

G.B. Trustees Ltd v Tanya Marya Dick Stock

Jurisdiction:	Jersey
Judge:	J. A. Clyde-Smith O.B.E., Jurats Ramsden, Christensen
Judgment Date:	22 February 2021
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Text

[2021] JRC 48

ROYAL COURT

(Samedi)

Before:

J. A. Clyde-Smith O.B.E., Commissioner, and Jurats Ramsden and Christensen

Case No: 2020/193

Case No: 2020/185

Between
G.B. Trustees Limited
Representor
and
Tanya Marya Dick Stock

First Respondent

and

John William Dick II
Second Respondent

and

Advocate Howard Sharp QC (acting for the minor and unborn beneficiaries)
Third Respondent

and

John William Dick III
Fourth Respondent

In the Matter of the Manor House Trust

And in the Matter of Article 51 of the Trusts (Jersey) Law 1984

and

In the Matter of the Russian Trust

And in the Matter of Article 51 of the Trusts (Jersey) Law 1984

Between

G.B. Trustees Limited
Representor

and

John William Dick I
First Respondent

and

John William Dick II
Second Respondent

and

Advocate Howard Sharp QC (acting for the minor and unborn beneficiaries)
Third Respondent

and

Tanya Marya Dick Stock
Fourth Respondent

and

John William Dick III
Fifth Respondent

Advocate M. L. Preston for G. B. Trustees Limited.

Advocate D. P. Le Maistre for John William Dick.

Advocate D Evans for John William Dick II.

Advocate H. Sharp Q.C. for the minor and unborn beneficiaries and for John William Dick III.

Authorities

Stock v Pantrust International and Others [\[2015\] JRC 223](#).

Stock v Pantrust [\[2016\] JRC 155](#).

Stock v Pantrust International and Others [\[2015\] JRC 223](#).

Stock v Pantrust [\[2016\] JRC 155](#).

GB Trustees Limited v Dick Stock & Others [\[2019\] JRC 115A](#).

Stock v Pantrust International and Others [\[2016\] JRC 021](#).

In the matter of the Russian Trust [2018] JRC 188.

Dick Stock v GB Trustees and Ors [\[2019\] JRC 064](#).

Dick Stock v GB Trustees Ltd and Ors [\[2019\] JRC 084A](#).

GB Trustees Limited v Dick Stock & Others [\[2019\] JRC 115A](#).

In re S Settlement [2001] JLR Note 37.

Lewin on Trusts 20th edition

Trusts (Jersey) Law 1984.

HSBC International Trustee Limited v O. Poon, Kan, K. Poon and Goulborn
[\[2014\] JRC 254A](#).

Trust — blessing of a momentous decision

THE COMMISSIONER:

- 1 G. B. Trustees Limited ("G.B.Trustees") applies to the Court for the blessing of decisions it has made in respect of the Manor House Trust and the Russian Trust (together "the trusts") in respect of both of which John William Dick I was the economic settlor. The decisions, in short, are that Tanya Marya Dick Stock ("Tanya Stock") should be excluded as a beneficiary of the trusts and that legal proceedings should not be pursued against John William Dick I and the previous trustees/administrators of the trusts.
- 2 There is a separate representation in respect of each decision. John William Dick I was not a party to or present at the part of the hearing that considered the decision in respect of potential proceedings against him, but it is convenient to deal with both matters under the one judgment as in the circumstances of this case there is no advice as to the merits of any case that might be brought against him which should be kept confidential.

The trusts

- 3 The Manor House Trust is a discretionary settlement created by a declaration of trust by Barclaytrust International Limited ("Barclaytrust") on 15th May 1980. At the time of its creation, it was subject to the proper law of Jersey. The original beneficiaries were listed as the Jersey Blind Society and the Jersey Society for Mentally Handicapped Children. G.B.Trustees considers these to be long stop beneficiaries. The trustee has powers to add persons to the class of beneficiaries, and to declare that persons shall be excluded persons who are precluded from benefiting in any way under the trust. The trust deed also provides that no person could be or become a beneficiary whilst resident in Jersey, and no person should be able to take any benefit under the trust whilst being resident in Jersey.
- 4 On 3rd April 1984, Barclaytrust retired as trustee in favour of La Hougue Boete Société Fiduciaire avec Responsabilité Limitée ("La Hougue").
- 5 On 25th April 1989, Tanya Stock and her brother, John William Dick II and their respective issue were appointed as "Primary Beneficiaries" (an undefined term) of the Manor House Trust and the lineal descendants of John William Dick I's mother and father and their respective brothers and sisters were appointed as "Secondary Beneficiaries" (again an undefined term) of the Manor House Trust. John William Dick I was excluded from those lineal descendants.
- 6 On 30th November 2007, La Hougue purported to retire as trustee in favour of Pantrust International SA ("Pantrust") a corporation established and existing in accordance with the laws of Panama, having been granted a Trustee Licence by the Superintendancy of Banks in Panama on 21st August 2007. The proper law of the Manor House Trust was also purportedly changed from Jersey to that of Panama.
- 7 On 13th February 2015, Pantrust's Trust Licence was revoked by the Panamanian

Regulator.

- 8 On 15th May 2015, Pantrust purportedly retired as trustee in favour of Richard George de Winton Wigley ("Richard Wigley") and his son James Richard de Winton Wigley ("James Wigley") (together "the Wigleys"). Richard Wigley was the beneficial owner of Pantrust and he and James Wigley were directors. The proper law was also purportedly changed to that of England and Wales.
- 9 On 6th November 2015, the Court removed the Wigleys as trustees and appointed G.B.Trustees, a Jersey incorporated and regulated professional trustee, in their place and this for the reasons set out in the Court's judgment of that date (*Stock v Pantrust International and Others* [\[2015\] JRC 223](#)).
- 10 On 6th September 2016, the Court declared that the proper law of the Manor House Trust had always been that of Jersey and this for the reasons set out in the Court's judgment of that date (*Stock v Pantrust* [\[2016\] JRC 155](#)).

The Russian Trust

- 11 The Russian Trust is also a discretionary settlement created by a declaration of trust dated 20th April 1974 stated to be between a Mr E Leimnacher and Barclaytrust. At the time of its creation, the trust was subject to the proper law of Jersey. The original beneficiaries of the trust were listed as Paul Thomas Marquand, Sarah Jane Marquand, Philip Heather Smurthwhite and Graham Richard Black. The trustee has similar powers of addition and exclusion as those contained in the Manor House Trust save that the Russian Trust also provides that Jersey residents are excluded persons.
- 12 On 1st August 1984, Barclaytrust retired as trustee in favour of La Hougue.
- 13 On 25th April 1989, Tanya Stock and John William Dick II and their respective issue were appointed as "Primary Beneficiaries" (an undefined term) of the Russian Trust and the lineal descendants of John William Dick I's mother and father and their respective brothers and sisters were appointed as "Secondary Beneficiaries" (again an undefined term) of the Russian Trust. John William Dick I was excluded from those lineal descendants.
- 14 On 30th November 2007, La Hougue purported to retire as trustee in favour of Pantrust. The proper law of the Russian Trust was purportedly changed from Jersey to that of Panama.
- 15 On 25th May 2015, Pantrust purported to retire as trustee in favour of the Wigleys. The

Wigleys purported to change the proper law to that of England and Wales.

- 16 On 6th November 2015, the Court removed the Wigleys as trustees and appointed G.B.Trustees, a Jersey incorporated and regulated professional trustee, in their place and this for the reasons set out in the Court's judgment of that date (*Stock v Pantrust International and Others* [\[2015\] JRC 223](#)).
- 17 On 6th September 2016, the Court declared that the proper law of the Russian Trust had always been that of Jersey and this for the reasons set out in the Court's judgment of that date (*Stock v Pantrust* [\[2016\] JRC 155](#)).

The Respondents

- 18 John William Dick I was born in Canada on 9th January 1938 and is a retired property developer. He has been married three times. His first wife was Mary Dick deceased. They divorced in or around 1981. There were two children of that marriage, namely Tanya Stock and John William Dick II.
- 19 John William Dick I married his second wife, Elizabeth Louise Dick in or around early 1982, and they divorced in or around 1990. There were no children of the marriage. He married his third wife, Mickey LaBarthe-Dick on 6th October 2015. They remain married and there are no children.
- 20 Tanya Stock was born in Colorado on 4th March 1966 and is married to Darrin Stock. There are no children of the marriage.
- 21 John William Dick II was born in Colorado on 17th November 1969. He is married and has three children, namely John William Dick III (now aged 19), and two minors.
- 22 John William Dick I and his wife, Tanya Stock and her husband and John William Dick II and his children all live in the United States. It was not considered necessary to convene the secondary beneficiaries of the trusts.

The assets of the trusts

- 23 The principal asset of the Manor House Trust was St John's Manor in Jersey, held through St John's Manor Limited. This was sold on 14th February 2020, following decisions blessed by the Court on 20th November 2017 (for its marketing) and 10th January 2020 (for its sale). As the Court stated in its unpublished judgment of 20th November 2017, there

was insufficient liquidity remaining in the trust to fund the ongoing maintenance of St John's Manor and to repay liabilities in excess of £5 million. The sale was by way of the shares in St John's Manor Limited and GB Trustee is required to retain for 10 years, until 14th February 2030, the sum of £2.1 million to meet possible claims by the purchasers under the terms of the contract.

- 24 The principal asset of the Russian Trust is a vacant flat in St Petersburg, Russia, held through a Cyprus incorporated company, Lilianfeld Holdings Limited ("Lilianfeld"), estimated by G.B.Trustees to be worth £1.5 million. There is no borrowing upon this property, and the history of its purchase was explained in the Court's judgment of 21st January 2019 (*GB Trustees Limited v Dick Stock & Others* [\[2019\] JRC 115A](#)). Two other properties held within this trust were sold pursuant to decisions blessed by the Court on 21st August 2017
- 25 There is a further potential asset of the Russian Trust referred to as "the Portfolio Debt", a debt due from two other family trusts, namely the Dick Family Trust No. 1 of which Darrin Stock is the trustee and Tanya Stock the sole beneficiary, and the Dick Family Trust No. 2, of which John William Dick II is the sole beneficiary. We were informed that the benefit of the Portfolio Debt has been assigned to John William Dick II to pursue at his cost and to account for the net proceeds to the Russian Trust.
- 26 Assuming that there is no recovery in respect of the Portfolio Debt, G.B.Trustees estimates that between the two trusts, and allowing for the retention on the sale of St John's Manor, the amount available for distribution is in the region of £3.5 – £4 million.

Exclusion of Tanya Stock

- 27 The underlying reason for G.B.Trustees proposing to remove Tanya Stock as a beneficiary relates to her hostile conduct to date, which it says has had an enormous impact on the trusts, and which it fears will continue potentially to the point where all of the now much reduced value of the funds will be exhausted in the costs of litigation.
- 28 Initially in 2015, the family were united in their efforts to repatriate the trusts back to Jersey and to replace the Wigleys with G.B.Trustees. However, since about 2017, relations between Tanya Stock on the one hand and her father and her brother on the other hand broke down, it would seem irretrievably.
- 29 In January 2016, Tanya Stock took the position before this Court that Lilianfeld was an asset of the Russian Trust, that should be transferred to G.B.Trustees as the new trustee (see paragraph 3(iii) of the judgment of the Court ([\[2016\] JRC 021](#))). She subsequently challenged the trust's ownership of this asset, bringing proceedings in February 2017 in Cyprus for orders that she was the beneficial owner of the shares. This caused

G.B.Trustees to file its own representation before this Court on 15th March 2018, for this Court to determine the true ownership.

- 30 In April 2018, Lilianfeld (at the instance of G.B.Trustees) applied to the Courts in Cyprus to set aside the proceedings commenced by Tanya Stock.
- 31 Following a contested hearing on 5th June 2018, the Court ordered that Jersey was the appropriate forum to determine the issue of ownership, for the reasons set out in its judgment of 8th October 2018 (*In the matter of the Russian Trust* [2018] JRC 188).
- 32 In October 2018 Tanya Stock instituted proceedings in the United States against John William Dick I, claiming fraudulent and/or unlawful behaviour, theft and deception on his part over the course of the past several decades in relation to trusts and entities in which she held a beneficial interest, claiming damages of some US\$200 million. The trial of these claims against her father is to be heard in August of this year.
- 33 We note from the affidavit of Mr Oliver Egerton-Vernon, a director of G.B.Trustees ("Mr Egerton-Vernon"), of 26th October 2018 that there is reference to proceedings served on both him and G.B.Trustees in the United States at the instance of Tanya Stock, which were later dismissed on the basis of procedural failings and to the issuing of claims against John William Dick II and/or the trustee of the Dick Family Trust II.
- 34 On 10th December 2018, (when the hearings in respect of the ownership of the shares were part heard) the Court found Tanya Stock to be in contempt of court for breaching an injunction it had imposed upon her on 17th July 2018 restraining her from participating in proceedings in Russia, initiated by her, over the ownership of the St Peterburg flat, and this for the reasons set out in the Court's unpublished judgment of 22nd January 2019. That contempt was subsequently purged.
- 35 On 31st May 2018, Tanya Stock applied by way of representation for G.B.Trustees to be removed as trustee of the trusts, an application opposed by G.B.Trustees, John William Dick I, John William Dick II and his children. The allegations made by Tanya Stock in support of her application to remove G.B.Trustees were comprehensively addressed and refuted in the lengthy (122 paragraphs) affidavit of Mr Egerton-Vernon. The case was due to be heard in December 2018, but shortly before the hearing, her then lawyers, Carey Olsen, ceased acting for her, and her new lawyers, Mourant Ozannes, requested that the hearing be moved to 15th April 2019, to which the Court reluctantly agreed. In March 2019, Tanya Stock then applied to amend her representation, file further evidence and further adjourn the application to 18th November 2019. That application to adjourn was refused for the reasons set out in the Court's judgment of 10th April 2019 (*Dick Stock v GB Trustees and Ors* [\[2019\] JRC 064](#)).

- 36 In May 2019, Tanya Stock then applied to withdraw her application to remove G.B.Trustees, her counsel accepting in Court that her case for removal had been weak from inception. She was given leave to withdraw the proceedings but ordered to pay the costs of the other parties on the indemnity basis (*Dick Stock v GB Trustees Ltd and Ors* [\[2019\] JRC 084A](#)).
- 37 Evidence in the Lilianfeld proceedings was finally completed in December 2018 after a number of hearings totalling 6 days that had commenced on 12th June 2018. The Court found that the shares in Lilianfeld (and therefore the flat in St Petersburg) were an asset of the Russian Trust. The conduct of Tanya Stock as set out in the Court's judgment of 21st June 2019 (*GB Trustees Limited v Dick Stock & Others* [\[2019\] JRC 115A](#)) is notable for the following reasons:
- (i) In addition to her position before the Court on 22nd January 2016, it transpired that she had given evidence on oath before the courts in Colorado confirming her understanding that the shares in Lilianfeld were an asset of the Russian Trust.
 - (ii) Her evidence during the proceedings changed.
 - (iii) She produced two documents late in the day, the provenance of which concerned the Court and it could not be comfortable that they were originals. They could not be evidence supporting her claim.
 - (iv) In general, the Court did not find her evidence and that given on her behalf reliable.
- 38 On 10th July 2019, the Court ordered Tanya Stock to pay the costs of the other parties in relation to the Lilianfeld proceedings on the indemnity basis. Also on that date, the Court found Tanya Stock to be in contempt of Court for not paying earlier orders for costs and by way of penalty, ordered that:
- “... she be debarred from participating in proceedings before this Court in Jersey, until and unless that contempt is purged, or the Court orders otherwise, but if the Court is to be moved to vary that penalty, then we would expect the matter to be explained fully by affidavit and her personal appearance.”***
- 39 None of the costs orders against Tanya Stock in relation to the proceedings in Jersey have been discharged by her and she therefore remains in contempt and debarred from participating in proceedings here.
- 40 The costs due to G.B.Trustees for the Lilianfeld proceedings were taxed at £317,924.41, and in respect of the removal proceedings at £94,130.75. The costs in favour of John William Dick I have been taxed at £224,441.08 and those of John William Dick II at

approximately £297,700. Her conduct in the Lilianfeld and removal proceedings have therefore cost the trusts and the other parties not far off £1 million.

- 41 John William Dick I and John William Dick II are pursuing recovery of the costs orders made in their favour in the United States and according to the affidavit of John William Dick II, she is disputing liability on the basis that:
- (i) she has been barred from participating in proceedings in Jersey in deprivation of her rights of due process and universal principles of fairness; and
 - (ii) the Royal Court's judgments giving rise to the costs orders “ *have involved arbiters with conflicts of interest and, therefore, the judicial system in the Isle of Jersey ‘does not provide impartial tribunals or procedures compatible with the requirements of due process of law’.*”.
- 42 In addition to the costs orders made against her, it would appear that Tanya Stock has failed to pay the fees of her own lawyers. Her former US attorneys, Keating Wagner Polidori Fee PC, claim to be owed US\$414,271.01, Carey Olsen claim to be owed £267,424.70 and Mourant Ozannes £498,378.49.
- 43 On 18th November 2019, US lawyers acting for the Dick Family Trust No.1, instructed by Darrin Stock as sole trustee, wrote to G.B.Trustees demanding from the Russian Trust and Lilianfeld some US\$4.3 million, alleged to have been stolen from the Dick Family Trust No.1 and/or received under false pretences.
- 44 On 2nd December 2019, Darrin Stock wrote to G.B.Trustees alleging a debt due to him totalling some £1.4 million with interest for transfers he said he had made to the Manor House Trust in 2013 in relation to the bank loan charged over St John's Manor. These claims were described by Advocate Preston, for G.B.Trustees, as frivolous and vexatious, and they have not been pursued.
- 45 Following requests for extensive information about the trusts from G.B.Trustees, Advocate Preston wrote on 14th February 2020 asking that, in the light of her conduct, Tanya Stock give an undertaking not to disclose the documentation to anyone other than her professional advisers, and in particular, not to disclose that documentation to the trustees of the Dick Family Trust No.1 or to its professional advisers. That undertaking was refused.
- 46 The conclusion reached by G.B.Trustees is that Tanya Stock does everything she can, both in Jersey, the US and elsewhere to damage the interests of the trusts, and having been debarred from proceedings before this Court, has sought to open new fronts on which she can attack all concerned with the trusts:

(i) Acting through what is described as her family office in Jersey, "Fortem Limited", she has made allegations of fraud against John William Dick I and the bank which had a charge over St John's Manor, as well as accusing G.B.Trustees of complicity in such activities. This has involved complaints being made to the Jersey Financial Services Commission, which G.B.Trustees say are without any merit.

(ii) In concert with her husband, she had liaised with various investigative journalists in order to arrange the publication of articles in the printed press, as well as online and in other media, aimed at denigrating John William Dick I, the former trustees of the trusts, the trust industry in Jersey generally and the authorities in Jersey, including the judiciary and G.B.Trustees. In essence, she claims that all losses that she claims to have suffered are the responsibility of her father, who in turn has controlled all others (including the judiciary in Jersey) in a conspiracy against her. G.B.Trustees considers this but the latest evidence that she will stop at nothing to denigrate whatever the merits or costs involved, and this to the lasting detriment of the trusts.

Consultation process

47 In his affidavit of 26th October 2018 filed in the removal proceedings, Mr Oliver Egerton-Vernon indicated the provisional view at that time of G.B.Trustees as to how the trust funds of the trusts might be distributed following the sale of St John's Manor, namely:

- (i) The addition of John William Dick I's wife Mickey LaBarthe-Dick as a beneficiary.
- (ii) The division of the trust fund into three parts, 40% being allocated to Mickey LaBarthe-Dick and the children of John William Dick II, 30% to Tanya Stock and 30% to John William Dick II; these initial allocations being subject to adjustment to reflect benefits already received.

48 On 9th April 2020, following the sale of St John's Manor, G.B.Trustees sought the views of the Respondents as to the future administration of the trusts and informing them of two major changes in the circumstances that in its view required it to reconsider its provisional views:

- (i) The first change related to the value of the trust fund of the Manor House Trust. In October 2018, G.B.Trustees had received an offer for St John's Manor of some £21 million, but as matters transpired, the sale price achieved was only £14 million, some £7 million less than originally anticipated, reducing the net value of the trusts to in the region of £5.5 million to £6.5 million on the assumption that no recovery would be made in respect of the Portfolio Debt. In view of the need to retain £2.1 million under the sale contract, the need to retain sufficient funds to meet the future administration of the trusts, including the costs of further applications to the Court for approval of distributions, and the costs of defending any further proceedings which Tanya Stock might bring, which in the light of the history were thought to be a very real possibility, the amount available for immediate distribution was likely to be in the region of £3.5 –

£4 million.

(ii) The second major change was that since October 2018, Tanya Stock had continued to display an unremitting hostility to the interests of the trusts through correspondence and her conduct of proceedings as summarised above.

49 In view of the much-reduced value of the trust funds and Tanya Stock's attitude towards the trusts, G.B.Trustees considered that it was not appropriate for any further distributions to be made to her.

50 The Respondents, other than Tanya Stock, are supportive of these proposals. Tanya Stock responded in what can only be described as abusive terms, alleging a 25-year irrefutable fraud by her father, in which she said G.B.Trustees and people in Jersey were providing legal, financial and political cover. She alleged that Garfield-Bennett English Solicitors, the legal firm that is associated with G.B.Trustees, had a clear and insurmountable conflict, with Advocate Preston and G.B.Trustees engaging in a cover up of the alleged bank fraud, allegations which are denied. She demanded that G.B.Trustees inform the Court of these matters immediately, and once again demanded that G.B.Trustees resign as trustee immediately.

The decision to exclude

51 G.B.Trustees considered the exclusion of Tanya Stock from both trusts at a board meeting held on 24th March 2020 attended by four directors. They considered two letters of wishes signed by John William Dick I, dated 28th March 2018 and 9th August 2019, in which he strongly expressed the wish that Tanya Stock should be excluded due to her conduct and the effect it was having on the trusts, which he said had contributed to the need to sell St John's Manor.

52 We set out the decision to exclude in full:

"EXCLUSION OF A BENEFICIARY

It was noted THAT FOLLOWING THE RECEIPT OF THE 2018 LOW and again the 2019 LOW, THE Trustee has sought legal advice from both Jersey and English counsel regarding Ms Dick-Stock's exclusion as a beneficiary of the Trusts ('the 'Exclusion').

THE CHAIRMAN TABLED to the meeting the following documentation (the 'Documentation':

- Instruments of appointment appointing Ms Dick-Stock as a 'primary' beneficiary of the Trusts;*
- Acts of Court relating to costs awards against Ms Dick-Stock;*

- *A letter dated 2 December 2019 from Mr Darrin Stock (Ms Dick-Stock's husband);*
- *A letter dated 18 November 2019 from Mr Darrin Stock's US lawyer to the trustee of the Russian Trust along with Advocate Preston's response dated 3 January 2020;*
- *Various correspondence seeking undertakings from Ms Dick-Stock; and*
- *An extract of the affidavit of G.B.Trustees Limited dated 26 October 2018.*

THE CHAIRMAN EXPLAINED to the meeting that there were a number of reasons for the Exclusion inter alia:

- *The sale of St John's Manor Limited had resulted in significantly less funds than had initially been expected or hoped for;*
- *There had been significant costs incurred by the Trusts in defending them from unreasonable litigation that Ms Dick-Stock had undertaken. TDS still owes a significant sum of money to the Trusts in relation to adverse costs awards that had been granted against her on the indemnity basis and that she remains in contempt as she has not sought to explain her failure to settle them;*
- *The husband of Ms Dick-Stock in his capacity as trustee of a Colorado Trust of which Ms Dick-Stock is the fixed interest beneficiary, has recently threatened to commence litigation against the Trusts and/or their wholly owned subsidiaries;*
- *The husband of Ms Dick-Stock, in his personal capacity has recently threatened to commence litigation against the Trusts and/or their wholly owned subsidiaries;*
- *Ms Dick-Stock has been requested to provide undertakings that she will not disclose confidential information relating to the Trusts but has refused to provide them;*
- *Ms Dick-Stock has and continues to display hostility (both domestically and internationally) to the interests of the Trusts; and*
- *Ms Dick-Stock has benefited substantially in the past whereas some of the remaining principal beneficiaries have received no or little direct benefit from the Trusts.*

THE CHAIRMAN REMINDED the Meeting of the advice provided by counsel previously and in particular paragraph 14 of the Schedule to the Manor House Trust and paragraph 14 of the Schedule to the Russian Trust where the trustee is given the express power to act on counsel's opinion and that both Jersey and English counsel had indicated that the proposed exclusion of Ms Dick-Stock

appeared to be reasonable in the circumstances. THE CHAIRMAN noted that the Trusts' circumstances appeared to have dramatically changed since the Trustee outlined its indicative position in October 2018. Michael Collins asked whether the Trustee will seek the Court's blessing regarding the potential exclusion of Ms Dick-Stock. It was suggested that the Trustees should, in the first instance, write to each of the primary beneficiaries to consult on this decision, and subsequently consider asking the court for its blessing due to the momentous nature of such a decision.

After careful consideration of the Documents and discussion of the circumstances, IT WAS RESOLVED that Ms Dick-Stock be excluded from the Trusts, subject to receiving a suitable endorsement from the beneficiaries of the Trusts, or following the blessing of the Royal Court of Jersey."

- 53 The Court asked to see the legal advice referred to in the minute and it transpired that it was given orally by Mr Rodney Stewart Smith, English counsel ("Counsel"), on 24th March 2020 (the same day as the meeting). No note was settled by Counsel, but we were given typed notes taken by Advocate Preston and by Mr Egerton-Vernon, who attended the consultation, which confirmed that Tanya Stock's exclusion was advised as being reasonable.

The law

- 54 When deciding whether to bless a trustee's decision, the Court considers whether (i) the decision has been formed in good faith, (ii) the decision was one of a reasonable trustee and (iii) it had not been vitiated by any actual or potential conflict of interest (*In re S Settlement* [2001] JLR Note 37).
- 55 The Court's function is explained in the following extract from *Lewin on Trusts* 20th edition as follows:

"39–095 The court's function where there is no surrender of discretion is a limited one. It is concerned to see that the proposed exercise of the trustees' powers is lawful and within the power and that it does not infringe the trustees' duty to act as ordinary, reasonable and prudent trustees might act, ignoring irrelevant, improper or irrational factors; but it requires only to be satisfied that the trustees can properly form the view that the proposed transaction is for the benefit of beneficiaries or the trust estate and that they have in fact formed that view. In other words, once it appears that the proposed exercise is within the terms of the power, the court is concerned with limits of rationality and honesty; it does not withhold approval merely because it would not itself have exercised the power in the way proposed... .

39–096 The court, however, acts with caution, because the result of giving approval is that the beneficiaries will be unable thereafter to complain that

the exercise is a breach of trust or even to set it aside as flawed; they are unlikely to have the same advantages of cross-examination or disclosure of the trustees' deliberations as they would have in such proceedings. If the court is left in doubt on the evidence as to the propriety of the trustees' proposal it will withhold its approval (though doing so will not be the same thing as prohibiting the exercise proposed)...

39.097 Hence it seems that, as is true when they surrender their discretion, they must put before the court all relevant considerations supported by evidence. In our view that will include a disclosure of their reasons, though otherwise they are not obliged to make such a disclosure, since the reasons will necessarily be material to the court's assessment of the proposed exercise."

56 As permitted under Article 10(2) of the Trusts (Jersey) Law 1984, the trusts (which are substantially in the same terms) contain provision for the exclusion of beneficiaries in clause 9(a) as follows:

"POWERS OF EXCLUSION

9(a) The Trustees may by declaration in writing made at any time or times during the Trust Period declare that the person or persons or members of a class named or specified (whether or not ascertained) in such declaration who are would or might but for this Clause be or become a Beneficiary or Beneficiaries or be otherwise able to benefit hereunder as the case may be:-

(i) shall be wholly or partially excluded from future benefit hereunder; or

(ii) shall cease to be a Beneficiary or Beneficiaries; or

(iii) shall be an Excluded Person or Persons;

and any such declaration may be irrevocable or revocable during the Trust Period and shall have effect from the date specified to the said declaration provided that this power shall not be capable of being exercised so as to derogate from any interest to which any Beneficiary has previously become indefeasibly entitled whether in possession or in reversion or otherwise."

57 If a beneficiary is declared to be an Excluded Person, then clause 22 provides:

"PROVISIONS AS TO EXCLUDED PERSONS

22. SUBJECT only to Clause 21 hereof no Excluded Person shall be capable of taking any benefit of any kind by virtue or in consequence of this Settlement and in particular but without prejudice to the generality of the foregoing provisions of this Clause:-

(a) The Trust Fund and the income thereof shall henceforth be possessed and enjoyed to the entire exclusion of any such Excluded

Person and of any benefit to him by contract or otherwise;

(b) No part of the capital or income of the Trust Fund shall be paid or lent or applied for the benefit either directly or indirectly of any such Excluded Person in any manner or in any circumstances whatsoever, and

(c) No power or discretion hereby or by any appointment made hereunder or by law conferred upon the Trustees or any of them shall be capable of being exercised in such manner that any such Excluded Person will or may become entitled either directly or indirectly to any benefit in any manner or in any circumstances whatsoever."

58 G.B.Trustees had not focused upon which of the three options in Clause 9(a) of the trust deeds it intended to apply to Tanya Stock. A declaration under Clause 9(a)(i) would exclude a beneficiary wholly or partially from future benefit, but he or she would appear to retain the status of a beneficiary. As to Clause 9(a)(ii) and (iii) the matter was referred back to Counsel and he advised, and we accept, that the practical difference between excluding Tanya Stock from being a beneficiary under Clause 9(a)(ii) and declaring her an Excluded Person under Clause 9(a)(iii) is this. If she is only excluded from being a beneficiary under clause 9(a)(ii), even if such exclusion is irrevocable, the trustee will be able to reinstate her as a beneficiary under Clause 10, which gives the trustee the power to add any person, not being an Excluded Person, to the class of beneficiaries. If the exclusion was revocable, it would be able to achieve the same result by simply revoking the exclusion. If she were irrevocably declared to be an Excluded Person under clause 9(a)(iii), she could not be reinstated as a beneficiary under Clause 10 and her exclusion would be total and final.

59 When Counsel advised on 24th March 2020, he said he had in mind the exclusion of Tanya Stock as a beneficiary under Clause 9(a)(ii) on an irrevocable basis. There was not much practical difference in his view between a revocable and an irrevocable exclusion of Tanya Stock as a beneficiary under Clause 9(a)(ii). If the exclusion is revocable, the trustee can reinstate her by revoking it; if it is irrevocable, the trustee can achieve the same result by adding her as a beneficiary under Clause 10. As a matter of principle, if G.B.Trustees' present view is that Tanya Stock should be permanently excluded but it nevertheless recognises that unusual events might change that view, the right course in his opinion would be to irrevocably exclude her as a beneficiary under Clause 9(a)(ii), on the basis that she could be reinstated under Clause 10 should there be a substantial change in circumstances.

60 G.B.Trustees has confirmed that it accepts Counsel's advice and so its decision to exclude Tanya Stock, assuming it is blessed, will be put into effect by way of declaration under Clause 9(a)(ii) of the trusts.

61 As regards the general nature of a power to exclude, the Court said this in *HSBC*

International Trustee Limited v O. Poon, Kan, K. Poon and Goulborn [2014] JRC 254A:

“40. The power to exclude a person as a beneficiary is an unusual power. Normally, powers are exercisable in the interests of the object or objects of the power. A power to exclude is different. Save in the case where there may be tax advantages in a person being excluded as a beneficiary, the exercise of the power is likely not to be for the benefit of the person to be excluded, but instead be for the benefit of the remaining beneficiaries. Where a trustee proposes to exercise such a power, it is incumbent upon it to consider the position very carefully, to take into account the position of the person to be excluded and whether therefore it is a reasonable decision in the interests of the other beneficiaries. An example of where it was concluded that there was not a reasonable exercise of discretion was in *Re the C Trust* [2012] JRC 086B, where the Court struck down a decision to exclude grandchildren from benefit without taking proper account of the financial position of the grandchildren, their likely need for distributions from the trust and other related matters.”

- 62 In that case, the beneficiary had received half of the trust fund and had no financial need to remain a beneficiary. Furthermore, the money had been paid to her as part of a divorce order intended to achieve a clean break. The Court described those circumstances as perhaps a classic example of when it may well be appropriate to exclude a beneficiary.
- 63 In this case G.B.Trustees is proposing to exercise its power to exclude because, in the light of Tanya Stock's conduct and in order to preserve and protect the trust fund, it was in the interests of all of the other beneficiaries that she be excluded.

Application for adjournment

- 64 Tanya Stock wrote to the Court on 4th January 2021 seeking an adjournment and asking for the opportunity to participate in the matter, despite the debarring order, and citing the Covid 19 travel restrictions and medical issues as justification for adjournment until after February 2021 at the earliest. She wrote again on 7th January 2021 putting the Court on notice that she objected in the strongest terms possible to what was proposed and saying this:

“As the courts are well aware, it had already been previously adjudicated multiple times that these trusts were formed by my mother and father and are the product of a divorce settlement which dealt with marital assets that were settled into these trusts for the benefit of myself, my brother, and our respective children. Hence the reason myself and my brother are the only two named beneficiaries. Both my father and my brother have testified under oath to this fact on multiple occasions and sworn statements to the police.

Any and all of the changes proposed by the trustee are not in my best interest

and as a primary beneficiary and the sole respondent responsible for saving the trust assets in the previous litigation against Pantrust and Richard Wigley, nor are they ultimately in the best interest of any of the other primary beneficiaries. The trusts are in my debt. Furthermore, I am also a creditor of the trusts as is Dick Family Trust 1 among others that the trustee is ignoring, and no trust assets should be distributed until all outstanding trust obligations are paid in full."

- 65 An adjournment was strongly resisted by the other parties. It was pointed out that she had received notice of the trustee's intentions in April 2020 and was formally convened on the 13th November 2020, but had failed to purge her contempt, to apologise to the Court or to explain matters on oath. It was clear, they said, that she had no intention to do any of these things, as was shown by her position in the enforcement proceedings in the U.S. where she disputed the validity of the costs orders made against her by the Court in Jersey, on the grounds that the Court was not impartial and its procedures were not compatible with due process of law. She had on previous occasions written to the Court very late in the day to seek an adjournment.
- 66 The Court declined to adjourn the matter. It was in the interests of the good administration of the trust estates that the applications proceed. As a contemnor, it was incumbent upon Tanya Stock to address the debarring order in a proper manner, but she had declined to do so, waiting until the last moment before the scheduled hearing to write to the Court in an attempt to have the matter delayed for an indefinite period.
- 67 The Court recognised that the decision made by G.B.Trustees was prejudicial to her interests, but unless and until she purged her contempt or obtained a variation of the debarring order, she could not participate in these proceedings. It was not fair to the other beneficiaries that the application be effectively held in abeyance until such time, if ever, as her contempt was purged or the debarring order varied, so that she could participate. To the extent that she had set out her position as regards the decision of G.B.Trustees to exclude her in her letters, and despite the debarring order, the Court took them into account.

Decision

- 68 Whilst it is appropriate for G.B.Trustees to seek the views of John William Dick I as the economic settlor of the trusts (he is not a beneficiary), Advocate Preston agreed that an element of caution was required when considering his views about a member of the family with whom there had been a complete breakdown in their relationship with feelings running deep on both sides. Furthermore, they were currently engaged in litigation in the U.S. involving allegations of fraud and wrongdoing.
- 69 The wishes of a settlor are always a relevant consideration, but the trustee must guard against the possibility that a particular settlor's wishes are based upon an unreasonable

animus against a particular beneficiary because if so, the trustee might conclude that little weight should be given to those wishes as against other factors. In the circumstances here, the wishes of John William Dick I as to Tanya Stock's exclusion had to be considered with caution.

- 70 It is the position of John William Dick II and his children that in our view is the key factor. It is clear from John William Dick II's affidavit that he genuinely fears that what is left in the trusts will be eaten up in legal fees generated by what he describes as Tanya Stock's abusive and unreasonable conduct both towards him, his father and the trusts, which he fears will continue into the future. He wants an end to litigation and for the remaining assets to be preserved and applied to benefit future generations of the Dick family. Tanya Stock had in his view caused irreparable financial damage to the trusts and to him personally by reason of her conduct, which was continuing, causing further administrative and legal costs to be incurred. If there was to be anything left within the trusts for the benefit of himself and his children, then her exclusion was the only course that ought properly to be followed.
- 71 The fact that the Court has twice awarded costs against Tanya Stock on the indemnity basis provides support for the allegation that her conduct in that litigation was unreasonable to the point of her being found in contempt. We note that no decisions of the Jersey Courts had been appealed by her. Having been the cause of that litigation, she is now resisting enforcement proceedings in the U.S. for the costs John William Dick II has incurred on the basis that the proceedings here were unfair and the judicial system conflicted and partial. The tone of her correspondence supports the view that any decision going forward made by G.B.Trustees in relation to the trust funds and the provision of benefits to anyone other than to herself is likely to be challenged by her at the further cost of the trust funds.
- 72 Advocate Sharp made the point that the concern is not over the bringing of reasonable claims against G.B.Trustees, but the prospect of litigation that is unreasonable and without merit yet pursued at great cost. The Lilianfeld litigation was, he said, an example of litigation in the extreme, with Tanya Stock departing from her previous testimony, giving explanations that changed over the course of the hearing and then deploying two documents at the last moment which the Court felt unable to rely upon. When she then loses, she does not pay the costs orders made against her. This goes beyond Tanya Stock just being a difficult beneficiary to one whose actions are hostile and damaging to the trust estate. All of this presented an inherent risk to the trust estate. His clients had not benefited at all to date and should now be the focus of what are now much diminished trust funds.
- 73 As the Court said at paragraph 57 of its judgment of 21st June 2019 in relation to Lilianfeld, the trusts were administered by the former trustee, Pantrust, in a confusing and byzantine manner, so that it is not possible to be precise as to the extent that Tanya Stock and John William Dick II have benefited in the past. The Court found that the St Petersburg property had been purchased for Tanya Stock to live in and as we understand it, she did so for many years, with the documents we have seen showing that she also benefited

financially on a regular basis. The evidence, such as it is, is sufficient in our view to support the statement in the minute of G.B.Trustees that Tanya Stock had benefited substantially in the past with John William Dick II receiving little or no direct benefit, an important consideration in her exclusion as a beneficiary when considered in the light of the much-reduced value of the trust funds.

- 74 This combined with the other factors listed in the minute do justify, in our view, G.B.Trustees' decision to exclude Tanya Stock as a beneficiary. There is a genuine need to protect what is left of the trust assets from further depletion by a beneficiary who has a significant history of conducting litigation against the trustees that is without merit and who has benefited substantially in the past.
- 75 Mr Egerton-Vernon deposes in his affidavit of 26th October 2018 sworn in connection with the removal proceedings at paragraph 114 that Tanya Stock's attitude to litigation is that it should be pursued no matter what and regardless of the damage that will be wrought in terms of familial relations or financial matters. She said to him at a meeting on 30th January 2017 that: "*People don't understand – for us [by which he presumed this meant Tanya Stock and her husband] it's about what is right, justice – not the money – we are prepared to sacrifice all the rest.*" This was in contrast to the position of John William Dick II at the same meeting, where he commented "*I have my own family and I am concerned about money going to lawyers.*"
- 76 Turning to the test we have to apply, we are satisfied that G.B.Trustees has made this decision in good faith and in the interests of the trust estates. The circumstances are such that this is a decision that a reasonable trustee properly instructed could have arrived at and one taken carefully, on advice and after consultation with the beneficiaries. It is a decision that benefits the other beneficiaries in that it seeks to preserve the trust funds for future generations and to prevent the further leeching of value through unreasonable litigation which judging by Tanya Stock's past conduct is likely to continue. It is we recognise a decision which is detrimental to the interests of Tanya Stock and against her wishes, but she has to take responsibility for her conduct and acknowledge the damage that she has already done to the trust estates. Furthermore, she has benefited substantially from trust funds which are now very much diminished. She had not provided in her correspondence any information about her financial position, but the Court was informed that, in addition to the benefits she had received over many years from the trusts, she had received benefits of some \$7 million from the Dick Family Trust No. 1 over the last 3 years and was likely to receive another \$2 million to \$4 million from that trust in the future.
- 77 As to the issue of conflict, Tanya Stock has in the past and continues to allege that G.B.Trustees is conflicted because of its relationship with John William Dick I. In her e-mail of 27th April 2020, she asserted that:

"Garfield Bennett had a clear and insurmountable conflict of interest that dates back to at least February of 2015 – a fact that was never disclosed to the Jersey

Court. It was your job as an officer of the court, Mike, to make sure that the court was aware. Let me repeat – GB should never have accepted the appointment in November 2015 because of the insurmountable conflicts of interest as JWD's legal representative that existed in at least February of 2015 – This is a fact.”

78 This conflict is asserted by her to arise because she alleges that G.B.Trustees and John William Dick I engaged in a cover up of the alleged bank fraud. The loan documentation was, she said, fraudulent and none of the proceeds went to the Manor House Trust or to the beneficiaries. In effect, she alleges that John William Dick I stole from the Manor House Trust and G.B.Trustees should have pursued him for the recovery of that theft.

79 It needs to be borne in mind that the loan from the bank took place well before G.B.Trustees became trustee, but Mr Egerton-Vernon explains in his affidavit of 26th October 2018 that John William Dick I had been a personal friend of his father and indeed, Mr Egerton-Vernon himself had known the Dick family since the age of approximately 12. John William Dick I approached Mr Egerton-Vernon's father, then a partner in Garfield Bennett English Solicitors, in July 2013 to assist on the issues that were developing between the Dick family and Pantrust. Quoting from paragraph 7 of his affidavit:

“7. In July 2013, relations between the Dick family members were cordial and they shared the goal of rescuing the developing situation between the Dick family and Pantrust. The named client was [John William Dick I]. However, [Garfield-Bennett, English Solicitors] was asked to regard the client as the Dick family (including the Representor's husband Darrin Stock) as a whole. Authorisation to accept instructions directly from Mr Stock was provided by [John William Dick I] on 9 September 2013. As the Representor was also considered a client she also provided the same instruction.”

80 He goes on to explain at paragraph 14:

“[Tanya Stock] alleges that [G.B.Trustees] has always considered [John William Dick] as its ‘true client’ rather than the beneficiaries of the Trusts. This is far from the case. In addition, [Garfield-Bennett, English Solicitors] treated Mr Stock as their main point of contact (having been authorised to deal with and receive instructions from him) since 2013. I refer to...., which shows communications that were sent to [John William Dick I], Mr Stock and [Tanya Stock] (or just to Mr Stock). The true position is that [Garfield-Bennett, English Solicitors] considered the Dick family as a whole as its client. This is demonstrated by [Garfield-Bennett English Solicitors'] actions and was the position reflected by the Dick family's U.S. Attorney (at the time) Gary Albrecht who represented [John William Dick I], [Tanya Stock] and [John William Dick II] and Mr Stock in numerous Colorado proceedings. It is simply not the case (as alleged by [Tanya Stock]) that [G.B.Trustees] or indeed [Garfield-Bennett, English Solicitors] considered [John William Dick I] as its real client. [G.B.Trustees] and [Garfield-Bennett, English Solicitors] have always been open with [Tanya Stock]

[John William Dick II] and [John William Dick I] and Mr Stock and with the Royal Court.”

- 81 Mr Egerton-Vernon describes in his affidavit how tensions did begin to arise between Tanya Stock on the one hand and her father and brother on the other, and in 2017, G.B.Trustees facilitated mediation between them. That was unsuccessful and according to Mr Egerton-Vernon the result of this was that tensions between Tanya Stock and G.B.Trustees developed into outright hostility on her part.
- 82 We note that of the many complaints made by Tanya Stock against G.B.Trustees in the removal proceedings, covering up an alleged bank fraud by John William Dick I was not one of them. She had complained about her father having benefited from the trusts and we deal with G.B.Trustees' consideration of those complaints and possible litigation shortly.
- 83 Following the sale of St John's Manor, John William Dick I and his wife moved to live in the U.S. where they live in what we understand to be much reduced circumstances. Advocate Preston informed us that he has no property or assets in Jersey. He is not an active client of Garfield-Bennett English Solicitors and G.B.Trustees is not providing any services to him.
- 84 In our view, it is not at all unusual for families to wish to have as trustees persons who are known to them and in whom they have confidence. We see nothing untoward with John William Dick I approaching a firm in Jersey that he knew through his personal friendship with Mr Egerton-Vernon's father. There is no question that G.B.Trustees' appointment was supported by the whole family. Indeed, Tanya Stock was the sole representor in the proceedings that led to its appointment by the Court on 6th November *Stock v Pantrust International and Others* [\[2015\] JRC 223](#).
- 85 As to Tanya Stock's complaints about G.B.Trustees' subsequent behaviour, her own lawyer admitted that her case for removal was weak. All in all, we see nothing in the way that G.B.Trustees has conducted itself in very difficult circumstances to support a suggestion that its decision to exclude Tanya Stock was in any way vitiated by conflict.
- 86 Tanya Stock and her husband wrote further to the Court on 21st January 2021, saying that because it was a criminal matter, they would need to copy in the relevant parties including the Jersey Financial Crimes Unit. In that letter they refer again to the allegedly fraudulent bank loan and ask for the Court's assistance in recovering debts they claim from the trusts prior to any distribution being made to trust beneficiaries. That prompted a response from the Jersey Financial Crimes Unit on 22nd January 2021, saying that they were aware of this allegation, but were not investigating the matter:

“In late 2018, a representative of Tanya Dick-Stock visited our department and met with Detective Sergeant David Webster and myself. We were presented with documentary material to support her allegations. We also met with Mrs

Dick-Stock and her husband in early 2019. We reviewed a variety of material, including the allegation of the fraudulent loan. Last year we wrote to Mrs Dick-Stock...advising her that we would not be pursuing the matter as there was no realistic prospect of a prosecution.”

- 87 Accordingly, we bless the decision of G.B.Trustees to exclude Tanya Stock as a beneficiary of the trusts by making irrevocable declarations pursuant to Clause 9(a)(ii) of each trust deed that she shall cease to be a beneficiary.

Proceedings against John William Dick I and/or the Wigleys

- 88 It is the position of Tanya Stock that G.B.Trustees should take proceedings against John William Dick I and/or the Wigley parties (by which term we include any entities associated with them) to recover losses arising out of alleged breaches of trust, fraud and other unspecified causes of action going back decades. Her position has been that G.B.Trustees is obliged to litigate unless all the beneficiaries agree otherwise. G.B.Trustees' position has consistently been that unless there was unanimity against the commencement of proceedings, then strong consideration should be given to commencing them, but this was contingent on the circumstances. A balance had to be determined as between the likely benefit and the risk to the trust fund. G.B.Trustees' position was outlined at a meeting on 3rd February 2017 when it explained that before the trustees took any steps towards litigating a claim, they were required to seek the Court's consent and they would need to demonstrate the likelihood of success to the claim and set out any risks. It is G.B.Trustees' view that a cost benefit analysis is essential, and that no sensible trustee would commence proceedings without first having carried out such an analysis. Proceedings against either John William Dick I or the Wigley parties was likely to be hard fought and involve not only Jersey but also Panama and/or the U.S.A. Even if a claim was successful, it might prove extremely difficult to make any meaningful recovery against any party.
- 89 John William Dick II has been consistently and firmly against the use of trust funds in such litigation, and it is clear from correspondence that Tanya Stock would not be prepared to fund such litigation herself and putting her own assets at risk. It is relevant to note, however, that Tanya Stock is already pursuing her father in the U.S. for what appear to be the same losses that she is pressing G.B.Trustees to pursue at the cost of the trust funds. We have been shown a document entitled “ *Plaintiff's initial disclosure*” in those proceedings in which she is the plaintiff and her father the defendant, but in which she is alleging his “ *looting, fraud and other interference*” in numerous entities including the trusts. She appears to be claiming from him some US\$200 million.
- 90 There are a number of factors which G.B.Trustees say would militate against the use of the trust funds to pursue any such litigation:

(i) In the proceedings brought by Tanya Stock in 2015 for the removal of Pantrust,

and/or the Wigleys, as trustees, they counter-claimed against the family for the repayment of loans in the sum of US\$29 million. They alleged that the trusts were shams and that John William Dick I, Tanya Stock, Darrin Stock and John William Dick II were each a party to as conspiracy to defraud them. Advocate Sheedy swore a number of affidavits dealing with security for costs applications, and he estimated that in those proceedings discovery alone would cost £1.9 million. That was based on discovery of 750,000 pages. Tanya Stock estimated that there would be some 1.5 million pages of discovery involved, which would increase Advocate Sheedy's estimate to £4 million.

(ii) With litigation going back that far, issues of prescription would be likely to arise. Furthermore, on 28th September 2016, John William Dick I, John William Dick II, Tanya Stock and Darrin Stock entered into a Settlement Agreement and Mutual Release with the Wigley parties which arose from a memorandum of understanding executed in Colorado dated 21st August 2016 and a Jersey memorandum of understanding also dated 21st August 2016. G.B.Trustees was a signatory to the Jersey memorandum of understanding. The purpose of the Settlement Agreement and Mutual Release was to sever the relationship between what might be termed the Dick parties and the Wigley parties and resolve and release all claims as between them. The Mutual Release contained in clause 4 is very widely drawn and under which each of the parties release each other from all claims arising out of, *inter alia*, the Russian Trust and the Manor House Trust.

(iii) Even if such litigation was successful, there was serious doubt as to whether any meaningful recovery could be made against John William Dick I in the U.S. or the Wigley parties in Panama, either through inability to pay or because they had arranged their affairs in such a manner as to avoid any liability that might be established.

(iv) The combined assets of the trusts available for distribution are in the region of £3.5 to £4 million, all of which would be put at risk in funding litigation. By regard to the published criteria used by litigation funders such as Harbour Litigation Funding, it was very unlikely that external funding would be available.

(v) G.B.Trustees has canvassed the views of the beneficiaries in particular with regard to the issue of proceedings against John William Dick I. The position of Tanya Stock is of course clear, but John William Dick II was vehemently opposed to any such proceedings, as were John William Dick III and Advocate Sharp, for the two minor children. G.B.Trustees' position is that any such action would be prohibitively expensive to the point of extinguishing all of the assets in the trusts. It was not possible to say what the outcome of any litigation might be, other than to say it would be hard fought and expensive.

Decision

91 It transpires that no decision has been made at a meeting of the directors of G.B.Trustees in relation to this matter; rather it has formed an opinion as to the bringing of proceedings

set out in the affidavit of Mr Egerton-Vernon of 24th November 2020. We see no difficulty in the Court being asked to bless the opinion it has so reached.

- 92 There is before us no defined cause of action upon which counsel have expressed an opinion as to its merits. To get to that point would involve a considerable outlay. The past history of these trusts however, under the hands of the predecessor trustees, is murky, not least because their formally asserted position is that the trusts are shams. Furthermore, as the Court has said previously, the administration has been carried out in a confusing and byzantine manner.
- 93 We think it appropriate to broach this issue, as Advocate Sharp suggests, on the basis that if the past history of the trusts' administration is investigated, it is likely that *prima facie* causes of action will be revealed against one or more of John William Dick I and the Wigley parties. That exercise in itself will be expensive as it would involve lawyers, and possibly forensic accountants, considering voluminous documentation and records going back decades. Assuming such causes of action are identified, the question then would arise as to the cost of pursuing such causes of action and whether the identified defendants have any assets to pay and whether those assets can be located.
- 94 There is an understandable element of exasperation on the part of John William Dick II and his family at the litigation that has already taken place with no tangible benefit and the very considerable cost to the trusts and to the parties personally. Mr Egerton-Vernon has listed in his affidavit those legal firms that have been involved to date in the family's various disputes, both here and internationally and they add up to an astonishing 43 firms.
- 95 The position of John William Dick II and his family is that they want an end to all litigation and to move forward. Quite simply, they do not wish the trust funds to be invested in investigating and pursuing those involved in the trusts' past, so that the much-diminished assets that now remain can be used for their future benefit. Upon the exclusion of Tanya Stock as a beneficiary, they will represent the entirety of the primary beneficial class.
- 96 Pursuing a claim through litigation has to be considered by trustees as an investment of the trust fund made for the sole purpose of achieving a financial return for the trust estate. Trustees are required under Article 21 of the Trusts (Jersey) Law 1984 to act “**as would a prudent person**” and in the circumstances of this case we consider it eminently prudent not to invest any part of these trust funds in investigating and then pursuing what would be complex litigation in a number of jurisdictions, when there is no clear prospect of a recovery, when the whole of what is left of the trust funds would be placed at risk and where all but one of the beneficiaries are vehemently against the trustee doing so. G.B.Trustees has given the matter careful consideration and its opinion not to invest in such litigation is reasonable.
- 97 Applying the test in *Re S Settlement*, we are satisfied that G.B.Trustees has formed its

opinion in relation to the issue of proceedings against John William Dick I and/or the Wigley parties in good faith and that it is an opinion which any reasonable trustee properly instructed could have arrived at. For the same reasons as set out above, we are satisfied that its opinion has not been vitiated by any actual or potential conflict of interest.

Conflict of the Commissioner

98 Commissioner Clyde-Smith was assigned to this case shortly before the hearing and no objection was raised as to his presiding. However, in one of the articles published by Mediapoint on 2nd October 2020 at, we understand, the behest of Tanya Stock, it is stated that in the 1980s when Commissioner Clyde-Smith was working at what was then Ogier & Le Cornu, he provided legal services on the creation of La Hougue in that he was one of the subscribers to the formation of this and possibly other associated companies. The Commissioner has no recollection of his involvement in the formation of these companies, but for the avoidance of any doubt, the Commissioner can confirm that to the best of his knowledge he has had no involvement in the activities of these companies and has never advised, met or communicated with Tanya Stock, Darrin Stock, John William Dick I, John William Dick II, Richard Wigley or James Wigley in whatever capacity. Accordingly, he is satisfied that he has no conflict in presiding over these applications and in his view, no fair minded and informed observer would conclude that there was a real possibility that he would be biased.

Claim against the trusts

99 Tanya Stock has referred to claims against the trusts and in correspondence sought the assistance of the Court in recovering those debts prior to a distribution being made to beneficiaries.

100 We reiterate the supervisory role played by the Court in these applications, namely whether or not to bless the decision and opinion of G.B.Trustees, which has not surrendered its discretion. The Court has not been asked to bless any decision to make distributions to beneficiaries or to determine the validity or otherwise of claims against the trusts.

Conclusion

101 In conclusion we bless the decision of G.B.Trustees to exclude Tanya Stock as a beneficiary and the opinion it has reached that no proceedings should be brought against John William Dick I and/or the Wigley parties.