

Ogier acts for Equiom in complex cross-border trust case

Cases - 10/08/2022

Ogier continues to provide multi-jurisdictional strategic advice to Equiom (Guernsey) Limited in their capacity as trustee of a Guernsey law trust. The Monegasque-appointed provisional administrator of the estate of the settlor and beneficiary of the trust obtained a court order extending his powers to remove Equiom as trustee, and who challenged the validity of the trust.

The case raises complex legal issues regarding the legal effect of foreign court orders on a Guernsey law trust, the interrelationship of injunctive relief over assets owned by a Guernsey trust but held in a foreign jurisdiction, how foreign succession laws interact with Guernsey trust firewall provisions, validity of Guernsey trusts and the ability of all adult beneficiaries to terminate Guernsey trusts when issues of validity and the capacity of the settlor are at issue.

Equiom is trustee of a Guernsey law trust whose deceased settlor and beneficiary was resident in Monaco. During his lifetime, the Monegasque Court appointed a provisional administrator over the financial affairs of the settlor and beneficiary. Prior to the settlor and beneficiary's death the provisional administrator obtained a Monagasque court order extending his powers to remove Equiom as trustee and appoint a trustee in Monaco to replace it. When the provisional administrator sought to exercise these powers, Ogier made an application on Equiom's behalf to the Royal Court of Guernsey seeking directions from the Court as to whether the Monegasque Court orders should be recognised and enforced.

The provisional administrator and the purported new trustee also questioned the validity of the trust and the current beneficiaries subsequently sought to bring the trust to an end. Proceedings are ongoing in Guernsey as well as related actions in Monaco and Switzerland.

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