**Claim No. CFI 009/2023**
**Claim No. CFI 005/2016**

**IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS**

**IN THE COURT OF FIRST INSTANCE**

BETWEEN

**In Claim No. CFI 009/2023**

**(1) BANK SARASIN-ALPEN (ME) LIMITED**
**(2) SHAHAB HAIDER**
**(in his capacity as Liquidator of Bank Sarasin-Alpen (ME) Limited)**

Claimants

and

**(1) MR ELIE VIVIEN SASSOON**
**(2) MR STEPHANE EMILE ASTRUC**
**(3) MR EDMOND CARTON**
**(4) BANK J SAFRA SARASIN LIMITED**
**(5) BANK J SAFRA SARASIN ASSET MANAGEMENT (MIDDLE EAST) LIMITED**

Defendants

**In Claim No. CFI 005/2016**

**(1) MR RAFED ABDEL MOHSEN BADER AL KHORAFI**
**(2) MRS AMRAH ALI ABDEL LATIF AL HAMAD**
**(3) MRS ALI MOHAMED SULAIMAN AL RIFAI**

Claimants

and

**(1) BANK SARASIN-ALPEN (ME) LIMITED**

Defendant / First Respondent

**(2) SHAHAB HAIDER**
**(in his capacity as Liquidator of Bank Sarasin-Alpen (ME) Limited)**

Second Respondent

**(1) MR ELIE VIVIEN SASSOON**
**(2) MR STEPHANE EMILE ASTRUC**
**(3) MR EDMOND CARTON**

Applicants

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**ORDER WITH REASONS OF JUSTICE SIR JEREMY COOKE**

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**UPON** the Fifth Defendant's Application No. CFI-009-2023/2 dated 21 June 2023 challenging the jurisdiction of the DIFC Courts in Claim No. CFI-009-2023 (the "Part 7 Claim") and Application No. CFI-005-2016/7 dated 21 June 2023 challenging the jurisdiction of the DIFC Courts in Claim No. CFI-005-2016 (the "Insolvency Claim") (the "Fifth Defendant's Jurisdiction Applications")

**AND UPON** the Fourth Defendant's Application No. CFI-009-2023/3 dated 7 July 2023 challenging the jurisdiction of the DIFC Courts in the Part 7 Claim and Application No. CFI-005-2016/8 dated 7 July 2023 challenging the jurisdiction of the DIFC Courts in the Insolvency Claim, and to set aside the service upon the Fourth Defendant (the "Fourth Defendant's Jurisdiction Applications")

**AND UPON** the Claimants' Application No. CFI-009-2023/4 in the Part 7 Claim dated 31 July 2023 for an extension of time to serve the Claim Form on the First to Fourth Defendants out of the DIFC (the "EOT Application")

**AND UPON** the Fifth Defendant's Application No. CFI-009-2023/5 dated 16 August 2023 for relief from sanctions in the Part 7 Claim and Application No. CFI-005-2016/9 dated 16 August 2023 for relief from sanctions in the Insolvency Claim (the "Relief from Sanction Application")

**AND UPON** the Claim Form in the Part 7 Claim and the originating application notice (CFI-005-2016/6) in the Insolvency Claim being served upon the First to Fourth Defendants in Switzerland on 9 August 2023

**AND UPON** the Acknowledgments of Service filed by the First to Fourth Defendants on 6 September 2023 in the Part 7 Claim and in the

Insolvency Claim setting out their intention to contest the jurisdiction of the DIFC Courts and to seek an order setting aside service in Switzerland for being out of time under Rule 7.20 of the Rules of the DIFC Courts (the "RDC")

**AND UPON** the hearing of the Fourth and Fifth Defendants' Jurisdiction Applications, the EOT Application in relation to the Fourth Defendant and the Relief from Sanction Application before Justice Sir Jeremy Cooke on 7 September 2023 (the "Hearing")

**AND UPON** the Order of Justice Sir Jeremy Cooke made at the Hearing and issued with a schedule of written reasons on 15 September 2023 dismissing the Fourth and Fifth Defendants' Jurisdiction Applications, dismissing the Relief from Sanction Application and granting the EOT Application in relation to the Fourth Defendant

**AND UPON** the First, Second and Third Defendants' Application No. CFI-009-2023/6 dated 15 September 2023 challenging the jurisdiction of the DIFC Courts in respect of the Part 7 Claim and to set aside the service upon them in Switzerland, and Application No. CFI-005-2016/10 dated 15 September 2023 challenging the jurisdiction of the DIFC Courts in respect of the Insolvency Claim (the "D1-D3 Jurisdiction Applications")

**AND UPON** reading the evidence and submissions filed on the Court File

**AND UPON** the Fourth and Fifth Defendants' Jurisdiction Applications being restored for directions at the 18 October 2023 hearing

**AND UPON** hearing Counsel for the Claimants and Counsel for the Defendants at the hearing held before Justice Sir Jeremy Cooke on 18 October 2023 (the "18 October Hearing")

**AND UPON** the Fourth and Fifth Defendants' written application to the Court of Appeal for permission to appeal and the First, Second and Third Defendants' oral application at the 18 October 2023 Hearing seeking permission to appeal (the "Permission to Appeal Applications")

**IT IS HEREBY ORDERED THAT:**

**The EOT Application**

1. Time for service of the Claim Form in the Part 7 Claim on the First, Second and Third Defendants out of the DIFC is retrospectively extended to 9 August 2023.

2. The First, Second and Third Defendants shall pay, on a joint and several basis, the Claimants' costs of the EOT Application insofar as they relate to the First, Second and Third Defendants on the standard basis, summarily assessed in the sum of AED 142,000 by **4pm on 1 November 2023**.

**AND IT IS DECLARED THAT:**

3. The First, Second and Third Defendants were validly served with the Part 7 Claim Form on 9 August 2023.

**AND IT IS HEREBY ORDERED THAT:**

**The D1-D3 Jurisdiction Applications**

4. The D1-D3 Jurisdiction Applications are dismissed.

5. The First, Second and Third Defendants shall pay, on a joint and several basis, the Claimants' costs of the D1-D3 Jurisdiction Applications on the standard basis, summarily assessed in the sum of AED 210,000 by **4pm on 1 November 2023**.

**Permission to Appeal**

6. The First, Second and Third Defendants' oral Permission to Appeal Application in relation to the orders at paragraphs 1, 3 and 4 above is refused.

**Directions in relation to document production**

7. By **4pm on 25 October 2023**, the Defendants shall identify documents mentioned in the Consolidated Particulars of Claim that they wish to inspect pursuant to RDC 28.5(1). The Claimants shall produce copies of such documents or raise any objections to such production within 7 days of the Defendants' request. The Defendants shall have liberty to apply for an order under RDC 28.5.

8. By **4pm on 25 October 2023**, the Defendants shall identify all objections that they intend to raise in opposition to the production of unredacted copies of the First, Second and Third Defendants' employment contracts mentioned in and exhibited to the Sixth Witness Statement of Philip Devenish dated 15 September 2023. The Defendants shall identify the precise basis for any objection, including the legal principle or authority on which it is based. The Claimants shall have liberty to apply for an order under RDC 28.5.

**AND IT IS ORDERED BY CONSENT THAT:**

**Directions in relation to Statements of Case**

9. The Consolidated Particulars of Claim filed and served by the Claimants shall stand as Particulars of Claim in the Part 7 Claim and in the Insolvency Claim.

10. If they wish to defend the proceedings, each of the Defendants must file and serve an acknowledgment of service and a Defence by the later of:

10.1. 4pm on 8 November 2023; or

10.2. as regards the First, Second and Third Defendants, if any of them brings, in time, an application to the Court of Appeal for permission to appeal any of paragraphs 1, 3 and 4 above, 4pm on the date which is 21 days after: (i) the determination of the application for permission to appeal, if permission to appeal is refused; or (ii) the determination of any such appeal, if permission to appeal is granted ; or

10.3. as regards the Fourth and Fifth Defendants, 4pm on the date which is 21 days after: (i) the determination of their pending Permission to Appeal Application to the Court of Appeal, if permission to appeal is refused; or (ii) the determination of any such appeal, if permission to appeal is granted.

Issued By:
**Delvin Sumo**
Assistant Registrar
Date of issue: 1 November 2023
At: 12pm