

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Claim no: 2009 Folio 1099

Before Mr Justice Teare
23 November 2012

B E T W E E N:

JSC BTA BANK

Claimant

- and -

- (1) MUKHTAR ABLYAZOV**
- (2) ROMAN SOLODCHENKO**
- (3) ZHAKSYLYK ZHARIMBETOV**
- (4) DREY ASSOCIATES LIMITED**
- (5) ANTHONY EDWARD THOMAS STROUD**
- (6) JOHN DOMINIC WILSON**
- (7) SARAH JULIET WILSON**
- (8) INTERFUNDING FACILITIES LIMITED**
- (9) ALEXANDER UDOVENKO**
- (10) OOO MARION PLUS**
- (11) OOO TETROCONSULT**
- (12) OOO KHUDRED-SERVICE 5**
- (13) OOO TRAIKER**
- (14) OOO STEK-1000**
- (15) OOO PROYEKTNO-STROITELNAYA KOMPANIYA
AMK-INVEST**
- (16) TURANALEM CAPITAL LLC**
- (17) ZRL BETEILIGUNGS AG**

Defendants



ORDER

UPON reading the order made by Mr Justice Teare dated 29 February 2012 ("the debarring order"), the order made by Lords Justice Maurice Kay, Rix and Toulson dated 7 November 2012 and the order made by Mr Justice Teare dated 9 November 2012

AND UPON the First Defendant's ("Mr Ablyazov's") Defence herein having been struck out, Mr Ablyazov being debarred from further defending this action and the Claimant ("Bank") being at liberty to enter judgment against him under paragraph 3 of the debarring order

AND UPON the Court reading a letter dated 14 November 2012 from the solicitors for the Fourth, Eighth, and Fifteenth to Seventeenth Defendants, a letter of the same date from the Second Defendant in person in each case stating that the said Defendants will no longer participate in the trial and a letter to the Court from Mr Ablyazov's solicitors dated 6 November 2012

AND UPON the application of the Bank by application notice dated 19 November 2012

AND UPON hearing Counsel for the Bank, Counsel for Mr Ablyazov and the Fourth, Eighth and Fifteenth to Seventeenth Defendants, the Fifth to Seventh Defendants appearing in person

AND UPON Mr Justice Teare making a further freezing order dated 23 November 2012 over Mr Abyazov's assets and extending his freezing order dated 12 November 2009 (as amended) against the Second, Fourth to Eighth and Fifteenth to Seventeenth Defendants until further order

IT IS ORDERED THAT:

1. The Defence of each of the Second, Fourth, Eighth and Fifteenth to Seventeenth Defendants be and is hereby struck out under CPR 39.3

Judgment against Mr Abyazov

2. Judgment is entered against Mr Abyazov as follows:

Mr Abyazov do by 4pm on 7 December 2012 pay to the Bank

- (i) the sum of US\$401,508,769 (or its Sterling equivalent on the date of payment) in respect of the loss and damage claimed in its Amended Particulars of Claim.
- (ii) the additional sum of US\$3,224,794 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued in the period from the date of the Claim herein up to the amendment of its Particulars of Claim on 6 May 2010.
- (iii) the further additional sum of US\$15,609,340 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued between 6 May 2010 and 7 December 2012.
- (iv) the further additional sum of US\$92,105 (or its Sterling equivalent on the date of payment) per day in respect of continuing interest accruing at the judgment rate of 8% per annum from 7 December 2012 until payment.

Judgment against the Second, Fourth and Eighth Defendants under CPR 39.3

3. Judgment is entered against the Second, Fourth and Eighth Defendants as follows:

The Second, Fourth and Eighth Defendants do by 4pm on 7 December 2012 pay to the Bank

- (i) the sum of US\$401,508,769 (or its Sterling equivalent on the date of payment) in respect of the loss and damage claimed in its Amended Particulars of Claim.
- (ii) the additional sum of US\$3,224,794 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued in the period from the date of the Claim herein up to the amendment of its Particulars of Claim on 6 May 2010.
- (iii) the further additional sum of US\$15,609,340 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued between 6 May 2010 and 7 December 2012.
- (iv) the further additional sum of US\$92,105 (or its Sterling equivalent on the date of payment) per day in respect of continuing interest accruing at the judgment rate of 8% per annum from 7 December 2012 until payment.

Judgment against the Fifteenth to Seventeenth Defendants under CPR 39.3

4. Judgment is entered against the Fifteenth to Seventeenth Defendants as follows:

5. The Fifteenth Defendant do by 4pm on 7 December 2012 pay to the Bank
 - (i) the sum of US\$44,835,282 (or its Sterling equivalent on the date of payment)
 - (ii) the additional sum of US\$1,728,307 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued between 6 May 2010 and 7 December 2012.
 - (iii) the further additional sum of US\$10,205 (or its Sterling equivalent on the date of payment) per day in respect of continuing interest accruing at the judgment rate of 8% per annum from 7 December 2012 until payment.

6. The Sixteenth Defendant do by 4pm on 7 December 2012 pay to the Bank
 - (i) the sum of US\$251,359,292 (or its Sterling equivalent on the date of payment)
 - (ii) the additional sum of US\$1,587,538 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued in the period from the date of the Claim herein up to the amendment of its Particulars of Claim on 6 May 2010.
 - (iii) the further additional sum of US\$9,689,384 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued between 6 May 2010 and 7 December 2012.
 - (iv) the further additional sum of US\$55,092 (or its Sterling equivalent on the date of payment) per day in respect of continuing interest accruing at the judgment rate of 8% per annum from 7 December 2012 until payment.

7. The Seventeenth Defendant do by 4pm on 7 December 2012 pay to the Bank
 - (i) the sum of US\$29,505,549 (or its Sterling equivalent on the date of payment)
 - (ii) the additional sum of US\$124,070 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued in the period from the date of the Claim herein up to the amendment of its Particulars of Claim on 6 May 2010.
 - (iii) The further additional sum of US\$1,137,378 (or its Sterling equivalent on the date of payment) in respect of interest which has accrued between 6 May 2010 and 7 December 2012.
 - (iv) the further additional sum of US\$6,743 (or its Sterling equivalent on the date of payment) per day in respect of continuing interest accruing at the judgment rate of 8% per annum from 7 December 2012 until payment.

Application for judgment against the Fifth, Sixth and Seventh Defendants

8. The Bank's application dated 19 November 2012 against the Fifth, Sixth and Seventh Defendants be adjourned to a date to be fixed.

Declarations of invalidity

9. As between the Bank and the Fourth Defendant it is declared that each of the three Compensation Agreements which are identified in the Amended Particulars of Claim herein (and which are the subject matter of these proceedings) be and are hereby declared to be invalid.

10. It is declared that as between the Bank and the Eighth, Fifteenth, Sixteenth and Seventeenth Defendants each of the Sale and Purchase Agreements between them (in respect of the BTA Moscow and/or BTA Belarus transactions) which are identified in the Amended Particulars of Claim herein (and which are the subject matter of these proceedings) be and are hereby invalidated.
11. Mr Abyazov do pay the Bank's costs of the claim as against him (including the costs of the Application). Similarly, each of the Second, Fourth, Eighth, Fifteenth, Sixteenth and Seventeenth Defendants do pay the Bank's costs of the claim as against them (including the costs of the Application). In the case of each above named Defendant such costs are to be subject to detailed assessment on the standard basis if not agreed.