[2018 Gib LR 187]

FIDUCIARY TRUST LIMITED and SUMMIT SERVICES LIMITED (as trustees of the Europort Trust) v. NONE NAMED

SUPREME COURT (Dudley, C.J.): April 13th, 2018

Trusts—powers and duties of trustees—application for directions—court sanctioned trustees making further distributions to beneficiaries of trust even though ongoing proceedings against settlor/beneficiary in France and Spain concerning wealth acquisition and serious historic allegations concerning massacres in Syria—provenance of trust assets not proceeds of crime

Trustees sought directions from the court.

The claimants were trustees of the Europort Trust, which was a Gibraltar discretionary trust settled in 2000 by Refa'at al-Assad, the brother of the then President of the Republic of Syria and the uncle of the current President. The settlor was the protector, and a beneficiary together with other members of his family. The trust assets included property in Gibraltar (buildings 6–9 Europort) and Spain. The trust deed allowed for "self-dealing" by a trustee provided that another trustee who was not interested in the transaction approved it.

Serious historic allegations had been made against the settlor in relation to events in Syria, namely the Hama Massacre and the Tadmor Prison Massacre, although it appeared that he had never been formally accused, charged or convicted of any criminal offence relating to those allegations. There were ongoing proceedings in France and Spain following allegations by an NGO about the manner in which it was said the settlor had acquired his wealth. French prosecutors had made allegations of corruption, tax evasion and money laundering. Pursuant to those proceedings, the settlor's assets and those of his family in France and Spain, which comprised the bulk of his and their wealth, had been restrained. A French restraining order was registered in England, restraining a property in London. That order identified 6–9 Europort as an asset of the settlor. No restraint order had been issued in Gibraltar.

The settlor and his family wanted to exit the investment in the Europort building. The adult beneficiaries agreed to the proposed sale (with the exception of one of the settlor's sons and his adult children who wished to have nothing to do with the trust) even though it would be for less than the value of the property (the remaining beneficiaries indicated that they wished to have nothing to do with the trust). The settlor had been

personally involved in the negotiations and requested the trustees to sell the trust assets to the proposed purchaser, Glenthorne Holdings Ltd., as quickly as possible.

Glenthorne Holdings Ltd. was 75% beneficially owned by interests closely connected to the first claimant, Fiduciary Trust Ltd. Although the trust deed permitted self-dealing, in order to comply with the requirements of the deed Fiduciary Trust Ltd. procured the appointment of the second claimant, Summit Services Ltd., as an additional trustee.

The bank at which companies in the trust had accounts had placed a unilateral block on the flow of funds to the settlor or any member of his family, providing no explanation. There was speculation that the bank might have made a Suspicious Activity Report under the Proceeds of Crime Act to the Financial Intelligence Unit.

The claimants sought approval of certain intended actions, namely (a) the sale of the assets of the trust which essentially comprised buildings 6–9 Europort and property in Spain and the companies through which they were owned and managed, subject to debts and liabilities external to the trust; and (b) the making of further distributions to the beneficiaries of the trust notwithstanding the investigations underway in France and Spain concerning the settlor.

Held, ruling as follows:

(1) The application in the present case for approval of the sale of 6–9 Europort and the making of further distributions required the court to consider whether the proposed course of action was a proper exercise of the trustees' powers where there was no real doubt as to the nature of the trustees' powers and the trustees had decided how they wished to exercise them but, because the decision was particularly momentous, the trustees wished to obtain the blessing of the court for the action on which they had resolved and which was within their powers. The role of the court in such cases was that once it appeared that the proposed exercise was within the terms of the trustees' power, the court was concerned with the limits of rationality and honesty; it would not withhold approval merely because it would not itself have exercised the power in the way proposed. However, the court acted with caution because the result of giving approval was that the beneficiaries would be unable thereafter to complain that the exercise was a breach of trust. If the court was left in doubt on the evidence as to the propriety of the trustees' proposal it would withhold its approval (paras. 8–9).

(2) The court would approve the sale of the trust assets. On a narrow reading of the trust deed it could legitimately be argued that an acquisition by Glenthorne did not amount to self-dealing, however Fiduciary had undoubtedly acted properly in procuring the appointment of Summit as a second trustee to comply with the requirements of the trust deed. Moreover, the trustees in seeking the approval of the court in the context of what de facto amounted to self-dealing and what could properly be described as a momentous decision, had acted in a prudent manner. The

settlor and his family wanted to exit the investment in the Europort building and the majority of the adult beneficiaries of the trust agreed to the proposed sale, even though it would be for less than the value of the property (the remaining beneficiaries indicated that they wished to have nothing to do with the trust). The settlor had requested the trustees to sell the trust assets to Glenthorne as quickly as possible. The trustees were not surrendering their discretion to the court and indeed were better placed than the court to decide whether it was in the interest of the beneficiaries to dispose of this very substantial asset for the consideration agreed. For the purposes of obtaining the court's blessing, it sufficed that on the evidence the court was satisfied that the trustees had acted properly and that the decision was within the range of rational decisions which could properly be taken (paras. 12–17).

(3) The court would also approve the making of further distributions to the beneficiaries of the trust notwithstanding the investigations underway in France and Spain. The court accepted that the trust assets could not now constitute criminal property for the purposes of the Proceeds of Crime Act unless they already constituted criminal property at the time of their settlement into the trust. The court also accepted the proposition that suspicions arising from unsubstantiated claims were not sufficient to prevent a banker or trustee from carrying out its contractual or equitable duties to a client or beneficiary. It followed that the issue was not whether the settlor was guilty of the allegations made in France and Spain but rather whether when the assets were settled they were or represented the proceeds of crime. The court was satisfied that the trustees' belief that the provenance of the funds used to acquire the Europort property was gifts from the King of Saudi Arabia (and not the proceeds of criminal conduct) was a considered and reasonable belief and one which could properly be held notwithstanding the ongoing proceedings in France and Spain. Therefore, the trustees could properly continue to discharge their duty to consider making and to exercise their dispositive powers in respect of any of the beneficiaries in the exercise of their discretion under the trust. The relief sought did not encompass the sanctioning of any specific distribution or the exercise of powers generally. If it did, the court would have required distinct representation on behalf of the minor and unborn beneficiaries. However, the trustees ought to be put on notice that the relevant authorities might be privy to information of which the trustees were presently not aware. That information could give rise to knowledge or suspicion about the legality of the provenance of the funds used for the acquisition of the property, and in those circumstances it would be prudent for the trustees to give the Office of Criminal Prosecutions and Litigation 10 working days' notice of their intention to make any distribution (paras. 18–26).

Cases cited:
(1) *C* v. *M* (2002), 4 ITELR 548, referred to.
(2) *Public Trustee* v. *Cooper*, [2001] W.T.L.R. 901, followed.

(3) *R.* v. *Loizou*, [2005] 2 Cr. App. R. 37, referred to.

P. Caruana, *Q.C.*, and *C. Allan* for the claimants;
R. Fischel, *Q.C.* of the Office of Criminal Prosecutions and Litigation on a watching brief.

1 **DUDLEY, C.J.:** This is a Part 8 claim in which the claimant trustees (jointly "the trustees," severally "Fiduciary" and "Summit") seek directions from the court in the administration of a trust pursuant to CPR Part 64 and/or the inherent supervisory jurisdiction of the court over trusts.

2 By their claim form issued on July 18th, 2017, the trustees seek approval of certain intended actions, these are better understood as set out in the claimants' skeleton argument rather than the endorsement in the claim form, namely:

(i) The sale of the assets of the Europort Trust which essentially comprises (i) buildings 6–9 Europort and (ii) No. 12 Sotomar, Sotogrande, San Roque, Cadiz, Spain and the companies through which they are owned and managed, subject to debts and liabilities external to the trust ("the trust assets");

(ii) The making of further distributions to the beneficiaries of the trust notwithstanding certain investigations under way in France and Spain in relation to the settlor Refa'at al-Assad ("RAA"); and

(iii) That the costs of this claim on an indemnity basis be paid as a proper expense of the trust.

3 Fiduciary and Summit are unrelated entities both of which are licensed and regulated by the Financial Services Commission to carry on business as trustees. Each is associated with law firms in Gibraltar, Fiduciary with Isolas and Summit with Andrew Haynes Chambers.

4 The Europort Trust is a Gibraltar discretionary trust dated June 27th, 2000 settled by RAA who is the brother of the then President of the Republic of Syria and the uncle of its current President. RAA is also the protector and a beneficiary of the Europort Trust. The evidence before me (indeed these can be found in publicly available sources) is that serious historic allegations have been made against RAA in relation to events in Syria, namely the Hama Massacre and the Tadmor Prison Massacre, although important to note that the evidence before me is that he has never been formally accused, charged or convicted of any criminal offence in relation to these allegations. In 1984, RAA was exiled from Syria following an alleged attempted coup against his brother Hafez who was President of Syria between 1971 and 2000. In 2006, RAA became a UK resident.

5 At present there are ongoing proceedings against RAA in France and Spain following allegations by an NGO about the manner in which it is said RAA acquired his wealth. French prosecutors have made allegations including of corruption, tax evasion and money laundering. According to the evidence of Andrew Haynes, pursuant to those proceedings RAA's and RAA's family's assets in France and Spain, which comprise the bulk of his and their wealth, have been restrained by orders of the French and Spanish courts. On May 30th, 2017, a French restraining order was registered as an order of the Crown Court at Southwark, London, restraining a property at 54 South Street, Mayfair. The French order underpinning the English Crown Court order purportedly identifies 6–9 Europort as an RAA asset. No restraint order has been issued in Gibraltar.

6 At a case management hearing I was persuaded to hear the claim in private given that some of the evidence before the court was potentially commercially sensitive. However, I indicated that any ruling (which would avoid commercially sensitive information) would be handed down in public, although if necessary it would be accompanied by a confidential appendix; no such appendix has proved necessary.

7 The reasons for my handing down this ruling in public are these. CPR r.39.2(1) establishes the general rule that a hearing is to be in public. CPR r.39.2(3) sets out the circumstances in which a hearing may take place in private, for present purposes the following provisions are engaged:

> "(3) A hearing, or any part of it, may be in private if—
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> . . .
>
> (c) it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality;
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> . . .
>
> (f) it involves uncontentious matters arising in the administration of trusts . . ."

In trust actions there is almost invariably a tension between sensitive private financial or commercial information and the public interest in open justice. In my judgment, in the present case open justice, to the extent that this ruling is handed down in open court, must prevail for two reasons. These arise distinctly in respect of each of the primary limbs of relief sought. It is said by the trustees that they bring this claim notwithstanding the fact that the trust deed permits self-dealing by a trustee (provided certain conditions have been met) because of perceived reputational concerns on the part of Fiduciary and its principals and of the shareholders of Glenthorne Holdings Ltd. ("Glenthorne") who seek to purchase the trust assets. If those reputational concerns are to be properly allayed it is

appropriate that this ruling be handed down in public. The second limb of the relief sought is linked to ongoing criminal investigations into the affairs of RAA by French and Spanish judicial authorities, against that backdrop the public interest in having a transparent judicial process must undoubtedly prevail.

The law

8 The circumstances in which the court will consider the exercise of powers vested in a trustee were considered in an unreported judgment of Robert Walker, J. later quoted in *Public Trustee* v. *Cooper* (2) ([2001] W.T.L.R. at 922):

> "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).
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> (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 . . . [He then gave an example].
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> (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 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 . . ."

Both in relation to the approval of the sale of 6–9 Europort and the making of further distributions, these are applications that fall within the scope of the second category in *Public Trustee* v. *Cooper*.

9 The role of the court in these types of cases is summarized in *Lewin on Trusts*, 19th ed., para. 27–079, at 1139–1140 (2015):

". . . 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"

The passage, para. 27–080, at 1140, is also instructive:

"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 . . . 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)."

The Europort Trust

10 As aforesaid, the Europort Trust was settled by RAA on June 27th, 2000. The current trustees are Fiduciary and Summit. Fiduciary is managed and controlled by its board of which Peter A. Isola is its chairman and is owned by family trusts of Peter A. Isola, Lawerence Isola and Albert Isola, although they themselves are excluded from those trusts. I

shall turn to Summit's appointment as trustee in due course. The class of beneficiaries of the Europort Trust are:

(i) RAA.

(ii) Six adult sons including Siwar al-Assad "SAA" who describes himself as "my father's principal adviser on family wealth and investment management matters, as well as on more general matters" and Douraid al-Assad "DAA" (who together with his two adult children lives in Syria).

(iii) The legitimate children and remoter issue of those six adult sons all of whom other than DAA's children are minors.

(iv) The un-remarried widow of any of the named six sons of RAA, although there are no such widows.

11 As aforesaid RAA is the protector of the trust and by virtue of cl. 11A of the trust deed he is endowed with what is described by Sir Peter Caruana in his skeleton as "a very special and relevant role with regard to investment decision[s]." The relevant part of cl. 11A provides:

> "Notwithstanding anything to the contrary contained in this Settlement it being acknowledged by the Settlor Protector and Trustees that the Trustees have accepted the Trust Fund on the basis that the land underlying the Trust Fund via various holding companies holds more than financial importance to the Settlor and his family and that the Protector has invaluable expertise in the management of such land and investment decisions concerning such land it is hereby declared (in addition to all other indemnities contained herein) that:—
>
> (i) The Trustees shall retain the land and the shares of the various holding companies in the actual state in which they are placed in their hands and shall not without the written consent of the Protector make any sale exchange or other disposition thereof . . ."

Also relevant for the purposes of this claim, para. 20 of the Third Schedule which allows for "self-dealing" by a trustee on the following terms:

> "The Trustees shall have power to enter into any transaction concerning the Trust Fund notwithstanding that one or more of the Trustees may be interested in the transaction other than as one of the Trustees and without any Trustee who is so interested being liable to account for any reasonable incidental profit provided that at least one of the Trustees who is not interested in the transaction other than as Trustee approves the transaction."

The offer to purchase the trust assets

12 The intended purchaser of the trust assets, Glenthorne, is 75% beneficially owned by interests closely connected to Fiduciary. Since the claim was originally filed the beneficial shareholding of Glenthorne has changed and is now as follows:

(i) Bruno Callaghan—as to 10%;

(ii) Carsten Kjeldsen—as to 15%; and

(iii) The family trusts of Lawrence Isola, Albert Isola and Peter Isola, although they are themselves personally excluded from those trusts—as to 75%.

13 On a narrow reading of the trust deed it could legitimately be argued that an acquisition by Glenthorne does not amount to self-dealing, however Fiduciary has undoubtedly acted properly in procuring the appointment of Summit as a second trustee to comply with para. 20 of the Third Schedule. Moreover, the trustees in seeking approval of the court in the context of what de facto amounts to self-dealing and what can properly be described as a momentous decision have acted in a prudent manner.

14 The evidence before me is to the effect that Mr. Lawrence Isola has since 2014 been in discussions with RAA and the trustees from time to time of the Europort Trust to purchase the companies through which 6–9 Europort is held by the trustees. That RAA has been personally involved in these negotiations and it is his and his family's desire to exit the investment in the Europort building, this being driven by Brexit considerations together with a pressing need for money on the part of some of the beneficiaries as a consequence of the freezing of the French and Spanish assets. That RAA has requested that the trustees sell the trust assets to Glenthorne as quickly as possible. All the adult beneficiaries (other than DAA and his adult children) have expressed their agreement to the proposed sale as evidenced in letters addressed to the trustees which have been procured by SAA. When the matter first came for hearing on December 19th, 2017, I expressed the view that the trustees should inform DAA and his adult children that they were beneficiaries of the trust and consult them about the sale. Since then Peter Isola and Andrew Haynes have spoken to DAA and (through him) his two adult sons. They have been given the opportunity to object or consent to the sale but rather have indicated that they are not interested in the trust or being beneficiaries and simply want nothing to do with it.

15 The terms for the proposed sale and purchase of the trust assets are to be found in an undated document entitled "Term Sheet" which was sent by the trustees to SAA *qua* protector under cover of letter dated June 7th, 2017 and which SAA approved under cl. 11A of the trust requesting that the trustees pursue the sale as a matter of urgency. The Term Sheet reflects

an agreement for the acquisition of the companies through which 6–9 Europort is held by the Europort Trust for a net purchase price of £17.5m. Right to say that the agreed value of the property is of £29.5m. and that the intention is for Glenthorne to acquire it subject to a commercial facility of £10m. provided by Cazenove Capital Ltd., which loan is secured by a mortgage over the buildings. Also deducted from the value are £1.2m., being the amount due to tenants in respect of rent deposits, and a further £800,000, being the agreed contribution to be made by the sellers to necessary repairs, refurbishment and infrastructure works to the property.

16 When the matter came before me on December 19th, 2017, I expressed some concern in respect of the valuation that was being relied upon by the trustees in that there were no detailed calculations or yield comparisons. Those deficiencies have now been made good in that in a supplemental report detailed calculations are provided and a satisfactory explanation is given for the absence of yield comparisons, namely an absence of properties of similar size and age. At the time I also expressed the view that given the nature and value of the transaction it would have been desirable for the trustees to have obtained a second valuation. There is now also before me a second valuation which has been produced by M.J. (Gibraltar) Ltd. for Jyske Bank (Gibraltar) Ltd. ("Jyske"). M.J. (Gibraltar) Ltd. has consented to the trustees relying upon that valuation for the purposes of seeking the court's approval to the sale of the property. On the basis of a marketing period of 18–24 months, BFA and M.J. (Gibraltar) Ltd. ascribe to the property a market value of £31m. and £31.3m. respectively. Both valuers also express a valuation opinion on the basis of a reduced marketing period of 4–6 months with BFA ascribing the property a value of £25m. and MJ (Gibraltar) Ltd. £23.5m.

17 The trustees are not surrendering their discretion to the court and indeed they are better placed than the court to make a decision as to whether in the present circumstances it is in the interest of the beneficiaries to dispose of this very substantial asset for the consideration agreed. For the purposes of obtaining the court's blessing it suffices that on the evidence I am satisfied that the trustees have acted properly and that the decision is within the range of rational decisions which could properly be taken.

Sanctioning of further distributions

18 This aspect of the claim arises as a consequence of the proceedings in France and Spain that I have previously identified but is exacerbated by the fact that Jyske, with whom companies in the Europort Trust hold accounts, has placed a unilateral block on the flow of funds to RAA or any member of his family. Jyske has not provided the companies or the trustees any explanation for its action. In his first witness statement

Andrew Haynes, not unreasonably, speculates that Jyske may have made a Suspicious Activity Report under the Proceeds of Crime Act to the Gibraltar Financial Intelligence Unit who in turn may have issued a "no consent" under that Act, with Jyske not providing an explanation to its accountholders because of concerns about possible "tipping off" offences.

19 A possible and not unreasonable motivation on the part of the trustees in seeking this relief may possibly be gleaned from a passage in *Lewin*, para. 26–033, at 1074:

> ". . . [I]f a trustee becomes aware after taking office that the trust may be part of a money laundering operation instigated by the settlor, the trustee will be concerned that if he distributes the trust fund to the beneficiaries in accordance with the trust, the third party may claim against him that the distribution amounted to dishonest assistance in a breach of fiduciary duty on the part of the settlor. If in such circumstances the trustee acts in accordance with the directions of the court, having made full disclosure to the court, it could hardly be suggested by the third party that the trustee had acted dishonestly in making the distribution, being one permitted by the court after the trustee had taken such steps as the court considered appropriate in the circumstances. Hence a claim by the third party based on dishonest assistance would be bound to fail."

20 I accept Sir Peter's submission that the trust assets cannot now constitute criminal property for the purposes of the Proceeds of Crime Act unless they already constituted criminal property at their time of their settlement by RAA into the trust (*R.* v. *Loizou* (3)). I also accept the proposition that suspicions arising from unsubstantiated claims are not sufficient to prevent a banker or trustee from carrying out its contractual or equitable duties to a client or beneficiary (*C* v. *M* (1)). It follows that I also accept Sir Peter's submission that the issue is not whether or not RAA is guilty of the allegations being made in France and Spain but rather the issue is whether when the assets were settled they were or represented proceeds of crime.

21 Although the shares in the company owning 6–9 Europort Building were settled into the Europa Trust on June 27th, 2000, one must look at the evidence in relation to the acquisition by RAA of the Europort Building (which at the time, but no longer, also included the building known as Atlantic Suites) which took place very shortly before on the June 14th, 2000.

22 The evidence of Peter Isola is that he was one of the original trustees of the Europort Trust. That he is informed and believes to be true the information given to him by two other original trustees, namely Mark Bridges, a partner in the English solicitors Farrer & Co., and Peter Borrie, at the time a partner in the English solicitors, Lawrence Graham. That

according to Peter Borrie and Mark Bridges the buildings were originally acquired by RAA using the proceeds of loans from each of two trusts (£14m. in total) that had been settled by RAA, known as the English Palomino Trust and the Oryx Trust, of both of which Peter Borrie and Mark Bridges were trustees. That he is informed by Messrs. Borrie and Bridges and verily believes that the two trusts had been funded for that purpose by RAA from the proceeds of a loan from Deutsche Bank in Luxembourg on the security of shares in a communications satellite owning and operating company called SES, based in Luxembourg, which shares were later retained by the bank in settlement of the loan. Also Peter Isola's evidence that he is further informed by Peter Borrie (Mark Bridges not having been appointed a trustee at the time) which in turn was based on information provided by RAA that the origin of the funds used by RAA to purchase the shares in SES were gifts from the then King of Saudi Arabia. Also according to Peter Isola, whose evidence in this regard is derived from SAA, is that a further £3m. used towards the purchase was the proceeds from the sale of a property in Monaco which had been purchased by RAA from money gifted to RAA by the then King of Saudi Arabia.

23 Support for those assertions of fact can be derived from the following matters which are in evidence before me:

(i) SAA's statement as to how the friendship between RAA and the late King Abdullah of Saudi Arabia came about developed over time;

(ii) that RAA and his son SAA have throughout the existence of the Europort Trust consistently said that the ultimate provenance of the funds used for acquiring the building was moneys from the King of Saudi Arabia, when there was no need to suggest or assert otherwise;

(iii) very significantly, that Peter Isola is aware from bank transfers received into Isola's client account and RAA's bank account in Gibraltar that in the period July 2012 to December 2014 RAA received from the Royal Court in Jeddah, Saudi Arabia some US$3,500,000 and £6,261,375;

(iv) a personal letter from King Abdullah to RAA reflecting their close personal friendship;

(v) an investigation report commissioned by Fiduciary Management Ltd. from a reputable investigations agency in London in September 2014 (for regulatory due diligence purposes) indicating that RAA received very substantial cash gifts from the late King Abdullah; and

(vi) reports by three individuals, from the United States, Italy and Israel who historically held high level political/intelligence appointments, confirming the friendship between the late King Abdullah and RAA and in that context their understanding that very significant financial support was provided by King Abdullah to RAA.

24 On the basis of the evidence before me I am satisfied that the trustees' belief that the provenance of the funds used to acquire the Europort Building was gifts from the King of Saudi Arabia (and not the proceeds of criminal conduct) is a considered and reasonable belief and one which can properly be held notwithstanding the ongoing proceedings in France and Spain. Therefore, the trustees can properly continue to discharge their duty to consider making and to exercise their dispositive powers in respect of any of the beneficiaries in the exercise of their discretion under the Europort Trust.

25 I should add that the relief sought does not encompass the sanctioning of any specific distribution or the exercise of those powers generally. If it had, then I would have required distinct representation on behalf of the minors and of unborn future beneficiaries.

26 However, Andrew Haynes' not unreasonable speculation that Jyske may have made a Suspicious Activity Report under the Proceeds of Crime Act to the Gibraltar Financial Intelligence Unit, who in turn may have issued a "no consent" under that Act, ought to put the trustees on notice that the relevant authorities may be privy to information of which the trustees are presently not aware. That information could give rise to knowledge or suspicion about the legality of the provenance of the funds used for the acquisition of 6–9 Europort, and in those circumstances it would be prudent for the trustees to give the Office of Criminal Prosecutions and Litigation 10 working days' notice of their intention to make any distribution.

27 Orders accordingly and it follows that this being a claim properly brought by the trustees, the claimants' legal costs of this claim, on an indemnity basis, are to be paid as a proper expense of the trust out of the fund of the trust.

Orders accordingly.