محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

In the name of His Highness Sheikh Tamim bin Hamad Al Thani,

Emir of the State of Qatar

Neutral Citation: [2023] QIC (F) 28

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 4 July 2023

CASE NO: CTFIC0029/2022

ZAID AL-SALMAN

Claimant

v

RASHID AL-MANSOORI

Defendant

JUDGMENT

Before:

Justice Lord Hamilton

Justice Fritz Brand

Justice Ali Malek KC

Order

1. The Defendant shall pay to the Claimant QAR 106,200 in respect of his claim relative to account receivables.

2. The Defendant shall further pay to the Claimant QAR 10,271 in respect of pre-judgment interest on the above.

3. Post-judgment interest shall run on the above sums at the rate of 5% per annum but, in the event of failure to pay in full by 3 August 2023, at 7% per annum on any then outstanding amount.

4. The Claimant's claim in respect of loss of earnings consequent on termination of his contract of employment with Rödl Middle East LLC is dismissed.

5. The Claimant is entitled to recover from the Defendant the reasonable costs incurred by him in this action, such costs failing agreement to be assessed by the Registrar.

Judgment

Background

1. The Claimant is a Jordanian citizen with a background as an accountant, business adviser, and management executive. The Defendant is a Qatari citizen and businessman; he is a member of the board of the Qatar Financial Centre ('**QFC**') and has held important positions in the Qatar Stock Exchange and in other entities.

2. In 2018 the Claimant established a company in the QFC. In 2019, in agreement with the international firm known as "Santa Fe Associates", that company became a certified member of the Santa Fe Alliance. The company's name was then changed to Santa Fe Associates International LLC ('**Santa Fe**'). At that time the Claimant held 100% of the shares in Santa Fe.

3. Later in 2019, the Claimant and the Defendant signed an agreement under which the Defendant agreed to purchase and the Claimant to sell 60% of the Claimant's shares in

Santa Fe. That agreement having been implemented, the Claimant retained 40% of the shares in Santa Fe; he received a salary as its manager. Santa Fe also employed a number of more junior staff.

4. In April 2020 the Claimant and the Defendant jointly established, in Qatar but outside the QFC, another company, named Zaid Al-Salman & Partner for Auditing and Accounting ('**ZS&P**'). The Defendant acquired 80% of the shares of that company and the Claimant 20%.

5. During the first half of 2020, Santa Fe suffered financial difficulties as a result of the Covid-19 Pandemic and related factors. The relationship between the Claimant and the Defendant deteriorated. Ultimately, the Claimant intimated his intention to sell his shares in Santa Fe. He suggested that the shares be valued independently for that purpose but the Defendant was unwilling, on cost grounds, to have such a valuation instructed. In the event, an agreement in writing (the '**Exit Agreement**') was on 18 July 2020 entered into by the parties under which, on certain terms and conditions, the Claimant agreed to sell and the Defendant to purchase the former's 40% shareholding.

The Exit Agreement

6. The Exit Agreement was drafted by the Claimant at the request of the Defendant. Neither of them was legally qualified; nor was legal advice taken in relation to its preparation. The Claimant's draft was provided to the Defendant for his consideration. Certain minor amendments were made prior to its finalisation and signature. The original text was in Arabic but an undisputed translation of it into English was provided for the purposes of this litigation.

7. The translated version of the Exit Agreement, in which the Claimant is described as "*First Party*" and the Defendant as "*Second Party*", provided, among other things:

> ***Fourth**:*
> *The First Party confirms by virtue of this contract that, he has assigned to (surrendered to) the Second Party 40% of the total shares of the company against an amount of QR.201,215/ ….which will be paid to the Second Party as following:*

1. *An amount of Qatari Riyal 41,715… by bank cheque immediately when signing on this contract.*

2. *An amount of Qatari Riyal 159,500/…bearing in mind that this amount represents the 40% of the balance of accounts receivables which is Qatari Riyals 398,750/ …as stated in the financial statements approved by both parties and issued on 30/6/2020 and it shall be payable upon partial recovery from the below mentioned accounts receivables, from each receivable separately according to the below statement of accounts receivable as of 30/06/2020.*
   [There was then set out a table identifying thirteen clients of Santa Fe and the amounts receivable in respect of each of them, as of 30/06/2020, according to the books of the company, these totalling 398,750 QAR.]

   As such the Second Party shall provide the First Party-at the end of every Gregorian month subsequent to the date of this contract- with a monthly statement of the balance of the above clients' accounts receivables and the amount received from it during that month.

…….

***Eighth**:*

The First Party confirms and undertakes that…… he shall be committed before the Second Party to cooperate with good intention in replying to any questions or queries related to the business and clients of the company prior to the date of his contract, and shall give the necessary clarifications if required…

***Ninth**:*

Since the First Party has assigned all his share to the Second Party, it results in the First Party's exit from the sponsorship of the company according to the laws applicable in the State of Qatar in its regard, and as such the Second Party undertakes to put in efforts and to provide all the documents and papers required for the transfer of the sponsorship of the First Party to any party that the First Party wishes, without any objection from the Second Party, subject to the completion of the procedures of the transfer of the ownership of the share-the subject of the sale-from the First Party to the Second Party.

***Tenth**:*

The First Party shall be entitled to work at any governmental or non-governmental authorities or private or public companies whatsoever the job title, without any objection from the Second Party presently or in the future whether in his personal or legal capacity, or in his capacity as the owner of the company and the Chairman of the Board of Directors, and similarly the principle of competition protection will not be applicable on the First Party.

***Eleventh**:*

In the event of arising any dispute around interpretation of any of the clauses of this contract or its implementation, or regarding the rights, duties and responsibilities of both of the parties, the dispute…..may be resorted to Qatar International Court at Qatar Financial Centre in order to resolve the dispute according to the provisions of the Qatar Financial Centre Law No.7 of the year 2005 and the decisions issued in implementation thereof.

8. The dispute between the parties concerns (i) whether there is now due to the Claimant, but unpaid, any sum in respect of clause **Fourth** of the Exit Agreement, and (ii) whether there is any liability of the Defendant to the Claimant in respect of loss arising from the termination of a subsequent contract of employment entered into between the Claimant and a third party. No challenge has been taken to this Court determining either of these issues. Regard being had to clause **Eleventh** of the Exit Agreement and to the approach earlier adopted by this Court in *Amberberg Ltd and another v Fewtrell and others* [2022] QIC (F) 3), we are satisfied that the Court has jurisdiction.

Events subsequent to the Exit Agreement

9. On 13 July 2020 the Claimant received a cheque for QAR 41,715 towards his entitlement under clause **Fourth** of the Exit Agreement. He subsequently received further payments (QAR 39,800 on 9 August 2020 and QAR 13,500 on 2 September 2020) towards that entitlement. No further sums have been paid.

10. For some time prior to his departure from Santa Fe, the Claimant had been looking for employment in Qatar subsequent to that departure. On 16 July he received from Rödl Middle East LLC ('**Rödl**'), a QFC company providing accountancy and auditing services, an offer in writing of employment as Business Development and Client Relations Director on certain terms and conditions. On 20 July 2020 he accepted that offer. He commenced that employment on 26 July 2020 and remained so employed until 14 September 2020 when he was summarily dismissed by Rödl. The circumstances of that dismissal will be considered later in this judgment.

11. The process of transfer of the shares sold under the Exit Agreement and the registration of that transfer were ultimately completed on 6 September 2020. By that stage the Claimant had resigned from his management role in Santa Fe and been removed as a director of it. The Defendant remained and remains the owner of all the shares in Santa Fe.

The outstanding accounts receivable

12. The table in clause **Fourth** of the Exit agreement lists thirteen clients of Santa Fe with respect to whom there were, according to its financial statements as of 30 June 2020, outstanding "*accounts receivable*". Of these, five, namely, Qatar Petroleum ('**GPL**'), Jassor Factory ('*JF*'), AL Montasser Contracting and Trading ('**AMCT**'), Electronics Recycling Factory ('**ERF**') and Specialised Medical Solutions ('**SMS**') are material to this litigation.

13. It is not in dispute that an "*account receivable*" constitutes an asset of Santa Fe, in the form of a debt which, according to its books and records, is currently owed to it by a client. Under the Exit Agreement the listed receivables were to be payable, in the proportions of 40% and 60% respectively, "*upon partial recovery*" from each of the clients mentioned.

14. The Defendant contends that, subject to a minor sum, none of the sums specified with respect to the five clients referred to in paragraph 12, above, is currently payable by him to the Claimant on the ground that none of the relative account receivables has in fact been recovered. The Claimant contends that all of these sums are payable by the Defendant to him, and have been so payable for some time.

15. The Defendant advances certain specific criticisms of the Claimant. First, he contends that when the Claimant left Santa Fe, he failed properly to hand over to the remaining staff the relative business records, giving rise to difficulty in the company recovering from the clients sums due by them. There was also a related suggestion that the Claimant had misrepresented to the Defendant the recoverability of the accounts receivables. Secondly, he contends that, as regards at least some of them, their non-recovery was due to failure by the Claimant as manager with overall responsibility for these clients.

16. The Court rejects without difficulty the first of these contentions. There is no acceptable evidence that the Claimant failed in respect of any duties incumbent on him in respect of the orderly transfer of records. The remaining staff had ready access to Santa Fe's records and various steps were taken to recover account receivables. On the evidence such staff were not disadvantaged by the way in which the Claimant had left them. In addition, the Claimant was bound by an express undertaking in terms of clause **Eighth** of the Exit Agreement to respond " *to any questions or queries regarding the business and clients of the company prior to this date of the contract*" and there is no evidence that the Claimant had been called upon to comply with this obligation and/or that he had failed to do so. On 24 July 2020 he emailed Santa Fe's staff offering to provide any clarification required on any matters related to previous clients. That offer was not taken up. Moreover, there is no evidence of any material misrepresentation by the Claimant to the Defendant.

17. The second contention is encapsulated in the statement in the Defence that "*upon the exit of the Claimant, no payment could be recovered from the clients, as the Claimant had not provided the services to them*". This, in substance, is a contention that Santa Fe had so failed to perform its obligations to the respective clients that it was not entitled to the payment in question; that that failure was attributable to the Claimant personally; and that that failure precluded any right in him to recover relative sums from the Defendant under the Exit Agreement. Before addressing this contention in detail it is appropriate to consider more generally the interpretation of the Exit Agreement.

Interpretation of the Exit Agreement

18. The purpose of the Exit Agreement was to settle the terms on which the Claimant would sell to the Defendant his remaining 40% shareholding in Santa Fe and depart from that company, leaving the Defendant as owner of all its shares and in sole control of its management. Part of the consideration to be received by the Claimant for his shares was a proportionate part of the accounts receivables of Santa Fe, as stated in its financial statements as approved by both parties and issued on 30 June 2020.

19. Clause **Fourth** of the Exit Agreement provides that the sums in question "*shall be payable [by the Defendant to the Claimant] upon partial recovery from the below*

mentioned accounts receivables". It makes no further express provision as to when that obligation to pay will arise. However, it does not follow that in all circumstances the parties (and in particular the First Party) must wait indefinitely for such recovery. The QFC Contract Regulations 2005 envisage that in some circumstances a term or terms may be implied. Article 53(1) provides: "*Implied obligations stem from reasonableness, the nature and purpose of the contract…*".

20. So far as we are aware, this provision has not previously been considered by the Court. The formulation is not identical to that familiar in common law jurisdictions for the implication of contractual terms but is not radically different. In order to decide whether any term, and if so what term, can properly be implied into the Exit Agreement, it is necessary to consider the nature and purpose of that contract.

21. Part of the consideration to be received by the Claimant in exchange for his shares was a proportion (40%) of the specified accounts receivable by Santa Fe, being debts which, according to the approved financial statements, were currently due to it. Once the transfer of the shares had been completed, the Defendant, as the holder of 100% of the shares, would have sole control of how Santa Fe proceeded to recover these debts. On the other hand, the Claimant having left Santa Fe would have no direct control over such recovery.

22. In these circumstances the Court is satisfied that it would be inconsistent with the nature and purpose of the Exit Agreement that there be unreasonable delay in Santa Fe seeking recovery from the relative clients and that, accordingly, there is to be implied into the Exit Agreement a term that the Defendant, as 100% shareholder of the company, secure that it took all reasonable steps promptly to recover these debts. In argument, the existence of such an implied term was conceded on behalf of the Defendant. We believe that, in the circumstances, this concession was rightly and fairly made. It follows that failure by the Defendant to secure that such reasonable steps were taken would constitute a breach by him of that term which, if loss followed, would, subject to the below, render him liable to the Claimant accordingly. If, however, it were to be demonstrated that the relative account receivable was not, and never had been, truly a debt owed to the company, there would be no corresponding liability under the Exit Agreement. Since the "*amounts receivable*" were reflected as such in the financial

statements of the company "*approved by both parties*" (in terms of clause **Fourth**), it would be for the Defendant to demonstrate that this was in fact not so. Such liability could not be avoided by the company, for its own business reasons or otherwise, abandoning or compromising these debts or unreasonably delaying to recover them.

The five account receivables

23. In that context it is necessary to examine in fuller detail the circumstances of the five account receivables in issue.

GPL

24. In 2019 this client engaged Santa Fe to provide business advisory services to it relative to a projected housing development in Mogadishu, Somalia, including a feasibility study. The fee payable was QAR 40,000, half of it on signature of the engagement letter and half on completion of the feasibility study. QAR 20,000 was paid in November 2019. By 15 May 2020 the feasibility study was largely completed. On 30 June 2020 Santa Fe rendered to the client an invoice for the balance of QAR 20,000.

25. No documentary evidence from the client has been provided by the Defendant to explain why that balance has not been recovered by Santa Fe. The Defendant filed a witness statement from a Mr Mandhata, who at one time had been employed by Santa Fe in relation to the feasibility study. That statement includes the assertion that "*the project got cancelled*". Mr Mandhata did not give oral evidence at the hearing. No explanation was given as to why the cancellation of the project in Somalia should adversely affect Santa Fe's entitlement to the balance of its fee for the feasibility study.

26. Other business was subsequently done by Santa Fe with this client; and sums invoiced and paid in respect of it. It has not been demonstrated that all reasonable steps were taken to recover the balance of the fee for the feasibility study.

JF

27. In January 2020 this client engaged Santa Fe to provide an indicative business plan for the purpose of obtaining a bank loan to set up a paper factory in Qatar. It was then anticipated that the work would be completed within a 6-7 week timetable. Santa Fe's

fees were to be payable as to half on signature of the engagement letter and the other half on submission of the business plan.

28. The first payment (of QAR 25,000) was duly made in February 2020. An invoice for the balance of QAR 25,000 was rendered on 30 June 2020. Santa Fe did further work for this client in 2021 and 2022 for which it rendered invoices and was paid. In May 2021 it issued a credit note for QAR 25,000 in respect of the outstanding payment for the business plan.

29. Shortly before the hearing the Defendant filed a letter dated 19 February 2023 from the General Manager of this client which included, under reference to the credit note, the statement "*we have cancelled the engagement letter due to the non-execution of our project*". No witness was tendered to explain this statement-in particular, why "*non-execution of our project*" (presumably, the setting up of the paper factory) justified cancelling the debt due to Santa Fe in respect of its work on the business plan.

AMCT

30. In October 2019 Santa Fe agreed to provide business advisory services for this client in the form of a draft report on certain of its bank transactions. The fee of QAR 150,000 was to be payable as to half on signature of the engagement letter and as to the other half on submission of the draft report. The first instalment was duly paid and, the draft report having been submitted, QAR 50,000 paid towards the second instalment, leaving QAR 25,000 outstanding as at 30 June 2020.

31. Santa Fe, through a junior employee (Ms Alba), pursued recovery of this outstanding debt by sending certain emails between August 2020 and March 2021. There also appear to have been certain meetings in person with staff of this client. However, no formal letter of claim was ever issued to it and no legal proceedings for recovery threatened or taken. So far as appears, this client remains in business. It has not been demonstrated that all reasonable steps were taken to recover the outstanding debt.

ERF

32. In January 2019 Santa Fe was engaged by this client (under its former name) to provide business advisory services with a view to the latter obtaining debt financing from a Qatari bank. The agreed fees amounted to QAR 100,000, of which 15% was payable on signature of the engagement letter and the balance on the client receiving from the bank a confirmed term sheet. The initial instalment was paid. The client confirmed in writing on 30 October 2019 that Santa Fe had duly discharged the engagement to it. Financing was obtained from the bank. On 27 April 2020 the client paid QAR 40,000 towards the balance, leaving QAR 45,000 unpaid.

33. In June 2020 the Claimant was informed by a senior employee of this client that the delay in payment was because the client was awaiting payment to it by third parties. Notwithstanding email and oral communications between junior members of staff between September 2020 and March 2021, the outstanding balance remains due to Santa Fe. No formal letter of claim was ever issued and no legal proceedings for recovery have been threatened or taken. So far as appears, this client remains in business. It has not been demonstrated that all reasonable steps have been taken to recover the outstanding debt.

SMS

34. In January 2020 Santa Fe was engaged by this client to provide business and reconstructing services for Al Kaabi Group, of which the client was, and remains, a member. These services were envisaged originally as to be provided over a protracted period, the fee being stipulated as QAR 210,000 per month, of which QAR 150,000 was to be paid at the beginning of each month.

35. In March 2020 it was agreed, following the onset of the Covid-19 Pandemic, that the project as originally envisaged be cancelled. However, as Santa Fe had already done certain work on the project, it was further agreed that its fee for that work would be 150,000 QAR.

36. In May 2020 the client paid QAR 25,000 towards that debt, leaving QAR 125,00 outstanding. Although emails were sent by Ms Alba between September and December 2020 pursuing payment, no formal letter of claim was ever issued and legal proceedings

for recovery were neither threatened nor taken. So far as appears, the client remains in business. It has not been demonstrated that all reasonable steps have been taken to recover the outstanding debt.

37. Under clause **Eighth** of the Exit Agreement the Claimant was taken bound to reply to any questions related to the business and clients of Santa Fe prior to the date of that agreement and to give the necessary clarifications if required. The assistance of the Claimant has at no stage been sought in relation to any difficulties in recovering debts from clients.

38. The Defendant is accordingly in breach of the implied term in the Exit Agreement. There being no suggestion that any of the clients was or is insolvent or otherwise unable to pay its debts, the implication is that, if these debts had been duly pursued, they would have been recovered. The defendant is accordingly liable to the Claimant for 40% of the sums unrecovered. That liability amounts in total to QAR 106,200.

Loss of earnings by reason of termination of the Rödl contract

39. The second issue in this action is distinct. It involves a claim for damages (now restricted to QAR 60,000) for loss allegedly sustained by the Claimant as a result of the summary termination of his employment contract with Rödl. The contention that the Defendant is liable to the Claimant for that loss is advanced on two alternative bases: first, an alleged breach by the former of a contractual obligation under the Exit Agreement not to object to the Claimant taking or keeping employment with a third party (such as Rödl), and second, an alleged tortious (or delictual) liability for procuring or inducing Rödl to breach its contract with the Claimant. The onus of establishing, in fact and in law, either of these bases rests on the Claimant. It is useful first to address in general terms the relevant legal principles.

40. Article 89 of the QFC Contract Regulations 2005 provides:

> *(1) Breach of contract is failure (without lawful excuse) by a party to perform any of his legal obligation under the contract…. (2) In order to claim breach of contract a party must show that the other party has breached a specific express or implied term of the contract.*

Article 100 of these Regulations provides:

> *Where a party's breach of contract has caused the other party loss the aggrieved party has a right to damages….provided that only loss arising directly from the breach or other loss which can fairly and reasonably have been within the contemplation of the parties at the time the contract was made can be recovered.*

41. The specific term relied on by the Claimant is that inherent in clause **Tenth** of the Exit Agreement. That clause is framed as an entitlement of the First Party to work at any authorities or companies "… *without any objection from the Second Party presently or in the future* …"; the quoted words infer a contractual obligation on the Second Party not so to object. There is a parallel contractual obligation on the Second Party in clause **Ninth** not to object to the transfer of the sponsorship of the First Party to any party that the latter wishes. The earlier clause was not specifically relied on by the Claimant but it is appropriate in the circumstances to consider both clauses.

42. Clause **Tenth** is clearly designed to safeguard the First Party's ability, from and after leaving Santa Fe, to obtain and retain alternative employment or other earning opportunities of his choice. The final words of the clause are directed to obviate any challenge on competition grounds. The intention behind the first part is not so clear. It is widely framed, entitling the First Party to work in any capacity at any authority or company, without any objection from the Second Party in any capacity. The preceding clause (clause **Ninth**) imposes a positive obligation on the Second Party to facilitate the transfer of the sponsorship of the First Party (from Santa Fe) to a party of the First Party's choosing, without any objection from the Second Party, subject to the completion of the share transfer.

43. The existence of clause **Ninth** implies that the parties to the Exit Agreement envisaged that the First Party would, or at least might, need assistance from the Second Party to transfer his existing sponsorship by Santa Fe to a new sponsor in Qatar. At one time the consent of the existing or prior employer was required by Qatari law for a valid transfer. That requirement was finally removed in 2020 in respect of the transfer of sponsorship from a QFC employer to a new employer established in Qatar but outside the QFC (see *Arwa Zakaria Ahmed Abu Hamdieh v Lesha Bank LLC* [2023] QIC (A) 1).

44. The first part of clause **Tenth** is, as we have said, widely framed. It may have been intended to ensure or reinforce the First Party's freedom to obtain and keep alternative employment without objection from the Second Party on grounds related to sponsorship and, possibly, also on other grounds. We proceed for present purposes on the assumption that it was. On that assumption, the issue on this ground of action is whether the Defendant in breach of that clause objected to the Claimant's employment with Rödl.

45. The alternative ground of action is that the Defendant induced (or procured) a breach by Rödl of its employment contract with the Claimant, that breach being his unlawful dismissal without notice. Such a tortious (or delictual) wrong is well-recognised in common law jurisdictions but, so far as appears, has not hitherto been recognised in QFC jurisprudence. However, Mr Kumar, for the Defendant, expressly conceded that such conduct would, in principle, constitute an actionable wrong in QFC jurisprudence, and give rise in appropriate circumstances to a liability in damages. We are prepared, for the purposes of this action, to accept that that concession was rightly made.

46. The legal principles applicable to this wrong were expounded in the House of Lords in *OBG Ltd v Allan* [2007] UKHL 21, [2008] AC 1, especially in the speech of Lord Hoffmann at paragraphs 39-44. Lord Hodge, now Deputy President of the UK Supreme Court, applied these principles when sitting in the Outer House of the Court of Session in Scotland in *Global Resources Group v Mackay* [2008] CSOH 148, 2009 SLT 104, at paragraphs 7-14. Lord Hodge's analysis was cited with approval in the Court of Appeal of England and Wales in *Kawasaki Kisen Kaishi v James Kemball Ltd* [2021] EWCA Civ 33, Popplewell LJ at paragraphs 20-21. The five ingredients (as encapsulated) were:

    i. There must be a breach of contract by B.

    ii. A must induce B to break his contract with C by persuading, encouraging or assisting him to do so.

    iii. A must know of the contract and know his conduct will have that effect.

    iv. A must intend to procure the breach of contract either as an end in itself or as the means by which he achieves some further end.

v. If A has a lawful justification for inducing B to break his contract with C, that may provide a defence against liability.

The factual and legal conclusions relevant to this issue

47. We now turn to the relevant facts as established before us. When the Claimant left Santa Fe in July 2020, he and the Defendant appear to have been on reasonably good terms. When the former told the latter that he had obtained employment with Rödl, the latter wished him well. Although the business done by Rödl was similar to that done by Santa Fe, the Defendant and Mr Mukhaimer, the managing director of Rödl, were personally on good terms.

48. The relationship between the Claimant and the Defendant deteriorated when, in the course of a telephone call on 2 September 2020, the latter pressed the former to sell his shares in the company ZS&P (referred to in paragraph 4, above) to a particular third party, and the former declined to do so.

49. On 6 September 2020 the transfer of the Claimant's shareholding in Santa Fe was formally completed, the QFC having that day issued a Commercial Registration Extract showing the Defendant as 100% shareholder of that company. At the close of business on that day, Mr Mukhaimer called the Claimant into his office and told him that he had received a telephone call from the Defendant making certain complaints touching on the Claimant. On 14 September 2020 he informed the Claimant that he had had a further telephone call from the Defendant. We shall return to these calls. In the event, the Claimant was summarily dismissed from his employment with Rödl with effect from 14 September 2020.

50. The Claimant's employment with Rödl was constituted by an employment offer in writing dated 16 July 2020, accepted by the Claimant. It was of unlimited duration but provided for a notice period of "*Two (2) months before the effective date of Resignation*".

51. Shortly before the hearing the Defendant filed a Second Witness Statement (by himself), annexed to which was a note, signed by Mr Mukhaimer, which include the statement: "*Now on the decision to terminate [the Claimant's] service that was mainly*

based on his performance during his short period of working with us, not because you have contacted us or asked to do so." Mr Mukhaimer did not give oral evidence. No satisfactory explanation was given as to why he was unable to do so, either in person or remotely. There is no evidential material before us to support the assertion that the Claimant's performance while employed by Rödl was in any respect unsatisfactory or that he was dismissed for that reason. In the circumstances we are unable to give any weight to the assertion unconfirmed by the maker.

52. The Claimant gave evidence that in the course of his conversation with Mr Mukhaimer on 14 September 2020 the latter had told him (i) that the Defendant had on the telephone that day threatened to sue Rödl if it continued to employ the Claimant, and (ii) that on the earlier call on 2 September 2020 the Defendant had threatened to cause problems for Rödl with the Ministry of Interior. The Defendant in evidence strongly denied having made any such threats. We accept as truthful the Claimant's evidence that Mr Mukhaimer told him these things but, in the face of the Defendant's denials and in the absence of direct testimony from Mr Mukhaimer, we are unable to give any weight to the content of what the latter told the Claimant.

53. The Defendant in evidence strongly denied that he had objected to Rödl continuing to employ the Claimant. He maintained equally strongly that he would never do such a thing, so as to deny an individual his livelihood. There is no written or other record of the content of either of the telephone conversations between the Defendant and Mr Mukhaimer. The Claimant was, of course, not privy to either of them. There seems little doubt that the employment of the Claimant by Rödl was a topic of discussion in one or both calls and that the Defendant was, from 2 September 2020, not best pleased with the Claimant who had rebuffed his proposal in relation to the future of ZS&P. Between the two calls the transfer of the shares in Santa Fe was formally completed. As at September 2020, the Claimant remained under the sponsorship of Santa Fe; and that circumstance may have been mentioned in one or both of the telephone conversations.

54. However, we are not satisfied that it has been proved that in either of these calls the Defendant made an "*objection*" (within the meaning of clause **Tenth** of the Exit Agreement) to the Claimant continuing to work for Rödl and so caused his dismissal. The quoted word appears, in context, to import an express and direct opposition on a

formal or reasoned basis. The evidence, such as it is, of what was said during these calls is inadequate, in our judgment, for proof of such an objection to Rödl continuing to employ the Claimant or for proof of a causal connection of it with his dismissal. Mr Mukhaimer may have had his own concerns about his company continuing to employ a person still under the sponsorship of another company, if this was pointed out to him by Defendant. The circumstance that the Claimant was, some weeks later, informed by another senior employee of Rödl that Mr Mukhaimer was "*worried from [the Defendant]*" does not advance matters. Accordingly, this ground of action must be rejected for lack of an established factual basis.

55. The alternative ground of action (on the basis of induced breach of contract) must also fail. That the Claimant was dismissed by Rödl in breach of its contract with the Claimant seems plain. On the evidence there were no grounds for summary dismissal and the Claimant was dismissed without due notice or payment in lieu of notice. However, to render the Defendant jointly and severally liable with Rödl for the consequences of that breach it would be necessary to prove, among other things, that the Defendant knew that his conduct would have the effect of the contract being breached. Even if (which has not been established) the Defendant pressed Mr Mukhaimer to end the Claimant's contract, there is no evidence that he pressed him to do so unlawfully rather than lawfully.

56. In these circumstances it is unnecessary to say anything about the measure of damages which would have been appropriate had liability for loss of employment been established.

Other issues

57. The Defendant was in breach of contract by his failure to provide the monthly statements required under clause **Fourth** of the Exit Agreement. However, as no quantifiable loss was demonstrated as having been caused by such breach, no damages fall to be awarded in that respect.

58. As an alternative ground of action in relation to account receivables, the Claimant advanced a contention based on unjust enrichment. However, as the Exit Agreement

remains valid and enforceable and a remedy in that regard is available by force of contract, that ground does not require further discussion.

Interest

59. The Claimant is entitled to interest on the damages awarded to him. As the Exit Agreement envisages that the account receivables might not be recovered immediately on the signing of it, it is appropriate to allow some time thereafter for recovery had reasonable steps been taken in that regard. Twelve months is a reasonable period for that. Accordingly, interest on the awarded damages will run from 18 July 2021 until payment, initially at 5% per annum (this Court's conventional rate). Pre-judgment interest at that rate is calculated at QAR 10,271 on the basis that judgment will be issued at or about 4 July 2023. Post-judgment interest will run at the same rate but, in the event of payment in full not being made by 30 days after 4 July 2023, such interest shall then run at the enhanced rate of 7% per annum on any outstanding amount (*Qatar Financial Centre Regulatory Authority v Horizon Crescent Wealth LLC* [2021] QIC (A) 5; Practice Direction No. 3 of 2021).

Costs

60. The Claimant having been substantially successful in this litigation is entitled to recover from the Defendant his reasonable costs, these failing agreement to be assessed by the Registrar.

By the Court,

[signed]

Justice Lord Hamilton

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant was represented pro bono by Mr Joseph Dyke of McNair International (Doha, Qatar).

The Defendant was represented by Mr Rahul Kumar, Ms Tressa Maria and Ms Zeny Mendonca of International Law Chambers (Doha, Qatar).

DIGITALLY SIGNED AND VERIFIED
موقع رقمياً ومعتمد