

**BRIEF
INSIGHTS**

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A BRIEF LEGAL GUIDE TO NORWICH PHARMACAL ORDERS

A Norwich Pharmacal order (**NPO**) is an equitable remedy which, under the laws of equity, takes the form of a disclosure order.

The NPO originally derives its jurisdiction from English law as established by Lord Reid in the case of *Norwich Pharmacal v Commissioners of Customs & Excise* [1974] UKHL 6.

NPOs are typically sought where a party is certain that a wrongdoing has taken place against them but does not know the identity of the wrongdoer; although it can identify or can prove that a third party can provide information as regards to the wrongdoing.

The principle is that if a third party somehow gets mixed up in the wrongdoings of others so as to facilitate their acts - despite the fact that it may not be personally liable - party is under a duty to provide information disclosing the identity of the wrongdoers.

The NPO principle has been greatly expanded over the years through a series of cases, so as to enable a claimant to rely on it and obtain information to plead its case against the wrongdoer, to trace assets, to bring proprietary claims, to police and facilitate the enforcement of parallel proceedings (i.e. bankruptcy/insolvency orders, freezing orders) or in aid of foreign proceedings.

Requirements for obtaining an NPO:

1. There must be a wrongdoing.
2. The respondent is somehow involved in the wrongdoing.
3. There is no other provision that would provide the appropriate relief.
4. Reasonable grounds leading to the conclusion that the respondent is likely to have information.
5. The "mere witness" rule is not infringed.
6. The order serves the interests of justice and is not pursued for improper purposes.

7. An undertaking by the applicant to indemnify the respondent for any loss suffered in complying with the terms of the order.

What information can be obtained?

- Ultimate beneficial owners (UBOs) hiding behind corporate structures.
- Bank account details and bank statements.
- Emails, tele-communication conversations (against social media and internet providers).
- Corporate, financial, commercial documents (agreements, trust deeds, letters of instructions, Powers of attorney, financial statements).

Gagging Orders

Norwich Pharmacal orders are usually sought in combination with a gagging order, prohibiting the respondent from informing/alerting any third party (other than his/her lawyer) as to the existence of the proceedings, as well as prohibiting the respondent from destroying documents and/or information (essentially to preserve information) in relation to the wrongdoing.

A gagging order might be necessary in cases where the respondent is a financial institution/bank or an administrative and/or fiduciary service provider, which is under a non-disclosure obligation or an obligation to notify/alert the suspected wrongdoer.

The purpose of this brief legal guide is to provide a general guideline on the subject and not to be considered, in any way, as legal advice. It is advisable to seek professional and legal advice on this subject before proceeding with any general information provided to you. For further clarifications and/or advice please contact your usual contact at E&G Economides LLC or at legal@economideslegal.com.