

Cross-Border Enforcement

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serle court

Case Study

A Russian bank is suing Konstantin in England for fraud and seeks damages of \$1bn.

At around the time his trouble with the bank started, Konstantin settled most of his assets, worth \$500m, on a standard form discretionary trust in the BVI. The trust owns shares in BVI holding companies, which own underlying assets – held through a corporate structure – in various jurisdictions including the US and the UK. There is a further separate corporate structure: the holding company is in Cyprus the shares in which are held by a nominee for Konstantin; and some of the underlying companies are in BVI.

The Russian bank is sanctioned. Konstantin wants security for costs; and is concerned about enforcing a costs order in the event that he is successful at trial.

The Russian bank has a freezing order and believes that Konstantin may have committed a breach of the freezing order and is keen to issue committal proceedings in order to bring him to the negotiating table.

Cases

Sanctions

- ❑ Security for costs: *VTB Commodities Trading DAC v Petraco Oil Co* [2022] EWHC 2795 (Comm)

Contempt

- ❑ *Integral Petroleum v Petrograd FZE* [2020] EWHC 558 (Comm)
- ❑ *Chernukhin v Deripaska* [2022] 1 WLR 3656
- ❑ *TBD (Owen Holland) Ltd v Simons* [2020] EWCA Civ 1182
- ❑ *Cole v Carpenter* [2020] EWHC 3155 (Ch)

Section 423 Insolvency Act 1986

- ❑ *Orexim Trading Ltd v Mahavir Port and Terminal Pte Ltd* [2018] 1 WLR 4847
- ❑ *Re Paramount Airways (No.2)* [1993] Ch. 223
- ❑ *Fortress Value Recovery Fund v Blue Sky Special Opportunities* [2013] EWHC 14 (Comm)
- ❑ *Erste Group Banki AG v JSC VMZ Red October* [2015] EWCA Civ 379

Cases

Effect of Trustee Not Participating in Proceedings

- ❑ *Mezhprom v Lenux* (BVIHC (COM) 2020/0188)

Appointment of Receivers by Way of Equitable Execution

- ❑ *JSC VTB Bank v Taruta* (BVI, 29 November 2021)
- ❑ *Cruz City 1 Mauritius Holdings v Unitech Ltd* [2014] EWHC 3704 (Comm); [2014] EWHC 33131 (Comm)
- ❑ *C Inc v L* [2001] 2 Lloyd's Rep 459
- ❑ *Belletti v Morici* [2009] EWHC 2316
- ❑ *Linsen International Ltd v Humpuss Sea Transport Pte Ltd* [2011] EWHC 2339 (Comm)
- ❑ *JSC VTB Bank v Skurikhin* [2019] EWHC 1407 (Comm)