letter, the Court wrote to Mr Veiss on the same day asking him, inter alia, carefully to consider his position in respect of IBDG in respect of the two cases with which we are concerned here.

In the Order of 16 April 2024, in which the Court joined Mr Veiss's two applications, the subject of this judgment, to join IBDG as a Defendant in the Prime and Al-Tawil

proceedings, Mr Veiss was ordered to lodge a skeleton argument by 21 April 2024 setting out the full legal basis upon which he asserted that IBDG owed him an indemnity, and to lodge and serve any documents which he said formed the basis of such an indemnity. A skeleton argument dated 21 April 2024, prepared on Mr Veiss's behalf by Mr Lionel Nichols of counsel in London, was lodged with the Court. However, no documents were served which were said to form the legal basis of an indemnity.

Mr Veiss has provided no evidence whatsoever of the existence of a letter of comfort. He simply supposes that such a letter exists.

Mr Veiss now relies on article 8.2.4 of GENE as it refers to the obligations of a "controller" (as defined). It provides ...

Article 8.2.4 requires a letter of comfort to be given. This does provide some support for Mr Veiss' supposition that there is such a letter. If such a letter exists, the scope of article 8.2.4 is clearly that the required undertakings must be given to the regulator. While article 8.2.4 (3)(ii) includes the requirement that the person giving the letter of comfort must "enable it at all times to meet its obligations in accordance with standards of prudence generally accepted for the firm's business", we conclude that this is intended to satisfy the regulator that the controller will operate the business properly. We are not persuaded that any letter of comfort provided pursuant to this article has the effect of providing a personally enforceable undertaking to an individual such as Mr Veiss himself.

Mr Nicholls conceded that such a letter of comfort could not operate so as to set aside the corporate limited liability principle.

In summary,

Mr Veiss' applications in both cases are completely speculative and wholly without merit. He has not demonstrated any basis upon which IBDG should be joined as a party to either the Al-Tawil or the Prime Proceedings.

9. Although the Seventh Defendant filed no witness statements, it did file a skeleton argument in which it was "*emphasised that it does not have any indemnity arrangement with DI*". The Claimant's answer to this statement in argument was that it is not confirmed under oath. But this argument completely misses the point. The point is that it is not for the Defendants to establish the non-existence of the document. It is for the Claimant to establish its probable existence. And in the joint application judgment this Court held that (i) Mr Veiss provided no evidence of the existence of a letter of comfort; that he simply supposed its existence; and (ii) that the existence of the document is highly improbable.
10. What the Mr Veiss effectively seeks in this case, now seeks through the Claimant of which he is the sole shareholder, is for this Court to change its conclusion without a

shred of further evidence or any new argument in support of such diametrically opposite finding. We are unpersuaded to do so. The application is wholly without merit. In fact, we believe that it is wasteful of this Court's resources and it has resulted in unnecessary costs being incurred by the Seventh Defendant. Hence, we propose to express our displeasure with the Claimant's conduct in awarding an order of indemnity costs against it. These costs are to be assessed by the Registrar if not agreed.

11. These are the reasons for the order we propose to make.

By the Court,



[signed]

Justice Fritz Brand

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

Representation

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

The Prospective Defendant was represented by Mr Mohammed Rafee of the Hasan Mohamed Al Marzouqi Law Firm (Doha, Qatar).