



CROWN DEPENDENCIES

TRUST DISPUTES

With a unique presence in the Crown Dependencies of Jersey, Guernsey and Isle of Man, together with our global network of offices in other key offshore jurisdictions, the team provide advice and appear for clients in Court on a wide range of trust disputes throughout the offshore world.

As wealth structures become increasingly complex, trustees, beneficiaries, settlors and other fiduciaries are invariably being drawn into disputes which lead to a variety of court proceedings. Our experienced and solution-driven team of experts have been involved in some of the most complex, high profile and ground breaking trust litigation cases to come before the Courts in recent years and we work closely with our private client and corporate lawyers across our global locations to provide expert cross-jurisdictional advice. The team has extensive experience in all aspects of trust litigation including:

- Applications to the Court for directions by trustees or beneficiaries including Beddoe applications and applications for 'Hastings-Bass' relief
- Applications for Court approval for the variation, re-settlement and reconstitution of trusts.
- Bringing or defending claims against trustees or other fiduciaries for breach of trust including applications for removal
- Proceedings in relation to the validity or otherwise of the exercise of fiduciary powers Validation and administration of trusts including, issues relating to sham trusts, validity of appointments, constructive trusteeship and revocation
- Court applications in relation to the administration of Foundations
- Contentious estate matters, including a novel will construction case.

The team has been involved in most of the leading trust disputes in the Crown Dependencies. These include in Jersey; the landmark decision of Piedmont which set aside the exercise of the settlor's personal power of revocation on the grounds of undue influence, and the ground-breaking series of re Z trust cases concerning insolvent trusts; in Guernsey the first reported Hastings-Bass decision; and in the Isle of Man the first reported decision on the extent of a former trustees' rights to an indemnity from trust funds and a case which helped set out the Isle of Man position on the powers of a protector.



"Appleby is one of the few offshore law firms that do genuinely offer an integrated cross-border offering across their core areas of expertise."

Chambers and Partners

REPRESENTATIVE WORK

REVOCATION OF TRUSTS

Appleby acted for a beneficiary of a Jersey trust in complex litigation resulting in three successful and significant ground breaking judgments of the Royal Court of Jersey. The first set aside the purported appointment of new trustees and protectors; the second resulted in the successful appointment of a protector in hotly contested proceedings and the third set aside purported notices revocation by the settlors on the grounds of undue influence, which decision has given rise to considerable interest and comment in the offshore world.

INSOLVENT TRUSTS

Appleby acted for the trustees of an unrelated insolvent trust which are subject to the supervision of the courts and are being administered subject to directions of the Royal Courts of Jersey and Guernsey.

Whilst separate trusts, the legal issues were very similar and resulted in a number of significant decisions in relation to insolvent trusts, including the test for insolvency, the extent of a former trustee's equitable lien and the priority of creditor claims over trust assets in both islands. Ultimately, the matters progressed to the Privy Council where they were heard together, given the overlapping issues.

HASTINGS BASS

Appleby successfully acted on behalf of a beneficiary in relation to a matter concerning the application in Guernsey of the rule in Hastings-Bass.

The Guernsey Court of Appeal confirmed that a beneficiary may apply to set aside the decision by a trustee where it involved a breach of duty and loss. The court clarified the legal test in Guernsey in this area and the decision has been widely commented upon by professional and academic communities.

TRUST PROTECTORS AND THE ROLE OF THE COURT

Appleby represented a trust beneficiary in a successful application made in respect of a trustee's refusal to appoint a trust protector. This case helped define the role of a protector in the Isle of Man as well as discussing the extent to which a court will seek to intervene in a trustee's exercise of its discretion and/or a trustee's conflict of interest.

KEY CONTACTS



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