



Date: July 2016

Contact: E. Patricia Ebanks

Tel: (345) 938-2209

Date: 13 July 2016

Multi-Billion-Dollar International Litigation Begins in Cayman

The eyes of the international financial community around the world will be on the Cayman Islands beginning Monday (18 July), when the largest trial in the history of this jurisdiction, with billions of dollars at stake, begins in Grand Court.

The case, to be presided over by Chief Justice Anthony Smellie, QC, involves worldwide allegations of fraud, forgery and conspiracy arising from a credit crisis involving a large family conglomerate in the Middle East and financial institutions in Saudi Arabia, Bahrain, London, New York, Switzerland and the Cayman Islands. Borrowings from some 118 banks worldwide are central to the case.

The hearing that begins on Monday will be the actual trial, jurisdictional and other interim challenges having been argued and resolved in other hearings taking the case all the way to the UK Privy Council, the highest court of appeal for this British territory. For the trial starting next week, the Cayman Islands Courts have blocked out seven months, to be followed by two to three months for deliberations and writing of the judgment by the Islands' Chief Justice.

The litigation team comprises four different firms of local lawyers -- Harneys, HSM Chambers, Mourant Ozannes and Walkers – who are instructing and assisting London counsel, and three different teams of liquidators (originally dealing with 42 parties though now winnowed down to 16 companies in liquidation). The 30-to-40-member team has been assembled with the goal of finally resolving the tangle of complex claims and counter claims in a trial that many will be watching.

“As the trial progresses the international financial community will be turning a critical eye towards the developments in the Cayman Islands,” said Ms. Shelley White, Partner with Walkers. However, Ms White added: “As a result of the careful investment in the legal infrastructure by the Cayman Islands' Government, and the focus of leading local law firms in attracting and cultivating high calibre Caymanian and international attorneys, these proceedings will confirm the Islands' status as a world class jurisdiction in which to do business.” She made particular reference to the establishment in 2009 of the Financial Services Division of the Grand Court (FSD), a development that has resulted, she said, “in the Grand Court being expertly equipped to handle the particular needs of a matter of this size and sophistication.”

Outside of that general infrastructural preparedness, arrangements for the case of such all-round massive proportions have necessitated the discovery of some five million documents, the procuring of data management technology housed in London and commissioned at a cost of

millions of dollars, and the retrofitting of Court facilities in Kirk House where the case will be heard.

Court Administrator Suzanne Bothwell said that preparations have included ongoing case management by the Chief Justice and liaison between her office and local law firms to ensure the Court facilities are modified to accommodate the expansive case. For example, Mrs. Bothwell said, pre-existing jury facilities in the court room assigned to the case have been dismantled to accommodate case documents, and video conferencing capabilities enhanced. Attorney robing rooms have been repurposed to serve the large corps of attorneys involved, and a “live note” stenographer will provide services linked to the dual computer monitors available to each participant throughout the court room.

“As a leading international financial centre, the Islands must rise to the challenge of ensuring its courts provide the facilities required in circumstances with such far-reaching implications,” said Chief Justice Smellie. “In the face of the widely acknowledged need for upgraded court facilities towards which we have long been striving, we have worked assiduously with the various interests to ensure that we do not compromise the smooth and efficient management of this case from the perspective of resources and facilities.”

Nevertheless, the Chief Justice noted that as “exceptional as this case may be, large and complex cases are an every-day feature of the business of the courts,” an outcome of the Islands’ international financial business. “Our reputation as a leading financial centre depends on our ability to resolve these cases in a timely and effective manner and that obviously depends upon having the facilities and human resources to do so,” the Chief Justice said.

Reflecting the extent of the Courts’ preparation for oversight of this the largest trial in the history of the jurisdiction, Mr. William Helfrecht, Partner at law firm HMS Chambers, said that the “willingness and ability of the Cayman Courts to undertake a trial of this size and complexity, involving enormous amounts of evidence, confirms Cayman’s continued pre-eminence in offshore dispute resolution.”

That level of preparedness has also been receiving similar attention by local legal, accounting, and company management professionals. The case, *Ahmad Hamad Algosaibi & Brothers (AHAB) v Al-Sanea and Others*, Mr. Helfrecht said, “has required the parties’ lawyers to retain a host of experts, including forensic accountants, handwriting experts, and experts on Swiss, German, Bahraini and Saudi law,” adding: “The parties are reviewing and managing millions of documents using the very latest document and trial management technologies.”

Expressing similar sentiments on cooperation at all levels, Mr. Brett Walter, General Counsel with the legal firm of Mourant Ozannes which is representing AHAB, said: “AHAB is grateful to the Cayman Courts for accommodating the imminent and lengthy trial of these complex, high-value and important proceedings,” and added: “AHAB looks forward to the ultimate resolution of this dispute, by which it seeks to recover a significant sum for the benefit of its creditors.”

The resolution of this protracted case will come as a most welcome relief to the many different interests in the case. As has been reported in the international media, AHAB (a Saudi Arabia-based family business founded in the 1940s by the Algosaiabi family) has been working for several years to reach agreement with its creditor banks, to accommodate and facilitate substantial repayments to them.

The first named defendant in the case is a Saudi billionaire of Kuwaiti origin, Mr. Maan Al-Sanea, who is the head of the Saad Group, a prominent Saudi investment company.

Mr. Al-Sanea, who is married to a daughter of a founder of AHAB, was put in charge of AHAB's financial-services business following his marriage into the family. The allegation is that over a twenty-year period, Mr. Al-Sanea negotiated huge amounts of loans, most unsecured, on the strength of the AHAB name. By 2009, crisis weary banks stopped lending and one by one AHAB defaulted on payments to them. The upshot is that the Algosaiabi family has alleged that it has been the victim of a massive \$9.2 billion fraud that it claims resulted from Mr Al-Sanea's manipulation of the affairs of AHAB'S finances. Claims of fraud include allegations of forged documents and of the siphoning off of proceeds to Mr. Al-Sanea's Saudi and Bahrani companies and then on to others established by him in the Cayman Islands.

These allegations are resisted by the liquidators of the Cayman companies which are the active defendants to AHAB'S claims. Nine of these 16 companies in liquidation are being represented by Walkers, working in conjunction with the accounting firm of Grant Thornton.

Speaking to the available infrastructural support for their role in this case, particularly with regard to judicial, legal and accountancy services, Mr. Hugh Dickson, one of Grant Thornton's Joint Official Liquidators overseeing the matter, remains confident, saying: "These proceedings have benefitted greatly from the responsiveness of the FSD and the skill of judges specially trained to handle rigorous and complex financial matters, and we anticipate that this will continue to facilitate the effective conduct of the litigation." Commenting further on overall local resources, Mr. Dickson said: "We believe that the combination of the modern approach, expertise and experience of the FSD and the quality of legal and accountancy professionals involved in the case will result in a trial that will showcase the very best of the Cayman Islands' financial services capabilities."

Mr. Marc Kish, Head of Litigation at Harneys, was quick to endorse this view: "I have been very impressed with the approach taken by our clients and the other office holders in this case who have regularly had to grapple with complex legal issues as well as applying considerable forensic expertise to the review of literally millions of documents." Mr. Kish said that it was a "testament to the quality of the profession in Cayman that we have been able to cut through these issues in the way that we have."

As further case background, litigation to this point includes a personal judgment in favour of AHAB in 2011 against Mr. Al-Sanea to the tune of US\$2.5 billion, an outcome of a hearing also heard in Cayman's Grand Court by Chief Justice Smellie. That judgment survived appeals all the way to the Judicial Committee of the Privy Council, the final appellate court for the Islands.

While seeking to enforce that judgment against Mr. Al-Sanea in Saudi Arabia and elsewhere, AHAB is pressing on in the upcoming trial for the recovery of another US\$7.3 billion, which it claims to be able to trace to Mr. Al-Sanea's Cayman companies.

For their part, the liquidators of one group of the Al-Sanea Cayman companies have also brought a counter claim against AHAB for some US\$6 billion, a matter which must also be resolved in the trial.

➤ Ends