

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**COMMERCIAL COURT**

Claim No. ~~HC~~ 2010 F0610  
S37

Before The Honourable Mr Justice Teare  
11 May 2010

IN PRIVATE

BETWEEN:



**GLITNIR BANK HF**  
(A company incorporated under the laws of Iceland)

**Applicant**

—and—

**JÓN ÁSGEIR JÓHANNESSON**

**Respondent**

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**FREEZING INJUNCTION**  
**ORDER TO RESTRAIN DEALINGS WITH ASSETS WORLDWIDE**

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**PENAL NOTICE**

**IF YOU JÓN ÁSGEIR JÓHANNESSON DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.**

## **THIS ORDER**

1. This is a Freezing Injunction made against Jón Ásgeir Jóhannesson (“the Respondent”) on 11 May 2010 by Mr Justice Teare on the application of Glitnir Banki HF (“the Applicant”).
2. This order was made at a hearing without notice to the Respondent. The Respondent has a right to apply to the court to vary or discharge the order — see paragraph 13 below.
3. There will be a further hearing in respect of this order on 28 May 2010 (“the return date”).
4. The Applicant has permission to serve the Claim Form in these proceedings, this order, any evidence and other documents relied on in obtaining the order, a note of the hearing of this application and any application and evidence in support of the continuation of this order:
  - (1) pursuant to CPR 6.36 out of the jurisdiction on the Respondent in Iceland or the United States of America (“USA”) at the addresses in paragraphs (1) and (2) of Schedule C to this order or elsewhere in those countries where he may be found.
  - (2) pursuant to CPR 6.37(5)(b)(i) out of the jurisdiction by way of alternative service on the Respondent by addressing them to the relevant legal representative acting for the Respondent and sending or delivering them to the addresses set out in paragraphs (3), (4) and (5) of Schedule C to this order.
5. The Applicant also has permission to serve the documents listed in paragraph 4 above within the jurisdiction by way of alternative service on the Respondent pursuant to CPR 6.15 by leaving or sending them to the addresses set out at paragraphs 6 and 7 of Schedule C to this order marked for the attention of the Respondent.

## **FREEZING INJUNCTION**

6. Until after the return date or further order of the court, the Respondent must not—

- (1) remove from England and Wales any of his assets which are in England and Wales up to the value of Icelandic Krona ('ISK') 6,000,000,000 (six billion) except that this value shall be reduced by the value of any of his assets that are or become subject to any freezing order or order of a similar nature granted in Iceland in support of the Aurum Claim as defined under Schedule B, undertaking 8; or
  - (2) in any way dispose of, deal with or diminish the value of any of his assets whether they are in or outside England and Wales up to the value of ISK 6,000,000,000 (six billion) as such value may be reduced under 6(1) above, except that this order shall cease to affect any assets which are or become subject to any freezing order or order of a similar nature granted in Iceland and/or the USA, including in particular the properties at (1) and (2) of Schedule C to this order.
7. Paragraph 6 applies to all of the Respondent's assets whether or not they are in his own name, whether they are solely or jointly owned and whether the Respondent is interested in them legally, beneficially or otherwise. For the purposes of this order the Respondent's assets include any asset which he has the power, directly or indirectly, to dispose of or deal with as if it were his own. The Respondent is to be regarded as having such power if a third party holds or controls the asset in accordance with his direct or indirect instructions.
8.
  - (1) If the total value free of charges or other securities ("unencumbered value") of the Respondent's assets in England and Wales exceeds ISK 6,000,000,000 (six billion) as such value may be reduced under 6(1) above, the Respondent may remove any of those assets from England and Wales or may dispose of or deal with them, so long as the total unencumbered value of the Respondent's assets still in England and Wales remains above ISK 6,000,000,000 (six billion).

- (2) If the total unencumbered value of the Respondent's assets in England and Wales does not exceed ISK 6,000,000,000 (six billion) as such value may be reduced under 6(1) above, the Respondent must not remove any of those assets from England and Wales and must not dispose of or deal with any of them. If the Respondent has other assets outside England and Wales, he may dispose of or deal with those assets so long as the total unencumbered value of all his assets whether in or outside England and Wales remains above ISK 6,000,000,000 (six billion) as such value may be reduced under 6(1) above.

### **PROVISION OF INFORMATION**

9.

- (1) Unless paragraph 9(2) below applies, the Respondent must within 48 hours of service of this order and to the best of his ability:

- (a) inform the Applicant's solicitors of all his assets worldwide exceeding £10,000 in value whether in his own name or not and whether solely or jointly owned, giving the value, location and details of all such assets; and
- (b) in particular, provide information to the Applicant's solicitors regarding the proceeds of the sale of (i) a yacht named "One O One", previously registered in George Town in the Cayman Islands; (ii) a chalet at section C, number 2076, "Les Chenus", in the municipality of Saint Bon Tarentaise (Savoie) (73120), Resort Courcheval 1850, France.

- (2) If the provision of any of this information is likely to incriminate the Respondent, he may be entitled to refuse to provide it, but is recommended to take legal advice before refusing to provide the information. Wrongful refusal to provide the information is contempt of court and may render the Respondent liable to be imprisoned, fined or have his assets seized.

10. Within 5 working days after being served with this order, the Respondent must swear and serve on the Applicant's solicitors an affidavit setting out the above information.

#### **EXCEPTIONS TO THIS ORDER**

11.

- (1) This order does not prohibit the Respondent from spending £2,500 a week towards his ordinary and reasonable living expenses and a reasonable sum on legal advice and representation. But before spending any money the Respondent must tell the Applicant's solicitors where the money is to come from.
- (2) This order does not prohibit the Respondent from dealing with or disposing of any of his assets in the ordinary and proper course of business, but before doing so the Respondent must tell the Applicant's legal representatives.
- (3) The Respondent may agree with the Applicant's legal representatives that the above spending limits should be increased or that this order should be varied in any other respect, but any agreement must be in writing.
- (4) This order will cease to have effect if the Respondent—
  - (a) provides security by paying the sum of ISK 6,000,000,000 (six billion) as such value may be reduced under 6(1) above or the equivalent in pounds sterling into Court, to be held to the order of the Court; or
  - (b) makes provision for security in that sum by another method agreed with the Applicant's legal representatives.

## **COSTS**

12. The costs of this application are reserved to the Judge hearing the application on the return date.

## **VARIATION OR DISCHARGE OF THIS ORDER**

13. Anyone served with or notified of this order may apply to the court at any time to vary or discharge this order (or so much of it as affects that person), but they must first inform the Applicant's legal representatives. If any evidence is to be relied on in support of the application, the substance of it must be communicated in writing to the Applicant's solicitors in advance.

## **INTERPRETATION OF THIS ORDER**

14. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it though others acting on his behalf or on his instructions or with his encouragement.
15. A Respondent which is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

## **PARTIES OTHER THAN THE APPLICANT AND RESPONDENTS**

### **16. Effect of this order**

It is a contempt of court for any person notified of this order knowingly to assist in or permit a breach of this order. Any person doing so may be imprisoned, fined or have their assets seized.

### **17. Set off by banks**

This injunction does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the Respondent before it was notified of this order.

### **18. Withdrawals by the Respondent**

No bank need enquire as to the application or proposed application of any money withdrawn by the Respondent if the withdrawal appears to be permitted by this order.

### **19. Persons outside England and Wales**

- (1) Except as provided in paragraph 19(2) below, the terms of this order do not affect or concern anyone outside the jurisdiction of this court.

- (2) The terms of this order will affect the following persons in a country or state outside the jurisdiction of this court —
- (a) the Respondent or his officer or agent appointed by power of attorney;
  - (b) any person who—
    - (i) is subject to the jurisdiction of this court;
    - (ii) has been given written notice of this order at his residence or place of business within the jurisdiction of this court; and
    - (iii) is able to prevent acts or omissions outside the jurisdiction of this court which constitute or assist in a breach of the terms of this order; and
  - (c) any other person, only to the extent that this order is declared enforceable by or is enforced by a court in that country or state.

## **20. Assets located outside England and Wales**

Nothing in this order shall, in respect of assets located outside England and Wales, prevent any third party from complying with—

- (1) what it reasonably believes to be its obligations, contractual or otherwise, under the laws and obligations of the country or state in which those assets are situated or under the proper law of any contract between itself and the Respondent; and
- (2) any orders of the courts of that country or state, provided that reasonable notice of any application for such an order is given to the Applicant's solicitors.

## **COMMUNICATIONS WITH THE COURT**

All communications to the Court about this order should be sent to Room EB09, Royal Courts of Justice, Strand, London WC2A 2LL quoting the case number. The telephone number is 020 7947 6826.

The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday.



## **SCHEDULE A**

### **AFFIDAVITS AND EVIDENCE**

The Applicant relied on:

- (i) The affidavit of Steinunn Holm Guðbjartsdóttir sworn on 11 May 2010 filed on behalf of the Applicant and the exhibits thereto; and
- (ii) The report of Thorey Thordardottir dated 9 May 2010.

## **SCHEDULE B**

### **UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT**

- (1) 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.
- (2) The Applicant will on or before 13 May 2010 cause £1 million to be paid into the Applicant's legal representatives' client account to be held there in respect of any order the court may make pursuant to paragraph (1) above.
- (3) The Applicant will serve upon the Respondent as soon as practicable—
  - (i) copies of the affidavit and exhibit of Steinunn Holm Guðbjartsdóttir and the report of Thorey Thordardottir dated 9 May 2010 containing the evidence relied upon by the Applicant, the supplementary affidavit referred to in (10) below and any other documents provided to the court on the making of the application;
  - (ii) the claim form; and

(iii) an application notice for the continuation of the order.

- (4) The Applicant will as soon as practicable send the documents in (3) above except for the exhibit to the affidavit of Steinunn Holm Guðbjartsdóttir together with a copy of this order by email marked for the attention of the Respondent to the addressees in Schedule C, paragraphs (3), (4) and (7).
- (5) Anyone notified of this order will be given a copy of it by the Applicant's legal representatives.
- (6) The Applicant will pay the reasonable costs of anyone other than the Respondent which have been incurred as a result of this order including the costs of finding out whether that person holds any of the Respondent's assets and if the court later finds that this order has caused such person loss, and decides that such person should be compensated for that loss, the Applicant will comply with any order the court may make.
- (7) If this order ceases to have effect in whole or in part (for example, if the Respondent provides security or the Applicant does not provide a bank guarantee as provided for above) 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.
- (8) The Applicant will not without the permission of the court use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in England and Wales or in any other jurisdiction, other than this claim and the proceedings brought by the Applicant and submitted to the Reykjavik District Court in Iceland on 27 April 2010 ('the Aurum Claim').
- (9) The Applicant will not without the permission of the court seek to enforce this order in any country outside England and Wales except in the USA and/or Iceland or, except in the USA and/or Iceland, seek an order of a similar nature including orders conferring a charge or other security against the Respondent or the Respondent's

assets.

- (10) The Applicant will file a supplemental affidavit confirming the substance of the account given to the Court of the meaning of 'domicile' in the extract from the Icelandic National Registry referred to at paragraph 55 of affidavit of Steinunn Holm Guðbjartsdóttir.

### **SCHEDULE C**

- (1) Soleyjargata 11, Reykjavik 101, Iceland.
- (2) 50, Gramercy Park North, PH, New York, NY 10010 USA.
- (3) Jonsson & Hall Law Firm, Sudurlandsbraut 4, Reykjavik, 108, Iceland.
- (4) Kagan Lubic Lepper Lewis Gold & Colbert LLP, at 200 Madison Avenue, 24<sup>th</sup> Floor, New York, NY10016 USA.
- (5) The address of any attorney instructed to appear for the Respondent in the US Complaint referred to at paragraph 39 of the affidavit of Steinunn Holm Guðbjartsdóttir.
- (6) JMS Partners Limited at 413 Oxford Street, London, W1C 2PF.
- (7) The Respondent at his e-mail address at [jon.asgeir@jmspartners.co.uk](mailto:jon.asgeir@jmspartners.co.uk)

**NAME AND ADDRESS OF APPLICANT'S LEGAL REPRESENTATIVES**

The Applicant's legal representatives are—

Slaughter and May

One Bunhill Row

London

EC1Y 8YY

Reference: DLXF/KED

The individuals with conduct of these proceedings are Deborah Finkler and Kate Douglas-Hamilton.

Tel: 020 7600 1200 (office hours), (out of office hours) Deborah Finkler: 07795 337067, Kate Douglas-Hamilton: 07917 846831.

Fax: 020 7090 5000

Email: Deborah.FINKLER@SlaughterandMay.com and Kate.Douglas-Hamilton@SlaughterandMay.com

**GLITNIR BANKI HF**

**Applicant**

**-and-**

**JÓN ÁSGEIR JÓHANNESSON**

**Respondent**

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WITH ASSETS WORLDWIDE**

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