

Qorti ta' l-Appell
(Kompetenza Inferjuri)

Imħallef Anthony Ellul

Appell numru:- 30/2018

**Finco Treasury Management Ltd. għall-kont u benefiċċju tal-Provincjal
Maltija tal-Agostinjani**

**Finco Treasury Management Ltd. għall-kont u benefiċċju tas-Salezjani
ta' Don Bosco, Malta**

**Finco Treasury Management Ltd. għall-kont u benefiċċju tal-ġid ta'
Saviour Brincat, ID 0731128M u Violet Brincat, ID 0555229M**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Joseph
Caruana, ID 0189352M u Janet Caruana, ID 0395404L**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Anthony
Galea, ID 0404735M**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Secureline
Technology Ltd., C22385**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Maria
Muscat, ID 0886839M**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Maria
Stella Salomone, ID 0734446M**

**Finco Treasury Management Ltd. għall-kont u benefiċċju ta' 59
benefiċjarji oħra li huma: Abela Mario, Mosta, ID 14358M Abela
Maurizio, ID 0298174M, Abela Saviour, ID 0559546M, Agius Josephine
u Catherine, ID 801546M u 926146M, Aquilina Mario, ID 551855M,
Aquilina Anna, ID 0316360M, Attard Montalto H & T, ID 0150350M u
710752M, Attard Montalto H, ID 0150350M, Bannister Nicholas, ID**

0169737M, Bartolo R & J, ID 1017349M u 0375749M, Bartolo R & J, A/C No. 2, ID 1017349M u 0375749M, Bonello J & R, ID 0267352M u 0066950M, Bonello Paul, ID 589858M, Borg Louis u Anette, ID 550651M u 0256315L, Borg Tonio Hon Dr, ID 0416257M, Buhagiar D & V, ID 968544M u 651151M, Camilleri Francis, A/C 2, ID 885745M, Cappello J & M, ID 081953M u 116454M, Caruana H & M, ID 49446M u 712855M, Chlykova Ioulia, Passport Russu Nru. 713452149, Deguara L & MF (ex Christopher), ID 958947M u 745449M, Deguara L & MF (ex Christine), ID 958947M u 745449M, Deguara L & MF, ID 958947M u 745449M, Dimech Kenneth, ID 359363M, Cofircont Società Fiduciaria SpA, 2589350152, Ebejer Cettina, ID 832844M, Fabri J & R, ID 707943M u 598040M, Buhagiar Prof Louis (ex Delta), ID 430554M, Fenech Alex, ID 775358M, Fenech Angele, ID 386560M, Galea Carmel, ID 16343M, Galea Salomone Arthur, ID 299662M, Silvestri Stefano, Passport Taljan YA0184587, Mallia Carrie, ID 0000241M, Marich Yvonne, ID 0274919M, Mercieca Angela, ID 0004359G, Mizzi Paul u Antonia, ID 29557G u 001258G, Muscat Evelyn, ID 701633M, Norraz Co Ltd, C24598, Portelli Joseph, ID 365057M, Ray Dev, ID 0517147M, Zammit Tabona Simone, ID 2004318P, Rogerson Mary, ID 653254M; Passport UK 210052393, Passport Malti 1076007, Rusanov Alexander, Passport Russu PP 71 1665660, Sammut C & V, ID 235464M u 613964M, Sant Fournier Victor, ID 191037M, Scerri Mario u Giacinta, ID 530057M u 583462M, Bonello Paul, A/c 2, ID 589858M, Scicluna Francis u Pasqualina, ID 809843M u 473043M, Spiteri Joseph u Carmen, ID 186548M u 082161M, Spiteri Joseph u Josephine, ID 125868M u 441169M, Sultana David u Carmen, ID 77841G u 826139M, Tanti David u Christine, ID 345662M u 29766M, Tanti Maria u Sant Dorothy, ID 263520M u 2373965M, Tanti Maria u Tanti David, ID 263520M u 345662M, Todd Stewart u Heather, ID 312841A, Vassallo Lydia, Passport Malti 791843, Vella Aldo u Rita, ID 0339562M u 519764M, Zorzet Marco, Passport Taljan YA8568303,

u

Hogg Capital Investments Limited bħala *Nominee* għall-erba' beneficijarji li huma: Abela Jesmond, ID 292665M, Farrugia Vincent, ID

696545M, Miceli Farrugia Alberto, ID 260863M, MSM Investments Limited, C25169,

u

Abela Paul, ID 0516535M, Abela Paul u Dorothy, ID 0516535M u 0243831M, Agius Anthony u Jane, ID 0582642M, 0193250M, Agius Emanuel u Carmen, ID 0582642M u 0193250M, Antignolo JW u MC, ID 0356557M u 0634856M, Aquilina Alexander, ID 0704052M, Asciak Beatrix, ID 0187738M, Attard Francis, ID 0074447M, Attard Mary, ID 0839348M, Azzopardi Carmelo u Michael, ID 0108255M u 0730558M, Azzopardi Tessie, ID 0776051M, Bartolo John u Ludgarda, ID 0268663M u 0187468M, Beck Noel, ID 0131657M, Bezzina Mario Anthony, ID 0823452M, Bondin John, ID 0940144M, Bonello Anthony u Mary Carmen, ID 0517344M u 0380448M, Bonello Lino, ID 0047332M, Bonnici Maria, (Qormi) ID 0768147M, Borg Alfred u Bernardette, ID 0337960M u 0217561M, Borg Gerald, ID 1048M, Borg Josephine, ID 0666441M, Borg Mario, ID 0446158M, Buhagiar Michelle, ID 0354455M, Callus Leonard, ID 0187940M, Camilleri Angela, ID 0342537M, Camilleri John, ID 0517465M, Caruana Anna, ID 0728857M, Cassar Maria Dolores, ID 0180334M, Cassar Mary Rose, ID 0561537M, Chetcuti Speranza, ID 0610357M, Clean Away Services Ltd, C9028, Cutajar Daniel, ID 0116696M, Cutajar Emanuela, ID 064747M, Cutajar Emanuel, ID 0359147M, Darmanin Richard, ID 0488741M, Darmanin Kissaun Roland (decd), ID 0431942M, Debono Salvu, ID 0739334M, Debrincat Mary Jane, ID 072348G, Ellul Ludgarda, ID 0231348M, Falzon Esther, (Estate of), ID 0240916M, Farrugia Carmel, ID 0863250M, Farrugia Maria, ID 0476945M, Felice Albert, ID 0390237M, Fenech Raymond u Anna, ID 0178054M u 0861154M, Filletti Joseph, ID 0236036M, Galea Philip, ID 0533758M, Gatt Generoso, ID 0692556M, Gatt Michael, ID 0519664M, Gellel Anthony, ID 0917646M, Gialanze J & C, ID 0668044M u 0490653M, Grech Stephen u Miriam, ID 0326558M u 0648059M, Grima Carmelo u Mary Doris, ID 0128944M u 0109146M, Grima Nicholas u Carmen, ID 0554154M u 0420300L, Griscti Anna, ID 0447661M, Griscti Joe, ID 0329660M, Harmsworth Charles, ID 0272751M, Inguanez Peter, ID 0649253M, Mallia Oreste, ID 0428360M, Mamo Joseph, ID 0114149M, Micallef Carmel, ID

0047153M, Micallef Carmel u Calcedonia, ID 0047153M u 0651046M, Micallef Paul u Maria Carmen, ID 0489556M u 044159M, Micallef Vella Josephine, ID 0830144M, Mifsud Catherine, ID 0340746M, Mifsud Maria Concetta, ID 01048948M, Muscat Anthony, ID 0636446M, Muscat John, ID 0140058M, Muscat John u Pauline, ID 0472757M u 0178060M, Pace Ermelinda, ID 0172249M, Pace Michael u Mary Anne, ID 0839854M u 0460260M, Pace Victor, ID 0420342M, Pullicino Patricia, ID 01045145M, Said Dr Martin ID 0305847M, Saliba Maria Assunta, ID 0800745M, Sammut Carmelo, ID 0103060M, Sammut Gaetano u Josephine, ID 0801948M u 0947149M, Sant Mary, ID 066039M, Scerri Mario, ID 0530057M, Schembri Mariano, ID 0338454M, Scicluna Paul u Anna, ID 0972046M u 0687948M, Seguna Rita, ID 0586658M, Silvio Mario, ID 0691649M, Spiteri Carmelo u Miriam, ID 0246345M u 0375349M, Vassallo Carmel u Mary Violet, ID 0489743M u 0758946M, Vella Alfred David, ID 0272567M, Vella Josianne, ID 0448070M, Vella Raymond, ID 040367M, Vidolich Paul u Carmen, ID 0636956M u 0835555M, Zammit Lupi Nicolette, ID 0425042M, Abdilla Joseph u Tessie, ID 0443750M u 0571849M, Abela Michael, ID 0762947M, Abela Nathalie, ID 0674342M proprja u bhala eredi ta' Joseph Abela (decd 28/01/2012), ID 0637433M, Agius Alfred u Josephine, ID 0448137M u 0253337M, AGL Alliance Group Ltd., C29129, Aquilina Bridgette, ID 0775257M, Azzopardi John u Gemma, ID 032848G u 019053M, Baldacchino Carmelo, ID 0636950M, Baldacchino Filippa, ID 0748249M, Baldacchino John u Marcelline, ID 0274138M u 095546M, Abela Anthony Not. bhala Ezekutur ta' Emanuel Bartolo, ID 053556M, Bonnici Brian u Josephine, ID 0408489M u 0245673M, Borg George u Imelda, ID 020548M u 0194347M, Borg George u Mary, ID 0456043M u 08244G, Borg Mary Anne Josephine, ID 0350350M, Brincat Joseph u Emanuela, ID 0487539M u 0567839M, Bugeja Angelo, ID 0783534M, Bugeja Joseph, ID 047050M, Bugeja Maria Assunta, ID 0843135M, Buhagiar Michael, ID 0136676M, Cachia Jane, ID 0462854M, Caligari Lilian, ID 053959M, Calleja Joseph, ID 0234557M, Camilleri Anthony u Grace, ID 0117052M u 065652M, Camilleri Walter, ID 0202033M, Cassar Albert, ID 0659548M, Cassar Anna, ID 0572662M, Cassar Euphrasia, ID 0681647M, Cassar Frans, ID 0627151M, Chircop John u Monica, ID 0497566M u 096563M, Ciantar Amabile u Marthese, ID 0729057M u 0627962M, Ciantar David, ID

0189479M, Ciantar Francis u Maria Rosaria, ID 0360755M u 0715853M,
Colwill Martin Henry u Matthews Lewis, ID 0027586A u 002812A,
Cordeiro Anna Mendes, ID 0730136M, Cuschieri Lawrence u Mary, ID
0393133M u 0304537M, Cutajar Graziella, ID 091075M, Cutajar Mario,
ID 0914351M, Debono Carmelo, ID 0397646M, Debono Salvatore, ID
0474235M, Delia Paul, ID 0290444M, Demarco Grace, ID 0937547M,
Demarco Michael Peter, ID 0353444M, Dimech, Peter (decd) u Maria,
ID 0404449M u 0793654M, Ellul Carmen, ID 0547546M, Ellul Nicholas
u Calleja Consolata u Baldacchino Mary, ID 0441858M, 0271357M u
0303054M, Fabri Agatha, ID 0441433M, Farrugia Christopher, ID
0000472M, Farrugia John Mary, ID 0361749M, Farrugia Mary, ID
0782836M, Fenech Carmel u Mary Grace, ID 0275157M u 0443358M,
Filletti Raymond u Marie Therese, ID 0292858M u 0332261M, Formosa
Georgina, ID 0661050M, Frendo Maurice u Iris, ID 0414346M u
0895852M, Frenznick Karlheinz u Jennifer, ID 013282A u 07268M,
Galea Carmel u Antoinette, ID 0658962M u 0442362M, Galea Saviour,
ID 0894151M, Gauci Marian, ID 0556556M, Giordmaina Victoria, ID
0757445M, Grech Stephen, ID 0120072M, Grima Mark Anthony, ID
0594255M, Hannon Paula, ID 0431878M, Hefford neè Borg Micolina, ID
0206276M, Hollier David u Rita, ID 0855854M u 0107959M, Lanzon
Pauline, ID 0255345M, Lanzon Victor, ID 047445M, Magro Emanuel u
Antoinette, ID 0132149M u 0241949M, Magro Emanuel, ID 0132149M,
Mercieca James u Yvonne, ID 0205158M u 0356161M, Micallef Maria
Dolores, ID 0420224M, Micallef Joseph u Phyllis, ID 0232460M u
0108362M, Mifsud Carmel, ID 0217163M, Mizzi Paul, ID 0602149M,
Muscat Peter Paul u Antonia, ID 0614433M u 0034438M, Muscat Pio u
Vittoria, ID 0828834M u 0645838M, O'Flaherty Albert, ID 0925545M,
Pace Lawrence u Rita, ID 0368661M u 0278066M, Palmier Vincent u
Marie Josette, ID 0427950M u 0639754M, Pisani Emanuel u Maria
Dolores, ID 0048955M u 0746256M, Pizzuto Anthony, ID 0089253M,
Pool Vanessa, ID 0274671M, Rizzo Frank, ID 0763345M, Saliba Chev
John (decd) u Margaret, ID 0396235M u 0570641M, Sammut Emanuel,
ID 0984150M, Scerri Carmelo, ID 042145G, Sciberras Philip u Ruth
Rose, ID 0326161M u 0118365M, Scifo Vincenzo, ID 0571746M, Spiteri
Andrew u Josephine, ID 0900445M u 0763138M, Spiteri Mary Carmen,
ID 0025153G, Sultana Carmelo, ID 0722040M, Tabone Victoria, ID
0720149M, Vella Alfred, ID 0775647M, Vella David u Carmen, ID

0313358M u 0117660M, Warrington Dawn, ID 0387885M, Zammit Andrew u Josephine, ID 0985648M u 0759259M, Zammit Emanuel u Maria Antoinette, ID 0412353M u 0219755M, Zammit Nazzarena, ID 0134034M, Zammit Montebello Frank u Shelagh, ID 0383245M u 0038103L, Agius Carmel sive Lino, ID 0554845M, Agius Thomas, (Estate of), ID 0136222M, Amato Mark Anthony, ID 0367368M, Apap Ray u Zammit J u Xuereb C, ID 0767357M, 0647256M u 0102421M, Aquilina Anthony u Giovanna, ID 0646829M u 0193233M, Attard Peter u Josephine, ID 0160287M u 01235375M, Barbara Louis u Clementina, ID 0420547M u 0506448M, Bezzina Alfred, ID 0475137M, Bezzina Norma, ID 0477543M, Borg Richard, ID 0356572M, Brincat Victor, ID 0693752M, Buttigieg Victor, ID 0679953M, Camilleri Joseph u Tereza, ID 090162M u 047663M, Camilleri Samuel u Alison, ID 0391866M u 0466473M, Caruana Henry, ID 0319437M, Casha Anthony, ID 0506038M, Casha Anthony u Jane, ID 0506038M u 0100838M, Cassar Delia Dr Joseph u Dorothy, ID 019344M u 0651246M, Chatlani Edward, ID 0723259M, Cilia John u Mary, ID 0157944M u 0147647M, Debono Emanuel u Maria Carmela, ID 070350M u 0452251M, Degiorgio Alfred, ID 0817446M, Farrugia Jeffrey, ID 0359352M, Farrugia Joseph u Emanuela, ID 0847854M u 0094258M, Genovese Carmen, ID 0487250M, Grech Elizabeth, ID 0105746M, Guillaumier Catherine, ID 01013944M, Lowell Leslie u Marina, ID 0480345M u 0734952M, Magri Paul, ID 0272547M, Magri Philip, ID 0391554M, Pulis Gerald, Estate of, ID 027313M, Salerno Felix, ID 0421855M, Sammut Michael, ID 0054767M, Tabone Mario, ID 0007858M, Vella Spiridione, ID 044344M, Zammit Carmen, ID 0545145M, Agius Zoe, ID 01098647M, Aquilina Mary Doris, ID 0822344M, Aquilina Nicholas u Mary Carmen, ID 0656736M u 0525136M, Bartolo Alex u Dolora, ID 031851M u 0223501L, Bartolo Gaetano, ID 0832455M, Bonello Anna, (Estate of) ID 0871549M, Bonello Carmelo u Theresa bhala BoV Portfolio, No. 300002295, ID 0816643M u 501044M, Bonello Francis, ID 0877944M, Bonello Maria Antoinette, ID 0784148M, Bonnici Carmelo k/a Karmenu, ID 0083438M, Bonnici Jane, ID 0680852M, Bonnici Mary, ID 0420238M, Borg Alfred u Carmen, ID 0693548M u 0098852M, Borg Francis u Pauline, ID 0258942M, Borg George, (Estate of the late), ID 0757646M, Cachia Paul, ID 0559348M, Calleja Patrick, ID 0118961M, Camilleri Gerald, (Estate of), ID 0133317M, Cardona Dorothy, ID

0278651M, Caruana Susanna, ID 0465856M, Cauchi Ronald, ID 0519742M, Ciappara Vincenzo, ID 0353438M, Cutajar Grazio, ID 0040352M, D'Agostino Edward, ID 0352346M, Degabriele Grace, ID 0709660M, Falzon Dieter, ID 0253574M, Farrugia Anthony, ID 0996850M, Galea Paul, ID 0662938M, Gauci Carmel u Mary Grace, ID 0501762M u 0329465M, Grech Arnold u Doris, ID 0744237M u 0427135M, Grech Carmel, ID 0556630M, Grech Flavia, ID 0598444M, Grima Victor u Mary, ID 0192933M u 0413536M, Kodurand Peter D u Rose, ID 02007000P u 0337550M, Lautier Catherine, ID 0680950M, Lewis Joseph, ID 0539346M, Magro Alfred u Alfreda, ID 0533840M u 079243M, Magro Alfred, ID 0533840M, Micallef Mario, ID 0789652M, Micallef Victor, ID 0839749M, Mifsud Anthony, ID 0296148M, Mifsud Anthony u Judith, ID 0431038M u 0535640M, Mifsud John Mary, ID 0466355M, Mizzi John Baptist u Elizabeth, ID 0006050G u 0036849G, Pace Alfred, ID 0180636M, Pace Luigia k/a Aloisia, ID 0420454M, Pace Maria Dolores, ID 0702050M, Pace Mary, ID 0557247M, Pace Paul, ID 0123551M, Pace Vincent, ID 0679441M, Ransely Gordon A u Carmen, ID 0691446M u 0405948M, Rapa Espedito k/a Eddie, ID 03139G u 0543236M, Riolo Michael, ID 0668635M, Santucci Margaret, ID 0488165M, Schembri Edwin u Maria, ID 0945244M u 0852345M, Scicluna Modesta k/a Maud, ID 0143046M, Farrugia Susan, ID 69256M, f'isimha proprju u f'isem l-eredi l-ohra tal-mejtin Staines Robert u Mary Rose sive May, ID 0653625M u 0394134M, Tanti Giulio, ID 0531934M, Tanti Joseph u Josephine, ID 0728451M u 0087851M, Vassallo Francis u Carmen, ID 0072338M u 0574340M, Vella Mary, ID 0623147M, Xuereb Giulio, ID 0578242M, Xuereb John, ID 0422456M, Zammit Antonio, ID 0424348M, Zarb John u Antonia, ID 0332339M u 0583642M, Borg Charles u Valerie, ID 0221451M u 0198851M, Borg Marco, ID 0343656M, Camilleri Raymond, ID 0367961M, Ciantar Emanuel, ID 0023336M, Debono Leonard u Maria Concetta, ID 0223549M u 0210353M, Falzon Mario u Maria, ID 0200452M u 0802845M, Grech Rita, ID 0426657M, Muscat Carmel u Carmen, ID 0771253M u 0809955M, Portelli Francis, ID 0426029M, Psaila Paul, ID 0388262M, Said Anna Marie, (Estate of), ID 061860M, Sammut neè Vassallo Ruth, ID 0299074M, Shaw Mariella, ID 0406563M, Spiteri Angelo u Josephine, ID 0223255M u 0817155M, Sultana Maria Josepha, ID 0636844M, Vella Carmen, ID 057649G, Vella John, ID 040140G,

**Zammit Quentin, ID 0435880M, Zerafa Joseph u Mary, ID 0315633M u
0629036M (appellati),**

u

**Debattista Carmel u Marthese, ID 0931651M u 0771854M, Debono
Bartholomew u Josephine, ID 037455M u 0272158M, Fleri Soler
Joseph, ID 0478729M, Debono Carmelo, ID 0561248M, Sister Mariella
Ebejer għan-nom tal-Augustinian Sisters Servants of Jesus & Mary,
Malta Province, ID 0076565M, Bajada Juliette, ID 075142M, Borg Louis
u Nicolina k/a Lina Borg Vassallo, ID 0294548M u 0188648M, Micallef
Leone, ID 0678853M, Scicluna Joseph u Mary Rose, ID 0322954M u
0528555M,**

u

Gravino Anthony (decd) u Maria Carmela, ID 0300136M u 0225837M

u

**Borg Rev Fr Valentino, ID 054655M, Friggieri Anthony, ID 0557163M,
Schembri Odette, ID 0706262M, Spiteri George, ID 0366857M,**

u

Borg Albert, ID 0147643M

u

Grima Joseph u Rosanna, ID 80848M u 76747M

vs

**La Valette Funds SICAV p.l.c. (SV1),
Bank of Valletta p.l.c. (C2833),
Valletta Fund Management Ltd. (C 18603) li mit-22 ta' Novembru 2016
bdiet tissejjah BOV Asset Management Ltd (appellanti)**

10 ta' Jannar, 2020.

1. **Din is-sentenza hi b'riferenza għall-appell li ppreżenta il-Bank of Valletta plc, La Valette SICAV plc u BOV Asset Management Ltd minn deċiżjoni tal-Arbitru għas-Servizzi Finanzjarji tat-23 ta' Frar 2018 li permezz tagħha laqa' l-ilment tal-appellati, u *ai termini* tal-Artikolu 26(3)(ċ)(iv) tal-Kap. 555 tal-Liġijiet ta' Malta kkundanna lill-appellanti *in solidum* bejniethom iħallsu lill-appellati kumpens (ara l-Appendiċi X, taħt il-kolonna '*Kapital li ma tħallasx lura*' meħmuż mad-deċiżjoni appellata).**
2. Fit-28 ta' Ġunju, 2016 l-appellati ippreżentaw l-ilment tagħhom quddiem l-Arbitru għas-Servizzi Finanzjarji (każ numru: 28/2016). Il-fatti ta' dan il-każ huma kważi kollha identiċi għal dak tal-appell deċiż illum fl-ismijiet: **Anthony Gravino et vs La Valette Funds SICAV p.l.c.** (appell numru: 23/2018). Ir-rikors tal-appell u twegiba tal-appellat huma l-istess bħal dawk tal-appell numru 23/2018.
3. Fil-każ tal-lum id-differenza fil-fatti hi li l-appellati aċċettaw l-offerta tal-Bank of Valletta fi għranet differenti matul ix-xahar ta' Ġunju, 2011 (ara '*Form of Acceptance and Transfer*' li hemm fl-atti). Inoltre, bis-saħħa tal-ftehim l-appellati irċevew ħlasijiet differenti għall-ishma li xtara mingħandha il-Bank of Valletta plc, u ovsjament ivarja l-kapital li kull wieħed minnhom ma rkuprax. Fid-deċiżjoni l-Arbitru osserva li l-MFSA imponiet multa amministrattiva u l-bank ħallasha. Kompla:

"Għall-MFSA, l-Offerta ma kinitx ikkonkludiet il-każ, kif kienet l-intenzjoni tal-BOV li min jeħodha kien ikun qed iċedi kwalunkwe dritt legali kontra l-BOV. Fil-fatt permezz ta' Direttiva tat-28 ta' Ġunju 2011, l-MFSA obbliga lill-Bank biex jiżgura illi l-aċċettazzjoni ta' din l-Offerta kellha tkun mingħajr preġudizzju għal kwalunkwe dritt li wħud mill-investituri kellhom għall-kumpens jew, addirittura, jerġgħu jitpoġġew fil-qagħda finanzjarja tagħhom qabel ma investew fil-Property Fund.

Permezz ta' ittra tal-1 ta' Ġunju 2012, l-MFSA infurmat lill-BOV li kienet se tiġi appuntata kumpannija professjonali li taġixxi b'mod indipendenti sabiex, fost affarijiet oħra, kellha tikklasifika lill-investituri bħala dawk li kienu jikkwalifikaw għall-kumpens u oħra li ma kinux jikkwalifikaw.

*Giet appuntata d-ditta ta' Mazars, li r-rapport tagħhom tlesta fil-21 ta' Jannar, 2013. **L-MFSA għaddiet lista ta' investituri li, skont dan ir-rapport kellhom jingħataw kumpens, u l-BOV ħallas lil dawk l-investituri li kienu eligibbli skont ir-rapport tal-Mazars.***

Skont dawn il-kriterji gje deċiż min kellu jingħata kumpens u min ma kellux jingħata kumpens. Minkejja li l-BOV kien niżżel fl-Offerta li din kienet tikkonkludi l-każ għal min jaċċettaha (in full and final settlement), xorta waħda għamel ħlasijiet lil diversi investituri skont il-kriterji li stabilixxew il-Mazars.

Il-Bank of Valletta, f'isem il-Grupp, ħallas din id-differenza lil numru ta' investituri, iżda oħrajn li nstabu li kellhom "l-esperjenza" jew li t-tranzazzjoni kienet fuq bażi ta' 'Execution Only' ma ngħatawx id-differenza bejn dak li investew u l-ammont imħallas bl-Offerta jew mingħajrha".

4. Dwar dan it-tieni pagament xehed b'affidavit Anatoli Grech, uffiċjal tal-BOV li qal:

"8. Qiegħed nirreferi wkoll għall-Independent Review ta' Marccus and Mazars Group ('Mazars') li kien iddetermina u kkonkluda liema investituri tal-La Valette Multi Manager Property Fund kellhom jiġu meqjusa bħala 'experienced investors' jew 'inexperienced investors'. Kienet l-Awtorita' għas-Servizzi Finanzjarji ta' Malta, u mhux il-Bank, li qabddet lil Mazars sabiex jagħmel dan l-eżercizzju. Dawk l-investituri li Mazars identifikat bħala 'inexperienced investors' kienu wkoll rċevew pagament ulterjuri ex gratia ta' Ewro 0.25 għal kull sehem. Dan il-pagament kien sar mingħajr preġudizzju għad-drittijiet tal-Bank, inkluż dawk li jemanaw mir-relazzjoni kuntrattwali bejn il-Bank u l-investitur li kien aċċetta l-offerta skont it-termini u l-kundizzjonijiet tal-istess offerta".¹

5. Imbagħad fir-rigward tal-appellata Victoria Giordmaina, jirriżulta li ma kinitx aċċettat l-offerta ta' Mejju, 2011. Però sussegwentement fl-4 ta' Settembru, 2014 iffirmat skrittura privata ta' transazzjoni li biha rċeviet ħlas ta' €15,600 bħala ħlas *ex gratia* (ara klawżola 1 tal-iskrittura). F'klawżola 2 ta' dak il-kuntratt jingħad:

"2. The Investor, in consideration of receiving the Settlement Amount from the bank and the other undertakings made by the Defendant Parties in this Settlement Agreement, hereby settles and forever discharges each of the Released Parties from any and all claims made by the Investor whether in any judicial protest, judicial proceedings or otherwise in connection with the Investments. The Investor hereby declares that s/he has no further claim in respect of the Judicial Protest.....

5. The Parties agree that:

a) the payment of the Settlement Amount is in full and final settlement and complete discharge of all and any claims, actual and contingent, which the Investor may have or may have had against any one of the Released Parties in connection with the Investments;.....

e) The Investor undertakes to refrain from making any other claim and from pursuing any action in relation to the Investments or which is directly or indirectly based on the facts alleged in the Judicial Protes".

6. Għall-kumpliment japplikaw l-istess provi u dak kollu li nkiteb japplika *mutatis mutandis* għal dan l-appell ukoll.
7. Il-qorti tibda billi tordna li ssir l-istess korrezzjoni fl-okkju skont l-ordni mogħtija fis-sentenza tal-appell numru 23/2018, u għall-istess raġuni.

¹ Ara file markat Anatoli Grech 1/4.

8. Sabiex il-qorti tevita milli toqgħod tirriproduċi dak kollu li diġa' ntqal fis-sentenza tal-appell **Anthony Gravino et vs La Valette Funds SICAV p.l.c.** (appell numru: 23/2018), tiddikjara li l-konsiderazzjonijiet *kollha* li għamlet f'dik is-sentenza japplikaw *mutatis mutandis* għal dan l-appell.
9. Hu veru li ftit mill-appellati aċċettaw l-offerta qabel l-24 ta' Ġunju, 2011, ċjoe' d-data meta l-MFSA ħarġet ir-rapporti. Madankollu dan ma jbidel xejn mill-konsiderazzjonijiet li għamlet din il-qorti fl-appell 23/2018 u japplikaw għal dan il-każ ukoll. Dawk li ffirmaw qabel l-24 ta' Ġunju, 2011 kienu jafu x'kienet l-offerta fuq il-mejda u kienu wkoll jafu li hemm rapport preliminari tal-Awtorita' għas-Servizzi Finanzjarji ta' Malta kontra l-posizzjoni tal-BOV, u li jissemma fl-offerta li saret tas-26 ta' Mejju, 2011. Madankollu xorta għażlu li jaċċettaw l-offerta. Hu veru li l-bank impona *deadline* sal-aħħar ta' Ġunju, 2011 sabiex l-investituri jaċċettaw l-offerta. Madankollu jibqa' l-fatt li min iffirma ħa l-flus li kienu offruti lilu u zammhom, u ma pproponiex kawża sabiex jattakka l-validita fl-ftehim minħabba vizzju tal-kunsens għal xi waħda mir-raġunijiet kontemplati mil-liġi.
10. It-tieni pagament li sar lill-wħud mill-appellati (jidher li b'kollox kienu 56) ma gābitx fix-xejn it-transazzjoni li saret f'Ġunju, 2011, kif wara kollox hu ċar ukoll mill-affidavit tal-uffiċjal tal-BOV. Pagament li sar *ex gratia*. *Inoltre*, fl-ittra li l-BOV bagħat flimkien mal-ħlas, spjega li l-pagament kien qiegħed isir:

"(i) on an ex gratia basis, and without admission of any liability or responsibility on the part of the Bank; and

(ii) without prejudice to any of the Bank's rights, including those emanating from the contractual relationship existing between you and the Bank pursuant to your acceptance of the terms and conditions of the offer made by the Bank to purchase and acquire all of your shares in the Fund and all rights pertaining thereto.

In addition, any such act does not constitute a novation in terms of law and all the terms and conditions of the above-mentioned offer and its acceptance shall remain valid, binding and effective".

11. Għalhekk il-bank għamel il-posizzjoni tiegħu ċara, u l-ftehim ta' transazzjoni baqa' jorbot lill-partijiet.
12. Fil-każ ta' Giordmaina it-transazzjoni saret iktar minn sentejn wara li ħarġu r-rapport tal-MFSA u l-ftehim hu wkoll ċar fis-sens li bih ingħalqu l-kwistjonijiet kollha dwar l-investment li għamlet fil-La Valette Multi Manager Property Fund.

Għaldaqstant, għall-istess raġunijiet li ngħataw fis-sentenza Anthony Gravino et vs La Valette Funds SICAV p.l.c. (appell numru: 23/2018) u li ngħataw hawn fuq, tilqa' l-appell u tħassar id-deċiżjoni tal-Arbitru tat-23 ta' Frar 2018 in kwantu tirreferi għall-appellati bl-eċċezzjoni ta' AGL Alliance Group Ltd (C29129) u Confircont Societa' Fiduciaria SpA (258950152) li fil-konfront tagħhom l-appellanti rrinunzjaw għall-appell (ara nota preżentata fl-10 ta' Ottubru 2019). Spejjeż a karigu tal-appellati.

Anthony Ellul.