

## News



Many of our engagements involve matters in which our clients face significant public attention. The following is a list of news stories about the firm, our clients, cases and the results we have achieved.

### **Kobre & Kim Notches Victory with Rare Set Aside of BVI Enforcement Order**

March 20, 2023

Kobre & Kim wins rarely granted ruling setting aside of certain aspects of an enforcement order by the British Virgin Islands Commercial Court.

Kobre & Kim represents an investor facing judgments totaling over US\$80 million resulting from three arbitration awards, which arose from disputes related to the acquisition of a Thai energy company. On November 29, 2021, the BVI Commercial Court recognized and enforced those awards.

Kobre & Kim, which asked Eastern Caribbean Supreme Court to set aside parts of the enforcement order on January 20, 2022, faced long odds. The BVI is known as a pro-enforcement jurisdiction, and the usual grounds for setting aside an enforcement order were unavailable. In addition, the body of authoritative case law from the United Kingdom's Privy Council supports enforcement and restricts the use of public policy attacks to resist enforcement.

But Kobre & Kim found a way via decision some 25 years old. Under *Soleimany v Soleimany* [1999] QB 785, a court may consider the public policy of a friendly nation to refuse enforcement or set aside an enforcement order through comity. Kobre & Kim argued that the award of compound interest given by the tribunal violated Thai law and, based on the doctrine of comity, the court should refuse to enforce the compound interest aspects of the awards in the BVI.

In its decision on 27 January 2023, which was released to the public on 15 March 2023, the Eastern Caribbean Supreme Court agreed, saving Kobre & Kim's client millions of dollars.

"We are grateful the court carefully considered our arguments," said Merrick Watson of Kobre & Kim. "This is an important victory for our client."

The Kobre & Kim team includes Merrick Watson, Timothy de Swardt and John Han.