



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 54 OF 2009

**BETWEEN AHMAD HAMAD ALGOSAIBI
AND BROTHERS COMPANY**

PLAINTIFF

AND SAAD INVESTMENTS COMPANY LIMITED

**MAAN AL-SANEA AND OTHERS
(Hereinafter called "the Maples Defendants") DEFENDANTS**

**IN CHAMBERS
THE 1ST DAY OF MARCH 2011
BEFORE THE HON. ANTHONY SMELLIE, CHIEF JUSTICE**

**APPEARANCES: Mr. Peter Hayden and Mr. George Keightley of Mourant
for the Plaintiff**

RULING

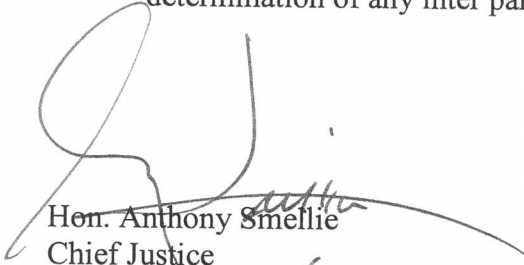
1. This is an ex parte application on notice to the 5th, 21st, 23rd, 28th, 29th and 43rd defendants – the “NCADs” – for an order that Worldwide Mareva injunctive orders granted on 24th July 2009 (“the WFO”) (as varied by subsequent orders made in these proceedings) shall continue as against them until after the determination of an inter partes hearing to be fixed.
2. I state at the outset that the same principles that required to be satisfied before the WFO could have been granted in the first place require to be satisfied now.
3. However, in light of the Court of Appeal’s judgment in this matter (CICA No. 1 of 2010 delivered on the 15th February, 2011), I consider that the main issue to be focused upon is whether these six (6) defendants, all of which have no cause of action pleaded against them, (the “NCADs”) may nonetheless have their assets restrained on the basis that cause of action defendants (here the 3rd and 20th

defendants) are the beneficial owners of assets which are in the possession of the NCADs and where the freezing order will be ancillary and incidental to the effective enforcement of a prospective judgment against the 3rd and 20th defendants.

4. Thus, in effect, the question is whether the Chabra jurisdiction (*[1992] WLR 231*) as elaborated upon in the Cardile (*[1992] 162 ALR 294*) case should properly be exercised in relation to these six NCADs on the basis that their assets could become available for the effective enforcement of a judgment that AHAB may obtain against their parent companies, the 3rd and 20th Defendants.
5. I am satisfied that this jurisdiction may and should be exercised in relation to the assets of the NCADs.
6. Here, as Chadwick P. observed in his judgment on behalf of the Court of Appeal at paras 84-85 – there is good reason to suppose that the NCADs’ assets could be available to the plaintiff AHAB in the event that it obtains a judgment against other defendants in the case – here the 3rd and 20th defendants which are their respective parent companies. For instance, a judgment against the 3rd and 20th defendants may be enforceable by way of liquidation proceedings, in which context the assets of the NCADs would become amenable to enforcement of a judgment as part of the liquidation estates respectively of the 3rd and 20th defendants.
7. I am also satisfied that in the circumstances of the case – where there is already found to be a good arguable case as pleaded against Mr. Al Sanea and other defendants including the 3rd and 20th defendants, there remains also the risk of

dissipation of assets – a risk that has also been recognised by this and the Court of Appeal as continuing.

8. For all those reasons, I grant the relief sought by AHAB's summons today by ordering that the WFO shall continue against the COADs until after the determination of any inter partes hearing in relation to this matter.


Hon. Anthony Smellie
Chief Justice



March 1 2010