



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: [2021] QIC (RT) 1

IN THE REGULATORY TRIBUNAL
OF THE QATAR FINANCIAL CENTRE

29 April 2021

CASE Nos RTFIC0001/2020 and RTFIC0002/2020

BETWEEN:

SIHAM BOULBADAOU

Appellant

v

QATAR FINANCIAL CENTRE AUTHORITY

Respondent

SAMIA BOULBADAOU

Appellant

v

QATAR FINANCIAL CENTRE AUTHORITY

Respondent

DECISION OF THE REGULATORY TRIBUNAL

Before:

Sir William Blair, Chairman

Justice Sean Hagan

Justice Muna Al Marzouqi

DECISION

1. These are appeals by Ms Siham Boulbadaoui and Ms Samia Boulbadaoui against Decision Notices dated 11 September 2019 issued by the Qatar Financial Centre Authority (QFCA) by which the QFCA imposed a financial penalty on them of US\$48,000 and US\$9,000 respectively. The appellants are represented on a pro bono basis by Omani & Partners Law Firm LLP. The QFCA has represented itself in relation to the appeals.
2. The Decision Notice in respect of Ms Siham Boulbadaoui was issued in respect of alleged contraventions of her duties as regards a company called Encryptics Data Security LLC which was established and registered in the QFC in 2016. By so incorporating, it became subject to the rules of the QFCA. The Decision Notice in respect of Ms Samia Boulbadaoui was issued in respect of alleged contraventions of her duties in connection with the investigation that led to the issuing of the Decision Notices.
3. The appellants (who are sisters) were both employed by Encryptics Data Security LLC. According to the Decision Notices, Siham Boulbadaoui was Director, Senior Executive Function and General Manager of the company, and Samia Boulbadaoui was Administration Manager, though they both state that the company was largely managed out of the United States.
4. Encryptics Data Security LLC is wholly owned by an American company, Encryptics Holdings Inc. A Decision Notice was issued at the same time against Encryptics Data Security LLC imposing a penalty of US\$48,000. This Decision Notice has not been the subject of an appeal, but neither Encryptics Data Security LLC nor Encryptics Holdings Inc have paid the penalty, or taken any part in these appeal proceedings.
5. The Tribunal understands that the Decision Notices were issued by the QFCA (rather than the QFC Regulatory Authority) because the alleged breaches relate to the corporate affairs of a company incorporated in the QFC rather than the carrying on of a regulated financial business in the QFC. It appears that the business of the company in Qatar consisted of supplying services to the Qatar Central Bank.

6. Notices of Appeal on behalf of the appellants were filed with the Regulatory Tribunal on 22 November 2020 (Siham Boulbadaoui) and on 14 December 2020 (Samia Boulbadaoui). Both appeals raise the same or similar issues, one such issue being whether, as the QFCA submits, and the appellants deny, the appeals have been brought out of time. If so, it has been held in *Al Tamimi v Employment Standards Office and Qatar Finance and Business Academy* [2018] QIC (A) 3 that there is no power to extend time.
7. On 18 February 2021, the Tribunal directed that the appeals would be case managed and heard together, and that the Tribunal would determine, as a preliminary issue, the timing point. It asked the parties to indicate whether they were seeking an oral hearing on this preliminary issue or whether they were content for the matter to be determined on the papers. The QFCA stated that it was content for the matter to be dealt with on the papers, and the appellants did not respond. The Tribunal has therefore decided the preliminary issue on the papers. It makes it clear that this decision is limited to the time issue – there are no findings as regards the merits of the cases.
8. The Notices of Appeal were filed more than a year after the date of the Decision Notices. The appellants submit however that they were not properly served with the Decision Notices at that time, and that they appealed when they became aware of the notices. Their case is that this did not happen until 24 September 2020 when they were notified through the Police Department that a case had been filed by the QFCA against them. This is a reference to proceedings which have been brought by the QFCA in the QFC Court to enforce the penalties (and which presently stand adjourned pending resolution of the appeals to the Regulatory Tribunal). The appellants submit that they had 60 days from 24 September 2020 to bring their appeals, and that they did so, and so are in time.
9. The QFCA's case is that the period for appeals is 28 days under the applicable QFCA Rules, but that even if a 60 day time limit applies, then this period had already long expired by the time appeals were filed following what it submits was valid service in September 2019. The question as to what is the applicable time limit is dealt with below.

The facts relating to the preliminary issue

10. The appellants have set out their case in their Notices of Appeal and various documents annexed, in rejoinders given to the QFCA's Responses, and in their comments as to the facts as set out in QFCA's witness statement of Ian Andrew Wilson dated 2 November 2020. The QFCA has set out its case in its Responses and in that witness statement and in various documents annexed. Mr Wilson is the Enforcement Manager in the Monitoring and Enforcement Department of the QFCA. The parties have set out their cases carefully, and helpfully. The Tribunal finds the facts relevant to the timing issue to be as follows.
11. Ms Siham Boulbadaoui was employed by Encryptics Data Security LLC in 2017. She says that her job merely revolved around business development and finding new clients for the company. As explained below, her employment was terminated as of 15 June 2019. Ms Samia Boulbadaoui was employed after Siham. Her employment was terminated on 28 December 2018 because of the company's financial problems. The QFCA contends that it was not notified of such terminations at the time.
12. The giving of the Decision Notices in September 2019 was, in the usual way, preceded by an investigation. This began in February 2019. Mr Wilson says that he emailed a Notice of Appointment of Investigators to Siham Boulbadaoui and tried to get in touch with her by email and phone to arrange a meeting to explain the purpose and scope of the investigation, but had no reply. This is denied by Siham Boulbadaoui, though it is a simple denial without any details. Samia Boulbadaoui submits that documents such as the investigator's fact-finding list have not been disclosed. However, the Tribunal has no reason to doubt that the investigation began as described by Mr Wilson. As Director, Senior Executive Function and General Manager of the company, Ms Siham Boulbadaoui was under a duty to engage with it.
13. Mr Wilson says that thereafter he emailed a Notice of Compelled Interview and Production of Documents to Siham Boulbadaoui. He also attempted, he says, to contact her by phone, and eventually sent a final letter to the company's registered address. Nothing was forthcoming. The response on behalf of Siham Boulbadaoui is that the company was not using the office at its registered address by that time

which means that she did not receive these documents. However, she does not actually say that she did not get them, and it is not denied that emails from the QFCA generated read receipts (a notification to inform the sender that a recipient has opened an email). The Tribunal is satisfied that she was fully aware of the investigation.

14. According to the Decision Notice in her case, notifications to attend interview and produce documents were also sent to Samia Boulbadaoui as Administration Manager of the company, apparently because she still appeared as such on the QFCA's records. There is however no evidence that these were received by Samia.
15. According to the Decision Notices, the formal investigation ended on 31 March 2019.
16. On 30 May 2019, Siham Boulbadaoui received an email from the company saying that due to the strategic decision by Encryptics to close its Qatar operation, her employment was to be terminated. On 13 June 2019, she was informed that her final day would be 15 June 2019. The email states: "Regarding QFC, we are in discussions with them directly, so no further assistance will be required".
17. There is no evidence before the Tribunal as to what these direct discussions were, or indeed that they happened. Since the affairs of the company were under investigation, it was under a duty to cooperate with the QFCA, and it is a matter of concern if it failed to do so. The fact that it was closing its business in Qatar is irrelevant.
18. As regards Siham Boulbadaoui, the termination of her employment by the company would not resolve the question of her personal responsibility (if any) for alleged failures of the company to comply with the QFCA's corporate rules whilst she was General Manager of the company if this was pursued by the QFCA, which in the event it was.
19. The procedures applicable to the imposition of a penalty provide that if, following an investigation, the QFCA proposes to exercise its disciplinary powers under its rules, it must first give the person concerned written notice specifying the action

which the QFCA proposes to take, and an opportunity to make representations to the QFCA in relation to the proposed action. This is described as a Notice of Proposed Action, or NPA. This is a vital step in the proceedings because it puts the subject on notice that a penalty is proposed and gives the subject the chance to explain why no penalty, or a lesser penalty, is appropriate. It is essential that the NPA is clearly brought to the attention of the person concerned, if necessary by personal service. There will normally be no difficulty in demonstrating service however, because the person concerned will already have been engaging with the regulators in the investigation. However, as noted, such engagement did not happen in this case.

20. There is however a considerable body of evidence as to what did happen as regards the NPA in this case. Mr Wilson says that an email attaching an NPA was sent to Siham Boulbadaoui on 5 August 2019. Although the “read receipts” facility was turned off, that email and a later reminder did not bounce, and there was a delivery receipt. It is rightly pointed out on behalf of Siham Boulbadaoui that a delivery receipt confirms delivery of an email to the recipient’s mailbox, but cannot confirm that the recipient has seen it or opened it. Therefore, it is submitted, there is no evidence that Siham read the Notice at the time.
21. However, there is further material before the Tribunal in this regard. Mr Wilson has produced a copy of a contemporaneous handwritten note he made detailing his attempts to contact Ms Siham and Ms Samia Boulbadaoui by telephone on 6 August 2019. According to that document, “on 6 August 2019 between 2:41PM-2:43PM, I spoke with Ms Siham Boulbadaoui in English on telephone number +974 40008080 and told her the QFC Authority proposed to fine the Firm, her, and her sister Samia. I suggested she and Samia come and see me as soon as possible at the QFC Tower 1. She said she would call back in half an hour, but she never did, and subsequent attempts to telephone her were unsuccessful”.
22. It is submitted on behalf of the Boulbadaouis that this handwritten note does not constitute evidence that what is mentioned in it is true. However the Tribunal considers that a contemporaneous note, particularly a detailed one, can be strong evidence. Further, as appears below, Siham in due course replied to chasing emails

from Mr Wilson including in the chain the email dated 5 August 2019 by which he sent the NPAs to her, stating that she was no longer an employee of the company.

23. Further, on 29 September 2020, Siham emailed Mr Yousuf Al-Jaida, Chief Executive Officer of the QFCA, about the case. In the course of the email, she said that the “claim was based on a notice sent to me in August 2019 specifying the contraventions made by me and the company ...”. Siham says that this was mentioned in the notice received from the police department, and does not imply that she received the NPA in August 2019. Nevertheless, on the totality of the evidence the Tribunal is satisfied that Siham Boulbadaoui did indeed receive the NPA in August 2019 in circumstances in which she must have realised the importance of the document.
24. It is further submitted on her behalf that on the assumption that the QFCA’s case is correct in this regard, Encryptics assured Siham on many occasions not to make any contact with QFCA, and Siham’s employment by August 2019 was terminated. In this regard she says that she was instructed by her employer not to deal directly with the QFC, and that relations with the QFC would be managed directly from the United States: “On that basis, Siham used to forward all emails and communications from the QFC to Encryptics USA”.
25. Her case in this respect is supported by the email referred to above of 13 June 2019 from the company stating, “Regarding QFC, we are in discussions with them directly, so no further assistance will be required”. Clearly by August 2019 Siham could not act in relation to the NPA given to the company since she was no longer employed by the company. But by then matters had progressed beyond the company to include her and her sister: the fact that she was no longer employed by the company did not absolve her from engaging in respect of an NPA that was given to her personally.
26. So far, the Tribunal has been considering the position of Siham Boulbadaoui. The position of Samia Boulbadaoui is different. She had ceased to work for the company before the investigation started. Although similar emails were sent to her as had been sent to Siham, and an NPA was also emailed to her, she says that she had no access to the company email address. Mr Wilson’s evidence is that all emails to her

bounced back. Although the documents before the Tribunal show communications with Siham through her personal email addresses, there is no evidence of email communications through Samia's personal email addresses. Although it is a reasonable inference that her sister told her about the situation, the evidence that Samia actually received the NPA does not exist in the case of Siham.

27. Following these exchanges, on 4 September 2019 Siham Boulbadaoui sent Mr Wilson an email from a personal email account. Among others, it is copied to Samia and Elliot Lewis who is or was CEO of Encryptics' parent company. It says:

Dear Ian
Hope this email finds you well
I appreciate your attempt to connect with me, but unfortunately I am no **longer** working with an **Encryptics** & I am available at this email siham@encryptics.com
if you need immediate assistance please contact [*name given*]
Thank you and goodbye,
Siham

28. This email replied to an earlier email of 1 September 2019. This was from Mr Wilson to Siham at her personal and Encryptics email addresses, to Samia at her Encryptics email address, and to Mr Toney Jennings at his Encryptics email address, reminding them that the final day for them to respond to the Notice of Proposed Action was coming up. The subject was, "WARM REMINDER – IMPORTANT LEGAL NOTICE RE Encryptics Data Security LLC". The email trail of which it is part includes the email dated 5 August from Mr Wilson to all of them – this attached the NPAs containing details of the penalties which it was proposed to impose on them and drew their attention to their opportunity to make representations. So even if Siham did not get the NPAs at the time they were issued (which the Tribunal thinks she did), she got them then.

29. It is submitted on behalf of Siham that it happens that people do not read earlier emails if the subject matter is not of interest, especially in her case after her employment was terminated and where she had her own problems with Encryptics – it seems that the company had not paid the money that was due to her on the termination of her employment in respect of which she filed a legal complaint against

Encryptics with the QFCA. The fact that she responded to the last email received from Mr Wilson in an email string containing the NPAs does not show that she actually read the NPAs. However, in the Tribunal's view, this again shows what had happened in August, namely that she received the NPAs in circumstances which made it clear that they were important legal notices. Whether she read them is a different matter, but she had the opportunity to read them.

30. On 5 September 2019, Mr Wilson again emailed Siham Boulbadaoui (and the other persons copied into the previous emails) stating again that the NPA was in respect of the financial penalty for which she was to be personally liable. It also asked her to advise Samia as to the situation. There appears to have been no reply to this email, but Mr Wilson exhibits further emails showing that Siham attempted to arrange a meeting with the Chief Commercial Officer of the QFCA, but ultimately cancelled that meeting. On her behalf, it is submitted that the meeting was cancelled by the QFCA and not by her, but in any case, it did not happen.
31. As noted above, the Decision Notices themselves were issued on 11 September 2019. Among other things, they notified the subjects of the right to appeal to the Regulatory Tribunal.
32. On 12 September 2019, the Decision Notices were emailed by Mr Wilson to the email addresses he had for the recipients, in Siham's case to the email addresses with which he had been in contact a few days earlier. The email was in terms that made it clear that it attached important legal documents. It was delivered to her personal email address, and the Tribunal is satisfied that she received it. Though it is submitted on her behalf that delivery does not mean that she actually read the Notice, again she had the opportunity to do so, and can have been under no misapprehensions as to the nature of the document.
33. In Samia Boulbadaoui's case, the email attaching the Decision Notice was sent to her Encryptics address and bounced. Mr Wilson requested the other recipients including Siham to forward the email to Samia, but there is no evidence that this was done. There is no evidence that Samia received the email attaching the Decision Notice – and service on her sister did not constitute notification of Samia.

34. On 15 September 2019, hard copies of the Decision Notices to each of the recipients were sent to the registered address of Encryptics Data Security LLC, at Office 841, 8th Floor, Al Fardan Office Tower, West Bay, Doha, which was the address which QFCA had on file for the recipients. The letters arrived on 16 September 2019. It is submitted on behalf of Siham and Samia however that they would never have received the letters since they were no longer working for the company: Siham had notified the QFCA that the lease at the Al Fardan Office Tower had ended, and the company was looking for a new space. (The QFCA contends however that it was not updated with a new address.)
35. It is further pointed out on behalf of Samia that the registered address is different from that stated in paragraph 16 of the Decision Notice against her. But the Tribunal considers that the explanation appears in paragraph 20, with its reference to notification of a change of registered address.

Discussion of the preliminary issue

36. In its responses to the Notices of Appeal, the QFCA states that:

“Article 18 of the QFC Civil and Commercial Court Regulations and Procedural Rules sets out how service of documents is to be effected. Article 18.3 provides that service of a claim form and any other document which these Regulations and Procedural Rules require to be served may be by (18.3.2) delivery to the party’s home address or, in the case of a corporate body or limited liability partnership, its registered or principal office address... The claimant may not serve the claim form electronically in substitution for one of the methods of service set out above, but may do so in addition to one of those methods.

In this case, QFCA relies on Article 18.3.2. The Decision Notice was delivered to Siham at the address which QFCA had on file for her. In addition to the hard copies of the Decision Notice, an electronic copy was delivered to her by e-mail with delivery/read receipt. For these reasons, the Decision Notice was effectively served on Siham on 15 September 2019 and the time for the lodging an appeal to the Regulatory Tribunal commenced on this date, not 24 September 2020.”

37. The service provisions of the QFC Civil and Commercial Court Regulations and Procedural Rules referred to here apply to service of court documents such as the claim form by which proceedings in the court are commenced. The Tribunal

accordingly asked the QFCA to explain why these Regulations apply to the service of Decision Notices, and identify any other rules or regulations that it relied on in this regard. The QFCA replied that:

“We accept that the provisions of Article 18 of the QFC Civil and Commercial Court Regulations and Procedural Rules are not binding on the QFCA in relation to the service of documents which relate to disciplinary proceedings of the QFCA. There are no requirements in the Rules and Regulations of the QFCA which set out a process for service of documents in relation to disciplinary matters other than in the Companies Regulations. Article 42(3) of the Companies Regulations provides that “A Document may be served on an LLC by leaving it at, or sending it by hand to, the registered office of the LLC.” In the current case, Article 42(3) did not apply because Article 42(3) only applies to limited liability companies incorporated under the Companies Regulations.

Generally speaking, the disciplinary process set out in the QFCA Rules allows a person who is aggrieved by a disciplinary decision of QFCA to appeal to the Relevant Review Body. In this case, the Relevant Review Body is the Regulatory Tribunal. As a disciplinary decision entitles a person affected by a disciplinary decision of the QFCA to appeal to the Regulatory Tribunal, the internal policy of QFCA is to adopt a process for service of documents which would satisfy the service requirements in relation to QFC Court matters. This is what happened in this case.”

38. These Regulations may be compared with the Tribunal rules as to service of a Notice of Appeal by an appellant on a QFC institution which may be done by any means that ensures that it is brought to the attention of the QFC institution concerned (Article 11.3 of the Qatar Financial Centre Regulatory Tribunal Regulations and Procedural Rules), or the more direct analogy with the rules that apply to service of notices by the Qatar Financial Centre Regulatory Authority which allow for giving notices electronically (GENE 5A.2.1).¹
39. In the Tribunal’s view, when dealing with individual subjects as in the present case, the essential consideration is that a Decision Notice is given in a way which effectively brings it to the attention of the subject. It is essential that this is done

¹ (1) Where the Regulatory Authority is required to give a person a written notice, the authority may do so by any means that the authority reasonably believes will bring the notice to the person's attention.

(2) In particular, and without limiting subrule (1), the authority may give a person a written notice:

(a) personally;

(b) electronically; or

(c) by post.

properly because administrative action is being taken against the individual, in this case by the imposition of fines which are ultimately enforceable through the court. The identification in the Decision Notice of the right of appeal to the Regulatory Tribunal is an essential part of that process, because it provides the subject with the opportunity for a *de novo* reconsideration of the case by an independent judicial body. This may require personal service of the Decision Notice by the regulator in particular cases. The service provisions of the QFC Civil and Commercial Court Regulations and Procedural Rules may be helpful guidance in this regard. Equally, however, the matter must be viewed within the regulatory context. Whereas the service of the claim form in court proceedings marks the commencement of the formal process, the giving of a Decision Notice marks the end of the formal process – the discussion above of the facts shows the kind of formal steps that come first, Notice of Appointment of Investigators, Notice of Compelled Interview and Production of Documents, Notice of Proposed Action (NPA) giving the subject the opportunity to make representations, and finally the Decision Notice itself. For reasons explained above, the Tribunal considers all these notices were effectively given to Ms Siham Boulbadaoui by email or by phone, and each was ignored. Clearly, a subject cannot avoid the regulatory process simply by refusing to engage with it.

40. The Tribunal does not however accept the QFCA's contention that the Decision Notice was effectively notified by delivery by post at the address which QFCA had on file for the Boulbadaouis. Obviously, it was very unlikely that Siham or Samia would be living at the company's registered address. Notice in this way may certainly amount to proper service on a company, but not necessarily on the individual officers, and not in the present case.
41. In summary, as regards Ms Siham Boulbadaoui, the Tribunal finds that she was validly notified of the Decision Notice by the email of 12 September 2019 and that time for appeal began to run from then.
42. As regards Ms Samia Boulbadaoui, the Tribunal refers to its findings above. Unlike Siham, by the time the investigation began, she was no longer employed by the company. There is no evidence that any of the emails sent by the QFCA reached

her. Whilst it may be considered probable that her sister told her about the investigation, awareness is not in itself enough. Though the QFCA asked Siham to pass the emails on, there is no evidence that this happened – in any case, it is very doubtful that this would have constituted good service. If the QFCA wished to be sure that she received the Decision Notice, it could have attempted to find her and serve her personally. As it is, the Tribunal finds that she was not notified of the Decision Notice in September 2019.

43. It is necessary now to move forward a year. The penalties imposed by the Decision Notices were unpaid by Siham and Samia Boulbadaoui and by Encryptics Data Security LLC, and in due course the QFCA brought enforcement proceedings in the court. Those proceedings were (the Tribunal understands) on the court's direction advertised, and on 24 September 2020 Siham and Samia Boulbadaoui were notified through the Police Department that a case had been filed by the QFCA against them.
44. Both appellants submit that they appealed when they became aware of the Decision Notices, which they say was on 24 September 2020. On the basis that they had 60 days from that date to appeal to the Regulatory Tribunal, they then filed Notices of Appeal. As to the 60-day period, the appellants rely on Article 10.2.2 of the QFC Regulatory Tribunal Regulations and Procedural Rules.
45. The Tribunal has rejected Siham's case in that regard, and found that the time for appealing ran from 12 September 2019. Her Notice of Appeal was filed with the Regulatory Tribunal on 22 November 2020, and so was over a year late.
46. But the Tribunal has found in the case of Samia that she was not properly served with the Decision Notice in September 2019. It is necessary to say something more about timing in her case.
47. The question as to what time is allowed for an appeal from a decision notice imposed by the QFCA has not arisen for judicial decision before, but the point did arise in connection with an appeal from a decision of the Employment Standard Office to the Regulatory Tribunal where a 30 day period is specified in the relevant regulations. In *Al Tamimi v Employment Standards Office and Qatar Finance and Business Academy* [2018] QIC (A) 3, it was held by the Appellate Division that since

Article 8.2(c) of the Qatar Financial Centre Law of 2005 (as amended) provides that appeals must be filed within 60 days of publication of the decision (paragraph [100]), regulations made under the law cannot limit the right of appeals to 30 days ([106]).

48. Both Decision Notices in the present case state that the recipient has the right to appeal which had to be exercised within 28 days of receipt, the QFCA considering the deadline to be 22 October 2019. But if the *Al Tamimi* case is applied by analogy, the statutory period of 60 days for appealing (which is reflected in Article 10.2.2 of the Tribunal's Procedure) would apply.
49. The Tribunal raised this issue with the parties, asking the QFCA to state its position as to the time for appealing. The Tribunal also asked for any comment from the appellants in reply.
50. The QFCA responded to the effect that the QFC Law provides that appeals against decisions made by any QFC Authorities may be filed before the Regulatory Tribunal within 60 days from the date the decision is published. But CER Rule 4.9 of the QFCA Rules (CER standing for Compliance and Enforcement Rules) provides that if the QFCA exercises any of its disciplinary powers, the firm or person concerned may within 28 days of the receipt of the Decision Notice refer the matter to the Regulatory Tribunal. The QFCA's position is that:
 - it is CER Rule 4.9 that sets out the time limits applicable to any decision to refer the Decision Notices dated 11 September 2019 to the Regulatory Tribunal;
 - even if a 60 day time limit applies, then this period had already expired by the time appeals were filed.
51. No specific submissions were made on behalf of the appellants on this point.
52. In the *Al Tamimi* case, the relevant notice stated that an appeal to the Tribunal had to be made within 30 days (para [3] of the report at [2018] QIC (RT) 2). The appellant in that case said that he had not appealed because he was under the impression that the Tribunal was a department of the QFC (see [2018] QIC (A) 3 at paragraph [43]). However, as the Appellate Division pointed out, whether the time for appeal was 30 or 60 days, the appeal was filed long after both of these time limits

had expired (paragraph [99]). The Tribunal considers that the same applies in the case of Siham Boulbadaoui.

53. As to which is the correct period, the Tribunal notes that when a public statement of the penalties was made by the QFCA on 30 April 2020, it was stated that the appellants "... failed to lodge an appeal within 60 days of being notified". If it is in fact the QFCA's view that the period for appealing is 60 days, as this suggests, then decision notices should state that period. It makes no difference to the result in this case, but it may in future cases.
54. Returning to the case of Samia Boulbadaoui, since she was not notified properly of the Decision Notice in September 2019, the Tribunal agrees with her submission that the period for appealing the Decision Notice ran from 24 September 2020 when she was notified of the court proceedings by the police. However in her case, the Notice of Appeal was not filed with the Regulatory Tribunal until 14 December 2020, which was outside the 60-day period. The applicable time limits cannot be extended by the Tribunal. This was decided by the Appellate Division in the *Al Tamimi* case at paragraphs [99] – [101]. It follows that Samia was out of time also. The Tribunal reaches this decision with some regret, because it is clear that she has played a relatively minor role in these matters.
55. The Tribunal wishes to add the following. As indicated earlier, a Decision Notice was also issued on 11 September 2019 against Encryptics Data Security LLC imposing a penalty of US\$48,000. This Decision Notice has not been the subject of an appeal, but neither Encryptics Data Security LLC nor Encryptics Holdings Inc have paid the penalty, or taken any part in these appeal proceedings. As mentioned earlier, Ms Siham Boulbadaoui had been told by the company on 13 June 2019 that, "Regarding QFC, we are in discussions with them directly, so no further assistance will be required". This may well have influenced the way she dealt with this investigation.
56. On 14 October 2020, the Registry received an email from Mr Toney Jennings, a previous CEO of Encryptics Holdings Inc until January 2019. Clearly, he had been asked by Siham for support, which he properly gave. He says that all financial, technical and administrative matters relating to the QFCA were dealt with directly

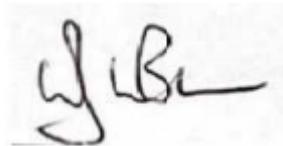
from the USA, and Siham was to forward all emails and communications from the QFC to Encryptics USA. He says that whatever Siham did not do in terms of communications with the QFC was based on instructions from Encryptics USA, and that she should not be blamed for such things.

57. As already pointed out, the Decision Notices against Siham and Samia Boulbadaoui were in their personal capacity, which is why penalties have been imposed on them personally as well as on the company. Instructions received from the company cannot alter that. Nevertheless, the matters complained of arise out of their employment by the company, and it would be a matter of concern, in the Tribunal's view, if the company left them with sole liability for what happened.

Decision

58. The preliminary issue is decided as follows. The appeals brought by each appellant from Decision Notices issued against them on 12 September 2019 were filed out of time, and the Tribunal accordingly has no jurisdiction to decide the appeals.
59. The Tribunal makes it clear that this decision is limited to the time issue – there are no findings as regards the merits of the cases.

By the Regulatory Tribunal,



Sir William Blair, Chairman



Representation:

The Appellants were represented through the QICDRC Pro Bono Service by Omani & Partners Law Firm LLP, Doha, Qatar

The Respondent was self-represented.