

“How to enforce a US Judgment in Cayman”

A judgment from the United States is generally enforceable in the Cayman Islands and is categorized as a foreign judgment. A judgment creditor of a US Judgment (“Creditor”) can sue the US judgment debtor (“Debtor”) in the Cayman Islands on the judgment debt flowing from the US Judgment as an unpaid debt obligation in a fresh proceeding brought in the Cayman Islands.

A United States judgment is generally enforceable at common law in the Cayman Islands where: (1) the US judgment is a final and conclusive judgment or order; (2) the US judgment has not been obtained by fraud or given in breach of natural justice and is not contrary to public policy; (3) the US judgment was made for the payment of a sum of money for compensation or damages to the Creditor; and (4) the US court issuing the judgment had personal jurisdiction over the Debtor because the Debtor: (a) was ordinarily resident in the United States at the time the proceedings were commenced; (b) appeared as a party in the proceeding in which the judgment was given or otherwise voluntarily participated in the proceeding (other than solely to contest jurisdiction); or (c) submitted to the jurisdiction of the foreign court either by prior agreement or subsequent conduct. In certain circumstances the Cayman court will enforce foreign non-monetary orders and judgments.

To enforce a United States Judgment in the Cayman Islands a new formal litigation proceeding need to be commenced in the Cayman Islands. This is done by filing a Writ of Summons (claim), accompanied with a detailed statement of claim, for the amounts due and owing pursuant to the United States Judgment. The action must be brought in the Financial Services Division of the Grand Court of the Cayman Islands. Once filed, the Writ of Summons will be served on the Debtor.

If the Debtor does not defend the new Cayman Islands action the Creditor can apply for default judgment against the judgment debtor. If the Debtor defends the Cayman Islands action, it is common for the Creditor to apply for summary judgment by reference to the outstanding US judgment debt. A summary judgment application is an expedited hearing of the dispute based on affidavit (witness statement) evidence only. The Cayman court will only grant summary judgment if it is satisfied, on the evidence presented to it, that the defence put forward by the debtor has no realistic prospect of success. The Cayman Court will generally not permit the Defendant to attempt to relitigate the merits of the underlying dispute which gave rise to the US Judgment. However, if the Debtor raises issues about service failure in relation to the US proceedings or any of the issues listed in points 1 to 4 above, that could be a basis for the Cayman Islands court to refuse to permit enforcement.

Once the Creditor obtains a Cayman judgment the full range of Cayman domestic enforcement procedures are available which include writ of *feri facias*, charging order, garnishee order, appointment of receiver, liquidation / insolvency proceedings.

About Broadhurst LLC

Broadhurst LLC is a boutique law firm in the Cayman Islands with a range of expertise in dispute resolution and corporate law. With a presence in Grand Cayman for over 24 years, the firm is known most recently for its successes in bankruptcy and insolvency litigation as well as its completion of one of Cayman's largest telecommunications and broadcasting acquisitions. Please send all inquiries to Broadhurst LLC partner, Ian Lambert by email to ian@broadhurstllc.com or by calling +1 (345) 949-7237.

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