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HOW REMOTE HEARINGS IN ASSET RECOVERY MATTERS TRIUMPHED OVER COVID 19

Background

1. For many, many years, here in the Cayman Islands, applications made under the Proceeds of Crime Law (POCL) were always conducted by way of the physical filing of documents and the attendance at the Grand Court by Crown Counsel appearing before a Grand Court Judge, often in chambers.

2. The procedure was that prior to the court hearing all the necessary documents for example, court summons, legal submissions by Crown Counsel, sworn affidavit in support of the application and draft order were physically delivered to the Judicial Administration Department of the Grand Court. The Department at that stage would formally open a new POCL file and officially apply the court stamp to those documents and also give the case a court reference. Thereafter efforts would be made to list the case before an appropriate Grand Court Judge.

Remote Working Policy

3. Following advice from the Cayman Islands Government ["CIG"] in response to the Covid 19 threat, on the 19th March 2020 the Director of Public Prosecutions introduced a new remote working

policy. From the 19th March 2020 Crown Counsel were permitted to work from home where possible in order to balance the recent CIG recommendations to practice "social distancing."

Practice Directions

4. On the 25th March 2020 the Honourable Chief Justice issued Practice Direction No. 2 of 2020. This Practice Direction served as a reminder that in fact the Cayman Islands Courts were ahead of their time with video conferences and remote hearings.

5. The Practice Direction issued on the 26th May 2004, directed that the use of remote hearings in appropriate cases was consistent with the "Overriding Objective to deal with every cause or matter in a just, expeditious and economical way."

6. As the Covid 19 threat continued to change daily, so too did the way we did our jobs. On the 6th April 2020, a further Practice Direction was issued. Acknowedging the importance of compliance with Court Rules for the filing of documents and the creation of Court files, the Courts introduced a form of e-filing by way of e-mails. The documents filed by e-mail were now to be processed and authenticated by the use of e-signatures, e-seals and e-stamps. Affidavits usually sworn before the Clerk of Court are now taken by Zoom appearance, thereafter the Court signature and e-signature of the Clerk of Court is affixed to the affidavit and added to the electronic file and uploaded to the Court's electronic platform.

Covid 19 threat and the administration of justice

7. The issuance of the Practice Directions ensured that the traditional procedure for applications under the POCL was swiftly adapted as the Covid 19 crisis took hold. Such proceeds of crime applications remain a matter of national priority. Moreover, in cases where criminal assets have been identified as suitable for restraint time is always of the essence, as any delay at all risks dissipation of those assets by the offender.

8. As a direct result of the jurisdiction's willingness to embrace wholeheartedly modern technology and also to adjust procedures, applications relating to the proceeds of crime have continued apace. It is no small achievement to be in a position to report that there is currently no backlog in applications relating to asset recovery in this jurisdiction.

9. The Cayman Islands regard this recent success in continuing to pursue criminal property in difficult circumstances, as a triumph over Covid 19. It is vital that criminals do not benefit from the very great challenges this pandemic presents and the Cayman Islands is fully committed to ensuring that this does not happen.

10. This success during exceptional and unprecedented times can be credited to the Judiciary, the Office of the Director of Public Prosecutions, Royal Cayman Islands Police Service and to the Judicial Administration Department having adapted the way we do business, thus ensuring all cases are dealt with expeditiously.

By the Financial Crime Team of the Office of the Director of Public Prosecutions – Cayman Islands