Neutral Citation Number: [2023] EWHC 3180 (Comm)

Claim No. CL-2023-000512

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
LONDON CIRCUIT COMMERCIAL COURT (KBD)

Royal Courts of Justice. Rolls Building
Fetter Lane, London, EC4A 1NL

Thursday, 14 December 2023

Before :

MR RICHARD SALTER KC
Sitting as a Deputy Judge of the High Court

- -

Between :

TIPPAWAN BOONYAEM	**Claimant**
- and -	
(1) PESONS UNKNOWN CATEGORY (A)	
(2) PERSONS UNKNOWN CATEGORY (B)	
(3) (3) INGFX LIMITED	**Defendants**

- -

Mr Celso De Azevedo
(instructed by *Giambrone & Partners LLP*)
appeared for the Claimant

The Defendants did not appear and were not represented.

Hearing date: 24 November 2023

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Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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This judgment was handed down remotely by circulation to the parties' representatives by email and release to The National Archives. The date and time for hand-down is deemed to be 10:30am on Thursday 14 December 2023

MR SALTER KC:

Introduction

1. In this action the claimant, Tippawan Boonyaem, claims to have been the victim of a fraudulent scheme operated by the defendants to induce her to invest fiat currency in Tether Tokens ("**USDT**") and thereafter to transfer USDT 425,836.62 from her Bitkub Thailand wallet to wallets under the control of the defendants. According to a Report dated 15 September 2022 from M to M Services Ltd ("**Mitmark**"), USDT 383,547 of the tokens transferred by the claimant ("**the traceable proceeds**") has been traced through the blockchain to identifiable wallet addresses at certain cryptocurrency exchanges.

2. On 30th August 2023, Bryan J made a worldwide proprietary and non-proprietary freezing Order and granted permission for substituted service on the defendants by Facebook messenger, by text and WhatsApp message, and by transferring a non-fungible token to the relevant wallet addresses. Bryan J's Order gave the first and second defendants a period of 23 days from the date of service to file an Acknowledgment of Service.

3. None of the Defendants has filed an Acknowledgement of Service. On 27 September 2023, HH Judge Pelling KC extended time for the listing of the return date from the Order of Bryan J and transferred these proceedings to the London Circuit Commercial Court.

4. The claimant now seeks summary judgment in respect of her proprietary claims to the traceable proceeds, an order continuing the proprietary freezing injunction until the traceable proceeds have been recovered, and an order continuing the worldwide non-proprietary freezing injunction in support of her non-proprietary claims.

The factual background

5. The claimant's claim is supported by her own witness statement, made on 25 August 2023, and by three witness statements made by the claimant's solicitor, Ms Joanna Bailey, which were made on 25 September, 13 October and 17 November 2023.

6. In brief summary, the claimant's evidence is that she is a real estate agent living in Thailand. In January 2022, she was contacted on Facebook by someone calling himself Suthep Chansudarat ("**SC**"). This contact led to a prolonged series of conversations, at first on Facebook, but thereafter on the messaging phone application LINE. In the course of these conversation, SC told the claimant that he was making good profits from trading cryptocurrency on the online investment platform INGFX, operated by the Third Defendant. SC told the claimant that he wanted her also to make such profits and that

he had opened an account for her with INGFX, which he encouraged her to access using the Meta Trader 5 ("**MT5**") phone application.

7. SC then explained to the claimant that, in order to trade, she need to convert her fiat currency to cryptocurrency, using the Bitkub Thailand exchange. At SC's urging the Claimant then made a number of transfers totalling TBH 14,604,000 to Bitkub Thailand in order to purchase USDT.

8. USDT is a cryptocurrency of the kind usually referred to as a "stablecoin". According to its website, "Tether is a blockchain-enabled platform designed to facilitate the use of fiat currencies in a digital manner". The Terms of Service of Tether International Limited and Tether Ltd ("**the Terms of Service**"), which are governed by the laws of The British Virgin Islands, contain a promise (subject to the conditions set out in those terms) to redeem USDT on a 1 for 1 basis for USD, and to hold sufficient reserves in fiat currency to enable such redemptions to be effected. It is therefore said that USDT is "pegged" to the USD.

9. Having obtained USDT in exchange for her TBH, the claimant then made a series of transfers of USDT from her wallet at Bitkub Thailand to various wallet addresses given to her by SC. According to the claimant, she believed on the basis of what she was told by SC that, by these transfers, she was depositing her USDT into INGFX wallets to be invested by SC and INGFX on her behalf. According to the claimant, during this period SC was constantly encouraging her to invest more money and recommending which "trades" she should open. Every time the claimant used the MT5 application to place a trade she would, at SC's request, send SC a screenshot recording the details of the trade.

10. Over this period, the INGFX online platform indicated that the claimant's trades had been very profitable. There came a time, however, when she decided that she did not want to invest any more in cryptocurrency but instead wished to withdraw the profits that she had so far made. Her attempts to withdraw her investments, however, proved costly.

11. The claimant was first told by INGFX's customer services ("**Customer Services**") that she had to pay 8% tax on all her transfers before she could withdraw her funds. At SC's urging, the claimant made further transfers of USDT for that purpose. Customer Services then told her that she had in addition to pay a withdrawal fee of 5%. Encouraged by SC, the claimant made yet further transfers of USDT in the hope of obtaining release of her funds. Finally, Customer Services told the claimant that she needed to pay a yet further 4% for insurance. Yet again, the claimant complied so that, in all, the claimant transferred USDT 259,835.15 purportedly in payment of these amounts for tax, withdrawal fees and insurance.

12. Altogether, the claimant made a total of 24 transfers totalling USDT 425,836.62 over the period from 19 February 2022 to 16 June 2022. By this time, SC's Facebook account

was no longer active and he was not answering the claimant's calls. Calls to Customer Services by the claimant, chasing the release of her funds, were met with implausible excuses, such as that she had to wait because the system was undergoing improvement, and that she was suspected of money-laundering and had to pay a further fee for her account to be checked by the Ministry of Justice. None of her USDT was ever paid back.

13. Eventually, on 26 July 2022, the claimant instructed solicitors, who in turn instructed Mitmark and Arrowsgate Ltd ("**Arrowsgate**") to investigate and to report. The reports from Mitmark and Arrowsgate which are in evidence indicate the following:

    13.1. The third defendant, INGFX Limited is registered in the UK under company number 13718924. It was incorporated a day before the domain www.ingfxgroup.com was registered on 3 November 2021

    13.2. The website www.ingfxgroup.com is no longer active. It is nearly identical to that of a legitimate investment broker, xm.com.

    13.3. The claim on the website www.ingfxgroup.com that INGFX Ltd was registered with the Australian Securities and Investment Commission is untrue. No entity with that name is registered with ASIC.

    13.4. The claim on the website www.ingfxgroup.com that INGFX Ltd had won the City of London Wealth Management Award is similarly untrue.

    13.5. The company secretary of INGFX Ltd is UK Sinosia Business Limited, which has 2,386 secretarial appointments registered at Companies House. Kong Shin Chia, is a director of the INGFX Ltd and of MCPO Limited, both of which are listed on Global Anti-Scam warning registers.

14. Those reports also indicate that the traceable proceeds of the transfers of USDT made by the claimant can be traced to the following "Last Hop Wallet" addresses on the following cryptocurrency exchanges:

    Coinbase

    14.1. The wallet hosted on the Coinbase exchange, the "**Coinbase Last Hop Wallet**" 0xba951531caefc3f800be9fe2181cc5bb2f52837b for a total of USDT 875.00.

    Huobi

    14.2. The wallet hosted on the Huobi exchange, the "**Huobi Last Hop Wallet**" 0x3c172343e8f2fc068f5dfa84d1905f95a4a70177 for a total of USDT 3,051.00:

Binance

14.3. The wallet addresses hosted on the Binance exchange, the "**Binance Last Hop Wallets**" for a total of USDT 254,074.96, as follows:

14.3.1. 0xb4b9f35caed2d14328b9e838f49ee4287f033101 ("Last Hop Wallet 3101");

14.3.2. 0xcde01ec21bde67a45c33a94156e521ac545067a3 ("Last Hop Wallet 67a3");

14.3.3. 0xfc1651b12442855787f871464f36fcfd319ac0ed ("Last Hop Wallet c0ed");

14.3.4. 0x7b8b046f1c83c03e290840a41df0131f17644c92 ("Last Hop Wallet 4c92");

14.3.5. 0x43db09c42c28de306f6cb7399d743925c9056f5b ("Last Hop Wallet 6f5b");

14.3.6. 0xc6603b019e2fc85903216ee81f68a4f5dfa15abb ("Last Hop Wallet 5abb");

14.3.7. 0xae10bdf83f5c47735895a4e882f18224663c6523 ("Last Hop Wallet 6523"); and

14.3.8. 0x0996166778e703499c2186401bfe78e91c344d99 ("Last Hop Wallet 4d99).

OKX

14.4. The wallet addresses hosted on the OKX exchange, the "**OKX Last Hop Wallets**", for a total of USDT 80,651.60, as follows:

14.4.1. 0x2ad085e17afb6c03a6b4f9cc0a2dd487162785cf ("Last Hop Wallet 85cf");

14.4.2. 0x896e69c72a2faff257e474cabe11860f75135ab8 ("Last Hop Wallet 5ab8");

14.4.3. 0xa06896c0073597f21b5ad893ed1b963552a7f409 ("Last Hop Wallet f409";

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14.4.4. 0x12eae0859195e0e314750c9a0d25f465e60644a6 ("Last Hop Wallet 44a6");

14.4.5. 0xedec13d5aa7ee8bad4abfba499a7eb19592ada7c ("Last Hop Wallet da7c"); and

14.4.6. 0xedf4992557174455baf0b1798de82b3d0e5bac15 ("Last Hop Wallet ac15").

Analysis

Summary judgment

15. None of the defendants has acknowledged service or filed a defence. Under CPR Part 24.4(1)(a), the claimant therefore needed the permission of the court to apply for summary judgment. That permission was given in paragraph 3 of the Order of Bryan J and by paragraph 1 of the Order of HH Judge Pelling KC.

16. Under CPR Part 24.3, the court can give summary judgment against a defendant on a particular issue if the court considers that the defendant has no real prospect of successfully defending that issue and there is no other compelling reason why the issue should be disposed of at a trial. The approach which the Court should adopt on such applications, helpfully summarised by Lewison J (as he then was) in *Easyair Ltd v. Opal Telecom Ltd*[1], is too well known to need repetition[2].

17. I am satisfied on the evidence that proper notice has been given, in accordance with the Order of Bryan J, of the claimant's claims in this action and of the evidence in support of them. That evidence is uncontradicted by any evidence from any of the defendants, is not obviously incredible, and I therefore accept it.

18. I am therefore satisfied that the claimant has been the victim of a fraudulent scheme to deprive her of her USDT.

19. As Lord Browne-Wilkinson said in *Westdeutsche Bank v Islington LBC*[3]:

> **.. when property is obtained by fraud, equity imposes a constructive trust on the fraudulent recipient: the property is recoverable and traceable in equity ..**

20. In my judgment, the claimant's USDT are to be treated as "property" for the purposes of this rule, and so (subject to the rules of tracing[4] and to establishment of the relevant

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1. [2009] EWHC 339 (Ch) at [15],
2. For a recent application of those principles by the Court of Appeal, see eg *Malik v Henley Homes Plc* [2023] EWCA Civ 726 at [77], per Nugee LJ.
3. [1996] AC 669 at 716C-D..
4. See eg *The Federal Republic of Brazil v Durant International Corporation* [2015] UKPC 35, [2016] AC 297.

facts) can be traced and, when traced, recovered under this rule.

21. Despite (i) the conclusion of the UK Jurisdiction Taskforce in its November 2019 *Legal statement on cryptoassets and smart contracts* that "cryptoassets are .. to be treated in principle as property"; (ii) the conclusion of the Law Commission in its *Digital Assets: Final Report*[5] that "the law of England and Wales treats [digital assets] as capable of being things to which personal property rights can relate"; and (iii) the unbroken line of decisions to that effect (albeit on interim or otherwise uncontested applications) beginning with the decision of Bryan J in *AA v Persons Unknown*[6] and culminating in the recent decision of the Court of Appeal in *Tulip Trading Ltd v Bitcoin Association for BSV*[7], there is still controversy in some academic circles about the question of whether endogenous digital assets (being neither things in possession or things in action) can be regarded as "property" under the law of England and Wales[8].

22. For the purposes of this case, however, I need not concern myself with that academic dispute. First of all, although the ruling on the point in *Tulip Trading* may not strictly be binding on me as a matter of precedent (since it was a decision on an application to set aside service, and so only ruled on the question of whether there was a serious issue to be tried), it would be wrong of me to differ from that ruling or from the line of first instance cases to which I have referred, unless I were satisfied that those decisions were plainly wrong.

23. I am not so satisfied. On the contrary, it seems to me that it would be a reproach to the common law were it not to demonstrate sufficient resource and flexibility to afford a remedy to persons in the position of the claimant. It seems to me that there is (as always) much to be said for the practical view recently advanced by Professor Sir Roy Goode KC that, subject to statute, the common law should move towards recognising as property anything that is of realisable commercial value[9].

24. Secondly, it in any event seems to me to be probable that the promise to redeem in the Terms of Service means that USDT, unlike Bitcoin or Ether, can be properly regarded as things in action, governed by the laws of the BVI.

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5 Law Com No 412 at [2.45]

6 [2019] EWHC 3556 (Comm), [202] 4 WLR 35

7 [2023] EWCA Civ 83, [2023] 4 WLR 16 at [24], per Birss LJ (with whom Popplewell and Lewison LJ agreed).

8 See eg Robert Stevens, 'Crypto is not Property' (2023) 139 LQR 695. According to Professor Stevens, "[T]he case for the legislature recognising cryptoassets as "property" generally for legal purposes is extremely weak, and that for the courts taking such a step non-existent. Lawyers should not be bedazzled by new technology, nor by these innovative ways of holding wealth. Almost all cryptoassets are unproductive and many are positively harmful. For most of their forms, our legal system should not be seeking to facilitate them but, alongside other jurisdictions, attempting to eliminate their use where possible".

9 Roy Goode, 'What is Property?' (2023) 139 LQR 1.

25. I am also satisfied that the evidence in the reports from Mitmark and Arrowsgate establishes in each case the necessary "co-ordination between the depletion of the trust fund and the acquisition of the asset"[10] to enable the USDT transferred by the claimant to be traced into the "Last Hop Wallet" addresses identified in paragraph 14 above.

26. It follows, in my judgment, that the claimant is in principle entitled to the declaration which she seeks that the USDT at those wallet addresses are her property, and to the Order that she seeks for delivery up of those USDT to her order.

27. Against whom is the claimant entitled to those orders? The claimant's difficulty is that she does not know the identity of the persons who perpetrated this fraud. With the exception of the third defendant (which is presently at risk of being struck off the register of companies), the parties involved have (to paraphrase Longfellow) long since folded their tents and silently stolen away. As a result, the first and second defendants are sued as "persons unknown".

28. The first defendants, named as "Persons Unknown Category A" are described as:

> **.. being the natural and/or legal person(s), describing themselves as being or connected to IngfxGroup and/or INGFX, and/or who operated/owned/controlled and/or were associated with the website www.ingfxgroup.com and/or with the phone numbers: 0616399663 and/or 0618374508 and/or with the Second and/or Third Respondent, who or some of whom gave the name Suthep Chansudarat, utilising a Facebook account by the same name, and who participated in a scheme to induce the Applicant to transfer 425,836.62 USDT to the Second and/or Third Respondent between 19 February 2022 and 16 June 2022) ..**

29. The second defendants, named as "Persons Unknown Category B" are described as:

> **.. (being the natural and/or legal person(s) who operate/own the cryptocurrency wallet address ending 837b hosted on the Coinbase exchange; the wallet addresses ending 3101, 67a3, c0ed, 4c92, 6f5b, 5abb, 6523, 4d99 and 641d hosted on the Binance exchange, the wallet addresses ending 85cf, 5ab8, f409, 44a6, da7c, ac15 and 3e35 on the OKX exchange, and the wallet address ending 0177 hosted on the Huobi exchange) ..**

30. The procedural law of England and Wales recognises that, in certain circumstances, proceedings may be commenced, (and an injunction may be granted) against "persons unknown". For this purpose, the law divides "persons unknown" into three categories. The first comprises defendants, such as most hit and run drivers, who are not only anonymous but who cannot even be identified. It is not possible to bring proceedings against such persons as unidentified parties, because it is not possible in principle "to locate or communicate with [them] and to know without further inquiry whether [they

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[10] *The Federal Republic of Brazil v Durant International Corporation* (fn 4 above) at [40], per Lord Toulson.

are] the same as the person[s] described in the claim form"[11]. The second category comprises individuals or entities who are identifiable, but whose names are not known, such as squatters in a property. Persons in this group can properly be sued as "persons unknown", provided only that it is possible to bring the proceedings effectively to their attention eg by one of the methods of alternative service[12]. The third category (which is not relevant for the purposes of the present proceedings) comprises "newcomers", ie those who are not identifiable as parties to the proceedings at the time when an order is made, but whom it is sought to bind by that order[13].

31. Broadly speaking, the persons whom the claimant seeks to sue in this case as "Persons Unknown Category A" are SC and those who are said to have participated with SC in the fraudulent scheme perpetrated on the claimant. The difficulty is that the claimant does not know who those persons are. She never met SC and conducted all of her relevant exchanges either online or by telephone.

32. The anonymity which digital currencies and online trading more generally permit is one of the factors which makes the digital space so attractive to those seeking to perpetrate fraud. The claims that have come before the courts of England and Wales involving digital assets have almost exclusively been fraud cases. In these cases, the courts have generally taken a pragmatic approach, permitting such actions to be begun against the unidentified fraudsters as "persons unknown" (provided only that the category is defined sufficiently clearly to ensure that anyone served with or receiving notice of the issue of a claim can tell immediately if he, she or it comes within the class[14]) and granting freezing and disclosure orders to assist in securing and recovering (so far as possible) the proceeds of the fraud.

33. Those disclosure orders typically involve a *Norwich Pharmacal*[15] and/or a *Bankers Trust*[16] type order addressed to a third party innocent intermediary requiring the delivery up of information in the possession of the intermediary (typically KYC and destination account information) that will enable the claimant either to identify those who have taken his, her or its assets without authority (primarily the purpose of the *Norwich Pharmacal* jurisdiction) or to locate those assets or their traceable equivalent (primarily

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11 See *Cameron v Liverpool Victoria Insurance Co Ltd* [2019] UKSC 6, [2019] 1 WLR 1471.

12 See *Cameron v Liverpool Victoria Insurance Co Ltd* (fn 11) at [13], [15] and [21], per Lord Sumption JSC; *AA v Person Unknown* (fn 6 above), and *Canada Goose UK Retail Ltd v Persons Unknown* [2020] EWCA Civ 303, [2020] 1 WLR 2802 at [60]-[63].

13 See *Wolverhampton City Council v London Gypsies and Travellers* [2023] UKSC 47.

14 See *Bloomsbury Publishing Group Limited v News Group Newspapers Ltd* 1 WLR 1633; and *Hampshire Waste Service v Persons Unknown* [2003] EWHC 1738 (Ch).

15 *Norwich Pharmacal Co v Customs and Excise Commissioners* [1974] AC 133. The criteria that must be satisfied if an order is to be obtained are those summarised in *Mitsui & Co v Nexen Petroleum UK Limited* [2005] EWHC 625 (Ch), [2005] 3 All ER 511 at [21], per Lightman J.

16 *Bankers Trust Co v. Shapiro* [1980] 1 WLR 1275. The criteria that must be satisfied if an order is to be obtained are those summarised in *Kyriakou v Christie's* [2017] EWHC 487 (QB) at [14]-[15], per Warby J.

the purpose of the *Bankers Trust* jurisdiction)[17].

34. This, however, is not an application for interim relief but for final judgment. The disclosure order made by Bryan J has produced no useful results. It has not assisted in identifying the persons who perpetrated the fraud on the claimant. In the circumstances, "Persons Unknown Category A" does not describe any identifiable person against whom judgment can properly be given. The persons presently sued as the first defendants in this case fall into the first of the categories of "persons unknown" identified in paragraph 30 above. Like hit and run drivers, they cannot properly be sued to judgment unless and until they can be identified. The fact that they perpetrated the fraud on the claimant is not, of itself, a sufficient identification. As Lord Sumption noted in *Cameron v Liverpool Victoria Insurance Co Ltd*[18]:

> **.. One does not .. identify an unknown person simply by referring to something that he has done in the past .. The impossibility of service in such a case is due not just to the fact that the defendant cannot be found but to the fact that it is not known who the defendant is. The problem is conceptual and not just practical ..**

35. I am therefore presently not prepared to give final judgment against the first defendants as "Persons Unknown".

36. The position of the second defendants, however, is different. The second defendants are those who own and/or operate the wallets at the addresses identified in paragraph 14 above. They come squarely within the second category identified in paragraph 30 above. There are specific persons or entities who or which own and/or control these wallet addresses. Like the unnamed defendants in the *Bloomsbury Publishing* case[19], who would have had to come forward and to identify themselves if they sought to disclose the contents of the book in contravention of the injunction[20], the second defendants in the present case would have to come forward and identify themselves if they wish to lay claim to the contents of the wallets. They are therefore identifiable. All that is not presently known is their names.

37. I was at first inclined to the view that, before seeking judgment, the claimant should have used the processes of the court to obtain disclosure of those names. I have, however, been persuaded by Mr De Azevedo, who appears for the claimant, that it would not be reasonable for me, having regard to the Overriding Objective of dealing with proceedings justly and at proportionate cost and to the comparatively limited amount in issue in this case, to require the claimant to incur the additional cost and delay

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17 See the speech "Issues in Crypto Currency Claims" delivered by HH Judge Pelling KC at the Dubai International Final Centre Seminar on 13 November 2023: https://www.judiciary.uk/wp-content/uploads/2023/12/DIFC-Crypto-Talk.pdf

18 Fn 11 above at [16]. are

19 See fn 14 above.

20 See *Cameron v Liverpool Victoria Insurance Co Ltd* (fn 11 above) at [15], per Lord Sumption JSC..

involved in proceedings for disclosure. Technology has made it possible to bring these proceedings effectively to the attention of those persons or entities: and it is therefore possible for them both to be sued and to have an enforceable judgment given against them as "Persons Unknown" in the second category.

38. A claim of *bona fide* purchase for value would, of course, defeat the claimant's claim to trace into these wallets[21]. However, the second and third defendants have not engaged in any way with this action. On the evidence available to me, I am therefore satisfied that they have no real prospect of defending the claimant's claims in relation to the traceable proceeds.

39. The evidence before me establishes that the third defendant, which is a UK incorporated company, has been properly served in the conventional manner. The evidence establishes that it played a central part in the fraud perpetrated on the claimant. It was therefore entirely proper for the claimant to rely upon its claim against the third defendant under CPR 6.26 and PD6B 3.1(3) to found jurisdiction against the second defendant as a proper party to the action. The third defendant has also chosen to take no part in these proceedings.

40. I am therefore prepared to give summary judgment against the second and third defendants in relation to the claimant's proprietary claim.

41. The claimant's application also seeks summary judgment in relation to its claims for equitable compensation and/or damages for deceit and/or fraudulent misrepresentation and/or unlawful means conspiracy. It seems to me that there are a number of difficulties in the way of that part of the claimant's application, including the fact that the claimant (as I have found in paragraph 34 above) cannot presently identify the first defendants. Until the claimant has enforced her proprietary claim, she also cannot particularise her loss.

42. In the circumstances, it seems to me that the appropriate way of dealing with the balance of this application is for me to adjourn it generally. The claimant can restore the present application and/or make a fresh application, if so advised, if and when the difficulties which I have mentioned have been overcome. I will not, for the present, strike out the claim against the first defendants. It will, however, be necessary for them to be properly identified (if that is possible) before any further action (except, perhaps, by way of an application for disclosure for the purposes of identification) can be taken against or in relation to them. It is also likely to be necessary for the claimant to serve particulars of her loss before she can properly apply for summary judgment for any particular sum by way of damages.

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21 See *Akers v Samba Financial Group* [2017] UKSC 6 [2017] AC 424 at [83], per Lord Sumption JSC; and *Piroozzadeh v Persons Unknown* [2023] EWHC 1024 at [26].

Proprietary Injunction

43. In order to protect what I have held to be the claimant's property, I am prepared to continue the proprietary injunction granted by Bryan J against the second and third defendants until satisfaction of the judgment which I have given in the claimant's favour or further Order of the court.

Non-proprietary Freezing Injunction

44. I am also prepared to continue the worldwide non-proprietary freezing injunction granted by Bryan J against the second and third defendants until further Order of the court. The evidence establishes a sufficiently good arguable case and the nature of the fraud demonstrates a sufficient risk of dissipation.

45. I am not, however, prepared to continue any injunction against the first defendants, as they cannot be identified with sufficient certainty to make such an order enforceable.

Disclosure

46. The second and third defendants have so far ignored the disclosure orders made by Bryan J. Despite some initial scepticism as to the usefulness of doing so, I have however been persuaded by Mr De Azevedo that I should repeat those orders, in the hope (rather than the expectation) that they will now be complied with. No application has as yet been made for disclosure orders against the exchanges or any other innocent third parties.

Substituted service out of the jurisdiction

47. Bryan J gave the claimant permission to serve the claim form and other documents out of the jurisdiction. The evidence shows that his Order does not record all of the gateways relied upon in argument. I am satisfied that Bryan J intended to refer to all of those gateways, and I therefore give permission under CPR 40.12 to amend that Order to include the omitted gateways.

48. Bryan J also authorised service by the alternative method of giving notice to the exchanges, by transfer of a non-fungible token to the addresses of the "Last-Hop Wallets", and by text and WhatsApp message to the telephone number used to communicate with the claimant.

49. I am satisfied, as Bryan J was, that there is good reason to authorise service on the second defendant by this method and that service by this method is likely to come to the attention of the persons within "Persons Unknown Category B" as described in the claim form. I therefore authorise service of this Order on the second defendant by those methods.

Costs

50. The claimant has obtained judgment in relation to its proprietary claim and is therefore the successful party. The dishonest conduct which I have found proved on the part of the second and third defendants takes this case out of the norm and justifies assessment on the indemnity basis.

51. I therefore summarily assess the claimant's costs of this application in the sum of £70,000 and order the second and third defendants to pay that sum to the claimant within 14 days.

Draft Order

52. I invite counsel for the claimant to prepare a draft Order for my approval giving effect to this judgment.