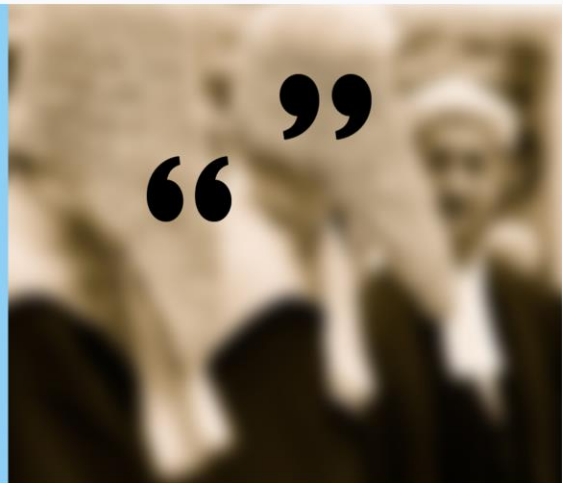


# BATORY V KHAN

**PRACTICAL LAW  
ACADEMY  
HELSINKI  
28-31 MARCH 2019**



# CASE MATERIALS



Co-funded by the 2014-2020  
Justice Programme of the  
European Union



SUOMEN ASIANAJAJALIITTO  
FINLANDS ADVOKATFÖRBUND



INSTITUTE  
OF ADVANCED LEGAL SKILLS

Copyright © Fundacja Institute of Advanced Legal Skills  
The author's moral rights have been asserted.

All rights reserved. No part of these materials may be reproduced in any form without having first received the express permission of its author and only for the purposes of the Advocacy Academy.

All factual and legal disputes portrayed in these materials are fictitious and created for educational purposes only. Any similarity to real individuals or legal disputes are purely coincidental.

This publication has been produced with the financial support of the Justice Programme of the European Union. The contents of this publication are the sole responsibility of the Fundacja Institute of Advanced Legal Skills and can in no way be taken to reflect the views of the European Commission.

## TABLE OF CONTENTS

No.	Document	Page
1.	Particulars of Claim	<a href="#">2</a>
2.	Defence	<a href="#">4</a>
3.	Applicable National Law	<a href="#">6</a>
4.	Extracts of Lease Agreement	<a href="#">9</a>
5.	Extracts of Sub-Lease Agreement	<a href="#">13</a>
6.	Witness Statement of Gregory Peck	<a href="#">16</a>
7.	Witness Statement of Freddy Khan	<a href="#">21</a>
8.	Witness Statement of Charles Green	<a href="#">27</a>
10.	Lease Invoice for April 2017 [EX1]	<a href="#">31</a>
11.	Email Correspondence 1	<a href="#">32</a>
12.	Email Correspondence 2	<a href="#">33</a>
13.	Email Correspondence 3	<a href="#">34</a>
14.	Email Correspondence 4	<a href="#">35</a>
15.	Email Correspondence 5	<a href="#">36</a>
16.	Email Correspondence 6	<a href="#">37</a>
17.	Email Correspondence 7	<a href="#">38</a>

IN THE COUNTY COURT AT WEMBLEY

BATORY INTERNATIONAL LTD

Claimant

and

KHAN PROPERTY MANAGEMENT LTD

Defendant

---

PARTICULARS OF CLAIM

---

1. At all material times the Claimant was the owner and lessor and the Defendant was the lessee of the Wembley Shopping Centre, Wembley Park Boulevard, Wembley, HA9 0QL (“the Centre”).
2. On Monday 20 September 2013 the Claimant, lawfully represented by its Managing Director, Charles Green, and the Defendant, lawfully represented by its Managing Director, Freddy Khan, entered into a 27-year Lease Agreement for the entire premises of the Centre.
3. Clause 45 of the Lease Agreement expressly states that Lease Payment Amounts of €10,000 were to be made within 14 days after receipt of a valid VAT invoice for the relevant month.
4. The VAT invoice for April 2017 was dated 15 March 2017 and delivered by post to the Defendant on or around that date, with payment consequently being required on or before 29 March 2017.
5. Moreover, the VAT invoice for April 2017 was also personally delivered to the Defendant on 7 April 2017, with payment consequently being required on or before 21 April 2017.
6. From 21 April 2017 until the present date, the Defendant has failed to make payment of the invoice dated 15 March 2017 and is consequently in breach of the Lease Agreement.
7. The Defendant was aware of having received the invoice dated 15 March 2017 and consequently acted in bad faith when failing to make payment of the invoice.

PARTICULARS OF CONTRACTUAL BREACH

8. The Defendant has breached its contractual duty to pay the invoice dated 15 March 2017 by:
- a. Failing to pay the monthly invoice dated 15 March 2017, giving rise to a debt of €10,000 owed to the Claimant
  - b. Failing to pay the monthly invoice dated 15 March 2017, giving rise to penalties under s.46 of the Lease Agreement of €100 per day until such payment is received.
  - c. Failing to pay the monthly invoice dated 15 March 2017, giving rise to automatic punitive damages under Article 10 of the Payment Periods in Commercial Transactions Act 2016.
  - d. Acting in bad faith when failing to pay the invoice dated 15 March 2018, giving rise to punitive damages under Article 11 of the Payment Periods in Commercial Transactions Act 2016.
  - e. Failing to pay the monthly invoice dated 15 March 2017, giving rise to recovery costs amounting to €500.
  - f. Failing to pay a “qualifying debt” within the meaning of the Payment Periods in Commercial Transactions Act 2016, giving rise to a duty to pay statutory interest at the applicable rate.
9. As a result of the matters set out above, the Claimant has suffered loss and damage.

#### PARTICULARS OF LOSS

(1) €10,000 as Lease Payment Amount for April 2017	€10,000
(2) €100 at 780 days until 10 June 2019	€78,000
(3) €40 automatic punitive damages	€ 40
(4) €500 recovery costs	€ 500
<b><u>TOTAL</u></b>	<b><u>€88,540</u></b>

In addition to the above, the Claimant also seeks discretionary punitive damages pursuant to Article 11 of the Payment Periods in Commercial Transactions Act 2016, at a level which the court thinks fit, having in mind the nature, extent and duration of the Defendant’s bad faith actions or omissions and statutory interest at the applicable rate.

#### STATEMENT OF TRUTH

Date:

**IN THE COUNTY COURT AT WEMBLEY**

**Claimant**

**BATORY INTERNATIONAL LTD**

**and**

**Defendant**

**KHAN PROPERTY MANAGEMENT LTD**

---

**DEFENCE [STUDENT SAMPLE – FOR DISCUSSION]**

---

1. Save that paragraph 1 of the Particulars of Claim is admitted, the Defendant carries on business as the property manager company responsible for the Wembley Shopping Centre. The Claimant dealt with Charlie Green and Freddy Khan, the consecutive Manager Directors responsible for the Centre.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted. It should however be pointed out that the Lease Agreement clearly depends the enforceability of payment on the receipt of the VAT Invoice.
4. The Claimant neither did prove that the VAT Invoice was received but the Defendant, nor proved that the invoice was even sent to the Defendant. In fact, the witness statement of Gregory Peck (see point: 8.), Charlie Green (see points: 12. and 13.) and internal email communication of the Claimant (see: EC2) prove that the Claimant was in fact aware of the omission related with not sending the invoice to the Defendant.
5. The Claimant also failed to prove that the said invoice was personally delivered. In particular, both Parties involved (including Charlie Green being an authorized representative of the Claimant at that time), specifically point out that no such thing happened (please see the witness statement of Charlie Green - points: 14. and 16. and of Freddy Khan – point 25.).
6. The Defendant until present date has not received a VAT Invoice for April 2017. Therefore, indeed no payment with this respect was made. However, under s.45 of the Lease Agreement this amount is not yet due, since no VAT Invoice was delivered to the Defendant.
7. The Defendant from the very beginning indicated that there was an omission on the Claimant's side and no invoice for April 2017 was provided to them. It is unlikely that the Defendant, who would intend to untruthfully claim that no invoice was received,

would remind the Claimant about this invoice, as it was done by Freddy Khan multiple times, particularly in email communication to the Claimant – EC5, EC7.

8. As indicated above, the Defendant declines:

- (i) *any allegations concerning breach of contractual obligations related with timely payments, as the invoice being the ground for payment under s.45 was not delivered to the Defendant; and*
- (ii) *the Claimant's entitlement to contractual penalties, punitive damages, recovery costs and the statutory interest.*

In particular:

- a. The monthly payment for the invoice for April 2017 is still undue, as the said invoice was not yet received by the Defendant. The amount of EUR 10,000 will be due 14 days after the invoice will be received by the Defendant.
- b. As the monthly payment is still not due, contractual penalties stipulated in s.46 of the Lease Agreement may not be charged.
- c. The called claim is deprived of legal basis, as the cited Payment Periods in Commercial Transactions Act 2016 is not applicable to the described claim. It shall be noted that the claim results from the Lease Agreement signed by the Parties on 20<sup>th</sup> September 2013. According to the Article 15 of the Payment Periods in Commercial Transactions Act 2016, '*Commercial transactions which were concluded before the entry into force of this Act shall be governed by the statutory law which was in force prior to the entry into force of this Act*'. Therefore, the said act may not be cited as a valid ground for claims in this dispute.
- d. See point c. above.
- e. Under Article 48 of the Late Payment in Commercial Transactions Act 1965, being applicable to the claim herein based on Article 15 of the Payment Periods in Commercial Transactions Act 2016 (as explained in point c. above), '*Creditors shall not be entitled to seek to recover amounts which reflect the recovery costs incurred in recovering their commercial debts*'. According to this provision, the Claimant is therefore not entitled to clam any recovery costs, as the Claimant intends in the applicable point of the Particulars of Claim.
- f. See point c. above.

STATEMENT OF TRUTH

DATE:

## APPLICABLE NATIONAL LAW

### INSTRUCTIONS TO PARTICIPANTS:

The following statutory extracts are fictional, although they are partly based on genuine statute law. For the purposes of the Advocacy Academy, you do not need to (and should not) undertake any research into applicable law, other than knowing what is contained below. The following provisions are the *only* provisions that are of any relevance to the present dispute.

Background information: The statutory law governing late payments was for many years governed entirely by the *Late Payment in Commercial Transactions Act 1965*. The 1965 Act has not been repealed but its provisions have largely been replaced by the *Payment Periods in Commercial Transactions Act 2016*.

---

### LATE PAYMENT IN COMMERCIAL TRANSACTIONS ACT 1965

#### *Art 1: Definitions*

*For the purposes of this Act, the following terms shall have the meanings ascribed to them below:*

*[...]*

*28) punitive damages award – an award made by way of court order pursuant to Article 35 of the present Act.*

#### *Art 35: Punitive Damages Awards*

*In the event that the court is of the opinion that the failure to make timely payment of a commercial debt was the result of bad faith action(s) or omission(s) on the part of the debtor, the court shall be entitled to make a punitive damages award at an amount which the courts thinks fit, having in mind the nature, extent and duration of the bad faith action(s) or omission(s). Punitive damages awards shall be payable by a debtor in addition to any contractual or other sums that the debtor may be liable to pay to the creditor.*

#### *Art. 48: Non-recoverability of Recovery Costs*

*1. Creditors shall not be entitled to seek to recover amounts which reflect the recovery costs incurred in recovering their commercial debts.*

---

### PAYMENT PERIODS IN COMMERCIAL TRANSACTIONS ACT 2016

*This Act was approved by Parliament on 8<sup>th</sup> March 2016 and entered into force on 28<sup>th</sup> April 2016.*

#### *Art. 1: Definitions*

*For the purposes of this Act, the following terms shall have the meanings ascribed to them below:*



*1) commercial transaction – a contract involving the payment of money or other consideration in exchange for the supply of goods or a supply of services, concluded by commercial parties acting in the course of their business*

*[...]*

*32) punitive damages award – an award made by way of court order pursuant to Articles 10 and 11 of the present Act.*

*35) qualifying debt – a debt created by virtue of an obligation under a contract to pay the whole or any part of the contract price*

#### *Article 6: Statutory interest*

*Statutory interest shall be payable on any qualifying debts at a rate of eight percentage points.*

#### *Art. 10: Automatic Punitive Damages Awards*

*1. A creditor who has become entitled to the payment of interest due to the late payment of a commercial debt shall automatically be entitled, without summons, to a sum equivalent to 40 euros, converted into the national currency at the average euro exchange rate announced by the National Bank on the last working day of the month preceding the month in which the payment became due, as compensation for recovery costs.*

*2. This Article is intended to give effect to Article 6(1) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on the combating of late payment in commercial transactions (recast) and shall be payable on the conditions laid down therein.*

#### *Art 11: Discretionary Punitive Damages Awards*

*In the event that the court is of the opinion that the failure to make timely payment of a commercial debt was the result of bad faith action(s) or omission(s) on the part of the debtor, the court shall be entitled to make a punitive damages award at an amount which the courts thinks fit, having in mind the nature, extent and duration of the bad faith action(s) or omission(s). Punitive damages awards shall be payable by a debtor in addition to any contractual or other sums that the debtor may be liable to pay to the creditor.*

#### *Article 12: Recovery Costs*

*1. A creditor shall be entitled to recover a reasonable amount not exceeding 50 euros in addition to the sum payable as automatic punitive damages in accordance with Article 10 above, which reflects the recovery costs actually incurred in recovering the interest for late payment of the commercial debt.*

*2. This Article is intended to give effect to Article 6(3) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on the combating of late payment in commercial transactions (recast) and shall be payable on the conditions laid down therein*

#### *Article 15: Non-Applicability of this Act to Prior Transactions*

*1. Commercial transactions which were concluded before the entry into force of this Act shall be governed by the statutory law which was in force prior to the entry into force of this Act.*

**LEASE AGREEMENT BETWEEN BATORY INTERNATIONAL LTD (OWNER)  
AND KHAN PROPERTY MANAGEMENT LTD. (KPM LTD.)  
(SELECTED PROVISIONS)**

**INSTRUCTIONS TO PARTICIPANTS:**

For the purposes of the Advocacy Academy, no knowledge or speculation regarding the “missing” parts of this Agreement are relevant. The lease provisions below are the only provisions that are relevant to the dispute.

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as the "Lease" or "Lease Agreement") is concluded on 20th September 2013

BY AND BETWEEN

Lessor/Owner: Batory International Ltd (BI Ltd.) having its registered office at 60 Threadneedle St, London EC2R 8HP, United Kingdom and registered as a limited company in England and Wales with company number 09329869.

Lessee/Management Company: Khan Property Management Ltd. (KPM Ltd.), having its registered office at Wembley Park Boulevard, Wembley, HA9 0QL, United Kingdom and registered as a limited company in England and Wales with company number 03820876.

s.1: Definitions

[...]

“Lease Payment Amount” – €10,000 per calendar month, inclusive of VAT, payable by the Lessee in accordance with section 45 of this Agreement.

“Lease Period” – commencing on the conclusion date of this Agreement and expiring on 20<sup>th</sup> September 2040

[...]

“Management Company” – the company responsible for the management, upkeep and maintenance of the Property in accordance with this Agreement, being entitled to conclude Sub-lease Agreements with Sub-Tenants and to collect Sub-Tenancy Payment Amounts.

[...]

“Property” – Wembley Shopping Centre Wembley Park Boulevard, Wembley, HA9 0QL

[...]

“Property Tax” – mandatory tax payments to be made in respect of Properties, payable by the Lessee to the local council responsible for the area in which the Property is located.

[...]

“Punitive damages” – damages categorised as punitive under the applicable statutory provisions and awarded on the basis of a court order

[...]

“Sub-lease Agreements” – agreements concluded between the Property’s Management Company and Sub-Tenants

[...]

“Sub-Tenants” – natural or legal persons who enter into a sub-lease with the Management Company, pursuant to which the Sub-tenant leases a commercial unit(s) located within the Property.

[...]

“Sub-Tenancy Payment Amounts” – Periodic payments made by a Sub-Tenant to the Management Company in consideration of a Sub-lease Agreement.

[...]

s.45: Lease payments:

(1) The Lessee shall pay the Lease Payment Amount by bank transfer in such time as to ensure that the Lease Payment Amount is received on the Lessor’s bank account (details of which are found in Annex 3) no later than 14 days after the receipt of a valid VAT invoice issued by the Lessor for the relevant month.

[...]

s.46: Penalties for Delay in Payment

(1) In the event of any delay by the Lessee in making timely payment of each and every Lease Payment Amount in accordance with s.45 above, the Lessor shall be entitled to a contractual penalty fee of €100 for each day of delay.

(2) The Parties have disclosed and are aware of the potential nature and extent of the administrative and other costs which the Lessor would incur in the event of the Lessee’s delay in making a Lease Payment Amount and confirm that the sum mentioned in subsection 1 above is a reasonable pre-estimate of those anticipated damages.

(3) Nothing in this section or Agreement shall be construed as preventing the Lessor from exercising any legal right which may exist to recover Punitive Damages for late payment in addition to the penalty payable in accordance with subsection 1 above.

[...]

s.59: Transfer of Sub-Lease Agreements

(1) The Lessor hereby warrants and represents that:

(a) all Sub-Lease Agreements in existence at the conclusion date of this Agreement (details of which are contained in Annex 4) are hereby transferred and assigned to the Lessee; and

(b) all Sub-Tenants have consented to the transfer and assignment of their respective Sub-Lease Agreement(s) to the Lessee; and

(c) from the conclusion date of this Agreement, the Lessee shall acquire all rights and obligations existing under the Sub-Lease Agreements, including but not limited to the right to receive Sub-Tenancy Payment Amounts and to renegotiate, terminate or conclude new Sub-Lease Agreements with Sub-Tenants.

(2) The Lessee’s right and obligations in connection with the Sub-Lease Agreements shall revert to the Lessor in the event of any of the following:

(a) expiry of the Lease Period; or

(b) termination of Lease Agreement; or

(c) otherwise with the mutual consent of the Parties

(3) The Lessor hereby covenants and undertakes to take, or refrain from taking, any step which would be necessary to secure the lawful and efficient reversion to the Lessor of the Sub-Lease Agreements in existence at the relevant time in subsection (2) above.

[...]

s.96: Termination:

(1) The Lessor shall have the right to terminate this Agreement solely in the event of any of the following events:

(a) persistent failure to make timely payment, understood as late payments being received (or no payment being received) for 3 consecutive months; or

(b) late or non-payment by the Lessee which results in a court making an order which requires the Lessee to pay punitive damages in accordance with the applicable law; or

(c) insolvency proceedings being initiated against the Lessee by the Lessor or any other third party.

(2) Lessee shall have the right to terminate this Agreement by providing the Lessor with 12 months' written notice. At the time of providing such notice, the Lessee shall be required to immediately pay Lease Payment Amounts for the entire notice period.

s.102: Entire Agreement

This Agreement and any document referred to herein constitutes the entire Agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

s.103: Amendments

Any and all valid amendments to this Agreement must be done in writing and signed by both Parties. Any purported amendment which is not done in this manner shall be deemed to have no legal effect whatsoever.

s.104: Waiver

(1) The rights and remedies of each Party under or in respect of this Agreement may be waived only by express notice by the authorised representative of the relevant Party, which shall be understood as being the Managing Director of that Party.

(2) Any waiver shall apply only to the person to whom it is addressed and in the instance and for the purpose for which it is given.

(3) No right or remedy under or in respect of this Agreement shall be precluded, waived or impaired by:

(a) any failure to exercise or delay in exercising it;

(b) any single or partial exercise of it;

(c) any earlier waiver of it, whether in whole or in part; or

(d) any failure to exercise, delay in exercising, single or partial exercise of or waiver of any other such right or remedy.

(4) Unless otherwise expressly provided for in this Agreement, the rights and remedies under this Agreement are in addition to, and do not exclude, any rights or remedies provided by the applicable statutory law.

s.105: Governing Law and Jurisdiction

This Agreement and any dispute arising out of or in connection with this Agreement shall be construed in accordance with English Law and subject to the jurisdiction of the English court located as near as possible to the Property.

**SUB-LEASE AGREEMENT BETWEEN [SUB-TENANT 1] AND KHAN  
PROPERTY MANAGEMENT LTD. (KPM LTD.)  
SELECTED PROVISIONS ONLY**

**INSTRUCTIONS TO PARTICIPANTS:**

For the purposes of the Advocacy Academy, no knowledge or speculation regarding the “missing” parts of this Agreement are relevant. The lease provisions below are the only provisions that are relevant to the dispute.

The substantive provisions of the Sub-Lease Agreement template is almost identical to those contained in the BI-KPM Lease Agreement of 20 September 2013, with slight amendments to reflect the fact that this is a Sub-Lease Agreement.

The same template Sub-Lease Agreement is used for all existing Sub-Tenants (including both the Sub-Lease Agreements which were transferred/assigned to KPM Ltd. upon the conclusion of KPM’s Lease Agreement with Batory International Ltd (BI Ltd.) and any new Sub-Tenants or Sub-Tenants whose Agreements were renewed since KPM Ltd started managing the Wembley Shopping Centre).

The only differences between the Sub-Lease Agreements of various Sub-Tenants concern the validity period (i.e. the length of time for which the Agreement is binding) and the amount of the monthly *Sub-Tenancy Payment Amount* payable to KPM Ltd.

SUB-LEASE AGREEMENT

*THIS SUB-LEASE AGREEMENT (hereinafter referred to as the "Sub-Lease Agreement" or "Sub-Tenancy") is concluded on 18<sup>th</sup> April 2016*

*BY AND BETWEEN*

*Lessee/Management Company: Khan Property Management Ltd. (KPM Ltd.), having its registered office at Wembley Park Boulevard, Wembley, HA9 0QL, United Kingdom and registered as a limited company in England and Wales with company number 03820876.*

*Sub-Tenant: Sue Ryder Charity Shops Ltd. (a charity registered in England and Wales as charity number 1052076 and in Scotland as charity number SC039578), Kings House, King Street, Sudbury, Suffolk CO10 2ED.*

*s.1: Definitions*

*[...]*

*“Sub-Lease Payment Amount” – €500 per calendar month, payable by the Lessee in accordance with section 45 of this Agreement.*

*[...]*

*“Sub-Lease Period” – commencing on the conclusion date of this Agreement and expiring on 17<sup>th</sup> April 2026*

*[...]*

*“Management Company” – Khan Property Management Ltd. (KPM Ltd.), the company responsible for the management, upkeep and maintenance of the Wembley Shopping Centre and being entitled to conclude Sub-lease Agreements with Sub-Tenants and to collect Sub-Tenancy Payment Amounts.*

*[...]*

*“Property” – Unit No.7 in the Wembley Shopping Centre, Wembley Park Boulevard, Wembley, HA9 0QL, having a total floor space of 62.5m<sup>2</sup> and being described in full detail in Annex 1.*

*[...]*

*“Punitive damages” – damages payable pursuant the applicable statutory provisions, following the issuing of a court order to that effect*

*[...]*

*“Sub-Lease Agreements” – agreements concluded between the Management Company and Sub-Tenants*

*[...]*

*“Sub-Tenants” – natural or legal persons who enter into a sub-lease with the Management Company, pursuant to which they lease an individual commercial unit(s) located within the Property.*

*[...]*

*“Sub-Tenancy Payment Amounts” – Periodic payments made by a Sub-Tenant to the Management Company in consideration of a Sub-Lease Agreement.*

*[...]*

*s.45: Sub-Lease payments:*

*(2) The Sub-Tenant shall pay the Sub-Lease Payment Amount by bank transfer in such time as to ensure that the Sub-Lease Payment Amount is received on the Management Company’s bank account (details of which are found in Annex 3) no later than 14 days after the receipt of a valid VAT invoice issued by the Management Company for the relevant month.*

*[...]*

*s.46: Penalties for Delay in Payment*

*(1) In the event of any delay by the Sub-Tenant in making timely payment of each and every Sub-Lease Payment Amount in accordance with s.45 above, the Management Company shall be entitled to a contractual penalty fee of 0.2% of the Sub-Lease Payment Amount for each day of delay.*

*(2) The Parties have disclosed and are aware of the potential nature and extent of the administrative and other costs which the Management Company would occur in the event of the Sub-Tenant’s delay in making a Sub-Lease Payment Amount and confirm that the sum mentioned in subsection 1 above is a reasonable pre-estimate of those anticipated damages.*

*(3) Nothing in this section or Agreement shall be construed as preventing the Management Company from exercising any legal right which may exist to recover Punitive Damages for late payment in addition to the penalty payable in accordance with subsection 1 above.*

*s.96: Termination:*

*(1) The Management Company shall have the right to terminate this Agreement solely in the event of any of the following events:*

*(a) persistent failure to make timely payment, understood as late payments being received (or no payment being received) for 3 consecutive months; or*

*(b) late or non-payment by the Sub-Tenant which results in a court making an order which requires the Sub-Tenant to pay punitive damages in accordance with the applicable law; or*

*(d) insolvency proceedings being initiated against the Sub-Tenant by the Management Company or any other third party.*

*(2) The Sub-Tenant shall have the right to terminate this Agreement by providing the Lessor with 12 months' written notice. At the time of providing such notice, the Lessor shall be required to immediately pay Lease Payment Amounts for the entire notice period.*

*s.102: Entire Agreement*

*This Agreement and any document referred to herein constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.*

*s.103: Amendments*

*Any and all valid amendments to this Agreement must be done in writing and signed by both Parties. Any purported amendment which is not done in this manner shall be deemed to have no legal effect whatsoever.*

*s.104: Waiver*

*(1) The rights and remedies of each Party under or in respect of this Agreement may be waived only by express notice by the relevant representative of the relevant Party, which shall be understood as being the Managing Director of that Party.*

*(2) Any waiver shall apply only to the person to whom it is addressed and in the instance and for the purpose for which it is given.*

*(3) No right or remedy under or in respect of this Agreement shall be precluded, waived or impaired by:*

- (a) any failure to exercise or delay in exercising it;*
- (b) any single or partial exercise of it;*
- (c) any earlier waiver of it, whether in whole or in part; or*
- (d) any failure to exercise, delay in exercising, single or partial exercise of or waiver of any other such right or remedy.*

*(4) Unless otherwise expressly provided in this Agreement, the rights and remedies under this Agreement are in addition to, and do not exclude, any rights or remedies provided by statutory law.*

*s.105: Governing Law and Jurisdiction*

*This Agreement and any dispute arising out of or in connection with this Agreement shall be construed in accordance with English Law and subject to the jurisdiction of the English court located as near as possible to the Property.*



IN THE COUNTY COURT AT WEMBLEY

BATORY INTERNATIONAL LTD

Claimant

and

KHAN PROPERTY MANAGEMENT LTD

Defendant

---

WITNESS STATEMENT OF  
GREGORY PECK

---

I, GREGORY PECK, of Windrush House, Snodland, SN4 2RL, will say as follows

1. I was born in Oxford on 3 March 1987. I have an MBA from Columbia University and I have many years' experience in property development.
2. I have been the Managing Director of the Claimant company in this matter, Batory International Ltd. ("BI"), from 7 April 2017 to the present day.
3. BI is a large company which is solely owned by Mr Stefan Batory, a very successful businessman who made his fortune in property transactions. BI owns numerous commercial properties, many of which are shopping centres. It leases some of its shopping centres to management companies which, in turn, sub-lease the units within the relevant shopping centre to various entrepreneurs. In respect of other shopping centres, BI Ltd. acts as both the owner and the management company, leasing units in the relevant shopping centre to entrepreneurs directly, without any intermediary management company being involved.
4. In December 2016, prior to my appointment as BI's Managing Director, I was hired as a business consultant to BI's sole shareholder, Mr Stefan Batory. My remit was to advise Mr Batory on the potential business development of BI and to evaluate the existing performance of BI's Managing Director at that time, Mr Charles Green.
5. Firstly, Mr Batory was concerned that Mr Green had become very lazy and was not acting in BI's best commercial interests. Mr Batory was concerned that certain properties owned by BI, including the Wembley Shopping Centre, should have been leased for much higher

fees than their current management companies, including the Defendant, were paying for them. Mr Batory considered that Mr Green was not devoting any energy to encouraging the re-negotiation of leases for BI properties which should be generating higher revenue, and that Mr Green was not sufficiently active in looking for new commercial properties for BI to acquire. Mr Batory considered that the lease fee payable by the Defendant, pursuant to its agreement with BI, dated 20 September 2013, was far too low. He suspected that Mr Green's friendship with Mr Khan was the reason for this.

6. Secondly, during one meeting between myself and Mr Batory, in January 2017, Mr Batory informed me that he had received a direct complaint from a member of BI's staff, Linda Bane, that she had been subject to sexual harassment by Mr Green. Ms Bane stated that, although she had previously had no difficulty in working with Mr Green, he had started to act inappropriately with her since about 2018, such as asking her out on dates and commenting in a sexual manner on the clothes she was wearing. Ms Bane informed Mr Batory that she was not the only woman in BI with whom Mr Green had acted in a similar way.
7. At Mr Batory's request, I met Ms Bane a few times between January 2017 and March 2017 to discuss the situation and I also spoke to other BI staff members to ascertain their opinion of Ms Bane. My investigations led me to conclude that Ms Bane was a loyal and trusted member of BI. She had worked for BI for almost 10 years prior to the time at which she made the allegations against Mr Green in January 2017. She had never before made any allegation of sexual harassment against anyone, nor had she ever made any other allegations which proved to be false, so there was no reason to disbelieve her when she made the accusations against Mr Green. Mr Batory and I were still conducting investigations into the allegations made by Ms Bane when she resigned her position as BI's chief secretary on 16 March 2017. By that stage, it appeared clear that Ms Bane was crucial to BI's operations, but that she no longer felt able to work alongside Mr Green and that his behaviour was to blame for her resignation. Neither I nor, to the best of my knowledge, Mr Batory currently has any contact with Ms Bane. I am not aware of her current whereabouts and have no knowledge as to where she may be currently working.
8. Thirdly, during another meeting between myself and Mr Batory, on 7 April 2017, Mr Batory told me that, in addition to the aforementioned problems, Mr Green had totally lost control of BI's organisation since Linda Bane had resigned. Mr Batory had received an email from Mr Green on 6 April 2017 in which Mr Green admitted that some customers had not received invoices by post, as was usual, and that Mr Green was planning to "deliver them by hand, like a bloody postman" [\[EC2\]](#).
9. In the late evening of 7 April 2017, I received an email from Mr Batory which stated that he had dismissed Mr Green with instant effect and that he wished me to become BI's managing director, which I gladly accepted. Mr Batory also asked Mr Green to confirm which Managing Director tasks remained outstanding on that day and to copy me into his response [\[EC3\]](#). I received a copy of Mr Green's response, also dated 7 April 2017, which, among other things, indicated that he had delivered invoices in person to a number of BI's clients who should have received invoices by post in the mid-March 2017 period, which included KPM. He assured Mr Batory that all outstanding client invoices had been duly delivered [\[EC4\]](#).

10. Shortly after I became BI's Managing Director on 7 April 2017, I appointed an external auditing company to review and report on the total property portfolio of Batory International, including the Wembley Shopping Centre.
11. Following several months of extensive review, which concluded at the beginning of October 2018, it was discovered that Khan Property Management had failed to make a monthly lease payment for April 2017, pursuant to an invoice issued by BI and dated 15 March 2017 [EX1].
12. It was very clear from BI's company records that the relevant invoice had been created and sent to the Defendant.
13. The invoice procedure which existed (and still exists) in BI was that Linda Bane would create invoices which were then signed by BI's Managing Director and subsequently posted to clients. This all happened at least a few days before the relevant invoice was due to be posted and Linda would appropriately forward-date the invoices so that the invoice stated a date which was at least a few days after the date on which they were actually signed. The reason for this was that BI's invoices to most clients generally require payment within 14 days of their issue date, so forward-dating the invoice ensures that clients do not lose any of this 14-day period due to internal delays at BI and postage time. Once an invoice had been posted, Linda would then file a copy of the invoice (marked "copy") in the relevant client account folder.
14. Our client folder containing the copies of invoices issued to the Defendant contains a copy of the invoice dated 15 March 2017 and signed by Mr Green. This clearly indicates that the normal invoicing procedure was followed and that the original invoice was posted either by Ms Bane prior to her resignation on 16 March 2017 or by the secretary who replaced her immediately following her resignation.
15. Furthermore, a number of emails sent between Mr Green and Mr Batory during this period also clearly indicate that another copy of the relevant invoice was delivered personally by Mr Green to KPM on 7 April 2017.
16. On 6 April, Mr Green replied to an email from Mr Batory, which asked, among other things, how BI's business operations were looking. Mr Green stated that Linda Bane's resignation had caused some problems and that he had been informed by one client that he had not received an invoice by post as usual. Mr Green added that, although he was confident that all other clients who were due to receive invoices in mid-March 2017 had been sent their invoices by post as usual, he had decided to deliver a number of invoices to some customers by hand, since he planned to visit them anyway to check on the physical condition of the properties those clients were leasing from BI and to discuss possible amendments of their existing lease contracts with BI. As I mentioned above, I received a copy of Mr Green's response which, among other things, indicated that he had delivered invoices in person to a number of BI's clients who should have received invoices by post in the mid-March 2017 period, which included the Defendant. Mr Green accepts that he visited the Defendant company on 7 April 2017 and that he did so in order to leave a copy of the invoice.
17. It is clear that the Defendant received the relevant invoice either by post in mid-March 2017 or by Mr Green's personal delivery on 7 April 2017, but probably both. In any case,

there is no doubt that the invoice was delivered and that the Defendant did not pay and has not paid to the present date, in breach of its lease agreement with BI.

18. As BI's new Managing Director, I am determined to ensure that the company starts to perform to its full potential and is not hampered by the poor leadership it suffered during Mr Green's tenure as Managing Director. One crucial aspect of this is to ensure that all of our tenants make timely payment of any sums due under their lease agreements and that BI receives any additional sums that it is entitled to for late payments. Accordingly, I made the enforcement of any missing/late payments my first priority and resolved to contact the Defendant in order to resolve the situation concerning the unpaid invoice.
19. On Wednesday 14 October 2018, I met with Freddy Khan at KPM's offices in the Wembley Shopping Centre, to discuss the issue in person. At this meeting, I became aware that the Centre had been very badly managed by the Defendant for some time. Mr Khan admitted that KPM had regularly failed to enforce late lease payments by commercial sub-tenants in the Centre. I also noticed that the Centre was in very poor condition and that the Defendant had clearly failed to comply with its contractual duties as regards its responsibilities for the management, upkeep and maintenance of the Centre in accordance with its lease agreement with BI.
20. I informed Mr Khan that KPM had failed to pay the invoice dated 15 March 2017 and that BI demands the payment amount plus any applicable contractual penalties for late payment.
21. During our meeting, Mr Khan pretended to make a phone call to what he claimed was KPM's chief accountant. However, I must say that Mr Khan is a very poor actor because it was perfectly obvious that he was not actually calling anyone at all. After pretending for a short while to speak with KPM's account, Mr Khan tried to explain that no invoice had ever been delivered in respect of the April 2017 period, neither by post nor by Mr Green. He tried to brush away the problem and said that we could "sort it out like gentlemen". He suggested that we get to know each other better and suggested that we go for dinner in the near future. I reacted calmly by informing Mr Khan that, whereas Mr Green may have been impressed by such a politician-style approach at avoiding a problem, I was not and that BI fully intended to sue for the missing payment and all related interest and punitive damages resulting from that non-payment. Mr Khan became very angry and accused me of trying to destroy the livelihoods of hard-working local traders. He stated that he had no intention of paying the invoice and said that "his friend Charlie" would help to make sure that KPM would not be found liable for any breach of contract. Mr Khan was totally unwilling to cooperate, so I concluded that there was no alternative but to commence proceedings to recover the amounts due under the lease agreement.
22. Since my meeting with Mr Khan, it has come to my attention that Mr Khan and Mr Green had been friends for some time and that, since 2010, they had also sat together on the Wembley Community Development Board, which is basically a think-tank comprised of radical left-wing individuals who share the same outdated views as to how the area should be developed or, rather, prevented from developing to its full potential.
23. I believe that, as a result of their personal relationship, Mr Green knowingly entered into a lease agreement between BI and KMP which included lease rates that were significantly

below the levels that could reasonably be expected in connection with such a property as the Wembley Shopping Centre.

24. I also believe that both Mr Green and Mr Khan know that the invoice dated 15 March 2017 was delivered to KPM, both by post and subsequently by Mr Green in person on 7 April 2017, but that they have agreed to lie about this in order to protect KPM and Mr Khan.
25. I believe that Mr Khan is perfectly aware that KPM has acted in breach of its lease agreement with BI and that his failure to make payment was done in bad faith.
26. I believe that Mr Green has agreed to act as witness for the Defendant because he continues to hold a grudge against BI and/or Stefan Batory for his dismissal, despite such dismissal having been entirely lawful and appropriate in light of his gross misconduct at the relevant time.

#### STATEMENT OF TRUTH

Date:

IN THE COUNTY COURT AT WEMBLEY

BATORY INTERNATIONAL LTD

Claimant

and

KHAN PROPERTY MANAGEMENT LTD

Defendant

---

WITNESS STATEMENT OF  
FREDDY KHAN

---

I, FREDDY KHAN, of 41 Butchers Lane, Wembley, HA9 0QP, will say as follows

1. I was born on 1 March 1971.
2. I am the founder and Managing Director of Khan Property Management Ltd (“KPM”), the Defendant company in this matter, which I incorporated in 2011.
3. Since 2009, I have also been a Labour Party councillor on the Ealing Local Council. I was re-elected to that position in May 2013 and again in 2017.
4. I am also the founder and a continuing member of the Wembley Community Development Board (“WCDB”), a non-governmental organisation that discusses projects to develop the Wembley area. The WCDB has been responsible for a number of important initiatives in the Wembley area, including having raised money to assist small, local businesses to undertake repairs to their properties, organised events that promote goods and services sold by local entrepreneurs and provided information on the tax-avoidance schemes used by large multinational corporations.
5. When I set up KPM, I wanted to create a commercial entity that would allow me to use my management and people skills to help the local community wherever possible. My business and political philosophies are entirely consistent: I believe that local entrepreneurs sometimes need a helping hand to survive financially in an economic environment which is geared towards squeezing such businesses out and replacing them with large corporate players who have no affiliation with, or loyalty to, the places where they are based.

6. In early 2013, I became aware that Batory International Ltd (“BI”) was looking for a management company to take over the lease of the Wembley Shopping Centre, a property which was both owned and managed by BI at that time. BI wished to resign from managing the Centre and conclude a lease with a new management company which would assume responsibility for the Centre and its sub-tenants.
7. I had been going to the Wembley Shopping Centre since I was a kid to buy everything from sweets to school uniforms, so I swiftly submitted a bid to take over the management lease from BI. Although neither I nor KPM had much experience in managing such a large shopping centre, I thought that it was a perfect opportunity to expand KPM while also ensuring that the Centre retains a local character. I planned to use the Centre to offer affordable lease prices to local businesses and provide stability to those local traders who rented the shop spaces in the Centre.
8. Shortly after having submitted the tender on behalf of KPM, I happened to meet Mr Charlie Green, who was the Managing Director of the Claimant company at that time. Although we were not friends, I had met him on a few occasions before this, since his parents and my parents live on the same street, and he had always seemed a pleasant man. I knew that he was the Managing Director of BI, so I asked him if he could tell me anything about KPM’s bid to become the managing company of the Centre. He told me that BI was really interested in KPM’s offer, but that he needed to check other offers and get back to me.
9. Mr Green called me some time later to say that KPM’s offer had been accepted. On 20 September 2013 KPM and BI concluded a Lease Agreement under which KPM became responsible for managing the Centre and acquired all the rights and obligations which existed under sub-leases signed by entrepreneurs who were based at the Centre. The lease runs for 27 years, from 20 September 2013 until 20 September 2040.
10. Shortly after taking over the management of the Centre, I realised that it was going to be difficult to run it without risking major financial losses. The Centre is old and in fairly poor condition, in a run-down part of Wembley. It is located close to a postal sorting office car park and a large area of derelict waste land which attracts lots of local gangs and trouble-makers. Consequently, large and well-known shops have not been interested in sub-leasing units in the Centre. Instead, its sub-tenants are small, local traders and local charity shops.
11. The condition of the Centre and the nature of its tenants was not a problem for me because, as I mentioned above, I believe that local entrepreneurs require support. However, I must admit that the scale of the financial risk that the Centre created was greater than I had anticipated and I was worried that it might even become insolvent, which would cause problems not only for KPM but also for my other business ventures.
12. The low levels of lease payments which the sub-tenants pay just about cover the Centre’s monthly running costs, with very little to spare. Many of the sub-tenants are also late in making payments, which meant that KPM has sometimes had to take out short-term loans to ensure that it can pay its monthly lease payments to BI. Furthermore, the Centre’s running costs were greatly increased by local property tax increases that were imposed by the Wembley Local Council on all commercial premises from September 2018 after it was decided that Wembley would host the World Athletics Championships in 2022.

The Centre's lease agreement makes KPM liable to pay such taxes and for some time this caused me great concern that it would lead to the insolvency of KPM altogether.

13. Nevertheless, I am proud to say that, despite my concerns, KPM always managed to make timely payment of its monthly lease payments to BI. In fact, in most months KPM paid well within the 14-day deadline for payment, following receipt of a VAT invoice issued by BI and delivered by post to KPM's office address.
14. The only time during which anything unusual happened as regards invoices for the Centre was in early April 2017 when our accounts department informed me that no invoice had been received for April. Invoices were payable in advance and we usually received invoices from BI by post in the middle of the preceding month, but no invoice had been received at any stage in March 2017. This was the first time that an invoice had not arrived in advance of a due lease payment.
15. Although I always kept a close eye on the payments KPM needed to make, especially during this period of KPM's financial insecurity, I was not overly concerned by the non-arrival of the invoice for April, since I knew that our contract with BI states that invoices are payable 14 days after receipt of the invoice, so there was no risk of KPM breaching the lease agreement by reason of having failed to pay.
16. However, wishing to be cautious and wishing to make sure that this was a mistake at BI's end, rather than the postal service having lost the invoice, I e-mailed Charlie Green on the morning of Monday 7 April and informed him that we had not received the April invoice by post, as was usual [\[EC5\]](#).
17. On the same day, 7 April 2017, Mr Green replied that there was a bit of a mess in BI's office and that I should not worry about it [\[EC6\]](#). He said that he would personally drop off the invoice later that day and that he would explain the situation to me in person during his visit.
18. I planned to meet Mr Green when he visited KPM on 7 April 2017, but I was called away from the office before he arrived. I was informed that he visited our accounts department and I assumed that, since I was absent from the office, he had left the April invoice with the accounts department.
19. At that time, KPM was involved with a number of other important commercial issues which required my immediate attention, so I did not immediately check with our accounts department to confirm that Mr Green had indeed delivered the invoice.
20. However, in approximately the middle of May, I recall asking our accounts departments whether all invoices were up to date and paid and I was told that they were. I genuinely assumed that this included all invoices payable to Batory International, including the invoice for April 2017, which I thought Mr Green had delivered on 7 April 2017, and I never thought anything more about the matter.
21. At the end of May 2017, when KPM's business affairs had calmed a little, I decided to email Charlie and to apologise for having missed him during his visit and arrange a meeting. I wanted to discuss whether we could perhaps amend our existing lease agreement so as to remove certain financial risks for KPM that the existing agreement



contained. However, I received an email rejection auto-reply from his work email address [EC7]. I contacted BI by phone and asked to speak to Mr Green, but was told that he no longer works there. I pressed for further information but was told that none would be given.

22. I considered it strange that Mr Green had suddenly left BI and had not informed me about it, but I imagined that he had perhaps finally decided to take the early retirement that he had spoken about on a few occasions before. I guessed that he wanted to tell me this in person during his visit on 7 April, so I felt somewhat guilty at having missed him, but I thought little more about it after that.
23. Despite the March-May 2017 period having been a rather unusually busy and stressful period, things quietened and returned to normal from June 2017. Invoices were received by post from BI as usual, KPM made timely (in fact early) payment as usual and some of the Centre's sub-tenants received grants or loans from the Wembley Community Development Board which enabled them to repair and improve their units within the Centre. KPM started to receive money from other commercial ventures with which it had become involved and this helped to improve its overall financial position and remove any immediate threat of insolvency. All in all, things looked very optimistic.
24. However, in October 2018, I was contacted by BI's new Managing Director, Mr Gregory Peck and agreed to meet him at KPM's offices at the Centre. Mr Khan incorrectly alleged that KPM had failed to make payment in April 2017. He told me that BI would be pursuing the issue aggressively, that my commercial attitude was unacceptable, and that he would do all in his power to terminate the BI-KPM lease agreement. I admit that I got very angry at his attitude, especially when he seemed to accuse me of having been involved in some kind of conspiracy with Mr Green to cause harm to BI.
25. During that conversation with Mr Peck, I called and asked our accounts department whether any invoice for the April lease payment had ever been received. They confirmed that no invoice had been delivered by post, which I already knew, and that Mr Green had not in fact left the invoice during his visit on 7 April 2017, which I did not previously know.
26. It was explained to me that, although Mr Green visited KPM on 7 April 2017, he appeared very distressed and unable to concentrate. He apparently stayed for a very short period and, when he discovered that I was not at the office, he left immediately without leaving any invoice. Our accountants knew that I had told them that I would deal with the missing invoice directly with Mr Green, and they remember him saying that he would try to catch up with me another time, so they assumed that I must have met Mr Green after this and dealt with payment of the invoice myself. Our accountant is absolutely positive that she remembers every detail of Mr Green's visit because she admits to finding Mr Green very attractive and she hangs on every word he says. She says that she remembers every detail of his visit that day.
27. After meeting Mr Peck, I tried to contact Charlie Green directly, but his mother told me that he had moved to Spain and had been living there for a few years. She gave me his mobile telephone number and I called him on Friday 15 October.

28. When I contacted Mr Green, I initially congratulated him on his early retirement, but he informed me that he had in fact been dismissed from BI. At first he did not want to explain any more details but once I had explained the predicament in which KPM currently found itself, he became more willing to provide details of his last days at BI and said that, like him, I was "...just a pawn in the Game of Thrones being played by Batory and Peck".
29. Charlie explained that he had suspected for some time that BI wanted to get rid of him and all existing tenants of BI-owned properties, so that BI would manage all of the properties it owned in Wembley and thereby become entitled to bid for special government grants and loans designed to develop the Wembley area before the World Athletics Championship. When he was Managing Director, he had been instructed to find and negotiate the purchase of real estate located close to the Wembley Shopping Centre, so he guessed that BI wanted to demolish the current Centre and construct something bigger.
30. He also said that he knew that Stefan Batory, BI's sole shareholder, could not find any genuine reasons to dismiss him and so had hired Mr Peck, whom Charlie described as a "corporate shark", to use any methods – fair or foul – to get rid of Charlie and pursue a campaign of reclaiming Wembley-based properties from BI's tenants. He suspects that Mr Peck is "continuing his practice of spreading false allegations and lies, just like he did with the false sexual harassment case against me". He said that Mr Peck will stop at nothing to terminate KPM's lease of the Centre and reassume management of the Centre, so as to be eligible for the government development funds grants.
31. Charlie said that, when he discovered in December 2016 that Mr Batory had hired Mr Peck to advise him, he had "rattled some cages" in BI to try and discover exactly what BI's plans were. However, very soon afterwards he had been falsely accused of sexually harassing BI's chief secretary (Linda Bane), who then left the company in chaos by resigning. Charlie admitted that Linda was the backbone of BI and that when she left, things were in a terrible state, but only for a short period in mid-March when BI was due to issue many invoices.
32. Mr Green told me that he remembered very clearly the day of 7 April 2017 when he visited the KPM offices because when he read my email of that day, asking about the missing invoice, he panicked because he had received a similar email from another one of BI's clients the day before, which also enquired about a missing invoice. With Linda having resigned, and with the stress he was under, he said that he was "running around like a headless chicken".
33. Charlie said that he visited KPM with the intention of delivering a copy of our April invoice, because he couldn't be sure whether it had actually been posted or not. He admitted that his focus was entirely elsewhere on the day that he visited KPM and that he wanted to talk to someone outside BI about the whole situation at the company. When he discovered that I was not at the office, as I had planned to be, he lost focus completely and forgot to deliver the invoice. He said that he no longer has a copy of the invoice, as it was probably thrown in the rubbish when he moved to Spain.
34. Mr Green acknowledges what I know to be true, which is that the invoice which BI falsely claims was unpaid was never sent to KPM by post and was never personally delivered to

KPM by Mr Green. Accordingly, KPM did not wrongfully fail to make payment and is in no way liable for the amounts sought by the claimant.

35. Mr Green has agreed to be witness and to repeat this in court.

STATEMENT OF TRUTH

Date:

IN THE COUNTY COURT AT WEMBLEY

BATORY INTERNATIONAL LTD

Claimant

and

KHAN PROPERTY MANAGEMENT LTD

Defendant

---

WITNESS STATEMENT OF  
CHARLES GREEN

---

I, CHARLES GREEN, of Sunny Beach Apartments 421, Marbella, Spain will say as follows

1. I was born on 7 December 1961. I used to be the Managing Director of the Claimant company and have agreed to appear as a witness for the Defendant in this matter.
2. Between 2010 and 2017 I was the Managing Director of Batory International Ltd (“BI”). Since 2017, I have been developing property in Spain. I live in Spain but I return to the UK roughly once a month to spend time with my children, who still live with my ex-wife in Wembley.
3. I have known Freddy Khan, the Managing Director of the Defendant company, since around 2010 when I began to volunteer as a member of the Wembley Community Development Board. I know that his parents live on the same street as my parents.
4. I ceased to be the Managing Director of Batory International on 7 April 2017, when I received a dismissal notice from BI’s sole shareholder, Stefan Batory.
5. My dismissal as BI’s Managing Director was purportedly based on an entirely unfounded claim of sexual harassment made against me by a former BI employee, Linda Bane, who was BI’s chief secretary at that time. Ms Bane had worked for BI for almost 10 years, and during that time, there had never been any problems between us at all. However, just before Christmas in 2016, I saw Ms Bane talking to Mr Gregory Peck in a Costa Coffee café around the corner from our office building. I had already heard rumours that Mr Peck had been hired as an adviser to Mr Batory and I knew of his reputation as someone with no business ethics who acts as a hired-gun to “sort” corporate problems, by fair means or foul, though usually foul.

6. As soon as I knew that Mr Peck was advising Mr Batory, I began to fear that Mr Peck was involved with plans to dismiss me as BI's director. I was confident that I had never acted in any way that would justify my dismissal, but I knew of Mr Peck's reputation and realised that, where he is involved, the truth of a situation is less important than the aims he has been instructed to achieve. At the time I believed, and I still believe, that Mr Batory had hired Mr Peck with a view to finding, or creating, some "dirt" on me to justify my dismissal from the position as Managing Director.
7. On 2 January 2017, I requested to speak with Ms Bane in my office to enquire about her December meeting with Mr Peck, as it had been weighing on my mind over the Christmas holidays. Ms Bane denied having met with Mr Peck, but her nervous reaction made it clear to me that she was lying. I pushed her to tell me the truth, but she refused to say anything more and, from that moment on, basically ran away whenever I tried to talk with her.
8. Shortly afterwards, I was informed by Mr Batory that Ms Bane had contacted him to complain that I had been sexually harassing her in the workplace. I was ordered by Mr Batory not to speak with Ms Bane while an investigation was ongoing. On one occasion in the office after this, I did approach Ms Bane to demand an explanation for the harassment accusation, and she again reacted by getting upset and refusing to talk to me.
9. The entire situation concerning the sexual harassment claim is a total farce and I am convinced that it was a plot thought up by Mr Peck, and perhaps Mr Batory himself, to provide grounds to dismiss me.
10. I know for a fact that I never acted in any inappropriate manner with Ms Bane and I am convinced that Mr Batory was also aware that this was the case, since I was never provided with any opportunity to explain my version of events and Ms Bane never ultimately initiated any claim against BI for sexual harassment, which she surely would have done if there was any truth in her allegations. I also know very well that Ms Bane had been in a relationship with Stefan Batory, a married man, for a number of years, so it would be absurd for me to ever attempt anything with her. I suspect that Mr Batory probably asked her or paid her to make-up the harassment allegation, because shortly afterwards, on 16 March 2017, Ms Bane resigned with immediate effect, and I have no idea where she went to and was never given any reasons for her resignation.
11. When Linda Bane resigned, her absence was felt immediately and it became clear that, as I already knew, she was crucial to many of BI's day-to-day operations, including the issuing of invoices. Ms Bane would create invoices for me to sign in my capacity as BI's Managing Director and then, once I had signed them, she would post the originals and file a copy into a dedicated client account folder. I suspect that Mr Peck orchestrated Ms Bane's resignation to cause the most chaos in the office, since she immediately resigned at the busiest period of the month and left us with some degree of chaos as regards which invoices had actually been sent to clients by post as usual.
12. Following Ms Bane's departure, the rest of the accounts department and the temporary replacement secretary did not seem to know whether some original invoices had been posted or not. When I received emails from two separate clients, on 6 and 7 April 2017, informing me that they had not received their invoices by post as usual, I knew that the invoicing situation was in a bad mess.

13. I tried to identify any client who might not have received an invoice by post during that period and decided to deliver an invoice to them personally. I knew that KPM Ltd was one such client, since its managing director, Mr Freddy Khan, was one of the clients who wrote to inform me of this on 7 April 2017.
14. I remember taking a copy of the April 2017 invoice for KPM with me when I visited KPM's office in the afternoon of 7 April. My intention was to deliver the invoice to Mr Khan, apologise for and explain the disruption which was happening in BI's offices at the time and arrange a meeting for us to discuss the situation at the Wembley Shopping Centre. However, when I arrived at KPM's offices, I was informed that Mr Khan had been called away on business. I visited KPM's accounts department briefly, aiming to leave the invoice with them instead, but I remember thinking that I wanted to speak with Freddy personally and that it might be better to keep it and hand it to him personally.
15. During this period, I was under a tremendous amount of stress and feared that I would be dismissed. As it transpired, my fears were correct, and on the same day, I received an email from Stefan Batory telling me that I had been sacked as Managing Director with immediate effect [EC3]. I had suspected that this was going to happen for months. Having managed BI for so many years, I knew that it would be pointless to try and fight the dismissal, so ultimately I let it go and accepted it. In retrospect, I should have claimed unfair dismissal.
16. I honestly believe that, as a result of the stress which I was under at the relevant time, I did not leave the relevant invoice with anyone from KPM, despite what I wrote in the email to Stefan Batory that day. I am equally convinced that no invoice was posted, given the situation within BI at the relevant time. At the time, I reported to Mr Batory that the chaos surrounding the invoice situation had been resolved, but only because I was aware that my position as managing director was under threat and I did not want to provide him with anything which he could use against me as part of his plot to dismiss me.
17. I believe that BI's current managing director, Mr Gregory Peck, is willing to use any means, including lies, to enable BI to terminate KPM's lease of the Wembley Shopping Centre. I also believe that he is fully aware that no invoice was issued to KPM or delivered by me personally and that, consequently, KPM did not breach its duty to pay the invoice for April 2017.
18. Furthermore, I have strong reason to suspect that, as of September 2018, when it was decided that Wembley would host the World Athletics Championship in 2022, Mr Batory planned to benefit from government development grants for the Wembley area and replace me with a different managing director, which he ultimately did.
19. I was aware that BI was involved in negotiations to acquire a piece of land located next to the Wembley Shopping Centre and I suspect that Mr Batory wishes to demolish the existing Shopping Centre and to construct a new one which will be more attractive to large commercial clients, as opposed to the small local entrepreneurs who currently sub-lease space in the Centre. Mr Peck is known by many as "McGreg" because it is well known that he sees large commercial clients, such as McDonalds and Costa Coffee, as being the only real source of commercial lease revenue. He is said to despise the idea that

potentially valuable properties may be being tied-up by small entrepreneurs when they could be occupied by commercial players with more spending power.

20. I believe that both my dismissal and the current claim against the defendant are part of an organised strategy for BI to reclaim management of the property it owns in the Wembley area, so as to allow it to benefit from the aforementioned government grants.

STATEMENT OF TRUTH

Date:

EXHIBIT 1: VAT INVOICE APRIL 2017 [EX 1]

*copy 1*



Invoice No. WSC1043/0414/1

Date: 14/3/2017

Name of Lessee: Khan Property Management Ltd, Company Number 03820876, Wembley Park Boulevard, Wembley, HA9 0QL  
Contact Email: f.khan@labour.com  
Phone: 611 999 304

Name of Owner: Batory International Ltd  
Office property on Lease Agreement:  
Wembley Shopping Centre  
Wembley Park Boulevard,  
Wembley, HA9 0QL

Month:	Amount (inclusive of VAT)	of which VAT:
APRIL 2017	€10,000	23%

*Charlie Green*

Signature of Managing Director



60 Threadneedle St  
London EC2R 8HP  
company number 09329869



## EMAIL CORRESPONDENCE 1 [EC1]

From: Stefan Batory  
Email: s.batory@batoryinternational.com  
To: Charlie Green [c.green@batoryinternational.com]  
CC: Gregory Peck [gregory@peck.com]  
Date: 6/4/2017 at 07.23

Message:

Dear Charles

As you are aware, our investigations continue into the allegations made against you by Linda Bane. We are taking these extremely seriously and pursuing an independent review of all of the facts, as we are required to do under the applicable employment law. We will let you know the results of our investigation once they are completed, which should not be long now.

I was disturbed to hear rumours within BI that Linda's departure has caused chaos as regards whether client invoices have been sent in the usual manner. Please update me on this immediately. I do hope that this is not going to be another problematic aspect of BI's current operations.

Stefan

## EMAIL CORRESPONDENCE 2 [EC2]

From: Charles Green  
Email: c.green@batoryinternational.com  
To: Stefan Batory [s.batory@batoryinternational.com]  
CC: Gregory Peck [gregory@peck.com]  
Date: 6/4/2017 at 13.44  
Message:

Dear Stefan,

Many thanks for your email. I appreciate you keeping me informed about the investigation. As I have told you before, I strongly deny these allegations and have no idea as to why Linda would have made them.

Linda's resignation has indeed caused some slight admin problems and one client wrote to inform me that they hadn't receive their invoice for April. However, apart from that single incident, I am sure that every client has received their invoices by postal as usual.

Nevertheless, I have scheduled to visit some of our premises tomorrow to check up on their physical condition and discuss certain issues with the lessees, so I will take duplicate invoices with me and physically deliver them to some clients during my visits.

Please rest assured. I'm completely on top of things here, despite the difficulties related to Linda's surprise resignation. I assure you that things will be running like clockwork again within a couple of days.

Best wishes,

Charlie

### EMAIL CORRESPONDENCE 3 [EC3]

From: Stefan Batory  
Email: s.batory@batoryinternational.com  
To: Charlie Green [c.green@batoryinternational.com]  
CC: Gregory Peck [gregory@peck.com]  
Date: 7/4/2017 at 18.31  
Message:

Dear Charles,

Please be advised that, following the conclusion of our lengthy, independent investigation into the circumstances surrounding the allegations made against you by Linda Bane, we have come to the conclusion that her allegations against you were true. In reaching this conclusion, we have also taken into account your version of the events, but find them to be unbelievable when compared to the descriptions provided by Linda and other staff members.

Accordingly, please be advised that you are dismissed from this moment as Managing Director of Batory International Ltd on the grounds of gross misconduct, contrary to your employment contract, which justifies instant dismissal in such circumstances and is in compliance with the applicable national law. It has simply become untenable for you to continue in this position.

I will be appointing Gregory Peck as Managing Director and he is copied in to this email, so please include him in all correspondence from now on.

Please advise me of any MD-related tasks are still outstanding as of today, so I can ensure that Gregory deals with them asap.

Regards,

Stefan

## EMAIL CORRESPONDENCE 4 [EC4]

From: Charlie Green  
Email: [c.green@batoryinternational.com](mailto:c.green@batoryinternational.com)  
To: Stefan Batory [[s.batory@batoryinternational.com](mailto:s.batory@batoryinternational.com)]  
CC: Gregory Peck [[gregory@peck.com](mailto:gregory@peck.com)]  
Date: 7/4/2017 at 20.03  
Message:

Dear Stefan,

Since you've already made your decision, there's probably no point in me fighting you on it – I can guess how that would end. I have suspected for some time that this whole farce was something of a foregone conclusion. McGreg wins again it would seem.

I dealt with the invoices that may not have been posted during the time of Linda's resignation so I am proud to say that BI is in a much healthier and better-organised condition when I leave it than it was when I took over. I hope you will be able to say the same once you come to your senses about Mr Peck. He probably plans to turn all of BI's properties into one mammoth Costa Coffee. At least he'll have somewhere to meet his fellow co-conspirators. As for Linda, I can only assume that she is now living somewhere in the tropical sun, spending the blood money she has earned. I could do with some sun myself.

Please use my personal email account ([c.green@gmail.com](mailto:c.green@gmail.com)) to communicate about the usual post-dismissal matters to be resolved.

Charlie.

## EMAIL CORRESPONDENCE 5 [EC5]

From: Freddy Khan  
Email: f.khan@labour.com  
To: Charlie Green [c.green@batoryinternational.com]  
Date: 7/4/2017 at 10.01  
Message:

Dear Charlie,

I've just been told by our accounts department that there is a problem with your invoice for April, which hasn't arrived by post as usual. Is this a problem at your end, or has the wonderful British postal service lost it (as happened with a birthday card I sent to my Gran in 2000 – she's still not forgiven me ☺)

Would you be able to confirm whether the April invoice was posted (and if so, when) so that I can chase it with the postman if necessary? Alternatively, could you please arrange for another copy to be posted?

I hope you're well.

Freddy

## EMAIL CORRESPONDENCE 6 [EC6]

From: Charles Green  
Email: c.green@batoryinternational.com  
To: Freddy Khan [f.khan@labour.com]  
Date: 7/4/2017 at 12.10  
Message:

Dear Freddy,

Things are a bit hectic at the office today. I will check on the invoice and get back to you. Perhaps it would be safest if I drop by the Centre myself later today and deliver it myself - I have some other business to deal with in the area and it would be good to have a chat with you. I'll be there at around 4pm. Look forward to seeing you then.

Charlie

## EMAIL CORRESPONDENCE 7 [EC7]

From: Auto-reply Batory International  
Email: auto-reply@batoryinternational.com  
To: Freddy Khan [f.khan@labour.com]  
Date: 28 May 2017 at 16.15

\*\*\*\*\*Email returned to sender\*\*\*\*\*

The following email was unable to be delivered. The email address may no longer exist or is not capable of receiving mails.

---

Original email:

From: Freddy Khan [f.khan@labour.com]  
To: Charlie Green [c.green@batoryinternational.com]  
Email: Long time, no see...  
Date: 28 May 2017 at 16.14

Dear Charlie,  
Sorry I missed you when you came to the office in April. Apologies too for taking so long to get back in touch. It has been a crazy time. I have more free time now, so if you want to grab some lunch soon, let me know. I couldn't find your mobile number in my contact list.  
Best Wishes,  
Freddy