



Neutral Citation Number: [2025] CIGC (Civ) 10

Cause No: PA2023-0125

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

PROBATE AND ADMINISTRATION

IN THE MATTER OF THE ESTATE OF FITZROY LOXLEY MUNROE (Deceased)

BETWEEN:

AYLAIR ELESIE MUNROE

Caveator

-and-

(1) JACQUELINE DUFFUS

(2) DANIEL MUNROE

Objectors

Appearances: Ms Stacey Thompson for the Caveator
Mr Greg Walcolm of Murray & Westerborg for the Objectors

Before: The Honourable Justice Jalil Asif KC

Heard: 18 April 2024, 18-19 June 2024 and 25-26 July 2024

Judgment delivered: 24 March 2025

Wills—grant of probate—whether caveat to grant of probate successfully warned off

Wills—due execution—whether grounds to argue that will not properly executed

Wills—appointment of executors—whether Court should refuse to appoint proposed executors on the ground that they are unfit for that office

JUDGMENT

A. Introduction

1. This is my judgment on the preliminary issues ordered by Carter J to be tried in this case. To avoid confusion, I will refer to the children in the Munroe family by their first names – no discourtesy is intended. The caveat which has given rise to these proceedings was originally filed by Mrs Aylair Munroe. However, shortly before finalisation of this judgment, Mrs Munroe died. Nevertheless, I continue to refer to her in this judgment for the sake of simplicity.
2. In summary, on 24 October 2023, Mrs Munroe filed a caveat to prevent Mrs Jacqueline Duffus (néé Munroe) and Mr Daniel Munroe from proceeding to obtain a grant of probate in respect of a document purporting to be the last will and testament of Mr Fitzroy Loxley Munroe. Mrs Munroe contends that the Will is not genuine. Jacqueline and Daniel contend that the caveat was vacated as a result of Mrs Munroe’s failure to respond to a warning of the caveat within the time required, so that Jacqueline and Daniel are no longer prevented from proceeding to obtain the grant of probate. Mrs Munroe disputes that position.
3. Against that background, on 12 March 2024, Carter J made the following order for the trial of preliminary issues:

“1. That there is a preliminary issue to be determined regarding the standing of the Caveators vis a vis Rule 44(8) and (9) of the Probate and Administration Rules.

2. That there is to be a rolled-up hearing of the preliminary issue as well as the further issue of whether, in any event, the Caveators can satisfy the Court that the caveat should remain in effect.”

The “Caveators” referenced in the Order is Mrs Munroe, as the caveat was lodged in her name alone. In addition to these orders, Carter J recused herself from hearing the trial of the preliminary issues.

4. The matter initially came before me on 18 April 2024 for the trial of the preliminary issues. Mrs Munroe was represented by Ms Stacey Thompson and Jacqueline and Daniel by Mr Greg Walcolm. It quickly became apparent that their views as to how the preliminary issues should be tried were very different, for example whether oral evidence was required. In addition, Ms Thompson raised for the

first time that Mrs Munroe wished to obtain evidence from a handwriting expert to support her case that the Will is not genuine. As a result, the time estimate of 1 day was wholly inadequate and it was not possible to conclude matters on that date. I adjourned the matter part-heard to 18 and 19 June 2024. However, those dates were also inadequate to complete the oral evidence, with the result that I had to adjourn the matter part-heard for a second time. Initially it was re-listed for 4-5 July 2024, but that date had to be vacated due to hurricane Beryl. The oral evidence was therefore completed on 25-26 July 2024 and the parties were ordered to submit closing arguments in writing. Mrs Munroe received a report from the handwriting expert on 6 August 2024, which was provided to the Court by Mr Walcolm on 8 August 2024. Mrs Munroe filed written closing submissions on 19 August 2024. Jacqueline and Daniel filed written closing submissions on 23 February 2025, and further closing submissions were filed on behalf of Mrs Munroe on 7 March 2025.

5. In addition to the affidavits filed by or on behalf of the parties, I heard oral evidence from Mrs Munroe; her daughters Janet Sairsingh and Jane Gordon; Norma Ebanks (the tenant of one of the commercial units formerly owned by Mr Munroe); Jacqueline; Daniel; Delroy Murray (attorney); Glenda Duarte McGowan (witness to execution of the Will); and Michael Ebanks (a process server).

B. The background facts

6. I take the following essentially uncontentious background facts from the documents that are before me for the trial of the preliminary issues.
7. Mr Munroe died on 23 March 2023. Mr and Mrs Munroe were married for 36 years before Mr Munroe's death.
8. At the date of his death, Mr and Mrs Munroe had seven children: one child from his marriage to Mrs Munroe, Kirt Munroe; Mrs Munroe's two children from a relationship before she met Mr Munroe, Janet Sairsingh and Jean Gordon, who Mr Munroe treated as his family; and four children born either before or outside Mr Munroe's marriage to Mrs Munroe and whom he accepted as his own, Jacqueline, Maxine, Suzanne and Daniel.
9. On 14 July 2023, Jacqueline and Daniel applied for probate of the Will.

10. On 17 October 2023, there was a family meeting involving Mrs Munroe, Janet, Jacqueline and Daniel and two other persons invited by Jacqueline, as explained later in this judgment. In summary, Jacqueline and Daniel told Mrs Munroe and Janet that Mr Munroe had left a Will and wanted Mrs Munroe to sign a form of renunciation of any intention to obtain probate of Mr Munroe's Will. Mrs Munroe did not agree to do so and wanted time to obtain legal advice. I will return to this meeting later in this judgment.
11. On 17 October 2023, Janet filed an application for letters of administration on the basis that Mr Munroe was intestate (this despite being told at the family meeting of the existence of the Will). Her application was supported by Mrs Munroe. On 24 October 2023, Janet and Mrs Munroe learned that Jacqueline and Daniel had already applied for probate of the Will. Mrs Munroe thereupon filed the caveat in question on 25 October 2023 (dated 24 October 2023).
12. In about December 2023, Mrs Munroe engaged Ms Thompson in place of her previous attorneys. Ms Thompson filed a Notice of Change on 8 January 2024, albeit the Notice is dated 27 December 2023.
13. On 19 December 2023, Jacqueline and Daniel filed a Warning to Caveator with the Grand Court. The Warning was served on Mrs Munroe on or about 9 January 2024. There is a dispute as to the precise date of service, to which I will return. The Warning required Mrs Munroe to enter an appearance or to issue and serve a summons for directions showing cause against the grant of probate within 8 days.
14. On 17 January 2024, Ms Thompson wrote to Jacqueline, Daniel and the court office stating that she had not received any documents from Mrs Munroe's previous attorneys and requesting an extension of time until 22 January 2024 to respond to the Warning to Caveator. Jacqueline and Daniel replied that they had served Mrs Munroe with the Warning on 9 January 2024. Ms Thompson arranged for a summons for directions to be filed the same day, 17 January 2024. The summons was given a date for hearing of 13 February 2024, but this appears subsequently to have been varied to 20 February 2024.
15. The summons for directions filed on behalf of Mrs Munroe raises a number of issues, the key one being whether Mrs Munroe's objection to the grant of probate of the Will is justified.

16. At the hearing of the summons for directions before Carter J on 20 February 2024, Mrs Munroe complained that the evidence relied upon by Jacqueline and Daniel had not been served on her. Carter J adjourned the summons to 12 March 2024 and ordered evidence to be filed and served on each side. As indicated earlier in this judgment, when the matter came back before Carter J on 12 March 2024, she made the order for the trial of the specified preliminary issues.

C. Summary of the parties' positions

17. Jacqueline's and Daniel's case is that Mrs Munroe was served with the Warning to Caveator on 9 January 2024 so that the caveat automatically vacated on 16 January 2024 as a result of Mrs Munroe's failure to respond. They say that Mrs Munroe's summons for directions was filed out of time, and the caveat was not revived by it, with the result that there is no longer any bar to a grant of probate in their favour.
18. Mrs Munroe does not accept that the Warning to Caveator was served on 9 January 2024. She says she is unable to recall the precise date on which it was served upon her but accepts that it was either 9, 10 or 11 January 2024. She says that the signature on the document exhibited to the affidavit of service, which confirms service at 8.49 am on 9 January 2024, is not her signature.
19. Substantively, Mrs Munroe disputes that the Will is valid. She complains that when she raised the question of making a will with Mr Munroe in about 2022, he was fearful and said that if he made a will that would make his death imminent. She says that he told her he did not want to make a will, and she therefore believes that he did not execute the Will. Secondly, Mrs Munroe argues that the Will contains inaccuracies regarding Mr Munroe's estate or other questionable features. She relies on these both to put in doubt that the Will is his document and also to argue that Mr Munroe's estate cannot properly be administered on the basis of the Will. Thirdly, she argues that Jacqueline and Daniel are unfit to act as executors of Mr Munroe's estate on a number of grounds.
20. On the assumption that the Will is invalid, Mrs Munroe contends that she has priority to obtain Letters of Administration in respect of Mr Munroe's estate.
21. Mrs Munroe's contentions that the Will is not valid and that Jacqueline and Daniel are unfit to act as executors are not within the scope of the preliminary issues that Carter J ordered to be tried.

D. Has the caveat been warned off?

22. Logically, the first question to be answered is whether the caveat has been effectively warned off. Rule 44 of the Probate and Administration Rules (2008 Revision) provides as follows:

“Caveats

44. (1) Whoever wishes to ensure that no grant is sealed without notice to himself may enter a caveat in the Registry.

(2) A caveat is entered by a person (“the caveator”) completing a prescribed form and posting or lodging it with the Clerk.

(3) A caveat may be lodged by an attorney-at-law on behalf of a named caveator.

(4) A caveat shall cease to operate six months after lodgment without prejudice to the right to lodge a further caveat or caveats.

(5) The Clerk shall keep a chronological record of caveats and shall make a search therein upon the receipt of every application and before the sealing of any grant.

(6) No grant shall be sealed in respect of which an operative caveat has been lodged on or before the day previous to the day of sealing.

(7) Objection may be lodged against a caveat by the objector lodging with the Clerk a warning in the prescribed form requiring the caveator to declare his interest in the relevant estate, and the Clerk shall serve such warning upon the caveator.

(8) A caveator, not having a contrary interest, but wishing to show cause against the sealing of the grant shall, within eight days of the despatch to him of a warning, lodge, at the Registry, a summons for directions with copy thereof to the objector.

(9) Should the caveator fail to lodge a summons for directions timeously in accordance with subrule (8), the caveat shall be deemed to be vacated unless the court otherwise directs.

(10) Upon the receipt of a summons for directions, the Clerk shall cause the matter to be set down for hearing by the court and notify all parties in that behalf.

(11) A caveator having an interest contrary to the objector may, within eight days of the service of the objection upon him, inclusive of the day of such service, enter an appearance in the Registry by service in the prescribed form and service of a sealed copy thereof upon the objector.

(12) A caveat in respect of which an appearance to a warning has been filed shall remain in force until the commencement of a probate action.

(13) The commencement of a probate action, whether or not arising out of a caveat shall operate to prevent the sealing of the relevant grant until the court otherwise directs.”

23. There are two different situations catered for within Rule 44. The first is where the caveator does not have a contrary interest to the person who has applied for a grant of probate: see Rules 44(8)-(10); and the second is where they do have a contrary interest: see Rules 44(11)-(13). It was common ground between the parties that Mrs Munroe does not have a contrary interest to Jacqueline and Daniel.
24. Under Rule 44(8), a caveator who does not have a contrary interest must respond to a warning of the caveat by lodging a summons for directions at the Registry within eight days “*of despatch to him of a warning*”. Rule 44(8) does not refer to the date of service of the warning upon the caveator. On the

other hand, Rule 44(11) addresses the situation of a caveator who has a contrary interest, and in that situation requires the caveator to enter a notice of appearance within eight days “*of service of the objection upon him*”.

25. There is a clear difference between the wording of Rule 44(8) and Rule 44(11) as to the date from which time starts to run. In light of their close proximity within Rule 44, the difference must be intentional on the part of the drafter of the Rules.
26. Thus, in my judgment, the relevant date for the purpose of Rule 44(8) is not the date when the Warning was served upon Mrs Munroe but is instead the date when it was despatched on behalf of Jacqueline and Daniel to Mrs Munroe.
27. The Warning was filed at the Registry on 19 December 2023. Pursuant to Rule 44(7), the Clerk of Court should have served the warning upon Mrs Munroe once it had been filed. It does not appear that she did so. Instead, the attorneys for Jacqueline and Daniel arranged for the Warning to be served on Mrs Munroe. The documents before me do not include a copy of a covering letter to provide evidence of the date of despatch of the Warning.
28. It is not disputed that Jacqueline’s and Daniel’s attorneys engaged NCI Freight & Logistics Ltd to serve the Warning. The individual who dealt with service was Michael Ebanks. In his affidavit of service, sworn on 7 March 2024, Mr Ebanks confirms that the content of his affidavit is true to the best of his knowledge and belief. He says that he personally served Mrs Munroe with a copy of the Warning dated 19 December 2023 at about 8.49 am on 9 January 2024. He states that he effected service on Mrs Munroe at her home address and that she identified herself to him. He refers to and exhibits a copy of the Warning and an email confirming service of the document. The email is in the following terms:

“Pickup at:

Murray & Westerborg, Atty-at-Law

...

Deliver to:

Aylair Elesie Munroe

...

Order details:

...

Signature: a.munroe

Order Delivered at: 09/01/24 8:49AM

Immediately below the words “*order delivered*” is an image of a signature that appears to read “A.MONRK”. This is the signature that is disputed by Mrs Munroe. The email itself is dated 5 March 2024, and appears to have been prepared in response to a request from Murray & Westerborg on 5 March 2024 for confirmatory evidence of delivery.

29. Unfortunately, it very quickly became clear from Mr Ebanks’ oral evidence that significant parts of his affidavit are not true or are not within his personal knowledge when he said that they are. It is extremely unsatisfactory and regrettable that he swore an affidavit that is seriously inaccurate.
30. Having confirmed that he had sworn his affidavit and having verified the truth of what he said in his affidavit, Mr Ebanks departed from the content of his affidavit as soon as he started to give evidence in chief. His oral evidence was that he called Mrs Munroe to arrange a convenient time to serve her. He said he thought it was early in the morning. Mrs Munroe said that she was at the hospital. She suggested that she would be at home in the afternoon. Mr Ebanks said that he went to meet Mrs Munroe in the afternoon at Tropical Gardens, where she lived. He said he called her on the telephone, but she did not answer. He waited for a while and then called Mrs Munroe again. This time she answered and said that she was in her living room. Mr Ebanks went to her house and told Mrs Munroe that he had a letter from Murray & Westerborg that he wanted to serve on her. He asked her to sign for the document, but she said she was feeling weak and he was concerned about social distancing given that she had been at hospital that morning, so Mr Ebanks signed for her. He said that he usually takes a picture when he serves a document but did not do so on this occasion. He said that the image of the signature that is within the email he exhibited is his signature, not that of Mrs Munroe. Finally, in his evidence in chief, he said that he had simply given Mrs Munroe a yellow envelope, and did not and does not know what was inside it.
31. In response to cross-examination, Mr Ebanks repeated that he had served the envelope on Mrs Munroe in the afternoon and said that it was at about 2:00 pm. He did not offer any explanation why the email recorded that delivery was at “8:49 AM”. He said that he normally has about 35 deliveries to make each day. When he completes a delivery, he signs off on an app on his telephone and that notifies his supervisor in the office. He stated that his supervisor can change the delivery time that is recorded

but did not suggest that that had happened in this case. He explained that when he swore his affidavit, he based his statement as to the date and time for service on NCI's computer records. He accepted that he could not remember the precise date. Finally, he confirmed that he is not permitted to open envelopes that he is delivering. He said that he does not know what was in the envelope and cannot say whether or not it was the Warning. However, he confirmed that the envelope was from Murray & Westerborg and also said that this particular delivery was unusual because he stood by Mrs Munroe's sliding door and signed for her, which is why he recalls it. He did not explain why he confirms in his affidavit that the document he served was "*the Warning to Caveator dated 19 December 2023*" and exhibits it as the document he served, when all he can truthfully say from his own knowledge is that he gave Mrs Munroe the yellow envelope.

32. In other words, Mr Ebanks' confirmation in his affidavit that he served a copy of the Warning to Caveator upon Mrs Munroe is untrue because he did not see the document within the envelope and cannot say what it was that he served on Mrs Munroe.
33. In her affidavit sworn on 8 May 2024, Mrs Munroe says that a young man came to her house on 9, 10 or 11 January 2024. She is adamant that she did not sign anything and that the signature exhibited by Mr Ebanks is not hers, which, in light of Mr Ebanks' oral evidence, is now common ground. She accepts that she received a document in early January 2024 entitled "Warning to Caveator" but is not able to confirm the date.
34. Mrs Munroe's oral evidence was that the man asked if she was Mrs Munroe, and she confirmed she was. She said that he gave her the document but did not read it to her, he just gave her an envelope. She said again she did not remember the date.
35. There is no evidence from Murray & Westerborg to confirm what was put into the envelope that Mr Ebanks collected and delivered to Mrs Munroe. However, I infer that it was a copy of the Warning to Caveator. I do so because Mrs Munroe's own evidence is that she received a copy of the Warning on 9, 10 or 11 January 2024, and there is no suggestion that Murray & Westerborg sought to serve any other document on Mrs Munroe at that time. Notwithstanding the serious question mark over the time at which Mr Ebanks served the envelope, I accept as accurate NCI's record that delivery took place on 9 January 2024. This is supported by Jacqueline's and Daniel's nearly contemporaneous response to Ms Thompson's letter of 17 January 2024 that they had served the Warning on Mrs Munroe on 9

January 2024, which I consider is likely to be factually accurate because of its proximity in time to the event. I also note that Janet said in response to cross-examination that she and Mrs Munroe were aware that they had to respond to the Warning by 16 January 2024, which is consistent with the Warning being served on 9 January 2024.

36. I therefore conclude that the Warning was both despatched by Murray & Westerborg and served upon Mrs Munroe on 9 January 2024.
37. Under Rule 44(8), Mrs Munroe therefore had to lodge a summons for directions by no later than 16 January 2024 if she wished to preserve her caveat. On the facts of this case, this applies whether time runs from date of despatch, as I have held it should, or from date of service. She did not do so. Her summons for directions was filed on 17 January 2024. Accordingly, by Rule 44(9), Mrs Munroe's caveat is to be deemed to have been vacated unless the court otherwise directs.
38. Ms Thompson, on behalf of Mrs Munroe, submits that a caveat is not automatically vacated, and that an affidavit of service must be filed before that can happen. Ms Thompson relies on Rule 44(12). Ms Thompson also relies on certain statements as to the practice regarding warnings of caveats set out in *Tristram & Coote's Probate Practice* (3rd edition), which is a leading practitioners' work covering probate and administration in England and Wales.
39. There are four reasons why I do not accept Ms Thompson's submissions on this point. The first is that Rule 44(9) is clear that the caveat is "deemed" to be vacated, unless the court otherwise directs. The inclusion of a deeming provision in Rule 44(9) contradicts the suggestion that it was for Jacqueline and Daniel to swear and file an affidavit of service before any warning off of the caveat would be effective. Secondly, the Rules provide that the Warning should be served by the Clerk of Court. This again is inconsistent with the existence of a requirement on the objector to swear and file an affidavit of service because in the usual case it will be the Clerk of Court who despatches the warning and who will deal with the removal of the caveat administratively if no summons for directions or notice of appearance is filed in time. Thirdly, Rule 44(12) is irrelevant to the warning of a caveat of the kind filed by Mrs Munroe: it applies where the caveator has a contrary interest and files a notice of appearance. Fourthly, I agree with Mr Walcolm that it is unnecessary and inappropriate to draw on English probate practice in this area, where the English Probate Rules are significantly different in

their terms and in their structure from the Probate and Administration Rules applicable in the Cayman Islands.

40. I therefore conclude that the caveat was properly warned on behalf of Jacqueline and Daniel.
41. In my judgment, in order for the Court to have proper material to exercise its discretion to “otherwise direct” that the caveat should remain in effect notwithstanding it having been properly warned, the Court must have both an explanation for the caveator’s failure to comply with the time limit in the Rules and evidence showing that the contentions that the caveator wishes to put forwards amount to a good arguable case against the grant of probate that has been sought.
42. Mrs Munroe has not put forward any substantive reason why I should direct otherwise, beyond her contentions about the validity of the Will and Jacqueline’s and Daniel’s fitness to act as executors. In particular, she gives no explanation in her affidavit and gave none in her oral evidence why, having received the Warning and, as I infer from Ms Thompson’s request on 17 January 2024 for an extension of time to respond to it, having informed her attorneys that she had received it, the summons for directions was not lodged in time.
43. In the absence of such an explanation for her delay in filing the summons for directions, I consider that Mrs Munroe needs to show strong substantive objections to the validity of the Will in order to persuade me that I should “otherwise direct” that her caveat should remain effective despite her failure to file her summons for directions within the time required by the Rules and her failure to provide an explanation for that default. For the reasons that follow, I do not consider she has done so.

E. Is the Will valid?

44. The Will is dated 11 April 2001. It is in the name of Fitzroy Munroe and gives his address, which was where he and Mrs Munroe continued to live until their respective deaths. The Will names Mr Errol Elliott and Mr Desmond Williams as Mr Munroe’s executors. The Will sets out a number of specific bequests. Mr Munroe’s execution of the Will is recorded as being witnessed by Glenda Duarte McGowan and Helen Whittaker.

45. Jacqueline and Daniel appear to have been aware that Mr Murray had drafted a will for Mr Munroe. Following Mr Munroe's death, Jacqueline and Daniel asked Mr Murray whether he had a copy. Mr Murray was not able to locate a copy. A few days later, Mr Elliott met Mr Murray and gave him a copy of the Will. Mr Elliott told Mr Murray that Mr Munroe had given him the Will for safekeeping and Mr Elliott had kept it since then. Mr Elliott told Mr Murray that neither he nor Mr Williams were keen on being involved in administering Mr Munroe's estate. Mr Murray told them they would have to renounce their executorship, which they both did.
46. Jacqueline and Daniel engaged Mr Murray to act on their behalf to obtain probate of the Will. On 14 July 2023, Jacqueline and Daniel filed an application for probate of the Will. In their joint affidavit in support, they state that Mr Elliott and Mr Williams have renounced probate and exhibit a form of renunciation signed by both Mr Elliott and Mr Williams and witnessed by a third party. There is no suggestion that the renunciation is not a genuine document. Jacqueline and Daniel identify in their affidavit the other persons with interests in Mr Munroe's estate who might be appointed as executors, including identifying Mrs Munroe as being Mr Munroe's widow.
47. Mrs Munroe disputes the validity of the Will on three grounds:
- 47.1 the Will was not executed by Mr Munroe because the signature on the Will does not appear to Mrs Munroe to be his signature;
- 47.2 the Will was not duly executed – Mrs Munroe contends that the evidence of Ms Duarte confirming that she and Ms Whittaker witnessed Mr Munroe's execution of the Will is dishonest; and
- 47.3 the Will does not reflect Mr Munroe's known wishes and intentions, and it is unlikely that he would have known and approved its contents.

E.1 Was the Will signed by Mr Munroe?

48. Mrs Munroe eventually obtained an expert report dated 31 July 2024 from Brett M D Bishop of Bishop Document Examination Services LLC. The expert report does not contain the usual statements by the expert that they are aware of and have complied with their duty to help the Court, that they recognise that their duty to the Court overrides any duty to their client and that their report contains their unbiased independent opinion on the matters in issue. Notwithstanding these formal deficiencies in Mr Bishop's report, I am willing to accept it as admissible evidence.

49. Mr Bishop puts forward a scale of possible conclusions running from inconclusive, through “indications”, to probable, highly probable and identification or exclusion. Based on his review of the Will and other documents bearing Mr Munroe’s signature submitted to him by Mrs Munroe, Mr Bishop concludes that the signature on the Will is that of Mr Munroe “to a high degree of certainty.” Mr Bishop describes this as:

“... [r]epresenting the most definitive of findings in an expert opinion, the evidence supports without reservation ... common authorship between the known and questioned writing ...”

Mr Bishop’s conclusion is thus beyond “probable” or “highly probable” on the scale of conclusions that he puts forward.

50. Mr Bishop bases his conclusion on a comparison of writing characteristics in the documents, namely:

“... Significant similarities include size, spacing, slant, style, skill, pressure, proportions, baseline, initial and terminal strokes, pen lifts, letter formations, connections, and letter combinations,”

51. Mrs Munroe’s first ground of challenge to the Will is therefore hopeless and must fail.

E.2 Was the Will duly executed?

52. The Will was witnessed by Ms Duarte and Ms Whittaker. Ms Duarte submitted an affidavit and gave oral evidence. In her affidavit, Ms Duarte said:

“4. I can confirm that the writing ‘Glenda Duarte McGowan’ was made by me and that the signature across from the said writing is mine.

5. At the time of my signing the said document the Policy of the firm was that where a client required to sign a Last Will and Testament at the offices, after it was prepared, the client was taken to the Conference Room and the Attorney who prepared the Last Will and Testament would have Mrs. Helen Whittaker, the firm’s then Legal Secretary and myself witness the signature of the person making the Will.

6. From looking at the said Exhibit I can say, that although I do not specifically recall the occasion of the signing, it was signed in the presence of Mrs. Whittaker and myself as I recognize her signature as well as mine.”

53. Ms Duarte’s evidence in chief was that being a witness to execution of a document meant that she and another person would go into the conference room and, once the client has signed the document, she and the other person would attest that they had witnessed the signature. In relation to her witnessing of the Will, Ms Duarte said that she knew Mr Munroe but would not now recognise his

signature. She recognised Ms Whittaker's signature and said that they had worked together for about 4-5 years.

54. Ms Duarte was cross-examined by Ms Thompson. Ms Duarte confirmed that in 2001 the firm was known as Samson Murray Jackson, although mistakenly referred to as Murray & Westerborg in her affidavit. She was asked about the circumstances in which her affidavit in these proceedings had been prepared. She said that she had spoken to Mr Murray about the execution of the Will. He then prepared a draft of her affidavit, and she had checked it before swearing it.
55. Ms Duarte recalled Mr Munroe coming to Samson Murray Jackson's offices. She did not recall the date, but did recall the event. She had known Mr Munroe for a long time and had gone to school with his stepdaughters. Mr Munroe met Mr Murray in the conference room. Ms Duarte and Ms Whittaker were then asked to come in to witness a document. Ms Duarte read over the document at Mr Murray's request and then witnessed Mr Munroe's signature on it. She recalled that the document said it was a will and testament. She said that she recognised the copy of the Will in evidence as being the document that she and Ms Whittaker witnessed. She recognised her own signature and that of Ms Whittaker, and the place where Mr Munroe had signed, although she did not recognise his signature.
56. Ms Duarte confirmed that her description in her affidavit of the firm's policy regarding witnessing documents was correct. She said that there were no deviations from the policy that she recalled during her 7½ years working for the firm. She disagreed, for example, that she might sign at a later time than Ms Whittaker.
57. Ms Duarte described that she watched Mr Munroe's funeral online, and at that time had a vivid recollection of the meeting when he had executed the Will and she and Ms Whittaker had witnessed it. She accepted that this was not said in her affidavit.
58. Ms Thompson challenged Ms Duarte's statement that she could recollect the contents of the Will and suggested that Ms Duarte could not be definite. Ms Duarte responded that the Will bears her initials and signature and looks like the document that she signed. She could not see that there is anything different in it from the document that she signed in 2001, and to her recollection it is the same document that she signed.

59. Ms Duarte said that she rarely witnessed the execution of a will and guessed that it might be about 3 times during the 7½ years that she worked at Samson Murray Jackson.

60. Based on the difference between Ms Duarte’s statement in her affidavit that she could not specifically recall the occasion of the signing and her oral evidence, Ms Thompson submits that:

“26. ... the evidence presented by Ms Glenda McGowan is quite remarkable. Ms McGowan’s Affidavit states at paragraph 6 ‘[...] although I do not specifically recall the occasion of the signing, it was signed in the presence of Mrs Whittaker and myself as I recognize her signature as well as mine’.

27. When probed on this during her cross examination on July 26, 2024, Ms McGowan amended her evidence to then say that she recalls clearly not only the Testator executing the Will but also line for line every term and bequest of said Will. ...

29. Ms McGowan moves from a position where on May 31, 2024 she does not specifically recall the occasion of the signing to one where on July 26, 2024 she phenomenally recalls it all. It is either that Mrs McGowan is gifted with rare mental prowess or that she has completely been dishonest in her live evidence. The Caveator respectfully invites the court to accept the latter option, disregard the evidence of this witness altogether and find that due execution has not been proven by the Objectors.”

61. A submission that a witness’s evidence is dishonest is a very serious allegation to make. It carries with it the implicit allegation that the witness is knowingly giving false evidence, otherwise the evidence is not “dishonest” it is simply factually incorrect. An allegation of dishonesty needs a proper factual foundation and must be put to the witness so that they have the opportunity to respond to it.

62. I reject Ms Thompson’s submission that Ms Duarte’s oral evidence was dishonest, which should not have been made. Ms Thompson did not put to Ms Duarte in cross-examination that her evidence was being given dishonestly, as she should have done. Ms Thompson merely challenged Ms Duarte’s description of her recollection of the Will and suggested that it is implausible. Ms Duarte was therefore not given any opportunity to respond to the assertion now made by Ms Thompson that her evidence was given dishonestly. Neither did Ms Thompson put to Ms Duarte or put forward in submissions any reason why Ms Duarte, who has no interest in the outcome of this dispute, would knowingly put forward untrue evidence. I am not aware that there is any reason for her to do so, and I accept her oral evidence as being truthful that she and Ms Whittaker witnessed Mr Munroe’s execution of the Will, as recorded in the document itself.

63. There is no need for me to make any finding as to whether Ms Duarte’s description of her recollection of the detailed contents of the Will is accurate, since her duty as an attesting witness was simply to

observe Mr Munroe executing the Will and then to sign the attestation clause to confirm that the Will was executed by Mr Munroe in Ms Duarte's presence. Her oral evidence on this is clear that she had done so and that the witnesses' signatures on the Will are those of Ms Whittaker and Ms Duarte.

64. I therefore reject Mrs Munroe's submission that the Will was not properly executed.

E.3 Do other features of the Will demonstrate that it does not reflect Mr Munroe's known wishes and intentions, and that it is unlikely he knew and approved its contents?

65. Ms Thompson raises a number of matters that she says are "*troubling aspects of the Will*". I have considered each of the points that she raises and do not consider any of them to be troubling.

65.1 The first is an alleged concern that Mr Murray did not retain a copy of the Will, that he had no notes regarding its preparation, that he did not recall its contents, and that he was unable to say that it used wording that he commonly used when preparing wills. I do not consider that these points have any relevance to the question whether the Will is valid.

65.2 The second is a complaint that Mr Murray accepted as genuine the copy of the Will that Mr Elliott gave him in about May 2023. Ms Thompson argues that Mr Murray should have challenged Mr Elliott regarding the authenticity of the Will on the grounds that he was not given any information about how Mr Elliott obtained the Will and as to its safekeeping between 2001 and 2023. No legal basis for the existence of such a duty is advanced by Ms Thompson and I do not consider Mr Murray was under any duty to make such enquiries: he was presented with an original copy of the Will by one of the executors named in it in circumstances where Mr Murray recalled that three copies had been prepared. It was therefore a natural and reasonable inference that each executor had been given a copy to keep, and that Mr Munroe had kept the third copy. In addition, Mr Murray's evidence was that Mr Elliott said that Mr Munroe had given him the copy of the Will for safekeeping. Whilst she seeks to put the authenticity of the Will in issue, there is no suggestion by Ms Thompson that the document given to Mr Murray by Mr Elliott is not an original copy of the Will or that it was tampered with in some way whilst in Mr Elliott's possession. She is right not to advance such an assertion since there is absolutely no evidence to support it.

65.3 Thirdly, Mrs Munroe argues that for many years prior to his death, Mr Munroe no longer had a good relationship with Mr Elliott and Mr Williams who are named in the Will as executors. However, Janet's evidence was that the incident that may have caused the breakdown in their

- relationship was in 2002. The fact that Mr Munroe may have fallen out with Mr Elliott and Mr Williams after he executed the Will in 2001 is of no relevance at all to the validity of the Will.
- 65.4 Notwithstanding the evidence of Mr Bishop that the signature on the Will is that of Mr Munroe, Ms Thompson argues that this is not proof that the Will itself is genuine. Ms Thompson seeks to go behind the evidence adduced on her own client's behalf by trying to argue that Mr Bishop did not take into account circumstantial evidence as to the likelihood that Mr Munroe would have executed the Will in the form before the Court. That is unsurprising, since Mr Bishop was not asked to do so, and it would not be within his expertise to do so.
- 65.5 Fifthly, Ms Thompson argues that there are significant discrepancies between Mr Munroe's statements regarding his intentions in respect of the matrimonial home and investment property, and the bequests in the Will. I do not consider there is any merit in this point. There are many potential reasons why Mr Munroe's statements about his intentions may have differed from the contents of the Will: he may have forgotten about the Will; he may have been consciously dissembling about his intentions; he may have intended to update his Will to reflect his stated intentions but failed to do so. None of these possible reasons, if proved, would provide a basis for treating the Will as being invalid.
- 65.6 Sixthly, Ms Thompson points out two typographical errors or inaccuracies in the Will, namely that Kirt is referred to as "Kirk", and that the block and parcel number for one of the pieces of land are incorrect. Neither of these apparent errors provides a basis for determining that the Will is not a document validly executed by Mr Munroe.
- 65.7 Lastly, Mr Thompson relies on Mrs Munroe's ignorance of the existence of the Will, which she says is "highly irregular." However, Mr Munroe executed his Will during a time when he and Mrs Munroe's relationship was extremely poor. In her oral evidence, Mrs Munroe said that in about 2001, i.e. at the time when the Will was prepared and executed, she and Mr Munroe were at war with each other. It appears that this was because Mrs Munroe had recently learned of Mr Munroe's affair that had led to Daniel's birth. She also accepted in cross-examination that Mr Munroe did not always tell her everything and that there were often issues between them: an example of this is the dispute about Mrs Munroe's ownership of shares in one of the family businesses, which led to Mr Murray writing to Mr Munroe on behalf of Mrs Munroe to threaten proceedings against him, as discussed later in this judgment. In the circumstances, there is nothing suspicious about the fact that Mr Munroe did not tell Mrs Munroe that he had made the Will.

66. For these reasons, I conclude that there is no proper basis to think that Mr Munroe did not know and approve the contents of the Will when he executed it in April 2001.
67. In addition, it is notable that it became clear during Mrs Munroe's oral evidence that her opposition to the terms of the Will is misconceived for the following reasons:
- 67.1 In answers in cross-examination, Mrs Munroe said that she does not object to Mr Munroe giving away his interest in the various properties that they owned together. However, that is all that the Will does; it does not impact her interest in the various properties.
- 67.2 Mrs Munroe said that she is not unhappy that Mr Munroe had not left anything to her daughters, Janet and Jean. She accepted that she could not bind him and that it was up to Mr Munroe whether to leave anything to them.
- 67.3 Moreover, when Ms Thompson took Mrs Munroe through each of the bequests set out in the Will during re-examination, Mrs Munroe confirmed that she has no complaints about any of Mr Munroe's bequests.
- 67.4 Ultimately, Mrs Munroe accepted that she is not contesting the contents of the Will, that Mr Munroe was entitled to do whatever he wanted with his property, and that the real reason she is contesting the Will is because she does not want Jacqueline and Daniel to have responsibility for Mr Munroe's estate. She agreed that she has a personal grouse against Jacqueline and Daniel and that she does not like them.
68. In my judgment, none of the matters that Ms Thompson raises demonstrates that the Will does not reflect Mr Munroe's wishes and intentions, and that it is unlikely he knew and approved its contents.
69. I conclude therefore that there is no basis for me to "otherwise direct" that Mrs Munroe's caveat should remain in place despite it having been properly warned off.
70. It follows that I answer the preliminary issues as follows:
- 70.1 Mrs Munroe's caveat filed on 24 October 2023 was properly warned off by Jacqueline and Daniel.
- 70.2 There is no reason why the caveat should remain in effect.

F. Should the Court refuse to permit Jacqueline and Daniel to be appointed executors on the ground that they are unfit?

71. Like the question of the validity of the Will, the question whether Jacqueline and Daniel are unfit to act as executors is not one of the preliminary issues ordered by Carter J to be tried at this time. In addition, it is not raised on the face of Mrs Munroe's summons for directions. Nonetheless, the parties proceeded, and called evidence and made submissions, on the basis that I should decide it at this stage of the proceedings.

72. I have concluded that I should do so in the interests of justice. I am satisfied that the parties had the opportunity to adduce the evidence that they wished to call on this topic. Further, it would be a waste of the significant time and costs already expended by the parties in addressing this issue if I were to refuse to do so merely because it is not within the scope of the preliminary issues ordered to be tried.

73. I start by recording that it is clear from the evidence that there is considerable rancour and distrust on both sides. I infer that this has been exacerbated by the fact that this case involves a blended family, with many of the children involved only having one parent in common with others. Against that background, it is easy to see how miscommunications may have engendered misunderstandings and jealousies that have grown in significance over the years.

74. I am satisfied that all of the witnesses were doing their best to assist the court to decide the issues in the case with two notable exceptions. Those are Jean and Daniel.

74.1 I do not find Jean's evidence to be helpful. She was prone to engage in long speeches rather than answering the questions put to her and was happy to make serious allegations against Jacqueline and Daniel, for example that they had conspired to forge the Will and to steal Mrs Munroe's shares in a family company, without having any evidence to support her accusations, as she accepted in cross-examination.

74.2 My assessment of Daniel is that he too tended to become argumentative, rather than answering the questions put to him. In addition, as addressed later in this judgment, I have serious concerns about his honesty in relation to his conduct regarding Mrs Munroe's shares in the company.

F.1 Complaints about Jacqueline

75. Mrs Munroe and Janet, who swore a joint affidavit on 22 January 2024 in support of the summons for directions, complain that Jacqueline had a resentful attitude towards them when she came to live with them in Grand Cayman from Jamaica in her early 20s. Jacqueline does not agree. Her evidence is that she first learned that Mr Munroe was her father when she was 23 years old. She met him in Jamaica, where she was living at the time, and moved to Grand Cayman soon thereafter. She said that Mrs Munroe welcomed her with open arms and that they had a good relationship. However, around the time of Daniel's birth, Mr Munroe came to Jacqueline and said that he had a little problem. Jacqueline helped him by having Daniel to stay with her from time to time, I infer so that Mr Munroe could spend some time with Daniel as he was growing up. Mrs Munroe then discovered Daniel's existence and was upset that Jacqueline had helped Mr Munroe. Jacqueline said that she felt that Mrs Munroe did not trust her after this. Jacqueline denied any hostility to Mrs Munroe, Janet, Jean or Kirt from her side.
76. Mrs Munroe and Janet say that Jacqueline helped with running one of Mr Munroe's businesses until there was an incident concerning the diversion of employees and plant and equipment. Mr and Mrs Munroe went to Miami leaving Jacqueline in charge with instructions that staff and plant were to be deployed at a certain building site. While they were away, those staff and plant were diverted elsewhere. Mrs Munroe said in oral evidence that the employees and plant had been diverted to work for Mr Williams, the same individual who is named as an executor of the Will, and that Mr Munroe was cross when he returned from Miami and discovered what had happened. She suggested that Jacqueline and Mr Williams were in some kind of personal relationship as the reason. She also said that the company became insolvent as a result. Janet gave similar evidence and added that the incident caused friction between Mr Munroe and Mr Williams. She said the incident had occurred in about 2002.
77. Jacqueline's evidence is that she worked with Mr Munroe for about 10 years and then decided that it was time for her to start her own venture, which was the reason that she stopped working for him. Jacqueline said in her oral evidence that the foreman was a Canadian, whose name she does not remember. He was in charge of deployment of staff and plant, not Jacqueline, whose work permit covered clerical work only and which she complied with. Jacqueline is not aware whether Mr Williams was employed by Mr Munroe but said that he worked as a sub-contractor from time to time. She

denied having any personal relationship with Mr Williams. She also denied that the company had become insolvent in the way asserted by Mrs Munroe; she said that Mr Munroe had run the company down to only two employees and had then shut it down to focus on other businesses.

78. Jacqueline said in her oral evidence that she, Maxine and Suzanne believed that Mr Munroe had left a will and discovered that he had done so in about May 2023. She said that she wanted to tell Mrs Munroe about it and visited her in hospital in May 2023 for that reason but decided that it was not the right time because Mrs Munroe was too sick. She intended to come back to tell Mrs Munroe about the existence of the Will but Jacqueline was then ill herself and Mrs Munroe was in and out of hospital so that the right time did not arise. Jacqueline thought she was acting in the best interests of the beneficiaries, so she decided that she should just move forward with applying for probate of the Will. She added that she did not discuss the Will with Janet and Jean because Mr Murray had told her that they are not beneficiaries under the Will. However, she had not seen the Will because Mr Murray told her that she could not until she was appointed as an executor. Jacqueline thought that October 2023 was the earliest that Mrs Monroe was well enough to have a conversation about the existence of the Will.
79. Mrs Munroe and Janet complain about the circumstances leading up to and the conduct of the meeting with Jacqueline and Daniel on 17 October 2023.
- 79.1 Mrs Munroe complains that Jacqueline did not give Mrs Munroe any reason for the meeting when she first spoke to her; she said it was not something to discuss on the telephone and she would explain when she met Mrs Munroe. Jacqueline agrees that she said this to Mrs Munroe and thought it was right to take that position. Mrs Munroe and Janet say that when Janet then called to speak to Jacqueline about the meeting, Jacqueline said it was to discuss some of Mr Munroe's debts that needed to be paid. Jacqueline responds that when Janet called her, she seemed to have a hostile attitude, so Jacqueline just said it was about bills.
- 79.2 Mrs Munroe and Janet complain that Jacqueline arrived for the meeting with Daniel and two other persons, without advance notice. On the other hand, Mrs Munroe conceded that she did not tell Jacqueline that she had asked Janet to attend the meeting. Jacqueline accepted in cross-examination that she had not told Mrs Munroe in advance. She said that she brought Daniel because he was the co-applicant for probate and she wanted him to see that she had given Mrs Munroe the renunciation form and she brought the others along because she realised that she

would need an independent witness if Mrs Munroe signed the renunciation form. She denied that she was trying to intimidate Mrs Munroe.

79.3 Mrs Munroe said that Jacqueline announced that Mr Munroe had left a Will and that Jacqueline had begun applying for probate. She wanted Mrs Munroe to sign a document. This was a form of renunciation of Mrs Munroe's right to be appointed executor, but she did not explain the nature of the document. Mrs Munroe and Janet were uncomfortable and wanted time to obtain legal advice. Jacqueline said that they had 7 days to sign. In cross-examination, Mrs Munroe said that Jacqueline asked her to respond within 7 days, i.e. it was a question not a demand. Jacqueline's oral evidence in cross-examination was that she had said to Mrs Munroe and Janet that it was normal for business documents to be dealt with within 7-14 days.

79.4 Mrs Munroe and Janet allege that Jacqueline lied about the purpose of the meeting and that the meeting ended unpleasantly. However, in cross-examination, Mrs Munroe said that the meeting was civil; there were no cross words exchanged. Similarly, Janet did not suggest that there was any rowing or disagreement at the meeting. Jacqueline and Daniel's evidence did not significantly differ from this. Jacqueline said that the meeting did not take long, and that Janet looked angry, but Mrs Munroe did not. Daniel said that the meeting took less than 5 minutes, that it went well and that everyone was in a good mood. He added that Janet said they would have to give the renunciation form to their attorney to review, and that Janet and Jacqueline agreed that Mrs Munroe would respond within 7 days.

80. Mrs Munroe and Janet complain that Jacqueline has been intermeddling in the management of Mr Munroe's estate. They say that she has been speaking to some of the commercial tenants of a plaza within the estate, making disparaging remarks about Mrs Munroe. They also say that Jacqueline advised one of the tenants not to pay rent to Mrs Munroe in cash but only by cheque, and that Jacqueline said she and Daniel are in charge and would be taking over the business.

81. Mrs Munroe called one of the tenants in support of this complaint. Ms Norma Ebanks swore an affidavit and gave oral evidence. Her evidence is that she had three conversations with Jacqueline over about 3 weeks in October 2023 but did not want to be involved after that. Jacqueline called her and said that she was to refer all business matters concerning her tenancy to Jacqueline and Daniel in future. She says that Mrs Munroe had told her that Mr Munroe did not have a will, but Jacqueline said that there was a will and that the will left nothing for Mrs Munroe. She asked Jacqueline whether Mrs Munroe knew about the will. Ms Ebanks said she felt uncomfortable about the personal nature

of the conversation. She says Jacqueline said not to make rent payments to Mrs Munroe in cash, but Ms Ebanks said in evidence that she did not make payments in cash anyway. Ms Ebanks says that her impression was that Jacqueline was implying that Mrs Munroe was not trustworthy and no longer had a role in operating the business. On the second call, Jacqueline said that she had asked Mrs Munroe to sign to allow Jacqueline to obtain probate, but Mrs Munroe had not done so. Nevertheless, Jacqueline said that she was representing all of her siblings and that Jacqueline and Daniel were in charge. The third call concerned Kirt having denied access to premises to Daniel and having locked him out. Ms Ebanks said that Jacqueline had asked her to speak to Mrs Munroe about signing to allow Jacqueline and Daniel to obtain probate of the Will.

82. Jacqueline's evidence on this topic is that she called Ms Ebanks after the family meeting. The plaza was operating as a business and she did not want it to be running down. She introduced herself and told Ms Ebanks that Mr Munroe had left a will, and so Ms Ebanks should make sure that whenever she paid rent, she did it in a way that is traceable. In her oral evidence, she said that this was because she thought it would be good to have proper records. Jacqueline denied having discussed the contents of the Will with Ms Ebanks and said that she did not know what the Will said until much later.
83. Mrs Munroe and Janet complain that Jacqueline has taken keys for a postal box, and that they cannot access their post as a result. Mrs Munroe and Janet say that Jacqueline's attitude is hostile and that her failure to pass on post is causing them difficulties in continuing to run the businesses because they are not receiving bills for payment. In oral evidence, Mrs Munroe accepted that the post box is for one of the businesses, that she has her own personal post box and that Jacqueline has had the key for the post box in question for many years. She also said that Jacqueline used to bring the post to Mr Munroe about once a month for him to go through, but that Jacqueline has not done so since his death.
84. Jacqueline agreed that Mr Munroe had given her the key to his post box while he was alive. She is aware that Mrs Munroe has her own post box but does not know whether Janet or the other family members have their own. Jacqueline says that she has never received mail for Mrs Munroe through Mr Munroe's post box. She said that Mr Munroe told her that all of the utility bills were sent by email as well as by post, so she should discard the paper copies. For this reason, she has not passed on any further utility bills received since Mr Munroe died. She said that if there is any post for Kirt then she would pass it on but has not received any mail for other family members.

F.2 Complaints about Daniel

85. Mrs Munroe says that Daniel was born as the result of Mr Munroe's extramarital affair with an employee of one of his tenants. Mrs Munroe heard rumours about the affair, but Mr Munroe denied it. Eventually, she found evidence that Mr Munroe was officially recorded as Daniel's father. He then admitted that Daniel was his child. Daniel was about 3-years old at the time. Daniel was initially raised by his mother, who sent him to live with a relative in England to go to school when he was about 8-years old. However, there was an issue with the care provided to Daniel by this relative, and when he returned to Grand Cayman, aged about 12, Mrs Munroe took him in and looked after him for five years until he moved out. He then returned to live at the family home with his girlfriend for about 2 years from August 2021.
86. Against that background, Jean complains about events in the summer of 2023. Before Mr Munroe's death in March 2023, Daniel and his girlfriend had been living at the family home for about 2 years. Following Mr Munroe's death, Mrs Munroe was ill and spent some time as an in-patient in hospital. She was bedridden when she was discharged home. Shortly after returning home, Mrs Munroe telephoned Jean and told her that she had not seen Daniel or his girlfriend for some time and that when she mentioned this to her helper, the helper had told her that Daniel and his girlfriend had moved out. Mrs Munroe was upset that they had done so without speaking to her. Jean telephoned Daniel to discuss this and to find out if something had happened. She says that he was immediately angry and hostile to her on the call and responded that he is a grown man and was free to do what he wants. He said that his arrangement to live at the house was made with Mr Munroe and that he did not need Mrs Munroe's permission to move out. Jean says that Daniel swore under his breath and disconnected the call. Jean has not spoken to Daniel since the call.
87. Daniel's oral evidence was that he and his girlfriend had moved back to live with Mrs Munroe in August 2021 so that she had someone there because there was a storm coming and Kirt had been remanded in prison at that time. They moved out in June 2023, after Mr Munroe's death, because the house did not feel the same and it was unclear what was going to happen. He accepted that he did not consider whether Mrs Munroe might be upset that he just left without speaking to her first.
88. Daniel agreed that Jean had called him to ask about why he had moved out. He replied that the arrangement was between himself and Mr Munroe. He said that it was best for him to do his own

thing now that Mr Munroe was not around. The conversation was not productive, so he hung up. He said that he could feel that Jean had an attitude. He denied having sworn at her.

89. It is clear that there was an issue in 2020 regarding shares in one of the family businesses that were owned by Mrs Munroe.
- 89.1 Mr and Mrs Munroe had each subscribed to 50% of the shares in the company when it was incorporated in 1996 and were appointed Chairman and Secretary. The annual returns each year reflected this up to 2018.
- 89.2 Daniel completed the online annual return for the company for 2019, certifying that the shareholders and directors were Mr Munroe and Daniel, and that they were Chairman and Secretary respectively.
- 89.3 Mrs Munroe said in evidence that she learned of the content of the 2019 annual return in early 2020 as a result of contact from the immigration office. She complained to Daniel, who said he was not involved and that he had simply done what Mr Munroe told him to. In oral evidence, Mrs Munroe accused Daniel of having forged her signature. However, there is no evidence to back this up.
- 89.4 On 4 March 2020, Murray & Westerborg wrote to Mr Munroe on behalf of Mrs Munroe complaining that Mrs Munroe was not aware of any transfer of her shares or change in her role. She therefore did not understand and was concerned about the content of the 2019 annual return. Murray & Westerborg threatened proceedings by Mrs Munroe against Mr Munroe if he did not provide an answer within 14 days. The company Register was then rectified to show Mrs Munroe as owner of 50% of the shares and as secretary.
- 89.5 Daniel's oral evidence was that he worked as an apprentice electrician for Mr Munroe, but occasionally Mr Munroe would ask him to help with dealing with matters online. He agreed that he had filed the annual return in question, which was an online form. It was the first time that they had used an online form instead of a paper one. Daniel said that he just did what Mr Munroe asked. No one had come back to him about it afterwards.
- 89.6 In cross-examination, Daniel said that it was an error that he entered his own name in the form as a shareholder and director. Some time later, Mr Munroe told him that there was an error in that the annual return showed Daniel as a shareholder and director and told Daniel to fix it. Daniel denied having seen the letter from Murray & Westerborg sent to Mr Munroe and said

that he was unaware of it or its contents. He denied that his evidence that the completion of the form to show himself as shareholder and director was an error was untrue.

89.7 However, in answer to questions from the Bench, Daniel accepted that he knew at the time that he completed the online form that he was not a shareholder in the company and nor was he a director, i.e. that that information was wrong, and that he was certifying the accuracy of information that he knew to be wrong. He had no answer to the question why he had done so.

90. Mrs Munroe and Janet complain that Daniel associated himself with Jacqueline in relation to the meeting on 17 October 2023. They also complain about the meeting note that he prepared and exhibited. Janet said in oral evidence that Daniel stood in the corner of the room with his arms folded. Her implication was that Daniel could not have prepared the notes during the meeting. However, when she was taken through the meeting note, she agreed that it was a reasonable reflection of the content of what was discussed. Daniel said that he prepared the meeting note about 1 hour after the meeting, based on his recollection. He was not challenged on this.

F.3 Decision

91. I have set out the nature of Mrs Munroe's and Janet's complaints in some detail, as well as Jacqueline's and Daniel's responses. I have carefully considered the complaints about their suitability to be executors of Mr Munroe's estate. Apart from Daniel's conduct in relation to the annual return, none of the complaints asserted provide a foundation to conclude that Jacqueline or Daniel are not fit to act as executors of Mr Munroe's estate. In my view, they are unremarkable examples of disagreements, misunderstandings and jealousies that affect many families.

92. I do have a concern about Daniel's conduct in relation to the completion of the annual return in 2019. As recorded earlier in this judgment, Daniel knew that the information he was providing to the Company Registry was wrong, and that he was certifying the accuracy of information that he knew to be wrong. There is no explanation from him for this behaviour, which can only be described as dishonest.

93. I am conscious that judges are often warned that there are many reasons why witnesses may have been dishonest, which may not affect the honesty of the evidence that they give to the court on other issues. By the same token, there is no evidence that Daniel has been dishonest in other aspects of his

personal or working life. It therefore appears to have been a one-off error of judgment, possibly encouraged by Mr Munroe. In addition, if appointed, Daniel would be acting as co-executor with Jacqueline.

94. In the circumstances, whilst this is an important factor which should not be underplayed, I have concluded that it is insufficient on its own to lead to the conclusion that Daniel should be prohibited from acting as a co-executor of Mr Munroe's estate.
95. I therefore reject Mrs Munroe's opposition to the appointment of Jacqueline and Daniel as executors of Mr Munroe's estate.
96. Within 14 days of handing down of this judgment, counsel should indicate: (a) whether they wish to be heard on costs and any consequential matters, providing their agreed available dates and time estimate for a hearing; or (b) whether they will submit written submissions on those points within 14 days. In either case, counsel should provide a draft order, agreed if possible, in advance of the hearing or with their written submissions.

Dated 24 March 2025



**THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT**