



1 OPEN COURT

2
3 IN THE GRAND COURT OF THE CAYMAN ISLANDS

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5 CAUSE NO. 309 OF 1997
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11 **IN THE MATTER OF THE COMPANIES LAW (1995 REVISION)**

12
13 **AND IN THE MATTER OF THE TRUSTS LAW (1996 REVISION)**

14
15 **AND IN THE MATTER OF CHEMICAL INTERNATIONAL TRUST**
16 **CORPORATION LIMITED**

17
18 **AND IN THE MATTER OF CHASE MANHATTAN TRUST CAYMAN LTD.**
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24 **APPEARANCE:**

25 Miki Jafa and Nick Joseph of Hunter and Hunter for the Applicants.
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27

28 **RULING**
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30 I have before me an application which seeks, primarily, the sanction by the
31 Court of a scheme of arrangement for the merger or amalgamation of the
32 two companies intituled in this action (“the applicant companies”). The
33 application is brought by way of petition jointly on behalf of the applicant
34 companies pursuant to section 86 of the Companies Law (1995 Revision),
35 (“the Law”).
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37 Both applicant companies are Cayman Islands subsidiaries or affiliates
38 respectively of Chemical Banking Corporation and Chase Manhattan

1 Corporation, very large and well-known banking institutions which operate
2 world-wide and which are headquartered in the United States.

3
4 In a widely-publicised take-over, Chemical Banking Corporation has
5 acquired Chase Manhattan Corporation to form, by merger, one of, if not the
6 largest, banking and trust management groups in the world.

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8 The fact of that merger predicated the merger in Cayman of the applicant
9 companies.

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11 The present petition, in seeking the Court's sanction seeks, in effect, to
12 obtain the several benefits of section 86 of the Law by means of that
13 sanction.

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15 Not least among those benefits, is the automatic transfer to the transferee
16 company of the whole of the undertakings, property and liabilities of the
17 transferor company, without the need for formal negotiations and
18 arrangements being entered into with third parties who would be affected -
19 such as creditors, shareholders, service providers and so on.

20
21 Subject to notice of the intended petitions being given to any such third
22 parties, leave had been earlier granted to bring this joint application on by
23 way of petition.

24 A further immediate benefit of the court's sanction pursuant to section 86
25 would be, in this case, the dissolution, without the need for winding-up
26 proceedings, of the transferor company. That, of the applicant companies

1 will be Chemical International Trust Corporation Limited. This result,
2 although in light of the ultimate takeover of the Chase Group by the
3 Chemical Group might seem anomalous, is explicable against the
4 background that the Chase Group enjoys better goodwill world-wide and
5 thus the continuation of the Chase name, for the merged entity in Cayman.

6
7 The principal undertaking of each applicant company has been that of
8 corporate trustee. Each has served as trustee for a number of trusts settled
9 by clients from many parts of the world.

10
11 It is intended by the applicant companies therefore that the sanction of the
12 merger will serve also to sanction the transfer of the duties and liabilities of
13 trustee. However, as the Law in section 86 speaks of sanctioning the
14 transfer of “liabilities” and not specifically of “duties”, Miss Jafa seeks
15 specific directions for the bringing of a separate application under section
16 10 of the Trusts Law (1996 Revision), for an order of the court appointing
17 the transferee company as trustee in substitution for the transferor company.
18 That will serve to cover all aspects of the respective liabilities, rights and
19 duties attaching to the office of trustee.

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21 Those directions are given now and that application will follow immediately
22 on the hearing of this petition, in Chambers.

23 I have also noted the decision earlier pronounced, sanctioning the merger of
24 the applicant companies pursuant to section 86 of the Law.

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26 **MINUTE OF ORDER AFTER APPLICATION PURSUANT TO**
27 **SECTION 10 OF THE TRUSTS LAW (1996 REVISION)**

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5 **(TAKEN IN CHAMBERS)**

6 Being satisfied that it is expedient and in the interests of the better
7 management and conservation of the assets of the respective trusts under the
8 trusteeship of Chemical International – because of the difficulties which
9 would otherwise follow – I direct that individual applications need not be
10 made in each of them, for the transfer of the trusteeship to Chase Cayman as
11 the newly merged entity. Accordingly, I grant the formal order in terms as
12 amended under section 10 of the Trusts Law (1996 Revision) for the
13 appointment of Chase Cayman as Trustee respectively in each Trust.

14 The foregoing order is best read in the context of section 10 subsection (1)
15 itself. As I am told that this may be the first time such an application is
16 being made under this section, I set it out here for reference:

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18 “10(1) The Court may, whenever it is expedient to
19 appoint a new trustee or trustees, and it is found
20 inexpedient, difficult or impracticable so to do
21 without the assistance of the court, make an order
22 appointing a new trustee or trustees either in
23 substitution for or in addition to any existing
24 trustee or trustees or although there is no existing
25 trustee.”

26
27 The evidence of Mr. Worsley filed therein demonstrates that the several
28 trusts which remained with Chemical International as Trustee provided at

1 least four categories of procedures for the removal and replacement of
2 trustees, any of which, if employed literally, would have resulted in
3 considerable expense to the respective trust funds.

4

5 Having regard to the fact that the merger has been so widely publicised and
6 the indubitable qualities and abilities of the transferee company as trustee
7 and, as well, to the fact that no objections whatsoever have been raised by
8 any person interested following on the giving of notice as earlier directed in
9 the context of the applications under section 85 and 86 of the Companies
10 Law, the case is one which presented itself as particularly suited to the
11 exercise of the discretion vested by section 10(1) of the Trusts Law.

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13 Hence the orders set out above, which I now direct are to be formally
14 presented for signature and filing.

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Anthony Smellie
JUDGE OF THE GRAND COURT



Dated this 16th day of December 1997