

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
COMMERCIAL COURT

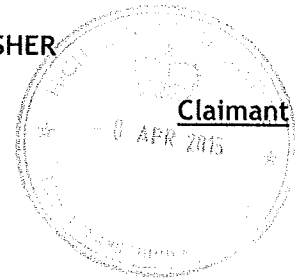
Claim No. 2015-289

BETWEEN:-

DR MOHAMMED ABDULRAMAN ABDULAZIZ ALBESHER

and

(1) MR THOMAS GERRARD RYAN  
(2) RYAN CORPORATION (UK) LIMITED  
(3) CREDIT SUISSE (UK) LIMITED



Defendants

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PARTICULARS OF CLAIM

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**Parties**

1. The Claimant is the Saudi Arabian Ambassador to the United Arab Emirates.
2. The First Defendant ("Mr Ryan") was at all material times a director and, through his ownership of Hertsmere 2013 Limited, a 99% shareholder in the Second Defendant ("Ryan Corp"). At all material times Mr Ryan has acted in his own capacity as an individual and as such is liable for his own conduct, and Ryan Corp is vicariously liable for his conduct.
3. The Third Defendant ("Credit Suisse") is a bank which provides private banking and investment banking services. At all material times Mr Hans-Olav Eldring ("Mr Eldring") was held out by Credit Suisse as a director, and Mr Eldring has acted as its agent and employee, until his resignation in or about January 2014.
4. Credit Suisse is vicariously liable for all of the acts and omissions of Mr Eldring pleaded below, since these were performed in the course of his acting as director and/or employee and/or agent for Credit Suisse.

## Background Facts

5. The Claimant's son, Fahad Albeshar, met Mr Ryan on 2 July 2013 in London at the Bulgari Hotel, 171 Knightsbridge, London SW7 1DW through an introduction by an acquaintance in Riyadh, Mr Jawad Zulqadar. The Claimant's son explained to Mr Ryan that his father was interested in purchasing a home in London. Mr Ryan told the Claimant's son that locating a property would not be difficult but that, in the meantime, he had an investment opportunity which he thought would be of interest to the Claimant. Mr Ryan produced brochures both for a development property known as Hertsmere House, 2 Hertsmere Road E14 4AA ("the Property") as well as another property near Vauxhall Bridge. The Claimant's son invited Mr Ryan to visit Saudi Arabia and Mr Ryan arrived on or about 25 July 2013 and stayed for two days. The Claimant was introduced to Mr Ryan on or about 25 July 2013 at a meeting at the Claimant's house in Riyadh during which Mr Ryan sought to interest the Claimant in the intended purchase of the Property. The Claimant's son and Mr Zulqadar were also at the meeting.
6. The Property was owned and being sold by GMV Ten Limited, a company incorporated in Jersey ("the Vendor").
7. Mr Ryan explained to the Claimant in the course of his visit to Saudi Arabia that the Property was:
  - a. Located in a premier location in London,
  - b. A unique development opportunity,
  - c. Being sold with the benefit of planning permission granted to build a sky scraper which would be the tallest residential building in Europe,
  - d. Priced at £73 million and a profit of £300 million could be made after the purchase price and development costs had been paid,
  - e. Being considered by other buyers and financiers from China and the USA who were interested in the Property.
8. The Claimant became interested in purchasing the Property together with Mr Ryan, for the purpose of developing it as above, on the basis of an equal investment by each and an equal sharing of the profits from the development. The acquisition of

the Property was to be structured through a company, the shares of which would be held either directly, or indirectly, through another corporation, equally between the Claimant and Mr Ryan.

9. However, before investing any monies, the Claimant wanted to be satisfied that:
  - a. Mr Ryan was in a financial position to be able to make the acquisition above at all, and
  - b. Mr Ryan had carried out developments of a comparable scale and value before.

The Claimant wished to be reassured on these points by Mr Ryan's bankers. The Claimant told Mr Zulqadar that he needed a certificate from Mr Ryan's bankers before he would proceed with the proposed investment.

10. At the request of Mr Ryan, on 19 July 2013, Credit Suisse by a director Mr Eldring, gave a reference for Mr Ryan ("the July Reference") sent by Mr Eldring from his email account with Credit Suisse ([hans-olav.eldring@credit-suisse.com](mailto:hans-olav.eldring@credit-suisse.com)) to Mr Ryan.
11. The Claimant is unable until full disclosure to plead full particulars of Credit Suisse's knowledge of the intended purpose of the July Reference. However it is inferred that Mr Eldring knew from conversations which he must have had at that time with Mr Ryan, before 19 July 2013, that such a reference was required by the Claimant because he wanted to be satisfied as above. This inference can be made because the July Reference on its face was requested by Mr Ryan, and it is inconceivable that Mr Eldring did not ask the purpose of the reference. At that point Mr Ryan could have had no reason at all not to have told Mr Eldring its purpose, namely using it so as to give assurance to the Claimant as to Mr Ryan's creditworthiness and his experience with developments.
12. Accordingly Mr Eldring knew the July Reference would be provided by Mr Ryan to the Claimant, and that it would be relied upon by the Claimant in deciding whether or not he should invest at all, in relation to the proposed acquisition of the Property.
13. The July Reference was on Credit Suisse notepaper, sent from Mr Eldring's email account at Credit Suisse but did not give a correspondence address, it merely said at the end *"If you have any queries regarding this reference please contact Hans-*

Olav Eldring on 0207 883 4170". It was addressed "To Whom it May Concern" but as pleaded above it was known that it would be used by Mr Ryan to reassure the Claimant and persuade him to invest. It stated, *inter alia*:

*"Mr Ryan is client of Credit Suisse (UK) Limited. We can confirm that Mr Ryan has been dealing with Real Estate Projects in excess of £100,000,000 size."*

14. By the July Reference, Mr Eldring expressly represented, on behalf of Credit Suisse, that Credit Suisse:
  - a. Was in a position to confirm from its own knowledge,
  - b. That Mr Ryan had been dealing with more than one real estate project with individual values exceeding £100 million.

By using the words "dealing with" in this context, the July Reference represented that Mr Ryan, whether directly or indirectly through a company, was a vendor or purchaser of properties with values in excess of £100 million. These representations will be referred to as "**the July Representations**".

15. The Claimant was provided by Mr Zulqadar with the July Reference on or about 19 July 2013.
16. In reliance upon the July Reference and the July Representations the Claimant decided that he would enter into further discussions with Mr Ryan with a view to investing sums and entering into a partnership for the purchase and development of the Property, by which the Property would be purchased by a company and the profits would be shared equally. The Claimant believed as a result thereof that Mr Ryan was a client of Credit Suisse and was able to finance a £100 million project either himself or by obtaining finance from third parties.
17. Absent such a reference the Claimant would not have proceeded with his discussions with Mr Ryan any further because he would have thought Mr Ryan was not in a position to purchase and develop the Property.
18. On 16 August 2013 Mr Ryan sent an e mail to the Claimant in which he said: *"Dear Ambassador, I hope you are well. To confirm I will arrive on Sunday evening in Casablanca.... I will depart on Wednesday afternoon from Casablanca ... that will give us 2 days."*

19. Mr Ryan met the Claimant again in Casablanca on 18 August 2013 to discuss the project. The Claimant at that time was the Ambassador of Saudi Arabia to the Kingdom of Morocco.
20. On 2 September 2013 the Claimant visited London and the Claimant and the Claimant's son met Mr Ryan in the Landmark Hotel, 222 Marylebone Road, London NW1 6JQ. On or about 4 September 2013 Mr Ryan took the Claimant's son to inspect the Property.
21. Between 11 and 13 September 2013 Mr Ryan met the Claimant again in Casablanca. Mr Ryan stated to the Claimant that he would have to pay £15 million to Mr Ryan's account with Credit Suisse and that Mr Ryan would deposit the same amount of money, namely £15 million, into that account. Mr Ryan stated that it was very urgent for the money to be paid to his bank by the Claimant as a down payment on the purchase of the Property.
22. Mr Ryan's assertion that he would deposit the sum of £15 million into that account was an express representation of an actual intention to make that deposit and an implied representation that he had the money immediately available or if not the means to raise the sum of £15 million in order to do so ("**Mr Ryan's £15 Million Representation**"). The Claimant relied upon this representation in the sense that this confirmed his belief that Mr Ryan was in a position to purchase and develop the Property in partnership with himself and that he should continue with his intention to invest.
23. Between 18 and 19 September 2013 the Claimant again visited London and was taken by Mr Ryan to inspect the Property and then to Canary Wharf to meet Mr Eldring in his office at Credit Suisse. Mr Eldring stated to the Claimant ("**the September Oral Representation**") that *"he is handling the account of Mr Tom Ryan and Mr Ryan has 100 Million pound credit line"*.
24. The Claimant further relied upon the September Oral Representation and this confirmed the Claimant's belief engendered by the July Reference, the July Representations and Mr Ryan's £15 Million Representation that Mr Ryan was a client of Credit Suisse and was able to finance a £100 million project either himself or by obtaining finance from third parties. Accordingly the Claimant decided to proceed with the transfer of the £15 million of his money in the belief that Mr Ryan was

able to provide a further £15 million for payment into the account as had been agreed in Casablanca between 11 and 13 September 2013.

25. On 20 September 2013 Mr Eldring sent an email to Mr Ryan giving the *“bank details of your account”*. This gave the address of Credit Suisse at Canary Wharf, the account name, the IBAN and Swift Codes. This email was forwarded by Mr Ryan to the Claimant. The Claimant forwarded these details to Mr Pivin, the Claimant’s financial advisor in Geneva, who works with Lombard Odier, the Claimant’s own bankers, on the Claimant’s behalf.
26. On 20 September 2013 Mr Eldring sent an email directly to the Claimant stating *“Please see below the email I sent to Tom, with the (£) Iban for the GBP 15 m wire”* also enclosing a copy of his email with the account details.
27. Accordingly as at 20 September 2013 (if not before) Mr Eldring and thus Credit Suisse had actual knowledge that the Claimant was intending to transmit the sum of £15 million of his own money direct to Mr Ryan’s account with Credit Suisse. It is to be inferred that Mr Eldring and thus Credit Suisse had been told by Mr Ryan that the purpose of the transfer was so that the Property could be acquired. Mr Eldring must have realised that the amount the Claimant was being asked to pay was greatly in excess of the amount that would be required for a deposit which would be likely to be a total of £10 million (being £5 million from each of the Claimant and Mr Ryan).
28. On 20 September 2013 Mr Eldring had a phone conversation with Mr Pivin, the Claimant’s financial advisor, or a Mr Rossit of Lombard Odier, bankers to the Claimant, in which Mr Pivin or Mr Rossit requested a banker’s reference be provided to them in respect of Mr Ryan.
29. Between 22 and 23 September 2013 Mr Ryan visited the Claimant again in Casablanca. Mr Ryan told the Claimant that if he did not immediately make the payment of £15 million then the Property would go to another buyer from China.
30. On 22 September 2013 Mr Ryan signed a letter on Ryan Corp notepaper addressed to the Claimant in which he said:

*“I refer to our joint purchase of the site known as Hertsmere House, Canary Wharf, London. I further refer to the position that as soon as I receive the*

*£15,000,000.00 from you these funds will be used to buy the site which I will secure tomorrow in a 50/50 agreement for Dr Al Beshar and Thomas Ryan. This arrangement is a 50/50 agreement as agreed and discussed at our meeting today Sunday September 22<sup>nd</sup> at your residence."*

31. On 23 September 2013 the Claimant received the above letter by email.
32. On 23 September 2013 Mr Eldring provided a further reference for Mr Ryan on behalf of Credit Suisse ("the September Reference") addressed to Mr Laurent Pivin, the Claimant's financial adviser, and sent to Mr Rossit of Lombard Odier knowing that this would be provided to or at least read to the Claimant, and that he would rely thereon. It stated, *inter alia*, that:

*"We have been requested by Mr Ryan to provide this reference. Mr Ryan is client of Credit Suisse (UK) Limited. From our dealings with Mr Ryan, we have no reason to consider that the client is or has been unable to meet his normal obligations to ourselves or any third party".*
33. In the context of the July Reference, the expression Mr Ryan's "normal obligations" necessarily included the kind of obligations a purchaser and developer may have arising in relation to projects in excess of £100 million in value.
34. By the September Reference, Mr Eldring and Credit Suisse, further confirmed the July Representations and the September Oral Representation. By the September Reference Mr Eldring and Credit Suisse represented ("the September Written Representations") that:
  - a. Credit Suisse had personal knowledge of Mr Ryan's ability to service the kind of obligations normally associated with projects with individual values in excess of £100 million; and
  - b. Credit Suisse had no reason to consider that Mr Ryan would not be able to meet his obligations to the Claimant, and/or the Vendor, in connection with the purchase and development of the Property.
35. On 25 September 2013 Mr Eldring sent an email to Mr Rossit of Lombard Odier stating:

*"Following our phone conversation on Friday evening please find attached the reference letter. We also confirm that the deposit transfer is going through Mr Ryan's account in our books in order to secure the site in timely manner.s [sic]"*

36. The Claimant reserves the right after disclosure of Credit Suisse internal rules (applicable under its FSMA authorisation) to plead particulars of the full respects in which Mr Eldring acted wrongfully in causing and permitting the Claimant's £15 million to be paid in this manner to Mr Ryan's account and being shown as Mr Ryan's monies in Credit Suisse's "books".
37. In any event the excuse given for the payment of the £15 million into Mr Ryan's account was misconceived. Ryan Corp was the intended purchaser and an account could have been opened for Ryan Corp with Credit Suisse with the money being described as a shareholder's loan. Alternatively if time was too short then sufficient monies to pay the deposit on the contract of sale of the Property could have been paid directly to the solicitors acting for Ryan Corp.
38. On 23 September 2013, induced by and in reliance upon each and every one of the representations pleaded above (the July Representations, Mr Ryan's £15 Million Representation, the September Oral and Written Representations), the Claimant paid sums totalling £15 million to Mr Ryan's personal account with Credit Suisse:

Account name: Thomas Gerrard Ryan

IBAN: GB09CSUK40624810130663

SWIFT: CSUKGB2L

("Mr Ryan's Account").

39. On 25 September 2013 Ryan Corp exchanged contracts to purchase the Property from the Vendor for a purchase price of £100 million. Ryan Corp paid a deposit of £10 million to the Vendor, and the completion date was 29 October 2013. On 29 September 2013, the Claimant travelled to Geneva, Switzerland and met both Mr Ryan and Mr Eldring together with a Mr Frederic Olofsson at the offices of Olofsson and Ehrenström, Attorneys on 30 September 2013. Mr Olofsson was introduced to the Claimant by Mr Eldring for the purposes of establishing a Swiss special purpose company, Land & Securities SA. It was proposed by Mr Ryan that the shares in Land & Securities SA would be held equally between the Claimant and Mr Ryan.



This company would in turn own the shares in Ryan Corp - which would own the Property after completion.

40. It is to be inferred that given all of the above circumstances, including the close relationship between Mr Ryan and Mr Eldring, the July and September References, and the meeting between Mr Eldring and the Claimant, that Mr Eldring and thus Credit Suisse had actual knowledge, that:
- a. The Claimant had paid £15 million to Mr Ryan's Account,
  - b. £10 million of that money had been paid as a deposit to the Vendor,
  - c. Mr Ryan had not contributed financially at all to the purchase,
  - d. There was a balance of £5 million belonging to the Claimant in Mr Ryan's Account at the disposition of Mr Ryan.
41. On 16 October 2013 Mr Ryan visited the Claimant in Dubai to reassure him that the purchase of the Property was proceeding. Mr Ryan told the Claimant that he had come to Dubai on his journey back to London from China where he had located a Chinese company which had offered to provide the funding necessary to complete the purchase of the Property. Mr Ryan raised the possibility with the Claimant of the Property immediately being sold to the Chinese company as an alternative to the development being undertaken by Mr Ryan and the Claimant as a joint venture.
42. On 21 October 2013 the Claimant and his son came to London and met both Mr Ryan and Mr Eldring at the Corinthia Hotel, 10 Whitehall Pl, London SW1A 2BD, where the Claimant was again assured by Mr Ryan that the purchase of the Property was going well. The Claimant told Mr Ryan that he had reservations about paying further funds into Mr Ryan's bank account in London and he was concerned to seek to open a bank account of his own in London from which future payments could be made. Mr Eldring suggested to the Claimant that he could open an account with Credit Suisse. On 24 October 2013 Mr Eldring therefore sent an email to the Claimant in which he said:

*"... nice to meet you and your son on Monday. I hope you had a good week in London. As discussed please see below the needed information/documentation for the opening of the account as per your PEP status: 1) Source of Family Wealth issued by a chartered accountant or*

*Lawyer. This has to indicated [sic] the origin of the wealth and how the growth of it was achieved, such as capital gain on securities, real estate, income from dividends, interests, rental income, salary, eventually bonus. 2) The proof of your address, such a [sic] utility bill or bank statement, with your Saudi address on."*

43. Ryan Corp was unable to complete the purchase of the Property by the agreed date of 29 October 2013 because it did not have the funds available. The Vendor served a notice to complete on that date. It is to be inferred that Mr Ryan was unable to obtain finance for the remaining sum of £90 million whether from Credit Suisse or any other party. Thereafter, on or about 7 November 2013 Mr Ryan represented to the Claimant that he required a loan of a further £10.4 million from the Claimant, for the specific purpose of extending the contract for the purchase of the Property.
44. Before lending any sums to Mr Ryan, the Claimant sought a guarantee from Credit Suisse that the further £10.4 million would be repaid to him by Mr Ryan.
45. On 12 November 2013 Mr Eldring for Credit Suisse confirmed an *"Irrevocable Payment Order"* by letter to the Claimant sent by email to Mr Laurent Pivin, the Claimant's financial advisor, and copied to the Claimant (*"the 12 November Guarantee"*). That letter confirmed:

*"We hereby confirm that we have received a valid irrevocable and unconditional payment instruction from Thomas Gerrard Ryan to transfer from his account held with Credit Suisse (UK) Limited, £10,400,000 (British Pound Sterling, Ten Million Four Hundred Thousand) value date 20.11.2013 in your favour."*

46. It was implicit in the 12 November Guarantee that, given the circumstances above which have been pleaded, and in any event, Mr Eldring had a bona fide belief that either Mr Ryan then and there had the sum of £10.4 million on account with Credit Suisse, or that he was in a financial position whereby he would be able to satisfy this obligation, before the due date of 20 November 2013. Otherwise the 12 November Guarantee was merely a waste of paper.
47. On 13 November 2013 Mr Eldring sent a further letter (*"the 13 November Guarantee"*), headed *"Bank Guarantee"* stating *"We, Credit Suisse (UK) Limited, 5 Cabot Square, London, E14 4QR that we will TRANSFER irrevocably and*

*unconditionally with value date 20th November 2013, GBP 10,400,000 to the account of Dr M Al-Besher AS 514 with Lombard Odier, Geneva, Switzerland or any account given by Dr M. Al-Besher"* (original emphasis). The original letter was handed by Mr Eldring to the Claimant's son, Fahad Albeshher, at the offices of Credit Suisse in Mayfair, 45 Pall Mall, London SW1Y 5JG London on or about 13 November 2013. Mr Eldring had offered to personally deliver the 13 November Guarantee to the Claimant's son at his hotel but, as a consequence of a specific instruction from the Claimant, Fahad Albeshher collected the 13 November Guarantee from Mr Eldring at his office. The document was printed and signed by Mr Eldring in the presence of the Claimant's son.

48. On its true construction, under the 13 November Guarantee, Credit Suisse guaranteed and promised that it would make the irrevocable and unconditional transfer to the Claimant with a value date of 20 November 2013.
49. On 14 November 2013 induced by and in reliance upon the 12 and 13 November Guarantees, the Claimant transferred the sum of £10.4 million to Mr Ryan's Account.
50. Thereafter, on 15 November 2013, Ryan Corp entered into a supplemental agreement with the Vendor, pursuant to which the completion date was extended to 3 December 2013. On the same date Ryan Corp paid a further sum of £10 million to the Vendor, as well as an "interest payment" in the sum of £405,479.51.
51. On 19 or 20 November 2013 the Claimant met Mr Ryan and Mr Eldring at the offices of Olofsson and Ehrenström, Attorneys, in Geneva, Switzerland. Mr Eldring produced documentation at that meeting to be completed to enable an account with Credit Suisse, Zurich to be opened for Land & Securities SA. The Claimant also provided Mr Eldring with a copy of his passport.
52. Ryan Corp was unable to complete the purchase of the Property by 3 December 2013 or at all. Again its inability to do so was due to its and Mr Ryan's failure to obtain finance.
53. Accordingly a deposit of £20 million and interest of £405,479.51 has been paid to the Vendor and has been lost.

54. Ryan Corp entered into a further contract with the Vendor for the purchase of the Property on 19 December 2013. Pursuant to that contract, Ryan Corp was to pay a further deposit of £10 million.
55. Between 4 and 6 January 2014 Mr Ryan visited the Claimant again in Casablanca. Mr Ryan asked the Claimant to pay a further £12 million into his account in order that the further deposit of £10 million should be paid to the Vendor. On 7 January 2014 the Claimant paid a further £12 million to Mr Ryan's Account.
56. Credit Suisse froze the £12 million paid by the Claimant in Mr Ryan's Account, on or shortly after receipt and finally remitted the £12 million to the Claimant.
57. It is inferred that other servants or agents of Credit Suisse found out about the payment of £12 million into Mr Ryan's Account and realised that it was in breach of Credit Suisse own internal rules for the money to be dealt with in this way. As a result the money was frozen and then after some investigation returned to the Claimant. If this inference is correct, it follows that the receipt of the sums of £15 million on 23 September 2013, and of £10.4 million on 13 November 2013, was in breach of Credit Suisse internal rules and should not have occurred.
58. By its letters of 20 and 27 January 2014 and 12 June 2014, Credit Suisse has purported to resile from the 12 and 13 November Guarantees, and asserts "it does not consider itself to be under a binding instruction".
59. In the premises the Claimant has paid sums totalling £25.4 million into Mr Ryan's Account and the entire sum has been lost. It is inferred that Mr Ryan never had any, or any substantial, money of his own to invest in the Property, and accordingly:
  - a. Of the £15 million transferred on 25 September 2013, £10 million was used to pay the deposit for the Property on 25 September 2013, and
  - b. All of the £10.4 million transferred by the Claimant on 15 November 2013 was used to pay the further deposit of £10 million, and £400,000 of the interest payment, to the Vendor that day.
60. The sum of £5 million belonging to the Claimant which was paid into Mr Ryan's Account has disappeared.

## **Ryan Corp**

61. The contract of sale made between Ryan Corp and the Vendor under which deposits totalling £20 million have been paid, and any beneficial or other equitable interest in that contract or the Property, as may have existed or still exist, are held by Ryan Corp on constructive or alternatively resulting trust for the Claimant, because the entire deposit sum of £20 million as pleaded above has been paid by the Claimant.
62. Accordingly Ryan Corp holds any rights that it may have for example to claim relief from forfeiture of the deposits of £20 million in whole or in part, on constructive or resulting trust, for the Claimant.

## **Fraudulent Misrepresentations**

63. Until disclosure the Claimant cannot plead what amounts Mr Ryan held on any account with Credit Suisse.
64. Until disclosure the Claimant cannot plead what has become of the £5 million of his money which has disappeared from Mr Ryan's Account with Credit Suisse.
65. Until a deposition is taken, or Mr Eldring is cross examined, the Claimant cannot plead the nature of Mr Eldring's extraordinary relationship with Mr Ryan, and why Mr Eldring was willing to make the representations that he did, give the 12 and 13 November Guarantees, and break Credit Suisse internal rules on receiving sums of £25.4 million into Mr Ryan's Account.
66. It is inferred that the most likely explanation of the events pleaded above is that:
  - a. The acquisition of the Property presented a valuable development opportunity, which could only be exploited if sufficient finance was available,
  - b. Mr Ryan did not have any substantial funds of his own, nor did he himself have sufficient credit worthiness so as to be able to borrow the sums required for the acquisition of the Property, let alone its development, nor did he have any track record of dealing with £100 million developments,

- c. Mr Ryan was seeking to use the Claimant's monies so as to finance the acquisition of the Property, together with monies that could be borrowed from third parties,
  - d. As a result Mr Ryan continuously lied about his financial ability to the Claimant,
  - e. Mr Ryan hoped and intended, that with £15 million or the £25.4 million from the Claimant, he would be able to raise sufficient monies from third parties in order to complete the acquisition of the Property,
  - f. However, notwithstanding that the Property presented a favourable development opportunity, Mr Ryan was unable to raise finance, because of his lack of creditworthiness and lack of a track record of dealing with property developments of that magnitude.
67. The representations relied upon and pleaded above were false and were made fraudulently in that they were made knowing that they were false, alternatively without belief in their truth, alternatively recklessly not caring whether they were true or false. Where the word "fraudulent" is used below then it is used in the sense of those three alternatives.
68. The July Representations made by Mr Eldring were false and fraudulent because Credit Suisse was in no position at all to confirm from its own knowledge that Mr Ryan had dealt with more than one real estate project with individual values exceeding £100 million. Until disclosure the best particulars that can be given are that Mr Ryan has now disappeared and enquiries made about him on the Claimant's behalf do not reveal that he had any track record of dealing (in the sense of acting as purchaser or vendor) with at least two developments with values in excess of £100 million.
69. Mr Ryan's £15 Million Representation was false and fraudulent. Mr Ryan never had £15 million or anything like that sum available to pay into Mr Ryan's Account on the basis agreed on 18 August 2013 in Casablanca. This fact is inferred from the fact that Mr Ryan never paid £15 million into Mr Ryan's Account. If he had such funds available then he would have done so because that would have greatly assisted in completing the acquisition of the Property which was a valuable opportunity.

70. The September Oral Representations made by Mr Eldring were false and fraudulent. Mr Ryan did not have a 100 million pound credit line whether with Credit Suisse or with any third party.
71. The September Written Representations made by Mr Eldring were false and fraudulent. Credit Suisse did not have personal knowledge of Mr Ryan's ability to service the kind of obligations normally associated with real estate projects with individual values in excess of £100 million. Further, Credit Suisse had no reason to opine that Mr Ryan would be able to meet his obligations to the Claimant, and/or the Vendor, in connection with the purchase and development of the Property for £100 million.
72. The 12 November Guarantee contained a representation made by Mr Eldring that was false and fraudulent. Mr Eldring had no bona fide belief at that time, that either Mr Ryan then and there had the sum of £10.4 million on account with Credit Suisse, or that he was in a financial position whereby he could be in that position, before the due date of 20 November 2013.
73. In the premises Mr Ryan, Ryan Corp and Credit Suisse are liable in damages to be assessed for deceit. Each is liable severally for all of the losses suffered by the Claimant, namely the loss of the sum of £25.4 million plus interest thereon.

#### **Unlawful Means Conspiracy**

74. Until disclosure, the taking of a deposition or cross examination the best particulars that can be given of an unlawful means conspiracy as between Mr Ryan and/or Ryan Corp and/or Mr Eldring as agent of Credit Suisse are as below.
75. At some time between 19 July 2013 and 25 September 2013 there was an agreement between Mr Ryan and/or Ryan Corp and/or Mr Eldring for Credit Suisse that they would seek to induce the Claimant to invest substantial sums, such as £15 million, and/or such further sums that were necessary, such as the payments of £10.4 million and £12 million made, by fraudulently misrepresenting Mr Ryan's financial position and creditworthiness, and his track record in property development, by giving the Claimant the belief that Mr Ryan was in a financial position to acquire the Property and carry out its development, and had carried out developments of a value of £100 million before.

76. For the avoidance of doubt it is the Claimant's case that the misrepresentations were made fraudulently, and in that sense were deliberate and wrongful acts, and that the Defendants had "intent to injure" in that they each knew that he the Claimant was relying upon the representations made in deciding whether to invest and in transmitting substantial sums in reliance thereon, and that he stood to lose those sums invested.
77. Further or alternatively if Mr Eldring was induced by lies told to him by Mr Ryan to make the July Representations, and was not party to the conspiracy to make misrepresentations to the Claimant at the outset, then it will be averred that he joined the conspiracy as between Mr Ryan and Ryan Corp, at some stage prior to 25 September 2013, alternatively later, and his motive in doing so may in part have been, that if he did not assist Mr Ryan in procuring the payment of money from the Claimant, that the acquisition of the Property would fail, and in the aftermath the fact of the July Reference, the September Reference, the payment of the Claimant's money to Mr Ryan's Account, and the Guarantees, would be exposed, and he Mr Eldring would be subject to disciplinary action and possible dismissal by Credit Suisse.
78. Pursuant to the above unlawful means conspiracy each of Mr Ryan, Ryan Corp and Mr Eldring for and on behalf of Credit Suisse acted as pleaded in paragraphs 6 - 60 above and including the making of fraudulent misrepresentations as pleaded in paragraphs 63 - 73.
79. In the premises Mr Ryan, Ryan Corp and Credit Suisse are liable in damages to be assessed for unlawful means conspiracy. Each is liable jointly and severally for all of the losses suffered by the Claimant, namely the loss of the sum of £25.4 million plus interest thereon.

#### **Dishonest Assistance in a Breach of Trust**

80. Further or alternatively the £15 million was paid into Mr Ryan's Account for the specific purpose of the acquisition of the Property and its development.
81. Accordingly the money was held upon a resulting trust by Mr Ryan and should have been used only for the purpose of the acquisition of the Property and its development.



82. This purpose was known to Mr Eldring and thus by Credit Suisse for the reasons pleaded above.
83. Although £10 million was used for the agreed purpose of paying the deposit on the contract for the acquisition of the Property the sum of £5 million has disappeared.
84. Mr Eldring has acted dishonestly in making fraudulent misrepresentations as pleaded in paragraphs 63 - 68 above and further in permitting Mr Ryan to withdraw the sum of £5 million from his account knowing that the money had been paid by the Claimant for the specific purpose as above.
85. In the premises Credit Suisse is liable to the Claimant in the alternative to the above in dishonest assistance of a breach of trust and is accountable in equity in the sum of £5 million plus interest.

#### **Credit Suisse Liability under 13 November Guarantee**

86. Further or alternatively on its true construction the 13 November Guarantee creates a contractual obligation on the part of Credit Suisse to pay the sum of £10.4 million to the Claimant in the events that have occurred, namely that Mr Ryan has failed to pay the sum as agreed.
87. In the premises Credit Suisse is liable in debt to pay the sum of £10.4 million under the 13 November Guarantee to the Claimant.
88. The Claimant claims interest pursuant to statute.

#### **And the Claimant claims**

- (1) Against the Second Defendant a declaration that it holds the benefit of any rights as it may have including the right to seek to obtain relief from forfeiture of the deposits paid of £20 million upon trust for the Claimant
- (2) Against the First, Second and Third Defendants damages of £25.4 million in deceit
- (3) Against the First, Second and Third Defendants damages of £25.4 million in unlawful means conspiracy

- (4) Against the Third Defendant an order that it do pay the sum due of £10.4 million
- (5) Against the Third Defendant in the alternative damages of £5 million in dishonest assistance of a breach of trust
- (6) Interest upon such sums as may be awarded

GREGORY MITCHELL QC

ALEXIA KNIGHT

#### STATEMENT OF TRUTH

I believe that the facts stated in these Particulars of Claim are true.

Full name: DR MOHAMMED ABDULRAMAN ABDULAZIZ ALBESHER

Signed:  .....

Date: 23, March 2015