

Landmark decision on the “haircut” of bank deposits

December 04, 2018

The Limassol District Court rules that the “haircut” of banking deposits in Laiki Bank and Bank of Cyprus in March 2013, may not have been implemented correctly and grants interim injunctions to preserve the status quo pending the adjudication of the main action.

Cyprus, Laiki Bank and Bank of Cyprus made it to the frontlines of international news in March 2013, when following a European Financial Bailout of the Cypriot government, depositors with deposits over €100.000 in Laiki Bank and the Bank of Cyprus, suffered a diminution in the value of their deposits, an act that came to be known as the Deposits Haircut. In accordance with the legislation imposing the ‘Haircut’, individuals with both deposits over €100,000 and outstanding loans should have had their loans set off against the deposits that were to be the subject of the ‘Haircut’. For the purposes of the Haircut and the set-off, funds held on trust had to be accounted as funds of the ultimate beneficial owner and not as funds of the trustee.

On 25th September 2015 in the case M.Constantinou v. Bank of Cyprus & others (Case Number 2147/14), following an inter-partes hearing, the Court decided to allow the continuation of an interim injunction that was originally issued on an ex-parte basis, against Bank of Cyprus, based on an underlying claim for damages or restitution on the basis that the haircut and set-off in his case was not implemented correctly.

The Plaintiff argued that his deposits in Laiki Bank were held in his name in his capacity as a trustee and not personally and that they were wrongly calculated, as his own for set-off purposes. As a result, the Plaintiff complained that the excess deposits were not used to cover a loan in the name of the trust, and were diminished in value while the loan remained. The trigger for the injunction was the bank’s projected intention to call in the loan and generally dispose its loan portfolio to third party investors. The loan was secured by a mortgage.

In its landmark ruling the Court found that the Plaintiff has proved a serious issue to be tried and prospects of success in his main action, and allowed the injunction prohibiting the collection, sale or disposition of the loan, and the foreclosure of the mortgage pending the adjudication of the action.

The full adjudication of the case, has potential to impact thousands of depositors whose accounts were affected by the “haircut”. Additionally, the case stands as a strong indication that the haircut may not have been properly implemented and imposed in all the cases.

EROTOCRITOU

ADVOCATES - LEGAL CONSULTANTS

A.G. Erotocritou LLC was representing the Plaintiff/ Applicant to the above mentioned case.

This content is solely for general information purposes. None of the information herein should be relied on or substituted for specific professional advice regarding a particular matter or situation and no person should act or refrain from acting on the basis of the information contained in this brochure without first obtaining advice from an attorney. A.G. Erotocritou LLC is not engaged in rendering legal services or advice by providing the information contained in this brochure. © A.G. Erotocritou LLC, a Cyprus lawyers' limited liability company regulated by the Cyprus Bar Association, with registration number HE 326006. Address: 1 Arch. Kyprianou and Ayiou Andreou Str, Loucaides Building, 6th floor, 3036 Limassol Cyprus

| Website: www.erotocritou.com | Telephone: +35725370101 | Fax: +35725370102 |
Email: info@erotocritou.com