COLLAS CRILL

Raiffeisen Bank International AG v Scully Royalty Ltd & Oths [2025] CIGC (FSD) 97

NOVEMBER 2025

Court: Grand Court (Cayman Islands)
Subject: Policing of world-wide freezing orders, asset disclosure, ex parte on short notice, s.37 English Senior Courts Act 1981, s.11 Grand Court Act (2015 Revision), practical utility, proportionality, disclosure of all substantial assets irrespective of the level of any cap set on freezing orders to allow policing of the order and avoid risk of assets being dissipated and judgment remaining unsatisfied
Judges: Parker J

Summary

This decision concerns the purpose of a worldwide freezing order (**WFO**) and the relevance of asset disclosure to the policing of a WFO.

The Court granted further asset disclosure orders, with some modifications, to police existing WFOs against MFC Group entities. Raiffeisen Bank International AG (**RBI**) applied urgently (*ex parte* on short notice) for further, updated asset disclosure orders against the First Defendant (D1), which is the parent company of the MFC Group, and the intended Tenth Defendant (D10). Following a corporate restructure in which the Fifth Defendant (D5) was dissolved and merged into D10 and an unexplained share transfer, the Court was satisfied and that there was a real risk that there had been a dealing in D5's assets otherwise than in accordance with the D5 WFO and ordered the further disclosure. D1's reliance on audited, consolidated financial statements was not sufficient, nor was the asserted compliance with the monetary 'cap' under the WFO accepted as a reason to persuade the Court not to order the further asset disclosure.

Further details

In simple terms, RBI alleges that it is the victim of a fraudulent conspiracy designed to asset strip the former parent company of the MFC Group (D2), which allegedly gave guarantees to RBI in connection with a credit facility. The various defendants operate complex offshore structures, hold diverse assets and are domiciled in different jurisdictions. The case has a long history of WFOs granted against the MFC Group entities. Key assets at issue included shares in two British Columbia companies (D4 and D6) which together held the MFC Group's interest in the Scully Mine. Existing WFOs included a monetary cap tied to unencumbered assets. After D5 was dissolved in the Marshall Islands and merged into D10, and following D1's transfer of its D5 shares to a non-party, RBI sought refreshed disclosure to track key assets, including the Scully Mine holding companies.

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The Court accepted that recent restructurings created a real risk of non-compliance with the D5 WFO.

Parker J reaffirmed the Court's ancillary powers. While accepting the Defendants' submissions that disclosure orders must be proportionate and for the purpose of policing the WFO, Parker J held that the whole purpose of asset disclosure orders following a WFO was to provide sufficient information to allow litigants who might successfully obtain judgment to monitor assets and make sure that unjustified disposals did not take place.

In the circumstances of this case, this included disclosure of D1's assets, current structure of all shareholdings held by D1 and its subsidiaries and the changes that had occurred since the provision of D1's existing asset disclosure.

The Defendants' arguments as to compliance with the WFO 'cap' did not prevent RBI's application succeeding; the Court held the Defendants could not unilaterally pick and choose which assets to deal with within the 'cap'.

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