

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

Cause No.: FSD 172 of 2016 (IMJ)

IN THE MATTER OF

BETWEEN

**MERIDIAN TRUST COMPANY LIMITED
AMERICAN ASSOCIATED GROUP, LTD**

Applicants

AND

**EIKE FUHRKEN BATISTA
(AKA EIKE FUHRKEN BATISTA DA SILVA)**

1st Respondent

AND

63X INVESTMENTS LTD

2nd Respondent

AND

63X FUND

3rd Respondent

AND

63X MASTER FUND

4th Respondent

AND

MAPLES CORPORATE SERVICES LIMITED

5th Respondent

AND

BANCO BTG PACTUAL S.A.

6th Respondent

AND

EBX INTERNATIONAL S.A.

7th Respondent

IN CHAMBERS

Appearances: **Mr. G Halkerston instructed by Mr. J McGee of Solomon Harris for
the Applicants**
**Mr. J Golaszewski and Mr. A Salem of Carey Olsen on behalf of the 2nd
to 4th Respondents**

Before: **The Hon. Justice Ingrid Mangatal**

Date of Hearing: **14 May 2018**

Judgment Delivered: **29 May 2018**



HEADNOTE

Application for Joint Receivers over Cayman Companies – Ruling sought pursuant to Section 11A of the Grand Court Law (2015 Revision)

RULING

1. The Applicants now seek to have an order made appointing Geoffrey Varga and Mark Longbottom of Duff & Phelps (Cayman) Ltd as Joint Receivers over the 2nd to 4th Respondents (the “63 X Companies”) pursuant to section 11A of the *Grand Court Law (2015)* (“*the Law*”). Each of the 63X Companies is a Cayman company.
2. In his written submissions, Mr. Halkerston indicates that both gentlemen are well known to the Courts and have particular experience in Cayman appointments when there is or will be ongoing parallel litigation in the United States. The Applicants submit that it is just and convenient to appoint the Receivers and that it is an appropriate response where there is a “*measurable risk that the Respondents will act in disregard of the terms of freezing orders and ancillary orders or they have already done so*”
3. As Mr. Golaszewski points out in his submissions, the Applicants are asking the Court, on the basis of alleged non-disclosure of documents on historical assets, which the Respondents contend they have now provided, to grant a draconian remedy that is “*more intrusive, more expensive, and less reversible than the granting of an injunction*” – see Stephen Gee QC, *Gee on Injunctions 6th Edition* paragraph 16-008. This course can potentially cause irreparable damage to the Respondents, although they are not trading companies.
4. I note that the Applicants here make the request in circumstances where they make no allegations that there has been any dissipation of assets in breach of the Worldwide Freezing Order.
5. In my view, it is relevant to note that the proceedings in Florida are at a stage where a number of Motions to dismiss are being considered. In fact, an Order of the United

States District Court staying disclosure pending the outcome of the Motions has been made.

6. In my view, the Court does have to view the disclosure obligations of the Respondents in these proceedings, through the prism of those proceedings in the US, where disclosure in those substantive proceedings has been stayed. It must be remembered that these proceedings are ancillary to the Florida proceedings.
7. I am of the view that it is not appropriate and is unjust or inconvenient to grant the relief sought at this stage. Mr. Batista has now signed authority letters and this can be said to be assisting the 63X Company in this regard. These were provided on 4 May 2018 - originals are on their way to Solomon Harris.
8. I am therefore minded to refuse the relief sought at this time, on the basis that it appears to be premature, and to allow Applicants to test the efficacy of the letters signed by Mr. Batista.
9. In the light of the lateness of the compliance and signing of the authority letters, I make no order as to costs.



A handwritten signature in black ink, appearing to read "Ingrid Mangatal", is written over a horizontal line.

**THE HON. JUSTICE INGRID MANGATAL
JUDGE OF THE GRAND COURT**