

EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF THE VIRGIN ISLANDS
IN THE HIGH COURT OF JUSTICE
COMMERCIAL DIVISION



CLAIMS NO. BVIHC (COM) 2009/0074, 2009/0136 and 2009/0139 [Section 273]

IN THE MATTER OF THE INSOLVENCY ACT, 2003
AND IN THE MATTER OF FAIRFIELD SENTRY LIMITED (IN LIQUIDATION), FAIRFIELD SIGMA LIMITED
(IN LIQUIDATION) and FAIRFIELD LAMBDA LIMITED (IN LIQUIDATION)

BETWEEN:

ABN AMRO FUND SERVICES (ISLE OF MAN) NOMINEES LIMITED
(formerly FORTIS (ISLE OF MAN) NOMINEES LIMITED) and others
UBS AG NEW YORK and others

Applicants

and

KENNETH KRYS AND CHARLOTTE CAULFIELD
(as Joint Liquidators of Fairfield Lambda Limited, Fairfield Sentry Limited
and Fairfield Sigma Limited)
FAIRFIELD LAMBDA LIMITED (in liquidation),
FAIRFIELD SENTRY LIMITED (in liquidation)
FAIRFIELD SIGMA LIMITED (in liquidation)

Respondents

ORDER

BEFORE: The Honourable Justice Barry Leon

DATED: 11 March 2016

ENTERED: 18th March 2016

UPON the Amended Ordinary Applications dated 19 February 2015, filed by Harneys on behalf of ABN AMRO Fund Services (Isle of Man) Nominees Limited, Bank Julius Baer & Co Limited, SNS Global Custody BV, Deutsche Bank Trust Company Americas and Deutsche Bank (Suisse) SA, seeking relief under section 273 of the Insolvency Act, 2003, and anti-suit relief coming on for

hearing in the liquidations (the *Harneys Applications*)

AND UPON the Amended Ordinary Applications dated 19 February 2015, filed by O'Neal Webster on behalf of UBS AG New York, UBS AG Zurich, UBS Jersey Nominees, UBS (Luxembourg) SA, UBS Deutschland AG / Dresdner Lateinamerika AG, UBS Fund Services (Cayman) Limited, UBS Cayman Limited, UBS Fund Services (Ireland) Ltd and UBS Zurich, seeking relief under section 273 of the Insolvency Act, 2003, and anti-suit relief coming on for hearing in the liquidations (the *O'Neal Webster Applications*, together with the Harneys Applications, the *Applications*)

AND UPON hearing Mr. Mark Hapgood QC, and Mr. Alan Roxburgh, Mr. Phillip Kite, Ms Claire Goldstein and Ms Colleen Farrington of Harney Westwood & Riegels for the Applicants ABN AMRO Fund Services (Isle of Man) Nominees Limited, Bank Julius Baer & Co Limited, SNS Global Custody BV, Deutsche Bank Trust Company Americas and Deutsche Bank (Suisse) SA (the *Harneys Applicants*)

AND UPON hearing Mr. Stephen Rubin QC, and Mr. Piers Plumtre, and Ms. Nadine Whyte of O'Neal Webster for the Applicants UBS AG New York, UBS AG Zurich, UBS Jersey Nominees, UBS (Luxembourg) SA, UBS Deutschland AG / Dresdner Lateinamerika AG, UBS Fund Services (Cayman) Limited, UBS Cayman Limited, UBS Fund Services (Ireland) Ltd and UBS Zurich (the *O'Neal Webster Applicants*, together with the Harneys Applicants, the *Applicants*)

AND UPON hearing Mr. Gabriel Moss QC and Mr. William Hare and Ms. Sinead Harris of Forbes Hare for the Respondents

AND UPON further hearing at the handing down of judgment Ms Claire Goldstein for the Harneys Applicants, Ms Akilah Anderson for the O'Neal Webster Applicants and Mr Robert Nader for the Respondents

IT IS ORDERED AND DECLARED THAT:-

1. This Order and the Judgment handed down in the Applications are both publicly available documents.

IT IS FURTHER ORDERED THAT:-

2. The Applications are dismissed.

3. Time for the Applicants to apply for leave to appeal, if and in so far as leave to appeal is required, be extended to 4:30pm on 22 April 2016.
4. The time limit under CPR 62.5(1)(a), if and in so far as applicable to the filing by the Applicants of any Notice of Appeal against the Judgment in the Applications and/or this Order, be extended under CPR 62.5(2) to 4:30pm on 22 April 2016.
5. The parties shall file and exchange written submissions on costs by 4pm on Wednesday 16 March 2016, following which this Court will make its order regarding costs of the Applications.

BY ORDER OF THE COURT



Dep REGISTRAR

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ABN AMRO FUND SERVICES (ISLE
OF MAN) NOMINEES LIMITED et al
Applicants

-v-

KENNETH KRYS AND CHARLOTTE
CAULFIELD ET AL
Respondents

ORDER

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REF: 042057-0001

HARNEYS