Neutral Citation Number: [2019] EWHC 2008 (Ch)

Case No: BL-2019-000940

**IN THE HIGH COURT OF JUSTICE**
**CHANCERY DIVISION**
**BUSINESS LIST**

Business and Property Courts of England and Wales
7 Rolls Building, Fetter Lane
London, EC4A 1NL

Date: 25 July 2019

**Before**:

**ADAM JOHNSON QC SITTING AS A DEPUTY HIGH COURT JUDGE**

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**Between:**

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| **SHALOM DODOUN** | **Claimant** |
| **- and -** | |
| **(1) BRYAN COLLINGS** | **Defendants** |
| **(2) MARINA AKOPIAN** | |

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**Jonathan Lopian** (instructed by **Karam, Missick & Traube LLP**) for the **Claimant**
**James Stuart** (instructed by **Fishman Brand Stone**) for the **First Defendant**
The **Second Defendant** appeared in person

Hearing dates: 4 and 9 July 2019

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# Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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MR ADAM JOHNSON QC

**Adam Johnson QC :**

## Introduction

1. On 16 May 2019, Falk J. made a freezing and disclosure Order against the Defendants, Mr Bryan Collings ("*Mr Collings*") and Ms Marina Akopian ("*Ms Akopian*"). The Order was also addressed to Coppin Collings Investments Limited ("*CCI*") as Third Respondent, although the Claim Form issued on 17 May 2019 named only Mr Collings and Ms Akopian as Defendants. The 16 May Order was continued by further Order of Falk J. dated 23 May 2019 (subject to certain variations), pending a further return date, and directions were given for the exchange of evidence.

2. At the return date hearing before me, the Claimant, Mr Shalom Dodoun ("*Mr Dodoun*") sought continuation of the freezing Order pending trial, and sought also to amend his Claim Form and Particulars of Claim, both in order to add in further details of the case he seeks to advance and to allow it to be continued as a derivative claim by CCI. Mr Dodoun also sought to reduce the amount allowed under Falk J's Order (as varied) for Mr Collings' living expenses. Both Mr Collings (who was represented by counsel), and Ms Akopian (who appeared as a litigant in person), argued that the freezing Order should be set aside. As I understood it, Mr Collings resisted at least some of Mr Dodoun's proposed amendments, on the basis that they were not properly arguable. He certainly made no concessions as to any of them. As I understood Ms Akopian's position, she resisted the proposed amendments on all counts.

## Background

3. This is a case with many unusual features. It is appropriate to start by summarising the background, as it appears from the evidence and from the submissions made by the parties.

4. The Claimant, Mr Dodoun, was described by his counsel, Mr Lopian, as an "*introducer*". It is said he has access to certain merchants who do not themselves have the facility to accept funds transfers and who therefore require "*payment solutions*". The merchants may be involved, for example, in foreign exchange transactions. A client or customer who engages in such a transaction with a merchant will need to make payment to the merchant. That is where Mr Dodoun comes in. He will accept payment of funds from the client, and will then make payment on to the merchant, minus a commission. Thus, the clients are introduced to Mr Dodoun via the merchants. The merchants must provide him (Mr Dodoun) with documents to enable money laundering checks to be completed. If they are, then payment is made to the merchant; and if not, then the funds are transferred back to the clients.

5. Mr Collings is an FCA regulated person with a financial services background. In early 2019, he was the owner of the entire issued share capital in the intended Third Defendant, CCI, and also the sole registered director.

6. Another company associated with Mr Collings is Coppin Collings Limited ("*CCL*"). Mr Collings was a director of CCL until December 2016. After that, Ms Akopian was a director of CCL until it went into compulsory liquidation in late 2018. Ms Akopian was declared bankrupt at about the same time.

7. Mr Dodoun's first contact with the Defendants came via Ms Akopian. The two were introduced in January 2019 by a Mr Asaf Portal. Mr Dodoun was interested in reviving CCL, which might have enabled him to take advantage of certain licences it had to conduct business in the United Kingdom as a Payment Services Provider ("*PSP*"). Discussions to this end continued in January and February 2019, and matters progressed as far as an Escrow Agreement being signed, which provided for funds made available by Mr Dodoun to recapitalise CCL to be held by a firm of solicitors, pending a possible attempt to rescind the winding-up order made against CCL. It seems that such efforts ran into difficulties, however, and eventually came to an end on or about 14 March 2019.

8. In the meantime, according to Mr Dodoun at least, Ms Akopian told him about another company, i.e. CCI. Again according to Mr Dodoun, CCI was offered as a substitute for CCL, but on the basis that it could be made available immediately for business. Mr Dodoun says he was told that CCI had not previously traded, but did have bank accounts both at HSBC and Barclays which would be put to use. CCI would need to apply for its own PSP licence in due course, but as a stop-gap it could take advantage under EU passporting arrangements of an Estonian licence held by a company called BNC Holdings Ltd ("*BNC*"), owned by a friend of Mr Dodoun. All that needed to happen was for CCI to purchase a 51% shareholding in BNC.

9. Against that background, Mr Dodoun says that he agreed to purchase the shares in CCI, owned by Mr Collings (although at that stage he had not met with or spoken to him). Drafts of a Sale and Purchase Agreement ("*SPA*") were exchanged, and in due course, on 26 February 2019, this was executed. It is signed both by Mr Dodoun and Mr Collings, and provides for Mr Dodoun to acquire Mr Collings' shares in CCI together with "*all rights attaching to them and the corporate bank accounts*" (defined as the "*Sale*"), for a total consideration of £1.00. The SPA contains the following provision at clause 1.2:

> "*The Sale is deemed as complete and the share ownership of [CCI] is deemed to be fully transferred to [Mr Dodoun] on signing of this agreement*."

10. By clause 5, Mr Collings was to notify Companies House of the change of ownership; was to register Mr Dodoun's nominee as a director; was to provide full assistance in transferring across all bank mandates; and was to notify Companies House of a change of name from CCI to "*CCI Payments*."

11. Additionally, Ms Akopian was to be a consultant, and a Consultancy Agreement was signed between Ms Akopian and Mr Dodoun on about 28 February 2019.

12. Meanwhile, Mr Dodoun's case is that, based on the assurances given by Ms Akopian, he did two things which involved the bank accounts whose details Ms Akopian had by this time provided, and which he understood to be bank accounts of CCI.

13. The *first* is that he immediately began conducting business on behalf of certain merchants. For this purpose he provided them with details of the accounts supplied to him by Ms Akopian. Between 6 February and 4 March 2019, the equivalent of €558,882 was paid by 17 clients of two merchants, namely GVV Tec AG ("*GVV*") and Gpay Limited (which later changed its name to Prompt Solutions Limited)

("*Gpay/Prompt Solutions*"). Payments were made into five UK bank accounts, three at Barclays (a Euro account, a USD account and a Sterling account), and two at HSBC (a Euro account and a Sterling account).

14. Mr Dodoun then says that some of these funds – two payments totalling €109,776 - were paid on in the normal course to the merchant concerned, GVV. As regards certain other funds, however, received for onward transmission to Prompt Solutions, the relevant clients (five in number) all failed money laundering checks run by Mr Dodoun's staff, and so the payments had to be returned to source. That left a balance as at 4 March of some €368,107. During this period, i.e., up until early March 2019, Mr Dodoun says he was supplied with copies of statements on the Barclays and HSBC accounts, which showed the relevant funds being received, and where appropriate, the payments out being made as well.

15. The *second* step taken by Mr Dodoun, on his evidence, was to give instructions for two substantial payments to be made on his own behalf into one of the bank accounts identified by Ms Akopian. These payments, each of €150,000, were made on 20 and 26 February 2019, into the HSBC Euro account. The funds came from a company called Medtag Limited ("*Medtag*"), whose principal is Mr Currado Cusano. Mr Dodoun's case is that he came to be owed funds by Medtag in the following way. He had also sought to do business with Medtag, as a party which could assist him in providing "*payment solutions*" to merchants. Consequently, Medtag had received funds from clients (in the same way that CCI had), but had been slow in making payments to the relevant merchants by way of settlement. To solve the problem, Mr Dodoun had stepped in personally and settled with the merchants. That meant that Medtag had a liability to him; and he instructed Medtag to make the payments due to him to CCI. His (i.e., Mr Dodoun's) intention was that the funds would be treated as a loan by him personally to CCI, and would be used to apply for the required licences and to provide CCI with working capital.

16. The issues which arise on the Applications before me largely stem from the fact that the HSBC and Barclays accounts, into which the client and Medtag funds were paid, were *not* in fact accounts in the name of CCI, but instead accounts *in the name of Mr Collings personally*. Mr Dodoun says he knew nothing of this at the time. He points to the fact that the names of the accounts supplied to him gave nothing away about the true identity of the account holder, and indeed give the impression it was CCI and not Mr Collings.

17. The account names of the five accounts into which funds were paid are as follows:

   i) *Barclays* accounts:

      a) "Coppin Collings Eur Seg 3"

      b) "Coppin Collings USD".

      c) "Coppin Collings Seg 1."

   ii) *HSBC* accounts:

      a) "Coppin Collings EUR".

b) "Coppin Col GBP."

18. Additionally, Mr Dodoun says he was provided with details of two further accounts at Barclays, which again appeared at the time to be accounts of CCI, namely "CoppColl Seg2" and "CoppColl Seg 3". As I understand it, however, no funds were actually paid into these accounts.

19. Mr Collings in his evidence tells quite a different story to Mr Dodoun. As regards the payments which Mr Dodoun says were made by customers or clients who were trading with merchants, Mr Collings says that he made details of his personal accounts available to Ms Akopian in early 2019, as a personal favour to her, as part of her plan to try and resuscitate CCL. He says that Ms Akopian was looking to collect funds together which would eventually be used to pay off CCL's creditors, and wished to have access to bank accounts for that purpose. He made the details of his personal accounts available so they could be used as a collection point for investors' funds. As far as he was concerned at the time, the funds received were from Ms Akopian's potential investors, and not from clients of the merchants who were dealing with Mr Dodoun (although after a certain point, there might have been some overlap between the two).

20. As regards what Mr Dodoun characterises as the loan made by him, sourced from the payments received from Medtag, Mr Collings again has a very different version of events. He says that the two Medtag payments, totalling €300,000, were in fact *a loan to him by Medtag*, in respect of what he describes as their "*joint Rome Infrastructure project*". Mr Collings has exhibited some documents supporting his case on this point. These include a copy of a loan agreement dated 18 February 2019 ("*the Medtag Loan Agreement*"), expressed to be between Medtag and Mr Collings; and also a letter from Mr Cusano dated 22 May 2019, addressed "*To Whom It May Concern*", in which he says that the funds paid to Mr Collings were indeed intended as a loan. Mr Collings has also produced a slide presentation pack bearing the name "*Coppin Collings Trajan*", which refers to the latter as a "*UK-based asset management boutique*", having "*exclusive rights to the project/development of the Fuimicino area (Rome)*".

21. Picking up the narrative again, it follows that by 5 March 2019, there had been received into the HSBC and Barclays accounts both (1) the funds which Mr Dodoun says were paid by clients on behalf of merchants, and which Mr Collings says he understood were paid by potential investors in CCL (of which a balance of some €368,107 remained; I shall refer to these payments as the "*client/investor funds*"); and (2) the €300,000 paid by Medtag, which Mr Dodoun says represented a loan by him to CCI, and which Mr Collings says represented a loan by Medtag to him, in connection with the "*joint Rome Infrastructure project*".

22. What happened next explains the background to the freezing Order granted by Falk J. on 16 May. On 5 March 2019, Mr Dodoun says he was told by Ms Akopian that all CCI's bank accounts (or what he assumed at the time were CCI's bank accounts) had been frozen, because something suspicious had come to light. Mr Dodoun says he found this "*very strange indeed.*" On 6 March, Mr Dodoun says he received a call from Mr Collings who said that he " … *was not going to allow Ms Akopian to access the bank accounts until such time as the various issues with the banks had been sorted out*". On the same day, Mr Collings said in an email to Ms Akopian (copied to Mr Dodoun):

> *"I will not be doing anything nor commenting further until the pending investigations into the accounts are fully concluded. That is the advice of my attorneys. It is also protocol in situations such as this, as you well know from years of compliance training."*

23. On 17 March 2019, Mr Collings then sent a letter to Mr Dodoun, which according to Mr Dodoun only increased his feelings of suspicion and concern. This has come to be known by the parties as Mr Collings' "*angry letter*". In it, Mr Collings complained that:

> *"According to the case officer in a conversation with my attorneys and I, my bank accounts were suspended due to a report from the sending bank of a serious fraud. Some funds that came to my account from your 'merchants' were reported as stolen funds. I am also aware that this is not the only problem you have caused."* (Emphasis in original).

24. Mr Collings blamed Mr Dodoun for this state of affairs, and also complained about harassment of Ms Akopian, whom Mr Dodoun was said to have been pressurising for return of the frozen funds.

25. As to what should happen next, Mr Collings dealt as follows with the funds received (on his case) from investors, in order to revive CCL:

> *"I wish to return, as soon as possible, as per the bank statements from my accounts that you apparently have all the respective individuals' funds to whence they have come from for both HSBC and Barclays. A lot of money has already been returned as you well know. This is non-negotiable, in case you were wondering. I am not sending one cent elsewhere. ONLY to where the individuals' funds originally came from. There is clearly no investment consortium any longer and thus no reason to hold other peoples' funds, nor send it to you, nor your companies." (Emphasis in original).*

26. The reference to "*investment consortium*" is obviously consistent, on this part of the case, with Mr Collings' account. Mr Stuart pointed out that when Mr Dodoun came to respond he did not take issue with that description.

27. On the other hand, as regards the Medtag funds, Mr Collings' letter on the face of it appears to support Mr Dodoun's story, because it described these as:

> " *... the total Eur300,000 from Medtag Ltd to CC, to pay for the rolling-out of a legitimate and licensed business activity."*

28. On this topic, Mr Collings went on to complain that Mr Dodoun's actions had led to great inconvenience for Ms Akopian and others, who had been assured of consultancy and other income flowing from the proposed venture with CCI. Mr Collings said he intended to make payments to them, reflecting the income he said they had been promised. The relevant sums totalled "*approximately GBP 252,000, or some Eur300,000*". As Mr Dodoun points out, this is the same overall amount forwarded by

Medtag by means of its two payments of 20 and 26 February 2019. Mr Collings said in his letter:

> "*These monies I will send to Marina [Ms Akopian], Tracey and Stan directly as a guarantee that you are not walking away from your obligations and promises to them.*"

29. Mr Dodoun says that this only increased his suspicions, because the idea of Mr Collings making the proposed payments was inconsistent with the proposition that the accounts had been frozen. Mr Dodoun says he pressed for confirmation of the alleged freezing of the accounts, but on 26 March 2019 received from Mr Collings only copies of two proforma letters from Barclays dated 13 March, which referred to the bank having attempted to contact Mr Collings without success, and went on to ask him to contact a member of the Barclays Fraud team. Neither said anything specifically about the accounts being frozen.

30. Mr Dodoun replied by email on 27 March and said that this was inconclusive, and there then followed what Mr Lopian described as a period of "*radio silence*", during which nothing further was heard from either Mr Collings or Ms Akopian, despite a letter from Mr Dodoun's solicitors dated 24 April 2019 marked "*URGENT*". No further bank statements were provided. This gave rise to serious concerns.

31. It was against this background that Mr Dodoun applied to Falk J. for a freezing Order and associated disclosure relief on 16 May 2019. In granting her Order, Falk J. was particularly influenced by the radio silence from Ms Akopian and Mr Collings, and by the terms of the "*angry letter*" of 17 March, with its suggestion that Mr Collings intended to make payments to Ms Akopian and others in a manner inconsistent with his contention that the relevant accounts were frozen. By paragraph 4 of Falk J.'s order, Mr Collings' and Ms Akopian's assets worldwide were frozen up to a total value of £650,000. Each of them was allowed up to £1,000 for living expenses per week. All assets of CCI were frozen.

32. Given his understanding at the time, Mr Dodoun's application was put forward on the footing that the Barclays and HSBC accounts of which he was aware were accounts in the name of CCI, not Mr Collings personally.

33. As noted above, the Claim Form and Particulars of Claim as issued following this original application named only Mr Collings and Ms Akopian as Defendants. The Particulars of Claim sought the following relief: (1) a declaration that Mr Collings held the shares in CCI on trust for Mr Dodoun; (2) specific performance of the SPA; and (3) an account from Ms Akopian and Mr Collings of all funds appropriated by them.

34. On 21 May 2019, in compliance with Falk J.'s Order, Mr Collings provided copies of bank statements for accounts in the name of CCI. Statements for three accounts were provided, all at HSBC. The account names are as follows:

    i) "BMM Account – Coppin Colli".

    ii) "Business A/C – Coppin Colli".

    iii) "Fgn Account – Coppin Clngs Investments L".

35. None of these were accounts of which Mr Dodoun was previously aware – i.e. they were different accounts to those mentioned at §§17-18 above. None of the accounts were active and all showed a nil balance. Mr Dodoun, who was under the impression that he was to be provided with up-to-date statements on the accounts he had had access to since early 2019, says he reacted with shock and amazement on receiving this new information. The explanation soon became clear: as we now know, the account details originally provided were in fact for Mr Collings' personal accounts, not accounts in the name of CCI.

36. Against this background, when the matter came back before Falk J. on 23 May, Mr Dodoun sought not only continuation of the freezing Order but also new Orders under the Bankers Books Evidence Act directed to Barclays and HSBC. Falk J. made those Orders and (as already noted) continued the freezing Order pending a further hearing. Falk J. also amended the freezing Order:

    i) So as to reduce the total amount covered by the freezing Order against Mr Collings and Ms Akopian from £650,000 to £515,000. This was to take account of a repayment to one of the individuals who had paid funds into one of the HSBC accounts in Mr Collings' name (in this case, the HSBC Euro account). The repayment, of €155,000 to Mr Marc Staub, was initiated by HSBC itself.

    ii) So as to increase Mr Collings' living allowance from £1,000 per week to £3,700 per week. This was on the basis of evidence provided by Mr Collings as to his outgoings.

37. In due course, returns under the Bankers Books Evidence Act Orders were provided by Barclays and HSBC, and Mr Collings served a detailed Statement (his second) on 13 June 2019, giving an overview of the various bank accounts under his control, either in his own name or in the name of CCI.

38. Both sides now rely on this overview in different ways. Mr Dodoun says that the picture which emerges has only served to increase his concerns and suspicions further. Mr Collings says that a proper analysis of the various bank accounts shows that he never laid any claim to any of the client/investor funds, but only the funds received from Medtag. Mr Collings accepts that he has made use of the latter, but says there is nothing wrong with that because they were a loan to him and the contrary is not properly arguable by Mr Dodoun.

39. To summarise Mr Dodoun's position on the bank account information, he relies on the following:

    i) The fact that, in addition to the seven accounts in Mr Collings' own name already mentioned above, the further information now produced show that he has (or until very recently had) 4 other *personal* accounts, two at Lloyds and two at Barclays. These were all either in the name of "*Mr Bryan Collings*", or "*Mr Bryan Alexander C Collings*", or "*Mr Bryan Alexander Collings*" – i.e., they were all obviously personal accounts. None of these were identified by Ms Akopian as accounts into which funds should be paid. Mr Dodoun says it is highly suspicious that he was provided *only* with details of those personal accounts of Mr Collings which were not identifiable as personal accounts, and which on their face appeared to be corporate accounts of CCI.

ii) The fact that, although Mr Collings represented that his accounts had been frozen as of 5 March 2019, which communication was then followed by a period of radio silence, an analysis of the account statements for the 2 HSBC accounts shows considerable activity on those accounts during March, April and May. That is undeniably true. For example, looking at the HSBC *Sterling* account, on 5 March 2019 a total of £29,200 was withdrawn by Mr Collings. As Mr Lopian points out, at the time the only funds in the account (save for a small balance of £15.74) were funds paid in by clients/customers, or on Mr Collings' case, by potential investors in CCL. Either way he seems to have been treating the monies as a fund available for his own use. It is also true to say that other funds are later paid into the same account by Mr Collings (for example, he made two payments into the account on 6 March of £80,000 and £76,077). By 7 May, however (the last date for which statements are available), there was a deficit, in the sense that £78,055 of client/investor funds had been paid in, but only £48,233 remained. The picture on the HSBC *Euro* account is similar. That is the account into which the €300,000 Medtag funds were paid. Once again there are payments into and out of the account from early March onwards – including a substantial withdrawal by Mr Collings on 6 March 2019 of €184,651 (which I will come back to below). Mr Dodoun accepts that a number of the payments *out* of the account were authorised by him (there were two payments to GVV, one of the merchants mentioned above; two payments to a company called Nicologo AG, which is associated with Mr Dodoun; and one payment to Mr Portal). But overall, according to Mr Lopian, there was still a substantial shortfall as of 10 April (the last date for which an account statement is available). That is because a total of €574,050 was paid into the Euro account, either by clients or by Medtag. Even deducting the amounts Mr Dodoun authorised to be paid out, that should have left a total remaining of CCI's money of €479,683. In fact, as of 10 April, there was just some €211,934.

40. Mr Collings' says that this is to misinterpret what happened, and indeed to misinterpret the story told by the bank statements:

i) In his evidence, Mr Collings has now explained that it was in fact only his Barclays accounts which were frozen on 4 March 2019, and *not* his HSBC accounts. That did not happen until later, it seems at some point between about 9 May and 17 May (Mr Collings in his Second Witness Statement refers to having received a letter from HSBC dated 3 May, but the account statements show payments out of the Sterling Account on 7 May). Through counsel, Mr Collings has now explained that having been notified on 4 March of the Barclays freeze, and having concerns that his accounts were being used for money laundering purposes, he effectively took it upon himself to freeze the HSBC accounts as well, at least as far as concerned the payments received from Mr Dodoun's clients (or on his own case, from CCL's investors). In other words, Mr Collings decided not to process any further instructions received in relation to those payments. He says that explains why there were movements on the HSBC accounts in the period after 5 March. He felt able to use them for his own purposes, but did not wish them to be used for purposes associated with Mr Dodoun.

ii) Moreover, Mr Collings says that, leaving the issue of the Medtag funds aside, an analysis of the payments into and out of his accounts shows no evidence of misuse of the client/investor funds. That is because, tracking through the various payments: (1) there were 17 payments in, in different currencies, totalling respectively £117,156, €355,025 and US$ 88,984; (2) there were 11 payments out totalling £37,248.50 and €330,366 (and no payments in US$), but these were authorised, either by Mr Dodoun himself (because they were payments to merchants, or were returns to the 5 individuals who had failed money laundering checks, or were the payments to Nicalogo or to Mr Portal mentioned above), or by HSBC (i.e., the repayment to Mr Staub).

iii) That should have left balances as follows: £79,907.50, €24,659 and US$88,984. In fact, although the balance on the Barclays US$ Account remains US$88,984, the overall, available balances in Sterling and Euros on the frozen accounts are different to those one would have expected. The Euro figure is higher than one would have expected: €57,134 not €24,659 (a surplus of €32,475.75); and the Sterling figure is lower than expected, £50,085 not £79,907.50 (a deficit of £29,821.60). But this is explicable: the figures cancel each other out, in the sense that the surplus in Euros is almost equivalent to the deficit in Sterling, and the reason for this is that when Mr Collings was using the Medtag funds to pay his own bills and expenses, he did not transfer sufficient funds from the HSBC Euro Account (into which those funds were received) into the Sterling Account.

iv) As to the Medtag funds, they were a loan to him from Medtag, and he was entitled to (and did) use them for his own purposes. They were not in any way referable to payments made to merchants by Mr Dodoun because Medtag itself was being too slow in settling such payments, and there was never any loan from Mr Dodoun to CCI as Mr Dodoun claims.

## The Parties' Submissions

41. Having set out that overview, I will now summarise the parties' main submissions before me.

42. Mr Dodoun's position is broadly as follows:

i) The original application for freezing relief was more than warranted by Mr Collings' and Ms Akopian's failure to provide bank statements after the end of February and by their "*radio silence*" following the notification of the accounts being frozen. It was justified also by the contradictory statement made by Collings in his 17 March letter that he intended to make payments to Ms Akopian and others. What has happened since confirms that those early suspicions and concerns were entirely correct, because it is now clear (1) that Mr Dodoun was misled as to the identity of the account holder, and (2) that he was also misled about the accounts being frozen. They were not frozen, and in fact one can see that almost from the time Mr Dodoun was told that they were, Mr Collings was helping himself to funds which had been paid into the accounts.

ii) All the funds paid into the nominated accounts, whether from clients/customers or from Medtag, were intended for CCI. It is now clear that Mr Collings and Ms Akopian have been involved in the misappropriation of those funds. CCI

therefore has claims against them, which can and should be brought by means of a derivative action. At all material times, Mr Collings was a director of CCI and Ms Akopian a shadow and/or *de facto* director. Consequently, there are claims for dishonest breach of fiduciary duty and/or breach of trust. Both are liable for breach of duty for having provided false account details to Mr Dodoun, pretending they were account details for CCI's accounts. Mr Collings is liable for having knowingly received monies belonging to CCI in breach of trust. Mr Collings is also liable for dishonest breach of duty for having knowingly made use of CCI's funds for his own purposes. Alternatively, both Mr Collings and Ms Akopian conspired to injure CCI by unlawful means by designing and implementing a fraudulent scheme to divert payments meant for CCI to Mr Collings. Alternatively, Mr Collings has been unjustly enriched at the expense of CCI.

iii) Consequently, the proceedings should be recast to include derivative claims brought by CCI. The freezing injunction should be continued until trial, and should include recognition of CCI's proprietary claims in respect of the traceable funds remaining in Mr Collings' bank accounts. Because the claims now advanced include proprietary claims, Mr Colling's allowance for living expenses should be limited to £1,000 per week. He should not be entitled to spend money belonging to CCI to fund his living expenses.

43. Mr Collings' positon is broadly as follows:

i) The true position is that, having been notified in early March of the freeze applied by Barclays, he was understandably concerned that his personal accounts were being used for illegal, money laundering purposes. He unilaterally took action designed to prevent Mr Dodoun having control over the funds in those accounts. The real reason for the period of radio silence was to allow time for ongoing investigations and a fear of tipping off, which is quite standard in such cases. Given the questionable nature of the business he is involved in, Mr Dodoun cannot really have been surprised that money laundering concerns had arisen and the accounts had consequently been frozen. Indeed, this has happened to at least one other person associated with Mr Dodoun, a German lawyer named Dr Lehmkuhl. In any event, he (Mr Collings) lays no claim to the funds said by Mr Dodoun to have been paid by clients. In fact, he does not want those funds in his accounts, and is willing to co-operate in them being returned to the original payers. Mr Dodoun is the one who has been frustrating that process.

ii) As to the Medtag funds, Mr Dodoun has produced no evidence at all which supports his story that he was owed sums by Medtag in February 2019 because of payments he had himself made on Medtag's behalf. As against that, on Mr Collings' side, he has produced a copy of the Medtag Loan Agreement and a confirmatory letter from Mr Cusano. Consequently, Mr Dodoun does not have anything like a good arguable case that Medtag paid funds to CCI on his behalf, as he alleges. Indeed, his story as regards Medtag is made up and false.

iii) As to the proposed amendments, the attempt now to put forward a new case which was not the basis for the original Order made on 16 May is impermissible. Mr Dodoun has been dragging his heels whereas his obligation was to progress

the intended claims speedily. Moreover, aspects of the proposed amendments are objectionable, and in particular the allegation that Mr Collings has misused funds paid to CCI by its clients for his own purposes. This cannot be true because, looking at the analysis of payments into and out of the relevant accounts summarised above, it is clear that sufficient funds remain to pay the alleged clients, and so Mr Collings cannot properly be accused of having misused them.

iv) In any event: (1) there is no real evidence of a risk of dissipation of assets; (2) Mr Dodoun does not come to the Court with clean hands, because at the very least he appears to be involved in an unlawful, unregulated PSP business, and at worst he appears to be involved in money-laundering; and (3) there is no substantial commercial purpose in maintaining the freezing Order, in the sense that if one takes the "*client*" monies out of account (which as far as Mr Collings is concerned can be returned to the "*clients*" immediately), he has very little by way of assets and by the time a trial occurs his resources will all have been used up and there will be no money left: thus there is very little left to be frozen.

44. As I understood Ms Akopian's position, this was largely consistent with that of Mr Collings on the above points, in particular as regards her assertions that Mr Dodoun is involved in money laundering activity. Additionally, however, she also thought that Mr Dodoun's efforts to obtain and maintain the present injunction were motivated by a desire to frustrate her own, ongoing efforts to revive the business of CCL, which would then leave CCL and its licences available to be acquired by Mr Dodoun or his associates. She went as far as to say she thought this was the real reason for the injunction.

## Discussion and Conclusions

### Client/Investor Payments

45. I will begin by looking at the claims based on the client/investor payments, and look first at the merits of the proposed claims by CCI set out in the draft Amended Particulars of Claim at §§37-43. That is a relevant inquiry both for the purposes of assessing whether the amendments should be allowed (because if there is no prospect of the amended claims succeeding then there is no point in allowing the amendments), and also for the purposes of assessing whether the existing Orders should be maintained (because a freezing Order will only be maintained if the Applicant shows a good arguable case on the merits, and a proprietary freezing Order will be maintained only if there is at least a serious question to be tried).

46. It seems to me that there is a good arguable case as regards the intended claims concerning the client/investor payments.

47. As to the proposed reconstitution of the proceedings to include a derivative claim, I think Mr Lopian is correct to say that clause 1.2 of the SPA (see [9] above) is sufficient to give Mr Dodoun standing to seek permission to bring a derivative claim: see Companies Act 2006, section 260(5)(c), which provides that for the purposes of Part II, Chapter I of the Act, " ... *references to a member of a company include a person who is not a member but to whom shares in a company have been transferred or transmitted*

*by operation of law*". The logic of this point of course applies equally well to CCI's intended claims regarding the Medtag payments, which I come to below.

48. I therefore turn to the merits of the claims regarding the client/investor funds. It seems to me there is a good arguable case in respect of such claims, for the following reasons:

i) It is hard to overlook the basic fact that Mr Dodoun was given details by Ms Akopian of what he understood to be accounts in the name of CCI, but which in fact were accounts in the name of Mr Collings personally. A WhatsApp message from Ms Akopian on 15 January 2019 described her as supplying: "*CCI BANK ACCOUNTS_IBANS*". It seems to me natural to suppose that Mr Dodoun assumed he was being given details of corporate bank accounts and not the personal account details of someone who at the time he had not even met. When Mr Dodoun came to send the same account details onto those he describes as clients, that was in a document which gave the beneficiary name as "*COPPIN COLLINGS INVESTMENTS*". Such clients no doubt also thought they were sending funds to CCI, not Mr Collings personally, and the available documents are consistent with that idea. The questions only increase with the knowledge that (1) there were other corporate accounts of CCI, but details of those accounts were not made available; and (2) the account names that were provided did not on their face suggest that they were the names of personal accounts, but instead gave the impression that they were the names of corporate accounts – details of those accounts which were readily identifiable as personal accounts were *not* provided.

ii) There are also questions about the plausibility of Mr Collings' own account, that he thought the funds were paid by prospective investors in CCL. For example, as Mr Lopian pointed out, the 5 parties who on Mr Dodoun's case were clients of Gpay/Prompt Solutions all had their funds returned to them at the same time, because they failed money laundering checks. What, asked Mr Lopian, is the likelihood of 5 investors on CCL all asking for their money back at the same time? Similarly, as will be seen below, there is certainly evidence of Mr Collings making use of the funds received into his HSBC account. If these were funds provided by investors, then how – even on his own case – did he feel entitled to do that? I make these points of course not in order to express any final view about such matters, but merely in order to demonstrate that there is an arguable case.

iii) There is then the fact that Mr Dodoun was told that the relevant accounts had been frozen, and the ensuing period of "*radio silence*". Once more, I emphasise that on fuller examination it may be that there were good reasons for how Mr Collings and Ms Akopian acted. The background to the payments made into Mr Collings' accounts will need to be properly investigated at trial, when also one would hope that a more complete account will be available of what steps Barclays and HSBC took and why. For the moment, however, the fact remains that Mr Dodoun was given the impression that all relevant accounts and funds were frozen, when in fact they were not; and in the meantime, there is undoubted evidence of activity on the two main accounts (those at HSBC) in the period after 5 March, *i.e*, in the period after Mr Dodoun was told the account freeze had come into effect.

iv) That brings me onto the movements across the accounts. Mr Stuart makes the point, as already noted, that there in fact remain in the accounts sufficient sums to refund all of Mr Dodoun's alleged clients, or merchants (if one converts a sufficient number of Euros to make up the deficit in the Sterling balance: see [40(iii)] above). That is true, but to my mind does not fully meet the point made by Mr Lopian. This is best illustrated by looking at movements across the HSBC Sterling Account.

v) As at 5 March 2019, the majority of the funds standing to the credit of that account (save for a small sum of £14.74) were funds paid in by clients/investors. There were credits from 4 such persons totalling £78,055, and thus making up the vast majority of the balance of approximately £78,069.34 as at close of business on 4 March 2019. On 5 March, however, there are a number of payments out of the account which are plainly personal payments for Mr Collings' own benefit: £18,000 in respect of his former home; £6,000 in respect of a personal credit card, £5,000 to "*Ena Makin T Collings*", and a withdrawal of £200 in cash. That left a balance as at 5 March of £48,869.34.

vi) It is true to say that on the following day, 6 March 2019, the account statement shows receipt of a total of £156,077.19 (referred to at [39(ii)] above), and so the immediate deficit is made up. But the point remains that, in the meantime, Mr Collings had unquestionably made use of funds for his own purposes, which even on his *own* case were paid in by third parties on account of their intended investments in CCL, and which on Mr Dodoun's case were due to be paid to merchants.

vii) Mr Lopian in his Skeleton says that the £156,077.19 paid on 6 March came from an unidentified source. However, the relevant statement contains the same description for each payment: "*Mr Bryan Coppin Co*", and the two payments bear the following references: "*RBV06039915W6JLS*" and "*RBV060390R5VRVKO*". During the hearing before me I was shown an account statement for Mr Collings' HSBC Euro Account for the same day, which shows two payments out of that account (in Euros) bearing the same reference numbers, and a very similar recipient reference "*Mr Bryan Coppin C.*"

viii) This suggests that the funds coming into the Sterling Account in fact emanated from the HSBC Euro Account. If so, that would tend to shore up Mr Collings' case that he did not intend to diminish the available balances below a level which would enable client/investor funds to be paid out in due course; but again, it is not a complete answer, because he was making use of the funds in the meantime, and there is also the fact that ultimately there was a deficit on the client/investor fund balance in the HSBC Sterling Account. Mr Collings is entitled to say (as he does) that there is an innocent explanation for that, i.e., that he simply did not transfer as much from the Euro Account as he needed to. But equally, in my view, Mr Lopian is entitled to test that explanation, and to argue (as he does) that the fact there were sufficient client/investor funds left overall when the music stopped was simply good fortune, and that Mr Collings' use of such funds in the meantime is consistent with the idea that he did not have the intention he says he had. It is also true to say that Mr Collings' defence of his position in relation to the client/investor funds is linked to his position in relation to the Medtag payments (see below), because it is only if the Medtag funds belonged

to Mr Collings that there is an overall positive balance left of funds received for CCI; if not, then there is an overall deficit. On any view, a number of issues remain, which cannot be definitively answered at this stage. The question for me is whether these points are arguable, and in my view they are.

49. For those reasons, I would allow the proposed amendments. It is a separate question, however, whether the freezing Order should be continued in respect of the client/investor funds, either in its present form or in amended form.

50. As to this, one is left in a curious position as regards the client/investor payments. I say that because although there is much controversy about what they were for, and about the treatment of the funds once received into what were admittedly Mr Collings' own accounts, the position arrived at during the hearing before me was that there was no substantial dispute about what should happen to the remaining balances, at least for the time being. Mr Dodoun says they should be frozen; Mr Collings says he lays no claim to them and never has done, and does not want them in his accounts.

51. One option would be to return funds immediately to the individuals Mr Dodoun says are CCI's clients, or perhaps more logically, to pay them to the relevant merchant, GVV, who under Mr Dodoun's business model should be expecting settlement of its own transactions with the clients. That seemed to be what Mr Dodoun was asking for in his evidence. Mr Lopian, however, has indicated that neither of those options is presently viable. That is because Mr Dodoun has not heard from GVV. He says he is not sure about the status of the underlying transactions between GVV and the clients who paid funds to him. Without further clarity, he does not want to return funds to the clients, because if GVV has already settled with them, by paying them foreign exchange, it would be wrong for them to get their money back from Mr Dodoun as well.

52. It seems to me that in those circumstances, and in light of the positions the parties have themselves expressed, the appropriate step is to require sums corresponding to the remaining client/investor balances to be paid into a blocked account, and for them to remain there pending trial or further Order of the court. If that is done, then the question of a freezing Order becomes moot. If it is viable to do so, the account should be a solicitor's account (or accounts) maintained by Mr Dodoun's solicitors, or a separate escrow account (or accounts) set up for the purpose. I canvassed this possibility in argument both with Mr Stuart and Mr Lopian. Mr Stuart was positively in favour, and I did not understand Mr Lopian to object. After further consideration it seems to me the right step to take, not only because of the uncertainty Mr Dodoun says exists as to the state of account as between GVV and the clients, but also because of the background which strikes me as highly unusual.

53. In saying that, I have in mind in particular the following points:

    i) On any view, it seems now to be accepted that Mr Dodoun was attempting to set up an unauthorised PSP business in this jurisdiction. That may have been the product of his own naiveté and reliance on Ms Akopian's advice about passporting the Estonian licence said to have been owned by BNC, but the underlying story remains obscure.

    ii) I was taken in submissions to documents relevant to the question of the Estonian licence held by BNC. It is true that some of the available materials support Mr

Dodoun's account - for example, Mr Dodoun has exhibited a draft Sale and Purchase Agreement for the acquisition by CCI of shares in BNC. But in other ways the available documents are somewhat inadequate: as Mr Stuart pointed out, it is difficult to identify among them anything which is clearly and obviously a licence to conduct authorised PSP activity.

iii) As noted already, one of the merchants introduced by Mr Dodoun was Gpay/Prompt Solutions. Mr Collings and Ms Akopian have produced copies of press articles from "*The Financial Telegram*", which suggest that Gpay may be connected to money laundering activities, and to an individual known as Gal Barak, "*the Wolf of Sofia*". Mr Dodoun points to the fact that those individuals who sought to effect payments to Gpay had their funds returned to them, which is true; and he also says that he relied on Ms Akopian to carry out due diligence, including on Gpay. That may also be true, but taken together with other factors the connection with Gpay at least raises some questions about the overall business model being used by Mr Dodoun.

iv) It also seems to me surprising that apparently there has been no communication with GVV, who on Mr Dodoun's case presumably think they are owed money by CCI. There may be good reasons for this; but it is one more feature of this case which on the face of it appears odd and has no obvious explanation.

54. Other matters are also relied on by Mr Collings as suggesting that Mr Dodoun is involved in illegal activity. Mr Dodoun has served evidence responding to those points. For present purposes, I certainly do not go so far as to say that Mr Collings' case on illegality is made out; merely that this case has enough unusual features for the Court to be cautious in its approach, and that such factors fortify me in my view that the appropriate course in respect of the client/investor payments is that funds corresponding to the outstanding balances should be set aside until further clarity is available.

The Medtag Funds

55. I turn to the issue of the Medtag funds, and would again propose to look at the merits of the prospective claims before turning to the question of whether the existing injunction should be maintained.

56. In my judgment, there is also a good arguable case in respect of the Medtag payments. In saying that, of course I reach no final conclusion; and nor should I be interpreted as discounting the very considerable weight to be given to the contrary case advanced by Mr Collings. But in the circumstances, and looking at the evidence in the round, the conclusion that there is a good arguable case seems to me inescapable. I say that for the following reasons:

i) There is the fact of Mr Collings' own "*angry letter*" of 17 March. On the face of it, that letter appears directly to support Mr Dodoun's story, that the Medtag funds were paid by him (or rather, at his direction) in order to capitalise CCI and enable it to apply for its intended licence or licences. As noted above, Mr Collings referred expressly to: " *... the total Eur300,000 from Medtag Ltd to CC, to pay for the rolling-out of a legitimate and* licensed *business activity",* and went on to refer to making payments himself from these funds to Ms Akopian and others (none of which seems consistent with Mr Collings' own position that

the Medtag funds were a loan to him in connection with the Rome infrastructure project associated with Coppin Collings Trajan). Mr Collings says that this is explicable, because in his letter he took Mr Dodoun's case at face value in order to show him what he intended to do, even *if* it were shown that the funds were Mr Dodoun's funds. I think that Mr Dodoun is entitled to test that explanation.

ii) In submissions, I was also taken by Mr Lopian to the text of a number of WhatsApp messages which Ms Akopian exchanged with Mr Dodoun in early March 2019. In one exchange dated 12 March she referred to conducting a reconciliation, and went on to say "*But 100% only 300K from Medtag*". And in another exchange on 13 March, having referred to Medtag's principal, Mr Cusano, she said (it seems in three messages sent immediately one after another): "*He only sent 2 transactions to CCI ... Of 150k ... That's a fact*". Once again these contemporaneous exchanges are consistent with Mr Dodoun's version of events, as are print-outs from HSBC*net* recording the two relevant payments being received into Mr Collings' HSBC Euro Account on 20 and 26 February, both of which identify the intended beneficiary as "*Coppin Collings Investments*."

iii) Against all that, Mr Stuart has referred me to documents which point in the opposite direction. Among them are the loan agreement between Mr Collings and Medtag, and the "*To Whom It May Concern*" letter from Mr Cusano of Medtag dated 22 May 2019. These are not entirely without difficulty, however. For example the loan agreement refers to Mr Collings being "*paid by Loan*" for the services he is to provide, which seems an odd concept.

iv) More particularly, however, Mr Stuart makes the point that Mr Dodoun was challenged by Falk J. to produce evidence supporting his case that he had himself paid off merchants who were expecting funds from Medtag, and that is why Medtag made payments to CCI on his behalf. The documents exhibited by Mr Dodoun on this point, which are principally a series of short, notarised Affidavits from merchants who say they were paid funds by Mr Dodoun, have some unusual features. One is that, although the Medtag payments into Mr Collings' accounts were paid in February 2019, the three Affidavits all refer to the merchants having been paid by Mr Dodoun in *April* 2019. How, Mr Stuart asks, can Medtag have considered itself indebted to Mr Dodoun in February 2019, if the payments said to give rise to the debt were not made until April? Further, Mr Stuart refers to certain documents headed "*Statement details*", exhibited by Mr Dodoun to his evidence and relating to Medtag's current account at HSBC. These cover dates between 18-26 February 2019, but do not show sums amounting to anything like €300,000 being paid in by clients, and held onto by Medatg, which is what one would have expected on Mr Dodoun's case. Mr Stuart also points to the lack of any other contemporaneous material, such as chasing letters from merchants, which one would have expected to see and which have not been produced.

v) I should also point out, since Mr Stuart has specifically drawn attention to it, that one of the individuals who has made an Affidavit in support of Mr Dodoun's case is named Ilia Simeonkov Nikolov, who described himself as the "*Director of B.A.X Ltd, UIC Number 205021071, situated at Bulgaria, Sofia ...*". Among the reports of suspected money-laudering in the "*Financial Telegram*" produced

by Mr Collings is a report which refers to a company called "*B.A.X. EOOD in Bulgaria with the Bulgarian Illyia Simeonkov Nikolov as its director and partner ...*".

vi) I agree that there is considerable force in the points made by Mr Stuart as to the evidential difficulties in Mr Dodoun's case, but I do not think that at this stage, forceful though the points are, they enable me to conclude there is no good arguable case, either for pleading purposes or for the purposes of assessing whether or not to continue the present injunction. I say that because I cannot look at them in isolation, and although they admittedly give rise to important questions and admittedly are consistent with what Mr Collings says, the fact is that the other evidence I have referred to above – including Mr Collings' own "*angry letter*" – is consistent with Mr *Dodoun's* case. This is not a trial, still less a mini-trial, of the issues; I am required only to assess whether the claims are sufficiently arguable, and in my view, despite the factors which weigh against them, they are.

57. It is a different question, however whether the current injunction should be maintained in respect of the amount of the Medtag payments, either in its present or amended form. That raises questions which go beyond the arguability of the claims themselves.

58. As regards Mr Dodoun's application to continue the present freezing injunction, a critical aspect is the risk of dissipation. It is up to the applicant for a freezing order to adduce evidence showing a risk that, if there is no injunction, then any judgment will go unsatisfied. I also have to be satisfied as to the justice and convenience of making an Order.

59. Overall, I am not persuaded that the present freezing Order should be continued in respect of the claims for the Medtag funds:

i) The risk of dissipation might be said to flow from the nature of the claims themselves, including those analysed earlier in this Judgment relating to the client/investor funds. Essentially, Mr Collings and Ms Akopian are accused of dishonestly procuring the payment of funds into Mr Collings' personal accounts, which Mr Collings then made use of, while hiding behind the smokescreen of the representation that the accounts were frozen.

ii) I see the force of that point, but even accepting (as I do) that Mr Dodoun's case is arguable, it seems to me I also have to look at whether any other of the usual indicia of the risk of dissipation exist.

iii) By this I mean things such as the use of offshore companies or trusts, or the immediate siphoning off of the funds received to other accounts in other jurisdictions for no obviously good purpose. In this case, as Mr Stuart points out, Mr Collings is an FCA registered individual with a long association with the UK, who lives in Kent with his children, and as to whom there is no evidence of any use of offshore "*haven*" jurisdictions. Moreover, Mr Collings flagged the freezing of the accounts in early March 2019, and yet by the time the freezing Order application was made on 16 May, they still contained substantial sums, and certainly enough to cover the required client/investor payments. They had not been spirited away.

iv) We now have access to information about the actual use made by Mr Collings of the funds which found their way into his accounts. As already noted above, although questions remain, the payments made out of the HSBC Sterling Account on 5 March 2019 appear to have been for relatively routine items of personal or domestic expenditure. Other payments are described as involving Mr Collings paying off accrued debts and other items of expenditure which needed to be made, and otherwise paying off credit card debts, school fees and travel expenses. On the face of it, that seems to be correct.

v) Taking those points into consideration, in my view the case is at best a marginal one, and consequently I do not consider that Mr Dodoun has sufficiently demonstrated by solid evidence that a real risk of dissipation exists. Even if I am wrong about that, I am not satisfied as to the overall justice and convenience of the present Order being continued.

vi) As to that, I am struck by the fact that, once the client/investor funds are taken out of account, the disclosures made by Mr Collings indicate he actually has very limited assets available. Not much is left of the Medtag funds. According to his 1st Affidavit, Mr Collings is not presently employed and is living in rented accommodation. He has funds available in his personal bank accounts totalling about £85,000; other debtors totalling about £16,000; a pension worth about £52,000; and furniture in the approximate value of about £30,000. Even if the freezing Order is maintained, allowances will need to be made for living expenses and legal fees, and they will obviously eat into these remaining sums very quickly. Thus I think Mr Stuart is correct to say that, even with a freezing Order, Mr Collings' existing resources are likely to be used up by the time there is a trial, and possibly well before. I am not persuaded that the existing living allowance of £3,700 per week is inappropriate, and have been shown nothing specific to suggest it is. Mr Lopian has only made the general point that CCI has a proprietary claim and that that should be taken into account in determining what living allowance (and logically also, allowance for legal expenses) is appropriate. I deal with that point below.

vii) The position of Ms Akopian seems to be similar, if not worse. She has been made bankrupt, and although her asset disclosure in this case indicates a belief that she is owed £1.4m, I presume that is dependent on efforts to resuscitate CCL and should be regarded as speculative.

viii) In all the circumstances, it seems to me that maintaining a (non-proprietary) freezing Order in respect of the Medtag claims is likely to be of little practical use and may be oppressive. I therefore think the Order should be discharged.

60. Finally, I turn to Mr Lopian's point that CCI has proprietary claims: he says the funds paid in by Medtag were, and were intended to be, CCI's funds. CCI is therefore entitled to a proprietary injunction, to protect its proprietary interest in the remaining funds which are traceable back to the Medtag monies originally received into Mr Collings' HSBC Euro Account (and which as I understand it include at least some of the funds standing to the credit of Mr Collings' two Lloyds accounts).

61. The analysis here is different, because one is not dealing with a freezing Order, but in my judgment it leads to the same conclusion, which is that there should be no continuing injunction. I say that for the following reasons:

    i) I am satisfied, for the reasons already given above, that there is an arguable case on the merits.

    ii) It is then a question of considering the risks on each side, which may not be adequately compensated in damages. On the basis there is an arguable case that the remaining funds belong to CCI, there is certainly a risk of such damage to CCI if, before trial, Mr Collings spends them. On the other hand, there is potential for significant damage being caused to Mr Collings if he is prevented before trial from spending what may turn out to be his own monies on living expenses and legal fees. I do not think that the risk of that damage materialising is sufficiently addressed by Mr Dodoun offering, or me requiring of him, a cross-undertaking in damages (whether fortified or not). The risk to Mr Collings is that, if his ability to service his outgoings is further restricted, he will quickly run into serious financial difficulty or even bankruptcy, and will be unable to defend the claims against him, either effectively or at all. If such risks were to materialise, it would be cold comfort to Mr Collings to know he has the benefit of Mr Dodoun's cross-undertaking. It seems to me, therefore, that as a matter of basic fairness, the balance of convenience lies against granting any proprietary injunction.

    iii) If that is wrong, and the balance of convenience is even as between the parties, it would then be permissible to take account of the respective merits of the parties' cases. I would then hold that, although Mr Dodoun has an arguable case, on the basis of the presently available evidence, Mr Collings has the stronger case. On that basis, I would also refuse the injunction.

    iv) As I understand it, no proprietary injunction is sought against Ms Akopian. I have not seen anything which suggests she has been in receipt of any part of the Medtag funds.

**Conclusion and Disposal**

62. In the circumstances, I hold as follows:

    i) CCI should be added as a party and Mr Dodoun be given permission to pursue a derivative claim.

    ii) Mr Dodoun should be given permission to amend the Claim Form and Particulars of Claim, as requested.

    iii) Funds corresponding to the outstanding client/investor balances should be paid into a blocked account pending trial or further Order of the Court.

    iv) Save as above, the existing freezing Order should be discharged.

63. I would ask counsel please to liaise with a view to agreeing a form of Order reflecting this Judgment.