

Royal Courts of Wirecard

About a Wirecard Lawsuit and Quantum Physics

#Wirecard #Corruption

The discipline of quantum physics has made us become familiar with quite a few strange natural phenomena. Its most important pioneer was Werner Heisenberg, a German national who needed many years to overcome the resistance of then undisputed and world-famous physicist Albert Einstein, who stubbornly rejected the ideas of quantum physics at the beginning. In 1925, Heisenberg formed some major quantum concepts on the North Sea island of Helgoland where he stayed for a while because of an extreme hay fever that made his life very miserable on Germany's mainland.

One strange phenomena in this discipline is the so-called quantum entanglement. Electrons that were previously united in a single atom can stay entangled once separated, even if the distance between the two electrons is many light years after the split. If one of the two electrons receives an energetic impulse, the other far away entangled electron almost magically receives the exact same energy stimulation or spin, like through a hidden hand.

In a not so unsimilar way, various actors of the Wirecard scandal seem to have stayed entangled with the Munich-based company even after the German payment provider had filed for insolvency in 2020. Such entanglements can not only be observed in the many strange behaviours of Wirecard's auditors EY, but may have even reached the Royal Courts of Justice in London, UK.

In a rather strange [court proceeding at London's High Court of Justice](#) in Queens from July 2020, less than one month after Wirecard's management had announced on June 18, 2020 that 1.9 billion Euros would simply not exist in trust accounts in Asia, the Munich company successfully tried to prevent a lawsuit regarding their GI Retail takeover from 2015.

In September 2015, an offshore fund based in Mauritius named 'Emerging Markets Investment Fund 1A' (EMIF 1A) bought India-Asia based former lottery kiosk company 'Hermes Tickets' for 37 million USD. A few weeks later, at the end of October 2015, Wirecard officially announced it would acquire Hermes Ticket's parent company GI Retail for 230 million Euros in cash, plus 110 million in earnout. Another few months later, Wirecard formally acquired 'Hermes Tickets' from EMIF 1A in Mauritius for 340 million USD, GI Retail's most valuable business part instead of GI Retail as announced earlier. Financial Times journalists and others accused Wirecard of so-called round-tripping, Hermes minority shareholders filed criminal charges because they were paid out based only on the 37 million deal with EMIF.

The ten-fold sale of Hermes-GI Retail only a few weeks after it was handed over to EMIF 1A prompted Hermes shareholders to also file court proceedings, one of them landed at the High Court of Justice in Queens, London.



Neutral Citation Number: [2020] EWHC 1994 (Comm)

Case No: Claim No. CL-2019-060113

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15/07/2020

Before :

SIR ROSS CRANSTON
Sitting as a Judge of the High Court

Between :

(1) PRASHANT MANEK
(2) SANJAY CHANDI
(3) EAGM VENTURES (INDIA) Pvt Ltd

Claimants

- and -

WIRECARD AG

Defendant

STEPHEN MIDWINTER QC (instructed by Cleary Gottlieb Steen & Hamilton LLP) for
the Claimants
JEFF CHAPMAN QC & SAMUEL RITCHIE (instructed by Fieldfisher) for the Defendant

Hearing dates: 16 June 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this
Judgment and that copies of this version as handed down may be treated as authentic.

Covid-19 Protocol: This judgment was handed down by the judge remotely by
circulation to the parties' representatives by email and release to Bailii. The date and
time for hand-down is deemed to be 15 July 2020 at 10:30 am.

Interestingly, the demands of the three claimants, a resident of the UK, another of Kenya, plus an India-based company that was owned by the claimant from Kenya were dismissed by High Court of Justice Sir Ross Cranston. The judge's arguments are quite interesting to study, particularly those from page 12 on. Under topic 58 and 59 on that page, Sir Ross Cranston begins to list a number of concerns over EMIF 1A's offshore character. Those could have theoretically given "rise to an obvious risk that there was some sort of tax benefit to be gained, and that Wirecard must have realised that it was likely that EMIF was paying the previous shareholders a significantly lower price". The judge continued to state the concerns of one of the claimants that there could "have been the need to investigate, for example for money laundering purposes, **whether EMIF was a politically exposed person**, and that relevant tax laws were being complied with to make sure that Wirecard was not being implicated in some tax fraud".

Sir Ross Cranston dismissed such concerns on page 12 (topic 59) with the following fanciful entanglement, which is especially noteworthy in light of Wirecard's financial audit catastrophe only four weeks earlier:

In my view it is fanciful to suggest that because EMIF was a Mauritian entity that Wirecard should have blind eye knowledge that should have suspected fraud and made inquiries. First, there is no evidence of the tax position of GIR in having a Mauritian entity entered in the transaction. Secondly, Wirecard paid nearer what it had anticipated all along, compared with the GIR-EMIF price. **Thirdly, and crucially in my view**, EMIF was been advised by Linklaters. As a reputable law firm they would have investigated EMIF's position and been satisfied as to matters such as EMIF's beneficial

ownership, compliance with money-laundering and terrorist financing laws, and the absence of tax and other fraud. If any of these matters were in prospect the inherent probabilities are that Linklaters would not have been involved. In my view the claimants have no prospect of succeeding in making out this allegation.

Court decision dated July 15, 2020 at London's High Court of Justice, page 12

Important to mention is also the court hearing date, which is June 16, 2020. The judgement and court document date is July 15, 2020, one month later. Law firm Linklaters was representing Mauritius-based EMIF 1A in previous, related proceedings, not only with lawyers from London, but interestingly also with some from Moscow as the judge himself states on page 3 (topic 10). Wirecard was represented by law firm Osborne Clark in Germany, according to the judge. The entangled court document explicitly also states that Wirecard's "former chief executive has been arrested and others, including the former chief operating officer, Jan Marsalek, are also sought in relation to fraudulent accounts".

A closer look at EMIF 1A unveils that the offshore fund was incorporated on February 10, 2015, around six months before it acquired Hermes Tickets for 37 million USD. The registered address in Port Louis, Mauritius was with Trident Trust Company Limited, whose director a certain Sahjahan Ally Nathoo was during EMIF's rather short tenure. EMIF had its business license suspended on October 16, 2020, only three months after the entangled London court judgement, and revoked entirely on September 28, 2021.

Seems like as if someone in Wirecard's vicinity had received a strong energy impulse that had a remote effect in London as well in July of 2020.

<https://www.sun24.news/en/royal-courts-of-wirecard-about-a-wirecard-lawsuit-and-quantum-physics.html>