



Neutral Citation Number: [2020] EWHC 2257 (Fam)

Case No: FD13D05340

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/08/2020

Before:

MRS JUSTICE KNOWLES

Between:

TATIANA AKHMEDOVA

Applicant

- and -

- (1) FARKHAD AKHMEDOV**
(2) WOODBLADE LIMITED
(3) COTOR INVESTMENT SA
(4) QUBO 1 ESTABLISHMENT
(5) QUBO 2 ESTABLISHMENT
(6) STRAIGHT ESTABLISHMENT
(7) AVENGER ASSETS CORPORATION
(8) COUNSELOR TRUST REG.
(9) SOBALDO ESTABLISHMENT
(10) TEMUR AKHMEDOV

Respondents

Alan Gourgey QC and James Willan (instructed by PCB Litigation) for the Applicant
Graham Brodie QC and Richard Eschwege (instructed by BCL Solicitors) for the Eighth and
Ninth Respondents
Charles Howard QC and Charlotte Hartley (instructed by Hughes Fowler Carruthers) for the
Tenth Respondent

Hearing date: 10 August 2020

JUDGMENT

This judgment was delivered following a remote hearing conducted on a video conferencing platform and attended by the press. The judge has given leave for this version of the judgment to be published.

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email and release to BAILII. The date and time for hand-down is deemed to be at 10.30am on Tuesday 18th August 2020.

Mrs Justice Knowles:

1. This is an application by Tatiana Akhmedova [“the Wife”] on notice to the First Respondent [“the Husband”] to vary the freezing orders granted against him by Haddon-Cave J (as he then was) on 20 December 2016 [“the 2016 WFO”] and on 21 March 2018 [“the 2018 WFO”]. I will refer to those orders as the Farkhad WFOs to distinguish them from a freezing order granted in July 2020 with respect to the Tenth Respondent, Temur Akhmedov [“Temur”].
2. The Farkhad WFOs were granted because of a real risk that Haddon-Cave J’s judgment dated 15 December 2016 and his subsequent order of 20 December 2016 would otherwise go unsatisfied. By that judgment and order, Haddon-Cave J had required the Husband to pay the Wife £453,576,152 by way of financial remedy consequent upon the breakdown of their marriage. Despite the Farkhad WFOs, the Husband has not voluntarily paid a penny to the Wife and enforcement efforts to date have raised only approximately £5 million.
3. The Husband was found by Haddon-Cave J to have engaged in what was described as an *“elaborate and contumacious campaign to evade and frustrate the enforcement of the judgment debt against him”*. The Wife’s application has been prompted by recent developments in the proceedings suggesting that the Husband and third parties have been exploiting perceived ambiguities in the Farkhad WFOs to continue to fund the Husband’s own lavish lifestyle and that of (at least) Temur. The Wife therefore sought a variation of the Farkhad WFOs to make clear that they extended to the totality of the Husband’s assets, this extension being necessary to further their purpose.
4. The background to this litigation is well known by reason of the earlier judgments given by Haddon-Cave J and by me. In summary:
 - a) The Husband was ordered to pay the Wife £453,576,152 by Haddon-Cave J in December 2016 by way of financial remedies and he has not voluntarily paid a penny of that sum.
 - b) The Husband’s principal identified assets are: (i) a superyacht known as the M/Y Luna [“the Yacht”]; (ii) modern art valued in January 2016 at US\$145.2 million [“the Artwork”]; and (iii) cash and securities worth around US\$650 million as at December 2016 (but worth substantially more prior to that date, c. US\$1 billion) which were previously held by the Third Respondent (Cotor) at UBS [“the Monetary Assets”]. Following an apparent recent dissipation of assets by Temur in May 2020 (in the face of these proceedings), the Husband is now also the ultimate beneficial owner of a valuable office property in central Moscow [“the Moscow Property”]. The Wife contends that the Husband had transferred the Moscow Property to Temur in 2018 to defeat her enforcement efforts.
 - c) The Yacht and the Artwork were transferred into Liechtenstein trust structures in November 2016 (in the month before the trial conducted by Haddon-Cave J) pursuant to transactions which were, as Haddon-Cave J concluded in setting them aside, intended to prevent the Wife from enforcing her claims.
 - d) By December 2016, Cotor (as nominee for the Husband) held the Monetary Assets at UBS in Switzerland. On or about 5 December 2016, Cotor transferred those assets

to an account held in its name at LGT Bank in Liechtenstein, in turn dissipating them such that by 4 January 2017 nothing remained in that account.

e) Recent developments in these proceedings suggest that, notwithstanding the Farkhad WFOs, the Husband continues to have access to substantial funds and leads a lavish lifestyle, making gifts to third parties (including Temur) whilst refusing to satisfy the Wife's entitlements as ordered by this court.

5. I have read an affidavit from the Wife's solicitors in support of this application and considered the earlier judgments and orders made with respect to the Farkhad WFOs. I heard oral submissions from Mr Gourgey QC and am indebted to him for his comprehensive and helpful skeleton argument.
6. The Husband was neither present nor represented and none of the other parties present at this hearing made detailed submissions on the order sought by the Wife. I am satisfied that the Husband had proper notice of this hearing, given that the application was issued on 31 July 2020 and that the methods of service used to bring the application to the Husband's attention meant that he had ample time to be present and represented if he wished.

Background to the Application

7. The Farkhad WFOs were intended to cover the totality of the Husband's known assets at the time they were made, with the particularisation of assets running to more than two pages of the orders. This was supplemented by a specific paragraph which stated that "*This order applies to assets (whether or not specifically listed) which are in the Respondent's name and whether they are solely or jointly owned*". It was clear that all the Husband's assets should be frozen to mitigate the real risk that the judgments and orders in favour of the Wife would otherwise go unsatisfied.
8. It now appears that, from the Wife's perusal of files to which she has been granted access concerning a criminal investigation presently taking place in Liechtenstein, the Husband has further assets, which were not known at the time of the Farkhad WFOs and so were not particularised. These include an account with Pasha Bank in Baku, Azerbaijan to which a total of US\$100 million was transferred between 15 May 2018 and 4 October 2018; an account with ALFA Bank, Russia to which a total of US\$232 million was transferred between 21 March 2018 and 2 October 2018; and an additional ALFA Bank account from which monies were paid in October 2019 to the Husband's lawyers in Dubai.
9. It appears that the Husband and third parties have been taking advantage of perceived ambiguities about the scope of the Farkhad WFOs, and have suggested that these extend only to specific assets in order either to validate payments received from the Husband which come from sources not caught by the terms of the Farkhad WFOs or to make it unclear where funds have come from, such that third parties can maintain they have not knowingly assisted in breach of those orders. The result is that the Husband and those concerned in his campaign of evasion continue to enjoy vast sums of money with apparent impunity.
10. Within these proceedings, information obtained from Temur suggests that he continues to receive substantial payments from the Husband.

11. According to Temur's Defence dated 21 February 2020, he has received a number of substantial payments from the Husband since the grant of the Farkhad WFOs. He admits receiving (i) US\$25.5 million since the date of the 2016 WFO; and (ii) continuing but unspecified "*generalised financial provision*". He has confirmed that he believed the Husband to be the immediate payor of the US\$25.5 million. Temur's disclosure given in July 2020 shows that he has continued to receive substantial payments from the Husband, namely payments of a further £500,000, US\$10,249,971.57 and €5,389,260.13 euros. Thus, since the date of the Farkhad WFOs, Temur has received at least US\$40 million from the Husband whilst the Wife has received nothing.
12. The Wife submitted that Temur has either been receiving funds (i) in breach of the Farkhad WFOs or (ii) from alternative unspecified accounts belonging to the Husband which are perceived to be outside the scope of those orders because the relevant accounts are not specifically listed. Given that, the Farkhad WFOs should be extended to make it clear beyond doubt that they applied to all the Husband's assets. This was necessary to further the purpose of the judgments and orders in the Wife's favour and to mitigate the real risk that, without the Farkhad WFOs, this court's judgment and orders would go unsatisfied.
13. On 17 July 2020, the Wife obtained a without notice worldwide freezing order against Temur which was continued at an on-notice hearing on 23 July 2020 ["the Temur WFO"]. A factor prompting the Wife's application was Temur's recent actions in relation to a valuable property in Moscow which was at the heart of the Wife's claims against him and which now lies in the Husband's hands. The Wife contended that this was just another part of the Husband's campaign of evasion and underscored the need for the variations she sought of the Farkhad WFOs.
14. In summary, the dealings with the Moscow Property appear to be as follows:
 - a) Prior to June 2018, the Husband was the ultimate beneficial owner of the Moscow Property. It was beneficially owned by him through his 100% shareholding in a Cypriot company called Sunningdale Limited ["Sunningdale"] which owned all of the shares in a Russian company called Solyanka Servis LLC ["Solyanka Servis"], which in turn owned the registered title to the Moscow Property.
 - b) In June 2018, Sunningdale transferred the shares in Solyanka Servis to Temur at a substantial undervalue. Temur became the ultimate beneficial owner of the Moscow Property and the Husband ceased to have any interest in it. Although the Husband remained the owner of Sunningdale, that company had been stripped of its value. The Wife had been prejudiced as she could no longer realise the value of the Moscow Property by enforcing against the Husband's assets.
 - c) Days after the Wife served her Particulars of Claim on Temur in January 2020, Sunningdale suddenly commenced proceedings in Moscow against Temur to recover the shares in Solyanka Servis for a supposed default in payment over 18 months earlier. In his Defence, Temur said that he did not intend to defend that claim.
 - d) On 25 February 2020, the Wife became aware that a hearing had been scheduled in Moscow for 20 May 2020. To protect her position in the event that the Solyanka Servis shares were transferred back to Sunningdale, the Wife applied to the Cypriot

courts for, inter alia, the appointment of an interim receiver of Sunningdale. An interim receiver was appointed on 6 May 2020, with the appointment order being drawn up on 15 May 2020. On 1 June 2020, Sunningdale was served with the appointment order.

e) Unknown to the Wife at the time, on 19 May 2020, Temur had already caused a formal transfer agreement to be executed for the transfer of the Solyanka Servis shares to Sunningdale. On the same day, a submission was made to the Russian Tax Service (which maintains the register of shares) to register this transfer. The transfer became effective on 26 May 2020.

f) Notwithstanding the appointment of the interim receiver and the service of documents on Sunningdale on 1 June 2020, Sunningdale executed a separate share transfer agreement with the Husband's representative on 3 June 2020 for the sale of the Solyanka Servis shares to the Husband for the massively undervalued price of RUB 50 million (less than £600,000). A submission was made to the Russian Tax Service for the registration of this transfer on 4 June 2020 and, notwithstanding the determined efforts of the interim receiver to prevent it, this transfer became effective on 9 June 2020. The result is that the Husband is once more the beneficial owner of the Moscow Property and that he has once more succeeded in defeating the Wife's entitlements.

g) Further, the Husband has three months from the date of the registration of the transfer to pay the vastly undervalued purchase price, that is, until 9 September 2020.

I emphasise that the developments in relation to the Moscow Property will be the subject of detailed consideration at the trial of, inter alia, the Wife's claim against Temur listed to commence on 30 November 2020. The above summary does not represent the court's concluded view of these recent developments.

15. The Wife contended that these recent developments evidenced the real risk that, if the Farkhad WFOs were not extended to capture all his assets, the Husband and other third parties would continue to undermine this court's judgments and orders. Further, if the Husband paid the vastly undervalued purchase price of the Solyanka Servis shares, he would be using funds (which should be used to satisfy the Wife's entitlements) to frustrate those very same entitlements.
16. Further evidence of the Husband continuing to deal with his assets emerged following the grant of the Temur WFO. According to the terms of that order, Temur was required to tell the Wife's legal representatives where the money was to come from to pay his legal representatives. It now appears that his legal fees were being paid by the Husband and that Temur intended to continue to receive such payments. It is not necessary for me to set out in detail the terms of the correspondence exchanged between the Wife's solicitors and Temur's solicitors about this issue. What is plain from that correspondence is that Temur's legal representation in these proceedings was being wholly funded by the Husband.

Relief Sought

17. In the light of the above, the Wife sought the variation and extension of the Farkhad WFOs to cover all of his assets, in furtherance of this court's orders and judgments

and in furtherance of the purpose for which the Farkhad WFOs were granted, that is, to mitigate the real risk that, without them, this court's judgments and orders will go unsatisfied.

18. As the relief sought is the extension of existing freezing orders, the question I ought to ask myself is whether there is a real risk that the judgments and orders in the Wife's favour will go unsatisfied if the relief is not granted. Given the matters outlined above I have no hesitation in concluding that this threshold is met in full. Haddon-Cave J concluded in 2016 and 2018 that the threshold was met to grant these orders, and, notwithstanding those orders, the risk the orders were meant to guard against very quickly became a reality. Mr Gourgey QC submitted that the only thing that had changed since then was that - as a result of his successful dissipation of assets, contrary to this court's orders - the Husband's complex web of illicit transactions had expanded beyond the perceived scope of the Farkhad WFOs with the result that he and third parties had felt able to ignore this court's orders with impunity. I accept that submission.
19. There has plainly been a change of circumstances for the reasons set out in this judgment and I am satisfied that I should exercise my jurisdiction to vary the Farkhad WFOs, not least because the specified assets no longer accurately reflect the totality of the Husband's assets.
20. Mr Gourgey QC invited me to approve a significant modification to the standard form of freezing order. This modification was first adopted in JSC BTA Bank v Ablyazov [2009] 2 CLC 967 and operates to remove the usual permission to dispose of or deal with assets outside England and Wales provided that the total value of the Husband's assets remains above the value of the freezing order (that is, £565,906,935 including interest on the original sum). In this case, the difficulty with the standard form of order is that, if the total value of the Husband's assets exceeds the specified sum, the Husband can move all his assets into a foreign country. Thus, for example, provided that the total value of his assets remained above the limit, he could transfer all of his assets from European jurisdictions (where enforcement is possible) to a nominee in Liechtenstein where enforcement is much more difficult. The Husband has already shown himself both willing and able to move assets into jurisdictions where enforcement is difficult and there is, accordingly, good reason to adopt the Ablyazov amendment to achieve the purpose of the freezing order.
21. I was also invited to provide the service of the order on the Husband by alternative means. This approach is consistent with the order of Haddon-Cave J on 21 March 2018 (as amended on 14 June 2019), which specifically provided that alternative service was permitted on the Husband by the means set out in that order "*and any other documents in these proceedings*". Given the Husband's concerted efforts to place himself physically beyond this court's reach in jurisdictions where it is difficult to effect service and to enforce this court's orders, I am satisfied that such alternative service remains appropriate.
22. I order that the Husband shall pay the Wife's costs of this application in full.
23. That is my decision.