Claim No. CFI 009/2023
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 Applicant

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

Second Applicant

(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

Respondents

ORDER OF JUSTICE SIR JEREMY COOKE

UPON the Claimants' Claim No. CFI-009-2023 (the "Part 7 Claim") and the Second Claimant's Application No. CFI-005-2016/6 in Claim No. CFI-005-2016 (the "Insolvency Claim")

AND UPON the Defendants filing and serving applications to strike out the Part 7 Claim and the Insolvency Claim pursuant to RDC 4.16 and/or for immediate judgment pursuant to RDC 24.1 (application CFI-009-2023/7 in the Part 7 Claim and application CFI-005-2016/11 in the Insolvency Claim) (the "Strike-out Applications")

AND UPON the Defendants filing and serving a Defence and the Fourth Defendant filing and serving a Counterclaim

AND UPON the Claimants' applications for directions in the Part 7 Claim and in the Insolvency Claim

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

AND UPON hearing Counsel for the Claimants and Counsel for the Defendants

IT IS HEREBY ORDERED THAT:

Consolidation of proceedings

1. The Part 7 Claim and the Insolvency Claim shall be consolidated without prejudice to all arguments as to the validity of steps taken in the proceedings thus far, and of the counterclaim which is the subject of the orders at paragraphs 2 to 5 below. The Part 7 Claim shall be the lead case and the title of the Part 7 Claim shall be amended by adding thereto the title of the Insolvency Claim. All further documents in the Part 7 Claim and the Insolvency Claim shall be filed under Case No. CFI-009-2023.

Fourth Defendant's application under Article 102/103 of the Insolvency Law 2019

2. The matters raised in the Fourth Defendant's Counterclaim pursuant to Articles 102 and/or 103 of Insolvency Law 2019 ("Articles 102/103") shall be pursued as an application pursuant to RDC Part 54, subject to the provisions of this Order. For that purpose, the Fourth Defendant shall issue and serve an application setting out the relief claimed and the basis for such relief with supporting evidence pursuant to RDC Part 54 by **4pm on 9 February 2024** (the "Article 102/103 Application"). Any directions required in relation to the Counterclaim shall be dealt with at the hearing listed pursuant to paragraph 5 below on 12 March 2024.

3. The Claimants shall file any evidence in answer to the Article 102/103 Application by **4pm on 26 February 2024.**

4. The Fourth Defendant shall file any reply evidence in relation to the Article 102/103 Application by **4pm on 4 March 2024.**

5. The Article 102/103 Application shall be listed for a hearing before Justice Sir Jeremy Cooke on **12 March 2024** with a time estimate of 1 day. The bundle for the hearing shall be filed by **4pm on 8 March 2024.** Skeleton arguments shall be filed by **12pm on 11 March 2024.**

6. The Second Claimant (the "Liquidator") shall give notice to the creditors of the First Claimant that an application has been made to remove the Liquidator and that the application will be heard before the DIFC Courts on 12 March 2024 by no later than **4pm on 16 February 2024.**

Statements of Case

7. Each of the Defendants shall file an acknowledgment of service by **4pm on 29 January 2024.**

8. The parties have permission to amend their Statements of Case to reflect the change in the Fifth Defendant's name from "Bank J. Safra Sarasin Asset Management (Middle East) Limited" to "J. Safra Sarasin (Middle East) Limited".

9. In addition to the matters pleaded in paragraph 158 of the Defendants' Defence, pursuant to RDC 17.27 the Defendants shall provide further particulars of the reasons they rely on in their denial of paragraphs 126-174 of the Consolidated Particulars of Claim by **4pm on 9 February 2024.**

10. The deadline for the Claimants' Reply to the Defendants' Defence is extended to **4pm on 15 March 2024.**

The Strike-out Applications

11. The Defendants shall file and serve any evidence relied on in support of the Strike-out Applications by **4pm on 9 February 2024.**

12. The Claimants shall file and serve evidence in answer to the Strike-out Applications, (if any) by **4pm on 15 March 2024.**

13. The Defendants shall file and serve evidence in reply in relation to the Strike-out Applications (if any) by **4pm on 28 March 2024.**

14. The Strike-out Applications shall be listed for a hearing before Justice Sir Jeremy Cooke on **18 and 19 April 2024** with a time estimate of two days. The Defendants shall file and serve the hearing bundle by **4pm on 8 April 2024.** Skeleton arguments for the Strike-out Applications shall be filed and served sequentially, as follows:

14.1. the Defendants shall file and serve their skeleton argument by **4pm on 12 April 2024; and**

14.2. the Claimants shall file and serve their skeleton argument by **4pm on 16 April 2024.**

Provision of documents

15. The Defendants shall provide, pursuant to RDC 28.5(1), the Settlement Agreement mentioned in paragraph 167.3 of the Defence and Counterclaim by **4pm on 26 January 2024.**

Costs

16. Costs shall be reserved.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 7 February 2024
At: 4pm