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: [2026] QIC (A) 2

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

[On appeal from [2025] QIC (F) 47]

Date: 12 February 2026

CASE NO: CTFIC0019/2023

RE HORIZON CRESCENT WEALTH LLC

(IN LIQUIDATION)

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Chelva Rajah SC

Justice Fritz Brand

Order

1. Permission granted to Ms Gharbi and Mr Compagni and appeals allowed; the Trust Claims of Ms Gharbi and Mr Compagni are admitted in addition to those of Mr Rime.

2. Permission granted to Mr Sebti but the appeal is dismissed.

3. Permission to appeal refused in relation to Ms Aponte and Ms Agudelo.

4. Permission to appeal refused in relation to Mr Baeriswyl.

5. As to the future conduct of the liquidation:

    i. The Liquidator be at liberty to pay the sums attributable to the trusts of which Ms Gharbi, Mr Compagni, and Mr Rime are respectively the beneficiaries in amounts to be determined by the Liquidator, such payment to be made directly to Ms Gharbi, Mr Compagni, and Mr Rime with permission to apply to this Court.

    ii. The Liquidator to submit a report to this Court by 12 August 2026.

    iii. The costs of the Liquidator are to be determined by the Registrar with liberty to apply by leapfrog to this Court on issues of principle which will then be determined in accordance with the directions of the Court.

    iv. Any further application in the liquidation to be made to this Court which will give directions as to their determination or disposal.

6. Any applications for costs of the appeal and of the hearing before the First Instance Circuit to be submitted to Registry within 21 days of the date of the judgment and determined by the Registrar, with any appeal to be made by leapfrog to this Court.

Judgment

1. There are before the Court applications seeking permission to appeal from the judgment of the First Instance Circuit (Justices Sir William Blair, Ali Malek KC and Dr Muna Al-Marzouqi; [2025] QIC (F) 47) given on 30 September 2025 (the '**September 2025**

Judgment') in the liquidation of Horizon Crescent Wealth LLC ('**HCW**') out of which various claims arise.

Background

The insolvency of HCW

2. HCW was incorporated in the QFC on 4 February 2015 and was authorised by the Claimant in these proceedings, the Qatar Financial Centre Authority ('**QFCA**'), to carry out the non-regulated business of Trust Administration, but not any regulated business including asset management.

3. Between 2016 and 2018, significant sums were paid into what were recorded as trust accounts in the name of HCW at Qatar National Bank ('**QNB**'). However, HCW did not segregate the trust accounts from other monies held by it or from other client monies or its own funds.

4. Following an investigation by the First Interested Party, the Qatar Financial Centre Regulatory Authority ('**QFCRA**') in 2018, all HCW's accounts at QNB were frozen on suspicion of money laundering on 22 February 2018. The funds have for the most part remained frozen.

5. Regulatory action was taken against HCW and some of its directors by the QFCRA. Very substantial penalties were imposed on HCW which the QFCRA seeks to recover in the liquidation. These penalties were subject to appeals to the QFC Regulatory Tribunal and to this Court. In a judgment given on 9 June 2020 ([2020] QIC (A) 2) in refusing permission to appeal to this Court, we affirmed the judgment of the QFC Regulatory Tribunal on the basis that it had concluded that HCW "*... had 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*" (paragraph 6(a)(i)).

6. Regulatory proceedings were also brought against the directors of HCW including its Chairman, Mr Baeriswyl, whose application to be joined as a party to these liquidation proceedings was refused by the First Instance Circuit in the September 2025 Judgment. He seeks permission to appeal.

The claims made in the liquidation

7. Arising out of these events, claims were made seeking payment from HCW from various creditors. The events are set out with great clarity in the judgment of the First Instance Circuit; it is only necessary for us to provide a short summary. The claims included that of the Second Interested Party, Mr Mohamed El-Emadi, who had been Deputy Chairman of HCW. He had obtained summary judgment ([2021] QIC (F) 23) and has received some payment. Claims, some for very substantial sums were also made by those who contended that they were the beneficiaries of what were recorded as trust accounts by HCW.

8. On the QFCA's application a winding-up order was made by the First Instance Circuit on 12 December 2023, and HCW was placed in liquidation: see *Qatar Financial Centre Authority v Horizon Crescent Wealth LLC and others* [2024] QIC (F) 1 (the '**January 2024 Judgment**') at paragraph 36. Details of the claims are set out in that judgment. Ms Joanne Rolls and Mr Steve Parker of Opus Restructuring LLP were appointed Liquidators, but Mr Parker has since died. 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. Permission to appeal against that judgment was refused by this Court on 15 April 2024: *Qatar Financial Centre Authority v Horizon Crescent Wealth LLC and others* ([2024] QIC (A) 5). In consequence, all claims to the funds held in relation to HCW fell to be dealt with in the liquidation.

9. On 15 August 2024, the Liquidator issued a directions application under the QFC Insolvency Regulations 2005, supported by a detailed witness statement providing information, as far as could be ascertained, about the funds and the claims of those said to be entitled under the trusts.

10. In a judgment given on 17 November 2024 ([2024] QIC (F) 52) (the '**November 2024 Judgment'**), the First Instance Circuit set out the approach it would adopt to the various claims made by the Trust Claimants, the beneficiaries of what had been recorded as trusts, as well as other claims including the claims of Mr Baeriswyl and the purported beneficiary of the Horizon Trust who sought to explain why significant sums held by HCW were trust monies of what had been recorded as trusts. As there were strong suspicions of money

laundering, the Court, in accordance with its obligation to uphold public policy against money laundering, determined that any Trust Claimant would only have the claim considered if that person fully disclosed the source of the relevant funds and provided satisfactory evidence of the legitimate origin of the funds (see paragraph 43 of the November 2024 Judgment). The Court set out the procedure to be followed at paragraph 46 of the judgment and stated that a draft Order would be submitted for consideration by the parties. It was and the parties were given an opportunity to comment.

11. On 24 December 2024, the First Instance Circuit, after considering the objections to the draft Order, made an Order that the reasonable expenses of the Liquidators could be paid out of funds held, but gave the parties wishing to make a trust claim under the procedure set out in paragraph 46 of the November 2024 Judgment until 21 January 2025 to make such claims. The Order provided:

    i. At paragraph 3: "*Parties have liberty to apply to the Court in respect of this Order. The Court may review the Order in due course*".

    ii. In its reasons it explained at paragraph 5: "*This means that the trust assets issue can be reviewed if necessary. It is academic until a trust claim is actually brought*".

    iii. At paragraph 4 of the reasons, it said:

> *Comments were received from MH Partners SA for a former director of the Defendant challenging the draft order on the grounds that trust assets should not be used for general expenses. The Court refers to paragraph 49 of the judgment* [as set out above]
>
> *The Court will take these comments into account if and when an application is made.*

12. On 24 February 2025, the First Instance Circuit gave further directions ([2025] QIC (F) 14).

13. Applications for permission to appeal were made against the November 2024 Judgment and the Order of 24 December 2024. By Orders made on 19 March 2025, the Court directed that the appeal against the Order entitling the Liquidators to use the trust monies for the

purpose of paying the expenses of the liquidation be postponed until after the hearing of the Trust Claimants' claims. We also directed that the applications for permission to appeal from the November 2024 Judgment and the Order of 24 December 2024 be adjourned until after the hearing of the claims.

14. On 13 February 2025, the First Instance Criminal Court of Qatar found Mr Baeriswyl and other directors of HCW guilty of offences associated with money laundering under articles 3(1), (4), (5) and (6) of Law No. 4 of 2010 on Combatting Money Laundering and Terrorism Financing. The Court found that between December 2016 and August 2018, HCW acting through its directors had failed to carry out mandatory client due diligence, to verify the source of funds and to segregate client monies from HCW's own funds. HCW was fined QAR 500,000. Mr Baeriswyl was sentenced *in absentia* to 3 months' imprisonment and a fine of QAR 50,000. That decision was upheld on an appeal brought by the public prosecutor in Decision No. 5270 of 2025, given on 13 April 2025.

The First Instance Circuit hearing in July 2025 and the September 2025 Judgment

15. On 20 and 21 July 2025, the First Instance Circuit heard the various claims. Those who appeared before it and before us on the applications for permission were:

    i. The QFCA and QFCRA: they were represented by Mr Andrew George KC (Blackstone Chambers, London, UK) before the First Instance Circuit and this Court.

    ii. The Liquidator, Ms Joanna Rolls: she was represented by Mr Oliver McEntee of Counsel (King's Chambers, Manchester, UK) before the First Instance Circuit and this Court.

    iii. The Trust Claimants: there had been 9 potential Trust Claimants, but only 6 made claims within the time limit imposed by the Court. They were:

        a. Ms Maria Gharbi.

        b. Mr Norredine Sebti.

        c. Mr Alessandro Delli Compagni.

d. Mr Vincent Rime.

e. Ms Conzalez Aponte.

f. Ms Lacosta Agudelo.

The Trust Claimants were represented by Mr Hervé Crausz (Chabrier Avocats, Geneva, Switzerland) before the First Instance Circuit and, as we explain at paragraph 19(i) by the Salah Al-Jalahma Law firm (Doha, Qatar) before us.

iv. Mr Mohamed El-Emadi: he was represented by Mr Kumaresan Srinivasan of Al Dar Legal (Doha, Qatar) before the First Instance Circuit. Although he served written submissions, he did not appear at the hearing of the applications before us.

v. Mr Baeriswyl sought to apply to be an interested party. Mr Mehdi Hani of MH Partners SA, a consultancy in Geneva, applied to the First Instance Circuit to represent him. Mr Hani is not a lawyer, but the First Instance Circuit allowed him in quite exceptional circumstances to make a submission on a very limited point as set out at paragraph 69 below. We consider at paragraph 18(ii) below his application to make submissions to us on behalf of Mr Baeriswyl.

vi. MH Partners SA were self-represented: it sought to have its claim for legal fees admitted in the liquidation.

16. In its very clear and comprehensive judgment given on 30 September 2025 the First Instance Circuit:

i. Dismissed the claims of the Trust Claimants except the claim of Mr Vincent Rime (paragraphs 49-123).

ii. Held that the Liquidator was entitled to be paid her fees, costs and expenses out of the trust assets though there would be no need to have recourse to the trust funds in the light of its decisions on the Trust Claims (paragraphs 124-139).

iii. Refused the application of Mr Patrick Baeriswyl to be joined as a party (paragraphs 142-145).

iv. Noted the claim of MH Partners SA for CHF 87,237 arising out of an agreement made on 1 October 2023 between Mr Baeriswyl, purporting to act on behalf of HCW and MH Partners SA (see paragraphs 140-141).

v. Reserved the orders as to costs and for further directions (paragraphs 147-149).

17. On 13 October 2025, we fixed the date of the hearing of the outstanding applications for permission and any applications for permission to appeal from the judgment for 8 and 9 December 2025. The Registry notified the parties. Applications for permission to appeal were brought against the September 2025 Judgment:

i. On 29 October 2025 by those who had failed to establish their claim to trust monies. The applications were opposed by the QFCA and the QFCRA, the Liquidator and Mr Mohamed El-Emadi.

ii. On 28 October 2025 by Mr Baeriswyl.

18. We directed these applications be heard together with the applications that we had ordered on 19 March 2025 be heard after the decision of the First Instance Circuit on the Trust Claims. The arrangements for the hearing on 8 and 9 December 2025 and the agreement of the documentation for the appeal were the subject of numerous further emails from the Court. As is the practice in this Court, all parties/representatives were on the relevant email chain to ensure clear communication and to avoid confusion.

19. On Sunday 7 December 2025, the day before the hearing, the Court received emails from Chabrier Avocats (received at 20.16 Doha time) and from Mr Medhi Hani of MH Partners SA (received at 21.03 Doha time) stating that they had not been properly notified of the date of the hearing. They had only that day become aware of the listing of the hearing and could not make arrangements to attend on the following day. The statement that they had

not been notified of the hearing was plainly untrue; such a lie reflects poorly on both Chabrier Avocats and Mr Hani:

i. We were notified by Mr Hervé Crausaz of Chabrier Avocats that he would not attend, but the Salah Al-Jalahma Law Firm would attend and would represent the Trust Claimants. The Salah Al-Jalahma Law Firm attended on both days of the hearing and made very clear and helpful submissions to us.

ii. MH Partners SA asked if the Court could make arrangements for Mr Medhi Hani to appear by video link. We refused the application as we had directed an oral in-person hearing of the appeal of Mr Baeriswyl and the parties had been so notified. Furthermore, the application made on behalf of Mr Baeriswyl was an application to appear before this Court by video link from a person who was not admitted to practice law in any jurisdiction. There is no basis on which such an application by a person not a lawyer admitted to practice in any jurisdiction would be permissible.

20. We first consider the Trust Claims.

The Trust Claims

The law in force against money laundering

21. In Qatar and the QFC, as in all leading international financial centres, a very strict position has to be, and is, taken to money laundering, as permitting a centre to be used for money laundering is utterly corrosive of the reputation of that centre, its integrity, and its ability to conduct a financial market.

22. The national legislative provision in force between 2016 and 2018 when the funds were transferred to HCW was Law No. 4 of 2010. Article 2 set out the offence of money laundering:

> *The laundering of proceeds of any of the following Predicate offences is hereby prohibited:*
>
> *All indictable offences*

Offences included in the international conventions signed and ratified by the State. Offences of swindling, illicit traffic in narcotic drugs and psychotropic substances, deception, forgery, blackmailing, burglary, theft, trading in stolen property, illegal trading in any other commodity, forfeiting or piracy of products, smuggling, sexual exploitation, environmental offences, tax evasion, sale or trading in monuments, market manipulation and commercial cover up.

Equally prohibited is the participation by way of agreement, assistance, incitement, facilitation, advising, cooperation, contribution, conspiracy to commit or attempting to commit any of the types of money laundering offence under this Law.

Predicate crimes shall include predicate crimes committed outside the State where such predicate crime is an offence under the laws of the country where it has been committed and under the laws of the State of Qatar.

No conviction on the predicate crime shall be necessary for proving the illegal source of the proceeds of crime.

The money laundering offence shall be independent of the predicate offence and punishment of an offender for the predicate offence shall not preclude punishment for the money laundering offence.

23. The QFC Regulations which were applicable in the QFC were the Anti-Money Laundering Regulations 2005 (the '**AML Regulations**'). These set out detailed regulations as to steps that those in the QFC should take to counter attempts at money laundering. Although article 19 defined money laundering in slightly different terms, it made clear that the conduct covered by money laundering related to funds derived from criminal conduct or the disposition of funds knowingly derived from criminal conduct or participation in criminal conduct.

<u>The approach of the First Instance Circuit as set out in the November 2024 Judgment and its decision</u>

24. Given the findings that had been made in the disciplinary proceedings and the other material before the Court, it was, in our view, necessary and just to impose strict requirements in relation to the admission of the Trust Claims to ensure that the Court did not allow claims for funds which were the product of money laundering as defined in the national legislation and in the QFC Regulations. Strict examination of the claims was necessary for the reputation and integrity of Qatar as a leading international financial centre.

25. In the November 2024 Judgment, the First Instance Circuit therefore set out the approach that should be taken to the Trust Claims. It made crystal clear that each person claiming to be a beneficiary under a trust would have to bear the legal burden of proving that the funds in respect of which claims were advanced were not the proceeds of money laundering. As the First Instance Circuit said at paragraph 43, the Court would 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.*

26. It was therefore necessary for each of the Trust Claimants to show that there was proper disclosure and prove by satisfactory evidence that the funds were not the product of money laundering; the phrase legitimate origin had to be understood in that sense.

27. The Liquidator took a neutral stand on the claims before the First Instance Circuit, but the QFCRA and the QFCA opposed the Trust Claims. Mr George KC, on behalf of the QFCA and the QFCRA, very ably and clearly took the First Instance Circuit and us through all the material produced by the Trust Claimants and made the case that the evidence did not amount to proof of legitimate origin. No positive case was advanced save in respect of the claims made by Ms Aponte and Ms Agudelo where a positive case was advanced. The First Instance Circuit, in our view, correctly concluded at paragraphs 42-48 of the September 2025 Judgment that the QFCA and the QFCRA were right to do so in accordance with their duties as regulators. Although Mr El-Emadi took the same position as the QFCA and the QFCRA, the Liquidator took a neutral position on money laundering, but on our request set out her position in relation to the other issues on the Trust Claims.

28. The First Instance Circuit had before it, as it explained at paragraph 39 of the September 2025 Judgment, only documentary evidence. The issue before it was simply whether the claims should be admitted. The Trust Claimants did not seek restitution of the sums transferred, but specific amounts set out in writing in claims documents 21 January 2025. As explained at paragraphs 50-52 of the judgment, the First Instance Circuit stated that the precise amount of each claim was yet to be determined.

29. The First Instance Circuit determined at paragraphs 86-93 of the September 2025 Judgment that the claim of Mr Vincent Rime as the beneficiary of the Sertissage Trust was a claim that should be admitted as the funds were not the proceeds of money laundering. The First Instance Circuit decided in respect of the other Trust Claims that the claims should not be admitted.

The applications

30. The Trust Claimants in their applications for permission to appeal and in the submissions made to us sought to overturn the decision of the First Instance Circuit on the other trusts on the basis that the First Instance Circuit had not understood the significance of the documents submitted on behalf of the Trust Claimants or taken proper account of the steps that were taken by the banks who remitted the funds to be certain of the legitimate origin of the funds; and that the documents demonstrated that the funds were not the proceeds of money laundering. We consider these submissions in the course of our consideration of the position of each trust which we consider in turn. Before we do so, we must first deal with three general points.

General points on the evidence and proof

31. Annexed to the 125-page application for permission made on behalf of the Trust Claimants were sworn statements dated 23 October 2025 signed by each in which each set out evidence of their interest in the trusts and the origin of the funds. As this Court has repeatedly made clear, it will not admit fresh evidence on the appeal in the absence of special circumstances or strong reasons: see the cases cited in *Azmeh and Nicol on the Law and Practice of the QFC Civil and Commercial Court* (LexisNexis UK, 2025) at pages 87-88. The First Instance Circuit made clear what it required. We decline to admit those statements as no proper grounds for their admission were advanced. Even if we had admitted them, they were so lacking in detail and specificity that none would have made any difference to the outcome of the applications for permission.

32. Second, it is contended on behalf to the Trust Claimants that the First Instance Circuit should have adopted a criminal standard of proof as money laundering was a criminal offence. That

is simply wrong as these are civil proceedings. The Court was right to apply the civil standard of proof and in its application of that standard in a manner commensurate with the seriousness of the allegations in respect of each beneficiary.

33. Third, each Claimant submitted that what was referred to a Swiss Form A signed in January 2025 as a declaration of identity by the beneficial owner. It was submitted that this was a matter to which the First Instance Circuit should have attached considerable weight. Although it is a criminal offence under Swiss law to provide false information on this form, the signature of such a document which contained no detail as to the origin of the funds and which was signed during these proceedings could carry very little, if any weight, as the signatory had not been subject to cross examination and had not condescended to prove any detail. Detailed statements should have been provided by these Claimants; the provision of those statements was a matter for them or their legal representatives as it is clear as a matter of general practice of this Court and from the specific Orders made during the course of these proceedings that it was for the Claimants to adduce the necessary evidence. Where there was a failure to adduce it, that was due to the failure of those who represented the Trust Claimants to follow the Orders of the Court.

The claim of Maria Gharbi (the Malaya Trust)

34. Ms Maria Gharbi, a Swiss citizen, claimed to be entitled as the beneficiary of the Malaya Trust which had been established by a settlement deed of 17 November 2016 made between her and HCW, as the trustees; the beneficiaries were her and her two younger sisters. The structure of the deed followed the fairly typical pattern for an offshore trust derived from the traditional form of trust or foundation developed in Liechtenstein for fiscal, inheritance and other reasons (see Ramati, *Liechtenstein's Uncertain Foundations: Anatomy of a Tax Haven*, Dublin: Hazlemore 1963). She was the protector of the trust with extensive powers in respect of the distribution of capital and income and other matters provided for in the settlement deed.

35. Her claim, as was the case for all the other claims, was supported not by a detailed statement from Ms Gharbi but by a Report from Berclaz Associés ('**Berclaz**'), a Swiss firm which advises on compliance and risk. The Report attached a statement by Maria Gharbi's father

that $875,000 had been given to the trust as part of an *inter vivos* distribution from her parents; a statement showed that the funds had been transferred from the Nassau branch of Pictet Bank, a leading Swiss private bank. The HCW Know Your Customer Form (the '**KYC Form**') completed by HCW recorded that the source of the funds of her parents was Mr Moustafa's (her father) pension from the Universal Postal Union ('**UPU**') from which he had retired 20 years ago after 30 years' service. Berclaz verified that Mr Moustafa had worked in Berne as a well known director of the UPU, a long established inter-governmental organisation which is an organ of the United Nations.

36. It was submitted to the First Instance Circuit by the QFCA and QFCRA that it was not enough for Ms Gharbi to show that the funds had come from her parent; she had to show that the source from which her parents had obtained the funds was legitimate; this submission was accepted by the First Instance Circuit.

37. In our view, the submission did not address the question of whether Ms Gharbi had satisfied the evidential burden that rested on her to show how the funds had a legitimate origin. If she satisfied the evidential burden, then it was for those opposed to adduce material that showed that the funds did not have a legitimate origin. Ms Gharbi had established that the money came from her parents: that her father was employed by a major inter-governmental organisation based in Switzerland and that he had said that the source was his pension. The funds had been transferred from a well known Swiss bank in a jurisdiction that has endeavoured to establish strict requirements for clients who hold accounts at banks. In our view that satisfied the evidential burden resting on Ms Gharbi as it provided credible evidence that the source of the funds was legitimate in her hands as the child of a director of an inter-governmental organisation.

38. If it was to be suggested that her father had obtained the funds illegitimately and not from his pension, it was for others opposed to her claim such as the QFCA and QFRCA (using their extensive powers as financial regulators with international standing) to adduce material that cast doubt on the evidence adduced by Ms Gharbi and not simply to go on asking Ms Gharbi to produce more information and more answers. It was entirely within the powers of the QFCA and QFCRA to decide whether, as they did in the case of Ms Aponte and Ms

Aguedelo, to make enquires and adduce evidence; we can well understand a decision not to do so in the case of Ms Gharbi, given the evidence adduced by her and the time and resources that would be involved in gathering further material. As no further material was placed before the First Instance Circuit which suggested that Ms Gharbi's father had acquired the funds illegitimately, there was nothing to cast doubt on the evidential burden she had satisfied that the funds were not the product of money laundering.

39. There is one further matter. As we set out in paragraph 44 below, Mr Sebti, her brother-in-law, referred in a letter he wrote to Mr Baeriswyl on 25 March 2018, to a loan Ms Gharbi made to Mr Baeriswyl. Although Ms Gharbi did not explain this and little reliance can be placed on an explanation given by Mr Baeriswyl to which we refer, it does not seem to us that this in any way affects the issue as to whether the funds had a legitimate source, but goes to whether money was loaned and repaid in circumstances which have not been fully explained.

40. We therefore grant her permission to appeal and allow her appeal. We hold her claim as the beneficiary of the Malaya Trust should be admitted.

<u>The claim of Norredine Sebti (the Sebti Trust)</u>

41. Mr Norredine Sebti, a Swiss citizen living in Monaco, claimed to be entitled as the beneficiary of the Sebti Trust which had been established by a settlement deed of 1 May 2017 made between him and HCW, as the trustees; the beneficiaries were his wife and children. He was the protector of the trust. The deed was in the same form as that of the Malaya Trust. He was the brother-in-law of Ms Gharbi.

42. Annexed to the Berclaz Report was a QNB statement showing QAR 7,270,000 (circa $2m) was received at QNB on 4 May 2017 from Mr Sebti; there was a letter from Mr Sebti's Bank (VP Bank, Singapore branch) which showed that the value date of the transfer was 24 May 2017. The Berclaz Report described him as a senior director in the financial sector including 10 years with Deutsche Bank as Head of Equity Trading in London, New York and Hong Kong; his remuneration in 2000 had been in excess of £1.2m as set out in a letter from Deutsche Bank London in February 2001. The Report recorded it had seen other

remuneration statements and documentation showing his income in 2016 was more than CHF 16m. An applied risk and data intelligence report made in January 2025 by Polixis, another Swiss based firm, showed other investments and nothing negative. The KYC Form of HCW recorded his net assets in 2016 as CHF 25m.

43. Before considering the issue as to the origin of the funds, there was a shorter and much simpler issue on which the First Instance Circuit had refused to admit Mr Sebti's claim. On the evidence before the First Instance Circuit, it found that the transfer of the funds on 4 May 2017 was to Mr Baeriswyl personally in repayment of a loan Mr Baeriswyl had made to Mr Sebti. It was therefore not a payment to HCW for the Sebti Trust and so no claim could be made in the liquidation.

44. After the accounts of HCW had been frozen in February 2018, Mr Sebti wrote to Mr Baeriswyl on 25 March 2018 in the following terms:

> *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.*

45. Mr Baeriswyl in a letter dated 12 May 2025 set out his case in a "*to whom it may concern*" letter various explanations as to why this had not been a payment to him in reimbursement of a loan. It is sufficient to set out one passage from the various ways in which he sought to contradict Mr Sebti's letter:

> *Given that the letter in question is unilateral, never validated by me, and has never produced any legal or financial effect, it cannot be used as proof of any binding obligation or debt. Its invocation now-years after the liquidation of Horizon Crescent Wealth and under the current asset freezing context-must be viewed 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.*

46. As the First Instance Circuit explained in its judgment, Mr Baeriswyl had written to Mr Sebti on 2 April 2018 to say that the funds remained the property of the Sebti Trust and had not been transferred to him personally. But it is clear from the terms of that letter that the funds had been taken from HCW's trust account, were being used for HCW or Mr Braeiswyl's own purposes, and as of the date of the letter had not been returned.

47. There was nothing from Mr Sebti before the First Instance Circuit or before us which explained the letter he had sent on 25 March 2018. There is no reason to believe that Mr Sebti's letter did not set out the correct position in the absence of evidence from Mr Sebti who his legal representatives should have called to give evidence, but failed to do so. That failure was fatal to his claim on the evidence before the First Instance Circuit and before us.

48. Quite apart from the reasons we have set out in the preceding paragraphs little credence, if any, could be given to any statement from Mr Baeriswyl which had not been rigorously tested in cross-examination, particularly in the light of his criminal conviction in Qatar. A written statement by him carried virtually no evidential weight. The First Instance Circuit was therefore plainly correct to find that in the light of Mr Sebti's letter and in the absence of proper evidence from Mr Sebti, his claim fails as First Instance Circuit was right to find that the monies were paid to Mr Baeriswyl personally. Although we grant permission for the reasons set out in the following paragraphs, we therefore dismiss the appeal brought by Mr Sebti on this basis.

49. It is therefore not strictly necessary for us to express a view as to the origin of the funds and whether Mr Sebti had shown the funds had a legitimate origin. However, as this issue might go to the personal reputation of Mr Sebti, we will grant permission so we can express the views briefly we would have reached had it been necessary to determine the appeal on this basis. It was submitted to the First Instance Circuit by the QFCA and QFCRA that the only document before the Court was the letter of February 2001 which showed that less than 10% of remuneration was the basic salary and there was nothing to show how that could be traced to the 2017 payment to HCW. It also submitted orally to the Court that it had asked for the remuneration documents for 2006-2009 referred to in the Berclaz Report but they had not been sent.

50. However, as in the case of Ms Gharbi, this submission did not address the question as to whether Mr Sebti had satisfied the evidential burden. He had established he was a senior banker in a sector where remuneration was very high, usually by way of bonus and incentive; the information recorded on the KYC Form of HCW was of some weight, as there was no reason for Mr Sebti to have lied to HCW about his own wealth at that time; the Prolix Report was entirely consistent with this. The Berclaz Report stated that documentation in respect of his remuneration other than the 2001 letter had been seen by them. Furthermore, the sums had been remitted from a Swiss private bank in Singapore, a jurisdiction noted for the rigour of its regulation. In our view what was put forward satisfied the evidential burden. It was then a matter for the decision of the QFCA and QFCRA whether they wished to obtain and adduce material that cast doubt on that evidence. Asking someone to show how he traced the payment of $2m back to 2001 or to his salary over the years was not enough. If the QFCA and QFCRA had decided that this was a course they should have taken in the light of the time and resources needed and the other issue in relation to Mr Sebti, it should, for example, have produced the correspondence asking for the other documentation referred to by Berclaz; it was not enough to tell the Court orally that they had asked for it. Given their position as financial regulators in an international financial centre, they were in a position to seek information that cast doubt upon an account that on its face was credible, but we can well understand why a decision may have been made no to conduct such enquiries, given the time and resources required. As in our view Mr Sebti had satisfied the evidential burden, we would have concluded that the funds were not the proceeds of money laundering, if that issue had arisen for decision.

51. We say this simply to set out our views on matters that affect the reputation of Mr Sebti. It does not in any way affect our decision on his appeal which is dismissed for the reasons we have given. It follows that the First Instance Circuit was correct in its decision that his claim should not be admitted in the liquidation.

<u>The claim of Alessandro Delli Compagni (the Columbus Trust)</u>

52. Mr Compagni, an Italian citizen resident in Italy claimed to be entitled as the beneficiary of the Columbus Trust. The trust deed appears not to have been before the First Instance Circuit, though it was before us; the First Instance Circuit was told it was dated 13 December 2017. The deed named Mr Compagni's fiduciary, Franco Croce, as the settlor, and Mr Croce's wife and children as the beneficiaries. Mr Croce, who had his office in Rome, had been appointed his fiduciary by an agreement dated 15 December 2017. It was the case of Mr Compagni that this was an error and he and his family were in fact the beneficiaries.

53. Mr Compagni owned a restaurant, *Ristorante Pizzeria Columbus*, in Giulianova on the Adriatic coast of Italy. The Berclaz Report stated that he had appointed a fiduciary, Mr Franco Croce, and that the equivalent of the sum of $293,000 had been transferred on 11 February 2018 from Mr Compagni's account at Gonet et Cie SA ('**Gonet**'), a long-established private bank in Geneva. There were bank statements from Gonet that set out the receipt of €264,970 about 16 months earlier on 28 October 2016 against the notation "*reimbursement of Life Policy*" on Mr Compagni. The greater part of this sum (€256,047.50) was then invested on 3 May 2017 in a Euro denominated Zurich Cantonal Bank Gold ETF. The ETF was held by Gonet as set out in its statements and was sold on 30 January 2018 for a net sum of €235,564, resulting in a small loss. There was then a transfer to HCW's account at QNB with a value date of 8 February 2018 ($293,000). The accounts for the restaurant as at 31 December 2024 were also produced in the Berclaz Report; they showed it made a profit of €91,000 on a turnover of €1,062,000.

54. The QFCA and QFCRA submitted to the First Instance Circuit that there was a lack of evidence supporting what Berclaz had referred to as a sum which "*seemed a little high*"; it also submitted that the funds may have belonged to Mr Croce. The First Instance Circuit was given an explanation by Mr Baeriswyl's representative, Mr Hani, as to how HCW had wrongly recorded the beneficial owner and how that had happened. As the First Instance Circuit rightly observed that account was plausible, but coming from Mr Baeriswyl carried little weight.

55. However, the Berclaz Report pointed out that Gonet, as a private bank in Switzerland with a significant reputation, would have been careful to satisfy itself as to the origin of the funds.

It is well known that the Swiss authorities have since at least the early 2000s held Swiss banks to the highest standards to ensure that money is not the proceeds of money laundering. As we have set out, Gonet recorded the origin of the funds as payment on a life insurance policy and the investment of those funds in an ETF until payment to HCW, as is clear from the bank statements. This in our judgment satisfied the evidential burden that the sums came from Mr Compagni and that they had a legitimate origin. No material was produced to cast doubt on the documentation or other matters. In the circumstances, the explanation for the misnaming in the trust deed is probably the result of the carelessness and laxity with which HCW dealt with matters and its failure to distinguish between the fiduciary and the client whom is clear provided the funds. We therefore grant permission and allow the appeal as we conclude that Mr Compagni is entitled to claim as the beneficiary of the Columbus Trust. His claim is therefore admitted.

The claims of Ms Agudelo (the OA Trust) and Ms Aponte (the Criteria Trust)

56. It is convenient to take together the trusts in respect of which Ms Agudelo and Ms Aponte made claims:

    i. Ms Agudelo claimed to be entitled as the beneficiary of the OA Trust which was established under a settlement deed dated 5 May 2017 made between her and HCW. She was a citizen of and resident in Costa Rica.

    ii. Ms Aponte claimed to be entitled as the beneficiary of the Criteria Trust which was established under a settlement deed dated 13 April 2017 made between her and HCW. She was a citizen of Venezuela resident in Costa Rica.

57. The funds were transferred to HCW as follows:

    i. On 9 May 2017 from OA Capital Group Pte Ltd ('**OA**'): QAR 799,400

    ii. On 4 June 2017 from Desna Investments Ltd ('**Desna**'): QAR 4,037,000

    iii. On 23 August from Dakarari Ltd ('**Dakarari**'): QAR 46,278,504

    iv. On 7 September from Dakarari: QAR 1,446,834

58. The transferors were owned as follows according to the documentation:

i. Ms Agudelo was the sole shareholder of Desna.

ii. Ms Aponte was the shareholder of OA, a Singapore Company.

iii. Dakarari was a Mauritian company owned by a company incorporated in Germany. Its sole director was a Mr Kiessler, who was resident in Frankfurt.

59. In 2022, following a request for mutual legal assistance from the Attorney General of the State of Qatar, the Swiss authorities froze accounts held at Bank Julius Baer in Zurich by Ms Agudelo and Ms Aponte into which funds had been paid. The records of the Swiss authorities show that that same year the orders in respect of Ms Agudelo and Ms Aponte were partially lifted and funds of over €2,750,000 and €1,800,000 were respectively released with the freeze continuing as to the balance.

60. It was the case of Ms Agudelo and Ms Aponte in these proceedings, as put forward in the Berclaz Report, that they were with Ms Charlotte Payne the shareholders of Luxstone Inc ('**Luxstone**'), a Panamanian company. Luxstone had a Costa Rica subsidiary, Bond Enterprises Limited, which acted as a agent company and in that capacity it carried out cash management for another company named Bond operating in Panama. Luxstone used Mega General Trading, a currency trading platform in Sharajah, UAE, for financial services under an agreement dated 3 February 2014. A Canadian citizen, to whom the First Instance Circuit referred to as Mr X, was employed by Bond Enterprises Limited as an accountant and defrauded the company and Luxstone of $25m. When the fraud was discovered, he fled to Canada and then to the UAE. When he was found, he agreed under a settlement agreement made with Ms Payne, Ms Aponte and Ms Agudelo and dated 1 March 2017 to repay €17m through Dakarari to them (or to Luxstone and then from Luxstone to them). A subsequent undated letter signed by Mr X on behalf of a company named Bomani Limited confirmed this.

61. Claims were brought before the First Instance Circuit of this Court on 26 August 2018 by Ms Agudelo and Ms Aponte against HCW, Mr Baeriswyl and another director. Those proceedings were discontinued by Ms Aguedelo and Ms Aponte 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.

62. In proceedings brought in this Court in 2018, an account was put forward which mirrored in many respects the account put forward in the Berclaz Report, but which differed in a number of material matters. The matters put forward in the 2018 proceedings were investigated by the QFCRA which set out the results of that investigation in a letter to the English solicitors of Ms Agudelo and Ms Aponte, Fieldfisher LLP (London, UK), on 10 November 2021 alleging that the claim made in the 2018 proceedings was a fabrication.

63. The QFCA and the QFCRA relied on the proceedings brought in 2018 in two ways before the First Instance Circuit and before us: (i) that once the QFCRA's positive case that the claim was a fabrication was pleaded, the claims had been abandoned by these Trust Claimants; and (ii) that the documentation and the detailed information provided by the QFCRA in that claim showed that the funds were of criminal origin. The information included details of a claim made in British Columbia containing allegations against Mr X which were similar to those made in these and the 2018 proceedings before this Court, but contradicted the claims in many material respects. It was claimed in those proceedings that the funds originated from the business of online gambling conducted through some of the entities mentioned in these proceedings. Enquiries by the QFCRA set out a very different explanation of the role of the entities to those set out in these proceedings. Furthermore, Mr X had provided a witness statement in November 2021 setting out his account and expressly rejecting as a fabrication the settlement agreement relied on by Ms Aponte and Ms Agudelo.

64. The First Instance Circuit held, after reviewing the evidence put before it at the hearing in July 2025, that the source of the funds were not set out in the HCW KYC Forms; and that the transfer mechanism through Dakarari did not demonstrate the legitimate origin of the funds. The continuity of the ownership of the funds was not shown as what was put forward simply showed instructions for the payment of the funds by Dakarari and their receipt at HCW's account at QNB to the credit of the trusts. The First Instance Circuit did not rely on the abandonment of the 2018 proceedings as a separate ground for its decision.

65. It was submitted to us on behalf of these Trust Claimants, both orally and in writing, that sufficient documentary evidence had been supplied, certificates of good standing and accounts had been provided from the companies involved, the authenticity of the documents had not been questioned, and there was nothing to contradict the expert report from Berclaz.

66. We have carefully considered all the submissions made, but cannot see any grounds on which an appeal from the decision of the First Instance Circuit has any merit whatsoever. These Trust Claimants had in our view wholly failed to produce any credible evidence that the funds had a legitimate origin; indeed, on the documentation provided there was very strong evidence that the money had criminal origins and the remission of money to HCW was an attempt at money laundering:

    i. The funds had not come from a financial institution that had been concerned with the investment of funds and which in that capacity carried out its own due diligence, unlike the other Trust Claimants.

    ii. The HCW KYC Form did not set out the circumstances in which the funds were now said to originate.

    iii. The Berclaz Report was not an expert report, but a report setting out the result of some enquiries made by Berclaz and annexing documents. On examination and analysis by the First Instance Circuit and by us, the documents produced in the Berclaz report raised more questions about the origin of the funds than they answered:

        a. The audited accounts of the companies in the relevant years owned by OA and by Desna showed they had very modest trading profits, but very large cash sums were being transferred though each company which were not explained.

        b. The audited accounts of Bond Enterprises Limited from which it was claimed $25m was stolen by Mr X showed that it had one customer in the relevant period-Luxstone. Its accounts disclosed sums of money paid in

and out which could not possibly provide a sum anywhere near as large as $25m to be available for theft. Moreover, its activities, payments and expenditures are described in the notes to the accounts and do not in any way support the cash management activities which it was claimed had occurred.

c. The letter sent to Mr Baeriswyl confirming the payments by Dakarari Limited stated that these had been done on the specific instructions of Bomani with no explanation or documentation as to that company.

iv. The enquires carried out by the QFCRA in connection with the claim brought in 2018 and the evidence presented to the First Instance Circuit and to us set out a compelling case from which fraud on the part of Ms Agudelo and Ms Aponte could be inferred; no real or proper attempt was made to answer that case. Nor was any adequate answer put forward either to the First Instance Circuit or to us in relation to the evidence which strongly pointed to the claim made in Qatar being a clever fabrication adapting the British Columbia claim to provide cover for the payments made to HCW.

v. The case of Mr Baeriswyl in the 2018 proceedings was that the way the way in which the funds had been transferred to HCW gave rise to the suspicion of money laundering which had led to the investigation into HCW.

vi. No attempt was made to address the many questions raised by providing detailed statements from Ms Aponte or Ms Agudelo. Form A provided by each of these Trust Claimants (to the extent to which it is of any weight for the reasons we have set out at paragraph 33 above) did not do that.

67. We have concluded that this was an application for permission without any merit whatsoever. We therefore refuse it. Ms Agudelo and Ms Aponte's claims to be admitted in the liquidation fail.

<u>Conclusion in respect of the Trust Claims</u>

68. The Trust Claims of Ms Gharbi and Mr Compagni are therefore admitted in addition to that of Mr Rime. Those of Mr Sebti, Ms Aponte, and Ms Agudelo are not admitted and in consequence the claims cannot be made in the liquidation. We set out at paragraph 79 and following below how the admitted Trust Claims should be dealt with in the light of the overall position in the liquidation.

The application of Mr Baeriswyl

69. Mr Baeriswyl, as we have set out, sought to be joined as a party by an application made on 2 July 2025. He claimed that his recognition as an interested party would ensure "*his continued ability to assist the Court and Liquidator effectively*".

70. It was opposed by all the other parties on the grounds that the application was late and because he had no legitimate status as a party. The First Instance Court heard *de bene esse* from Mr Hani, on his behalf. The Court ruled after hearing him:

> *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.*

71. Mr Baeriswyl sought permission to appeal on the basis that the proceedings and the judgment examined his professional actions, his participation was necessary to understanding the events at HCW, the refusal to allow his participation was a violation of the right to natural justice and, that the Court had failed to have regard to his submissions.

72. The application is refused as totally without merit. The First Instance Circuit was right in its decision that he has no status in the liquidation and there was no reason for him to participate. If he wished to assist, he could have done so by assisting the Liquidator.

The other issues and the overall position in the liquidation

<u>The conduct of a liquidation in the QFC</u>

73. Although regulatory proceedings in respect of HCW began in 2108, HCW was not placed into liquidation until December 2023. The Liquidator and the First Instance Circuit have

proceeded with considerable diligence and, if we may observe, with commendably great skill and expedition to determine the issues in this liquidation. As is apparent from the history of the litigation in relation to HCW set out in detail in the judgments of the First Instance Circuit (and as summarised by us in this judgment), some of the parties involved have raised numerous issues which have been pursued on appeal. This process has involved considerable cost and taken up much time.

74. In the light of the need to ensure that liquidations in the QFC are conducted in an efficient, cost effective and expeditious manner and not in a way which is encrusted by the delay and vast costs experienced in some other legal systems (which are often criticised as solely benefiting the professionals involved), it was important for us to know what remaining issues in fact made a difference to the creditors.

75. Therefore, having heard the argument in relation to the Trust Claims, we asked the Liquidator to provide to us during the course of the hearing with a statement of the overall position in the liquidation on the basis of the four different ways in which the determination of the admissibility of the Trust Claims would impact on the liquidation. It is important that it is appreciated that this jurisdiction will not permit liquidation proceedings to take an inordinate period of time or involve a totally disproportionate expenditure in relation to what is at stake.

The overall position in the liquidation of HCW

76. We are very grateful to the Liquidator for providing the figures on a provisional basis during the hearing. As requested by us, the Liquidator provided us with four sets of more definitive figures after the hearing so we could set out in the judgment the financial position as stated by the Liquidator on the basis of our decision on the Trust Claims. The position on the basis of our determination of the issues on the Trust Claims is:

i. **The funds held by the Liquidator** **QAR 38,056,735**

ii. **The costs of the liquidation**

Liquidation costs: QAR 2,339,942

iii. **Disbursements**

a.	Liquidator's disbursements:	QAR	69,625
b.	Legal Fees		
	Al Tamimi & Company:	QAR	189,984
	Francis Wilks & Jones LLP:	QAR	630, 097
	Mr Oliver McEntee of Counsel:	QAR	249,719
c.	Accountancy fees:	QAR	57,895
d.	Capital Gains Tax & potential penalty:	QAR	975,601

iv. **The net amount currently available: QAR 34,671,926**

v. The amount of the admitted Trust Claims made if accepted in full together with interest January 2025 (the date of the Trust Claims forms submitted) to 9 June 2026:

a.	Malaya Trust:	QAR	2,783,446
b.	Columbus Trust:	QAR	1,241,798
c.	Sertissage Trust (Rime):	QAR	370,567
	Total Trust Claims admitted	**QAR**	**4,395,813**

vi. **Surplus which would be available after payment of costs/Trust Claims QAR 30,276,113**

vii. **Preferential claims**

a.	QFCA:	QAR	12,227,885
b.	QFCRA:	QAR	36,078,902
c.	Mr El-Emadi as employee:	QAR	182,000
d.	Fine imposed by Criminal Court:	QAR	500,000
	Total Preferential Claims	**QAR**	**48,988,757**

77. It is clear from the financial position we have set out that the preferential claims of the QFCA and the QFRA, if paid in full would with the two other smaller claims, exhaust the amount

the Liquidator has been able to recover, unless she was to pursue claims against other persons. There are presently no funds from which other creditors can recover any amount.

78. The resolution of the Trust Claims on this appeal has therefore provided the opportunity for the Court to take stock of the position in the light of the financial information provided to the Court. It seems clear that the outstanding issues that remain material in the light of the financial position can be addressed by us on this appeal and that the liquidation can be brought, subject to one matter, to a termination in a period measured in months rather than years. This would demonstrate that the work of the First Instance Circuit has achieved manifest results within a very good timescale given the issues that have been raised. We therefore consider the remaining outstanding issues in turn.

Do the Trusts Claimants have a proprietary claim?

79. The First Instance Circuit determined in respect of Mr Rime's claim which was admitted by the Court that "*the question as to what element of his 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*".

80. We asked how the Liquidator intended to do this, as given the history of the liquidation, it would be anticipated there is a risk of another round of litigation with consequent further cost and delay. We were told by the Liquidator that it was anticipated that this could be a time-consuming process, as the funds had been commingled by investments in many different jurisdictions and it was not readily apparent on whose instructions all of this had been done.

81. It was difficult at first sight, despite the observations made on behalf of the Liquidator, to see why a proprietary claim by the three admitted Trust Claimants did not lie and had to be put off to a further hearing. The only difference that a determination on the basis suggested on behalf of the Liquidator would make would be to the preferential creditors and in particular to the QFCA and QFCRA. The costs of a detailed enquiry of the type envisaged would entail delay and expenditure out of all proportion to the benefit to the QFCA and QFCRA, given our view, that as the funds had been paid to HCW as trust monies a preferential proprietary

claim would probably lie. The QFCRA and QFCA did not press for such a further round of litigation. In those circumstances we admit the claims as Trust Claims and to the funds held by the Liquidator on that basis.

82. In our judgement, therefore, the Liquidator is entitled to pay Ms Gharbi, Mr Compagni and Mr Rime on the basis that their claims are Trust Claims. As the First Instance Court set out at paragraphs 50-52 of the September 2025 Judgment, the exact amount of the claims has not been determined. It is for the Liquidator (as the First Instance Circuit explained at paragraph 147 in respect of Mr Rime's claim to be entitled as the beneficiary of the Sertissage Trust) to determine the precise value of the three Trust Claims that are now admitted. As the details of those claims were set out in the statement of the claims dated 20 and 21 January 2025 made in accordance with the Order of the Court to which we referred at paragraph 10, it should not be difficult for the Liquidator to determine their precise value. If any difference cannot be resolved speedily, it must be referred back to this Court for summary determination without a hearing, as any other course would be disproportionate.

83. We would add that in the light of the highly unsatisfactory documentation and the conduct of Mr Baeriswyl, the Liquidator must satisfy herself through the production of authenticated legal documents that the monies will be paid directly to accounts under the full and personal control of Ms Gharbi, Mr Compagni and Mr Rime, respectively, and not to any representative who may claim to act for any of these persons. The Liquidator has permission to apply to the Court in the event of any issues arising.

Can the costs of the Liquidator be paid from funds to which there is a Trust Claim?

84. The Liquidator had asked for the costs of the liquidation to be paid from the funds held in the liquidation, including, if necessary, the funds which had been claimed as trust funds, as she had not sought an indemnity for costs from those who appointed her as Liquidator.

85. In the November 2024 Judgment, the First Instance Circuit provisionally determined on the basis of the principles set out in *Re Berkley Applegate* [1989] Ch 32, in the Chancery Division of England and Wales that the Liquidator could have recourse to such funds, if necessary. The Trust Claimants sought permission to appeal on the issue and in our Order of 19 March

2025, we ordered that the application be heard after the decision of the First Instance Circuit on the claims of the Trust Claimants, directing that the issue ought to be fully argued before the First Instance Circuit.

86. The matter was so argued and the First Instance Circuit determined that, as set out more fully at paragraphs 137-139 of its September 2025 Judgment, the principles set out in *Re Berkley Applegate* as elucidated by Foxton J (as he then was) in *Re Gerlad Martin Smith (Serious Fraud Office v Litigation Capital Ltd* [2021]EWHC 1272 (Comm.) should be applied in this jurisdiction if it was necessary to have recourse to such funds.

87. It was contended in the written submissions before us that the decision was wrong, and the Liquidator should not be entitled to use monies that were within the trust funds. However, that issue is no longer material, given our decision. We would simply express the view that we consider the decision of the First Instance Circuit has compelling force and is powerfully reasoned; it would not be right for us to express a view as to the way in which the principle should be elucidated or refined, leaving that to any possible future case where the issue might arise.

88. In light of the history of this liquidation, we consider that the most expeditious and fair way in which the costs (including legal costs) and expenses of the Liquidator should be determined is for the determination to be conducted by the Registrar. If any issues of principle arise which cannot be resolved by the parties such issues are to be referred to this Court for determination in a manner specified by this Court.

Confiscation Order

89. During the course of the hearing of the appeal, the question arose as to whether funds which were not of legitimate origin should be subject to a confiscation order.

90. Article 89 of Law No. 20 of 2019, the current legislation on combatting money laundering, provides for a duty of the court in the event of a conviction of certain offences:

> *In the event of conviction of committing the crime of money laundering, predicate crime or terrorist financing, and without prejudice to the rights of bona fide third party, the court shall order the confiscation of the following:*

1. The funds constituting the subject of crime

2.The funds constituting the proceeds of crime, including funds mixed with these proceeds, generated therefrom, replaced thereby or funds whose value equals the value of such proceeds
3…

91. As we set out at paragraph 14 above, the First Instance Criminal Court of Qatar convicted HCW, Mr Baeriswyl and other directors of HCW of an offence in relation to money laundering. A number of issues were raised as to whether this Court had a power of confiscation, whether it applied in respect of the offences of which HCW, and its directors were convicted and whether the confiscation applied in respect of the funds in respect of which we have held the Claimants' funds were the product of money laundering. In our judgement, the conviction was not a conviction within the scope of article 89 as HCW was not convicted of a crime of money laundering, but a crime associated with money laundering; the confiscation provision was therefore inapplicable. It is not necessary for us to determine the other issues. We reserve the other issues, including the jurisdiction of this Court, to any future case which may arise.

Future conduct of the liquidation

92. Subject to resolution of any issues of detail (which includes the determination by the Liquidator of the distribution between the preferred creditors), no further issues arise that are material. The Liquidator can therefore proceed to bring the liquidation to an end, subject to any decision by the Liquidator seeks to bring proceedings against other persons to recover assets for HCW. It is not for us to comment at this time on that question.

93. As we indicated during the hearing, we require the Liquidator to report within 6 months from the date of this judgment on the further progress of liquidation.

Costs of the appeal and hearing before the First Instance Circuit

94. Any application for the costs of the appeal and before the First Instance Circuit must be made within 21 days of the date of the issue of the judgment.

By the Court,

[signed]

Lord Thomas of Cwmgiedd, President

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

Representation

The QFCA and QFCRA were represented by Mr Andrew George KC (Blackstone Chambers, London, UK), instructed by their in-house legal departments.

The Liquidator 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 the Salah Al-Jalahma Law Firm (Doha, Qatar).

MH Partners SA was self-represented.

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

Switzerland).