

IN THE HIGH COURT

IN THE MATTER OF PPF CAPITAL SOURCE LIMITED

AND

AND IN THE MATTER OF THE COMPANIES ACT 2014

AFFIDAVIT OF IAIN CLIFFORD STAMP

I, Iain Clifford Stamp, of Courtyard House, Park Lane, Upper Swanmore, Southampton, SO32 2QQ, aged 52, Make Oath and say as follows:-

1. I am a director of PPF Capital Source Limited (“PPF”) (a company registered in Ireland) make this affidavit in support of my application to annul/ set aside the winding-up order dated 1 August 2018 made against PPF.
2. I make this application in my capacity as director of PPF and which, I understand, means that I am a contributory and therefore capable of bringing this application pursuant to section 669(a) Companies Act 2014, or otherwise.
3. Such of the statements in the petition now produced and shown to me and marked with the letter “A” as relate to acts and deeds of myself are true and such of the statements as relate to the acts and deeds of any other person or persons I believe to be true. References to page numbers in this statement are to the page numbers of the documents marked “A” exhibited to this affidavit.
4. I would like to stress at the outset that whilst I have sought to instruct an Irish law firm to represent me, as I have very limited funds I have been unable to do so. I trust

that any irregularity with this process does not prejudice the application. I believe that I am entitled to still bring this application as it is both my and PPF's human rights to have a fair trial/ hearing.

5. I believe that the winding-up order should be set aside because:
 - a. There has been procedural irregularity in the service of both the statutory demand and the winding up petition;
 - b. PPF does not owe any monies to Global Management Solutions Limited (“GMSL”), the petitioning creditor;
 - c. The winding up petition is an abuse of process. GMSL is working with Bhupinder Pall Singh, a defendant to current proceedings in the High Court in London brought by PPF relating to an alleged advanced fee fraud perpetrated by Mr Singh against PPF for in excess of US\$1.5 million to dispose of the proceedings through PPF's insolvency;
 - d. PPF was solvent at the time the winding-up order was made.
6. I set out the basis of the my position below but before doing so set out the background against which my position is based.

A. Background

7. PPF issued proceedings against Mr Singh in the High Court of Justice, London and in April 2016 for deceit, dishonest assistance and procuring a breach of contract arising from an alleged *advance fee fraud* (Claim no. HC-2016-001088) (“**the Proceedings**”). (PPF initially commenced proceedings against another defendant, as

well as Mr Singh, but the claim against them settled.) The crux of the case is that PPF asserts that it entered into an agreement with Greenmybusiness Limited (now called Scotmarit Ltd) (“**GMB**”) (an English registered company) in November 2013 by which PPF was to pay US\$1.5 million to GMB for GMB to procure a US\$100 million letter of credit that PPF could monetise (“**the Agreement**”) and invest the proceeds. PPF asserts that at all material times, and which is accepted by Mr Singh, that Mr Singh controlled GMB. PPF paid the US\$1.5 million but GMB failed to procure the letter of credit.

8. Further, and of significance to the winding up of PPF, PPF also entered into another agreement with Lyza Limited, an English registered company of which Mr Singh was a director, on 24 January 2014 (“**Lyza Agreement**”) [pages 1-8]. It is the Lyza Agreement that formed the basis of the winding up petition, and subsequent order, made against PPF.
9. The Lyza Agreement was similar in substance to the Agreement in that Lyza was to procure a letter of credit for US\$100 million which PPF could monetize. PPF asserts that it was required to pay US\$2 million for the letter of credit under the Lyza Agreement and which was in addition to the US\$1.5 million already paid under the Agreement.
10. PPF claims that Mr Singh never believed or intended that he and/or GMB would seek to procure (or procure) a letter of credit or a bank guarantee in conformity with the Agreement and the true purpose of the Agreement, and of the subsequent Lyza Agreement, was to commit a “pre-payment” or “advance fee” fraud on PPF. PPF also asserts that the US\$1.5 million was to be held by GMB under a *Quistclose* trust and

thereby to be used solely in relation to the procuring of the letter of credit and in breach of trust Mr Singh transferred the US\$1.5 million from the GMB account for other purposes. PPF asserts that Mr Singh acted dishonestly in transferring the monies from the GMB account and that he also procured a breach of the Agreement by the transfers.

11. Mr Singh denies the allegations and asserts that the Lyza Agreement replaced the Agreement and that therefore PPF was obliged to pay only a further US\$500,000 to procure the letter of credit. It is this sum that PPF understands forms the basis of the winding up petition. Martin Boulton who signed the Petition on behalf of GMSL asserts in his affidavit that Lyza assigned the alleged debt due from PPF to it and which enabled it to bring the petition.
12. Mr Singh issued an application for security for costs against PPF and which came before the court on 9 May 2018. The application was dismissed with Mr Singh being ordered to pay PPF's costs with an interim payment on account of £20,000 **[pages 9-11]**.
13. During the hearing of the application Deputy Master Bartlett considered that the construction of the Agreement and Lyza Agreement found that they were largely the same, but that there was one significant difference in relation to the Lyza Agreement in that no fee was immediately payable by PPF on signing. A sum of \$2 million was to be payable but only on receipt of a letter from the bank issuing the letter of credit stating that it was ready willing and able to do so. The court also considered Mr Singh's argument that the Lyza Agreement replaced the Agreement to be without merit on the evidence presented. Accordingly, without having determined it finally,

the court has strongly indicated that Mr Singh's argument that US\$500,000 was due and payable now pursuant to the Agreement was unlikely to succeed.

14. Accordingly, in order for PPF to incur any liability under the Lyza Agreement, Mr Singh had to show that a bank was ready willing and able to provide a US\$100 million letter of credit for PPF to monetise.

15. In this regard, Mr Singh produced a letter from Barclays Bank that it was ready willing and able to provide a letter of credit as evidenced from an email from Tahany Taher of Barclays Bank dated 31 January 2014 and later. Deputy Master Bartlett considered it highly likely that the documents purportedly forwarded by Ms Taher were forgeries. Whilst he accepted that it was not clear if Mr Singh was aware they were forgeries, it does not change the fact that on the court's findings PPF has not incurred any liability to Lyza pursuant to the Lyza Agreement.

16. I would request that the court reads paragraphs 15-16, 36-38 and 40 of Master Bartlett's judgement which confirms the above position **[pages 12-44]**.

17. Accordingly, not only is the construction of the Lyza Agreement, and hence PPF's liability to Lyza Ltd, a live issue in the UK proceedings, the court's construction of the Lyza Agreement and its findings in relation to the Barclays Bank documents means that it all likelihood any claim by Lyza Ltd for the £500,000 would fail. Hence, any claim based upon an assignment of that claim must also fail.

Procedural Issues

18. I would now like to address procedural issues relating to service of the statutory demand and the winding-up petition, although I would like to remind the court that I

am not conversant with Irish procedural issues. There are, however, several issues that need to be brought to the court's attention, although I reserve my ability to expand on these at a hearing.

19. First, I do not recall either Lyza Limited or GMSL sending a letter before action to PPF on terms that PPF owed Lyza (or GMSL by way of assignment) US\$500,000 pursuant to the terms of the Lyza Agreement, whether indicating and intention to issue proceedings or a winding-up petition. The sending of a letter before action is common and expected practice by parties intending to bring any form of proceedings. This is further supported GMSL's petition which does not mention any letter before action.

20. Further, if PPF had received a letter before action on terms that GMSL intended issuing a winding up petition against PPF, PPF would have been entitled to apply to court for injunctive relief to prevent the presentation of the petition on the basis, amongst other things, the construction of the Lyza Agreement is a live issue in the Proceedings (but very likely to go in PPF's favour) and the assignment to GMSL of the alleged debt from Lyza Ltd offends the English law on *champerty* and is, therefore, invalid. (Mr Boulton would be aware that the assignment would be invalid as he is a former English solicitor, although he was removed from the Roll of Solicitors for serious misconduct which is discussed below.) In all likelihood the injunction would have been granted as it is an abuse of process designed to enable Mr Singh to avoid liability to PPF. It is therefore reasonable to infer from this and the other matters raised in this Affidavit that the decision not to send a letter before action was tactical in that it would have prevented the insolvency process.

21. Secondly, in relation to the service of the statutory demand, the Petition provides in paragraph 10 that the demand was served on PPF by leaving it at its registered office (although no address for service was provided in the petition, nor was a complete copy of the statutory demand annexed to the petition and which I would have expected). Several issues arise from this. First, PPF's registered office was changed via form B2 on 16 January 2018 [pages 45-47] and the form was uploaded on to the Companies Registration Office on 24 January 2018. PPF's registered office address with effect from 16 January 2018 was Kandoy House, 2 Fairview Strand, Dublin 3. There is no record of any demand having been served on PPF at this address. It is reasonable to infer from the omission (i) of the address at which the statutory demand was served, and (ii) a complete copy of the demand as an annex to the petition, that GMSL knew that the demand had been served at the wrong address by the time it filed the Petition, because paragraph 2 of the Petition contains PPF's correct address, but possibly earlier.
22. Thirdly, it is noted from the text of the statutory demand included in the Petition that no reference is made to the Lyza Agreement or any assignment of any claim from Lyza Ltd to GMSL. It simply states “[w]e act for [GMSL] (“our Client”). We are instructed that there is a sum of US\$500,000 due and owing to our Client from PPF”. That is a strikingly bare statutory demand and I would query whether it satisfies the rules relating to the contents of a statutory demand.
23. As a result of the foregoing, I believe that service of the statutory demand is likely to be defective and have serious misgivings as to whether the contents of the statutory demand complies with the necessary requirements to be a valid.

24. I note from the winding up order that Mr Boulton has filed an affidavit of service of the Petition dated 25 July 2018. I have not seen that affidavit. The letter purporting to serve the Petition at PPF's registered from Mason Hayes & Curran dated 19 July 2018 [page 48] and purportedly delivered by hand was, I have been informed by Tony Clarke from Kendlebell (which provides outsourcing services and managed PPF registered office address prior to it being wound-up) probably only received at PPF's registered office on either the afternoon of the 25 July 2018 or 26 July 2018. (see attached email from Mr Clarke explaining the delivery processes [page 49]. Accordingly, PPF only received the Petition a maximum of three business days before the hearing of the Petition. That is unacceptable and I would it to be a breach of the rules relating to the timing of service of the petition in advance of the hearing of a petition. As it transpires, I only became aware of the Petition on 3 August 2018, three days after PPF had been wound up.

25. In relation to the alleged affidavits addressing the issue of the advertisement of the Petition, I cannot comment as to whether they provide for sufficient notice of the hearing of the Petition but GMSL would know that in all likelihood they would not come to my attention as they know PPF's operations are in the UK and hence, I am also located in the UK.

Substantive Issues

26. In addition to the procedural irregularities, there are substantive issues which conclusively show that the Petition was misguided in that no monies were due to either GMSL or Lyza Ltd in relation to the Lyza Agreement.

27. As mentioned in the Background section above, the construction (and as a natural consequence, whether any monies are owed to Lyza by PPF) is a live issue in the Proceedings. Issuing or procuring the issuing of the Petition in these circumstances is an abuse of process. The position is further exacerbated by the fact that Deputy Master Bartlett has found that Mr Singh's construction of the Lyza Agreement is very unlikely to succeed. Hence, there is simply no credible basis upon which it can be asserted that any monies are due and owing to Lyza Ltd or GMSL.

28. Further, paragraph 9 of the Petition asserts that Lyza Ltd assigned the alleged US\$500,000 debt due from PPF to GMSL. However, under English law an assignment of a cause of action (which the debt must be in circumstances where it is a live issue) amounts to *champerty* save in very limited circumstances and which, I do not believe, do not apply in the current circumstances. I understand that the position is similar to Irish law. Hence, the assignment of any cause of action Lyza Ltd may have against PPF to GMSL is invalid as it is *champertous*.

29. There are various other issues which I believe the court should take into account in considering its position.

Lyza Limited

30. Mr Singh is a director of Lyza Ltd. Since its inception in 2011 to today, Lyza Ltd has filed dormant accounts at the English Companies House [pages 50-65]. This is remarkable when you consider that it purportedly entered into the Lyza Agreement with PPF in January 2014 worth US\$2 million and, according to Mr Singh, Lyza Ltd entered into an agreement with another company, Global Medal Solutions Ltd

(“**Global Medal**”) on 30 March 2014 by which Global Medal was to procure a letter of credit for PPF and that between 2 April 2014 and 20 May 2014 Lyza Ltd was invoiced US\$729,500 by Global Medal and which Lyza Ltd procured the payment of **[pages 66-68]**.

31. As Lyza Ltd’s claim for US\$500,000 against PPF was allegedly assigned to GMSL in January 2018, in my view, it amounts to a post-balance sheet event that not only should have been recorded in the Lyza Ltd’s accounts for the year ended October 2017. However, the filed accounts are for a dormant company.

GMSL/ Mr Boulton

32. During the course of the Proceedings, Mr Boulton has been working closely with Mr Singh to undermine PPF’s claim against Mr Singh.

33. In addition, it should be borne in mind that for all intents and purposes, GMSL is a dormant company, as evidenced by the last filed accounts for the year ended 31 July 2016 and the fact that GMSL has failed to file accounts for the year ended 31 July 2017, and which should have been filed by 30 April 2018. In addition, between 3 July 2018 and 14 August 2018 a compulsory strike-off was registered against GMSL no doubt for its failure to file its accounts **[pages 69-82]**. This meant that GMSL was close to being struck-off the company register and would thereby cease to exist.

34. This casts doubt on GMSL’s ability to fund the current insolvency process and, in my view, taking into account the benefits to Mr Singh of PPF’s liquidation (the Proceedings will in all likelihood fall away), it is reasonable to infer that Mr Singh is

funding it from the proceeds that form the basis of the claim that PPF has brought against him in the Proceedings.

35. Martin Boulton was a director of London law Firm Atlantic Law LLP **[pages 83-85]** which was banned from working in financial services for recklessly signing off adverts issued by Spanish fraudsters **[pages 86-89]**.

36. Martin Boulton was also subject to disciplinary proceedings as a solicitor at the conclusion of which he was directed to cause his name to be removed from the Roll of Solicitors **[page 90-91]**. Very serious findings of fact and law were made against him and which included acting dishonestly, failing to keep client matters confidential and operating a law firm without professional indemnity cover and **[pages 92-107]** which I quote below:

“Allegation 1.1 He conducted himself in a manner which was likely to compromise his integrity and/or independence contrary to Rules 1.02 and/or 1.03 of the Solicitors’ Code of Conduct 2007;

Allegation 1.2: He failed to act in the best interests of clients contrary to Rule 1.04 of the Solicitors’ Code of Conduct 2007 and/or in a way that was likely to diminish the trust the public placed in him and the legal profession contrary to Rule 1.06 of the Solicitors’ Code of Conduct 2007;

Allegation 1.3: He failed to maintain proper books of accounts contrary to Rule 32 of the Solicitors’ Accounts Rules 1998;

Allegation 1.4: He paid, or permitted payment, into office account monies which should have been paid into client account in breach of Rule 15 of the Solicitors' Accounts Rules 1998;

Allegation 1.5: He paid or permitted payment directly into office account monies received from clients which the Respondent described as "agreed fees" when in fact they were not so, contrary to Rule 19 of the Solicitors' Accounts Rules 1998;

Allegation 1.6: He failed to fulfil his responsibilities with regard to the management of MacIntyre Clark LLP and/or supervision of the work undertaken contrary to Rule 5 of the Solicitors' Code of Conduct 2007;

Allegation 1.7: He failed in his duty to keep confidential to his firm the affairs of clients contrary to Rule 4.01 of the Solicitors' Code of Conduct 2007;

Allegation 1.8: He entered into agreements with Introducers and, in doing so, failed to comply with the requirements of Rule 9.02 of the Solicitors' Code of Conduct 2007;

Allegation 1.9: He allowed MacIntyre Clark LLP to operate as a firm without having in place professional indemnity insurance contrary to Rule 4.1 of the Solicitors' Indemnity Insurance Rules 2007;

Allegation 1.10: He failed to cooperate with the Solicitors Regulation Authority contrary to Rule 20.05 of the Solicitors' Code of Conduct 2007;

Allegation 1.11: He allowed non-solicitor third parties to exercise an inappropriate level of control and influence over the activities of MacIntyre Clark LLP:

Allegation 1.12: He failed to ensure compliance with Adjudicators' Decisions relating to awards of compensation for inadequate professional service;

Allegation 1.13: He acted recklessly;

Allegation 1.14: He provided misleading statements to the SRA and, in doing so, he acted dishonestly.”

37. I think the above quote and Mr Boulton's involvement with Atlantic Law LLP speaks for itself and at least, whether or not taking into account other issues in the Affidavit, and casts doubt on his ability to provide credible evidence.

38. Further, Mr Boulton having signed the Petition on behalf of GMSL ceased being a director of GMSL on 16 August 2018 and ceased to be a person with control on 15 August 2018 and by which he reduced his shareholding in GMSL. It is reasonable to infer from the timing of these events that Mr Boulton is seeking to distance himself from the Petition.

39. More recently, Mr Boulton has been working for UK Max International Ltd (trading as I.U.I. London), a debt collector and second hand car dealer [pages 108-110]

Mr Singh

40. In Deputy Master Bartlett's judgment he acknowledged that: (i) several payments procured by Mr Singh from the GMB Account have 'troubling features' (see paragraphs 42(a) to (d) of the judgment), (ii) Mr Singh procured GMB to bring arbitration proceedings against PPF on the date by which Mr Singh had to serve his defence in the Proceedings, and which was after he had sought several extensions, and

also applied to stay the Proceedings without mentioning this to PPF in correspondence. This “*strongly suggests that the arbitration may well be a tactical manoeuvre to try and simply delay the evil day when his case comes on for trial*” (paragraph 46 of the judgment); and (iii) in relation to a third party disclosure application PPF issued against Barclays Bank in relation to GMB bank statements, a director of GMB, Mr Takyar, asserted that the statements should not be disclosed because they contained “*commercially sensitive information such as the names of clients and suppliers and would enable a competitor to ascertain profit margins*”. When the order was made and the bank statements disclosed it transpired that between November 2013 and February 2018 there was only one payment into the account of US\$25,000 apart from the receipt of the US\$1.5 million from PPF. Mr Bartlett found it difficult to understand how Mr Takyar could have honestly made the statement quoted above. He also saw no possible reason for GMB to take this attitude to the application for disclosure other than in the interests of and for the benefit of Mr Singh and that it was likely that Mr Singh had instigated this (paragraph 48 of the judgment).

41. I think it also worth mentioning that Deputy Master Bartlett considered that it is “*highly likely*” that PPF’s claim will succeed against Mr Singh (paragraph 44).

42. In my view, Mr Singh’s conduct in the previous paragraph, and elsewhere in this Affidavit, highlight the tactics engaged by Mr Singh to date to avoid the Proceedings coming to trial. The procurement of the Petition and a winding up order against PPF through GMSL on spurious grounds and by a highly questionable procedure is in keeping with Mr Singh’s tactics and agenda. This view is further reinforced when

considering Mr Boulton's track record, as well as GMSL's financial standing. Accordingly, it is patently obvious that the Petition is an abuse of process.

PPF's Solvency

43. I believe that at the date PPF was wound up that it was solvent. It had approximately Euros 15,000 in its two bank accounts. Its only assets are claims pertaining to capital market transactions. These include the claims against Mr Singh (discussed above), Go Markets and Varianse (misrepresentations as to their respective capabilities). The total value of these claims is at least in the region of US\$2.6 million. However, this figure details the monies PPF lost and excludes consequential losses. The consequential losses could be in excess of US\$5 million. These assets are, however, contingent. In addition, PPF owed approximately £40,000 by way of costs orders in the Proceedings and which he is refusing to pay. Approximately £20,000 of them relate to a court order made in October 2016 and which form the basis of the current bankruptcy petition against Mr Singh.

44. At the day that PPF went into liquidation, I believe that PPF had no liabilities. I have already discussed the GMSL claim above, which is clearly spurious.

45. During the course of its business, PPF issued bonds to affiliated Special Purpose Vehicles ("SPV") following contracts entered into between the SPV's and third party bondholders. PPF had no contractual obligation with any bondholder.

46. I wish to acknowledge the fact that PPF has not filed accounts for several years. This is because PPF has not been in a position to pay for the auditing of the accounts deciding to spend its remaining monies on pursuing the claim against Mr Singh instead

which I believe is a better use of PPF's limited resources. It needs to be borne in mind that there are 12 companies in the PPF group and the total cost of auditing them is likely to be in the region of Euros 60,000. As the affiliates do not have any capital, only contracts with bond holders, PPF would need to fund these costs.

Conclusion

47. In light of the fact that: (i) PPF does not owe Lyza Ltd nor GMSL any monies, (ii) the purported assignment of any cause of action Lyza Ltd may have had against PPF to GMSL is invalid, (iii) there are procedural irregularities in respect of the Petition, (iv) the Petition is an abuse of process designed to enable Mr Singh to avoid the very likely possibility of liability in the Proceedings (which is Master Bartlett's view)(in addition to which he owes PPF over £40,000 in relation to costs and interests relating to interim applications), I respectfully submit that the court should annul/ set aside the winding-up order forthwith and that I am paid my costs of and occasioned by this application.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Sworn before me by the said

Iain Clifford Stamp

on the day of August 2018, at

in the city/county of

before me a Commissioner for Oaths / Practicing Solicitor and the deponent

Commissioner for Oaths/Practising Solicitor

Filed this by on behalf of the Applicant, Iain Clifford Stamp