



**Neutral Citation Number: [2025] CIGC (FSD) 8**  
**CAUSE NO: FSD 205 OF 2017 (NSJ)**

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

**IN THE MATTER OF THE ESTATE OF ISRAEL IGO PERRY DECEASED**

**BETWEEN:**

- (1) LEA LILLY PERRY**
- (2) TAMAR PERRY**

**Plaintiffs**

**and**

- (1) LOPAG TRUST REG.**
- (2) PRIVATE EQUITY SERVICES (CURACAO) N.V.**
- (3) FIDUCIANA VERWALTUNGSANSTALT**
- (4) GAL GREENSPOON**
- (5) YAEL PERRY**
- (6) DAN GREENSPOON**
- (7) RON GREENSPOON**
- (8) MIA GREENSPOON**
- (9) ADMINTRUST VERWALTUNGS ANSTALT**
- (10) CATO TRUST REG.**

**Defendants**

**and**

- (1) ANDREW CHILDE**
- (2) CHRISTOPHER ROWLAND**

**Third Parties**

**RULING ON THE FIFTH DEFENDANT'S RIGHT TO OPPOSE  
THE TRUSTEES' SUMMONS**

**Introduction**

1. On 7 January 2025, the First, Ninth and Tenth Defendants (the *Trustees*) filed with the Court (a) a consent order (labelled a Tomlin Order) (the *Tomlin Order*) signed by the attorneys for the Plaintiffs and the Trustees (with, as I understand it, a request for the Court to approve and seal the Tomlin Order) and (b) a summons (the *Summons*) seeking (what I think can properly be described as consequential) directions to be given to the Receivers regarding the payment of the funds credited to the Pictet Accounts in Switzerland and orders for and relating to the termination of the Receivers' appointment (previous judgments of mine in these proceedings describe and deal with the Receivers' powers and the arrangements and disputes relating to the Pictet Accounts).
2. A dispute has arisen in relation to the manner in which the Summons should be dealt with. The Trustees and the Plaintiffs wish the Summons to be determined by the Court on the papers without a hearing and without hearing submissions from the Fifth Defendant. The Fifth Defendant wishes to oppose the Summons (and wishes to make submissions in relation to the Tomlin Order) and submits that she has standing and should be permitted to do so. She considers that the Summons can only fairly be disposed if she is given the opportunity to appear and make submissions and if directions are given for the filing of evidence and the listing of a hearing. I gave the Trustees and the Plaintiffs on the one hand (who on this occasion have presented an agreed position to the Court, represented by Campbells and Walkers) and the Fifth Defendant on the other hand (represented by Priestleys) the opportunity to make brief submissions on these issues and gave the Trustees and the Plaintiffs an opportunity to reply to the Fifth Defendant's submissions (which they have done in a letter from Campbells, again presenting the Trustees' and the Plaintiffs' agreed position, filed on 21 January 2025).
3. I have concluded that the Fifth Defendant does have standing and should be permitted to appear on and oppose the Summons and that a hearing of the Summons is required and should be listed. I have not formed a view on, and do not decide the issue of whether, and if so what, evidence is needed. I shall invite the parties to discuss and seek to agree

on this and if there remains a dispute the parties should explain their positions and I shall deal with the matter on the papers. This is my ruling setting out briefly my reasons for the decision I have reached.

4. This dispute and the Summons arise in connection with long-running litigation between the Plaintiffs (Mother and Daughter), the Trustees and the Fifth Defendant (Daughter). The Plaintiffs have for many years been in dispute both with the Trustees and the Fifth Defendant. Proceedings have been conducted in many jurisdictions in addition to the proceedings commenced by the Plaintiffs here in 2017 for orders that they owned or had proprietary interests in a valuable share in a Cayman company called Britannia Holdings (2006) Ltd (**BH06**) (the “Share”) which had been transferred to the First Defendant by Mr Perry, the First Plaintiff’s husband and the Second Plaintiff’s and the Fifth Defendant’s father. The Trustees are trustees of various Liechtenstein trusts created by Mr Perry for the benefit of his family and others. The Share was transferred to the First Defendant qua trustee of the Lake Cauma Trust. The current trustees of the Lake Cauma Trust are the Ninth and Tenth Defendants. But the First and Ninth Defendants were also formerly trustees of another trust called the Ypresto Trust, of which the Fifth Defendant is the principal beneficiary, until the First Defendant resigned on 24 January 2024 and the Ninth Defendant was removed from office on 4 March 2024. The First and Ninth Defendants in their capacity as trustees of the Ypresto Trust had received US\$40m which was derived from dividend payments made by BH06.
  
5. Various types of interlocutory relief were granted in these proceedings including a proprietary injunction which was granted in October 2017 in favour of the Plaintiffs in respect of the Share in BH06 held by the Trustees and dividends paid in respect of it (including the sums received by the trustees of the Ypresto Trust derived from and representing dividend payments made by BH06, so that assets of the Ypresto Trust were also caught by the proprietary injunction). The Plaintiffs gave cross-undertakings in damages in relation to the proprietary injunction. In addition, receivers were appointed (the **Receivers**) by the Court to protect the value of the Share and very substantial funds paid away out of subsidiaries of BH06 during the course of these proceedings. These funds ended up in and are still held in accounts in the name of Curacao entities (SFPF and Solid NV) with Banque Pictet & Cie SA in Geneva (the **Pictet Accounts**). The Receivers have been given certain rights in relation to the Pictet Accounts. In the course

of the proceedings, the Plaintiffs also gave to the Court further and separate undertakings not to deal with their assets and rights in respect of the Pictet Accounts and the funds credited thereto. Since much of the value of the assets in dispute between the parties appears now to be represented by and reside in these funds there has been a fierce dispute, leading to proceedings in Curacao, concerning ownership of and access to the funds, which appears to be continuing.

6. The Plaintiffs were ultimately unsuccessful in these proceedings and their claims were ultimately dismissed after an appeal to the Judicial Committee of the Privy Council. Following the promulgation of the Privy Council's judgment the proprietary injunction was discharged and the Trustees sought an inquiry pursuant to the cross-undertakings to recover losses they had suffered in their capacity as Trustees of the various related trusts established by Mr Perry. Such an inquiry was ordered and the Trustees particularised their claim for these losses. The Trustees also sought in support of their claim under the Plaintiffs' cross-undertakings and were granted freezing injunctions in relation to the Plaintiffs' assets and gave their own cross-undertakings in damages in relation to this injunctive relief.
7. It appears that the Trustees and the Plaintiffs have now reached a settlement of the Trustees' claims pursuant to the Plaintiffs' cross-undertakings and this settlement is the basis for the Tomlin Order.
8. The Tomlin Order recites that the Plaintiffs and the First to Fourth and Sixth to Tenth Defendants (but not the Fifth Defendant) have "*agreed terms of settlement for the claim brought by the Ninth and Tenth Defendants pursuant to the Cross-Undertakings.*" It stipulates that the Plaintiffs be released from all undertakings given to the Court in the course of these proceedings and that the cross-undertakings given by the First, Ninth and/or Tenth Defendants also be released. The Tomlin Order also stipulates that the Trustees' claims pursuant to the Plaintiffs' cross-undertaking be stayed on terms that give the trustees of another Perry family trust, the Citizen Trust (upon those trustees being granted an assignment of the Trustees' claims and upon assuming related liabilities under the various cross-undertakings) liberty to apply to lift the stay but provides that if no such application has been made within 18 months of the Tomlin Order being made (sealed by the Court) the Trustees' claims shall then be struck out.

9. The inquiry (the *Inquiry*) to be conducted pursuant to the Plaintiffs' cross-undertakings was ordered by my order dated 12 June 2023 (the *Order*). This ordered that:
- (a). There should be an inquiry into the damages suffered by the Trustees, the Fifth Defendant, BH06 and the Third Parties as a result of the proprietary injunction pursuant to the Plaintiffs' cross-undertakings in damages (paragraph 12).
  - (b). Any party claiming damages under the cross-undertakings should file and serve points of claim setting out its claim for damages on the cross-undertakings and a schedule of the losses alleged to have been suffered as a result of the proprietary injunction in respect of which that party intended to seek damages from the Plaintiffs (the Trustees filed Points of Claim with a schedule of losses on 2 August 2023) (paragraph 13).
  - (c). The Undertakings and the Further Undertakings shall remain in force until the conclusion of the Inquiry into the Trustees', the Fifth Defendant's, BH06's and the Third Parties' claims for damages on the Cross-Undertakings or further order (paragraph 3).
  - (d). The Receivers are to continue in office for the purpose of retaining their rights in relation to the Pictet Accounts (and the funds credited thereto) so as to ensure that those funds are not dealt with by the Plaintiffs in breach of the Undertakings or Further Undertakings (paragraph 6).
10. The Summons seeks orders (set out in a draft order annexed to the Summons) relating to the role of the Receivers. In short, the Trustees and the Plaintiffs seek various directions to the Receivers regarding and facilitating the making of payments out of the Pictet Accounts and thereafter an order terminating the Receivers' appointment. One of the orders sought stipulates that the Receivers will in future be required to act in relation to the Pictet Accounts as directed by the Plaintiffs and the Defendants (to the main proceedings listed in the title to the Summons) other than the Fifth Defendant. The Receivers will be required (*inter alia*) to execute, sign and provide the necessary mandates to effect the payment of the total funds in the Pictet Accounts (net of all bank fees along with the fees and expenses of the Receivers) as directed by the joint request

of the Plaintiffs, the Trustees and SFPP/Solid NV (it appears to be intended, although it is not clear to me that this is the effect of the drafting, that the Receivers are required to execute such mandates only when directed to do so by the Plaintiffs and the Defendants save for the Fifth Defendant).

11. Accordingly, the relief sought in the Summons, will have the effect of permitting all sums held in the Pictet Accounts to be paid out in accordance with the directions of the Plaintiffs, the Trustees and the other Defendants but without the need for consent from the Fifth Defendant. Once the sums have been paid out the Receivers' appointment will come to an end. Pursuant to the Tomlin Order, the freezing injunctions in respect of the Plaintiffs' assets will be immediately released (thereby removing the prohibition against the exercise of rights or dealings by the Plaintiffs with their rights in relation to the Pictet Accounts), the Plaintiffs will immediately be released from all undertakings given to this Court and the Trustees will also be released from their undertakings. The claim for compensation pursuant to the Plaintiffs' cross-undertaking will however not be immediately released but the Trustees' rights in respect of such a claim, it appears, will be transferred to (or held by them as) the trustees of the Citizen Trust and the Inquiry will be stayed for up to eighteen months. Presumably, the intention is that the Trustees qua trustees of the Citizen Trust will consider whether to pursue the claim against the Plaintiffs for the loss particularised in the Trustees' points of claim. The Trustees qua trustees of the Citizen Trust will have the right to apply for the stay to be lifted but if they fail to do so after the eighteen-month period, the claims against the Plaintiffs (presumably all claims that could be made pursuant to the Plaintiffs' cross-undertakings) are to be struck out without the need for a further order of the Court. The Tomlin Order does not give the Fifth Defendant any right to apply and makes no provision for the Fifth Defendant to be given notice of any applications.

### **The Trustees' and the Plaintiffs' submissions**

12. As I have explained, the Trustees and the Plaintiffs wish for the Summons to be determined by the Court on the papers without a hearing and without hearing submissions from the Fifth Defendant. The Trustees and the Plaintiffs submit that the Fifth Defendant has no standing to oppose the Summons. The Summons, they say, deals with relief consequential on the Tomlin Order. The Tomlin Order deals with the rights and claims

of the Trustees which are of no concern of the Fifth Defendant, so she has no standing to intervene or object to the terms of the consent order approved by those affected. The Summons seeks consequential relief which gives effect to the Tomlin Order and is also of no concern to Fifth Defendant.

13. The Trustees and the Plaintiffs argue that the subject matter of the Tomlin Order is the Trustees' claims pursuant to the Plaintiffs' cross-undertakings, which do not concern the Fifth Defendant and which the Trustees are free to discharge (or stay) without the consent of or reference to the Fifth Defendant. The Fifth Defendant is not a party to that claim. The Tomlin Order makes provision for the immediate discharge of the freezing injunctions affecting the Plaintiffs' assets and the termination of all the Plaintiffs' undertakings to the Court, so that once the Tomlin Order is made and sealed the Receivers can no longer have a role (pursuant to and by reason of paragraph 6 of the Order). There is no basis for this Court to make orders regulating or with respect to the funds in the Pictet Accounts. All that is needed, once the freezing injunctions and the Plaintiffs' cross-undertakings and other undertakings have been terminated, is arrangements to authorise the Receivers to pay away the funds in the Pictet Accounts, for the approval and payment of the Receivers' remaining fees and expenses and for the termination of the Receivers' appointment. The Trustees and the Plaintiffs argue that the Fifth Defendant has no standing to oppose such relief which is consequential on and follows from the terms of the Tomlin Order.

#### **The Fifth Defendant's submissions**

14. The Fifth Defendant submits that she has standing to make submissions in relation to, to oppose and require/request that a hearing be listed of the Summons. She submits that as a matter of form she is a party to the proceedings pursuant to which the Trustees' claims under the Plaintiffs' cross-undertakings are made. She refers to the terms and title/heading of the Order which includes the Fifth Defendant as a party. Furthermore, she says, she has even been made a party to the Summons. The Trustees' application for an inquiry and compensation pursuant to the Plaintiffs' cross-undertakings represents an application made within the proceedings commenced by the Plaintiffs (FSD Cause No. 205 of 2017) and so does the Summons. The Fifth Defendant as a party to these proceedings is entitled to appear on and make submissions with respect to any such

application. The Fifth Defendant submits that the Trustees have acknowledged that this is the case by addressing the Summons to “*all parties concerned*” and by formally serving the Summons on the Fifth Defendant’s attorneys.

15. The Fifth Defendant argues that she has standing to participate since the relief sought in the Summons does not relate exclusively to the issues raised by the Inquiry and, in any event, directly affects her interests. Fairness requires that she be heard in relation to the relief sought in the Summons. The Fifth Defendant is interested, she submits, because the Inquiry relates to damages suffered by all eleven of the Perry family trusts including the Ypresto Trust of which, as I have said, the Fifth Defendant is the principal beneficiary. She argues that if the Trustees (or any person to whom the Trustees may have assigned the Trustees’ claim) are unwilling to prosecute the claim under the Plaintiffs’ cross-undertakings it would be open to her to seek to be substituted as the claimant under the principle in *Hayim v Citibank NA* [1987] AC 730 (presumably in respect of the claim made by the Trustees for losses suffered by the Ypresto Trust). The Fifth Defendant also argues that she has an interest as a party to the orders regulating the Receivers’ powers with respect to the Pictet Accounts, which are now to be varied. She submits that she has been permitted without objection to appear and make submissions on all previous applications in these proceedings and that the Court has previously ruled that where (what, to use my terms, may be called derivative or satellite) applications have been made in relation to the main proceedings any party to the main proceedings was entitled to participate. She notes that in July 2022 the Trustees had submitted to the Court that the Plaintiffs should not be permitted to participate in the Fifth Defendant’s Notice of Motion or a summons which she had issued relating to that Notice of Motion because the Trustees and the Fifth Defendant were the only parties to the Notice of Motion. However, that submission was rejected by the Court. I had held in my ruling of 8 July 2022 (at [6]) that “...it seems to me that since the [NOM] and the Summons are applications made in and part of the main proceedings, the Second Plaintiff is a party to the Notice of Motion and the Summons (as the heading in both the Notice of Motion and the Summons properly make clear) and may participate in the further hearings of the Notice of Motion and the Summons if she chooses to do so.”
16. The Fifth Defendant submits that it is important that directions are given to allow all interested parties to participate in the adjudication of the Summons, to make submissions

regarding the effect of the Tomlin Order and to allow full consideration of the issues arising. The Fifth Defendant notes that the Court was being asked to determine the Summons on the papers, without any evidence as to relevant matters (which she says include the background to the Summons, the views of the board and protector of SFPF, the views of Solid NV, the views of the other Defendants, the impact of the settlement agreement on the Fifth Defendant's interests and the current position regarding the proceedings in Curacao). The Fifth Defendant says that she considers that these matters should be addressed in affidavit evidence.

17. As regards the Tomlin Order, the Fifth Defendant submits that she is entitled to make submissions as to the order that the Court should make in relation to the termination of the Inquiry (which [13] of the Order indicates was intended to cover her losses and for her benefit). Only some of the parties to the main proceedings have evidenced their consent to the Tomlin Order. She says that she would not object to a stay of the Trustees' claim under the Plaintiffs' cross-undertakings and of the Inquiry pending a further order of the Court provided that a suitable liberty to apply, which she could rely on, was included and provided that her rights and interests were properly protected in the meantime (she says that she may wish to apply to continue the Inquiry and claim for her loss so that rights to enforce the Plaintiffs' Cross-Undertakings should be preserved).

### **Discussion and decision**

18. It seems to me that the Fifth Defendant is entitled to be heard on the Summons (and to make submissions as to the effect of the Tomlin Order) because she is a party with a real interest in the relief sought.
19. The Fifth Defendant is a separately named party to the main proceedings within which the Inquiry has been ordered and the Trustees seek damages pursuant to the Plaintiffs' cross undertakings. The Summons has been issued within the main proceedings and relates to orders previously made in these proceedings (to which orders the Fifth Defendant was a party).
20. Beyond the formal question of who is a named party to the proceedings within which the Summons has been issued (and the Tomlin Order is to be made) and a party to the orders

to which the Summons relates, the Fifth Defendant's losses are separately covered by the Inquiry. [13] of the Order stipulates that there is to be "*an inquiry into the damages suffered by the Trustees, the Fifth Defendant, BH06 and the Third Parties as a result of the proprietary injunction pursuant to the Plaintiffs' cross-undertakings in damages.*" The Fifth Defendant is a party to the Order with a direct interest in the Inquiry. Orders relating to the conduct and termination of the Inquiry affect that interest.

21. It is true that the Fifth Defendant has not filed points of claim in accordance with the timetable and directions set out in the Order and is out of time for doing so. But, in principle at least the Fifth Defendant could seek an extension of time (in reliance on the recent developments and the Trustees' change of approach) for the filing of points of claim (although I make no comment on whether that would be permitted).
22. It is also unclear whether she could have suffered direct losses rather than indirect losses as a beneficiary of the Ypresto Trust and whether if her only possible losses were *qua* beneficiary only the Trustees of the Ypresto Trust would have the right to bring proceedings in respect of the Ypresto Trust's losses. The Trustees have argued that the Fifth Defendant's right to bring proceedings and make claims in respect of rights vested in them as trustees of a Liechtenstein trust are governed by Liechtenstein law, so that the English law (and Cayman law) rule discussed in *Hayim v Citibank NA* does not apply. They submit that the Fifth Defendant has no right to be substituted to continue the Inquiry and maintain the claims made by the Trustees to date (I am unclear whether losses suffered by the Ypresto Trust are covered by and included in the schedule to the Trustees' points of claim).
23. But I am not in a position at this stage to determine that the Fifth Defendant has not suffered any relevant losses within the terms of the Order, which losses are covered by the Inquiry ordered by the Court. As I have said, it remains possible that the Fifth Defendant could seek an extension of time for the filing of her own points of claim to enable her to bring claims in respect of such losses. Alternatively, she may seek to be substituted under applicable law (and I do not comment on what law governs the issue whether a person who is a beneficiary under a Liechtenstein law trust who is named in a Cayman Islands Court order as entitled to recover losses flowing from cross-undertakings given to this Court has the right and title to bring the proceedings or whether only the

Trustees can do so). If she does so, she might ask the Court to defer making orders pending the outcome of such an application.

24. I do not say that the Fifth Defendant will be entitled to leave to file her own points of claim or to any form of stay or further time if she applies to be substituted. At this stage, what is important is that the Fifth Defendant can show that she may have outstanding claims of her own (or that she could prosecute) covered by the Plaintiffs' cross-undertakings so that orders affecting the injunctive relief granted in support of the claims made under the Plaintiffs' cross-undertakings, the continuing role of the Receivers and the stay of the Inquiry could affect her rights and interests.
25. It is also important to have regard to the fact that even though the Fifth Defendant's interests (in relation to the Plaintiffs' cross-undertakings and the effect of the proprietary injunction on assets of the Ypresto Trust) derive from her rights as the principal beneficiary of the Ypresto Trust she has nonetheless at all stages in these proceedings been permitted to appear and make submissions on her own behalf. No objection has previously been made let alone sustained. She was even permitted, despite some, doubts which I had expressed, to apply for sanctions for breach by the Trustees of the terms of the proprietary injunction. In my view, it is too late now for the Trustees (and the Plaintiffs) to turn round and argue that they are entitled to make applications within the proceedings and relating to orders made within the proceedings without even giving the Fifth Defendant the opportunity to make submissions and appear by counsel.
26. The combined effect of the Summons and the Tomlin Order are clearly significant. They will (or are likely to) result in the funds in the Pictet Account being paid away, the Receivers' appointment coming to an end and the claims for losses covered by the Plaintiffs' cross-undertakings ceasing to have the protection derived from the freezing injunctions and the powers of the Receivers. It may be that the Trustees and the Plaintiffs are right that they are entitled to agree between themselves and without the consent of the Fifth Defendant that the Plaintiffs' and the Trustees undertakings are, and the freezing injunctions be, terminated and that the claims pursuant to the Plaintiffs' cross-undertakings be stayed on the terms proposed and that if so the basis for any further supervision by this Court (through the Receivers) of the funds in the Pictet Accounts has fallen away, so that the relief sought in the Summons should be granted. But in the face

of the opposition by the Fifth Defendant, who in my view for the reasons I have given has both formal standing to appear on the Summons (and I think, subject to further argument, to make submissions in relation to the Tomlin Order) and a real interest in the relief sought in the Summons (and the effect of the Tomlin Order), it seems to me that the Summons should be listed for a hearing and not dealt with only on the papers.

27. I have said above that I do not consider that I am in a position to give directions regarding the need for evidence to be adduced or as to what evidence is appropriate. I shall direct that the parties discuss and seek to agree directions for the further conduct of the Summons including the question of evidence and revert to the Court within 14 days of the date of this judgment to provide details of what has been agreed and what remain in dispute so that the Court can finalise the appropriate directions. The parties should also provide preferred dates and dates to avoid for the hearing.



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**The Hon. Justice Segal**  
**Judge of the Grand Court**  
**29 January 2025**