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

Emir of the State of Qatar

Neutral Citation: [2026] QIC (F) 48

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 21 July 2026

CASE NO: CTFIC0038/2026

EQUIOM CORPORATE SERVICES QFC LLC

Claimant

v

AIMIA MARKETING DOHA LLC

1st Defendant

AND

AIMIA MIDDLE EAST FZ-LLC

2nd Defendant

AND

KOGNITIV CORPORATION

<u>3rd Defendant</u>

AND

GRANT MCLEOD

<u>4th Defendant</u>

JUDGMENT

<u>Before:</u>

Justice Tan Sri Nallini Pathmanathan

Order

1. The Fourth Defendant's jurisdictional challenge, seeking a declaration that this Court has no jurisdiction to hear the dispute between the Claimant and the Fourth Defendant, is dismissed in relation to the claims brought by the Claimant in misrepresentation and negligent misstatement.

2. The Fourth Defendant's jurisdictional challenge, seeking a declaration that this Court has no jurisdiction to hear the dispute between the Claimant and the Fourth Defendant, is allowed in relation to the claims brought by the Claimant in breach of warranty of authority, knowing receipt, and unjust enrichment.

3. There is no order made as to costs.

Judgment

Introduction

1. This judgment relates to a jurisdictional challenge made by Mr Grant McCleod (the '**Fourth Defendant**') in respect of claims advanced against him by Equiom Corporate Services LLC (the '**Claimant**') in misrepresentation, negligent misstatement, knowing receipt, unjust enrichment, and breach of warranty of authority, as set out in the Particulars of Claim dated 31 May 2026 (the '**Particulars of Claim**').

2. The issue that arises for determination is whether this Court has jurisdiction over the Fourth Defendant under article 8(3)(c)(4) of Law No. 7 of 2005 on the Qatar Financial Centre (as amended) (the '**QFC Law**') as replicated in article 9.1.1.4 of the Court's Rules and Procedures (the '**Rules**').

3. It is not in dispute between the parties that the jurisdiction of this Court is defined and determined by statute. Its jurisdiction is confined to that conferred upon it by legislation in article 8(3)(c) of the QFC Law and replicated in article 9.1 of the Rules (see *The Chancellor Master, Masters and Scholars of the University of Cambridge v The Holding WLL* [2025] QIC (A) 6 ('***Cambridge***')).

4. The Claimant relies on article 9.1.1.4 of the Rules, which confers jurisdiction on the Court to determine:

> *Civil and commercial disputes arising from transactions, contracts or arrangements taking place between entities established within the QFC and residents of The State, or entities established in The State but outside the QFC, unless the parties agree otherwise.*

5. To determine the issue of jurisdiction, the key question is whether the dispute between the Claimant and the Fourth Defendant is, or is not, a "*civil or commercial dispute arising from transactions, contracts or arrangements taking place between an entity established within the QFC*" (i.e. Equiom Corporate Services QFC LLC) and "*an entity established in the State but outside the QFC*" (i.e. the First Defendant, Aimia Marketing Doha LLC). If it does fall within the scope of article 9.1.1.4 of the Rules, jurisdiction is engaged/established, and if it does not, the challenge by the Fourth Defendant succeeds.

Background

6. The Claimant is a company established in the Qatar Financial Centre ('**QFC**'), which provided nominee shareholder services, support, disbursement, and winding-up/deregistration-related services to the First Defendant.

7. The First Defendant, Aimia Marketing Doha LLC, is a company incorporated in the State of Qatar but outside the QFC, to which the Claimant provided the above sponsorship/nominee shareholder services, support, disbursement and dissolution-related services.

8. The First Defendant was established under a Shareholders Agreement dated 6 December 2017 between one Links Management Services LLC ('**Links**') and one Aimia UK Limited ('**Aimia UK**'), where Links held 51% and Aimia UK held 49% of the shareholding.

9. The Links group was acquired by the Claimant, resulting in a novation of the business arrangements conducted by Links to the Claimant pursuant to a Novation and Assignment Agreement dated 19 February 2024. The Claimant then provided nominee shareholder and other dissolution-related services to the First Defendant. Substantial sums fell due to the Claimant under those arrangements, together with exposure to Qatari tax and deregistration obligations attaching to the Claimant by virtue of its nominee shareholding.

10. The other shareholder of the First Defendant under the Shareholders Agreement, Aimia UK Limited, is part of the Aimia/Kognitiv corporate group, which operated at the material time as a marketing solution technology company, providing services through a number of subsidiaries and affiliated entities in different jurisdictions. including entities connected with Qatar, the United Arab Emirates, the United Kingdom, and other parts of the world.

11. It is pleaded by the Claimant that at all times the First Defendant was structured as a Qatar mainland company under a nominee/local-sponsor arrangement. The Claimant's case against the First Defendant is that it is a necessary party to these proceedings in that it was commercially controlled by the foreign shareholder, Aimia UK (the '**Foreign Shareholder**') and the Kognitiv/Aimia group, while the Qatar-side shareholder, Links

LLC, and subsequently the Claimant (post-novation), acted in a nominee and local execution capacity. The Claimant contends that such control, particularly in relation to the events giving rise to the transfer of monies from the First Defendant's account to the Second Defendant's account, was exerted primarily by the Fourth Defendant.

12. The Second Defendant, Aimia Middle East FZ-LLC, is an entity registered in Dubai. It is the recipient of the First Defendant's funds, namely its closing cash balance of QAR 404,639.39 that was transferred from the First Defendant's HSBC Qatar bank account. The Claimant pleads that the transfer was premised on the instructions of the Fourth Defendant.

13. The Third Defendant is the parent or controlling group company of the First and Second Defendants. At the material time, the group operated as a marketing solution technology company through a number of subsidiaries and affiliated entities in different jurisdictions, including entities connected with Qatar, the United Arab Emirates, the United Kingdom, the United States, India, Europe, and Asia. It identified as the Kognitiv/Aimia group of companies. On 12 December 2024, it filed a Notice of Intention to Make a Proposal under section 50.4 of the Canadian Bankruptcy and Insolvency Act. Only Kognitiv, and not its subsidiaries, was subject to those proceedings.

14. The Fourth Defendant is pleaded as a person who at all material times acted as, or held himself out as:

    i. acting general counsel of Kognitiv Corporation (the '**Third Defendant**'); and

    ii. providing support for the First Defendant. Such support emanates from his acting for and on behalf of the Foreign Shareholder, Aimia UK.

15. He is not a party to any of the contracts and is not, and has never been, a director, officer or shareholder of any other Defendant.

The dispute as pleaded in the claim

16. On 16 April 2025, following a discussion between the Claimant and the Fourth Defendant on the proposed closure of the First Defendant in Qatar, the Claimant wrote to the Fourth Defendant confirming the discussion and offered its services to facilitate

the process. The Claimant also detailed the steps to be taken. On 17 June 2025, the Fourth Defendant wrote asking for an official proposal of the Claimant's fees for the services referenced in its mail.

17. On 30 June 2025, the Fourth Defendant wrote to the Claimant:

    i. stating that he was acting as General Counsel for the Third Defendant and provided support for the First Defendant;

    ii. confirming that it was intended to "*liquidate*" the First Defendant; and

    iii. purported to terminate the Shareholders Agreement dated 6 December 2017 between the Claimant (post-novation) and Aima UK pursuant to clause 5.2, on behalf of Aima UK.

18. Clause 5.2 of the Shareholders Agreement allowed Aimia UK to give seven days' notice to terminate the agreement. Termination would not, however, take effect until the Claimant was no longer a registered shareholder in the First Defendant.

19. Notwithstanding the notice of termination and the professed intent to liquidate, the First Defendant was not liquidated. The Claimant continued to provide services and maintain the nominee/local sponsor structure, deal with creditors, and seek cooperation for the lawful deregistration and dissolution of the First Defendant in accordance with Qatar regulations. No such cooperation ensued.

20. In dealing with creditor pressure for repayment of debts owed by the First Defendant, the Claimant liaised with and sought directions from the Fourth Defendant with regard to repayment of a creditor's claim by the First Defendant. It is particularised in the claim that the Fourth Defendant responded, disputing the First Defendant's liability for the debt. When this failed, the Fourth Defendant wrote to the Claimant on 17 September 2025 stating that the release of funds from the First Defendant's Qatar - HSBC account was required before "*they*", i.e. Aimia UK, or the Kognitiv group, could pay the creditor or the Claimant. Those funds had not yet been received, and the release required the attendance or signature of an authorised signatory of the Claimant. This insistence continued through correspondence until the Claimant, relying on this representation and

statement, continued to meet local liabilities and held off from escalating the matter earlier.

The Canadian insolvency proceedings

21. The Third Defendant filed for insolvency under Canada's Bankruptcy and Insolvency Act in November 2024, prior to the events outlined above. This was not disclosed to the Claimant. It is notable that it was only the Third Defendant, and not its subsidiaries or affiliated companies, that was subject to those proceedings.

22. In his affidavit of 9 February 2026 filed in the Canadian insolvency proceedings, the Fourth Defendant affirmed that approximately 140,000 Canadian Dollars (QAR 391,278) was held in an HSBC account in the Second Defendant's name — the "*UAE Account Funds*" — representing a balance owed to the First Defendant that became due to Kognitiv when the account was closed in July 2024.

23. This, as alleged in the Claim, gives rise to an inconsistency, in that the Fourth Defendant's evidence in the Canadian proceedings states that the HSBC account was closed in July 2024, while the contemporaneous correspondence between the Claimant and HSBC Qatar showed that the transfer of the First Defendant's closing balance and the account closure were still being pursued in April 2026, with HSBC confirming completion and official closure only on 27 April 2026.

24. It is the Claimant's case, in essence, that the funds described as the "*UAE Account Funds*" in the Fourth Defendant's affidavit in the Canadian proceedings are the same as the monies in the Qatar-HSBC account held by the First Defendant.

25. The Claimant further pleads that the "*UAE Account Funds*" in the Canadian record are the same funds as the QAR 404,639 closing balance transferred from the First Defendant's HSBC Qatar account to the Second Defendant. It raises the question of how such a balance could have become due if indeed there was a closure of the account in July 2024. Between July 2024 and November 2025, the Claimant points to the fact that the Fourth Defendant continued to represent that the funds had not been received. The Claimant maintains that these versions are irreconcilable given the Fourth Defendant's own account of a 2024 closure.

26. The Claimant pleads that the Defendants knew or ought to have known that the funds which they acknowledged as owing to, or arising from, the First Defendant were being channeled into the Third Defendant's Canadian insolvency proceedings: more specifically, Kognitiv's insolvency estate, and distributed to its creditors, while the First Defendant remained active in Qatar, with the Claimant staving off creditors in relation to outstanding liabilities and given an incomplete deregistration and dissolution under Qatar law. As such, the Claimant pleads that it suffered detriment, in that it was left holding a subsisting Qatari entity's liabilities while the associated funds were diverted and distributed in proceedings to which the First Defendant was never subject.

27. In summary, the Fourth Defendant's conduct, as pleaded by the Claimant, includes:

    i. representations in correspondence with the Claimant in November 2025 that payment of the Qatar liabilities (including Ooredoo and the Claimant) required the release of funds by HSBC, that those funds had not yet been received, and that release required the attendance or signature of an authorised signatory;

    ii. direct involvement or engagement in the closure, payment and deregistration process of the First Defendant, in knowledge of the requirements for filing, audit, GTA clearance and settlement of government expenses and service fees;

    iii. notification that Kognitiv was entering bankruptcy and that no staff remained; and

    iv. an affidavit sworn on 9 February 2026 in the Canadian insolvency proceedings in which he described approximately CAD 140,000 held in an HSBC account in the name of the Second Defendant as *"a balance owed to Kognitiv's Qatari subsidiary, Aimia Marketing Doha LLC"*, due to Kognitiv upon closure of the account, which he placed in July 2024 – a date which is difficult to reconcile with HSBC Qatar's confirmation, in correspondence with the Claimant, that the transfer of the closing balance completed and the account officially closed only in April 2026. The Ontario Court ordered the distribution of the "*Remaining Assets*", including those funds, on 17 February 2026 to other entities.

28. The Fourth Defendant was not at any time a shareholder, director or officer of the First Defendant.

29. Given this factual background, the Claimant contends that its claim against the Fourth Defendant cannot be said to be unconnected to the Claimant-First Defendant relationship, the qualifying contracts, and the dispute. He was not a passive recipient of correspondence. He was the principal representative dealing with the proposed liquidation of the First Defendant, the HSBC funds, the outstanding Qatar liabilities, and the parent company's insolvency position. The Fourth Defendant maintains that these acts were undertaken in his capacity as acting General Counsel for the Third Defendant and that they cannot possibly create any form of personal liability, whether as agent or as an independent cause of action in tort.

The jurisdictional challenge by the Fourth Defendant

30. The jurisdictional challenge filed on behalf of the Fourth Defendant under article 19 of the Rules seeks a declaration that the Court has no jurisdiction over the Fourth Defendant in respect of the claims in the Particulars of Claim and, alternatively, that the Court decline to exercise any jurisdiction it may have, together with a striking out of the claim against the Fourth Defendant, or dismissal of the same with costs. The application is based on six grounds.

31. First, it is contended that the Fourth Defendant is a Canadian individual resident in Canada with no presence, assets, operations or contractual relationship in or with Qatar. At all material times, he acted exclusively as Acting General Counsel of the Third Defendant on the Third Defendant's instructions. He is not connected to the First Defendant, in that he has never been a director, officer, or shareholder of the First Defendant, and is not a party to any contract with the Claimant.

32. The second ground is legal. It is submitted that the jurisdiction of this Court is statutory and not consensual. The Court has no inherent jurisdiction. As such, the gateways in article 8(3)(c) of the QFC Law, reflected in articles 9.1.1.1 to 9.1.1.4 of the Rules, are exhaustive. As the Appellate Division held in *Cambridge*, this jurisdiction cannot be

extended by agreement, convenience, or connection to Qatar alone. The "*inter-connectedness*" claims argument put forward by the Claimant, to the effect that the Court's jurisdiction over the corporate Defendants should include the Fourth Defendant for procedural efficiency, is insufficient to found jurisdiction under the statute and should be independently established.

33. The third basis for the challenge is that all the contracts comprising the heart of the dispute, namely the Shareholders' Agreement of 6 December 2017, the subsequent novation and assignment to the Claimant vide the agreement of 19 February 2024, and associated documents, are all between the corporate entities. The Fourth Defendant is not named in, nor is he a party to, those agreements. He has not transacted with the Claimant personally and has never submitted to the jurisdiction of this Court by way of agreement or conduct.

34. The fourth ground is that every act attributed to the Fourth Defendant in the claim was undertaken as the Third Defendant's Acting General Counsel, which he says that the claim itself acknowledges. This includes what the Fourth Defendant describes as the "*concession*" at paragraph 94 of the Particulars of Claim that his knowledge, statements and conduct are "*attributable to*" the Third Defendant and/or the First Defendant. In this context, the Fourth Defendant invokes article 65 of the QFC Contract Regulations 2005 (the '**Contract Regulations**'), which provides that an agent acting within authority for a known principal creates legal relations between principal and third party and none between agent and third party unless the agent undertakes to become a party. In essence, the jurisdictional conclusion that is to be drawn is that his acts as agent cannot themselves constitute a "*transaction, contract or arrangement*" between him personally and the Claimant. Jurisdiction is not engaged merely because he was the means through which those entities communicated. In short, no personal liability in tort is apparent on the facts of the dispute.

35. The fifth ground relies on the judgment of this Court in the case of *Amberberg v Prime Financial Solutions LLC* [2024] QIC (F) 15 ('***Amberberg***'). The Fourth Defendant acknowledges the personal claims pleaded in misrepresentation, negligent misstatement, knowing receipt, unjust enrichment, and breach of warranty of authority. It is contended that claims which are not founded on an underlying contract or transaction involving a QFC entity, but on other alleged wrongs, do not establish

jurisdiction. A tort claim against a non-party falls outside the gateways *"unless it can be shown that the tort itself constitutes or arises from a transaction, contract or arrangement"* within the meaning of the statute. This, it is maintained, has not been established by the Claimant. The Claimant cannot simultaneously plead that his acts are attributable to the Third Defendant and that this can also form the basis for an independent personal liability.

36. The sixth ground put forward by the Fourth Defendant is on a temporal basis. It is submitted that, even if jurisdiction attached to his conduct as Acting General Counsel, it could only cover the period of his appointment. He ceased "*supporting*" the First Defendant on 19 February 2026 and ceased to be Acting General Counsel on 28 February 2026, so events subsequent thereto cannot found any claim or jurisdictional basis.

37. In summary, the Fourth Defendant's challenge, in substance, is (i) that he is a resident in Canada with no presence, assets or contractual relationship in or with Qatar; (ii) that he is not a party to any relevant contract or arrangement and has never submitted to the jurisdiction; (iii) that every act attributed to him was performed as disclosed agent for a disclosed principal, Kognitiv, such that by article 65 of the Contract Regulations no legal relation arose between him and the Claimant; (iv) that the personal tort and equitable claims do not engage the gateways, relying on *Amberberg*, and the Claimant's attribution plea at paragraph 94 of the Particulars of Claim is inconsistent with personal liability; (v) that the argument that the claims are interconnected cannot form the basis for invoking jurisdiction under the gateways, citing *Cambridge*; and (vi) that, in any event, his role ceased on 19 or 28 February 2026, such that later events cannot found any claim against him.

The Claimant's response to the jurisdictional challenge

38. The Claimant responds to the Fourth Defendant's jurisdiction challenge as follows:

    i. First, the parties are in accord in relation to the law, namely, that the jurisdiction of this Court cannot be enlarged by consent, convenience or connection (see *Cambridge*). The Claimant relies inter alia on the exposition of the law in *Waqar Zaman v Meinhardt BIM Studios* [2024] QIC (F) 5 ('***Zaman***') per Justice Fritz Brand, as approved in *Cambridge,* for the proposition that neither litigant need be a QFC entity, provided the dispute arises from a transaction where one party was a QFC entity and the other resided or was established in the State of Qatar. It also relies on the standard set out in *Amberberg*, namely that the Court generally relies on the Claimant's pleaded version of the facts save in exceptional circumstances. This, in turn, means that the Court looks to the claim as pleaded to ascertain whether it falls within the gateway, rather than attempting to resolve disputed questions of authority.

ii. Second, the Claimant relies on the conduct of the Fourth Defendant on three occasions to factually anchor its claim within the gateway:

a. the 30 June 2025 letter written on the First Defendant's letterhead and signed "*General Counsel (A)*" giving notice of intention to liquidate the First Defendant as well as purporting to terminate the Shareholders Agreement under clause 5.2 of the same;

b. the representations made by the Fourth Defendant, particularly the statement that he could "*commit to settle*" the creditor's debt provided HSBC funds were remitted to the Second Defendant, which the Claimant relied on in relation to the HSBC account and to meet the relevant liability; and

c. the disclosure in February 2026 that the Canadian parent company, the Third Defendant, was insolvent with no representative, notwithstanding that prior to this his representation to the Claimant was that the Foreign Shareholder, Aimia UK, would assume responsibility under the Shareholders Agreement for the First Defendant's debts and for compliance with Qatar law.

39. This, it is contended, is sufficient prima facie to fall within article 9.1.1.4 of the Rules and establish jurisdiction.

40. On the issue of agency, the Claimant maintains that if the Fourth Defendant had authority, his acts bind Kognitiv and/or the First Defendant, and it is entitled to claim

relief from him as a consequence of such attribution. If he lacked or exceeded his authority, he is personally liable in misrepresentation, negligent misstatement, and/or breach of warranty of authority for the statements made. Simultaneously, the Fourth Defendant was purporting to exercise rights under the Shareholders Agreement as novated under the Novation and Assignment agreement. Article 65 of the Contract Regulations is answered on the basis that it is a rule of substantive contract law governing whether an agent becomes party to a contract, but it does not answer subject-matter jurisdiction. The Claimant relies on the personal liability principle and supports this with case law.

41. The non-disclosure of the foreign shareholder's dissolution is pleaded as the Fourth Defendant's wrongdoing: if he knew, the omission was deliberate; if he did not know, he failed to take reasonable care before making the representations.

42. The Claimant goes on to distinguish *Amberberg* while relying expressly on the principle formulated there, which will be dealt with in the analysis. On the Fourth Defendant's contention on interconnection, the Claimant denies that it comprises a source of jurisdiction, maintaining that it is relevant only once jurisdiction is engaged, and that the latter is the case because the Fourth Defendant was the one who had knowledge of, and acted on the closure communications, the HSBC direction and allowed the Canadian treatment of the funds.

43. As for the temporal point, namely that the Fourth Defendant was no longer a representative as of 18 February 2026, the Claimant points to the fact that he continued to communicate in that capacity, including the 23 February 2026 disclosure regarding insolvency. This is a question of fact for the merits of the claim rather than to establish jurisdiction.

Analysis

<u>The legal framework of article 9.1.1.4 of the Rules</u>

44. The Fourth Defendant's jurisdictional challenge is anchored on the contention that the gateway provided in article 9.1.1.4 of the Rules does not attach to the relevant parties, i.e. the Claimant and himself. The gateway provided under this article allows for engagement of jurisdiction in claims which relate to:

> *…civil and commercial disputes arising from transactions, contracts or arrangements taking place between entities established within the QFC and residents of the State, or entities established in the State but outside the QFC.*

45. There is a bilateral requirement that emerges:

    i. First, the civil or commercial dispute must arise from the transactions, contracts or arrangements taking place between the actors or parties expressly described in the second half of article 9.1.1.4 of the Rules.

    ii. Second, the only parties that fall within the rule are entities established within the QFC and residents or entities established in the State. The dispute must arise from transactions between these two expressly specified participants so as to engage jurisdiction.

46. Therefore, according to the Fourth Defendant's argument, this bilateral requirement for jurisdiction attaches to the dispute arising from the transaction, contract or arrangement.

47. Significantly, article 9.1.1.4 of the Rules does not impose a condition on the identity, status or residence of the parties to the litigation. The settled construction of article 9.1.1.4 of the Rules is that this gateway does not require the qualifying contract to be between the parties to the proceedings. A dispute brought by a third party which arises from a qualifying contract, transaction or arrangement as defined in article 9.1.1.4, falls within the jurisdiction of the Court as decided in *Manwara Begum v Gulf Insurance Group BSC* [2023] QIC (F) 34 ('***Manwara Begum***'), where it was held at paragraph 9 that:

> *On a proper construction of the article, it is clear that it does not require a contract between the parties to the litigation. Where, as in the instant case, a third party derives a benefit from a contract between the Defendant and another, a dispute concerning a claim by that third party based on the contract clearly arises from that contract…*

48. Furthermore, in the case of *Zaman*, the Court found in paragraph 10 that:

> *… Accordingly, in order for this Court to have jurisdiction* [by virtue of article 9.1.1.4 of the Rules] *neither party to the litigation needs to be a QFC entity. As long as the dispute arises from a transaction, a contract or an arrangement where (i) one of the parties was a QFC entity and (ii) the other resided or was established in the State of Qatar.*

49. In the instant case, the question is whether the dispute between the Claimant and the Fourth Defendant arises from the transaction, contract or arrangement between the Claimant, which is a QFC entity, and the First Defendant, which is an entity incorporated in the State but outside of the QFC. Insofar as the identity of the parties to the contract or transactions is concerned, it is evident that this requirement under article 9.1.1.4 of the Rules is met. The Fourth Defendant's submissions do not address the principle established in *Manwara Begum*.

50. The second requirement relating to whether the dispute arises from the contract or transaction between the qualifying parties was considered in *Amberberg* at paragraph 14:

> *The key question must be answered with reference to the Claimant's case as formulated in its Statement of Claim. According to the Statement of Claim, the Claimant's claim is one in tort based on a breach of duty of care owed, by the Defendants as employees and officials of the First Defendant, to the Claimant as shareholder of that company.* ***If the further allegation in the Statement of Claim was that the duty of care relied upon arose from the Fifth and Sixth Defendants' contracts with the First Defendant, there might be an argument that the dispute between the parties essentially arose from those contracts. We express no view on this****. But the Statement of Claim does not rely on the terms of these contracts. In fact, the Statement of Claim does not even refer to those contracts at all. On the face of it, the Claimant's complaint is instead that the Defendants had failed to comply with their obligations imposed by the rules and regulations of the QFCRA upon officials in the capacities in which they were employed. On this basis article 9.1.4* [now article 9.1.1.4 of the current Rules] *does not apply and the Court lacks jurisdiction.* (**Emphasis added**).

51. From *Amberberg*, it follows that a dispute arises from a qualifying transaction where that transaction is a material and operative source of the claim — supplying its subject matter, the capacity in which reliance occurred, and the constitution of the loss, as opposed to cases where the qualifying contract or transaction provides the mere background to a claim that actually operates from a separate or independent source of duty.

52. The claims in *Amberberg* against individual officers failed because the pleaded duty was sourced from the rules and regulations of the QFC Regulatory Authority (the '**QFCRA**'), external to any qualifying transaction; the Court expressly reserved the position where the pleaded obligation is anchored in the qualifying contracts as set out above.

53. The Fourth Defendant accepts this test. It accepts that a claim in tort against a non-party falls within the gateway where the tort itself constitutes or arises from a "*transaction, contract or arrangement*" within the meaning of the Rules.

54. Notably, paragraph 17 of the Fourth Defendant's jurisdiction challenge concedes this very test: it accepts that a tort claim against a non-party falls within the gateways where "*the tort itself constitutes or arises from a 'transaction, contract or arrangement' within the meaning of the statute*", and rests only on the assertion that the Claimant has not established this. The dispute between the parties is therefore not as to the law but as to its application.

The jurisdiction challenge

<u>Non-residence of the Fourth Defendant</u>

55. The basis for the jurisdiction challenge has been particularised above. With regards to the fact that the Fourth Defendant is a Canadian resident, this fact does not in itself preclude the use of the gateway under article 9.1.1.4 of the Rules. The residence requirement in the Rules actually attaches to the parties to the qualifying transaction, and not to the Fourth Defendant. The First Defendant is an entity established in Qatar, and therefore, the requirements for the qualifying transaction are met.

<u>Non-Party to the qualifying agreements</u>

56. Similarly, the fact that the Fourth Defendant is a non-party to the qualifying contract and transactions, in that he is not named in the Shareholders Agreement and the Novation and Assignment agreement, does not, of itself, preclude the use of article 9.1.1.4 of the Rules. This is because the words in article 9.1.1.4 are not confined solely to the parties to the qualifying contracts. A third party who is involved in a "*dispute arising from*" such qualifying contracts would also fall within the ambit of article 9.1.1.4.

57. The claims against Fourth Defendant do not assert that he is bound by those contracts; they assert that his own statements, silences, and undertakings, made in and about the performance, payment and closure of those very contracts, caused the Claimant loss. Whether such a dispute "*arises from*" the qualifying transactions is the question the gateway asks; his non-status to the qualifying contracts supplies no answer either way.

<u>Disclosed agency and article 65 of the Contract Regulations</u>

58. Article 65 of the Contract Regulations codifies the rule that an agent acting within authority for a known principal creates *contractual* relations between principal and third party and (absent an undertaking to be bound) none between agent and third party. However, article 65 does not touch on an agent's liability for his own torts, and the common law does not confer such immunity: a person who himself makes a false or careless statement answers for it personally, and his agency operates to attribute the statement to his principal *in addition*, and not to absolve the agent of any liability that may attach by reason of his conduct.

59. The Fourth Defendant's formulation of the challenge that his acts *"cannot themselves constitute a transaction, contract or arrangement between him personally and the Claimant"* is not relevant to the issue to be resolved. Neither is it a proposition that the Claimant advanced. The question is whether the dispute with the Fourth Defendant arises from these qualifying contracts, and not whether he was party to the qualifying contracts.

60. The agency point raises another feature: the Third Defendant's principal was the Fourth Defendant, rather than the First Defendant. This narrows the analysis but does not, of itself, necessarily defeat the issue of jurisdiction. The gateway under article 9.1.1.4 of the Rules looks to the transaction from which the dispute arises, not to the principal for whom the Fourth Defendant acted. Additionally, the representations were made to the Claimant about the discharge of the contracts between the Claimant and the First Defendant in relation to important aspects of the subsistence of the First Defendant, namely the payment of service fees, the closure and deregistration of the First Defendant, and the release of the First Defendant's funds to an account directed by the First Defendant.

61. In this context, it is relevant that the Particulars of Claim plead, and the jurisdiction challenge accepts, that the Fourth Defendant provided *"support for Aimia Marketing Doha LLC"* in his capacity as Kognitiv's General Counsel. Paragraph 94 of the Particulars of Claim attributes his conduct to *"Kognitiv Corporation and/or the First Defendant"*.

62. Secondly, and forensically, the Fourth Defendant's own affidavit in the Ontario proceedings characterised the disputed HSBC funds as *"a balance owed to Kognitiv's Qatari subsidiary, Aimia Marketing Doha LLC"*. This categoric averment about funds in issue, which the Fourth Defendant affirmed, represents a balance attributable to the First Defendant, does not sit readily with the contention that the dispute concerning those funds and, concerning what he told the Claimant about them, is unconnected to the qualifying contracts.

<u>Reliance on *Amberberg*</u>

63. The jurisdiction challenge treats the Court's judgment in *Amberberg* as deciding that personal tort claims against a non-party individual fall outside the jurisdictional gateways. However, as outlined above, *Amberberg* does not state that the gateway provided in article 9.1.1.4 of the Rules precludes or ousts personal tort claims entirely. Rather, it decided that this Court has no jurisdiction to determine claims against third parties to the dispute where those third parties' pleaded duties derived from a source which was wholly external to any qualifying transaction. In that case, the source was entirely from the QFCRA and not from the qualifying transaction or contract.

64. However, *Amberberg* expressly reserved the circumstances of the present case, in which the pleaded wrongs are constituted by statements made within, and about, the qualifying contracts. To that extent, the independent causes of action have to be individually examined to ascertain whether each of them falls within the gateway conferred under article 9.1.1.4 of the Rules.

<u>The temporal point on jurisdiction</u>

65. The submission that jurisdiction *"could extend only to conduct within the period of his appointment"*, which ended on 19 or 28 February 2026, is answered twofold:

    i. First, on the facts, it has limited relevance, as the material facts and representations occurred in November 2025, and the bankruptcy notification and the affidavit sworn in the Canadian insolvency proceedings on 9 February 2026, all of which occurred before the cut-off date stated in the challenge.

ii. Second, any conduct after 28 February 2026 goes to the scope of the jurisdiction rather than whether the Court actually has jurisdiction. To the extent any pleaded conduct post-dates 28 February 2026, the point goes to the viability of that element of the claim at trial, not to jurisdiction.

Application to the pleaded causes of action against the Fourth Defendant: Does article 9.1.1.4 of the Rules provide or negate jurisdiction?

66. Each of the causes of action pleaded by the Claimant is now examined to ascertain whether jurisdiction is engaged.

<u>Misrepresentation and negligent misstatement: article 9.1.1.4 of the Rules is engaged</u>

67. It is trite that the personal liability of an officer or legal representative does not generally arise on the basis of his corporate title. However, in the instant case, it is evident from the Particulars of Claim that the causes of action in misrepresentation and negligent missatement are based on the Fourth Defendant's direct dealings with the Claimant, his personal role as the primary foreign shareholder contact, his knowledge of the Qatar closure requirements, his statements and conduct concerning the HSBC funds and Qatar liabilities, compounded by his later evidence in the Canadian proceedings. It is on the basis of this factual matrix that the Claimant pleads a personal assumption of responsibility.

68. The statements pleaded and set out in the Particulars of Claim, as outlined above, all concerned the performance, payment, and closure of the qualifying contracts. They were made to the Claimant in the capacity created by those contracts (as nominee shareholder and service provider); the reliance pleaded consists of contractual cooperation and forbearance (continuing to address local liabilities, thereby refraining from earlier escalation and facilitating the signatory's attendance); and the loss consists of the defeated contractual entitlements and the tax and deregistration exposure attaching to the Claimant solely by virtue of the nominee shareholding. In respect of every element of these causes of action, namely the statement, capacity, reliance, and loss, the qualifying transactions comprise the foundational basis and factual matrix of the claim.

69. The apparent inconsistency between the Fourth Defendant's sworn Canadian evidence (account closed by HSBC in July 2024, the balance thereupon due to Kognitiv) and

both his own November 2025 correspondence (funds still awaited) and HSBC Qatar's confirmation of completion and closure in April 2026, fortifies the fact that the conduct complained of "*arises from*" the qualifying contracts and transactions.

70. For jurisdictional purposes, what matters is that the dispute these factual matters constitute arises from the qualifying transactions. As a matter of grammar, the phrase *"arise from"* is defined by the word *"dispute"* and "*transactions, contracts or arrangements taking place"* between specified entities. That means that the phrase *"arise from"* is narrower than a broader phrase such as *"in connection with"* or *"relating to"*. As the gateway for the determination of jurisdiction, these words are significant, as they define the competence of a court against the constitutional default position, as the Appellate Division put it in *Cambridge* at paragraph 45, namely that *"…the other national courts are the default courts in Qatar and only special provisions can give this Court jurisdiction"*.

71. Relying on the judgments of *Manwara Begum, Zaman, Amberberg* and the overarching principles in *Cambridge*, a *"dispute"* "*arises from"* a qualifying transaction where the issues presented for determination are constituted by that transaction and cannot be resolved without construing or applying the fact and content of that transaction. Put another way, a dispute arises from a transaction where the transaction supplies the subject matter of the issues, the source of the obligations or authority in question, the capacity in which the relevant dealings occurred, or the constitution of the loss, as distinct from cases where the transaction is merely the background, occasion, or motive for dealings whose issues are independently constituted.

72. This point has been valuably dealt with in *Rudolfs Veiss v Al-Tawil and Prime Financial Solutions* [2025] QIC (F) 45 ('***Veiss***'). In that case, the phrase *"arising from"* is construed and applied through an issue-based test. Having assumed that a qualifying "*arrangement*" existed, the Court then asked whether the dispute presented for adjudication arose from it. The dispute was whether a subject cheque was a loan or repayment of an existing debt – an issue arising from an alleged contract between two individuals in which the QFC entity "*played no part, save for being the potential beneficiary of the loan*" and where the travel-ban undertaking "*has no bearing on the outcome of the claim under the loan agreement*". The Court focused on identifying the

issues the claim required it to decide and whether those issues originated or derived from the qualifying transaction.

73. *Veiss* also establishes that it is insufficient that the qualifying transaction induced or occasioned the dealing sued upon. The issues themselves must be constituted from it. As stated in that case, the default-courts principle in *Cambridge* "*precludes this Court from extending its jurisdiction through a contortion of the facts*".

Application to the present case

74. On the facts of the present case, can it be said that the claims made against the Fourth Defendant concerning his personal statements in relation to the Shareholders Agreement and the Novation and Assignment agreement comprised mere background which is unrelated to the dispute? Applying the issue-based test from *Veiss*, the claims against the Fourth Defendant are all inextricably tied up with and to the qualifying contracts or transactions. The issues cannot be tried without the qualifying contracts.

75. For example, whether the Fourth Defendant had the authority to terminate under clause 5.2 of the Shareholders Agreement requires construing the Shareholders Agreement. Whether his statements about payment, closure and the HSBC funds were false or careless requires determining what the First Defendant's obligations under the service arrangements were, and what their discharge required. Whether the Claimant's reliance was reasonable requires ascertaining its role and duties as nominee under the qualifying contracts; and the loss is to be assessed by the defeated entitlements under them, together with the tax exposure that subsists by reason of the nominee shareholding created. Unlike *Veiss*, which failed the issues-based test, the factual matrix and causes of action in misrepresentation and negligent misstatement in the present case do require the issues to be dealt with in the context of the qualifying contracts.

76. On a reading of the pleaded claim, which is assumed for the purposes of this application to be true, there is a clear nexus between these two particular causes of action and the qualifying transactions. The qualifying contracts and transactions comprise the basis for the events that ensued vis-à-vis the Claimant and the Fourth Defendant. And it is those events that, in turn, give rise to the causes of action for misrepresentation and negligent misstatement. It cannot reasonably be concluded that these acts are entirely unrelated to the qualifying contracts or are brought in a void, such that they are

unrelated or do not "*arise from*" the qualifying contracts. It is reiterated that in *Amberberg,* this point was left open, and in *Veiss,* the issues-based test clarified the threshold required to meet the jurisdictional requirements under article 9.1.1.4 of the Rules.

77. The issues of agency and independent liability are matters that go to the merits of the claim rather than jurisdiction. These claims in misrepresentation and negligent misstatement, therefore, meet the gateway requirements of article 9.1.1.4 of the Rules. The challenge as to jurisdiction therefore fails in respect of these causes of action.

Breach of warranty of authority

78. In this jurisdictional challenge, the onus lies on the Claimant to establish that the dispute in issue falls within article 9.1.1.4 of the Rules or one of the other gateways. The dispute itself is constituted by the claims as pleaded. In the instant case, a cause of action in breach of warranty of authority is not readily discernible, but appears, at best, to be scattered in an inchoate form throughout the Particulars of Claim. It is not set out in the "*Causes of Action*" section. Any attempt to accept such a cause of action would require the Court to put together various paragraphs of the Particulars of Claim, for example at paragraphs 25, 93, 95-98, and other paragraphs. This is not ideal.

79. The basis for determining jurisdiction turns on the claim as pleaded fully and properly. A strict construction approach or some degree of rigour ought to be adopted in ascertaining the cause of action from the Particulars of Claim. An inchoate or incompletely constituted plea of a breach of warranty of authority is insufficient to enable the Court to analyse whether the claim arose from the qualifying contracts under article 9.1.1.4 of the Rules.

80. It is equally important that the Fourth Defendant is entitled to ascertain with precision which causes of action he has to meet in respect of a hearing that could subject him to the jurisdiction of this Court.

81. For these reasons, this cause of action does not meet the requirements of article 9.1.1.4 of the Rules, and the jurisdiction challenge is upheld in respect of this cause of action.

Knowing receipt and unjust enrichment

82. These causes of action most closely resemble the claims dismissed in *Amberberg*. The basis for these causes of action lies in general equitable and restitutionary principles. It is not clear that the source or basis for these causes of action arises from anything constituted by the qualifying transactions. In order to establish that the claim "*arises from*" the qualifying contracts or transactions, there should be a clear nexus between the diversion of the First Defendant's closing balance and the receipt of those monies by the Fourth Defendant, which would support a plea of knowing receipt or unjust enrichment arising as a consequence.

83. There is nothing in the Particulars of Claim that pleads that the Fourth Defendant personally received any monies. On the contrary, the pleadings disclose that the funds were passed to the Second Defendant and then into the Kognitiv estate for distribution to other third parties.

84. For these reasons, the reasonable conclusion to arrive at is that the Claimant has not established that the claims "*arise from*" the qualifying contracts or transactions. As such, article 9.1.1.4 of the Rules is not met, and the jurisdiction challenge succeeds in relation to the causes of action in knowing receipt and unjust enrichment.

The alternative relief sought by the Fourth Defendant: declining jurisdiction under article 9.4 of the Rules

85. The jurisdiction challenge seeks, in the alternative, that the Court decline to exercise jurisdiction. Article 9.4 confers on the Court the power to decline to exercise jurisdiction. Having considered this alternative relief sought, the conclusion to be drawn is that there does not appear to be any material basis for exercising the power to decline jurisdiction in relation to the causes of action based on misrepresentation and negligent misstatement.

86. The dispute here concerns the discharge of Qatari liabilities, the closure and deregistration of a Qatari entity, funds held in and transferred from the Qatari entity's bank account, and statements directed to a QFC entity in Qatar. As has been explained above, the claims relating to misrepresentation and negligent misstatement do arise from the qualifying claims. There is no material which warrants the exercise of discretion to decline jurisdiction.

87. It is pertinent that the claims against the First Defendant will proceed before this Court. Declining jurisdiction over the Fourth Defendant, notwithstanding that the conditions in article 9.1.1.4 of the Rules have been met, would effectively fragment across two continents the trial of a single factual matrix, including the divergence of the Fourth Defendant's evidence in the Canadian proceedings in relation to the Qatari banking account, as compared to the statements and representations made to the Claimant. Those issues are properly considered in this jurisdiction, particularly as the Canadian proceedings concerned Kognitiv alone and, on the material available, are substantially complete. As such, this Court does not exercise its discretion to decline jurisdiction under article 9.4 of the Rules.

Conclusion

88. For the reasons set out above, the Court rules as follows in relation to the jurisdiction challenge brought by the Fourth Defendant:

   i. The claims brought by the Claimant in misrepresentation and negligent misstatement against the Fourth Defendant comprise a dispute arising from transactions taking place between an entity established within the QFC (the Claimant) and an entity established in the State of Qatar but outside the QFC (the First Defendant), within article 8(3)(c)(4) of the QFC Law and article 9.1.1.4 of the Rules. The jurisdiction challenge, therefore, fails in respect of these two causes of action. Neither is there any basis shown which requires this Court to decline jurisdiction.

   ii. The breach of warranty of authority is an inchoate pleading which fails to establish that it is a dispute that "*arises from*" the qualifying transactions between the Claimant and the First Defendant. The Particulars of Claim disclose, at best, an inchoate cause of action from which it is not possible to ascertain or determine that such a dispute arises from the qualifying transactions. The jurisdiction challenge, therefore, succeeds in respect of the cause of action premised on a breach of warranty of authority.

   iii. Similarly, the knowing receipt and unjust enrichment claims do not establish that the claim arises from the qualifying transactions because the pleading does not disclose a personal receipt of the subject funds by the Fourth Defendant in relation to the Qatari HSBC account. On the contrary, it appears to rely on facts which do not exist. Such non-existent facts cannot then be relied on to ascertain whether the dispute arose from the qualifying contracts. The jurisdiction challenge succeeds in respect of these two causes of action: of knowing receipt and unjust enrichment.

iv. The arguments raised in the jurisdiction challenge as to residence, non-party, disclosed-agency, article 65 of the Contract Regulations, and paragraph 94 of the Particulars of Claim do not comprise a basis to refute the operative test in determining jurisdiction, for the reasons given in this judgment. These matters go to the merits of the claim, rather than jurisdiction.

v. There is no order made as to costs.

By the Court,

[signed]

Justice Tan Sri Nallini Pathmanathan

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

Representation

The Claimant was represented Maniar Law PLLC (Austin, Texas, USA).

The Fourth Defendant was represented by the Essa Al Sulaiti Law Firm (Doha, Qatar).