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 (F) 47

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 30 September 2025

CASE NO: CTFIC0019/2023

RE HORIZON CRESCENT WEALTH LLC
(IN LIQUIDATION)

JUDGMENT

Before:

Justice Sir William Blair

Justice Ali Malek KC

Justice Dr Muna Al-Marzouqi

Order

1. The applications of Ms Maria Gharbi, Mr Norredine Sebti, Mr Alessandro Delli Compagni, Ms Ileana Mercedes D'Lacoste Agudelo, and Ms Eniluz Jhoana Gonzalez Aponte are dismissed.

2. The application of Mr Vincent Rime is allowed, the precise value of his claim to be determined by the Liquidator.

3. The application of Mr Patrick Baeriswyl to be joined as an Interested Party in these proceedings is dismissed.

4. The reasonable renumeration and expenses of the Liquidator, properly incurred in the course of the liquidation, are to be paid out of the trust assets.

5. The remaining parties in these proceedings are to agree on any further directions that they wish the Court to make. Such agreed directions are to be submitted by no later than **16.00 on 13 October 2025**.

6. Any successful party wishing to recover its legal costs from any unsuccessful party must make an application to the Court for the same no later than **16.00 on 13 October 2025.**

Judgment

1. This is the judgment of the Court following the hearing of various applications arising in the liquidation of Horizon Crescent Wealth LLC ('**HCW**'). In particular, the hearing is concerned with applications of six individuals claiming to be entitled as having paid money to HCW under trusts (the '**Trust Claimants**'). Their applications are referred to as the '**Submitted Claims**', being those put forward for admission into the liquidation. There are other applications which will be identified in the course of this judgment.

2. The case has been before the Court on a number of occasions, but it is nevertheless important to set out some of the background.

3. The Court notes that the formal case title has been amended in this judgment to "*Re Horizon Crescent Wealth LLC (In Liquidation)*". The parties to the proceedings are as follows: the Qatar Financial Centre Authority as Claimant, Horizon Crescent Wealth

LLC (In Liquidation) as Defendant; the Qatar Financial Centre Regulatory Authority as First Interested Party; Mr Mohamed Abdulaziz Mohamed El-Emadi as Second Interested Party; and Opus Restructuring LLP (Ms Joanne Kim Rolls, Liquidator) as Third Interested Party. These designations will be used throughout this judgment for ease of reference.

The background

4. HCW was incorporated in the Qatar Financial Centre ('**QFC**') on 4 February 2015 and licensed by the Qatar Financial Centre Authority ('**QFCA**') to carry out the activity of Administration of Trusts. Substantial sums were paid into HCW's accounts at Qatar National Bank ('**QNB**') in about 2017.

5. Following an investigation by the QFC Regulatory Authority ('**QFCRA**') which began in February 2018, a freezing order was made by the Qatar Central Bank, resulting in the freezing of HCW's accounts at QNB on suspicion of money laundering. The QFCA and QFCRA are referred to together as the '**Authorities**'.

6. Regulatory proceedings were brought against HCW based on, inter alia, various infractions of applicable rules, particularly in relation to the prevention of money laundering and counter terrorist financing. An appeal by HCW to the QFC Regulatory Tribunal in respect of the penalties imposed was dismissed on 9 March 2020 ([2020] QIC (RT) 1), and a further appeal to the Appellate Division was dismissed on 9 June 2020 ([2020] QIC (A) 1).

7. In dismissing HCW's appeal, the Appellate Division noted that "*HCW ... wholly failed to have regard to its responsibilities to put in place arrangements for due diligence before handling monies from abroad which were, on any view, highly suspect*" (at paragraph 6(a)). There has been much further material produced by various parties since then, and in the opinion of this Court, this statement by the Appellant Division remains valid (see for example [2023] QIC (RT) 2).

8. Regulatory proceedings were also brought against directors of HCW, including Mr Patrick Baeriswyl, with similar outcomes (see [2023] QIC (RT) 2, for example).

9. There were also civil proceedings as regards the money in the accounts. Claims were brought on 26 August 2018 by two of the Trust Claimants to recover what was said to be

their money held in trust. The proceedings were brought against HCW and two of its directors (Mr Baeriswyl and Mr Mantegani). Summary judgment was refused (*Ms Ileana Mercedes D'Lacoste Agudelo and Ms Eniluz Jhoana Gonzalez Aponte v Horizon Crescent Wealth LLC and others* [2019] QIC (F) 9).

10. It appeared that though there was separate accounting, HCW did not maintain separate client bank accounts within the bank for each trust, and trust monies were not segregated from HCW's other monies (see [2019] QIC (F) 9 at paragraph 37).

11. At that time, it may be noted that the defendants – that is, HCW, Mr Baeriswyl, and Mr Mantegani – blamed the claimants for the situation and were counterclaiming QAR 280,000,000 against them for damages suffered on the grounds that the suspicious origins of the money received from the claimants caused their business to be frozen. The counterclaim was struck out on 17 March 2020 because the counterclaims were not properly particularised ([2020] QIC (F) 2).

12. The QFCRA brought proceedings for an order that the monetary penalty it had imposed on HCW, which was unpaid, be treated as a debt recoverable by the QFCRA. An order to that effect was made by the Court on 20 September 2020 ([2020] QIC (F) 12). The QFCA followed with further proceedings in respect of the separate penalty it had imposed on HCW, an order being made on 4 August 2021 ([2021] QIC (F) 20). These debts have not been paid and continue to accrue interest.

13. In 2020, a claim was brought against HCW by Mr Mohamed El-Emadi for money said to be due to him as Deputy Chairman of HCW. The claim was undefended and summary judgment was given in his favour on 14 September 2021 ([2021] QIC (F) 23). This judgment has not been paid in full either, though Mr El-Emadi has received the principal amount of his claim.

14. The claims of Ms Ileana Mercedes D'Lacoste Agudelo and Ms Eniluz Jhoana Gonzalez Aponte for return of their funds continued, and there were applications to the Court by which the claimants sought documents from the regulators as to the accounts. These applications were largely granted subject to redaction where necessary.

15. Those proceedings – which were the only proceedings brought to recover money from HCW until now – were discontinued on the claimants' application in 2022 ([2022] QIC

(F) 15). The understanding of the Court at the time was that no further proprietary claims subsisted as regards the funds.

16. As to the reason for the discontinuance, this is said in submissions in this hearing to be "*due to legal costs and QFCRA-induced freezing… The explanation lies in the continued denial of access to funds and the production of satisfactory evidence now completed*." A letter from their solicitors (Fieldfisher LLP) of 29 April 2022 sought to justify and explain the discontinuance, making it clear that the underlying claims were not being abandoned.

17. In their submissions in the instant case, on the other hand, the Authorities explain that investigation by the regulators of the facts underlying these claims led to a positive case being pleaded by them that the case brought by Ms D'Lacoste Agudelo and Ms Gonzalez Aponte was a fabrication. Once that positive case was pleaded, they say that the claims were abandoned.

18. Various claims for enforcement orders by the Authorities and Mr El-Emadi were made in respect of the money in HCW's QNB accounts (and a shareholding which was also in HCW's name).

19. There was uncertainty and a lack of transparency about HCW's assets and liabilities, and concern that the funds should remain intact. On the QFCA's application, a winding-up order was made by this Court on 12 December 2023, and HCW was placed in liquidation ([2024] QIC (F) 1 at paragraph 36). Ms Joanne Rolls and Mr Steve Parker of Opus Restructuring LLP were appointed Liquidators. It was ordered that all costs, expenses and fees incurred by the Liquidator in the course of the liquidation were to be paid out of HCW's assets. Mr Parker tragically died earlier this year, leaving Ms Rolls as the sole Liquidator (throughout this judgment for ease of reference Ms Rolls will be referred to as the Liquidator).

20. By a judgment dated 15 April 2024, HCW was refused permission to appeal against the winding-up order by the Appellate Division, the grounds for appeal being rejected as being without merit. The appointment of the Liquidator was also affirmed ([2024] QIC (A) 5). From that time, the Liquidator has been the sole person with authority to act for HCW.

21. In May 2024, Mr El-Emadi applied to remove the Liquidator. His grounds of complaint, including overcharging and delay, were rejected by the Court, and the application was dismissed on 3 July 2024 ([2024] QIC (F) 26).

Establishing HCW's assets and liabilities

22. Her position thus confirmed, the Liquidator proceeded to carry out her duties. On 15 August 2024, she issued a Directions Application which identified the two debt claims she had received from the Authorities, the claim of Mr El-Emadi, and claims in the form of trust claims made through Chabrier Avocats SA of Geneva and Mr Baeriswyl. At that time, there were potentially nine such trust claims, a further possible claim not being maintained. In the event, six Trust Claimants have come forward with claims before the Court.

23. These are the totality of the claims against HCW aside from the costs of the liquidation. The question for the Court at this stage is whether the trust claims in the form of the Submitted Claims should be admitted in the liquidation. If they are, the further question to be subsequently decided is whether they should have priority on the basis that the funds, though in HCW's name, are in law the assets of the beneficiaries held in trust and not HCW's assets and so cannot be used to pay HCW's debts. Should the assets be determined to constitute trust property, it is common ground that the principles established in the English authorities, commencing with *Re Berkeley Applegate (Investment Consultants) Ltd (No 2)* [1989] Ch 32 (CA), delineate the limited circumstances in which a liquidator may have recourse to such assets for reimbursement. That decision decided that, notwithstanding the fiduciary character of trust property, the court may permit a liquidator to recover reasonable costs and expenses properly incurred in preserving, realising, or distributing such property

24. The Liquidator has taken a neutral position on the validity or otherwise of the Submitted Claims. That is consistent with her role as an officer of the Court, owing duties both to the body of creditors and to the Court itself. It also reflects the fact that questions of the present nature, involving contested issues of entitlement, are generally matters properly for determination by the Court in the exercise of its judicial function, rather than by the Liquidator in the course of administering the liquidation.

The criteria for admitting trust claims

25. It is not in dispute that prohibitions against money laundering are important policy considerations in the State of Qatar. That policy is directed to protecting the integrity of the financial system and ensuring that the processes of justice are not used to facilitate or legitimise the proceeds of crime. Once suspicion arose that HCW had been used for such purposes, the source of the funds in dispute became a central issue, both at the time when they were first frozen, and in the subsequent proceedings concerning their release.

26. The Court made that clear in the first substantive judgment to be given in this matter, namely the 2019 judgment in the claims brought by Ms D'Lacoste Agudelo and Ms Gonzalez Aponte ([2019] QIC (F) 9), noting at paragraph 35 that the Court had no explanation from the claimants as to the source of the funds transferred to HCW. No such explanation had been given by the time the claimants discontinued.

27. Against that background, on the application of the Liquidator, the Court gave directions as to the admission of claims lodged in the liquidation in its judgment of 17 November 2024 ([2024] QIC (F) 52) (the '**November Judgment**') and in the implementing Order of 24 December 2024.

28. In paragraph 42 of the November Judgment the Court noted *"... in the circumstances of present case, in the case of any trust claim now pursued, it requires to know the source of the funds*".

29. In paragraph 43 of the November Judgment, the Court also noted that it would:

> *... only consider claims where the claimant: (i) fully discloses the source of the relevant funds; and (ii) provides satisfactory evidence of their legitimate origin. This requirement reflects the Court's obligation to uphold public policy against money laundering.*

30. In its judgment of 24 February 2025 ([2025] QIC (F) 14), the Court set forth further details of the procedure to be adopted, including that Trust Claimants had to attach all documents relied on, not just those of particular importance.

31. The Trust Claimants and Mr Baeriswyl sought permission to appeal to the Appellate Division from the November Judgment.

32. On 19 March 2025, the Appellate Division directed that the Liquidator's legal entitlement to use funds claimed to be the property of the purported trusts for the purpose of paying the expenses of the liquidation should be dealt with by the Court at the hearing.

33. Otherwise, the Appellate Division held that there was no merit in the applications for permission to appeal in respect of all the other issues in relation to the November Judgment, and permission to appeal on those issues was refused ([2025] QIC (A) 4).

34. On 13 February 2025, the Qatari First Instance Criminal Court found Mr Baeriswyl, along with other directors of HCW, guilty of offences under Law No. 4 of 2010 (concerning the prevention of money laundering and terrorist financing). The court found that between December 2016 and August 2018, HCW, acting through its directors, failed to carry out mandatory client due diligence, verification of the source of funds, and failed to segregate client monies from the company's own funds.

35. Pursuant to a request for mutual legal assistance from the Qatari Attorney General, the Swiss authorities froze accounts held at Bank Julius Baer in Zurich by Ms D'Lacoste Agudelo and Ms Gonzalez Aponte into which funds had been paid. On 19 January 2022 (date stamped 12 October 2022 – see Decision on the Partial Lifting of Seizure in Matters of Mutual Assistance), the Swiss authorities' records show that it partially lifted the seizure over Ms D'Lacoste Agudelo's account with funds of over EUR 2,750,000 released, maintaining the freeze as to the balance. With respect to Ms Gonzalez Aponte, the seizure was likewise partially lifted, with funds above EUR 1,800,000 released, maintaining the freeze as to the balance. The Court does not have the precise figures.

36. The hearing of the Submitted Claims and other matters arising took place on 20 and 21 July 2025. Party representation was as follows:

    i. Authorities: Mr Andrew George KC.
    ii. Trust Claimants: Mr Hervé Crausaz.
    iii. Liquidator: Mr Oliver McEntee of Counsel.
    iv. Mr Patrick Baeriswyl: Mr Mehdi Hani.
    v. MH Partners SA: Mr Mehdi Hani (representing the firm).
    vi. Mr Mohammed El-Emadi: Mr Kumaresan Srinivasan

37. A point arose at the outset as to the rights of audience. Mr Mehdi Hani is not a lawyer, but he appeared for Mr Patrick Baeriswyl in his application to be joined as an interested party. Mr McEntee, for the Liquidator, objected to Mr Hani appearing. The default position before the Court is that any lawyer who has rights of audience before the superior courts of Qatar or any other jurisdiction is accorded rights of audience, but the Court has a discretion to determine whether an individual should have rights of audience in a particular case (Umar Azmeh & Catriona Nicol, *Azmeh & Nicol on the Law and Practice of the QFC Civil and Commercial Court and Regulatory Tribunal*, LexisNexis 2025 at 10.3). Sensibly, Mr McEntee withdrew his objection, and prior to ruling on the application, the Court *de bene esse* permitted Mr Hani to advance Mr Baeriswyl's contention, which he did in a measured way (he also appeared for his own firm in relation to a separate point arising in the liquidation).

38. Likewise, Mr Hani sensibly withdrew an objection to Mr McEntee's appearance once it was made clear that the barrister and the law firm instructing the barrister are a single legal team in representing the client.

39. The evidence before the Court was in documentary form. There was an agreed indexed combined e-Bundle containing evidence in relation to each of the claims, as well as procedural matters, including previous decisions. There was an agreed index combined e-Bundle of legal authorities. The Court appreciates that preparing these agreed bundles took considerable time and effort, and records that the bundles were indispensable in enabling the hearing to take place efficiently within a reasonable time and cost.

40. The other matters arising were as to the Liquidator's legal entitlement to use funds claimed to be the property of the purported trusts for the purpose of paying the expenses of the liquidation, the application of Mr Baeriswyl to be joined as an Interested Party, and the claim by MH Partners SA to have its claim admitted in the liquidation. There was an agreed indexed supplemental e-Bundle with the documents relating to Mr Baeriswyl's application.

41. The hearing proceeded on the basis of a timetable agreed by the parties and the Court. The Court is grateful to all those who made submissions at the hearing for the quality of their written and oral contributions.

General points raised on behalf of the Trust Claimants

42. Mr Crausaz criticised the Authorities for becoming adversaries to the Trust Claimants. The role of a regulator, he said, is to protect the integrity of the financial system, including safeguarding the interests of victims and investors. When individuals entrust their assets to a financial institution, they do it with the expectation that there is an impartial authority watching over the system, ensuring that misconduct does not go unaddressed, and that the beneficiary of a trust can retrieve its assets. The QFCA and QFCRA as regulators have not taken the interests of the Trust Claimants as clients of the company into consideration, he submitted. When beneficiaries suffer from mismanagement or impropriety, a regulator has a duty to protect vulnerable claimants against breach of fiduciary duty.

43. As regards the role of financial regulators, the Court agrees generally with this submission. However, it has to be applied against the context of this case. The QFCRA became an interested party to the 2019 proceedings in which Ms D'Lacoste Agudelo and Ms Gonzalez Aponte sought to recover what they said were their trust funds. In the Court's view, it was inevitable and necessary that the regulator responsible for the action taken against HCW became an Interested Party. This was not merely because money laundering is a matter of public concern, but also because (as the QFCRA submitted at the time) there might be other parties with a claim to the funds – which has proved to be the case.

44. In the current proceedings, the QFCA has been the Claimant, and the QFCRA is an Interested Party. The Court was concerned that the assets were protected, and the QFCA and/or QFCRA applied for and were granted freezing injunctions. However, it was evident that further steps would be required, and in August 2023, the QFCA applied for an order winding up HCW which the Court granted and the Appellate Division confirmed, as explained above.

45. The QFCA and QFCRA were entitled, and in the Court's opinion, obliged, to place before the Court matters which it considered potentially vitiated the Submitted Claims. They also have a duty to put the case fairly. This extends to the Liquidator as well as an Officer of the Court. In its judgment of 24 February 2025 ([2025] QIC (F) 14) at

paragraph 6 (viii), setting out requirements for the applications, the Court stated that:

> *Since the public interest is involved, the Court expects the Liquidator, and the Regulators in advancing their own claims, to seek to place before the Court the matters which will enable it properly to reach its decision in accordance with the law.*

46. The duty to put the case fairly which is expected of financial regulators in their enforcement duties includes *"... a duty to disclose material in its possession which should fairly be taken into account, in particular documents in its possession which support the* [other party's] *case*" (see *Nigel Perera v Qatar Financial Centre Regulatory Authority* [2021] QIC (RT) 6 at paragraph 22). The Court is satisfied that the Authorities acted accordingly.

47. The objection (raised by the Trust Claimants in written submissions) that the Authorities made their submissions jointly is without any foundation. This was clearly sensible to avoid duplication and save costs.

48. The objection (also raised in written submissions) that the Authorities had a conflict of interest as judgment creditors in respect of the penalties is also without foundation. As the Court has previously pointed out, proceedings for an order that a penalty imposed by financial regulators is treated as a debt recoverable by the regulators is a standard enforcement procedure in regulatory matters ([2024] QIC (F) 1 at paragraph 9).

The Submitted Claims

49. The Court received submissions from the Authorities, the Liquidator, and Mr El-Emadi as to whether the Submitted Claims should be admitted, which may be summarised as follows:

    i. The Authorities submit that none of the Trust Claimants has complied with the requirements set out by the Court in its November Judgment. The documents provided by the Trust Claimants, which they contend amount to full disclosure and satisfactory evidence of the source and legitimacy of their funds, fell short of what is required. The Authorities point to contradictions, inconsistencies, and gaps in the explanations offered, the absence of an auditable trail demonstrating lawful origin, and in some instances, to

documents which themselves raise further doubts as to the true source of the funds. The Authorities contend that none of the Submitted Claims should be admitted. As regards to Ms D'Lacoste Aponte and Ms Gonzalez Agudelo, the Authorities' position is that their claims should in any event be rejected, as both claims were previously brought and discontinued in 2022 without any adequate explanation as to why they should be now revived.

ii. Mr El-Emadi, a judgment creditor of HCW, opposes the admission of all Submitted Claims. He denies all allegations as to the unauthorised withdrawals made against him by the Trust Claimants. In relation to each purported trust, he maintains that he had no knowledge of the trust, was never appointed as trustee, and has had no involvement in the receipt or withdrawal of monies belonging to them. He further contends that the Trust Claimants have misled the Court by making allegations many years after his retirement from HCW, and that the portfolio and bank statements relied upon either do not show his involvement or merely show his name inserted without reference to any withdrawals.

iii. The Liquidator has adopted a neutral position towards the Submitted Claims, and states that based on the material provided, she is not in a position to determine whether the Submitted Claims asserted amount to valid proprietary trust claims or whether the funds in question derives from a legitimate source. While she remains neutral, she submits that if any Submitted Claims do succeed, she seeks her costs and expenses from HCW in any event in respect of the investigation of the Submitted Claims.

50. The Submitted Claims do not simply seek restitution of the sums transferred. There is a calculation of money said to be owed to the Trust Claimants that takes into account various factors. This can be illustrated by the Claim Form of Mrs Gharbi:

> *CLAIM SUMMARY 1. Background of the Claim. Mrs. Maria Gharbi was a trust beneficiary of Malaya Trust with assets managed by Horizon Crescent Wealth LLC (HCW). Based on recent financial updates provided by Mr Patrick Baeriswyl, the former director of HCW, the following financial details have been confirmed: Currency Exchange Losses: HCW incurred losses totaling QAR 350'000, which affected trust accounts, of Mrs. Gharbi's. These losses have been accepted as part of the final*

> *account calculation. Illegal Withdrawals by Mr. Mohamed El Emadi: $1,6 million USD was unlawfully withdrawn from HCW accounts, impacting trust beneficiaries, including Mrs. Gharbi. Profits from the Sale of Ashland Shares: HCW generated profits from the sale of Ashland shares, increasing the account balances of trust beneficiaries. 2. Final Balance Calculation after accounting for the above elements, the final balance owed to Mrs. Maria Gharbi has been calculated as QAR 2,606,581.00.*

51. This "*final balance*" is in fact somewhat less than the amount of the original transfer, but the position varies from Trust Claimant to Trust Claimant. In addition to recovery of the sums paid to HCW, and presumably withdrawals, most of the Submitted Claims include currency losses. They also include personal claims against Mr El-Emadi requiring him to return the $1.6m which he is alleged to have illegally withdrawn while Vice Chairman of HCW. Further, the shares of a company called Ashland were sold as part of the liquidation and increase the account balances.

52. However, this hearing is not concerned with these calculations. Mr El-Emadi denies liability, and as noted above, holds a judgment in his favour. The threshold question is whether the Submitted Claims should be admitted, and this is the subject of this hearing.

53. There can be no doubt that HCW was a company whose deficiencies were grave, and whose activities rightly aroused suspicion. But as Mr Crausaz correctly points out, this is not the issue before the Court, as he puts it, the beneficiary is not liable for the sins of the trustee.

54. Mr Crausaz contends that the Authorities are demanding that each Trust Claimant must not only trace the monetary flow, but also prove the original "*business or material event*" generating those funds to an undefined "*satisfactory standard.*" This, he says, goes well beyond what is required under international norms and amounts to an unreasonable reversal of the burden of proof, which he says is the balance of probabilities.

55. The Court does not intend to adopt any rigid formula for determining this issue. The question to be decided is the admissibility of the Submitted Claims, which depends on whether each Trust Claimant has fully disclosed the source of the funds they claim and has provided satisfactory evidence of their legitimate origin as required by the Court. That assessment must be carried out on a Trust Claimant-by-Trust Claimant basis, taking the material relating to the individual Trust Claimant as a whole. The requirement was

stated clearly in the November Judgment and thereafter. It does not impose an unduly onerous burden: the Trust Claimants should have had no difficulty in understanding what was required, including the need to explain the relevant circumstances, and ample time has been afforded to do so. The requirement is fundamental, since the Court must be satisfied that only funds of legitimate origin are admitted into the process and that the judicial process is not used to facilitate or legitimise the proceeds of crime.

56. The Submitted Claims are supported in each case in the form of a report or reports by Berclaz & Associés, Legal & Compliance, which is a Swiss risk and compliance advisory firm ('**Berclaz Report**'). This expresses the firm's opinion as to the legitimacy and ownership of the funds in respect of the individual Trust Claimants, and annexes the material relied upon. It is understandable that the Trust Claimants should have used a specialist firm to undertake this work, and it has been useful within limits. However, the reasoning of the analysis in support of its opinion is of limited assistance to the Court. This is because the approach of the firm is directed to whether the available material shows that KYC due diligence standards when taking on the accounts were, or in the opinion of the Berclaz Report would have been, satisfied. The approach does not take into account the suspicions of money laundering through the HCW accounts. Obviously, this puts the matter in a different light, and these are matters that the Court must consider.

57. In answer to that, the Trust Claimants submit that each one of the six has filed a comprehensive bundle of supporting documentation, including SWIFT confirmations, bank instructions from top-tier institutions (SBM, HSBC, QNB, DBS, Mashreq Bank, Gonet, Pictet), fiduciary agreements, and notarized affidavits, demonstrating the legitimate origin and ownership of the funds. As to the submission by the Authorities that, on examination, this material is not satisfactory, the Trust Claimants reply that this is either a misreading or a refusal to acknowledge standard international banking compliance protocols. The evidence includes Contracts of Settlement, Letters of Engagement with payment intermediaries, confirmations of no suspicion or SAR filed by institutions like SBM, HSBC, DBS, QNB, Mashreq Bank, and Swiss banks, and sworn affidavits of origin (e.g., from Sebti, Rime, and Delli Compagni).

58. However, in the Court's view, as appears from the analysis below, this does not accurately describe what has been placed before the Court by way of evidence. To take the phrase "*affidavits of origin*", this appears to be a reference to "*declarations of identity*

of beneficial ownership" signed by the Trust Claimants. These are simply statements by the Trust Claimant to the effect that he or she is a beneficial owner of the named account, part of standard bank KYC documentation.. It may be correct that false declarations carry criminal penalties, as is said on behalf of the Trust Claimants, but they do not address at all the question for decision, namely whether the Trust Claimants have fully disclosed the source of the funds they claim and provided satisfactory evidence of their legitimate origin.

59. It is correct that each Trust Claimant entered into a Contract of Settlement with HCW, creating or purporting to create a trust. The "*laws of the Qatar Financial Centre based on English law*" applied to the trusts, and the document stated that the "*QFC shall be the forum for the administration of the Trust Fund*". But the Contracts of Settlement do not illuminate the source of the funds or their legitimate origin, which is the requirement. The validity of otherwise of the trusts is not at issue.

60. The Trust Claimants and the relevant trusts are as follows:

    i. Maria Gharbi (Malaya Trust).

    ii. Norredine Sebti (Sebti Trust).

    iii. Alessandro Delli Compagni (Columbus Trust).

    iv. Vincent Rime (Sertissage Trust).

    v. Ileana Mercedes D'Lacoste Agudelo (OA Trust).

    vi. Eniluz Jhoana Gonzalez Aponte (Criteria Trust).

Maria Gharbi (Malaya Trust)

61. Mrs Gharbi is a Swiss citizen. Her claim is on the basis of a payment of $875,000 to HCW. The trust in her case is called the Malaya Trust (sometimes spelt Mayala), the settlement being dated 17 November 2016. She is the sister-in-law of Mr Norredine Sebti, the second Trust Claimant, and their cases are linked because of some loan arrangements with Mr Baeriswyl. Essentially, her case is that the money was a gift from her parents, originating from long-standing family wealth.

62. Section D of the agreed e-Bundle contains the documents filed in support of her claim.

There are several compiled by Mr Baeriswyl himself. A page from HCW account statements produced by Mr Baeriswyl shows a transfer into QNB from Ms Gharbi's parents of QAR 3,180,625 on 3 December 2016. According to the Berclaz Report, her father was a director of UPU in Switzerland (the Court understands UPU as a reference to the Universal Postal Union). Her father has confirmed that the payment was an *inter vivos* distribution to his daughter. He says the money came from his personal account at Pictet Bank in Nassau, Bahamas. There is a KYC form (presumably HCW's) – which says that "*the source of the funds of her parents is father's pension after more than 30 years of service at the UPU in Bern, from which he retired over 20 years ago*". There is a declaration of identity of beneficial ownership by Mrs Gharbi dated 17 January 2025.

63. The Authorities' case is that it is not enough to say that the money came from Ms Gharbi's parents. Given the amounts concerned, it had to be shown where her father legitimately got hold of a sum as substantial as $875,000, and the attempt to do so is unsatisfactory. They point out that Mrs Gharbi does not state the position herself, in a statement or otherwise, and suggest this may be because of arrangements with Mr Baeriswyl by way of a bridging loan. Statements in the Berclaz Report do not add much.

64. The Court's conclusion is as follows. The explanation given in relation to the funds, namely a gift from parents to daughter, coming from the father's pension, is in itself a reasonable one. However, the explanation has to be supported by evidence to be of value. The reality is that there is no evidence of the source of the funds. As noted above, it is submitted on behalf of the Trust Claimants that each one of the six has filed a comprehensive bundle of supporting documentation, including SWIFT confirmations, bank instructions from top-tier institutions, fiduciary agreements and "*notarized affidavits*", demonstrating the legitimate origin and ownership of the funds. The Court agrees that such a comprehensive bundle was what was to be expected, and it is obviously lacking in this case.

65. On that basis, this claim cannot be admitted.

66. There is a further issue reflecting on this claim stemming from a letter from Mr Sebti of 25 March 2018 saying that the money was paid by his sister-in-law to HCW by way of a bridging loan pending repayment of monies that Mr Sebti owed Mr Baeriswyl.

This is further considered below in connection with Mr Sebti's claim.

Norredine Sebti (Sebti Trust)

67. Mr Sebti, a Monaco resident and Swiss Citizen, is the brother-in-law of Ms Gharbi. He was Global Head of Derivatives and Global Head of Equity trading at Deutsche Bank in London and New York, and Global Head of Equity in Asia at Deutsche Bank in Hong Kong. He retired in 2009. These are senior positions in investment banking.

68. The case put forward is that on 24 May 2017, HCW received QAR 7,270,000 (approximately $2,000,000) from his personal account under the instruction of his portfolio manager, CBA Asset Management SA. The transfer was made in favour of Sebti Trust, which HCW was to establish and manage as trustee. The transfer was from the VP Bank Ltd Singapore Branch. His case is that the transferred amount aligns with his professional history and career achievements. The trust in his case is called Sebti Trust, the Contract of Settlement being dated 1 May 2017. Taking into account exchange losses, alleged illegal withdrawals by Mr El-Emadi, and profits from shares of a company called Ashland, his claim amounts to QAR 5,460,075.52.

69. Section E of the agreed e-Bundle contains the documents filed in support of his claim. A page of a QNB bank statement signed by Mr Baeriswyl shows the transfer of QAR 7,270,000 on 4 May 2017, though the Berclaz Report gives the date of receipt as 24 March 2017 (the same value date is given by VP Bank). There is a portfolio document again signed by Mr Baeriswyl. There is a KYC form which shows considerable personal wealth, and an ARDIS (applied risk & data intelligence solution) report which records nothing negative. The account details state the origin of the funds in the QNB account as "*Professional salaries and bonus from Deutsche Bank previous employer*". There is a declaration of identity of beneficial ownership by Mr Sebti dated 17 January 2025. A letter from Deutsche Bank HR in February 2001 stated total compensation as GBP 1,817,622. The Berclaz report says that "*For 2016, his revenues are more than CHF 16 mios*".

70. The Authorities' case is that the only document produced to support the origin of the $2m is the Deutsche Bank statement of February 2001, some 16 years before the money was invested. The vast majority of that is a bonus, the base salary being GBP 105,000, so the amount of money that one can assume would be repeated each year is modest.

As far as can be seen, this is the one document HCW had at the time of the transfer. The evidence of accumulated wealth over the years of employment and the explanation as to why the 2001 figure can be traced into 2017 is lacking.

71. A Berclaz Report of 12 May 2025 states that "*We have received remuneration statements from Deutsche Bank for the years 2006, 2007, and 2008*". However, later remuneration statements are not in evidence – the Authorities' counsel told the Court that they had not been seen by them despite asking.

72. The Authorities have a wider case based on a letter from Mr Sebti to Mr Baeriswyl dated 25 March 2018. The letter says that:

> *I hereby confirm having transferred to you the amount of QAR 7'270'000 – on May 4, 2017 to the account of Horizon Crescent Wealth LLC with QNB Qatar.*
>
> *This transfer corresponds to the reimbursement of a personal loan of USD 2'000'000 –which you, personally, had granted to me from 2015.*
>
> *I am aware that, in order to mitigate the consequences of this delay, my sister in law granted you a six months private bridge loan in the amount of QAR 3'180'000 – in December 2016.*

73. In other words, Mr Sebti is saying, "*It's not my money. I paid it back in reimbursement of a personal loan*." This evidence coming from Mr Sebti himself, the Authorities submit, should be taken at face value, with nothing coming from him in his evidence contradicting it. Mr Baeriswyl contradicted it in a subsequent letter dated 2 April 2018, but it is not his claim. Further, as pointed out by the Authorities, Mr Baeriswyl accepts that although this is supposed to be a trust account, he used it for his own purposes and for general company purposes.

74. The case advanced by Mr Crausaz on behalf of Mr Sebti in response is as follows. Mr Baeriswyl denies the existence of any loan agreement between himself and Mr Sebti. The letter dated 25 March 2018 was a unilateral gesture by Mr Sebti, which Mr Baeriswyl neither accepted nor signed. The assets in question were part of Sebti Trust, and remain under his exclusive ownership. Mr Baeriswyl holds no ownership rights over these funds. As established by trust case law, a resulting trust arises where property is transferred in circumstances where it would be unconscionable for the transferee to deny the beneficial interest of the transferor. These arguments are supported by Mr Hani speaking on behalf of Mr Baeriswyl.

75. The Court's conclusion is as follows. There is a "*To Whom It May Concern*" letter from Mr Baeriswyl of 9 May 2025 in which he describes Mr Sebti's letter of 25 March 2018:

> *… as opportunistic and lacks legal substance. Moreover, Mr. Sebti never declared any such claim during the liquidation proceedings opened in 2024, further invalidating the legitimacy of this alleged debt.*

76. Clearly, this stance by Mr Baeriswyl undermines the credibility of the entire claim. As presented, the evidence is that of Mr Baeriswyl denying the basis of the relationship between them as stated by Mr Sebti in his letter written at the time. Mr Sebti signed a "*Declaration of identity of the beneficial owner*" on 17 January 2025, but this is simply a standard KYC statement by him to the effect that he is the beneficial owner of the named account. There is nothing from him explaining what obviously needs to be explained in the light of his letter to the contrary at the time.

77. In any case, and as an independent ground of decision, the document issued in 2001 by Deutsche Bank is not sufficient to show the origin of the funds transferred to HCW in 2017 as being "*Professional salaries and bonus from Deutsche Bank previous employer*", at least without further explanation, which is absent.

78. This claim cannot therefore be admitted.

79. These matters also reflect on Mrs Gharbi's case. The Sebti letter of 25 March 2018 quoted above says that she granted Mr Baeriswyl a six-month private bridge loan in the amount of QAR 3,180,000 in December 2016 because of the delay on Mr Sebti's part in repaying the loan of $2m owed to Mr Baeriswyl. There is another "*To Whom It May Concern*" letter of 9 May 2025 from Mr Baeriswyl seeking to explain the loan arrangements as strictly "*internal and temporary transactions*" between the Malaya Trust and the Horizon Trust, and that the money was repaid. This loan transaction is not addressed by Mrs Gharbi herself at all. Further, the Authorities point out that Mr Baeriswyl, in an interview, accepted that he paid those monies away to a third-party investor, leaving the question of the ownership of the funds open.

Alessandro Delli Compagni (Columbus Trust)

80. Mr Delli Compagni is the owner and operator of the Ristorante Pizzeria Columbus in Giulianova, Italy, with a seating capacity of 150. Section F of the agreed e-Bundle

contains the documents filed in support of his claim. QNB account statements show an inward remittance on 11 February 2018 of $293,003, being QAR 1,037,000 from his account with Bank Gonet in Geneva. A second Berclaz Report comments:

> *This amount transferred seems a little high but these assets were received in name of Mr delli Compagni from a Swiss renown bank, Gonet. We can therefore take a comfortable stance on the level of due diligence required to accept these funds in the first place by the Swiss bank.*

81. Accounts from Bank Gonet have been produced. The documents tendered include an ARDIS report with no relevant hits. Mr Delli Compagni signed a "*Declaration of identity of the beneficial owner*" form in January 2025. His KYC form states that income comes from the main activity, i.e. the restaurant. Nothing appears to be filled in on the account details form. A Fiduciary Agreement document entrusted a trustee (Mr Croce) with the management of funds deposited in a trust account located in Qatar. An ARDIS report on him did not return any relevant hits. Accounts are produced for the year 2024 showing a profit of EUR 91,839.08.

82. The Authorities take two points on this claim. The first is a lack of evidence supporting such a high amount, given the size of the sum transferred compared to the size of the restaurant business. The second is that the money may, in fact, have belonged to Mr Croce. The Authorities' case as to ownership is based partly on the regulatory interview of Mr Baeriswyl on 8 September 2021, in which he identifies Mr Croce as the client. He does not mention Mr Delli Compagni.

83. Mr Hani, on behalf of Mr Baeriswyl, explained the position in oral submissions as follows. On 13 June 2017, the Columbus Trust at HCW received $293,000 via direct wire transfer from Mr Delli Compagni's personal account at Bank Gonet, a reputable Swiss private bank. Mr Delli Compagni is an entrepreneur involved in the hospitality industry, owning a restaurant named Columbus, and the funds were personal savings accumulated over time. The Berclaz Report confirms there is no evidence of third-party involvement or illicit conduct. The transfer was executed by Mr Franco Croce, a professional Swiss fiduciary acting under mandate from Mr Delli Compagni, a type of delegation permitted under Swiss law and widely practiced in estate and trust structuring. Mr Croce had no beneficial ownership over this fund and acted under the instructions of his client. It is true that Mr Delli Compagni's name did not appear in the HCW internal UBO register (Ultimate Beneficial Owner) at the time of the trust. This

omission was not the result of bad faith but reflected the private nature of the arrangements where the trustee accepted the fiduciary cover pending full disclosure. As trustee, Mr Baeriswyl now confirms that Mr Delli Compagni was the economic beneficiary of the Columbus Trust from the outset. The Bank Gonet transfer confirms the source. Mr Baeriswyl acknowledges that the initial onboarding may not have followed every administrative step perfectly, but this should not be grounds to deny a lawful property right.

84. The Court accepts that the explanation given by Mr Hani on behalf of Mr Baeriswyl is plausible in itself, but equally in itself it cannot carry much weight. The reality of this claim, so far as the evidence goes, is that the KYC by HCW seems to have been virtually non-existent – the origin and legitimacy of funds is not established by the fact that the payment comes from a reputable bank. So far as that is concerned, the Court has Mr Baeriswyl's account, but not an explanation from Mr Delli Compagni himself. Berclaz comments that "*This amount transferred seems a little high*", and there is no explanation before the Court of the profitability of the restaurant or its ability to generate such sums over time. It is helpful that accounts have been produced, but these are for the year 2024, and do not cast much light on the position at the time of the transfer of funds. Further, and significantly, the Columbus Trust was created by an instrument dated (according to the liquidator) 13 December 2017, but the settlor was stated to be Mr Croce, and the beneficiaries are stated in Schedule 3 as Mr Croce's wife and children.

85. This claim cannot therefore be admitted.

Vincent Rime (Sertissage Trust)

86. Mr Vincent Rime, a Swiss resident and citizen, claims by way of the Sertissage Trust, the funds being said to originate from the legitimate business activities of ID Sertissage Ltd, specialising in the manual engraving of watches and jewellery.

87. Section G of the agreed e-Bundle contains the documents filed in support of his claim. A QNB account statement shows an inward remittance to HCW on 16 April 2017 of QAR 509,801 (approximately $ 140,000) by order of ID Sertissage Ltd. The Berclaz Report concludes the funds were legitimately belonging to Mr Rime, having 100% ownership of ID Sertissage Ltd. The Settlement Contract setting up the trust is dated 30

January 2017. The KYC form shows him knowing Mr Baeriswyl through his brother. The company is described as a sales and importing company based in the British Virgin Islands, established in 2007. The place of business is said to be between Switzerland and Hong Kong. There is an ARDIS report containing significant amounts of information, non-negative. The account details form records the country of origin as Hong Kong, and the origin being sales revenue of watches and jewellery. Reasons for opening the account are stated to be diversification. There is a "*declaration of identity of the beneficial owner*" for "*HSBC Horizon Crescent Wealth LLC*". A written resolution of the director of the company shows a resolution dated 30 January 2017 by which:

> *It is resolved to close the account at HSBC Hong Kong A/C 400-466405-838 and transfer the remaining balance to the account of ID Sertissage Ltd at QNB, Corniche Street, Doha, State of Qatar … Ref Horizon Crescent Wealth Trustees*.

88. A letter of the same date from HCW to Mr Rime states, "*We are pleased to create a trust for you and to offer you private banking and asset management services*". The Berclaz Report states that "*We found a "Vincent RIME" in our database but obviously elder person and working as board to hotels*" – i.e. not the Claimant (this appears to refer to the information in the ARDIS report). The Berclaz Report opines that the amount involved in this claim is not significant in this line of business in Switzerland. There were some further material emails with clients and suppliers attached to a statement from Mr Rime (in the form of a Letter of Certification) explaining his business in Hong Kong and how it generated the money.

89. In his submissions, counsel for the Authorities stated that Mr Rime was certainly the Trust Claimant who has come closest to satisfying the Court's requirements, and accepted that Mr Rime has in response to the Authorities' earlier written submissions put forward some relevant evidence. He pointed out, however, that the KYC form stated that Mr Rime's total wealth was $140,000, so that on that basis, his entire wealth was being transferred to HCW. His statement said that there was genuine and sustained commercial activity with an average annual turnover of between $100,000 and $150,000. Counsel submitted that turnover, not profit, at that level does not satisfactorily evidence an investment of $140,000. He accepted, however, that though the email material supplied in support was relatively small, it did demonstrate that Mr Rime did have a business as he claims. It is rather telling, he said, that the Trust Claimants had professional representation and lawyers and will have been told that the points taken

against them needed a response, but only Mr Rime has given one.

90. The Court's conclusion is as follows. There are clearly significant questions surrounding this Submitted Claim, and the supporting documentation is not extensive. By way of note, HCW offered Mr Rime private banking and asset management services, which it was not authorised to conduct. But that cannot be blamed on Mr Rime (and he does not appear to have taken the offer up).

91. The Court notes in particular the signed explanation which Mr Rime himself provided (albeit not in a sworn statement). In essence, it is this explanation that the Authorities accept distinguishes this case from the other cases. Mr Rime says that he founded ID Sertissage Ltd, registered in Hong Kong in 2007, and has managed its operations since its inception. It was established with the specific purpose of developing and improving stone setting techniques in the field of high-end jewellery, primarily for the Asian market. The company also aimed to offer Swiss and international clients high-quality stone setting services at competitive prices, at a time when many businesses in the jewellery industry were seeking to establish a presence in China. As a trained professional stone setter, he says he created ID Sertissage Ltd to uphold standards of traditional craftsmanship while integrating modern production needs and business practices. His role within the company included training employees in advanced setting techniques, client relationships, management, business development, and strategic direction. The company collaborated with several respected clients, whom he names. One of its main suppliers in Hong Kong was a local company (which he names) that provided materials and equipment for their jewellery setting operations.

92. The Court agrees with counsel for the Authorities that this claim, in which the Trust Claimant at least seeks to engage with the issues around his investment, and explains how the funds came about, stands in contrast with the other claims. This is finely balanced, but looking at the material in respect of this Trust Claimant as a whole, it has concluded that it fully discloses the source of the relevant funds and provides satisfactory evidence of their legitimate origin. Mr Rime's claim will therefore be admitted.

93. This does not imply that his claim is valid for as much as the amount claimed, which is $93,000, being the maximum allowable. A similar exercise has been done by his lawyers in his case as in the case of the other Trust Claimants (see the example of Mrs Gharbi

set out above). The question as to what element of the claim has proprietary (i.e. trust) status is to be decided by the Liquidator. Mr Rime may have to be prepared to provide further information if the Liquidator requires it.

Ms Ileana Mercedes D'Lacoste Agudelo (OA Trust) and Ms Eniluz Jhoana Gonzalez Aponte (Criteria Trust)

The claim

94. This claim is by far the largest, and as detailed above, first came before the Court in proceedings begun in 2018. The joint Claim Form of these Trust Claimants, who are both Costa Rica residents (the '**Joint Trust Claimants**'), summarises the claim as follows:

    i. Between 9 May 2017 and 7 September 2017, HCW received a total of EUR 14,328,785.40 (QAR 52,561,738.40 approximately $14,191,669.40) on behalf of the beneficiaries. These funds originated from three entities:

        a. OA Capital Group PTE Ltd ('**OA**'): QAR 799,400 on 9 May 2017 (owned by Mrs. D' Lacoste Agudelo).

        b. Desna Investment PTE Ltd ('**Desna**'): QAR 4,037,000 on 4 June 2017 (owned by Mrs. Gonzalez Aponte).

        c. Dakarai Ltd ('**Dakarai**'): QAR 46,278,504.15 and QAR 1,446,834.29 on 23 August 2017 and 7 September 2017, respectively (acting as an escrow agent and service provider).

    ii. Of these funds, EUR 4.55m was transferred to the beneficiaries' Swiss accounts in February 2018.

    iii. As regards the current status of the assets, a total of QAR 25,948,424.80 (approximately $7,129,000) remains under the control of the Liquidator, EUR 4.55m remains frozen in the beneficiaries' Swiss accounts following a request by the QFCRA and the Attorney General of Qatar on 19 January 2022. The Swiss authorities partially lifted the freeze in October 2022, but the remaining funds are still inaccessible.

95. Ms D'Lacoste Agudelo asserts that she is the beneficiary of the updated balance of QAR 8,545,039 in respect of the OA Trust. Ms Gonzalez Aponte asserts that she is the beneficiary of the updated balance of QAR 17,403,385.84 in respect of the Criteria Trust.

The evidence

96. Section H of the agreed e-Bundle contains the documents filed in support of their claims. Leaving aside submissions, the main ones that go to the source and legitimacy of the funds are as follows.

97. An account statement from QNB shows the Dakarai and Desna funds coming into HCW's account. The Criteria Settlement Contract with HCW is dated 13 April 2017. An account statement from QNB shows the OA funds coming into HCW's account. The OA Investment Trust Settlement contract with HCW is dated 5 May 2017. Mr Baeriswyl prepared subsequently calculations of the status of these accounts.

98. The Joint Trust Claimants' case is mainly contained in two Berclaz Reports dated 19 January 2025, and an updated version dated 12 May 2025. Having stated the movement of funds and ownership of entities as set out in the Claim Form, the following quotation from the reports summarises the factual case:

> *Dakarai Ltd belonged to a third-party act like an escrow agent and service provider for settlement with* [Mr X].
>
> [Mr X] *was a former accountant employee an individual signatory to the company Bond Enterprise in Costa Rica subsidiary company of Luxstone Inc.*
>
> *Luxstone Inc, panama belonged to Mrs Gonzalez Aponte, Mrs D'Lacoste Agudelo and Mrs Charlotte Pain.*
>
> *Luxstone Inc functioned in the time as an agent company and principal customer to Bond Enterprise in Costa Rica (a prominent local company with an annual turnover at the time averaging over USD 30 million).*
>
> *For currency management purpose, payments made to Luxstone were done via MEGA General Trading FZE a currency platforms Payments in Sharjah UAE*
>
> *Although discussable in today's World, B.E Costa Rica transactions via Luxstone Panama were tax compliant as per Costa Rica legislation and*

Panama legislations.

[Mr X]*, misabusing the trust of the B. E [Bond Enterprise] Costa Rica ownership, managed to fraud the company its related company Luxton for the amount of approximately USD 25 mios*

[Mr X] *formally recognised his misconduct further to internal investigations initiated by B. E. and flied to Canada then UAE.*

Found, he agreed to return all remaining funds under his control to Luxton LTD using his Mauritius company named Dakarai Ltd.

Upon receipt, Luxstone Inc distributed the amount received from [Mr X] *(former CFO) to its shareholders / beneficial owners.*

Therefore, these funds in possession of HCW belong to the beneficial owners of Luxstone Inc, namely Mrs Gonzalez Aponte and Mrs D Lacoste Agudelo.

Mrs Gonzalez Aponte and Mrs D Lacoste Agudelo are in tax compliancy with this distribution received from Luxstone Inc in Costa Rica.

We received a formal Form A indicating the ownership (it's a criminal offense to lie on such a document).

99. In short, the case as to the source of the funds is that Mr X defrauded Luxstone Inc, a Panama company owned by Ms Gonzalez Aponte, Ms D'Lacoste Agudelo, and a third person. He then agreed to repay the remaining funds, and a settlement agreement was executed. The money was paid through a service provider in Mauritius (Dakarai) and came to HCW's account at QNB. This has been the case put on their behalf from the outset of this matter.

100. A substantial volume of documentation is attached to the Berclaz Report. In summary, this shows Ms Gonzalez Aponte, a Venezuelan resident in Costa Rica, as the sole shareholder in Desna, which is a holding company. There are financial statements for 2017, and QNB statements showing the payment into HCW. A Costa Rica Certificate of No Criminal Record is issued in respect of Ms Lacoste Agudelo. A business profile of OA, real estate developers and a Singapore company, shows Ms D'Lacoste Agudelo as the sole shareholder. Financial statements for this company for 2016 have been produced, and QNB statements showing the payments into HCW. Financial Statements of Bond Enterprises Limitada (in Spanish but with an abridged English translation) for 2016 and 2017 are produced. A List of Employees is produced, which includes Mr X.

Financial Statements of Bond Enterprises Limitada state that:

> *The corporation is dedicated to service outsourcing to corporations in Central America, being their main services customer service, computer processing for application administration and technological support. During the 2016 fiscal term Bond Enterprises only had operations with their related corporation, Luxstone Inc, domiciled in the City of Panama.*

101. There is an undated document described as "*KYC – Mrs Gonzalez Aponte*" headed "*The Criteria Investment Trust Settlor and UBO: Eniluz Jhoana Gonzalez Aponte*". It is unclear as to the provenance of this document, but it describes her extensive business interests, including a one-third interest in Luxstone Inc. It does not mention the fraud said to have been committed by Mr X. A similar undated document in respect of "*The Criteria Investment Trust Settlor and UBO: Eniluz Jhoana Gonzalez Aponte*" is produced.

102. A Services Agreement between Luxstone Inc and Mega General Trading ('**Mega**') of Sharjah dated 3 February 2014 is produced, along with bank account statements of Mega with Noor Bank. In submissions at the hearing, Mr Crausaz particularly drew attention to a debit of EUR 10m, which he says shows Mr X taking money from this account and wiring it to his own account, which is part of the fraud. There are also proceedings in the courts of British Columbia in which Mr X is alleged to have committed a further fraud. Documents in relation to this matter from lawyers and private investigators are also produced.

103. A "*General Release and Settlement Agreement*" entered into on 1 March 2017 between the Joint Trust Claimants (and the other owner of Luxstone Inc) and Mr X (the defendant) is produced. This describes "*Missing Funds*" of EUR 19,450,380, and records that the parties have agreed to resolve the dispute in the sum of EUR 17m. The defendant has six months to send this sum to Dakarai, described as the Settlement Intermediary, in Mauritius. There is a payment instruction from Mr X of 25 July 2017, documents as to Dakarai, including its License from the Mauritius Financial Services Commission. A letter dated 14 February 2018 on un-headed paper from Dakarai to Mr Baeriswyl confirms two payments stating that the payment instructions came from Mr X's company, Bomani Ltd. A QNB statement shows equivalent amounts in QAR entering HCW's account labelled "*B/O Dakarai Ltd Settlement*".

104. There are corporate documents in respect of Luxstone Inc, including taxation details in Panama and Costa Rica.

105. There is then a document that does not appear to feature on the Berclaz Report list, being a letter dated 18 March 2024 addressed to Fieldfisher LLP from a law firm in Qatar. There is said to be an international investigation in this matter, but no details are given, or whether it is ongoing. There are no proceedings in the Qatari courts against the Joint Trust Claimants.

106. "*Declarations of identity of the beneficial owner*" have been provided by both the Joint Trust Claimants dated 14 January 2025, together with copies of other identity documents. There is a certificate from Luxtone Inc. as to the shareholders in the company.

107. Based on this, the Berclaz Report's conclusion is that:

> *In the case of Mrs D'Lacoste Agudelo and Mrs Gonzalez Aponte the combination of origin declarations, documented transfers from Dakarai Ltd (payment service provider with license FSC in Mauritius) and from her companies accounts in Singapore, and the continuity of legal ownership confirmed in account records allows us to confirm with confidence that the funds under review are legitimately theirs.*

108. The Berclaz Reports record that their instructions came from MH Partners SA. There is no record in the Berclaz Reports of engaging directly with the Joint Trust Claimants.

109. There are further documents produced, which are not included in the Berclaz Report list and do not go directly to the ownership and legitimacy issues. These relate to the partial unfreezing of the funds in Switzerland on 12 October 2022 and a default judgment in the British Columbia case. Documents from the Swiss authorities show that neither Mr Baeriswyl nor Mr Mantegani has any civil or criminal record.

<u>The parties' cases</u>

110. Mr Crausaz put his case for the Joint Trust Claimants largely on the basis of the Berclaz Reports as set out above.

111. Mr Hani submitted that the trust declarations made in 2017 were properly accepted by HCW. The funds that had been misappropriated by Mr X were later returned through a settlement process via a licensed intermediary based in Mauritius. Each of these facts

is corroborated by the Berclaz Reports, QNB banking report records, and the settlement agreement. The funds from Singapore originated from a company with audited accounts. The discontinuance of the 2018 case was not voluntary but due to asset freezing and regulatory obstruction. The Joint Trust Claimants did not waive their rights. The internal registry at HCW contained the signed trust declaration, and trust law does not require public naming of the beneficiary, especially where internal ledgers, UBO forms, and legal documents provide sufficient disclosure. The Court should confirm the lawful status of OA Trust and Criteria Trust, and recognise the legitimacy of the contribution made by OA and Desna, reject the objection of the Authorities and Mr El-Emadi as legally unsound and unsupported by evidence, and affirm the proprietary rights of Mrs D'Lacoste Agudelo and Mrs Gonzalez Aponte.

112. The Authorities submit that three issues arise as follows:

i. Both Joint Trust Claimants have previously brought and abandoned identical claims to those they now seek to advance in these proceedings. The Court has made it clear that it requires an explanation as to why it should permit these claims to be revived now. No proper explanation has been provided.

ii. Even on the face of the evidence which they have submitted, the Authorities submit that neither Joint Trust Claimant has complied with the Court's order to "*fully disclose the source of the relevant funds"* or "*provide satisfactory evidence of their legitimate origin*". In this regard, their position is similar to that of the other Trust Claimants.

iii. The investments of the Joint Trust Claimants played a central role in the QFCRA's regulatory disciplinary proceedings against HCW, and the QFRCA was an Interested Party in the discontinued proceedings. The QFCRA advances a positive case that even if the Court were to consider the evidence advanced by the Joint Trust Claimants to be prima facie in compliance with the Court's requirements, which is denied, that evidence is a dishonest fabrication. The matters upon which the QFCRA relies are essentially those which were advanced in the discontinued proceedings by way of pleading and witness statement. They involve, in particular, evidence as to proceedings in British Colombia in which an almost identical fact-pattern has been asserted in respect of alleged wrongdoing by the same alleged wrongdoer who is central to the claims in these proceedings, but involving different

industries and different time periods. The chances of the same "*theft*" having occurred twice in entirely different contexts are so remote that they can properly be disregarded by the Court.

113. In reply, Mr Crausaz referred to the second Berclaz Report. He said that the British Columbia case did not involve the defrauding of his client, but of the family of his client, and his clients could not have invented a story right after that case. What is more, credible is that Mr X in fact defrauded twice, not the same person but twice, with the same system, with the same elements. So this was not an artificial construct by the Joint Trust Claimants. He added that there is a judgment in the claim in British Columbia, and it had been badly judged by the court there.

114. This issue is dealt with in the second Berclaz Report which states that Jazette Enterprises Limited (the company from whom Mr X is alleged to have stolen money, and the subject of proceedings in British Columbia) is owned by the husband of one of the Joint Trust Claimants. It says that Mr X was employed by Bond Enterprise and was introduced to Luxstone Inc. as a "*trusted and competent*" accountant. He signed an agreement with Jazette to avoid imprisonment for $4.5m which represents real estate holdings in Canada, which he renounced in favour of the Jazette shareholders.

Conclusion

115. The financial arrangements of the two trusts are set out in the liquidator's first witness statement, though the exact movement of money is not made clear. However, the numbers generally agree with those set out in the Claim Form. The great bulk of the funds coming into the accounts were stated as being from Dakarai (the rest coming from OA owned by Mrs. D' Lacoste Agudelo and Desnia owned by Ms Gonzalez Aponte).

116. It is necessary to keep in mind, therefore, that the claims in this case are largely based on the payments allegedly made by Mr X. In its conclusions, the Court will take the points made by the Authorities in reverse order.

117. The dishonest fabrication allegation was first made by the Authorities in 2021, including the suggestion that the true source of funds is the Claimants' husbands' online gambling enterprise. It is said that Bond Enterprises Limitada provides call centre services solely to this business. However, the burden of proof that there has been

dishonest fabrication lies on the Authorities. It cannot be determined in a procedural hearing about whether these Submitted Claims can be admitted.

118. That said, it is surprising that there is no statement from the Joint Trust Claimants themselves rebutting these allegations. This applies equally to the basic case. The narrative, namely that the funds represent the proceeds of a fraud on a Panama company which is settled by the fraudster paying recompense through Mauritius to the shareholders' trusts with HCW in Qatar, is not an impossible story, but it is what gave rise to suspicion of money laundering in the first place, resulting in the accounts being frozen. As noted above, in the 2018 proceedings Mr Baeriswyl himself blamed the Joint Trust Claimants for inflicting a suspicious transaction on HCW.

119. It is not enough in these circumstances to point to the various links in the chain and assert – perhaps quite correctly – that each is established and carries on business without reproach. In its conclusion, the Berclaz Report cites origin declarations, documented transfers from Dakarai (licensed payment service provider in Mauritius), transfers from the Joint Trust Claimants' companies' accounts in Singapore, and the continuity of legal ownership confirmed in account records as allowing them "*to confirm with confidence that the funds under review are legitimately theirs*".

120. The Court cannot agree with this conclusion. As stated already, declarations signed by account holders are part of standard KYC documentation, but they do not demonstrate the source or legitimacy of the funds. The transfer mechanism through Dakarai in Mauritius does not demonstrate this either and raises questions about why this mode of transmission was used, and in particular, from where the money was coming. There was no continuity of legal ownership confirmed in the account records. The relevant records simply show instructions as to payment of the funds by Dakarai and their receipt at HCW's account at QNB to the credit of the trusts of the shareholders in the defrauded company.

121. As the Court said in its 2019 judgment in the proceedings that were later discontinued, *"… the source of the funds is an important issue as regards the investigation into HCW, and the Court has no explanation from the Claimants as to the source of the funds transferred to HCW*" ([2019] QIC (F) 9 at paragraph 35). There is still none. In the absence of any explanation, the Court agrees with the Authorities that even on the face

of the evidence which they have submitted, the Joint Trust Claimants have not fully disclosed the source of the relevant funds or provided satisfactory evidence of their legitimate origin.

122. For these reasons, the Joint Trust Claimants' claims are not admitted.

123. As regards the discontinued proceedings, though an extensive explanation was given for the discontinuance at the time, it remains unclear why the proceedings did not go ahead. Lack of funds cannot have been the reason, given the Joint Trust Claimants' asserted wealth. Although they complained of obstruction by the Authorities, it is acknowledged that the Court was making disclosure orders against the Authorities. The Court would have continued to do what was necessary. However, the Court does accept the submission made on behalf of the Joint Trust Claimants that though the proceedings were discontinued, the Joint Trust Claimants made it clear that they were not giving up their claims. When HCW went into liquidation, they made these claims as creditors in the liquidation, as they were entitled to do. The Court regards this as part of the background of the case, rather than an independent ground.

Liquidator's entitlement to use trust funds to pay the expenses of the liquidation

124. The Liquidator's legal entitlement (or otherwise) to use funds claimed to be the property of the trusts for the purpose of paying the expenses of the liquidation is largely irrelevant, given the Court's earlier findings. The only admitted claim is that of Mr Rime, the asserted value of which is approximately $93,000 (this is for the Liquidator to decide as explained above). The Court apprehends that this sum can be set aside as having priority without having any, or any appreciable effect on the overall calculations, and this is what it is minded to order.

125. However, in case it should be relevant, the Court recalls its summary in the November Judgment of the issue as follows (at paragraph 55 and 56):

> *The Liquidator raises for decision the question whether, regardless of whether any of the "Purported Trusts" are legally valid, the Realisable Funds can be used to pay the expenses of the liquidation estate, including her remuneration, prior to making a distribution to any party for any reason.*
>
> *The Court understands this question as concerning her rights as Liquidator*

to reimbursement out of trust funds, should the Court decide that any of the funds held by her are found to be trust funds. In our view, she is entitled to have that question settled now.

126. The Court went on to consider article 91 of the QFC Insolvency Regulations 2005. Article 91 deals with the distribution of a company's property and priority of payments in a winding up. Article 91(2) provides that priority of payments are: (i) secured creditors to the extent of their security; (ii) costs and expenses, including the Liquidator's remuneration, properly incurred by the Liquidator in the exercise of his functions; (iii) preferential creditors as defined in article 148; and then (iv) unsecured creditors. The Court commented as follows, at paragraph 57 of the November Judgment:

> *In this regard, the Court notes article 91(2) of the QFC Insolvency Regulations 2005. Nevertheless, the Court's preliminary view is that [the Liquidator] is entitled to reimbursement out of trust funds on the basis of the Berkeley Applegate principle (named after Re Berkeley Applegate (Investment Consultants) Ltd [1989] Ch 32). This is because as Liquidator she is prima facie entitled to be remunerated from the trust assets for work reasonably carried out in identifying, preserving and dealing with those assets, to the extent such work would necessarily have been performed by or on behalf of the beneficiaries had the company not been in liquidation …*

127. Pursuant to article 8(1) of the QFC Trust Regulations 2007, the Court may look to the common law of trusts and the principles of equity in England and Wales to supplement the Regulations.

128. As directed by the Appellate Division, the Court has now heard full argument on the issues relating to the use of the funds claimed to be trust property by the Liquidator for the expenses of the liquidation.

129. The Liquidator submitted that if the Submitted Claims all succeed (or are substantially successful), she should be entitled to her costs of the liquidation to date on the grounds that (i) investigating, administering and collecting the funds subject to those trusts, and (ii) the making of this application will have been for the benefit of the Trust Claimants and are in any event actions without which they not have been able to vindicate the asserted rights under the trusts. If they fail (or substantially fail), which is what has happened, she should be entitled to recover her costs from the estate of the company (HCW).

130. The Authorities submitted that the *Berkeley Applegate* principle, or one analogous to it, is clearly necessary in order to deal with the relevant situation justly and to resolve an otherwise apparently intractable problem whereby, absent the Liquidator being voluntarily prepared or compelled by the Court to work without remuneration, the necessary investigations to establish the relevant legal rights cannot practically take place.

131. Mr El-Emadi submitted that the Liquidator had claimed a large amount of remuneration as her fee and expenses without proper records of work done by her firm. It asked the Court to dismiss her remuneration claim and reasonably fix her remuneration without affecting him in the interest of justice.

132. The Trust Claimants submitted that (i) the Liquidator's conduct has been procedurally adversarial; (ii) she has not provided any substantial benefit to the trusts; (iii) neutrality is contradicted by her own incentive structure and failure to assist the Trust Claimants; and (iv) costs were incurred in defence of the estate's interest, not in service of the trusts. The Court's discretion to grant an allowance is "*sparingly exercised*". As a result, she cannot meet the test set out in *Berkeley Applegate*, and the Trust Claimants strongly reject the notion that the Liquidator's costs should be considered for reimbursement from the trust property, even if she lacks alternative sources of funding. The Trust Claimants are not beneficiaries of the Liquidator's actions; they are forced respondents to a process driven by suspicion and regulatory pressure. If they prevail, they should not be penalised with deductions for costs arising from the Liquidator's cautious but adversarial approach. If they fail, the costs must be borne by the estate, not under some general fairness principle, but because that is the only lawful source available under the QFC Insolvency Regulations 2005.

Analysis

133. The Court considers that the provisional view it expressed in its November Judgment cited above is the correct one for the reasons which follow.

134. The starting point of the analysis is that this Court is not bound by the approach taken in other jurisdictions. Nevertheless, as stated above, pursuant to article 8(1) of the QFC Trust Regulations 2007, the Court may look to the common law of trusts and the

principles of equity in England and Wales to supplement the Regulations. In any case, the decisions in *Re Berkeley Applegate* and subsequent English authorities are of persuasive value, because they articulate a principle which is rooted in equity and common sense.

135. As Foxton J (as he then was) explained in *Re Gerald Martin Smith (Serious Fraud Office v Litigation Capital Ltd)* [2021] EWHC 1272 (Comm), the *Berkeley Applegate* jurisdiction is a narrow equitable discretion permitting the court to require those with beneficial interests in property to bear a proper allowance for the costs of office-holders whose work was necessary to secure those interests. It is to be exercised sparingly, applies only where the beneficiaries needed the office-holder's assistance to vindicate their rights, and is confined to costs which materially contributed to protecting or securing the relevant interest.

136. The underlying problem is a practical one: without some mechanism for remunerating the Liquidator, investigations and realisations necessary to identify legal rights could not realistically take place. The solution must therefore lie in recognising that those ultimately entitled to the assets cannot fairly take the benefit of the Liquidator's work without making a fair contribution to its cost.

137. In the view of this Court, the principle may be expressed in general terms as follows. Where (i) an office-holder has properly undertaken work which was necessary to preserve, investigate, or realise assets, (ii) that work has been carried out in good faith and for the benefit of those entitled to the assets, and (iii) absent remuneration it would be unjust to require the office-holder to act without compensation, the Court has an equitable jurisdiction to permit the reasonable remuneration and expenses of that work to be met from the assets themselves.

138. That jurisdiction is discretionary, must be exercised with regard to all the circumstances, and extends no further than is necessary to achieve justice in the case before the Court.

139. The precise application of these principles will depend on the facts of each case. However, drawing on the useful summary given by Foxton J in the *Gerald Martin Smith* case cited above, they may be stated in the following terms:

i. The jurisdiction is an equitable one, exceptional in character and to be exercised sparingly. Its purpose is to prevent unjust enrichment by requiring those asserting beneficial interests to bear a fair contribution to the necessary costs of an office-holder whose work secured or preserved the relevant property. It creates no personal right of recovery but operates as an equitable allowance against the beneficial interest itself.

ii. Any allowance is limited to reasonable and proportionate costs which materially contributed to the identification, protection or realisation of the property. It does not extend to costs incurred in an adversarial capacity, or to work done solely for the office-holder's own estate. The office-holder, when seeking directions, is expected to act in a neutral and non-partisan capacity.

iii. An application should ordinarily be made at the outset, before material work is undertaken, so that the Court can supervise the scope of the work, ensure proportionality, and set appropriate limits or reporting obligations. Where circumstances change, or uncertainty arises, the parties may and should return to the Court for further directions.

iv. All persons with a potential interest in the property must be joined, or at least given notice and an opportunity to be heard, so that the necessity, scope and fairness of any allowance can be fully tested before the Court.

MH Partners SA

140. An issue arose between MH Partners SA and the Liquidator in respect of fees said to be due under an agreement dated 1 October 2023 signed by Mr Baeriswyl on behalf of HCW, and Mr Mehdi Hani on behalf of MH Partners SA, for the provision of services to HCW. The governing law of this agreement is that of Switzerland and the courts of Geneva have jurisdiction. The amount claimed is CHF 87,237.

141. Both parties agreed at the hearing that this was a matter that would be resolved between them in the liquidation. The Court should be asked for a direction only if that does not succeed.

Mr Patrick Baeriswyl's application

142. In a claim dated 21 January 2025, Mr Baeriswyl, a former director of HCW, requests the Court:

> *…to formally recognize Mr. Patrick Baeriswyl as an interested party in all proceedings initiated by trust beneficiaries, creditors, or other interested parties. This recognition ensures his continued ability to assist the Court and Liquidator effectively.*

143. An application was made to the Court on 2 July 2025. It was opposed by all other parties as being late (which it was), potentially requiring an adjournment, and because Mr Baeriswyl had no legitimate status as a party.

144. In his written submissions in reply, Mr Baeriswyl stated:

> *No adjournment is necessary. Mr. Baeriswyl's evidence is corroborative, not dispositive, and could be received within the hearing framework as factual clarification. The Court can limit oral time and impose page limits to ensure procedural balance. The idea that three days of hearing would be undermined by a 30-minute factual clarification from a key actor is overstated and unsupported.*

145. As noted above, prior to ruling on the application, the Court *de bene esse* permitted Mr Hani to advance Mr Baeriswyl's contentions during the hearing. A good deal more than the 30 minutes which he was asking for was allowed. That is now the end of Mr Baeriswyl's participation in these proceedings which has been highly extensive to date. He is a former director with no status now that the company is in liquidation. There is no legitimate reason to have his participation. If he has further information to give, he can give it to the Liquidator. This application is refused.

Conclusion

146. For these reasons set out above, the applications of the Trust Claimants in respect of Ms Maria Gharbi, Mr Norredine Sebti, Mr Alessandro Delli Compagni, Ms Ileana Mercedes D'Lacoste Agudelo, and Ms Eniluz Jhoana Gonzalez Aponte cannot be admitted and are therefore dismissed. In respect of Mr Patrick Baeriswyl's application to be joined as an Interested Party in these proceedings, this application is also refused.

147. As to Mr Vincent Rime's claim, for the reasons set out above and on the material before the Court, his claim is admitted. This does not imply that his claim is necessarily valid for as much as the amount claimed as set out above. The precise value is to be

determined by the Liquidator.

148. The liquidation will therefore proceed on the basis that the only proprietary trust claim to be recognised is that of Mr Rime. The remaining parties in these proceedings are to agree any further directions that they wish the Court to make. Such agreed directions are to be submitted by no later than **16.00 on 13 October 2025**.

149. As regards costs, the Court makes no order at this stage. Any applications by a successful party for its legal costs of the present applications are to be referred to the Court for determination.

By the Court,

[signed]

Justice Sir William Blair

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

Representation

The Claimant and the First Interested Party were represented by Mr Andrew George KC of Counsel (Blackstone Chambers, London, UK), instructed by their in-house legal departments.

The Second Interested Party was represented by Mr Kumaresan Srinivasan of the Al Dar Legal Law Firm (Doha, Qatar).

The Third Interested Party was represented by Mr Oliver McEntee of Counsel (King's Chambers,

Manchester, UK), instructed by Francis Wilks and Jones LLP (London, UK).

The Trust Claimants were represented by Mr Hervé Crausaz of Chabrier Avocats LLC (Geneva, Switzerland).

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

MH Partners SA was self-represented.