

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N:

DIRECTOR OF THE SERIOUS FRAUD OFFICE

Claimant

-and-

(1) GULNARA KARIMOVA
(2) RUSTAM MADUMAROV
(3) ISLAM KARIMOV
& OTHERS

Defendants

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N:

DIRECTOR OF THE SERIOUS FRAUD OFFICE

Claimant

-and-

(1) PORCHESTER INDUSTRIES LIMITED
(a company incorporated in the BVI)
(2) OREGON GROUP LIMITED
(a company incorporated in the BVI)
(3) RAWTENSTALL INTERNATIONAL LIMITED
(a company incorporated in the BVI)

Defendants

SKELETON ARGUMENT
ON BEHALF OF THE CLAIMANT
For Hearing on 26 June 2020 at 10.30 a.m.

Suggested Reading

The Court is invited to read the following documents, in the following order:

- (i) This Skeleton Argument and any Skeleton(s) filed by the Defendants/Respondents
- (ii) Sobande 3 [4/1-6]
- (iii) Draft Orders: [2] & [3].
- (iv) Property Freezing Order [5(6)/1-9]
- (v) Callnon 2 ¶¶8-20 [12/3-4]
- (vi) Callnon 3 ¶¶6-24 [14/2-6]
- (vii) Callnon 4 ¶¶6-18 [16/2-4]
- (viii) Sobande 1 (2018) ¶¶4-29 [18/2-6]
- (ix) Skim Read (both documents attached to this skeleton):
 - Skeleton Argument dated 28 September 2017 in support of the PFO [24/1-34] (¶¶1-7, 10-24, 29-51 and 56-81)
 - Points of Claim [23/1-78].

Time Estimates

Pre-reading: 1.5 hours
Hearing: 1 hour

Hearing Bundle

The Court should have:

1. a bookmarked electronic pdf hearing bundle comprising tabs 1-22; and
2. a supplemental bookmarked electronic pdf hearing bundle comprising tabs 23-26

References in this skeleton argument to documents in the electronic bundle are in the form “[tab/page(s)]”. References in the form “{tab X}” are references to the electronic authorities bundle filed with this skeleton argument.

I. Introduction

1. This skeleton argument is filed on behalf of the Director of the Serious Fraud Office (“SFO”) in support of her application dated 4 June 2020.
2. The underlying claim by the SFO in these proceedings is a civil recovery claim under Part 5 of the Proceeds of Crime Act 2002 (“POCA”). The claim principally concerns property held by or on behalf of Ms Gulnara Karimova (“**Ms Karimova**”), who is the eldest daughter of the former President of Uzbekistan, together with her associates and connected entities, including in particular her (possibly former) partner, the Second Defendant, Mr Rustam Madumarov (“**Mr Madumarov**”).
3. Formally, there are two claims before the Court:
 - 3.1. a claim numbered QB-2018-003239, which was issued on 3 October 2018 (“**2018 Claim**”); and
 - 3.2. a claim numbered QB-2019-003452, which was issued on 27 September 2019 (“**2019 Claim**”).
4. The 2018 Claim and the 2019 Claim are identical as a matter of substance, and rely on the same Points of Claim (which were prepared for the purposes of the 2018 Claim). The 2019 Claim was issued due to an oversight by the SFO in failing to serve the Claim Form in the 2018 Claim on the corporate defendants (together, “**BVI Companies**”) which are the registered owners of the real property which is the subject of the 2018 Claim, and who are now the defendants in the 2019 Claim.
5. As far as the SFO is aware, both Ms Karimova and Mr Madumarov are – and have, at all material times, been – in prison in Uzbekistan. As far as the SFO has been able to discern, they have no, or very limited, access to the outside world. The SFO has been unable to effect service of the Claim Form in the 2018 Claim on them, despite having made significant efforts over the past 18 months to do so. The SFO is, however, hopeful that, in the light of recent communications with the Uzbekistan Prosecutor General’s Office, it will be able to effect service soon, and in any event within 6 months.
6. In these circumstances, this skeleton argument is filed in support of the SFO’s application for the following orders:
 - 6.1. an order pursuant to CPR r.7.6 for an extension of time for service of the Claim Form in the 2018 Claim as against Ms Karimova and Mr Madumarov for a period of 6 months until 4 January 2021;
 - 6.2. an order granting permission to the SFO discontinue the 2018 Claim as against the BVI Companies; and

6.3. an order varying the Property Freezing Order obtained by the SFO on 5 October 2017 (“PFO”).

7. Each of the orders sought will be dealt with in turn below.

II. Background

(a) **Brief summary of the SFO’s case**

8. Before turning to the procedural issues and the applications made, it may be helpful for the Court to understand SFO’s case in the underlying claim. In short:

8.1. It is the SFO’s case that Ms Karimova has received hundreds of millions of dollars in corrupt (or otherwise unlawful) payments between 2004 and 2012, in exchange for using her influence in the Uzbek government to facilitate access to the telecommunications market in Uzbekistan.

8.2. Corrupt payments were made by a number of international telecommunications companies to various offshore companies believed to be owned beneficially by Ms Karimova, or her associates.

8.3. It is the SFO’s case that these corrupt payments were the ultimate source of funding for the purchase of, and/or the source of, the following assets in England & Wales (“**the Property**”):

	Property	Registered Owner	Approximate Value / balance (£)
1.	8 Market Mews, London, W1J 7BZ	Porchester Industries Limited (“ Porchester ”)	3,680,000.00
2.	Front Basement Flat, 25 Chesham Place, London, SW1X 8HG	Oregon Group Limited (“ Oregon ”)	1,112,000.00
3.	Gorse Hill Manor, Gorse Hill Road, Virginia Water, GU25 4AP	Rawtenstall International Limited (“ Rawtenstall ”)	18,400,000.00
4.	Several bank accounts with Emirates NBD	Mr Madumarov	£4,797,601.43 \$2,732,227.65 €2,228,399.32 £1,005,078.00 10,763,306.40¹
5.	Quastel Midgen LLP Client Account	Mr Madumarov Porchester Oregon	46,861.00²
6.	Security deposit in relation to the Front Basement Flat, 25 Chesham	Principia Estate and Asset Management	5,400.00

¹ Approximate total aggregate value of multi-currency accounts as at 17 September 2018.

² Approximate value as at 20 March 2018.

	Place		
7.	Security deposit in relation to the Rear Basement Flat, 25 Chesham Place	Principia Estate and Asset Management / Farrar & Co LLP	7,512.94

9. The SFO’s case is that the Property (which is worth approximately £33 million in aggregate) is, or represents, property obtained through unlawful conduct within the meaning of ss.304-307 of POCA, and that the SFO is therefore entitled to a recovery order in respect of the Property under s.266 of POCA. Full details of the SFO’s claim can be found in the Points of Claim (“**Points of Claim**”) [23/1-78].

10. A summary of the legal principles applicable to a claim for a civil recovery order, and the making of a property freezing order, can also be found in ¶¶10-28 of the SFO’s skeleton argument in support of the PFO [24/5-12].

(b) Procedural History

11. The procedural history of the 2018 Claim, and the investigative orders obtained by the SFO, are summarised in ¶¶9-13 of the Points of Claim.

12. The first procedural event in the 2018 Claim was a directions hearing, which came before the Court on 28 February 2019. A copy of the order made by the Court at that hearing appears at [8/1-2]. In short, the Court ordered that:

12.1. the draft Points of Claim do stand as Points of Claim;

12.2. the Third Defendant, Mr Islam Karimov (“**Mr Karimov**”), who had been served with the Claim Form, shall file and serve an Acknowledgment of Service by 4.00 p.m. on 26 March 2019;

12.3. (in the light of the difficulties experienced serving Ms Karimova and Mr Madumarov) the time limit for service of the Claim Form upon Ms Karimova and Mr Madumarov be extended pursuant to CPR r.7.6 for a period of 3 months until 3 July 2019; and

12.4. there be a further directions hearing on a date prior to 3 July 2019, at which hearing the Court would give further directions in these proceedings, including for the service of Points of Defence, Points of Reply etc.

13. The BVI Companies (which hold the real properties in the table above) were also defendants to the 2018 Claim. Although the SFO envisaged serving the Claim Form in the 2018 Claim on BVI Companies by registered post by 3 April 2019 (the date on which the Claim Form would otherwise expire)³, due to an oversight, this was not carried out. The result is that the Claim Form in the 2018 Claim was not served within the period of its validity.

14. On 15 July 2019, the 2018 Claim came before the Court for the directions hearing listed pursuant to the 28 February Order (see ¶12.4 above). At that hearing, the Court had before it

³ See Callnon 2 ¶7 [12/2].

the SFO's application dated 19 June 2019, which sought – as regards Ms Karimova and Mr Madumarov – permission to effect service of the Claim Form by an alternative method (alternatively for service of the Claim Form to be dispensed with).

15. In the event, the SFO did not pursue those aspects of the application and, instead, sought only to extend the period of validity of the Claim Form for a further six months until 3 January 2020 in order to enable it to explore further avenues to effect service on Ms Karimova and Mr Madumarov. The Court made that order, a copy of which appears at [9/1], and listed a further directions hearing for 17 December 2019.
16. In the light of the fact that the Claim Form in the 2018 Claim had not been served within the period of its validity, on 27 September 2019, the SFO issued the 2019 Claim [25/1-3], which is identical in substance to the 2018 Claim but to which only the BVI Companies are defendants.
17. On 17 December 2019, the case came on for a further directions hearing before Master Cook. On that occasion, the Court had before it:
 - 17.1. **2018 Claim:** A renewed application by the SFO for an order pursuant to CPR r.6.15 that the steps taken by the SFO to date constituted good service of the Claim Form on Ms Karimova and Mr Madumarov, and permitting service by an alternative method under CPR r.6.27. The SFO also sought a direction that the 2018 Claim and the 2019 Claim be case-managed and heard together.
 - 17.2. **2019 Claim:** An application dated 10 December 2019 for an order pursuant to CPR r.6.15 that the steps taken by the SFO to date constituted good service of the Claim Form (and accompanying documents) in the 2019 Claim on the BVI Companies, and permitting service by an alternative method. The evidence before the Court, at that stage, suggested that the registered agent for all of the BVI Companies was Vistra Corporate Services (“**Vistra**”).
18. At the hearing on 17 December 2019, Master Cook:
 - 18.1. Refused to make an order that the steps which the SFO had taken constituted good service of the Claim Form on Ms Karimova and Mr Madumarov. The Court was of the view that further work could be done to persuade the authorities in Uzbekistan to lend assistance to the SFO's efforts to serve Ms Karimova and Mr Madumarov in prison in Uzbekistan. The Court accordingly granted a further extension to the validity of the Claim Form in the 2018 Claim for a further 6 months until 3 July 2020 to enable it to pursue those avenues further. A copy of that order appears at [10/1-2].
 - 18.2. Granted an order that the steps taken by the SFO to serve the Claim Form on Vistra would constitute good service of the Claim Form on the BVI Companies [26/1-2].
 - 18.3. Ordered the 2018 Claim and the 2019 Claim to be case-managed and heard together.
19. Since the hearing on 17 December 2019:

- 19.1. As explained in the evidence, and summarised below, the SFO has made progress in its efforts to serve the 2018 Claim on Ms Karimova and Mr Madumarov, albeit that it has not been possible to effect service within the time permitted by the Order of Master Cook.
- 19.2. Within the last few days, it has come to light that Vistra may not (or may not any longer) be the registered agent for Oregon. The SFO is currently investigating the position, and is considering what further procedural steps may need to be taken as a result.

III. Application for extension to the validity of the Claim Form

(a) Difficulties effecting service of the Claim Form: Ms Karimova and Mr Madumarov

20. As will be apparent from the evidence, the SFO has experienced significant difficulty bringing the 2018 Claim to the attention of Ms Karimova and Ms Madumarov. In this regard, the Court is invited to read Callnon 2 ¶¶8-20 [12/3-4], Callnon 3 ¶¶6-24 [14/2-6], Callnon 4 ¶¶6-18 [16/2-4], Sobande 1 (2018) ¶¶4-29 [18/2-6] and Sobande 3 ¶16 [4/4], which set out the efforts made by the SFO throughout the 2018 Claim.
21. While the SFO does not know the exact location of Ms Karimova and Mr Madumarov, it is aware that both of them are in prison in Uzbekistan. Despite attempts made to serve these defendants by other methods, it is now clear that the SFO will not be able to effect service without the cooperation and assistance of the Uzbek Prosecutor General's Office ("PGO").
22. The SFO's efforts to enlist the PGO's assistance have had mixed results, but more recently show signs of progress. In summary:
 - 22.1. Following the issue of the 2018 Claim, discussions took place between the SFO and the British Embassy in Uzbekistan ("the Embassy"). Following on from this, direct contact was made with the PGO.
 - 22.2. In the course of this dialogue, the SFO requested assistance from the PGO with the service of any documents required upon Ms Karimova and Mr Madumarov, and to ensure that they are both notified of the present civil recovery proceedings, and given the opportunity effectively to participate in the proceedings.
 - 22.3. After a hiatus in communication with the PGO, the SFO re-doubled its efforts through the Embassy and via an officer from the National Crime Agency, who was at the time present on the ground in Uzbekistan. A meeting was scheduled with the PGO for 17 December 2019 and this was the position leading up to the directions hearing in London on the same date.
 - 22.4. Following the hearing on 17 December 2019, direct contact with the PGO has continued. A positive development is that the PGO now appears to be prepared, in principle, to assist with service of the Claim Form and associated documents on Ms Karimova and Mr Madumarov. The SFO is currently in negotiation with the PGO to

ensure that service can be effected in the presence of an SFO officer or UK embassy official, although this is yet to be agreed with the PGO.

(b) Legal Principles

23. Section 243(2) of POCA provides that the SFO “*must serve the claim form...on the respondent*”. It would appear that the “*respondent*” in this context means “*any person who the authority thinks holds recoverable property*” (see s.243(1) POCA).
24. In the present case, the persons who “*hold*” the legal title to the real properties in this case are the BVI Companies. However, Mr Madumarov is the beneficiary of the Emirates Accounts⁴ and at least a proportion of the monies in the QM Client Account⁵. Accordingly, it might be argued that s.243(2) requires the Claim Form to be served on at least Mr Madumarov and the BVI Companies. Furthermore, it is the SFO’s case that Ms Karimova is the beneficial owner of all or part of the Property. Accordingly, she has been made a Defendant to these proceedings and the SFO’s aim is to serve her along with the other Defendants.
25. The rules for service of a CPR Part 8 claim are the same as for service of a claim under CPR 7⁶. In the present case, permission is not required to serve the Claim Form out of the jurisdiction, as the Court has the power to determine this claim under particular legislation, namely POCA⁷.
26. As explained above, the SFO is seeking an order extending the validity of the Claim Form for a period of 6 months (CPR r.7.6). See White Book 2020 (Vol. 1) at pp.441-444.
27. This provision distinguishes between applications made prior to expiry of the validity of the Claim Form and applications made after the Claim Form has expired (r.7.6(3)). An application to extend time is made when the application is issued, not when it is decided or heard⁸. Accordingly, the present application is a prospective application for an extension of time.
28. Many of the key principles regarding the court’s approach to an application under CPR r.7.6(2) are derived from the Court of Appeal decision in *Hashtroodi v Hancock* [2004] 1 WLR 3206 {tab 1}:
 - 28.1. The Court’s discretion under CPR 7.6(2) is unfettered, but should be exercised in accordance with the overriding objective⁹.
 - 28.2. CPR 7.6(2) should not be construed as being subject to a condition that good reason must be shown for failure to serve within the specified period.

⁴ As defined in the Points of Claim.

⁵ As defined in the Points of Claim.

⁶ See CPR PD 8A at ¶4.1, White Book 2020 (Vol. 1) at pp.483-484.

⁷ See CPR r.6.33(3), White Book 2020 (Vol. 1) at p.313.

⁸ See *Collier v Williams* [2006] 1 WLR 1945 {tab 2}.

⁹ See *Hashtroodi* {tab 1} at ¶22.

28.3. The court adopts a “calibrated” approach: if there is a very good reason for failing to serve, an extension of time will usually be granted (for example, where the claimant had taken all reasonable steps to serve the claim form but had been unable to do so). The weaker the reason, the more likely the court will refuse to grant the extension¹⁰.

(c) Submissions

29. A summary of the factual position as it stands at present appears in ¶22.4 above.
30. In the light of the current COVID-19 pandemic, the SFO has not yet been able to make the arrangements necessary for service to be effected, although it remains cautiously optimistic that the PGO will be able to offer the assistance sought. It is uncertain when precisely those arrangements will be able to be made. The desirability of having an SFO officer or UK embassy official present when service is effected means that progress is dependent on the travel restrictions imposed as a result of the Covid-19 pandemic. It appears, from the evidence, that strict measures have been in place in Uzbekistan.
31. Accordingly, the SFO respectfully seeks a further extension to the validity of the 2018 Claim Form to enable service on Ms Karimova and Mr Madumarov to be effected. Although it is hoped that service can be effected in less time, the SFO would ask for an extension of 6 months to account for the possible additional delays caused by the Covid-19 pandemic on the service process.
32. In the premises, it is respectfully requested that the Court grants an order extending the time limit for service of the Claim Form in the 2018 Claim upon Ms Karimova and Mr Madumarov be extended pursuant to CPR r.7.6 until 4 January 2021.

(d) Full and Frank Disclosure

33. The SFO’s Application has been made without notice to Ms Karimova and Mr Madumarov. The SFO is aware that, accordingly, it is under a duty to draw to the Court’s attention all relevant facts and matters. Nevertheless, certain matters are highlighted here.
34. The Court should be aware that extending the period for service of the Claim Form, in effect, extends the period in respect of which the SFO has a PFO over the Property, because the PFO will continue in force until the conclusion of the SFO’s claim.
35. As far as the underlying claim is concerned, the Court ought to be aware that there are a number of issues of full and frank disclosure which were put before the Court in advance of the SFO’s application for the PFO, which it may be useful for the Court to know in the context of this Application. These issues are explained in ¶¶56-73 of the SFO’s skeleton argument in support of the PFO [24/26-30], which paragraphs the Court is invited to read.
36. Moreover, while the SFO does not currently know the nature of any defence(s) which might be raised by Ms Karimova and/or Mr Madumarov, a letter from solicitors representing Mr

¹⁰ See *Hashtroodi* {tab 1} at ¶19.

Karimov asserts that Mangeat (Ms Karimova's Swiss lawyers) formerly received instructions "that there were numerous legitimate and documented sources of income, far in excess of that required to purchase the properties that are the subject of the SFO proceedings"¹¹. This gives the Court an idea of the type of defence which may, in due course, be advanced.

IV. Application for permission to discontinue the 2018 Claim against the BVI Companies

37. As explained above, the 2018 Claim was not served on the BVI Companies within 6 months of its commencement. It is now not possible to serve the 2018 Claim on the BVI Companies on time.
38. Where a claim form is issued but not served in time, the claim does not automatically lapse. Instead, it remains "in limbo" until it is brought to an end, either by the claimant serving a notice of discontinuance, or by a court order for it to be set aside, often on the application of the defendant if and when they become aware of the claim¹².
39. In order to regularise matters and given that the 2019 Claim has now been commenced which pursues the substance of the SFO's claim against the BVI Companies, the SFO considers it appropriate to discontinue the 2018 Claim as against the BVI Companies.
40. Under CPR r.38.2(2)(a), a claimant will require the Court's permission to discontinue a claim where "the Court has granted an interim injunction" and/or "any party has given an undertaking to the court"¹³. Given that the PFO may be described as an "interim injunction", out of an abundance of caution, the SFO seeks the Court's permission to discontinue the 2018 Claim as against the BVI Companies. A draft notice of discontinuance appears at [5(5)/14].
41. As for the question of costs, as the Court will be aware, CPR r.38.6(1) provides that "[u]nless the court orders otherwise, a claimant who discontinues is liable for the costs which a defendant against whom the claimant discontinues incurred on or before the date on which notice of discontinuance was served on the defendant".
42. The Court may therefore make another order in respect of costs upon a discontinuance. It is respectfully submitted that no order as to costs of the 2018 Claim as between the SFO and the BVI Companies is appropriate:
 - 42.1. This is not a case where the SFO is seeking to discontinue the 2018 Claim as against the BVI Companies on the merits i.e. because it no longer has any faith in it, or because it was bound to fail. On the contrary, the SFO is pursuing the 2019 Claim against the BVI Companies.
 - 42.2. Furthermore, the BVI Companies have not engaged at all with the 2018 Claim. They have not, as far as the SFO is aware, instructed any lawyers. Accordingly, it appears doubtful that they have incurred any legal costs to date.

¹¹ See ¶8 [13/4].

¹² See *Aktas v Adepta* [2011] Q.B. 894 (tab 3) at ¶¶18-20.

¹³ See White Book 2020 (Vol. 1) at p.1254.

V. **Application to vary the PFO**

43. On 5 October 2017, before the 2018 Claim was commenced, the Court made the PFO on the application of the SFO to preserve the property which was to be the subject of the claim for civil recovery. The SFO's application for the PFO was supported by a lengthy and detailed witness statement in the form of Halstead 1 [11].
44. A copy of the PFO appears at [6]. In the PFO:
- 44.1. the BVI Companies are all respondents to the PFO;
- 44.2. the duration of the PFO is "*until further order of this Court*" (¶4); and
- 44.3. the property covered by the PFO includes (in Schedule A) the 3 real properties held by the BVI Companies as described in the table in ¶8.3 above.
45. Unlike for ordinary commercial injunctions, the PFO is not brought in support of a specific claim form which is issued at, or around the same time as, the order is applied for. Instead, the PFO is made in anticipation of a claim for a civil recovery order being made at a much later stage.
46. Accordingly the PFO contains, among others, a provision at ¶22 that "[t]he SFO must either start a Claim for a Civil Recovery Order, or apply for the continuation of this Order while continuing its investigation, within 12 months of the date on which this Order was made, in the absence of which this Order shall be set aside".
47. Thus, while the PFO remains in place "*until further order of this Court*", paragraph 22 provides that the order will be set aside if no claim for a civil recovery order is commenced within 12 months of the date on which the order was made (i.e. by 5 October 2018).
48. The SFO commenced the 2018 Claim on 3 October 2018. It is therefore the SFO's position that the condition in paragraph 22 of the PFO was satisfied.
49. Given the terms of the PFO, as summarised in ¶44 above, the SFO does not consider that it is necessary for the Court to vary the PFO, or to grant a new PFO, as against the BVI Companies.
50. Although the 2018 Claim was not served in time on the BVI Companies, the issue of the 2018 Claim against them was sufficient to comply with paragraph 22 of the PFO. As far as the proper construction of ¶22 of the PFO is concerned, and it matters not that the 2019 Claim is a new claim for a civil recovery order which was commenced after 5 October 2018.
51. All of this being said, and so that there can be no doubt about the matter going forward, the SFO would invite the Court to vary paragraph 22 of the PFO, so that it covers the issue of the 2019 Claim, as follows:
- "22. *The SFO must either start a Claim for a Civil Recovery Order, or apply for the continuation of this Order while continuing its investigation, within ~~12~~ 24 months of*

the date on which this Order was made, in the absence of which this Order shall be set aside.”

52. This date will capture the date on which the 2019 Claim was issued (27 September 2019). A draft of the order varying the PFO appears at [3].

VI. Conclusion

53. The Court is respectfully invited to make an order in the terms set out in the Draft Orders which appear at [2] and [3].

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25 June 2020