

JERSEY / JUDGMENT

Representation of JTC Trust Company (CI) Limited (formerly SG Kleinwort Hambros Trust Company (CI) Limited)

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Trusts. [2026]JRC169 Royal Court (Samedi) 16 June 2026 Before : Sir William Bailhache,
Commissioner Single Judge Between

- (1) JTC Trust Company (CI) Limited (formerly SG Kleinwort Hambros Trust Company (CI) Limited
- (2) Noctule Services Limited
- (3) Pallas Holdings Limited
- (4) MT Services Limited Representors And
 - (1) B
 - (2) C
 - (3) G
 - (4) H
 - (5) K
- (6) Advocate Daniel Le Maistre as guardian ad litem for the minor and unborn issue of B and C
- (7) Advocate Robert Gardner as Guardian ad litem for the unborn issue of H and K
- (8) L
- (9) The Attorney General (representing the charitable interest) Respondents IN THE MATTER OF THE REPRESENTATION OF SG KLEINWORT HAMBROS TRUST COMPANY (CI) LIMITED, NOCTULE SERVICES LIMITED, PALLAS HOLDINGS LIMITED AND MT SERVICES LIMITED IN THE MATTER OF THE BELL, ECLIPSE, HELIOS, JUPITER, MARS, MOON, NEPTUNE, PALLAS, SPV CHARITABLE AND SPV (NUMBER TWO) CHARITABLE TRUSTS AND IN THE MATTER OF ARTICLES 51 AND 53 OF THE TRUSTS (JERSEY) LAW 1984 (AS AMENDED) (“THE LAW”) Advocate A. Kistler for the Representors Advocate S. J. Williams for the First to Fifth Respondents Advocate D. P. Le Maistre appeared in person Advocate S. Shah for the Seventh Respondent Advocate J. P. Speck for the Eighth Respondent The Attorney General did not appear

judgment

in private the commissioner: 1. I sat as a single judge on 27 May to hear a summons issued by the First to Fifth Respondents seeking various reliefs in the present proceedings involving the Jersey trusts. Although that summons was the only summons formally issued before the Court, all parties seemed to accept that it was appropriate for the Court to give general procedural directions if it thought fit in relation to the ongoing litigation. At the conclusion of the hearing, judgment was reserved. The decisions in respect of the procedure to be adopted were handed down on 28 May with reasons reserved and this judgment contains those reasons. The order handed down on 28 May has been varied in one respect, and an incorrect reference at paragraph [5] corrected under the slip rule. 2. It is clear from the heading to this judgment and from previous judgments of the courts in this case that there is a complex structure of trusts and companies at the heart of the dispute. There have been a myriad of proceedings in the Courts of Jersey, Guernsey and of other jurisdictions. At the centre of them are the trusts established or administered in Jersey (the “Jersey trusts”) and in Guernsey (the “Mirafiel trusts”) for the benefit of the family of (“J”) who died in [redacted] 2019. In this judgment, the expression the “Trustees” means, unless the context otherwise requires, the Representors and the trustees of the Mirafiel trusts. J is survived by his widow, (“G”), and their children, (H and K), and by his children by an earlier marriage, B and C. B has three children of his own, all minors, and H has one child, also a minor. I will come to the representation of the minor and unborn beneficiaries later in this judgment. I note that at present G is resident in Country A, and the four children and their issue are resident in the Country B. 3. The Eighth Respondent has been the sole member of the Committee of Protectors under a number of the Jersey trusts and has power to appoint new protectors and to appoint trustees. Those powers have been suspended by the Court in previous proceedings. In addition, the Eighth Respondent’s consent as Protector is required for capital distributions to beneficiaries in excess of US\$7.5 million, as well as any decision of the Trustees to change the proper law of the trusts, or to add or remove beneficiaries from the trusts. 4. The total value of the Jersey trusts administered by the Representors was estimated in November 2021 as approximately US\$382 million. The Mirafiel Trusts were believed at the same time to have a value of approximately US\$550 million. Within the trusts administered by the Representors were and indeed are a number of illiquid assets, some of which have a very substantial value – the property in Country A currently occupied by G, although it is on the market for sale and she will shortly be moving to a new property (“Property 4”) recently acquired by the Representors; a property in (“Country B”), also on the market for sale and some financial investments. 5. The proceedings commenced by B and C to have the Protector of the trusts removed and new trustees appointed were part heard in Jersey in 2022 and have been stayed. There has also been a considerable amount of work done by the Trustees to come up with a scheme for the restructuring of the Jersey and Mirafiel trusts which it was hoped would remove the dissension within the family. Parallel proceedings of various kinds have been commenced in Guernsey in relation to the Mirafiel trusts. 6. At the time B and C brought proceedings in Jersey for the removal of the Protector and the appointment of new trustees, they and the Trustees themselves were in favour of restructuring of the various trusts. Between the date the Representation was

launched in March 2021 and the hearing date, all parties in fact reached the same conclusion – namely that a restructuring of the trusts was desirable. That was the Court’s view as well. All the evidence was that although from time to time there were no doubt tensions as there are in nearly every family, the relationships between the siblings had generally worked. More recently, things had gone badly wrong, and a restructuring was thought to be the best course to repair the damage that had occurred. The Court made it clear in its judgment of 7 April 2022 that there were three principles to which it would have regard if asked to approve a momentous decision by the Representors by which the Jersey trusts were restructured. These were: (i) J had an overriding wish to treat his four children equally; (ii) Likewise, J wished to ensure that G was properly provided for; (iii) Finally, he wished to ensure that the trusts would provide not just for his children, grandchildren and great grandchildren, but possibly a further generation as well. 7. We indicated we considered these three principles should be at the heart of any restructuring arrangements. There seemed at the time to be more than enough assets for that to be achievable. 8. The purpose of the hearing in June 2023 when a draft outline family restructuring plan prepared by the Trustees (the “OP”) was considered was to enable the Court to give the Representors some non-binding guidance about restructuring. This was not a Re S blessing application because indeed the Trustees had not made a decision to adopt the OP or to put it before the Courts for blessing. 9. It was intended that the blessing application in respect of the Trustees’ final restructuring proposals (“FRP”), to be formulated following the non-binding guidance and after further consultation had taken place, would be heard in Jersey in 2024, one side or the other of a parallel application in Guernsey. In fact, a full week in March 2024 was fixed in Guernsey. Those dates were subsequently abandoned, and the proceedings stayed.

10. I have gone into the history of the proceedings in some depth because it is relevant to the quantum of costs which have been incurred by all parties and paid out of the trust funds, and by the angst both between members of the family and between the family and the Trustees and Protector. In my judgment, it is right to have substantial regard to where this litigation has been in order to consider the right solution to where it is now.
11. In late 2023, negotiations took place within the family with a view to an alternative restructuring plan. B deposes that within a matter of weeks they had reached agreement on heads of terms, which led to the stay of the adversarial proceedings between them. It appears that from January 2024 until May 2025, the First to Fifth Respondents engaged in about eighteen months of without prejudice discussions with the Sixth and Seventh Respondents (together the “Guardians”). B attested that the Guardians were approached first because it was believed that it would be easier for the Trustees to reach a decision if the Guardians had already been consulted. However, it appears that the process became prolonged and a mutually acceptable conclusion could not be reached. As a result, from July 2025, the First to Fifth Respondents approached the Trustees directly, not involving at that stage the Guardians. The adult beneficiaries’ restructuring plan (“the “ABRP”) was provided to the Trustees on 23 July 2025 and in the following five months the Trustees and the adult beneficiaries had various without prejudice discussions to enable the Trustees to evaluate the ABRP as an alternative to the FRP. Like the FRP, the ABRP involved a restructuring of

both the Jersey and the Mirafiel trusts. In December 2025, caveated and provisional indications were given by the Trustees that the ABRP could form the basis for an application for a blessing. The Trustees' detailed explanation of their position in this respect was circulated to all parties on 18 March 2026. That document (the "Explanatory Statement") was issued for the purposes of consultation with the Guardians and the Protector. The overall position was set out in this way: "110. Having considered all the above issues and the ABRP holistically, the Trustees' provisional view is that they are willing, in principle, to adopt the ABRP, subject to consultation with the Guardians for the [minor and unborn beneficiaries] and the Protector, a full set of ABRP documentation in terms satisfactory to the Trustees (e.g. the Property trust and Pourover trust documents) and any further appropriate advice including US tax advice.

111. The fact that the ABRP represents a consensus between the [adult beneficiaries] is, in the Trustees' provisional opinion, a highly relevant factor to which they attach considerable weight, and they are also provisionally satisfied that appropriate provision is made for the [minor and unborn beneficiaries] giving proper effect to [J] wish that there be funds available for the benefit of "at least three generations"...."
12. Subsequently, there has been an amount of correspondence, some without prejudice, exchanged between the parties. It has not been clear until recently what the Guardians' position would be in relation to the ABRP, but this changed when a detailed statement of that position was set out on 22 May by Advocate Le Maistre and Advocate Gardner. Advocate Le Maistre's position was regarded by the adult beneficiaries as concerning. He welcomed wholeheartedly the fact that the adult beneficiaries had managed to reach a common position, and recognised the wide latitude which a trustee enjoys in deciding on restructuring proposals, absent potential conflicts, but emphasised that it was his responsibility as the Court appointed person to represent his class of beneficiaries properly and discharge his role by advocating for their interests in the process.
13. Advocate Le Maistre set out a number of concerns as to the procedure which had been adopted but also two significant modifications to the proposals that he proposed should be made to them. One of these was to ringfence for those he represented a larger proportion of the trust assets and the other was a change in the balance in the family trusts. I hasten to add that those arguments are for another day. I take them into account only to recognise that there will be argument in due course and not to pass any comment on the merits of either those arguments or the objections to them.
14. Advocate Gardner in his Response appended to his Skeleton Argument set out similarly a number of objections to the ABRP. Although slightly differently worded to the approach taken by Advocate Le Maistre, the essence of the objections is not very different.

15. Where the responses of the Guardians are relevant for today's purposes are that Advocate Le Maistre and Advocate Gardner contend that they may wish to take further US tax advice and further modelling advice. I will return to that point in the context of the decisions taken on the relief sought by the adult beneficiaries. The adult beneficiary restructuring proposals
16. In very broad terms, the key terms proposed by the adult beneficiaries are these: (i) The Trustees will appoint a lump sum to G of US\$110 million absolutely. Up to US\$45 million of that sum would be funded from the net sale proceeds of ("Property 1"). Distributions to G following 1 January 2024 would be treated as payments on account of the lump sum, other than distributions for legal fees. From 31 December 2024, the unpaid lump sum would be subject to an uplift for the delay in payment of that sum, the detail of which is not important for current purposes. In addition, the Trustees would settle a property trust to own both the Property 4 in Country A which would be occupied by G and Property 1 until it was sold. G would be the lifetime beneficiary of the property trust and after her death, the trust assets would be realised and the proceeds appointed as to 25% to the ("H Trust"), 25% to the ("K Trust") and 50% to the B and C Joint Trust. Other than the property trust, G would be excluded from benefit of all the trusts. The remaining adult beneficiaries would be excluded from the Neptune Trust in order to facilitate US tax structuring from the property trust. (ii) There were then more complicated arrangements proposed for handling the 50% to be paid to the B and C Joint Trust. The purpose of those arrangements was to deal with the possibility that C, who is now aged forty-nine and without children, would not in fact have her own issue. However, those arrangements are not for scrutiny now and are irrelevant for the purposes of the present hearing. (iii) G would withdraw and/or waive her claims against J's estate, and make no further claims to the trust assets. Indeed all the adult beneficiaries would execute mutual releases of the claims against one another in respect of the estate and the current trusts in full and final settlement. All existing disclosure applications would be discontinued, and there would be no further costs applications and/or enforcement of any existing costs orders in respect of the Guernsey and Jersey appeals, but the adult beneficiaries would have their costs of the current proceedings as an expense of the trusts.
17. This is very much a summary of a summary. It is not relevant save that it forms the backdrop to the current submissions.
18. I now turn to the hearing on 27 May. It was very helpful to have a statement made to me by B, on behalf of all the adult beneficiaries, and without objection from any party. It was not a sworn statement, and there was no cross-examination on what he had to say. However, it is fair to say that his address to me explained very clearly where the adult beneficiaries are now coming from in relation to the restructuring plan they have put to the Trustees.

19. B described how catastrophic the litigation had been for their mental and physical health. He pointed to the fact that costs in excess of US \$100 million had been spent in the litigation so far. He was very concerned that the dynamics of adversarial court process were about to be repeated despite the work the adult beneficiaries had done to reach an accommodation between them.
20. The family agreement had been achieved within weeks. The siblings had now re-established relationships with each other. But B felt that they could not even now see light at the end of the tunnel.
21. He said that the adult beneficiaries' proposal of course considered the position of their own children or any they might have. His own oldest child was eleven. One of the reasons for some of the proposals in the document was that that child would be reaching an age where some distributions might be considered in only seven years' time and of course less than half of the Trust Fund was liquid.
22. The adult beneficiaries shared their US tax advice from Sullivan & Cromwell in March this year. He understood why the Trustees would want to seek confirmation from their own tax lawyers, but they had only done so two days ago. He was worried this would cause delay for many more months.
23. Inevitably the realisation of the private equity investments might take some time. In his view financial modelling would almost certainly not provide all the necessary answers anyway. Importantly, in his view, this modelling did not need to be done as what was proposed was a discretionary trust. As an example of another issue raised recently, only that morning he had been requested to provide an implementation plan for the purposes of the Trustees' tax advice. He thought it would take weeks to prepare. He realised that the Trustees had only recently been informed of the unit trust proposal to hold the property trust assets, but he contended that that detail should not prevent the Trustees from taking a decision.
24. B's comments about the mental and physical health of the adult beneficiaries reflected the detail of the affidavits which each of them had sworn for this hearing. I have had regard to all of those affidavits, which I do not find in the least surprising. Some general observations
25. The Courts have long been aware that litigation is a source of stress for litigants. It hardly needs justifying by reference to authority, but it is perhaps helpful to set out from the judgment of Le Quesne JA in *Abdel Rahman v Chase Bank*

[1994] JLR 186 at page 190, part of the extract from the speech of Lord Griffiths in *Ketteman v Hansel Properties Limited* [1987] AC 189. At page 220, Lord Griffiths said this: "Whether an amendment should be granted is a matter for the discretion of the trial judge and he should be guided in the exercise of the discretion by his assessment of where justice lies. Many and diverse factors will bear upon the exercise of this discretion. I do not think it is possible to enumerate them all or wise to attempt to do so. But justice cannot always be measured in terms of money and in my view the judge is entitled to weigh in the balance

the strain the litigation imposes on litigants, particularly if they are personal litigants rather than business corporations, the anxieties occasioned by facing new issues, the raising of false hopes, and the legitimate expectation that the trial will determine the issues one way or the other.”

26. Those comments were made of course in the context of an application at the conclusion of the hearing, for an amendment of the pleadings. The present case does not have that context. Here, the adult beneficiaries must be taken to have appreciated it was desirable to satisfy the Guardians with what was proposed as a result of the Court’s acceptance of the principle that the restructuring should provide for at least three generations. Indeed, the adult beneficiaries had recognised that, because negotiations were opened with the Guardians first. It follows that they cannot have had quite the same legitimate expectations of finality that the plaintiff in *Ketteman* had. Nonetheless, the comments which Lord Griffiths has made do reflect the experience of the Courts as to the stress which litigation causes and as a matter of procedural fairness that stress falls to be taken into account, as of course does the obligation on the Court in this case to assure itself that the Guardians are able to advance the case for those they represent.
27. At this stage it is appropriate to reflect upon the nature of the Guardians’ appointment. They are appointed by the Court to represent the minor and unborn beneficiaries - those who are unable to speak for themselves. The Guardians have no clients as such, however. Their duty is to the Court. They are appointed in the present case to ensure that because there is a difference in the interests of the children of J and the interests of the minor and unborn beneficiaries, the latter receives a voice in the consideration of any restructuring proposals which are put forward by the Trustees.
28. It is possible that the Guardians will end up asserting a positive case that the ABRP, if adopted by the Trustees, does not make appropriate provision for the minor and unborn beneficiaries. That case will be made by an objective analysis of the proposals themselves. But they do not have clients. In the absence of a decision by the Trustees to adopt the ABRP, the Guardians will not be called upon in these proceedings until we know what the proceedings, if any, will be about, whether a blessing application in respect of the FRP or some other plan; it may be that if there is an application for the removal of the Representors and the Protector here and their counterparts in Guernsey, the Guardians’ role will stop and their parents will represent them as was previously the position, depending on an assessment of whether the respective interests are different.
29. It does not form part of the Guardians’ responsibilities to make any proposals now as to what the restructuring should look like. This is a very fine line, and it is most unlikely that the Guardians will come in for criticism simply because, at the end of the day, it is thought they may have strayed beyond it. However, in the context of the current procedure, what in my judgment is needed by the Guardians is for the Trustees to identify why they have accepted the ABRP, if indeed that is the position, and why they think that plan makes a proper compromise of the different interests in the case. At this stage, it seems to me to be

unlikely that this should require a great deal of independent advice for the Guardians. It is the difference between on the one hand, raising analysis and possibly criticism of what is proposed, which is why they have been appointed, and, on the other hand, taking advice with a view to formulating a positive case as to how the minors and remoter issue can have a greater proportion of the Trust Fund reserved for them as if they were their clients. The latter approach would see them acting in a more positive and a wider role which in my view is not justified by the nature of their appointment.

30. In passing, I am also reminded of what was said by this court in August 2023 at paragraph 5 of its judgment: “It is to be hoped that in any event the exercise of the three day hearing has been useful to G, H and K and the First and Second Respondents (respectively (“B”) and (“C”) and together (“B and C”), as well as the Trustees and the Protector, in taking a step back notwithstanding their different interests, enabling them to look at the position in the round; which may assist the family parties in emerging from this bruising litigation with self-respect and a self-worth which is not measured by the amount of money which has been secured for them or their branch of the family. Originally it had been hoped that the restructuring might lead to the preservation, or restoration, of family unity. At the moment, that looks a forlorn hope; but knowing where you come from is important, as all of us who have been involved in family proceedings know, and it is very much in the interests of those for whom Advocates Le Maistre and Gardner speak that they might have some relationship with their cousins and, in the generation above, that B and C and H and K (together “H and K”) will have some sensible relationship in the future because they have many shared memories. G herself, when she takes a step back from these proceedings, should want that for her children and unborn grandchildren and remoter issue too.”
31. On a variation application under Article 47 of the Trusts (Jersey) Law 1984, the Court’s approval on the part of the minors and unborn is dependent on whether the court considers the variation to be for the benefit of that class of beneficiary. Today is not the moment to examine the width of the term “benefit” on which I have received no submissions, nor to identify whether such an assessment is relevant to the Court’s approach to a blessing application. However, that power given to the court to approve a variation is dependent on a particular scheme coming forward for its consideration. In my judgment, although we are not dealing here with any variation application but the possibility of a blessing application, the same principle – there needs to be an application for a decision which is sought to be blessed by the Court – applies to the scope of the representation of that class of beneficiaries by the Sixth and Seventh Respondents. Although there was no reasoned judgment reflecting the orders made in the Act of Court dated 21 June 2022, it seems to me that must have been the intention.
32. Indeed, to this extent, I accept B’s view that there is a risk that the dynamics of an adversarial court process are being repeated, which is particularly hard on the adult beneficiaries not least because those who might be taking the adversarial position would not be emotionally and stressfully engaged in the litigation at least in the same way. This would

also be contrary to the concept of restructuring which has led the Court process since 2022. It is to be remembered that the application which will receive the attention of the Court is in the first instance the momentous decision of the Trustees to adopt the ABRP, if indeed that is their decision. Costs

33. There is no real dispute on the part of the Trustees with B's contention that over US\$100 million has been spent since 2022 on the removal proceedings and on restructuring. The figures which the Trustees have provided indicate that the spend was approximately US\$4 million per month during 2023 and, although it has considerably reduced since then, the overall costs remain high. In addition to legal fees there have been disbursements in taking US tax advice as well as financial modelling.
34. The restructuring proceedings have themselves cost in excess of US\$91 million. A number of submissions have been made as a result. It is contended that there ought to be a single representative for the minor and unborn beneficiaries and, in addition, that there should be a cap on the amount that any party can spend until the final blessing application is made, that cap being set at US\$120,000 per month.
35. There is particular anxiety that the extent of liquid funds in the Jersey Trusts is now becoming limited. It is a concern that if costs and disbursements continue to be incurred at anything like the rate in the past, those Trusts may run out of money. Financial modelling
36. The Trustees spent approximately US\$1.5 million with modelling financial experts on the FRP, although I understand that modelling advice has been taken to date on only one aspect of the ABRP. It was suggested by Advocate Le Maistre that modelling advice had always been understood to be a necessary expense. That view is not shared by the adult beneficiaries.
37. Advocate Le Maistre submitted there were a number of features of the ABRP which differ from standard discretionary trusts. Although certain funds are ringfenced for the minors and unborn, he pointed to the suggestion that the Trustees "look favourably" on distributions of several millions of US dollars to the adult beneficiaries in any given year, and that a large percentage of the funds can be invested in private equity. It seemed likely in his view that the Trustees, and the Court, would be assisted by expert evidence in relation to whether the structures are sustainable, able to achieve their stated goals, and strike the appropriate balance between the interests of different classes of beneficiaries over several generations. He accepted that if either the Trustees or the adult beneficiaries had taken modelling advice on the sustainability of the ABRP, it might be a different matter. However, in the present circumstances, he submitted that the minors and unborn should not be prevented from obtaining their own advice if so advised.
38. He did not think it was appropriate to rely upon the advice which had been taken by the Trustees before the ABRP had come into existence. During the course of the hearing, he seemed to accept that it might be appropriate if he were to put his suggestions for financial modelling to the Trustees for consideration.

39. Up to this point, the Trustees' view has been that as the proposed level of Protector consent was set at US\$4.2 million per annum and previous modelling suggested a regular income of US\$2.5 million to US\$4 million per annum (adjusted for inflation) might be sustainable, there was no need for any further financial modelling. The Trustees will want to consider any request that Advocate Le Maistre or Advocate Gardner put to them. They will also want to consider the significance of Advocate Williams' submission that the ABRP is for a discretionary trust where the extent of payments away of distributable funds will naturally depend upon the availability of the income. While it is a matter for the Trustees, on the face of it, this latter submission seemed to me to be sensible. Inevitably, if the Guardians seek and obtain leave for further modelling advice, the probability is that expense will have to be incurred both by the Trustees and by the adult beneficiaries: and there will not only be expense but also likely delay.
40. As importantly, it is right to remember that if the ABRP is adopted by the Trustees, the Court's investigation will be limited to the Re S questions - is there any conflict of interest on the part of the Trustees? If not and on the assumption they have not with leave surrendered the exercise of their discretion to the Court, is the decision one which falls within their powers under the Trust Deed? And thirdly, does the decision which the Trustees have made fall within the band of reasonable trustee decisions having regard to all the circumstances? That last question may include consideration of whether the Trustees have had appropriate modelling advice or whether that advice should have been renewed.
41. It is unlikely that the Court will be engaged in receiving an amount of contradictory expert evidence on financial modelling or indeed on US tax law. That would only become relevant if the Trustees have not adequately considered the advice which they have taken. It is for the Trustees to decide whether they have confidence in that advice given any other advice that has been shown to them. To date there seems to be no basis upon which the Trustees, relying upon the financial modelling advice they have already received, should doubt its applicability. The suggestion that Advocate Le Maistre and Advocate Gardner might put particular questions on financial modelling or US tax law to the Trustees for further consideration can be seen in this context, and it will be for the Trustees to consider and deal with any such request. US tax advice and an implementation plan
42. As I have indicated, B was concerned at the suggestion that an implementation plan was necessary, at least as a precursor to a decision on whether the ABRP should be adopted. He thought it would take weeks to prepare. In his submissions, Advocate Speck contended that a step plan was necessary. Without one, there was a risk that it might not be realised until the hearing of the blessing application itself that the Trustees had no power to take a step that was required to be taken. This was a waste of money and it was avoidable. For my part, it seems to me that it is desirable that an implementation plan should be prepared. To some extent that has been done and is inherent in the ABRP, although it lacks detail. I see such a step plan as a developing document, which should be available by the dates of the final hearing for blessing the Trustees' decision, if that is what is required. In saying that, I

recognise with a structure as complex as the present one that, there are likely to be numbers of steps which cover points of detail which do not appear in the plan or at the time of implementation may need minor revision. I do not regard this as being an impediment either to the Trustees taking a decision to adopt the ABRP or to the Court sanctioning such a decision on Re S principles. It will be for discussion between the adult beneficiaries and the Trustees as to who prepares it and when. It would seem desirable that at least a basic implementation or step plan be prepared as soon as possible.

43. With these considerations in mind, I therefore look at the question of US tax advice. The adult beneficiaries have obtained such advice on their proposals from Sullivan & Cromwell and made a copy of that advice available to the Trustees who will take their own advice from Paul Weiss. It is entirely understandable that the Trustees would want to be sure that there are no adverse US tax consequences from adopting the ABRP and it seems to me to be right that they take that advice.
44. It is clear however from the instructions which have been given to Paul Weiss that this brief goes rather further than simple confirmatory instructions. [Redacted].
45. This is particularly important because Paul Weiss have indicated that their provisional timetable for giving the advice requested of them is not until early or mid-July. That has an impact on the remaining timetable and it would be very helpful if the US tax advice could be available before then. Inevitably when it does become available, the adult beneficiaries will want to have their own confirmations, particularly in respect of questions which have not been considered by Sullivan & Cromwell.
46. The position will become even more difficult if the Guardians take their own US tax advice. I understand they have taken some advice in the past, which cost some \$584,000. Adding tax advisers into the equation will only cause delay and is likely to be unhelpful, either because it confirms the other advice which has been given or because it does not. There comes a time when it is in the interests of all parties that advice is taken, considered and relied upon if necessary or disregarded if unnecessary in the decision which has to be taken. [Redacted]. Reasons for the directions which I have given
47. Paragraphs 25 to 46 above form the underlying rationale for the orders I have made.
48. I have given the direction in Order 2 that the Trustees should resolve whether they wish to adopt the ABRP by 31 July. I have fixed on that date because, in my judgment, the Trustees have already had ample feedback from the Guardians and indeed from the Protector for them to form a view as to whether the ABRP should be adopted. The Guardians have filed extensive comments already and their caveats are based upon steps which I do not think ought to be taken, namely obtaining by them of Country B tax and financial modelling advice. I understand why the Trustees would want to have the Sullivan & Cromwell advice confirmed before reaching their final decision on the ABRP - indeed, that is one reason why I do not consider the submission of Advocate Williams that the final hearing should be in June is appropriate - and it is very much to be hoped that Paul Weiss will provide that of

advice before mid-July as they have provisionally suggested. The more that their instructions can be pared in this respect to advice which it is necessary to have for the purposes of understanding how the ABRP might be implemented and the tax consequences of that, the better.

49. In my judgment, the adult beneficiaries are entitled to know whether the Trustees are prepared to adopt their plan or not. The Trustees have had that plan for the best part of ten months and although it is true that there have been some new documents and ideas emerging more recently, such as the unit trust to be inserted in the arrangements for holding the illiquid assets, I do not consider these to be fundamental to the principle of whether the ABRP should or should not be adopted. If in principle it should, then the comments I have made in relation to the implementation plan would seem to me to be relevant. One would expect there to be some changes in the implementation along the way. Any problems which arise in this respect will be considered as they crop up and will be dealt with, as long as they do not conflict with the essence of the ABRP or the essential principles for restructuring which the Court has described in the past. For these reasons, I consider that the Trustees should indicate as quickly as possible whether they are prepared to adopt the adult beneficiaries' proposals. Until they make that decision, the proceedings generally are stymied and cannot go forward, at least in their present form.
50. As to Orders 4 and 5, an important component in this reasoning lies in the timetable which Advocate Kistler proposed. On his approach, the final hearing, if the plan were to be adopted, would not take place until at least November. Advocate Williams contended that there would be potential tax disadvantages the longer the plan was not put into action. That would certainly seem to be the case if a purchaser for Property 1 is found in the near future, unlikely as that may be. Importantly however, in my view, the emotional stress and pressure on the adult beneficiaries is a real factor which ought to be taken into consideration. Although they no doubt think they have settled the position between themselves, there remains the risk either that the Trustees will not formally adopt their proposals or that if the Trustees do so the court will not approve them in the light of objections from the Guardians and / or the Protector. If for any reason the plan does not proceed, the family harmony which has been provisionally restored, albeit with some fragility, is likely to be shattered again. As the Trustees say in their explanatory statement, that factor is important in their consideration of the plan, but it is also important in my judgment in assessing the stress to which the adult beneficiaries are subject and thus in looking at the timetable within which the plan either will or will not be adopted.
51. There was some discussion at the hearing as to whether there was a binary choice for the Trustees - either adopt the ABRP or reject it. Advocate Kistler suggested that it was not a binary position because the Trustees might wish to amend the ABRP and adopt the amended proposition. The timetable which I have set assumes that it will be a binary option because the ABRP is currently, as it were, the game in town. It may be there is some flexibility for a different proposal to be brought forward if it has the consent of the adult beneficiaries and

the Guardians. The drawback for all parties in bringing forward a separate proposal however is that there is a very much increased risk of the family relationships breaking down again. For that reason, unless the Guardians come up with some point of some real significance that prevents the Trustees from maintaining the current provisional approval of the ABRP, one would expect that no revisions of any substance will be proposed.

52. That is not to say of course that if the Trustees decide upon the ABRP with minor revisions, it will not be acceptable to the adult beneficiaries. One should not eschew the possibility of that taking place and Order 3 is intended to anticipate such a possibility. One would expect the Trustees to consult upon any such revisions in advance of taking any decision. As there is little time within the timetable for the parties to be ready for argument in September, it would be very desirable if the Trustees could make their decision earlier than 31 July.
53. At the hearing, Advocate Speck submitted that he had every anticipation that the blessing application, if one were to be made, would have the support of the Protector because the Protector and Trustees would work closely together from this point onwards. That is very much to be desired. Nonetheless, there remains the possibility in theory that the Trustees and the Protector will not be in agreement and that this will be critical to a practical question as to whether the ABRP can be delivered. It is to meet that theoretical possibility that Order 4 has been made, namely that although the blessing application might be brought on 1 September, it may have to be accompanied by a request for directions to the Protector in order to ensure that the proposal, if endorsed by the Court, can be implemented.
54. As I have indicated above, it is possible that the Trustees will decide not to adopt the proposals made by the adult beneficiaries. In that event, there will be no plan coming forward on 1 September for blessing. There would be a need in these circumstances either to set a timetable for the Trustees' different restructuring plan to be considered and adjudicated upon by the Court or, as the case may be, for the resumption of the removal proceedings. That is the rationale for Order 5.
55. Order 6 simply reflects what has been the common position for some years - any restructuring requires a joint approach for both the Jersey and Mirafiel trusts.
56. As to Order 7, in my judgment, it is right to ensure that these proceedings keep moving as quickly as possible. The stress under which the adult beneficiaries are operating at present is the primary reason for that conclusion, although it has to be said that the Trustees have had more than enough time to reach a conclusion on the ABRP. I recognise that the parties or their counsel may consider that if the decision is taken on 31 July, it is unrealistic or alternatively unfair to expect work to be done during August which is often regarded as a time for holidays. There are in my view at least two answers to this. The first is that while the Court always endeavours to accommodate the reasonable timing requests of counsel, their convenience must generally take second place if there is a collision between that and the best interests of the parties. The second is that the parameters of the current dispute or potential dispute are sufficiently well known that almost certainly the bulk of the work can

be done in the two months between now and 31 July in any event. For that reason I do not consider it wrong to stipulate these timetables. In any event, I anticipate that the Trustees will use their best endeavours to make a decision before 31 July.

57. However, since handing down the Orders on 28 May, I have been advised by Advocate Le Maistre that he was unsure as to whether the 2 week period for filing a skeleton argument ran from 31 July or 7 August – on the basis the Trustees communicate their decision on 31 July and file their application on 7 August. I thought the Order was clear that skeletons were to be filed two weeks after the filing of any blessing application. That was intended. Nonetheless, Advocate Le Maistre's letter provokes further thought to the timetable in the event that the Trustees should file their application before 7 August. The skeletons are not required until 21 August. The Order is therefore varied to provide that "The Respondents shall file skeleton arguments, authorities and any evidence which they wish to put before the Court for consideration at the substantive hearing within 14 days of receiving notice of the blessing application or by 21 August 2026, whichever is the later."
58. Order 8 sets out that the application to discharge Advocate Gardner as guardian ad litem for the minor and unborn issue of H and K is dismissed. The application was really based upon the allegation that the interests of the minor and unborn issue of B and C were the same as the interests of the minor and unborn issue of H and K, and also upon the overall cost of the proceedings. I have found all the contentions of Advocate Gardner in this respect to be compelling. Quite properly, he did not seek to maintain his involvement in the proceedings for his own persona advantage. He did point out that there would, in his view, be delay and some expense if he were to be discharged at this time not least because at one stage his work had involved discussions with H and K which had been privileged and which were unknown to B and C. They were therefore also unknown to Advocate Le Maistre.
59. Furthermore, potentially difficult questions might arise if the ABRP were not in fact to be adopted and, even if it were, there was the potential for a different line to be taken on those proposals depending upon whether the Guardian was seeking to protect B and C's minor children and issue, or those of H and K. It was apparent to me that both the Trustees and Advocate Le Maistre considered that there might be some force in Advocate Gardner's objections, and I agree with them.
60. The reasoning set out at paragraphs 25 to 46 above applies in relation to Orders 10 and 11.
61. The Trustees, the Protector and the Guardians all resisted the application by the adult beneficiaries to limit the extent of legal costs and disbursements to US\$120,000 per month. The objections were based upon the uncertainty of knowing what work had to be done and what it would cost. I recognise the concerns which the adult beneficiaries have put forward particularly in the light of the very high amounts spent on legal fees and disbursements since these proceedings commenced and in particular over restructuring. The fact is that approximately 15% of the overall trust funds has been utilised in these legal costs and disbursements and one cannot think that this could have been contemplated with

equanimity by the settlor. Nonetheless, it would in my judgement be a false economy to hazard a guess at what the legal costs and disbursements might be over the coming months. I consider that if the Trustees adopt the ABRP, those costs may be fairly limited. Much of the work has been done already. If the Trustees do not adopt the ABRP, I also think the costs ought to be limited, because it is to be anticipated that most of the new costs will be incurred after 1 September. I add that it would be very unfortunate, if these comments turned out to be incorrect, if the parties had to incur more costs by ceasing work pending a further application to the court to vary the costs restrictions.

62. Although the application has been dismissed, it is very much to be hoped that the parties will all recognise the need to contain costs to an absolute minimum from this point on until we are clear as to what the next proceedings will be.
63. The costs of the adult beneficiaries of and incidental to the summons are to be paid from the Trust Fund on the indemnity basis. The remaining parties' costs of and incidental to the summons are to be paid from the Trust Fund on the trustee indemnity basis. This was the agreed order put before me, and I have accordingly made it.
64. As far as the Guardians are concerned, this is consistent with the terms on which they were first appointed, as is clear from the Act of Court of 21 June 2022. However, I do note, in case the matter should come up again in the future, that whereas the Trustees and the Protector are in a fiduciary relationship with the beneficiaries, no such relationship exists between the Guardians and those they represent. The Guardians' duty is to the Court to ensure that the interests of those they represent are properly advanced. Unlike the Protector and the Trustees, who have an entitlement under the Trust Deeds to their fees, there is no mechanism, or no obvious mechanism, for costs which have been paid to the Guardians on a cash flow basis to be challenged later. It seems to me to be at least arguable that the challenge should come before any such costs are paid, albeit the Court would have a discretion to order, in the event of a challenge, costs to be paid on account. There is nothing preventing the parties agreeing a similar order again in the future, but it does not seem to me necessarily to follow that the Guardians should have their costs on the same basis as the Trustees and the Protector. To that extent, the Order of 21 June 2022 might need to be revisited. For present purposes, that too is one of the reasons why it is necessary to be explicit that they would require leave to instruct independent US tax or financial modelling advice.
65. The Court Orders, as varied, are annexed. *Authorities Trusts (Jersey) Law 1984*. *Abdel Rahman v Chase Bank* [1994] JLR 186. *Ketteman v Hansel Properties Limited*

[1987] AC 189. *Re S Settlement v 2001/154*.

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Prepared on 22 October 2026 · Esheria