In the name of His Highness Sheikh Tamim bin Hamad Al-Thani,
Emir of the State of Qatar

IN THE CIVIL AND COMMERCIAL COURT
OF THE QATAR FINANCIAL CENTRE
APPELLATE DIVISION

22nd March 2015

CASE NO: 01/2015

QFC COMPANIES REGISTRATION OFFICE

Applicant

v

INTERNATIONAL LEGAL CONSULTANTS LLC

Respondent

JUDGMENT

Members of the Court:

President Phillips
Justice Dohmann
Justice Al Sayed

JUDGMENT

INTRODUCTION

1. On 11 May 2014 the QFC Companies Registration Office ("CRO") issued a Financial Penalty Notice imposing a penalty of US$2,000 on the Respondent ("ILC"). This was the maximum penalty provided for by the QFC Companies Regulations 2005 as amended ("the Regulations") in respect of the late filing of notice of a change of the registered office of a company.

2. By a Judgment dated 26 October 2014 the Regulatory Tribunal ("the Tribunal") allowed an appeal against this penalty to the extent of reducing it to US$1,000.

3. On 16 December 2014 the CRO issued a combined Application for Permission to Appeal and Notice of Appeal. This was amended, with the permission of the Court, pursuant to an application by the CRO dated 2 March 2015.

4. This Court directed that the hearing of the Application for Permission to Appeal was to be treated as the hearing of the Appeal itself should permission to appeal be granted. This procedure is designed to save costs in a situation where the merits of an appeal are likely to be extensively canvassed in a contested Application for Permission to Appeal.

5. The Application was heard on 8 March 2015. At the outset of his submissions for the CRO, Mr Robert Purves made it plain that the CRO's concerns were not with the amount of the penalty payable by ILC but with the implications of the Tribunal's decision on the manner in which the CRO exercises its responsibility for imposing late filing penalties. In these circumstances Mr Purves undertook, on instructions, that if the CRO succeeded on its appeal it would not make any application for costs against ILC.

6. For reasons that will appear in this judgment, we are satisfied that the judgment of the Tribunal raises issues of principle of importance to the CRO and that the criteria for the grant of permission to appeal set out in Rule 35.2 of the Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules are satisfied. Accordingly we grant to the CRO permission to appeal.

THE CRO AND ITS RELEVANT FUNCTIONS

7. Article 7 of the QFC Law No. 7 of 2005 provides:

"The QFC Companies Registration Office is hereby established for the purposes of performing such duties and functions in relation to companies and other entities which may be incorporated or established to carry on business in the QFC and such other duties and functions as the QFC Authority shall think fit. Subject to the provisions of this Law the Regulations shall define the

management, objectives, duties, functions, powers and constitution of the QFC Companies Registration Office."

8. Article 8 of the Regulations provides:

"The CRO shall have the following functions:

(1) to receive and process all applications to incorporate or register all types of Companies...;

...

(3) to receive and process all Documents and information required to be filed with the CRO pursuant to these Regulations or any other Regulations;

(4) to keep and maintain in such form as it shall determine a register in respect of each of the Companies ... which are or have been registered under these Regulations ... to record in such register all Documents and information which falls to be filed with or delivered to the CRO in respect of such companies ... and to allow any person to inspect and take copies from such register during the office hours of the CRO;

(5) to administer and impose any financial penalties provided for in these Regulations; and

(6) all other functions provided for in these Regulations or any other Regulations or otherwise considered by it to be necessary, desirable or appropriate to achieve, further or assist in relation to any of the above."

9. Schedule 1 to the Regulations sets out no less than 57 different contraventions of the Regulations that give rise to financial penalties, together with the maximum financial penalty in each case. The smallest maximum financial penalty is $1,000, for a documentary contravention of relatively minor significance. The largest maximum financial penalty is $50,000 for providing false or misleading information to the CRO. The most common maximum financial penalty is $2,000. This applies to a wide variety of contraventions. One category of contraventions to which it applies is the late filing with the CRO of information required to be filed by the Regulations.

10. Article 129(2) of the Regulations provides that where the CRO considers that a person has contravened a provision in the Regulations it may impose by written notice the appropriate penalty stipulated in Schedule 1 in "such amount as it considers appropriate" but not exceeding the maximum set out in the Schedule in relation to the contravention in question.

11. The CRO has issued a Guidance Note in relation to these powers, prepared after public consultation. This includes the following material provisions in relation to penalties for late filing:

"<u>What happens when a late filing penalty has been imposed?</u>

If a Firm submits a return or notification after the relevant filing deadline, the CRO will automatically issue an invoice to the contact person of the Firm at the registered office address.

...

How can I object to a late filing penalty?

If a Firm believes that a financial penalty has been levied incorrectly or a Firm wishes to object to the imposition of such a penalty then the Firm should submit to the CRO an objection notification in the form attached as Annex 2. Further details may be found in Rule 6.2 of the Companies Rules and Rule 4.2 of the Limited Liability Partnerships Rules.

How does the CRO determine the amount of the late filing penalty to be levied?

The amount of the penalty shall be determined in the sole discretion of the CRO, up to the maximum penalty amount. Depending on the severity of a Firm's failure to comply with the Regulations, the CRO would normally seek to first impose a fine of approximately twenty percent (20%) of the maximum penalty amount. If the notification remains unfiled an additional ten percent (10%) of the maximum penalty amount will be levied on the contravening Firm for each subsequent month. However, where a contravention is deemed

by the CRO to be "serious", the maximum penalty amount may be immediately imposed on a contravening Firm.

If the notification remains unfiled for a period of 3 months, then the QFCA may take appropriate enforcement measures, including the suspension or revocation of a Firm's license in the QFC."

REQUIREMENTS IN RESPECT OF A REGISTERED OFFICE

12. Article 42 of the Regulations requires a company to have a registered office at or from which it carries out its business. It provides that a document may be served on a company by delivering or sending it to the registered office. Article 44 of the Regulations requires a company to keep at its registered office a number of Registers and provides that members of the public shall have access to the registered office in order to inspect these Registers.

13. Article 43 of the Regulations provides:

"(1) An LLC may change its registered office by delivering notice of the change within 21 days to the CRO together with payment of the Prescribed Fee.

...

(3) Where the CRO receives a notice under Article 43(1) it shall enter the new registered office on the register in place of the former registered office.

(4) The change of registered office shall take effect upon the notice of change of registered office delivered to the CRO in accordance with Article 43(2) being registered by the CRO, but until the end of the period of 21 days beginning with the date on which it is registered a person may validly serve any Document on the LLC at its previous registered office.

(5) Where an LLC unavoidably ceases to perform at its registered office any duty to keep at its registered office any register, index or other Document or to mention the address of its registered office in any Document in circumstances in which it was not practicable to give prior notice to the CRO of a change in the situation of the registered office, but:

(A) resumes performance of that duty at other premises as soon as practicable; and

(B) gives notice accordingly to the CRO of a change in the situation of its registered office within 21 days of doing so

it shall not be treated as having failed to comply with that duty."

THE RELEVANT FACTS

14. ILC was incorporated in the Qatar Financial Centre in November 2006. It was licenced to provide professional legal services. Its registered office was

recorded on the CRO Register as "Qatar Financial Centre, Office 704, 7th Floor, QFC Tower, Diplomatic Area, West Bay, Doha- Qatar".

15. In April 2010 ILC moved from the QFC Tower to the Tatweer Tower. It gave notice of a change in the address of its registered office to "Qatar – Doha West Bay, City Centre Area, Tatweer Tower – 3rd Floor, Office 3".

16. In October 2012 the Appellant moved from the 3rd floor to the 6th floor of the Tatweer Tower. Despite this move its Annual Returns for the years ending 13 November 2012 and 13 November 2013 continued to state its registered office as on the 3rd floor.

17. The latter Annual Return was filed late and on 18 March 2014 the CRO issued a notice imposing a penalty for late filing in the amount of $800. The CRO driver twice attempted to deliver this at the 3rd floor of the Tatweer Tower, but was unsuccessful because he did not discover that ILC had moved its office to the 6th floor. The CRO then sent an email, enquiring of ILC where it was located. As it happened ILC was then in the process of a further move to the 19th floor of Tatweer Tower. ILC enquired by email on 23 March whether it was required to notify the CRO of a move of its registered office from one floor to another of the same building. The CRO replied that notification of such a move was required. ILC then, 17 months out of time, gave notice to the CRO of its move of registered office from the 3rd to the 6th floor of the Tatweer Tower. It gave a timely notice of its subsequent move to the 19th floor of the tower.

18. On 11 May 2014 the CRO issued a Notice of Financial Penalty in accordance with Article 43 (1) of the Regulations in respect of ILC's failure to give timely notice of its change of registered office in the sum of the maximum penalty of US$ 2,000. This Notice was in standard form. It stated:

> *"As set out in the CRO Late Filing Penalties Guidance ("Guidance"), the primary purposes of imposing financial penalties are to promote high standards of conduct and to encourage a culture of compliance by deterring Persons from committing contravention of the Regulations. Taking into account these purposes, the facts set out in paragraph 2 of this Notice and the general circumstances of the matter, the following fine is imposed: US$,2000 (Two Thousand US Dollars)"*

19. The Notice went on to state that ILC might file a Notice of Objection to the imposition of the fine that should detail "the issues and circumstances you wish the CRO to take into account in determining whether to commence proceedings to recover the fine."

20. On 18 May 2014 Mr Michel Daillet, a director of ILC, sent a letter by way of Notice of Objection to the penalty. This contended that a registered address that stated the tower in which an office was situated amounted to an adequate address for the purpose of the requirement to give notice of the address of a company's registered office, so that there was no requirement, or at least no clear requirement, to notify a move of office within the same tower. It further contended that even if ILC had breached an unambiguous requirement to give

notice of a change of registered office, the imposition of the maximum penalty was disproportionate. The maximum would be appropriate in the case of a failure by a large company to notify that it had moved from one tower to another, but not a failure by a modest company such as ILC to notify simply a move from one floor to another. In practice such a failure would have no adverse consequence as a security agent on the ground floor would direct anyone seeking ILC's office to the correct floor.

21. On 29 May the CRO sent to ILC a Notice of Decision Regarding Objection to Financial Penalty. This stated:

"2. The CRO has considered the representations made by ILC in support of the Objection, however the CRO believes that the financial penalty has been levied in accordance with the Regulations and the CRO Late Filings Penalty Guidance (the "Guidance Note"). The CRO does not believe that the reasons supplied provide a basis for it to withdraw the Financial Penalty or to depart from the principles in the Guidance Note and that any discretion the CRO may have under the Regulations has already been applied by following the principles set out in the Guidance Note."

This notice was accompanied by an email that stated that the CRO "did not doubt either the reasoning for the delay or the mitigation provided".

22. On 16 June 2014 ILC paid the US$ 2,000 penalty.

THE DECISION OF THE TRIBUNAL

23. On the appeal against the penalty to the Tribunal Mr Daillet represented ILC and Mr David Dhanoo represented the CRO. The principal argument advanced by Mr Daillet was one of law. First he argued that the floor on which an office was situated did not form a necessary part of the address of the office. Thus, provided that the registered address included the building, there was no need for it to specify the floor. It followed that if there was a change of floor there was no need under the Regulations to notify this.

24. That submission was rejected by the Tribunal, which ruled at para 19 "that in principle a registered office address must include a reference to a floor where the whole tower is not occupied by the company in question".

25. The Tribunal went on to observe in paragraph 20 that on the facts of the present case, as ILC had chosen to include the floor in its registered address, it had to notify a change of floor if it moved to a different floor, thereby rendering the previous address inaccurate.

26. Then Mr Daillet argued that no penalty should have been imposed because the change of floors from the third to the sixth was past history in circumstances where the failure to give notice of the change had not resulted in any prejudice. The Tribunal rejected these arguments.

27. Mr Daillet has not sought to revive any of these arguments on this appeal.

28. Mr Daillet's final argument before the Tribunal was that, having regard to all the material facts, it had been disproportionate for the CRO to impose the maximum penalty. The facts that Mr Daillet suggested were material were:

i) ILC had failed to appreciate the obligation to notify the change of floor because the Regulations did not make it clear that this was a requirement.

ii) Once it had been made plain by the CRO that there was a requirement to notify a change of floor, ILC had given prompt notice of the change.

iii) The change of address was simply a move from one floor to another, as opposed to a move to a different building.

iv) There was no evidence that any member of the public had been misled by the failure to notify.

29. For the CRO Mr Dhanoo accepted that ILC's uncertainty as to whether it was necessary to notify a change of floor, as evidenced by its request for clarification on 23 March, was genuine. He submitted, however, that ILC should have sought clarification earlier and had a record of disregard for filing obligations as demonstrated by lateness in filing its Annual Returns. He contended, as recorded in paragraph 30 of the Tribunal's judgment, that "the CRO had no real option, under the Guidance, given the delay, but to impose the maximum penalty".

30. The relevant part of the Tribunal's decision appear in the following paragraphs of its judgment:

"33. It is a principle applied in many jurisdictions that one should be reluctant to impose the maximum penalty in a particular case unless it is clear that the case is one of the most serious examples of the offence or regulatory breach likely to arise. If that principle is not applied, there is a grave risk that one will end up imposing the same penalty, namely the maximum, in cases which vary greatly in their seriousness. That in turn would be contrary to a basic principle of justice, which seeks to draw a distinction between more serious and less serious cases: see, for example, the English cases R v Byrne 62 Cr App R 159 and R v Carroll 16 Cr App R (S) 488.

34. It is difficult to observe the present case as one of the more serious instances of a breach of the filing requirement for change of registered office. The fact that the move in question was within the same tower block is, in itself, of some, though limited, significance. What seems to us to be the more important aspect of that fact is that the Appellant had not appreciated that the change of floors required the filing of a notice. It is not suggested by the CRO that the Appellant's query by email of 23 March 2014 seeking clarification on this was anything other than genuine. Indeed, when on 29 May 2014 the CRO rejected the Appellant's objection to the penalty, its Senior Companies Registration Office Administrator sent an accompanying email to the Appellant stating the CRO "did not doubt either the reasoning for the delay or the mitigation provided.

35. This means that the Appellant's failure to notify is not to be seen as deliberate but as the result of a mistake on its part. Moreover, while we have held that the Appellant's understanding was mistaken, its error was not inexcusable. There is no definition in the Regulations or in the Guidance Note of "registered office." Unlike the Dubai International Financial Centre Companies Regulations, which by Regulation 3.1.2 makes it clear that the floor or level should be specified, the QFC material is silent on the matter. We recommend that the Guidance Note should be amended to make good this omission. No doubt the Appellant could and should have sought clarification on this point, and there is certainly no doubt that, presumably through carelessness, it continued to refer to the 3rd floor of Tatweer Tower in its Annual Returns for 2012 and 2013. This shows a lax approach to regulatory requirements deserving of a penalty, but not at the maximum possible level.

36. This Tribunal has previously made it clear that it will not lightly interfere with penalties imposed by the QFCRA. That applies also to the QFCA and QFC institutions such as the CRO. Intervention will only be appropriate where the penalty is one which is wrong in principle or otherwise clearly inappropriate. In the present case, the imposition of the maximum penalty was wrong in principle and clearly disproportionate. It was unjustified on the facts. This was an inadvertent delay caused by a misinterpretation of the Regulations. It was wrong for the CRO simply to apply the delay provisions in the Guidance in a mechanical way. The decision at which we have arrived is

that the penalty of USD 2000 should be set aside and a penalty of USD 1000 be substituted for it."

THE GROUNDS OF APPEAL

31. The original Application for Permission to Appeal/Notice of Appeal ("the Application") was drafted by Mr Dhanoo and included a statement that he believed that the facts stated were true and that he had been authorised to sign it by the CRO. The theme of the Application was that, insofar as the Regulations conferred a discretion on the CRO as to the amount of the penalty for late filing, this discretion was appropriately, and comprehensively, exercised by making the size of the penalty dependant on the length of the delay in filing, as set out in the Guidance.

32. The Application contended in paragraph 23:

"In the alternative, the CRO avers that as the Tribunal has found as a matter of fact that ILC was in breach of the Regulations and that, as a matter of fact, the delay in notifying the CRO was well over the time period specified in the Guidance for the imposition of the maximum penalty, the levying of the maximum penalty by the CRO did not involve a discretion at all and contrary to the views of the Tribunal, the CRO was correct in applying the penalty strictly, mechanically and consistently with the CRO Guidance Note."

33. The Application contended that the Tribunal's decision would have the following far reaching practical consequences:

> *"19. ...the CRO is an administrative body and by its very nature treats all notifications in good faith and any breaches of the Regulations are never treated as anything other than possible innocence or inadvertence. In nearly all objections received to date, the predominant reasoning given by firms when objecting to a late filing is that it was inadvertent, a misunderstanding of the requirement or a genuine oversight. This reasoning has never been doubted as genuine by the CRO but in the interests of justice, transparency and to ensure equal treatment of all firms, such objections have always been refused as they did not provide a sufficiently good objective reason to depart from the Guidance Note.*
>
> *37. ...the CRO can no longer rely on the principles in the Guidance Note as the CRO's administration of the Guidance Note has been found to be wrong in principle and no further guidance or criteria has been provided to replace it. As a consequence the CRO will be required to look at every individual breach and consider each on its individual facts. This will necessarily be administratively burdensome, time consuming and require the CRO to have an increased level of staffing and consequently increase the cost of the CRO and the QFCA and which cost could in turn be passed onto the QFC firm community. The Appellant avers that the Tribunal may not have appreciated the*

serious consequences of its decision to interfere with the amount of the financial penalty imposed by the CRO.

38. To avoid unnecessary objections this will result in the CRO having to enquire about the reasons behind a firms breach, in each and every individual case, in order to determine the appropriate level of financial penalty. This will lead to a significant increase in the burden of the CRO and would also lead to serious injustice as it is inevitable that firms will be dealt with differently even when the facts presented are the same as the CRO would not be able to ensure equal treatment given the number of late filings."

34. The Application later elaborated on these submissions, alleging that the obligation on the CRO to investigate the wide variety of circumstances that might amount to mitigation would place an unjustifiable administrative burden on the CRO, would inevitably lead to inconsistencies in the determination of penalties and would result in a flood of challenges and a proliferation of litigation.

35. The Amendments to the Application dated 2 March deleted the passage set out in paragraph 32 above. In contrast to the deleted passage, the Amendments gave the following expanded explanation of the CRO's practice where late filing has taken place:

"1. Consideration of fine is triggered when a firm submits a filing and is determined to be late or is identified as having failed to make a filing on time. At that point the CRO will know (a) how late the filing is; and (b) what, if any, explanation the firm has offered for the late filing. Most commonly, no explanation is offered.

2. The application of paragraph 12 of the Guidance will produce a proposed fine of a certain size, depending on the length of the delay.

3. On all occasions, the CRO Manager considers and determines (after a review and recommendation by the CRO case officer) if a fine is warranted. That will necessarily always involve consideration of (a) any explanation that the firm offers for the delay; and (b) the size of the fine. If the firm has offered no explanation for the delay, then the size of the fine is simply checked for consistency with the Guidance.

4. The proposed fine may be reduced or waived entirely if in the judgement of the CRO Manager, the proposed fine is not warranted. However, reductions are exceptional and will occur only if the manager believes there is good reason for a reduction. In line with the practice in other jurisdictions, reductions are not allowed if the only explanation offered is that the firm (which was otherwise able to comply) simply misunderstood the law, or was inadvertently late. That is what happened in the present case. Examples of cases in which fines

have been reduced or waived include where the delay has been caused by the death of a relevant director or officer of a firm.

5. Alternatively, as set out in paragraph 12 of the Guidance, in some cases, the fine might be increased, depending on the Manager's judgement as to the seriousness of the delay. As with the decision to reduce or waive a fine, this judgement may take into account factors other than the simple length of the delay.

6. The result of this process is that historically the maximum fine has been imposed in about 10% of cases in which a fine has been levied.

7. Thereafter, in the event of an objection to a fine the decision is independently reviewed by the QFCA Chief Legal Officer ("CLO"). Therefore, where an objection is raised the fine has been subject to consideration by at least three people."

36. In the course of his submissions Mr Purves observed that this procedure was "more nuanced" than that set out in the Guidance. This was something of an understatement.

37. Mr Purves' primary concern was to defend the Guidance and the approach of the CRO in applying it which, he submitted, represented an adequate and proportionate approach to determining the size of penalty for late filing. His submissions reflected the concern of the CRO that they should not be required

to carry out an examination of all the circumstances of every case of late filing in order to evaluate the degree of seriousness that should be reflected by the size of the penalty.

38. As to the facts of this case, he submitted that any misunderstanding on the part of ILC was a mistake of law of a kind that was not capable of amounting to an excuse or to valid mitigation for breach of the notice obligation.

39. Mr Daillet submitted an excellently thorough and lucid Amended Response to the Application for Permission to Appeal and Notice of Appeal, which he underlined in oral submissions. He supported the principle relied upon by the Tribunal in paragraph 33 of its judgment. He submitted, citing a number of examples, that the exercise of discretion by an administrative authority when deciding the size of a penalty should start by considering the nature and seriousness of the infringement, the damage caused to third parties, the benefit gained from the infringement and the duration and reiteration of the infringement.

40. Mr Daillet supported the conclusion of the Tribunal that ILC's uncertainty as to whether movement within a building constituted a change of the address of a registered office that required notification constituted valid mitigation.

DISCUSSION

41. The comments of the Tribunal in paragraph 33 of its judgment are entirely appropriate when applied to an offence or regulatory breach where the nature and seriousness of the breach, and the culpability of the offender, can vary widely and the maximum penalty is a substantial sum. We consider, however, that they are not entirely apposite when applied to the contravention in this case. As we observed at the outset, the 57 different possible contraventions of the Regulations cover a very wide variety. This is reflected in the wide range of the maximum penalties. These already go a long way to building in proportionality to the imposition of penalties. The relatively minor maximum penalty of US$ 2,000 is largely reserved for different failures to comply with formalities required by the Regulations. They are to encourage diligence and to discourage inattention to these formalities. There is limited scope for differentiation between the culpability of individual offences apart from that which the CRO has, after consultation, decided to draw having regard to the length of the delay that occurs in complying with the filing requirement. In the context of the offence of late filing it is not really appropriate to speak of cases "that vary greatly in their seriousness" or to postulate that the maximum penalty should be reserved for those who deliberately do not file information that they are aware should be filed. The Guidance that discriminates according to the length of the delay in filing is a sensible way of making an initial and proportionate determination of the amount of the penalty.

42. The CRO relied, in support of its approach to late filing, on the decision of Lightman J., and the facts to which they related, in *POW Trust and another v The Chief Executive and Registrar of Companies and another* [2002] EWHC 2783 (Admin). That case involved the provisions of section 242A of the United Kingdom Companies Act 1985. These laid down a table of civil penalties for late filing of a company's accounts, the amount of the penalty increasing according to the length of delay in making the filing. These were fixed penalties, but the section implicitly gave the Registrar a discretion as to whether to recover them. The Registrar had produced a Manual stating that he would only refrain from collecting a penalty in very exceptional circumstances. The applicants had sought to be excused enforcement of the late filing penalties for reasons that the Manual expressly stated would not be acceptable. The applicants sought to challenge this regime by judicial review on human rights grounds. Their application was dismissed.

43. This case is, in our view, a good illustration of the fact that a regime that imposes penalties for late filing whose amount is determined by the length of delay in filing is not unjust where there is a discretion not to enforce the penalty, even where that discretion will only be exercised in exceptional circumstances.

44. The difference between the provisions considered by Lightman J and those in the present case is that in the present case the penalty in question was not fixed, but was a maximum penalty. In these circumstances we do not consider that it would have been appropriate for the CRO to fetter itself, by its

Guidance or otherwise, to having regard when fixing the penalty exclusively to the timetable set out in its Guidance.

45. We consider that the Tribunal reasonably understood that this was the position and that it was not the practice of the CRO to have regard when fixing the penalty to anything other than the length of delay that had occurred and thus that it had applied "the delay provisions in the Guidance in a mechanical way". In fact, as we now know, the CRO has regard both to any information that it possesses when it decides to impose a penalty and to any information provided in a Notice of Objection when deciding whether to enforce the penalty in question, or to reduce it.

46. As we have observed in paragraph 41 above, with a contravention of this nature there is little scope for valid mitigation. Ignorance of the requirements of the relevant Regulation will not suffice. Those who are responsible for the affairs of a company have a duty to make themselves aware of the Regulations that are applicable to it. It is not appropriate to draw what, in this context, are fine distinctions based on the size of the particular company. Nor, with a contravention of this kind, is it necessary or appropriate to consider whether damage has been caused to third parties or a benefit gained by the company from the infringement, as Mr Daillet urged us to do. Reasonable mitigation will, however, exist where some unforeseen occurrence, that the company could not reasonably have been expected to prevent, rendered it impossible to effect the required filing.

47. Both the CRO and the Tribunal accepted that the reason why ILC did not file a notice of a change of address of its registered office was because of a failure on the part of its officers to appreciate that the number of the floor was an essential part of the address. The Tribunal considered that this mistake was "not inexcusable". The equivalent Regulations in Dubai expressly state that the address of the registered office of a company must include the floor. The Tribunal recommended that the CRO's Guidance should be amended to "make good this omission". This recommendation has now very properly been followed.

48. Having expressly accepted ILC's explanation and "the mitigation provided" was the CRO wrong to conclude that this did not justify a reduction in the penalty? We are unable to accept that its decision was "wrong in principle and clearly disproportionate." Whether or not he had been legally required to do so, Mr Daillet had included the floor and number of ILC's office as part of the address of ILC's registered office. Mr Daillet frankly accepted that he had been at fault in failing to correct the address of ILC in the company's Annual Returns for 2012 and 2013 so as to show the change of floor and room number. We consider that it ought to have occurred to him that it was at least possible that he had to notify a change of the address of the company's registered office and that he should have clarified the position with the CRO. In these circumstances it was open to the CRO to conclude that his mistake did not justify or require the departure from the application of the provisions of the Guidance to the determination of the penalty. It follows that the appropriate course is to reinstate the penalty of US$ 2,000.

ACCORDINGLY, THIS COURT

GRANTS PERMISSION TO APPEAL

ALLOWS THE APPEAL

REINSTATES THE PENALTY OF US$ 2,000 IMPOSED ON ILC

MAKES NO ORDER AS TO COSTS.

By the Court,

Lord Phillips of Worth Matravers
President of the Court

Representation:

For the Applicant: Mr Robert Purves, Counsel (3 Verulam Buildings, London)

For the Respondent: Mr Michel Daillet, Advocate, (International Legal Consultants LLC, Doha)