

**EASTERN CARIBBEAN SUPREME COURT
BRITISH VIRGIN ISLANDS**

**IN THE HIGH COURT OF JUSTICE
(COMMERCIAL DIVISION)**

CLAIM NO. BVIHC (COM) No 179 of 2020

IN THE MATTER OF ILYA ALEXEEVICH MEDKOV

**AND IN THE MATTER OF SECTIONS 59, 63 AND 65 OF THE TRUSTEE ORDINANCE
1962 AND PART 67 OF THE CIVIL PROCEDURE RULES**

ON THE APPLICATION OF

FAIRFIELD NOMINEES LTD

Claimant

Appearances:

Mr. Adrian Francis and Mr. Carl Moran of Maples of Calder for the Claimant

2020: December 3, 14

NOTE

- [1] **JACK, J [Ag.]**: This matter came before me as an application by a trustee to lodge a share certificate in Court. For the reasons I gave orally I acceded to the application. This note concerns a separate procedural matter.
- [2] Ilya Alexeevich Medkov (“the deceased”) was a Russian national resident in Russia. He was the beneficial owner of the shares in issue, which were held by the claimant on a bare trust for him. The deceased left a will in Russian form. As is apparently common in Russia, the will did not appoint an executor. It has been admitted to the equivalent of probate in Russia and the deceased’s Russian estate has been distributed in accordance with the will by the deceased’s father (“Mr. Weinstein”).

- [3] The claimant is unwilling to release the shares to the father without his obtaining probate or letters of administration with will annexed here in the Virgin Islands. Mr. Weinstein has applied under, what is now, the **Eastern Caribbean Supreme Court (Non-contentious Probate and Administration of Estates) Rules 2017** made under the **Supreme Court Order 1967**¹ for a grant in respect of his son. Unfortunately, as a result of a number of issues with translations, the nature of a Russian will, the absence of an executor and other matters the Registry has not yet been willing to make the grant. Rule 59(4) gives the Registrar only limited powers to dispense with the requirements of the Rules. The Registrar has very little discretion. The matter has now been dragging on for nearly seven years.
- [4] In a case such as the present, where the applicant for the grant is having difficulty satisfying the requirements of the Registry for the grant of common-form probate, it is open to the applicant to seek solemn-form probate under CPR Part 68. It would be a simple matter for Mr. Weinstein to name as defendants those entitled on intestacy to a share of the deceased's estate. Since the Russian estate has been wound up without any issues over the will, it seems unlikely that any will seek to contest the proceedings. Although there is no provision for judgment by default under Part 68, the Court is likely to be able to deal with the matter in a summary form.

Adrian Jack
Commercial Court Judge [Ag.]

By the Court

Registrar

¹ UK SI 1967 No 223.