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 (in liquidation)
(2) MR SHAHAB HAIDER (in his capacity as Official 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) LTD

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 (IN LIQUIDATION)
(2) MR SHAHAB HAIDER (in his capacity as Official Liquidator of Bank Sarasin-Alpen (ME) Limited)

Defendants/Respondents

ORDER WITH REASONS OF JUSTICE SIR JEREMY COOKE

UPON the hearing listed before me on 7 September 2023 to determine the Jurisdiction Applications (the "Jurisdiction Applications") filed by the Fourth and Fifth Defendants (the "Jurisdiction Hearing")

AND UPON the Fourth and Fifth Defendant's letter application sent to the Registry by way of email dated 4 August 2023 and 9 August 2023 seeking to adjourn the Jurisdiction Hearing and vary the timetable (the "Application")

AND UPON the Claimant's response to the Application dated 10 August 2023

AND UPON the Fourth and Fifth Defendant's letter dated 21 August 2023

IT IS HEREBY ORDERED THAT:

1. The Application is refused.

2. The Fourth and Fifth Defendant shall pay the Claimant's costs of the Application on the standard basis, to be the subject of assessment by the Registrar if not agreed, but not to be assessed or paid until after the determination of the Jurisdiction Applications to be heard on 7 September 2023.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 25 August 2023
At: 3pm

SCHEDULE OF REASONS

1. The Fourth and Fifth Defendant's Application for adjournment of the hearing and revision of the timetable leading to the hearing on 7 September 2023 is refused:

(a) for the reasons given by the Claimant in its letter of 10 August 2023.

(b) Because those directions were agreed between the parties.

(c) Because 5 hours should be sufficient for any evidence and for the parties to make their submissions, after service of evidence and skeletons.

(d) Because the Court can if necessary complete the hearing on the following day or a day to be agreed. The Judge is available on 8 September 2023 to complete any outstanding matters.

(e) Because the Fifth Defendant's application for relief from sanctions can be heard at the same time on 7 September 2023.

(f) Because the extension of time application does not bear directly on the issues which the parties have agreed should be determined on 7 September 2023.

(g) Because the extension of time application can be determined by the Court at the hearing of 7 September 2023.

2. The application to cross examine Mr. Haider is refused as it was not made in accordance with the Rules. If the Defendants wished to cross examine Mr. Haider, they should have made a proper application supported by evidence, but such application would have been refused in any event because it is unnecessary and inappropriate on a jurisdictional application which is essentially concerned with forum conveniens.

3. Cross examination of Swiss lawyers has been agreed by the parties but will have to be justified to the Court which would ordinarily not allow for such cross examination on a jurisdictional issue of the kind in dispute.

4. The Court will limit the time available to the parties to present their arguments and/or evidence to fit the time available, regardless if the parties cannot agree.

5. Any arguments over admissibility of allegedly without prejudice correspondence, to the extent that there is any relevance in the issue to the jurisdiction dispute can also be dealt with at the hearing on 7 September 2023 but it does not currently appear to the Court to be likely to have any impact on the real issues which the Court has to determine.

6. As the Application has failed, the Fourth and Fifth Defendants shall pay the costs of the Claimant on the Application to adjourn the hearing and vary the timetable, on the standard basis, to be the subject of assessment by the Registrar if not agreed, but are not to be assessed or paid until after determination of the jurisdiction application to be heard on 7 September 2023.