Claim No: CFI 038/2024

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

DANT INVESTMENT LLC

Claimant

and

OLIVE GREEN HOLDING LTD

Defendant

ORDER WITH REASONS OF H.E. JUSTICE SAPNA JHANGIANI

UPON the Judgment dated 3 July 2025 of H.E. Justice Sapna Jhangiani finding in favour of the Defendant and ordering the Claimant to pay the Defendant's costs, to be immediately assessed on the standard basis (the "Judgment")

AND UPON the Defendant filing its Statement of Costs with supporting exhibits on 10 July 2025 (the "Statement of Costs")

AND UPON the Claimant's submissions by email dated 17 July 2025 in response to the Defendant's Statement of Costs

AND UPON reviewing the Rules of the DIFC Courts (the "RDC")

IT IS HEREBY ORDERED THAT the Defendant's costs in relation to the preliminary issue are immediately assessed in the sum of USD 45,000. The Claimant shall pay that sum to the Defendant within 14 days of this Order.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 18 August 2025
At: 2pm

SCHEDULE OF REASONS

Relevant Rules

1. The provisions of the RDC which are relevant to the immediate assessment of the Defendant's costs are as follows:

> "38.33
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> It is the duty of the parties and their legal representatives to assist the Judge in making an immediate assessment of costs in any case to which Rule 38.30 applies, in accordance with Rules 38.34 to 38.36.
>
> 38.34
>
> Each party who intends to claim costs must prepare a written statement of the costs he intends to claim showing separately in the form of a schedule:
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> (1) the number of hours to be claimed;
>
> (2) the hourly rate to be claimed;
>
> (3) the qualifications and seniority of fee earner;
>
> (4) the amount and nature of any disbursement to be claimed;
>
> (5) the amount of the legal representative's costs to be claimed for attending or appearing at the hearing; and
>
> (6) any tax to be claimed on these amounts.
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> 38.35
>
> The statement of costs should follow as closely as possible Form P38/01 and must be signed by the party or his legal representative.
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> 38.36
>
> The statement of costs must be filed at Court and copies of it must be served on any party against whom an order for payment of those costs

is intended to be sought. The statement of costs should be filed and the copies of it should be served as soon as possible and in any event not less than 24 hours before the date fixed for the hearing.

38.37

The failure by a party, without reasonable excuse, to comply with Rules 38.33 to 38.36 will be taken into account by the Court in deciding what order to make about the costs of the claim, hearing or application, and about the costs of any further hearing or detailed assessment hearing that may be necessary as a result of that failure."

2. Pursuant to RDC 38.2, when assessing costs on a standard basis, the Court must be satisfied, having regard to all the circumstances, that the costs were proportionately and reasonably incurred, and were proportionate and reasonable in amount. The receiving party carries the burden of proof in satisfying the Court of these factors.

3. The Court must also have regard to the following factors set out at RDC 38.23:

"(1) the conduct of all the parties, including in particular:

(a) conduct before, as well as during, the proceedings; and

(b) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;

(2) the amount or value of any money or property involved;

(3) the importance of the matter to all the parties;

(4) the particular complexity of the matter or the difficulty or novelty of the questions raised;

(5) the skill, effort, specialised knowledge and responsibility involved;

(6) the time spent on the case; and

(7) the place where and the circumstances in which work or any part of it was done."

4. RDC 38.24 provides that in applying the test of proportionality:

(a) the relationship between the total costs incurred and the financial value of the claim may not be a reliable guide; a fixed percentage cannot be applied in all cases to the value of the claim in order to ascertain whether or not the costs are proportionate; and

(b) the Court will have regard to RDC 1.6(3), which forms part of this Court's overriding objective at RDC 1, and which provides that dealing with a case justly includes dealing with the case in ways which are proportionate:

(i) to the amount of money involved;

(ii) to the importance of the case;

(iii) to the complexity of the issues; and

(iv) to the financial position of each party.

The Defendant's Statement of Costs

5. The Defendant's Statement of Costs stated as follows:

"This Statement of Costs is submitted in accordance with Part 38 of the Rules of the DIFC Courts on behalf of Defendant.. The costs have been reasonably and proportionately incurred in the course of these proceedings and are now claimed as recoverable by the Defendant."

6. The Defendant's stamp and a signature were affixed to the statement of costs, certifying that the costs set out were reasonably and properly incurred, and that the disbursements claimed were paid already.

7. The details of the costs claimed were in tabular form as follows:

1	Legal Cost Paid to FRM Legal Counsels as Professional Fee (Invoice and Receipts attached as Exhibit 1)	USD 50,000 (On Lump Sum Basis)
2	DIFC Court Fees Incurred towards Defence and Counter Claim submission	USD 20,000
3	DIFC Court Fees Incurred towards submission of Application Filing Fee	USD 300

8. The total costs claimed by the Defendant are USD 70,300 which is AED 258,212.95. The USD 50,000 claimed in legal fees amounts is equivalent approximately to AED 183,650.

9. As supporting documents, the Defendant provided two invoices from "FRM Legal Counsels" to the Defendant:

(a) A "tax invoice" dated 20 June 2024 for (i) an advance payment of AED 55,050.00 "our professional fee for handling DIFC Case CFI-038-2024 for defending the claim of the other party" and (ii) an advance payment of AED 55,050.00 for "our professional fee for handling DIFC Case CFI-038-2024 for the counterclaim". The total invoice amount, including VAT of AED 5,505.00, is AED 115,605.00.

(b) A "tax invoice" dated 7 July 2025 for (i) a "second payment" of AED 38,535.00, with the description "our professional fee for handling DIFC Case CFI-038-2024 for defending the claim of the other party is payable upon receiving the first judgment"; and for (ii) a "second payment" of AED 38,535.00, with the description "our professional fee for handling DIFC Case CFI-038-2024 for the counterclaim is payable upon receiving the first judgment". The total invoice amount, including VAT of AED 3,670.00, is AED 77,070.00.

10. In addition, the Defendant provided payment receipts: a receipt dated 20 June 2024 for AED 115,605 in respect of the invoice dated 20 June 2024, and an invoice dated 7 July 2024 for AED 77,070 in respect of the invoice dated 7 July 2024. The total amount received by FRM Legal Counsels was AED 192,675, comprising AED 9,175 in VAT and 183,500 in fees (which is approximately USD 50,000).

11. The Claimant contends that the Defendant's Statement of Costs does not comply with RDC 38.34 and RDC 38.35 and its primary position is that the Claimant should not be allowed its costs in the absence of having produced a proper written statement of costs.

12. In the alternative, the Claimant contends that if the Court is minded to assess costs on the basis of the rounded figures provided by the Defendant, the costs should only be assessed on the standard basis and the Claimant should not be obliged to pay the Court fee of USD 20,000 for the filing of the Defendant's Counterclaim, given that no Counterclaim was actually advanced by the Defendant.

The Court's Decision

13. I find that the Defendant is entitled to USD 20,000 in respect of the Court fees it paid in respect of its Defence and Counterclaim.

14. The Claimant's claim in this case turned on whether or not the Defendant was lawfully entitled to terminate the APA (as defined in the Judgment). If not, the Claimant would be entitled to the USD 400,00 deposit paid by the Defendant. If the Defendant's defence succeeded and it was entitled to terminate the APA, then it would be entitled to a return of its USD 400,000 deposit, which formed the basis of its Counterclaim. The Judgment found in favour of the Defendant. The Defence and Counterclaim were one and the same, and I reject the Claimant's argument that no Counterclaim was advanced by the Defendant.

15. I accept the Claimant's argument that the Defendant's Statement of Costs (and accompanying document) as filed on 10 July 2025 does not comply with RDC 38.34 and RDC 38.35. Only item (4) in the mandatory list set out below at RDC 38.34 is included in the Defendant's Statement of Costs:

"(1) the number of hours to be claimed;

(2) the hourly rate to be claimed;

(3) the qualifications and seniority of fee earner;

(4) the amount and nature of any disbursement to be claimed;

(5) the amount of the legal representative's costs to be claimed for attending or appearing at the hearing; and

(6) any tax to be claimed on these amounts."

16. The Defendant's Statement of Costs indicates that the fees of the Defendant's Legal Counsel for this case were not charged on an hourly basis, but on a lump sum basis. The Defendant ought to have fully explained the basis of its fees and agreement with the Defendant when submitting its Statement of Costs in order to satisfy the requirements of RDC 38.37:

"The failure by a party, without reasonable excuse, to comply with Rules 38.33 to 38.36 will be taken into account by the Court in deciding what order to make about the costs of the claim, hearing or application, and about the costs of any further hearing or detailed assessment hearing that may be necessary as a result of that failure."

17. In the circumstances, I must consider whether I have sufficient information to determine the Defendant's costs on a standard basis at this stage, or whether a detailed assessment is required.

18. I find that I have the majority of the information relevant to immediately assessing the Defendant's costs on a standard basis as set out at RDC 38.23, albeit not all of the information. For example, I am able to assess the Parties' conduct, the importance of the matter to the parties, the complexity of the matter, and the value of the case.

19. Taking into account all the circumstances, I prefer to immediately assess the Defendant's costs based on the information I have, as ordered in the Judgment, rather than submit the costs to detailed assessment, which would incur further costs for the parties.

20. Taking into account all the information I have, as well as the Defendant's failure to comply with RDC 38.4 and 38.5, I find that an award of USD 25,000 in respect of the Defendant's legal fees is both reasonable and proportionate.

21. The total amount to be awarded to the Defendant in respect of its costs, comprising its Court fees and legal fees, is therefore USD 45,000.