

SUPREME COURT OF SEYCHELLES

Not Reportable
[2019] SCSC 792
MA 240/2019
(Arising in XP 165/2011)

In the ex parte matter of:

JOHN MILSOM
DAVID STANDISH
(AS JOINT RECEIVERS OF ASSETS OF MUKHTAR ABLYAZOV) **Applicants**
(rep. by Kieran Shah)

Neutral Citation: *Ex Parte John Milsom and David Standish (as joint receivers of assets of Mukhtar Ablyazov)* MA 240/2019 [2019] SCSC 792 (18 September 2018).
Before: Twomey CJ,
Summary: recognition of English order of receivership- discharge of order against excluded companies- application to serve Mr. Ablyazov outside the jurisdiction on last known address in France-sealing of court file
Heard: 18 September 2019
Delivered: 18 September 2019

ORDER

TWOMEY CJ

UPON THE APPLICATION of Messrs John Milsom and David Standish (the **Applicants**), as joint Receivers of assets of the Respondent, Mr Mukhtar Ablyazov (the **Application**)

AND UPON HEARING Counsel for the Applicants

AND UPON CONSIDERING and in furtherance of the order of the Court dated 13 October 2011 which recognised the English Receivership Order as amended on the 9 June 2011; the further order of the Court dated 21 March 2012 which recognized the English Receivership Order as amended on 8 March 2012; the further order of the Court dated 30 May 2012 which

recognised the English Receivership Order as amended on 24 April 2012; the further order of the Court dated 14 February 2013 which recognised the English Receivership Order as amended on 25 January 2013; and the further order of the Court dated 22 August 2013 which recognised the English Receivership Order as amended on 25 April, 17 May, 24 June, 5 July and 31 July 2013

AND UPON READING the Fifteenth Affidavit of John Milsom dated 5 December 2018 in support of the Application

AND CONSIDERING the further order of the Court dated 28 February 2019 and the Order of 8 May 2019 made subsequent to the Affidavit

AND IN EXERCISE of the jurisdiction and power conferred upon this Court by Sections 5 and 6 of the Courts Act (Cap 52).

IT IS ORDERED THAT:

1. The Orders of the High Court of Justice, Business and Property Courts of England and Wales, Queen's Bench Division, Commercial Court (the **English Court**) dated 3 August 2017 (the **August 2017 Order**), 13 April 2018 (the **April 2018 Order**), 28 February 2019 (the **February 2019 Order**) and 8 May 2019 (the **May 2019 Order**) made in proceedings between JSC BTA Bank (the **Bank**) and Mukhtar Ablyazov (**Mr Ablyazov**) and others (Claim No: CL-2009-000212 (formerly 2009 Folio 1099)) (the **English Proceedings**), be recognised within the jurisdiction of this Court and declared enforceable by this Court.
2. For the avoidance of doubt, and without prejudice to the generality of the foregoing:
 - (a) the August 2017 Order and the April 2018 Order discharge the Order of the English Court dated 6 August 2010, as amended (the **English Receivership Order**), insofar as the English Receivership Order relates to the legal and beneficial interests in the shares in, and the Direct and Indirect Assets (as defined in the English Receivership Order) of, 488 companies listed in the Schedule to the

August 2017 Order and 194 companies listed in the Schedule to the April 2018 Order (the *Excluded Companies* and *Further Excluded Companies*) and the Companies listed in the February 2019 Order (*Additional Excluded Companies*) and to certain funds held by the Receivers on behalf of the Additional Companies in the May 2019 Order and terminate the appointment of the Applicants in relation thereto;

- (b) the Excluded Companies and Further Excluded Companies and the Additional Excluded Companies that are incorporated within the jurisdiction of this Court and over which the Applicants have been appointed receivers, or, in some cases, receivers and managers, are listed in Schedule A (in respect of the Excluded Companies removed from the English Receivership Order by the August 2017 Order) and Schedule B (in respect of the Further Excluded Companies removed from the English Receivership Order by the April 2018 Order) and in Schedule C, the Additional Excluded Companies to this Order (together, the *Seychelles Excluded Companies*), save for remaining in force over certain funds held by the Receivers under the February 2019 Order (Schedule D) and as it relates to the Latvian Account Balances under the May 2019 Order, Schedule E; and
- (c) the appointment of the Applicants in relation to the legal and beneficial interests in the shares in, and the Direct and Indirect Assets of, the Seychelles Excluded Companies shall be terminated and the powers, rights, obligations and duties of the Applicants in relation thereto shall cease as at the date of this Order, save that they should remain in force in so far as it relates to certain funds held by the Receivers in England under the February 2019 Order and in so far as it relates to the Latvian Account under the May 2019 Order.

3. Following the termination of the Applicants' appointment in relation to the Seychelles Excluded Companies as provided in paragraphs (b) and (c) above, the most recent Order made by this Court on 22 August 2013 (the **Fifth Recognition Order**), which recognised and declared enforceable in this jurisdiction the English Receivership Order, and any and all previous recognition orders made by this Court in respect of the English Receivership Order (together with the Fifth Recognition Order, the **Recognition Orders**) be formally discharged insofar as they relate to the Seychelles Excluded Companies.
4. Permission be granted to serve Mr Ablyazov outside the jurisdiction with this Application, any Order granted as a result of this Application and/or any further orders or court process in relation to this Application, such service to be effected at Mr Ablyazov's last known address and/or in accordance with the laws of France or any other country in which Mr Ablyazov may be located (to the best knowledge of the Applicants, having made reasonable enquiries) at the time of service.
5. The Court file be sealed and no person who is not a party to the proceedings may inspect or take a copy of any document filed in these proceedings except with the leave of the Court granted on an application made on at least 2 clear days' notice to the Applicants.
6. The Applicants shall promptly inform this Court of any event in the English Proceedings which might require this Order to be discharged or varied.
7. The Applicants and Mr Ablyazov and any person notified of or affected by this Order do have liberty to apply to this Court for an appropriate legal remedy.
8. The costs of the Application be reserved.

Signed, dated and delivered at Ile du Port on 18 September 2019.

Twomey CJ