



IN THE SMALL CLAIMS COURT

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

30 July 2025

CASE No: AIFC-C/SCC/2025/0007

YERLAN VILENULY DARZHAN

Claimant

v

ACLB MANAGEMENT COMPANY LTD

Defendant

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JUDGMENT

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Justice of the Court:

Justice Saima Hanif KC



### ORDER

1. The Claim is allowed against the Defendant.
2. The Defendant shall pay to the Claimant the total sum of KZT 2,151,200 by no later 13 August 2025.

### JUDGMENT

#### **Introduction**

1. By a claim registered on 19 March 2025, the Claimant seeks various remedies from the AIFC Small Claims Court arising out of a written contract of investment with the Defendant (henceforth "**the Contract**").
2. The Claimant has requested that the claim be dealt with on the papers.
3. I have been provided with a document, which is signed by the Claimant's legal representative which states that on 1 July 2025, a copy of the Statement of Claim was sent to the registered postal address of the Defendant as publicly listed in the official AFSA company register.
4. As at the date of this judgment, the Defendant has not filed any defence with the Court, or otherwise communicated with the Claimant or the Court.
5. As I am satisfied that the Defendant has been properly served the claim form, I will proceed to determine the claim on the papers provided by the Claimant.

#### **Jurisdiction**

6. On 29 July 2024, the parties entered into the Contract. Clause 5.2 of the Contract states as follows:  
  
*"The Parties submit to the jurisdiction of the AIFC court for conduct of procedural instruments with respect to this Agreement. The Parties hereby acknowledge that procedural instruments in any claim, action or proceedings arising by reason of or due to this Agreement may be sent to the appropriate Party at the address specified in this Agreement."*
7. At paragraph 3.1 of the Claim Form, the Claimant relies on clause 5.2 as conferring jurisdiction on the AIFC Court to consider the dispute.
8. I am satisfied that the AIFC Court does have jurisdiction and that is appropriate for determination by the Small Claims Court ("**SCC**") having regard to Rule 28.2 of the AIFC Court Rules ("**the Court Rules**").

#### **The Parties**

9. The Claimant is Mr Darzhan Yerlan Vilenuily.
10. The Defendant is a limited company registered with the Astana International Financial Centre.

### **The Terms of the Contract**

11. On 29 July 2024, the Claimant and the Defendant entered into the Contract, which is entitled “Wakala Agreement No.7”. The reference to “Wakala” and the “No.7” has not been explained in the Claim Form, however based on the material provided to me, nothing appears to turn on this for the purpose of the claim.
12. The purpose of the Contract was stated in clause 1 to be as follows:

*“The Customer...has appointed the Company to act as its agent...and to invest the funds of the Customer in investment projects...”*
13. As the Claim Form explains, the investment projects were to be compliant with Sharia principles. Moreover, the Defendant was obliged to invest the funds in the interests of the Claimant, and in the event of the investment generating an income, the Defendant was obliged to pay it to the Claimant.
14. Clause 3.1 of the Contract requires the Defendant to manage the funds by investing them through the “Investment Fund”, which is defined in clause 1 as “any fund...through which [the Defendant] invests the Investment Amount further for the purposes of income generation...”
15. Annex 1 to the Contract is a document composed of three sections. The first section contains a “proposal” from the Defendant to the Claimant which specifies the following items:
  - (1) The amount of the investment is KZT 2,000,000;
  - (2) The date of the investment is 29 July 2024 and the expiry date is 29 July 2029.
  - (3) The expected profit was 19% per annum.
16. The second section is essentially the customer’s “consent” to the proposal. It records that the customer accepts the “aforementioned” terms and conditions (this is obviously a reference to the terms and conditions in the agreement dated 29 July 2024.)
17. I do not need to consider the third section (although for the sake of completeness it is questionnaire which is directed at the customer, and covers matters such as the customer’s source of income.)

### **The Signing of The Contract and Events Thereafter**

18. I have been provided with a document entitled “signing receipt” which records that both parties signed the document electronically, the Defendant on 31 July 2024, the Claimant on 1 August 2024.
19. A further document provided to me, entitled “Transfer to the account number” records that on 1 August 2024, KZT 2,040,000 was transferred from an account in the name of Mr Darzhan to the Defendant. Against the field “transfer purpose” the document records “Agreement Vakala No. 7”. The document is numbered “receipt no. 2237418727.”
20. This is consistent with paragraph 4.4 of the Claim Form where the Claimant states that on 1 August 2024, the Claimant transferred 2,040,000 tenge to the Defendant’s bank account.
21. On 5 December 2024, the AFSA published an “alert” which provided “clarification regarding the regulatory status of ACLB Management Company Limited.” As material it stated:

*“...ACLB Management Company Limited...is neither licensed by AFSA to provide Financial Services nor authorised to make Financial Promotions within or from the AIFC.*

*...*

*AFSA advises caution and recommends avoiding entering into any contractual agreements with ACLB Management Company Limited...”*

22. On 21 January 2025, the Claimant wrote the CEO of the Defendant (Mr Bayev) seeking a return of the of the KZT 2,040,000 on the basis that “the concluded transaction is invalid because it violates the requirements of the current legislation.” The letter explained that although the Defendant was “registered as a Private Company under the laws of [the AIFC], but does not have a licence issued by ‘Astana’ Financial Services Authority (hereinafter – AFSA) to render financial services, which makes the transaction null and void.”
23. The letter was sent via courier mail to the address set out on the first page of the Contract against the Defendant’s name. No response was received to that letter.
24. Paragraph 5.8 of the Claim Form confirms that, to date, the Defendant has not returned the funds.
25. On 19 March 2025 the claim was registered with the AIFC Court.

#### **Legal Grounds for the Claim**

26. The legal basis for the Claimant’s challenge is set out at paragraphs 5.1 – 5.4 of the Claim Form. In summary, the Claimant contends that as the Defendant was not licenced by the AFSA to provide financial services, the contract is void as it violates the applicable laws of the Republic of Kazakhstan and the legislation of the AIFC.
27. In this regard, I note that section 24 of the AIFC Financial Services Framework Regulations prohibit a party from carrying on a regulated financial services activity unless it is licensed to do so by the AFSA. Moreover, section 28, entitled “enforceability of agreements” provides at s28(2) that a party may apply to the AIFC Court to recover any money paid by him under the agreement.
28. Based on the information provided to me by the Claimant, I am satisfied that at the material time the Defendant did not have the requisite licence from the AFSA to carry on a regulated financial services activity, and therefore the Claimant is entitled to a refund of any monies paid to the Defendant under the Contract.

#### **Remedy**

29. The Claimant claims the following (see section 3 of the claim form):
  - (1) The return of the sum of KZT 2,040,000;
  - (2) The court fees of KZT 11,200;
  - (3) The cost of the translation services and notary services (KZT 51,295 in total);
  - (4) The legal expenses of KZT 200,000.
30. In this Rule 26.9 of the AIFC Court Rules provides as follows:

*“The SCC may not order a party to a small claim to pay a sum to another party in respect of that other party’s costs, fees and expenses, including those relating to an appeal, except:*  
*(1) such part of any Court fees paid by that other party as the SCC may consider appropriate; and*

*(2) such further costs as the SCC may assess by the summary procedure and order to be paid by a party who has behaved unreasonably.”*

31. I consider it appropriate to order the Defendant to pay the Court fees paid by the Claimant in relation to these proceedings.
32. Furthermore, in circumstances where the Defendant did not even respond to the Claimant’s letter of 21 January 2025, thereby forcing the Claimant to commence proceedings, and where the Defendant has failed to engage with the Court process at all (whether to admit or deny the claim) I consider that the Defendant has behaved unreasonably. However, in recognition of the fact that this is a small claims court, I award the Claimant 50% of his legal expenses, namely KZT 100,000.

### **Decision**

33. The Defendant is therefore required to pay the sum of KZT 2,151,200 to the Claimant by no later than 13 August 2025.

By the AIFC Small Claims Court,

Saima Hanif KC,  
Justice, AIFC Small Claims Court

### **Representation:**

The Claimant was represented by Mr Yerlan Akhmetov, independent external legal consultant, Astana, Kazakhstan.

The Defendant has not participated in the proceedings.