instructions to the Attorney-General, may have expressed views as to how it would exercise its discretion, the fact remains that, no application having been made, no decision has been taken and therefore there has been no violation of the claimant's constitutional right to marry.

25 For these reasons the claim is dismissed and I shall hear the parties as to costs.

Declaration refused.

[2010–12 Gib LR 201]

REAL MADRID CLUB DE FÚTBOL v. GLOBETVIP.COM LIMITED

SUPREME COURT (Butler, J.): September 5th, 2011

Arbitration—foreign arbitral award—enforcement—enforcement proceedings to be stayed if good arguable case that, contrary to public policy, award obtained by fraud or perjury—may adjourn proceedings to hear more evidence—stay until, if possible, arbitration court determines existence of fraud or perjury—delay in applying to arbitration court to have matter re-opened to be met with enforcement

The claimant applied to the Supreme Court to enforce an arbitral award.

The claimant football club and defendant company entered into a three-year sponsorship agreement in May 2006. By its terms, either party was permitted to terminate the agreement upon breach of contract by the other, which the claimant did in March 2007, upon the defendant's failure to make various payments and bank guarantees in its favour. The contract was governed by Spanish law and contained an arbitration clause. The defendant commenced arbitration proceedings in the ICC International Court of Arbitration alleging that the claimant had breached its pre-emptive rights by entering into sponsorship negotiations with a third party, contrary to cl. 6.2 of the contract, by which if such negotiations were entered into before termination the claimant was to inform the defendant of the terms of any offer from the third party and allow the defendant to match it. The claimant, through its former General Executive Director, Mr. Perianez, had maintained during the arbitration that no third-party negotiations had taken place before the termination of the contract, but the contract with the third party referred to an agreement between them in December 2006. The Court of Arbitration decided that it was highly likely

that negotiations with the third party had taken place before March 2007, but nevertheless concluded that there had been no breach of contract because the defendant had not proved that it had sought details of the third-party offer or that the claimant had refused to provide details of the offer once the defendant had become aware of the negotiations.

The claimant applied to enforce the award in the Supreme Court, but the defendant sought a stay of the award on the ground that, *inter alia*, enforcement would be contrary to public policy because the award had been obtained by the fraud or perjury of Mr. Perianez. It produced new affidavit evidence that a Mrs. Perera had brought a claim against the third party in the Spanish courts for moneys allegedly owed to her for professional services in negotiating the third-party sponsorship contract from 2005. There was also reference to the claimant and the third party having maintained a contract since 2005. The defendant also indicated that it proposed to apply to the Court of Arbitration to re-open the arbitration. The claimant adduced further evidence that although third-party negotiations had taken place before termination of the contract, no third-party offer capable of being communicated to the defendant had been made until after termination.

The claimant argued that the award should be enforced in the same manner as a Supreme Court judgment and that judgment be entered in the terms of the award, submitting that (a) although enforcement of an award procured by fraud or perjury would be contrary to public policy for the purposes of the Arbitration Act 1895, s.52, the award was not so procured because the Court of Arbitration had held that, despite the high likelihood that third-party negotiations had taken place before the termination of the contract, there had been no breach of contract and no third-party offer capable of communication to the defendant had been made before termination; (b) it would be contrary to international judicial comity to review the decision of the Court of Arbitration; (c) the defendant was simply employing delaying tactics; and (d) any defects in providing the authenticated original award and arbitration agreement or an official translation of the award, as required by the Arbitration Act, s.51, could be easily remedied and would not preclude enforcement of the award.

The defendant submitted in reply that (a) the award had arguably been procured by fraud and further evidence should be adduced about the relevant negotiations, offers, and the third-party contract of December 2006; (b) in determining whether an award was contrary to public policy, the court was not acting as an appeal court in reviewing the decision of the Court of Arbitration; (c) the defendant was not employing delaying tactics and would proceed expeditiously with an application to re-open the case before the Court of Arbitration; and (d) the claimant had failed to provide the authenticated original award and arbitration agreement or an official translation of the award.

Held, adjourning the hearing:

(1) The court would adjourn the hearing to enable further evidence of fraud or perjury to be adduced. When an application for permission to enforce an arbitration award was opposed on the ground that it would be contrary to public policy because it had been obtained by fraud or perjury, the court would first consider whether the evidence and allegations raised the prospect that the award might have been materially affected by fraud or perjury. If so, the court would then determine whether there was a good case that the arbitration award would have been different if the fraud or perjury, or certain aspects of it, had been known at the time of the award, and, if necessary, adjourn the hearing to allow more evidence to be adduced. If a good arguable case were demonstrated, the court would stay the enforcement proceedings until (assuming that it was possible to do so) an application was made to re-open the arbitration before the original arbitration court, which was the correct forum to finally determine the existence of fraud or perjury and its impact upon the award. The Supreme Court would not finally determine the materiality of fraud or perjury to the award or determine its enforceability, as it would be contrary to international judicial comity for it to act as an appeal court in reviewing the decision of an international court of arbitration. Accordingly, where there was a good arguable case that enforcement would be contrary to public policy, an enforcement application would be stayed on a strict timescale to allow the party alleging fraud or perjury to make the necessary application to the arbitration court for the matter to be re-opened. Any indication of delaying tactics would be met with a removal of the stay and enforcement of the award (paras. 32–36).

(2) In the present case, there was a possibility that the arbitration award might have been materially affected by the alleged fraud or perjury of Mr. Perianez. It appeared from the decision of the Court of Arbitration that it had rejected his evidence and found it highly likely that third-party negotiations had taken place before the termination of the contract and concluded that this had not breached the contract because the defendant had not proved that, upon learning of the negotiations, it had requested details of the third party's bid. Nevertheless, it was not certain that that was the correct interpretation of the arbitration court's reasoning and the award might therefore have been materially affected by the alleged fraud or perjury, especially if some agreement between the claimant and the third party had been entered into in December 2006, before termination of the contract. The hearing would therefore be adjourned to allow further evidence to be filed and served about the alleged negotiations, offers, and the third-party contract of December 2006, before determining whether there was a good arguable case that the award would have been different if full details of the alleged fraud or perjury had been known at the time of the award (paras. 12–14; paras. 21–36).

(3) Any defects in providing the authenticated original award and arbitration agreement or an official translation of the award could be easily remedied and would not preclude enforcement of the award (para. 4).

Legislation construed:
Arbitration Act 1895, s.51: The relevant terms of this section are set out at para. 2.
s.52: The relevant terms of this section are set out at para. 5.

R.A. Triay for the claimant;
N.F. Costa for the defendant.

1 **BUTLER, J.:** This is an application (a) for the permission of this court for an arbitration award dated January 22nd, 2009, made by the ICC International Court of Arbitration, to be enforced in the same manner as a judgment or order of this court; and (b) for judgment to be entered in this court in the terms of the award.

2 The application is opposed on two grounds:

(a) that the defendant has not satisfied the mandatory requirement in s.51 of the Arbitration Act 1895 that the party seeking to enforce a Convention award must produce the following evidence: (i) "the duly authenticated original award"; (ii) "the original arbitration agreement"; and (iii) "where the award is in a foreign language, a translation of it certified by an official or sworn translator"; and

(b) that enforcement of the award should be refused under s.52(3) of the Arbitration Act on the basis that enforcement would be against public policy because the award was obtained by the fraud or perjury of the defendant's former General Executive Director, Mr. Jose Angel Sanchez Perianez.

3 As to the first ground, any technical defects are easily remediable in so far as they may not have been remedied already. I shall therefore concentrate on the more substantive second ground.

4 It is realistically accepted by Mr. Triay, on behalf of the claimant, that if it is shown that the award was obtained by fraud or perjury it would be contrary to public policy for it to be enforced and the claimant's application should be stayed or dismissed.

5 Section 52 of the Act provides:

"(1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this section.

. . .

(3) Enforcement of a Convention award may also be refused if . . . it would be contrary to public policy to enforce the award."

Background

6 By a contract dated May 12th, 2006, entitled "the Commercial Co-operation Advertising Contract," the parties to this application assumed the mutual obligations which are set out in that contract. The claimant was referred to as "Real Madrid" and the defendant as "Globet."

7 The basic contract term was three years as from July 1st, 2006, but cl. 9 provided for a party to terminate the contract upon breach of contract by the other party. The contract was to be governed by Spanish law and included an arbitration clause.

8 The following clauses of the contract are particularly relevant:

Clause 6.1 ("exclusivity"), whereby the claimant agreed not to permit use of the media by anyone competing with activity developed by the defendant.

Clause 6.2 ("pre-emptive right"):

"If before this agreement is terminated Real Madrid *enter into negotiations* for rendering services related, directly or indirectly, to marketing or advertising activities similar to those that are included in this agreement, or sponsorship activities, with a third person, individual or entity, for all kind of medium different from the media, which activity is directly or indirectly competing to the activity developed by Globet, Globet will have a pre-emptive right with respect to that offer, provided always that Globet make to Real Madrid an economic offer equal to that from the competitor. For this purposes Real Madrid undertake to communicate to Globet, by certified notice, the whole conditions included in such third party offer and Globet will have a maximum period of fifteen (15) days from the receipt of such communication to exercise its pre-emptive right." [Emphasis supplied.]

Clause 9 ("termination"):

"By either party in case of a breach by the other party of any of the obligations under this agreement, without prejudice to the compensation for damages that may arise; if that breach has not been cured by the defaulting party within one (1) month after written notice delivered by the other party . . .

Should the party fulfilling its obligations opt for the termination of this agreement it will be considered as terminated with the only requirement of a certified written notice to the defaulting party and with effect from the receipt by the addressee of such notice.

> The discharge and advanced due date of the termination for the agreement *does not relieve any of the parties, in any case, of the faithful performance of the pending obligations up to that moment*." [Emphasis supplied.]

9 The obligations of the defendant under the contract were to provide various payments and bank guarantees in favour of the claimant. It failed to do so. The claimant terminated the contract pursuant to cl. 9.1. The termination became effective on March 19th, 2007. The defendant commenced arbitration proceedings on June 20th, 2007 and the claimant counterclaimed. The award of the ICC International Court of Arbitration, was made on January 22nd, 2009. It dealt with numerous issues of fact and argument presented by the parties, but the outcome was that the defendant was ordered to pay to Real Madrid €5,648,264, plus interest, plus half of the US$470,000 arbitration costs. Each party was to pay its own costs.

10 A major plank in the defendant's case was that the claimant had breached its pre-emptive rights under cl. 6.2 by entering into negotiations with a rival entity (for these purposes, referred to as "Bwin") and subsequently entering into a contract with Bwin without affording the defendant its pre-emptive rights.

11 The award contains many rulings as to Spanish law, interpretation of the contract and disputed facts. For the purposes of this application, however, the following paragraphs are pertinent:

> "317 The plaintiff alleges that the decision of Real Madrid to separate itself from Globet through an unjustified contract resolution could be explained by the fact that Real Madrid was in negotiations with another betting firm, Bwin, for a patronage contract . . .
>
> **The Real Madrid/ Bwin sponsorship contract** . . ."

Paragraph 343 recorded that Globet based its pre-emption argument on the following: (a) reference to press article (January 1st, 2007) in *La Razon* about the Real Madrid/Bwin contract; (b) a letter from Globet to Real Madrid requesting clarification (February 13th, 2007); (c) no response from Real Madrid; (d) "*El Mundo Deportivo*" publication of the signing of the Real Madrid/Bwin contract (May 31st, 2007); (e) a letter from Globet to Real Madrid alleging breach (June 1st, 2007); (f) Real Madrid's letter in response (June 4th, 2007); (g) presentation of the agreement by Real Madrid and Bwin (June 11th, 2007); (h) players wearing the Bwin logo (June 11th, 2007); (i) a Bwin advertisement; and (j) Bwin was promoted in the communication media of Real Madrid.

In para. 345, Real Madrid denied any breach on the basis that the Bwin contract was signed after the defendant's contract had been resolved.

"390 The conclusions that the Court of Arbitration will arrive at will permit it to decide on the origin (a) of the judicial proceedings urged by the defendant before the Supreme Court of Gibraltar so as to obtain a judicial order which would prohibit the lending bank from paying the claimant before the refusals of the defendant to pay . . .

The signing of the sponsorship contract between Real Madrid and Bwin

. . .

497 Based on the contractual terms above, the Court of Arbitration considers that its decision regarding the issue that if, by signing the contract with Bwin, [the claimant] were in breach of contract depends (a) on whether the contract had been validly rescinded by [the claimant]; (b) if this is the case, on the date of termination; (c) *on whether the negotiations between [the claimant] and Bwin began before or after termination of the contract*; and (d) on the initial assumption from the point above—the assumption that negotiations took place before the contract was terminated—on if [the claimant] enabled [the defendant] to exercise their right of first refusal by duly informing them of the conditions of Bwin's bid." [Emphasis supplied.]

In para. 498, the court concluded that the complainant validly terminated the contract by letter on March 19th, 2007 and it was deemed rescinded on that day.

"500 In view of cl. 6 of the contract, . . . the relevant issue is not so much the date the sponsorship contract between Real Madrid and Bwin was signed, but rather when negotiations began and developed between Real Madrid and Bwin, which resulted in the aforementioned sponsorship contract being signed.

501 [I]f it is true that the sponsorship contract was signed most probably after March 19th, 2007, although there is no actual evidence of the date, then there is no breach of contract. The situation is different if negotiations between Real Madrid and Bwin—leading to the sponsorship contract being signed—began before the aforementioned date without Real Madrid giving Globet the opportunity to exercise their right of refusal."

Paragraph 502 concerns the exact date when negotiations started: (a) according to the press article in *La Razon*, on January 25th, 2007, the contract between Bwin and Real Madrid was going to be signed the week after; (b) the signing of the sponsorship contract between Real Madrid and Bwin was published in the Spanish press on May 31st, 2007; and (c) during a meeting on March 28th, 2007, between Globet and Real Madrid, Diego Ibanez of Real Madrid stated that Real Madrid and Bwin had held

various meetings, that the contract with Bwin was 80% agreed and that Real Madrid's exclusivity with Globet was a problem. As a result, during this meeting, Diego Ibanez asked to discuss the possibility of re-drafting the contract with Globet to enable Bwin to be sponsors of Real Madrid shirts.

> "504 [I]t is highly likely that negotiations between Real Madrid and Bwin started before March 19th, 2007. Furthermore, the minutes taken from the meeting on March 28th, 2007 indicate Real Madrid's wish to secure Bwin as Real Madrid's shirt sponsors and keep Globet for *play before the game.*
>
> 505 However, in the sense that it is Globet who claims that Real Madrid is in breach of contract by negotiating with Bwin and signing the sponsorship contract with them, it falls to Globet to provide evidence of this breach. The court . . . cannot comment on the existence of a contractual breach by Real Madrid in terms of Bwin based merely on assumptions. Consequently, the court . . . considers that Globet has not proven that, once aware of the negotiations between Real Madrid and Bwin, they asked [the claimant] to provide them with details of Bwin's bid, or that Real Madrid refused this."

12 The conclusions of the Court of Arbitration may seem surprising in a number of respects, but it is clear that, applying Spanish law as they were obliged to, it was of the view that (a) it was of particular significance whether the *negotiations* for the signing of the claimant's contract with Bwin began before its contract with the defendant was terminated; and (b) although it was "highly likely" that such negotiations had taken place before termination of the defendant's contract, the burden of proving a breach of contract was on the defendant and had not been satisfied, because the defendant had not proved that it had sought details of Bwin's bid or that the claimant had refused to provide details of it once the defendant was aware of the negotiations.

13 The award (at para. 505) suggests that the Court of Arbitration interpreted cl. 6.2 of the contract as requiring the defendant to seek details of Bwin's bid before its rights under that clause could come into effect—and that the claimant would only be in breach of contract if it refused to supply such details. I am by no means sure, however, that that is the correct interpretation of the court's findings. The court does seem to have found in favour of the defendant, that on balance, it was "highly likely" that relevant negotiations had commenced between Bwin and Real Madrid prior to termination of the contract with Globet. The crux of the decision on this issue seems to be the final sentence in para. 505:

> "Globet has not proven that, once aware of the negotiations . . . they asked Real Madrid to provide them with details of Bwin's bid, or that Real Madrid refused this."

14 As Mr. Triay reminds me, it is not for me to question or review the findings of the Court of Arbitration. I am not an expert in Spanish law in any event and have not expert evidence before me in relation to it. The important point is that that court clearly took the view that it would or might have made a material difference to the outcome of the proceedings if the defendant had been able to prove this point.

The allegation of perjury or fraud

15 It is said that during the arbitration proceedings Mr. Jose Angel Sanchez Perianez "in his personal capacity and as the former General Executive Director of the claimant" fraudulently obtained the award. It is suggested that, in letters provided by the claimant during the arbitration proceedings, Mr. Perianez maintained that the claimant had never held negotiations with Bwin, required the defendant not to attempt to contact Bwin, and maintained that negotiations with Bwin only commenced once the agreement with the defendant had terminated.

16 I have no evidence before me that Mr. Perianez gave evidence on oath during the arbitration proceedings, though that does not seem to be denied.

17 The "new" evidence upon which the claimant now seeks to rely is contained in the affidavit of Amalia Lucia Baranda Serna sworn on November 6th, 2009. She refers to a claim said to have been made in the Spanish courts in February 2009 by Eva Perera of Premium Sports Legal SL against Bwin for moneys allegedly owing to her for professional services in negotiations which concluded in the claimant's contract with Bwin. Ms. Serna says that at a meeting with Mrs. Perera on March 26th, 2009, she discovered that the first official contact between the claimant and Bwin was on June 1st, 2006, at a meeting attended by Mrs. Perera. It is said that at that meeting it was confirmed that the claimant was interested in the possibility of a sponsorship deal. She points out that this was very shortly after the claimant entered into the contract with the defendant. Mrs. Perera is said to have been instructed by Bwin to negotiate a contract with the claimant. Other documentary evidence referred to in Ms. Serna's affidavit is said to support the claim that negotiations were ongoing even as far back as 2005 between the claimant and Bwin. I do not intend to rehearse at this stage all of the emails, copies of which are annexed to "the criminal proceedings." That dated November 8th, 2006 is said to contain a proposal together with concerns as to whether the claimant could conclude an agreement in the light of the agreement with the defendant.

18 The "Bwin contract" was signed on May 3rd, 2007. Clause 5 refers to an agreement dated December 4th, 2006. A letter from the claimant dated May 3rd, 2007, signed by Mr. Perianez, refers to Bwin having

"maintained contract with" the claimant for more than two years. Bwin's counterclaim to Mrs. Perera's claim seemingly accepted that there had been relevant negotiations, certainly by November 2006. In the event, Mrs. Perera's claim was settled out of court. There were therefore no findings by the court.

19 Criminal proceedings against Mr. Perianez have been lengthy and in the end unsuccessful. They have concluded. It is a matter of concern that at the time of Ms. Sena's affidavit the criminal proceedings had been dismissed and ordered to be archived on October 1st, 2009 and the defendant had filed an appeal. Ms. Sena made no mention of this in her affidavit. All criminal proceedings in Spain have now, I am told, been exhausted. Failure of the criminal proceedings is not in itself fatal to the present application and has not been argued to be, given the probable different standard of proof.

20 In para. 15.3 of Mr. Triay's affidavit, sworn on December 18th, 2009, he says:

> "I am advised by my client that although negotiations were still in train at that time, no offer capable of being put to the defendant pursuant to cl. 6 of the agreement was received from Bwin until after such date, and as such, no contractual obligation existed on the part of the claimant to communicate such offer to the defendant before such termination date."

He suggests that at March 23rd, 2007, "work still had to be done on the draft contract as not all matters had been agreed."

Conclusions

21 I have read in detail the whole of the documentation filed with this court, save for that in Spanish of which there is no translation. It includes a further affidavit from Ms. Sena and an affidavit of a Mr. Enrico Salvatori, which add little.

22 Neither counsel has drawn my attention to any jurisprudence which might assist in relation to the proper approach for the court to take. In my view it would be counter-productive to analyse that approach unduly.

23 I have been concerned that there is a European Union award which ought to be registered in Gibraltar and enforced unless there is a very good contrary reason. It would be wrong and contrary to the spirit of international judicial comity to adopt any other approach. I must respect and accept the award and its findings of law and fact. It is not for me to review or retry the judgment or act as an appeal court from the International Court of Arbitration.

24 It is necessary, nevertheless, to examine the award with some care in order to assess whether the alleged fraud or perjury, if proved, would be likely to have had a significant effect on the award.

25 I am also conscious that the obvious course for the defendant to have taken upon obtaining the further information upon which it now wishes to rely is an application to the Court of Arbitration to re-open the matter. That court is in a far better position to judge whether there has indeed been any perjury or fraud and, if so, what, if any, difference it should make to the award. I am informed by Mr. Costa on behalf of the defendant that it received advice in Spain that an application to the Court of Arbitration would cost in the region of CHF100,000 and that it would be cheaper and easier to bring a prosecution in Spain and then to take a conviction to the Court of Arbitration. Further, a finding in Mrs. Perera's case might have been helpful. I find such conduct less than convincing and therefore view the defendant's present case with some scepticism. The defendant has successfully managed to ward off the effects of the award for a considerable time and the claimant suggests that the defendant is simply employing delaying tactics.

26 I am also acutely conscious that much of the evidence upon which the defendant wishes to rely is hearsay. The claimant's present case, as indicated by Mr. Triay, does not, however, seem to involve a denial that the claimant did indeed enter into relevant negotiations with Bwin before the contract with the defendant was terminated. A careful consideration of the award leads to the inescapable conclusion that the award *may* have been materially affected by more detailed knowledge of such negotiations, especially if it were shown that some prior agreement was entered into with Bwin, or that the claimant's Managing Director had given false evidence.

27 On the face of it, the evidence which the defendant wishes to adduce does support the view that such negotiations with Bwin began well before the contract with the defendant was terminated. That evidence may well prove to be strong or even conclusive. On the other hand, the Court of Arbitration appears to have reached that conclusion in any event.

28 How is the court to determine the issue without allowing the defendant to adduce the evidence and hearing any evidence of the complainant in reply? It is not a case in which the allegations are fanciful or obviously without merit.

29 I raised with Mr. Costa during the course of argument the issue of how, even if I were to find that such negotiations took place and probably would have made a difference, I could assess what difference they would have made to the award. Even if I could make that assessment, it would, in my view, not be admissible for me to do so. The Court of Arbitration is the appropriate forum for determining such issues.

30 Mr. Costa's response was that he was not suggesting that I should adopt that role but that if I were to find in favour of the defendant on the prior negotiation point the defendant would then return to the Court of Arbitration on an application for the award to be re-opened or would appeal the award. It is not an impressive submission. The course taken by the defendant has caused excessive delay and extra expense. This would involve even more. I am told that there is no time limit for returning to the Court of Arbitration or appealing its award.

31 I note also that during his submissions Mr. Triay told me that there was "no problem" in the claimant producing the "agreement" dated December 4th, 2006, to which I have already referred. So far as I am aware it has still not been produced. It may be that the defendant would wish to have further disclosure. The application before me now, however, is for permission for the defendant to file and rely upon its further evidence and for further directions.

32 With some reluctance I am persuaded that the defendant should be allowed to file that evidence. The claimant should file its evidence in reply. There should be disclosure and inspection of relevant documents. Translations of documents in Spanish should be filed. Further directions can then be given. I intend that this should be done quickly. The defendant is ready to proceed. The claimant knows what it has to meet and should be ready to respond without much delay.

33 I find that it would be contrary to public policy in the particular circumstances of this case to allow the award to be enforced in Gibraltar without proper investigation of the alleged new evidence. If there is evidence that the claimant's Managing Director gave false evidence to the Court of Arbitration, that court should consider the effect of that evidence on its award before it is enforced.

34 Once that process is complete, this court should be in a better position to decide what course should be taken. I indicate my provisional view, however, that it is undesirable for two courts to be making findings in relation to this litigation. The Court of Arbitration has already heard evidence. I do not know exactly what was said and by whom during the arbitration. It would cause delay and great extra expense for a transcript to be obtained. The Court of Arbitration is the tribunal contractually seised of the dispute and is the correct forum for determination of the issue now raised.

35 If this court were to decide the issue there would be the potential for inconsistent findings by the two courts. Even then, the defendant, if it is to be believed, will return to the Court of Arbitration or an appeal court. All that will cause more delay.

36 My provisional view, subject to further submissions, is that once it is possible for this court to assess properly whether there is a good case of fraud or perjury or withholding of information or evidence, any finding which needs to be made should be made by the Court of Arbitration. The claimant's application would be stayed only on the defendant's clear undertaking to make its application elsewhere within a strict timescale and to keep the court informed of its progress. If there were any indication of delaying tactics or failure to press the matter diligently and with urgency, the stay in this court would be likely to be removed. It may be that the defendant's application will be dismissed summarily on the basis that, even if accepted, the alleged fresh evidence would not alter the award.

37 The defendant's financial position is also of concern and this court may well wish to have reassurances about it before deciding the appropriate course. I note the comment in the award that the defendant no longer trades in the online betting sector, it no longer being licensed.

38 I shall hear counsel as to precisely what directions should be made now in the light of this ruling.

Orders accordingly.
