COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

No. 2026/CLE/gen/00572

BETWEEN

DRE HEALTH CORPORATION

Applicant

AND

BERKELEY EQUITY LIMITED

First Respondent

AND

ANTHONY LYONS

Second Respondent

Before: The Honourable Mr. Justice Franklyn K M Williams KC

Appearance: Colin A. Jupp

Hearing date: 20 August 2026

DECISION

Williams, J

Background

The factual matrix is generated from the affidavit of Melinda S. Bacchus – Maynard and the several judgements and orders of the United States District Court for the Western District of Missouri, Western Division ("the US District Court")

[1.] The applicant is a company incorporated under the laws of Missouri. It is in the business of producing and selling medical and healthcare related products, including personal protective equipment.

[2.] The first respondent is a company incorporated under the laws of the British Virgin Islands, its last known address at PO Box 73, Lyford Cay N7776, Nassau, Bahamas

[3.] The second respondent is a British citizen who resides at 18 Ocean Drive, Old Fort Bay in the Western District of the Island of New Providence in the Commonwealth of The Bahamas.

[4.] The second respondent is the owner and operator of the first respondent, having been found, per order of the US District Court upon piercing of the corporate veil, to be personally liable for any and all judgements against the first respondent.

[5.] On 2 September 2021, the parties entered into contract for sale by Dre Health Corporation to Berkeley Equity Limited of six million boxes of masks per week over a period of six months.

[6.] On 18 January 2022, the applicant issued suit in the US District Court against the first respondent for, *inter alia*, breach of contract.

[7.] On 23 April 2026, the US District Court entered an Order of Final Judgement against the first respondent; on 13 May 2026, the Court entered a certification of the Order of Final Judgement and interest in favour of the applicant in the amount of USD$ 232,120,651.45.

[8.] On 7 April 2026, the applicant sought to move the US District Court for the issue of an injunction to prevent the second respondent "...buying, selling, transferring, etc, any property or assets over a certain value without Court approval until a receiver is appointed." Same was sought on the ground that the applicant claimed that it faced a threat of irreparable harm "because Mr. Lyons is attempting to dissipate assets and render himself judgement – proof, and if successful that DRE would be unable to recover on the ...breach of contract judgement ..." against Berkeley.

[9.] The evidence in support of this assertion was that the Old Fort Bay mansion and grounds known as "Jungle Cove", purportedly owned by the second respondent was at that time being listed for sale via Christie's International Real Estate offering for $59,500,000.

[10.] The US District Court refused to issue the preliminary injunction, finding that the standard establishing irreparable harm, that is that "...the harm is certain and great and of such imminence that there is a clear and present need for equitable relief" had not been met, and, finding that Lyons had sold the Jungle Cove on 23 August 2021.

[11.] The instant without notice application was made on 21 July 2026, and seeks the following reliefs:

(i) An order that the first and second respondents be prohibited and/or restrained from removing from the Bahamas or in any way disposing of, transferring, physically relocating or dealing with or diminishing the value of any of its assets which are in the Bahamas up to the value of $232,120,651.45 including but not limited to, transferring, mortgaging, leasing, selling, assigning or otherwise alienating, encumbering, parting or dealing with, all that piece parcel or tract of land containing by admeasurement One and Eight hundred and Sixteen thousandths (1.816) acres and situate in Old Fort Bay in the Western District of the

Island of New Providence in the Commonwealth of The Bahamas (the "Property"), as described in the conveyance of the Property to the Second Respondent, dated 30th September 2022, and recorded in the Registry of Records in the city of Nassau in the said Island of New Providence in volume 14113, pages 569 to 579, until trial or further Order (the "Freezing Order")

(ii) An Order that the Applicant be at liberty to apply for any further or consequential ancillary orders as may be necessary.

(iii) An Order that should the Freezing Order be set aside, the Applicant shall abide by any Order that this Court may make in damages to compensate any person the Court concludes has been harmed by the granting of the Freezing Order.

(iv) An Order that the Respondents do pay the Applicant's costs and expenses of this application.

(v) Further or other relief as the Court deems just.

[12.] The without notice application is attended by a certificate of urgency:

"I, Jason T. Maynard, being Counsel for the Applicant, hereby certify that in my opinion the Without Notice Application for a Freezing Order in respect of this matter, concerns a matter of urgency in that it is believed that there is a risk that the Respondents may sell the property, which forms part of the assets that the Applicant is seeking to Freeze in this matter."

The Application

[13.] The principles to be applied in applications for interim injunctions are well traversed, having been laid down by Diplock LJ in ***American Cyanamid Co. v Ethicon Ltd*** [1975] AC 396@ 407 -409; they require no repetition here. Dre Health seeks a *Mareva* or freezing injunction against the Berkeley Equity and Lyons.

[14.] The grant of a *Mareva* injunction is a draconian measure. ***Derby &Co. Ltd and another v Weldon and others*** [1989] 2 WLR 276@ 287 records:

> "An order restraining a defendant from dealing with any of his assets overseas, and requiring him to disclose details of all of his assets wherever located, is a draconian order. The risk of prejudice to which, in the absence of such an order, the plaintiff will be subject is that of the dissipation or secretion of assets abroad. This risk must, on the facts, be appropriately grave before it will be just and convenient for such a draconian order to be made."

and

in ***Bank Mellat v Nikpour*** [1985] FSR 87@82 per Donaldson J:

> "So for my part I would reject Mr. Rattee's submission. The rule requiring full disclosure seems to me to be one of fundamental importance, particularly in the context of the draconian remedy of the *Mareva* injunction. It is in effect, together with the *Anton Piller* order, one of the law's two "nuclear" weapons."

Without notice application

[15.] Part 17.2 (4) Supreme Court Civil Procedure Rules ("CPR") provides the Court with the authority to grant an interim injunction if satisfied that (i) in the case of urgency no notice is possible; or (ii) that to give notice would defeat the purpose of the application.

[16.] In ***National Commercial Bank Jamaica Ltd v Olint Corp Ltd (Jamaica)*** [2009] UKPC 16, Hoffman LJ found:

> "Although the matter is in the end one for the discretion of the judge, audi alterem partem is a salutary and important principle. Their Lordships therefore consider that a judge should not entertain an application of which no notice has been given unless either giving notice would enable the defendant to take steps to defeat the purpose of the injunction (as in the case of a Mareva or Anton Piller order) or there has been literally no time to give notice before the injunction is required to prevent the threatened wrongful act. These two alternative conditions are reflected in rule [17.2 (4) of the Civil Procedure Rules [2022]. Their Lordships would expect cases in the latter category to be rare, because even in cases in which there was no time to give the period of notice required by the rules, there will usually be no reason why the applicant should not have been given shorter notice or even made a telephone call. Any notice is better than none.

[17.] In the English Court of Appeal decision of ***Harris and another v Moat Housing Group South Ltd*** [2005] EWCA Civ 287, Brooke LJ put it thus:

> "[63] As a matter of principle no order should be made in civil or family proceedings without notice to the other side unless there is a very good reason for departing from the general rule that notice must be given. Needless to say, the more intrusive the order, the stronger must be the reasons for the departure. ..."

Urgency

[18.] By letter headed "URGENT" and dated 22 July 20 March 2026, counsel for the claimant wrote the Listing Office seeking to have the application foe injunction set down for hearing. The list of documents proffered at that time were:

1. Without Notice Application for injunction
2. Affidavit of Melinda S. Bacchus – Maynard
3. Skeleton Arguments in support of Without Notice Application for an injunction

[19.] Significantly, absent from the list of documents was (a) Certificate of Urgency. The Certificate of Urgency, dated 30 July 2026 was filed on 4 August 2026.

Probity

[20.] The applicant, referring to evidence adduced and exhibited to the affidavit of Melinda S. Bacchus – Maynard and supplemental affidavit of Latoya Garland submits that same is evidence of the second respondent's lack of probity or dishonesty. Under cross examination in the US District Court proceedings, the second respondent admitted to selling a Beaver Creek, Colorado property for $19,000,00 **after** the commencement of those proceedings.

[21.] In the US District Court proceedings, the second respondent, under oath "repeatedly professed ignorance of matters which would ordinarily be expected to be within his personal knowledge, including his solvency, his net worth, the disposition of substantial sums of money and the source of funds used for significant investments, while repeatedly seeking to distance himself from responsibility by attributing knowledge of his affairs to his advisers and assistant."

[22.]In ***Lyons v Bridging Finance Inc (acting by its receiver manager Pricewaterhouse Coopers Inc)*** [2026] EWHC 1388 (Ch), the second respondent's evidence as petitioner disputing debt was found to be "inherently implausible."

Discussion

[23.] The Certificate of Urgency simply asserts that it "concerns a matter of urgency in that it is believed that there is a risk that the Respondents **may** sell the property, which forms part of the assets that the Applicant is seeking to Freeze in this matter." without identifying any grounds or facts to justify its belief. Neither does the applicant refer to the four bank accounts and any risk of dissolution thereof and or movement of funds therefrom.

[24.] The Certificate of Urgency speaks simply to a risk, not a serious or grave risk; at any rate, the statement does not provide evidence of the risk. It does not speak to dissipation of assets, or imminent or irreparable harm.

[25.] The Certificate did not ask that the injunction application be heard immediately. Final certification of the U.S. District Court judgement was entered 13 May 2026; comes now the applicant more than two month later, the applicant writing to the Listing Office on 22 July seeking to have the matter set down for hearing, and filing the Certificate two weeks after that.

[26.] On this issue of delay, Mrs. Justice Falk in ***Taylor v Khodabakhsh and others*** [2021] EWHC 655 found:

> "...where a claim has been intimated then unjustified delay may be fatal, because the court may take the view that the existence of the delay is an indication that the claimant does not genuinely believe that there is a real risk of dissipation which requires to be safeguarded, and/or that any damage will have been done by intimating the claim and allowing for dissipation to occur (such that injunctive relief would be pointless). Although an applicant may argue that he should still be allowed to freeze whatever remains, the court should be wary of."

[27.] The applicant by this application takes steps preparatory to enforcement of its US judgement. On this issue of risk, the applicant provides no evidence of demand, and or refusal by the respondents to pay the debt.

[28.] Possible risk will not suffice. In ***Sunset Equities Ltd v Sterling Asset Management Ltd and another*** [2020] 1 BHS J No. 120 Winder J (as he then was) considered the test for "real risk of dissipation" on application for an injunction:

> "17...
>
> Suffice it to say that the grant of such relief is made only where the circumstances mandate it, i.e. where the risk that the defendants will dissipate their assets are appropriately grave."

[29.] On this issue of the second respondent's probity or lack thereof, Henshaw QC (sitting as judge of the High Court) in ***Ivy Technology v Martin and others*** [2019] EWHC 2510 (Comm) found:

> " (4) It is not enough to establish a sufficient risk of dissipation merely to establish a good arguable case that the defendant has been guilty of dishonesty; it is necessary to scrutinize the evidence to see whether the dishonesty in question points to the conclusion that assets are likely to be dissipated. It is also necessary to take account of whether there appear at the interlocutory stage to be properly arguable answers to the allegations of dishonesty."

[30.] Both the Bacchus – Maynard and Garland affidavits and in the applicant's skeleton argument point to questions about the second respondent's solvency.

[31.] Evidence of insolvency, or even evidence of questions raised about a defendant's solvency provides no sufficient basis for a *Mareva* injunction or freezing order.

[32.] Writing for the Court in ***Les Ambassadeurs Club Ltd v Yu*** [2021] EWCA Civ 1310, Andrew J:

> "The purpose of a freezing injunction is to ensure that a judgement in the

applicant's favour will not go unsatisfied by reason of assets that would otherwise be available to satisfy it being dealt with in a manner that will make them unavailable by the time the judgement comes to be enforced. It is designed to protect against the frustration of the process of the court by depriving the claimant of the fruits of any judgement obtained in his favour. It is not intended as a safeguard against insolvency, nor as a means of providing security for a claim, however strong that claim may be and however large a sum of money may be involved. Nor is it just another standard means of securing enforcement of a judgement in favour of the applicant, like a charging order or third party debt order. It is a potent weapon in the armoury available for dealing with those individuals and companies who may seek to make themselves judgement proof."

...

19. In this context, there is an important distinction to be drawn between a defendant who can pay but refuses to pay his debts until he is forced to do so, and a defendant who is so determined not to pay that he would take active steps to frustrate the recovery of sums due to his creditors by transferring or concealing assets or by some other form of unjustified dissipation. In order to avoid the undesirable situation in which, as Gloster LJ put it in Holyoake at [58] "the nuclear remedy of freezing order would...become a common place threat", there must be cogent evidence from which it can at least be inferred that the defendant falls into the latter category. The distinction is one which the Judge had at the forefront of his mind when he refused to make the freezing order

in the present case."

[33.] There is a serious issue to be tried. I express no view on the balance of convenience. The use of the word "may" in the certificate of urgency connotes a speculative, if not altogether uncertain state of affairs. When coupled with the unexplained delay, the applicant's case for a *mareva* or freezing injunction is undermined *ab initio.* In the premises, I dismiss the Dre Health Corporation's application for a freezing application.

Franklyn K M Williams KC

28 August 2026