



Claim No: FL-2017-000004

27 Apr 2018

FL-2017-000004

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (QBD)
FINANCIAL LIST

BEFORE Mr Justice Robin Knowles CBE

IN PUBLIC

Friday 27 April 2018

BETWEEN:

PUTNAM SPV 4, LLC

Applicant/Sixth Defendant

-and-

(1) DANA GAS PJSC

Claimant/First Respondent

(2) KHALID BIN ABDULRAHMAN SALEH AL-RAJHI
(3) AL MANARA INVESTMENT & DEVELOPMENT LLC
(4) AL MADFAA INVESTMENTS LLC
(5) GHIATH MUHAMMAD GHIATH
(6) MARWAN JOHN SHORKRY KATTAN
(7) ALL OTHER SHAREHOLDERS IN DANA GAS PJSC

Respondents

ORDER FOR JOINDER,

INTERIM INJUNCTIONS AND INTERIM ANTI-SUIT INJUNCTIONS AND ORDERS

PENAL NOTICE

IF YOU, THE WITHIN NAMED (1) DANA GAS PJSC, OR (2) KHALID BIN ABDULRAHMAN SALEH AL-RAJHI, OR (3) AL MANARA INVESTMENT & DEVELOPMENT LLC, OR (4) AL MADFAA INVESTMENTS LLC, OR (5) GHIATH MUHAMMAD GHIATH, OR (6) MARWAN JOHN SHORKRY KATTAN, OR (7) ALL OTHER SHAREHOLDERS IN DANA GAS PJSC DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO BE FINED AND FOR YOUR ASSETS TO BE SEIZED AND ANY OF YOUR DIRECTORS MAY BE IMPRISONED OR FINED

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

Important

To the Respondents:

- (1) This Order requires you to do the acts set out in the Order. You should read it carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask this Court to vary or discharge this Order.
- (2) If you disobey this Order you may be found guilty of Contempt of Court and any of your directors may be sent to prison or fined and you may be fined or your assets may be seized.

UPON the further hearing of these proceedings

AND UPON reading the evidence filed

AND UPON hearing Leading Counsel for the Claimant at a hearing on Friday 20 April 2018

AND UPON the Applicant having issued an application notice dated 4 April 2018

AND UPON this Court treating the Applicant as having given the undertakings set out in Schedule A to this Order

IT IS ORDERED THAT:

Further definitions

1. In this Order, the following further definitions shall apply:
 - (1) **“Transaction Documents”** shall have the same meaning as under Clause 1.1 of the Amended and Restated Declaration of Trust relating to Dana Gas Sukuk Limited dated 8 May 2013.
 - (2) **“Dispute”** shall mean the dispute regarding the meaning, validity, and effect of the Transaction Documents that is the subject-matter of the present proceedings before this Court (including, for the avoidance of doubt, any dispute relating to (i) the consequences of

the invalidity of any Transaction Document and (ii) the liability of any party to make a payment to any other party in consequence of such invalidity or in consequence of any of the Transaction Documents having been terminated or having come to an end in accordance with their terms).

- (3) **“Respondents”** shall mean the within named: (i) Dana Gas PJSC, the Claimant; (ii) Khalid Bin Abdulrahman Salah Al-Rajhi; (iii) Al Manara Investment & Development LLC; (iv) Al Madfaa Investments LLC; (v) Ghiath Muhammad Ghiath; (vi) Marwan John Shorkry Kattan; and (vii) all other shareholders in Dana Gas PJSC (from time to time), and **“Respondent”** shall mean any of them.
- (4) **“Sharjah Proceedings”** shall mean: (i) the proceedings commenced before the Sharjah Court by the Claimant on 13 June 2017; (ii) the proceedings commenced before the Sharjah Court by the Second, Third and Fourth Respondents on 28 August 2017; (iii) the proceedings commenced before the Sharjah Court by the Sixth Respondent on or around 7 March 2018; and (iv) any other proceedings before the Sharjah Court in relation to the Dispute.
- (5) **“June 2017 Sharjah Injunction”** shall mean the interim injunction granted by the Sharjah Court on 13 June 2017 in the Sharjah Proceedings.
- (6) **“September 2017 Sharjah Injunction”** shall mean the interim injunction granted by the Sharjah Court on 4 September 2017 in the Sharjah Proceedings.
- (7) **“March 2018 Sharjah Orders”** shall mean the interim injunction and clarificatory order granted by the Sharjah Court on 7 and 20 March 2018 respectively in the Sharjah Proceedings.
- (8) **“BVI Injunction”** shall mean the injunction granted by the Courts of the British Virgin Islands dated 13 June 2017 and continued by Order dated 19 June 2017 in relation to Claim No. BVIHC (COM) 94 of 2017.

Joinder of the Applicant as the Sixth Defendant to these proceedings

2. The Applicant shall be joined as the Sixth Defendant to these proceedings.
3. The question of what directions should be made consequential upon such joinder shall be reserved to the Case Management Conference in these proceedings due to be heard on 4 May 2018.

Interim Injunctions

4. Until after trial of the remaining issues in these proceedings or further Order of this Court in the meantime, the Claimant shall:

- (1) comply with the undertakings given in clause 4 of the Purchase Undertaking, save that, for the purposes of this injunction:

- i. in relation to the definition of "Permitted Financial Indebtedness" as used in clause 4.1.1 of the Amended and Restated Purchase Undertaking dated 8 May 2013 (the "**Purchase Undertaking**"), instead of paragraphs (c) and (d) of that definition (but without prejudice to the sub-limits that apply under paragraph (c), which shall continue to apply), the Claimant may not increase its Financial Indebtedness (as defined therein) beyond its present Financial Indebtedness save insofar as that increase does not exceed \$25 million in aggregate, any periodic payment arising under clause 5 of the Amended and Restated Mudarabah Agreement dated 8 May 2013 (the "**Mudarabah Agreement**") not to count towards such Financial Indebtedness;

- ii. with respect to clause 4.1.6 of the Purchase Undertaking (and without prejudice to the terms therein), the Claimant will not effect, and will procure that each member of the Group (as defined therein) will not effect, any Asset Sale (as defined therein) unless it is in the ordinary course of the business of the Claimant or member of the Group entering into the Asset Sale;

- (2) not, except with the permission of this Court, liquidate the Mudarabah Assets unless the proceeds of such liquidation together with the amounts standing to the credit of the Transaction Account and the Reserve Account, is equal to or greater than the Redemption

Required Amount (such capitalised terms having the definitions stated in the Mudarabah Agreement);

- (3) not, except with the permission of this Court, declare, make or pay in cash any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) on or in respect of its share capital (or any class of its share capital) unless:
- i. full provision is made by the Claimant for its repayment obligations under the Mudarabah Agreement and the Purchase Undertaking; and
 - ii. such dividend, charge, fee or distribution would not otherwise adversely affect the Claimant's ability to make the payments due under the Mudarabah Agreement and the Purchase Undertaking (but without prejudice to the Claimant's case as to the invalidity and/or unenforceability of the Mudarabah Agreement)

in each case as if those agreements are valid, binding and enforceable;

PROVIDED always that the Claimant may pay the sum of about US\$95 million, purportedly resolved on 18 April 2018 at a general meeting of the shareholders of the Claimant to be distributed as a dividend, into a separate designated bank account with a first class bank within this jurisdiction to abide the further order of this Court on an application by (a) the shareholders of the Claimant and (b) the Applicant and other certificate holders under the Transaction Documents.

- (4) with respect to liabilities other than arising under the Mudarabah Agreement and the Purchase Undertaking (in each case as if those agreements are valid, binding and enforceable), not discharge such liabilities otherwise than in the ordinary course of business.
5. Until after trial of the remaining issues in these proceedings or further Order of this Court, except with the permission of this Court the other Respondents shall not take any step that procures, assists or otherwise causes the Claimant to fail to comply with the injunctions at paragraph 4 above.

Interim Anti-Suit Injunctions and Orders

6. Until after trial of the remaining issues in these proceedings or further Order of this Court, the Respondents shall not, except with the permission of this Court:
 - (1) Pursue or take any step in the Sharjah Proceedings, save for the purposes of complying with paragraph 7 below.
 - (2) Commence, serve, pursue or continue, or procure or assist in the commencement, service, pursuit or continuation of, any further proceedings in relation to the Dispute in any court or tribunal otherwise than in the High Court of England and Wales (or a court of another Member State of the European Union or another Contracting State of the Lugano Convention).
 - (3) Commence or pursue, or procure or assist in the commencement or pursuit of, any motion, application, claim or other proceeding seeking to restrain, require the termination of, impose sanctions upon, or otherwise interfere with these proceedings.

7. Until after trial of the remaining issues in these proceedings or further Order of this Court, the First, Second, Third, Fourth, and Sixth Respondents shall take all steps within its or his power to:
 - (1) Cause the Sharjah Proceedings to be terminated without any judgment or order being made in relation to any of the issues in respect of the Dispute.
 - (2) Cause the June 2017 Sharjah Injunction to be irrevocably discharged and/or set aside and/or terminated;
 - (3) Cause the March 2018 Sharjah Orders to be irrevocably discharged and/or set aside and/or terminated; and
 - (4) Obtain the discharge of the BVI Injunction and discontinuance of the BVI proceedings including by procuring that Dana LNG Ventures Limited consents to and facilitates those outcomes.

8. Until after trial of the remaining issues in these proceedings or further Order of this Court, the Fifth and Seventh Respondents shall not commence or pursue, or procure or assist in the

commencement or pursuit of, any motion, application, claim or other proceeding seeking to restrain, require the termination of, impose sanctions upon, or otherwise interfere with the pursuit of the First, Second, Third, Fourth and Sixth Respondents' applications for the discharge of the aforesaid injunctions and proceedings at 7 above.

9. Until after trial of the remaining issues in these proceedings or further Order of this Court, the Claimant/First Respondent shall take all steps within its power to apply to the Sharjah Court for an order enabling the Applicant and other certificate holders under the Finance Documents to take part in the trial of the remaining issues before this Court and to do so without risk of breach of any order of the Sharjah Court.

Costs

10. All costs of and incidental to the hearing on 20 April 2018 shall be reserved.

Liberty to apply

11. The Applicant, the Respondents and the other parties shall have liberty to apply to vary or discharge this Order.
12. Permission to appeal refused.

SCHEDULE A – UNDERTAKING TREATED BY THIS COURT AS GIVEN BY THE APPLICANT

- 1 If this Court later finds that this order has caused loss to a Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order this Court may make.