



CAPABILITY STATEMENT

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 court representation 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 Beddoes applications and applications for 'Hastings-Bass' relief.
- Applications for Court approval for the variation and re-settlement 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.

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 settlors 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.



"Appleby has a strong reputation in the island and deservedly so, providing excellent service from very experienced advocates "

- Legal 500

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 act for a trustee of an insolvent trust which is subject to the supervision of the courts and is being administered subject to directions of the Royal Court of Jersey. This matter has 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.

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.

COMPLEX TRUST LITIGATION

Appleby acted for five special purpose vehicles (the IOTA Entities) set up by (the now defunct) US Bank AMT to hold assets in the form of unpaid loans outstanding from Las Vegas property tycoon Rex Lewis. The Defendants alleged that the interposition of a St Vincent Trust meant that a claim for fraudulent transfer was unsustainable. The matter involved complex cross-border issues of trust law.

FOR MORE INFORMATION PLEASE CONTACT:

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