**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**

**FIRST INSTANCE CIRCUIT**

**25 September 2014**

**CASE NO: 02/2013**

**CHEDID & ASSOCIATES QATAR LLC**

**Claimant**

**v**

**MR SAID BOU AYASH**

**Defendant**

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**JUDGMENT**

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**Members of the Court:**

**Justice Cullen**

**Justice Robertson**

**Justice Al Sayed**

## ORDER

Having accepted jurisdiction in these matters, the **Court DETERMINES:**

1. The Claimant's claim that the Defendant is in breach of Clause 5.2 of his contract of employment is dismissed;
2. The Claimant's claim for compensation in the sum of QR 104,400 is dismissed;
3. The Claimant's claim for damages in the sum of QR 13,380 is dismissed;
4. The Defendant's counterclaim for the payment to him by the Claimant of a bonus in the sum of QR 52,200 is dismissed; and
5. The Defendant's counterclaim for the payment to him by the Claimant of the sum of QR 200, representing bank charges incurred, is allowed.

## JUDGMENT

### Introduction

1. The Claimant is a company of insurance and reinsurance brokers, operating under the laws and regulations of the Qatar Financial Centre. It claims that the Defendant committed breaches of restrictive covenants in Section 5.2 of a contract of employment under which he was employed by it as Head of its Sales Unit, and claims compensation and damages for such breaches. We will refer to the contract as "the Second Contract of Employment" since, though it is dated 1 April 2010, it was signed at the end of February 2012, and apparently intended to supersede a contract of employment signed by the parties in April 2010 ("the First Contract of Employment") when the employment of the Defendant commenced. Section 5.2 of the Second Contract of Employment is headed "Non-Competition". It relates to a period of one year after the termination of his employment, which in the event followed his intimation of resignation on 2 April 2013.

2. The Defendant maintains a counterclaim for payment of a bonus. He also seeks payment in respect of bank charges incurred by him as a consequence of delay in payment of his salary for the month of April 2013.

3. The trial of the issues between the parties took place on 21, 22 and 23 September 2014. Evidence was given by Ms. Myrna Ghaziri, the HR and Projects Director of the Chedid Group, of which the Claimant is part, followed by that of the Defendant. Witness statements by each of them had been filed in advance of the trial.

4. In the text of his opening statement, which was filed on 11 September 2014, counsel for the Defendant advanced for the first time a contention that the Defendant had been constructively dismissed, and consequently the Claimant was unable to rely on the restrictive covenants. At the outset of the trial, having heard from the parties, we reluctantly permitted the Defendant to include this contention in his case, but, having regard to the fact that the Claimant had not had an adequate opportunity to respond, we reserved this matter pending the outcome of the trial for which both parties had prepared. In the light of this judgment it is no longer necessary to address it.

**The general history of the Defendant's employment**

5. The Defendant, who is Lebanese, came to Qatar to work as an insurance broker. After working for five years for Metlife Alico he undertook employment with the Claimant as an insurance broker. On 17 March 2010 Mr. Bilal Adhami, then Managing Director of the Claimant, made a written offer of employment to the Defendant as Sales Unit Manager as from 1 April 2010. The parties referred to it as "the Offer" and for convenience we will do likewise, though it contained a number of terms and conditions as comprising his "contract of employment". They included a stipulation that after a probationary period of three months the employment was terminable by either party giving one month's notice in writing, a statement that the Claimant reserved the right to change "any of the terms and conditions detailed in this contract as and when appropriate", and a restriction on the Defendant trading on his own account and accepting other employment while he was employed by the Claimant. The Offer did not contain a non-competition clause relating to a period after the end of the Defendant's employment. The Defendant signified his acceptance of the Offer on 18 March 2010.

6. In April 2010 the parties signed the First Contract of Employment which was dated 1 April 2010. Under it the Defendant was employed as Sales Unit Manager, following a probationary period, for a year and thereafter for successive periods of twelve months unless either party gave sixty days' written notice. It contained an extensive number of terms and conditions, including a non-competition clause relating to a period of two years after the end of the Defendant's employment. In February 2011 the Defendant was appointed Business Development Manager, and was thereafter concerned with attracting larger accounts.

7. In April 2012 the parties signed the Second Contract of Employment, which was also dated 1 April 2010. It did not set out in what capacity the Defendant was employed. It stated, in Section 2.1, that the Claimant agreed to employ the Defendant for the "Job" and the Defendant accepted such employment following the terms and conditions set forth in the Contract and subject to the applicable Regulations "as per the employee's Job description described in Exhibit No 1 enclosed herewith." The expression "Job" was defined as meaning "the work performed by the employee under this Contract as identified and described in Exhibit 1 to this Contract and as may be amended from time to time by the employer at its sole discretion always in accordance with the QFC Regulations and the QFC Immigration Regulations." Exhibit 1, however, was blank apart from the words "To be provided".

8. For the Claimant Mr. Honein accepted that there was no evidence that an agreed text had been provided for Exhibit No 1. That was despite the provision in Article 17 of the QFC Employment Regulations that the employer has to give each employee a written employment contract which, inter alia, includes "the job title or job description". Late in the trial Mr. Honein produced a copy of a Form Q03 which had been submitted by the Claimant to the Qatar Financial Centre Regulatory Authority on 1 June 2010 when seeking its approval of the Defendant's employment in a controlled function. Part of the form was a declaration which had been signed by the Defendant. He gave evidence that he had had help in the completion of the form. He had never seen the attachments, one of which was a "Job Description". He pointed out that two of the bullet points in that document under "Responsibilities" did not apply to him, and we noted that the text under "Profile" appeared to set out the characteristics for a suitable applicant for employment. We found this document to be of no assistance in regard to making good the blank in the terms of the Second Contract of Employment.

9. Section 5.2 of the Second Contract of Employment provided, so far as relevant to the present litigation, as follows:

*"**Non Competition***

*The EMPLOYEE acknowledges that by entering this contract with EMPLOYER, the EMPLOYEE will be in a position to establish and maintain personal goodwill with existing clients of EMPLOYER and to develop personal goodwill with future Clients of EMPLOYER.*

*In consideration of and as a fundamental inducement to EMPLOYER entering into this Contract and in accordance with Article 20 of the QFC Employment Regulations, the EMPLOYEE hereby agrees and solemnly undertakes that, she/he will not for a period of (1) year following the effective termination of her/his employment for any reason whatsoever, undertake or hold an interest, directly or indirectly, whether against a compensation or gratuitously, whether for her/his own account or for that of another, in any work the nature of which competes with the nature of the Job. By way of example and not limitation, this non-compete clause includes:*

1. *contracting with companies in competition with the EMPLOYER or with companies having activities linked directly or indirectly with the Employer's activities.*

2. *contracting with any Client or Supplier serviced by the EMPLOYER during one (1) year period immediately preceding the date on which she/he ceases for whatever reasons to be employed by the EMPLOYER; or furnishing or rendering any service of the same nature as or competitive with those furnished or rendered by EMPLOYER in Qatar at the time of termination of his employment to any Client of EMPLOYER whether any such Client is or was under contract with EMPLOYER in Qatar or is or was using any of the services of the EMPLOYER in Qatar.*

.....

7. *Approaching, persuading or attempting to persuade any Client to cease doing business with Employer or to reduce*

*the amount of business such a Client would otherwise have placed through Employer whether or not the relationship between Employer and such Client(s) was originally established in whole or in part through the Employee's efforts.*

.....

10. The Defendant intimated his resignation from employment with the Claimant by email dated 2 April 2013. According to his evidence he did so because he had problems with the company. He was unhappy that he had inadequate assistance in collecting money due to the Claimant, on which he had been instructed to concentrate. It is also plain that he did not enjoy a good relationship with Mr. Kirk Austin who had been appointed General Manager in about September 2012. Some weeks after his resignation he obtained employment in Doha as the General Manager of Aman Insurance Brokers.

**The validity of Section 5.2 of the Second Contract of Employment**

11. At the outset of this litigation the Claimant claimed that the Defendant had breached paragraphs 1, 2 and 7 of Section 5.2. In his closing submissions Mr. Honein restricted its claim to paragraphs 1 and 2. He was right to do so as there was no evidence as to paragraph 7 having been breached.

12. The Defendant claims that Section 5.2 and in particular paragraphs 1 and 2 are invalid, relying on Article 20 of the QFC Employment Regulations which states:

*"Restrictive Covenants*

*Any provision in an Employee's employment contract that provides that the Employee may not work on any similar projects or for a company which is in competition with the Employer must be reasonable, must not constitute an unreasonable restraint on trade, and must be appropriate to the circumstances of the Employee's employment with the Employer."*

13. Mr. Honein correctly accepted that the onus was on the Claimant to show that the restrictive covenants satisfied Article 20. He also accepted that their validity fell to be determined as at 1 April 2010. He relied upon the statement in Section 5.2 that the employee's agreement and undertaking was "in accordance with Article 20 of the QFC Employment Regulations". He submitted that the restrictions were reasonable in respect of time, space and the nature of activity. They fell to be interpreted in the light of the common intention of the parties, in accordance with Article 45 of the QFC Contract Regulations. Mr. Honein at first treated paragraph 2 of Section 5.2 as a non-solicitation provision. In his closing submissions he maintained that it should be treated as a "non-contracting" provision, as opposed to the non-competition provision which was the subject of paragraph 1. He said that, in the light of the fact that, within one year of resigning from the Claimant's employment, the Defendant had undertaken employment by Aman Insurance Brokers and had acted as broker for four former clients of the Claimant, he had acted in breach of paragraphs 1 and 2 respectively.

14. We are bound to say that the evidence relied on by Mr. Honein in support of his case on Article 20 was extremely slender. We attach no value to the reference to Article 20 in Section 5.2 which is merely self-serving. His remarks about time, space and activity were little more than assertions. We do not overlook the fact that Ms. Ghaziri gave evidence that the insurance market in Qatar was small, composed of numerous insurance and reinsurance companies. This made for a highly competitive market which was very demanding in qualified personnel. As a recently established company in such a competitive market the Claimant needed to protect its business and its clients.

15. For the Defendant, Mr. Kennell pointed out that in the present case there was no suggestion that Section 5.2 was founded on the risk that the employee might use to his advantage trade secrets to which he had gained access in the course of his employment. It was asserted for the Claimant that it was founded on the risk that the employee might use to his advantage the connection with his employer's clients which he had formed as a consequence of his employment. It was important to bear in mind that this applied to both paragraphs. A restriction against competition had to be shown to be reasonably necessary for the protection of the employer's business connection with its clients, which was normally difficult to achieve.

16. Mr. Kennell also drew attention to the structure of Section 5.2. It did not consist of a number of distinct clauses, but contained a general undertaking followed by a number of examples. This made it difficult to treat a part of it separately, either

for the purpose of interpretation or for testing its severability. The whole was described as a "non-compete clause". It was for the Claimant to show that it had legitimate interests requiring protection, and that the covenants were not more than was reasonably necessary. He referred in this connection to *TFS Derivatives Ltd v Morgan* [2005] IRLR 256 at paragraphs 36-38 as containing an approach similar to that in Article 20. The Court should not be astute to read down, let alone rewrite, a provision which appeared to be unreasonable (*Mason v Provident Clothing and Supply Co Ltd* [1913] AC 742, per Lord Moulton at page 745).

17. Mr. Kennell submitted that at the heart of the present case was the problem of the absence of the contractual description of "the Job", to which we have referred above. For the purpose of the covenants the Defendant had to know what he could do and what he could not. Different brokers might have different responsibilities. He instanced the present case in which the Defendant in early 2013 had been instructed to concentrate on collection when his normal work had been in sales.

18. He also founded on the fact that it was the unchallenged evidence of the Defendant that prior to his employment by the Claimant he had between 120 and 150 contacts who became clients of the Claimant through him. The Claimant could not assert it had the right to protect a business connection with clients who had been introduced to it by the Defendant, as opposed to clients with whom the Defendant had forged a business connection for the Claimant in the course of his employment. He founded on the evidence of Ms. Ghaziri that the Second Contract of Employment was a standard form of contract applying to all employees of the Claimant and so not adapted to the case of the Defendant. He drew our attention to remarks made by the Court of Appeal in *M & S Drapers v Reynolds* [1957] 1 WLR 9, which was concerned with a covenant restricting the activities of a salesman. At page 18 Denning LJ said:

> *"...I do not see why the employers should be able to forbid him to call on the people whom he already knew before he worked for them – the people whom I will call "his customers." His knowledge of these people, and his influence with them, were due to his own efforts or at any rate were nothing to do with these employers. His goodwill with these customers belonged to him, and cannot reasonable be taken from him by a covenant of this kind."*

19. Mr. Kennell also maintained that, even apart from these considerations, there was no need for a non-compete clause. On the evidence the Claimant would have no difficulty in finding out whether certain clients had gone to the Defendant. So, for example, there was no need to resort to a restraint on him being engaged by a competitor. We would also observe that it appears that it is not uncommon for clients of insurance brokers to shop around from year to year, which of itself would tend to weaken the justification for employers seeking protection for a business connection with their clients. Mr. Kennell also criticised the width of the geographical area which could be covered by Section 5.2, when read along with Section 5.4 which provides:

> *"**Extension of Clause***
>
> *The EMPLOYEE acknowledges, understands and agrees that since the EMPLOYEE will/may be working with the Related Companies of the EMPLOYER in accordance with Section 2 here above, and that some of the Related Companies are situated abroad, then the restrictions mentioned in the present Section shall apply with respect to those countries where the Related Company(ies) is/are incorporated or conduct(s) its/their business."*

20. We consider that the arguments presented by Mr. Kennell were well founded and we accept them. The Claimant used a standard form of contract which took no account of the circumstances of the Defendant's employment. In his case the absence of a contractual description of "the Job" created uncertainty. This is of critical importance. Section 5.2, and in particular the paragraphs founded on by the Claimant, do not measure up to what is required by Article 20. Accordingly the Defendant has committed no actionable breach of them.

**The Second Contract of Employment as a whole**

21. The Defendant also challenged the validity of the Second Contract of Employment having regard to Article 36 of the QFC Contract Regulations, which states:

> *"A party may avoid the contract when it has been led to conclude the contract by the other party's unjustified threat which, having regard to the circumstances, is so imminent and serious as to leave the first party no reasonable alternative. In particular, a threat is unjustified if the act or omission with which a party has been threatened is wrongful in itself, or is wrong to use it as a means to obtain the conclusion of the contract."*

22. The Defendant gave evidence that in February 2012 he was at a meeting with Mr. Farid Chedid, the CEO of Chedid and Ms. Ghaziri at premises of SEIB Insurance and Reinsurance Company LLC, another company in the Chedid Group. The meeting was about his performance assessment. Addressing Ms. Ghaziri Mr. Chedid said that he proposed to change the contract of employment for all employees, introducing a charge of six months' salary for the breach of a non-compete clause. He said that all should sign the new contract of employment or they should go. He (the Defendant) asked whether this included him, which Mr. Chedid confirmed. He first saw the Second Contract of Employment at the end of February. An employee from HR asked him to sign it as all the contracts were to be changed. He said he had no choice in view of what had been said at the meeting. Asked why he did not object he said: "To whom should I have objected? This was a company-wide contract."

23. Ms. Ghaziri accepted that there had been a performance assessment meeting attended by herself, Mr. Chedid and the Defendant. Nothing was said about the contract, or about what would be done if the Defendant did not sign. She said, and the Defendant disputed, that she had a one to one meeting with him, at which she highlighted the main difference between the new and the previous contract, notably in regard to the non-compete clause. The change was designed, she said, to clarify and make some matters more explicit, taking the advice of a consultant to change the post-employment period from two years to one year. The new one was better for employees. Asked whether she told them that they did not have to

sign, she replied "yes, of course". But she also said to them that a new one "needs to be signed." No member of staff had objected. Had the Defendant not been satisfied, he would have been welcome to voice his reservation, and even indicate that by writing on the contract. Asked whether the change was for the company's benefit, she said "not really", adding "we never had a problem."

24. We accept the Defendant as a credible witness. He gave his evidence in an understated manner, free from embroidery. Ms. Ghaziri was over-assertive, and at times evasive. Where there was conflict between them in regard to the circumstances in which the Second Contract of Employment was created and issued we prefer the evidence of the Defendant. We were not persuaded by her evidence that she told employees such as the Defendant that they need not sign, or that the change was "not really" in favour of the Claimant.

25. As regards the question whether Article 36 was satisfied in the present case, we accept that a reasonable person in the position of the Defendant, who depended on holding a post of some importance for the support of himself and his family, would be likely to take seriously what had been said at the meeting, and would be reluctant to take a stand against the introduction by the Claimant of a new contract of employment for all employees. Moreover, we accept that the Defendant genuinely felt that he had no choice but to accept the Second Contract of Employment and sign it. In these circumstances we consider that if the Defendant had to rely on Article 36 in order to displace the restrictive covenant, he would have satisfied the requirements of Article 36, and avoided the Second Contract of Employment.

**The First Contract of Employment**

26. There may be a question as to whether the avoiding of the Second Contract of Employment would have led to the reviving of the First Contract of Employment. However, in our view this is an academic question. We have noted that the First Contract of Employment first came to the attention of the Court when the Defendant filed a copy of it as an exhibit with his witness statement dated 16 July 2014. At no point did the Claimant plead or argue that the Defendant had in any event acted in breach of its restrictive covenants. That is not surprising. It appears that the considerations which have been decisive in the case of the Second Contract of Employment would have applied to it also. Moreover, we note that its restrictive covenants extended to the protection of the business

connections of related companies, over a much wider geographical area and for two years rather than one year following the termination of employment.

**Prohibition of employment by Aman Insurance Brokers**

27. The original claim sought to restrain the Defendant for the one year period from the end of his employment with the Claimant. During the trial Mr. Honein conceded that, owing to the passage of time, this was no longer a live issue.

**Claim for compensation and damages**

28. For completeness we turn to the claim which was made for breach of the contractual arrangements dealt with in clause 5.5 of the Second Contract of Employment. It provided:

> *"5.5 Compensation for Breach*
>
> *In the event of a breach of the non-competition and confidentiality clauses provided for this contract and notwithstanding any other remedy and rights that the EMPLOYER is entitled to by law, the employer shall be entitled to a final, pre-agreed upon compensation that cannot be subject to any lower adjustment by any authority or Court whatsoever, equivalent to six(6) times the EMPLOYEE's last monthly basic salary.*
>
> *The payment of such compensation does not replace, supersede, cancel or waive the EMPLOYER's right to sue the EMPLOYEE for reparation of all material and moral damages caused to the EMPLOYER."*

29. The Claimant sought QR 104,400. This was the acknowledged calculation on the basis of a base salary of QR 17,400 per month as the consensual compensation under the first paragraph.

30. As the words of the clause permitted, in addition the Claimant sought the determination of compensation as a result of material and moral damage. There was a provisional estimate of QR 13,380. Article 101 of the QFC Contract Regulations is relevant and provides:

> *"The aggrieved party is entitled to compensation for loss sustained as a result of the breach so that he will be placed in the position he would have been in if the Contract had been properly performed."*

31. In the course of the hearing Mr. Honein accepted that there was no evidence before the Court as to any such damage. The onus of proof was on the Claimant so this aspect could not succeed.

32. The position with regard to the consensual damages is governed by Article 107 of those Regulations and it provides:

> *"(1) Where the Contract provides that a party who does not perform is to pay a specified sum to the aggrieved party for such non-performance, the aggrieved party is entitled to that sum irrespective of its actual harm.*
>
> *(2) However, notwithstanding any agreement to the contrary, the specified sum may be reduced to a reasonable amount where it is grossly excessive in relation to the harm resulting from the non-performance and to the other circumstances."*

33. The provision is not straightforward; Article 107(1) speaks of "actual harm" whereas the proviso in Article 107(2) with regard to the figure being "grossly excessive" speaks only of "harm". Neither counsel argued that there was any material difference and we are content to proceed on that basis.

34. In the present case there was no evidence of any harm resulting from the alleged breach of the non-contracting provisions. The only reference to the issue is in the sworn statement of the Defendant which makes clear that any business which he had any involvement with which could fall into the category, was business which

the Client had already determined was not going to be placed with the Claimant again.

35. Where there is no harm proved to have resulted from non-performance, any payment under this head would in our view be grossly excessive. Particularly, when on the facts, there is no causal connection between even the alleged loss of premiums by the Claimant which were pointed to and the alleged acts in contravention by the Defendant.

36. Mr. Kennell drew our attention to a number of English cases on penalty clauses. We have not found it necessary to assess them as there is a simple question of interpretation of the Regulations which is determinative. Our position on interpretation is in any event consistent with the authorities. For example, we have in mind the helpful summation of the law by Mance LJ in *Cine Bes Filmcilik Ve Yapimcilik v. United International Pictures* [2003] EWCA Civ 1669.

37. It follows that if there had been a breach of non-contracting provisions there would have been no entitlement to damages on either basis as advanced by the Claimant.

**Counterclaim**

38. The statement of Claim was filed on 13 October 2013. On 4 December 2013 the Defendant in person filed his Memorandum of Defence. His response included matters which must have appeared relevant to him but with hindsight did not engage with important aspects of his position. They included issues which have not been pursued. There was a tangential reference to financial obligations owed to him. A series of memoranda were filed on each side and after 26 February 2014 the Defendant had legal representation.

39. On 24 March 2014 the parties were advised that at the hearing scheduled for 2 April 2014, enumerated matters would be considered as part of General Case Management. It was at that conference that there emerged a distinct issue of Counterclaim. By Order of 23 April 2014 the Court allowed the formal Counterclaim which had been filed on 9 April 2014 to continue. This sought QR 52,200 which was the amount of a bonus which had not been paid, and QR 200 being a bank charge incurred because of non-receipt of his final month's salary.

40. The only reference in any documentary form to bonuses is in the offer. Clause 6 of this provided:

> *"6. Performance bonus*
>
> *The Company is under no obligation to pay you any bonus whatsoever. However the Company may decide to pay any of its employees an ex-gratia amount as a reward for superior performance in any Calendar year."*

41. There was a question of whether this provision had been superseded by the subsequent contracts of April 2010 and February 2012 which make no reference to any bonus. It was common ground that in February – April 2012 a bonus for 2011 was paid to the Defendant.

42. As to what happened in early 2013 there was a serious conflict in the evidence as between Ms. Ghaziri and the Defendant. Ms. Ghaziri accepted that the question of bonus was raised between them but she said she lacked authority (as the Defendant well knew) to make the decision. He also knew there was a process in which the ultimate decision rested with the CEO Mr. Farid Chedid. Only after that would Ms. Ghaziri communicate and implement the decision taken but she had no actual or ostensible authority. Ms. Ghaziri said that the process took place on 15 April 2013, after the Defendant had already tendered his resignation. As it happened, the only members of staff who were paid bonuses for that year were the driver and the coffee boy.

43. The Defendant was adamant that in January there was a clear and unequivocal promise made by Ms. Ghaziri of a bonus to be paid in February 2013. He said she repeated it in February but then said there would be a delay because there were too many unpaid premiums which had to be collected. After more than QR 1,000,000 was collected from the market there was still no payment to the Defendant. Finally, he was told by Ms. Ghaziri that because he had resigned there would be no bonus.

44. The Defendant had a clear perception of what he thought was an unequivocal promise from Ms. Ghaziri. We suspect with the passage of time he has become more persuaded of the accuracy of his recollection. On this point we found Ms. Ghaziri's account more credible and reliable. It is also consistent with an objective and independent appraisal of all the circumstances.

45. Notwithstanding the tasks and responsibilities which Ms. Ghaziri had as Group Human Resources and Project Director of the Chedid Group, she did not have ultimate authority. Having heard and seen her in the witness box we accept that she would have been persuasive and encouraging as to the possibility but that was as far as it went.

46. The payment of any bonus was always entirely discretionary. That was explicit in the Offer. Nothing occurred in the following 3 years to alter that position between the parties. We reject the Defendant's submission that there had been a concluded decision to exercise the discretion in favour of a bonus for the 2012 year for the Defendant. This part of the counterclaim accordingly fails.

47. The Defendant tendered his resignation on 2 April 2013. He was required to give a month's notice. He was told he should stay away from work. He was entitled to his normal monthly salary about 27 April which routinely came by direct payment to his bank account. Without reasons, authority or justification it was withheld, contrary to the Regulations. As a direct result of the failure to pay his salary the Defendant incurred a bank charge of QR 200 because there were not enough funds in his bank account to cover a standing charge relating to his accommodation.

48. Neither the witness Ms. Ghaziri nor Mr. Honein could offer any basis for the withholding of the final month's salary and we are satisfied that the Claimant is responsible for the consequences which followed.

49. In answer, the Claimant raised the Release and Acquittal letter of 30 April 2013. It is not necessary to set it out in full but it included:

> *"I, the undersigned, Said Abou Ayash of Lebanese Nationality, Passport No. [……..] and QID No. [……..], being an employee of "**Chedid & Associates Qatar LLC**" (the Company"), and following my resignation from the Company, and by this general, irrevocable and unconditional release; discharge and acquittal letter (the "Letter")irrevocably admit, agree and confirm that:*
>
> *I have agreed to receive from **Chedid And Associates Qatar LLC** ("CAQ")the amount of **QR 70, 470 (Seventy Thousand Four Hundred Seventy Qatari Riyals)** (the "Amount") as a full, irrevocable and unconditional lump sum settlement of all and any right and entitlement that I consider myself entitled to whether by law or under any employment contract as a result of my*

*resignation and consequently the termination of my employment ("Work"), including but not limited to all due benefits, expenses, allowances, entitlements, compensation salaries, notice period, end of service indemnities, annual leaves, airplane tickets, expenses and other allowances and rights of any nature or cause whatsoever ("Rights");*

*In consideration of receiving the Amount, I hereby completely, finally, irrevocably and unconditionally acquit, discharge and release the Company and all of its associated legal entities, directors, officers and shareholders from any past, present and future rights, claims, debts and/or compensations whatsoever."*

50. It purported to be an absolute bar to any further action by the Defendant.

51. Article 36 of the QFC Contract Regulations is set out at paragraph 21. At the time the document was signed on 30 April 2013 the Defendant was already being held out of his salary to which he had an absolute entitlement. The other payments he eventually received were his entitlements under the Regulations. He desperately needed funds. He had no reasonable alternative but to sign the document presented to him or face further delay. The practical effect of the Claimant's requirement was that the Defendant had no option but to sign.

52. Under it he was receiving nothing apart from that to which he had a clear and unambiguous right. It involved no bargaining or commercial give and take. The Claimant was taking advantage of the Defendant's vulnerability and the implicit threat of more delay could not be contemplated by the Defendant. What the Claimant did was not just a threat it was a cynical step which forced his hand.

53. The Claimant was adopting an unconscionable stance and cannot now use a document created in those circumstances as a shield against liability.

54. The document cannot be permitted to have validity and the Defendant is entitled to the QR 200 which he had to pay in bank charges because of the Claimant's unjustified stance.

By and on behalf of the Court

**Justice Cullen**

Representation:

For the Claimant: Mr. Walid Honein, Counsel (Badri and Salim Elmeouchi Law Firm)

For the Defendant: Mr. Roger Kennell, Counsel (Brown Rudnick LLP)



DIGITALLY SIGNED AND VERIFIED
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