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21 June 2018

Healys LLP
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Brighton
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FAO David Bailey

BY EMAIL

Re: LM-2016-000147

Dear Mr Bailey,

1. We refer to the Order of HHJ Bird (sitting as a Judge of the High Court) made on 18 November 2016 (the “**Freezing Injunction**”) and your client’s undertaking in damages at Paragraph (1) of Schedule B to the Order. As set out further below, pursuant to that undertaking, our clients are entitled to be compensated for the losses they have suffered as a result of the Freezing Injunction, which was wrongly obtained in circumstances when your client’s claim, Claim No. LM-2016-000147, was struck out.¹

Background

¹ If a Freezing Injunction has been wrongly granted then, *prima facie*, the Respondent is entitled to be compensated for the losses it has suffered as a result; see S. Gee QC, *Commercial Injunctions* (6th Edn., Sweet & Maxwell, 2016) at 11-035 and 11-043-11-049.

2. The Freezing Injunction was issued in support of your client's claim as set out in its Particulars of Claim. The Freezing Injunction provided that our clients were prohibited from removing from England and Wales or in any way disposing of, dealing with or diminishing the value of any assets up to the value of £2,250,000.00. Paragraph (1) of Schedule B to the Freezing Injunction provides: *"If the court later finds that this order has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the court may make"*.
3. Your client was ordered to pay the sum of £315,000.00 as security for the Defendants' costs as set out in the Order of HHJ Moulder dated 4 October 2017 by 4 pm on 6 December 2017. Your client failed to pay the required security by that date. Consequently, in an unless Order of HHJ Waksman QC (sitting as a Judge of the High Court) on 21 December 2017 (the **"December Order"**) your client was ordered to pay the required security by 10 January 2018 or its claim would be struck out forthwith.
4. In an Order of HHJ Waksman QC (sitting as a Judge of the High Court) on 2 February 2018 (the **"First February Order"**) the December Order was varied to provide that unless by 4 pm on Tuesday 6 February 2018 your client paid the required security the claim would be struck out.
5. Paragraph 1(5) of the First February Order provided that: *"The Defendants shall make any application for an order pursuant to the Claimant's undertaking in damages at Paragraph 1 of Schedule B to the Freezing Injunction by 4 pm on 29 June 2018"*.
6. Your client again failed to pay the required security by the required date, without explanation. In an Order of HHJ Waksman QC (sitting as a Judge of the High Court) on 9 February 2018 (the **"Second February Order"**), your client's claim was accordingly struck out and the Freezing Injunction was discharged, save for the undertakings made by your client at Schedule B.
7. The Freezing Injunction was wrongly obtained, and your client is liable for the losses our clients have suffered as a result thereof.

Losses under the Freezing Injunction

Tax liability

8. The First Defendant had two balances to pay following self-assessment of tax and/or National Insurance contributions in the years 2014-2015 and 2015-2016. As a result of the Freezing Injunction he was unable to pay those balances while the Freezing Injunction was in force, with the result that late payment interest on the amounts and late payment penalties were incurred between 18 November 2016 (the date the Freezing

Injunction was issued) and 9 February 2018 (the date the Freezing Injunction was discharged).

9. The details of the interest and late payment penalties are set out in the enclosed HMRC documents. In summary, a total of £1,930.42 was incurred for late payment interest on the tax liabilities from 18 November 2016 to 9 February 2018 and £3,508.00 for late payment penalties in the same period.

Credit card payments

10. The Freezing Injunction provided that our clients were entitled to spend a maximum of £750 a week jointly on ordinary living expenses. This amount was insufficient to cover their cost of living, and consequently they had to pay for many of their expenses using credit cards. The interest on these credit card debts would not have been incurred but for the Freezing Injunction.
11. The interest on the relevant credit card payments are set out in the enclosed statements and amounts to £3,070.91.

Costs associated with discharging the Freezing Injunction

12. Paragraph (5) of Schedule B to the Freezing Injunction provides: *“If this order ceases to have effect...the Applicant will immediately take all reasonable steps to inform in writing anyone to whom he has given notice of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.”*
13. On 19 February 2018, we wrote to you requesting confirmation that your client had complied with its obligations under Paragraph (5) of the Freezing Injunction by providing the relevant persons/entities with written notice that the Freezing Injunction had been discharged. On 21 February 2018, you provided this confirmation.
14. On 21 March 2018, we wrote to you requesting copies of the written notices your client purportedly provided to the relevant persons/entities. You failed to respond to this request.
15. On 17 April 2018, we wrote to you to inform you that our clients’ accounts with HSBC and Barclays remained frozen as of that date, and again requested copies of the written notices your client purportedly provided to the relevant persons/entities. Later that day, you provided us with copies of notices purportedly sent to HSBC (the “**HSBC Notice**”) and Barclays (the “**Barclays Notice**”).
16. The Barclays Notice did not refer to the Freezing Injunction. Instead, it referred to the Earlier Freezing Injunction, which was discharged by Order of HHJ Bird (sitting as a

Judge of the High Court) on 4 April 2017, and which imposed the same obligation as Paragraph (5) of Schedule B to the Freezing Injunction. The HSBC Notice, by contrast, did refer to the Freezing Injunction, but did not refer to the Earlier Freezing Injunction.

17. In a letter dated 20 April 2018 (the “**20 April Letter**”), we wrote to you setting out our clients’ concerns that their bank accounts with HSBC and Barclays remained blocked as of that date, despite the fact that the Freezing Injunction was discharged on 9 February 2018 and the Earlier Freezing Injunction was discharged on 4 April 2017. Specifically, the 20 April Letter stated that it appeared that the Claimant had breached its undertakings in the Freezing Injunction and the Earlier Freezing Injunction, and asked for clarification as to exactly which steps the Claimant had taken in compliance with its undertakings in respect of both orders, together with copies of the relevant notices.
18. As is evidenced in a series of emails in response to the 20 April Letter, your firm was consistently obstructive and evaded confirming exactly which notices were sent to which entities concerning the discharge of the Freezing Injunction and the Earlier Freezing Injunction, and/or when such notices were sent. As a result, our clients are still unclear as to exactly which steps your client took or failed to take.
19. However, ultimately, the HSBC and Barclays accounts were not unfrozen until late April, i.e. more than two and a half months after the Freezing Injunction was discharged, and more than a year after the Earlier Freezing Injunction was discharged.
20. The Defendants were required to expend valuable time and money in resolving this matter, and would not have been required to do so had your client complied with its obligations and/or had your firm responded timeously and clearly to their straightforward requests for clarification.
21. Accordingly, our clients seek the legal costs they incurred in corresponding with your firm on this matter between 9 February 2018 and 30 April 2018. This amounts to £2507.5.

Next steps

22. In the light of the First February Order and the Court’s invitation to our clients to set out their losses under the Freezing Injunction, we do not anticipate that your client will contest liability for the sums set out above.
23. In seeking legal advice on the undertaking in damages and investigating and establishing these losses our clients have already incurred significant legal costs. In the event that you are unwilling to pay the sum below and our clients are forced to file an application with the Court, we are instructed to seek our clients’ costs. However, if your

client is prepared to settle its liability prior to any application then our clients will accept a contribution to their legal costs of £6,500.00

24. On this basis, in satisfaction of your client's liability pursuant to the undertaking in damages at Paragraph (1) of Schedule B of the Freezing Injunction, we would invite your client to pay the sum of £11,016.83 plus legal costs of £6,500 immediately, and by no later than 4pm on Wednesday 27 June 2018. Payment is to made by electronic funds transfer to the following account:

HSBC

Mr R Singh

Sort: 40-01-22

Acc: 51702335

25. If payment of this amount is not received by 4 pm on Wednesday 27 June 2018 we are instructed to file an application with the Court by 29 June 2018 and seek our clients' full legal costs.

Yours faithfully,



QUINN EMANUEL URQUHART & SULLIVAN UK LLP