Neutral Citation Number: [2022] EWHC 1958 (Comm)

CL-2017-000433

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

BETWEEN:

LENKOR ENERGY TRADING DMCC

Claimant

-and-

IRFAN IQBAL PURI

Defendant

JUDGMENT

Introduction

1. I heard applications for variations to a freezing order originally granted by HHJ Waksman (as he then was) on 11 July 2017, and for orders pursuant to the Bankers Books Evidence Act. There are two matters left for decision. The first is the appropriate start date for the bank statements to be provided. The second is the appropriate costs order.

2. As to the appropriate starting date for the statements provided pursuant to the Bankers Books Evidence Act application, the Claimant submits that this should be 01.01.12. That is the date from which statements provided voluntarily to date begin; it is said that this is consistent with the requirements of the freezing order; and there is no practical difficulty in doing this, particularly since the banks in question have said that they will comply with any Court order.

3. The Defendant, for his part, argues that I have already decided this, in my earlier judgment. I consider that this is not the case. I made clear that I had not heard full

submissions and wished to do so – hence the submissions I have now received. The Defendant argued that a period from the date of the making of the freezing order on 11 July 2017 was sufficient, particularly since the freezing order was in aid of execution.

4. I have concluded, essentially for the reasons put forward by the Claimant, and having now had the benefit of fuller argument in writing, that the date of 01.01.12 is indeed the appropriate start date for statements to be provided. As the Claimant points out, no suggestion has been made that this will cause problems and the Defendant has already provided statements going back this far.

5. I turn to the issue of costs. There are the following items of relevant costs:

    a. The costs of the Banks in complying with the terms of the Order.

    b. The costs of the Applicant in relation to the application.

    c. The costs of the Defendant in relation to the application.

    d. The costs of the Applicant in relation to the application to vary the freezing order.

    e. The costs of the Defendant in relation to the application to vary the freezing order.

6. It is common ground that the Defendant should reimburse the Claimant for the costs incurred in respect of the banks.

7. The Applicant argues that it has been successful in relation to this application, even though the order I have made is not as broad as that sought. The Defendant argues that it has succeeded on a number of issues and this should be reflected in the costs order that I make.

8. I adopt the normal principles set out in CPR Part 44 in this regard. Thus, I am to take into consideration the overall event, whether there are some specific issues on which the successful party has lost, and the conduct of the parties. Here, I have concluded that the applicant has succeeded in obtaining relief which was not on offer; and that, although there has not been total success, this is not an appropriate case for reducing

costs, particularly since this application was only necessary because of a failure on the part of the Defendant to comply with the terms of HHJ Waksman's order. Accordingly, I order that the Defendant pays the Applicant's costs of and occasioned by this application.

9. Turning to the application to vary the freezing injunction, then I take the view that the applicant was entirely unsuccessful in this regard and that the Defendant should have its costs of this application.

10. As to the quantum of costs, then the Claimant's total fees for the overall hearing were £10,967.50. I regard the rates and hours set out in the Schedule as reasonable. Those costs are related to both applications, and I would divide them 50/50. It follows that the Claimant is entitled to £5,483.75.

11. As regards the Defendant's costs, then its costs totalled £23,133.50 in respect of both applications. I regard these costs as clearly excessive, for a number of reasons.

    a. Both a partner and a senior associate were involved, at hourly rates of £350 and £295 respectively, together with a costs lawyer. There was no need for both fee earners in the preparatory stage. The partner should have been supervising only, and for a much shorter period. I would halve partner time, leading to a reduction of some £1750 over the two applications.

    b. There was no need for both fee earners to attend the hearing. This leads to a reduction of a further £1750.

    c. There was no warrant for leading counsel. The brief fee and preparatory fee was £10,000. This should be reduced by half, to £5,000.

    d. Overall, therefore, the total fees would be reduced by £8,500 to £14,633.50. Half of that sum is £7316.75. That is the amount which will be awarded to the Defendant.

12. The two sums set out above may be set off against one another, or included in any accounting in relation to costs, given that I understand that other litigation in relation to this matter has been ongoing.

13. In addition, I do not have a figure for the sums payable in respect of the banks' costs, which, insofar as paid by the Claimant, may also be set off against the payment to the Defendant.