IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (KBD)
Neutral Citation Number: [2024] EWHC 237 (Comm).

CL-2021-000009
ROLLS BUILDING
7 Rolls Buildings
EC4A 1NL
Tuesday 7th February 2024

Before
THE HONOURABLE MR JUSTICE CALVER

BETWEEN:

HRH PRINCESS DEEMA BINT SULTAN BIN ABDULAZIZ AL SAUD

Claimant

-v-

RONALD WILLIAM GIBBS

Defendant

SUNNYDALE SERVICE LIMITED (a company incorporated under the laws of the British Virgin Islands)

Non-Cause of Action Respondent

SIMON ATRILL KC AND SAMUEL RABINOWITZ (Instructed by **Quinn Emanuel Urquhart & Sullivan UK LLP**) appeared on behalf of the Claimant

MR RONALD WILLIAM GIBBS appeared as a litigant in person

JUDGMENT
(Approved)

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(Official Shorthand Writers to the Court)

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MR JUSTICE CALVER:

1. The claimant makes two applications before me during the trial of this action. Firstly an application dated 16 January 2024 supported by the 16th witness statement of Khaled Khatoun dated 16 January 2024 for disclosure of the defendant's bank statements, bank statements of his Silver Arrows Marine group of companies, and bank statements of the account to which the proceeds of sale of the defendant's apartment in Montenegro were paid, to assist in the enforcement of the worldwide freezing order (**WFO**) granted by HHJ Pelling KC on 12 July 2022 (as subsequently varied) and in order to prevent breaches of it (**the disclosure applications**). And secondly an application dated 26 January 2024 for the amendment and continuation of the WFO supported by the fifth affidavit of Khaled Khatoun of 26 January 2024 to take effect between now and judgment after the trial of this action (the amendment application).

2. The defendant has not submitted any evidence in response to these two applications, despite the court laying down a timetable for him to do so and indeed he has failed to appear before me on these two applications today.

<u>Background</u>

3. A WFO against the defendants was originally granted by Mr Justice Butcher on 3 February 2021. The WFO in its most recent form of 12 July 2022 covered at least the same assets as were covered by the WFO granted by Mr Justice Butcher. Amongst other provisions, it prevents the defendant from removing any of his or the non-cause of action respondent's assets in England and Wales up to the value of $30 million and from disposing of, dealing with or diminishing the value of their assets worldwide up to the same value (paragraph 3).

4. Various known assets are identified in paragraph 5 as falling within that prohibition, including the defendant's bank account with HSBC, his shares in a number of companies, including his company (said to be owned as to 95 per cent) known as Silver Arrows Marine Holdings Limited (SAM) and companies making up the Gibbs Gillespie group, and various properties, including two in Montenegro known at 206 Teuta and 412 Regent Hotel.

5. If any of those assets were sold, the freezing order applied to the proceeds of that sale.

6. Paragraph 6 of the order provided that if the total unencumbered value of the defendant's assets in England and Wales exceeded $30 million then he could remove any of those assets or dispose of or deal with them, but only so long as the total unencumbered value of his assets in England and Wales remained above $30 million.

7. If the total unencumbered value of his assets did not exceed $30 million then he was not entitled to remove any of his assets from England and Wales and he was not entitled to dispose of or deal with any of them.

8. Similarly, if he had other assets outside England and Wales, he could dispose of or deal with them only so long as the total unencumbered value of all of his assets, whether inside or outside England and Wales, remained above $30 million.

9. By paragraph 7(1), the defendant was permitted to spend £17,500 per week towards his ordinary living expenses and a reasonable sum on legal advice and representation, but before spending any money he had to tell the second applicant's legal representatives where the money was to come from.

10. Furthermore, the defendant was required to provide asset disclosure pursuant to the WFO of Mr Justice Butcher dated 3 February 2021. Paragraph 9 of that order required the defendant to include the full address and ownership interest that he held in each property along with full details of any and all of the defendant's and the non-cause of action respondent's accounts insofar as those assets exceeded £50,000.

11. The defendant provided such asset disclosure on 16 February 2021, subsequently verified by a sworn affidavit dated 22 February 2021. However, in particular, this asset disclosure did not identify any liquid assets such as bank accounts, savings, shares or pension funds despite the fact that the defendant claimed to have accumulated significant wealth and to be incurring living expenses of £17,500 per week. His case was that his living expenses generally were funded through dividends and the rent payable to him from properties that he owned but that subsequent to the WFO he had

been funding his significant living expenses through help from "friends and family" and his legal expenses he said have been met by his brother.

12. Soon after the defendant's asset disclosure of 22 February 2021, in which he disclosed his ownership of shares in the Gibbs Gillespie group of companies, and shortly after the granting of the WFO by Mr Justice Butcher, the claimant became aware from public reports that, on 26 February 2021, the defendant had apparently sold his shares in the Gibbs Gillespie group. The defendant indeed confirmed subsequently that this concerned the transfer of all of his shares in Gibbs Gillespie Sales Limited, Gibbs Gillespie Lettings Limited, and Mortgage and Insurance Bureau Limited (**the GG companies**) but not the smaller associated company Gibbs Gillespie Surveyors Limited. It is notable that the defendant did not inform the claimant of the sale of these companies until the claimant wrote to the defendant asking him about it.

13. On 28 April 2021, Mr Justice Butcher ordered the defendant to give further disclosure identifying the “family and friends” whom he said had been assisting with his living and legal expenses, including the sums which were said to have been given and on what terms, and further disclosure of which shares in the Gibbs Gillespie group he had disposed of, specifics of the proceeds of sale and to where they had been paid.

14. As a result, on 22 May 2021, albeit out of time, the defendant swore an affidavit in which he stated as follows. First, that James Gibbs, his brother, had paid £13,592 towards his living expenses and £30,000 towards the defendant's legal expenses as a gift. What the defendant did not reveal, however, was that his brother had transferred more than £200,000 to Mrs Gibbs in March 2021 which he had attempted to obscure by redaction. Under cross-examination in the enforcement proceedings before Deputy Master Linwood the defendant said that this was not a loan albeit that he would repay it. Whereas now he says it was a loan, see his “bank statement analysis” produced by him on 24 January 2024, the first day of the trial before me, where he states in the first entry that James Gibbs "loaned" £256,156 to Mrs Gibbs.

15. Second, the defendant said in his affidavit that £2,303,190.41 from the sale of his shares in the GG companies was transferred into his HSBC bank account on 3 March 2021. He stated in his affidavit that further deferred consideration would be

due to him a minimum of 2 years after the completion of the sale, that is early 2023 onwards, if the business met a certain turnover target. Throughout 2021 and the first half of 2022, Quinn Emanuel, the solicitors for the claimant, wrote repeatedly but in vain to the defendant's solicitors requesting adequate information about the value of SAM, which the defendant claimed in his asset disclosure was worth £25 million. This asset alone was said to take the defendant's total assets within the jurisdiction and worldwide over the threshold in the WFO of $30 million, which on the defendant's case accordingly entitled him to deal with his other assets as he wished.

16. On 14 June 2022, the claimant applied for further disclosure and affidavit evidence in relation to the defendant's assets frozen by the WFO and disclosure of all bank statements for the period since 2 February 2021 in respect of, (i) the account to which the Gibbs Gillespie proceeds were transferred, and (ii) any other account that the defendants had used to fund their expenditure and affidavit evidence in relation to the source of their funds.

17. The defendant did not mention in his responsive evidence to this application or at any other point that he had in fact some months before, on 16 March 2022, also sold his interest in the final remaining Gibbs Gillespie company, namely Gibbs Gillespie Surveyors Limited. This disposal of assets was only discovered by the claimant in the course of preparing for the hearing before me and it is apparent from the confirmation statement from Companies House, which shows the transfer of the defendant's shares to a Mr Barton. This was another prohibited dealing in the shares during the period of the freezing order in view of the true value of SAM, to which I shall return.

18. On 27 July 2022, after the defendant's second legal team had ceased to act for him, the claimant received a letter from his third set of lawyers, who are called Branch Austin McCormick. They said that the source of the money to fund their retainer was "*the sale proceeds of the Gibbs Gillespie companies held in the defendant's bank account with Lloyds with account number 40001668*", and that "*the defendant's total share of the sale proceeds is approximately £3.4 million, taking account of released earn-outs and retentions*".

19. It can be seen that the share proceeds have increased from £2.3 million to £3.4 million.

20. The defendant had not previously disclosed the existence of any account with Lloyds bank and the reference to receipt of multiple released earn-outs and retentions was contradicted by paragraph 2.5 of his third affidavit, which, as I have said, stated that any deferred consideration would only fall due in early 2023 onwards.

21. The deadline for extended disclosure in the substantive proceedings was 21 February 2023. As I explained in my judgment confirming that the defendant was debarred from defending these proceedings, the defendant failed to produce a single document on that date in compliance with his extended disclosure obligations. That judgment of mine also sets out the serious findings of dishonesty which have been made against the defendant in these proceedings.

22. Against that background, I turn next to the merits of the two applications before me, starting with the disclosure application.

The Disclosure Application

23. The claimant seeks the following relief by the disclosure application: namely:

(i) the identification of all bank accounts in the defendant's name or under his control, including or additionally all bank accounts in the name of any company in the SAM group of companies and the bank account to which the proceeds of sale of the defendant's apartment in Montenegro were paid; and

(ii) provision of copies of the complete set of those bank accounts showing all transactions from 1 January 2021 to the date of the court's order.

24. The court has power under section 37(1) of the Senior Courts Act 1981, alternatively under its inherent jurisdiction, to make ancillary orders necessary to ensure that the freezing injunction is effective where it is just and convenient to do so. An asset disclosure order is a typical ancillary order which gives the freezing order its teeth. It may therefore be made for the purpose of policing the freezing order: *Privatbank v Kolomoisky* [2018] EWHC 482 (Ch) at [33]. The test is whether the further disclosure is necessary to make the freezing order effective. The court must be persuaded that there is practical utility in requiring such evidence, that it is for a proper purpose and

that the order is proportionate: *JSC Mezhdunarodniy v Pugachev (No 2)* [2016] 1 WLR 781 at [38]-[40] and [47].

25. I am fully satisfied on the basis of the witness and affidavit evidence before me that the defendant has breached the WFO on multiple occasions and continues to seek to do so. These breaches are set out in particular in Mr Khatoun's 16th witness statement at paragraphs [38] – [84]. Those breaches include the following in particular:

The defendant's ongoing failure to reveal the sources of his funding for his living and reasonable legal expenditure.

26. As to this, the wording at paragraph 7 of the WFO permits the use of frozen funds to fund personal and reasonable legal expenses provided the defendant notifies the claimant of the source. However, since at least March 2022, when his former solicitors stopped writing to QE seeking the claimant's permission to make payments, in breach of the WFO, the defendant has stopped notifying the claimant of the source of his funding altogether.

27. For much of this time, in particular throughout 2023 until the enforcement proceedings trial at the end of November, the defendant sought to maintain that he was not in fact making any payments at all. That was untruthful. The defendant plainly does have access to funds:

(1) As became apparent at the enforcement proceedings trial by reference to the entries on Mrs Gibbs' bank statements that the defendant and/or his wife had attempted to redact significant transfers of money from the defendant to his wife were visible. Indeed the defendant eventually confirmed that he was indeed transferring and receiving money from his account in this way.

(2) The defendant admitted in cross-examination at the trial of the enforcement proceedings that he has an undisclosed bank account that he has been using to make payments and the details of which he will not disclose expressly because, he says, that would enable the claimant to enforce the restrictions of the WFO against him. It also appears from his cross-examination in those proceedings that there is

another undisclosed bank account in SAM's name which the defendant has also used to fund his living expenses. Furthermore, in a document headed "*Bank statement analysis accounts of Sandra Gibbs, January 2021 to July 2023*", which was produced by the defendant at the trial of this action on 24 January 2024, the defendant records more than £170,000 having been "*paid by Ronald Gibbs*".

(3) The defendant has also admitted making payments such as housekeeping and insurance premiums, classed for the purposes of the WFO as his living expenditure, from other funds without informing the claimant. See in particular his evidence as to his spending of the proceeds of the sale of the property at 206 Teuta Montenegro.

The defendant has dealt with and disposed of assets despite the fact that he cannot reasonably have believed that the total value of his assets exceeded US$30 million.

28. So far as this is concerned, the defendant sought to justify this conduct by valuing his 95 per cent shareholding in SAM at £23,750,000 on the basis of a company valuation of £25 million.

29. The claimant has adduced expert evidence at trial, which I accept, to show that the defendant's valuation of SAM is greatly inflated. The claimant's expert, Mr Stern, values SAM on the limited evidence available at around 550,000 euros as at December 2021. Importantly, despite repeated requests from the claimant, the defendant has never provided any documentation or evidence to support his asserted valuation. Moreover, the latest accounts of SAM are also overdue. This significant overvaluation of SAM by the defendant means that his true asset position is as set out in Mr Khatoun's 16th witness statement at paragraphs [61] to [62], namely around £17 million, being much less than $30 million US.

30. In those circumstances, the dissipation by the defendant of assets is another breach of the WFO. These dissipations are described by Mr Khatoun in his statement: the secretive sale of the real estate, 206 Teuta Montenegro, for 675,000 euros; the sale of shares in JPR Investments valued at £400,000; the sale of shares in Hubflow, to which I shall come in a moment; and the transfer of monies to Mrs Gibbs in particular.

31. Moreover, the defendant's behaviour in relation to the sale of these assets has been furtive and lacking in transparency. He tried to dispose of his assets in UK properties by declaring that they were in fact held partly or wholly on trust for others, something that has been found, in the one instance where it has been tested in the enforcement proceedings, to be a lie based upon a bogus document. The defendant and Mrs Gibbs also tried to hide the acquisition and disposal of Hubflow shares by first redacting those entries in Mrs Gibbs' bank statements and then, when the unredacted statements were ordered to be produced, pretending that the ink had run out on Mrs Gibbs' printer before the statement showing the Hubflow transactions could be printed, an account rejected by Deputy Master Linwood, who found that it was part after conclusive attempt to keep those damaging entries hidden. Indeed, the defendant's dealing with the Hubflow shares dated between February 2022 and July 2023 were only reported to Companies House as late as 23 November 2023, a few days before the enforcement trial commenced.

32. Nor did the defendant inform the claimant or the court about his disposition of shares in JPR investments to his wife or Gibbs Gillespie Surveyors Limited, to which I have already referred.

The relief sought on the application

33. These various breaches of the WFO plainly give the court power to order further information and disclosure by the defendant as is sought in the claimant's application notice. As Mr Khartoun explains at paragraph [87] of his 16th witness statement, identification of the relevant bank accounts and the disclosure of the relevant bank statements are necessary to make the WFO effective, because in addition to enabling the claimant to investigate the nature and extent of the defendant's breaches of the WFO to date, they are the only way of seeing where monies have in breach of the WFO been paid. They will enable the claimant to identify further hidden assets which need to be frozen. This is important in circumstances where the defendant has successfully disposed of some of his assets, as I have described, despite the terms of the freezing order, and has mostly failed or refused to provide details of where the proceeds have gone. This is not a historical issue either. The defendant continues to

seek to sell assets without the claimant's consent, indeed he was about to do so in relation to 412 Regent Hotel before the claimant's intervention, see Mr Khatoun's 16th witness statement, paragraphs [74] to [83].

34. Moreover, the defendant has since his asset disclosure purchased further assets without informing the claimant. He did this with the Hubflow shares, which he subsequently transferred onwards to Mrs Gibbs in an attempt to hide the transaction from the claimant. This again emphasises the need for disclosure of all relevant bank statements.

35. In light of the foregoing, the bank accounts in the defendant's name and under his control plainly need to be identified and relevant bank statements disclosed. This includes the bank accounts of the SAM group of companies as well as the accounting to which the proceeds of sale of the defendant's apartment at 206 Teuta Montenegro were paid. As to the former, it has now become apparent that SAM's bank account is asset which the defendant has the power directly or indirectly to dispose of or deal with as if it were his own within the meaning of paragraph 4 of the WFO. The defendant himself has given evidence under cross-examination to the effect that he used SAM's account for his own personal purposes. In the transcript of the hearing on 14 October 2022 the defendant is recorded as saying so far as SAM is concerned:

"*I am the executive chairman, I am the management, I am the major shareholder, there is not a board of directors that meets regularly to discuss this, it is me*."

36. As to the latter, namely 206 Teuta, the defendant's own evidence is that, (i) the net proceeds of sale were transferred to the account of a “notary and friend” whose identity and details he will not provide, and which he refused to provide in the order for sale proceedings. And (ii) the defendant is freely using that money to spend for his own purposes on SAM and on his living expenses, such as insurance and property taxes. The bank statements for this account should accordingly be produced enabling the claimant to investigate the position.

37. There ought to be no difficulty in the defendant providing this information and these bank statements within a relatively short period of time. It is not an onerous task. I am

satisfied that the provision of this information and disclosure is both proportionate and necessary. Matters have moved on considerably since this case was last before Mr Justice Butcher when disclosure in the substantive action had not yet taken place and the court is in a much more informed position as to the defendant's dishonest modus operandi. In particular, we know that the defendant has refused to give disclosure at all. He is not at risk of any allegedly oppressive behaviour on the part of the claimant as he has chosen not to play a substantive part in the litigation by giving disclosure or serving a reamended defence or appearing before me, apart from on day 1 of the trial, after which he promptly left the court.

The amendment application

38. The claimant seeks permission to amend and update the WFO for the short period of time between now and judgment, at which point, assuming the court makes an order in favour of the claimant, she states that she will seek a post-judgment WFO. There can be no dispute that the freezing order is still justified and should continue.

39. As summarised in Mr Khatoun's fifth affidavit at paragraphs [7] to [13], the position regarding the defendant's assets has changed substantially since asset disclosure was first given such that almost every asset listed in the original asset disclosure of February 2021 is affected. In particular, the defendant has now sought to disown a large part of the beneficial interest that he had previously said he held in various UK properties as set out in his asset disclosure. He now says that he held the beneficial interest as trustee in whole or in part for others, namely Mrs Gibbs and his children with her, or alternatively another former partner, Annette Jones and her children.

40. He and his former partners have produced purported declarations of trust in respect of the properties concerned. And consistently with this there was a recent attempt by Mrs Gibbs to register the remaining Montenegrin apartment as marital property.

41. The claimant has made clear that she does not accept that any of the purported declarations of trust are authentic or binding. She may very well be right as the only one that has been considered so far by a court, which concerned 36 Kings Road, was

found to be an inauthentic document produced by Mr and Mrs Gibbs in an attempt to mislead the court.

42. In any event, if the defendant's position now is that he has no or little beneficial interest in these properties, then that change must be reflected in his asset disclosure. The consequence of course will be that there should be a substantial reduction in the value of his interest in those properties, which in turn bears upon the total valuation of his asset portfolio and whether it comes close to the $30 million threshold under the terms of the order.

43. As Mr Atrill KC points out for the claimant, the defendant presently takes two inconsistent positions, continuing to rely on his valuable interests for the purposes of the WFO but disowning those interests for the purposes of the claimant's enforcement action.

44. Furthermore, there are a number of other changes required to the defendant's asset disclosure.

45. Firstly, <u>disposal of assets</u>. The defendant has disposed of various of the assets set out in his asset disclosure, in particular shares in the GG companies and JPR Investments Limited as well as the property at 206 Teuta. It is essential that his asset disclosure schedule is updated to include these and any other disposals.

46. Secondly, <u>new assets</u>. The claimant is aware that in the period in which the WFO has been in force the defendant has purchased at least the shares in Hubflow limited, to which I have referred. The fact that he sought to conceal that purchase by the redactions to Mrs Gibbs' bank statements give rise to a concern that there may have been other purchases of which the claimants are also not aware. Indeed, that suspicion is reinforced by the fact that the defendant has used at least two further personal bank accounts during the course of these proceedings that were not declared at the time of the original WFO: the Lloyds account to which his third set of solicitors referred and his additional secret personal account of which he has said that he will not reveal the details. Again, updated disclosure is required.

47. Third, <u>devaluation of assets</u>. On the defendant's own case the yacht, *MY Elysium*, is now worth significantly less than the £16,895,000 to which it was attributed in the 2021 asset disclosure. Indeed the claimant's expert at this trial, Mr Scalvini, says that the yacht would have depreciated in value.

48. Further, the defendant's case appears to be that his interest in Elysium Yacht Limited, which holds the yacht as its interest, is reduced further by reference to the debt owed to the unpaid mortgagee and indeed to other debts and claims. This all requires updating.

49. And fourth, as I have said, the <u>valuation of SAM</u> put forward by the defendant simply cannot be supported.

50. It follows that the asset disclosure requires to be updated and verified on oath by the defendant.

51. Next, *the terms on which the defendant is permitted to deal with the assets* requires to be revisited. The defendant's position appears to be that he is entitled to dispose of various of the assets set out in his asset disclosure because of his unrealistic valuation of SAM. In fact, as I have found, the true position is that the defendant's assets do not reach the US$30 million threshold and so each disposal of an asset is a breach of the WFO. I consider the claimant is right to amend the WFO in two ways. First, by changing the threshold itself to $29.4 million, which excludes the value of the defendant's interest in SAM when valued on a realistic basis; and second, by providing that the defendant can only dispose of his interest in any asset if the claimant provides her confirmation that the total value of the portfolio excluding SAM remains above the threshold level of $29.4 million, or alternatively if the court gives permission.

52. In addition, paragraph 5 of the amended WFO very properly adds in a reference to the defendant's Lloyds account and the proceeds of sale or transfer of Hubflow as assets specifically frozen by the WFO.

53. Next, there is a *reduction to the living expenses allowance*. The WFO presently states that it does not prohibit the defendant from spending £17,500 a week towards his ordinary living expenses, see paragraph 9.1(a) of the order. That is too high and

requires amendment because there are certain expenditures which can be removed from the defendant's monthly list which he provided on 22 April 2021. In particular, he has sold 206 Teuta and so he need no longer pay expenses on that property. He has also stopped paying his mortgage on *MY Elysium*, and no doubt the yacht's crew and maintenance costs too, given that the yacht has been seized. Further, he and Mrs Gibbs have both said he has stopped making his maintenance payments to her, instead allowing her to take the rental income for 36 Kings Road, so he is no longer incurring that expenditure as well.

54. That would reduce the defendant's weekly bill by more than £10,000 and, accordingly, I consider it is appropriate to vary the defendant's weekly allowance for ordinary living expenses to £7,500, as the claimant proposes.

55. Next, the *information as to the source of the funds*. In order to make any such expenditure, the defendant is presently required under the WFO to identify the source of funds, as is customary. However, in circumstances where he has not been doing so, the court intends to specify what information it requires, namely both the account details of the bank that transferred the money and the details of who ultimately was providing the funds. That is included in paragraph 9 of the draft. That will enable the WFO to be properly policed by the court, by allowing the claimant to consider if the defendant is spending frozen but undisclosed funds and, if he is, to bring the matter back swiftly before the court.

56. Finally, for the avoidance of any doubt, I have agreed to amend one of the undertakings to make clear that the claimant may use information obtained as a result of the WFO asset disclosure in relation to the enforcement of any judgments or orders in the instant proceedings, including those obtained abroad. It seems to me that in all the circumstances that is only just.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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