

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES COMMODITY §  
FUTURES TRADING COMMISSION, §  
§  
*Plaintiff,* §  
§  
v. § Civil Action No. A-12-CV-0862-LY  
§  
§  
SEKEN POUSA, INVESTMENT §  
INTELLIGENCE CORPORATION, §  
DBA PROPHETMAX MANAGED FX, §  
JOEL FRIANT, MICHAEL DILLARD, and §  
ELEVATION GROUP, INC., §  
§  
*Defendants.* §

**RECEIVER'S MOTION FOR APPROVAL TO PAY EXPENSES OF EXISTING LEGAL  
COUNSEL AND TO RETAIN ADDITIONAL COUNSEL**

Guy M. Hohmann, the Court-appointed Receiver in the above-referenced ProphetMax Receivership matter and the ancillary IB Capital matter, files this Motion for Approval to Pay Expenses for Existing Counsel and to Retain Additional Counsel (the "Motion").

**I. Request for Approval to Retain French and Separate Local Moroccan Counsel**

The Receiver wishes to retain French-based counsel to aid in the recovery of approximately \$4.3 million from Morocco (net of Government transfer and local counsel fees).

The addition of French counsel is needed (a) to work with parties located in France to expedite the execution of proper authorizations to be submitted to Moroccan banks and authorities, (b) to communicate with and direct local Moroccan counsel who will have to present and to defend the authorizations, and (c) to anticipate and to address roadblocks likely to be encountered in the course of a technocratic process that has, thus far, been delayed by difficulties with the Moroccan consulate and exacerbated by COVID. In view of the difficulties in obtaining legalization (consulate validation) of original signatures, the Receiver believes it is advisable to

retain counsel to assist with the execution of documents and also to ensure that the documents are prepared in such a manner as to ensure they will be accepted.

The Receiver has selected the firm Archipel because of its experience in cross-border recovery of laundered funds originating from criminal activities, including specifically the recovery of funds from Morocco. The work here involves the cooperation with the DPPO (who is exercising its leverage over the Moroccan account holders involved) and the navigation of Moroccan procedures that require precise transfer documents, translated to French, presented to counsel for the account holder who resides in France, signed at the Moroccan consulate in France, counter-signed by the Receiver before a proper Moroccan authority, and presented to Moroccan authorities and the involved bank. The account holder has recently executed the transfer documents at the Moroccan consulate in Lille, France. What remains is for (a) the Receiver to counter-sign the transfer documents before an appropriate Moroccan authority (b) the filing of an application for recognition of the transfer documents by the Moroccan Government and (c) the filing of an application for the Moroccan Foreign Exchange Control Office to permit the transfer of funds out of Morocco to the Receiver. The Dutch authorities have promised to support the release of the funds, which should prove effective, as the Dutch authorities obtained the cooperation of the Moroccan authorities in the first place. While the papers and procedures are not controversial, the papers can be rejected for the smallest of reasons, and, with the impact of COVID, the consulates and embassies of the Moroccan Government have not been adequately staffed, such that minor issues take months to correct. It is therefore prudent to include sophisticated and experienced counsel, locally in touch with all parties, in order to address the inevitable complications that arise with painstakingly following the appropriate procedures. The Receiver is advised that the process should succeed. However,

the timetable for recovery is highly variable; in other words, the process can seem tantalizingly close to completion at times and then a delay of further months can be encountered.

When the Receiver initially filed his motion to retain French counsel, the lawyer was requesting a retainer in the amount of EUR 30,000. When the Court's previous clerk informed the Receiver, the Court was disinclined to allow for the payment of retainers, the Receiver withdrew that motion. After conferring further with the proposed counsel, that counsel has now agreed to perform services without a retainer being paid.

In addition, prospective French counsel has also identified local Moroccan counsel that will also perform services without a retainer. A summary of the qualifications of the recommended French and local Moroccan counsel are attached to this motion as exhibits "A, B, C and D"

## **II. Rachid Benzakour, Casablanca, Morocco**

The proposed counsel will supplement the efforts of existing counsel, who, notwithstanding certain shortcomings, has provided valuable advice and assistance. Fees incurred with this lawyer cover services rendered between June 25, 2020, through September 2, 2022. The services related to a number of communications with the Receiver regarding research and analysis of Moroccan accounts and properties, advice on the legalization, preparation and sending of two formal notices to Banque Populaire, translation of assignment agreements from English to French, preparation of the Exequatur procedure, advice on the Moroccan Real Estate/ properties, obtaining updated certificates of ownership, review of the French Assignment and Comments, communications with Emed Echadi and discussions with the local bank for the opening of an account) and legal research as to regulations. A copy of Rashid Mr. Benzakour's invoice is attached as exhibit "E".

Total fees and expenses for Mr. Benzakour's most recent invoice, including Value Added Tax, is USD 48,000.

### **III. Montanios & Montanios, LLC**

The Montanios firm has been assisting the Receiver in pursuing a claim arising out of the collapse of Cyprus Popular Bank (the “Bank”). Two of the relief defendants, Randius, Ltd. and Neotex, Ltd., were the recipients of approximately \$8.3 million in funds that had been misappropriated from IB Capital and were being held at the Bank at the time of the Bank’s collapse. At issue in the litigation was whether the receiver would be limited to the EUR 100,000 depositor insurance limits for each of the accounts. The Cyprus Supreme Court recently issued its opinion which found USD \$1,006,848 and EUR 131,426 from the Neotex account is being held by (or will be transferred to) the Cyprus Attorney General.

With respect to the Randius account, the Court held that EUR 100,000 should be available for confiscation plus some additional amount that will be determined at the conclusion of the reorganization process of the Bank. The outstanding invoice to the Montanios firm is EUR 4,165.00 (USD 4,303.01)<sup>1</sup>. There invoice is attached as exhibit “F”.

### **PRAYER FOR RELIEF**

The Receiver requests the Court enter the proposed Order filed with this Motion to approve the payment of total expenses of \$42,303.01 referenced above. The expenses were both reasonable and necessary for the Receiver to fulfill his Court-ordered duties.

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<sup>1</sup> XE: Convert EUR/USD (November 29, 2022). Retrieved from <https://www.xe.com/currencyconverter/convert/?Amount=4165&From=EUR&To=USD>

Respectfully submitted,

GUY HOHMANN

By: /s/ Guy Hohmann

Guy Hohmann

State Bar No. 09813100

guyh@hohmannlaw.com

114 West 7<sup>th</sup> Street

Suite 1100

Austin, Texas 78701

(512) 495-1438

**RECEIVER FOR THE PROPHETMAX AND  
IB CAPITAL RECEIVERSHIP ESTATES**

**CERTIFICATE OF CONFERENCE**

The Receiver conferred with Timothy Mulreany, counsel for the CFTC, who stated the CFTC does not take a position on the Motion nor the relief sought herein.

/s/ Guy Hohmann

Guy Hohmann

**CERTIFICATE OF SERVICE**

On December 2, 2022, I electronically submitted the foregoing document with the Clerk of the Court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Guy Hohmann

Guy Hohmann

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

*Plaintiff,*

v.

SENE POUSA, INVESTMENT  
INTELLIGENCE CORPORATION,  
*DBA* PROPHETMAX MANAGED FX,  
JOEL FRIANT, MICHAEL DILLARD, and  
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Civil Action No. A-12-CV-0862-LY

**ORDER ON RECEIVER’S MOTION FOR APPROVAL TO PAY EXPENSES OF  
EXISTING LEGAL COUNSEL AND TO RETAIN ADDITIONAL COUNSEL**

Before the Court is the Receiver’s Motion Approval To Pay Expenses Of Existing Legal Counsel and to Retain Additional Counsel (the “Motion”) for the following expenses:

1. Rachid Benzakour, Casablanca, Morocco, for total fees and expenses USD 48,000.
2. Montanios & Montanios, LLC, for total fees and expenses EUR 4165 (USD 4303.01).
3. The Receiver is also authorized to retain the French law firm of Archipel and the Moroccan Law firm of Mokhtari Avocats.

Having considered the Motion, the evidence presented, and arguments of counsel, if any, the Court finds the Motion should be, and is hereby, GRANTED.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
LEE YEAKEL  
UNITED STATES DISTRICT JUDGE

EMMANUEL KASPEREIT

**PARIS**

PARTNER

[+33 \(0\) 1 40 54 51 00](tel:+330140545100)

[ekaspereit@archipel.law](mailto:ekaspereit@archipel.law)

**Emmanuel Kaspereit's practice focuses on International Litigation.**

Emmanuel Kaspereit advises clients on international litigation, including cross-border proceedings, enforcement, interim measures and international asset tracing.

He has considerable experience in enforcement of foreign judgments and arbitral awards, especially against sovereign states and in fraud matters. He advises French and international clients on defining and carrying out strategies for recovery of assets.

Emmanuel graduated in Business Law from University Paris-II Panthéon Assas and holds a Master in European Business Law from the same university. He holds an LLM from the University of Edinburgh.

Emmanuel practices in French, English and Spanish.

#### **Practice areas**

- Enforcement of foreign judgements & awards
- International litigation
- Asset tracing & recovery
- Evidentiary proceedings
- Interim measures
- OHADA law

#### **Recent projects**

- Advising a trading company in assets recovery in Europe and offshore jurisdictions
- Advising a Middle East company in enforcing an OHADA award and defending it against a challenge

- Enforcing an arbitral award against the French assets of an Asian state
- Advising a European company in enforcing a Worldwide Freezing Order in France
- Advising an African company in recovering its debt against an African state
- Representing an African company before the OHADA court in a fraud case
- Defending a French-British investor against fraudulent claims by an African state
- Representing a luxury Middle East company in enforcing an award in France

#### **Conferences**

- Asset Recovery International (Knect 365, Dublin, March 2019)
- Is Sports Arbitration in Turmoil Following the Seraing and Mutu & Peichtin rulings? (AIJA conference Is the Arbitrator a Good Referee?, Paris, Dec. 2018)
- Commercial liability deriving from private corruption (AIJA, Recife, March 2018)
- Recovery of Arbitral Awards (ICC Mena Conference, Dubai, Apr. 2017)
- Exécution des sentences contre les parties africaines (Institut Afrique Monde, Paris, Sept. 2016)
- Immunités contre l'exécution (UIA, Dakar, Apr. 2015)

#### **Professional affiliations**

- International Bar Association
- International Association of Young Lawyers (AIJA) – Vice President of the Election Committee



JACQUES-ALEXANDRE GENET

**PARIS**

PARTNER

[+33 \(0\) 1 40 54 51 00](tel:+330140545100)

[jagenet@archipel.law](mailto:jagenet@archipel.law)

**Jacques-Alexandre Genet specialises in international litigation and asset recovery.**

Jacques-Alexandre Genet has world-class expertise in sovereign debt, international enforcement, asset tracing and interim measures. He also advises international businesses on issues arising from doing business in France (company law, tax, immigration, labour laws), the Middle East and Africa (international sales contracts, distributorship/agency agreements, OHADA law, etc.), including in distressed contexts.

He is listed in Who's Who Legal as a Global Leader in Asset Recovery.

Jacques-Alexandre is a graduate of Sciences Po Paris, where he majored in economics and finance. He graduated in French law and English & American business law at University Paris X-Nanterre.

He lectured at the Sorbonne (University Paris 1 Panthéon-Sorbonne).

Jacques-Alexandre practices in French, English and Spanish.

#### **Practice areas**

- Enforcement of foreign judgements & awards
- Sovereign debt
- Asset tracing & recovery
- Multi-Jurisdictional complex litigation
- Interim measures
- International contracts

#### **Recent projects**

- Representing a UK company in the enforcement of a UK judgment and of worldwide freezing orders

Exhibit B

- Representing an Italian company in the enforcement of an arbitral award against a state-owned entity from Eastern Europe
- Devising and obtaining interim measures not previously ordered by French courts for a European client
- Representing a businessman chased by a foreign market authority
- Representing a businessman chased by a foreign state
- Representing an African company in the enforcement of arbitral awards against an African state
- Representing a hedge fund in the enforcement of multiple awards and judgments against sovereign states
- Representing French creditors in claims against an Eastern European state
- Representing a French company in post-fraud recovery of assets in various offshore and European jurisdictions

### **Conferences**

- Enforcement of arbitral awards in Europe (Paris Arbitration, Paris, Apr. 2019)
- The enforcement of arbitral awards against States or State-owned entities (CEA, Brussels, Feb. 2019)
- Enforcing Arbitral Awards Against States – Sovereign immunity: the commercial activity exception in French law (IAI, Paris, Oct. 2018)
- Recent Developments in the Enforcement of Awards against States and Sovereign Immunities (CFA-40/CEA-40, Paris, Feb. 2018)
- Anticipating the Non-Enforcement of Judgments and Awards (CREDIMI, Dijon, June 2017)
- Foreign Sovereign Immunity from Enforcement after the Sapin II Law (CRDI, Paris II Panthéon-Assas, Apr. 2017)
- Enforcement around the Asian Region: beyond the NY Convention (GAR Live, Hong Kong, Oct. 2016)
- Sovereign Immunity from Enforcement and Classification of States' Assets (ICC, Tunis, May 2015)
- 'Vulture Funds' and the International Financial System: Is there any value added? (UNCTAD, New York, Dec. 2015)

Exhibit B

**Professional affiliations**

- International Bar Association
- Emerging Markets Trade Association (EMTA) French Arbitration
- Committee of Arab Chamber of Commerce (CCFA)

**NADIA DEPREZ**

**PARIS**

**ASSOCIATE**

**+33 (0) 1 40 54 51 00**

**ndeprez@archipel.law**

Linkedin

**Nadia Deprez specialises in international business litigation.**

Admitted to the Paris and Tunis Bar, Nadia advises and represents clients in connection with the recognition and enforcement of arbitral awards and foreign judgments, as well as in support of arbitration or foreign court proceedings.

Prior to joining Archipel in 2019, Nadia trained with several international arbitration and business law firms in Paris and Tunis (Tunisia).

She holds a Master's degree in Litigation law from Paris XIII University as well as a Master's degree in Business law from Paris-II Pantheon-Assas University and a degree in private law from Tunis University of Law.

Nadia speaks French, English and Literacy Arabic.

# Aïcha Brahma

[+212 5 22 27 40 74](tel:+212522274074)

[abrahma@mokhtari-avocats.com](mailto:abrahma@mokhtari-avocats.com)

Aïcha is an attorney at the Casablanca Bar after being an attorney at the Paris Bar. She acts on behalf of and advises Moroccan and international companies in their business law needs relating to the company life: incorporation, international contracts, business litigation (including emergency procedures, interim measures, dispute between partners, business criminal law).

Aïcha also practices international assets recovery and both domestic and international arbitration. She is an approved Arbitrator of the Moroccan Court of Arbitration and is the alternate Moroccan Member of the Court of the International Chamber of Commerce since June 2018.

Before joining Brahma Mokhtari Avocats, Aïcha practiced as an associate in Parisian and Moroccan law firms specialized in international business law and arbitration.

Aïcha holds a Bachelor's degree in Law and a Master's degree in International and European Law from the University of Paris Ouest Nanterre La Défense. She is a former teaching assistant at the University of Paris Ouest Nanterre-La Défense and a visiting researcher at UCLA University in Los Angeles United States.

Aïcha speaks Arabic, French, English and Spanish.

## Education

### Université Paris Nanterre

Master's in International Relations & European Law

Bachelor's in Law

## Bar Admissions

Casablanca

Paris (*Avocat à la Cour*)

**BENZAKOUR RACHID  
AVOCAT**

M.REF : 820  
AFF/ US COMMODITIES  
C/ IB CAPITAL- ECHADI- EL MOUTAOUAKKIL

Casablanca, November 18, 2022

**Guy Hohmann**  
The Hohmann Law Firm  
Norwood Tower  
114 West 7<sup>th</sup> Street  
Suite 1100  
Austin, Texas 78701

**Invoice**

- Fees: 40.000 USD

(From 25/06/2020 to 02/09/2022: Several correspondence, Advice on the legalization, Preparation and sending of 2 formal notices to Banque Populaire, Translation into English language, Preparation of the Exequatur procedure for the sum of around 4.300.000 USD: lump sum fees 30.000 USD demanded since 24/08/2020, Advice on the Moroccan Real Estate/ properties, Obtention of updated certificates of ownership, Review of the French Assignment and Comments, Different Exchanges with Emed, Discussions with the local bank for the opening of an account), Legal searches as to regulations,

- VAT: 8.000 USD

Total: 48.000 USD

Thank you for proceeding to payment, free of any bank commissions, by wire transfer, to the following bank account :

- Account Holder: Benzakour  
- **IBAN: 011 780 0081529130012554 19**  
- Bank: Banque Marocaine du Commerce Exterieur (BMCE)  
- Adress: 62, Angle Bd Anfa et My Youssef Forum Bab Abdelaziz- Casablanca,

Morocco

Tel: + (212) 522 43 36 31  
- **Swift Code: BMCEMAMC**

Rachid BENZAKOUR  
Avocat

**Espace Porte d'Anfa- 29 Rue Bab Mansour Bat A- Casablanca (20050)  
Tél : +212 661 09 05 79**

**MR GUY HOHMANN**

in his capacity as Receiver of Emad Echadi and Michel Geurkink, and their company,  
 IB Capital FX, LLC  
 Norwood Tower  
 114 West 7<sup>th</sup> Street  
 Suite 1100  
 Austin, Texas 78701  
 United States of America

**STATEMENT**

25 November 2022

*in account with***MONTANIOS & MONTANIOS LLC**

ADVOCATES &amp; LEGAL CONSULTANTS

P.O. Box 25001

Nicosia - Cyprus

Our Ref: YP/AY/NY/302366

**Tax Identification Code: 12260348I****V.A.T. Registration No.: 10260348G**

<b>Re:</b>	<b>Outstanding Notes of Charges</b>	€	Cents	€	Cents
	<b>Randius Ltd &amp; Neotex Assignments/FBME Ltd</b>				
-	Our Note of Professional Fees and Disbursements dated 10 August 2021 for the period 27 March 2020 to 09 August 2021.....	1.755,00			
-	Our Note of Professional Fees and Disbursements dated 10 March 2022 for the period 11 August 2021 to 09 March 2022.....	2.232,00			
-	Our Note of Professional Fees and Disbursements dated 4 November 2022 for the period 10 March 2022 to 03 November 2022.....	1.900,00		5.887,00	
	<b>Less: - Remittance dated 15 March 2022</b>				(1.722,00)
	<b>Balance due</b>				<b>4.165,00</b>
	<b>(Euros Four thousand one hundred and sixty five)</b>				
<b>Remittance details:</b>					
<i>Bank:</i>	BANK OF CYPRUS				
<i>Branch:</i>	Nicosia (142), Cyprus				
<i>BIC / SWIFT:</i>	BCYPCY2N				
<i>Account Name:</i>	MONTANIOS & MONTANIOS LLC				
<i>IBAN:</i>	CY47 0020 0195 0000 3570 1007 1963				

E. &amp; O. E.

Exhibit F