Claim No. ARB 034/2026

N/A

IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

PEDRO

Claimant/Award Debtor

and

PAULA

Defendant/Award Creditor

ORDER WITH REASONS OF H.E. JUSTICE SIR JEREMY COOKE

UPON the Award Debtor's application under Article 41 of the DIFC Arbitration Law (DIFC Law No. 1 of 2008 as amended by DIFC Law No. 1 of 2013) to set aside the Final Award dated 1 March 2026 rendered in DIAC Case No. 230091 filed on 1 June 2026 (the "Set-Aside Application")

AND UPON the Application No. ARB-034-2026/2 of the Award Creditor dated 28 July 2026 for security for its costs of the Set-Aside Application (the "Security Application")

AND UPON the Order issued by H.E. Justice Sir Jeremy Cooke dated 3 September 2026 ordering the Award Debtor to provide Security for Costs within 28 days thereof (the "Security Order")

AND UPON failure of the Award Debtor to provide the Security for Costs within the time specified in paragraph 2 of the Security Order

AND UPON the Award Creditor's Application No. ARB-034-2026/3 dated 6 October 2026 to dismiss the Set-Aside Application (the "Dismissal Application") due to failure of the Award Debtor to provide the Security in accordance with the Security Order

AND UPON reading the Second Witness Statement of Sergey Levichev dated 6 October 2026 and the documents referred to therein

AND UPON reading the written submissions of the parties dated 20 October 2026 and 27 October 2026

IT IS HEREBY ORDERED THAT:

1. Unless the Award Debtor complies, within seven days of the date of this Order, with paragraphs 1 and 2 of the Security Order:

    (a) The Set-Aside Application is, without further order of the Court, dismissed.

    (b) The Award Debtor shall pay the Award Creditor's costs of and occasioned by the Set-Aside Application and the Dismissal Application, such costs to be assessed by the Court if not agreed.

2. If security for costs in the sum of AED 300,000 is provided within 7 days in accordance with this Order:

    (a) The Award Debtor shall pay the Award Creditor's costs of and occasioned by the Dismissal Application, such costs to be assessed by the Court if not agreed.

    (b) The Parties may apply to the Court for the listing of the Set- Aside Application and/or for further directions in relation to the future conduct of the Set Aside Application.

3. The timetable for any assessment of such costs to be as follows:

    (a) The Award Creditor shall submit its statement of costs within 10 days of the date of this Order.

    (b) The Award Debtor shall make any submissions that it desires to make, in writing, not exceeding 8 pages, as to the quantum of such costs within 7 days thereafter.

    (c) The Award Creditor shall make any submissions in writing, not exceeding 5 pages, in response within 3 business days thereafter.

Issued by:
Hayley Norton
Assistant Registrar
Date of issue: 29 October 2026
At: 11am

SCHEDULE OF REASONS

1. This Order and these reasons use the same terminology as in the Security Order of 3 September 2026 which required the Award Debtor to provide security for costs by 1 October 2026 in relation to the Set-Aside Application it had filed. The Award Debtor failed to provide such security, failed to seek any extension of time to comply with that Order before that date and failed to answer the Award Creditor's letter of enquiry of 29 September 2026.

2. On 6 October 2026, the Award Creditor applied under the provisions of paragraph 4 of the Order of 3 September 2026 for the dismissal of the Award Debtor's Set-Aside Application. It was not until the Award Debtor filed its response on 20 October, 14 days after the filing of the Dismissal Application and 19 days after the expiry of the time for providing security for costs, that any suggestion was made that more time was needed to comply with the Order for security. It was in that response that a request for an extension was first made.

3. In its Response, the Award Debtor, without any supporting financial documents or evidence, stated that "owing to present financial constraints, the Claimant has not been able to complete arrangements for the Security within 28 days. It requires further time, not relief from the obligation. It asks for a period of 90 days." Nothing is said as to what has been done to seek to comply with the Order, what arrangements are being sought and why there is any basis for thinking that compliance would ensue if further time was given. The Response is wholly lacking in any evidence of finances or of attempts to comply or of the means of compliance and the Court is therefore unpersuaded that there is any reason to grant the request for more time, let alone a period of three times the original time limit which expired nearly 4 weeks ago.

4. Execution proceedings in the onshore Courts have revealed that the aggregate balance in the Award Debtor's bank accounts is about AED 25. The prospects of recovery of any costs incurred in these proceedings in the DIFC, commenced by the Award Debtor to set aside the Award made against it, appear remote. There is therefore, despite the Award Debtor's submissions to the contrary, obvious prejudice to the Award Creditor which has incurred and is still incurring costs in relation to these proceedings in the DIFC, should it succeed in resisting the Set-Aside Application.

5. Paragraph 4 of the Security Order of 3 September 2026 provided for a Dismissal Application to be made on the failure of the Award Debtor to comply with the terms of the Order in the time prescribed or in such extended time as the Court might allow. The Award Debtor has already had nearly twice the prescribed time and has not complied nor produced any evidence of attempts to do so nor any evidence that it will do so.

6. In these circumstances, it is obviously just to order that, unless there is compliance by the Award Debtor within 7 days of the date of this Order, the Set Aside Application is automatically dismissed.

7. The costs of the Dismissal Application must be paid by the Award Debtor in any event because it is in default and seeks the Court's indulgence without providing any good reason for such indulgence. In default of compliance with this Order to provide security within 7 days, the Award Debtor must also pay all the costs of the Set-Aside Application and the Dismissal Application, all such costs to be assessed on a summary basis, if not agreed.

8. The timetable for any such costs assessment is to be as follows:

(a) The Award Creditor is to submit its statement of costs within 10 days of the date of this Order.

(b) The Award Debtor is to make any submissions in writing that it desires to make, not exceeding 8 pages, as to the quantum of such costs within 7 days thereafter.

(c) The Award Creditor is to make submissions in writing in response within 3 business days thereafter, not exceeding 5 pages.