



## Insights

### **John Han, Merrick Watson and Timothy de Swardt Unpack Their “Groundbreaking” BVI Judgment in Global Restructuring Review**

March 10, 2021

Publication: *Global Restructuring Review*

In a groundbreaking judgment obtained by Kobre & Kim, the BVI Commercial Court for the first time made a committal order against a personal defendant residing outside of the British Virgin Islands for failing to appear at a hearing. With their colleague John Han, Kobre & Kim’s Merrick Watson and Timothy de Swardt, who obtained the ruling, explained the significance of the judgment in an article for *Global Restructuring Review*.

The client, Korea-based investor Sang Cheol Woo, has been seeking to enforce a Korean ruling against Hong Kong-based businessman Charles Spackman, who had BVI companies where he likely beneficially owned. However, he failed to appear at a BVI hearing to examine his assets despite an order endorsed with a penal warning, so the court granted an order committing him to prison.

This order is significant because BVI courts have been reluctant to grant committal orders, much less against personal judgment debtors outside the BVI. In fact, in obiter remarks twelve years ago, a court had questioned the practical purposes of doing so; however, Justice Wallbank decided to depart from this reasoning, relying on English precedent in arguing that Spackman, who uses BVI companies, will eventually have to step foot in the territory. With this ruling, Spackman’s ability to dislodge and dodge enforcement processes has been significantly curtailed.

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