Neutral Citation Number: [2025] EWHC 505 (KB)

Case No: KB-2024-002894

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 6 March 2025

Before :

MR JUSTICE LINDEN

- -

Between :

MS SPYRIDOULA-MARIA ARMENIAKOU	**Applicant/ Claimant**
- and -	
MR JAMES ALEXANDER SCOTT THOMSON	**Respondent/ Defendant**

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Alastair Tomson and Hossein Sharifi (instructed by Stokoe Partnership Solicitors) for the Claimant
Gideon Shirazi (instructed by Cooke, Young & Keidan LLP) for the Defendant

Hearing date: 13 February 2025

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Approved Judgment

This judgment was handed down remotely at 10.30am on 6 March 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mr Justice Linden:

Introduction

1. Having heard argument on 17 December 2024, on 23 January 2025 I made a freezing order which applied to the Defendant's assets worldwide, save for his assets located in Greece. As shorthand, I will refer to this as "the WFO". My reasons are set out in a judgment which was handed down on 29 January 2025 ([2025] EWHC 149 (KB)) ("the WFO judgment").

2. The purpose of the hearing on 13 February 2025 was to address the following outstanding or consequential issues:

    i) Relief in relation to the Claimant's application dated 27 November 2024 for further disclosure in relation to the Defendant's assets;

    ii) Whether any disclosure of the Defendant's bank statements which I ordered should be subject to a confidentiality club agreement or other measures to protect their privacy/confidentiality;

    iii) Fortification in relation to the WFO;

    iv) Costs;

    v) Permission to appeal.

3. For the purposes of (iii) the parties have submitted further witness statements as follows:

    i) The sixth witness statement of the Defendant, dated 4 February 2025;

    ii) The eighth witness statement of Mr Haralambos Tsiattalou on behalf of the Claimant, dated 7 February 2025.

Summary of decision

4. For the reasons given in my previous judgments and below I have come to the following conclusions:

    i) The Claimant's application dated 27 November 2024 is granted save that, in addition to one minor point, the documents which the Defendant is required to disclose will be those which date from 1 January 2024 rather than 1 January 2022.

    ii) The Defendant's disclosure of bank statements will not be subject to a confidentiality club but his solicitors will be permitted to redact information which is truly private and irrelevant. The detail of my ruling on redaction is set out below.

    iii) There will be no order for additional fortification.

iv) The Defendant will pay 85% of the Claimant's costs of the WFO application, to be summarily assessed on the standard basis. The parties are to make written submissions on the quantum of these costs and liability and quantum in respect of the costs of the Claimant's application for further disclosure and/or the hearing of 13 February 2025. I will then determine these issues on the papers.

v) Permission to appeal is refused.

vi) The parties should also make submissions as to whether the full versions of the consequentials and the WFO judgments should now be made publicly available.

Background

5. It is not necessary to set out the background. This can be gathered from the WFO judgment to which reference should be made together, as appropriate, with the three previous judgments which I have given in this matter at [2024] EWHC 3027 (KB) ("the variation judgment"), [2024] EWHC 2568 (KB) ("the Return Date judgment") and [2024] EWHC 3150 (KB) ("the first consequentials judgment"). I will continue to use the abbreviations which I used in those judgments.

6. I had intended to hand down my judgment on the Claimant's WFO application and her application for further disclosure on 29 January 2025. However, as I record at [4(ii)] of the WFO judgment, in the light of a letter from the Defendant's solicitors ("CYK") dated 24 January 2025, after the judgment had been circulated in draft, I decided not to hand down a decision on the latter application pending further submissions on the question of relief. Subject to that, however, this judgment is effectively a continuation of the WFO judgment and is based on the findings which I made there, incorporating findings in my earlier judgments.

Issue 1: the Claimant's application for further disclosure dated 27 November 2024

The Claimant's application

7. The Claimant applies for an order that the Defendant provide disclosure of six categories of information/documents:

i) Disclosure of his assets worldwide as at 12 August 2024 (i.e. the date of the ADO made by HHJ Pelling KC) which exceed £5,000 in value ("Category 1"). The Defendant's asset disclosure thus far is of the position as at 10 September 2024.

ii) Category 2 relates to "Companies" as defined i.e. companies other than publicly listed companies in which the Defendant holds shares, or over which he exercises control, whether or not he does so in his own name and whether solely or jointly owned. This definition is intended to include companies where shares have been transferred into the names of family members, even if it is the Defendant's case that these transfers were legitimate arms-length transactions. The draft order seeks disclosure of all assets of the Companies worldwide as at the date of the order exceeding £5,000 in value, whether in the company's own name or not and whether solely or jointly owned.

iii) Category 3 is documents in the form of management accounts, filed accounts, company bank statements, and tax returns of the Companies from 1 January 2022 onwards.

iv) Category 4 relates to "the Dissolved Companies" as defined i.e. Vulcan Forged Foundation Limited (the company registered in Singapore to which I have referred in earlier judgments) and the British Virgin Islands company Vulcan Forged Limited (referred to as "BVI Co" in my earlier judgments). The draft order seeks disclosure of all assets which would be held by the Dissolved Companies as at 23 January 2025 were it not for the fact that they have been dissolved, together with supporting evidence in the form of management accounts, filed accounts, company bank statements, and tax returns from 1 January 2022 onwards.

v) Category 5 is bank statements for the Defendant's Revolut account in England, from 1 January 2022.

vi) Category 6 is bank statements for any other bank accounts in the Defendant's name or over which he has control, from 1 January 2022.

8. The fourth category has been added to the application which I heard on 17 December 2024 but no point was taken on this by Mr Shirazi.

The applicable principles

9. I was referred to, amongst other authorities, the judgment of Zacaroli J (as he then was) in *HMRC v Malde* [2021] EWHC 100 (Ch) at [26]-[32] where he provided a helpful summary of the applicable principles. At [26] and [27] he noted that the aim of an ancillary order for disclosure of information or documents is *"to ensure the freezing order is effective"* and that an order may be made if it is just and convenient to make it for this reason. The jurisdiction to order disclosure was described by Christopher Parker J (as he then was, in *JSC BTA Bank v Ablyazov* [2011] EWHC 2664 (Comm) at [47]), as *"essentially protective: its purpose is to ensure that assets are not disposed of in (disguised) breach of the freezing order"* and this purpose is often expressed as *"policing the injunction"*.

10. At [28] of *Malde*, Zacaroli J said that where a further disclosure order is sought subsequent to the date of the original freezing order, the reasons why such an order may be justified so as to police the order include:

i) "So as to ensure that there are no continuing breaches of the order…;

ii) Where there is an obvious discrepancy between assets which were at one time held by the defendant and the current assets disclosed in response to a freezing order, which might indicate a real possibility that there are further assets to which the freezing order may apply….;

iii) Where further information might reveal that assets currently outside the scope of the freezing order ought to be included within it….".

11. At [29], Zacaroli J cited the following passage from the judgment of Hildyard J in *JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev* [2015] EWHC 1694 (Ch), [2016] 1 WLR 781 on which Mr Shirazi placed particular reliance:

> "As it seems to me, the court must be persuaded that there is practical utility in requiring such evidence and that it is necessary to enable the freezing order properly to be policed. It will be vigilant to prevent the abuse of seeking further evidence for some other purpose: such as to expose further inconsistencies, unduly pressurise a defendant who has already been cross-examined, yield ammunition for an application for contempt, or provide further material which might be of assistance, even if not actually deployed, in the main (foreign) proceedings."

12. At [30], Zacaroli J said that he did not think that there is a material difference between the *"necessary to enable ….the order to be policed"* formulation and the *"just and convenient"* formulation of Christopher Parker J. At [31], he noted a passage from the judgment of Stephenson LJ in *Bekhor v Bilton* [1981] QB 923, 955 which, again, Mr Shirazi emphasised:

> "Parker J. described the plaintiffs' application and his order for discovery as in aid or support of the Mareva injunction and so in a sense they were. But in so far as they relate to the defendant's assets at past dates as distinct from their present whereabouts their purpose seems to be not so much to help the court or the plaintiffs to locate and freeze particular assets now, as to open the way to incriminating and ultimately punishing the defendant for contempt of court in formerly disobeying the Mareva injunction and/or breaking his undertaking. This purpose emerges not only from the wide terms of the order but from the judge's comments at the end of his judgment. To that extent the order goes beyond the legitimate purpose of an order for discovery in aid of a Mareva injunction and Robert Goff J.'s order in A v. C and is not necessary for the proper and effective exercise of the Mareva injunction."

13. At [32] Zacaroli J said:

> "…while there is no particular threshold for a claimant to cross in order to obtain a disclosure order, at least where an order is sought subsequent to the making of the original order on the grounds that there was a concern that the defendant was committing breaches of it, there must in general be "grounds to believe that there is a real risk that the injunction may be being broken. Whether the order is in fact made is likely to depend on the strength of those grounds and the considerations which militate in favour and against making such an order""

14. I was also referred to the helpful summary of the principles by Master Kaye, (sitting as a Deputy High Court Judge) in *Harrington & Charles Trading Company Limited (in liquidation) & Others v Mehta & Others* [2024] EWHC 2674 (Ch) at [297]-[322]. Mr Shirazi emphasised [313], where the need to view requests for further information with a critical eye, especially where they are wide ranging, was noted by Master Kaye.

15. Mr Tomson noted Master Kaye's reference at [314] to the power to make an order for further disclosure:

> "where there is a 'real risk' that assets are being used contrary to the terms of a WFO, or to enable the claimant to identify the true nature of the defendant's interest in such assets, and to allow the claimant to decide whether or not further steps should be taken to protect its position.."

16. He also relied on *FM Capital Partners Ltd v Marino* [2019] 1 WLR 1760, at [68]-[72] as an example of the court being prepared, in an appropriate case, to order the disclosure of documents evidencing the asset position of companies where there is a real risk that the subject of a freezing order is procuring the disposal or use of those assets to undermine the effectiveness of a freezing order. In that case, the court also ordered documents dating back to significantly before a freezing order on the basis that there was a real possibility that there were other assets to which the order may apply and in order to identify not only what assets were held by the respondent but also what had become of any assets which he may have dissipated.

The Claimant's submissions

17. At the hearing on 17 December 2024, Mr Tomson argued that it is necessary that the Defendant be ordered to give the disclosure sought so that the FO/WFO can be appropriately policed. The Claimant's application was based on two grounds:

    i) An alleged discrepancy between the stated value of the Defendant's assets in June 2022 and the value stated in his asset disclosure list; and

    ii) His contention that there is strong evidence that the Defendant has given dishonest and misleading evidence regarding his assets (and in particular his companies) such that there was a real risk that his assets were being dissipated in breach of the FO**.**

18. The first point refers to the Claimant's evidence, in her first affidavit dated 12 August 2024 at [67], that the agreed basis for the negotiations which led to the Mediation Agreement was that the value of their joint assets was around EUR 62 million. Although she strongly suspected that the figure was higher than this, she accepted it as a basis for negotiation because of the difficulty in establishing the true figure given the steps which she said the Defendant had taken to conceal how the assets were held. This figure was to be split equally and hence, under the final Agreement, the settlement was worth approximately EUR 30 million to her. However, the value given by the Defendant for his assets as at 10 September 2024 totals approximately EUR 11.5 million.

19. Mr Tomson acknowledged that the Claimant's evidence about the assumed value of the joint assets for negotiating purposes has been disputed by the Defendant from the outset but he submitted that there is at least "*some credible material"* to support the Claimant's evidence (see *JSC Mezdhunarodniy Promyshlenniy Bank v Pugachev* [2016] 1 WLR 160 ("*JSC*") at [49]-[50]. This is in the form of the Claimant's evidence, which has been generally found to be more credible than that of the Defendant. Moreover, the terms of the Mediation Agreement do not make commercial sense unless it was understood that the Defendant had several tens of millions of dollars in assets: they included a buy back provision, albeit subject to the Defendant being financially able to pay, which would cost him USD 13.2 million, and there were other payments and transfers worth many millions which he was required to make. The buy back provision would not have been agreed if it was not understood on both sides that the Defendant had the requisite funds.

He submitted that, contrary to Mr Shirazi's argument, it is unsurprising that the EUR 62 million figure was not recorded in writing given that this was a fast moving negotiation and the figure was not a term of the Agreement between them.

20. Mr Tomson submitted that this almost threefold reduction in just over two years cries out for an explanation. It is not explained by the Defendant's living expenses and/or the rate at which the Vulcan Forged business is said to be making losses and/or a reduction in the value of the shares in the Defendant's companies and/or a reduction in the value of PYR. Moreover, his personal estimates of the values of his shares are inherently unreliable and do not comply with his disclosure obligations given his admitted lack of expertise in share valuation. His duty to take reasonable steps to investigate the truth or otherwise of his asset disclosure evidence requires more than this: see *Mezhdunarodniv Promyshlenniy Bank v Pugachev (No.2)* [2016] 1 W.L.R. 781 at [41]–[42].

21. In these circumstances, Mr Tomson argued, further disclosure in relation to the assets held by the Defendant's companies and his bank accounts would be just and convenient for the purposes of assessing the accuracy of his asset disclosure to date. Moreover, given the Defendant's control of the whole Vulcan Forged business, there are good reasons why the assets of Vulcan Forged Limited (England) ("VFL") and other companies comprising the Vulcan Forged business should be considered as personal assets of his which are caught by the FO/WFO: *FM Capital Partners v Marino* [2019] 1 WLR 760.

22. The second basis on which Mr Tomson applied for further disclosure was the Defendant's failings in relation to his asset disclosure, and the unreliability of his evidence more generally, about which I made findings in the WFO judgment. He submitted that the natural inference is that Defendant's approach to his asset disclosure and these proceedings has been with a view to enabling his assets to be dissipated or diminished in breach of the FO. There is therefore a real and significant risk that, absent further asset disclosure orders, the Defendant will use the opacity he has deliberately created to act in breach of that injunction. Even if the assets of the Defendant's companies are not directly frozen (Mr Tomson submitted on the basis of *FM Capital Partners v Marino* (supra) at [25]) that in fact they are), any diminution of the value of the Defendant's shareholding by deliberate dissipation of the company's assets would itself constitute a breach: see, also, *Lakatamia Shipping Co Ltd v Su* [2015] 1 WLR 291.

The Defendant's position

23. Mr Shirazi emphasised that it was for the Claimant to justify the proposed order by establishing that it was necessary for the policing of the freezing order. It was not permissible to seek further disclosure for some other purpose such as to expose other inconsistencies, to pressure the Defendant or to produce ammunition for a committal application. His position was that the order sought by the Claimant is *"exceptionally broad and focussed on past conduct"* rather than on policing the injunction.

24. As far as the discrepancy ground for the application is concerned, Mr Shirazi disputed that there was any discrepancy between the Defendant's assets and his asset disclosure. He argued that:

i) The Claimant's evidence about the notional EUR 62 million figure was mere assertion and not evidenced by any documents when one would have expected it to be, particularly given that lawyers were involved in the negotiation of the Mediation Agreement. Moreover, she does not identify the assets which she says had a value of at least EUR 62 million or anywhere near this figure. And the agreement between the parties was to split known numbers of PYRs and EDVs and known sums of money rather than to split a notional value.

ii) Even if this notional figure was agreed, any discrepancy was likely to reflect fluctuations in the value of PYR of which there was evidence before the court. The Defendant has also incurred significant costs pursuant to the Mediation Agreement, including the payments which he made to the Claimant and into the trust for the benefit of their child. His lifestyle costs were also significant and he has been funding the Vulcan Forged business which is loss making, as noted in the WFO judgment.

25. As for the argument that the Defendant's asset disclosure is unreliable, this was contested and Mr Shirazi relied on his characterisation of the Claimant as simply ignoring the Defendant's evidence, refusing to accept it and levelling unfounded allegations at him of which he gave examples. I dealt with this aspect of the case in the WFO judgment. Mr Shirazi also disputed the contention that the Defendant's estimates of the value of his shareholdings are unreliable and do not comply with his disclosure obligations. He argued that it was reasonable to say that the value of his shares in VFL is *"not presently known"* in circumstances where the Defendant's evidence is that VFL has minimal assets, has historically been incurring losses of EUR 1.5-2m per year, and is now incurring losses of around EUR 270,000 per month. This company is not expected to become profitable unless and until the number of users increases 10-15 fold. The Defendant's belief that the company has net assets of less than £5,000 is also obviously correct in light of its trading position and accounts. The same logic applies to the other companies which form part of the business. Moreover it cannot be right that the Defendant was obliged to obtain formal valuations of what is a young start up business.

26. Mr Shirazi also contested any suggestion that the Defendant might dissipate assets of VFL in order to reduce the value of his shareholding in that company. The Defendant's evidence is that VFL is very heavily loss-making. If the Defendant was not personally funding it, it would be insolvent. He has no obligation to do so and so there is no realistic value which could be enforced against. VFL also has only minimal assets consisting of some fixed assets, very limited cash in the bank and some intellectual property which has no value outside the Vulcan Forged ecosystem. The thrust of the Claimant's allegations about VFL is that the Defendant has undervalued his shareholding because it is a successful business. In any event, VFL's assets are not the Defendant's own assets.

27. In relation to relief, Mr Shirazi argued that the mere fact of a shareholding is not sufficient to entitle the Defendant to the documents of a company or information about a company's assets. It would not be possible for the Defendant to comply with these aspects of the proposed orders. Even where he could disclose documents because of his directing role of a company, there is no proper basis for ordering disclosure of any of the documents sought over the periods specified: *"This is a fishing exercise, is backwards-looking and not necessary to police the injunction."*. He submitted that the

wide ranging nature of the Claimant's application and her overall approach to the litigation were a clear indication that she wished to gather information for purposes other than the policing of the injunction.

28. The Defendant himself added, in his evidence, that:

i) None of the companies is itself directly subject to any FO or WFO. VFL and Metaheights are legitimately operating trading companies which stand on their own independently of him. All of their transactions are executed in the ordinary course of business in his capacity as director of them. They are not simply corporate vehicles for parking his assets.

ii) He has never prepared management accounts for any of the relevant companies.

iii) VFL and Metaheights have bank accounts but the other companies do not.

iv) Metaheights pays tax but does not file tax returns. None of the other companies has ever filed tax returns.

v) There is no need for disclosure of his bank statements, let alone over the periods specified in the draft order.

29. In the course of his submissions on 13 February 2025 Mr Shirazi told me that (iv) is, in fact, incorrect in that Metaheights does file tax returns and make tax declarations.

The draft judgment circulated on 22 January 2025

30. In the draft WFO judgment which I circulated to the parties on 22 January 2025 I concluded that, for the reasons which I had given, including my assessment of the reliability of the Defendant's evidence overall, I was satisfied that there was credible evidence of the discrepancy relied on by the Claimant in relation to the notional value of their joint assets at the time of the negotiation of the Mediation Agreement, and that this discrepancy had not been reliably explained by the Defendant. I saw no reason to doubt the Claimant's evidence on this point and I agreed with Mr Tomson that the Mediation Agreement assumes that the Defendant had very considerable assets at his disposal. In answer to a point emphasised by Mr Shirazi at the 13 February 2025 hearing, for the reasons Mr Tomson gave I did not find it particularly surprising that the EUR 62 million figure was not documented.

31. I also said that, more generally, as I had explained, there were good reasons to conclude that the Defendant had not *"told the whole story"* in his asset disclosure or his evidence and/or had been deliberately unclear and inaccurate about the position, despite the fact that he was subject to an order of the court. Further disclosure orders were justified to assist in ascertaining the true position. I also considered that there were substantial grounds to believe that there was a real risk that the FO may be being breached. Again, I bore in mind my findings on the risk of dissipation and on the Defendant's approach to the ADO which had been made by HHJ Pelling KC on 12 August 2024. I did not consider that it was sufficient for the Claimant or the court to rely on what the Defendant was prepared to tell the court, without documentary evidence which shed light on the question.

32. I also noted that there was no real evidence that it would be onerous for the documents sought by the Claimant to be provided. The Defendant had said that certain types of document do not exist but I agreed with Mr Tomson that he should verify this pursuant to the Order which I proposed to make. That order was essentially in the terms sought by the Claimant.

The CYK letter of 24 January 2025

33. By letter dated 24 January 2025, however, CYK purported to seek further reasons for my decision on the Claimant's application for further disclosure. The thrust of the questions which they asked at section 6 of their letter was that they sought further explanations of how the categories of document of which the Claimant sought disclosure would assist in policing the freezing injunction. They particularly emphasised the historic nature of the categories of document identified in the draft order, and they highlighted the application for disclosure in relation to the Defendant's asset position at 12 August 2024 and for documents going back to 1 January 2022 i.e. predating the parties' divorce.

34. These questions caused me to reflect and, having considered the commentary and caselaw at 40.2.3 to 40.2.4 and 52.21.7 of the White Book, I concluded that I should reconsider the question of relief. An email was therefore sent to the parties which, so far as material, said that I saw the force of the points made by CYK at section 6 of their letter. Although these were presented as requests for reasons, in the light of what were effectively CYK's arguments I was willing to reconsider whether the scope of the relief which I was proposing to order was appropriate. I had therefore decided not to hand down my judgment in relation to the application for further asset disclosure and to invite further submissions from the parties in relation to CYK's points. The parties were told that this was not an invitation to either side to reopen the findings which I had made in the draft judgment referred to at [30] and [31], above, or to adduce further evidence. However, I was willing to consider submissions on the relief which should follow from these findings, for example whether it was appropriate to order the disclosure of documents going back to 1 January 2022. The email said that I would be happy to deal with this by way of written submissions but noted that it appeared that a further hearing may be necessary in any event.

The Defendant's overarching submissions as to the scope of the relief sought by the Claimant

35. In addition to his submissions at the hearing on 17 December 2024, Mr Shirazi made the following overarching submissions at the hearing on 13 February 2025:

    i) First, he submitted that the test which the court should apply in this context differs according to whether the application is for further information or for disclosure of documents. As I understood his argument, it was that in relation to further information, *JSC* (supra) applies and the test is whether there is *"good reason to suppose"* the matters which form the basis for the application rather than whether there is *"credible material"* to support it. In relation to disclosure, the test was as per *Malde*, summarised above. Mr Shirazi's position was that the latter is a stricter test which requires it to be shown that the documents are necessary to police the injunction and that the application has no collateral purpose, such as to support an application to commit for breach of the freezing order.

ii) Second, Mr Shirazi emphasised, several times, that there was no obvious connection between any of the categories of information/documents sought and the policing of the injunction, and nor had the Claimant provided any or any adequate explanation of their utility or relevance in this regard, There was (he said) no evidence in the form of a witness statement which explains, in relation to each category of information/disclosure, the utility of that information in policing the FO/WFO: what it would enable the Claimant to do which she could not currently do without it. There was the fifth witness statement of Mr Tsiattalou, dated 27 November 2024, but his explanation of the relief sought was in general, rather than specific, terms.

iii) Third, Mr Shirazi reiterated that I should view the Claimant's application with a critical eye (see *Mehta* at [313]). Orders of this sort were, he said, exceptional and it was not enough to establish that there was a lack of transparency or that a WFO was justified. The categories of document sought by the Claimant were extremely wide ranging and largely related to the distant past. There was already an application to commit the Defendant for contempt of court in relation to his application to vary the ADO. The current application for information/disclosure was a fishing expedition with a view to accessing material to support a further such application.

iv) Fourth, he submitted that there was no warrant for any disclosure in relation to the Defendant's assets located in Greece given that I had declined to make a freezing order in relation to these assets. Information about his Greek assets could not have utility in policing orders which do not apply to those assets.

The Claimant's submissions in support of the relief sought

Overarching submissions

36. Mr Tomson disputed the distinction drawn by Mr Shirazi between the test for disclosure of information and the test for the disclosure of documents. His position was that the applicable principles are as per *Malde* and *Mehta*, and that the credible material test was approved in *JSC*.

37. Mr Tomson said that, based on my findings, a further order for disclosure was justified for four reasons. First, I had accepted that there was at least credible evidence of a discrepancy between the value of the assets held by the Claimant in mid 2022 and the value disclosed on 10 September 2024 and/or credible evidence of undisclosed assets which could or should be subject to the FO/WFO. Second, there was a real risk that the FO may have been breached. Third, there was a need to ascertain the true position in relation to the Defendant's assets and, fourth, I had found that the Defendant was not to be taken at his word in providing information as to his assets.

38. The scope of the disclosure which the Claimant sought was said by Mr Tomson to be intended to achieve two aims. First, to ascertain the assets which are or should be subject to the FO/WFO, including any assets which have been put into the hands of third parties to be held on his behalf and/or which should be treated as the Defendant's assets. Second, to ensure that those assets are not, and have not been, dealt with in ways that breach the WFO/FO, for example by putting assets into the hands of nominees or

trustees or procuring the use of company assets in a way which diminishes the value of the Defendant's assets.

39. Mr Tomson disputed the distinction, drawn by Mr Shirazi, between the Defendant's assets located in Greece and his other assets. Given that the companies which comprise the Vulcan Forged business are interrelated, and given that issues with the opacity of the evidence as to how that business operates, cash flows etc, and given the unreliability of the Defendant's evidence generally, it was appropriate for any order to apply to all of the Defendant's/Vulcan Forged's assets.

40. There were some additional, category specific, submissions as follows.

Category 1

41. As far as disclosure of the Defendant's assets worldwide as at 12 August 2024 is concerned, this application arises out of his disposal of the entirety of his crypto currency holdings between the making of the ADO and his provision of his asset disclosure on 10 September 2024, after his application to vary. This issue is addressed at [58]-[67] of the WFO judgment, including a discussion of *Electromotive Group Limited v Pan* [2012] EWHC 2742 (QB) at [90] in which a similar order was made. Whilst I concluded that, on the evidence as it then stood, I could not positively find that the Defendant had breached the FO in disposing of his crypto currency or go behind his statement that the proceeds were paid into his Revolut account, which was subject to the FO, I found that the timing of this step, the fact that (he said) it meant that he no longer held any crypto currency, and his lack of openness about it, were concerning. What he did merited further investigation. This conclusion took into account the Defendant's failure to comply with the ADO, his application to vary it and his refusal, in that context, to agree to sensible proposals by the Claimant to break the impasse by entering into a confidentiality club agreement which would have resulted in significantly earlier disclosure of his assets.

42. Mr Tomson argued that the Defendant's actions in disposing of the entirety of his crypto currency holdings in the circumstances described in the WFO judgment required an explanation. Whether or not the transfers were in breach of the FO, the timing and the Defendant's lack of transparency about this actions serves as a credible basis to suspect that the transfers were not genuine but, rather, a means to hide assets from the Claimant. The purpose of the information sought was not to find a past breach of the freezing order. Rather, it was to assess whether the Defendant's purported disposal of his cryptocurrency was a legitimate sale for proper value as the Defendant claims or, as the evidence suggests, an attempt to hide assets; and, secondly, to assess whether there were other categories of assets which were hidden by the Defendant after being served with the FO. Such disclosure was therefore necessary to allow the Claimant to identify and protect the Defendant's assets from dissipation.

43. In addition to his overarching submissions, Mr Shirazi argued that disclosure in this category is obviously not necessary to police the FO/WFO because the Claimant accepts that the FO did not apply to these assets. Moreover, the proceeds of sale were paid into an account which was subject to the FO. No rational complaint can be made about this.

Category 2

44. As far as the application for disclosure of the assets of the "Companies" (as defined) is concerned, Mr Tomson relied on *Lakatamia v Su* and *FM Capital Partners v Marino* (supra) and on my findings, in successive judgments, that the Defendant has given misleading and opaque evidence about the assets of his companies and how the Vulcan Forged business operates including, in some instances, evidence which was deliberately misleading. He had also done so in relation to his asset disclosure despite the fact that it was given pursuant to an order of the court. Mr Tomson's submission was that in the light of these findings, disclosure of the assets of the Defendant's companies is necessary for the purposes of policing the injunction.

45. Whilst maintaining his overall submissions, as summarised above, Mr Shirazi noted that this was a request for information and indicated that he did not propose to spend time arguing about the provision of information in relation to assets other than those located in Greece. In effect, he only faintly resisted the application insofar as it applied to assets outside Greece.

Category 3

46. Mr Tomson argued that disclosure of supporting documentation through which the disclosure ordered under Category 2 can be verified is justified in circumstances where I found at [31], above, that it is insufficient *"for the Claimant or the court to rely on what the Defendant is prepared to tell the court without documentary evidence which sheds light on the question"*. As the Defendant has shown a past propensity to produce false or misleading official documents (as in the case of the VFL accounts), disclosure across three different categories of documents was sought in order to maximise the prospect of the Claimant obtaining information which enables her to understand the true asset position of the Defendant and ensure that the integrity of the freezing orders made by the court is maintained. By targeting discrete categories of documents which should be easy to locate, the draft order seeks to minimise the intrusion on the Defendant, while maximising the prospect that something informative will be disclosed.

47. Mr Shirazi maintained the overall submissions summarised above. As far as the Defendant's evidence that certain categories of document do not exist is concerned, he made the correction which I have noted at [29] above and said that he did not rely on the non-existence of certain categories of document as a basis for resisting the Claimant's application. He also argued that disclosure of further documents, and particularly bank statements, is likely to encourage the Claimant's approach to date which, he said, had been to refuse to accept what the Defendant said and to bombard the Defendant with queries and applications to court. This, in turn, was likely to have a harmful effect on the Vulcan Forged business.

Category 4

48. Mr Tomson said that the application in relation to Dissolved Companies as defined has been added to ensure that proper disclosure is given as to the assets of BVI Co, and its Singaporean parent company. As matters currently stand, these companies are dissolved. However, it is clear that the Defendant is still treating the assets of these companies (such as the PYR treasury reserves) as belonging to them. The Defendant is also taking steps to restore these companies to the register, and may in fact be required to do so under the terms of the freezing order: see *Privatbank v Kolomoisky* [2025]

EWHC 50 (Ch) at [20]-[21]. The Claimant therefore seeks orders in effectively the same terms as under Categories 2 and 3 in relation to these companies.

49. Mr Shirazi said that he was not taking any point on the fact that these two companies were dissolved. His position in relation to Category 4 was the same as in relation to Categories 2 and 3.

Categories 5 and 6

50. Mr Tomson noted that the Court has found that there is credible evidence of a discrepancy in the Defendant's assets that calls for an explanation. This indicates that there may be other non-disclosed assets to which the FO/WFO may apply. The disclosure of past bank statements will shed light on what happened to the Defendant's assets and allow the Claimant to identify, by a review of transfers to and from the account, whether assets that may be subject to enforcement have simply been moved elsewhere and are held by other entities or natural persons on the Defendant's behalf.

51. Mr Shirazi's arguments were as summarised above. He reiterated that these parts of the application were speculative, that the bank statements, would have no utility in policing the FO/WFO and that, in any event, there was no reason why any documents relating to accounts in Greece should be provided.

The date ranges for Categories 3-6

52. Mr Tomson sought to justify the proposed date ranges for Categories 3-6, and particularly the application for documents going back to 1 January 2022 on the basis that:

    i) I had found that there is credible evidence of an unexplained diminution in the value of the Defendant's assets, which would suggest there are some further assets which have not been disclosed. The purpose of the disclosure sought is to identify and locate these potential hidden and undisclosed assets. This requires looking at documents that will shed light on past transactions by which assets may have been hidden.

    ii) Disclosure is sought from a date prior to the start of the FO because there is credible evidence that, before this date, the Defendant had begun transferring assets into the names of nominees so as to hide them from enforcement. For example, I found at [78] of the WFO judgment that "*it is likely that the Defendant disposed of the bulk of his shares in Metaheights so as to put them beyond the reach of the Claimant.*".

    iii) 1 January 2022 has been chosen as a start date because the evidence of the Defendant using nominees to hide his ownership of assets significantly pre-dates the parties' divorce and these proceedings. There is evidence that, in May 2021, the Defendant used the Claimant's identity documents to register her as a nominee shareholder and director in relation to a Singaporean company, Elysium Tech Pte. Ltd, without her consent or knowledge. There is further evidence, dating from December 2021 onwards, of the Defendant using other family members as nominees: see the Claimant's first affidavit, at [40], [41] and [44].

53. In addition to his overall submissions, Mr Shirazi pointed out that the Defendant had challenged the Claimant's evidence about Elysium Tech. His evidence was that she was well aware that he was using her identity documents and he did this with her consent. He had also explained that he was merely helping relatives to open crypto currency accounts for their use. There was nothing suspicious in this. Even taken at its highest, there was no evidence to support the claim that he was routinely in the habit of transferring assets to nominees in order to hide them from her. His affair was not discovered until April 2022 and the suggestion that he was dissipating assets in 2021, with an anticipated divorce in mind, has no evidential foundation. There was then an 18 month to 2 year gap during which there is no evidence at all to support this suggestion. Moreover, the FO was not made until August 2024. The very fact that the Claimant sought to go back this far was an indication that her purpose was not to police the FO/WFO.

Discussion and conclusions

54. Save in one minor and one important respect I agree with Mr Tomson's submissions as summarised above and will therefore be brief in stating my reasons for the relief which I propose to grant.

55. I agree with Mr Tomson that, in this context, there is no material distinction between the approach to applications for disclosure of information and that which is applicable to disclosure of documents. In either case the test is as per *Malde* i.e. whether the order is necessary/just and convenient for the purposes of policing the freezing injunction. That is quite apparent from the fact that Zacaroli J expressly purported, at [26] of *Malde*, to summarise the principles applicable to an application *"for disclosure of information or documents, to ensure the freezing order is effective*". As Mr Tomson pointed out, *JSC* was concerned with an application for documents (see [8]) and the Court of Appeal approved the *"credible material"* approach to the evidence: see [50]-[52]. In any event, I do not consider that the distinctions drawn by Mr Shirazi affect the result in this case.

56. Applying the principles summarised in *Malde* to the findings which I made in the WFO judgment and at [30] to [32] above, I do consider that the categories of information and documents sought by the Claimant are necessary to ensure that the (now) WFO is effective. I do not accept Mr Shirazi's submission that they have no utility in policing it and that she is seeking this material for other purposes. As Mr Tomson put it, the proposed order is concerned with identifying what the Defendant's assets actually are – asset identification, rather than asset tracing – so that the WFO is effective.

57. Further information about the Defendant's assets is just and convenient for the relevant purpose in circumstances where his disclosure and evidence about his assets has been unreliable and misleading in the ways which I have identified in successive judgments, notwithstanding that he was subject to an order of the court. This point applies, not just to the discrepancy between the valuation in June 2022 alleged by the Claimant and the valuation claimed by the Defendant in September 2024, but also to his overall approach to his evidence about his assets and the operation of the Vulcan Forged business, and to the quality of that evidence as a whole which, in my judgment, shows that the information which he has provided is not reliable. This materially undermines the effectiveness of the WFO and it is necessary, for the WFO to be policed effectively, that the Claimant and the court have a reliable account of his assets as at the date of the Order.

58. There is also a solid body of evidence, going back to 2021 but particularly from June 2022, of the Defendant taking steps to transfer assets in an attempt to put them beyond the reach of the Claimant and to minimise his wealth in the context of his dispute with her. Moreover, the example of his transferring 85% of his shareholding in Metaheights to his aunt in July 2024 particularly strongly supports Mr Tomson's contention that he is likely to have used nominees for this purpose. And the evidence of him taking steps to dispose of the whole of his crypto currency holdings after the FO, his failure to comply with the ADO by the date which was originally ordered (albeit he made a partially successful application to vary it) and the way in which he withheld that information in the context of his asset disclosure, gives further support to the contention that this pattern of behaviour was continuing in 2024 and may be continuing. This also justifies the application for the information in Category 1 to ascertain what his asset position was at the time when he became aware of the FO and to begin to ascertain where those assets now are. I do not accept that the fact that I was not able to find that the Defendant breached the FO, or to go behind his claim that he paid the proceeds into his Revolut account, is a complete answer. His behaviour in relation to this matter was suspicious and there is credible evidence that he is likely to have taken similar steps in relation to other assets.

59. As far as Category 2 information is concerned, the evidence justifies the conclusion that the ADO should extend to the assets of companies over which the Defendant exercises control, whether or not he does so in his own name and whether solely or jointly owned. The reality is also that the Defendant exercises de facto control over the assets of the companies which he has identified in his asset disclosure. He is in a position to procure the dissipation of such assets in order to undermine the freezing orders which I have made and he is able to comply with my proposed order for disclosure. I agree with Mr Tomson that there is a real risk that the Defendant has procured or will procure the disposal of company assets in order to dissipate the value of his assets which are the subject of the FO/WFO. The principle at *Lakatamia v Su* (supra) [43] applies.

60. In this connection, I do not accept Mr Shirazi's submission that no disclosure should be ordered in relation to the Defendant's/Vulcan Forged assets in Greece. I agree with Mr Tomson that it would not be consistent with my findings thus far to proceed on the basis that what the Defendant has said about his assets and the Vulcan Forged business in Greece is reliable and that they are a separate matter. The problems of opacity and the unreliability of his evidence more generally which have been identified apply across the board, and the Claimant is entitled to a full and reliable account of the Defendant's asset position so as to police the WFO.

61. I have considered whether the logic of my declining to make a freezing order in relation to assets in Greece suggests that it is inexpedient (for the purposes of section 25(2) of the Civil Jurisdiction and Judgments Act 1982) for the Defendant to be ordered to provide further disclosure in relation to these assets. However, there has been a worldwide ADO in place since the order of Judge Pelling and Mr Shirazi did not rely on comity in resisting the ADO at the Return Date or at the consequentials hearing on 14 November 2024 or in resisting the Claimant's disclosure application. In any event, the purpose of the order which I propose to make, including in relation to the Defendant's Greek assets, is to police the WFO made by this court, which is in place. I therefore do not consider that my proposed order would involve any material intrusion into the role of the Greek courts in dealing with the proceedings there.

62. I will therefore make an order for the provision of Category 2 information.

63. As far as the documents in Category 3 are concerned, I agree with Mr Tomson that, as part of the asset identification process, in the circumstances of this case the Claimant is entitled to verification by way of documentary evidence. As I have found, experience has demonstrated that it is not sufficient simply to rely on the Defendant providing a full and accurate picture. The categories of document identified in the draft order, whether as individual categories or in combination, are likely to shed light on the Defendant's true asset position. As I have noted, it is not suggested that such disclosure is onerous and nor did Mr Shirazi raise any objection based on the Defendant's evidence that certain of these categories do not exist. The position in this regard should be verified by affidavit.

64. As far as Category 4 is concerned, this stands or falls with Categories 2 and 3. I will therefore make the same order in respect of "Dissolved Companies" as defined.

65. As far as Categories 5 and 6 are concerned, I agree with Mr Tomson that these statements are likely to shed light on the true position in relation to the Defendant's assets including through his use of his bank accounts. I agree that disclosure of bank statements relating to any other account held or controlled by the Defendant is justified in all the circumstances but particularly having regard to the recent emergence of the fact that, contrary to what he had originally attested, the Defendant does have a bank account in Greece.

66. Where I differ from Mr Tomson is in two respects. First, as far as Category 1 information is concerned, the date by reference to which disclosure should be made is the earliest date on which the Defendant could have become aware of the order made by Judge Pelling i.e. the date on which it was emailed to him or his representatives.

67. Second, as for Categories 3-6, I accept that there is some evidence of the Defendant making use of nominees and the identity of the Claimant in 2021 but that evidence is disputed. There is also evidence, of his behaviour around the time of the Mediation Agreement and in blocking the PYRs which were transferred to the Claimant, which indicates a willingness to put assets beyond her reach. But I do not consider, at this stage, that that evidence is sufficiently cogent to justify an order going back to 1 January 2022.

68. In my view the appropriate starting point is 1 January 2024. As I found in the WFO judgment (at [78]) it was at end of 2023 that the Claimant wrote challenging the Defendant in relation to the blocking of her PYRs and it was at the beginning of 2024 that there began to be delays in the making of alimony payments and he took steps to transfer his Metaheights shares to his aunt. I consider that the likelihood that he was transferring assets to nominees etc in order to conceal them from the Claimant is sufficiently high as at 1 January 2024 to justify going back this far but no further. That is the just and convenient date at this stage.

69. Mr Shirazi submitted that the Defendant should be given 28 days to comply with any order for further disclosure rather than the 5 working days proposed by Mr Tomson. The Defendant has had ample notice of this application, and therefore opportunity to gather the information together. I propose to allow 10 days from the date of this

judgment being circulated in draft but will consider exceptions if there is evidence or agreement that particular categories of document will take longer.

Issue 2: whether any further disclosure ordered should be subject to a confidentiality club agreement

The positions of the parties

70. The position as at the date of the hearing on 13 February 2025 was that the Defendant's asset disclosure thus far was subject to confidentiality club arrangements pending the determination of his application to the Court of Appeal for permission to appeal. Pursuant to my judgment on 6 December 2024 ([2024] EWHC 3150 (KB)) I had ordered that these arrangements should be discontinued. However, I had granted a stay of this part of my Order.

71. On 19 February 2025, Phillips LJ refused the Defendant's application for permission to appeal and discharged the stay. I note with some surprise that, in his reasons, Phillips LJ said that in any event the grounds of appeal made no challenge to my order discontinuing the confidentiality club.

72. The Defendant's application at the hearing on 13 February 2025 appeared to alter between Mr Shirazi's written and his oral submissions but ultimately it was that, regardless of the position in relation to the existing confidentiality club arrangements, any disclosure of the Defendant's bank statements which I ordered should be subject to such arrangements so as to prevent collateral use by the Claimant. His argument was that my decision to discontinue these arrangements was in part based on the fact that the Defendant had disclosed a good deal of the protected information to the Claimant in the Greek alimony proceedings whereas those proceedings had now concluded and there would be no further disclosure to her in that context. The bank statements would contain a good deal of additional information of which the Claimant was not aware. Her undertaking not to make collateral use of information disclosed pursuant to my order would not be enforceable given that she lives in Greece, and there was a material risk of collateral disclosure by her.

73. Mr Shirazi also submitted, at least orally, that the Defendant's bank statements should be redacted to protect his privacy before they were disclosed into the proposed confidentiality club. He pointed out that bank statements may contain significant private information and gave, as examples or what there might be, payments made to doctors that might reveal personal medical information; subscriptions; and payments that have been made on salacious or embarrassing purchases. He argued that the Defendant has a reasonable expectation of privacy in respect of this information and is protected by Article 8 of the European Convention on Human Rights ("ECHR"). Any interference with the Defendant's Article 8 rights, including by the court through any order which it makes, must be proportionate as that test is explained in, for example, *Dalton Projects v Secretary of State for Transport* [2024] EWCA Civ 172 at [9].

74. Mr Shirazi also submitted that there is no legitimate basis for the Defendant's ex-wife to see his sensitive personal information. The reasons which I gave in the 6 December 2024 judgment for discontinuing the confidentiality club arrangements do not apply to this information, which was not ordered to be disclosed in the Greek proceedings and would not otherwise be available to the Claimant.

75. Mr Tomson argued that for an order for disclosure to be made on a basis which does not permit the other party to inspect the disclosed document is an exceptional course. He relied on *Privatbank v Kolomoisky* [2021] EWHC 1910 (Ch) at [44] where Trowers J said this:

> "44. .. it is clear that a restriction on disclosure to external eyes only at any stage of the litigation is exceptional and the burden remains on the disclosing party throughout to justify the continuation of any such restrictions for each document or class of documents so designated. Restrictions are capable of being an infringement of basic principles of fairness, including a level playing field, and will therefore only be permitted where necessary in the interests of justice. Any departure from the principle must be supported by clear and cogent evidence which will be subject to careful scrutiny by the court."

76. Mr Tomson cited various authorities which illustrated this principle. His position was that there was no justification for a confidentiality club. The Defendant was adequately protected by the Claimant's undertaking not to make collateral use of information or documents disclosed and there was, in any event, no material risk of collateral use by her. If she wished to make use of disclosed information she would make an appropriate application to the court.

77. As far as private information is concerned, Mr Tomson pointed out that the Defendant had not given any evidence that there was such information in his bank statements or of any concerns, let alone of specific concerns in this regard. The suggestion that private information may be revealed, and the types of information which there might be, had come from Mr Shirazi. In answer to questions from me which focussed on the difference between the issue of privacy and the risk of collateral use, Mr Tomson indicated that the Claimant would be content with disclosure of unredacted bank statements into a confidentiality club with redacted versions disclosed on an open basis. This approach would minimise the risk of challenges and satellite litigation in relation to redactions by the Defendant's solicitors. He made clear that any redaction would be limited to any commentary which revealed private information but would not apply to the amount of the payment.

78. Mr Shirazi was not content with this proposal. His position was that there should be no disclosure of unredacted documents: the Defendant's right to respect for his privacy also held good in relation to the Claimant's lawyers. Redactions should be carried out in the usual way by the Defendant's solicitors on grounds of relevance and privacy.

Discussion and conclusion

79. On balance I have concluded that the approach which is most consistent with the overriding objective and Article 8 ECHR is not to order that the further disclosure be subject to confidentiality club arrangements at this stage. I accept that matters have moved on in the Greek proceedings since I considered this issue at [62]-[70(iv)] of my 6 December 2024 consequentials judgment and that, in any event, the bank statements will contain information which has not been provided by the Defendant in the Greek proceedings. Matters have also moved on in these proceedings. However, the position remains that the Claimant has given an undertaking against collateral use. On the evidence I do not accept that there is a substantial risk that she will breach it rather than make an application to the court. She is resident abroad, but she has assets in this

jurisdiction and has provided fortification of £375,000. I do not consider that such risk of breach as there is justifies the added complication of a confidentiality club or a departure from the usual approach to disclosure at this stage.

80. I also recognise that it is generally permissible to redact disclosed documents in order to prevent inspection of information which is both irrelevant and confidential/sensitive in nature. I appreciate that the Defendant does not wish to disclose information to the Claimant, but I am satisfied that CYK will conduct any redaction exercise with a full awareness of their duties to the court and will remind the Defendant that discharging these duties is a matter of professional obligation and conduct, rather than a matter of choice.

81. I therefore do not propose to interfere with any redaction exercise other than to the following extent. I agree with both sides that there is a real risk of arguments about any redactions which are made. This is an acrimonious dispute and I have already had reason to ask the parties not to take bad/tactical points. In the event that there are substantial disputes about redactions and/or either party appears to be being unreasonable it will be open to me simply to order inspection of unredacted copies of any disputed documents, whether into a confidentiality club or otherwise, and/or to penalise the offending party in costs or make such further or other order as is just and convenient. I will not hesitate to do so. It will therefore behove both sides to adopt a reasonable and constructive approach. I agree with Mr Shirazi that redaction should be of information which is both irrelevant (in the sense that it does not satisfy the test for standard disclosure) and truly sensitive personal information (e.g. information about the Defendant's health or which is at the core of his personal life) – and it should be of any commentary only, not of the sum paid or received. This approach will enable SPS to make sensible judgments as to whether a challenge to any redaction is appropriate or proportionate.

Fortification

The Defendant's application

82. Mr Shirazi said that the Defendant seeks further fortification of between £510,000 and £3 million. The former figure is the approximate equivalent of US$630,000 which the Defendant estimates he has lost personally since the FO/WFO. Mr Shirazi said that the £3 million includes the additional losses that the Defendant and/or third parties may suffer as a result of that order. The basis on which this figure was calculated is not clear from the evidence.

83. In opposing the WFO application the Defendant said that he feared that he and third parties would suffer losses as a result of a fall in the value of PYR consequent on delisting by Binance (see [125] and [133] of the WFO judgment). In the event, this has not happened. However, in his sixth witness statement the Defendant maintains his position that the value of PYR and the Vulcan Forged business is intrinsically linked to his personal reputation and brand within the Vulcan Forged community. At the time of the WFO application he predicted that a WFO would be likely to damage his reputation and lead to a fall in the value of PYR. In his sixth witness statement he gives evidence which, he says, indicates that this has indeed occurred.

84. The evidence put forward by the Defendant in support of his application includes two categories which he says are linked. He relies on an exchange in a group chat on Telegram which was forwarded by *"Pyrion"* on 26 January 2025; and he relies on data showing a fall in the value of PYR. He also produces information about this litigation which he found by searching Google for *"Vulcan Forged legal case"* albeit this is a summary of the judgment given by HHJ Pelling KC in August 2024 rather than any of the subsequent judgments or orders in these proceedings.

85. As far as the Telegram messages are concerned, Pyrion forwarded to the Defendant an exchange between *"Penfolds"* and *"Arcadian"* with the message *"..Maybe not my business but is there some lawsuit on PYR right now. One of the Og groups I am in are spreading rumours and think that's why there's some dumping. If true could you maybe address it?"*. The exchange shows Penfolds saying, amongst other things, that others might want to do their own research on the Defendant and PYR on legal cases going on with him - *"Not sharing source but I'm de risking here. Google is your friend".* Arcadian asks him for evidence but Penfolds says it is not his place to do *so "I'm 100% sure….I'm sure it'll come out soon enough…I'm out".* Pyrion says to the *Defendant "he's left but spooked us a bit"* and that he would direct message Penfolds. However, any exchanges between Pyrion and Penfolds, or the Defendant and any of the three others, have not been exhibited by the Defendant.

86. As far as the price of PYRs is concerned, as at 4 December 2024 the price for 1 PYR was US$ 4.1552. On 31 January 2025 it stood at US$2.8252. On 3 February it fell to US$1.6277, and on the morning of 4 February 2025 it was at US$ 1.9661. The Defendant accepts that there has been a big drop in the price of cryptocurrency generally since 31 January 2025 but he says that there has been a greater drop in the value of PYR. Whereas press reports show that some popular cryptocurrencies other than Bitcoin fell by 10% or more, the Defendant says that *"At its lowest, PYR lost approximately 40% of its 31 January 2025 value."*. He says that at least some of the additional loss in the value of PYR is very likely to be due to a trend of PYR owners "derisking" in the way that Penfolds said he was going to, and that:

> *"Based on a rough calculation (comparing PYR to the average for other non bitcoin cryptocurrencies), up to 30% of the fall could easily be due to the [FO] and/or the [WFO]. This would mean that perhaps $630,000 of the loss in value of the Binance PYR since 31 January could be due to the [FO] and/or the [WFO].."*

87. Mr Shirazi submitted in writing that the court has already accepted that fortification is necessary in principle because the Claimant does not have sufficient assets in England and Wales to support the undertakings which she has given. The only issue is therefore whether additional fortification should be ordered on the basis that there is a real prospect that the FO/WFO has caused, and will cause, the Defendant loss. The Defendant's evidence satisfies that test and it is also obvious that the fall in the value of PYR has resulted from the public proceedings conducted in English, rather than the Greek proceedings between the parties which are held in private and conducted in Greek.

88. Mr Shirazi disputed the Claimant's arguments that, firstly, any losses which the Defendant is able to prove would not be recoverable under the Claimant's cross-undertaking in damages; and, secondly, any additional fall in the value of PYR is more likely to have been caused by it being less established than better known

cryptocurrencies, such as Bitcoin or Ether. He submitted that the Telegram messages show that there have been at least some PYR sales as a result of the WFO. It is also inherently more likely that owners of PYR would be much more concerned about the effect of an injunction on the Defendant and the operation of the Vulcan Forged business than about the details of his dispute with his ex-wife and associated allegations.

89. In any event, submitted Mr Shirazi, it would be wrong for the court to find that the Defendant would have no real prospect of success on causation given that this is a highly fact-sensitive issue and given that the court does not have the sort of evidence which it would be likely to have at trial. If there is a claim under the undertaking for damages in due course, then the court will case manage that as appropriate, and would be likely to receive forensic accountancy and/or cryptocurrency expert evidence which separates out the different causes of the movement in PYRs in a more forensic manner. The court should not conduct a mini trial at this stage without that evidence.

90. Mr Shirazi argued that the fact-sensitive nature of any claim is further highlighted by points made by Mr Tsiattalou in his eighth witness statement, many of which amount to speculation. For example:

    i) The relevance of the fact that the Telegram exchanges took place before the falls in the value of cryptocurrency, and the reasons for the fall in the value of PYRs would inherently need to be explored at trial;

    ii) The correctness or otherwise of Mr Tsiattalou's assertion that "Arcadian" is the person who has continued to tweet positive and enthusiastic messages about Vulcan Forged on X as *"Arcadian_VF"* would also need to be explored at trial;

    iii) Mr Tsiattalou notes that "*Google search results are tailored to the specific user and computer*." and produces evidence that a search for *"Vulcan Forged legal case"* on Google does not produce a mention of the present case. However, PYR investors would therefore get different search results to a law firm which holds itself out on its website as specialising in criminal defence & civil litigation. What results PYR investors would get would requires to be explored at trial.

91. In his oral submissions, somewhat at odds with the way it was put by the Defendant in his evidence, Mr Shirazi argued that the claim for damages was not based on loss of reputation. It was based on the harmful effect of the WFO on the Vulcan Forged business and/or the perception that there would be such an effect. That was what had caused Penfolds to de risk, and the disproportionate fall in the value of PYR on and after 31 January 2025. He also emphasised that I should not take an overly narrow approach to causation, especially given that the requirement is that there be no more than a good arguable case and given that the issues are fact sensitive.

The Claimant's position

92. Mr Tomson emphasised that a request for fortification of an undertaking must be supported by "*real evidence*" which "*objectively establishes*" the risk that loss will be suffered as a result of the injunction, and the likely amount of that loss: *Create Financial Management LLP v Lee* [2021] 1 W.L.R. 78. This is necessary to enable the court to make "*an informed and realistic estimate*" of the likely amount of the loss

which may be suffered. For these purposes, "*bald assertion*" is insufficient: *Sinclair Investment Holdings SA v Cushnie* [2004] EWHC 218 (Ch).

93. He submitted that, as a matter of principle, loss consequent on damage to reputation is not recoverable under a cross undertaking in damages. This is because:

i) In this case any damage to his reputation suffered by the Defendant has been caused by the allegations and findings made in the proceedings rather than the freezing orders themselves. The same damage to his reputation would have resulted from the judgments which have been handed down even if relief had been refused, for example because it was not expedient for the purposes of section 25(2) of the Civil Jurisdiction and Judgments Act 1982.

ii) It would be paradoxical if fortification were to be granted in relation to this category of loss: the more outlandish and dishonest the conduct that justified the freezing injunction, the stronger would be the case for fortification.

iii) The Defendant's application for fortification on these grounds also runs the risk of creating a self-fulfilling prophecy. He has consistently sought to argue in these proceedings that (1) his business is fragile (2) the Claimant, contrary to her own best interests, wishes to destroy it and (3) the orders she has obtained give her the power to do so. None of this is true, but insofar as investors look at the Defendant's own evidence as recorded in the WFO judgment, come to the conclusion that value of Vulcan Forged and PYR are in great peril, and act accordingly, the Defendant will have no one but himself to blame.

94. Mr Tomson submitted that, in any event, the evidence of damage to PYR and/or the Vulcan Forged business resulting from reputational harm does not stand up to scrutiny:

i) There is no real or cogent evidence of a causal link between the drop in the price of PYR and the FO/WFO. As the Defendant acknowledges in his evidence, the prices of cryptocurrencies are highly volatile. Moreover, the drop in value occurred at the time when the value of most other cryptocurrencies fell significantly, owing to tariff announcements by US President Donald Trump, and is far more likely to be attributable to this general trend in the crypto-currency market. There was no significant drop in the value of PYR after the handing down of the Judgment on 29 January 2025, or as at 26 January 2025 when the exhibited messages between "Penfolds" and "Acadian" were sent to the Defendant. Instead the trends in the value of PYR almost exactly mirror equivalent drops in the value of more well established crypto-currencies such as Bitcoin and Ether, as a graph which he showed me demonstrates.

ii) SPS have been unable to replicate the Defendant's Google search result for *"Vulcan Forged legal case"* and the public coverage the Defendant has been able to point to is limited to a legal case summary in relation to the original order by HHJ Pelling KC. There is no evidence that these proceedings have attracted any real public interest or following amongst crypto investors and members of the Vulcan Forged community. If a serious depreciation in the value of PYR were taking place, or at risk of taking place, as a result of these proceedings, there would be at least some public sign of this.

iii) Taken at their highest, the exchanges between Penfold and Acadian, show a single owner of PYR encouraging another to sell in the light of these proceedings. The decision of a single anonymous person, Penfold, does not by itself indicate any wider trend. Further, it is evident that Acadian was unconvinced. Since 26 January 2025, Acadian has made various public posts showing his support for PYR and the Defendant's various projects.

iv) Having regard to Vulcan Forged's online gaming community and the Defendant's central role in that community, if he were right one would expect there to be further correspondence with investors and gamers discussing the legal proceedings, rather than a single short set of messages. The messages the Defendant has exhibited between himself and Pyrion, end with both stating that further action should be taken. It is therefore likely that the correspondence the Defendant has exhibited does not tell the entire story.

95. Mr Tomson also relies on [133] of the WFO judgment in which I stated that *"the making of a WFO does not in any way reflect a lack of propriety in the services or the product provided by the Vulcan Forged business."*. He submits that, in these circumstances, it is unlikely that there will be any substantial risk of loss to the Vulcan Forged business on reputational grounds, so as to justify the ordering of further fortification.

The applicable principles

96. Mr Shirazi relied on *Alta Trading UK Limited v Bosworth* [2021] 4 WLR 72 at [15]-[18], and particularly on [17] where Mr Peter MacDonald Eggers QC (sitting as a Deputy High Court Judge) explained the applicable principles as follows:

> "17. …It is ultimately a matter for the court's discretion, but the principles which guide the exercise of that discretion are that fortification should follow if the respondent to the injunction (the applicant for fortification) can demonstrate a good arguable case (and not to any higher standard) that:
>
> (1) The respondent has suffered or will suffer a loss. For this purpose, there must be an intelligent estimate, being informed and realistic but not mathematically or scientifically precise or rigorous, of the likely amount of that loss which has been or might be suffered by the respondent to the injunction by reason of the interim injunction.
>
> (2) The making of the interim injunction is or was a cause without which the relevant loss would not have been suffered.
>
> (3) There is a sufficient level of risk of loss to require fortification, meaning that if the court orders that the applicant for the injunction is directed to comply with its undertaking in damages and to compensate the respondent, there is a risk of the applicant for the injunction not satisfying any such order for damages."

97. Mr Shirazi submitted that the standard for a good arguable case is as stated by the Court of Appeal in *Isabel dos Santos v Unitel SA* [2024] EWCA Civ 1109 at [106] and [122], albeit in considering what the applicant for a freezing injunction is required to establish in relation to the underlying merits of the claim which the application is intended to

support. As is well know, this was a *"serious issue to be tried"*. At [122] Popplewell LJ (with whom the Chancellor and Falk LJ agreed) said:

> "the time has come, in my view, to recognise that the gateway merits test for a freezing order is and should be the same as that for interim injunctions generally, namely whether there is a serious issue to be tried. That is so both as a matter of principle and because it is no different in substance from the test applicable to freezing orders of 'good arguable case', in the sense defined in *The Niedersachsen*"

98. Mr Tomson said, in his oral submissions, that he contested Mr Shirazi's argument on this point but, with respect, his argument was lacking in clarity. Ultimately I understood his position to be that different *"policy issues"* apply to fortification which require a *"slightly higher"* threshold, before any such order is made, than that which applies to the question whether the applicant for relief has a good arguable case in the underlying dispute. An applicant who has a good arguable case and establishes a real risk of dissipation should not be required to provide fortification, and denied relief if they are unable to provide it, on the basis of the same (low) threshold test being satisfied by the respondent.

99. When asked to say, more specifically, what the test for the respondent is, or should be where the issue is fortification, it appeared that Mr Tomson favoured the well known formulation of Mustill J (as he then was) in *Ninemia Maritime Corp v Trave Schiffahrtsgesellschaft ("the Niedersachsen")* [1983] 2 Lloyd's Rep 605 i.e: *"...one which is more than barely capable of serious argument, but not necessarily one which the judge considers would have a better than 50 per cent chance of success."*. However, as I pointed out to him, in *Unitel* the Court of Appeal explained this test and said that it is in substance no different to the serious issue to be tried test, so that Mr Tomson was in effect advocating the *Unitel* test whilst purporting to disavow it.

100. In my provisional view, (given that the issue was not, with respect, fully or clearly argued on the Claimant's side) there is no reason to take a different approach to the *"good arguable case"* question, in the context of fortification, to that which applies to the question whether a freezing injunction should be ordered. I appreciate that in relation to the latter question, the applicant also has to establish that there is a real risk of unjustified dissipation. It might be said that, having done so, significant hurdles ought not to be placed in their path. But the cross undertaking in damages is an important aspect of the way in which the court, exercising its discretion, strikes the balance between the parties in deciding which course carries the least risk of injustice and what is the just and convenient order overall. It is the price which the applicant generally has to pay, at least in the context of private law proceedings, for the injunction: see, further, *Hunt v Ubhi* [2023] 4AllER 530 at [29]. So the effectiveness of the cross undertaking in damages must necessarily be considered in deciding whether to order an interim injunction and, in the run of cases, it would be unsurprising for a court to refuse such an injunction if no effective cross undertaking could be given. The extent to which the cross undertaking requires to be fortified is part of the consideration of this issue and therefore part of the court's exercise of its overall discretion.

101. In that context, especially given that the injunction is interim in nature, it is unsurprising that the threshold requirement for an application for fortification is also that there is a serious issue to be tried as to the risks of losses being incurred as a result of the order, and of the applicant being unable to compensate the respondent in this event. If there is

not a serious issue as to there being such risks, the court need not give the matter further consideration. But if there is, the degree of risk goes into the balance and any injustice to the applicant which might result from an order for fortification can be taken into account in deciding what order, overall and/or in relation specifically to fortification, is just and convenient. This approach is consistent with the fact that the enforcement of the undertaking is also a matter for the court's discretion: see *SCF Tankers Limited v Privalov* [2018] 1 WLR 5623 at [11].

102. On a different point, Mr Tomson also submitted that the decision of Mr John Howell QC (sitting as a Deputy High Court Judge) in *Brainbox Digital Limited v Backboard Media GmbH* [2018] 1 WLR 1149 supported his proposition that damages for harm to reputation are not recoverable pursuant to a cross undertaking in damages. He specifically referred to [20] and [36]-[38] of Mr Howell's judgment.

103. In my view the *Brainbox* decision does not establish any such proposition. What is relevant for present purposes is Mr Howell's acceptance of the dictum of the then Mr Michael Briggs QC (also sitting as a Deputy High Court Judge) in *Harley Street Capital Ltd v Tchingirinski (No 1)* [2005] EWHC 2471 (Ch) at [22] that: *"it is loss caused by the preventative or, as the case may be, coercive effect of the injunction that is recoverable under the cross-undertaking"*. All Mr Howells said at [20] and [38] was that he was not able to make a realistic estimate of the extent to which the loss relied on by Backboard Media had been suffered as a result of the effect of the injunction, as opposed to the effect of the claim itself.

104. Mr Howell did not rule out claims for financial loss which results from damage to reputation, which is what the Defendant alleges he has suffered or will suffer. On the contrary, having acknowledged that it was possible that disruption to Backboard's business may have caused damage to its reputation in the market and, in turn, caused it to lose business opportunities, Mr Howell said that Backboard's case failed on the evidence rather than as a matter of principle. At [33] of the *Harley Street* case, to which Mr Howell referred at [20], Mr Briggs said no more than that he was *"disinclined to treat a misconceived notion by investors that the grant of the freezing order lent the court's credence to [the claimant's] allegations as part of a chain of causation between the freezing order and any loss in share value"* because this factor was wholly unrelated to any restraint placed by the freezing order. The point was therefore purely about causation rather than ruling out any particular category of loss which may be recoverable pursuant to a cross undertaking in damages.

105. My, for the same reasons provisional view is that there is no reason why damages for financial loss consequent upon loss of reputation caused by the grant of an injunction should not be recoverable pursuant to a cross undertaking in damages. However, *Brainbox* and *Harley Street Capital* make clear that the loss must be caused by the injunction. The real question, then, is whether there is a serious issue to be tried as to whether the FO/WFO has caused or will cause the Defendant losses of the nature alleged or predicted by the Defendant and, if so, what order the court should make having regard to the degree of risk established on the evidence and the circumstances of the case overall.

Discussion and conclusion

106. Neither of Mr Tomson's two points of law is, however, decisive in this case given that, for reasons which I will explain, even accepting Mr Shirazi's analysis of the law, I do not accept that an order for further fortification is just and convenient on the evidence.

107. As I said in at [131] of the WFO judgment:

> "[The WFO] is in no way a reflection on the Vulcan Forged business itself or the quality of the products or services which it offers, or PYR as a cryptocurrency. The order is merely a reflection of the Defendant's conduct in the context of a bitter private dispute with his former wife, and is likely to be seen as such."

108. The evidence since then has not established a seriously arguable case to the contrary and in my view, it does not give rise to a triable issue that the coercive effect of the FO or the WFO has caused or will cause the losses alleged or predicted by the Defendant. Nor has he established that the degree of risk of such losses is such that further fortification should be ordered.

109. The evidence of market awareness of the FO or the WFO is very thin:

i) The Defendant has produced one set of Telegram exchanges in which one investor appears to have been intending to "de risk", but the evidence does not show this being a reaction to anything more specific than awareness of the proceedings. The other investor involved in the exchange, Arcadian, appears sceptical about whether there is any reason to de risk and other evidence indicates, albeit not conclusively, that Arcadian then continued to post positive messages about PYR and the Vulcan Forged business.

ii) The Google search relied on by the Defendant threw up information about Judge Pelling's judgment rather than the subsequent orders which have been made. The summary information about the case in the search result says that the dispute is about a mediation agreement in the context of an acrimonious divorce and does not indicate any cause for concern about the Vulcan Forged business or the value of PYR. Nor did the judgment of HHJ Pelling KC, to which it is connected.

iii) I agree with Mr Tomson that, given the nature of the online gaming world, and the widespread use of social media which is apparent from the evidence which I have seen in these proceedings, it is striking that this is the only direct evidence of the market being aware of these proceedings, let alone the FO/WFO itself and/or their effect, or reacting to them by selling PYR.

110. As far as the Defendant's evidence about the value of PYR is concerned, his evidence that there was a disproportionate fall is based on a comparison of its value "at its lowest" compared with its 31 January 2025 value. The graph which Mr Tomson showed me, which charted the values of Bitcoin, Ether and PYR over the period from mid January to 7 February 2025 does not support the Defendant's argument that the fall in the value of PYR is out of step with other cryptocurrencies, and there is evidence that the riskier or less well established cryptocurrencies were likely to be harder hit than those which are well established. Nor does the Defendant's evidence provide a clear basis on which I could make an informed and realistic estimate of the scale of any losses which have been, or are likely to be incurred.

111. So, for all of these reasons, I do not consider that the degree of likelihood that the FO/WFO have caused, or will cause, a reduction in the value of PYR which is recoverable pursuant to the cross undertaking in damages is such that it is just and convenient to order additional fortification.

The costs of the WFO application

The positions of the parties

112. Mr Tomson's application was for the Claimant's costs of the WFO application, to be summarily assessed on the indemnity basis. He submitted that the Defendant's conduct in defending that application was well outside the range of acceptable conduct. The Claimant had been put to significant expense in order to extract information from the Defendant who had at every stage given misleading or opaque evidence and had failed to give proper disclosure of his assets. He made a comparison with *Bird v Hadkinson* The Times 7 April 1999 where such an order was made as a result of the respondent's failure to comply with their disclosure obligations. In his oral submissions he highlighted three particular respects in which, he argued, the Defendant's conduct has been out of the norm

    i) The Defendant's evidence/case on the BVI Co treasury reserves had changed multiple times;

    ii) Second, he had told the court one thing and the public another. The example of Vulcan X was given;

    iii) Third, the Defendant had attempted to challenge my finding that he had given deliberately misleading evidence as to the role of BVI Co.

113. Mr Tomson submitted that, contrary to Mr Shirazi's contention, there should be no percentage reduction applied to the Claimant's costs.

114. Mr Shirazi accepted that costs should be ordered against the Defendant but contended that they should be assessed on the standard basis. He referred me to the commentary at [44.3.8] of the White Book and submitted that there was nothing which took this case "out of the norm" (see *Excelsior Commercial and Industrial Holdings Ltd v Salisbury Hammer Aspden and Johnson (a Firm)* [2002] EWCA Civ 879 at [19]) for a WFO application. A general lack of transparency was not enough. Moreover, it was not even the case that the Claimant had been wholly successful: on the contrary, she had not succeeded in her application to freeze the Defendant's assets located in Greece.

115. He referred me to CPR Rules 44.2(2), (4) and (7) and the commentary in the White Book at [44.2.10]. His submission was that the Claimant should be awarded 75% of her costs rather than the 100% for which she contends. His argument for a reduction was principally based on criticisms of the conduct of the proceedings by the Claimant. In particular he relied on:

    i) The delay in bringing the WFO application which, he said, resulted in costs being incurred in debating issues which would have fallen away had the application been made promptly. It also resulted in unnecessary duplication given that, if the application had been made promptly, all of the applications

could have been dealt with in a two day hearing rather than there being two separate hearings to deal with the consequentials flowing from the Return Date judgment and the application which was eventually made on 13 November 2024.

ii) The fact that although the application was for a WFO I decided that it should not apply to Greece. Debating its application to Greece had, said Mr Shirazi, added significantly to the costs.

116. Finally, Mr Shirazi's position was that there should be a detailed, rather than a summary, assessment of the Claimant's costs. There had been a series of overlapping hearings, three schedules of costs had been submitted showing "eye wateringly high" costs for this hearing and the Claimant's two applications, there was inevitably a high degree of duplication and it therefore would be preferable to subject the Claimant's costs to the scrutiny of a detailed assessment.

Discussion and conclusion

117. As for the basis for assessment, I have concluded that costs should be assessed on the standard basis. Although I have made various criticisms of the Defendant's evidence I do not consider that that his conduct of the proceedings was such as to take the case out of the norm.

118. As for whether there should be any reduction in the Claimant's costs, I dealt with the question of delay at [115]-[116] of the WFO judgment where I accepted the Claimant's reasons for the delay and found that it did not indicate that she was unconcerned about any dissipation of assets. However, I do consider that it would have been possible to bring the WFO application earlier and that it is likely that the delay resulted in duplication of costs. Had the application been brought earlier it might well have been feasible to deal with it and all of the other matters which were before the court on 13 November 2024 in one hearing at around that time or shortly thereafter, albeit the hearing would have been longer. I take Mr Shirazi's point that the Claimant also did not succeed in the WFO application so far as assets located in Greece are concerned, but this did not add materially to the costs. Taking these matters into account, I will order that the Defendant pay 85% of the Claimant's costs.

119. As for whether there should be a detailed or a summary assessment of the Claimant's costs, I accept that there should be a summary assessment. It seems to me that this is the preferable course given that the hearing of the WFO application effectively took one day, notwithstanding Mr Shirazi's submissions to the contrary. Experience of this litigation also suggests that ordering a detailed assessment is likely to prolong these proceedings rather than to result in agreement.

120. The parties should therefore agree directions as to a timetable for written submissions on:

i) The quantum of the costs of the WFO application;

ii) Liability and quantum in relation to the Claimant's application for disclosure dated 27 November 2024 and, so far as separate, the hearing on 13 February 2025.

121. I will then determine these issues on the papers. It seems to me that the costs of the 13 February 2025 hearing are effectively part and parcel of the Claimant's two applications and should be awarded and assessed on that basis. If so, it may be necessary for the Claimant to revise her schedules of costs from three to two, but I leave that question open.

Permission to appeal in relation to the WFO

122. As noted above, at the time of the 13 February 2025 hearing there was an application for permission to appeal before the Court of Appeal. I was told that the Defendant's argument in the appeal was that the entirety of these proceedings should be set aside on the basis, it is alleged, of breaches by the Claimant's side of the duty of full and frank disclosure at the stage of the application to Judge Pelling. Mr Shirazi said that the same ground applied equally to the WFO application of 13 November 2024 which I granted. In addition to this ground, he sought permission to appeal against the WFO on two proposed grounds:

    i) First, that in the WFO judgment I erred in dealing with his argument that the policy of the Greek courts was not to grant freezing orders which apply to assets located outside Greece. That is the policy of the Greek courts which, Mr Shirazi argued, do have a power to make worldwide freezing orders but choose not to exercise it. This was a strong reason for the courts in England and Wales not to grant such an order: see *Mex Group Worldwide Limited v Ford* [2024] EWCA Civ 959 at [107]-[109] which, he says, supports his argument.

    ii) Second, it was submitted that the Court of Appeal might take a different view to mine as to the connection between the Defendant and this jurisdiction. In particular:

        a) There was no concession about personal jurisdiction, and the judgment was wrong to suggest that there had been. Mere personal jurisdiction (in the sense that the court can try a claim) is not enough to meet the requirements for a WFO. If it were, the question of inexpediency would never arise because the court would simply lack jurisdiction;

        b) Significant weight was given in the judgment to the fact that the Defendant did not give evidence about the conclusion as to his domicile. But evidence on a legal conclusion (rather than the factors giving rise to that legal conclusion) should carry little or no weight; and

        c) The mere fact that VFL is incorporated in the UK is not sufficient to establish jurisdiction given the evidence that it was in practice operating out of Greece.

123. I do not accept that these proposed grounds or any of them have a real prospect of success, and there is no other compelling reason why the proposed appeal should be heard:

    i) Particularly in my judgment after the Return Date hearing, I did not agree that there was any material breach of the duty of full and frank disclosure by the Claimant and, on 6 December 2024, I refused permission to appeal on this

ground. The Court of Appeal has also refused permission on this ground and, in any event, I do not accept that there is a real prospect that such a ground could lead to the WFO being set aside.

ii) I do not consider that there is a real prospect of my treatment of Mr Shirazi's argument about the policy of the Greek courts leading to the Court of Appeal setting aside the WFO. This was a matter which required evidence and I was entitled to decline to admit Mr Stavropoulos' third supplemental report to which I would in any event have given limited weight for the reasons which I explained at [153]-[156] of the WFO judgment. In any event, this was but one factor to be weighed in the overall exercise of my discretion.

iii) Nor do I consider that there is anything in Mr Shirazi's arguments about the Defendant's connections with this jurisdiction. Whether or not Mr Shirazi is right on the personal jurisdiction point, I considered the matter on an in any event basis, i.e. on the assumption that I was wrong as to the application of the *ICICI* principles. Apart from this, Mr Shirazi's arguments are about weight rather than the rationality of my evaluation of the evidence and exercise of discretion.

Conclusion

124. In view of the Court of Appeal refusing permission to appeal against my Order discontinuing the confidentiality club arrangements, it seems likely that the full versions of my earlier judgments can now be published. I will, however, give the parties an opportunity to make submissions on this question.