

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
COMMERCIAL COURT
(KBD)**

Claim no. CL-2023-000262

B E T W E E N :

BETWEEN:

YERMEK ALIMOV

Claimant

-and-

(1) ABDUMALIK MIRAKHMEDOV

(2) RASHIT MAKHAT

(3) ANDREY KIM

(4) GENESIS DIGITAL ASSETS LIMITED

Defendants

WITNESS STATEMENT OF ANDREY KIM

I, **ANDREY KIM**, of [REDACTED]
[REDACTED] **WILL SAY AS FOLLOWS:**

1. I am the Third Defendant in these proceedings. I make this witness statement in support of my application that:
 - (a) the Order of Mrs Justice Dias dated 19 October 2023 (but sealed on 24 October 2023) ('**Dias J Order**') be set aside [**RGMM3, p.3-6**] (the '**Set Aside Application**'); and
 - (b) the claim be struck out under the court's case management powers or stayed pursuant to CPR r.11(1) (the '**Jurisdiction Challenge**') on the basis that:
 - (i) subject to the outcome of the Set Aside Application which I make together with the First Defendant in these proceedings, the Claimant has not validly served me with the

Claim Form and the date for service of the Claim Form under CPR r.7.5(1) and CPR r.7.5(2) has passed;

- (ii) I do not reside in England and Wales; and
- (iii) the Courts of Kazakhstan, rather than the Courts of England and Wales, are otherwise clearly and distinctly the more appropriate forum to determine the Claimant's claim as set out in the Claim Form and Particulars of Claim (the '**Claim**') against both the First Defendant and me.

(together, the '**Applications**').

2. My solicitors instructed in this matter, Withers LLP ('**Withers**'), have provided a separate witness statement in support of the Applications, namely the Third Witness Statement of Roberto Moruzzi dated 8 March 2024, which I understand covers the main procedural and substantive issues in detail. Therefore, my witness statement is intended to refer to some key factual areas which I consider to be important for me to comment upon.
3. I have also read and confirm that I agree with the content of the First and Third Witness Statements of Roberto Moruzzi and the First and Second Witness Statements of Abdumalik Mirakhmedov.
4. Unless otherwise stated, I have personal knowledge of the facts and matters set out in this statement and they are true. Where the facts and matters are not within my personal knowledge, they are true to the best of my information and belief. I have produced this witness statement with the help of Withers who have assisted in the drafting under my instructions by telephone, video call and email. For the avoidance of any doubt, although my first language is Russian, I speak fluent English and am comfortable making this statement in English.
5. I shall refer in this statement to Exhibit marked 'AK1', which is a paginated bundle of correspondence and other documents relevant to the Applications. To avoid duplication of documents in Exhibit AK1, in the course of this witness statement I refer to page numbers of Exhibits of the following witness statements: the First and Third Witness Statements of Roberto Moruzzi and the First and Second Witness Statements of Abdumalik Mirakhmedov. I specify the Exhibit to which I refer.
6. Nothing in this statement is intended to waive privilege or submit to the jurisdiction of the Courts of England and Wales in relation to any matters arising in relation to the Claim and the allegations made therein. If I do not comment on any particular matter raised in the Particulars of Claim, it does not mean that I accept what the Claimant is saying about that matter.
7. For the avoidance of doubt, I strongly reject the Claim set out against me and the First, Second and Fourth Defendants in the Claim Form and the Particulars of Claim. I have read the Claim Form and the Particulars of Claim. The allegations on which Mr Alimov's claim is based are false and Mr Alimov does not have any of the rights claimed against me or my business partners, or any interests or entitlement in the Fourth Defendant, Genesis Digital Assets Limited, ('**GDA**').

8. I understand that I should not address the merits (or lack thereof) of the Claim in detail in this witness statement. There are some key allegations within the Claim which I am personally able to comment on and which are relevant for the Court to know for the purposes of the Applications. Whilst the solicitor statements from Withers, namely the First and Third Witness Statements of Roberto Moruzzi, contain the key analysis of the relevant facts and matters, the points in this witness statement are intended to provide clarity where I have specific personal knowledge of the issue in question.
9. As far as the relief sought by the Applications is concerned, I have no connection to this jurisdiction whatsoever. I was therefore surprised to learn that Mr Alimov is trying to bring the claim against me in England. As I understand it, Mr Alimov is attempting to bring me into this jurisdiction by using the First Defendant (who also has little or no connection to England and Wales, as he resides in Dubai and works with me there) as an 'anchor defendant.' I find this even more surprising given, as is evident from the Claim itself, the vast majority of the meetings, assets, witnesses and documents detailed in the Particulars of Claim are Kazakhstani in nature and have nothing to do with England. For this reason, I believe that this case is clearly more suited to be dealt with by the Court in Kazakhstan. I will expand upon this point below.

I have no connection to England and Wales

10. I do not and have never resided in England. Nor have I ever carried on business in England. I am from Kazakhstan. I live with my family in Dubai. I have been a resident of Dubai since 6 November 2012. Until around 2020, I spent most of my time in Kazakhstan, given my family and my business activities were based there. For completeness, I would add that I have been tax-domiciled in Dubai since 16 February 2016.
11. From September 2019 until July 2021, I was enrolled in the Executive MBA Programme at London Business School ('LBS'), Dubai branch. Mr Makhat, the Second Defendant, also completed the same MBA programme. Save for the first introductory week which was in London and in person from 7-14 September 2019, this course was held in Dubai in person and after the outbreak of the Covid 19 pandemic, from April 2020, it was held remotely whilst I was in Dubai.
12. Since 2020 (and the outbreak of the pandemic), I moved permanently to Dubai with my family and, predominantly, I carry on business from Dubai. As Mr Mirakhmedov explains at paragraph 13 of his first witness statement, we and Mr Makhat have shared an office in Dubai since 2018. When I refer to 'we' or 'us' or 'our' in this statement, I am referring to me, Mr Mirakhmedov and Mr Makhat, unless otherwise specified.
13. I manage our office in Kazakhstan which requires me to visit Kazakhstan on a fairly regular basis. For example, since moving to Dubai in 2020, I visited Kazakhstan 5 times on business and spent around 35 days there in total. In 2021, I went to Kazakhstan 7 times for a total of around 32 days, although 2 of those visits were personal (I was accompanying my family whilst travelling). In 2022, I went to Kazakhstan once for 2 days.
14. I travel infrequently to the UK as a tourist and for leisure purposes only. For example, I spent approximately 3 days in the UK in 2017, 10 days in 2018 and, in addition to the LBS introduction

week, about 3 days in 2019 and 4 days in 2022. All my visits were tourist and leisure-based visits. I have not been to the UK since September 2022.

15. Withers explained this to the Claimant's solicitors, Sterling Lawyers Limited ('**Sterling Law**') on 23 September 2022 in response to the letter before claim ('**LBC**') [RGMM1, p.30-47] sent on behalf of the First Defendant and me ('**Response to LBC**') [RGMM1, p.147-159]. I mention it again here as I understand that this is important context for the arguments on jurisdiction. It would be a huge inconvenience (not to mention expense) if I were forced to defend this Claim in England, given my lack of connection to the jurisdiction.
16. Given my lack of connection to England, I was surprised to receive a WhatsApp message in the evening on 24 October 2024 from the number +44 73050811866 (identified by the name 'Lily') containing copies of the Claim Form and the Particulars of Claim. I was even more surprised that (i) Mr Alimov had changed the case he had argued in the LBC, which was based on a trust / conspiracy claim said to have been hatched in London between me, Mr Mirakhmedov and Mr Makhat, to now advance a claim based on an oral agreement said to have been made in London on 10 June 2017 between him and Mr Mirakhmedov only (the existence and terms of which are disputed); and (ii) even though all the events, assets, documents, discussions described in the Particulars of Claim relate to Kazakhstan and even the applicable law is said to be that of Kazakhstan, Mr Alimov continues to argue that the Claim should be heard in England and Wales.
17. As I understand the arguments, the link which makes it appropriate to bring this claim in England is Mr Mirakhmedov's alleged residency. I do not understand Mr Mirakhmedov to be a resident in England as he and his family live in Dubai, which is where I also live. I see them regularly and share an office with Mr Mirakhmedov so I know this to be the case. While Mr Mirakhmedov deals with this particular issue in his first and second witness statements, I would just comment from my personal perspective, given that this is the link which apparently ties me to this Claim, that I cannot see any evidence in the materials provided by Mr Alimov which shows that Mr Mirakhmedov does actually reside in England, which is not surprising given that I know he does not.

My relationship with Mr Alimov

18. I first recall meeting Mr Alimov in 2014 at a social event. There were about 20 of us from Kazakhstan, including Mr Makhat, who met up in the desert in Dubai for Quadro moto bike safari. I cannot recall specifically when or how I 're-connected' with Mr Alimov in a professional context in 2017 but, as is the case with many industries, those working in a specific sector in a specific place tend to know each other or know of each other. Given we were one of the first, if not the first, bitcoin mining venture in Astana, I think it is possible that Mr Alimov had heard of me or that I had heard of him because of his involvement in the energy sector in Kazakhstan. The other times I can confirm that I met with Mr Alimov are as described at paragraphs 45(a), 45(c), 45(f) and 46 of the First Witness Statement of Roberto Moruzzi.
19. I cannot comment on any of the alleged discussions which took place on the evening of 10 June 2017 given that I was not there.

20. I would mention that whenever any of myself, Mr Mirakhmedov or Mr Makhat has a business meeting in relation to a joint enterprise, each of us is usually, if not always, made aware of the meeting in advance of it happening, and we would usually, if not always, debrief and follow up with each other after the meeting has taken place and exchange relevant correspondence or documents relating to that meeting.
21. None of Mr Mirakhmedov, Mr Makhat or I have the authority or agency to contract on behalf of the other(s), and would not seek to do so. I want to make clear here that although at paragraph 2 of the Particulars of Claim Mr Alimov seeks to 'pool' Mr Mirakhmedov, Mr Makhat and me collectively by using the acronym 'MMK' on the alleged basis that such authority existed (for which he provides no evidence), the reality is that no such authority or arrangement existed and he has no grounds to suggest that we should be treated as being indistinguishable from one another.
22. Returning to the so-called Ingram Avenue Meeting, it is simply wrong for Mr Alimov to say that *'Mr Mirakhmedov was acting on behalf of Mr Makhat and Mr Kim as well as for himself'* (see paragraph 86 of the First Witness Statement of Mihail Iatuha dated 13 October 2023). If Mr Mirakhmedov had intended to even discuss giving away a portion of our business at that dinner, when neither Mr Makhat nor I were present, he would unquestionably have told me.
23. The suggestion that Mr Mirakhmedov discussed and negotiated the transfer to Mr Alimov of 35% of our interests in the bitcoin operation, without even mentioning this to Mr Makhat or me, is completely absurd.
24. I would never have authorised Mr Mirakhmedov to give away my business interests in our bitcoin operation at all, and certainly not over a dinner celebrating Iftar. This is absurd and, in fact, I would never have authorised for Mr Mirakhmedov (or anyone else for that matter) to negotiate or agree detailed business terms on my behalf without having first discussed with me in minute detail all the terms of the proposed agreement. I carry out business, in a careful and methodical manner. Neither I, nor Mr Makhat and Mr Mirakhmedov would agree to hand over our personal shares in our business in the casual and cavalier manner that the Particulars of Claim seem to contemplate. In relation to this, I also agree with what Mr Moruzzi says at paragraphs 60-61 of his first witness statement.
25. As Mr Mirakhmedov explains at paragraphs 36-37 of his first witness statement, Mr Alimov was keen to show us certain assets in Kazakhstan, including the 'Stal Substation' and the 'ABK Buildings', which he claimed he owned via a corporate entity, KKS Karagandy LLP ('**KKS Karagandy**'), and which Mr Alimov said could be useful for us in relation to our bitcoin mining operations in Kazakhstan.
26. I personally had more business dealings with Mr Alimov than either Mr Mirakhmedov or Mr Makhat as I was (and continue to be) in charge of the day-to-day operations of the various bitcoin mining projects in Kazakhstan and elsewhere around the world, notably the USA. I explain this below.

The Stal Agreement and the ABK Agreement

27. I am aware that Mr Alimov is suggesting that his involvement in the acquisition of the Stal electrical substation 110/10 (the '**Stal Substation**') and the group of buildings located near the

Stal Substation (the '**ABK Buildings**'), which are both located in Karaganda, Kazakhstan, is evidence in support of his Claim. I do not see how that can be the case. I agree with what Mr Moruzzi says at paragraphs 64-74 of his first witness statement and will only add a few further relevant points below.

28. First, I would add that it was Mr Alimov who offered the Stal Substation and the ABK Buildings to us in the first place and was very keen that we bought them. I did not know that he had any connection to KKS Karagandy until he told us during his initial discussion about these properties. The negotiations relating to the purchase by Prima Investment Company LLP ('**Prima**') from KKS Karagandy of the Stal Substation and the ABK Buildings were mostly conducted through the legal teams of Prima and KKS Karagandy, although I was responsible for supervising Prima's legal team. I therefore have knowledge of how these events unfolded.
29. I see that Mr Alimov alleges at paragraph 27(b)(ii) of the Particulars of Claim that, as part of the alleged 'London Agreement', Mr Alimov agreed to procure that KKS Karagandy cancel the sale of the Stal Substation and certain of the ABK Buildings which he says had been agreed in principle on 12 March 2017 with the Chinese entity Hua Tun (Central Asia) Cable LLP ('**Hua Tun**'). This is not correct.
30. I had no knowledge of Hua Tun's involvement in the ownership of these properties prior to the Claim and neither did Mr Mirakhmedov nor Mr Makhat. I was not a party to any discussions between KKS Karagandy and/or Mr Alimov and Hua Tun and had not seen the 31 July 2017 letter from KKS Karagandy to Hua Tun or the 12 March 2017 preliminary agreement until they were disclosed (in Russian) by the Claimant along with the Particulars of Claim. Whilst I cannot know the reasons why Mr Alimov directed that KKS Karagandy terminate the sale of the Stal Substation, from a review of the 31 July 2017 letter it is clear that that there were many historic, regulatory and safety concerns with the Stal Substation and the letter explains that it is for this reason that KKS Karagandy decided to cancel the 12 March 2017 preliminary intentions agreement with Hua Tun.
31. In the 31 July 2017 letter to Hua Tun, KKS Karagandy state that: '*Due to circumstances beyond our control occurring at Temirshi Substation it would be impossible to complete the deal in the nearest future.*' [**AK1, p.2-3**]. The Stal Substation was previously known as Temirshi substation after the name of its former owner, Temirshi LLP ('**Temirshi**') [**AK1, p.4-8**].
32. The 31 July 2017 letter continues:

'Since the beginning of 2017, Karaganda Energotsentr LLP sent seven notices to Temirshi LLP requiring compliance with the Plan of Measures for Installation of Equipment and Modernization of Stal Substation and the development of the project, as well as the construction of overhead line- 110 kV Santekhnikheskaya Substation – Stal Substation. However, the previous owners of the substation did not offer any substantial measures.

[]

As soon as we became the owners of Stal Substation on June 7, 20 17, we began working with Karaganda Energotsentr LLP to resolve the situation. We planned on taking measures

to rectify violations at our own expense within the agreed timeframe. We could not allow deterioration of the conditions of your purchase of Stal Substation, so that to ensure that the mentioned Instruction would not affect the future plant's operations and the cost of electricity.

[]

Upon receipt of the said notice and until today we have been trying to resolve the issue with Karaganda Energotsentr LLP. However, we did not get any clarity of the situation and at the moment we are not sure of a positive solution to the problem.

[]

It has been agreed that we may not allow financial and production risks for your company after the acquisition of the plant's property. Taking into account all of the above, we have decided to initiate the termination of existing contracts with a full refund of the amounts paid by you.

[]

We cannot continue utilizing your time and resources without having confidence in the future project's viability. Considering the above, we propose that we terminate the previously signed contracts by mutual agreement within 3 calendar days. This would let us avoid involving the courts in this matter.' [AK1, p.2-3]

33. I note that the letter states that KKS Karagandy became the owners of the Stal Substation on 7 June 2017 [AK1, p.2] but according to the relevant sale and purchase agreement, KKS Karagandy bought the Stal Substation from Temirshi on 8 February 2017 ('**Temirshi SPA**'). The preliminary agreement between KKS Karagandy and Hua Tun is dated 12 March 2017. Notwithstanding the discrepancy in the dates regarding when KKS Karagandy become the owner of the Stal Substation (i.e. 8 February 2017 or 7 June 2017), which may be related to the date of state registration (see clause 1.2 of the Temirshi SPA, [AK1, p.4]), the quick turnaround of ownership of the power station supports the position that Mr Alimov (through KKS Karagandy) was acting as a broker to assist in the buying and selling of the Stal Substation.
34. Further, from clause 2 of the SPA between KKS Karagandy (as seller) and Prima (as purchaser) dated 24 January 2018 relating to the ABK Buildings (the '**ABK SPA**') [AK1, p.20-22], it is evident that KKS Karagandy only became the legal owner of the ABK Buildings 12 days prior to the ABK SPA, on 12 January 2018. In other words, it shows KKS Karagandy 'flipping' the ABK Buildings asset too. The relevant clause refers to KKS Karagandy owning the ABK Buildings: '*... right of ownership on the basis of Sale and Purchase Contract of the administrative building of the production base with the right of temporary compensated land use (lease) for the land plot **dated January 12, 2018**... registered in the SA Department of Justice of Karaganda city dated January 16, 2018....*' (Emphasis added) [AK1, p.20].
35. Not only is this is consistent with what we have said all along about Mr Alimov's limited involvement in our project as a broker, but it also undermines what Mr Alimov says was agreed at the 'London

Agreement' some six months earlier. How could Mr Alimov have allegedly agreed with Mr Mirakhmedov to '*procure that KKS Karagandy make available [...] ABK Buildings*' when on 10 June 2017 KKS Karagandy did not own the ABK Buildings? This in spite of the fact that Mr Alimov states at paragraph 22 of the Particulars of Claim that he informed Mr Mirakhmedov, Mr Makhat and me at a meeting at the Raddison Hotel in Astana in about May 2017 that he owned both the Stal Substation and the ABK Buildings through KPC System Solutions Limited, a BVI company.

36. It is also clear from the 31 July 2017 letter as cited above that KKS Karagandy could not ensure that the Stal Substation was compliant with the various regulations, recommendations and instructions imposed by the Karaganda Energy Center LLP. The letter further states that '*despite the work started on July 20 of the same year, another letter was received from Karaganda Energotsentr LLP stating the forthcoming complete disconnection of Stal Substation from the power supply to eliminate the risks of disconnection of the equipment of CHPP-3 and limitation of heat and electricity supply to consumers of Karaganda due to the failure to implement the measures prescribed by the Ministry of Energy.*' **[AK1, p.2]** In other words, the relevant authorities were considering disconnecting the Stal Substation from its power supply which would have rendered the Stal Substation operationally useless and thus economically worthless. The letter is clear that as a result of these failings (which would require US\$2m to remedy), KKS Karagandy decided to cancel the proposed sale to Hua Tun. This cancellation had nothing to do with Mr Mirakhmedov or any prior agreement between him and Mr Alimov.
37. The poor condition of the Stal Substation and the nearby ABK Buildings as detailed in KKS Karagandy's letter dated 31 July 2017 accords with my recollection of it. I also believe this is shown by the contemporaneous photographs in Exhibit 1 and Exhibit 2 to the Response to the LBC **[RGMM1, p.49-59]** as well as by the photographs contained in the Appraisal Report No. 50/10/2016 dated 24 October 2016 in relation to the Stal Substation **[AK1, p.98]**.
38. As Withers explained in its Response to the LBC on 23 September 2022 at paragraphs 5.5 to 5.6 **[RGMM1, p.156]**, all the buildings required major renovation work before they could properly and safely be used.
39. Mr Mirakhmedov, Mr Makhat and I covered these costs, which were substantial and amounted to millions of US dollars.
40. It is apparent from a comparison of the photographs that were taken (i) before the renovation works and dated October 2016 and 23 August 2017 **[AK1, p.101-111]** and (ii) after we had completed the renovation works and dated from late 2018 until 2023 **[AK1, p.112-120]** that our investment was substantial and produced a significant improvement to the substation and buildings which Prima had bought from KKS Karagandy.
41. Mr Alimov alleges that the agreed purchase prices for the Stal Substation and ABK Buildings were at an undervalue (see paragraph 66 of the Witness Statement of Michael latuha dated 13 October 2023 and paragraph 65(a) of the Particulars of Claim **[RGMM1, p.25]**). This is simply incorrect, as I shall explain below, and a concerning feature of the Claim in so far as it is being used as the basis for Mr Alimov's consideration for his alleged (and denied) acquisition of shares in our business.

42. I also do not recall any mention at the time from Mr Alimov, or indeed anyone at KKS Karagandy, to the effect that the agreed prices for either asset represented an undervalue – or even, as would be more likely, that we were getting some sort of beneficial or preferential deal on the assets. The negotiations were conducted formally and the discussions were based on a fair market price. The first I heard of the allegation that the assets were sold at an undervalue was in the LBC **[RGMM1, p.44]**.
43. The corporate and legal team working on the SPA agreed with KKS Karagandy after months of negotiations that Prima would purchase:
- (a) the Stal Substation for KZT 53,454,044 (inclusive of VAT). The Claimant alleges this is c. US\$159,000, whereas I think it is more like c. US\$164,842.¹
 - (b) the ABK Buildings for KZT 285,750,000 (inclusive of VAT). However, given that KKS Karagandy was missing certain documents, it was agreed Prima would in fact pay KZT 178,000,000, which is c. US\$548,920 as has previously been explained at paragraph 69(b) of the First Witness Statement of Roberto Moruzzi).
44. I address below the allegations at paragraph 65(a) of the Particulars of Claim **[RGMM1, p.25]** where Mr Alimov alleges that, pursuant to the so-called 'London Agreement', he was to procure that KKS Karagandy:
- 'transfer Stal and the ABK Buildings to Prima Investment for use in the ABK Project, and at an undervalue - Stal (together with its equipment and the lease over the land) was transferred to Prima Investment for 53,454,044 Kazakh tenge (c. US\$159,000 at the time), which represented the depreciated book value of Stal and its equipment (not all of which Prima Investment actually paid), whereas their true value was c. US\$2.5 million, the figure agreed as their value by KKS Karagandy and Hua Tun on 21 November 2017, when they excluded those assets from the sale to Hua Tun and reduced the price by that sum;'*
45. This is disproved by a consideration of how KKS Karagandy had itself purchased the Stal Substation within the year before it was sold to Prima.
46. The Temirshi SPA between (as seller and the previous owner of the Stal Substation) and KKS Karagandy (as purchaser) dated 8 February 2017 contains an agreed sale price for the Stal Substation of KZT 46,481,000 **[AK1, p.4]**. This agreed price as set out in the Temirshi SPA is said to be based on Appraisal Report No. 50/10/2016 dated 24 October 2016 (see Clause 2.1) **[AK1, p.66]**.
47. The difference in price between what KKS Karagandy paid for the Stal Substation in February 2017 and what Prima paid for it in January 2018 is KZT 6,973,044 (at the time c. US\$ 21,503.61²)

¹ See here: <https://www.x-rates.com/historical/?from=KZT&amount=53454044&date=2018-01-22>

² See here: <https://www.x-rates.com/historical/?from=KZT&amount=6,973,044%E2%80%AC&date=2018-01-22>

48. I consider that this shows Mr Alimov's complaint in this regard to be entirely unfounded. To suggest that Prima purchased the Stal Substation for an '*undervalue*' is simply wrong. In February 2017, less than a year before Prima acquired the property, KKS Karagandy itself was happy to purchase the very same station for c. US\$21,500 less than the total paid by Prima in January 2018. This evidence seriously undermines the veracity and credibility of this allegation.
49. The Stal Substation was never worth the value which Mr Alimov purports to attribute to it. Prima purchased the property at a commercial value and, as can be seen from these figures, the value of the asset increased by approximately 15% from 2017 to 2018, which was almost double what publicly available sources report as being the rate of inflation in Kazakhstan at that time.³ Based on this, I do not understand how Mr Alimov can claim that this asset was sold at an undervalue.
50. Finally, I would add that in KKS Karagandy's 31 July 2017 letter, it states that in order to get the Stal Substation operational it would require approximately US\$2 million of investment:

'on July 20 of the same year [ie 2017] another letter was received from Karaganda Energocenter LLP stating about the forthcoming complete disconnection of the substation "Steel" from the power supply to eliminate the risks of disconnection of the equipment of CHP-3 and limitation of heat and electricity consumers of Karaganda due to the fact that the measures prescribed by the Ministry of Energy were not implemented. The letter also says that according to the "External power supply scheme of the city of Karaganda", developed by Kaztechnology LLP and approved by the State Department of the Construction Department of the city of Karaganda, it is planned to transfer the power supply of the PS "Steel" from the Karaganda CHP-3 to the PS "Sanitary" with the construction of a single-chain 110 kV overhead line of the PS "Sanitary" – PS "Steel." This will lead to an increase in the cost of the project by approximately 2 million US dollars (1 million for new power lines and 1 million for the modernization of the Steel substation) and, secondly, to an increase in the additional transit tariff through the Sanitary substation (Karaganda Zharyk LLP) by at least 3 tenge per 1 kWh' (Emphasis added). [AK1, p.2-3].

51. From a commercial point of view, the significant investment required would normally lead to a lower purchase price, as any potential purchaser would have needed to invest substantial sums (c. US\$2 million) in order to make the station operational. Not only did Prima pay more for the Stal Substation than it had been sold for within the previous year, but Mr Mirakhmedov, Mr Makhat and I had to fund substantial renovation works which totalled several million US dollars.
52. As Withers pointed out in the Response to the LBC at paragraph 5.6 [RGMM1, p.156], Mr Alimov has produced no evidence that he allegedly paid US\$2 million himself for the required renovation works, and it is telling that his Initial Disclosure contains nothing which substantiates this assertion. We paid for those works.
53. I would also like to point out that Mr Mirakhmedov, Mr Makhat and I acquired an industrial property in the same area in April 2018 which was a much larger site than the ABK Buildings. We paid KZT

³ See here: <https://www.worlddata.info/asia/kazakhstan/inflation-rates.php>

15,000 per m² for the site, which was much lower than the 30,000 per m² which we paid for the ABK Buildings. Again, there can be no suggestion that the ABK Buildings were acquired at an undervalue.

54. These properties are all situated in Kazakhstan and while I believe that the materials provided with this witness statement, and previously in this case, are sufficient to determine the issue, this is the sort of matter which would be easier and more appropriate for a local Court to determine.

Relevant documents

55. Another reason why I believe this case should be dealt with by the Court in Kazakhstan is because the documentation involved in this case is mostly in Russian or Kazakhstani and, in fact, almost all of the conversations that took place between the key people involved in this matter took place in Russian. There is a certain cultural shorthand which is present in some of the conversations which I do think a Kazakhstan Judge would understand faster, although I appreciate from my legal team that the English Court is not unfamiliar with these types of cases.
56. A more fundamental concern that I have is over some serious errors in the translations of key documents and conversations which Mr Alimov has been presenting to the Court.
57. The WhatsApp messages between Mr Mirakhmedov and Mr Alimov are covered in the witness statements of Mr Mirakhmedov and Mr Moruzzi already so I will not repeat them, but as the Court will see there are some subtle but critical errors in the translations which make a big impact on the tone and content of the messages **[AM2, p.13-17]**. Mr Alimov then appears to rely on the wrong translation to make a wide-ranging but incorrect conclusion in support of this case.
58. The same thing appears to happen in relation to the telegram messages which I exchanged with Mr Alimov in February 2018 and which were included with the LBC at Exhibit 7 and referred to again in the Particulars of Claim (in particular at paragraph 50).
59. I have undertaken my own translation using a third-party translation service **[AK1, p.121-130]** and this shows that Mr Alimov's translations contain many inaccuracies, omissions and mis-statements. I cannot sensibly run through all of them here, but I think great care should be taken before placing reliance upon them. By way of illustration only, in a message chain at 19:47 (there are no clear dates on these messages after 4 February 2018), there are 7 points set out in that message which I will not repeat in detail but from which I make the following observations:
- (a) In point 1, Mr Alimov states '*100MW*' but it is clearly '*73MW*' in the message (see Mr Alimov's translation at **[RGMM1, p.110]** and see our translation at **[AK1, p.123]**);
 - (b) In point 4, Mr Alimov omits the word infrastructure such that the sentence should say: '*a separate building and infrastructure must be built for 75 MW.*' (see Mr Alimov's translation at **[RGMM1, p.111]** and see our translation at **[AK1, p.123]**; and

- (c) In point 7, Mr Alimov has included the word '*tranche*' [RGMM1, p.112] where it should say '*transformer*' in relation to the price of the second transformer. (See our translation: [AK1, p.123]).

60. As another example, Mr Alimov entirely missed out a message later on in the chain on page 9 at around 14:31 (see Mr Alimov's translation at [RGMM1, p.117]. As our translation shows, there is a message which states: '*If I'm right, then by 11.08 there should be another 59 according to the schedule. Right?*' [AK1, p.125]. That message is not included at all in his translation despite being clear in the message chain [RGMM1, p.117]. The message itself is not specifically relevant but I want to highlight its omission.

61. I also need to address the messages on pages 8-9 of Exhibit 7 to the LBC [RGMM1, p.112-113] which are referred to in paragraph 50 of the Particulars of Claim [RGMM1, p.20] and paragraph 67 of the Witness Statement of Michael Iatuha. These are stated to be from 19:47 on 16 February 2018 but I cannot confirm the date and cannot see the date within the screenshot of the message chain. In any event, I note the following:

- (a) the translation which Mr Alimov has provided states [RGMM1, p.112-113]:

Andrey Kim: '[19.47] Brother, this is all true and I have always been on your side, defending you, and you know it.

[19.49] It is just why you called him and told him that I have not been giving you any response for three weeks?)) In reality, I have been working on this question in parallel with other things. And then, brother, the status of none of us has been documented anywhere, you see it for yourself, we are not hiding from you anything, How come you can think that some of us wants to trick you?

[19.53] Brother, this is not HIS deal, this is our deal. I think that his offers were super, he is paying money for everything regardless of anything and we are shareholders in it, where you can find such a generous person?

[20.06] In total, we are still having only expenses, there is no profit. However, I have been transferring [bitcoins] to you and A as promised and I was able to convince the partners to do so. I do not see any reasons not to be content.'

- (b) the translation of these points which I have obtained states as follows [AK1, p.123-124]:

[19.47] 'Brother, this is all true and I have always defended you in these matters, you know.

[19.49] Just, brother, why did you call him and also told that I've been wasting the time for three weeks?)) I actually was dealing with this issue in parallel. Besides, brother, we are all undocumented anywhere, you can see yourself, we are not hiding anything from you, Do you really think that one of us is going to cheat someone?

[19.53] Brother, this is not HIS deal, this is our deal. I think that his proposals were great, he pays for everything in full no matter what, and we're becoming shareholders, is it possible to find anywhere people with such a broad SOUL nowadays?

[20.06] Yereke, I find only one explanation for your actions, that in your life experience people have often let you down, that's why you don't trust us. In general, we are still incurring expenses, we haven't taken a penny of profit, but I sent yours and A.'s as promised and convinced my partners of this. I see no reason to be unhappy here.'

62. I am aware that Mr Alimov is trying to use this message chain as evidence that I admitted that he was a shareholder in our business. That is totally false. This message has been referred to in isolation in the Particulars of Claim and the Witness Statement of Michael Iatuha in an attempt to support an argument which cannot be sustained when the whole message chain is considered.
63. As can be seen, these messages were not exchanged in the context of Mr Alimov seeking confirmation of his shareholding, or an explanation of why documentation had not been produced. Those are explanations created by Mr Alimov to try to concoct a claim.
64. In fact, as the whole message chain shows, Mr Alimov was chasing us for money which he had paid out personally and without approval or authorisation from any of Mr Mirakhmedov, Mr Makhat or myself. This message chain shows Mr Alimov seeking payment urgently and not in the context of any shareholding he was claiming.
65. Mr Alimov claimed US\$1.2million as a deposit for the Sogrinaskaya power station and was urgently chasing us for repayment of that money. This can be seen from a message at the top of page 6 of Exhibit 7 to the LBC and is at 19:35 on an unknown date (but presumably several days earlier)

Yermek Alimov: [19.35] I am not a bank to have been financing his deal since October last year. My intentions were quite reasonable, my aim was to contribute my best for the common purpose. In my opinion I do not deserve to be treated like that (Alimov translation) [RGMM1, p.110]

[19.35] I'm not a bank to lend under his deal since last October. My intentions were quite reasonable; I wanted to do a better job for the common goal. And I don't think I deserve to be treated like this (my translation) [AK1, p.122]

66. The message chain then goes on to deal with the issues which we found with the Sogrinaskaya power station which are detailed in points 4 and 5 of Mr Mirakhmedov's 7-point list of key issues at paragraph 59 above, with the remaining 5 issues relating to the issues with the Stal Substation. These were substantial issues which resulted in massive costs to our overall project. Mr Alimov paid the deposit for the site, without our knowledge, having insisted that we stayed away from the negotiations, claiming that the vendor would increase the price if he knew of our involvement. We established that Mr Alimov had in fact paid US\$1.2 million for the Sogrinaskaya power station and, after establishing this, and that we were not in some way being 'played' by him, we reimbursed him

for the full US\$1.2million in cash. However, it soon transpired that there were serious issues with the site which were immediately pointed out to us by our experts. As the messages show, I pushed to make sure Mr Alimov was reimbursed despite this, sometimes with opposition from my partners, which I made clear in the message where I told him I was defending him.

67. The message chain eventually gets to the message at 19:53 and it is very clear from the screenshot of the WhatsApp message that this is a direct reply to Mr Alimov's message about the money be paid and his statement that he is '*not a bank*'. This is a reference to his demand for repayment. Mr Alimov even referred to a '*deal*' in that message rather than an '*investment*' or '*shareholding*'. These messages have nothing to do with Mr Alimov seeking clarification on his shareholding or any documentation. I did say in a message that '*this is not HIS deal, this is our deal*' and that '*we're becoming shareholders*', but reference to '*HIS*' deal was to Mr Mirakhmedov whilst the reference to '*our*' deal was to myself, Mr Makhat and Mr Mirakhmedov – and not intended to extend to include Mr Alimov himself.
68. The final message at 20:06 shows that we were making a payment to him despite the fact that none of the shareholders were making any money. I stated that I managed to convince '*my partners*' as opposed to saying, for example, '*our partners*'. If Mr Alimov had been a shareholder (or was intended to become one) then he would have had to wait for profits to be generated like we (Mr Makhat, Mr Mirakhmedov and me) had to wait, but none of his messages refer to that, or even his claim to be entitled to any interest in the business.
69. This message has been taken entirely out of context by Mr Alimov to try to find some link for his Claim but when one looks at the message chain in full it shows that the discussions did not reference any alleged shareholding, or shareholding entitlement, as Mr Alimov claims.
70. I would also like to highlight the strange way in which these messages are presented by Mr Alimov in the LBC. Paragraph 26 of the LBC [RGMM1, p.35] refers to and copies the messages containing the reference to the deal and the shareholding and then paragraph 33 of the LBC [RGMM1, p.36-37] refers to and copies the messages showing Mr Alimov chasing his money and referring to him not being a bank. Paragraph 26 refers to a specific date for those messages of 16 February 2018 whereas paragraph 33 refers to a vague period of March 2018. In any event, it is clear from the message chain contained in Exhibit 7 of the LBC [RGMM1, p.104-119] that the messages contained in paragraph 33 of the LBC are earlier in time than the messages in paragraph 26 of the LBC. The fact that the LBC is very specific on the date of one set of messages and then wrong and vague on the date of the other messages, and the way in which they have been set out in the wrong date order within the body of the LBC, is another concerning feature of way this case has been presented by Mr Alimov.

Payments to Mr Alimov

71. Another aspect of Mr Alimov's claim which I both reject and find implausible relates to the way he tries to use bitcoin payments to him as evidence of an entitlement to our business. In fact, his calculations are wrong and the figures have been artificially manipulated by him to fit his false narrative.

72. What is said at paragraph 45 of the Particulars of Claim and in Schedule 1 to the Particulars of Claim is wrong. The figures contained in Schedule 1 do not represent contemporary reconciliations created by me (which allegedly correspond to entries showing the receipts of bitcoins sent to Mr Alimov). I cannot recall producing the document which is contained as Exhibit 2 to the LBC, still less ever giving it to Mr Alimov. It is not in a style or format which I would normally use and it is not my signature at the bottom of the first page of the document.
73. Mr Alimov says that each of these payments represent 35% of the First to Third Defendants' bitcoins generated from the Stal Substation and ABK Buildings (the '**ABK Project**'). This is not correct.

Mr Alimov did not receive 35% of the bitcoin generated by the ABK Project from us

74. Notwithstanding that I do not accept that there was any agreement with Mr Alimov in the terms he alleges (namely that Mr Mirakhmedov, Mr Makhat and I would pay to Mr Alimov 35% of our combined share in GDA), for the purpose of illustrating the incorrect nature of this aspect of Mr Alimov's case, I have produced a table in Schedule 1 of this witness statement which sets out the payments made to Mr Alimov and percentile of each payment in relation to the ABK Project (which was 1 of 6 projects we had at that time).
75. What is clear is that – contrary to his case – Mr Alimov did not receive bitcoin which represented 35% of the amount of bitcoin generated from the ABK Project. None of the payments we made to Mr Alimov was made with any reference back to the amounts of bitcoin generated by the ABK Project or any other project of ours. It is wrong to analyse the position on that basis.

Agreed brokering fee

76. Mr Mirakhmedov, Mr Makhat and I agreed to pay Mr Alimov a brokering fee in bitcoin (at his request), equal to a value of US\$1.75million, for introducing us to the Stal Substation and the ABK Buildings (see paragraphs 70-71 of the First Witness Statement of Roberto Moruzzi; see also paragraphs 5.11-5.13 of the Response to the LBC) **[RGMM1, p.157]**. There was no fixed schedule for this brokering payment, nor were the bitcoin amounts fixed or agreed in advance. Rather, we paid Mr Alimov as much as we were able to pay towards this when we were able to pay him, based on the profitability of our business at any one time. That is why the payments are for random amounts and at different times. There was no calculation made by us before making a payment to Mr Alimov.
77. Between January and September 2018, we paid Mr Alimov a total of 214 bitcoin. This came to a total approximate value of US\$1,756,650. That satisfied the agreement which we reached with Mr Alimov regarding his brokering fee and so we stopped paying him.
78. The discrepancy between the 214 bitcoin figure we say was paid and the 226 bitcoin figure which is included at the total bitcoin paid to Mr Alimov in his Schedule 1 to the Particulars of Claim can be explained as follows:
- (a) on 31 May 2018, we paid Mr Alimov 20 bitcoin which he has not included and which needs to be added to the overall total; and

- (b) on 13 August 2018, we accidentally made 2 transfers of 16 bitcoin (32 bitcoin in total) to Mr Alimov and in his Schedule 1, Mr Alimov recorded these as valid transfers, which is not correct. Given these 2 transfers were mistaken transfers, they were paid back to us on the same day. Therefore, for the purposes of analysis, 32 bitcoin should be deducted from the net total he has received (i.e. $226 + 20 - 32 = 214$ bitcoin).
79. As part of this Claim Mr Alimov has introduced the reference between the total bitcoin paid to him and the total bitcoin generated by the ABK Project and I do not agree that it is an appropriate or correct reference or analysis to make in the circumstances. However, in order to clarify the position, I can confirm that the ABK Project generated 2,185 bitcoin in that period between January and September 2018. So, the 214 bitcoin paid to Mr Alimov represented 9.8% of that total bitcoin generated, not the 35% which Mr Alimov has sought to suggest.
80. There is no other contemporaneous evidence to suggest that payments were linked to the value of the bitcoin generated or the 35% figure and it is merely Mr Alimov's own calculations which reach that figure.
81. We can also see from Mr Alimov's bitcoin wallet in Exhibit 2 to the LBC that he was receiving bitcoin payments from other sources (not us) at the same time. For example, there are payments on 4 October 2017 for 12.2 bitcoin, on 11 December 2017 for 1.3 bitcoin and on 6 April 2018 of 0.3 and 0.3 bitcoin which Mr Alimov received from entirely unrelated parties. Mr Alimov has, rightly, not included those payments in his calculations but they illustrate the point that we have been saying, namely that Mr Alimov wanted to be paid in bitcoin, rather than fiat currency.

Conclusion

82. For the purposes of the Applications, I understand that I should not address the merits of the Claim in detail but that one of the factors the Court will consider is whether there is a serious issue to be tried. It is clear from the contents of this statement that on the very key aspects of Mr Alimov's claim, there are (not surprisingly) a series of unanswerable credibility points which even at this early stage I believe the Court can consider and adjudicate upon. The Stal Substation and ABK Buildings were not acquired at an undervalue and, in fact, Mr Alimov benefited from that sale by way of his involvement in the seller company. It is also not correct that we paid Mr Alimov bitcoin with any reference to the total bitcoin generated by the ABK Project and it was also not an amount which represented 35% of that total. Those are two factors which clearly undermine Mr Alimov's case.
83. I believe that Kazakhstan is the clearly and distinctly more appropriate jurisdiction for this matter to be dealt with, particularly given that the individuals involved in this matter all have close connections to Kazakhstan and that the language of most of the key documents and individuals involved in this case will be Russian or Kazakhstani.
84. For the reasons given above, I respectfully request that the Court grant the Set Aside Application dismissing the Dias J Order and grant my Jurisdiction Challenge.

Statement of truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

**Andrey Kim**

Dated: 8 March 2024