

Representation of First Conference Business Intel

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| Jurisdiction: | Jersey |
| Judge: | Deputy Bailiff |
| Judgment Date: | 18 March 2010 |
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| Court: | Royal Court |
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Text

[2010] JRC 55A

ROYAL COURT

(Samedi Division)

Before:

W. J. Bailhache, **Q C.**, Deputy Bailiff, **and** Jurats Le Breton **and** King.

In the Matter of the First Conferences Limited 2003 Employee Benefit Trust
And in the Matter of Article 11(2) of the Trusts (Jersey) Law 1984 (as Amended).

Advocate K. J. Lawrence **for the Representor.**

Advocate M. P. Cushing **for the Trustee and Peter Carkeek**

Authorities

In the matter of the A Trust [\[2007\] JRC 184](#).

Ogilvie v Littleboy [\(1897\) 13 TLR 399](#).

Deputy Bailiff

THE

- 1 This is an application by FC Business Intelligence Limited in relation to the First Conferences Limited 2003 Employee Benefit Trust. We have been addressed at length by Advocate Lawrence on behalf of the Representor and we have been helped also greatly by Advocate Cushing on behalf of the trustee and also on behalf of Mr Carkeek who is representing other employees of the company who benefit from the Employee Benefit Trust, those employees not including Mr Grant and Mr Bodenham.
- 2 The Court is entirely satisfied that the application by the Representor is well founded. We have looked carefully at the review of previous decisions which is to be found *In the matter of the A Trust* [\[2007\] JRC 184](#) and we have applied the test set out in *Ogilvie v Littleboy* [\(1897\) 13 TLR 399](#) which was approved by the Royal Court in the *A Trust* case. In particular therefore, we have looked at whether or not there has been a mistake which is of so serious a character as would render it unjust on the part of the donee to retain the property is given to him. It is quite clear from the evidence that has been put before the Court that Mr Grant and Mr Bodenham are “excluded persons” for the purposes of the Employment Benefit Trust and that therefore the sub-trusts which were formed could not validly benefit those two gentlemen or their families.
- 3 As a consequence of that, and looking at the transactions in the round as we are entitled to do, the Court is quite satisfied that the cash reserves would not have been donated to the Employee Benefit Trust of 2003 by the Settlor and accordingly, we make the orders which are sought.
- 4 As far as the draft orders sought, we make the orders which are set out at tab 5 of the bundle with the alterations as suggested by Advocate Lawrence by the insertion of the words “*declared void and*” in paragraphs 1a and b immediately before the words “*set aside*”.