



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO. FSD 118 OF 2021 (RPJ)

IN THE MATTER OF THE CONFIDENTIAL INFORMATION DISCLOSURE ACT, 2016

AND IN THE MATTER OF AN APPLICATION BY THE KUWAIT PORTS AUTHORITY

ORDER

UPON the *ex parte* Originating Summons issued by the Kuwait Ports Authority (the "**Plaintiff**") dated 10 May 2021 (the "**Application**") for directions and orders pursuant to the Confidential Information Disclosure Act, 2016 (the "**Act**") concerning the documents disclosed to the Plaintiff by Port Link GP Ltd (the "**GP**") in Cause No: FSD 13 of 2020 (RPJ) subject to the provisions of an order made by Parker J dated 28 August 2020 and an order by consent in that cause dated 3 November 2020 (the "**s.22 Documents**")

AND UPON reading the First Affidavit of Yousef Al Sabah sworn on 5 May 2021, the First Affidavit of Oliver James Andrew Green sworn on 29 October 2021, the First Affidavit of Charles L.O. Buderer sworn on 29 October 2021, the First Affidavit of Richard Lewis sworn on 5 November 2021, the First Affidavit of Ian A. Laird sworn on 6 November 2021, the Second Affidavit of Ian A. Laird sworn on 29 November 2021, the Second Affidavit of Charles

L.O. Buderer sworn on 5 January 2022 and the First Affidavit of Anna Storer sworn on 26 January 2022 (the "**Storer Affidavit**")

AND UPON the Plaintiff confining the Application to 158 of the S.22 Documents as identified in paragraph 12 of the Storer Affidavit (the "**Disclosure Documents**")

AND UPON the Plaintiff and the State of Kuwait contending that the Disclosure Documents are potentially relevant to issues in dispute in arbitration proceedings brought by Ms Maria Lazareva ("**ML**"), against the State of Kuwait under the 1976 UNCITRAL Arbitration Rules pursuant to the Agreement between the Russian Federation and the State of Kuwait for the Promotion and Reciprocal Protection of Investments under ICSID Case No. UNCT/19/1 (the "**Arbitration**")

AND UPON hearing Leading Counsel for each of the Plaintiff, the GP, ML and the State of Kuwait and Mr Tyers-Smith for the GP

AND UPON the Court delivering its judgment in respect of the Application on 8 March 2022 (the "**Judgment**")

AND UPON reading the written submissions of the parties dated 24 June 2022 in relation to areas of disagreement in relation to the form of order to be made following the Judgment

AND UPON the Court delivering a supplementary ruling on 7 July 2022 in relation to the appropriate form of order (the "**Ruling**")

AND UPON the GP and the Plaintiff being unable to agree the scope of redaction to the Disclosure Documents and the Court requiring written submissions supporting their respective positions be filed. Written submissions being filed on 24 June 2022 but no ruling having yet been made in respect to the extent of any redactions (the "**Redactions Ruling**")

AND UPON the Tribunal issuing its Final Award in the Arbitration on 12 August 2022 (the "Final Award")

AND UPON the Court granting leave for ML to make submissions as to the effect of the Final Award on 15 August 2022 and reaffirming that leave on 21 March 2023

AND UPON ML filing an application with the Paris Court of Appeal on 10 November 2022 which seeks annulment of the Final Award (the "Paris Annulment Proceedings")

AND UPON reading ML's submissions dated 24 March 2023 as to the effect of the Final Award

AND UPON the directors of the GP resigning, the attorneys for the GP being removed as attorneys on record for the GP by Order of the Court dated 9 February 2023

AND UPON the Court appointing Gordon MacRae and Elizabeth Mackay as receivers of the GP (the "Receivers") on 1 June 2023 and Collas Crill filing a notice of acting on behalf of the Receivers on 28 June 2023

AND UPON the Plaintiff asking Court to order disclosure of the Disclosure Documents for the use in the Paris Annulment Proceedings and/or in any subsequent arbitration or other proceeding by letter dated 18 December 2023

AND UPON there remaining a disagreement between the parties as to the final terms of the order

AND UPON the Court granting leave for ML and the Receivers to make further submissions as to the appropriate form of order to be made in the circumstances

AND UPON reading ML's submissions dated 8 January 2024

AND UPON reading the Receivers submissions by letter dated 18 January 2024

IT IS HEREBY ORDERED AND DIRECTED THAT:

1. Notwithstanding the Court's Judgment and Ruling, no order for disclosure of the Disclosure Documents into and for the purposes of the Arbitration shall be made, the Tribunal having issued its Final Award on 12 August 2022.
2. In the event the parties are unable to reach agreement on costs of the Application and the GP's costs of the review of the Disclosure Documents, the parties may file and serve written submissions on the question of costs within 21 days of the later of either the date of this Order or the date of an Order in these proceedings concerning the extent of redactions to the Disclosure Documents. The Receivers may (if so advised) file and serve written submissions in reply within 14 days of filing and service of the parties' submissions on costs.

Dated the 25th day of January 2024

Filed the 25th day of January 2024



THE HONOURABLE JUSTICE PARKER
JUDGE OF THE GRAND COURT

This ORDER was issued by Mourant Ozannes (Cayman) LLP, Attorneys at Law for the Applicant, whose address for service is 94 Solaris Avenue, Camana Bay, PO Box 1348, Grand Cayman KY1-1108 (8055638/89450853/1)