



محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

**In the name of His Highness Sheikh Tamim bin Hamad Al Thani,
Emir of the State of Qatar**

Neutral Citation: [2021] QIC (F) 20

**IN THE QATAR INTERNATIONAL COURT
FIRST INSTANCE CIRCUIT**

4 August 2021

CASE No. CTFIC0016/2020

QATAR FINANCIAL CENTRE AUTHORITY

Applicant

v

HORIZON CRESCENT WEALTH LLC

Respondent

JUDGMENT

Before:

Justice Frances Kirkham

Justice William Blair

Justice Rashid Al Anezi

ORDER

1. The Court orders that, pursuant to Rule 4.2.4 of the QFCA Rules, Part 5 Compliance and Enforcement Rules, the Financial Penalty of USD 280,000.00 imposed by the Decision Notice dated 6 October 2019 issued to the Respondent is a debt payable to and recoverable by the Applicant.
2. Pursuant to Article 10.4.9 of the Regulations and Procedural Rules of the Court, the Court orders payment of interest at the rate of 5% on the judgment debt from the date of this judgment until the date of payment.
3. This judgment may not be enforced without the permission of the Court.

JUDGMENT

1. The Applicant (“QFCA”) is the QFC Authority of the Qatar Financial Centre. The Respondent, Horizon Crescent Wealth LLC (“HCW”), was licensed to undertake permitted activities in relation to the administration of trusts and the administration of companies.
2. On 6 October 2019, as a result of an investigation under Rule 3.3.1 of the QFCA Rules, QFCA issued to HCW a Decision Notice pursuant to Rule 5.2.1 that it was satisfied that HCW had contravened Relevant Requirements of the QFC. That Decision Notice imposed a financial penalty on HCW of USD 280,000.00 under Rule 4.2.1, and required HCW to pay that sum within 60 days of receipt of the Decision Notice.
3. On the same day QFCA issued an invoice in the sum of USD 280,000.00 addressed to HCW.
4. QFCA issued a claim in this Court on 28 July 2020, seeking orders: (a) that pursuant to Rule 4.2.4 of the QFCA Rules the financial penalty accompanying the Decision Notice of 6 October 2019 is a debt payable to and recoverable by QFCA; and (b) for payment by HCW of interest on the financial penalty. HCW have not filed a defence to the claim.

5. The background is that on 5 December 2019 HCW filed an appeal against the Decision Notice to the QFC Regulatory Tribunal in respect of the financial penalty of USD 280,000.00.
6. On 9 March 2020 the Regulatory Tribunal dismissed the appeal and upheld the financial penalty of USD 280,000.00. HCW sought permission to appeal against the order of the Regulatory Tribunal. The Appellate Division of the Court refused permission on 9 June 2020.
7. On 7 April 2021 QFCA issued an application for summary judgment on its claim and served this on HCW's legal representative. HCW have not responded to the application.
8. The Court is aware, from other litigation in this Court concerning HCW, that (1) HCW's funds have been frozen by the Qatar Central Bank and (2) two persons (not parties to this claim or application) have claims against HCW and others based on their cases that HCW was holding monies on their behalf and that those sums are trust monies. The litigation in respect of the claims in that case is not yet complete and no decisions have been made or conclusions reached as to any relationship between HCW and the individuals concerned or the nature of any monies which HCW hold or have held. The Court should not make any order in relation to HCW which might jeopardise the legitimate interests of litigants in other cases.
9. Relevant Rules of the QFCA Rules, Part 5 Compliance and Enforcement Rules provide as follows:

Rule 3.3.1 permits the QFCA to conduct investigations:

“If it appears to the QFCA that there is a good reason for doing so, the QFCA may appoint one or more competent Investigators, who may be or include employees of the QFCA, to conduct investigations into a suspected contravention of a Relevant Requirement as defined in CER Rule 6.1 and to report to the QFCA accordingly.”

Rule 4.2.1:

“If the QFCA considers that a Licensed or Authorised Firm, or Person has contravened a Relevant Requirement, it may impose on it a financial penalty, in respect of the contravention, of such amount as it considers appropriate.”

Rule 4.2.4:

“Any penalty that is not paid within the period stipulated by the QFCA may on application to the Relevant Review Body be recovered by the QFCA as a debt.”

10. In this context, pursuant to Rule 3.1.2, “Relevant Review Body” in Rule 4.2.4 is this Court.

11. The Court’s role in respect of an application of this sort is not an administrative “rubber stamp” (see, for example, paragraph 22 of *QFCRA v First Abu Dhabi Bank P.J.S.C.* [2020] QIC (F) 2). Its role is, however, limited. In the present case, HCW have had their opportunity to raise all issues regarding the Decision Notice in their appeal to the Regulatory Tribunal. This Court respectfully agrees with the approach taken in *QFCRA v First Abu Dhabi Bank P.J.S.C.*, and considers that it is not appropriate for it now to enquire into the substance of the Decision Notice against HCW.

12. Under Rule 4.2.4 the Court has the power to order that the financial penalty imposed on 6 October 2019 may be recovered by QFCA as a debt. The Court is satisfied that:

(a) the financial penalty of USD 280,000.00 imposed on HCW by the Decision Notice is due and payable and thus, pursuant to Rule 4.2.4, may be recovered by QFCA as a debt; and

(b) pursuant to Article 22.6 of the Court’s Rules, justice requires that an order be made that HCW pay that sum now, on the basis that HCW has no

prospect of successfully defending the claim and there is no other compelling reason why the case should be disposed of at trial.

The Court concludes that QFCA is entitled to an order to that effect, subject to conditions which protect any interest that any beneficiaries may have in HCW's frozen accounts.

13. QFCA claims interest pursuant to Article 10.4.9 of the Court Rules. It has, however, provided no information and made no submissions as to the rate of interest claimed.
14. The Appellate Division of this Court has recently issued detailed judgments as regards claims for both pre- and post-judgment interest: see *Protech Solutions LLC v Qatar Islamic Bank QPSC* [2021] QIC (A) 6 (20 June 2021) and *Qatar Financial Centre Regulatory Authority v Horizon Crescent Wealth LLC* [2021] QIC (A) 5 (20 June 2021).
15. In paragraph 32 of the *Protech* judgment the Appellate Division noted without disapproval that an interest rate of 5% had been applied in a number of decisions of the First Instance Circuit as the rate at which interest should be awarded on pre-judgment sums:

“32. The rate of 5% has been applied in a number of decisions of the First Instance Circuit as the rate at which interest should be awarded on sums that should have been paid before judgment. In our view there was no error on the part of the First Instance Circuit in this case in applying that rate to compensate Protech. The position on interest on sums due under an Order following a judgment and which are not paid in accordance 13 with the terms of the Order is set out in Qatar Financial Centre Regulatory Authority v Horizon Crescent Wealth Management [2021] QIC (A) 5.”

16. There is no provision in the QFCA Rules for payment of interest on a financial penalty. This Court considers that QFCA is entitled to an award of interest, but only from the date of judgment on this claim and application by QFCA, rather than from the date by

which payment of the penalty was to be made or the date of the application to recover it as a debt. The reason is that the penalty is not converted into a “debt” until such judgment. The commencement date of interest should therefore be the date on which judgment is given on this claim and application permitting the QFCA to recover the penalty as a debt. This was held in *Qatar Financial Centre Regulatory Authority v Horizon Crescent Wealth LLC* at first instance ([2020] QIC (F) 12 at paragraph 43) and was not in dispute on the appeal ([2021] QIC (A) 5 at paragraph 5). The Qatar Financial Centre Regulatory Authority (QFCRA) had itself imposed a penalty on HCW for regulatory breaches that were different from those in respect of which the penalty was imposed by the QFCA in the present case.

17. At paragraph 18, the Appellate Division stated that:

“... it is in the interests of adherence to the rule of law and to the general wellbeing of a state that court orders are complied with in accordance with their terms. Generally the court should consider imposing a sanction to encourage such compliance with the Order, as reflecting the public interest. After judgment, there can be no dispute, subject to an appeal, that the sum is due and the court has ordered payment. The public interest is not simply that of compensating the judgment creditor, but in encouraging compliance with the orders of the court.

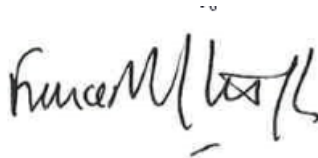
18. At paragraph 20, the Appellate Division stated:

“... although the court has power to impose a higher rate and there are good policy reasons for so doing in cases such as this, it would not be in the interests of justice to make an order in the present case as Horizon [i.e. HCW] would not have known that an increased rate would be payable if it failed to pay in accordance with the terms of the Order. This judgment makes clear the power to order a higher rate of interest. For the future, persons ordered to pay a sum due under a judgment will know that this Court can impose a higher rate of interest if they fail to pay a judgment in accordance with its terms.”

19. There is no suggestion by the QFCA that the position is any different in the present case. It is in substance identical, save that the penalty in this case was imposed by the QFCA not the QFCRA. In its decision of 9 March 2020, the Regulatory Tribunal dealt with the appeals from the decisions of the two regulators together (paragraph 2 at [2020] QIC (RT) 1). The Court considers it appropriate in this case as in the QFCRA case to order that QFCA be entitled to interest at a rate of 5 % on the judgment debt from the date of this judgment until the date of payment.

20. For the reasons set out in paragraph 8 above the Court further provides that the QFCA may not enforce this judgment without the permission of the Court.

By the Court



Justice Frances Kirkham



Representation:

The matter was considered on the papers, i.e., without an oral hearing. No representations were filed by, or on behalf of, the Respondent.