

FILED

JUN 13 2018

IN THE SUPREME COURT
REPUBLIC OF THE MARSHALL ISLANDS

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ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD.,
a Korean corporation

Plaintiff-Appellant,

vs.

FOCUS INVESTMENTS LTD., a Marshall Islands
corporation, and

MEHMET EMIN KARAMEHMET

Defendants-Appellees.

Supreme Court Appeal No. 2018-02
High Court Civil Action No. 2018-081

DL
~~PL~~ ORDER FOR
INJUNCTION PENDING APPEAL

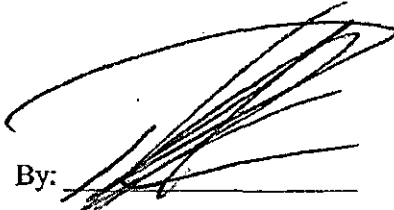
After considering the motion of Appellant SAMSUNG HEAVY INDUSTRIES CO LTD. for an order for injunction pending appeal against FOCUS INVESTMENTS LTD. ("Focus") as well as the pleadings, declarations, and all other proceedings had herein, the Court finds and orders as follows:

1. Appellant has satisfied the requirements for entry of an injunction pending appeal;
2. Focus Investments Ltd., its agents, servants, employees, attorneys, and all other persons acting in concert or participation with them are enjoined and prohibited from transferring on its records any shares owned by Appellee Karamehmet or any other shareholder in Focus Investments Ltd.; and
3. Focus Investments Ltd, its officers, agents, servants, employees, attorneys, and all persons acting in concert or participation with them are enjoined and prohibited from transferring or selling, or permitting to be transferred or sold, any assets of Focus Investments Ltd. not in the ordinary course of business including, without limitation, the shares of Genel Energy plc held by Focus Investments Ltd.

* SEE SUPPLEMENTAL MEMO ATTACHED.
DL

4. This Order shall remain in effect until the conclusion of this matter by entry of a final, non-appealable order, including during the period from now until the conclusion of Samsung's appeal of the High Court's Dismissal Order, and any subsequent proceedings herein, or until modified upon noticed motion.

Dated: 6/11/18 AST

By: 

ENTERED AS SINGLE JUDGE PROCEDURAL
ORDER SUBJECT TO FULL PANEL REVIEW
UPON TIMELY APPLICATION
RULE 27(c)

JUN 13 2018

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SAMSUNG HEAVY EQUIPMENT)
INDUSTRIES CO., LTD,)
A Korean corporation,)
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Plaintiff-Appellant,)
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v.)
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FOCUS INVESTMENTS LTD,)
a Marshall Islands corporation, and)
MEHMET EMIN KARAMEHMET,)
)
Defendants-Appellees.)

Supreme Court Case No.: 2018-02

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MEMORANDUM SUPPLEMENTING
ORDER FOR INJUNCTION
PENDING APPEAL

TO ALL PARTIES HEREIN THROUGH THEIR RESPECTIVE COUNSEL OF RECORD

The undersigned, as a single judge acting pursuant to Rule 27 (c), previously denied a motion for injunction pending appeal against Appellee Karamehmet on the grounds that a reasonable probability of personal jurisdiction over Karamehmet had not been demonstrated and, therefore, the entry of a preliminary injunction would be improper.

On June 1, 2018, Appellant filed a motion for injunction pending appeal as to Appellee Focus Investments, LTD.

Appellee Focus Investments has not filed an opposition or otherwise responded to Appellant's June 1, 2018 motion. The undersigned has considered Appellee's prior briefing in deciding the instant motion.

The following findings supplement the proposed order for an injunction pending appeal as against Appellee Focus Investments, which proposed order the undersigned has approved.

The undersigned, as a single judge subject to full panel review, FINDS:

1. “Personal Jurisdiction.”

There is probable personal jurisdiction over Appellee Focus because Focus is a Marshall Islands corporation.

2. “Irreparable Harm,”

Plaintiff has made a showing of “irreparable harm” in that there is an immediate risk of asset dissipation.

This finding is supported by the Affidavits/Declaration of Segun Ostuntokun dated May 1, 2018, submitted by Appellant.

3. “Probability of Success.”

While the undersigned expresses no opinion as to whether Appellant will ultimately prevail on the issues appealed, “the issues raised are so substantial, difficult and doubtful as to make them fair grounds for litigation and thus for more deliberate investigation.”

This finding is supported by the extensive briefing filed by both parties on the issues appealed, the briefing on the motions for injunction pending appeal, and the absence of any cited authority directly on point which would resolve the difficult and substantial issues presented for review.

4. “Balance of Hardships.”

The “balance of hardships” tips in favor of granting preliminary injunctive relief.

This finding is supported by the procedural posture of this appeal. This case was “fast tracked” onto the Court’s calendar prior to any briefing being filed by either party (which is a deviation from past practice). Any burden or hardship imposed on Appellee Focus by granting a

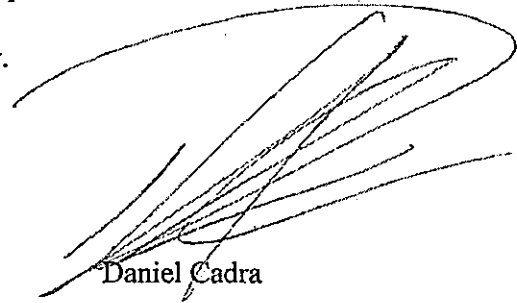
preliminary injunction is expected to be short in duration if Appellee prevails on appeal whereas the hardship imposed on Appellant, should Appellant prevail, may result in the absence of a remedy or Appellant's claims being mooted if a preliminary injunction does not issue. The undersigned acknowledges that pledged shares of Focus as loan security could cause defaults with secured lenders but, given the prior stipulated injunction before the High Court and the absence of any defaults, this hardship appears improbable. On the other hand if Focus transfers shares then Appellant may be left without a remedy.

5. **"The Public Interest."**

The "public interest" favors neither party.

Oral argument is set for June 20, 2018. Full panel review can be accommodated at that time should either party be dissatisfied by this order.

Dated this 11 day of June, 2017. *AST*



Daniel Cadra

Chief Justice, Supreme Court