

Pertamina (PT Pertambangan Minyak dan Gas Bumi Negara) / Haji Achmad Thahir Case

Case ID:

ARW-156

Jurisdiction of Origin of Public Official or Entity Allegedly Involved:

Indonesia

Position of Public Official(s) (yrs in office):

General Assistant to the President Director of Pertamina (Haji Achmad Thahir, 1968-1976)

Jurisdiction of Asset Recovery:

Singapore

Jurisdiction of Asset Recovery ? Description:

Location of Recovery Effort, Asset Location / Alleged Asset Location

Asset Recovery Start:

1977

Asset Recovery End:

Unknown

UNCAC Offenses Implicated:

Art.16

Money laundering Implicated:

No

Legal Basis for Asset Recovery:

Private Civil Action

Intl.Cooperation: MLAT/Letter of Request?:

No

Basis for Intl Cooperation:

N/A

Contributing Factors in Asset Recovery:

The private civil action was triggered subsequent to Mr. Thahir's death, by competing claims to the deposited funds between his wife and children from his first marriage.

Status of Asset Recovery :

Completed

Stage in Asset Recovery Chain:

Assets Returned to Victim or Requesting Jurisdiction

Agreement for Returned Assets:

No

Agreement for Returned Assets - Description:

N/A

Case Summary:

As described in the Stolen Asset Recovery (StAR) Initiative's Asset Recovery Handbook (December 2010), "Pertamina - an Indonesian state-owned enterprise whose principal business was the exploration, processing, and marketing of oil and natural gas - sought to recover bribes paid to Pertamina executive Haji Achmad Thahir by contractors hoping for better contractual terms and preferential treatment. The bribes were deposited by the executive into [the Sumitomo Bank branch] in Singapore. Pertamina learned about the bank

accounts (owned jointly by Thahir and his wife Kartika Ratna thahir) in Singapore after the death of the executive and brought an action in Singapore claiming to be entitled to the funds. The court of first instance ruled that the bribes and all earned interest were held by the executive as a constructive trustee." (Source: Asset Recovery Handbook, at 160-62, citing Singapore High Court decision in Kartika Ratna Thahir v. PT Pertamina Minyak dan Gas Bumi Negara (Pertamina) [1994] 3 SLR 257, hereinafter cited as "Pertamina decision.") The Court of Appeal of Singapore wrote in its 1994 Pertamina decision that, "This appeal arises from the decision of Lai Kew Chai J on an originating summons taken out by the Sumitomo Bank Ltd for interpleader reliefs in the face of competing claims to 19 separate and discrete deposits with the Asian Currency Unit (ACU) of the Singapore branch of the bank." The Court wrote, "Gen Haji Achmad Thahir (Gen Thahir) was employed by Pertamina and at the material time was the general assistant to the then president director of Pertamina, Gen Ibnu Sutowo (Gen Sutowo). Gen Thahir was appointed to the office with effect from 14 October 1968 and at all material times his total salary was about US\$9,000 a year. He held that position until 23 July 1976 when he died." The Singapore High Court stated that "as of 27 March 1992 the total of the said ACU deposits including the interest, which had accrued during the intervening period, was US\$81,757,260.74." (Source: Sumitomo Bank Ltd v Kartika Ratna Thahir and others and another matter [1992] SGHC 301.)

Disposition of Criminal Case(s):

None (The private civil action was triggered subsequent to Mr. Thahir's death, by competing claims to the deposited funds between his wife and children from his first marriage.)

Jurisdiction of Asset Recovery: Investigative Agency:

Pertamina (PT Pertamina Minyak dan Gas Bumi Negara)

Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):

Wong Meng Meng & Pnrs (David Hunt QC, Wong Meng Meng and Alvin Yeo) for Pertamina

Jurisdiction of Asset Recovery: Courts Involved:

High Court, Court of Appeal

Documents:

Pertamina_Singapore_Appeals_Court_Aug_25_1994.pdf

Pertamina_Singapore_Sumitomo_Bank_High_Court_Dec_3_1992.pdf

Pertamina_StAR_Handbook.pdf

Documents Links:

http://www1.worldbank.org/finance/star_site/documents/arw/Pertamina_Sing...

http://www1.worldbank.org/finance/star_site/documents/arw/Pertamina_Sing...

http://www1.worldbank.org/finance/star_site/documents/arw/Pertamina_StAR...

Other Sources:

Sumitomo Bank Ltd v Kartika Ratna Thahir and others and another matter [1992] SGHC 301, High Court, Suit No. OS 308/1976, Decision dated December 3, 1992, accessed at http://lwb.lawnet.com.sg/legal/lgl/rss/landmark/%5B1992%5D_SGHC_301.html; Kartika Ratna Thahir v PT Pertamina Minyak dan Gas Bumi Negara (Pertamina) [1994] 3 SLR 257; [1994] SGCA 105, Court of Appeal, Suit No: CA 204/1992, Decision dated August 25, 1994, accessed at <http://www.singaporelaw.sg/rss/judg/10401.html>; Jean-Pierre Brun, Larissa Gray, Clive Scott, and Kevin M. Stephenson, "Asset Recovery Handbook: A Guide for Practitioners," Stolen Asset Recovery (StAR) Initiative (Washington, D.C., December 2010).