

# Wilmington Trust Sues Taiwanese Shipping Magnate For \$79M

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Law360, London (April 20, 2020, 1:17 PM BST) -- [Wilmington Trust NA](#) has turned to the English courts for recognition of a \$79 million judgment in Texas against a Taiwanese shipping magnate, saying it was unable to enforce the debt in the United States.

The U.S. financial services company said in its High Court claim that it hopes to seize the businessman's assets in the United Kingdom. It wants to cover the final judgment it won against Hsin Chi Su in May 2019 after "lengthy and defended proceedings" before a U.S. federal court in Houston.

The Delaware-based firm took over as agent and security trustee for loans that had been advanced to four corporate entities said to be directly or indirectly owned by Su, according to Wilmington Trust.

Su, who also goes by several other names, including Nobu Su, was being held in prison in London for contempt of court in a different case at the time the March 31 claim was filed in England, according to the suit. And according to an April 3 court decision in that matter — brought by Lakatamia Shipping Company Ltd. — Su was scheduled for release on April 11.

The litigation stems from the loans, totaling approximately \$355 million, provided to C. Whale Corp. and the other three legal entities between June 2010 and June 2011. The "Whale loans" were used to buy four oil and ore cargo vessels, and the ships served as collateral to secure the funds, according to Wilmington Trust's claim.

Su is the former chief executive officer of Taiwan Maritime Transportation Company Ltd., an international shipper. When the four loans were advanced, Su, alongside TMT, provided personal guarantees, acting as "primary obligor of each of the Whale Borrowers' obligations" under the loans, according to Wilmington Trust.

The guarantees included non-exclusive jurisdiction clauses that favored the Taipei District Court in Taiwan, Republic of China. But they stipulated that "nothing herein shall prevent any finance party from bringing any proceedings against [Mr Su] or... his property in other courts of the [Republic of China] or in the courts of any other jurisdictions."

Formal demands were served on Su in April 2013, after the Whale borrowers defaulted on the loans, for repayment of the outstanding principal balance, which at that time exceeded \$289 million.

Shortly after that, the Whale borrowers [filed a voluntary petition](#) for relief in a Texas federal bankruptcy court. The court ordered the sale of the vessels to satisfy part of the loan debt, but more than \$52 million was still owed, according to Wilmington Trust.

Su subsequently filed claims in the Southern District of Texas, alleging that the bankruptcy court's order infringed or diminished patent rights related to technology on the Whale vessels. Wilmington Trust joined in on that action, filing counterclaims against Su seeking to recover the balance due on the loans.

In December 2018, the U.S. District Court dismissed Su's patent claims and in May 2019 granted summary judgment in favor of Wilmington Trust's guarantee claims. The judge ordered Su to pay Wilmington Trust more than \$77.6 million, which includes interest, according to the firm's claim in England.

In its claim, Wilmington Trust said it has not been able to enforce the judgment in the U.S. and had yet to recover any money. Another \$1.5 million in interest has since accrued on the U.S. judgment debt, according to the suit.

"There are no valid grounds on which the final judgment of the U.S. District Court should not be recognized and enforced by the courts of England and Wales in these proceedings," Wilmington Trust states.

According to an April 3 High Court decision in the litigation that Lakatamia brought against Su and TMT — which also seeks to satisfy a multi-million dollar judgment — Su was imprisoned after he violated the court's order not to leave the jurisdiction during the proceedings over his worldwide assets.

Su had taken a taxi to Liverpool, north west England, where he tried to take a ferry to Northern Ireland, according to the court filing.

According to that court decision, Su, who "was one of Asia's richest businessmen," entered into a contract with Lakatamia in 2008 for buying forward positions on the freight market -- which "proved very substantially loss-making."

After Su failed to fulfill his obligations to Lakatamia under that contract, the shipping company obtained a worldwide freezing order from the High Court in London in 2011 and subsequent judgments against Su totaling more than \$47 million.

Su, who could not be reached for comment on Wilmington Trust's claim, filed suit in 2015 against a financial unit of Clarksons PLC. He alleged that one of its ship brokers had been [negligent in making him personally liable](#) for the Lakatamia deal.

Jay Auslander, an attorney for Wilmington Trust, said Su is still considered a flight risk and that, as a condition of his release from prison, is not allowed to leave England and Wales and is required to check in daily with a London police station.

"Whether or Nobu Su is capable of living up to those requirements, so he does not have to go back to prison, I think is anyone's guess," Auslander said. "He's obviously quite a character and he's been chased for quite some time."

Wilmington Trust is represented by James Shaw of Hardwicke chambers, instructed by [Mishcon de Reya LLP](#) and [Wilk Auslander LLP](#).

Counsel information for Su was not available Friday.

The case is Wilmington Trust National Association v. Su, case number CL-2020-000184, in the High Court of Justice of England and Wales.

--Editing by Ed Harris.

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