Scale: Over € 2,000,000

IN THE DISTRICT COURT OF NICOSIA

Action no. 7862/2010

BETWEEN:

1. Ashot Egiazaryan
2. Artem Egiazaryan
3. Dmitry Fitisov
4. Vitaly Gogokhiya
5. Blidensol Trading and Investment Limited
6. Longlake Holdings Limited
7. Hackham Invest & Trade Inc.

Claimants

-and-

1. Denoro Investments Limited
2. Monora Limited
3. Lansgrade Holdings Limited
4. Suleyman Kerimov
5. The Government of the City of Moscow
6. Yuri Luzhkov
7. Arkadiy (Arkady) Rotenberg
8. Konstantin Goloschapov
9. Iraya Gilmutdinova
10. Konk Select Partners Inc.
11. OJSC DecMos
12. CJSC Decorum
13. OJSC OEK-Finance
14. Sparklon Holdings Limited
15. Kamenz Trading Inc.
16. Tribalin Trading Limited
17. Elena Baturina

Defendants

ΠΙΣΤΟΝ ΑΝΤΙΓΡΑΦΟ
Ευδοξία
ΠΡΩΤΟΚΟΛΛΗΤΗΣ Α'

AFFIDAVIT

I, Artem Egiazaryan, a Russian national residing in Moscow, take oath and say the following:

1. I am plaintiff 2 in this action and I have graduated from the Finance Academy of Moscow. At all material times I was one of the registered shareholders in Limerick Business Holding S.A. ('**Limerick**'), a BVI company I am authorized to swear this affidavit on behalf of all other plaintiffs.

2. The matters set out in this affidavit are within my own knowledge and belief and the knowledge and belief of plaintiffs 1 ,3 and 4.Where they are not within my own knowledge or the knowledge of the aforesaid plaintiffs I state the basis of my belief. Where matters are within my own knowledge they are true. Where they are not within my own knowledge they are true to the best of my knowledge, information and belief.

3. I am fluent in both the Russian language and the English language. The exhibits attached hereto which are in Russian and translated in English were reviewed and found accurate by Vitali Zaikovsky whereas those which are in Russian and are translated in Greek were translated by the same Vitali Zaikovsky.

THE PARTIES

4. Plaintiff 1 is a graduate of the economic department of Moscow State University, he has served as chairman of the Moscow National Bank between 1994 and 1996 and he is a member of the State Duma (Parliament) of the Russian Federation since 1999.

5. Plaintiffs 3 and 4 and I, as well as other persons, held shares as nominees for and on behalf of plaintiff 1 in several companies involved in these proceedings, including plaintiffs 5 ('**Blidensol**'), plaintiff 6 ('**Longlake**'), and plaintiff 7 ('**Hackham**'). All plaintiff companies were at all material times beneficially owned by plaintiff 1.

6. Defendant 1, Denoro Investments Limited ('**Denoro**'), is a Cyprus company with its registered office at Larnaca. The majority of its directors resides in Cyprus. Its sole registered shareholder today appears to be Balbour Group Ltd ('**Balbour**') of Nevis. From the facts to which we shall refer later and the documentation which was issued or circulated by defendant 4 and made Exhibits hereto we reasonably believe that defendant 4 is the beneficial owner of Balbour and defendants 1 and 15 ('**Kamenz**'), the latter of which is a company with its registered office in the BVI.

7. Defendant 2, Monora Limited ('**Monora**'), is a Cyprus company with its registered office at Larnaca. The totality of its directors resides in Cyprus. Its sole registered shareholder today is Balbour. For the reasons explained in paragraph 6 above, defendant 2 also belongs to defendant 4.

8. Defendant 3, Lansgrade Holdings Limited ('**Lansgrade**') is a Cyprus company with its registered office at Larnaca. The totality of its directors resides in Cyprus. Its shares belong to Mebraco Investments Limited, another Cypriot company, defendant 7 and defendant 9 ('**Gilmutdinova**'), who is the wife of defendant 8. Mebraco Investments Limited belongs to Austen Global Limited, a BVI company.

9. Defendant 4 ('**Kerimov**') is a member of the Council of the Federation of Russia (Senate) and he is one of the biggest recently surfaced businessman in Russia. He has acquired controlling interests over a few of the major groups in Russia such as Nafta Moskva and others, and including OJSC Uralkali and OJSC Polyus Gold, which are listed on the London Stock Exchange. He is the mastermind behind the events, threats and manipulations which I will describe further below and which resulted in depriving plaintiff 1 from his property worth well in excess of USD 2 billion.

10. Defendant 5 is the Government of the City of Moscow (the '**City**') and defendant 6 Yuri Luzhkov ('**Luzhkov**') was at all material times and still is the Mayor of the City of Moscow. Defendant 17, Elena Baturina ('**Baturina**') is Luzhkov's wife and is widely reported to be the wealthiest woman in Russia. Defendant 13 ('**OEK-Finance**') is a company wholly owned by the City.

11. Defendant 7, Arkadiy Rotenberg ('**Rotenberg**') and defendant 8 Konstantin Goloschapov ('**Goloschapov**') are influential in Russian political circles and among other things were at all material times close acquaintances of Georgiy Poltavchenko, the representative of the President of the Russian Federation for the Central Federal District who exercised overarching control over the executive powers of the City. They were at all times acting in consortium. They both acted together with or under the instructions of the City, Luzhkov and Kerimov during the events, threats and manipulations which I will describe further below.

12. Defendant 10 Konk Select Partners Inc. ('**Konk**') is a BVI company which at the beginning belonged 50% beneficially to plaintiff 1 and 50% beneficially to defendant 13, the latter being a wholly owned subsidiary of the City. This company, as it will be shown later, was a device by which the City and Kerimov managed to take control of the voting powers of defendant 11.

13. Defendant 11 OJSC DecMos ('**DecMos**') is a Russian company that is the 100% owner of the Moskva Hotel (the '**Hotel**').

14. Defendant 12, CJSC Decorum ('**Decorum**') was originally wholly beneficially owned by plaintiff 1 and later 50% beneficially owned by plaintiff 1 and 50% beneficially owned by defendants 7 and 8.

15. Defendant 16, Tribalin Trading Limited ('**Tribalin**') is a Cypriot company and is the direct registered shareholder of Decorum and is a 99.9% subsidiary of Limerick, which at the time of the events described herein belonged 50% to myself and plaintiff 3 as nominees for plaintiff 1 and 50% to defendants 7 and 8.

16. Defendant 14, Sparklon Holdings Limited ('**Sparklon**') is a Cyprus company with its registered office in Nicosia. Its sole director is a Cypriot company and its sole shareholder is Olpon Investments Limited, another Cypriot company which has as its registered shareholder defendant 7.

ARBITRATION

17. For certain of the events which formulate the factual substratum of this dispute there are agreements between the parties involved which refer any dispute to arbitration in London. However some of the defendants in this action are not parties to those arbitration agreements and some of the prayers cannot be promoted under the arbitration. To the extent that the subject matter of this action is covered by those arbitration agreements, this action is brought in aid of those arbitration proceedings, which have already been commenced. Copies of the requests of arbitration (without exhibits) are attached hereto and are marked as **Exhibit 1**. Immediately after this action is served upon the defendants the plaintiffs will seek a stay for that part of the above action which coincides with the subject matter of those arbitrations but shall seek an order of the court for the injunctions to remain in force in accordance with their terms.

SUMMARY

18. In short the plaintiffs' complaint, as it will emanate from the facts to follow, is that the defendants acting as conspirators under the leadership of Kerimov managed to deprive plaintiffs 1 to 4 from their stake in the Hotel which is situated in the very center of Moscow adjacent to Red Square, the Russian Parliament and the Bolshoy Theatre and further, they seized control over claims belonging to the plaintiffs in excess of USD 253 million plus interest.

19. I believe that the plaintiffs have a good cause of action with reasonable chance of success and that the facts of the case justify the exercise of the court's discretion to issue the injunctions sought.

20. The plaintiffs' fear is that the defendants or where they are companies, their directors and officers will take further steps to alienate the shares in the several corporate vehicles they employed in their scheme to raid the plaintiffs' property so as to make it impossible for the plaintiffs to have justice, if successful in this action or the arbitrations commenced or to be commenced.

THE COURT'S JURISDICTION

21. This Honorable court has jurisdiction to entertain the present action for the following reasons:

21.1 Defendants 1, 2, 3, 14 and 16 are Cyprus companies with their registered offices either in Larnaca or in Nicosia.

21.2 The other defendants, although not residing within the jurisdiction are, as it is explained below, necessary parties to the action as they are persons who have control over Cypriot defendants 1, 2, 3, 14 and 16 and were the masterminds behind the raid of the plaintiff's property and rights.

21.3 The majority of the agreements and documents executed to implement the raid of the plaintiffs' property were executed in Cyprus.

21.4 To the extent applicable and in aid of the contemplated arbitrations the court has jurisdiction under the International Arbitration Law No 101/1987, sections 2, 8 and 9.

21.5 Whilst the agreements between some of the parties hereto contain an arbitration clause for any disputes between them, the disputes in hand also involve various persons that are not parties to the said agreements and therefore the existence of the arbitration clauses does not preclude the present proceedings and it does not oust the jurisdiction of the Court to deal with the dispute.

22. I verily believe that the Cyprus courts have jurisdiction to deal with this matter.

THE FACTS

23. The City through its fully owned company OJSC Hotel Moskva was the owner of the Hotel which as stated above is situated in the very center of Moscow adjacent to Red Square, the Russian Parliament and the Bolshoy Theatre. The original planning and construction of the Hotel began in the 1920s at the birth of the Soviet Union, and at the time of its opening was the most prestigious hotel in the country.

24. By 2000 the hotel was rated as a 3 star hotel, was in very poor condition and although the City had decided to renovate it, it did not have sufficient funds to do so on its own. Therefore the City made an invitation for tender and one of the terms of the tender invitation was that the developer would acquire a majority shareholding in the hotel and the City would keep a minority interest. The terms of the tender also expressly envisaged that the outside investor could finance the construction through loans secured by among other things a mortgage over the Hotel, and that upon completion it would have a priority dividend right allowing it to fully recoup its investment. I now produce and mark as **Exhibit 2** an English translation of the said tender.

25. The tender for the reconstruction and redevelopment of the Hotel was won by Decorum Corp., a company organized under the laws of the State of Delaware in the United States. Later, as described below, this company's rights under the tender were transferred to a Russian company of the same name (defendant 12).

At that time, the prices of oil and Moscow real estate were at levels substantially below where there are today and the original estimate for project completion was approximately USD 300 million.

26. At the conclusion of the tender process, plaintiff 1 acquired Decorum Corp's rights under the tender and later agreed and transferred half of his interest in the newly-created (Russian) company named CJSC Decorum (defendant 12) to Rotenberg and Goloshchapov (the latter's share was held by his wife Gilmutdinova, defendant 9). Following this transfer, plaintiff 1's effective interest in the Project was 25.5%.

27. One of the approvals/documents which was necessary in order to begin works in the Project and which should be signed by the City was a decree by which it would ratify the liquidation of OJSC Hotel Moskva and the transfer of the project to DecMos, defendant 11. This decree was passed on 29/4/2003 ('**Decree 311**') and it approved transfer of the rights under the tender to Decorum which in turn agreed to carry out the project in partnership with the City through the jointly-created vehicle DecMos. Ownership of DecMos was split 51% to Decorum and 49% to the City.

28. At the first meeting of the shareholders of DecMos in June 2003 (which included the City's representatives), it was resolved, among other things, that the City would consent to mortgaging DecMos's property including the land's rights under the Hotel and the shareholders' shares in DecMos for the purposes of financing the project. I attach hereto and mark as **Exhibit 3** an English translation of the said protocol.

29. In furtherance to the above ,on 2/10/2003, the City, Decorum and DecMos entered into an "Agreement on Mutual Obligations of the Parties to Implement the Investment Project for Reconstruction of the Moskva Hotel" (the "**Investment Agreement**"). I now produce a copy of the Investment Agreement which I mark as **Exhibit 4**. Responsibility to finance and complete the Project lay entirely with Decorum (and therefore plaintiff 1), which under the Investment Agreement was expressly permitted to provide such financing either by direct investment of its own funds and/or by securing loans for the project. The City's role was essentially that of a passive shareholder, and its duties were limited to ensuring the timely provision of all administrative approvals and documentation necessary to carry out and complete the project. As envisaged by the terms of the tender and the Investment Agreement, Plaintiff 1's financing plans for the Project involved a combination of self-financing and bank financing.

30. Once Decree 311 was issued and plaintiff 1 provided the first USD 50 million, a company called Ingeokom was employed to do the demolition work and this lasted about 6-7 months. Thereafter construction of the Hotel was assigned to Strabag, an Austrian construction company with extensive experience in large infrastructure projects.

31. During the period 2003-2008, Plaintiff 1, through companies beneficially owned by him, loaned to the project amounts exceeding USD 253 million including accrued interest, and because of this investment the excavation work was completed, the new building was erected and watertight, and basement parking facilities were built. This also included complex foundation works to maintain the integrity of surrounding infrastructure, including a metro line that ran below the project site.

32. This progress in the works was achieved by plaintiff 1's financing despite all obstacles and intrigues designed and employed by defendants 4 to 9 and 17 as explained below. During this period, however, the prices on the immovable property market in Moscow skyrocketed and this was mainly caused by the fact that the oil price almost doubled at the time. As a result, the project became more valuable (and therefore more attractive to the City and other businessmen) but also more expensive (due to increased costs for construction material and fuel). The budget for the project grew to over USD 500 million.

33. On or around July 2006, plaintiff 1 arranged a USD 525 million loan to DecMos from Sberbank, one of the largest savings banks in Russia. The loan was unanimously approved in principle by the board of directors of DecMos, which included the City's representative. I attach hereto and mark as **Exhibit 5** a copy of the said board resolution and a translation of its first 4 pages which is its relevant part. Among the conditions precedent which Sberbank insisted for the loan to be provided was that the loan should also be approved by a shareholders' meeting in DecMos and that the Hotel should be mortgaged in favor of the bank. The latter condition was expressly envisaged by the terms of the original tender (Exhibit 2) and had been accepted by the City in principle at the first shareholders' meeting of DecMos (Exhibit 3). Therefore, the City as a shareholder had to approve the loan and the mortgage as a matter of course. However, the City failed to give that approval despite the fact that it was invited so to do repeatedly both verbally and twice in writing. Copies of the letters are attached hereto and marked as **Exhibits 6 and 7**. The City therefore effectively frustrated the Sberbank loan. In hindsight, plaintiff 1 should have perhaps recognized that Luzhkov was determined to find a way to remove him from the Project. But since plaintiff 1 had already invested so much in the project, rather than seek confrontation he looked for other ways to keep the project on track.

34. After the failure of the Sberbank financing, plaintiff 1 approached Deutsche Bank ('**DB**') for an alternative loan which plaintiff 1 secured in December 2006. The amount of the loan was USD 100 million and it was provided to plaintiff 5, which as noted above was beneficially owned by plaintiff 1 through plaintiff 4 (the '**Blidensol Loan**'). This time the security offered for the loan was a pledge over plaintiff 1 's interest in another of his properties, the Europark Shopping Mall in Moscow. USD 90 million of this loan was used by Blidensol to purchase promissory notes issued by DecMos to Strabag as part of the payment of the construction cost of the project. DecMos now became a debtor to Blidensol for the equivalent of the promissory notes so purchased.

35. In July 2007, plaintiff 1 arranged further financing for the next stage of the project. He managed to secure a further loan from DB, however, DB insisted that before finally approving the financing the shares in Decorum should be held offshore. In order to comply with this condition of DB, plaintiff 1, Rotenberg and Goloschapov transferred their shares in Decorum to Tribalin, defendant 16. Under the structure employed, 99.9% of Tribalin was held by Limerick. Once that structure was in place the loan from DB was structured as follows:

35.1 The first loan would be a credit line of up to USD 392 million and it would be provided to Falmiro Trading Limited (the '**Falmiro Loan**'), which is a Cypriot company that at the time was beneficially owned by 50% by plaintiff 1 through plaintiff 4 and 25% by Boris Rotenberg (Rotenberg's brother) and 25% by Elena Pavlyuchenko on behalf of Goloschapov. The security for this loan was *inter alia* (i) a pledge over the DecMos shares held by Decorum, (ii) a pledge over Decorum shares held by Tribalin and (iii) a pledge over Tribalin shares held by Limerick.

35.2 The second credit line would be for USD 792 million and it would be provided to DecMos at a later stage (the '**DecMos Loan**') (together with the Falmiro Loan, the '**DB Loans**'). The purpose of this loan would be to refinance the Falmiro Loan and other project indebtedness and the balance to be utilized for the purposes of the construction of the Hotel. The security for this second loan would be *inter alia* a direct mortgage on the Hotel.

36. Plaintiff 1 believed the DecMos Loan represented the best financing available in the market and would be sufficient to see the project through to completion. On all valuations, this would leave a very significant return for the shareholders in DecMos, including the City.

37. From the Falmiro Loan, Falmiro drew down at several stages approx. USD 75 million. These amounts were used by Falmiro to purchase promissory notes issued by DecMos to Strabag as part of the payment of the construction cost of the Project. DecMos now became a debtor to Falmiro for the equivalent of the promissory notes so purchased.

38. One of the Falmiro Loan conditions subsequent imposed by DB was that the DecMos Loan should be approved/ratified by the shareholders of DecMos, and for this DB allowed one year as from 6/7/2007.

39. In December 2007 the City claimed that the DecMos Loan was "*contrary to the City's interests*" and demanded that Decorum sign a 'clarification agreement' stating that the 2003 Investment Agreement required Decorum to provide all financing for the Project on a *gratis* basis (*i.e.*, the Project could not be financed by bank loans), and that Decorum should terminate with immediate effect all loan agreements entered into with DecMos while simultaneously waiving claims to recovery of any outstanding amounts under such loans. I attach hereto the said

City's letter to DecMos and Decorum and a copy of the proposed draft agreement. And mark them as **Exhibit 8**

40. By this behavior the City was trying to overturn the terms of its coexistence with plaintiff 1 in the project and was applying illegitimate economic pressure in an attempt to seize greater control of the project. In an effort to smooth things over, plaintiff 1 arranged for DB to issue a written confirmation that the City's 49% share in DecMos would not form part of the security for the DB Loans and thereafter the City dropped its insistence on the 'clarification agreement' although, again, opposition to plaintiff 1's involvement was hardening. .

41. On 14 May 2008, the City sent a letter to Decorum threatening to terminate the Investment Agreement. I attach hereto a copy of the said letter and mark it as **Exhibit 9**. The letter further envisaged transferring Decorum's 51% share in DecMos to the City. The official alleged basis for termination was that there had been a violation of clause 3.1.1 of the Investment Agreement. Pursuant to that clause, Decorum undertook to open the new hotel for business no later than the end of 2006. This letter was sent on 14/5/2008 in spite of the City granting an order on 26/6/2007 to extend the time limit for opening the hotel for business until 31/12/2008 .The order of 26/6/2007 is attached hereto and marked as **Exhibit 10**. I believe the reason the City sent the letter was because it knew that this letter in itself, whether it was justified or not, could in any event trigger an event of default under the Falmiro Loan. This was clearly a further attempt by the City to force plaintiff 1 out of the Project. By this point, over USD 253 million had been invested and spent on construction of the Project. Plaintiff 1 told the City he would defend himself with legal action if the City continued with its threats to terminate the Investment Agreement and the City abandoned this argument.

42. As noted previously, DB had required that the shareholders of DecMos approve a number of finance documents, including most importantly the DecMos Loan. Luzhkov, although properly notified, deliberately obstructed the meeting by ensuring that the City's representatives did not attend. The result was that no business could be transacted and no resolution was passed. This frustration led to a default under the Falmiro Loan because the City's approval had to be confirmed no later than July 2008 (i.e. 12 months from the date of the DecMos and Falmiro Loans).

43. At a meeting with DB on 19/9/2008, Elena Pavlyuchenko (who was Goloschapov and Rotenberg's representative on the board of DecMos) announced to DB without warning or consulting Plaintiff 1's representative at the board of Falmiro that the conditions subsequent for the Falmiro Loan had not been met and would not be met and accordingly Falmiro was in default. This was an intentional and clear provocation aiming to make DB to declare an event of Default.

44. Indeed, on 6/10/2008 DB sent a notice of default to Falmiro stating that if the Falmiro Loan was not approved by the shareholders of DecMos by 21/10/2008 then it would exercise its right to immediately demand repayment of the USD 75

million which had been drawn down under the Falmiro Loan, failing payment of which it would foreclose on the Tribalin shares. DecMos wrote to the City requesting that the City ask DB for a further 6 months for Falmiro to satisfy the conditions subsequent by securing the City's approval. The City responded after the expiration of the deadline, i.e. on 28/10/2008 stating that it had "no grounds" to write to DB requesting such an extension. This calculated passiveness towards the terms of the aforesaid notice of default is, I believe, a clear indication that the City actually was provoking the foreclosure of the loan and of the Tribalin shares. I attach hereto the notice of default dated 6/10/2008 and mark it as **Exhibit 11** our letter to the City and mark it as **Exhibit 12** and the City's response, which I mark as **Exhibit 13**

45. Plaintiff 1 had a further and separate agreement with DB (through one of his offshore companies named Hamfast Investment Limited) containing an express term that if there was a default on the Falmiro loan, plaintiff 1 would have a pre-emptive right to buy out the Falmiro loan and plaintiff 1 would have had approximately 2 weeks time to do that as from the date of the default notice. After the notice of default on the Falmiro Loan was given by DB,on 6/10/2008 plaintiff 1 tried to arrange a buyout together with Rotenberg and Goloschapov and, although Rotenberg initially said that he would participate in raising the USD 75 million, ultimately did nothing. The plaintiffs now understand that at this time Rotenberg and Goloschapov were already engaged in talks with the City and Kerimov aimed at removing plaintiff 1 from the project.

46. The plan to throw plaintiff 1 out of the project is also documented by an instruction of Luzhkov to his Deputy Mayor, Vladimir Silkin, dated 29/8/2008 containing a plan how to engineer a hostile takeover of the project and take plaintiff 1 out of the picture. These instructions set out a number of possible ways to achieve this end. The document is signed by Luzhkov and a copy of it I attach hereto and mark as **Exhibit 14**

47. At the same time plaintiff 1 was informed by Igor Lozhevsky, the CEO of DB Russia, that the City was negotiating to buy out the Falmiro Loan. He told plaintiff 1 that if he did not come up with the money to buy out the said loans by 20/11/2008, the loan would be sold to the City. Plaintiff 1 then told representatives of the City that if the City did buy out the loan, plaintiff 1 would initiate court proceedings to protect his interests.

48. If the City had been allowed to assume the role of the creditor of the project it would have given it incredible leverage and also would have meant the City would have acquired the pledge over the Tribalin shares, effectively a pledge over plaintiff 1's entire interest in the Project. On the one hand the City was trying to engineer an event of default under the Falmiro Loan and on the other the City was negotiating with DB to buy out its rights in the loan.

49. Without any source of funding, and facing losing his entire stake in the Project through a foreclosure on Tribalin, plaintiff 1 was in a very vulnerable position. I

verily believe that the City had deliberately maneuvered plaintiff 1 into this position. After plaintiff 1 threatened litigation, the City relented but instead demanded that the City and plaintiff 1 buy out the DB loans, which by now had reached the amount of USD 87 million including penalties due to the default. The buy out would be done through an entity which both would jointly own and which would be financed by the City. Specifically, the Falmiro Loan was to be paid by and the rights arising thereunder assigned to Konk, which would be owned 50:50 by the City through its wholly owned subsidiary OEK-Finance (defendant 13) and plaintiff 4 as nominee for plaintiff 1. As part of this buy out, plaintiff 1 was also forced to enter into the Konk shareholders' agreement (the '**Konk SHA**'), which gave the City the governance rights in Konk until its USD 87million was repaid. I attach hereto and mark it as **Exhibit 15** the Konk SHA.

50. The net result of the City's proposal to use Konk as the vehicle to take over the USD 87 million debt to DB and foreclose on Tribalin would be that the City, which prior to that had only 49% control over the project, would then have 74.5% and the right to appoint both Konk directors until the loan was repaid. This would effectively give the City absolute control over the Project.

51. Plaintiff 1 did everything he possibly could to get the DecMos shareholders' resolution to meet the DB conditions and the mortgage over the project, but the City engineered the default and forced him down the Konk route.

52. It was in January 2009 that plaintiff 1 realized the influence and the role which Kerimov had been exerting behind the scenes. He found this out because Kerimov met with plaintiff 1 in January 2009 to tell him that the November 2008 Konk transactions were organized for his (Kerimov's) benefit and that he would be acquiring the City's stake in Konk.

53. Around the same time we learned that Deputy Mayor Silkin had written to Luzhkov on 31/12/2008 stating that negotiations were being held about the conditions of acquisition of the pledges over Tribalin and the shares in Konk from OEK-Finance by "*structures friendly to the City*". I attach hereto and mark it as **Exhibit 16** .the above letter.

54. At the same time Igor Yusufov, former minister of energy and the Russian President's plenipotentiary on international energy matters, told plaintiff 1 about a conversation he had with Kerimov on or before October 2008. According to Yusufov, he had been interested in approaching plaintiff 1 with an offer to buy out the the Falmiro Loan to avoid a default. However Kerimov persuaded him not to act stating that he could get the Project "*for free*".

55. Plaintiff 1 approached the City stating that if it did not want to participate in the Project any longer, in accordance with the Konk SHA, the City should let him have the first opportunity to buy it out. This approach was made by letters dated 22/1/2009, 24/2/2009 and 16/4/2009. I attach hereto and mark as **Exhibits 17,18 and 19** respectively copies of the said letters. The letters requested that

the City remain a shareholder in Konk and, in the event that the City failed to comply with this request, plaintiff 1 confirmed his readiness to buy the Konk shares on terms to be named by the City. The City ignored the offer outright and continued working with Kerimov on the project.

56. The City had no right to do this, because Limerick was the majority shareholder in DecMos, Kerimov had no interest whatsoever, and the City was not permitted to sell him Konk's shares without the consent of plaintiff 1. Given plaintiff 1's objections and the legal obstacles to involving Kerimov, the City and Kerimov turned to blatantly illegal means.

57. On or about 10-20/1/2009 plaintiff 1 was invited to come to the offices of DLA Piper for a working meeting regarding the foreclosure of Tribalin shares and to his surprise, on his arrival, he found out that two of Kerimov's lawyers were also there together with his advisors and the City's representative Ignatov. The latter declared that they were handing over their Konk stake to Kerimov and that they had already transferred to him all relevant documentation. When plaintiff 1 protested that this was a violation of his right of pre-emption and confidentiality terms under the Konk SHA, Ignatov replied that "*there is nothing I can do, these are Luzhkov and Baturina's instructions*". As noted above, Baturina is Mayor Luzhkov's wife.

58. Further, on or about 23/1/2009, plaintiff 1 was summoned to a meeting at the offices of Nafta Moskva. The meeting was to happen with Kerimov only but actually, Goloschapov, Rotenberg and Igor Ignatov (the City's representative on the DecMos board of directors) attended as well without plaintiff 1's prior knowledge. There and then plaintiff 1 was informed that they had removed his representative Vladimir Lapshov from his position as director of DecMos and replaced him with a certain Goarik Kotanjian, an employee of Kerimov's company Nafta Moskva. This was illegal as no DecMos board meeting had been summoned or held for such removal and replacement. Simultaneously the City's representative warned plaintiff 1 not to obstruct the City's transfer of its share in the project held by OEK-Finance to Kerimov and to waive his right of pre-emption to purchase the City's share under the Konk SHA.

59. It became clear at this meeting that Rotenberg and Goloschapov were assisting the City and Kerimov and not acting in plaintiff 1's interests. Goloschapov actually told him at the meeting of 23/1/2009 that if he did not come into terms with Kerimov, Kerimov and Luzhkov would instigate criminal proceedings against him. He also admitted that he had signed fake DecMos board minutes removing Lapshov and claimed he did so to prevent the City and Kerimov from "*throwing plaintiff 1 in jail*".

60. Shortly thereafter in February 2009, Kerimov again summoned plaintiff 1 to his office. At this meeting, where Yusufov was also present, plaintiff 1 was presented with a pre-drafted "agreement" for his signature (the '**Framework Agreement**'). A copy is attached and marked as **Exhibit 20**. The Framework Agreement

envisaged a surrender of plaintiff 1's entire interest in the Project. The Framework Agreement required him:

60.1 to waive his right of pre-emption under the Konk SHA to buy OEK-Finance's Konk shares and therefore consent to their acquisition by Kerimov;

60.2 to transfer his 25.5% holding in DecMos to Kerimov and Yusufov; and

60.3 to transfer to Konk the indebtedness under each of the loans which his companies had made to DecMos and Decorum, pursuant to which those companies owed him approximately USD 253 million.

61. The Framework Agreement also envisaged that plaintiff 1 would receive back his DecMos stake at some later unspecified date. In sum, plaintiff 1 was effectively forced to agree to give up his entire share and investment in the project for an unsecured chance to get it back at some undefined point in the future. Plaintiff 1 knew that Kerimov never had an intention of honoring this part of the Framework Agreement. It was all laid out in simple terms for him at this meeting – either relinquish his interest and investment in the project or face criminal prosecution. Plaintiff 1 was in no doubt that this was a serious threat, and therefore signed the Framework Agreement – he had no choice. The copy of the Framework Agreement which plaintiff 1 has bears a number of handwritten amendments on it, some of which came from plaintiff 1.

62. Whilst plaintiff 1 was compelled to sign the Framework Agreement, he made every effort to defend his interest in the project. We started proceedings in Cyprus with action no. 1119/2009 in the District Court of Nicosia to prevent Kerimov and the City gaining control of Konk by installing their own directors. Plaintiff 4 obtained an injunction in Cyprus preventing Demetriades' removal as director of Konk. In response to these proceedings, defendant 13 started LCIA arbitration proceedings in London to enforce the appointment of its own director. Both proceedings were ultimately discontinued as part of the last stage of the raid of plaintiff 1's stake in the Hotel in June 2009, to which I refer below.

63. The next line of attack came in May 2009, when the City lodged a court action seeking to take over Decorum's (and thus plaintiff 1's) entire share in the project. The allegation levied by the City was that plaintiff 1 was in breach of the Investment Agreement *inter alia* because the Hotel had not been finished in 2006 and that Decorum had financed the works through loans. These allegations were clearly specious because the City knew it had earlier approved extension of the completion date and the terms of original tender and the 2003 Investment Agreement expressly allowed for financing through loans. The court dismissed all allegations brought by the City as unfounded and wrong in law whereas at the same time found that plaintiff 1 was acting in accordance with and was performing his contractual obligations I attach hereto a copy of that court judgment which I mark as **Exhibit 21** .

64. On 20/5/2009, plaintiff 1 instructed plaintiff 4 as the director of Decorum to write to the President of the Investigation Committee of Russia complaining that our interest in the project was under a raider style attack that was being orchestrated by officials of the City and Nafta Moskva. A copy of the letter is attached hereto and marked as **Exhibit 22**

65. Next, in late May 2009 plaintiff 1 caused Decorum to call a shareholders' meeting in DecMos to replace the three directors that did not represent the City, including the Kerimov employee who had been appointed illegally in January 2009. At the shareholders' meeting on 3/6/2009 the 3 candidates were appointed. The City then applied for and obtained injunctive relief from the court suspending their appointment pending substantive proceedings. I do not know the outcome of the substantive proceedings because by the end of June 2009 the plaintiffs were forced out of both Decorum and DecMos.

66. Prior to the said shareholders' meeting, and as Kerimov had threatened, on 1/6/2009 completely frivolous, groundless and fabricated criminal proceedings were commenced against plaintiff 4 alleging that the interim injunction he had obtained in Cyprus in action no. 1119/2009 amounted to an "attempt to defraud" the City of its USD 87 million "investment" in Konk. A copy of the order to open criminal proceedings is attached hereto and is marked as **Exhibit 23** This charge represented the manipulation by Luzhkov of the Russian criminal investigation system in the interests of Kerimov. Further, between 16/6/ 2009 and 23/6/2009, armed raids by special police forces in masks and with automatic weapons were carried out at a large 9 storey office building belonging beneficially to plaintiff 1 and at the homes of plaintiffs 2, 3 and 4. The office building housed the offices of plaintiff 3, Decorum and DecMos as well as a large number of other tenants. Almost all were searched. Those searches, their extent and the force used were calculated to intimidate both the plaintiffs and their tenants. Raids were also carried out in the offices of our current and former legal advisers in connection with the project, *i.e.* White & Case, Lovells and DLA Piper and all files were seized including computer servers containing numerous unrelated files belonging to other clients. Finally, on 24/6/2009 Luzhkov personally wrote to the Prosecutor General of Russia requesting that proceedings be initiated to strip plaintiff 1 of his parliamentary immunity and commence criminal prosecution against him. A copy of the said letter is attached hereto and marked as **Exhibit 24** In the face of this heavy-handed and unambiguous display of political influence and brute force, plaintiff 1 finally submitted to Kerimov's blackmail, capitulated and agreed to sign over his interest in the Project and the indebtedness owed to him.

67. At meetings between Kerimov and plaintiff 1 on 26 and 27/6/2009, plaintiff 1 handed over as directed all corporate documentation of the offshore companies above Decorum and DecMos (*i.e.*, Limerick and Tribalin). Kerimov also demanded that plaintiff 1 sign over all Decorum and DecMos indebtedness owed to companies controlled by plaintiff 1. In response to plaintiff 1's protest that this would leave him with a net USD 253 million loss from the project, Kerimov

initialed an undated handwritten receipt stating that he would compensate plaintiff 1 with promissory notes from his own companies "*next Tuesday*". A copy of the said document is attached hereto and marked as **Exhibit 25** Since some of the indebtedness was in the form of DecMos promissory notes that were located in Italy, Luzhkov's wife, defendant 9, on the instructions of Kerimov dispatched her private plane to take plaintiff 1's wife to retrieve them.

68. Plaintiff 1 then was directed by Kerimov to send his representatives, myself and Fitisov, to Cyprus to finalize matters and Kerimov once again arranged this with the assistance of the private jet of Luzhkov's wife, Elena Baturina. They were also escorted by Andrey Romanenko, the director of defendant 13, 2 lawyers from Nafta Moskva and a representative of defendants 7 and 8. Plaintiff 4 was also flown to Cyprus escorted by Kerimov's representatives.

69. On arriving in Cyprus late on 28/6/2009, everyone was taken to stay in the Hilton Hotel as Kerimov had arranged. The next morning (29/6/2009) plaintiffs 2, 3 and 4 were taken to the law office of Demetrios Demetriades, where they were presented with a number of legal documents that they were required to sign. They were told that the documents had been drafted by Kerimov's lawyers. The documents were signed as directed.

70. The agreements signed on 29/6/2009 were as follows:

70.1 First, plaintiff 1 transferred his 25.5% interest in the project to Kerimov. This was done pursuant to a "Sale and Purchase Agreement in Respect of the Shares of Limerick Business Holding S.A." Then, plaintiff 1's 50% interest in Limerick was transferred to Denoro for the sum of €5000. Denoro is a shell company which I believe is controlled by Kerimov, and this is because of the contents of the Framework Agreement and all the communications with Kerimov which led to the signing of the 'agreement' with Denoro. Even this nominal amount of €5000 was never paid, although plaintiffs 2 and 3 were ordered to sign a receipt stating they had been paid. I attach and mark as **Exhibit 26** a copy of this agreement.

70.2 Second, plaintiff 1 transferred his remaining 50% interest in Konk to Sparklon, a Rotenberg shell company. This transfer took place through a Sale and Purchase Agreement in respect of shares in Konk by and between plaintiff 4, Dadlaw Nominees Limited, Dadlaw Secretarial Limited and Sparklon dated 29/6/2009. The "price" to be paid for the Konk shares was US$2, which was also not paid. In this way, Rotenberg's assistance to Kerimov and the City provided during the corporate raid was rewarded. I attach and mark as **Exhibit 27** a copy of this agreement.

70.3 Third, plaintiff 1 assigned to Kerimov virtually all of the loans made to Decorum and DecMos pursuant to which he was owed USD 253 million by the project. This was implemented through a series of loan assignment agreements from nominee companies beneficially owned by plaintiff 1 (i.e,

plaintiffs 5 and 7) to sham/nominee companies owned and controlled by Kerimov, *i.e.* Denoro. These loan assignment agreements are attached hereto in bundle as **Exhibit 28** wherein the specific indebtedness is identified.

71. The "consideration" for the loan assignments in paragraph 70.3 was a promise by Kerimov that Kamenz (defendant 15), another Kerimov shell company, would issue at an unspecified future date unsecured promissory notes with long maturity dates. Upon information and belief, Kamenz is also a Kerimov-controlled shell company with no assets. Stated differently, pursuant to these agreements, we were forced to transfer millions of dollars of indebtedness to Kerimov in exchange for promissory notes not worth the paper they were to be written on. This transfer, of course, was instrumental to the defendants' corporate raid strategy, as ownership of the Project could not be restructured so long as we remained creditors of DecMos and Decorum.

72. In sum, pursuant to the City's plan with Kerimov, as assisted by Rotenberg, Goloschapov and others, the City caused the DB financing to fail and forced plaintiff 1 to enter into the Konk 2008 transaction. The City then sought to use the Konk leverage to introduce Kerimov to the Project. When plaintiff 1 refused, as he had the legal right to do, illegal means, including forged corporate minutes, armed raids and manufactured criminal proceedings were used to force him to give everything to Kerimov for nothing. This includes plaintiff 1's rights under the USD 253 million he had loaned to the project and his entire substantial upside as a 25.5% owner of the project, with rights to acquire additional interests.

DEVELOPMENTS FOLLOWING THE RAID

73. The Austrian contractor, Strabag AG, which we hired in relation to the project has been subjected to the same style of threats and pressure by Kerimov that my associates and I have suffered. Kerimov, I understand, did all of this in an attempt to avoid paying Strabag the monies owed to it relating to the Project's construction debts. As a result, on 6 November 2009 Strabag was compelled to write a formal complaint to Russian Prime Minister Vladimir Putin. A copy of the letter is attached hereto and marked as **Exhibit 29**. As can be seen from this letter; Kerimov applied the same blackmail methods against them as he applied against the plaintiffs.

74. In November 2009, after Kerimov's lawyers discovered that the assignment of approximately USD 155 million of the indebtedness owed to plaintiff 1 was not properly documented at the 29/6/2009 meeting (in the rush of events on 29 June 2009, Kerimov's lawyers had identified the wrong company as the assignor). Kerimov demanded that this be rectified and that the true creditor, a Cyprus company name Longlake Holdings Limited (plaintiff 6) assign the indebtedness to a different one of his companies, Kamenz Trading Limited, a company registered in the BVI (defendant 15). The relevant documents were signed on 17/11/2009 in

Cyprus. Copies of the assignment agreements are attached hereto in bundle and marked as **Exhibit 30**

75. I now know that on 18/12/2009 Goloschapov made a formal offer on behalf of Decorum to sell the shares Decorum held in DecMos to the Office of the President of the Russian Federation for around USD 2-2.5 billion. A copy of the letter is attached hereto and marked as **Exhibit 31**

76. Further, in January 2010 plaintiff 1 started to receive a number of anonymous threats warning him to keep away from the Project. The first threat came via a telephone call to his cell phone, which was diverted at the time to his secretary located in his public receiving room. Plaintiff 1's secretary took the call, and later told him that the caller had demanded that she pass on the message that plaintiff 1 must switch the telephone back over to himself. In a second and later call, his secretary was asked to convey the message to him that, if he did not stay away from the Project, he would be transported to Chechnya, from where he would never return. Additional threats were made via calls to his receiving room at the State Duma. I do not know who made these calls but from the history of plaintiff 1's relation with Kerimov and Rotenberg I believe that they are behind such calls. Plaintiff 1 took these threats very seriously. He took measures to increase his personal security and that of his family. At the same time, he reported the threats to the police, asking them to open a criminal investigation. A criminal investigation was opened on 9/2/2010. I attach a copy of the order as **Exhibit 32**

77. In January 2010, after Kerimov's lawyers discovered a further USD 23 million in indebtedness owed to plaintiff 1 that had not assigned at the 29/6/2009 meeting, Kerimov demanded that this also be assigned to one of his companies, Monora Limited (defendant 2). These assignments were finalized on 28/1/2010 by assignment agreements executed by plaintiff 5 and defendant 2. Copies of the said assignment agreements are attached hereto in bundle and marked as **Exhibit 33**

78. A property register search we made in late April 2010 shows that DecMos approved in the end a mortgage over the Hotel, i.e. the mortgage which the City had refused to approve in relation to the DB Loans. The mortgage was granted in favor of Monora Limited (defendant 2), apparently on the basis of indebtedness signed over to it by plaintiff 1. This mortgage was registered on 15/2/2010. In other words, the City rejected the proposition for a mortgage when plaintiff 1 was their partner and they happily accepted it now that Kerimov was in the picture. Moreover, they rejected a mortgage which at the time would bring additional funds for the construction but they accepted to register a mortgage which would secure loans already disbursed without any condition requiring a mortgage.

79. On 13/5/2010 the Federal Antimonopoly Service of the Russian Federation announced that it had approved the proposed sale of Decorum's 51% share in DecMos to defendant 3. I attach a copy of the announcement as **Exhibit 34** The

shareholders of Defendant 3, as per a search carried out by our lawyers with the Registrar of Companies in Cyprus, are Rotenberg (defendant 7), Gilmutdinova (Goloschapov's wife) (defendant 9) and Mebraco Investments Limited, a Cypriot company which I understand is a company affiliated with Kerimov. On or about August 2010, the City informed our lawyers that it had transferred its 49% stake in the Project to the OJSC Hotel Company, a Russian company I understand to be controlled 51% by Kerimov in partnership with the City. These two transactions show the complete materialization of the defendants' scheme to take over the project.

ASSETS WITHIN THE JURISDICTION

80. Kerimov (defendant 4) holds or controls beneficially all the shares (1000) in the capital of Kaliha Finance Limited, a Cypriot company under registration number HE261978. Its sole director is a Cypriot resident. The registered shareholder of this company is Emel Services Limited, a BVI company. I attach hereto the electronic search with the Registrar of Cyprus Companies showing the above as **Exhibit 35** The fact that Kaliha Finance Limited is beneficially owned by Kerimov is admitted and announced in a website publication dated 14/6/2010 in the London Stock Exchange in relation to OJSC Uralkali. I attach hereto and mark as **Exhibit 36** a copy of that publication, which proves his beneficial ownership and also the fact that Kaliha Finance Limited is major shareholder holding 25% in OJSC Uralkali a Russian company listed on the Russian and the London Stock Exchanges. . The present market value of this 25% -according to the current price of the OJSC Uralkali shares in the London Stock Exchange is about USD$ 2.5 billion . These shares according to exhibit 35 are pledged for USD 3.4 billion by a pledge dated 16/6/2010 in favor of VTB Capital Plc

81. Kerimov (defendant 4) also holds or controls beneficially all the shares in the capital of Wandle Holdings Limited, a Cypriot company under registration number HE188266 through Brainpedia Holdings Limited, a Cypriot company under registration number HE265672, and White Star LP of Cayman, Cayman Islands. I attach hereto the electronic searches with the Registrar of Cyprus Companies showing the above as **Exhibit 37 and 38.** This beneficial ownership by Kerimov is admitted in a 234 pages prospectus dated and published on 2/7/2010 and issued by KazakhGold,.I attach hereto and mark as **Exhibit 39** the prospectuses' first 13 pages which give a summary of the prospectus, page 69 which admits his beneficial ownership through Wandle Holdings Limited page 213 where the same admission appears in the definition of "Nafta". Kerimov through the said structure holds shares in OJSC Polyus Gold a Russian company listed on the Russian and the London Stock Exchanges. representing approximately 36.% of its share capital and which, at present market value at the London Stock Exchange, corresponds to approximately USD3.3 billions. These shares according to exhibit 37 are also pledged by a pledge dated 16/6/2010 in favour of VTB Capital Plc for USD 3.4 billion.

82. Kerimov (defendant 4) also holds 2500 shares in the capital of Nafta Moskva (Cyprus) Limited, a Cypriot company under registration number HE173950. The other 2500 shares in its capital are held by Aniketa Investments Limited, another Cypriot company. which is 100% owned by Kerimov. The majority of its directors reside in Cyprus. I attach hereto the electronic searches with the Registrar of Cyprus Companies showing the above as **Exhibit 40 and 41,** Nafta Moskva (Cyprus) Limited appears to hold shares in OJSC Polyus Gold as in the prospectus ,Exhibit 39 is named as part of the definition of Nafta..I am not aware of the number of shares held.

83. Rotenberg (defendant 7) and Gilmutdinova (defendant 9) have 125 shares each (out of a total of 1000) in Lansgrade Holdings Limited (defendant 3) a Cypriot company under registration number HE 260318. The totality of its directors are Cypriot residents. I attach hereto the electronic search with the Registrar of Cyprus Companies showing the above as **Exhibit 42** It is suspected that Lansgrade, as explained in paragraph 79 above, acquired from the 51% of DecMos (defendant 11) and thus became the 51% owner of the Hotel.

84. Rotenberg (defendant 7) has all the share capital of Olpon Investments Ltd a Cypriot company under registration number HE 137095 and he is also one of its 2 directors. His shares are pledged under a pledge of shares dated 21/3/2008 for USD 21 million in favor of Credit Suisse. Through Olpon Investments Ltd he controls absolutely the 100% subsidiary Sparklon Holdings Limited, which is another Cypriot company under registration number HE190966. Sparklon (defendant 14) is the vehicle used by the defendants to acquire the plaintiff 1's stake in Konk. I also attach hereto the electronic searches with the Registrar of Cyprus Companies showing the above as **Exhibit 43 and 44**

85. It came to my attention through the Russian company register that in late June 2010 Decorum had entered into voluntary self liquidation, which further suggests that the proposed sale of its shares in DecMos has either been completed or is imminent. In the event that Decorum is liquidated, Limerick will become worthless.

86. Finally, a press report on 17 August 2010 shows that DecMos has begun to let property in the Hotel, which I attach as **Exhibit 45**

87. I attach hereto 2 diagrams which I mark as **Exhibit 46** and which explain the beneficial ownership of the Cypriot companies where Kerimov , Gilmutdinova and Rottenberg have interests.

NEED FOR URGENT INTERIM RELIEF

88. It became obvious in late June 2010 that the defendants, by moving to liquidate Decorum and transfer its shares in DecMos to Lansgrade, and granting to Monora a mortgage over the Hotel are trying to cut the ropes which link the

plaintiffs to their claims on the Hotel and their USD 253 million investment in the project. They are trying to raise barriers between the plaintiffs and the disputed property and claims. Fortunately, in doing so, they have used a number of Cypriot vehicles. The plaintiffs fear that if the defendants are allowed the opportunity to have those shares transferred further they will lose any chance of recovery, even if this action and the arbitrations are successful.

89. Moreover, given the numerous machinations and high-level political influence of the defendants within Russia as evidenced above, there is a real and substantial risk that notwithstanding any injunctive relief awarded against companies holding an interest in the project itself, the effect of any restitutionary award will not be honored within Russia or otherwise frustrated, such that ultimately the plaintiffs are not permitted to return to the Hotel project and are left only with a claim in damages. This requires appropriate measures to prevent dissipation of the defendant's identifiable assets within the jurisdiction. In particular, as can be seen above, the main protagonist defendant 4 operates a vast network of shell companies both inside and outside Cyprus to conceal his assets. However, due to reporting requirements on the London Stock Exchange the plaintiffs fortunately have been able to identify valuable assets beneficially owned by defendant 4 within the jurisdiction that can secure, at least in part, the plaintiffs' claim in damages. This includes in particular defendant 4's acknowledged beneficial ownership of **Kaliha Finance Limited**, **Nafta Moskva (Cyprus) Limited** and **Wandle Holdings Limited**. Given that many of the other defendants have no known valuable assets or are based outside Cyprus it is imperative to impose freezing orders on such assets in an amount sufficient to secure the plaintiffs' claims.

90. As a result of what I respectfully submit are very real and well-grounded fears and in view of the potentially serious and imminent damage to the plaintiffs interests, I ask this Honorable Court to protect the plaintiffs' position by granting the interim relief sought.

91. Since June 2009 the plaintiffs have been subjected to ongoing duress, including death threats to plaintiff 1 and the sword of Damocles of resumption of criminal proceedings against plaintiff 4 and further moves against plaintiff 1. Commencement of judicial proceedings would place and does place them at substantial risk within Russia. On the other hand, it became clear from moves to remove the Hotel project from the existing structure in June 2010 that if they did not act now despite these substantial risks there was a serious possibility that they would lose any chance to recover their position. The complex nature of the facts involved and the defendants' use of a web of companies in offshore jurisdictions concealing their ownership has required the plaintiffs to conduct investigations and seek legal advice in multiple jurisdictions to ensure the most effective approach to protect their interests. Furthermore, in June 2010 when Exhibits 37 to 40 appeared on the relevant websites identifiable assets of defendant Kerimov were disclosed outside Russia, so that commencing proceedings against him would not be an exercise in futility notwithstanding his

political influence inside Russia. Accordingly the plaintiffs have taken a considered decision to temporarily relocate outside Russia to allow them to conduct the proceedings, and are here to seek the aid of the court at the earliest possible date with a substantiated claim.

92. The balance of convenience is clearly in favor of the plaintiffs. The issue of the injunctions sought will not cause any damage or inconvenience to the defendants whereas if they are not issued the plaintiffs risk suffering irreparable damage, including the loss of any chance to recover on their claims.

93. As far as I am advised on the facts, I believe the plaintiffs have a very good case and good prospects of success.

THE AFFIANT

Artem Egiazaryan

Sworn and signed before me this

15th day of September 2010

In the District Court of Nicosia

Registrar

courtAffidavit Artem 15-9-2010.docxp

Официальный перевод с новогреческого языка

В РАЙОННОМ СУДЕ ЛЕФКОСИИ (Никосии)

Иск (Дело) № 7862/2010

В составе: М. Христодулу, Председатель Окружного суда
Стороны:

Ашот Егиазарян (Ashot Egiazaryan), проживающий по адресу: Россия, 121069, г. Москва, Скатертный переулок, д. 3, кв. 10, и другие, указанные в Приложении I,

Истцы,

и

компания «Деноро Инвестментс Лимитед» (Denoro Investments Limited) (Ларнака) и другие, указанные в Приложении II,

Ответчики.

По заявлению адвокатского ООО «Хавиарас и Филиппу» (Haviaras & Philippou LLC), адвокатов со стороны заявителей-Истцов, **ЭТОТ СУД**, после того как ознакомился с заявлением под присягой, которое было подано от имени или со стороны заявителей-истцов, и после внесения ими банковской гарантии на сумму в размере 500.000,00 евро для полного покрытия любых убытков и расходов, которые вышеуказанные ответчики могут понести в результате принятия настоящего постановления (решения),

1. НАСТОЯЩИМ ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям или любому лицу, которое действует от его имени, голосовать или предлагать для голосования или разрешать голосование по поводу любых корпоративных решений зарегистрированной на Кипре компании «Калиха Файнанс Лимитед» (Kaliha Finance Limited) и/или зарегистрированной на Британских Виргинских островах компании «Эмел Сервисиз Лимитед» (Emel Services Limited), в соответствии с которыми принимать решение или осуществлять продажу, отчуждение, предоставление в залог или иное обременение акций ОАО «Уралкалий», принадлежащих компании «Калиха Файнанс Лимитед» (Kaliha Finance Limited), до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

2. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям или любому лицу, которое действует от его имени, продавать, передавать, отчуждать, отдавать в залог или иным образом обременять акции зарегистрированной на Кипре компании «Калиха Файнанс Лимитед» (Kaliha Finance Limited) и зарегистрированной на Британских Виргинских островах компании «Эмел Сервисиз Лимитед» (Emel Services Limited), зарегистрированным владельцем или владельцем-бенефициаром которых он является, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

3. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям или любому лицу, которое действует от его имени, продавать, передавать, отчуждать, отдавать в залог или иным образом обременять акции зарегистрированных на Кипре компаний «Вандл Холдингз Лимитед» (Wandle Holdings Limited) и «Брейнредия Холдингз Лимитед» (Brainpedia Holdings Limited) и зарегистрированной на островах Кайман компании «Уайт Стар ЭлПи» (White Star LP), зарегистрированным владельцем или владельцем-бенефициаром которых он является, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

4. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям или любому лицу, которое действует от его имени, голосовать или предлагать для голосования или разрешать голосование по поводу любых корпоративных решений зарегистрированных на Кипре компании «Вандл Холдингз Лимитед» (Wandle Holdings Limited) и «Брейнредия Холдингз Лимитед» (Brainpedia Holdings Limited) и зарегистрированной на островах Кайман компании «Уайт Стар ЭлПи» (White Star LP), в соответствии с которыми принимать решение или осуществлять продажу, отчуждение, предоставление в залог или иное обременение акций ОАО «Полюс Золото», принадлежащих компании «Вандл Холдингз Лимитед» (Wandle

Holdings Limited), до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

5. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании «Лансгрейд Холдингз Лимитед» (Lansgrade Holdings Limited), ее директорам, ее представителям или любому лицу, действующему от ее имени, продавать, передавать, отчуждать, отдавать в залог или иным образом обременять ее активы, в том числе принадлежащие ей акции ОАО «ДекМос», до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

6. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Аркадию Ротенбергу, Ирайе Гильмутдиновой, их представителям или любому лицу, которое действует от их имени:
   i. продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять принадлежащие Аркадию Ротенбергу акции зарегистрированных на Кипре компаний «Лансгрейд Холдингз Лимитед» (Lansgrade Holdings Limited), «Олпон Инвестментс Лимитед» (Olpon Investments Limited), «Спарклион Холдингз Лимитед» (Sparklon Holdings Limited) и «Лимерик Бизнес Холдингз Эс.Эй» (Limerick Business Holding S.A.) и
   ii. продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять принадлежащие Ирайе Гильмутдиновой акции зарегистрированных на Кипре компаний «Лансгрейд Холдингз Лимитед» (Lansgrade Holdings Limited),

   до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

7. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову продавать, передавать, отчуждать, отдавать в

залог или иным образом обременять акции, которыми он владеет или является собственником-бенефициаром зарегистрированных на Кипре компаний «Деноро Инвестментс Лимитед» (Denoro Investments Limited), «Монора Лимитед» (Monora Limited), «Мебрако Инвестментс Лимитед» (Mebraco Investments Limited) и иностранной компании «Каменз Трейдинг Инк.» (Kamenz Trading Inc.), до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

8. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ ОАО «ДекМос», ее директорам, должностным лицам и представителям продавать, отдавать в ипотечный залог или иным способом обременять гостиницу «Москва», до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

9. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании «Деноро Инвестментс Лимитед» (Denoro Investments Limited), членам ее Совета Правления (директорам), должностным лицам и доверенным лицам осуществлять передачу прав собственности, получение денег по долговым обязательствам, согласование условий распоряжения имуществом или какие-либо иные сделки, относящиеся к долговым обязательствам, предоставленным ОАО «ДекМос» в пользу компании «Страбаг ЭйДжи» (Strabag AG), которые были предоставлены и переданы компанией «Блайденсол Трейдинг энд Инвестмент Лимитед» (Blidensol Trading and Investment Limited) в качестве владельца-предъявителя компании «Деноро Инвестментс Лимитед» (Denoro Investments Limited) 29 июня 2009 г. или примерно в это время в соответствии с перечисленными ниже соглашениями о передаче прав собственности, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

Перечень соглашений о передаче прав собственности:

(i) Соглашение о передаче прав собственности между компанией «Блайденсол Трейдинг энд Инвестментс Лимитед» (Blidensol Trading & Investments Limited) и компанией «Деноро Инвестментс Лимитед» (Denoro Investments Limited) от 29 июня 2009 г., в соответствии с которым первая из указанных компаний передала второй долговые обязательства, предусмотренные договорами займа от 26 декабря 2007 г. и 01 февраля 2008 г.

(ii) Соглашение о передаче прав собственности между компанией «Блайденсол Трейдинг энд Инвестментс Лимитед» (Blidensol Trading & Investments Limited) и компанией «Деноро Инвестментс Лимитед» (Denoro Investments Limited) от 29 июня 2009 г., в соответствии с которым первая из указанных компаний передала второй 54 долговых обязательства, выпущенных ОАО «ДекМос».

(iii) Соглашение о передаче прав собственности между компанией «Блайденсол Трейдинг энд Инвестментс Лимитед» (Blidensol Trading & Investments Limited) и компанией «Деноро Инвестментс Лимитед» (Denoro Investments Limited) от 29 июня 2009 г., в соответствии с которым первая из указанных компаний передала второй 2 долговых обязательства, выпущенных ОАО «ДекМос».

10. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании Denoro Investments Limited, ее директорам, должностным лицам и доверенным лицам осуществлять передачу прав собственности, получение денег по долговым обязательствам, согласование условий распоряжения имуществом или какие-либо иные сделки, относящиеся к долговым обязательствам, выпущенным ОАО «ДекМос» в пользу компании Strabag AG, со временем приобретенным компанией Hackham Invest & Trade Inc. и переданным и предоставленным ею компании Denoro Investments Limited 29 июня 2009 г. в соответствии с перечисленными ниже соглашениями о передаче прав собственности, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

Перечень соглашений о передаче прав собственности

(i) Соглашение о передаче прав собственности между компанией Hackham Invest & Trade Inc. и компанией Denoro Investments Limited от 29 июня 2009 г., в соответствии с которым первая компания передала второй долговые обязательства, предусмотренные кредитным соглашением от 12 декабря 2007 г.

(ii) Соглашение о передаче прав собственности между компанией Hackham Invest & Trade Inc. и компанией Denoro Investments Limited от 29 июня 2009 г., в соответствии с которым первая компания передала второй долговые обязательства, предусмотренные кредитными соглашениями от 22 мая 2008 г., 20 августа 2008 г. и 2 октября 2008 г.

11. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании Kamenz Trading Inc., ее директорам, должностным лицам и доверенным лицам осуществлять передачу прав собственности, получение денег по долговым обязательствам, согласование условий распоряжения имуществом или какие-либо иные сделки, относящиеся к долговым обязательствам по кредитам и задолженностям, которые компания Longlake Holdings Limited передала и вручила компании Kamenz Trading Inc. 17 ноября 2009 г., до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

12. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании Monora Limited, ее директорам, должностным лицам и доверенным лицам:

(i) осуществлять передачу прав собственности, получение денег по долговым обязательствам, согласование условий распоряжения имуществом или какие-либо иные сделки, относящиеся к долговым обязательствам по кредитам и задолженностям, которые компания Blidensol Trading & Investments Limited передала и вручила компании Monora Limited 28 января 2010 г., до вынесения судом окончательного решения по рассматриваемому делу, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13

сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления;

(ii) продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять ее активы, в том числе принадлежащие ей акции компании Falmiro Trading Limited, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления; и

(iii) принудительно осуществлять в судебном порядке выполнение условий закладной или передавать права собственности, предусмотренные условиями закладной, оформленной 15 февраля 2010 г. или примерно в это время и зарегистрированной в отношении гостиницы «Москва» в качестве обеспечения суммы, составляющей 100 миллионов долларов США, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

13. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям и его доверенным лицам продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять его активы, в том числе принадлежащие ему акции зарегистрированных на Кипре компаний Nafta Moskva (Cyprus) Limited, Aniketa Investments Limited и Denoro Investments Limited, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

14. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ Сулейману Керимову, его представителям и его доверенным лицам принимать в отношении зарегистрированных на Кипре компаний Nafta Moskva (Cyprus) Limited, Aniketa Investments Limited и Denoro Investments Limited корпоративные решения, в соответствии с

которыми предусматривалось бы, что эти компании намерены осуществить или осуществят продажу, отчуждение, предоставление в залог или иное обременение акций ОАО «Полюс Золото», принадлежащих компании Nafta Moskva (Cyprus) Limited, поручать принимать такие решения, допускать принятие таких решений или голосовать с целью принятия таких решений до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

15. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании Denoro Investments Limited, ее директорам, должностным лицам и доверенным лицам продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять ее активы, в том числе принадлежащие ей акции зарегистрированной на Британских Виргинских островах компании Limerick Business Holding S.A.

16. КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ И ЗАПРЕЩАЕТ компании Sparklon Holdings Limited, ее директорам, должностным лицам и доверенным лицам продавать, передавать, отчуждать, предоставлять в залог или иным образом обременять ее активы, в том числе принадлежащие ей акции компаний Konk Select Partners Inc. и Falmiro Trading Limited, до вынесения судом окончательного решения по настоящему иску или до вынесения арбитражным судом окончательных решений в рамках разбирательств, начавшихся в Лондоне 13 сентября 2010 г. между некоторыми из Истцов и некоторыми из Ответчиков, или до принятия Судом иного постановления.

КРОМЕ ТОГО, ЭТОТ СУД ПОСТАНОВЛЯЕТ и ограничивает чистую стоимость имущества и/или активов, обремененных обеспечительными судебными постановлениями, предусмотренными выше пунктами 1—16, суммой, составляющей 500 000 000 долларов США (пятьсот миллионов долларов США).

Ответчики могут явиться в суд 27 сентября 2010 г. в 9:00 часов и указать причины, по которым настоящее постановление не может иметь законной силы.

Постановление о покрытии расходов сегодняшнего дня будет принято в дальнейшем.

Принято 15.09.2010 г
Составлено 17.09.2010 г.

Примечание. Если Вы, указанные выше ответчики на подчинитесь настоящему постановлению СРАЗУ ЖЕ после его вручения, Вы как несущие ответственность по закону, будете подлежать аресту, а Ваше имущество – конфискации.

(Подп.) М. Христодулу, П.Р.С.

Верная копия
(*подпись*)
Регистратор суда
О. М.
[Оттиск круглой рельефной гербовой печати Суда]:

Районный суд Лефкосии (Никосии)
[*Государственный герб Республики Кипр*]

Приложение I

Иск (Дело) №: 7862/2010

2. Артем Егиазарян (Artem Egiazaryan), адрес: Россия, Москва, Даев переулок, д. 20, офис 418.
3. Дмитрий Фитисов (Dmitry Fitisov), адрес: Россия, 107045, г. Москва, Даев переулок, д. 20, 3-й этаж.
4. Виталий Гогохия (Vitaly Gogokhiya), адрес: Россия, 115470, г. Москва, проспект Андропова, д. 21, кв. 27.
5. «Биденсол Трейдинг энд Инвестмент Лимитед» (Bildensol Trading and Investment Limited), адрес: (Кипр), г. Лефкосия (Никосия) ул. Стасандру 20, 1-й этаж.
6. «Лонглейк Холдингз Лимитед» (Longlake Holdings Limited), адрес: (Кипр), г. Лефкосия (Никосия) ул. Стасандру 20, 1-й этаж.
7. «Хаккам Инвест энд Трейд Инк.» (Hackham Invest & Trade Inc.), адрес: Pasea Estate, Road Town, Tortola, British Virgin Isles (Британские Виргинские Острова).

Верная копия
(*подпись*)
Регистратор суда

[*Оттиск круглой рельефной гербовой печати Суда*]:
Районный суд Лефкосии (Никосии)
[*Государственный герб Республики Кипр*]

Приложение II

Иск (Дело) № 7862/2010

2. «Монора Лимитед» (Monora Limited), адрес: (Кипр), 6023, г. Ларнака, ул. Лорду Вироюс, 61-63, офис 602.
3. «Лансгрейд Холдингс Лимитед» (Lansgrade Holdings Limited), адрес: (Кипр), 6023, г. Ларнака, ул. Лорду Вироюс, 61-63, офис 602.
4. Сулейман Керимов (Suleyman Kerimov), Россия, 117420, г. Москва, ул. Наметкина, д. 1, офис 66.
5. Правительство города Москвы, Россия, 125032, г. Москва, ул. Тверская, д. 13 / Россия, 121205, г. Москва, ул. Новый Арбат, д. 36/9.
6. Юрий Лужков (Yuri Luzhkov) в Правительстве Москвы, Россия, 121205, г. Москва, ул. Новый Арбат, д. 36/9.
7. Аркадий Ротенберг (Arcadiy (Arcady) Rotenberg), Россия, 113035, г. Москва, ул. Садовническая, д. 71, стр. 11, подъезд 4, 1-й этаж и Россия, 195298, г. Санкт-Петербург, Наставников проспект, д. 11/1, кв. 113.
8. Константин Голощапов (Konstantin Goloschapov), Россия, 113035, г. Москва, ул. Садовническая, д. 71, стр. 11, подъезд 4, 1-й этаж.
9. Ирая Гильмутдинова (Iraya Gilmutdinova), Россия, 113035, г. Москва, ул. Садовническая, д. 71, стр. 11, подъезд 4, 1-й этаж и Россия, 191024, г. Санкт-Петербург, Невский проспект, д. 117, кв. 18.
10. «Конк Селект Партнерс Инк.» (Konk Select Partners Inc.), ap. 6, 3rd floor, Qwomar Trading Building, P.O. Box 875, Road Town, Tortola, British Virgin Islands (Британские Виргинские Острова).
11. ОАО «ДекМос», Россия, 127159, г. Москва, ул. Охотный ряд, д. 2.
12. ЗАО «Декорум», Россия, 127159, г. Москва, Даев переулок, д. 20.
13. ОАО «ОЕК-Финанс», Россия, 129018, г. Москва, 8-й Октябрьский переулок, д. 1 и Россия, 101000, г. Москва, Кривоколейный переулок, д. 10, стр. 4.

14. «Спарклион Холдингз Лимитед» (Sparklion Holdings Limited), (Кипр, Лефкосия (Никосия)], 2123, Агландзиа (Агланджа), ул. Теофилу Георгиади, 22.
15. «Каменз Трейдинг Инк.» (Kamenz Trading Inc.), Vanterpool Plaza, 2nd floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands (Британские Виргинские Острова), P.O. Box. 873.
16. «Трибалин Трейдинг Лимитед» (Tribalin Trading Limited), адрес: (Кипр), 6023, г. Ларнака, ул. Лорду Вирпос, 61-63, офис 602.
17. Елена Батурина (Elena Baturina), Россия, 125009, Никитский переулок, д. 5.

ΜΕΤΑΦΡΑΣΗ ΑΠΟ ΑΝΤΙΓΡΑΦΟ
ΔΕΝ ΠΑΡΟΥΣΙΑΣΤΗΚΕ ΠΡΩΤΟΤΥΠΟ
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Верная копия
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Регистратор суда

[*Оттиск круглой рельефной гербовой печати Суда*]:
Районный суд Лефкосии (Никосии)
[*Государственный герб Республики Кипр*]

I hereby certify that this text is a true translation of attached document
Vitali Zaikovsky, PhD, translator
Подтверждаю, что данный текст является верным переводом приложенного документа
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W.c. 2.753

I hereby certify that the signature of the translator is that of Dr Vitali Zaikovsky
Подтверждаю подпись переводчика д-ра Виталия Зайковского

(*Sgd.* Подпись) Angeliki Hadjithoma
for Director of Press and Information Office
REPUBLIC OF CYPRUS, Nicosia, 11.08.2010
За директора Бюро прессы и информации
РЕСПУБЛИКА КИПР, Никосия, 20.09.2010 г.

20 SEP 2010

[Перевод документа, его копия и подписи заверены оттиском круглой гербовой печати на новогреческом и английском языках]:
БЮРО ПРЕССЫ И ИНФОРМАЦИИ

ΕΠΑΡΧΙΑΚΟ ΔΙΚΑΣΤΗΡΙΟ ΛΕΥΚΩΣΙΑΣ

Αρ. Αγωγής 7862/10

Ενώπιον: Μ. Χριστοδούλου Π.Ε.Δ.

Μεταξύ: Ashot Egiazaryan από την Skatertnyy pereulok, d. 3, kv. 10, 121069 Μόσχα και άλλοι ως ο Πίνακας Α στο κλητήριο

Εναγόντων,

«και»

Denoro Investments Limited από την Λάρνακα και άλλοι ως ο Πίνακας Β στο κλητήριο

Εναγομένων.

.....

Μετά από αίτηση των κ.κ. Χαβιαρά & Φιλίππου ΔΕΠΕ δικηγόρων εναγόντων – αιτητών. **ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ**, αφού ανέγνωσε την ένορκο δήλωση που κατατέθηκε από ή εκ μέρους των εναγόντων και μετά την κατάθεση από αυτους τραπεζική εγγύησης για το ποσό των € 500.000.00σ για πλήρη κάλυψη οιωνδήποτε ζημιών και εξόδων που οι πιο πάνω εναγόμενοι ήθελαν υποστεί από την έκδοση του παρόντος διατάγματος,

1. **ΔΙΑ ΤΟΥ ΠΑΡΟΝΤΟΣ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να ψηφίσουν ή να προκαλέσουν ή να επιτρέψουν την ψήφιση οποιωνδήποτε εταιρικών αποφάσεων της Κυπριακής εταιρείας Kaliha Finance Limited και/ή της Emel Services Limited από τις Βρετανικές Παρθένες Νήσους με τις οποίες θα αποφασίζεται ή θα τελειούται η πώληση, αποξένωση, ενεχυρίαση ή άλλη επιβάρυνση των μετοχών που κατέχονται από την Kaliha Finance Limited στην OJSC Uralkali μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

2. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που κατέχει ως εγγεγραμμένος ή ουσιαστικός δικαιούχος στην Κυπριακή εταιρεία Kaliha Finance Ltd και/ή την Emel Services Limited από τις Βρετανικές Παρθένες Νήσους μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

3. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που κατέχει ως εγγεγραμμένος ή ουσιαστικός δικαιούχος στις Κυπριακές εταιρείες Wandle Holdings Limited και Brainpedia Holdings Limited και στην White Star LP από τα Cayman Islands μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

4. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να ψηφίσουν ή να προκαλέσουν ή να επιτρέψουν την ψήφιση οποιωνδήποτε εταιρικών αποφάσεων των Κυπριακών εταιρειών Wandle Holdings Limited, και Brainpedia Holdings Limited και στην White Star LP από τα Cayman Islands με τις οποίες θα αποφασίζεται ή θα πλειούται η πώληση, αποξένωση, ενεχυρίαση ή άλλη επιβάρυνση των μετοχών που κατέχονται από την Wandle Holdings Limited στην OJSC Polyus Gold μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

5. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Lansgrade Holdings Limited τους διευθυντές, τους αντιπροσώπους της ή οποιονδήποτε που ενεργεί εκ μέρους της να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει την περιουσία της, συμπεριλαμβανομένων και των μετοχών που κατέχει στην OJSC DecMos μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

6. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Arkadiy (άλλως Arkady) Rotenberg και στην Iraya Gilmutdinova, τους αντιπροσώπους τους, ή οποιονδήποτε που ενεργεί εκ μέρους τους:

   i. ο μεν Arkadiy (άλλως Arkady) Rotenberg να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που κατέχει στις Κυπριακές εταιρείες Lansgrade Holdings Limited, Olpon Investments Limited, Sparklon Holdings Ltd και στην Limerick Business Holding S.A.

   ii. η δε Iraya Gilmutdinova να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που κατέχει στην Κυπριακή εταιρεία Lansgrade Holdings Limited,

   μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

7. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που έχει ή των οποίων είναι ουσιαστικός δικαιούχος στις κυπριακές εταιρείες Denoro Investments Limited, Monora Limited, Mebraco Investments Limited και επίσης στην αλλοδαπή εταιρεία Kamenz Trading Inc. μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

8. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην OJSC DecMos, τους αξιωματούχους διευθυντές και αντιπροσώπους της να πωλήσουν υποθηκεύσουν ή άλλως πως επιβαρύνουν το Moskva Hotel, μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

9. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Denoro Investments Limited τους συμβούλους, αξιωματούχους και αντιπροσώπους της να εκχωρήσουν, εισπράξουν ή να διευθετήσουν ή άλλως πώς να ενεργήσουν σε σχέση με τα χρεωστικά ομόλογα που εξέδωσε η OJSC DecMos προς την Strabag AG και τα οποία η Blidensol Trading and Investment Limited, ως δικαιούχος κομιστής, τα έχει εκχωρήσει και παραδώσει προς την Denoro Investments Limited με τις πιο κάτω συμφωνίες εκχώρησης μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

<u>Κατάλογος συμφωνιών εκχώρησης:</u>

(i) Συμφωνία εκχώρησης μεταξύ Blidensol Trading & Investments Limited και Denoro Investments Limited ημερ 29/6/2009, με την οποία η πρώτη εκχώρησε στην δεύτερη τις συμφωνίες δανείου ημερ 26/12/2007 και 01/02/2008.
(ii) Συμφωνία εκχώρησης μεταξύ Blidensol Trading & Investments Limited και Denoro Investments Limited ημερ 29/6/2009, με την οποία η πρώτη εκχώρησε στην δεύτερη 54 χρεωστικά ομόλογα έκδοσης OJSC DecMos.
(iii) Συμφωνία εκχώρησης μεταξύ Blidensol Trading & Investments Limited και Denoro Investments Limited ημερ 29/6/2009, με την οποία η πρώτη εκχώρησε στην δεύτερη 2 χρεωστικά ομόλογα έκδοσης OJSC DecMos.

10. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Denoro Investments Limited τους συμβούλους, αξιωματούχους και αντιπροσώπους της να εκχωρήσουν, εισπράξουν ή να διευθετήσουν ή άλλως πώς να ενεργήσουν σε σχέση με τα χρεωστικά ομόλογα που εξέδωσε η OJSC DecMos προς την Strabag AG και τα οποία η Hackham Invest & Trade Inc ως δικαιούχος κομιστής, τα έχει εκχωρήσει και παραδώσει προς την Denoro Investments Limited με τις πιο κάτω συμφωνίες εκχώρησης μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

<u>Κατάλογος συμφωνιών εκχώρησης:</u>

(i) Συμφωνία εκχώρησης μεταξύ της Hackham Invest & Trade Inc. και της Denoro Investments Limited ημερ 29/6/2009,με την οποία η πρώτη εκχώρησε στη δεύτερη τη σύμβαση δανείου ημερ 12/12/2007.
(ii) Συμφωνία εκχώρησης μεταξύ της Hackham Invest & Trade Inc. και της Denoro Investments Limited ημερ 29/6/2009,με την οποία η πρώτη εκχώρησε στη δεύτερη τις Συμβάσεις δανείου ημερ 22/05/2008, 20/08/2008 και 02/10/2008.

11. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Kamenz Trading Inc τους συμβούλους, αξιωματούχους και αντιπροσώπους της να εκχωρήσουν, εισπράξουν ή να διευθετήσουν ή άλλως πώς να ενεργήσουν σε σχέση με τα δάνεια και τα χρέη που έχει εκχωρήσει η Longlake Holdings Limited προς την Kamenz Trading Inc την 17/11/2009 μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

12. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Monora Limited τους συμβούλου αντιπροσώπους και αξιωματούχους της να -

(i) να εκχωρήσουν, εισπράξουν ή να διευθετήσουν ή άλλως πώς να ενεργήσουν σε σχέση με τα δάνεια και τα χρέη που έχει εκχωρήσει η Blidensol Trading & Investments Limited στην Monora Limited την 28/01/2010 μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

(ii) να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει την περιουσία της, συμπεριλαμβανομένων και των μετοχών που κατέχει στην Κυπριακή εταιρεία Falmiro Trading Limited μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

(iii) να εκτελέσει ή να εκχωρήσει την υποθήκη ημερομηνίας κατά ή περί την 15/2/2010 που είναι εγγεγραμμένη επί του Moskva Hotel ως εξασφάλιση για ποσό USD 100 εκατομμύρια μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

13. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει τις μετοχές που κατέχει ως εγγεγραμμένος ή ουσιαστικός δικαιούχος στις Κυπριακές εταιρείες Nafta Moskva (Cyprus) Ltd, Aniketa Investments Ltd και Denoro Investments Limited μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

14. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στον Suleyman Kerimov, τους αντιπροσώπους του, ή οποιονδήποτε που ενεργεί εκ μέρους του να ψηφίσουν ή να προκαλέσουν ή να επιτρέψουν την ψήφιση οποιωνδήποτε εταιρικών αποφάσεων των Κυπριακών εταιρειών Nafta Moskva (Cyprus) Ltd, Aniketa Investments Ltd και Denoro Investments Limited με τις οποίες θα αποφασίζεται η πώληση, αποξένωση, ενεχυρίαση ή άλλη επιβάρυνση των μετοχών που κατέχονται από την Nafta Moskva (Cyprus) Ltd στην OJSC Polyus Gold μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

15. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Denoro Investments Limited τους αξιωματούχους διευθυντές και αντιπροσώπους να πωλήσουν υποθηκεύσουν ή άλλως πως επιβαρύνουν τη περιουσία της περιλαμβανομένων των μετοχών στην Limerick Business Holding S.A. από τις Βρετανικές Παρθένες Νήσους μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

16. **ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ ΚΑΙ ΑΠΑΓΟΡΕΥΕΙ** στην Sparkipa Holdings Limited, τους διευθυντές, αξιωματούχους, αντιπροσώπους της ή οποιονδήποτε που ενεργεί εκ μέρους της να πωλήσει, αποξενώσει, μεταβιβάσει, ενεχυριάσει ή με οποιονδήποτε τρόπο να επιβαρύνει την περιουσία της, συμπεριλαμβανομένων και των μετοχών που κατέχει στις Konk Select Partners Inc. και Falmiro Trading Limited μέχρι την τελική αποπεράτωση της παρούσας αγωγής ή μέχρι την διεκπεραίωση των διαιτησιών που άρχισαν στο Λονδίνο στις 13/9/2010 μεταξύ μερικών από τους ενάγοντες και μερικούς από τους εναγόμενους, ή μέχρι νεωτέρας Διαταγής του Δικαστηρίου.

ΚΑΙ ΤΟ ΔΙΚΑΣΤΗΡΙΟ ΤΟΥΤΟ ΠΕΡΑΙΤΕΡΩ ΔΙΑΤΑΤΤΕΙ και περιορίζει την καθαρή αξία της περιουσίας και/ή του ενεργητικού που δεσμεύεται με τα διατάγματα των παρ. 1 μέχρι 16 ανωτέρω σε USD 500.000.000 (Πεντακόσια Εκατομμύρια Δολάρια ΗΠΑ).

Οι εναγόμενοι δύνανται να εμφανιστούν ενώπιον του Δικαστηρίου τούτου στις 27.9.10 και ώρα 9.00π.μ. και δείξουν λόγο γιατί το παρόν διάταγμα να μην συνεχίσει να ισχύει.

Τα σημερινά έξοδα επιφυλάσσονται.

Εκδόθηκε την 15.9.10
Συνετάχθη την 17.9.10

Οπισθογράφηση: Αν εσείς οι πιο πάνω αναφερόμενοι εναγόμενοι παραλείψετε να συμμορφωθείτε ΑΜΕΣΩΣ από της επίδοσης με το παρόν διάταγμα, εσείς μεν οι κατά νόμον υπεύθυνοι υπόκεισθε σε σύλληψη, η δε περιουσία σας σε κατάσχεση.

(Υπ) Μ. Χριστοδούλου Π.Ε.Δ.

Πιστό αντίγραφο,

Πρωτοκολλητής
Ο.Μ.

Αρ. Αγωγής 75.62/10

Πίνακας Α

2. Artem Egiazaryan από την Daev 20, office 418 Μόσχα, Ρωσία
3. Dmitry Fitisov από την Dayev pereulok, d. 20, 3rd floor reception, 107045, Μόσχα, Ρωσία
4. Vitaly Gogokhiya από την Prospekt Andropova, d/21, kv 27, Μόσχα, 115470 Ρωσία
5. Blidensol Trading and Investment Limited από την Στασάνδρου 20, 1ος όροφος, 1060 Λευκωσία
6. Longlake Holdings Limited από την Στασάνδρου 20, 1ος όροφος, 1060 Λευκωσία
7. Hackham Invest & Trade Inc. από Pasea Estate, Road Town, Tortola, Βρετανικές Παρθένες Νήσους

ΠΡΟΣΤΟΝΑΝΤΙΓΡΑΦΕΑΣ
ΠΡΟΣΤΟΝΑΝΤΙΓΡΑΦΕΑΣ

Αρ Αγωγής 78162/10

Πίνακας Β

2. Monora Limited από την Λόρδου Βύρωνος 61-63, Γρ. 602, 6023 Λάρνακα
3. Lansgrade Holdings Limited από την Λόρδου Βύρωνος 61-63, Γρ. 602, 6023 Λάρνακα
4. Suleyman Kerimov από την ul. Nametkina, d.1, γραφείο 66, Μόσχα, 117420 Ρωσία
5. The Government of the City of Moscow από την ul. Tverskaya, d.13, Μόσχα 125032, Ρωσία / ul. Novyy Arbat, d.36/9, Μόσχα, 121205, Ρωσία
6. Yuri Luzhkov από την Moscow City Government, ul. Novyy Arbat, d. 36/9121205, Μόσχα
7. Arkadiy (Arkady) Rotenberg από την ul. Sadovnicheskaya, d. 71, str. 11, reception 4, 1st floor 113035, Μόσχα και Nastavnikov prospect, d. 11/1, kv.113, St Petersburg, 195298 Ρωσία
8. Konstantin Goloschapov από την ul. Sadovnicheskaya, d. 71, str. 11, reception 4, 1st floor 113035 Μόσχα
9. Iraya Gilmutdinova από την ul. Sadovnicheskaya, d. 71, str. 11, reception 4, 1st floor 113035 Μόσχα, Ρωσία και Nevskiy prospect, d.117, kv.18, St Petersburg, 191024, Ρωσία
10. Konk Select Partners Inc. από την αρ. 6, 3ος όροφος, Qwomar Trading Building P.O.Box 875, Road Town, Tortola, Βρετανικές Παρθένες Νήσους
11. OJSC DecMos από την Okhotnyy ryad, d.2, 127159, Μόσχα, Ρωσία
12. CJSC Decorum από την Dayev pereulok, d.20, 107045, Μόσχα, Ρωσία
13. OJSC OEK-Finance από την 8 Oktyabriskiy Per. Bld. 1, 129018 Μόσχα, και Krivokolennyy pereulok, d.10, str.4, Μόσχα, 101000 Ρωσία
14. Sparklon Holdings Limited από την Θεόφιλου Γεωργιάδη 22, 2123 Αγλαντζιά
15. Kamenz Trading Inc. από την Vanterpool Plaza, 2nd floor, Wickhams Cay I, Road Town, Tortola, Βρετανικές Παρθένες Νήσους POBox 873
16. Tribalin Trading Limited από την Λόρδου Βύρωνος 61-63, Γρ. 602, 6023 Λάρνακα
17. Elena Baturina από την Μόσχα Nikitsky pereulok, bld. 5/1, 2000 Μόσχα

ΠΙΣΤΟΝ ΑΝΤΙΓΡΑΦΟ

ΠΡΩΤΟΚΟΛΛΗΤΗΣ

SCALE: More than Euro 2,000,000

IN THE DISTRICT COURT OF NICOSIA

Action No. 7862/10

Between:

Ashot Egiazaryan from Skatertnyy pereulok, d. 3, kv. 10 121069 Moscow and others as stated in Table A of the Writ.

Plaintiffs

-and-

Denoro Investments Limited from Larnaca and others as stated in Table B of the Writ.

Defendants

AFFIDAVIT OF ANASTASIYA ZHABKO

[Re Opposition to Interim Freezing Injunctions Application dated 15.9.2010]

I, the undersigned, **Anastasiya Zhabko** state under oath the following:-

1. I am employed as translator/administrator at Hadjihannas Corporate Services Ltd an affiliate of the law firm Hadjihannas & Co LLC. I am personally aware of the facts to the present case due to my position and due to the information I received from Mr. Frangiskos Hadjihannas, who is currently handling the case, as well as from information received from the **Government of the City of Moscow, Defendants 5 ("The City")** and **OJSC OEK-Finance, Defendants 13 ("OEK-Finance")** (both hereinafter referred to as "the Respondents") on behalf of whom I have been instructed to proceed as below indicated.

2. I make the present affidavit in English after receiving authorization from the Respondents since it was not possible for them to appear and file the present before the District Court of Nicosia. I nonetheless undertake to produce a Greek translation of the same within the next few days.

3. I am personally aware of the facts mentioned in the present affidavit and to the best of my knowledge I confirm that they are true. Where I am not personally aware of the facts, to the best of my knowledge and belief they are true and I refer to the sources of the information mentioned. I also note that I speak English and Russian fluently.

4. The facts which I mention in paragraphs **8-54** below came to my knowledge from studying the documents which were delivered to the law firm, as well as from information received from the Respondents.

5. I have read the Application and the attached Affidavit of Mr. Artem Agiazaryan, and for the reasons set out below, I note the Respondents' opposition to the proposed Application.

6. In this Affidavit I refer to the documents, true copies of which are in a bundle which is now produced and shown to me marked AZ/x. References in this Affidavit to exhibits appear as AZ/x. Paragraph references in this Affidavit to the affidavit of Mr. Artem Egiazaryan dated 15 September 2010 will be marked AE/x. I further note that defined terms in this Affidavit have the meaning ascribed in the Affitavit of Mr. Artem Egiazaryan, save where the context otherwise requires.

7. I finally note that I adopt the contents of the previous affidavits filed before the Court by Mrs Angela Nicolaou (which I had the opportunity to read in English as translated by Mrs Nicolaou) in support of the Respondents' applications for conditional appearance and to dismiss the claim for want of prosecution. I strongly emphasize [as Mrs Nicolaou did with the applications to dismiss the Applicant's claim for want of prosecution dated 26.10.2010 for Respondents 13] that the present Opposition is filed without prejudice to Respondents 5 and 13 rights to contest the jurisdiction of the Cyprus Courts and it should not in any way be interpreted as submission to the jurisdiction to the Cyprus Courts or waiver to the Application to set the writ aside.

The present Application for interim freezing injunctions

8. The Applicants sought and secured in the absence of the Respondents an Interim Court Order prohibiting some of the Respondents, amongst other things:-
   a. from taking any steps which would result in the disposal or charging of shares held in OJSC Uralkali or Haliha Finance Ltd as the registered shareholder of OJSC Uralkali.
   b. from taking any steps which would result in the disposal or charging of shares held in OJSC Polyus Gold and OJSC Decmos.
   c. from taking any steps which would result in the disposal or charging of shares held in Lansgrade Holdings Ltd (Respondent 3), Olpon Investments Limited, Sparklon Holdings Ltd (Respondent 14), Limerick Business Holding SA, Denoro Investments Ltd (Respondent 1), Monora

Limited Mebraco Investments Ltd, Kamenz Trading Inc (Respondent 15), Nafta Moskva (Cyprus) Ltd, Aniketa Investments Ltd, Konk Select Partners Inc (Respondent 10) and Falmiro Trading Ltd.

d. from taking any steps which would result in the disposal or charging Hotel Moskva.

e. from taking any steps which would result in the pledge or assignment, collection or settlement of debentures issued by OJSC DecMos (Respondent 11) and assigned to Denoro Investments Ltd (Respondent 1).

f. from taking any steps which would result in the pledge or assignment, collection or settlement of loans and debts Longlake Holdings Limited has assigned to Kamenz Trading Inc (Respondent 11).

g. from taking any steps which would result in the pledge or assignment, collection or settlement of loans and debts Blidensol Tradings & Investments has assigned to Monora Holdings Limited (Respondent 1).

h. from taking any steps which would result in the assignment, or settlement of the mortgage registered on Moskva Hotel.

9. It is my position, which I respectfully submit before the Court, that the Applicants rely on grounds which are either without merit, unsupported or without foundation. I nonetheless address in turn below only the matters which are of most significance, without referring to the insignificant details.

10. The allegations made against Respondent 5, the City, and Respondent 13, OEK-Finance, in Mr. Artem Egiazaryan's Affidavit evidence are entirely misplaced, and lack any substance. It is plainly not appropriate to deal with the detailed terms of the allegations at this stage – not least because the Applicants have yet to particularise their legal case. Respondents 5 and 13's position in relation to jurisdiction is reserved pending such particularization.

11. Nevertheless, the evidence relied upon by the Applicants in support of their ex parte application contained a number of material and serious omissions, which caused that evidence to be both incomplete, and misleading. Respondents 5 and 13 do not purport to identify herein a comprehensive list of those omissions, but focus instead on three main respects in which the Applicants have failed to provide full and frank disclosure of material matters within their knowledge.

12. Before addressing the issues raised in paragraph 11 above, I will address the Court of certain procedural irregularities which, I am informed by Mr Frangiskos Hadjihannas, impinge upon the current proceedings at their foundation and thus oblige the Court to discontinue and dismiss the interim freezing injunctions.

Failure to seal the Writ of Summons before issuing the interim order

13. On 15.9.2010 the Applicants 'filed' the present action claiming various declaratory judgments and orders targeting the shareholdings of various companies. Some of those companies have been joined as parties to these proceedings, whereas others have been not.

14. On the same day, that is on 15.9.2010, the Applicants filed an application for the issuing of interim freezing injunctions, supported by the Affidavit of Mr Aterm Egiazaryan.

15. After the issuing of the interim order, the Applicants applied, *ex parte*, for leave to serve the writ outside the Courts jurisdiction. The said application is hereto attached and marked as **Exhibit AZ 1.**

16. As noted, the Applicants failed to request leave to seal the writ before service - a step which to date has not been taken. Thus, Respondents 5 and 13 as non-locals have not yet been joined to this action, since the Court has not to date decided as to whether it will extend its jurisdiction over them. In any event, the application to serve outside the Court's jurisdiction should have been filed before the application or hearing for interim freezing injunctions.

17. The issuing of the interim order itself cannot displace the preconditions set by ***O2 r2*** in combination with ***O6 r1(h)*** of the Civil Procedure Rules which dictate the need to apply to the court to seal the writ and serve it outside the Court's jurisdiction after service has been effected to locals joined in the action.

18. I thus respectfully submit that this core omission on the Applicants' part to take the proper procedural step before filing the present to seal the writ of summons, as provided by the abovementioned relevant rules, requires the dismissal of the Order and Application.

The similarity of the subject matter of the Arbitration proceedings *vis a vis* the Cyprus proceedings

19. The Applicants at their own admission (with the application to stay proceedings filed on 13.10.2010 but dated 15.9.2010, hereto attached and marked as **Exhibit AZ 2**) state that the interim freezing injunctions as regards a number of defendants were issued in support of arbitration proceedings commenced in London. This contention includes both Respondents 5 and 13.

20. Respondents 5 and 13 accept for present purposes the Applicants' admission that the proceedings are brought in aid of the arbitration proceedings, as per **Exhibit AE 1** (but expressly without prejudice to the Respondents 5 and 13's right to oppose to that application at a later stage (as is their intention), or their rights to contest jurisdiction in relation to the arbitration proceedings).

21. A simple comparison between ***paragraph 73*** of the Request for Arbitration, ***Exhibit AE1***, to the remedies sought with the Writ of Summons, Paragraphs ***19-22*** indicates that the remedies sought in the arbitration proceedings are almost identical to the remedies sought in the present proceedings, and specifically:-

Arbitration Proceedings prayed remedies at para. 73 (a)-(d)

a. A declaration that the agreements (referring to SPA between Respondents 13 - OEK-Finance and Applicant 4 – V. Gogokhiya for the shares in Konk and Falmiro; and SHA between Respondents 13 - OEK-Finance and Applicant 4 – V. Gogokhiya and Respondents 10- Konk for the shares in Konk) are null and void and without effect.
b. That the Respondents cooperate in restoring the Applicants 1 and 4 ownership in the project (referring to the development of Hotel Moskva).
c. That the Respondents 5 and 13 return the shares in Konk to Applicants 1 and 4.
d. That Respondents 5 and 13 pay damages for any diminution in value of the Konk shares and for the loss of Applicant 1's investment in the project, each in amounts to be determined but not less than USD2 billion.

Writ of summons prayed remedies, Paragraphs 19-20

a. A declarative and recognizant judgment of the Court in favour of Applicants 1 – 4 that SHA between Respondents 13 - OEK-Finance and Applicant 4 – V. Gogokhiya and Respondents 10- Konk for the shares in Konk and Falmiro are null and/or voidable.
b. An order of the Court ordering Respondents 5 and 13 to take all necessary steps to restore the Applicants ownership in the Hotel Moskva project.
c. An order of the Court ordering Respondents 5 and 13 to in Konk to the Applicants.
d. An order of the Court ordering Respondents 5 and 13 to pay damages for any loss in the value of the Konk shares and for the loss of Applicant 1 investment in the project.

22. A comparison of the matters set out in the main body of the Request for Arbitration, against the matters set out in the evidence before the Cyprus Court in the application to obtain the interim freezing orders, confirms that the evidence and allegations produced are again in most parts identical.

23. It is therefore clear that the Cypriot Court is essentially being asked to decide on the same matters that are raised in the arbitration proceedings before the English tribunal.

24. I respectfully submit that an application in aid of arbitration proceedings should not, as a matter of law, require the Court to make a substantive determination in relation to the merits of a case which stands to be decided before the English arbitral tribunal. In other words, the Cyprus Court cannot grant an injunction in aid of arbitration where in order to do so it is in effect being required to determine issues which are identical to the subject matter of the arbitration.

25. It is respectfully submitted that the provisions of section 8 of Law 101/87 come into effect when a party files an action which constitutes the "essential dispute" between the parties which was agreed to be referred to arbitration, which he challenges under section 16. Where an action raises the provisions of section 8 of Law 101/87 it must be targeting the review and challenge of the arbitration proceedings. That is not the Applicants' case.

26. I further respectfully submit that the Applicants' attempts to use different legal means with the same purpose and objective(s) clearly constitutes and abuse of the process of the Court.

Estoppel

27. Applicant 4, Mr Gogokhyia on 23 February 2009 filed Action N.o 1119/09 before the District Court of Nicosia asking inter alaia for a declaratory judgment that certain provisions of the agreements signed between himself, OEK-Finance and Konk dated 13.11.2008 were null and void.

28. In the context of those proceedings the Applicant secured the issuing an interim order by producing Mr Philippous affidavit, **Exhibit AZ 3** . In that affidavit there is no mention of the facts and allegations that Mr Artem Egiazarian makes in the affidavit filed with the Court in relation to this application. More importantly, in discontinuing the action, no allegation was made by Applicant 4 of undue

influence or duress. In support of this position I hereto attach and mark as **Exhibit AZ 3(b)** the notice of discontinuance together with the email sent by Mr Haviaras to Mr Hadjihannas.

29. It is respectfully submitted that Applicants 1 and 4 had the opportunity to put forward, in the earlier proceedings, the allegations that they today rely upon in the context of these proceedings. Accordingly, they are therefore estopped from submitting facts or allegations which they had the opportunity to bring to the Court with the previous action between Applicant 4 (who was, it is alleged, essentially acting as a nominee for Applicant 1) and Respondent 13, OEK-Finance.

Good arguable case

30. The Cyprus Court issued the injunction in the present case based on the factual allegations put forward by the Applicants and on the assumption that the Applicants, as a matter of Cyprus law, proved the prerequisites set by the law.

31. As already mentioned above, the Applicants with their application to stay proceedings have distinguished Respondents 5 and 13 from the rest of the Respondents, in that the interim freezing injunction application filed against Respondents 5 and 13 was so filed in aid of arbitration proceedings. Therefore the test to be applied is whether the Applicants proved their case on the merits in the context of those proceedings and not according to Cyprus law.

32. The Applicants did not prove in the Cyprus Court that such arbitration proceedings have good prospects of success. The evidence produced concerned only Cyprus law, and not English law (as the applicable law in the arbitration).

Failure to disclose material facts

The City's allegedly wrongful refusal to consent to the mortgaging of the Hotel

33. The central assumption underlying the Applicants' case against the City (and, by extension, Defendant 13, OEK-Finance) is that the City was required, by the terms of the tender and the documents subsequently entered into, to permit and/or approve the mortgaging of the Hotel as security to facilitate the funding, by Decorum, of the renovation works, in particular through a loan facility offered by

Sberbank. Artem Egiazaryan's Affidavit asserts (at paragraph 33) that this was "*expressly envisaged by the terms of the original tender*".

34. The Applicants' evidence gives the clear impression that there was contained within the tender documents an incontrovertible, and undisputed, entitlement to pledge the underlying property assets as security for Decorum's borrowing. That was not the case and the Applicants' non-disclosures in that regard include the following:

(A) The Applicants failed to bring to the attention of the Court the terms of several contemporaneous documents which quite evidently contradict, or do not support, its assertions. For example:

(1) Decorum submitted its proposals on 26 September 2000 (the "**Proposal**", attached and marked **Exhibit AZ 4**). The Proposal included an outline of the proposed terms of Decorum's joint venture with the City, providing (insofar as relevant) as follows:

> "*• In the share management agreement the Investor shall receive the right to pledge half of the shares which it manages as security of project financing in line with the business plan of the reconstruction; such plan to be approved by the shareholders meeting of OJSC Moskva Hotel.*
>
> *• Pledge by the investor of the other half of shares it manages as security of further financing requires approval by the major owner of OJSC Moskva Hotel, the Government of Moscow.*"

It had therefore been accepted by Decorum that the City's consent was required even for the pledge of the entirety of Decorum's <u>own</u> managed shares.

(2) The terms of Decree 311 (attached and marked **Exhibit AZ 5**), ratifying the liquidation of Hotel Moskva Co and the transfer of the land rights to DecMos, did not include any provision for the mortgaging of the Hotel assets. Decree 311 provided, in broad terms, that funding would be provided by Decorum (clause 7); Decorum's obligations thereunder included an obligation to

"*provide to the Government of Moscow a guarantee from a first-class global bank to the effect that Decorum LLC has the whole amount necessary to finance the construction of a new building in accordance with the new construction contract entered into*" (see clause 16.1.3) – an obligation which was in fact never met.

(3) Similarly, the Investment Agreement dated 2 October 2003 (attached to Artem Egiazaryan's Affidavit as **Exhibit 4**) provided that Decorum was required to use "*its own or solicited (borrowed) funds to assure the financing and execution of the Investment Project in full... and to hand over the Facility to the state committee for acceptance of completed construction (reconstruction) of buildings no longer than the fourth quarter of 2006*". No reference was made to the permissibility of any security being granted over the Hotel.

(4) The Applicants rely principally on the terms of the minutes of the first meeting of the shareholders of DecMos in June 2003 (attached to Artem Egiazaryan's Affidavit as **Exhibit 3**) at which, the Applicants assert, it was resolved that "*the City would consent to mortgaging DecMos's property...*" Firstly, this was a resolution of the shareholders of DecMos, rather than a resolution of the City. Secondly, the resolution related to a specific transaction identified in those minutes, by which DecMos intended to secure credit facilities from UBS AG and EFG Group. It did not represent a general consent, and it was incorrect of the Applicants to assert otherwise.

(B) The Applicants' failure to bring these matters to the attention of the Court is compounded by the fact that the Applicants must have been aware that their interpretation of the documentation was contested by the City. The City had communicated its objection to the proposed Sberbank facility as early as November 2005, and its position was reiterated on several occasions subsequently, both before and after the execution by DecMos of the Sberbank loan documentation. This fact was plainly material. These communications are attached and marked **Exhibit AZ 6.**

(C) Similarly, it was plainly material that, at the time that DecMos executed the Sberbank loan documentation, it was already on notice of fact that the City objected to the terms of the proposed arrangements, and had declined to consent to them. It was therefore inaccurate, and misleading,

for the Applicants to assert in evidence that the conduct of the City had "effectively frustrated" the Sberbank loan (paragraph 33 of the Affidavit of Artem Egiazaryan), since the Applicants were aware at the time they caused DecMos to enter into the loan documents that it was highly unlikely that they would be approved by DecMos's shareholders.

35. It was therefore misleading for the Applicants to suggest that the tender documentation provided unequivocal support for the alleged entitlement of Decorum to offer security over the Hotel, and the failure to bring these matters properly to the attention of the Court represents a material and very serious non-disclosure.

36. It is also notable – and highly material – that the Applicants' complaints (about the City's allegedly wrongful conduct in refusing to consent to the proposed funding arrangements) were not communicated in contemporaneous correspondence sent by DecMos. For example, DecMos wrote, on 31 August 2007, to President Vladimir Putin requesting his intervention in relation to a number of complaints against the City in relation to the progress of the Project. A copy of the communication is attached and marked **Exhibit AZ 7**. These complaints included alleged changes in specification, and alleged failures to address and approve the Project's infrastructural arrangements. Notably, no complaint was made about the City's stance in relation to the mortgaging of the Hotel as security for Decorum's borrowing – which is surprising since the Applicants now assert that it was the City's conduct in this regard which was the effective cause of the funding difficulties which followed.

37. The Applicants' failure to produce any evidence of any contemporaneous statement of complaint about the City's conduct is sufficiently peculiar, given the nature of the Applicants case, that it ought properly to have been addressed specifically in the evidence given in support of the interim injunction.

38. Finally, the Applicants' evidence fails adequately, or at all, to refer to its own failings in relation to the requirements of the tender documentation. Artem Egiazaryan's Affidavit, at paragraph 41, refers to correspondence from the City proposing the termination of the Applicants' involvement in the Redevelopment as a result of breaches by Decorum of its obligations under the relevant agreement. The Applicants wrongly suggest that the City's complaints arose solely in relation to Decorum's failure to complete the development by the end of 2006 – whereas this deadline had been extended to require completion by the end of 2008. The evidence is incomplete in a number of respects.

39. Firstly, the City's complaints were not limited solely to the date for completion of the Redevelopment, and included further fundamental concerns including:

(A) that Decorum had repeatedly failed to produce to the City the construction contract for the Redevelopment - or indeed even a detailed summary of the terms or costs of the proposed construction works – or to obtain (or seek) shareholders' approval for it as required by Russian law; and

(B) Decorum's failure to provide to the City "*a guarantee from a first-class global bank to the effect that Decorum LLC has the whole amount necessary to finance the construction of a new building in accordance with the new construction contract entered into*" in accordance with the requirements of Decree 311.

40. The City's concerns had been rehearsed at some length – including in legal proceedings which the City commenced in the Moscow Court of Arbitration on 26 May 2008 – and so the Applicants cannot have failed to have been aware of them. They are material and ought to have been disclosed.

41. Secondly, while Artem Egiazaryan's evidence mentioned in passing that the deadline for completion of the Redevelopment had been extended by two years, it did not make it sufficiently clear that this extension was granted by the City. Similarly, the City granted, at Decorum's request, repeated extensions of time for Decorum to produce the contractual deliverables identified at paragraph 36 above, yet still Decorum failed to secure compliance. The fact that these extensions were granted by the City is in itself entirely inconsistent with the Applicants' case.

The City's alleged "engineering" of defaults under the Falmiro loan

42. According to the Artem Egiazaryan's Affidavit, the Konk transaction took place because "*the City engineered the default* [under the Falmiro Transaction] *and forced him* [Mr Egiazaryan] *down the Konk route*" (paragraph 51). This is an entirely misleading characterisation of the events which led to the Konk Transaction. Material matters which were not disclosed by the Applicants in this context include the following:

(A) As a condition subsequent to the Falmiro Loan, clause 20.27 required Falmiro to obtain the approval of the shareholders of DecMos (i.e. the City and Defendant 12, Decorum) to the DecMos Loan within 12 months of the date of the Falmiro Loan (i.e. no later than 6 July 2008). Under the

Falmiro Loan, it was an Event of Default if DecMos did not approve the DecMos Loan in this way. The City was however not a party to the DecMos Loan and that it was under no obligation to approve it. As noted above, it is misleading of the Applicants to imply that the City had accepted that Decorum was entitled to offer the Hotel as security for its borrowing – and that it was incumbent upon the City to approve such an arrangement - since the Applicants cannot reasonably have failed to have been aware, when they caused DecMos to enter into the DecMos and Falmiro Loans, that the City was unlikely to approve the transactions.

(B) Furthermore, it is material that the Falmiro Loan was, as set out below, already at serious risk of default through non-payment, and Deutsche Bank could have enforced its security, including against Mr Egiazaryan's alleged equity interest in the Hotel Project (paragraph 35.1). For example, invoices issued by the Applicants' lawyers, White & Case, show that White & Case was, in fact, already advising Falmiro on 19 August 2008 about the possible consequences of non-payment of the Falmiro Loan (the invoices are attached and marked **Exhibit AZ 8**). Artem Egiazaryan's Affidavit fails to disclose this very real risk.

(C) On 18 August 2008, clearly concerned that the Falmiro Loan could potentially trigger foreclosure by Deutsche Bank, DecMos sent a letter to the shareholders of Limerick S.A. asking for them to pay the interest on the Falmiro Loan for the 6 month period from 13 March to 13 September 2008 (approximately US$9 million) (attached and marked **Exhibit AZ 9**). This interest was repaid by means of a loan agreement signed by Falmiro with DecMos on 1 September 2008 for the sum of US$9.035 million (attached and marked **Exhibit AZ 10**). It is clear from these documents (neither of which was disclosed in the Artem Egiazaryan's Affidavit) that Falmiro was only able to meet its interest payment commitments in the short term by borrowing US$9 million from DecMos, thereby removing funds from the Hotel Project itself, and that there was a serious risk of a default occurring under the Falmiro Loan through non-payment. That risk would, of course, be even greater when it came to servicing any future financing requirement of the Hotel Project.

(D) During the period immediately prior to the Konk Transactions, therefore, Decorum and DecMos were already subject to severe financial pressures, and the Applicants were in any event actively seeking opportunities to refinance the Falmiro Loans. Paragraph 41 of the Request for Arbitration against the City and OEK-Finance confirms that "*[i]n October and*

November 2008 [Ashot] Egiazaryan approached a nuumber of potential transferees including Alfa Bank, Mikhail Prokhorov, [and] Vneshechonombank... but withour success..." – but this was not addressed in the plaintiffs' evidence in support of the injunction application. It is plainly material.

(E) The City's role in providing this additional finance in fact followed a meeting between representatives of Decorum and the City on 2 July 2008, at which the parties considered a draft addendum to the Investment Agreement by which the City would, effectively, have a right to step in to discharge the obligations of DecMos under a proposed loan facility with Deutsche Bank, on the basis that in case of a failure by DecMos to fulfil its obligations to repay the loan debt and interest accrued, DecMos' interest in the Hotel Complex, and Decorum's share holding in DecMos, would be transferred to the the City or its designated entity (attached and marked **Exhibit AZ 11**). Decorum and DecMos agreed to prepare and present drafts of this addendum. Seen in this context, far from being "forced" into the Konk transaction, the Applicants effectively approached the City as a lender of last resort, in order to avert the bankruptcy of DecMos. These matters contradict the Applicants' case that their dealings with the City were motivated by any compulsion or duress and plainly ought to have been disclosed.

(F) Accordingly, while Artem Egiazaryan's Affidavit alleges (in paragraph 49) that the City "*demanded*" that Konk purchase the Falmiro Loans, in fact the transaction was concluded on an entirely commercial and consensual basis. Consistent with this is the fact that all parties to the Konk Transaction received legal advice throughout – in the case of the Applicants, from White & Case (see paragraph 66 of Artem Egiazaryan's Affidavit). The Applicants failed to mention the fact that White & Case also represented OEK-Finance in relation to the Konk Transaction. It is inconceivable that the parties would have retained a joint adviser (being, in fact, the Applicants' lawyer) in the circumstances described in the Applicants' evidence. These circumstances therefore should have been brought to the Court's attention.

43. The allegations of duress in relation to the Konk Transaction are also inconsistent with the Applicants' subsequent conduct, which is either not addressed in the Applicants' evidence, or is entirely mischaracterised. For example:

(A) Such duress as had allegedly existed had plainly fallen away at least by February 2009, at which point legal proceedings were commenced by Applicant 4, Mr Gogokhyia, against Defendant 13, OEK-Finance – indeed Mr Gogokhyia was sufficiently emboldened to seek an *ex parte* injunction preventing OEK-Finance from exercising its rights under the Konk Shareholders' Agreement. Nonetheless, Mr Gogokhyia did not seek to repudiate or avoid the Konk Transaction at that time, and no allegations of duress were raised in those proceedings.

(B) Indeed, in those proceedings, Mr Gogokhyia affirmed the terms of the Konk Shareholders Agreement by seeking to rely on its terms – see the supporting evidence, attached and marked **Exhibit AZ 3**. Similarly, the references at paragraph 55 and 57 of Artem Egiazaryan's Affidavit clearly show that in 2009 the Applicants regarded themselves bound by the terms of the Konk Transactions, and indeed purported to act pursuant to the Konk Shareholders Agreement. This evidence entirely contradicts the Applicants case and plainly should have been addressed specifically at the *ex parte* hearing.

Valuation of the Applicants' interest in the Hotel Project

44. The Applicants allege that Ashot Egiazaryan has been "*deprived*" of "*property worth well in excess of USD2 billion.*" No evidence whatsoever has been adduced in support of this contention, and the veracity of the assertion is questionable in view of statements previously made on behalf of the Applicants for other purposes.

45. In particular, on 31 August 2007, DecMos wrote to President Vladimir Putin (as he then was) valuing the City's interest at approximately $250 million (in the context of a request by DecMos that President Putin should cause the City to divest itself of its interest as auction). This contemporaneous valuation of the Hotel assets is likely to have been available to the Applicants; it is obviously highly material – particularly given the disparity in the claimed value of Applicant 1's claimed interest – and the failure to refer to it was a serious non-disclosure.

46. While it is true that this was the DecMos's valuation for a *minority* interest only, but it is simply not credible to assert – at least without any evidence – that Applicant 1's claimed 51% interest should be worth eight times more.

47. Similarly, while this valuation dates back to August 2007, there is no reason to suggest that property values have increased very substantially since then, in the

round – indeed, Moscow's commercial real estate market suffered a very substantial decline during the period from September 2008 until the beginning of 2010 (see extracts from a report prepared by Moore Stephens CIS Limited, attached and marked **Exhibit AZ 12**).

48. Furthermore, the approximate value ascribed by DecMos in 2007 does not differ substantially (taking into account the subsequent substantial decline in the Moscow real estate market) from more recent valuation obtained by the City in 25 June 2009, which valued the City's 49% stake valued at 4.1bn RUR (approx $130 million) – attached and marked **Exhibit AZ 13**.

Urgency

49. It a very well established fact, no doubt known to all the Applicants, that the City of Moscow is a major economic centre, and one of largest city economies in Europe, comprising approximately 24% of Russian GDP. As of 2008 Moscow economy reached 8.44 trl roubles ($340 bln or $459 bln adjusted). Moscow is therefore the undisputed financial centre of Russia.

50. Since the City of Moscow holds very substantial assets – certainly sufficient to meet any claims made against it in these proceedings - it is clear that it was never urgent to freeze the Hotel Moscow. Even assuming that the Applicants' allegations are valid and proven, it is clear that they would be able to recover from the City the ampount of any judgment which might be made. Moreover, OEK-Finance owns substantial investments of some hundreds of millions. As at the end of 2009, OEK-Finance had total assets of RUR 22,528,724,000 (approximately US$740m) and annual revenue in 2009 of RUR 58,981,000 (approximately US$2m).

51. This being the case, there was, and never will be, any real risk of dissipation of assets on the part of the City or OEK-Finance such as would leave the Applicants exposed.

52. Furthermore, even assuming that the Applicants allegations are valid and proven, it is clear from the evidence submitted to the Court that the need to claim relief arose well before the action was filed. The Applicants allege the agreements to which they have been forced to enter were signed almost a year ago. To this respect there has been considerable and inexcusable delay of almost a year.

Conclusions

53. It is evident that the Applicants' Interim Order Application should be dismissed and/or set aside, for inter alia, the Applicants (i) failed to disclose to the Court material facts and documents; (ii) failed to show to the Court that there is a real and imminent danger that Respondents 5 and 13 will distribute their assets; (iii) failed to proceed to the Court within the time limit permitted by the rules; (iv) have no real prospects of success; and (v) did not prove the necessary requirements set by the law.

54. For the reasons set out above, the Court is respectfully requested to refuse the Application for Interim Court Orders and discharge the orders granted.

55. I state all the above as true to the best of my knowledge and belief.

The Affiant

.....

Anastasiya Zhabko

Sworn and signed before me
At the Nicosia District Court
Today the **16th day of November 2010**

REGISTRAR

SCALE: Euro 2.000.000 and over

IN THE DISTRICT COURT OF NICOSIA

ACTION NUMBER: 7862/10

BETWEEN:-

Ashot Egiazaryan από Skatertnyy pereulok, d. 3, kv. 10 121069 Moscow and others as per Appendix A in the Writ of Summons

Plaintiffs

-and-

Denoro Investments Limited of Larnaca and others as per Appendix B in the Writ of Summons

Defendants

AFFIDAVIT

I, ALEXANDER SIDOROV of Moscow, Russia, MAKE OATH, and SAY as follows:

(I) INTRODUCTION

1. I am a lawyer admitted to practice in Russia, working with Messrs. DECHERT RUSSIA LLC (Moscow office), which has been representing Defendants 7-9 and 14 in connection with the arbitrations **("the Arbitrations")** initiated by the Plaintiffs/Applicants before the London Court of International Arbitration **("LCIA")** by some of the Requests for arbitration attached as EXHIBIT "1" to the affidavit of Mr. Artem Egiazaryan dated 15/9/2010 supporting the application for injunction **("the Egiazaryan Affidavit").**

2. I am duly authorized by Defendants 7-9 and 14 **("the Respondents")** to make this affidavit on their behalf, and for their account, in support of their written opposition against the Applicants' *ex parte* application for injunction dated 15/9/2010. My mother language is Russian and I am fluent in English.

3. I have acquired personal knowledge of the facts of this case from documents which I have read and from information and documents delivered by the following persons:

   (a) Mr. Arkady Rotenberg (Defendant 7);
   (b) Mr. Konstantin Goloschapov (Defendant 9);
   (c) Mr. Artem Obolensky (Executive Vice-President of SMP Bank);
   (d) Mrs. Elena Pavluchenko, who was acting at the material times *inter alia* as first deputy General Director of Decorum CJSC;
   (e) Mr. S. Pittas, the Cypriot lawyer of Respondents, who provided English translations of the Cyprus Action Number 1119/09 District Court of Nicosia, filed by Plaintiff 4 to this action, as well as English translations of the Writ of Summons of the Plaintiffs, of the application for injunction, together with the *ex parte* injunction issued in this action.

4. Furthermore for issues of Cyprus law, as well as for the legal steps taken by the Defendants in this action, which are raised or referred to in this affidavit, I received information as well as the legal advice of Mr. S. Pittas who is one of the Cypriot lawyers of the Respondents on issues of Cyprus law.

5. I have read the Egiazaryan Affidavit, which was executed in English – (supporting the *ex parte* application for injunction dated 15/9/2010) - as well as English translations of the *ex parte* application for injunction and of the Writ of Summons of the Plaintiffs – (supplied to me by Mr. S. Pittas) – and I

reject all and everyone of the allegations contained in the Egiazaryan Affidavit, as far as same contradict and is not consistent with the content of this Affidavit.

6. I make this affidavit on behalf of the Respondents:

   (a) In opposition to the continuation of the ex-parte injunctions issued by this Court on the 15th September 2010 **("the Orders"),** pursuant to an *ex parte* application of the Plaintiffs dated 15/9/2010 **("the Application").**

   (b) To address a number of points made in the Egiazaryan Affidavit.

7. There is now shown to me marked "AS 1" to "AS 23A" various Exhibits, to which I refer in this Affidavit.

8. The Respondents oppose the continuation of the Orders obtained *ex parte* by the Applicants, as well as they oppose the issue of any order as requested in the Application.

9. In summary, the Respondents content that the Orders shall be set aside and the Application to be dismissed, with costs, on one or more of the following grounds:

   9.1 The Applicants did not come to the Court at the *ex parte* hearing of the Application with clean hands, in that they failed to disclose to the Court at the *ex parte* hearing material facts and documents relating to the case.

   9.2 There is no serious prospect of the Applicants obtaining any remedies against the Respondents in the context of the action under the aforesaid

title and number, or in the context of the Arbitrations or any remedy at all before any competent forum which will adjudicate on the facts of the case.

9.3 The conditions of Article 32 of the Courts of Justice Law 14/60 are not fulfilled or satisfied.

9.4 The Orders should not have been issued *ex parte* because:

(a) There was no urgency justifying the *ex parte* issue of same without the presence of the Respondents.

(b) The Applicants were guilty of delay and laches.

(c) The Applicants were precluded or estopped by their behaviour, actions and inactivity – (as described in detail herein below in this affidavit) - from moving the Court on an *ex parte* basis, or to apply at all for the issue of any Orders.

9.5 The continuance in force of the Orders has caused and will cause enormous and irreparable losses to the Respondents, which again is something the Claimants have failed to disclose to the Court in the context of an ex parte application.

9.6 The balance of convenience is clearly in favour of the Respondents and the discharge of the Orders and the dismissal of the Application.

9.7 The Honourable Court did not have jurisdiction to issue interim relief against the foreign defendants without the prior issue of the order

permitting sealing of the writ of summons as far as concerned the foreign defendants.

(II) PRELIMINARY ISSUES RAISED BY RESPONDENTS AND RESERVATIONS OF RIGHTS

10. As far as I know, as far as I am informed by the Cypriot Lawyers of the Respondents, and as it appears from the documents in the case under the aforesaid title and number:

10.1 The Respondents, as well as other defendants to this action, filed conditional appearances – (after obtaining leave from the Honourable Court) – to reserve their right to question the jurisdiction, forum conveniency of Cypriot Courts, the service, the validity of the order authorizing service outside the jurisdiction to the foreign defendants etc.

10.2 Defendants 7-9 / Respondents have already filed an application to set aside service to them of the Writ of Summons and of the Orders, as well as to set aside the order authorizing the service to them. Similar applications were filed by Defendant 4 and Defendant 13.

10.3 Defendants 7-9 and 14 have filed an application for the increase of the counter-security provided by the Applicants in order to obtain the Orders, because same is considered inadequate and insufficient to cover the losses to be sustained by the Defendants 7-9 and 14 due to the issue of the Orders. Similar application has been filed by Defendant 1, 2, 3, 4 and 16.

10.4 Upon applications of Defendants 7, 8, 9 and 14 the Court granted extension of the time within which the above defendants shall file their application to set aside the writ of summons on jurisdictional grounds, as well as on others grounds except service.

11. (1) As far as I know, and as I am informed, Defendants 7-9 and 14 fully reserve their rights arising out of and in connection with the above applications and steps taken to question the service of the Writ of Summons and of the Orders to them in Russia, to question the validity of the order dated 15/9/2010 authorizing service, to question jurisdiction and conveniency of the Cyprus Courts, and to raise all their objections within the time directed by the Honourable Court, as well as to obtain an order for the increase of the counter-security filed by Plaintiffs in order to obtain the Orders.

(2) Nothing stated herein shall be interpreted or taken as a waiver of the above objections or any right of the Respondents.

(III) <u>THE EGIAZARYAN AFFIDAVIT</u>

12. (1) The Application was supported by the Egiazaryan Affidavit, and the Respondents disagree vehemently with much of what it is said in it. The account that Mr. Artem Egiazaryan gives of the facts is slanted, incomplete, misleading and baseless, and to the extent necessary the Respondents will raise many factual disputes before the Competent forum, where same will be finally adjudicated. I do not propose to raise those disputes here, because this is not for this Court to resolve them.

(2) That a point or argument raised by Mr. Artem Egiazaryan is not raised here, should not be taken as an indication that it is not disputed. The Respondents reserve their rights to raise all issues in the future before the proper and competent forum, which will adjudicate on the same.

(IV) REPLY AND COMMENTS OF RESPONDENTS ON THE ALLEGATIONS OF PLAINTIFFS CONTAINED IN THE EGIAZARYAN AFFIDAVIT

CYPRUS COURT CASE

13. As I am informed by Mr. S. Pittas and I know because I have in my possession English translations of the Cyprus proceedings, on 23rd February 2009, V. Gogokhiya, Plaintiff 4 in this case and an alleged nominee for Ashot Egiazaryan (paragraph 5 of the Egiazaryan Affidavit), had indeed filed a claim with the Cyprus court (case №1119/2009 D.C. of Nicosia).

I attach hereto as EXHIBITS "AS 1", "AS 2" and "AS 3" copy of the action number 1119/2009 D.C. of Nicosia, copy of the application for injunction and supporting affidavit and copy of the injunction issued, respectively.

14. The position of the Plaintiffs in that case is completely inconsistent with the statements of Artem Egiazaryan in the present matter.

15. According to the affidavit filed in case №1119/2009 D.C. of Nicosia **(the "Affidavit in Case No. 1119/2009")**, V. Gogokhiya complained about a shareholders agreement between himself, KONK Select Partners Inc. **("KONK")** and OEK-Finance OJSC **(the "KONK Shareholders Agreement")**.

16. The KONK Shareholders Agreement is now described in the Egiazaryan Affidavit as part of a conspiracy involving A. Rotenberg and K. Goloshchapov to remove Ashot Egiazaryan from the project **(the "Project")** on reconstruction of Hotel Moscow **(the "Hotel")** which was already known to Ashot Egiazaryan by the time of starting of the case №1119/2009 D.C. of Nicosia (see e.g. paragraphs 45, 49, 51-52 and 58-59). Indeed, the Egiazaryan Affidavit represents in paragraph 62 that the case №1119/2009 D.C. of Nicosia was started to protect the interests of Ashot Egiazaryan against the "raid" alleged by the Plaintiffs in the present matter ("*plaintiff 1 ... made every effort to defend his interest in the project. We started proceedings in Cyprus with action no. 1119/2009* ...").

17. However, the Plaintiff 4 by the Case No. 1119/2009 questioned the validity and enforceability of the KONK Shareholders Agreement on a purely technical ground (that it was not signed by two companies, who were two registered shareholders in KONK (paragraphs 7-8)). The Affidavit in Case No. 1119/2009 did not mention A. Rotenberg, I. Gilmutdinova and K. Goloshchapov at all, did not contain any single allegation of the exercise of any conspiracy, duress, blackmail or coercion aimed at removing Ashot Egiazaryan from the Project, as well as did not refer to or enclose the documents attached to the Egiazaryan Affidavit and available to the Plaintiffs before the commencement of case № 1119/2009 D.C. of Nicosia. Neither did the Affidavit in Case No. 1119/2009 or the said action itself made any allegation that the KONK Shareholders Agreement was invalid due to conspiracy, duress, blackmail or coercion.

18. In addition, the Affidavit in Case No. 1119/2009 stated several times that it was V. Gogokhiya who was the beneficiary in KONK (see paragraphs 3, 7 and

8) and not Ashot Egiazaryan, as is now alleged in paragraphs 12 and 49 of the Egiazaryan Affidavit.

19. At the same time Artem Egiazaryan did not attach to the Egiazaryan Affidavit the documents related to the case №1119/2009 D.C. of Nicosia and did not inform the court that the position of V. Gogokhiya (Plaintiff 4) taken in the case № 1119/2009 contradicted the allegations made by the Plaintiffs in the present case. It seems extraordinary that the Plaintiffs have not sought to disclose this issue in connection with their application for injunction, which the Court would surely have wanted to be appraised of at the *ex parte* hearing, had it known about it. Moreover, the case № 1119/2009 initiated by V. Gogokhiya more than 1.5 years prior to the present case, proves that if the events described in the Egiazaryan Affidavit were true, the Plaintiffs would have had an opportunity to protect their interests in court (which they failed to do).

Furthermore from the Affidavit in Case No. 1119/09 it appears that the Plaintiffs and more specifically Plaintiff 4 received legal advice about the Plaintiff's rights relating to the KONK Shareholders Agreement from the Cypriot lawfirm HAVIARAS & PHILIPPOU LLC, the international lawfirm LOVELLS CIS and the BVI lawyers CONYERS DILL & PEARMAN (see paragraph 67(l) below). The Plaintiffs failed to disclose to the Court the above material facts, as well as to produce the relevant documents.

RUSSIA COURT CASES

20. Apart from Cypriot courts, the Plaintiffs made recourse to Russian courts as well. In the beginning of May 2009, Rosneftegaz OJSC, a company which has always represented the interests of Ashot Egiazaryan in the Project, filed a claim with the Permanent Arbitration Tribunal at Non-Commercial

Partnership "Russian Gas Society" against Decorum CJSC, seeking repayment of a loan in the amount of 8,401,800 Rubles. Shortly afterwards, on 25 May 2009, Rosneftegaz OJSC filed with the Arbitrazh Court of the City of Moscow an application for bankruptcy of Decorum CJSC. I attach hereto as EXHIBITS "AS 4" and "AS 5" copies of the said filings and their English translations made by Mrs. Anna Anisimova which are attached hereto as EXHIBITS "AS 4A" and "AS 5A".

21. These filings, made more than a year prior to the present case, also prove that if the events described in the Egiazaryan Affidavit were true, the Plaintiffs would have had an opportunity to protect their interests in court (which they failed to do).

The Plaintiffs again failed to disclose the above material facts to the Court or to produce the relevant documents at the *ex parte* hearing.

PARTICIPATION OF A. ROTENBERG AND K. GOLOSHCHAPOV IN THE PROJECT

22. According to Egiazaryan Affidavit, *"after the conclusion of the tender process, [Ashot Egiazaryan] acquired Decorum Corp.'s rights under the tender and later agreed and transferred half of his interest in the newly-created (Russian) company named CJSC Decorum ... to Rotenberg and Goloshchapov (the latter's share was held by his wife, Gilmutdinova...) Following this transfer, [Ashot Egiazaryan's] effective interest in the Project was 25.5%"* (paragraph 26). This allegation is misleading, in particular, since A. Rotenberg and K. Goloshchapov started to participate in the Project before (not after) Ashot Egiazaryan.

23. The initial investors behind the winner of the tender, Decorum Corporation (USA), were Vitaly Milyavsky, Mikhail Melyan and Karen Israelyants. They brought into the Project a Russian businessman Dmitry Teryokhin with his partners and entered into an agreement with his company, Temex Trading and Finance Ltd. I attach hereto as EXHIBIT "AS 6" a copy of this agreement and as EXHIBIT "AS 6A" a copy of its translation into English which was made by Mrs. Anna Anisimova.

24. Dmitry Teryokhin invited A. Rotenberg to the Project, and A. Rotenberg joined it with K. Goloshchapov in the end of 2001. Ashot Egiazaryan did not participate in the Project at that time.

25. Later on, two Russian businessmen were considered as main investors for financing the Project: Grigory Beryozkin and Ashot Egiazaryan. It was decided to choose Ashot Egiazaryan who stepped in the Project in the end of 2002 (and not "after the conclusion of the tender process" in 2000, as alleged in the Egiazaryan Affidavit).

26. It is only the formalization of A. Rotenberg's and K. Goloshchapov's participation in the Project that took place in December 2003 via RealInvest OOO, when the latter obtained 45% of shares (not 50%, as alleged by Artem Egiazaryan) in Decorum CJSC from Rosneftegaz OJSC and Milea OOO. I attach hereto as EXHIBITS "AS 7" and "AS 8" copies of the share purchase agreements for the shares in Decorum CJSC between RealInvest OOO, Rosneftegaz OJSC and Milea OOO dated 16 December 2003, and their translations into English made by Mrs. Anna Anisimova as EXHIBITS "AS 7A" and "AS 8A".

27. Contrary to the allegation in paragraph 26 of the Egiazaryan Affidavit, I. Gilmutdinova did not have any share in and was not beneficiary of RealInvest OOO.

28. When the off-shore structure was established to hold 51% stake in DecMos OJSC, each of A. Rotenberg and K. Goloshchapov also received 2,250 shares in Limerick (45% in total), and only later each of them obtained additional 250 shares to increase their shareholding in Limerick Business Holding S.A. to 50%. I attach hereto as EXHIBIT "AS 9" a copy of the share register of Limerick Business Holding S.A.

BUSINESS RELATIONS BETWEEN A. ROTENBERG AND K. GOLOSHCHAPOV

29. The allegations in paragraph 11 of the Egiazaryan Affidavit that A. Rotenberg and K. Goloshchapov "*were at all times acting in a consortium*" are false.

30. A. Rotenberg and K. Goloshchapov have had before and now have both joint and separate projects, and even joint projects were sometimes started by one of them independently or turned into separate projects over time. In this particular Project, for example, there were situations when either A. Rotenberg or K. Goloshchapov considered withdrawing from the Project, while the other did not exclude a possibility to stay in the Project.

PROGRESS IN THE PROJECT SHOULD NOT BE CREDITED ONLY TO ASHOT EGIAZARYAN

31. The Egiazaryan Affidavit purports to credit all progress in the Project to Ashot Egiazaryan and his financing and to describe the activities of A. Rotenberg, I. Gilmutdinova and K. Goloshchapov as "obstacles and intrigues" (paragraph 32). This proposition is groundless and misleading.

32. First of all, Ashot Egiazaryan was accepted to the Project in order to finance it (see paragraph 25 above).

33. Secondly, A. Rotenberg and K. Goloshchapov also did a lot to facilitate the implementation of the Project and always aimed at good faith cooperation with Ashot Egiasaryan.

34. For example, K. Goloshchapov was the chairman of the Board of Directors of Decorum CJSC and a member of the Board of Directors of DecMos OJSC. As such, K. Goloshchapov was heavily involved in interaction with financial institutions regarding financing matters (incl. Deutsche Bank) and with the state authorities (*inter alia* by sending letters seeking to facilitate implementation of the Project). By way of example, I attach hereto as EXHIBITS "AS 10" and "AS 11" copies of the letters from Mr. Goloshchapov dated 21 April 2005 and 15 May 2007, with English translations of same made by Mrs. Anna Anisimova and attached hereto as EXHIBITS "AS 10A" and "AS 11A".

35. Ms. Elena Pavluchenko, a representative of A. Rotenberg and K. Goloshchapov, was appointed as first deputy General Director of Decorum CJSC (on 15 October 2004) and as deputy General Director of DecMos OJSC (on 2 May 2007) and Executive Director of DecMos OJSC (on 1 April 2008). She was also a member of the Board of Directors of Decorum CJSC and DecMos OJSC. I attach hereto as EXHIBITS "AS 12", "AS 13" and "AS 14" copies of the relevant orders with their English translations, made by Mrs. Anna Anisimova and attached hereto as EXHIBIT "AS 12A", "AS 13A" and "AS 14A".

36. E. Pavluchenko was actively involved in various Hotel construction matters and liaising with the city of Moscow. For example, she participated and reported on behalf of DecMos OJSC in weekly meetings held at the construction site with Mr. V.I. Resin (the First Deputy of the Mayor of Moscow) and Mr. P.N. Aksenov (appointed as supervisor of the Project from the City of Moscow).

37. It is worth noting that it was K. Goloshchapov (as sole representative of Decorum CJSC) and E. Pavluchenko (as a spokesperson and main representative of DecMos OJSC) who took part in the 26 September 2007 meeting with the Mayor of Moscow, Mr. Yu.M. Luzhkov during which several decisions were adopted for further implementation of the Project. I attach hereto as EXHIBIT "AS 15" copy of the protocol of this meeting of 26 September 2007 with its English translation, made by Mrs. Anna Anisimova and attached hereto as EXHIBIT "AS 15A".

38. DecMos OJSC and Hotel Moscow OJSC were to settle the relations with the State Unitary Enterprise Moscow Metro (item 4.3 of the Investment Agreement, attached as EXHIBIT 4 to the Egiazaryan Affidavit). For example, there were non-residential premises of the Moscow Metro in the old Hotel building (including the former southern entrance to the Metro Station Okhotny Ryad); there were Metro service lines in the inner yard of the old building of the Hotel, including ventilation facilities of the Metro station Okhotny Ryad (i.e. new services lines had to be provided).

    There were a lot of meetings attended by E. Pavluchenko, V.I. Resin, P.N. Aksenov and D.V. Gaev (Director of the Moscow Metro). As a result, the disputable issues were settled.

19 SEPTEMBER MEETING AND ATTEMPTS TO BUY OUT THE FALMIRO LOAN

39. Paragraphs 43 and 45 of the Egiazaryan Affidavit describe the problems with the repayment of a loan extended by Deutsche Bank to Falmiro Trading Limited **("Falmiro")** under a US$ 392 million loan agreement **(the "Falmiro Loan" and "Falmiro Loan Agreement" respectively)** and allege that E. Pavluchenko initiated an event of default at a meeting with Deutsche Bank, and that A. Rotenberg (and K. Goloshchapov) did nothing to raise funds to repay the Falmiro Loan.

40. These statements distort the actual events and are misleading. In fact, A. Rotenberg, K. Goloshchapov and E. Pavluchenko did a lot to resolve the situation with the Falmiro Loan.

41. As Artem Egiazaryan had himself admitted, the conditions subsequent under the Falmiro Loan Agreement were to be met by 6 July 2008 (see paragraph 38 of the Egiazaryan Affidavit).

42. Deutsche Bank was certainly aware of the non-compliance with conditions subsequent by 6 July 2008, and on several occasions noted that conditions subsequent had not been complied with. It was in fact because of the efforts of K. Goloshchapov and E. Pavluchenko (who negotiated with Deutsche Bank in an attempt to soften the conditions subsequent, provided various documents at the request of the bank, etc.) that Deutsche Bank did not take further action against Falmiro. (This is yet another piece of information that the Egiazaryan affidavit does not disclose.)

43. In September 2008 Deutsche Bank again noted the non-compliance with the conditions subsequent and requested a meeting on 19 September 2008. During the 19 September 2008 meeting Deutsche Bank once again stated that the conditions subsequent under the Falmiro Loan Agreement had not been performed in time, while E. Pavluchenko was asking Deutsche Bank to grant an extension under the Falmiro Loan Agreement, in particular, because at that time DecMos OJSC was negotiating with the Property Department of the city of Moscow for it to approve DecMos OJSC transactions (one of the conditions subsequent). I attach hereto as EXHIBITS "AS 16" and "AS 17" copies of e-mail exchange with Deutsche Bank, with their English translations made by Mrs. Anna Anisimova and attached hereto as EXHIBIT "AS 16A" and "AS 17A".

44. Following the meeting of 19 September 2008 and the letter of 6 October 2008, attempts to resolve the situation with the Falmiro Loan continued. In fact, Artem Egiazaryan himself attaches as "*our letter to the city*" a letter from E. Pavluchenko to Mr. V.N. Silkin (the head of Property Department of the city of Moscow) requesting him that a letter be sent to Deutsche Bank seeking to extend the deadline for approval of DecMos OJSC transactions until 21 April 2009 (paragraph 44 of the Egiazaryan Affidavit). The copy of this letter with its English translation is attached as EXHIBIT 12 of the Egiazaryan Affidavit.

45. A. Rotenberg and K. Goloshchapov also tried to secure financing to buy-out the Falmiro Loan. Among other attempts, on 13 October 2008 K. Goloshchapov sent a letter № 33 to Vnesheconombank (Russia) with a request to refinance the Falmiro Loan Agreement (Vnesheconombank ultimately refused to do this in January 2009). I attach hereto as EXHIBITS "AS 18" and "AS 19" copies of these letters, with their English translations

made by Mrs. Anna Anisimova and attached hereto as EXHIBIT "AS18A" and "AS19A".

ASHOT EGIAZARYAN'S PLANS TO EXIT THE PROJECT AND TO SOLICIT OTHER INVESTORS

46. The Egiazaryan Affidavit fails to disclose the fact that Ashot Egiazaryan, A. Rotenberg and K. Goloshchapov had on several occasions considered exiting the Project. To say the least, this lends significant doubt to the Plaintiffs' case theory that Ashot Egiazaryan was forced out of the Project.

47. Indeed, in a letter from Lovells to the Mayor of Moscow, Mr. Yu.M. Luzhkov, of 16 April 2009, which is attached to the Egiazaryan Affidavit as EXHIBIT 19, one of proposals from Ashot Egiazaryan was that "*the Moscow City Government or its subsidiary companies* ***will purchase 51% of the shares of OAO (OJSC) "DecMos"*** *owned by ZAO (CJSC) "Decorum",* ***at the price*** *corresponding to the* ***amount of Project financing granted [by] ZAO (CJSC) "Decorum***".

48. Moreover, the Egiazaryan Affidavit is silent on the fact that Ashot Egiazaryan himself had repeatedly proposed to other Russian businessmen to enter into the Project, including Suleiman Kerimov, Shalva Chigirinsky and Mikhail Prokhorov.

TRANSACTIONS SIGNED ON 29/06/2009

49. The Respondents maintain that the transaction documents of 29/06/2009 were executed by the Plaintiffs voluntarily and without any duress. The Plaintiffs actually were represented by and obtained legal advice from the reputable law firm of HAVIARAS & PHILIPPOU LLC before the said transactions documents were executed. Further, the relevant agreements

were executed in the presence of notaries, as well as inter alia Mr. Andreas Haviaras, the Cypriot lawyer of the Plaintiffs.

(V) **NO JURISDICTION OF CYPRUS COURTS – CYPRUS COURTS ARE NOT THE CONVENIENT FORUM TO TRY THIS CASE**

50. As far as I know and as it appears from the facts and documents presented before the Honourable Court, the Plaintiffs' alleged claims are based on tortuous actions, allegedly committed by the Defendants in Russia by Russian citizens against Russian citizens, in relation to a Russian Project, relating to the development of the Hotel.

51. As far as I know and as I am advised by Mr. S. Pittas, the Cyprus Courts do not have jurisdiction to adjudicate on the facts of this case, because the alleged wrongs, committed by the Defendants are torts committed allegedly in Russia and Russian law is applicable, as the law with the closest connection to the facts of the case.

52. As far as I know and as I am advised by Mr. S. Pittas, the Cyprus Courts lack jurisdiction to adjudicate on this case, and alternatively, the more competent and convenient Courts to do so are the Russian Courts.

53. I fully reserve the rights of the Respondents to raise all the above objections at a later stage, by a separate application or applications, together with all other objections of the Respondents, relating to the validity or existence of the Plaintiff's claims.

(VI) **NO PRIMA FACIE CASE – NO PROBABILITY OF SUCCESS**

54. As far as I know and as I am advised by Mr. S. Pittas, on the basis of the facts and documents presented by the parties before the Honourable Court:

(a) The Plaintiffs / Applicants have failed to satisfy the requirements of Article 32 of the Law 14/60 which regulates the jurisdiction of the Cyprus Courts to issue interim injunctions.

(b) The Applicants failed to prove that they have a prima facie or an arguable case.

(c) The Applicants failed to prove or show that they have any possibility of success in this action, or in any action to be adjudicated by any competent Court.

(d) The fact that the Plaintiffs actually received in February 2009 legal advice in connection to their rights relating to the Project, as well as in connection with inter alia the KONK Shareholders Agreement, before the Plaintiff 4 filed the Cyprus action 1119/09 District Court of Nicosia, the fact that the Plaintiffs had never raised before the filing of this action, any allegation of exercise of duress or coercion against them by Defendants, the fact that the Plaintiffs failed to make allegations about exercise against them of duress or coercion etc. in previous legal proceedings they initiated for the Project and the time which has passed from the exercise of the alleged coercion or duress until the date of filing of this action clearly:

(i) prove that the allegations of the Plaintiffs for the exercise of duress or coercion etc. against them by Respondents are baseless and untrue.

(ii) show that the Plaintiffs do not have a prima facie case or a probability of success.

55. If the Plaintiffs were real victims of coercion or blackmail or duress etc., exercised by the Defendants, as they now allege in this action, why they didn't raise such issues of duress, blackmail, coercion, illegalities etc., in the context of the Cyprus action 1119/09 District Court of Nicosia, filed by Plaintiff 4, but instead the Plaintiff 4 – (acting as the real beneficial owner of KONK) – proceeded only to question the validity and enforceability of the KONK Shareholders Agreement on only technical grounds (i.e. alleging that the KONK Shareholders Agreement was signed by Plaintiff 4 without authority).

56. As far as I know, and as I am informed by Mr. S. Pittas, by only questioning through Court action the KONK Shareholders Agreement, - (on the ground that Plaintiff 4 did not have the authority to sign the KONK Shareholders Agreement on behalf of the registered shareholders of KONK) - the Plaintiff 4 (personally and as representative of the Plaintiffs 1, 2 and 3) has waived the Plaintiffs' rights and/or is precluded, together with all the other Plaintiffs, to pursue this action and to raise such allegations that the KONK Shareholders Agreement was the result of duress, coercion or that the Plaintiffs have been the victims of coercion or duress at the material time preceding the filing of the Cyprus action 1119/09 District Court of Nicosia.

57. As far as I know and as I am informed by Mr. S. Pittas, the filing of the Cyprus Action Number 1119/09, District Court of Nicosia, by Plaintiff 4 as well as the content of the said Writ of Summons, and of the Affidavit in Case No. 1119/09 filed in support of the *ex parte* application for injunction, clearly inter alia shows:

(i) The fact that the Plaintiffs were at least since the date of filing of the said Cyprus action free from any duress, blackmail, alleged coercion etc., and they were able to question the alleged transactions on the grounds that they now attempt to do in the present action, BUT instead they failed to do so and they raised such issues almost 19 months after they filed the Cyprus action Number 1119/09, District Court of Nicosia.

(ii) The filing of the action 1119/09, District Court of Nicosia, and the steps taken in the context of the said action show and prove clearly that the allegation of the Plaintiffs for the existence of the alleged coercion, blackmail, etc., on the part of inter alia the Respondents and the City of Moscow and Defendant 13 (see inter alia paragraph 49 of the Egiazaryan Affidavit, where Artem Egiazaryan states inter alia that they were forced to enter into the KONK Shareholders Agreement) are totally baseless, untrue, misleading and the results of second thoughts.

(iii) In addition, how the Plaintiffs can allege the exercise, before or during February 2009, of coercion, duress, etc., against them in inter alia paragraphs 50-61 of the Egiazaryan Affidavit, as well as that the Framework Agreement was the result of coercion by Defendant 4, and at the same time the Plaintiffs not to raise such complains or to question such transactions as null and void due to coercion etc. in the context of the Cyprus action filed by Plaintiff 4 (Action 1119/09 District Court of Nicosia) **which was filed on 23/2/2009** – (some days after the exercise of the alleged coercion etc.).

(iv) That the Plaintiffs obtained legal advice in connection with their rights relating to the transactions described in the Egiazaryan Affidavit at the material time of the filing of the Action 1119/09 District Court of Nicosia. From the content of the Affidavit in Case No. 1119/09, it appears that the Plaintiffs had involved in the preparation of their aforesaid Cyprus action the Cypriot lawfirm of Haviaras & Philippou LLC, the lawfirm LOVELLS CIS, as well lawyers from the British Virgin Islands. I attach hereto as EXHIBIT "AS 20" copy of a letter dated 19/2/2009 of Messrs LOVELLS CIS (which was attached to the Affidavit in Case No. 1119/09) as well as EXHIBIT "AS 21", copy of a letter dated 20/2/2009 of the BVI Lawyers (which was also attached as EXHIBIT to the Affidavit in Case No. 1119/09).

The Plaintiffs failed to disclose inter alia the existence and contents of the above important documents which clearly show the obtaining of legal advice by the Plaintiffs in relation to their rights arising out of the KONK Shareholders Agreement, as well as the timing of receipt of such legal advice.

More particularly, the existence of such legal advice in connection with the KONK Shareholders Agreement – (which is one of the transactions which the Plaintiffs are now alleging that they were the result of coercion or duress etc.) – as well as the content of same, should have been disclosed to the Court at the *ex parte* hearing, because such legal advice in relation to a transaction which is sought to be set aside can be fatal to such allegations.

Furthermore the existence of such legal advice and the steps taken by Plaintiff 4 in Cyprus in 2009, clearly shows that the Plaintiffs were at least since that time free from the alleged coercion, duress etc., and they had

the opportunity and liberty to question the alleged transactions entered into by them some days earlier (i.e. the Framework Agreement) or in November 2008 (i.e. the KONK Shareholders Agreement) due to alleged coercion or duress by taking legal steps before the competent forum. The fact that the plaintiffs received legal advice from competent and highly regarded firms of lawyers casts serious doubt upon allegations of coercion or duress. The plaintiffs should have disclosed that they were receiving such advice in the course of the application for injunction, as it might well have influenced the Court in its assessment of the strength of the Plaintiffs' case. However, they failed to do so, and for that reason alone the injunction ought to be discharged.

Instead the Plaintiffs failed to take legal steps before the competent forum, and as it appears from inter alia paragraphs 55 and 57 of the Egiazaryan Affidavit, the Plaintiffs regarded in 2009 themselves as bound by the KONK Shareholders Agreement and had affirmed it.

58. As far as I know, and as I am advised by Mr. S. Pittas, the behavior of the Plaintiffs, as evidenced by the facts and documents presented before the Honourable Court, precluded the Plaintiffs from commencing such an action and from alleging that they have been victims of coercion, blackmail or duress or illegal actions of the Defendants including the Respondents / Defendants 7-9 and 14.

59. The behavior of the Plaintiffs, and their actions, inactions, delay and laches precluded the Plaintiffs from relying on the principles of equity to request the assistance of this Honourable Court to issue interim relief.

(VII) NON DISCLOSURE

60. As mentioned above, the Plaintiffs / Applicants failed to disclose several important and material facts and documents to the Honourable Court at the *ex parte* hearing. The litany of non-disclosures is extraordinary and extensive but includes at least all of the following:

A. **REGARDING THE FAILURE TO PRESENT TO THE COURT THE CONTENT OF THE ACTION 1119/09, DISTRICT COURT OF NICOSIA AND THE CONTENT OF THE AFFIDAVIT FILED IN SUPPORT OF THE *EX PARTE* APPLICATION FOR INJUNCTION, AS WELL AS TO DISCLOSE SAME AT THE *EX PARTE* HEARING.**

In particular, as far as I know and as I am informed by Mr. S. Pittas, the Plaintiffs failed:

(i) To disclose to the Court the nature of the remedies requested by the Action number 1119/09 District Court of Nicosia, and more specifically the fact that Plaintiff 4 did not question the validity and enforceability of the KONK Shareholders Agreement on the ground of coercion, duress, blackmail etc., but he questioned only the enforceability and validity of the KONK Shareholders Agreement on a technical ground – (i.e. that the Plaintiff 4 did not have authority to sign the said Agreement).

(ii) To disclose that the Action number 1119/09, District Court of Nicosia, was filed by the Plaintiff 4, who presented himself as the ultimate and beneficial owner of KONK, without disclosing any interest of Plaintiff 1 in the said shares.

Instead Mr. Artem Egiazaryan in paragraph 62 of the Egiazaryan Affidavit, states the following:

".....whilst Plaintiff 1 was compelled to sign the Framework Agreement, he made every effort to defend his interests in the Project. ***We started proceedings in Cyprus with Action 1119/09 in the District Court of Nicosia to prevent Kerimov and the city gaining control of Konk, by installing their own directors. Plaintiff 4 obtained an injunction in Cyprus preventing Demetriades' removal as director of Konk....." (emphasis added)***

The above statement of Mr. Artem Egiazaryan was the only reference or disclosure made by Plaintiffs regarding the Cyprus action number 1119/09, District Court of Nicosia and it appears to be misleading and incomplete.

(iii) To present, disclose, and draw the attention of the Honourable Court, at the *ex parte* hearing, of the contents of the Affidavit in Case of 1119/09, which was filed in support of the application for *ex parte* injunction and more particularly they failed to disclose that:

(a) In the said affidavit there is no single allegation of existence of coercion, duress, blackmail etc., exercised by Kerimov or the City of Moscow or Defendant 13 or Defendants 7-9.

(b) In the said affidavit, there is no single reference that the ultimate beneficial owner of KONK was Plaintiff 1, but instead there are express and clear statements that it was Plaintiff 4.

(c) In the said affidavit, there is no single reference to or statement of the existence of the alleged facts or events stated in the Egiazaryan Affidavit about the alleged coercion, duress and illegalities, allegedly committed by Defendants 7-9, the City of Moscow, the Mayor of Moscow Mr. Luzhkov, Defendant 13, Mr. Kerimov and other persons referred to in the Egiazaryan Affidavit.

B. **REGARDING THE FAILURE TO PRESENT TO THE COURT THE CONTENT OF THE COURT CASES IN RUSSIA.**

The Plaintiffs failed to disclose the facts and documents contained or referred to in paragraphs 20-21 of my affidavit. The filings to a Russian court and tribunal, which were made more than a year prior to the present case, prove that should the events described in the Egiazaryan Affidavit be true, the Plaintiffs would have had an opportunity to protect their interests in court (which they failed to do).

C. **REGARDING THE HISTORICAL BACKGROUND OF THE PROJECT.**

The Plaintiffs failed to disclose the facts and documents contained or referred to in paragraphs 22-28 of my affidavit which prove that the story put forward by the Plaintiffs in the Egiazaryan Affidavits is misleading and incorrect and amounts to a misrepresentation of the true facts of the case relating to the Project.

D. **REGARDING THE BUSINESS RELATIONS BETWEEN A. ROTENBERG AND K. GOLOSHCHAPOV, AND THE EFFORTS OF A. ROTENBERG, K. GOLOSHCHAPOV AND THEIR REPRESENTATIVES TO FACILITATE IMPLEMENTATION OF THE PROJECT.**

I refer the Honourable Court to paragraphs 29-38 of my affidavit.

E. **REGARDING THE EFFORTS OF A. ROTENBERG, K. GOLOSHCHAPOV AND THEIR REPRESENTATIVES TO RESOLVE THE SITUATION WITH THE FALMIRO LOAN.**

I refer the Honourable Court to paragraphs 39-45 of my affidavit.

F. **THE FACT THAT THE PLAINTIFF 1, DEFENDANTS 7 AND DEFENDANT 9 HAVE TRIED REPEATEDLY TO EXIT FROM THE PROJECT, AND THAT TRANSACTIONS OF 29/06/2009 WERE EXECUTED BY THE PLAINTIFFS VOLUNTARILY AND WITHOUT ANY DURESS.**

I refer the Honourable Court to paragraphs 46-49 of my affidavit.

G. **REGARDING THE TIMING THAT THE PLAINTIFFS WERE RELEASED FROM THE ALLEGED DURESS OR COERCION OR BLACKMAIL AND THEY WERE FREE AND READY TO COMMENCE PROCEEDINGS TO RAISE SUCH ISSUES BEFORE THE COMPETENT COURTS TO QUESTION THE TRANSACTIONS EXECUTED UNDER SUCH ALLEGED CIRCUMSTANCES.**

From the facts of the present case, as well as the documents presented before the Honourable Court, it appears:

(a) That the Plaintiffs did not disclose that at least from February 2009 they were ready, able and capable of commencing such legal proceedings to question such transactions because the Plaintiff 4 (personally and/or on behalf of Plaintiff 1) filed the action number 1119/09 District Court of Nicosia in which they did not raise such issues at all.

(b) That the Plaintiffss have not justified or explained in any way or at all, their inactivity or passivity since the commission of the alleged tortuous actions of the Defendants which allegedly had taken place either in the year 2007 or 2008 or 2009 or at all.

(c) In addition the Plaintiffs failed to disclose to the Court the obtaining of legal advice by Plaintiffs before the filing of the Cyprus action 1119/09 on the 23/2/2009 from Cypriot lawyers, HAVIARAS & PHILIPPOU LLC, the law firm LOVELLS CIS and from BVI lawyers. The timing of the receipt of such legal advice and the existence of same were material facts to be disclosed, because it would have shown or proved to the Court the timing of the release of the Plaintiffs from the alleged duress coercion etc., or the validity of the Plaintiffs' allegations that they were victims of duress or coercion etc.

H. AFFIRMATION BY PLAINTIFFS OF KONK SHAREHOLDERS AGREEMENT.

The Plaintiffs have affirmed the KONK Shareholders Agreement but they failed to draw the attention of such affirmation to the Court's attention. I refer the Honourable Court to *inter alia* paragraphs 55 and 57 of the

Egiazaryan Affidavit which contain references to the said agreement clearly showing that the Plaintiffs regarded in 2009 themselves as bound by that transaction and had affirmed same.

I. **LEGAL ADVICE RECEIVED BY PLAINTIFFS IN FEBRUARY 2009 REGARDING KONK SHAREHOLDERS AGREEMENT.**

That the Plaintiffs or the Plaintiff 4 obtained legal advice in connection with the KONK Shareholders Agreement from his Cypriot lawyers HAVIARAS & PHILIPPOU LLC, his Russian lawyers LOVELLS CIS and his BVI Lawyers CONYERS DILL & PEARMAN (see EXHIBITS "AS 20" and "AS 21" attached to my Affidavit).

J. **THE FACT THAT PLAINTIFF 4 WAS DECLARED TO THE SERVICE PROVIDER OF KONK AS THE RECORDED BENEFICIAL OWNER OF SHARES IN KONK.**

I attached hereto as EXHIBIT "AS 22" copy of a Letter of Engagement signed by Plaintiff 4 in his capacity as the recorded or declared beneficiary of the Shares in KONK (the said document was attached as EXHIBIT in the Affidavit of Case 1119/09).

Such a document or fact was material to the Court but it was not disclosed by the Plaintiffs.

K. **NO ALLEGATION OF COERCION AND DURESS BY PLAINTIFFS BEFORE THIS ACTION.**

From the Egiazaryan Affidavit it appears that the Plaintiffs' case is that the alleged "raid" on the Plaintiffs' rights in the Project began at least as early as the execution of the KONK Shareholders Agreement in November 2008, they discovered the alleged conspiracy of Defendants and the participation of Defendant 4 in the alleged "raid" in January 2009, and it was completed by the transactions of 29/06/2009.

It appears from the above, that the Plaintiffs had every opportunity to raise the allegations of duress, and coercion against the Defendants, but they have not done so.

As explained herein above, the Plaintiffs commenced in February 2009 legal proceedings in Cyprus relating to the KONK Shareholders Agreement – (and some days after the alleged discovery of the involvement of Defendant 4 in the "alleged raid" of Plaintiffs rights in the Project, as well as the discovery of the alleged conspiracy of Defendants (in January 2009) (see paragraphs 57-60 of Egiazaryan Affidavit)) but they failed to allege or complain in the aforesaid Cyprus action of February 2009 for any coercion or duress or conspiracy with the participation and involvement of the Defendants or any of the Defendants including the Respondents.

The Plaintiffs failure to make such allegations when they had an opportunity to do so – (given also the fact that the Plaintiffs, before the filing of the Cyprus Action 1119/09 District Court of Nicosia, received legal advice from their Cypriot, Russian and BVI lawyers) – is highly material since it brings into question the plausibility of the allegations now being asserted.

As it appears from the facts and documents presented before the Honourable Court, the Plaintiffs have had every opportunity to allege duress before the filing of this action but never done so, and to the contrary, have acted in a manner wholly inconsistent with that of a victim of duress.

L. THE PLAINTIFFS HAVE NOT PROVIDED ANY VALUATION OF THE PROJECT (USD $ 2 BILLION) OR THEIR ALLEGED LOSSES.

In paragraph 9 of the Egiazaryan Affidavit the Plaintiffs allege that Plaintiff 1 has been "deprived" of "his property worth well in excess of USD 2 Billion".

The asset to which the Plaintiff's claim relates was the minority interest which Plaintiff 1 had in the Project, and the related debts due to the Plaintiffs.

The Egiazaryan Affidavit fails to identify any realistic basis upon which the Plaintiffs arrive at the USD 2 billion figure.

In fact the Egiazaryan Affidavit merely refers to a letter (see EXHIBIT 31 attached to the Egiazaryan Affidavit) written by Defendant 8 and addressed to the Office of the President of the Russian Federation.

The figure in this letter relates to the entire Project and not to the Plaintiff's minority stake. In addition, no support is provided for that valuation and there was no answer to the said letter.

Despite the fact **that** the Plaintiff 1 was closely involved in the Project, **that** he knew how the commercial real estate market in Moscow had collapsed during the financial crisis, **that** he knew how much financing was needed for the Project to be completed, **that** he knew about the actual indebtedness of the Project, and the existing difficulties to secure the financing of the said Project, **the Plaintiffs failed** to address all the above, as well as their negative effect on the value of the Project.

M. **FAILURE TO DISCLOSE THE PLAINTIFFS ASSETS AND THEIR FINANCIAL INABILITY TO MEET THE LOSSES TO BE CAUSED BY THE *EX PARTE* INJUNCTION.**

Although the Plaintiffs applied to block (and they have actually blocked) assets of Defendants of more than USD 6 Billions, they merely alleged in paragraph 92 of the Egiazaryan Affidavit that ".....the issue of the injunctions sought will not cause any damage or inconvenience to the defendants ....." (I address this allegation herein below in the context of the "Balance of Inconvenience").

At the same time the Plaintiffs failed to provide to the Court at the *ex parte* hearing any information about their assets or their ability to cover any losses caused to the Respondents / Defendants due to the Orders, although this is obviously something that the Court should bear in mind when issuing an injunction.

Respondents would like to note that according to the Data on income, property and material obligations of persons from the State Duma of the Federal Assembly of the Russian Federation (which is available at the official website of the Russian State Duma,

http://www.duma.gov.ru/index.jsp?t=gossl/dep1.html), Plaintiff declared approx. USD 66.000 as his annual income for the year 2009 and certain real estate and vehicles as other property. (I attach hereto as EXHIBIT "AS 23" a copy of the extract from the information which was downloaded from the relevant website and as EXHIBIT "AS 23A" the English translation of same made by Mrs. Anna Anisimova.)

In these circumstances, the ability of the Plaintiffs to cover significant losses caused to the Respondents / Defendants casts serious doubt, and it cannot be reasonable expected that such losses would ever be met.

As far as I know and as it appears from the facts and documents presented before the Honourable Court, the Plaintiffs in breach of the duty to make full and frank disclosure failed to disclose this important and necessary information to the Court when requesting such a harsh injunction against the Defendants, and this material non-disclosure justifies the cancellation of the Orders.

(VIII) LACK OF URGENCY / LACHES OF APPLICANTS

61. As far as I know, as I am advised by Mr. S. Pittas and as it appears from the documents and facts presented before the Honourable Court, the Orders shall be cancelled and the Application shall be dismissed because:

(a) There was no urgency for the issue of the Orders *ex parte* and without the presence of the Defendants / Respondents.

(b) The Application of the Plaintiffs was not of an urgent nature because the Plaintiffs were guilty of delay and laches since the happening of the alleged tortuous acts committed allegedly against them by the Defendants.

(c) The Plaintiffs since at least February 2009 were capable and free from any alleged duress, blackmail etc., to take actions or steps to set aside the transactions allegedly signed or executed under duress, blackmail etc., but instead of doing so they filed the action in Cyprus, 1119/09, District Court of Nicosia, to question to validity and enforceability of the KONK Shareholders Agreement – (solely relying on a technical ground) – failing to raise or state anything about the alleged duress, blackmail and coercion on which they based their present action.

(d) The Plaintiffs failed to explain in any way the delay of applying to the Court, since at least February 2009, to set aside the alleged transactions and they furthermore failed to disclose to the Honourable Court all the material facts and documents relating to the existence of the element of urgency of their Application.

(e) The Applicants were precluded from their conduct, or their behavior, to move or an *ex parte* basis to obtain interim relief for claims relating to alleged wrongs, committed allegedly against them, long time before the filing of the present action, and/or are precluded, or they are estopped by the content of the Action 1119/09, District Court of Nicosia, and the statements made or the remedies requested by the said Action.

(IX) THE BALANCE OF CONVENIENCE IS CLEARLY IN FAVOUR OF THE DEFENDANTS / RESPONDENTS

Negative Consequences and Damages to the Project

62. As far as I know and as it appears from the Egiazaryan Affidavit, the Plaintiffs failed to explain and disclose to the Court the current status of the Project.

63. Apart from the Project being under construction, it remains heavily indebted, further financing will be needed, and the majority of the very substantial accommodation (180.000 square meters over 17 floors) has yet to be let.

64. Nothing from the above matters is disclosed in the Egiazaryan Affidavit.

65. In the Egiazaryan Affidavit the Plaintiffs estimate that the total financing needed for the completion of the Project is approx. USD 800 million.

    Such financing falls upon all the Defendants including the Respondents. However, the Orders are such, that the Project will be stopped because it is now not possible for the Defendants to secure and arrange further financing for the Project.

    If the construction and completion of the Project continues to be delayed due to the Orders, the costs of the Project will increase further and drastically.

66. As explained by the Respondents application for an increase of the amount of the countersecurity deposited by the Plaintiffs, in addition to the problem of financing of the Project caused by the Orders, the Orders have caused also the following prejudice or obstacles to the Defendants:

66.1 The Defendants are prevented from providing the accommodation to prospective clients / tenants. Such potential loss of income is likely to be substantial but it is extremely difficult to quantify or assess.

66.2 The tenants who have agreed to take accommodation are likely to have substantial claims because their possession of the property will be delayed.

66.3 Four Seasons (and other contracting parties) are also likely to have substantial claims for damages due to their inability to take possession and operate the Hotel.

66.4 Servicing the existing financing of the Hotel will be more costly because it will be extended due to the delay caused by the injunction.

66.5 The contractors and sub-contractors who have been engaged for the construction of the Hotel are likely to have substantial claims for damages for violation of the construction contracts and subcontracts due to the delay and lack of financing to be caused by the Orders.

67. As far as I know and as it appears from the Egiazaryan Affidavit, the Plaintiffs failed to disclose and explain to the Court the negative consequences which the Orders would have had on the Project.

Negative Consequences and prejudice caused to the Defendants/ Respondents

68. However, the effects and negative consequences of the Orders are even more severe and harsh because except from the problems caused to the Project, the Orders have blocked assets of the Defendants that do not have

any relationship with the Project whose value exceeds the amount of USD$ 6 Billion.

69. The Orders effectively blocked the disposal and charging of those assets thus causing tremendous prejudice to the Defendants, including the Respondents (whose affected assets that do not have relationship with the Project have a value of approx. USD$ 800.000.000). As a result of the Orders, the Respondents are restricted in pursuing various commercial opportunities and cannot use those assets in very substantial transactions (e.g. sell them, pledge them to obtain financing, establish new joint ventures, etc.).

70. It is therefore wrong and misleading for the Plaintiffs to state in the Egiazaryan Affidavit that the Defendants will suffer no loss or inconvenience due to the issue of the Orders.

71. In addition to (wrongly) asserting that the Defendants will suffer no loss or inconvenience, the Plaintiffs also allege in paragraph 92 of Egiazaryan Affidavit that they will "suffer irreparable damage including the loss of any chance to recover on their claims", if the Orders are not granted. This position of the Plaintiffs is baseless because:

71.1 Firstly, if the Plaintiffs are successful in their claims, they can be adequately compensated in damages since, unlike the damages now being suffered by the Defendants in relation to the Project, as well as to their assets blocked, the Plaintiffs former interest in the Project can be valued more easily. Indeed the Plaintiffs have asserted a claim for damages against Defendants and they have ascribed a value to the Project, which as I am informed is an unrealistic one.

71.2 Secondly, the Defendants in this case are easily capable of meeting any judgment or award, which might be rendered against them by any competent Court. Indeed, the Defendants include Defendant 4, who has been identified and described in the Egiazaryan Affidavit as a person controlling shareholdings worth approx. USD$ 6 Billions. The Defendants include also Mr. Rotenberg (Defendant 7) who is the co-owner of JSC SMP BANK, as well as the Government of the city of Moscow.

71.3 It is respectfully submitted that there is no reason to doubt or question the ability of any of these Defendants to meet any such judgment such that the Plaintiffs will suffer no serious irreparable harm.

72. Accordingly and in the light of all the above, I respectfully submit:

72.1 That the issue and continuation of the Orders have caused and are causing tremendous losses and prejudice to the Defendants, including the Respondents.

72.2 In contrast, the cancellation of the Orders will not cause any irreparable damage to the Plaintiffs.

72.3 That the balance of convenience is in favour of the discharge of the Orders and the dismissal of the Application.

73. Under the circumstances, I pray for the cancellation and discharge of the Orders, and the dismissal of the Application with costs.

THE AFFIANT

ALEXANDER SIDOROV

Swon and signed before me

On the 16th November 2010

In the District Court of Nicosia

REGISTRAR