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Background

The High Court of Justice of England and Wales (Commercial Court, Business and Property Courts) (the “**Court**”) heard an application for contempt by Lakatamia Shipping Company Limited (the “**Claimant**”) against Hsin Chi Su (the “**Respondent**”) for acting in breach of numerous orders of the Court (the “**Application**”).

In terms of a judgment handed down by the Court in November 2014, the Respondent owed the Claimant \$57,000,000.00 (fifty-seven million United States Dollars) (the “**Judgment**”), which at the date of the Application had increased to well over \$70,000,000.00 (seventy million United States Dollars), of which nothing had been paid by the Respondent.

At the date of the Application, the Respondent had committed and admitted to committing twenty counts of contempt, all in pursuance of a continuous disobedience of the Court. The various counts of contempt were summarised by the Court as follows:

- i. counts one to four involved continued non-disclosure of the Respondent’s interest in a Japanese property worth at least \$460,000.00 (four hundred and sixty thousand United States Dollars);
- ii. counts five and six related to the Respondent’s failure to disclose certain documents revealing €27,000,000.00 (twenty-seven million Euros) worth of proceeds from the sale of properties in Monaco which were subject to a freezing order;
- iii. count 7 involved the failure to disclose further documents which had been the subject of an earlier contravened court order;
- iv. counts 8 and 9 related to the Respondent’s failure to provide access to emails and social media platforms;
- v. count 10 related to a failure to comply with a search order;
- vi. counts 11 and 12 involved the Respondent’s failure to disclose its interest in a certain company;
- vii. counts 13 to 15 related to the dissipation of the Respondent’s interest in a vessel, which

interest had a value of some \$1,900,000.00 (one million nine hundred thousand United States Dollars);

viii. counts 16 and 17 related to the Respondent's failure to disclose its interest in a further vessel; and

ix. counts 18 to 20 involved the dissipation of certain funds, collectively amounting to over \$1,000,000.00 (one million United States Dollars).

Court Held

The Court considered the following set of factors which were consequential upon the decisions taken in the cases of *Crystal Mews Ltd v Metterick* [2006] EWHC3087 and *Asia Islamic Trade Finance Fund Ltd v Drum Risk Management Ltd* [2015] EWHC3748:

- a. Whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy;
- b. The extent to which the contemnor has acted under pressure;
- c. Whether the breach of the order was deliberate or unintentional;
- d. The degree of culpability;
- e. Whether the contemnor has been placed in breach of the order by reason of the conduct of others;
- f. Whether the contemnor appreciates the seriousness of the deliberate breach;
- g. Whether the contemnor has cooperated; or
- h. Whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.

The Court found that the Claimant had been prejudiced by virtue of the contempt and that the prejudice was incapable of remedy. Further, that the Respondent had not acted under pressure and that the breach of the Judgment was deliberate and intentional. Additionally, the Court held that the degree of culpability was high and that the Respondent had not been placed in breach of the Judgment by reason of the conduct of others.

Finally, the Court found that the Respondent did not appreciate the seriousness of the deliberate breach, did not cooperate and repeatedly gave meaningless apologies, which the Court constituted

as being “*lip service*”.

Accordingly, the Court found that the Respondent’s conduct merited more, however could only order the maximum sentence of 24 months imprisonment, which sentence was duly ordered.

Value

This decision confirms the position in English law that an application for contempt may be granted where the court is satisfied that the contemnor has taken little to no steps to comply with the orders of the court.

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