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: [2025] QIC (A) 4

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

[On appeal from [2024] QIC (F) 52]

Date: 19 March 2025

CASE NO: CTFIC0019/2023

QATAR FINANCIAL CENTRE AUTHORITY

Claimant

V

HORIZON CRESCENT WEALTH LLC

(IN LIQUIDATION)

Defendant

AND

QATAR FINANCIAL CENTRE REGULATORY AUTHORITY

First Interested Party

AND

MOHAMED ABDULAZIZ MOHAMED EL-EMADI

Second Interested Party

AND

OPUS RESTRUCTURING LLP

Third Interested Party

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Chelva Rajah SC

Justice Fritz Brand

Order

1. The applications for permission to appeal from the judgment of 17 November 2024 and the order of 24 December 2024 be adjourned until after the First Instance Circuit has heard argument on and determined whether the Liquidator is entitled to use the funds claimed to be the property of the Purported Trusts for the purpose of paying the expenses of the liquidation.

2. Any application in respect of any interim use by the Liquidator of the funds claimed to be the property of the Purported Trusts, until the First Instance Circuit has determined the issue set out in paragraph 1, is to be considered by the First Instance Circuit.

Judgment

1. We have considered the applications made to us on behalf of the beneficiaries of the Purported Trusts and Mr Baeriswyl. It is unfortunate that those representing the beneficiaries of the Purported Trusts and Mr Baeriswyl did not apply to become parties more swiftly to make their standing clear and have not co-operated more expeditiously and more fully with the First Instance Circuit

2. It appears that in consequence the First Instance Circuit was not put in a position where it could hear argument on and finally determine (i) the entitlement of the Liquidator to use funds claimed to be the property of the Purported Trusts, or (ii) on the applicability of the Berkeley Applegate principle (named after *Re Berkeley Applegate (Investment Consultants) Ltd* [1989] Ch 32) referred to in paragraph 57 of the judgment of 17 November 2024. The First Instance Circuit has only been able to express provisional views; it has made no determination.

3. We consider that the First Instance Circuit should, before we consider any application for permission to appeal on those issues, (i) hear full and proper argument on all the issues relating to the use of the funds claimed to be trust property by the Liquidator for the expenses of the liquidation, and (ii) determine those issues. It is for the First Instance Circuit to determine the order in which such issues be determined.

4. If any application is to be made in relation to the use by the Liquidator of the funds claimed to be the property of the trusts under paragraph 1 of the order of 24 December 2024 pending the determination of the issues set out above, that application must be made to the First Instance Circuit as provided for in paragraph 3 of the order of 24 December 2024.

5. There is no merit in the applications for permission to appeal in respect of all the other issues in relation to the judgment of 17 November 2024 and the order of 24 December 2024. Permission to appeal on those issues is refused.

By the Court,

Lord Thomas of Cmwigedd, President

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

Representation

Mr Patrick Baeriswyl was represented by MH Partners SA (Geneva, Switzerland).

Mrs Lleana Mercedes D'Lacoste Agudelo and Mrs Eniluz Jhoana Aponte were represented by Chabrier Avocats LLC (Geneva, Switzerland).

DIGITALLY SIGNED
AND VERIFIED
موقّع رقمياً ومعتمد