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 0024
Before:	Justice Paul Heath KC
Decision Date:	15 October 2025
Decision:	1. The Set Aside Application be dismissed. 2. The Defendant pay the Claimant's costs of the Set Aside Application to be summarily assessed on the standard basis if not agreed. 3. Liberty to apply.
Hearing Date:	On the papers
Date of Order:	15 October 2025
Catchwords:	Application to set aside default judgment. Whether a triable issue is the same as a real prospect of successfully defending the claim. Whether some other good reason to set aside default judgment. Whether relief from sanctions under English CPR 3.9 applicable.
Legislation Cited:	ADGM Court Procedure Rules 2016 English Civil Procedure Rules 1998
Cases Cited:	Union Properties PJSC v Almheiri [2025] ADGMCA 0001 Laktineh & Co Ltd v Al Hatti [2020] ADGMCFI 0001 Sheremet v CQT Investment Group Ltd [2025] ADGMCFI 0011 Denton v T H White Ltd [2014] EWCA Civ 906 FXF v English Karate Federation Ltd [2023] EWCA Civ 891
Case Number:	ADGMCFI-2025-144
Parties and representation:	**Claimant** Jordana Dray, ACD Law **Defendant** David McCoy, ADG Legal

JUDGMENT

Introduction

1. In unusual circumstances, CQT Investment Group Ltd ("**CQT**") applies to set aside (the "**Set Aside Application**") a judgment entered against it by default on 14 July 2025 (the "**Default Judgment**"). The Default Judgment was entered in favour of Mr Andriy Sheremet in the sum of USD 432,000, together with interest and costs. It is unnecessary to rehearse

the background in full. To the necessary extent, it is set out in a judgment that I gave on 4 June 2025 (the "**June 2025 judgment**").[1]

2. The sequence of events that have led to the Set Aside Application is summarised below:

   a. On **18 March 2025**, Mr Sheremet applied, without notice, for a pre-claim interim remedy, in the form of a worldwide freezing order against CQT (the "**Injunction Application**"). I directed that the application be heard on notice to CQT and fixed **27 March 2025** for that hearing. The application sought a freezing order up to a value of USD 432,000.

   b. Mr Sheremet filed his Claim on **24 March 2025**. Mr Sheremet sought judgment in the sum of USD 432,000 for CQT's alleged breach of a contract into which it had entered on 4 September 2024.

   c. The hearing of the Injunction Application on **27 March 2025**, which was held remotely, was attended both by the legal representative of Mr Sheremet and Mr Alubeid, CQT's General Manager, without legal representation. A worldwide freezing order was issued on **28 March 2025**. The order reserved the right of CQT to apply to the Court to vary or to discharge it. Although CQT attempted to file an application for discharge, it was rejected by the Registry for non-compliance with procedural requirements. No attempt was made subsequently to resubmit that application.[2]

   d. CQT did not file a Defence by **21 April 2025**, as required by rule 44(2) of the ADGM Court Procedure Rules 2016 (the "**ADGM CPR**"). By this time, CQT had instructed a legal representative, Mr McCoy of ADG Legal.

   e. By email sent at **3.22pm on 29 April 2025**, Mr McCoy informed both the Registry and Mr Sheremet's legal representative, Ms Jordana Dray of ACD Law, that a Defence had not been filed because it had been "wrongly diarised", meaning that the deadline had been missed.

   f. At **1.43pm on 30 April 2025**, CQT filed an application for an extension of time to file a Defence (the "**Extension of Time Application**").

   g. On the same day, at **2.35pm on 30 April 2025**, Mr Sheremet filed an application for a default judgment (the "**Default Judgment Application**"). Ms Dray has confirmed that she submitted the Default Judgment Application to the Court at 9.07pm on 29 April 2025, after receiving Mr McCoy's email.

   h. I directed that the Extension of Time Application was to be determined first, to avoid the potential for prejudice that would arise if judgment were entered by default. The Extension of Time Application was determined by an order issued on **16 May 2025** (the "**May 2025 Order**"). It was granted on terms requiring CQT to pay into Court the

[1] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraphs 3–13.
[2] CQT's decision not to make such an application has been explained in evidence on the present application. It was tactical in nature.

sum of USD 216,000 by **midday on 30 May 2025**.[3] No application for permission to appeal against that judgment was made.

i. CQT did not pay the sum of USD 216,000 into Court. Instead, on **22 May 2025**, it made an application to vary the May 2025 order (the "**Variation Application**") to remove the requirement for payment into Court. The Variation Application was dismissed, for reasons given in my June 2025 Judgment.[4] My order on the Variation Application extended the time for payment into Court of the sum of USD 216,000 until **midday on 19 June 2025**.[5] No application for permission to appeal against that judgment was made.

j. The sum of USD 216,000 was not paid into Court by **midday on 19 June 2025**. A default judgment was entered against CQT on **14 July 2025**.[6]

k. On **25 July 2025**, CQT made its Set Aside Application. Directions as to the disposition of that application were made on **31 July 2025**.

l. At the request of Ms Dray, a generous timetable was put in place for responding to the Set Aside Application. In the intervening period, an unsuccessful application made by Mr Sheremet for security for costs for the Set Aside Application was dismissed on **10 September 2025**. The parties' submissions on the Set Aside Application were filed on **17 September 2025**.

The Set Aside Application: the legal framework

3. Applications to set aside default judgments are governed by rule 41 of the ADGM CPR. Rule 41 states:

> "41. Setting aside or varying default judgment
>
> (1) The Court must set aside a judgment entered under Rule 39, Rule 312 or Rule 318 if that judgment was wrongly entered because –
>
> (a) in the case of a judgment in default of an acknowledgment of service or in default of a defence, any of the conditions in Rule 40 was not satisfied; or
>
> (b) the whole of the claim was satisfied before judgment was entered.
>
> (2) In any other case, the Court may set aside or vary a judgment entered under Rule 39, Rule 312 or Rule 318:
>
> (a) if the defendant has a real prospect of successfully defending the claim; or

[3] My reasons for granting the Extension of Time Application on terms are set out at paragraph 8 below.
[4] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011.
[5] Ibid, at paragraph 36.
[6] See paragraph 1 above.

(b) if it appears to the Court that there is some other good reason why the judgment should be set aside or varied or the defendant should be allowed to defend the claim; and

(c) the application to set aside or vary the judgment was made promptly.

(3) An application under this Rule must be supported by evidence."

4. CQT does not invoke rule 41(1) of the ADGM CPR to support the Set Aside Application. Instead, it relies on rule 41(2)(a) and (b). Rule 41(2)(a) and (b) are alternative bases on which a setting aside order may be made. However, if CQT were able to demonstrate that one of them has been met, it must still satisfy the Court, under rule 41(2)(c), that the Set Aside Application has been made "promptly". CQT's Set Aside Application is supported by evidence, as required by rule 41(3).[7] In Union Properties PJSC v Almheiri,[8] the Court of Appeal emphasised the obligation of a party seeking to set aside a default judgment to establish the criteria on which they rely.[9] In addition, I note that rule 41(2) is expressed in permissive terms. Even if relevant criteria were established there remains a residual discretion to refuse an order, although the circumstances in which that discretion would be exercised must be rare.

5. In Laktineh & Co Ltd v Al Hatti,[10] Justice Lord McGhie addressed the circumstances in which a judgment might be set aside on the grounds that it had not been made "promptly". In that case, the Judge declined to set aside a default judgment even though he was satisfied that the relevant defendant had a real prospect of successfully defending the claim for the purposes of rule 41(2)(a). Justice Lord McGhie refused to make an order because the application to set aside had not been made sufficiently promptly, for the purposes of rule 41(2)(c) of the ADGM CPR.[11]

The Extension of Time and Variation Applications

6. I start by considering the circumstances in which the Extension of Time and Variation Applications were made and determined. The reasons contained in my May 2025 Order and the June 2025 Judgment provide the background against which the Set Aside Application falls to be resolved.

7. In refusing the Extension of Time Application, I was influenced, in particular, by the way in which CQT's defence appeared to have evolved between the Injunction Application hearing on 27 March 2025 and the position articulated in Mr McCoy's witness statement of 30 April 2025 on the Extension of Time Application.

8. In giving reasons for my decision, I acknowledged the shortness of the period between the date on which the Defence was due and when the Extension of Time Application was made.

[7] Rule 41 is set out at paragraph 1 above.
[8] Union.Properties.PJSC.v.Almheiri.[2025] ADGMCA 0001.
[9] Ibid, at paragraph 26.
[10] Laktineh.™.Co.Ltd.v.Al.Hatti.[2020] ADGMCFI 0001.
[11] Ibid, at paragraph 40.

I also recognised that the fault for that short delay rested with CQT's legal representative in relation to the diarising error. I said in my May 2025 Order:

"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 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)

9. An additional factor assumed prominence when I considered the Variation Application. That concerned CQT's admission that it was insolvent. That admission led me to doubt whether, even if successful, Mr Sheremet would be able to enforce any judgment that he might obtain against CQT. Accepting that CQT had established a triable issue,[12] in my June 2025 Judgment I summarised my reasons for concluding that an unconditional variation order was inappropriate as follows:[13]

> "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". 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.
>
> ...
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> 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

[12] See paragraphs 15 and 16 below.

[13] .Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraphs 24–26 and 32–35. Those observations were made in the context of the overriding objectives of the ADGM CPR and the Court's general powers of management, set out in rules 2(2) and (3) and 8. Those rules are set out at paragraphs 30 and 31 of the judgment.

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."

CQT's case on the Set Aside Application

10. CQT has filed three witness statements in support of the Set Aside Application. Mr McCoy has filed two, dated 25 July 2025 and 11 September 2025. The third was filed by Mr Alubeid, and is dated 25 July 2025.

11. Acknowledging the selective nature of any summary of this type, I endeavour to explain the essence of CQT's argument in support of the Set Aside Application. I proceed on the basis that its case rests on the following propositions:

    a. It has a real prospect of successfully defending the Claim.[14]

    b. There are other "good reasons" why the Default Judgment should be set aside:[15]

        i. The provision of advance notice of an extension application by Mr McCoy to Ms Dray, prior to the filing of the Default Judgment Application some 45 minutes after the Extension of Time Application had been made. Mr McCoy suggests that the only reason why the Default Judgment Application was in an advanced state of preparation when the Extension of Time Application was filed was because he had alerted Ms Dray to the missed deadline the previous afternoon.

        ii. On the evidence, the total invested amount had been repaid, so anything that Mr Sheremet may receive would be a "windfall". At least in part, this submission seems to invoke the notion that Mr Sheremet and Mr Zarjevsky had been involved in some form of conspiracy to defeat CQT's interest.[16]

[14] ADGM Court Procedure Rules 2016, rule 41(2)(a).
[15] Ibid, rule 41(2)(b).
[16] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraph 22, where the "hallmarks.of.a.conspiracy" point was discussed.

iii. Even if the "conspiracy" theory were not accepted, it would be necessary to join Mr Zarjevsky as a defendant as Mr Sheremet "knows Mr Zarjevsky has the USD 432,000". It is suggested that Mr Sheremet applied opportunistically for a default judgment against an impecunious defendant in circumstances where "there is an obvious co-defendant who is, to the best of [Mr McCoy's] knowledge, solvent".

iv. A question of procedural economy arises from the fact that CQT will, "when it can afford to do so" sue Mr Zarjevsky, potentially with Mr Sheremet as a co-defendant. It is suggested that it is better to allow the existing proceeding to continue with CQT having filed a Defence rather than requiring a fresh proceeding to be issued with associated costs.

v. An order for costs, as a term of any grant of an extension of time would have been sufficient.

12. When granting the conditional extension of time order, I acknowledged that, while harbouring "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 [were] not sufficient to deny an extension of time". I added that there were "factual disputes which require judicial resolution" and characterised them as constituting "triable" issues.[17]

13. I accept that more detail about CQT's intended defence has been included in the evidence supporting the Set Aside Application than was before me when I decided the Extension of Time and Variation Applications. In particular, Mr Alubeid has sought to explain away the concerns that I had expressed about an "evolving" defence. To some extent, however, this elaboration of the evidence represents a double edge sword for CQT. Why was the more detailed information not put before me earlier? The additional material does not assuage my concerns about the reliability of CQT's evidence supporting its purported defence.

14. In seeking an order setting aside the Default Judgment, Mr McCoy referred me to two decisions of the Court of Appeal of England and Wales dealing with cases in which parties sought relief from sanctions: Denton v T H White Ltd[18] and FXF v English Karate Federation Ltd.[19] I address those authorities when considering CQT's submissions.

Analysis

(a) Is there a "real prospect" that CQT can successfully defend the claim?

15. In my view, a distinction should be drawn between a "triable" issue of the type to which I referred in my June 2025 Judgment[20] and a "real prospect of successfully defending" a claim, being one of the threshold tests set out in rule 41(2)(a) of the ADGM CPR.[21] None of the additional "facts" asserted by either Mr Alubeid or Mr McCoy persuade me that I can

[17] Ibid, at paragraphs 23 and 24.
[18] Denton.v.T.H.White.Ltd [2014] EWCA Civ 906.
[19] FXF.v.English.Karate.Federation.Ltd.[2023] EWCA Civ 891.
[20] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraph 22.
[21] Rule 41(2)(a) is set out at paragraph 3 above.

legitimately elevate the nature of the evidence from one raising a triable issue to meeting the standard of a real prospect of successfully defending the claim. My continuing doubts about the reliability of the evidence has led me to that conclusion.

16. The circumstances in which Mr Sheremet makes his claim are somewhat murky and, as I said in my judgment on the Variation Application, "not easy to unfold".[22] At this juncture, where no evidence has been tested by cross-examination, it is impossible to say what facts may emerge at trial. The highest that CQT's case could be put is that it is "arguable", in the sense of raising a triable issue. For that reason, I find that the rule 41(2)(a) criterion has not been established.

(b) Is there "some other good reason" why the default judgment should be set aside?

17. The concept of "some other good reason" why a default judgment should be set aside is not capable of precise definition. I interpret rule 41(2)(b) as directing attention to the circumstances in which the default judgment was entered, so that the Court can assess whether there is any substantial concern about the integrity of the judgment. All relevant factors must be taken into account, including those to which CQT has referred in its evidence.[23] I return to those specific factors later. In my view, they should be reviewed in light of Mr Alubeid's additional evidence about why CQT did not comply with the order requiring payment into Court in the sum of USD 216,000. That evidence must be evaluated in the context of the observations that I made in my June 2025 Judgment to the effect that such funds could be provided by a relevant stakeholder, in the form of either debt or equity.[24]

18. In his witness statement of 25 July 2025, Mr Alubeid explained why USD 216,000 was not paid into Court. It is plain from his evidence that a deliberate decision was made not to do so. Mr Alubeid stated:

> "5. I did consider whether I or someone else associated with the Defendant could provide funding by way of a loan or similar, however:
>
> a) The only people still associated with the Defendant are me (General Manager and 66.7% shareholder) and Mr. Zarjevsky (33.3% shareholder). I personally do not have the means to provide funding to the Defendant, and I do not want to ask Mr. Zarjevsky because Mr. Zarjevsky took USD 432,000 from the Defendant's bank account without authority in July 2024 and thereby set in motion the chain of events that led to these proceedings.
>
> b) Even if I did have the means to provide funding, I would be concerned about doing so whilst Tal Zarjevsky remains a shareholder. I hold him responsible for the situation the Defendant is in, and I do not trust him. I would be worried that Mr. Zarjevsky would do something or somehow cause the Defendant to do something to block the repayment of any loan

[22] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraph 3.
[23] In particular, see paragraph 11.b above.
[24] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraph 35, set out at paragraph 9 above.

to me later. I would be concerned about being left USD 216,000 out of pocket somehow even if the Defendant prevailed in these proceedings. Mr. Zarjevsky took money before and it is possible he could do it again.

c) Moreover, as a point of principle, the Defendant has paid USD 1.5 million to the Claimant and Mr. Zarvejsky, which is the amount they invested between them, and there is nothing further to pay and no funds left in its account from which to make any further payment. If I somehow found the money and loaned it to the Defendant, and it later ended up in the Claimant's pocket at my personal expense, I would feel very aggrieved.

6. I would like the Court to know that I thought long and hard about whether I should somehow find the money to protect the Defendant's interests and proceed with filing its Defence (including by taking out a loan in my name), however I had to weigh my personal interests against the Defendant's and I decided on balance that I was not willing to be personally liable. I wish to emphasise that it was a difficult decision, and I gave the suggestion serious consideration."

19. In short, Mr Alubeid made a deliberate decision not to borrow money to fund the payment into Court in order to protect his personal interests. If the Set Aside Application were dismissed, the natural consequence is that Mr Sheremet will be left with a judgment to enforce against an assetless company. On the face of it, it would be necessary for Mr Sheremet to apply to have CQT wound up if he were left in that position.

20. While I understand Mr Alubeid's natural inclination to protect his personal position, he has made a deliberate election not to provide funds to enable CQT to defend this proceeding because of the risk that he will be left "USD 216,000 out of pocket somehow even if [CQT] prevailed" in this proceeding.[25] I am not in a position to determine whether Mr Alubeid's fears of future conduct on the part of Mr Zarjevsky are justified or not. However, in my view, his deliberate decision not to take advantage of the conditional extension of time to file a Defence militates against the grant of any order setting aside the Default Judgment.

21. The question becomes whether CQT has identified any other factors that would justify an order setting aside the Default Judgment; in other words, can CQT point to other factors that, individually or cumulatively, constitute a "good reason" to set aside the judgment? Dealing with the factors to which CQT has referred:[26]

a. The complaint about the way in which the Default Judgment Application was made[27] is, in my view, spent. While I accept the basis for Mr McCoy's complaint, in making the Default Judgment Application, Ms Dray was doing no more than advancing her client's interests in accordance with her professional responsibilities to him. Nevertheless, I took the point into account on the Extension of Time Application but

[25] See paragraph 5(b) of Mr Alubeid's witness statement, set out at paragraph 18 above.
[26] See paragraph 11.b above.
[27] See paragraph. 11.b(i) above.

gave it no weight.[28] The point was revived on the Variation Application.[29] Again, I gave it no weight. It is not sufficient to constitute (whether individually or together with other relevant factors) a "good reason" for setting aside the Default Judgment.[30]

b. The points made about the possibility of Mr Sheremet receiving a "windfall" or Mr Zarjevsky causing Mr Alubeid to lose money are no more than contestable facts on which I can place no reliance for present purposes.[31] While they are relevant to the question whether there is a real prospect that CQT could successfully defend the claim, they could only support "a good reasons" argument if I were satisfied that (individually or cumulatively with other factors) they cast doubt on the integrity of the Default Judgment.[32] I do not consider that they do.

c. The notion that there would be some form of "procedural economy"[33] in allowing an insolvent entity to defend the present claim because that same insolvent entity may later issue proceedings against Mr Zarjevsky and join Mr Sheremet is, in my view, fanciful. So too is the suggestion that Mr Sheremet's interests would be promoted by suing Mr Zarjevsky rather than CQT.[34] It is for Mr Sheremet to choose his own litigation path, with a view to protecting his own interests.

d. The possibility that I might have made an order, on the Variation Application, requiring payment of costs by CQT to Mr Sheremet as a condition of filing a late Defence does not rise to the level of a "good reason" to set aside the Default Judgment. First, given that it is accepted that CQT is insolvent, there is no reason to believe it would have been paid in any event. Second, it would not have met the insolvency concern that led me to refuse the Variation Application.[35]

22. I am not satisfied that there is a "good reason" to set aside the Default Judgment, for the purposes of the rule 41(2)(b) criterion.

(c) Was the application to set aside "made promptly"?

23. In my view, the Set Aside Application was made sufficiently promptly for the rule 41(2)(c) criterion to be met. The concerns identified by Justice Lord McGhie in Laktineh & Co Ltd do not arise in this case.[36]

(d) The Denton and FXF decisions[37]

24. CQT submits that it should not be "sanctioned" by allowing the Default Judgment to stand. It relies on two authorities in which provisions of the Civil Procedure Rules in force in

[28] Sheremet.v.CQT.Investment.Group.Ltd.[2025] ADGMCFI 0011, at paragraph 13, in which paragraph 2 of my Extension of Time Order is set out.
[29] Ibid, at paragraph 14.a.
[30] See paragraph. 11.b(i) above.
[31] See paragraph11.b(ii) and (iii) above.
[32] See paragraph 13 above.
[33] See paragraph.11.b(iv) above.
[34] Ibid.
[35] See paragraph 9 above.
[36] See paragraph 5 above.
[37] See paragraph 14 above.

England and Wales (the "**English CPR**") were considered. In particular, reference was made to rule 3.9 of the English CPR.

25. In Denton,[38] the Court of Appeal reviewed earlier authorities, and held that an application for relief from sanctions should be considered in three stages:[39]

    a. First, "to identify and assess the seriousness and significance" of the failure to comply with the relevant Court rule, practice direction or order. If the "breach is neither serious nor significant, the Court is unlikely to need to spend much time on the second and third stages".

    b. Second, to consider why the default occurred.

    c. Third, to evaluate all relevant circumstances to determine how the Court should deal justly with the sanction application.

26. In FXF,[40] the Court of Appeal reviewed its decision in Denton to ascertain whether the three stage test should be applied when considering whether to set aside a default judgment. Delivering the principal judgment of the Court, Sir Geoffrey Vos MR, with whom Nicola Davies and Birss LJJ agreed, explained why, under the English CPR, the ability for the Court to enter a default judgment in consequence of a failure to file a defence was subject to application of the potential applicability of the three stage test.[41] The Court of Appeal held that "the Denton tests apply in their full rigour to applications to set aside default judgments".[42]

27. In my view, the English decisions can be distinguished. There is no equivalent to rule 3.9 of the English CPR in the ADGM CPR. Further, there is no universal legal test to determine whether a default judgment should be set aside. One (reflected in the English CPR) is for judgment to be signed administratively without judicial intervention. The other (reflected in rules 39-40A and 41 of the ADGM CPR) is to have judicial involvement in both entering a default judgment and in deciding whether it should be set aside.

28. In my view, rule 41(2) of the ADGM CPR does not import the three stage test articulated in Denton. The English CPR contemplate an ability on the part of a claimant to seek a default judgment administratively in the event that a defence is not filed in time.[43] While the ADGM CPR 41(2)(a) and (b) criteria are the same as those in English CPR 13.3, the absence of an equivalent to English CPR 3.9 means that there is no scope to import the Denton sanction test into the ADGM framework.

29. Even if I had concluded that the Denton criteria applied, they would not likely have assisted CQT. That is because the reason why the Default Judgment was entered was not because of the short delay occasioned by CQT's legal representative incorrectly diarising the date

[38] Denton.v.T.H.White.Ltd.[2014] EWCA Civ 906.
[39] Ibid, at paragraph 24.
[40] FXF.v.English.Karate.Federation.Ltd [2023] EWCA Civ 891.
[41] Ibid, at paragraphs 13–18 and 63–68.
[42] Ibid, at paragraph 72.
[43] See parts 15.2, 15.3 and 15.4 of the English Civil Procedure Rules, set out in FXF.v.English.Karate.Federation.Ltd [2023] EWCA Civ 891 at paragraphs 16-18.

by which the Defence was to be filed. Its cause was the failure of CQT to comply with the conditional order granting an extension of time for it to file a Defence.

Conclusion

30. I have held that neither the rule 41(2)(a) nor the rule 41(2)(b) criteria have been established. For those reasons, the Set Aside Application is dismissed.

31. Mr Sheremet is entitled to costs on the Set Aside 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
15 October 2025