Third party debt orders – the informal freezing injunction?

What can you do if a client or its customer, who is obliged to pay a debt to you pursuant to a court judgment, still refuses to pay? How can you help yourself to recover money you know they have?

What is a third party debt order (TPDO)?

A TPDO is a means of enforcement of a court judgment whereby a judgment creditor (e.g., financier) can recover monies owed by a judgment debtor (e.g., client or its customers) from a third party who is either holding money for the judgment debtor (usually a bank or building society) or who owes the judgment debtor an amount of money for whatever reason.

A TPDO is made up of two things:
- an interim order freezing a bank account, or if the third party is not a bank or building society but a debt owing from the third party to the judgment debtor then an order preventing the third party from paying out the debt; and
- a final order requiring the third party to pay the debt to the judgment creditor.

Information needed

It follows that, in order to apply for a TPDO, a judgment creditor must have details of either the judgment debtor’s bank or building society account or of any debts owed by third parties to the judgment debtor. This information will clearly be difficult to obtain once the relationship with the judgment debtor, whether they be a client, customer or guarantor, has deteriorated. The advice therefore is to obtain the information early in each relationship (under whatever pretence the information is requested), which can then be stored on file and used if and when the relationship sours.

Taking the more common example of seeking a TPDO over the judgment debtor’s bank or building society account, the court will need:
- the name and address of the judgment debtor and details about the judgment itself;
- the name and address of the judgment debtor’s bank or building society – head office details will suffice;
- if known, the branch address and the bank or building society’s sort code and account number. This is not a pre-requisite for the application as the court will in any event order that the bank or building society provide:
  a) details of all accounts held by the judgment debtor – note you cannot obtain a TPDO on a joint account unless you have a judgment against both account holders; and
  b) confirmation as to whether the account balance(s) are sufficient to cover the judgment debt and, if not, the balance at the date the application was issued (a TPDO only attaches to any money in the account(s) on the date of issue so should not be issued the day before payday!).

The benefits of a TPDO

- TPDOs offer a cost-effective means of freezing a judgment debtor’s bank or building society account. This is the main use for them as it is unusual to know of a debt owing from a third party to the judgment debtor.
- Notwithstanding the final order being made and the sums being ordered to be paid out, the freezing of the account(s) might be enough to pressure a judgment debtor into paying the judgment and getting you off its back.
- TPDOs are aggressive and quick to take effect. The application is first considered on paper (TPDO applications are treated as urgent and therefore placed before a judge for a decision on the same day it is received) and, if accepted by the judge, an interim order is made requiring the third party to freeze the account(s) immediately upon receipt of the order. The third party will then be held liable for any money paid out after it has been served with the interim order.
- No account is safe. Even where you have only partial information regarding a judgment debtor’s bank or building society account(s), the third party has to disclose all additional accounts held by the judgment debtor, which might uncover accounts you never knew existed.

In short, the advice must be that, wherever possible and under whatever pretence, finding out details of your clients’, the guarantors’ or customers’ bank or building society accounts, even if just the identity of the bank or building society, will ultimately open the door to this very effective and much under-used form of judgment enforcement.

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