



**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**FSD 283 OF 2021 (ASCJ)**

**IN THE MATTER OF THE TRUSTS ACT (2021 REVISION) AND ORDER 85 OF THE GRAND  
COURT RULES**

**IN THE MATTER OF KATE HOLDINGS LTD.**

**Before: The Hon Anthony Smellie**

**Representations. Mr Harry Shaw of Campbells appeared for the Applicants,  
Campbells Nominees Ltd, Campbells Directors Ltd and Campbells  
Secretaries Limited**

**Heard: 3 November 2021**

**Judgment Delivered: 18 November 2021**

**HEADNOTE**

**Application by corporate trustee holding assets on a bare trust for appointment of a successor trustee and for the blessing of the court for the transfer of the assets to the successor trustee in circumstances of concern about the legality of the source of funding of the assets- considerations for the court and applicable legal principles.**

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**RULING**

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1. Campbells Nominees Ltd, Campbells Directors Ltd and Campbells Secretaries Ltd bring this application in their capacity as trustees of the issued shares of Kate Holdings Ltd (together the “Applicant Trustees”), seeking various orders and directions as prayed in their ex parte originating summons (the O.S.). In summary, these orders and directions would involve the Court appointing FFP Cayman Ltd as Successor Trustee and would impart the Court’s sanction or “blessing” to the Applicant Trustees’ transfer of their trusteeship to the Successor Trustee, and the blessing of the concomitant transfer and management of the trust assets, certain steps to be taken by the Successor Trustee for



verifying the true beneficial entitlement to the trust assets and ultimately, the distribution of the assets and winding up of the Trust.

2. The application to the Court is based on the Applicant Trustees' belief and assertion that the transfer to the Successor Trustee is, in the current circumstances, of such momentous significance as to justify seeking the intervention and blessing of the Court. They seek to invoke not only the jurisdiction vested in the Court by section 10 of the Trusts Act (2021 Revision) ("the Act") for the appointment of the Successor Trustee but also the Section 48 jurisdiction to "bless" their decision, as the jurisdiction is explained and applied in the case law.
3. There is however, no doubt that the Applicant Trustees are empowered under section 4(1) of the Act, to themselves appoint a successor<sup>1</sup>. Having determined that they wish to retire as trustees, their reason for seeking the Court's intervention in this regard, relying on section 10, is explained by Mr Shaw as arising in circumstances where:
  - (i) there is no trust deed or instrument which governs the replacement of trustees, or the terms on which incoming trustees shall be appointed;
  - (ii) the settlor's wishes concerning the appointment of replacement trustees is unknown, and seemingly (in circumstances to be explained below) incapable of being determined;
  - (iii) an appointment under section 4 of the Act would not provide for the Successor Trustee to be remunerated for acting as trustee (without making a further application for such remuneration to be approved);

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<sup>1</sup> Section 4(1) in relevant terms provides: "*Where a trustee, either original or substituted and whether appointed by the Court or otherwise, is dead, desires to be discharged from all or any of the trusts or powers reposed in or conferred on that trustee ... then, subject to the restrictions imposed by this Act on the number of trustees – (a) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or (b) if there is no such person, or no such person able and willing to act, then the surviving or continuing trustee or trustees for the time being... may, by deed, appoint one or more other persons ... to be a trustee or trustees ... desiring to be discharged..*" [emphases added].



- (iv) the Court's supervisory jurisdiction is already being invoked in relation to the balance of the directions sought by the Applicant Trustees in the O.S. (under section 48 of the Act and/or the inherent jurisdiction) which concern the same subject matter; and
- (v) the Successor Trustee is being asked to comply with those very directions being sought.

The central question is therefore whether or not the attendant circumstances justify this application to the Court for its appointment of the Successor Trustee, pursuant to section 10 and for its blessing, pursuant to section 48 (or the inherent jurisdiction over trusts) for the transfer of the assets and of the directions which the Applicant Trustees wish to give to the Successor Trustee. A further direction is also sought, pursuant to section 11 of the Act, approving of the arrangements for the remuneration of the Successor Trustee.

#### **The relevant background.**

- 4. The relevant background to the Originating Summons is described in the First Affidavit of John Philipp Wolf sworn 23 August 2021 ("**Wolf 1**") and the exhibit thereto. Mr Wolf, among other positions held within the Campbells Group, is a director of each of the Applicant Trustees and is therefore well placed to speak to the circumstances of the Trust addressed in his affidavit and from which the following narrative is helpfully presented by Mr Shaw.
- 5. The Company Kate Holdings Ltd is the main and holding asset of the Trust and is therefore the subject-matter of this application. It was incorporated in the Cayman Islands on 17 September 1982. Since its date of incorporation, the Company has issued three shares with a par value of \$1 each, with each of the Applicant Trustees holding one issued share as a nominee shareholder ( for those purposes, the "**Nominee Shareholders**").
- 6. On the day of incorporation, Campbells Directors Limited ("**CDL**") and Campbells Secretaries Limited ("**CSL**") were appointed as directors of the Company (the "**Corporate Directors**"), and at the same time the Nominee Shareholders executed a



nominee agreement to hold their issued share in the Company on behalf of an unnamed party until further notice. On 3 April 1987, the Nominee Shareholders executed an identical nominee agreement as the one executed on the 17 September 1982, but then with Mrs Kathleen Locke (“**Kathleen**”) named as the beneficial owner of the issued shares of the Company.

7. Around 23 December 1982, the Company acquired absolute title over the property legally described as Registration Section West Bay Beach South Block 112E Parcel 54H38 – commonly known as Lacovia Condominiums, Block C, Apt #38 (the “**Lacovia Apartment**”). The purpose of the Company at all times has been to hold the Lacovia Apartment which formed part of a rental pool of the associated strata corporation and generated rental income. The Company’s only other asset is the cash held for its account in an unstated amount, in Campbells’ Trust Account, representing the rental income generated from the Lacovia Apartment. The Lacovia Apartment and the Campbells Trust Account balance thus constitute and are hereinafter referred to as the “**Trust Assets**”.
8. These arrangements initiated between the Nominee Shareholders and the “unnamed party” for whom they held, describe what appears to be a bare trust upon which the Applicant Trustees originally acted and have continued to act.
9. The condominium complex in which the Lacovia Apartment is located is now due to undergo substantial redevelopment, anticipated to commence in 2022. As a result, it is estimated that its market value would increase up to approximately USD4 million. The Applicant Trustees have become parties to the contractual arrangements for the redevelopment.
10. The books and records of the Company for the period prior to 2005 were in part maintained by the Corporate Directors and/or the Nominee Shareholders in hard copy form. As a result of the destruction caused by Hurricane Ivan in September 2004, a substantial volume of hard copy documents held in the common offices of the Nominee Shareholders and the Corporate Directors was damaged, lost or destroyed. This involved



documents relating to the Company with the consequence that its books and records for that period are incomplete.

### **Beneficiaries of the issued shares in the Company**

11. At some point prior to 2001, Kathleen's sister, Eileen Rita Dillon ("**Eileen**"), was named as the contact of record for matters related to the Company, but there was no assignment of beneficial interest in the Trust Assets. The Corporate Directors managed the affairs of the Company with minimal interaction with either Kathleen or Eileen, but periodic statements and updates were sent to Eileen as the contact of record.
12. Following the (then) newly enacted Money Laundering Regulations 2000, the Corporate Directors contacted Eileen in early 2001 requesting KYC documentation for Kathleen and herself. On the 31 July 2001, the Corporate Directors received KYC documentation from Eileen in respect of herself and including a sworn affidavit from one Michael Francis Murray ("**Michael**") dated 25 June 2001, stating that he was the original beneficial owner of the Trust Assets and had subsequently transferred ownership of the Company to Eileen. This, states Mr Wolf, was the first time that any of the Applicants became aware of Michael's potential interest in the Company. Michael has since been identified as Kathleen's and Eileen's brother.
13. Mr Wolf's affidavit goes on to explain the various efforts which the Applicants have undertaken since 2001 in order to confirm who the true beneficial owner of the shares in the Company is, and obtain KYC particulars accordingly.
14. As a result of the discrepancies as to the true identity of the beneficial owner, the Company engaged KPMG to undertake investigative searches to ascertain the whereabouts of Kathleen, Eileen and Michael. The private investigator produced a report on 2 January 2002 which confirmed what he understood to be the then current address of Kathleen and Eileen but stated that he was unable to confirm the whereabouts of Michael.



Periodic requests for information since 2002 have proven unsuccessful, including the various exchanges between 2008 and 2011 with a Mr James Duggan, a Boston attorney who purported to act for Michael. Mr Wolf explains that despite the Applicants' efforts over many years, they have been unable to satisfy themselves as to who the true beneficial owner of the issues shares is, or obtain requisite KYC information.

15. In a letter from him dated 17 July 2008, Mr Duggan did not disclose, and the Corporate Directors were up until then unaware, that Michael appeared to have been serving a 30 year prison sentence for drug smuggling offences. Recent online searches were however, made, and the Corporate Directors and Nominee shareholders have become aware, but unable to independently verify, that:
  - a. Michael was arrested in April 1983 and imprisoned for eighteen months for conspiracy to possess with intent to distribute marijuana;
  - b. in 1994 Michael was convicted of a second drug offense for smuggling five tons of marijuana from Texas to Massachusetts and sentenced to thirty years in prison; and
  - c. in 2007 Michael's lawyers filed a petition in a United States court to overturn his 1983 conviction on the basis that the FBI had failed to disclose that their informant was James Joseph "Whitey" Bulger, a prominent figure in Boston organised crime. The US Court of Appeals for the First Circuit rejected the petition in January 2013 on the basis that Michael had indeed committed the crime for which he was convicted.
  
16. As a result of this factual background, particularly those concerning Michael which have only more recently come to light, Mr Shaw submits that the Applicant Trustees consider it appropriate to appoint the Successor Trustee as a third party professional trustee to (i) undertake further investigations into the beneficial ownership of the Company, (ii) ascertain whether the Trust Assets are wholly or partially the proceeds of crime and (iii) to seek the Court's further direction, if so advised, before any Trust Assets are paid or transferred to any person claiming to be beneficially entitled to them. Mr Shaw submits



that these objectives inform the orders and directions sought by the Applicant Trustees more fully in the O.S.

17. It can immediately be accepted, that from the background of Michael's criminal conviction for drug trafficking described by Mr Wolf, there is obvious reasonable basis for suspicion that the funds used, as long ago as 1982 to acquire, through the Company, the Lacovia Apartment, may have been the proceeds of crime. And it follows that the Applicant Trustees are entitled to take steps to ensure that if so, the assets are not distributed unlawfully, in particular so as not to breach any currently applicable anti-money laundering legislation.
18. These concerns says Mr Shaw, are such as to justify invoking the Court's jurisdiction under section 10(1) of the Act which gives the Court the power to appoint a new trustee (or trustees) whenever it is expedient, and where it is found to be *inexpedient, difficult or impracticable to do so* without the assistance of the Court. The circumstances says Mr Shaw, also imbue the Applicant Trustees' decisions with the sense of momentousness needed to justify the Court's intervention under section 48 of the Act. I turn to discuss each aspect below.
19. As to the appropriateness of invoking the section 10 jurisdiction to appoint the Successor Trustee, Mr Shaw relies directly upon the recent decision of Justice Kawaley's in ***Merrill Lynch Bank and Trust Company (Cayman) Limited v ABBC and XYZ*** (unreported, 6 April 2021, FSD 181 of 2020 (IKJ)). There, against the background of notably similar facts, the learned judge held that it would be appropriate for the Court to exercise its powers under section 10 of the Act to appoint a replacement trustee where there were also suspicions that the trust assets consisted of proceeds of crime, and the last contact with the settlor was in 2005. Thus, the case concerned an application similar to the present in analogous circumstances, whereby the applicants had sought directions to either terminate the trust or, alternatively, retire and appoint a replacement trustee where:

- 1.1 the settlor had been incommunicado since 2005 (over 15 years prior to the



application);

1.2 the existing trustees had been unable to obtain any source of funds/KYC information from the settlor;

1.3 third party investigations had determined (albeit inconclusively) that:

(a) the settlor was in internal exile having been convicted and imprisoned for crimes of dishonesty;

(b) the settlor's wealth may have included the proceeds of crime; and

(c) making enquiries about the location of beneficiaries would risk placing the sources and family members at harm.

20. Due to the nature of the application in that case, raising as it did public policy concerns, Kawaley J granted the relief sought subject to the conditions that the replacement trustees would be required to (i) serve the Judgment on the Attorney-General to decide whether he wished to appear and address the court on any public policy issues, or appear on any future applications for directions, and (ii) apply for further directions in relation to the future administration of the Trust within a defined period.<sup>2</sup>

21. The analogous circumstances presented here, compounded by the absence of express provisions for the replacement of trustees, in my view meet the requirements of section 10 as justifying the intervention of the Court. Moreover, in circumstances where the Court is informed that the incumbent trustees wish to retire and have good reason – inherent in the absence here of express trust authorizations- to seek the Court's intervention in order to ensure an orderly succession, the Court's assistance will usually be given. Refusal without clear and good reason in such circumstances, could mean the ongoing imposition of unduly onerous and unwanted trust obligations. Accordingly, I grant the order for the appointment of the Successor Trustee.





22. Public interest concerns, of the sort addressed by Kawaley J in *Merrill Lynch*, also arise here. However, in this regard the Applicant Trustees have been well advised to serve notice of the application, not only upon the three potential or purported beneficial owners of the trust assets but also upon the Attorney General, and have done so<sup>2</sup>. The Attorney has opted not to participate at this stage but has requested to be notified of the outcome and to be kept informed of any developments in the administration of the trust which may require intervention in the public interest. It is accepted that directions to that effect should be given in any event.
23. The more difficult propositions to my mind, are those for which the blessing of the Court is sought for the transfer of the assets to the Successor Trustee and the conduct of the administration of the trust going forward. These propositions must be considered in the context of the settled principles developed to guide the exercise of the section 48 jurisdiction and which itself has its origins in the inherent trusts supervisory jurisdiction of the Court.
24. Section 48 of the Act engages the Court's supervisory jurisdiction and allows a trustee to make an application to Court for "*an opinion, advice or direction on any question respecting the management or administration of the trust money or the assets of any testator or intestate*".
25. The scope for relief which may be granted under section 48 is wide and adaptable to suit the appropriate needs of the case, and applications which engage the jurisdiction have come in many forms. As Parker J observed in *T Company v AA & Four Others* [2018 1 CILR Note 3]:

*"There were many aspects of the administration of a trust to which s.48 of the Trusts Law was directed and where the assistance of the Cayman court could be properly sought by the trustee, such as the construction of certain powers or obligations in the deed or as to the prudence of a distribution of assets."*

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<sup>2</sup> As verified by the affidavits of service of Lucia Mannarino dated 26 October 2021 and Amandy Jimenez dated 27 October 2021.



26. In *The Matter of the A Trust* [2016 (2) CILR 416] Mangatal J adopted with approval the unreported dicta of Robert Walker J (as he then was) which was quoted and applied by Hart J in *Public Trustee v Cooper* [1999] 12 WLUK 603 regarding the now famous and often cited categorization of trustee applications. Walker J said:<sup>3</sup>

*“At the risk of covering a lot of familiar ground and stating the obvious, it seems to me that, when the court has to adjudicate on a course of action proposed or actually taken by trustees, there are at least four distinct situations (and there are no doubt numerous variations of those as well).*

(1) *The first category is where the issue is whether some proposed action is within the trustees’ powers. That is ultimately a question of construction of the trust instrument or a statute or both. The practice of the Chancery Division is that a question of that sort must be decided in open court and only after hearing argument from both sides. It is not always easy to distinguish that situation from the second situation that I am coming to....*

(2) *The second category is where the issue is whether the proposed course of action is a proper exercise of the trustees’ powers where there is no real doubt as to the nature of the trustees’ powers and the trustees have decided how they want to exercise them but, because the decision is particularly momentous, the trustees wish to obtain the blessing of the court for the action on which they have resolved and which is within their powers. Obvious examples of that, which are very familiar in the Chancery Division, are a decision by trustees to sell a family estate or to sell a controlling holding in a family company. In such circumstances there is no doubt at all as to the extent of the trustees’ powers nor is there any doubt as to what the trustees want to do but they think it prudent, and the court will give them their costs of doing so, to obtain the court’s blessing on a momentous decision. In a case like that, there is no question of surrender of discretion and indeed it is most unlikely that the*

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<sup>3</sup> See paragraph 2 of Mangatal J’s decision



*court will be persuaded in the absence of special circumstances to accept the surrender of discretion on a question of that sort, where the trustees are prima facie in a much better position than the court to know what is in the best interests of the beneficiaries.*

(3) *The third category is that of surrender of discretion properly so called. There the court will only accept a surrender of discretion for a good reason, the most obvious good reasons being either that the trustees are deadlocked (but honestly deadlocked, so that the question cannot be resolved by removing one trustee rather than another) or because the trustees are disabled as a result of a conflict of interest. Cases within categories (2) and (3) are similar in that they are both domestic proceedings traditionally heard in Chambers in which adversarial argument is not essential though it sometimes occurs. It may be that ultimately all will agree on some particular course of action or, at any rate, will not violently oppose some particular course of action. The difference between category (2) and category (3) is simply as to whether the court is (under category (2)) approving the exercise of discretion by trustees or (under category (3)) exercising its own discretion.*

(4) *The fourth category is where trustees have actually taken action, and that action is attacked as being either outside their powers or an improper exercise of their powers. Cases of that sort are hostile litigation to be heard and decided in open court.” (emphasis added)*

27. ***Public Trustee v Cooper*** has been applied by this Court on numerous occasions before and since, including in ***AA v BB et al*** (unreported, 14 February 2020 (ASCJ)) which concerned an application before me brought under “(a) the Court’s inherent jurisdiction, as explained in *Public Trustee v Cooper* [2001] WTLR 901, read with Order 85 of the Grand Court Rules, and (b) section 48 of the Trusts Law (2018 Revision)” and which was recognized as a ““category 2” *Public Trustee v Cooper* application”. There I recorded, in



terms which are applicable here, that the questions for the Court on such an application will normally be:<sup>4</sup>

- “(1) *Does the trustee have power to enter into the proposed transactions?*
- (2) *Is the Court satisfied that the trustee has genuinely formed the view that the proposed transactions are in the interests of the trust and its beneficiaries?*
- (3) *Is the Court satisfied that this is a view that a reasonable trustee could properly have arrived at?*
- (4) *Has the trustee any conflict of interest, and if so, does the Court consider that the conflict prevents it from approving the trustee's decision?”*

28. It is proposed and I accept that this application comes within the second category of *Public Trustee v Cooper*, as the Applicant Trustees are seeking approval for a pre-determined course of action which they regard as being within their power, about which there is no real doubt, but the consequences of the intended actions are “*momentous*” such that it is appropriate to “*obtain the Court’s blessing*”. This is so says Mr Shaw, particularly as the investigations of the Successor Trustee may reveal that there is no legal beneficiary and/or that the Trust Assets are entirely the proceeds of crime and/or have been abandoned, and must be paid into Court or pass to the Government *bona vacantia*.

29. While I accept that considerations for invoking the section 48 (and the inherent jurisdiction) are present, I am not persuaded that the entirety of the proposed courses of action to be undertaken by the Successor Trustee, in particular the course of investigation to be undertaken, should receive the Court’s approval.

30. In this regard what is proposed at paragraph 1.5 of the O.S. is that “*the (Successor) Trustee shall take reasonable steps to ascertain whether the Trust Assets are wholly or partially the proceeds of crime and, if so advised, to seek the Court’s further direction before any Trust Assets are paid or transferred to any person claiming to be beneficially entitled to the same under the trust arrangement.*”



31. While the reason for seeking such directions in the circumstances of this case is apparent, the likely impracticability of giving effect to them is equally so. The acquisition of the Lacovia Apartment happened some 40 years ago in December 1982, at a time when transacting with funds which may have been the proceeds of crime was not yet in and of itself an offence<sup>4</sup>. This meant that the due diligence KYC obligations of today were not then in existence and while the original transaction records have been lost, it is hardly likely that they would, in the first place, have contained the kind of information which would have alerted those then involved to a possibly illicit source of the funds. What “reasonable steps” it must therefore now be asked, could be taken by newcomer fiduciaries who were not parties to the original transaction, to ascertain whether the Trust Assets derive from the proceeds of crime? The answer is not readily apparent and Mr Shaw was not able to suggest what such steps could be, going beyond those already attempted by the Applicant Trustees by way of the unanswered requests for information.
32. I accept that the Successor Trustee will need, if necessary with the approval of the Court, to make a final determination regarding both the legitimacy of the source of funds as well as the beneficial ownership of the Trust Assets before making a final determination for their distribution and final dissolution of the Trust. I am not however, persuaded that the undertaking of what would likely be a futile investigation but involving nonetheless the engagement of overseas investigators at significant expense, deserves the approval of the Court. Instead, I proposed and Mr Shaw accepted (both that it was appropriate for the Court to so direct and for the Applicant Trustees to accept), that in the particular circumstances of this Trust, the onus should remain upon those seeking to claim under it to establish to the satisfaction of the Successor Trustee, not only their beneficial entitlement(s) but also the legitimacy of the original source of funds. If true beneficial entitlement on the part of any or all of the three named individuals can be established on that basis, it will be in their interest that the Trust Assets will have been conserved as much as reasonably possible. If on the other hand, the assets must go *bona vacantia* to the

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<sup>4</sup> Money Laundering was first made a Federal Offence in the United States in 1986 by the enactment of 18 United States Code, sections 1956 and 1957. And in the Cayman Islands by the enactment of The Misuse of Drugs (Amendment) Act 1989 (focusing then on drug money laundering).



Government, their conservation should and will equally have been achieved in the public interest.

33. On the basis that directions to the foregoing effect will be accepted by the Applicant Trustees and the Successor Trustee, I am satisfied that it is within the discretion of the Court to grant the approval sought for the transfer of the Trust Assets and administration of the Trust going forward. The “blessing” jurisdiction, while predicated, as explained above, upon a rational course of conduct being decided upon and proposed by the Applicant Trustees and accepted by the Court, is not an “all or nothing” proposition. Even while the Applicant Trustees are not surrendering their discretion to the Court for the exercise of the Court’s discretion instead (in the mode of *Public Trustee v Cooper* category three), there must still be scope for engagement between the Court and the Applicant Trustees as to what precisely might be the most efficacious and beneficial terms of directions.
34. I am told that the Successor Trustee intends to report to the Court on the findings from its investigations ( now to be governed as described above) and seek further directions from the Court regarding the distribution of the Trust Assets accordingly, and this is as expressed in paragraphs 5 and 6 of the O. S.
35. As Parker J observed in *T Company v AA and Four Others*, directions may be sought under section 48 “*as to the prudence of a distribution of assets*” and this will be of particular importance here where the identity of the beneficiaries and the legitimacy of the source of the Trust Assets are seriously in doubt. The intention to apply for such directions is also consistent with the conditions imposed by Kawaley J on the incoming trustees in *Merrill Lynch* and will ensure that the Court maintains supervision over the administration and management of the trust which governs the assets through control of the shares of the Company. The three-year time period proposed in paragraph 6 of the O.S. for resolution of entitlements is consistent and will likely be co-terminus with the “lock up period” for the Lacovia redevelopment, into the arrangements for which the Applicant Trustees have already entered.

36. It is on the foregoing basis that I grant the application for the approval as it is brought under section 48 the Act and the inherent jurisdiction of Court. A formal order setting out the terms of directions will be submitted for approval.

### **The Successor Trustee**

37. As explained above, FFP (Cayman) Limited (“**FFP**”) is nominated as the proposed Successor Trustee, and it is also envisaged that the Successor Trustee will vote the shares in the Company to replace the Corporate Directors with FFP (Directors) Limited, and appoint FFP (Corporate Services) Limited as the Company’s registered office. A copy of the proposed Trustee Services Agreement, the Trustee Declaration, the Directors Services Agreement, and the Registered Office Services Agreement to be entered into with the FFP entities are exhibited to Mr Wolf’s affidavit.

38. The principals of FFP have from time to time been appointed as officers of this Court, and so, I accept, are qualified and experienced professional fiduciaries. As regards the relief sought in paragraph 7 of the O. S. (for the approval of their fees and costs), the Applicant Trustees consider that the terms upon which the Successor Trustee have agreed to be appointed are reasonable, and that the basis for their remuneration (as particularized in the Wolf affidavit at Exhibit JWP-1 at pp.151-157) ought to be approved in accordance with section 11 of the Act.

39. I accept this proposal on the basis, as is also acknowledged, that the quantum of fees and expenses will require the approval of the Court and grant approval accordingly. In order to conserve expense, applications for approval may be made and taken in writing without the need for a hearing.



Hon Anthony Smellie  
Chief Justice.

18 November 2021