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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

ANDRIY SHEREMET

Claimant

and

CQT INVESTMENT GROUP LTD

Defendant

JUDGMENT OF JUSTICE PAUL HEATH KC

Neutral Citation:	[2025] ADGMCFI 0011
Before:	Justice Paul Heath KC
Decision Date:	4 June 2025
Decision:	1. The Variation Application be dismissed. 2. Paragraphs 1 to 6 of the 16 May 2025 Order be amended as follows: *"1. The Extension of Time Application is granted on the terms set out below.* *2. By **12.00 pm on 19 June 2025**, the Defendant shall pay the sum of USD 216,000 (the "**Payment Sum**") into Court, to be held pending further order of the Court.* *3. If the Defendant pays the Payment Sum into Court in accordance with paragraph 2, the Defendant shall have permission to file and serve by **4.00 pm on 30 June 2025** its Defence to the Claim, and the time for doing so is extended accordingly.* *4. If the Defendant does not pay the Payment Sum into Court in accordance with paragraph 2, the Claimant shall have liberty to request that the Court enter default judgment against the Defendant pursuant to the Default Judgment Application.* *5. Costs reserved.* *6. General liberty to apply."* 3. The Defendant pay the Claimant's costs of the Variation Application, to be agreed or summarily assessed on the standard basis in default of agreement. 4. Liberty to apply.
Hearing Date:	On the papers
Date of Order:	4 June 2025

Catchwords:	Application to vary order requiring payment into Court. Payment into Court a condition of extension of time to file a defence. Effect of insolvency on requirement to pay money into Court.
Legislation Cited:	ADGM Court Procedure Rules 2016
Cases Cited:	Abu Dhabi Commercial Bank PJSC v Prasanth Manghat [2022] ADGMCFI-0007
Case Number:	ADGMCFI-2025-144
Parties and representation:	**Claimant** Jordana Dray, ACD Law **Defendant** David McCoy, ADG Legal

JUDGMENT

Introduction

1. CQT Investment Group Ltd ("**CQT**") applies to vary an order made on 16 May 2025 (the "**Variation Application**"), by which I granted an extension of time for CQT to file and serve a Defence to Mr Andriy Sheremet's claim filed on 24 March 2025 (the "**Claim**"). The Variation Application is opposed.

2. I granted CQT's extension of time application (the "**Extension of Time Application**") on condition that CQT pay into Court the sum of USD 216,000 by midday on 30 May 2025 (the "**Extension of Time Order**"). That sum represented one-half of the amount sought by Mr Sheremet. On 29 May 2025, I stayed the Extension of Time Order pending a decision on the Variation Application.

Background

3. The events that have led to the Claim are not easy to unfold. They rest on a starting point involving the investment of money in CQT by Mr Sheremet and two others. The investors withdrew from the arrangement. It appears that a separate agreement was reached as to how they should be reimbursed for moneys advanced at that time. My attempted summary of the circumstances must be read on the basis that many of the facts are presently unclear and I am working on incomplete information.

4. It appears that Mr Sheremet, Mr Tal Zarjevsky and Mr Alen Kaminski (together, the "**Investors**") each agreed to invest moneys into CQT, apparently on 1 September 2023 under a "*Limited Partner Agreement*" (the "**Agreement**"). It seems that Mr Sheremet agreed to invest USD 1,000,000, with Mr Zarjevsky and Mr Kaminski investing between them a further amount of USD 1,500,000. The total amount invested by the Investors was USD 2,500,000.

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5. After "*a series of disagreements*", the Agreement was terminated on 9 July 2024. A "*Redemption/ Revocation*" form appears to have been signed by Mr Sheremet on 11 July 2024 to record the way in which he would recover the moneys that he advanced. Subsequently, on 4 September 2024, a second *"Redemption/ Revocation*" form materialised to cap the reimbursement owed to Mr Sheremet at USD 1,000,000. It seems likely that a similar arrangement was entered into in relation to the amounts invested by Mr Zarjevsky and Mr Kaminski providing for the return of the moneys that they had advanced.

6. Between 4 September 2024 and 24 December 2024, there were various exchanges among the Investors and CQT's former and current General Manager about the way in which the moneys should be distributed. Mr Sheremet asserts that it was agreed that he would receive the full amount of his investment of USD 1,000,000. Of that amount, a sum of USD 568,000 was paid by (or on behalf of) CQT at some time between 24 and 26 December 2024. Mr Sheremet says he received that payment on 26 December 2024, although the precise circumstances in which the payment was made appears to be disputed. In any event, Mr Sheremet alleges that a sum of USD 432,000 remains owing to him.

7. On 18 March 2025, Mr Sheremet applied for a pre-claim interim remedy, in the form of a worldwide freezing order (the "**Freezing Order Application**") to restrain CQT from dissipating assets up to a value of USD 432,000. Although the Freezing Order Application was heard on notice to CQT, it was not then represented by counsel. Instead, Mr Mohamed Alubeid, its present General Manager and a shareholder of CQT, attended at the hearing, which was held remotely on 27 March 2025. After hearing from counsel for Mr Sheremet and Mr Alubeid, I made a worldwide freezing order on 28 March 2025 (the "**Freezing Order**"). The order was made based on criteria identified by Justice Sir Andrew Smith in *Abu Dhabi Commercial Bank PJSC v Prasanth Manghat*.[1]

8. During the hearing of the Freezing Order Application on 27 March 2025, Mr Alubeid suggested that Mr Sheremet had been paid the whole of the debt owed to him. However, I took the view that there was nothing in the documentation that had been filed to suggest that was so.

9. The Freezing Order recorded the terms of the freezing injunction against CQT and reserved the right of CQT to apply to the Court to vary or to discharge it. As part of the Freezing Order, I made a direction that CQT must, through a duly authorised representative, file and serve an affidavit providing information about its worldwide assets, explaining transfers of funds in excess of USD 10,000 in value identified in Mr Sheremet's evidence and identifying (and giving particulars of) any other transfers or payments above USD 10,000 since 31 October 2024. Mr Alubeid filed an affidavit in response on 14 April 2025.

10. My reasons for making the Freezing Order were included within the order. Although CQT attempted to file an application for discharge, it was rejected by the Registry for non-compliance with procedural requirements. No attempt has been made to resubmit the application.

[1] *Abu Dhabi Commercial Bank PJSC v Prasanth Manghat* [2022] ADGMCFI-0007 at paragraph 14.

11. The Claim was filed on 24 March 2025. While CQT filed its Acknowledgement of Service within time on 7 April 2025, it failed to file its Defence by 21 April 2025, as required by rule 44(2) of the ADGM Court Procedure Rules 2016 (the "**Rules**"). By email dated 29 April 2025, CQT's legal representative informed both the Registry and Mr Sheremet that a Defence had not been filed because it was "*wrongly diarised*", so the deadline was missed.

12. The Extension of Time Application was filed on 30 April 2025. As it happened, an application by the Claimant for default judgment (the "**Default Judgment Application**") was made on the same date. The Extension of Time Application was filed at 1.43 pm on 30 April 2025, while the Default Judgment Application was filed at 2.35 pm that day.

13. I decided that I should hear from Mr Sheremet on the Extension of Time Application because of the potential for prejudice arising out of the Default Judgment Application. I directed written witness statements to be filed and exchanged on the basis that I would decide the application on the papers, unless I requested an oral hearing. The Extension of Time Order was subsequently made on terms requiring a payment into Court. My reasons for making the Extension of Time Order were recorded as follows:

> "***Reasons for Decision***
>
> 1. *I have considered the witness statements filed by the Claimant and Defendant on the Defendant's Extension of Time Application. As indicated in paragraph 3 of my 2 May 2025 Order, I have dealt with the application on the papers without seeking further input from the parties.*
>
> 2. *Given the length of time involved and the explanation given by Mr McCoy (the Defendant's legal representation) for that delay, the Extension of Time Application is one that, in the ordinary course, I would have granted on a routine basis. However, the fact that, in close proximity to the Extension of Time Application, the Claimant filed and served the Default Judgment Application influenced me to seek further submissions from the parties, together with an indication that, to the extent necessary, counsel were entitled to refer to the context of the Default Judgment Application. On my reading of the Default Judgment Application, it must have been in an advanced state of preparation when the Extension of Time Application was filed, if not completed. In paragraph 5 of my reasons in the 2 May 2025 Order, I indicated that I would proceed to deal with the Default Judgment Application if an extension of time were refused.*
>
> 3. *Having reviewed the parties' submissions, I am concerned that an extension of time might operate unfairly to prejudice the Claimant, given inconsistent elements of the proposed defence raised by the Defendant. I refer to what was said by Mr Alubeid during the course of the hearing on 27 March 2025 (at pages 12-15 of the Transcript) compared with the Defendant's position as articulated by Mr McCoy in paragraph 11 of his witness statement of 30 April 2025. In addition, I note that, despite an application to discharge the worldwide freezing*

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> *order having been rejected by the Registry on 29 April 2025 (on the grounds that the application should have been supported by an affidavit rather than a witness statement), the application has not been resubmitted. Accordingly, I am left with apparently conflicting defences proffered by the Defendant through Mr Alubeid and Mr McCoy respectively, and no affidavit of the type that is needed to support an application to discharge the worldwide freezing order.*
>
> 4. *In those circumstances, I have decided to grant the Extension of Time Application on terms that require the Defendant to pay into Court one-half of the amount claimed. That sum will be held undisbursed pending further order of the Court. If the payment were made by midday on 30 May 2025, the Defendant has permission to file and serve a Defence by 4.00 pm on 11 June 2025. If the payment is not made, the Claimant may ask that the Court enter default judgment based on its Default Judgment Application.*"
>
> (Emphasis added)

Competing contentions

14. The Variation Application was supported by a witness statement from Mr McCoy. Three grounds were raised. In substance, it is contended that:

    a. I erred in concluding that the Default Judgment Application was "*in an advanced state of preparation*"[2] (if not completed) when the Extension of Time Application was filed.

    b. I erred in placing too much weight on what I had characterised as "*inconsistent elements of the proposed defence raised by*" CQT.[3] In his second witness statement, Mr McCoy acknowledged "*that the statements may appear to be inconsistent on their face, however, ... the inconsistency is a difference in emphasis rather than substance*".

    c. Mr Sheremet had failed to establish any prejudice that would flow from the grant of an extension of time for CQT to file its Defence.

15. As I understand CQT's final position, Mr McCoy submits that the sum of USD 432,000 in issue had been received by a different investor (Mr Zarjevsky) who, by a series of transactions, either paid Mr Sheremet or, at least, retains the funds on trust for him.[4] On that basis, the Claim is disputed. It is said that nothing is owing to Mr Sheremet by CQT.

16. For Mr Sheremet, Ms Dray provided a detailed witness statement in which, notwithstanding Mr McCoy's summary of events, she endeavoured to demonstrate that the initial

[2] Extension of Time Order, 16 May 2025 at paragraph 2, set out at paragraph 13 above.
[3] Ibid, at paragraph 3.
[4] See paragraph 6 above.

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expression of the grounds of defence were inconsistent. She also referred to various WhatsApp exchanges to contend that the existence of the claim had never been denied.

17. In relation to the Default Judgment Application, Ms Dray confirmed that the application had been prepared before the Extension of Time Application was filed. I accept Ms Dray's evidence on this point.

18. In a reply witness statement of 27 May 2025, Mr McCoy referred to two "*new documents*" which he suggested, taken together, "*undermine [Mr Sheremet's] case to such a degree that [CQT] is now considering making a strike out application*". In any event, Mr McCoy asserted that the new documents cast sufficient doubt on the Claim to justify removal of the condition that USD 216,000 be paid into Court to enable a Defence to be filed and served.

19. The first "*new document*" consisted of an email chain among three people, dated 11 November 2024, to which Mr Sheremet was not a party. The second is a "*draft agreement*" "*between [Mr Sheremet], Mr Alubeid and Mr Zarjevsky*" which, Mr McCoy says, was embedded as a Google Drive link in the WhatsApp chat between the parties. The embedded nature of the link provides the reason why Mr McCoy says that he did not discover its existence earlier.

20. In his reply witness statement, Mr McCoy summarised the "*draft agreement*" by reference to five bullet points appearing under a heading "*Waiver LETTER*". It involved a sum of USD 1,000,000 being paid to Mr Sheremet on the basis that he assigned his interest to Mr Zarjevsky. A sum of USD 568,000 was to be paid by CQT to Mr Zarjevsky's bank account following which he would be responsible for paying Mr Sheremet. Mr Sheremet would then waive any future claims against CQT.

21. The draft agreement exhibited by Mr McCoy is unusual in that Mr Sheremet is referred to as "*Andri Sherman*", rather than Andriy Sheremet. It suggests that it was intended to be signed on 15 December 2024. There is no evidence from Mr Alubeid (or Mr McCoy) to confirm that the draft agreement was ever executed by Mr Sheremet or Mr Zarjevsky: in fact, Mr McCoy says in his reply witness statement "*I do not know why the Draft Agreement was not signed later ..*". I note that the date of the draft is only 11 days before Mr Sheremet says he received a payment of USD 568,000,[5] on 26 December 2024.

Analysis

22. CQT's position has evolved from an initial assertion by Mr Alubeid that the debt had been paid, to one in which Mr McCoy (I infer on express instructions) asserted that Mr Sheremet's claim "*bears the hallmarks of a conspiracy against*" CQT, to one in which it is alleged that Mr Sheremet has been repaid through Mr Zarjevsky, or (at least) Mr Zarjevsky holds funds received from CQT on trust for Mr Sheremet.

23. While I am concerned about continuing inconsistencies in CQT's position, there are obvious difficulties in reconciling the factual issues summarily. While I presently harbour

[5] See paragraph 6 above.

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significant doubts about the reliability of the information provided by both Mr Alubeid and Mr McCoy on how the payments were to be made, those doubts are not sufficient to deny an extension of time. There are factual disputes which require judicial resolution.

24. However, the existence of a triable issue is not determinative of the Variation Application. Other considerations are engaged. For present purposes, the most important is CQT's financial position.

25. At the hearing of the Freezing Order Application, Mr Alubeid, in response to a question from me, acknowledged that CQT was "*insolvent*".[6] That position was confirmed by Mr McCoy in his witness statement of 21 May 2025 in support of the Variation Application, in which he said:

> "*6. [CQT] is compelled to make this Application because, as explained in Mohamed Alubeid's affidavit dated 14 April 2025, [CQT] has no assets exceeding USD 10,000 and is therefore unable to pay USD 216,000 into Court*."

26. I consider that the most significant question is whether an unconditional order extending time should be made in circumstances where the applicant for such an order acknowledges that it is insolvent and cannot pay the amount required to activate a conditional order. That question must be assessed against the background of my considerable doubts about the reliability of CQT's evidence as to its purported defence.

27. I turn to applicable legal principles that inform whether, for reasons of insolvency, the existing conditional order should remain in force. In other words, does CQT's insolvency justify imposition of a condition requiring payment into Court of one-half of the amount claimed by Mr Sheremet?

28. The Court's jurisdiction to make an order extending time for the filing and service of a Defence is contained in Part 6 of the Rules. To provide context, rules 44 and 46 state:

> ***"44. Filing and serving a defence***
>
> ...
>
> *(2) A defendant who wishes to defend all or part of a claim must file a defence and serve a copy of it on the claimant and every other party within 28 days after service of the claim.*
>
> *(3) If a defendant fails to file and serve a defence, and the period for doing so has expired, the claimant may obtain default judgment if Rule 39 allows him to do so.*
>
> ...

[6] Transcript of 27 March 2025 hearing at page 16.

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46. Extending the period for filing and serving a defence

(1) The parties may agree that the period for filing and serving a defence specified in Rule 44 shall be extended by up to 28 days.

(2) An extension beyond the period referred to in paragraph (1) maty only be obtained by application to the Court."

29. The Court may also make orders that vary or revoke any extension order.[7] The Rules provide that the Court may extend time after a relevant time limit has expired.[8]

30. A decision to extend time to file and serve a defence, under rule 46(2), involves the exercise of a discretion. That discretion is to be exercised judicially and in a principled manner that best meets both the interests of justice and the overriding objectives of case management under the Rules. Rule 2(2) and (3) of the Rules sets out those objectives as follows:

"2. Scope and objective

(2) The overriding objective of these Rules is to secure that the system of civil justice in the ADGM Courts is accessible, fair and efficient.

(3) The ADGM Courts must interpret and apply these Rules and any practice direction with a view to securing that the Court is accessible, fair and efficient and that unnecessary disputes over procedural matters are discouraged.

...."

31. Rule 8 of the Rules provides express powers for the Court to make orders subject to conditions; including one requiring a payment of a sum of money into Court. If such an order were made and moneys were paid into Court, those funds become security for any sum payable by that party to any other party in the proceedings. Relevantly, rule 8 provides:

"8. The Court's general powers of management

(1) The Court may make any order, give any direction or take any step it considers appropriate for the purpose of managing the proceedings and furthering the overriding objective of these Rules as set out in Rule 2(2).

(2) When the Court makes an order, it may make it subject to conditions, including a condition to pay a sum of money into Court; and must specify the consequences of failure to comply with the order or a condition.

(3) The Court may order a party to pay a sum of money into Court if that party has, without good reason, failed to comply with a rule or

[7] ADGM Court Procedure Rules 2016, rule 8(5), set out at paragraph 31 below.
[8] Ibid, rule 7(2) and (4).

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practice direction and, in making such an order, the Court must have regard to the amount in dispute and the costs which the parties have incurred or which they may incur.

(4) Where a party pays money into Court following an order under paragraph (3) of this Rule, the money shall be security for any sum payable by that party to any other party in the proceedings.

(5) A power of the Court under these Rules or a practice direction to make an order includes a power to vary or revoke the order.

(6) Except where a rule, practice direction or ADGM enactment provides otherwise, the Court may exercise its powers on an application or of its own initiative."

32. It has long been accepted that, in cases where there is likely to be a real risk that a judgment cannot be enforced, it is appropriate to impose, as a condition of granting any indulgence to a defendant, a requirement that moneys be paid into Court to abide the outcome of the proceeding. The reason for that is to provide some security for a claimant who might otherwise succeed at trial but be unable to realise the fruits of its judgment. The fact that rule 8(4) of the Rules expressly refers to moneys paid into Court under a conditional order as "*security for any sum payable by that party to any other party in the proceedings*" reinforces the purpose of such an order.

33. Being satisfied that there is a sufficient risk to Mr Sheremet that any successful judgment may not be capable of enforcement, I hold that any extension of time must be made on condition that a sum of money is paid into Court to abide the outcome of the proceeding. The sum I required to be paid into Court represented one-half of the amount claimed by Mr Sheremet. I have considered whether that amount should be increased or reduced. Given my doubts as to the reliability of CQT's evidence and the risk that Mr Sheremet may not prevail, I have decided not to change the amount to be paid into Court. That will remain at USD 216,000.

34. I am conscious that CQT asserts that it will be deprived of the opportunity to defend the Claim if the condition for payment into Court is not removed. In my view, deprivation is not a natural consequence of the requirement to pay money into Court as a condition of the Extension of Time Order. There is at least one way in which CQT's ability to dispute Mr Sheremet's claim could be pursued, even if it cannot pay USD 216,000 into Court from its own money.

35. Funds could be provided by those associated with CQT and having a stake in its ongoing viability. Advances could be made by those persons to CQT, in the form of either debt or equity, to enable the latter to meet the condition for payment of USD 216,000 and to file a Defence to the Claim.

Decision

36. For the reasons given, I dismiss the Variation Application. Amending only the dates set out in the Extension of Time Order to reflect the lifting of the stay imposed pending determination of the Variation Application, the Extension of Time Order is to be amended to now read:

    "IT IS ORDERED AND DIRECTED THAT:

    1. *The Extension of Time Application is granted on the terms set out below.*

    2. *By **12.00 pm on 19 June 2025**, the Defendant shall pay the sum of USD 216,000 (the "**Payment Sum**") into Court, to be held pending further order of the Court.*

    3. *If the Defendant pays the Payment Sum into Court in accordance with paragraph 2, the Defendant shall have permission to file and serve by **4.00 pm on 30 June 2025** its Defence to the Claim, and the time for doing so is extended accordingly.*

    4. *If the Defendant does not pay the Payment Sum into Court in accordance with paragraph 2, the Claimant shall have liberty to request that the Court enter default judgment against the Defendant pursuant to the Default Judgment Application.*

    5. *Costs reserved.*

    6. *General liberty to apply."*

37. Mr Sheremet is entitled to costs on the Variation Application. They are to be agreed or assessed summarily on the standard basis as the case may be.

Issued by:

Linda Fitz-Alan
Registrar, ADGM Courts
4 June 2025