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) 47

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 30 November 2023

CASE NOS: CTFIC0065/2023 & CTFIC0066/2023

WHITEPENCIL LLC

Claimant

v

AHMED BARAKAT

Defendant

JUDGMENT

Before:

Justice George Arestis

Justice Ali Malek KC

Justice Helen Mountfield KC

Order

1. The Defendant is to pay to the Claimant the sum of $2,950 within 14 days of the date of this Order.

2. The Defendant is to pay to the Claimant interest on the sum of $2,950 from 30 September 2023 at the rate of 5% per annum until judgment, amounting to $24.80 and continuing at $0.40 per day until the date of payment.

3. The Defendant's Counterclaim is dismissed.

4. The Defendant is to pay the Claimant's reasonable costs of these proceedings to be assessed by the Registrar if not agreed.

5. All other claims are dismissed.

Judgment

Background

1. The Claimant, Whitepencil LLC ('**Whitepencil**' or the '**Firm**') is a legal entity established and licensed by the Qatar Financial Centre (the '**QFC**'). It is a provider of legal services.

2. The Defendant, Ahmed Hamdy Barakat ('**Mr Barakat**'), is a former client of Whitepencil.

3. In these proceedings, Whitepencil seeks to recover against Mr Barakat alleged unpaid fees for legal advice and support. Mr Barakat disputes any liability to Whitepencil and brings a Counterclaim. Mr Barakat is self-represented.

4. On 24 October 2023, the Court decided that, since these claims arose from the same transaction, the claim and counterclaim should be heard together. The parties have exchanged pleadings together with the documentation upon which they rely.

5. The Court has jurisdiction over this claim by virtue of clause 13 of the contract whose consequences are in dispute (described below). These proceedings are subject to the Small Claims procedure that is set out in Practice Direction No. 1 of 2022. Accordingly, and having the considered the pleadings, the Court decided that the dispute could be resolved on paper without the need for oral evidence and further submissions. Both parties indicated that they were content for the Court to proceed on this basis.

The Facts

6. The essential facts are as follows.

7. Mr Barakat sought the assistance of Whitepencil to undertake the technical and procedural process of setting up a company for him in the British Virgin Islands (the '**BVI**'). The Managing Partner of Whitepencil is Ms Venise Nassar and the person who was responsible on its behalf for overseeing the engagement

8. On 6 February 2020, Whitepencil provided Mr Barakat with a written proposal (the '**Proposal**'). It contained a scope of work and a fee quotation. It was signed by both Ms Nassar (on behalf of Whitepencil) and by Mr Barakat.

9. The scope of work set out what work would be done in setting up the BVI company.

10. The fee quotation was in these terms (as far as is material):

> *The default basis for determining fees is the time spent on the matter based on the standard hourly billing rates in effect of our attorneys, in addition to expenses and disbursements.*
>
> *More information about our rates and billing processes is available in our Engagement Agreement. However, we understand that different clients have different needs and we are flexible in our approach to accommodate our clients' needs in offering alternative charging structures. Transparency, predictability and flexibility are key factors in our approach to fees.*
>
> *Further to our exchange, we understand that you are seeking a lump sum fee arrangement for the provision of the legal services in connection with this Proposal.*

We are happy to inform you that, as our client, you benefit from our special arrangement with our BVI business partner and thus benefit from our preferential rates.

Based on the above Scope of Work, we estimate our legal fee to be at USD 3,000, inclusive of the first year's annual registered office/agent services and annual BVI government licence fee. Our Fee Quote is exclusive of any documents' legalization, expenses or disbursements. For such type of matters, our payment terms require the payment of the full quoted fee in advance.

Please note that subsequent annual fees and government licence fee will be due yearly in order to renew the BVI registration. Currently, the renewal cost range between USD2,000 and USD3,000 approximately. However, it will be fixed at the time of renewal based on variable factors including the governmental fees as may be revised from time to time by the BVI authorities.

Please note that any services rendered in addition to the above Scope will be provided as out-of-scope work and will be rendered based on our applicable standard hourly rates. This Proposal shall be valid for ten (10) days as from its issuance date first above written.

We hope the above will meet your expectations. Should our Proposal be satisfactory to you, please countersign this Proposal for approval and return it to us. We will then send you our standard Engagement Agreement for your countersignature.

11. On the same day as the Proposal, Whitepencil and Mr Barakat entered into a written agreement (the '**Contract**'). The Contract set out the terms which Whitepencil was retained to provide legal services for Mr Barakat.

12. The material terms of the Contract included the following:

Clause 6:

<u>Legal Fees</u>

The Firm legal fees are the Firm charges for the Firm legal services.

The default basis for determining fees is the time spent on the matter in addition to expenses and disbursements, unless the parties mutually agree in writing on other fee scheme.

Unless agreed otherwise between the Firm and the Client under any proposal(s), the Firm time will be charged at standard hourly rates applicable to each lawyer and staff assigned to work on any given matter. In determining the chargeable expenses for a matter, the Firm includes telephone calls, meetings, preparation time,

sending correspondence, receiving and reviewing correspondence, drafting documents, travel time, reviewing documents and files, research, and generally all time spent in providing legal services to the Client in the matter.

Our standard hourly rates for associates and partners currently range from $300 for associates to $700 or higher for our most senior partners and counsels. The Firm hourly rates are subject to periodic reviews and adjustment, and the Firm reserves the right to revise the Firm hourly rates in accordance with such general reviews. The hourly rates noted for this Engagement will not be adjusted prior to the end of this year.

The current standard hourly rates of the lawyers who, at this time, have been identified as likely to work on this Engagement, are as follows:

Lawyer	***Hourly Rate*** *(standard)*
Venise Nassar	*500 USD*
Oruba Jalkh	*350 USD*

Legal fees are inherently difficult to estimate. Although the Firm may from time to time give fee estimates, such estimates are by their very nature inexact. The Firm will, however, endeavour to notify the Client as soon as the Firm comes to understand that any estimate given will be, or is likely to be, exceeded.

Interim accounts will be based on the amount of time spent on the matter to the point in time the interim account is sent.

The Firm billing rates are based on the assumption of prompt payment. Consequently, unless other arrangements are made, fees for services and other charges will be billed monthly, semi-monthly, or upon completion of task. Under monthly retainer arrangements and specific type of matters, the fees shall be paid in advance. Invoices are payable upon receipt, unless approved otherwise in writing by the Firm. Accounts unpaid or delayed will be subject to interest calculated on the outstanding balance until the account is paid in full.

Clause 13:

Governing Law and Jurisdiction

*This Engagement Agreement and any dispute, controversy, proceedings or claim of whatever nature arising between the parties or otherwise out of or in any way relating to this Engagement Agreement or its formation (the "**Dispute**") shall be governed by and construed in accordance with the laws of the Qatar Financial Centre (the "**QFC**") and the laws of the State of Qatar.*

The QFC courts shall have the exclusive jurisdiction to settle any Dispute.

13. Pursuant to the Contract, work was conducted by Whitepencil in relation to the BVI company, Gawda Solutions Ltd ('**GSL**'). A licence was issued to GSL on 14 April 2020. This was an annual licence.

14. On the first annual renewal of the GSL licence, Whitepencil sent an email to Mr Barakat on 4 February 2021 asking him to confirm the renewal. Confirmation was given by email on 16 February 2021.

15. For the second annual renewal in 2022, Whitepencil wrote several emails (set out in its Reply) to ascertain whether Mr Barakat wanted to renew the licence for a further year. Mr Barakat did not give instructions or respond to the correspondence.

16. As explained by Whitepencil in its Reply, GSL is registered under Whitepencil's account in the BVI. This means that it has duties under BVI law. This includes duties (i) to make sure that Whitepencil complies with BVI laws and regulations, and (ii) duly to close the file of GSL in the BVI. It is also required to communicate with its BVI agent in respect of its compliance with BVI law. Compliance with these duties generated a substantial amount of correspondence from Whitepencil to Mr Barakat that is set out as Exhibit 3 to Whitepencil's Reply.

17. The work performed by Whitepencil that is the subject of these proceedings is set out in invoice Number 581 dated 30 September 2023 (the '**Invoice**'). The Invoice summarises the work done by Ms Nassar of Whitepencil and the fees due calculated at her agreed hourly rate of $500. The sum claimed is for 5.9 hours, amounting to $2,950. It appears that the work actually performed was greater than the amount claimed.

18. The work done is itemised and related to the BVI license of GSL, its non-renewal and GSL's dissolution. This dissolution resulted in further work with regard to Whitepencil's duties as GSL's company agent and generated a substantial amount of correspondence.

19. The Court is satisfied that the work itemised in the Invoice was in fact carried out by Whitepencil. The issue for the Court is whether the sums claimed are recoverable from Mr Barakat.

20. The documentation exhibited to the pleadings is lengthy setting out attempts by Whitepencil to get paid the sums it asserted to be due. It is unnecessary to set it out in this judgment. In short, Mr Barakat sought a breakdown of the sums claimed in the Invoice. He also questioned why fees had been incurred after a decision had been taken not to renew GSL's licence. He claimed that the sum claimed of $2,950 was, "*excessive and not reflective of any substantive work completed*" (email from Mr Barakat to Whitepencil dated 19 October 2023).

21. There is one further matter to mention as this is relevant to Mr Barakat's Counterclaim. Whitepencil indicated in an email dated 18 October 2023 that it would take action to recover the outstanding fees by way of a conservatory arrest involving Mr Barakat's employer (Qatar Energy LNG). This would involve writing to the legal department of Qatar Energy LNG and copying its CEO (HE Sheikh Khalid Bin Khalifa Bin Jassim Al-Thani).

22. This led Mr Barakat to write to Whitepencil on 18 October 2023 in the following terms:

> *I am writing to remind and emphasize the importance of maintaining the confidentiality of all information and legal documents related to Gawda Solutions that you might have come into possession of during your professional engagements.*
>
> *It has come to my attention that there have been discussions about possibly involving external authorities regarding certain matters. Please be reminded that any unauthorized disclosure or breach of client information, especially to external authorities or third parties, is a violation of our agreement, professional ethics, and applicable laws.*
>
> *Such actions could irreparably harm our professional relationship and would necessitate stringent legal measures to protect our rights and interests. We take the security and confidentiality of our data very seriously, and we expect the same level of commitment from our partners and associates.*
>
> *I urge you to exercise utmost caution and discretion in your dealings and to respect the confidentiality provisions that underpin our*

professional relationship. I hope we can resolve any ongoing issues amicably, without resorting to drastic measures.

23. It appears that Whitepencil did not, in fact, write to Qatar Energy LNG or its CEO.

The Claim

24. Whitepencil's claim is set out in the Claim Form dated 24 October 2023.

25. It explains the nature of the dispute in these terms:

> *We are a QFC licensed law firm, Whitepencil LLC. Our former client, the defendant, refused to pay our Invoice. The defendant had engaged our firm to set up a company for him in the BVI. When the annual renewal of the BVI company licence was due, the client did not respond to any of the communications from our firm. Since the BVI company of the client is registered under our firm account with our BVI agent, our firm is responsible for it and thus had to deal with the BVI agent / authorities to resolve the problem of abandoned company.*

26. Whitepencil formulates its claim in these terms

> *Remedy Sought*
>
> *1 Order the Defendant to Pay to the Claimant our Invoice no. 581 dated 30/9/2023 amounting to 2,950 usd.*
>
> *2 Order the Defendant to Pay to the Claimant the legal fees and expenses in connection with the preparation for and conduct of this case.*
>
> *3 Order the Defendant to Pay to the Claimant damages for the losses incurred by the Claimant, including without limitation to the image of the Claimant with its BVI agent, temporary assessed at 50,000 usd, or alternatively, in such amount as the Tribunal considers just.*
>
> *4 Order the Defendant to Pay to the Claimant interest on the total sums awarded until the actual date of payment.*
>
> *5 The Claimant also seeks an interim order to block a temporary amount under the hand of the employer of the Defendant in anticipation for the execution of the award.*

6 The Claimant reserves the right to request such other relief.

7 Apply to this case the Small Claims procedure (Practice Direction no. 1 of 2022).

The Defence and Counterclaim

27. Mr Barakat disputes the liability to pay on the following grounds.

28. First, he states that clause 6 of the Contract contemplates the parties reaching a fee arrangement and this is set out in the Proposal. He contends that it is not open to Whitepencil to charge fees outside this proposal.

29. Second, in accordance with the Contract, Whitepencil was required to inform Mr Barakat if the estimate was to be exceeded. This information was never provided before the work set out in the Invoice was carried out.

30. Third, Whitepencil never indicated its proposed fees for the dissolution of the BVI company (GSL) and never indicated that it would incur fees for this work. This work was not agreed to.

31. Fourth, Mr Barakat contends that some items in the Invoice are unnecessary or unreasonable.

32. Finally, Mr Barakat brings a Counterclaim based on what he considers to be improper threats by Whitepencil.

33. The remedy he seeks is as follows:

1. Order the Defendant to Pay to the Claimant the legal fees and expenses in connection with the preparation for and conduct of this case and any other relevant cases submitted by the defendant against the claimant.

2. Order the Defendant to compensate the Claimant for the resultant damages suffered, encompassing, but not limited to, the psychological and moral ramifications of jeopardizing the Claimant's professional trajectory, and the ensuing peril to the future of his entire family, should the Defendant actualize their threat of sending a letter to the Claimant's workplace, unjustly alleging debt non-payment without legal merit. Furthermore, for the detriment caused to the Claimant's reputation and

the defamation within his professional sphere through baseless debt allegations, the temporary valuation of this harm is estimated at $50,000 USD. Alternatively, the Tribunal is urged to determine an equitable amount.

3. Compelling the defendant to rescind the most recent invoice, annul the executed agreement with the claimant, and refrain from addressing any future correspondence to the claimant or making any financial demands through the claimant's employer.

4. In the event that the court deems the defendant eligible for any the claimed expenses or compensation, such entitlement shall be pursued directly by the claimant. This approach ensures that no amounts are withheld via the claimant's place of employment. It worthy to mention that the defendant in this case no CTFIC0066/2023 requested in their case no CTFIC0065/2023 where they are the claimant to block a temporary amount under the hand of the CTFIC0065/2023 case defendant's employer through an interim order which confirms the objective of the received threats aiming to damaging the claimant's professional reputation in their workplace.

5. The Claimant reserves the right to request such other relief.

6. Apply to this case the Small Claims procedure (Practice Direction no. 1 of 2022).

The Court's Conclusion

34. The Court is satisfied that Whitepencil is entitled to the sum claimed in the Invoice. The Court's reasons for this conclusion are as follows.

35. The Proposal contains an estimate based on the Scope of Work of $3,000. It is important to stress that this is an estimate and the Contract made it quite clear that an estimate is not a final amount, and that necessary further work would be billed at an agreed hourly rate.

36. It clearly was contemplated that there may be further licence applications going beyond the first year. The Proposal states in relation to a subsequent government licence fee that fees would be due with an indication of a renewal cost range ($2,000 to $3,000). Provision was made for fixing this sum at the time of renewal.

Thus, this work was within the scope of the work agreed when the Contract was signed.

37. As to out-of-scope work, the Proposal is explicit that this would be charged on the basis of an hourly rate ("*Please note that any services rendered in addition to the above Scope will be provided as out-of-scope work and will be rendered based on our applicable standard hourly rates*"). The Contract was an acceptance of the terms of the Proposal, including this clause. It is not the case therefore that there was no agreement as to how this work would be charged, or that Mr Barakat had not agreed to pay for such work if it was required.

38. The Court finds that the Invoice relates to out-of-scope work (that is specified therein); that the work undertaken was reasonably required to be performed after Whitepencil had incorporated a company for Mr Barakat, but he had not indicated that he wished its licence to be renewed. Accordingly, it finds that Whitepencil is entitled to charge at the hourly rate claimed. It follows that the extent of the parties' agreement on matters covered by the scope of work is irrelevant.

39. The Court is satisfied that the sums claimed are reasonable and covered by the Contract. It sees no basis for criticising the work done or finding that it was unnecessary. There was no requirement for Whitepencil to seek explicit consent from Mr Barakat before complying with its duties under BVI law.

40. Mr Barakat complains of being charged by Whitepencil for correspondence. But it is clear from the Contract that time chargeable to the client includes (<u>emphasis added</u>):

> *telephone calls, meetings, preparation time, <u>sending correspondence, receiving and reviewing correspondence</u>, drafting documents, travel time, reviewing documents and files, research, and generally all time spent in providing legal services to the Client in the matter*.

So, there is no proper basis for that complaint.

41. It follows that Whitepencil is entitled to claim the sum of $2,950. This should be paid within 14 days of the date of this judgment.

42. In addition, the Court will award interest on this sum at the rate of 5% per annum from the date of the Invoice (30 September 2023) until the date of judgment amounting to $24.80 and continuing at $0.40 per day until the date of payment.

43. The Court rejects Whitepencil's broader claim for damages for $50,000 or some lesser sum. This is said to relate to damages to Whitepencil's image (or reputation) with its BVI agent and the BVI authorities. The Court has seen no evidence that any damage has been suffered and so awards nothing under this head of claim. The Court is confident that the BVI agent and the BVI authorities will understand that the Whitepencil is not responsible for any breaches of BVI law.

44. As to the claim for an interim order seeking to attach Mr Barakat's wages, this is a matter for the Enforcement Judge in the event that any judgment remains unsatisfied 14 days after the date of this judgment.

45. The Court dismisses Mr Barakat's Counterclaim for damages of $50,000 (or a lesser sum). On the Court's findings he has wrongly failed to pay the Invoice. Whitepencil was therefore entitled to take steps to recover the amounts owing. In any event it appears that Mr Barakat's debt was not in fact notified to Qatar Energy LNG or its CEO and so no harm was done. There is no legal basis for the Counterclaim for damages.

Costs

46. As the successful party, the Court finds that Whitepencil can recover its reasonable costs (including the costs of defending the Counterclaim) from Mr Barakat, to be assessed by the Registrar, if not agreed.

By the Court,

[signed]

Justice Ali Malek KC

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

Representation

The Claimant was self-represented.

The Defendant was self-represented.

DIGITALLY SIGNED AND VERIFIED
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