THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

BRAND LOUNGE FZ LLC

Claimant

and

MOHAMED HILAL GROUP

Defendant

ORDER WITH REASONS OF JUDICIAL OFFICER MAITHA ALSHEHHI

UPON the claim form having been filed on 20 December 2024 (the "Claim")

AND UPON the Default Judgment of Judicial Officer Maitha AlShehhi dated 20 February 2025 (the "Default Judgment")

AND UPON the Defendant's Acknowledgment of Service dated 20 March 2025

AND UPON reviewing the Defendant's Application No. CFI-097-2024/1 dated 26 March 2025 seeking an order to set aside the Default Judgment (the "Set Aside Application") and the witness statement of Mohammed Ali Hilal dated 21 March 2025 filed in support of the Set Aside Application

AND UPON reviewing the Claimant's evidence in answer to the Set Aside Application dated 10 April 2025

AND UPON reviewing the Defendant's evidence in reply to the Set Aside Application dated 16 April 2025

AND UPON reviewing all relevant material added onto the Court file

AND PURSUANT TO Part 14 of the Rules of the DIFC Courts ("RDC")

IT IS HEREBY ORDERED THAT:

1. The Set Aside Application is granted.

2. The Default Judgment is set aside.

3. The Defendant shall file and serve its Defence and/or counterclaim upon the Claimant within 28 days from the date of this Order.

4. Costs shall be costs in the case.

Issued by:
Delvin Sumo
Assistant Registrar
Date of Issue: 18 April 2025
At: 2pm

SCHEDULE OF REASONS

1. On 17 February 2025, the Claimant filed a request for default judgment on the basis that the Defendant failed to file an acknowledgement of service or defend the Claim.

2. On 20 February 2025, the default judgment was issued in favour of the Claimant and ordered the Defendant to pay AED 913,500 plus the Claimant's costs in the amount of AED 63,899.50 (the "Default Judgment").

3. On 20 March 2025, the Defendant filed an acknowledgment of service.

4. On 26 March 2025, the Defendant filed its Set Aside Application to be determined on the papers.

5. Part 14 of the Rules of the DIFC Courts ("RDC") sets out the instances where a default judgment might be set aside. RDC 14.1 reads as follows:

> "The Court **must** set aside a judgment entered under Part 13 if judgment was wrongly entered because:
>
> (1) in the case of a judgment in default of an acknowledgment of service, any of the conditions in Rules 13.4 and 13.6 was not satisfied;

(2) in the case of a judgment in default of a defence, any of the conditions in Rules 13.5 and 13.6 was not satisfied; or

(3) the whole of the claim was satisfied before judgment was entered."

6. It is clear that the requirements above are not met, therefore, RDC 14.1 does not apply in this instance.

7. Rather, this is a case in which the Court may set aside or vary the Default Judgment pursuant to RDC 14.2 in the event the Defendant has a real prospect of successfully defending the Claim or there is other good reason why the Default Judgment should be set aside or varied or other good reason why the Defendant should be allowed to defend the Claim.

8. The Claim pertains to the Defendant's alleged failure to meet its payment obligations for services rendered in relation to the Branding Services Agreement and the Social Media Services Agreement (the "Agreements").

9. In his witness statement, the Defendant submits that he has a real prospect of defending the Claim on the grounds of challenging the value or percentage of work completed by the Claimant under the Agreements as the Defendant asserts that the Claimant only completed 63.5% (AED 1,496,000) of its scope under the Branding Services Agreement despite the Defendant paying the amount of AED 1,569,750, therefore, the Defendant is of the view that there has been an overpayment in the amount of AED 73,750.

10. The Defendant further submits that the Claimant failed to meet deadlines and was faced with challenges with the Claimant's visual identity submissions.

11. On the other hand, the Claimant contends that the quality on the delivered works aligned with international best practices and asserts that it has completed at least 75.9% of the scope of work.

12. Although the Defendant was requesting for works to be redone, the Claimant adds that it has not received any valuable feedback from the Defendant in line with the feedback policy form and has not received any official notice regarding its quality of work.

13. The Claimant further asserts that the Agreements outlined the delivery of specific deliverables and services over a 24-month period, which were duly completed. Additionally, the Claimant states that it continued to perform work without receiving payment in the second year, relying on the understanding that all outstanding amounts under both Agreements would be settled. However, as no payments were made, the Claimant was compelled to suspend its services.

14. RDC 14.3 requires consideration of when the application to set aside the Default Judgment was made:

"in considering whether to set aside or vary a judgment entered under Part 13, the matters to which the Court must have regard include whether the person seeking to set aside the judgment made an application to do so promptly."

15. The Defendant admitted in his witness statement that the Claim has been served upon him at his registered address on 8 January 2025, however, because it had no information or labelling on its cover, the staff were not aware that it relates to a court case and was not delivered to the designate person accordingly.

16. Moreover, the Defendant asserts that it only became aware of the court case upon receiving the Default Judgment on 6 March 2025 via courier which was brought to the attention of the manager. Therefore, he sought legal advice on the following day and completed all the requirements to formally hire a law firm to represent him on 19 March 2025 and the acknowledgement of service was filed one day later being 20 March 2025.

17. Hence, I am of the view that the Set Aside Application was made promptly in line with RDC 14.3.

18. When seeking to determine whether the Defendant has demonstrated `a real prospect of success', I will need to consider whether the Defendant has demonstrated a `realistic' rather than a `fanciful' prospect of success, as confirmed by H.E. Shamlan Al Sawalehi in the matter of *Al Tamimi v Jorum Ltd & Anor* [2016] DIFC CFI 028.

19. Upon reviewing the Set Aside Application, I find that the Defendant has raised concerns regarding the value of the works completed by the Claimant, among other things, and such contention might be supported by evidence to be filed by the Defendant. Additionally, I find that the Defendant must be given an opportunity to advance his defence as it is evident that this dispute requires detailed consideration from both parties which can only be achieved by a trial judge following a full hearing.

20. Accordingly, I hereby order that the Set Aside Application shall be granted.

21. It follows that the Default Judgment be set aside pursuant to RDC 14.2(b).

22. The Defendant is permitted to file and serve a Statement of Defence and/Counterclaim within 28 days of service of this Order.

23. Costs shall be costs in the case.