QORTI CIVILI PRIM' AWLA

ONOR. IMHALLEF MARK CHETCUTI LL.D.

Illum l-Erbgha, 15 ta' Jannar, 2020

Numru 4

Rikors Guramentat Nru. 697/2019

Fenlex Corporate Services Limited

vs

Gernot Uschnig, Michaela Ibounig, Mario Andreas Karner

Il-Qorti,

Rat ir-rikors guramentat tas-socjeta attrici tal-15 ta' Lulju, 2019 li jghid hekk:

1. Illi s-socjeta rikorrenti hija "Corporate Service Provider" u tipprovdi servizzi ta' corporate services lil diversi kumpaniji Maltin fosthom accountancy, directorship services, key official services, company secretarial, compliance, company maintenance u ohrajn.

2. Illi hafna minn dawn is-servizzi jinghataw lill-ishmatarji barranin illi jifthu kumpanija gewwa Malta f'diversi oqsma (remote gaming f'dan il-kaz) u li jkollom bzonn assistenza professjonali lokali ghal-servizzi relatati mal-kumpanija taghhom.

3. Illi l-intimati lkoll ishmatarji tas-socjeta Red Melon Holding Limited (C62243) li hija l-ishmatarja unika tas-socjeta Red Melon Limited (C2249) uzaw is-servizzi tal-kumpanija rikorrenti li offriet servizzi ta 'corporate services provider' sabiex jigu ffurmati dawn il-kumpaniji, kif ukoll sabiex jibqghu joperaw in good standing u in ottempranza mal-ligi Maltija senjatament il-Companies Act, Kap 386 tal-Ligijiet ta' Malta.

4. Illi bhala UBOs (Ultimate Beneficial Owners) tas-socjeta Red Melon Limited, u bhala klijenti ahhara tas-socjeta rikorrenti, l-intimati kollha kemm huma ffirmaw individwalment kuntratt msejjah "Services & Indemnity Agreement" datati 29 ta April

2015 (u annessi hawn u mmarkati bhala Dok. FCS1, FCS1 u FCS3 rispettivament) f'liema kuntratt huma kkonfermaw f'klawzola 6 illi "As remuneration for the services rendered by Contractor under this Agreement and without prejudice to the costs provided in sub-paragraph (b) of this clause , Indemnifier will pay, or cause payment to the Contractor, annually for the Company mentioned in Schedule A hereto, the following amounts".

5. Illi ghaldaqstant huma b'hekk ikkostitwixxew ruhom versu s-socjeta rikorrenti bhala debitur ta' dejn cert, likwidu u dovut favur ir-rikorrenti illi gie invoiced matul diversi xhur, bl-invoices annessi bhala Dok. FCS4 sa Dok FCS24.

6. Illi t-totali dovut lis-socjeta rikorrenti huwa ghas-somma ta tnejn u erbghin elf, mitejn u zewg ewro, sitta u tletin centezmu (€42,202.36) (vide Dok. FCS25).

7. Illi f'dan il-kuntratt hemm miktub b'mod car u inekwiviku, illi l-'lndemnifier' (l-intimati) ghandu jhallas jew jirrendi pagament lil kumpanija rikorrenti, ghas-servizzi li inghatghu lilhom.

8. Illi nonostante interpellati diversi drabi sabiex jeffetwaw l-hlas relattiv, l-intimat, baqghu inadempjenti.

9. Illi minkejja li r-rikorrenti talbet lill-intimati b'ittra bonarja li ntbghatet fil-6 ta' Frar 2019, annessa hawn u mmarkata bhala Dok. FCS26, sabiex jithallsu l-flus dovut lill kumpanija intimata huma baqghu inadempjenti.

10. Illi dan id-debitu huwa cert, likwidu u dovut u ghandu jithallas lir-rikorrent fit-termini tal-kuntratt fuq imsemmi.

Ghaldaqstant, ir-rikorrent titlob lil din l-Onorabbli Qorti:
1. Tiddikjara li l-intimati, jew min minnhom, in solidum huma responsabbli sabiex ihallsu s-somma ta' €42,202.36 oltre l-imghax legali mid-data tal-invoices rapprezentanti servizzi rezi mis-socjeta attrici.

2. Tikkundanna lill-istess intimati, jew min minnhom, in solidum sabiex ihallasu s-somma ta' €42,202.36 Oltre l-imghax legali mid-data tal-invoices rapprezentanti servizzi rezi mis-socjeta attrici.

Bl-ispejjez u bl-ingunzjoni tal-intimat in subizzjoni.

Rat li konvenuti Gernot Uschnig u Mario Andreas Karner huma fi stat ta' kontumacja;

Rat in-nota tas-27 ta' Settembru 2019 fejn is-socjeta attrici iddikjarat li in vista tal-ftehim bonarju mal-konvenuta Michaela Ibounig cediet u irtirat il-proceduri kontra l-istess konvenuta u ghalhekk irriduciet is-sorte ghas-somma ta' €28,134.36;

Rat l-atti u semghet lil Karl Diacono d-difensur tas-socjeta attrici li ikkonferma l-ammont kif ridott ghadu kollu dovut;

Semghet it-trattazzjoni finali tad-difensur tas-socjeta attrici;

Rat li l-kawza thalliet ghas-sentenza.

Decide

Billi mill-atti u xiehda prodotta t-talbiet attrici jidhru gustifikati u ippruvati permezz tad-dokumenti esebiti u ma saret ebda oppozizzjoni valida, il-Qorti qed tiddisponi mill-kawza billi tilqa' t-talbiet attrici u tikkundanna lill-konvenuti Gernot Uschnig u Mario Andreas Karner ihallsu lis-socjeta attrici l-ammont ta' tmienja u ghoxrin elf mija u erbgha u tletin ewro u sitta u tletin centezmu (€28,134.36) rapprezentanti invoices relatati ma' servizzi rezi mis-socjeta attrici, bl-ispejjez u l-imghaxijiet legali mid-data ta' dawn l-invoices sal-pagament effettiv.

Onor. Mark Chetcuti LL.D.
Imhallef

Anne Xuereb
Deputat Registratur