Neutral Citation Number: [2024] EWHC 574 (Comm)

Claim No: CL-2015-000047

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

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

Date: **12 March 2024**

Before :

Mr Justice Andrew Baker

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Between :

Alta Trading UK Ltd (formerly known as Arcadia Petroleum Ltd) & Ors	**Claimants**
- and -	
Peter Miles Bosworth & Ors	**Defendants**

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Alec Haydon KC, David Heaton, Ali Al-Karim and Danielle Carrington (instructed by **Grosvenor Law**) for the **Claimants**
Richard Eschwege KC (instructed by **Quinn Emanuel Urquhart & Sullivan LLP**) for the **First and Second Defendants**

Hearing date: **12 March 2024**

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PTR RULING re Disclosure

(Approved Transcript)

Mr Justice Andrew Baker **Tuesday, 12 March 2024**
(**16:14** pm)

Ruling by **MR JUSTICE ANDREW BAKER**

1. This ruling relates to what remains of the application and cross-application for further disclosure concerning payments possibly made to Sonergy and, more generally, the issue of alleged service providers and payments allegedly for services provided to them.

2. The first and second defendants, through Quinn Emanuel, did not help in creating as much clarity as they could have done by the way in which certain matters were explained in Mr Greeno's 27th witness statement, but I have no reason to suppose that he was doing anything other than attempting to assist and the further explanation now been provided in correspondence, clarifying -- and it does seem to me in certain respects correcting or changing -- the detailed explanation as to the nature of the process by which 6,000 documents not previously reviewed were identified, enables the court to say that a particularly thorough exercise has been undertaken in relation to documents that the first and second defendants might be holding beyond those which had previously been reviewed and which needed possibly to be at least considered for relevance to the issues for disclosure.

3. The concerns raised as to the use of TAR in the present context for identifying accurately those documents -- in a collection of 6,000 or so -- that are most likely to be actually relevant in content notwithstanding, the fact is that a third of that population has been the subject of manual review and nothing of additional interest to the issues in the case has been found.

4. In those circumstances, it seems to me overall that it cannot be said that it is necessary for the just disposal of the proceedings now, which would be the substance of the order sought, to require the first and second defendants to approach differently to the way in which they originally approached it the discharge of their obligation under the extended disclosure order to search for, review and disclose on a Model D basis documents relating to issues for disclosure 48 through 51.

5. As regards the seven payments, said to have been payments to Sonergy, on which a closer focus has been brought to bear only subsequent to the extended disclosure originally provided, the same conclusion follows, as it seems to me. I am not satisfied that the mere fact that searching in certain respects for different search terms or additional search terms than had previously been regarded as sufficient has generated hits is a sufficient basis for saying that it is necessary for the just disposal of this case at trial for additional disclosure to be given.

6. In my view, the nature of the application brought before Jacobs J and the manner in which it was withdrawn amount in substance to acceptance on the claimants' part as recently as September of last year that the way in which the Model D disclosure obligation had been sought to be discharged by the first and second defendants, as will have been explained in their extended disclosure certificates, was satisfactory and was such as to render an application that more needed to be done in relation to the service providers issue unjustified. I am not persuaded that it constitutes a material change of circumstance to learn -- which as I have indicated is what I think it amounts to -- that if the first and second defendants had approached the process of identifying potentially reviewable material differently, that might have meant that a different number of or different set of documentation was generated for the purpose of being reviewed.

7. I may have had greater concern if the situation had been that a new source of documentation had been identified that had not previously been the subject of the disclosure exercise at all, or if the approaching 6,000 documents which Quinn Emanuel, conscious of the need to respond to this application, identified as not as it happens having been the subject of a review for disclosable relevance, had not been reviewed in any way at all.

8. In those circumstances, and as I say, taking on board the criticisms made of the limitations of TAR, but balancing that against the very substantial sample size of effectively a third of the relevant documentation having beeb reviewed, I am not satisfied that there is a sufficient basis to require a further order for specific disclosure or an order to vary the original order for extended

disclosure which, on the face of things, the first and second defendants satisfied. So there will be no order for any further disclosure on the applications brought by the claimants.