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PARASTATE AND BABEL ASIA:

The Singapore Court draws the Intersection between Crypto Disputes and International Arbitration

Amanda Lees, Suraj Sajnani, and Sarah Jones talk about a recent Singapore case in which a cryptocurrency court proceeding was stayed to arbitration.

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The recent case of *Parastate Labs Inc v Wang Li & Ors* (including *Babel Asia Asset Management Pvt Ltd* (“Babel Asia”) and *Babel Holding Ltd* (“Babel Holding”))¹ is a prime example of the type of cryptocurrency disputes being seen in Singapore at the moment. In it, the Singapore High Court acted decisively to uphold an arbitration agreement between Babel Asia, a cryptocurrency fund manager, and one of its investors, Parastate. The Court then also stayed all other claims brought by the investor against related parties, even though no arbitration agreement had been entered into with the related parties.

In light of the prevalence of arbitration clauses in cryptocurrency transactional documents, investors, fund-managers, and other players in the cryptocurrency space should be aware of the case’s key takeaways regarding how disputes will be resolved in Singapore. We set these out below.

1 [2023] SGHC 48 (*Parastate v Wang Li*).

Background: Parastate's fund investment and Babel's Withdrawal Suspension

In March 2022, Parastate entered into an investment management agreement ("**Management Agreement**") with Babel Asia (a part of the Babel Finance group). Pursuant to the agreement, Parastate transferred US\$5m in USDC coins into a designated wallet as its investment in the "Babel Quant Alpha USDT Fund".

A dispute arose between the parties in around June 2022, when Babel Finance announced it was suspending all redemptions and withdrawals due to a "liquidity crunch." Soon after the announcement, Parastate notified Babel Finance that it wished to withdraw its managed assets from the fund, but these assets were not returned.

Among other things, the Management Agreement contained a dispute resolution clause which provided that:

- (a) disputes between the parties should first be resolved through consultation; and
- (b) in the event of failure to resolve a dispute under limb (a), either party could submit the dispute to the Singapore International Arbitration Centre for arbitration in Singapore (the "**Arbitration Agreement**").

Despite the existence of the Arbitration Agreement, Parastate brought Singapore Court proceedings against Babel Asia as well as against Wang Li and Yang Zhou (co-founders and directors) and Babel Holding ("**Related Parties**"). Parastate claimed for

breach of fiduciary duties, fraudulent misrepresentation and conspiracy, whilst seeking to attach accessorial or personal liability to the Related Parties.

Babel Asia (with whom Parastate had entered into the Arbitration Agreement) sought a stay to arbitration, and Mr. Wang sought a stay of the proceedings against all of the other defendants pending resolution of the arbitration. Both stays were granted.

In the rest of this post, we explore three key takeaways of this case for cryptocurrency disputes.

Key Takeaway #1: Crypto disputes are on the rise

Following on from the 'Crypto Winter' of 2022, in which it is estimated that crypto assets lost approximately US\$2 trillion in value, the number of disputes relating to cryptocurrency is expected to rise. The difficulties faced by the crypto market are compounded by the broader tensions facing the banking industry. The recent collapse of Silicon Valley Bank and the global banking crisis speaks forcefully of the pressures of rising interest rates and faltering market confidence. Increasingly, crypto exchanges are responding to signs of distress by implementing withdrawal freezes which may, of themselves, spark disputes with investors.

Babel Finance is just one of the many organisations affected by the crypto confidence crisis that started in 2022 and which has led to a series of insolvencies and commencement of litigation and arbitration claims.

Key Takeaway #2: Crypto disputes are going to arbitration

Much attention has been given to the synergies which make international arbitration a popular forum for the resolution of crypto disputes:

- **confidentiality**– arbitrations are confidential, which is likely to sit well with users of blockchain technology for whom anonymity is important;
- **party autonomy** – for example,



the ability to appoint arbitrators with cryptocurrency expertise;

- **neutrality** – compared to domestic courts which may be influenced by state policy and regulation regarding the legality of cryptocurrency;
- **ease of international enforcement under the New York Convention** – a huge advantage where counterparties assets are likely to be located across different jurisdictions.

Parastate v Wang Li confirms that in the event of a dispute, a valid arbitration clause will be difficult to sidestep. Mariam J emphasised that granting a stay of proceedings against Babel Asia was mandatory under section 6 of the *International Arbitration Act.1994*. Given that Parastate’s claims against the Related Parties were largely dependent on findings of primary liability against Babel Asia, Mariam J granted a further stay of proceedings against them on case management grounds. Notably,

none of the Related Parties were party to the Arbitration Agreement, but they were still protected from an immediate court claim.

Key Takeaway #3: Crypto disputes are leading to complex, multi-party claims

In the Court proceedings, Parastate raised claims of:

- (a) breach of trustee and / or fiduciary duties by Babel Asia and Babel Holding;
- (b) dishonest assistance by Mr Wang and Mr Yang in the breach of duty claimed in (a);
- (c) fraudulent misrepresentation by Babel Asia and Babel Holding;
- (d) personal liability of Mr Wang and Mr Yang for the fraudulent misrepresentation claimed in (c); and
- (e) conspiracy to defraud and / or injure by unlawful means between any two (or more) of the defendants.

In claiming (a)-(e), Parastate sought to establish the primary liability of Babel Asia (and its holding company) for various causes of action, whilst attaching personal or accessorial liability to the persons standing behind those entities. As a result, the court was faced with a complex, multi-party dispute. In circumstances where crypto defendants may be in financial distress, the strategy of pursuing multiple defendants (and, as such, a broader pool of assets) is likely to be a popular one. In formulating a dispute resolution strategy, participants in the crypto industry should be mindful of the potential for these kinds of multi-party disputes to arise.



ABOUT THE AUTHORS

**Amanda Lees**

Amanda leads the South-East Asian Disputes team of King & Wood Mallesons. Amanda has been based in Singapore for 11 years and is an expert in international commercial and investment treaty arbitration. Signifying Amanda's expertise and reputation in international arbitration, she is regularly appointed as arbitrator and is on the arbitrator panels of leading arbitral institutions (SIAC, HKIAC, ICDR (AAA)).

Some of the significant public matters in which she has acted include the Apple vs Samsung litigation in Australia and as counsel for the Republic of Indonesia in its successful defence of a US\$580M investment treaty claim. Amanda is acting for a variety of technology clients including global technology firms, software firms, cloud providers, e-gaming platforms, data centre operators and cryptocurrency exchanges.

**Suraj Sajjani**

Suraj specialises in international arbitration and litigation. He works across King & Wood Mallesons' Singapore and Hong Kong practices. He is dual qualified in England & Wales and Hong Kong. He is fluent in English, and speaks conversational-level Cantonese, Hindi and Sindhi.

Suraj has deep experience in complex commercial and fraud disputes, including in the cryptocurrency and financial sectors. He has acted on the largest cryptocurrency insolvency of all time, and is a go-to person for navigating cryptocurrency disputes. Some of his flagship matters include acting for a syndicate of 20+ banks on one of the largest asset preservation orders granted under a HK-China cross border arrangement and on the first-ever CIETAC emergency arbitration. He has a broad client-base and practice, with clients ranging from start-ups to state-owned enterprises.

Suraj is a thought-leader in his practice area. He is a chapter co-author of three books, and has contributed to over 60 publications and panels. He is a Fellow of the Chartered Institute of Arbitrators.

**Sarah Jones**

Sarah is an International Trainee in the Disputes practice of King & Wood Mallesons, Singapore. She was previously based in the Sydney office of King & Wood Mallesons, where she worked in the cross-border M&A and energy / infrastructure projects practice groups. Sarah is admitted to practice in New South Wales and before the federal courts of Australia. She graduated from the University of Sydney with a Bachelor of Arts and Bachelor of Laws (Hons I).

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