

<b>State of Qatar v First Abu Dhabi Bank PJSC</b>
2022 NY Slip Op 31860(U)
June 13, 2022
Supreme Court, New York County
Docket Number: Index No. 153601/2019
Judge: Melissa Crane
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. MELISSA CRANE PART 60M

Justice

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STATE OF QATAR,

Plaintiff,

- v -

FIRST ABU DHABI BANK PJSC, SAMBA FINANCIAL
GROUP SJSC, JOHN DOE DEFENDANTS 1-20

Defendant.

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INDEX NO. 153601/2019

MOTION DATE 05/03/2021

MOTION SEQ. NO. 002

AMENDED DECISION + ORDER
ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 34, 35, 36, 37, 38,
39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 82, 83, 84, 85, 86, 87,
88, 89

were read on this motion to/for DISMISS

Plaintiff, the Sovereign State of Qatar, alleges that defendants, financial institutions
located in Saudi Arabia, committed fraud in New York by "submitting fraudulent quotes for
Qatari Riyals, bonds, and CDS through their accounts with Bloomberg and Reuters to platforms
and data centers located in New York County" (Doc 22, ¶ 19 [complaint]). Plaintiff asserts that
defendants submitted the fraudulent quotes as part of a scheme to devalue the Qatari currency
(Riyal) and interfere with Qatar's ability to host the 2022 FIFA World Cup sporting event.
Plaintiff discontinued this action against defendant First Abu Dhabi Bank PJSC, leaving only
defendant Samba Financial Group SJSC (Samba or defendant).

In Motion Seq. No. 02 Samba moves to dismiss the complaint pursuant to CPLR 3211 (a)
(7) and (a) (8). The motion is granted for the reasons below.

Discussion

On a motion to dismiss pursuant to CPLR 3211 (a) (8), the plaintiff bears the ultimate
burden to establish a basis for personal jurisdiction (Nick v Schneider, 150 AD3d 1250, 1251 [2d

Dept 2017]). However, “the plaintiff need only make a *prima facie* showing that the defendant is subject to the personal jurisdiction of the court” (*Whitcraft v Runyon*, 123 AD3d 811, 812 [2d Dept 2014]).

A. General Jurisdiction – CPLR 301

The court may exercise general jurisdiction over a defendant pursuant to CPLR 301 where the defendant's ties to New York “are so ‘continuous and systematic’ as to render them essentially at home in the forum state” (*Goodyear Dunlop Tires Operations, S.A. v Brown*, 564 US 915, 919 [2011], quoting *International Shoe Co. v Washington*, 326 US 310, 317 [1945]). For a corporation, the paradigm forums are “the place of incorporation and [its] principal place of business” (*Daimler AG v Bauman*, 571 US 117, 137 [2014]). A corporation is subject to general jurisdiction in any other forum only in an “exceptional case” (*id.* at 138, n 19).

Samba is a Saudi Arabian financial institution with no offices located in New York or the United States. No exceptional circumstances have been alleged. Accordingly, Samba is not subject to general personal jurisdiction in New York under CPLR 301.

B. Specific Jurisdiction – CPLR 302

“[A] New York court may not exercise personal jurisdiction over a non-domiciliary unless two requirements are satisfied: the action is permissible under the long-arm statute (CPLR 302) and the exercise of jurisdiction comports with due process” (*Williams v Beemiller, Inc.*, 33 NY3d 523, 528 [2019]). “If either the statutory or constitutional prerequisite is lacking, the action may not proceed” (*id.*).

Plaintiff alleges that jurisdiction is proper under CPLR 302 (a) (1), (a) (2), and (a) (3), and the due process component is satisfied.

Under CPLR 302 (a) (1), “a court may exercise personal jurisdiction over any non-domiciliary . . . who in person or through an agent . . . transacts any business within the state” (CPLR 302 [a] [1]). This is a “single act statute,” meaning that “proof of one transaction in New York is sufficient to invoke jurisdiction, even though the defendant never enters New York, so long as the defendant’s activities here were purposeful and there is a substantial relationship between the transaction and the claim asserted” (*Kreutter v McFadden Oil Corp.*, 71 NY2d 460, 467 [1988]). “Purposeful activities are those with which a defendant, through volitional acts, ‘avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws’ ” (*Whitcraft v Runyon*, 123 AD3d at 812).

Jurisdiction under CPLR 302 (a) (1) is not appropriate. Plaintiff alleges that Samba “transacted business in New York” by submitting FOREX rate trading quotes for Qatari currency and bonds through trading accounts with Bloomberg and Reuters “to platforms and data centers located in New York County.” Plaintiff argues that Samba’s use of platforms and data centers (servers), offered by Bloomberg and Reuters, to submit currency exchange quotes constitutes transacting business in New York. Through the affirmation of Abdullah Omar Al-Marshad, a rates trader Samba employed, Samba asserts that its traders use Bloomberg’s and Reuters’ services from Samba’s offices in Saudi Arabia and United Arab Emirates (Doc 36).

The submission of data [international rates quotes] by traders in foreign nations to internet trading platforms accessible globally does not, without more, constitute “purposeful activities” within New York, regardless of whether the data or platforms were maintained on servers located in New York (*cf. Sonterra Capital Master Fund Ltd. v Credit Suisse Group AG*, 277 F Supp 3d 521, 590 [SDNY 2017] [noting that “the happenstance that the electronic communications of defendants acting abroad were routed through a server in the United States

cannot substantially contribute to a finding of sufficient contacts with the United States,” and “(t)he knowledge that [false CHF LIBOR] rates would be disseminated worldwide, including into the United States, is not enough by itself to support specific personal jurisdiction . . .”).

Further, while Samba maintains two correspondent bank accounts in New York, there are no allegations in the complaint that those correspondent accounts had any role in the allegedly tortious acts. “[S]tanding by itself, a correspondent bank relationship, without any other indicia or evidence to explain its essence, may not form the basis for long-arm jurisdiction” (*Amigo Foods Corp. v Marine Midland Bank-NY*, 39 NY2d 391, 396 [1976]). Here, plaintiff does not allege facts from which the court can infer that the correspondent accounts played any role in the alleged fraudulent scheme, let alone proximately caused the alleged injury.

In any event, the court finds that the exercise of personal jurisdiction over Samba would not satisfy the well-established principals of due process, which require that defendants could “reasonably foresee” facing suit in the forum (*Copp v Ramirez*, 62 AD3d 23, 30-31 [1st Dept 2009]). Due process requires “that the maintenance of the suit not offend traditional notions of fair play and substantial justice” (*Williams*, 33 NY3d at 528), and the exercise of jurisdiction must be “reasonable under the particular circumstances of the case” (*Blockchain Luxembourg S.A. v Paymium, SAS*, 2019 WL 4199902, \*4 [SDNY 2019]).

Samba does not conduct business in New York, operate offices in New York, or have any employees in New York. The U.S. Supreme Court has explained that “[t]he inquiry whether a forum State may assert specific jurisdiction over a nonresident defendant ‘focuses on the relationship among the defendant, the forum, and the litigation’” (*Walden v Fiore*, 571 US 277, 283-284 [2014] [citation omitted] [“defendant's suit-related conduct must create a substantial

connection with the forum State”]). Here, Samba’s extremely limited contacts with New York are too attenuated to satisfy the due process requirements.

The international submission of allegedly “fictitious and depreciated bid/ask quotes to foreign currency platforms that Thomson Reuters and Bloomberg, L.P. hosted in New York is the only asserted connection between the non-domiciliary defendant and the forum. That contact is not enough. The applicable test “envisions something more than the ‘fortuitous circumstance’ that a product sold in another state later makes its way into the forum jurisdiction through no marketing or other effort of defendant” (*Williams v Beemiller, Inc.*, 33 NY3d 523, 528 [2019]). In this context, the submission of rates quotes from Saudi Arabia and/or UAE to foreign currency exchange platforms that fortuitously reached data servers in New York is insufficient to satisfy due process. It cannot be said that Samba purposely availed itself of the privilege of conducting business within New York when it conducted these transactions from foreign countries with such limited connection to New York. The focus is on “the relationship between defendant and the forum state . . . and not ‘contacts between the plaintiff (or third parties) and the forum State’ ” (*Williams*, 33 NY3d at 529). For the purpose of this due process inquiry, it is of little import that Bloomberg or Reuters (or their online services) are located or hosted in New York.

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Plaintiff also argues that jurisdiction is appropriate under CPLR 302 (a) (2). CPLR 302 (a) (2) provides for jurisdiction when the defendant “commits a tortious act within the state.” The complaint does not credibly allege that the tortious act occurred in New York, precluding jurisdiction under CPLR 302 (a) (2). The alleged tortious acts derived out of the submission of trade quotes to online platforms from within Samba’s foreign offices. The site of the alleged harm was therefore not localized to New York and, even if the court were to deem the tort to

have occurred in New York, due process would be lacking (*see e.g. Sonterra Capital Master Fund Ltd.*, 277 F Supp 3d at 592; *see generally Williams*, 33 NY3d 523).

Finally, plaintiff argues that jurisdiction is appropriate under CPLR 302 (a) (3). CPLR 302 (a) (3) provides for jurisdiction over a non-domiciliary defendant where a tort was committed outside of New York and the alleged tortfeasor (i) regularly does or solicits business in New York State, or (ii) expects or should reasonably expect its tortious act to have consequences in New York, and derives substantial revenue from interstate or international commerce.

The complaint does not allege that Samba regularly does or solicits business in New York State. Jurisdiction is therefore improper under CPLR 302 (a) (3) (i). Plaintiff's allegations that Samba "expect[ed] or should reasonably [have] expect[ed] its tortious act to have consequences in New York" is conclusory and speculative. The purpose of the alleged fraudulent scheme was to devalue the Qatari currency, an injury that necessarily would have occurred in the Sovereign State of Qatar, not New York. Plaintiff's allegation that the injury occurred in New York because Qatar has assets, investments, investors, and so forth in New York are unpersuasive. As above, even if defendant expected or should have expected the tortious acts to have consequences in New York, the due process concerns addressed above preclude imposing personal jurisdiction over Samba under CPLR 302 (a) (3).

Plaintiff's request for jurisdictional discovery is denied. Jurisdictional discovery here would not be narrowly tailored to find whether, for example, defendant maintains an office in the forum state. Instead, jurisdictional discovery will involve a broad examination of defendant's intent that would go equally to the merits as to jurisdiction.

The court has considered the parties remaining arguments and finds them unavailing.

Accordingly, it is

ORDERED that Motion Seq. No. 02 is granted, and the complaint is dismissed against defendant Samba Financial Group SJSC.

6/13/2022

DATE



MELISSA CRANE, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED  DENIED

GRANTED IN PART  OTHER

APPLICATION:  SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:  INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT  REFERENCE