



BARROW & WILLIAMS LLP

Attorneys-at-Law, Notaries Public, Trademark and Patent Agents

Contact Us

BARROW & WILLIAMS LLP

Attorneys-at-Law, Notaries Public,
Trademark and Patent Agents

Equity House
84 Albert Street
P.O. Box 617
Belize City, Belize
Central America

Tel: +501 227-5280

Fax: +501 227-5278

attorneys@barrowandwilliams.com



ALPHA SERVICES LIMITED
A Trust Company
Belize's Premier Offshore Services Provider

A subsidiary of Barrow & Williams
LLP

Barrow & Williams LLP is a proud
member of:

LexMundi
World Ready



Follow us:



Information-Gathering, Asset Tracing and Recovery in Belize -

An International Financial Services Perspective

This is the first installment of a two-part series.

The availability of effective legal remedies through court assistance is indispensable to Belize's viability as an international financial services jurisdiction. In this two-part series, we will examine the availability of legal remedies that can assist in cases featuring the jurisdiction of Belize and its international financial products and services.

For simplicity, we will use the term "litigant(s)" in this article to refer to both actual litigants as well as those contemplating initiating court action.

Belize's Entry and Growth

Since Belize's inception as an international financial services provider in the early 1990's, its level of sophistication as a service jurisdiction has increased tremendously. Belize has matured from providing the most basic international financial products to providing a strong mix of more sophisticated services. The country's current lineup features International Trusts; Offshore Bank Accounts; International Foundations; Limited Liability Companies; and the licensing of international financial service providers in various categories including trading in foreign exchange, securities and derivatives. Against this background, Belize has established a firm presence in the international financial services market.

With increased levels of activity, it is reasonable to expect that the volume of disputes concerning this jurisdiction, its products and services will increase, as it arguably has. But, the dynamics of such disputes present unique challenges from a litigation perspective. This is because, though justifiable, a formidable veil of privacy safeguards everything within the sector. This privacy often hampers a litigant's ability to decipher even the most basic features of a case such as: who should I pursue; where has my property gone; and how do I get legal redress. It is in this context that the critical importance of the availability of adequate legal remedies through court assistance becomes evident.

Available Remedies

Generally, litigants would seek remedies falling within the following broad categories:

- (1) Information-gathering; and
- (2) Asset-tracing and recovery.

Contact Us

BARROW & WILLIAMS LLP
Attorneys-at-Law, Notaries Public,
Trademark and Patent Agents
Equity House
84 Albert Street
P.O. Box 617
Belize City, Belize
Central America

Tel: +501 227-5280
Fax: +501 227-5278
attorneys@barrowandwilliams.com

www.barrowandwilliams.com



A subsidiary of Barrow & Williams
LLP

Barrow & Williams LLP is a proud
member of:



Follow us:



To illustrate, let's consider the process of gathering information on Belize International Business Companies.

Searches of the International Business Companies Registry

Consistent with privacy provisions, limited information on each Belize International Business Company is publicly accessible. This information is accessible through searches of the records of the International Business Companies Registry. Publicly available information on such companies is limited to the company's:

1. Name;
2. Date of Incorporation;
3. Share Capital (Amount only);
4. Name and address of Registered Agent;
5. Registered office address;
6. Copies of its certificate of incorporation; and
7. Copies of its memorandum and articles of association.

Information beyond this is protected by laws that compel registered agents to keep such information confidential. Further information can only be revealed voluntarily by the company's officers and members or by the company's registered agent. Otherwise, the court can compel the holders of such information to disclose it under proper circumstances.

Disclosure Orders

The Belize Supreme Court is empowered to aid litigants by granting disclosure orders in appropriate cases as it occasionally does. Typically, such discretionary relief is in the nature of *Norwich Pharmacal / Bankers Trust* orders.¹

In granting these orders, the Court is exercising its jurisdiction to come to the aid of persons who would otherwise have insufficient information to commence an action against a wrongdoer or who would otherwise have insufficient information to trace assets which they rightfully own or have a valid claim to. To qualify for *Norwich Pharmacal* relief, an applicant needs to prove to the court that:

1. He or she has suffered a legal wrong;
2. The respondent has information which can identify or assist in identifying the wrongdoer by virtue of being mixed up in or facilitating the wrongdoer's actions; and
3. The granting of the relief is necessary *i.e.*, that the disclosure of such information is required to enable the applicant to take effective action.¹

The *Bankers Trust* element of such applications normally introduces additional bases on which the applicant qualifies for the disclosure of information in asset-tracing claims: specifically, that the applicant has been defrauded of his or her property and that the respondent has information which can assist in tracing that property.¹

¹ See e.g. *Oao Baltiyskiy Bank v Artur Kirlenko, et al.*, Claim No. 319 of 2010, Decision of Hafiz-Bertram, J. delivered 19th October, 2011

¹ *Norwich Pharmacal Company Limited vs. Customs and Excise Commissioners* [1973] 2 ALL ER 943

Contact Us

BARROW & WILLIAMS LLP
Attorneys-at-Law, Notaries Public,
Trademark and Patent Agents
Equity House
84 Albert Street
P.O. Box 617
Belize City, Belize
Central America

Tel: +501 227-5280
Fax: +501 227-5278
attorneys@barrowandwilliams.com
www.barrowandwilliams.com



A subsidiary of Barrow & Williams
LLP

Barrow & Williams LLP is a proud
member of:



Follow us:



The court will normally require from the applicant several usual undertakings. Primary among these is an undertaking that the applicant will bear the reasonable costs incurred by the respondent in complying with such an order or in providing such information. The court will normally also include terms within the order restricting the use of the information obtained.

Effectiveness

It is difficult to overemphasize the extraordinary nature and utility of these remedies. Firstly, the Court will permit these applications against non-parties to a suit: in effect, otherwise innocent third parties. In fact, these forms of court action fall within a very limited class of actions available against persons in respect of whom an applicant has no cause of action. Secondly, this relief is often pre-action in nature being granted before a litigant commences a claim. Thirdly, the Court can grant these orders in local satellite proceedings in aid of main proceedings taking place, or about to take place, elsewhere.

Conclusion

Belize's strong mix of international financial products and services is complemented by effective legal remedies available through the assistance of its Courts. Such remedies include those aimed at facilitating the gathering of information which is often critical to, and determinative of, these cases.

Prelude

We will be exploring the asset-tracing and recovery aspects of legal remedies available in the courts of Belize in the second part of this series.

Dated the 16th day of April, 2015

Nigel O. Ebanks
Associate

¹ *Bankers Trust Co v Shapira* [1980] 3 All ER 353