



Ogier succeeds in obtaining a decision that trust funds were not the proceeds of crime (1)

Cases - 24/04/2024

Ogier in Guernsey successfully assisted Dr Richard Tucker Loero in securing an order from the Royal Court declaring that Dr Tucker Loero's funds held in a trust in Guernsey were not the proceeds of crime, for the purposes of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (the Law). The Ogier team was led by partner Bryan de Verneuil-Smith, assisted by senior associate Nick Taitz, associate Chloe Gill and trainee English solicitor Natália Jopling Tanser.

Dr Tucker Loero had settled funds into a trust governed by the law of New Zealand. Credit Suisse Trust Limited was the trustee. Dr Tucker Loero sought to revoke the trust and have the trust funds transferred to him. However, the trustee formed a suspicion that the funds in the trust were the proceeds of crime and lodged a suspicious activity report (SAR) with the Financial Intelligence Unit (FIU). Once a SAR had been lodged, the funds in question were effectively frozen unless the FIU gave its consent for them to be transferred. The FIU did not give its consent and since the suspicion of the trustee was not challenged, the only way for Dr Tucker Loero to obtain his funds was to obtain a declaration from the Royal Court that the funds were not the proceeds of crime. The burden of proof was on him to do this. To satisfy this burden, it was necessary for Dr Tucker Loero to provide the Court with cogent and convincing evidence supporting the provenance of the trust funds. Witnesses were cross-examined at trial on the evidence they provided.

On the concluding day of a five-day trial in which extensive factual and expert evidence was examined, Jurats of the Royal Court reached a unanimous decision regarding the provenance of the trust funds. It was declared by the Royal Court on 19 April 2024 that the trust funds were not the proceeds of crime. As a result, the trustee was free to comply with Dr Tucker Loero's instructions in relation to such funds going forward.

Ogier in Guernsey has advised clients in relation to SARs lodged under the Law in a number of cases in Guernsey, and continues to provide clients with the benefit of this experience in successfully resolving such matters.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

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