

## 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 Successfully Defends Against Application to Bring Derivative Proceedings in the BVI Commercial Court**

April 20, 2017

Kobre & Kim successfully defended the directors of Spectrum Galaxy Fund Limited (Spectrum) in an application for court permission in the British Virgin Islands (BVI) to commence derivative proceedings in Florida on behalf the company.

Members of Kobre & Kim's offshore team recently appeared for Spectrum in the BVI Commercial Court of the Eastern Caribbean Supreme Court. They defeated the application on the grounds as argued and obtained a full cost-shifting order upon dismissal of the application.

The application involved disputed issues of Florida law, including ample expert evidence.

Kobre & Kim's strategy, which included filing further evidence that was admitted despite vigorous opposition, was specifically referenced in the court's decision. Had permission for the derivative proceedings in Florida been granted, these proceedings would have been for breach of fiduciary duty, tortious interference with contract and unjust enrichment, and the appointment of a receiver of significant real estate assets throughout the United States. Judge Roger Kaye QC accepted our team's arguments, including absence of statutory good faith (a prerequisite under the applicable BVI statute) and our adversary's failure to prove either the viability or value to the company of the appointment of a U.S. receiver, as the primary basis for rejecting the decision.

Kobre & Kim served as co-counsel to Spectrum, in conjunction with a Miami-based law firm.

[>> Bringing Offshore Derivative Claims: A Comparison](#)