



ALAN WILSON  
ATTORNEY GENERAL

May 20, 2015

Mr. Murat Karkin  
YükselKarkinKüçük  
Büyükdere Caddesi No: 127, Astoria  
Tower A, Floors 6, 7, 24, 25, 26, 27, Tower B Floor 24  
34394 Esentepe Istanbul, Turkey

Dear Mr. Karkin:

A question has arisen regarding whether judgments from a Turkish court would be acceptable in South Carolina. South Carolina has not adopted the Uniform Foreign-Country Money Judgments Recognition Act, so the question must be answered based upon general principles of comity. As set forth below, it is our opinion that, based upon well recognized common law comity principles, a court in South Carolina would recognize and enforce a Turkish judgment.

#### Law/Analysis

While there are no decisions from the Supreme Court of South Carolina directly addressing this question, there is a well-reasoned case from the District Court of South Carolina directly on point. In South Carolina National Bank v. Westpac Banking Corp., 678 F.Supp 596 (D.S.C. 1987), the Honorable Karen Henderson (now Circuit Judge, D.C. Ct. App.) applied principles of comity, concluding that an “Australian judgment is enforceable in South Carolina....” Judge Henderson articulated the legal test for enforcement of a judgement obtained in a foreign country, as follows:

[t]he enforceability of judgments rendered by the courts of foreign nations is to be determined under the law of the state in which enforcement is sought. Sangiovanni Hernandez v. Dominicana de Aviacion, C. Por. A., 556 F.2d 611, 614 (1<sup>st</sup> Cir. 1977); Somportex Ltd. v. Philadelphia Chewing Gum Corp., 453 F.2d 435, 440 (3d Cir. 1971), cert. denied, 405 1017, 31 L.Ed. 2d 479, 92 S.Ct. 1294 (1972). The courts of South Carolina have apparently not considered the enforceability of foreign judgments, . . . but the Court assumes South Carolina would adopt the principles of comity generally applied by courts in this country to determine the effect of foreign judgments. In Hilton v. Guyot, 159 U.S. 113, 2020-03, 40 L.Ed. 95, 16 S.Ct. 139 (1895), the United States Supreme Court formulated the following test for recognition and enforcement of foreign judgments:

Where there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings after due citation or voluntary appearance of the defendants, and under a system of jurisprudence likely to secure an impartial

administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of this nation should not allow it full effect, the merits of the case should not, in an action brought in this country upon the judgment, be tried afresh, as on a new trial or an appeal, upon the mere assertion of the party that the judgment was erroneous in law or in fact.

The test enunciated in Hilton remains the standard applied by most American courts to determine the enforceability of foreign judgments [citation omitted]. . . . Following these principles, courts will generally recognize and enforce the judgments of foreign courts if (1) the foreign court had personal and subject matter jurisdiction; (2) the defendant in the foreign action had notice and opportunity to be heard; (3) the judgment was not obtained by fraud; and (4) enforcement will not contravene important public policy. Id. at 403.

678 F.Supp. at 597-8. Such analysis by Judge Henderson is well established and would be controlling for a South Carolina court considering the question as to whether to recognize a judgment rendered by a court in Turkey.

We note also that other courts in the United States have, under the same principles set forth in Westpac, accepted judgments from Turkey. See, e.g. Farma-Tek Ilac San. Vie Tic Ltd. STI v. Dermik Labs, No. 09-3705, 2011 WL 1196790 at \* 4 (E.D. Pa., March 31, 2011) (“[i]f a judgment is rendered in plaintiff’s favor by a Turkish court, there is little doubt that plaintiff would be able to enforce it in the United States.”); see also, Deep Woods Holdings, L.L.C. v. Sav. Deposit Ins. Fund, 745 F.3d 619 (2d Cir. 2014) [the state court entered judgment “in the full amount of the judgment obtained in Turkey, plus interest, totaling \$11,661,681.09.”]; Allianz v. Munich Reinsurance Co., 353 F.Supp. 84, 87 (S.D.N.Y. 1972) [“no reason is stated why plaintiffs could not recover promptly against the individual defendant in an independent action based upon the Turkish judgment brought in any neutral forum in which its assets are to be found.”].

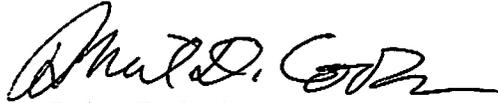
### Conclusion

We believe Judge Henderson’s analysis fully states the law in South Carolina. Thus, if the aforementioned criteria are met, in our opinion, a Turkish judgment would be enforceable in this State under well-recognized principles of comity. See also, Op. S.C. Att’y. Gen., June 9, 1939 (South Carolina would accept a judgment from Denmark, citing Hilton v. Guyot, supra, which references the principles of comity articulated by Judge Henderson in Westpac).

Mr. Murat Karkin  
Page 3  
May 20, 2015

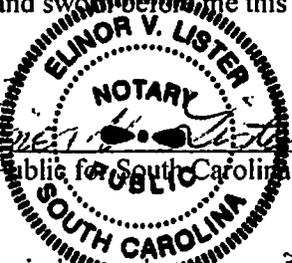
Accordingly, based upon the foregoing authorities, it is our opinion that a South Carolina court would give recognition to a judgment rendered by a court in Turkey.

Sincerely,



Robert D. Cook  
Solicitor General

Signed and sworn before me this 20<sup>th</sup> day of May, 2015.



*Elnor V. Lister*  
Notary Public for South Carolina

My commission expires on 8/18/17.