

In the name of  
**His Highness Sheikh Mohamed bin Zayed Al Nahyan**  
President of the United Arab Emirates/ Ruler of the Emirate of Abu Dhabi

**COURT OF FIRST INSTANCE  
COMMERCIAL AND CIVIL DIVISION**

**BETWEEN**

**ABU DHABI COMMERCIAL BANK PJSC**  
Claimant

and

**PRASANTH MANGHAT**  
Defendant

**AND**

**COURT OF FIRST INSTANCE  
COMMERCIAL AND CIVIL DIVISION**

**BETWEEN**

**(1) NMC HEALTHCARE LIMITED**

(in administration) (subject to a deed of company arrangement)

**(2) NMC HOLDING LIMITED**

(in administration)

**(3) RICHARD DIXON FLEMING**

(in his capacity as Joint Administrator of the First and Second Claimants)

**(4) BENJAMIN THOM CAIRNS**

(in his capacity as Joint Administrator of the First and Second Claimants)

Claimants

and

**(1) BAVAGUTHU RAGHURAM SHETTY**

**(2) PRASANTH MANGHAT**

**(3) BANK OF BARODA**

Defendants



**AND**

**COURT OF FIRST INSTANCE  
COMMERCIAL AND CIVIL DIVISION**

**IN THE MATTER OF NMC HEALTHCARE LTD (in administration) (subject to deed of company arrangement) AND THE COMPANIES LISTED IN SCHEDULE 1 TO THE ADMINISTRATION APPLICATION**

**AND IN THE MATTER OF THE INSOLVENCY REGULATIONS 2015**

**BETWEEN**

**(1) NMC HEALTHCARE LIMITED**

(in administration) (subject to a deed of company arrangement)

**(2) NMC HOLDING LIMITED**

(in administration)

**(3) RICHARD DIXON FLEMING**

(in his capacity as Joint Administrator of the First and Second Applicants)

**(4) BENJAMIN THOM CAIRNS**

(in his capacity as Joint Administrator of the First and Second Applicants)

Applicants

and

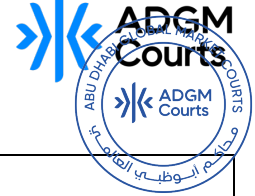
**(1) BAVAGUTHU RAGHURAM SHETTY**

**(2) PRASANTH MANGHAT**

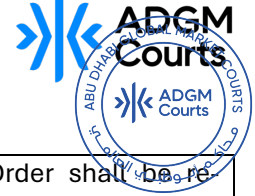
**(3) BANK OF BARODA**

Respondents

**JUDGMENT OF JUSTICE SIR NICHOLAS PATTEN**



<b>Neutral Citation:</b>	[2024] ADGMCFI 0015
<b>Before:</b>	Justice Sir Nicholas Patten
<b>Decision Date:</b>	8 November 2024
<b>Decision:</b>	<ol style="list-style-type: none"> <li>1. Paragraph 27 of the First CMC Order shall be varied so that: <ol style="list-style-type: none"> <li>a. By no later than <b>7.00 pm on Friday 15 November 2024</b> the NMC Claimants and Mr Manghat shall each provide to each other and to the other parties to the JA Claim all documents by way of extended standard disclosure (as defined in paragraph 28 of the First CMC Order), except for any documents that have already been provided by a party to the other parties in the JA Claim.</li> <li>b. By <b>7.00 pm on Friday 15 November 2024</b>, Dr Shetty and Baroda shall each provide to each other and to the other parties to the JA Claim in an intermediate tranche by way of extended standard disclosure (as defined at paragraph 28 of the First CMC Order) all documents which they are in a position to provide, except for any documents that have already been provided by a party to the other parties to the JA Claim.</li> <li>c. By no later than <b>7.00 pm on Friday 20 December 2024</b>, Dr Shetty and Baroda shall each provide to each other and to the other parties to the JA Claim all documents by way of extended standard disclosure (as defined at paragraph 28 of the First CMC Order), except for any documents that have already been provided in an intermediate tranche by a party to the other parties to the JA Claim.</li> <li>d. Documents disclosed and made available for inspection by the parties to the JA Claim shall be made available to ADCB on the same dates, subject to and in accordance with paragraphs 1 and 2 of the Second CMC Order.</li> </ol> </li> <li>2. In relation to any of Baroda's documents which it has yet to review as at the date of this Order, Baroda shall as part of its review of those documents identify any documents which may lead to a train of inquiry in relation to Issues 55, 63, 64, 65, 66 and 68 of the List of Issues for Disclosure during the period 1 January to 30 April 2019.</li> <li>3. All questions as to costs shall be stood over to the CMC to take place on 11 December 2024 (the "<b>December CMC</b>").</li> <li>4. The time for the making of (i) any application for further and specific disclosure as presently provided for by paragraph 29 of the First CMC Order and (ii) any applications to adduce Non-UAE Law Expert Evidence as presently provided for by paragraph</li> </ol>



	5 of the Non-UAE Law Expert Evidence Order shall be considered at the December CMC.
<b>Hearing Date:</b>	8 November 2024
<b>Date of Order:</b>	14 November 2024
<b>Catchwords:</b>	Extended standard disclosure. Extension of time. Searches and preparation of documents for disclosure.
<b>Legislation Cited:</b>	ADGM Insolvency Regulations 2022
<b>Case Numbers:</b>	ADGMCFI-2022-111; ADGMCFI-2022-299 and ADGMCFI-2020-020
<b>Parties and representation:</b>	<p><b>Case No.: ADGMCFI-2022-111</b></p> <p><b>Claimant</b> Mr Scott Ralston (Instructed by Holman Fenwick Willan MEA LLP)</p> <p><b>Defendant</b> Ms Sophia Hurst (Instructed by Kobre &amp; Kim (GCC) LLP)</p> <p><b>Case Nos.: ADGMCFI-2022-299 and ADGMCFI-2020-020</b></p> <p><b>Claimants / Applicants</b> Mr Henry King KC and Mr Damien Bruneau (Instructed by Quinn Emanuel Urquhart &amp; Sullivan UK LLP)</p> <p><b>First Defendant / Respondent</b> Ms Ruth den Besten KC (Instructed by Farrer &amp; Co LLP)</p> <p><b>Second Defendant / Respondent</b> Ms Sophia Hurst (Instructed by Kobre &amp; Kim (GCC) LLP)</p> <p><b>Third Defendant / Respondent</b> Mr Harish Salve KC, Ms Sarah Tresman and Ms Maria Kennedy (Instructed by Baker &amp; McKenzie LLP)</p>

## JUDGMENT

- The background to the two actions I am concerned with is well known. Both actions concern an alleged fraud against the NMC Group of companies (the “**NMC Group**”) which has led to their insolvency and administration. The fraud was carried out between 2012 and 2020 (when the administration began); and is alleged to have involved very large sums of money being paid (both directly and indirectly) to Dr Shetty



and the other shareholders, as well as to officers and employees of the NMC Group such as Mr Manghat. The payments significantly reduced the net worth of the companies and necessitated some USD 4 billion of increased borrowing which, it is alleged, was neither disclosed in the NMC Group accounts nor authorised by the board of the holding company, NMC Health Plc. In order to conceal the payments which had been made and the true state of indebtedness of the NMC Group much of this extra borrowing was conducted through a series of sham supply contracts involving connected companies. False accounts and year end results were published to major creditors of the NMC Group such as Abu Dhabi Commercial Bank PJSC (“**ADCB**”).

2. The payments made to Dr Shetty, Mr Manghat and others had, it is alleged, no commercial purpose or rationale; were not made for any consideration; and could not therefore have been considered by those involved to be made in the best interests or for the benefit of the NMC Group. They were therefore a fraud on the NMC Group for which Dr Shetty is alleged to be liable in damages. The NMC Group brings claims in tort against him under UAE civil law. The Joint Administrators also seek relief for fraudulent and wrongful trading under the *ADGM Insolvency Regulations 2022*. The ADCB claim is an action in tort against Mr Manghat, again under UAE civil law, for damages for the financial harm which they say they suffered as a result of being induced to lend to the NMC Group on the basis of the false group accounts and financial statements.
3. The payments complained of in the “**JA Claim**” (*NMC Healthcare LTD (in administration) (subject to a deed of company arrangement) & Others v. Bavaguthu Raghuram Shetty & Others ADGMCFI-2022-299 and ADGMCFI-2020-020*) (including those made via intermediate parties) were routed and paid through various accounts with the Bank of Baroda (the “**Bank**”). The NMC Group was a customer of the Bank, as were Dr Shetty and the connected companies which feature in the transactions impugned in the JA Claim. This includes what is referred to as the ‘*sham supplies scheme*’ used to raise finance and conceal the true state of indebtedness of the NMC Group.
4. The Bank in summary is alleged to have known that the payments to Dr Shetty and his related companies had no legitimate business purpose and were not for the benefit of the NMC Group. It is alleged to have structured deposits and overdrafts in a way which assisted the Group in concealing its undisclosed indebtedness, and to have had a complete overview of virtually every aspect of the payments and transactions which are now complained of. It is alleged that the Bank did not follow KYC, AML or compliance procedures because its employees knew (or were recklessly blind to the fact) that the intention behind each of the payments was fraudulent. Relief is sought against the Bank both in damages under UAE law for fraud or breach of duty and by way of compensation under s. 251 of the *ADGM Insolvency Regulations 2022*.
5. This judgment concerns two applications to extend the timetable for extended standard disclosure, which was laid down in the order of Justice Sir Andrew Smith dated 14 February 2024 (the “**14 February 2024 Order**”) made at the first Case Management Conference (“**CMC**”). That order contains various case management directions including that the parties should compile, and if possible, agree a list of issues for disclosure by 10 May 2024. Any disputes about the issues were to be determined at a further CMC held on 6 June 2024. Subject to that, extended standard disclosure was to be provided by 7 pm on 25 October 2024. “[E]xtended standard disclosure” was defined in paragraph 28 of the 14 February 2024 Order as comprising documents which are likely to support or adversely affect the respective parties’ claims or defences but does not include train of inquiry disclosure. However, at the second CMC on 6 June 2024 the Claimants made an application for train of inquiry disclosure in respect to what are now issues 55, 63 to 66 and 68 in the list of issues for disclosure. This has been stood over with liberty to



restore following the provision of extended standard disclosure. I will come back to the question of time of inquiry disclosure later in this Judgment.

6. The 14 February 2024 Order sets out a comprehensive timetable for what are generally referred to as the JA Claim and the “**ADCB Claim**” (*Abu Dhabi Commercial Bank PJSC v. Prasanth Manghat ADGMCFI-2022-111*). This culminates in a trial to commence on 23 March 2026. Most relevantly for the purposes of the present applications the 14 February 2024 Order makes provision for any applications for further or specific disclosure to be made by no later than 28 February 2025; for witness statements of fact to be filed and served by 30 May 2025; and for applications for permission to file and serve expert reports in relation to the field of banking standards and practice in the UAE to be made no later than 23 May 2024 (as later extended). On 19 September 2024, the Court gave permission for the parties to serve evidence of UAE banking practice, and also gave directions that applications for permission to rely on reports by experts in the field of forensic accounting on issues relating to the payments to Dr Shetty and Mr. Manghat and to the undisclosed debt should be made by 31 January 2025.
7. It is common ground that many, if not most, of these dates are contingent upon the timetable for disclosure being adhered to and may well need to be adjusted if the current dates for disclosure are significantly postponed. There has already been some slippage in that timetable. The agreed list of issues for disclosure was produced on 22 July 2024. The present applications by the Bank and by Dr Shetty were filed on 11 and 17 October 2024 respectively (the “**Bank’s Application**” and “**Dr Shetty’s Application**” respectively) and were listed for hearing on 28 October 2024. To accommodate them, the dates for extended standard disclosure contained in the original CMC directions were extended to 4 November 2024. The hearing date had to, unfortunately, be postponed until today due to Justice Sir Andrew Smith being indisposed. Therefore, I granted a further extension of time until 15 November 2024.
8. In its application notice, the Bank seeks an order for its disclosure to be provided in tranches on: 25 October 2024, 13 December 2024 and 31 January 2025. It also seeks a consequential postponement of the deadlines for any applications for further or specific disclosure and for applications to adduce expert evidence on forensic accounting issues from 31 January 2025 to 28 March 2025. That position has now changed, for reasons which I will come to shortly, and an extension is now only sought for the disclosure of a second tranche of documents by 20 December 2024. In his witness statement of 4 November 2024, Mr Charles Thomson of Baker & McKenzie, the Bank’s solicitors, says that due to reductions in the anticipated scale of disclosure he expects the Bank to be in a position to disclose all further documents that have been collected and processed by his firm by 20 December 2024. It is however the case that the documents so far processed and reviewed by Baker & McKenzie do not represent the totality of material relevant to disclosure. There is material contained in other data sources some of which at least is likely to be disclosable. This includes data from Finacle, FCRM and Baroda Connect, certain O365 accounts and hardcopy documents located in Oman. As things stand this material has yet to be collected and processed in order to be reviewed for its relevance to the issues in the proceedings. In contrast to the documents which have already been collected and processed by Baker & McKenzie, the Bank does not expect to be able to process and review all of the outstanding material in time for any relevant disclosure to be made as part of the second tranche before 20 December 2024.
9. The position of Dr Shetty in his application notice was that he also sought a variation of the 14 February 2024 Order so as to provide standard extended disclosure in three tranches on: 25 October 2024, 13 December 2024 and 31 January 2025; and for the extension of the date for making applications for



further disclosure and in relation to expert evidence to 28 March 2025. But like the Bank he now seeks an order allowing him to make disclosure of a second tranche of documents on 20 December 2024 with the possibility that further time may be necessary for the disclosure of other material.

10. The Bank's Application is supported by a witness statement from Mr Thomson dated 10 October 2024 in which he explains the reasons for the delays in providing disclosure. In summary, he says that the Bank faces claims in excess of USD 6 billion based on allegations of fraud and gross negligence. The Bank is majority owned by the Government of India and is India's third largest public sector bank. Negative findings against the Bank would cause considerable reputational and financial damage. The disclosure sought ranges over an eight-year period, involves over 500 accounts and a significant number of transactions. The Bank, he says, has never faced litigation on this scale and its processes in use at the relevant time were not set up so as to enable disclosure to be carried out in a quick or straightforward manner. In particular, the branch in Abu Dhabi operated using staff seconded from India most of whom have since returned home or retired. There have been multiple changes of management; the IT systems have had problems of compatibility and retrieval of data and some have been decommissioned; relevant data is spread across branches in different countries and with many different electronic systems (some without effective filing systems); there are problems collecting some data either because of the way the Bank is organised and run or because of local restrictions on the disclosure of confidential banking information; and the identification of the source of documents and their relevant custodians has also been challenging.
11. The Bank has, he says, dedicated very substantial time and costs to the disclosure exercise having formed a disclosure committee and a dedicated e-discovery team manned by lawyers from Baker & McKenzie and the Bank's Indian solicitors, Poovayya & Co. The Bank has also obtained the support of a forensic firm to assist with the collection and filtering of complex financial data. Mr Thomson says that the Bank began its document review promptly and well in advance of the finalisation of the list of disclosure issues. Searches of hard copy documents have been carried out at the UAE branches which proved to be onerous due to the hard copy transaction vouchers being stored by date rather than by customer. The disclosure process has proved, he says, to be more complex than anticipated, and despite the Bank's best efforts to maintain progress and to meet the timetable trial, full disclosure by 25 October 2024 (now 15 November 2024) will not be possible.
12. In terms of what has been achieved and what remains to be done, Mr Thomson says that by February 2024 the Bank had collected and processed over 2 million documents and that to date it has collected about 8.1 TB of material from different sources (about 24 million documents). It has also reviewed about 65,000 documents in response to the agreed search terms. On this basis, it expects to be able to disclose about 30,000 documents in the first tranche.
13. In the same witness statement, Mr Thomson sets out what remains to be done. This includes a summary of various problems facing the disclosure exercise including:
  - a. technical challenges, in particular, in retrieving data from the Bank's UAE based legacy email server, MDAemon. This system was fully decommissioned in 2021, and a complete set of data was only processed on to Baker & McKenzie's e-discovery platform at the beginning of October 2024. There are 110,000 documents to review;
  - b. there have been delays in obtaining documents from custodians, including the managing director of the Bank, due in part to the sensitivity of the data and the need for its retrieval to be carried out in



accordance with Indian law. But most of the material had been received by Baker & McKenzie for processing by the date of the Bank's Application;

- c. delays in obtaining documents have been encountered due to local banking secrecy and confidentiality laws in countries including Oman and India;
  - d. further new sources of data have been identified by the Bank during the disclosure process; and
  - e. data is still being extracted and processed from MDaemon and two other email servers: an O365 server based in India and an Exchange On Premises server based in the UAE. Some 730 GB of data from 94 O365 accounts has been transferred for processing at Baker & McKenzie, and some 10 additional O365 accounts have been identified. Approximately 56,500 documents from these sources have already been reviewed.
14. Some of this information has now been superseded by Mr Thomson's most recent witness statement dated 4 November 2024 in which 20 December 2024 is put forward as the extended date for the Bank's extended standard disclosure. In respect of already collected and processed material, he says that the Bank's position on disclosure has improved. It will be able to disclose about 35,000 documents on 15 November 2024. The volume of data from the MDaemon server has turned out to be lower than anticipated and some 3,800 documents remain to be reviewed from this source. Data from the 94 O365 custodians has been transferred to, and processed by, Baker & McKenzie and there are about 10,000 documents to be reviewed; again a lower number than anticipated. In these circumstances, the Bank expects to be able to disclose all of the documents which have been collected and processed by Baker & McKenzie by 20 December 2024. However, Mr Thomson has also confirmed, both in his evidence and now in correspondence with the Claimants' solicitors, that the position about timing in relation to the disclosure from the material not yet collected and processed is more uncertain. He says that further technical issues may delay the collection process and that it is not yet possible to estimate the quantity of material which will be found to be disclosable once it is reviewed. Baker & McKenzie have also confirmed, in their letter of 6 November 2024, that the disclosure process is ongoing and that they cannot rule out there being further relevant data sources which will be identified. With this in mind, the Bank no longer asks for an extension of time to 31 January 2025 for a third tranche of disclosure. Instead, it proposes that the position about the other sources of material be reconsidered at a CMC on 11 December 2024, when it should be possible to make a more informed assessment as to the time needed to complete disclosure.
15. The position about Dr Shetty's disclosure is set out in a witness statement from Mr Benjamin Longworth of Farrer & Co LLP dated 17 October 2024. He says that Dr Shetty will be in a position to provide the large majority of his disclosure by 25 October 2024 (now 15 November 2024) and that the bulk of the remainder should be available shortly thereafter. The additional work necessary to complete disclosure relates principally to data held on four back-up devices, referred to as "NAS Devices", which (at the time of the witness statement) was being reviewed by Dr Shetty's e-discovery provider. Mr Longworth says that the data set is huge and consists of many terabytes of electronic data (perhaps as many as 270 million documents) and some 350 boxes of hard copy documents. Dr Shetty had a large number of business interests in different jurisdictions which are relevant to the disclosure process. Most of his interests outside NMC were held and managed through entities in the BRS group. BRS had its own offices and computer systems. It apparently has no remaining employees who are now able to assist Dr Shetty to navigate and deal with the data and documents it holds. Farrer & Co LLP have engaged the services of an e-discovery provider who has been working for many months from before the first CMC,



but the collection of additional data seems to depend on a single IT consultant who has been engaged by Dr Shetty in Abu Dhabi. This has proved to be inadequate given the amount of data to be retrieved and processed. There have also been logistical difficulties due to the size of the data contained on the NAS Devices and delays due to power outages and software issues.

16. Mr. Longworth says that the legal team at Farrer & Co LLP, together with the e-discovery teams, have been heavily engaged in progressing the disclosure exercise since directions were given at the first CMC in February 2024. He has produced a schedule setting out the various sources of documents and the progress made in collecting and reviewing them. But it is not necessary for me to go to these specifics because in all cases, except for one category of documents (about 5,800 documents in the form of cheque stubs and cheque books from BRS), the estimated date of disclosure is 25 October 2024 for which I read 15 November 2024. For the cheques and cheque books, it is also 15 November 2024, but this is now catered for by the extension of the October date already made.
17. The material which is said to require an extension of time beyond 15 November 2024 seems to be back-up data from the NAS Devices. Mr Longworth says that Dr Shetty will continue to attempt to complete disclosure as soon as possible, and in correspondence Farrer & Co LLP have confirmed that Dr Shetty will be able to disclose additional documents from data sources which have been collected and processed by 20 December 2024. But some electronic data has not yet been fully processed and the work may not be completed by mid-December. They wish to provide an update on progress closer to that date. In her skeleton argument dated 25 October 2024, Ms den Besten KC goes further. She says that the costs and time involved in reviewing the NAS Devices may ultimately mean that it is not possible or proportionate to require Dr Shetty to provide disclosure from this source, and that in any event it is unlikely to be possible to complete the process even by 31 January 2025.
18. At the hearing I was given some further information by counsel about the state of the Bank's and Dr Shetty's disclosure. Mr Salve KC told me that the eight lever-arch files of hard copy documents in Oman can be disclosed by 20 December 2024, subject to obtaining clearance in Oman under its confidentiality regulations. There will also be disclosure by 20 December 2024 of the Finacle and FRCM data. In respect of the data contained on the MDaemon server and the O365 email accounts, the Bank will make partial disclosure consisting of the material it has processed and reviewed. But it has not yet collected all the material. A further update will be given at the CMC on 11 December 2024.
19. Ms den Besten KC said that Dr Shetty will give substantial disclosure by 15 November 2024 of the data particularised by Mr Longworth in paragraph 20 of his witness statement of 17 October 2024. The cheque material will be available for disclosure by 20 December 2024. The problem remains with the NAS Devices, but Dr Shetty, she says, is trying to complete his disclosure and will provide an update on 11 December 2024.
20. The Claimants resist any further extension of time beyond 20 December 2024. They accept that they are not in a position to say definitively what it would be possible for the Defendants to do in order to complete disclosure by any particular date, but they are understandably concerned to preserve the timetable for a trial in 2026 and to minimise the delays which any extended period for disclosure will cause. Mr King KC has made a number of specific criticisms of both Defendants in relation to their efforts so far. He says that both parties would or at least should have known from the outset what the source and scale of disclosure was likely to be; that they could and should have devoted more time and resources to the collection and organisation of data much earlier in the proceedings; that they have failed to provide the resources necessary to carry out the task more speedily despite having the means



and resources to do so; and that their whole approach lacks urgency. But his principal criticism, developed in his submissions, is that although a reduction in the extension sought from 31 January 2025 to 20 December 2024 may appear to be an improvement this is in fact illusory. The position has in fact become worse. It is clear that the disclosure by 20 December 2024 will consist only of documents so far processed and reviewed, and that both the Bank and Dr Shetty have accepted that the disclosure process will have to continue beyond that date. There are further data sources which will have to be investigated, and all of this may take until a yet unidentified date in the New Year to complete. This is worse, he says, than their original position which was that the disclosure would be complete by 31 January 2025. An example is the CBUAE electronic cheque enquiry system as to which the Bank is currently investigating whether it is possible to extract data from the source.

21. Mr King KC submits that the time has come for the Court to exert some real pressure on both these Defendants to bring the disclosure process to an early conclusion. This, he says, can be done by the Court requiring the Defendants to make disclosure statements on 20 December 2024, confirming that there are no other disclosable documents in their possession. The costs of making extended standard disclosure after that date should not be recoverable regardless of the outcome of the proceedings. Mr King KC says that this will act as a powerful incentive for the Defendants to complete their disclosure by the end of this year. The Claimants will also seek the costs of these applications on an indemnity basis.
22. Mr King KC also now seeks an order making train of inquiry disclosure a condition of any extension of time which the Bank may be given. This is not an issue for Dr Shetty because, as I understand it, he has agreed to provide train of inquiry disclosure in relation to certain agreed issues. But the Bank resists an order. Mr Salve KC says that his client is reviewing the relevance of the documents on what might be described as a 'wide' or 'generous' basis and that the order previously made by Justice Sir Andrew Smith should remain in place.
23. Although (at least with the benefit of hindsight) some of the criticisms of the reasons for the delays so far are well-made, I do not find it particularly helpful to conduct a detailed post-mortem into the full history of this matter. The Claimants obviously want to have complete disclosure of relevant material and the focus must be on how to achieve that as speedily as possible in the circumstances which now exist. Questions of responsibility for the past may go to costs, but that is a matter for another day. My task, as I see it, is to give directions that will not derail the existing timetable, yet will enable all parties to prepare for trial properly. The scale of this litigation is immense and the need for it to be thoroughly and efficiently managed is evident from its potential consequences for the parties. The Claimants seek to recover billions of dollars in compensation for the unlawful removal of the assets of the NMC Group, which has led to the insolvency of a once profitable group of companies to the detriment of all its creditors. The Defendants, if unsuccessful, will face the prospect of huge reputational damage aside from the damages and other compensation which they will have to pay. The scope of the extended standard disclosure which must be provided is obviously considerable and complex for the reasons set out in the evidence. The problems faced by the Bank and Dr Shetty are not however identical. The Bank's complex storage systems (some now inactive) and the difficulty of identifying the source and custodians of relevant data have created delays. But the Bank is a very substantial organisation, and these difficulties should not be insuperable. The Court can expect the Bank to deploy the resources necessary to complete the task. Dr Shetty's main problem (unlike the Bank's) has in the past been one of resources. I readily accept that the costs of completing the disclosure exercise are considerable, particularly in relation to the processing of data from the NAS Devices, but there is no evidence that Dr



Shetty is unable to fund the level of IT and other support which is currently necessary to complete the exercise.

24. The Court's objective remains that of adhering to a timetable which will lead to a trial in March 2026. At the moment, I see no reason why that should not be possible. To that end, I propose to grant to both the Bank and Dr Shetty an extension of time for the production of extended standard disclosure until 7.00 pm on 20 December 2024. I will stand over consideration of the deadlines for any applications for further or specific disclosure, and for applications for permission to adduce expert evidence to the next CMC.
25. I am not going to include in the order provision for the Bank and Dr Shetty to provide disclosure statements as at 20 December 2024. It seems clear from the evidence that this is unlikely to be possible and it serves no useful purpose at this stage. Nor am I going to make an order now disallowing the costs of disclosure by the Bank and Dr Shetty after the 20 December 2024 deadline. These are serious orders which will need to be considered in light of the position at that time. I will review the progress, or lack of progress, which has been made at the next CMC when the Claimants can renew their application for an order. It will be for the Defendants to justify their position at that time.
26. In relation to train of inquiry disclosure, I propose to leave in place the order which Justice Sir Andrew Smith made, and not to order the Bank to give such disclosure at this stage. I do so on the basis that Mr Salve KC says that this will be contested on some of the issues. His client will bear in mind the indications about that given in Justice Sir Andrew Smith's judgment at the earlier CMC, but it is not, I think, the appropriate time to attempt to resolve any such disputes. I want the Bank to consider its position on this as Dr Shetty has done, but in the absence of agreement I will attempt to resolve matters at the CMC on 11 December 2024. I will however order the Bank to conduct the review of all remaining data in a way which includes and identifies material that would be covered by train of inquiry disclosure in relation to the issues previously identified. Given the delays created by the Bank's inability thus far to collect and review all relevant sources of material, this may go some way to reducing any further delay should I decide to order train of inquiry disclosure on 11 December 2024.
27. There will, as I have said, be a further CMC on 11 December 2024 and I will reserve any other questions of costs to that hearing. The parties will have the usual liberty to apply.
28. I am grateful to all counsel and their solicitors for their assistance on these applications.



Issued by:

**Linda Fitz-Alan**  
**Registrar, ADGM Courts**  
**19 November 2024**