

CS.  
Slatters  
11.4.95

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 296/94

IN THE MATTER OF A MEMORANDUM OF AGREEMENT DATED 20TH JULY, 1976  
(KNOWN AS THE CONTINENTAL FOUNDATION)

AND IN THE MATTER OF A MEMORANDUM OF AGREEMENT DATED 7TH OCTOBER, 1982  
(KNOWN AS THE AALL FOUNDATION)

AND IN THE MATTER OF THE TRUSTS LAW (REVISED)

BETWEEN: BRIDGE TRUST CO. LTD PLAINTIFFS  
ROBERT N. SLATTER

AND: THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS DEFENDANTS  
EVEN WAHR-HANSEN  
COMPASS TRUST CO. LTD

For the plaintiffs: Mr. Angus Foster  
For the 1st defendant: Mr. William Helfrecht  
For the 2nd defendant: Mr. Graham Ritchie  
For the 3rd defendant: Mr. Nigel Clifford

HARRE CJ.

RULING

I am now exercising jurisdiction as a Grand court Judge under S. 16  
(3) of the Court of Appeal Law. This is an application for a stay of  
proceedings pending appeal against the order which I made this  
morning. It is for the applicant to show good cause for such a  
stay, and it is a matter for an exercise of the judges's

discretion. The relevant principles and authorities are conveniently set out in the judgment of Kerr JA in *Imbar Maritima S.A. and ors v. Republic of Gabon* 1988-9 CILR at pp. 292 -3.

On the basis of this analysis by the learned Court of Appeal Judge, I need to set out the factors which I have taken into account in coming to my conclusion that a stay pending appeal should not be granted. It is a balancing exercise.

There was no evidence before me of a legal commitment to make future charitable donations. On the other hand, there was evidence at the February hearing of a pattern of such donations over a period of years. I do accept that it would be open to the trustees to apply for directions in relation to maintaining continuity of such payments and that it might well be possible to arrive at such directions by consent. I therefore attach much less weight to that factor than to the difficulties which must attend the operation of any business entity in which a trust claims to own shares for so long as the status of that trust and its ability to exercise shareholder functions remain uncertain. That must be a significant prejudice to the plaintiffs themselves. They are entitled to come to the Cayman Court to seek to have these difficulties resolved as expeditiously as possible.

The status quo can only be truly preserved if both the Cayman and the English actions are stayed. I would only grant a stay of the Cayman action on condition that Mr. Wahr Hansen took no further step in the English action for so long as it was in force. That seems to me to

benefit nobody. It will inevitably be some months before the Cayman appeal is determined. Equally, it will be a considerable time before the preliminary issues referred to in the order which I made this morning come on for hearing.

Implicit in that order is my view that these issues are severable from the third issue in the plaintiff's summons dated 1st September 1994 and from the other issues in the English action. It does not mean, however, that I take a simplistic view of the logistical and other problems involved in getting the matter on. It is true that if the appeal is successful time and expense will have been wasted in the preparation of the Cayman proceedings. But in view of the enormous sums at stake in this action that seems to me not to be a major consideration. Mr. Wahr Hansen has the benefit of the undertaking by the defendants named in my order of today. His strongest point, however, in my judgment is his submission that if the preliminary issues are determined here while the forum question is still at large it would raise difficulties for the English Court. In practical terms that seems to me to be an unlikely sequence of events and not one which would justify my making an order which would have the effect of bringing the preparations for the hearing of the preliminary issues to a halt. Indeed, if an element of forensic stage management is brought into play, that consequence can be avoided as the respective actions unfold.

The balance of these factors leads me to the conclusion that the second defendant has not shown good cause why the implementation of my

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order of this morning should be stayed and I accordingly dismiss his application.

A handwritten signature in cursive script, appearing to read "G.E. Harre".

11th April 1995

G.E. Harre  
Chief Justice