Neutral Citation Number: [2025] EWHC 104 (Ch)

Case No: BR-2024-000976

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 23-01-2025

Before:

CHIEF INSOLVENCY AND COMPANIES COURT JUDGE BRIGGS
(siting as a Deputy High Court Judge in Chancery)

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Between :

EVGENY VESNIN **Applicant**

- and -

(1) QUEELD VENTURES LIMITED
(2) MISPARE LIMITED **Respondent**

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- -

STEPHEN DAVIES KC AND LIONEL NICHOLS (instructed by **Belgravia Law**) for the **Applicant**
WILLIAM EDWARDS (instructed by **DWF Law LLP**) for the **Respondents**

Hearing dates: 14-17 January 2025

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Approved Judgment

This judgment was handed down remotely at 10.30am on 23 January 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Chief ICC Judge Briggs:

Introduction

1. Dmitry Nikolaevich Ananyev was declared bankrupt on 1 February 2021 in the Moscow Arbitazh (Commercial) Court. Mr Vesnin was appointed as his financial manager and trustee in bankruptcy on 24 June 2022.

2. By an Origination Application (the "Application") made under rule 1.35 of the Insolvency Rules (England and Wales) 2016 Mr Vesnin applied for an order that:

> "The bankruptcy order made against Dmitry Nikolaevich Ananyev by the Bankruptcy Court on or around 1 February 2021 and the appointment of the Applicant by order dated 18 July 2022 as bankruptcy trustee shall be recognised at common law"

3. I made an order for recognition on 15 January 2025 and provided assistance to Mr Vesnin as the appointed trustee of Mr Ananyev. I reserved the reasons. These are my reasons.

The Eurasia Proceedings

4. Queeld Ventures Limited ("Q"), a Cypriot registered company, and Mispare Limited ("M") a company incorporated in Tortola, the British Virgin Islands (together the "Companies"/ Q and M"), were made respondents to the Application. Q and M are claimants in related proceedings (BL-2021-002213) where they are claimants and Eurasia Mining Plc, the Defendant (the "Eurasia Proceedings"). Mr Vesnin and PSJSC National Bank Trust ("NBT") were joined as additional Defendant by order of Adam Johnson J dated 13 March 2024 for a limited purpose. Due to the close connection between the Application and the Claim made in the Eurasia Proceedings it is necessary to provide some detail.

5. Q and M hold 10.77% and 1.03% (respectively) of the shares issued in Eurasia. Eurasia is a public limited company listed on the Alternative Investment Market in London. The register of Eurasia is held by Link Asset Services.

6. The Companies issued a claim form on 7 December 2021 claiming that they are shareholders in Eurasia and had been since 2012 and 2014 respectively.

7. The claim made is to compel Eurasia to produce and deliver up replacement share certificates.

8. The basis of the claim is that in the course of moving office locations the share certificates were lost, destroyed, defaced or worn out. By Article 9.6 of the Articles of Association Q and M are entitled to replacements subject to any terms imposed by Eurasia.

9. Q and M assert that they informed Link Asset Services ("Link") by letter dated 30 July 2018 that they had lost the share certificates, requested the issue and delivery of replacement certificates and offered an indemnity and a counter-indemnity. The response from Link was to provide a draft copy of the indemnity which would be

acceptable and was required to insure against a claim against any missing certificates, if one were to arise. On 27 September 2019 Q and M offered a counter indemnity for a period of thirty days. Eurasia invited Q and M to disclose the identity of the ultimate beneficial owners of the shares and there was no response or a delayed response. It appears that Eurasia wanted an indefinite indemnity as it could not predict if or when a person might come forward to claim the missing share certificates. Thirty days was insufficient to cover the risk. Q and M accepted that they could not find an insurance company that would countersign the letters of indemnity for an indefinite period.

10. Just prior to trial listed on 13 November 2023, the parties to the Eurasia Proceedings agreed a Tomlin Order. As Eurasia had concerns that the ultimate beneficial owners of the shares had not been disclosed, and knowing of the bankruptcy of Mr Ananyev, a mechanism to flush out any parties who may have a claim on the shares was agreed within a schedule to the Tomlin Order. An announcement was to be published in the following form:

> "Queeld Ventures Limited and Mispare Limited (respectively "Queeld" and "Mispare") are registered shareholders in Eurasia Mining PLC ("Eurasia"). In or about July 2018, Queeld and Mispare applied to Eurasia for the issue of replacement share certificates in respect of their respective shareholdings.
>
> This matter has, since December 2021, been the subject of proceedings in the High Court of England and Wales (Claim No. BL–2021–002213). The proceedings have now been stayed by consent between the parties.
>
> By consent between the parties, an Order has been made in the proceedings. In accordance with the Schedule to that Order, replacement share certificates will be issued to be held by solicitors acting for Queeld and Mispare, to be held by those solicitors until 5 March 2024, at which point the share certificates will be released to Queeld and Mispare.
>
> If you wish to assert that you have any claim to, or interest in, those shares, by reason of which such replacement certificates should not be released to Queeld and Mispare, you should inform the solicitors acting for Queeld and Mispare, and the solicitors acting for Eurasia, in writing, not later than 4 March 2024, indicating the nature of that claim or interest. For the avoidance of doubt, such notification will not be treated as service of proceedings for the purposes of the Civil Procedure Rules, and the contact details provided below do not constitute an agreement by Queeld, Mispare or Eurasia to accept service of proceedings by fax or by email for the purposes of the Civil Procedure Rules."

11. The solicitors then acting for Q and M provided an undertaking not to deliver up the replacement certifications except in accordance with the schedule to the Tomlin Order, or as agreed in writing between the parties or "pursuant to such further order as the

Court may make." The schedule provided that if a third party did notify either Q and M or Eurasia then the parties "shall be at liberty" to apply to court for directions generally or specifically as to the disposal of the replacement certificates, and the undertaking provided by the solicitors not to deliver up (Joesph Hage and Aaronson LLP) was to remain in force until further order.

12. Mr Vesnin and NBT responded to the announcement. Q and M made many allegations against Eurasia, that it had engineered the engagement of Mr Vesnin, it had acted in bad faith or in a manner that constituted "a flagrant attempt to frustrate the Tomlin Order". The matter came before Adam Johnson J in the Interim List on 13 March 2024. Eurasia took a neutral stance with Mr Zimmerman, a solicitor at Simmons and Simmons LLP acting for Eurasia, explaining that Eurasia was "caught in the middle" and the position was similar to that of a stakeholder under CPR 86, analogous to an interpleader proceeding. Following guidance provided in *Denaxe Ltd v Cooper* [2023] EWCA Civ 752 [135], it was submitted that Mr Vesnin (and NBT) should have an opportunity to participate and assert any rights in the share certificates.

13. There is no official transcript of the hearing of 13 March 2024. Simmons & Simmons produced a note and its accuracy has not been challenged. Adam Johnson J observed:

> "focusing on the positions of Mispare (a BVI company) and Queeld (a Cypriot company), it is said that the UBO is in fact a Russian individual Dmitry Ananiev and/or his wife Luidmila Ananieva. This explains the interventions in this action by 2 parties: Mr Vesnin and the aforementioned NBT. As to Mr Vesnin's position, his interest is said to arise because D. Ananiev has been made bankrupt in Russia and Mr Vesnin is his Russian trustee in bankruptcy or equivalent. In his letter, he has sought to claim an interest specifically in Queeld; the Cypriot company which Mr Vesnin said forms part of D. Ananiev's bankruptcy estate which includes property held beneficially by him and also his wife L. Ananieva, thus Mr Vesnin claims indirectly an interest in shares in Eurasia Mining PLC"

14. Q and M argued that insufficient interests or claims had been expressed by Mr Vesnin in the Eurasia shares when responding to the announcement. This submission required Adam Johnson J to interpret the Schedule to the Tomlin order and determine if a specific claim to the shares was needed when answering the announcement:

> "It seems that the overall machinery was designed to invite expressions of interest in a more general sense from third parties who might wish to engage. The gist of the machinery was to say to third parties as follows: if you want to argue that these certificates ought not to be released to the Claimants, so that those presently standing behind the Claimants can deal with them freely, you should say so, and if you say so further directions should be given as appropriate to resolve the expression of interest in the certificates…The upshot is that the Court will now need to give further directions regarding the

> disposal of the proceedings and determine any remaining queries concerning the release of the share certificates."

15. The Judge invited the parties to agree an order for directions, and refused permission to appeal on the issue that Mr Vesnin had failed to set out his interest in the shares when responding to the announcement. An order was agreed. It is slightly surprising that the directions given were limited to an identified issue: "whether the Undertaking [given by the solicitors under the Schedule to the Tomlin Order] should be released". It maybe that the parties assumed that the issue of ownership would precede the defined issue or be determined at the same time. Whatever the position the matter was set down for a hearing in early November 2024.

16. The hearing came before James Morgan KC sitting as a Judge of the High Court. He heard argument about the interpretation of the Tomlin order and found that the undertaking should be released within two months, without first determining the ownership of the shares. The Judge accepted submissions from Q and M that (i) the bankruptcy of Mr Ananyev had not been recognised and as such he could play no role in the determination of ownership; (ii) any recognition application would be heavily fought and (iii) it would prejudice Q and M to wait for the outcome of a recognition application, which could take a very long time.

17. I refrain from going into any further detail as the Court of Appeal determined, on 14 January 2025, that an application made by Mr Vesnin to appeal has a real prospect, and gave Mr Vesnin permission to appeal. Without trespassing further, therefore, I think it safe to say that the Deputy Judge delayed the release of the undertaking to allow time for Mr Vesnin to make an application for an interim injunction, ostensibly to prevent the shares from being sold and the realisation dissipated. I note that at the hearing there was also a discussion about seeking a recognition order before the undertaking was to be released.

The Application

18. On 15 November 2024 Mr Vesnin applied in the ICC Interim List to serve the Application out of the jurisdiction as the newly instructed solicitors, DWF Law LLP, refused to accept service within the jurisdiction.

19. At the time of the hearing there was no available transcript of the Deputy Judge's November judgment.

20. The court found that there was an evidential basis for service out and made an order. As the Application was before the court Mr Vesnin explained that the shares would be dissipated on or soon after 24 January 2025 and that he needed an opportunity to be heard on the application for recognition and assistance prior to that date, to safeguard a potential asset of the bankruptcy. The court understood that although an injunction provided a path for safeguarding, as Q and M were out of the jurisdiction it may be better to expedite the hearing of the Application and provide directions. It had occurred to the court that although Q and M had represented to the Deputy Judge that a hearing for recognition application would involve disclosure, expert evidence, witness evidence, cross examination and more, it was unlikely that Q and M would be able to resist the Application. The court gave directions for witness statements, skeleton

arguments, a joint bundle of authorities and expedited the hearing of the Application to 14 January 2025 (ten days before the release of the undertakings).

21. The response of Q and M was to seek to set aside the expedited hearing. An application was made in the Interim List on 18 December 2024. Meade J, not sure if the court had decided to hear the part of the Application that dealt with recognition only or to deal with recognition and assistance, thought the timetable was too tight. Meade J was persuaded that the January 2025 hearing should be re-purposed to hear a challenge to jurisdiction to be made by Q and M and an application for security for costs.

An issue of standing

22. Mr Vesnin says he named Q and M as respondents to the Application because the assistance sought in paragraph 2 of the draft order specifically referred to Q and M.

23. Mr Vesnin says he did not anticipate that Q and M would seek to oppose the first prayer in the Application seeking common law recognition. This may explain why neither Mr Vesnin's skeleton argument for the James Morgan KC hearing nor his skeleton argument for the ICC Interim List hearing on 15 November 2024 made reference to arguments that Q and M might seek to make to oppose recognition, and instead focussed on Mr Ananyev's submission to the jurisdiction of the Moscow Bankruptcy Court.

24. Mr Vesnin says that the first time he learnt of Q and M's formal opposition was when the Companies made their application to set aside the expedited directions and issued the jurisdiction challenge on 26 November 2024.

25. The jurisdiction challenge and the application to set aside the expedited hearing was served on Mr Vesnin on 9 December 2024. Since that date Mr Vesnin has asked Q and M to explain their standing to oppose common law recognition. The issue was raised in Mr Vesnin's skeleton argument for the hearing on 18 December 2024 before Meade J in the following way:

> "Ultimately, if the Respondents are to persist in their position that they are not nominees for Mr Ananyiev and his associates, they will need to persuade the court that they have a legitimate interest to resist the Applicant's recognition in this jurisdiction (as opposed to resisting any relief to be granted following recognition). They are strangers to the bankruptcy and have no stake in it."

26. The issue of standing was raised during the hearing on 18 December 2024:

> "They cannot have their cake and eat it. If they are strangers to the bankruptcy, the recognition is neither here nor there. All they are interested in, or should be interested in, is relief or assistance if recognition is granted."

27. Mr Beckwith (solicitor for Mr Vesnin) restated the issue in his witness statement dated 31 December 2024:

> "Indeed, the Respondents have failed to explain why they are even intent on opposing Recognition where their case is that they are strangers to Mr Ananyiev's bankruptcy."

28. In a later witness statement made by Mr Beckwith, dated 3 January 2025 he said:

> "Indeed, the Respondents have failed to explain why they are even intent on opposing Recognition where their case is that they are strangers to Mr Ananyiev's bankruptcy"

29. The issue was raised again in a letter of the same date sent to Q and M's solicitors:

> "Your clients are still yet to explain why they are opposing Recognition at all where it is their position that they are strangers to Mr Ananyev's bankruptcy"

30. In the skeleton argument dated 10 January 2025, provided in relation to the Eurasia Proceedings, Mr Vesnin asked why Q and M were seeking to take active steps to oppose recognition when, on their case, they were strangers to the bankruptcy.

31. The only substantive response provided by Q and M on this point was in the witness statement of Andrew Leach dated 7 January 2025. He said:

> "I note that at paragraph 64 Mr Beckwith states that Mispare and Queeld "have failed to explain why they are even intending on opposing Recognition where their case is that they are strangers to Mr Ananyiev's bankruptcy." This is nonsensical: the whole point of the recognition application is to provide a springboard to assert a proprietary claim to the Eurasia Shares which Mispare and Queeld maintain are beneficially as well as legally their property. They therefore have an obvious interest in opposing the recognition of the Russian bankruptcy."

32. The obvious interest the Companies had in opposing recognition was that Q and M preferred to have no opposition to the ownership dispute about the shares. This argument persisted on the first and second day of this hearing before me.

The determination of standing

33. On the first day of the hearing I asked Q and M for their position on standing. The argument they wished to make was that they had standing because they had an interest in the Eurasia replacement certificates. I asked for a further explanation but none was forthcoming. Q and M were keen to prosecute their jurisdiction application which asked the court to accept that no assistance should be given to Mr Vesnin for:

> "for the realisation of the said shares as assets in the bankruptcy estate."

34. Given the context of the Application, it was clear that Mr Vesnin would only be seeking directions to realise the shares if he succeeded in his claim that the Eurasia shares

formed part of the bankruptcy estate and even then, the court may have been willing to provide limited directions owing to Q and M having registered offices overseas.

35. On the morning of the second day, whilst Q and M addressed the court, I asked the same question. I postulated three possibilities: (1) that any person in the world may oppose an application for recognition of a foreign insolvency in the English courts; (2) only a bankrupt or creditor may oppose an application for recognition at common law or (3) only those interested in the bankruptcy itself have standing to oppose. I recognised that there may be other possibilities and invited responses. Without the burden of any authority, Q and M responded that the reason why they have standing to oppose the Application is because they have a claim in the shares in the Eurasia Proceedings. I asked Mr Vesnin and Eurasia who were present if they had any submissions. This was the first time that Mr Vesnin took me through the pre-hearing correspondence noting there had never been a substantive response.

36. I noted that standing was an issue for every court, no matter that a party had been joined. A joined party may apply to be released or simply make clear they have no standing to oppose from the outset.

37. There are some parallels to be drawn from other areas of company and insolvency law. First of note is that only a member or creditor has standing to rescind a winding up order. Those are parties that have an economic interest in the company.

38. Secondly, a member, a contributory and any other creditor who is dissatisfied with the office holder's decision on a proof of debt has standing.

39. Thirdly, on an annulment application made pursuant to section 282 of the Insolvency Act 1986 the applicant must satisfy the court that they have some kind of legitimate interest (direct or indirect) in applying for an annulment of another person's bankruptcy order.

40. Fourthly, in *Brake v Chedington Court Estate Ltd* [2023] UKSC 29; [2023] 1 WLR 3035, Lord Richards considered the judgments of the Court of Appeal in *In re Edennote Ltd* [1996] 2 BCLC 389 and *In re Edengate Homes* (Butley Hall) *Ltd* (in liquidation), *Lock v Stanley* [2022] EWCA Civ 626; [2022] 2 BCLC 1 and concluded at [13]:

> “The processes of bankruptcy and insolvent liquidation are primarily for the benefit of creditors. They necessarily have an interest in the proper administration by the trustee or liquidator of that process. Equally, though, their standing to challenge the trustee or liquidator is limited to matters which affect their interests as creditors under the statutory trust, and not in some other capacity.”

41. Lord Richards also considered the jurisprudence regarding the standing of persons other than creditors and concluded at [22]:

> “Cases involving persons other than creditors have likewise shown standing to be limited to rights or interests arising specifically out of the liquidation or bankruptcy.”

42. Q and M were unable to respond to these examples when I asked what interest they have specifically in the bankruptcy.

43. In *Re Bailey and another (as foreign representatives of Sturgeon Central Asia Balanced Fund Ltd)* [2019] EWHC 1215 (Ch) the Court granted recognition (in an ex parte proceeding) to Bermudan liquidation proceedings which were taking place on Bermudan law "just and equitable" grounds, notwithstanding that the company was demonstrably solvent. That judgment was reviewed by myself in *Re Bailey and another (Sturgeon Central Asia Balanced Fund Ltd)* [2020] EWHC 123 (Ch). I held that for proceedings to be recognised in England and Wales as "foreign proceedings" under the Cross-Border Insolvency Regulations 2006 (SI 2006/1030) (CBIR 2006), they must relate to the resolution of a debtor's insolvency or financial distress. The foreign proceedings must be pursuant to a law relating to insolvency, and where such law permits solvent companies to be wound up, a solvent winding up is not a "foreign proceeding" and consequently not suitable for recognition.

44. The prior issue that needed to be decided in *Sturgeon* was whether Mr Carter had standing to make an application. I referred to *Deloitte & Touche AG v Johnson* [1999] 1 WLR 1605 where the Privy Council recorded that the only persons with an interest in an insolvent liquidation are the creditors, and the contributories if the liquidation is solvent; *Re Edennote Ltd* [1996] 2 BCLC 389 which concerned an application to set aside a decision to assign a cause of action by a liquidator by "any persons aggrieved"; and *Mahomed v Morris (No 2)* [2001] BCC 233 where the court found that a surety did not have standing to make an application to set aside a decision of a liquidator to enter into a settlement agreement.

45. In my judgment it is not open to anyone to oppose the Application. A person must have an interest in the bankruptcy. Equally the bankrupt may have an interest but other persons such as creditors will have a legitimate interest in an application to recognise a foreign office holder. A party that has tangible economic interest in the bankruptcy and acting in the same capacity as that which gives rise to the tangible economic interest in making an application will be sufficient.

46. Consistent with the approach taken by the Supreme Court in *Brake v Chedington Court Estate Ltd* this court should permit only those who have a legitimate interest in the bankruptcy, to have standing for the purpose of opposing a common law recognition application. Such persons will include creditors but not a party who is a defendant in proceedings where a foreign representative seeks to be claimant (or the other way around). I accept that such a person will have a commercial interest in the outcome, but they have no legitimate interest in the bankruptcy.

47. Q and M accepted that they could not make out any legitimate interest other than they wished to frustrate Mr Vesnin's attempt to challenge ownership to the shares within the Eurasia Proceedings which appears contrary to their agreement with Eurasia. Accordingly, I find that Q and M have no standing to oppose recognition.

Recognition

48. Universalism in the context of insolvency proceedings is the concept that the proceeding should apply worldwide, so that there is only ever one primary insolvency proceeding in which all creditors are entitled to prove. Modified universalism qualifies

universalism by allowing local courts the discretion to evaluate the fairness of home country procedures and to protect the interests of local creditors.

49. In *Kireeva and another v Bedzhamov* [2021] EWHC 2281 (Ch), a Russian bankruptcy, Mr Justice Snowden found that where the debtor was domiciled in the relevant foreign jurisdiction or had submitted to its jurisdiction the English court would have jurisdiction to recognise a foreign representative at common law, subject to three bars: fraud, a breach of natural justice or public policy.

50. The court explained the Russian bankruptcy procedures:

> "19. It was not disputed that the procedure for personal bankruptcy in Russia takes the form of a two-stage process. So far as relevant to the instant case, the first stage of the process is initiated by a petition (application) to a commercial (Arbitrazh) court filed by a creditor against the debtor. The petition must be based upon a debt of at least five hundred thousand roubles.
>
> 20. The Arbitrazh court will consider the validity of the claim, and if it accepts the application it will issue a ruling accepting the application and making an order for the appointment of a financial administrator and the commencement of an individual debt restructuring procedure. This is a rehabilitative procedure intended to restore an individual to solvency and to satisfy debts to creditors in accordance with a debt restructuring plan approved by those creditors. According to the unchallenged evidence on behalf of the Trustee, this order for a debt restructuring procedure represents the commencement of the bankruptcy proceedings.
>
> 21. If the debt restructuring plan is not approved, or if it is apparent that there are insufficient assets to restructure the debts, the bankruptcy process moves to the second stage whereby the debtor is declared bankrupt, and a financial administrator is appointed by the Arbitrazh court to realise and liquidate the debtor's assets in order to satisfy the claims of creditors to the extent possible.
>
> 22. At any stage during the bankruptcy procedure, putative creditors are entitled to submit claims to the Arbitrazh court. If the claim is accepted as valid by the court, it will be included in the register of the bankrupt's creditor claims. It is unclear on the evidence before me whether there is any obligation upon the manager or trustee to verify or decide whether to contest the admission of a claim on behalf of the estate: I was told that the financial manager or trustee will not ordinarily have any role in the adjudication of creditor claims unless he or she elects to intervene. It appears that the debtor is able to contest the admission of a claim, but I do not know whether, or in what

> circumstances funds might be made available from the estate to enable him to do so.

51. Mr Justice Snowden said [113]:

> "It was common ground that there is a conceptual distinction between the principles that apply to the decision whether to recognise a foreign bankruptcy, and the principles that apply to the question of what, if any, further assistance ought to be given by the English court to a foreign trustee in bankruptcy following recognition."

52. The common ground is consistent with the commentary in chapter 9.1, Cross-Border Insolvency (fourth edition):

> "At the outset it must be stressed that there are two issues which should, so far as possible, be kept separate and distinct. It is one thing to decide whether a foreign insolvency may be recognised in England, but it is quite a different matter to determine the consequences of such recognition."

53. The Judge went on to consider the test citing Fletcher, The Law of Insolvency (second edition) [114]:

> "The basic rule of recognition first developed at English law was, characteristically, that a foreign bankruptcy occurring in the jurisdiction in which the debtor was domiciled (in the English sense of that term) would be recognised here as valid. To this narrow, even parochial, basis of recognition, a limited number of further grounds for recognition have been added in decided cases, namely that the jurisdiction of the foreign court of bankruptcy will be acknowledged where the debtor himself has submitted thereto, either by presenting his own petition, or by appearing and participating in the foreign proceedings."

54. In that case, Mr Bedzhamov no longer lived or was domiciled in Russia, meaning that the only relevant jurisdictional basis for recognition was if Mr Bedzhamov had submitted to the jurisdiction of the Russian bankruptcy court.

55. The authors of Cross-Border Insolvency explain [9.2]:

> "It was settled more than two centuries ago in Solomons v Ross that the English court might recognise and give effect to foreign insolvency proceedings. What is less clear, however, is the foundation upon which recognition may be afforded. In short, a number of bases of recognition can find support, or some support, in decided cases: domicile, submission, the carrying on of business, residence and comity have all been judicially suggested… It is submitted that there are in fact three clearly established criteria: domicile, submission, and the carrying on of business."

56. In this case Mr Ananyev no longer lives in Russia, and there is no evidence that he was carrying on business at the time of the bankruptcy order. It is accepted by Mr Vesnin that the only basis for recognition is submission to the jurisdiction of the Russian bankruptcy court.

Submission to the jurisdiction

57. My attention is drawn to section 33(1) of the Civil Jurisdiction and Judgments Act 1982 (the "Act"). Section 33 of the Act provides:

> "(1) For the purposes of determining whether a judgment given by a court of an overseas country should be recognised or enforced in England and Wales or Northern Ireland, the person against whom the judgment was given shall not be regarded as having submitted to the jurisdiction of the court by reason only of the fact that he appeared (conditionally or otherwise) in the proceedings for all or any one or more of the following purposes, namely—
>
> (a) to contest the jurisdiction of the court;
>
> (b) to ask the court to dismiss or stay the proceedings on the ground that the dispute in question should be submitted to arbitration or to the determination of the courts of another country;
>
> (c) to protect, or obtain the release of, property seized or threatened with seizure in the proceedings."

58. The commentary on section 33 of the Act in Dicey, Morris & Collins on the Conflict of Laws , 15th ed explains:

> "If a defendant makes an appearance in order to argue that the court seised has no international jurisdiction over him according to its law, the section plainly applies to protect him from the contention that he submitted by appearance. But if he appears to argue that the particular court has no local jurisdiction because the claim exceeds its internal competence, or because the court in a different judicial district alone has jurisdiction, it is less clear that an appearance to make this objection this would be protected by s.33(1)(a) . Certainly it was not the problem which was presented by Henry v Geoprosco International , and which the section was immediately designed to remedy. It is submitted that if the whole of the relief sought by the defendant from the foreign court is a decision by the court that it has no international jurisdiction, the appearance will be protected from being regarded as a submission by s.33(1)(a) ; but that a contention that a different court (but in the same country) has jurisdiction is not to be seen as contesting the jurisdiction within the meaning of s.33(1)(a) , for it is implicit in the contention that the courts of the country do not lack jurisdiction."

59. Accordingly the court is concerned with the quality of the evidence to support submission to the local court. It is insufficient for the evidence to demonstrate that a debtor merely attended the hearing of the foreign court. More is required. The engagement with the foreign court needs to be for the purpose of defending the bankruptcy proceedings or submitting to the foreign court by some other means for the purpose of the bankruptcy process.

60. It is submitted by Mr Vesnin that there is overwhelming evidence to support the participation of Mr Ananyev and that he fully engaged in the bankruptcy process in Russia. It is argued that he was legally represented over a long period and at each engagement with the court process. Through his attorney he raised arguments, first objecting to the petitioning creditor's debt and then the making of the bankruptcy order.

61. The evidence to support the submission takes two forms. First, the written evidence of Mr Beckwith and secondly core documents namely, judgments given in the Moscow courts.

62. In his first witness statement dated 5 November 2024 Mr Beckwith explains [46-47]:

> "46. The Applicant does not consider that it could seriously be argued that DA (or for that matter LA) have not submitted to the jurisdiction of the Bankruptcy Court. They participated in the proceedings without disputing jurisdiction, including when it came to participation in the bankruptcy proceedings which followed the appointment of the Applicant. For example:
>
> - in case No A40-58566/19-1871-61 "B" leading to the Moscow City Arbitrazh (Commercial) Court's judgment declaring DA bankrupt, DA was represented by Mr Pomazan;
>
> - in case No A40-58566/19-1871-61 "F" leading to the Moscow City Arbitrazh (Commercial) Court's judgment appointing the Applicant as a bankruptcy trustee, DA was represented and, among other things, raised an application on the selection method of a bankruptcy trustee;
>
> - in case No A40-58566/19 leading to the Moscow District Arbitrazh Court judgment on 25 August 2022 declaring the marriage contract null and void, DA was represented by Mr Pomazan and LA by Mr Korshunov.
>
> 47. Therefore, although the Cross-Border Insolvency Regulations 2006 do not apply to the Recognition Application (because DA did not have his centre of main interests or an establishment in Russia at the relevant time), the Applicant's case is that Recognition should properly be granted at common law."

63. I observe that Russia has not adopted the UNCITRAL Model Law on Cross-Border Insolvency. In any event the evidence is that Mr Ananyev did not dispute jurisdiction

and his purpose for engaging with the bankruptcy court was to oppose the making of a bankruptcy order.

64. Elena Zvereva is engaged as an expert on behalf of Q and M in these proceedings. She has provided a report dated 7 October 2024. She practised as an attorney specializing in commercial disputes in Russia since 2002. She explains that she had read a "number of court judgments that concern the bankruptcy case of Mr Ananiev" (the name can be spelt in different ways). The judgments are publicly available. Her reading and investigations lead her to summarise the bankruptcy proceedings in the following way [31-35]:

> "The bankruptcy case of Mr Ananiev was formally initiated on 12 April 2019 on the basis of two monetary judgments obtained by a bankruptcy administrator of a "Grain Company "Nastyusha" LLC…
>
> The monetary judgments, in turn, were delivered by a Ninth Arbitrazh (Commercial) Court of Appeal on 22 March 2019 on applications of the same Mr Nikeev filed on 31 May 2018 and 01 June 2018 in the bankruptcy case of LLC "Grain Company "Nastyusha". The bankruptcy case itself was initiated on 12 January 2017.
>
> The applications sought invalidation of suretyship agreements entered into on 9 November 2010 and 7 July 2011 between "Grain Company "Nastyusha" LLC (as a debtor) and Mr Ananiev (as a creditor)… the Ninth Arbitrazh (Commercial) Court of Appeal decided to set the transactions aside, which paved the way for the bankruptcy proceedings against Mr Ananiev to progress."

65. Ms Zvereva says that the bankruptcy case was irregular since there was a limitation bar that operated against declaring invalid transactions. A suspicious transaction may be challenged if it occurred no more than three years before the initiation of the relevant bankruptcy case. The impugned transaction took place 6 and 7 years, respectively, before the initiation. I shall return to this later.

66. The report of Ms Zvereva also covers the monetary judgments delivered by the Ninth Arbitrazh (Commercial) Court of Appeal on 22 March 2019. The transcript of the judgment reads:

> "The court of first instance concluded that the limitation period had been missed and misinterpreted the provisions of the substantive law norms establishing that the bankruptcy trustee is recognised as a person not participating in the contested transactions. The argument of the interested party (the defendant) that the bankruptcy trustee cannot be recognised as a person who is not a party to the transaction was accepted by the court in contradiction with the substantive law norms, without taking into account the civil law status of the bankruptcy trustee,

with which he is vested by special norms of the Federal Law of 26.10.2002 No. 127-FZ "On Insolvency (Bankruptcy)" […]

The representative of Ananyev D.N. in the court session objective to the arguments of the appeal, submitted a review in the case file […]

Paragraph 10 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation of 30.04.2009 N 32 "On Some Issues Related to Challenging Transactions on Grounds Provided by the Federal Law "On Insolvency (Bankruptcy)" clarifies that based on the inadmissibility of abuse of civil rights (paragraph 1 of Article 10 of the Civil Code of the Russian Federation) and the need to protect the rights and legitimate interests of creditors in bankruptcy at the request of the bankruptcy trustee or creditor may be recognised as invalid, committed before or after the initiation of bankruptcy proceedings […]

Taking into account the above, as well as the fact that having unfulfilled obligations under the guarantee agreements to creditors, Grain Company Ltd. "In the absence of a reasonable and economically justified interest in concluding another guarantee agreement, the Court of Appeal concludes that there was an abuse of discretion in concluding the disputed guarantee agreement to the detriment of the debtor and its creditor […]

The bankruptcy trustee's argument that the loan agreement is a sham transaction, as the defendant and Pinkievich I.K. had no purpose to create a borrowing legal relationship between them, was reasonably rejected by the court of first instance, based on the fact that in accordance with clause 1 of Art. 807 of the Civil Code of the Russian Federation (as amended at the time of signing the loan agreement) the agreement is real and is considered to be concluded from the moment of transfer of funds, and the fact of transfer of funds to Pinkevich I.K. under the loan agreement excludes the possibility of recognising them as imaginary. The court of first instance, rejecting the arguments of the trustee that the loan agreement was not concluded, as well as a sham and imaginary transaction, proceeded from mutually exclusive circumstances.

The trustee's argument that the guarantee agreement, as a transaction disguised as a loan agreement and mediating the emergence of loan relations between the debtor an the defendant, was unconcluded on the criterion of cashlessness, since the debtor had not received any money under it, was reasonably assessed by the court of first instance as contradicting the trustee's arguments stated in the same paragraph of the statement

that in reality the will of the debtor and the defendant was aimed at creating loan relations […]

Refusing to satisfy the claim in connection with the omission of the limitation period, the court of first instance proceeded from the fact that the limitation period for appealing a transaction on civil grounds, in accordance with paragraph 1 of Art 181 of the Civil Code of the RF, is calculated from the date of the beginning of its actual execution (09.12.2010), since the transaction is appealed by its party, in the person of the bankruptcy trustee, who has the right to file a claim on general civil grounds, on behalf of the debtor. Due to the fact that the fulfilment of obligations under the guarantee agreement began on 09.12.2010, accordingly the limitation period for the claim to declare the guarantee agreements null and void on the basis of Article 10, 168, 170 of the Civil Code of the Russian Federation and application of the consequences of their nullity expired on 10.12.2013, whereas the application to declare the transactions invalid was filed only on 31.05.2018, i.e. outside the limitation period.

The appellate court cannot agree with this conclusion of the court of first instance that the limitation period has been missed, due to the following […]

The limitation period for invalidation of a transaction (Article 166.3) is three years. The limitation period for the said claims shall commence from the day when the execution of the void transaction began, or, in the case of a claim brought by a person who is not a party to the transaction, from the day when that person leant or should have learnt of the commencement of its execution. At the same time the limitation period for a person who is not a party to the transaction, in any case, may not exceed ten years from the date of commencement of execution of the transaction […]

The case materials confirm that the limitation period under 01.09.2013 of the disputed transaction of 09.11.2010 has not expired, therefore, the provisions of the Civil Code of the Russian Federation on limitation periods and rules for their calculation in the wording of the Federal Law No. 100-FZ were to be applied […]

The order of the Moscow Arbitration Court dated 19.12.2018 in case No. A40-1253/17 shall be cancelled.

To declare invalid the contract of guarantee dated 09.11.2010 concluded between the debtor – LLC “Grain Company “Nastusha” and Dmitry Nikolayevich Ananyev.

> To apply the consequences of an invalid transaction, to recover from Dmitry Nikolayevich Ananyev in favour of LLC "Grain Company "Nastusha" money 677,266,374 rubles 36 kopecks and interest in the amount of 477,843,898 rubles 79 kopecks for the use of alienated funds from 30.12.2011 to 01.06.2018."

67. The judgment provides evidence of Mr Ananyev's engagement with the petitioning creditor at first instance and on appeal. As can be observed the court of first instance found that the impugned transaction could not be challenged due to the expiry of limitation. The appellate court explained that there was a long-stop limitation period of ten years and time began to run for the administrator of Grain Company "Nastyusha" when he learnt or should have learnt of the commencement of its execution.

68. On 12 April 2019 Grain Company "Nastyusha" commenced the bankruptcy proceedings based on the debt found to be due in the judgment of the appellate court on 22 March 2019.

69. On 25 November 2019 Mr Ananyev was successful in defeating the bankruptcy proceeding when the first instance court dismissed the procedure. Grain Company "Nastyusha" (not the state owned bank, NBT) appealed and the matter came on before the Ninth Commercial (Arbitrazh) Appeal court on 8 June 2020.

70. The judgment of the Ninth Commercial Appeal Court, includes a brief summary of the arguments advanced by Mr Ananyev through his attorney. The judgment provides an explanation for the first instance court's judgment namely, the claims made by Grain Company "Nastyusha" based on invalid loans, dressed up as guarantees, were restitutionary in nature and did not provide a monetary obligation as required by the bankruptcy procedure. The appellate court explained that Article 4(2) of the Russian Bankruptcy Law applied so that the amount of debt arising from unjust enrichment is a relevant factor in determining if there are "grounds for bankruptcy of the debtor". Reference is also made to Article 167 of the Russian Civil Code which provides that when restitution in money is applied, the counterparty to the transaction is obliged to return a certain amount to the other party. Thus there was an obligation to pay.

71. Mr Vesnin points out that the judges who sat on and decided the bankruptcy appeal were entirely different to those judges who decided the monetary claim appeal. The Appeal Court judgment concludes:

> "In view of the above, the court of appeal finds it possible to introduce a debt restructuring procedure in respect of the debtor. At the same time, the debtor is not deprived of the possibility, if there are grounds, to apply to the court of first instance with a corresponding request to transfer to another procedure provided for by the Bankruptcy Law. Taking into account the sufficient evidence, the claims of LLC " Grain Company "Nastyusha" in the declared amount are subject to inclusion in the third turn of the register of claims of creditors of Ananyev Dmitry Nikolayevich. The debtor needs to fulfil the obligations established by the Bankruptcy Law in compliance with procedural deadlines."

72. As I have mentioned the arguments advanced by Mr Ananyev were made by his attorney, A.S Pomazan.

73. In my judgment the Russian judgments demonstrate that paragraph 46 of Mr Beckwith's statement dated 5 November 2024 is justified. I am satisfied that Mr Ananyev submitted to the local jurisdiction. In the circumstances the three grounds in section 33 of the Act do not apply.

Bars to common law recognition

74. Absent the evidence of any bar to common law recognition Mr Vesnin should be recognised. The bars were summarised by Mr Justice Snowden (as he then was) in *Kireeva v Bedzhamov* [2021] EWHC 228 [132-147]:

> "132. The general principle is that unless a foreign judgment which is final and conclusive on the merits can be impeached on one of a number of well-established grounds, it cannot be re-examined on its merits when it is sought to be recognised and enforced in England: see Dicey at Rule 48.
>
> 133. In the instant case, three such well-recognised grounds are relied upon by Mr Bedzhamov as bars to recognition of the Bankruptcy Order. They are (i) fraud; (ii) natural justice; and (iii) public policy. The grounds correspond to Rules 50 to 52 in Dicey. To some extent the grounds may overlap, and I did not detect any additional grounds upon which Mr Fenwick QC contended that public policy should operate as a bar to recognition in addition to fraud or breach of natural justice. I shall therefore focus on the first two grounds.
>
> (i) Fraud
>
> 143. Rule 50 of Dicey is in the following terms:
>
> "Rule 50 – A foreign judgment relied upon as such in proceedings in England, is impeachable for fraud.
>
> Such fraud may be either
>
> (1) fraud on the part of the party in whose favour the judgment is given; or
>
> (2) fraud on the part of the court pronouncing the judgment."
>
> This principle must also apply to a foreign insolvency order: see Sheldon, Cross Border Insolvency at [11.6].
>
> 135. There is a distinction between the court's approach to allegations of fraud in relation to judgments obtained in this jurisdiction, on the one hand, and foreign jurisdictions, on the other. A party against whom an English judgment has been given

may bring an action to set aside that judgment on the ground that it was obtained by fraud, but this is subject to very stringent requirements. The most important requirement is that the claimant must produce evidence which could not, with reasonable diligence, have been produced at the trial in which the judgment was obtained: see Dicey at [14-138]. The policy reason for this approach is to preserve the solemnity in judgments.

136. In relation to foreign judgments, however, the approach is different. The distinction was described in the House of Lords decision in Owens Bank Ltd v Bracco [1992] 2 AC 443, per Lord Bridge at p.489C - G:

"An English judgment, subject to any available appellate procedures, is final and conclusive between the parties as to the issues which it decides. It is in order to preserve this finality that any attempt to reopen litigation, once concluded, even on the ground that the judgment was obtained by fraud, has to be confined with such very restrictive limits. In the decisions in Abouloff v Oppenheimer & Co. and Vadala v Lawes, the common law courts declined to accord the same finality to foreign judgments, but preferred to give primacy to the principle that fraud unravels everything…

I recognise that, as a matter of policy, there may be a very strong case to be made … in favour of according to overseas judgments the same finality as the courts accord to English judgments. But enforcement of overseas judgments is now primarily governed by the statutory codes of 1920 and 1933. Since these cannot be altered except by further legislation, it seems to me out of the question to alter the common law rule by overruling Abouloff v Oppenheimer & Co. and Vadala v Lawes. To do so would produce the absurd result that an overseas judgment creditor, denied statutory enforcement on the ground that he had obtained his judgment by fraud, could succeed in a common law action to enforce his judgment because the evidence on which the judgment debtor relied did not satisfy the English rule. Accordingly, the whole field is effectively governed by statute and, if the law is now in need of reform, it is for the legislature, not the judiciary, to effect it".

137. Further, unlike the principle that applies to domestic judgments, the mere fact that the alleged fraud has been raised before the foreign court (and rejected by it) will not necessarily preclude the English court from reconsidering the matter: see Jet Holdings Inc v Patel [1990] 1 QB 335, per Staughton LJ at p.344:

"Where the objection to enforcement is based on jurisdiction – that is rule 43 [of Dicey] – it is to my mind plain that the foreign

court's decision on its own jurisdiction is neither conclusive nor relevant. If the foreign court had no jurisdiction in the eyes of English law, any conclusion it may have reached as to its own jurisdiction is of no value. To put it bluntly, if not vulgarly, the foreign court cannot haul itself up by its own bootstraps. Logically, the same reasoning must apply where enforcement is resisted on the ground of fraud – rule 44. If the rule is that a foreign judgment obtained by fraud is not enforceable, it cannot matter that in the view of the foreign court there was no fraud."

138. Fraud will generally connote some grave wrongdoing by a party in the foreign court, such as concealing relevant evidence or bribing court officials: see Sheldon, Cross Border Insolvency at [11.8].

(ii) Natural justice

139. A foreign judgment is impeachable on the grounds that the proceedings in which judgment was obtained were contrary to natural justice: see Rule 52 of Dicey.

140. Two important elements of natural justice are that the defendant has been given notice of the proceedings against him and that he has been given the opportunity to participate: see Jacobson v Frachon (1927) 138 L.T. 386 (CA), per Atkin LJ:

"Those principles seem to me to involve this, first of all that the court being a court of competent jurisdiction, has given notice to the litigant that they are about to proceed to determine the rights between him and the other litigant; the other is that having given him that notice, it does afford him an opportunity of substantially presenting his case before the court".

141. However, it is not a breach of natural justice if a debtor receives notice but chooses not to participate in the proceedings. Furthermore, there may be circumstances in which a debtor removes himself from the jurisdiction of the foreign court, thereby preventing the foreign court from giving the debtor actual notice of the proceedings: see, e.g. Strike v Gleich (1879) OB & F 50, at 60. In that case the New Zealand Court of Appeal recognised a South African insolvency notwithstanding that the debtor had fled South Africa and thus had not received notice of, nor participated in, the South African proceedings.

142. In Bergerem v Marsh, (to which I have referred), Bailhache J considered whether the principles of natural justice had been followed in connection with an application for recognition of a foreign insolvency. The defendant had been a partner in a Belgian firm which was declared bankrupt, along with the defendant personally, by the Belgian court acting of its own motion. The defendant received notice of the determination and

pursued an unsuccessful appeal before the Belgian courts. The bankruptcy was recognised in England. Bailhache J said that:

"the decree is more in the nature of ex parte proceedings, and that great care is taken that the person affected shall have full notice of the proceedings. Although this is a different method from ours it does not seem so contrary to natural justice that I ought to refuse to recognise it as a valid method of procedure. Notice was duly served on the defendant and he instructed counsel on his behalf to oppose the decree".

143. The comments of Staughton LJ in Jet Holdings Inc v Patel, quoted above, suggest that (as is the case with an objection on the ground of fraud) the fact that an objection could, or indeed was, taken before the foreign court does not necessarily preclude an English court from considering whether the foreign proceedings were in breach of natural justice.

Public policy

144. A foreign judgment is impeachable on the ground that its recognition or enforcement would be contrary to the public policy of the forum: see Rule 51 of Dicey.

145. The threshold to establish that a judgment is contrary to public policy is high. In Re a Debtor, ex p Viscount of Royal Court of Jersey [1980] 3 All EW 665, Goulding J (citing Farwell J in Re Osborn [1931-32] B & CR 189 and Lord Lowry in Re Jackson [1973] NI 67), said that:

"the court might have to refuse aid if it were proved that the anterior proceedings were hopelessly bad under their own proper law, or that they offended against some over-riding principle of English public policy".

146. Mr Davies QC submitted that this ground of opposition at common law has the following key features which, taken together, mean that it should be interpreted restrictively:

i) The doctrine will only be invoked in the clearest of cases.

ii) The foreign insolvency, or more likely its consequences, must be manifestly offensive to some basic, fundamental principle of morality or justice.

iii) The doctrine is only a last resort, to avoid otherwise unavoidable and gross injustice.

147. I accept that these principles reflect the correct approach, and that the public policy exception should be interpreted restrictively."

75. Unlike the *Bedzhamov* case, no party has appeared to substantiate any bar to recognition. I therefore return to the report provided by Ms Zvereva [34]:

> "The rules governing invalidation of transactions in bankruptcy provide that a suspicious transaction can be challenged in the bankruptcy if it was entered into 3 years before the initiation of the bankruptcy case or after that initiation."

76. Further into her report she states [37-38]:

> "Further, I am informed that Mr Vesnin, who is supposed to be acting as an independent bankruptcy administrator, in fact acts on the instructions of Promsvyazbank PJSC, one of Mr Ananiev's creditors. It is confirmed by electronic copies of documents purportedly submitted by Mr Vesnin apparently drafted by an employee of Promsvyazbank PJSC Ms Svetlana Chabanova.
>
> It follows that Mr Vesnin's position may not only be politically motivated, but is determined by Promsvyazbank PJSC, a Russian state-owned defence bank."

77. There is no evidence that Mr Vesnin is not an independent bankruptcy administrator. The report of Ms Zverera and the witness statement of Mr Beckwith support a finding, which I make, that Mr Vesnin is an appointed foreign representative for the purpose of recognition.

78. The limitation issue raised in paragraph 34 of Ms Zvereva's report does not go as far as alleging a fraud on the part of Grain Company "Nastyusha" or a fraud on the part of the appellate court. As Sheldon on Cross-Border Insolvency says [11.7] the party opposing recognition on a ground of fraud must clearly establish the alleged fraud. There are two matters to note. First, the allegations made by Ms Zvereva are in respect of the court and not the petitioning creditor. Secondly, she states she has read the judgments but fails to address any of the appellate court's reasoning.

79. A statement that the conclusion on limitation is "highly unusual" [35] or that "the bankruptcy case was faced with irregularities" is far from sufficient to establish a fraud perpetrated by the court. I find that there is no bar to recognition on this ground.

80. Turning to natural justice, the judgments I have referred to demonstrate that Mr Ananyev received notice of the hearings and took part in the foreign proceedings.

81. As regards public policy there is no evidence that the Russian proceedings were hopelessly bad under their own proper law. The judgments demonstrate that:

    i) The constitution of the appellate courts in respect of the monetary judgment and bankruptcy were different reducing the likelihood of bias;

    ii) The decisions were grounded on existing codified laws;

    iii) The decisions are available to the public;

iv) There appears to be no blemish on the petitioning creditor, Grain Company “Nastyusha”;

v) The bankruptcy appellate court concluded that Mr Ananyev had not paid the debt owed to Grain Company “Nastyusha” and introduced a debt restructuring procedure. This is consistent with the evidence that was produced and accepted by Mr Justice Snowden in *Bedzhamov* [20] where he explained:

> “The Arbitrazh court will consider the validity of the claim, and if it accepts the application it will issue a ruling accepting the application and making an order for the appointment of a financial administrator and the commencement of an individual debt restructuring procedure. This is a rehabilitative procedure intended to restore an individual to solvency and to satisfy debts to creditors in accordance with a debt restructuring plan approved by those creditors. According to the unchallenged evidence on behalf of the Trustee, this order for a debt restructuring procedure represents the commencement of the bankruptcy proceedings.”

vi) It is uncontroversial that if the debt restructuring plan was not approved, or if it is apparent that there were insufficient assets to restructure the debts, the bankruptcy process moves to the second stage whereby a debtor is declared bankrupt;

vii) Following the introduction of the restucturing plan in June 2020 Mr Ananyev had until 28 January 2021 to either make good on the plan or pay the debt. In other words the declaration of bankruptcy occurred 6 months after the ruling. He was declared bankrupt on 1 February 2021. This was not a hurried affair; and

viii) The appellate court stated that it was possible for Mr Ananyev to apply to the court of first instance to transfer to another procedure provided for by the Russian Bankruptcy Law. This gave Mr Ananyev and option if he was able, by local law, to take advantage.

82. It goes without saying that Mr Ananyev was not made bankrupt on the debt of NBT but on a debt owed to Grain Company “Nastyusha”. There is no evidence that the sole purpose of the foreign insolvency is to achieve repayment of a single debt owed to a state owned bank.

83. There is no evidence that the bankruptcy offends against some over-riding principle of English public policy.

84. Lastly, I am satisfied that Mr Ananyev was put on notice of the Application. He has decided not to participate.

Conclusion on recognition

85. I conclude that the adjudication of bankruptcy made in Russia against Mr Ananyev should be recognised in this jurisdiction – at least to the extent that the English court

should acknowledge its existence and the status of Mr Vesnin as financial manager and trustee.

86. The application of universalism requires one process of distribution of Mr Ananyev's property, his free assets within the jurisdiction of England and Wales automatically vest in Mr Vesnin. He takes those free assets subject to equities existing at the date of the adjudication of bankruptcy: Sheldon [10.8]. There is no suggestions that Mr Ananyev holds any immovable assets in the jurisdiction.

Assistance

87. The Application seeks assistance in the following terms:

> "Such assistance and relief as the Court sees fit, including, in so far as necessary:
>
> a) orders for the protection and/or preservation of the issued share capital of each of the Respondents and/or directions for the realisation of the said shares as assets in the bankruptcy estate; and
>
> b) an order for the delivery up of the Replacement Certificates and/or restraining the Respondents from dealing with their own shares and/or the Replacement Certificates and/or their respective shares in Eurasia Mining Plc."

88. The assistance sought in paragraph 2 (a) of the Application to protect the replacement shares is not necessary relief at the present time. The shares are held in escrow by solicitors and the Court of Appeal has stayed any release of the undertaking pending the outcome of the appeal. I am told the appeal is unlikely to come on for a hearing before Easter 2025.

89. Similarly the relief sought in paragraph 2(b) is not necessary at this point in time for much the same reasons as the denial of relief under paragraph 2(a).

90. Mr Vesnin relies on the general relief sought. That is, such relief as the court see fit.

91. In his judgment handed down on 8 November 2024, James Morgan KC found in respect of the schedule to the Tomlin order that [46]:

> "…the primary purpose of the undertaking was to protect Eurasia, one can detect within the scheme of the Tomlin order a secondary purpose of providing some protection to potential third parties through the announcement mechanism and follow-on provisions if a claim or interest was asserted. This can be seen as part of the bargain between the parties. Further, the court had a role in giving effect to that bargain by agreeing to give directions and, if appropriate, resolving issues between interested parties."

92. Mr Vesnin's position is that he came forward to claim an interest in the shares of Q and M and so the dispute resolution mechanism agreed by Eurasia and Q and M is engaged.

93. Mr Vesnin wishes to be joined to the Eurasia Proceedings for the purpose of making a claim to the replacement share certificates. He seeks a direction to this effect.

94. In my judgment it is appropriate to provide the minimum necessary aid to a foreign representative to achieve the purposes of getting in and distributing the assets of the insolvent. At this stage the minimum aid to be given to Mr Vesnin is that he be joined to the Eurasia Proceedings for the purpose of making a claim to the replacement share certificates and fully participating in those proceedings through to final determination, including any appeal. Upon joinder I shall give directions in the Eurasia Proceedings which are also before me today.

Disposal

95. Q and M had no standing to oppose the Application in so far as it related to recognition.

96. For the reasons that I have given, I will make an order recognising the Bankruptcy Order and the appointment of Mr Vesnin, the Trustee in Russia.

97. I shall give assistance to aid Mr Vesnin in fully participating in the Eurasia Proceedings. I shall give permission to apply if further assistance is required in the future.

Postscript

98. Although Q and M are shown as Respondents in the heading to this judgment, it is necessary to record that on 15 January 2015 I acceded to their oral application pursuant to CPR 19.2(3) to cease to be parties, whereupon they withdrew from court and made no oral submissions, either on the issue of Recognition or Assistance.