

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 104 OF 2011-AJEFJ

IN THE MATTER of the Estate of John Samuel Hinds (Deceased) and the Estate
of Esther Rosalind Hinds (Deceased)

AND IN THE MATTER of the Grand Court Rules Order 85

B E T W E E N:

PHILLIP BRADLEY HINDS

Plaintiff

and

- (1) CLIVE MONTRIVELLE HINDS, ADMINISTRATOR OF THE
ESTATE OF ESTHER ROSALIND HINDS
- (2) CLIVE MONTRIVELLE HINDS
- (3) JOHN LEVERETTE HINDS III
- (4) THOMAS ANTHONY HINDS

Defendants

ORDER



UPON THE APPLICATION of the Plaintiff by Amended Summons dated 10 December 2012;

AND UPON reading the Second Affidavit of Phillip Bradley Hinds sworn on 29 November 2012, the Third Affidavit of Phillip Bradley Hinds sworn on 11 December 2012, and the First Affidavit of Sharon Hinds sworn on 13 December 2012;

AND UPON HEARING Counsel for the Plaintiff, Counsel for the First Defendant, Counsel for the Second to Fourth Defendants and Counsel for Sharon Hinds and Norahs Kcotsob Limited;

AND UPON the Plaintiff undertaking in the terms set out in Schedule 1 hereto;

IT IS HEREBY ORDERED that:

1. The Plaintiff's Originating Summons and Points of Claim may be amended in the terms of the drafts annexed hereto.
2. The Plaintiff shall file his Amended Originating Summons and Amended Points of Claim on or before 21 December 2012 and shall serve the same upon the First to Fourth Defendants; Sharon Hinds, the proposed Fifth Defendant (the "**Fifth Defendant**"); and Norahs Kcotsob Limited, the proposed Sixth Defendant, (the "**Sixth Defendant**") together with the further pleadings filed and served in the cause to date.
3. Service of the Amended Originating Summons, Amended Points of Claim and further pleadings upon the Fifth Defendant and the Sixth Defendant in accordance with paragraph 2 above may be effected by the Plaintiff serving the same upon Bodden and Bodden, attorneys for the Fifth Defendant and the Sixth Defendant.
4. The Fifth and Sixth Defendants shall if so advised file their Acknowledgement of Service of the Amended Originating Summons on or before 7 January 2013.
5. The Plaintiff shall serve his supplemental list of documents on or before 7 January 2013.
6. The First to Fourth Defendants may if so advised amend their Points of Defence and shall file and serve any amendments to their Points of Defence on or before 28 January 2013.
7. Should the Fifth and Sixth Defendants give notice of an intention to defend the action the Fifth and Sixth Defendants shall if so advised file and serve Points of Defence (and any counterclaim) to the Amended Points of Claim on or before 28 January 2013.
8. The Plaintiff may if so advised amend his Replies to the Points of Defence of the First to Fourth Defendants and shall file and serve any amendments to these Replies within 14 days of receipt of the First to Fourth Defendants' Amended Points of Defence.
9. The Plaintiff may if so advised file and serve a Reply to the Points of Defence of the Fifth and Sixth Defendants within 14 days of service upon him of those Points of Defence.



10. Should the Fifth and Sixth Defendants seek to defend the action the Fifth and Sixth Defendants shall provide the Plaintiff with lists of all the documents upon which they intend to rely at the trial within 14 days of service of the Plaintiff's Reply to the Points of Defence of the Fifth and Sixth Defendants (or if no such Reply is provided, within 28 days of the service of the Points of Defence of the Fifth and Sixth Defendants upon the Plaintiff) and shall provide without delay such copies thereof as may be requested by the Plaintiff.
11. All parties shall exchange witness statements of the witnesses to be called at trial within 21 days of the provision (if applicable) by the Fifth and Sixth Defendants of their lists of documents to the Plaintiff or alternatively, if no such lists of documents are provided, on or before 19 March 2013.
12. Pending determination of the Plaintiff's claim in this action or until further order the Fifth and Sixth Defendants shall be prohibited from seeking, procuring, authorising or causing in any manner whatsoever any transfer, assignment or dealing in any manner whatsoever with the funds totalling US\$231,870.00 currently held in an account in the name of the Sixth Defendant at the Royal Bank of Canada with account reference number 06975-2623684, together with those funds totalling US\$303,402.31 currently held in a term deposit account in the name of the Sixth Defendant at the Royal Bank of Canada with account reference number 06975-1970745-002 (such funds together totalling US\$535,272.31) which constitute part of the proceeds of sale (the "Sale Proceeds") of the parcel of land registered as Block 15C Parcel 191 situate in South Sound and sold by Esther Rosalind Hinds to Empire Development on or about 16 February 2005, which proceeds in the sum of US\$940,000 were transferred by Esther Rosalind Hinds to the Second and Fifth Defendants by way of a bank transfer on or around 16 February 2005.
13. The Fifth and Sixth Defendants (or anyone notified of this Order) may apply to the Court at any time to vary or discharge this Order (or so much of it as affects that person), but anyone wishing to do so must first inform the Plaintiff's attorneys in writing on not less than 7 days' notice.
14. Insofar as the Fifth Defendant and/or the Sixth Defendant has caused, suffered or permitted, or is aware of any dealing whatsoever in respect of the Sale Proceeds since 16 February 2005, the Fifth Defendant and/or the Sixth Defendant shall swear and serve on the Plaintiff's attorneys an affidavit on or before 18 January 2013 setting out the details of all such dealing identifying with full specificity the nature and date of such dealing and identifying (by name and address) all parties thereto.



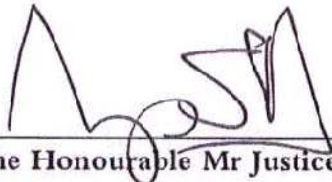
15. At the same time as serving an affidavit in accordance with paragraph 12 above the Fifth Defendant and the Sixth Defendant shall deliver up to the Plaintiff's attorneys all of the documents in their possession, custody or power which relate to or evidence any or all of the dealing referred to in such affidavit.
16. The matter shall be listed for a Pre-trial Review to be heard not less than 21 days before the trial date.
17. The matter to be set down for trial on the first available date after 1 April 2013 with a time estimate of five days.
18. The Parties shall be at liberty to apply for further directions.
19. The First to Fourth Defendants' costs of and occasioned by the application for and the amendments to the Originating Summons and Points of Claim be paid by the Plaintiff to be taxed if not agreed.
20. Save as set out in paragraph 19 above, costs be in the cause.


SCHEDULE 1: Undertaking given to the Court by the Plaintiff

1. If the Court later finds that paragraph 12 of this Order has caused loss to the Fifth Defendant and/or the Sixth Defendant and decides that the Fifth Defendant and/or the Sixth Defendant should be compensated for that loss, the Plaintiff will comply with any Order the Court may make.
2. Anyone notified of paragraph 12 of this Order will be given a copy of it by the Plaintiff's attorneys.

DATED the 17th day of December 2012

FILED the 20th day of December 2012


The Honourable Mr Justice Foster



Approved as to form and content:

Appleby (Cayman) Ltd.

Appleby (Cayman) Ltd.

Attorneys-at-Law for the Plaintiff

Giglioli & Company

Giglioli & Company

Attorneys-at-Law for the First Defendant

Diamond Jones

Diamond Jones

Attorneys-at-Law for the Second, Third and Fourth Defendants

Bodden and Bodden

Bodden and Bodden

Attorneys-at-Law for the Fifth and Sixth Defendants



THIS ORDER was filed by Appleby (Cayman) Ltd., Attorneys-at-Law for the Plaintiffs whose address for service is that of their said Attorneys, namely Clifton House, 75 Fort Street, PO Box 190, Grand Cayman KY1-1104, Cayman Islands (Ref: CDP/RC/410839.0002)

Amended pursuant to the Order of the Honourable Mr Justice Foster dated 17 December 2012

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 104 OF 2011

IN THE MATTER of the Estate of John Samuel Hinds (Deceased) and the Estate of Esther Rosalind Hinds (Deceased)

AND IN THE MATTER of the Grand Court Rules Order 85

B E T W E E N:

PHILLIP BRADLEY HINDS

Plaintiff

and

- (1) CLIVE MONTRIVELLE HINDS, ADMINISTRATOR OF THE ESTATE OF ESTHER ROSALIND HINDS
- (2) CLIVE MONTRIVELLE HINDS
- (3) JOHN LEVERETTE HINDS III
- (4) THOMAS ANTHONY HINDS
- (5) SHARON HINDS
- (6) NORAHS KCOTSOB LIMITED



Defendants

AMENDED ORIGINATING SUMMONS

TO: CLIVE MONTRIVELLE HINDS, both in his personal capacity and as administrator of the Estate of Esther Rosalind Hinds of Hinds Way, George Town, Grand Cayman, Cayman Islands

AND TO: JOHN LEVERETTE HINDS of 21 Zion Street Kenner, LA 70065-1040 United States of America

AND TO: THOMAS ANTHONY HINDS of 546 Briarwood Avenue, Pittsburgh, PA 15228, United States of America

AND TO: SHARON HINDS of 101 Hinds Way, George Town, Grand Cayman, Cayman Islands

AND TO: NORAHS KCOTSOB LIMITED of 5th Floor, Anderson Square Building, Shedden Road, Grand Cayman, Cayman Islands

LET THE DEFENDANTS CLIVE MONTRIVELLE HINDS, JOHN LEVERETTE HINDS, ~~AND THOMAS ANTHONY HINDS,~~ **SHARON HINDS AND NORAHS KCOTSOB LIMITED** (collectively, "the Defendants") within 28 days after service of this Originating Summons on them, counting the day of service, return the accompanying acknowledgment of service to the Court Office, P.O. Box 495 GT, George Town, Grand Cayman KY1-1106, Cayman Islands.

BY THIS ORIGINATING SUMMONS which is issued on the application of the Plaintiff PHILLIP BRADLEY HINDS of 816 South Church St., George Town, Grand Cayman, Cayman Islands, against the Defendants (whose addresses are given above and who are interested under the Estate of Esther Rosalind Hinds, deceased), the Plaintiff seeks the following relief:

1. A declaration that, at the date of her death, Esther Rosalind Hinds, as Administratrix of the estate of John Samuel Hinds, deceased (the "Deceased"), held the following properties subject to the trusts arising on the intestacy of the Deceased by virtue of Section 29 of the Succession Law, 1975 (as amended), and that following her death those properties are now held by the First Defendant upon trust absolutely for the Plaintiff as the issue of the Deceased:

<u>No.</u>	<u>Block & Parcel No.</u>	<u>Description</u>
1.1	Block 15B, Parcel 81	A one-quarter divided share of a parcel of land in South Sound owned by the Deceased and transferred by Esther Rosalind Hinds as his Administratrix to herself in 1996.



- 1.2 Block 15C, Parcel 175 A 2.2 acre parcel of land in South Sound formerly owned by Joseph Bradley Hinds and transferred by his executor to Esther Rosalind Hinds in 1989.
- 1.3 Block 15E, Parcel 222 A 3.17 acre parcel of land in South Sound formerly owned by Joseph Bradley Hinds and transferred by his executor to Esther Rosalind Hinds in 1996.
- 1.4 Block 7C, Parcel 1 A 1.34 acre parcel of land in South Sound owned by the Deceased and transferred by Esther Rosalind Hinds as his administratrix to herself in 1996.
- 1.5 Block 15C, Parcel 172 A 2.13 acre parcel of land in South Sound formerly owned by Joseph Bradley Hinds and transferred by his executor to Esther Rosalind Hinds in 1989.

2. A declaration that Esther Rosalind Hinds, as Administratrix of the estate of the Deceased, held the following property subject to the trusts arising on the intestacy of the Deceased by virtue of Section 29 of the Succession Law, 1975 (as amended), and on or about 26 February 1999 she transferred that property in breach of those trusts to the Defendants, on trust absolutely for the Plaintiff, as the issue of the Deceased:

<u>No.</u>	<u>Block & Parcel No.</u>	<u>Description</u>
2.1	Block 15C, Parcel 63	A 5.9 acre parcel of land in South Sound formerly owned by Joseph Bradley Hinds, transferred by his executor to Esther Rosalind Hinds in or during 1991 and subsequently transferred by Esther Rosalind Hinds to the Defendants in 1999.

3. A declaration that, prior to the date of the sale of the following property (the "Sale"), Esther Rosalind Hinds, as Administratrix of the estate of the Deceased, held that property, subject to the trusts arising on the intestacy of the Deceased by virtue of Section 29 of the Succession Law, 1975 (as amended), and that following the Sale, she held the proceeds



thereof subject to the same trusts and that following the transfer of those proceeds to the Second Defendant, the Fifth Defendant and/or the Sixth Defendant, the Second Defendant, the Fifth Defendant and/or the Sixth Defendant held and the Fifth Defendant and/or the Sixth Defendant continues to hold the proceeds of the Sale on trust absolutely for further, that following her death, the Plaintiff, as the issue of the Deceased, is absolutely entitled to these proceeds and that to the extent that the Second Defendant, the Fifth Defendant and/or the Sixth Defendant has dissipated in whole or in part the proceeds of the Sale that the Second Defendant, the Fifth Defendant and/or the Sixth Defendant or any combination of them (as the case may be) is/are liable to restore equivalent value to the trust fund held absolutely for the Plaintiff:

- | <u>No.</u> | <u>Block & Parcel No.</u> | <u>Description</u> |
|------------|-------------------------------|---|
| 3.1 | Block 15C, Parcel 191 | An 8.26 acre parcel of land in South Sound formerly owned by Joseph Bradley Hinds and transferred by his executor to Esther Rosalind Hinds in or during 1991 and subsequently transferred by Esther Rosalind Hinds to Empire Development Company Ltd. on or about 16 February 2005. |
| 4. | | An Order that the Land Register of the Cayman Islands be rectified or amended to record appropriately the Plaintiffs interest in the properties described as 1.1-1.4 <u>5</u> and 2.1 above; |
| 5. | | An order that the First Defendant, as Administrator of the Estate of Esther Rosalind Hinds, provide the Plaintiff with an account of the proceeds of the Sale. |
| 6. | | An Order that the Plaintiff's costs of this application be paid by the Defendants and/or the proceeds of the Estate of Esther Rosalind Hinds (Deceased); |
| 7. | | Such further or other relief as the Court thinks fit. |

Dated 17th June 2011



Amended 17 December 2012

~~CONYERS DILL & PEARMAN-APPLEBY (CAYMAN) LTD.~~

Attorneys for the Plaintiff

If the Defendants do not acknowledge service, judgment may be given or made against, or in relation to them, as the Court may think just and expedient

NOTE: This Originating Summons may be served not later than 4 calendar months (or if leave is required to effect notice out of the jurisdiction, 6 months) beginning with that date, unless renewed by order of the Court.

IMPORTANT: Directions for acknowledgment of service are given with the accompanying forms.



THIS AMENDED ORIGINATING SUMMONS was issued by Appleby (Cayman) Ltd. ~~CONYERS DILL & PEARMAN~~ on behalf of the Plaintiff whose address for service is Clifton House, 75 Fort Street, PO Box 190, George Town, Grand Cayman KY1-1104, Cayman Islands (Ref: CDP/RC/410839.0002) ~~Cricketer Square, Hutchins Drive, Grand Cayman, Cayman Islands.~~

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AND IN THE MATTER of the Grand Court Rules Order 85

B E T W E E N:

PHILLIP BRADLEY HINDS

Plaintiff

and

- (1) CLIVE MONTRIVELLE HINDS, ADMINISTRATOR OF THE
ESTATE OF ESTHER ROSALIND HINDS
- (2) CLIVE MONTRIVELLE HINDS
- (3) JOHN LEVERETTE HINDS III
- (4) THOMAS ANTHONY HINDS
- (5) SHARON HINDS
- (6) NORAHS KCOTSOB LIMITED

Defendants

ACKNOWLEDGEMENT OF SERVICE OF
ORIGINATING SUMMONS



If you intend to instruct an Attorney to act for you, give him this form
IMMEDIATELY.

Important: Read the accompanying directions and notes for guidance carefully before completing the form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.	
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1. State the full name of the Defendant by whom or on whose behalf the service of the Originating Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*).

Yes

No

Service of the Originating Summons is acknowledged accordingly.

Attorney for the Defendant



Notes on address for service:

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Please complete overleaf



Indorsement by Plaintiff's Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Appleby (Cayman) Ltd.
Clifton House,
75 Fort Street,
PO Box 190, George Town,
Grand Cayman KY1-1104, Cayman
Islands
(Ref: CDP/RC/410839.0002)
Conyers Dill & Pearman
Attorneys-at-Law
PO Box 2684
Grand Cayman KY1-1111
Cayman Islands

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.



**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF ORIGINATING SUMMONS**

The accompanying form of Acknowledgement of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Originating Summons)".
5. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
6. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.



7. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.



Amended pursuant to the Order of the Honourable Mr Justice Foster dated 17 December 2012

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AND IN THE MATTER of the Grand Court Rules Order 85

BETWEEN:

PHILLIP BRADLEY HINDS

Plaintiff

and

- (1) CLIVE MONTRIVELLE HINDS, ADMINISTRATOR OF THE ESTATE OF ESTHER ROSALIND HINDS
- (2) CLIVE MONTRIVELLE HINDS
- (3) JOHN LEVERETTE HINDS III
- (4) THOMAS ANTHONY HINDS
- (5) SHARON HINDS
- (6) NORAHS KCOTSOB LIMITED

Defendants

AMENDED POINTS OF CLAIM



DEFINITIONS

1. In these Points of Claim the following expressions have the meanings attributed to them in this paragraph:
 - 1.1 "Mrs Hinds" means Esther Rosalind Hinds who died on 11 July 2010 domiciled and resident in the Cayman Islands;

- 1.2 “the Administrator” means the First Defendant in that capacity to whom Letters of Administration of Mrs Hinds’ estate were granted in 14 April 2011 by this Honourable Court;
- 1.3 “J.S. Hinds” means John Samuel Hinds, the second husband of Mrs Hinds and the father of the Claimant who predeceased Mrs Hinds on 4 April 1978;
- 1.4 “J.B. Hinds” means Joseph Bradley Hinds, the father of J.S. Hinds and grandfather of the Claimant, who died on 2 June 1977;
- 1.5 “J.B. Hinds’ Will” means the will dated January 1975 of J.B. Hinds, probate of which was granted to Sir Vassel on 20 June 1980;
- 1.6 “Sir Vassel” means Vassel Godfrey Johnson, the sole executor of J.B. Hinds’ estate;
- 1.7 “the Parcels” means the parcels of land situate in South Sound, Grand Cayman or the interests in such land defined in these Points of Claim as Parcels 1 to 78;
- 1.8 “Parcel 1” means one-quarter divided share in land registered at the Cayman Islands Land Registry as Block 158, Parcel 81;
- 1.9 “Parcel 2” means land registered at the Cayman Islands Land Registry as Block 15C, Parcel 175;
- 1.10 “Parcel 3” means land registered at the Cayman Islands Land Registry as Block 15E, Parcel 222,
- 1.11 “Parcel 4” means land registered at the Cayman Islands Land Registry as Block 7C, Parcel 1;



- 1.12 "Parcel 5" means land registered at the Cayman Islands Land Registry as Block 15C, Parcel 63;
- 1.13 "Parcel 6" means land registered at the Cayman Islands Land Registry as Block 15C, Parcel 191;
- 1.14 "Parcel 7" means land registered at the Cayman Islands Land Registry as Block 15E, Parcel 152;
- 1.15 "Parcel 8" means land registered at the Cayman Islands Land Registry as Block 15C, Parcel 172;
- 1.16 "the Statutory Trusts" means the statutory trusts prescribed by section 29 and 30 of the Succession Law 1975 as amended by section 2 of the Succession (Amendment) Law 1976 in force at the date of death of J.S. Hinds;
- 1.17 "the Trust Fund" means the net residuary estate of J.S. Hinds held subject to the Statutory Trusts and comprising the Parcels or their proceeds of sale;
- 1.18 "the Charge" means the charge in favour of Mrs Hinds arising under the Statutory Trusts by which the Trust Fund was charged with the payment of the sum of \$1,000 or 10% of the net residuary estate together with interest at 5% per annum until paid or appropriated.

MRS HINDS' ESTATE

2. Mrs Hinds died intestate. The Plaintiff and the Second to Fourth Defendants are entitled to her net residuary estate in equal shares. The Second to Fourth Defendants are the three sons of Mrs Hinds by her first marriage and the Plaintiff is her son by her second marriage. The Fifth Defendant is married to the Second Defendant. The Sixth Defendant is a company incorporated in the Cayman Islands with Registration Number 124521. The name of the Sixth Defendant is the maiden



name of the Fifth Defendant (Sharon Bostock) spelled backwards. The Sixth Defendant is under the control of the Fifth Defendant.

3. The interests of the residuary beneficiaries of Mrs Hinds' estate do not extend to property to which she was not beneficially entitled at her death but instead held as a trustee for others. During her lifetime Mrs Hinds held the Trust Fund on trust for the Plaintiff, subject to the Charge and to her life interest arising under the Statutory Trusts.
4. The Administrator has no right or title to deal with the Trust Fund by virtue of his appointment save that by virtue of section 4(1)(b) of the Trusts Law (~~2009-2011~~ Revision) he has power as the personal representative of the last surviving trustee to appoint a new trustee or trustee of the Trust Fund with a view to its ultimate vesting in the Plaintiff. If the Administrator declines to exercise his power the Plaintiff seeks his own appointment or alternatively that of some fit and proper person as such trustee by this Honourable Court in exercise of its power under section 10(1) of the Trusts Law (~~2009-2011~~ Revision).

J.S. HINDS' ESTATE AND THE TRUST FUND

5. J.S. Hinds died domiciled in the State of Louisiana the laws of which provide that the devolution of real estate situated outside Louisiana is governed by the laws of the state on which the property is situate. The laws of the Cayman Islands govern the devolution of real property of J.S. Hinds situate in the Cayman Islands.
6. On 19 May 1978 Mrs Hinds was granted letters of administration to J.S. Hinds' estate in the State of Louisiana and the grant was resealed by this Honourable Court on 25 August 1980 enabling her to deal with J.S. Hinds' Cayman Islands estate.
7. J.S. Hinds' interests in Cayman Islands real estate comprised:



- 7.1 Parcel 1. Parcel had been held by Mr and Mrs C. Flowers as to two-quarters and by J.S. Hinds and Mrs Hinds as to one-quarter each. The one-quarter interest of J.S. Hinds constituted an asset of his estate;
- 7.2 Parcel 4 which was registered in his name during his lifetime; and,
- 7.3 an interest in the unadministered estate of his father J.B. Hinds arising under J.B. Hinds' Will. J.S. Hinds died less than one year after his father and before that estate had been fully administered by Sir Vassel.
8. Under the terms of clause 3 of J.B. Hinds' Will J.S. Hinds was entitled to an equal share with his two sisters in three specified pieces of land registered in the name of J.B. Hinds. In the course of administering J.B. Hinds' estate Sir Vassel appropriated Parcels 2, 3, 5, 6, 7 and 8 to the interest of J.S. Hinds in the estate of his father and transferred them to Mrs Hinds (J.S. Hinds' administrator and a beneficiary of the Statutory Trusts) at various dates between 1982 and 1996 in satisfaction of J.S. Hinds' interest in the J.B. Hinds estate. In 1996 Mrs Hinds transferred title to Parcels 1 and 4 into her own name. In the case of both the transfers by Sir Vassel and those by Mrs Hinds, Section 23(b)(i) of the Registered Land Law had the effect that the transfers took effect subject to Mrs Hinds' duties as the trustee of the Statutory Trusts.

THE STATUTORY TRUSTS

9. By virtue of the Statutory Trusts arising on the death intestate of J.S. Hinds, Mrs Hinds as administrator and trustee held the Trust Fund (other than the personal chattels to which she was entitled absolutely) on trust:
- 9.1 to satisfy the Charge;
- 9.2 as to one half of the Trust Fund for herself during her lifetime with remainder to the Plaintiff, the only issue of J.S. Hinds at the age of 18; and



9.3 as to the other half of the Trust Fund, on trust for the Plaintiff at the age of 18 years.

10. At the date of death of J.S. Hinds the Claimant was aged 13 years, attaining the age of 18 in 1982. From and after that date Mrs Hinds held one half of the Trust Fund on bare trust for the Plaintiff absolutely, subject to any part of the Charge still outstanding, and upon the death of Mrs Hinds the Plaintiff became entitled to the remaining one half of the Trust Fund, subject to any part of the Charge still outstanding. No admissions are made in relation to the Charge pending the taking of an account.



EVENTS DURING MRS HINDS' LIFE

11. In 1999 Mrs Hinds executed a transfer of Parcel 5 into the names of the Second to Fourth Defendants. Such transfer was expressed to be in consideration of natural love and affection. If and to the extent that such appropriation to her own use exceeded the sum to which she was entitled in respect of the Charge (as to which the Claimant makes no admissions pending the taking of an account), such transfer was made in breach of trust. As voluntary transferees of Parcel 5 the Second to Fourth Defendants hold such property subject to the claims of the Plaintiff under the Statutory Trusts.
12. In February 2005 Mrs Hinds sold Parcel 6 to Empire Development Company Limited. The net proceeds of sale amounting to US\$940,000 were deposited on or about 16th February 2005 into an account at the Bank of Butterfield, savings account no 01-201-~~123234~~-023234 in Mrs Hinds' name. Such sale was within her powers as trustee of the Trust Fund and Mrs Hinds thereafter held the proceeds of sale on the trusts affecting the Trust Fund. Mrs Hinds transferred these proceeds of sale to a joint account in the name of the Second Defendant and the Fifth Defendant on 16th February 2005. On 17th February 2005 the Second Defendant and the Fifth Defendant transferred the proceeds of sale into an account in the name of the Sixth

Defendant. To the best of the Plaintiff's knowledge and belief the proceeds of sale are presently held in a bank account in the name of the Fifth Defendant and/or Sharon Hinds the Sixth Defendant, who holds them subject to the Plaintiff's claims under the Statutory Trusts.

13. In 1988 Mrs Hinds transferred Parcel 7 to the Claimant. Such transfer is to be treated as made in part satisfaction of the Plaintiff's entitlement to the Trust Fund under the Statutory Trusts.



AND THE PLAINTIFF CLAIMS:

1. A declaration that Parcels 1, 2, 3, ~~and 4~~ and 8 do not form part of the residuary estate of Mrs Hinds (save to the extent, if at all, that following the taking of an account it is held that some or all of the Charge remains to be satisfied) and that, subject to such account, they are held on trust for the Plaintiff absolutely.
2. A declaration that the Second to Fourth Defendants hold Parcel 5 on Trust for the Plaintiff absolutely, subject to the taking of an account in relation to the Charge.
3. Alternatively compensation from the estate of Mrs Hinds if and to the extent that her transfer of Parcel 5 to the Second to Fourth Defendants constituted a breach of trust by Mrs Hinds.
4. A declaration that the net proceeds of sale of Parcel 6 form part of the Trust Fund and are held on Trust for the Plaintiff absolutely by ~~Sharon Hinds the Fifth Defendant and/or the Sixth Defendant~~, subject to the taking of an account in relation to the Charge.
5. An order restraining the disposal of the proceeds of sale of Parcel 6 by the Fifth Defendant and/or the Sixth Defendant ~~Sharon Hinds~~ and an order providing for their payment to the Plaintiff or, alternatively, to a new trustee of the Trust Fund. Further or alternatively compensation to be paid by the Second Defendant, the Fifth

Defendant and/or the Sixth Defendant if and to extent that neither the Fifth Defendant nor the Sixth Defendant, nor the Fifth Defendant and the Sixth Defendant between them, have retained the entirety of the proceeds of sale of Parcel 6.

6. If and so far as may be necessary, an order appointing the Plaintiff or some other fit and proper person to be the new trustee of the Trust Fund;
7. All necessary accounts and enquiries.
8. An order that the costs of this application be paid by the Defendants or alternatively the estate of Mrs Hinds.
9. Such further or other relief as this Honourable Court thinks fit.

SHAN WARNOCK-SMITH Q.C.

APPLEBY (CAYMAN) LTD.

6 February 2012

Amended 17 December 2012



This Amended Points of Claim was filed by Appleby (Cayman) Ltd, Conyers Dill & Pearman, Attorneys-at-Law on behalf of the Plaintiff, whose address for service and correspondence is Clifton House, 75 Fort Street, PO Box 190, George Town, Grand Cayman KY1-1104, Cayman Islands (Ref: CDP/RC/410839.0002) Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman KY1-1111, Cayman Islands.