

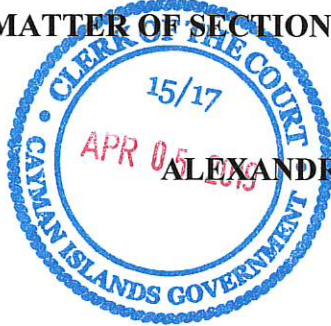
IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

FSD CAUSE NO. *56* of 2019

IN THE MATTER OF a Deed of Trust dated 24 December 1998 (the "Trust")

AND IN THE MATTER OF SECTION 48 of THE TRUSTS LAW (2018 REVISION)

BETWEEN



ALEXANDRIA BANCORP LIMITED

Plaintiff



-and-

(1) ROBERT ARTHUR ALEXANDER (in his capacity as Protector of the Trust)

(2) GEORGE CHARLES STIRLING MORISON (in his capacity as Protector of the Trust)

(3) THE HERMAN KASSINGER FOUNDATION

(4) MICHAEL THOMAS KASSINGER

(5) GABRIELLE EMMA KASSINGER

(6) STEPHEN ANDRE KASSINGER

(7) ROSS MICHAEL KASSINGER

(8) KRISTEN NICOLE KASSINGER

(9) KATHARINE CLAIRE KASSINGER

(10) MADELAINE EMMA JOYCE KASSINGER

(11) DUKE DAVIS KASSINGER (a minor)

(12) TESSA JUNE KASSINGER (a minor)

(13) JUTTA MARIA KASSINGER

(14) PETER AUGUST KASSINGER

Defendants

ORIGINATING SUMMONS

LET THE DEFENDANTS, within 28 days after service of this Originating Summons on them, or if leave is required to effect service out of the jurisdiction within such other period as the court may order, counting the day of service, return the accompanying Acknowledgment of Service to the Courts Office, P.O. Box 495, George Town, Grand Cayman.

By this Originating Summons, which is issued on the application of the Plaintiff, Alexandria Bancorp Limited of 802 West Bay Road, P.O. Box 2428, Grand Cayman KY1-1105, Cayman Islands (*“the Trustee”*), against the Defendants whose addresses are given below the First and Second Defendants being the Protectors of the Trust (*“the Protectors”*) and the remaining Defendants being beneficiaries of the Trust, the Trustee seeks the orders and directions set out below.

1. On the true construction of the Trust, declarations:

1.1 Whether, in light of the provisions of Article 3.4 and Schedule “D” of the Trust contained in Fourth Deed of Amendment dated 21 June 2004 (*“Schedule D”*), the Trustee may exercise the power of appointment contained in Article 3.1 of the Trust following the death of the Settlor in 2004;

1.2 whether, in exercise of its annual discretion to make proportionate capital payments under paragraph (b) of Schedule D to the named beneficiaries, the Trustee is obliged to make payments to all such named beneficiaries if it decides to make a distribution at all in any given year or whether it has a discretion as between the individual beneficiaries in such a case;

1.3 whether, in the events envisaged by paragraph (c) of Schedule D (with the effect that the Trustee's discretion is not capped at a specified monetary amount) the Trustee is obliged to make distributions to all such named beneficiaries if it decides to make a distribution at all in any given year or whether it has a discretion as between the individual beneficiaries in such a case;

1.4 whether under paragraph (c) of Schedule D the Trustee has power to bring the Trust to an end by making a distribution of the whole capital to the beneficiaries in the specified proportions without determining the Trust Period in exercise of their power to do so in Article 4.1;

1.5 whether at the end of the Trust Period (whether or not the Trustee and Protectors determine the Trust Period under their power in Article 4.1) the Trust Fund is held on the trusts of Article 3.6 or on some other and, if so, what trusts:

1.6 whether the entitlement under Article 3.6 of individuals who would be beneficiaries of the Settlor's estate if he had died intestate and without debts is to be ascertained:

1.6.1 as at the actual date of death of the Settlor or as at the date of failure or determination of the Trust or on some other and, if so, what date; and

1.6.2 by reference to the intestacy laws of the Cayman Islands as the governing law of the Trust or the intestacy laws of some other jurisdiction with which the Settlor was connected, in particular Ontario, Canada and Barbados;

1.6.3 as to the extent of the restriction imposed on the Trustee's power in Article 5.25 to vary, add to, revise or modify the terms and conditions of the Rossland Trust by the exclusion of an amendment which "changes any Beneficiary hereunder" and in particular whether such restriction would forbid an amendment to paragraph (b) of Schedule D to modify or remove the cap on capital distributions specified in that paragraph provided that the interests of Jill Kassinger would not be prejudiced thereby; and

1.7 all further necessary or desirable declarations in relation to the true construction of the Trust.

2. An order:

2.1 that all information relating to this Originating Summons, including but not limited to the affidavits, exhibits, submissions, and/or any other document filed at Court be kept confidential and placed into sealed envelopes not to be opened without the leave of the Court (and any such application to be made on not less than 7 days' notice to the Claimant)

2.2 that the hearing of this Originating Summons be heard in private and

2.3 any ruling delivered in these proceedings be anonymised.

3. Such further or other relief as the Court thinks fit.

4. That the costs of this application be provided for.

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

Dated this 5th day of April 2019

Colin Shaw & Co

Colin Shaw & Co.,
Alamander Way,
Grand Pavilion,
West Bay Road,
P.O. Box 10173,
Grand Cayman,
KY1-1002,
Cayman Islands.

- TO:**
- (1) ROBERT ARTHUR ALEXANDER (in his capacity as Protector of the Trust)**
 - (2) GEORGE CHARLES STIRLING MORISON (in his capacity as Protector of the Trust)**
 - (3) THE HERMAN KASSINGER FOUNDATION**
 - (4) MICHAEL THOMAS KASSINGER**
 - (5) GABRIELLE EMMA KASSINGER**
 - (6) STEPHEN ANDRE KASSINGER**
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 - (11) DUKE DAVIS KASSINGER (a minor)**
 - (12) TESSA JUNE KASSINGER (a minor)**
 - (13) JUTTA MARIA KASSINGER**
 - (14) PETER AUGUST KASSINGER**
 - (15) DORIS GALLUS**

NOTES:

1. This Originating Summons may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the above date unless renewed by Order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

This Originating Summons was issued by Colin Shaw & Co., Alamander Way, Grand Pavilion, West Bay Road, P.O. Box 10173, Grand Cayman KY1-1002, Cayman Islands, for the Plaintiff whose address for service is care of its said Attorneys at Law.

Acknowledgement of service of originating summons (0.10, r.5)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF ORIGINATING SUMMONS**

The accompanying form of Acknowledgment 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.

Notes for Guidance

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.

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

FSD CAUSE NO. of 2019

**IN THE MATTER OF a Deed of Trust dated 24 December 1998 (the "Trust")
AND IN THE MATTER OF SECTION 48 of THE TRUSTS LAW (2017 REVISION)
BETWEEN**

ALEXANDRIA BANCORP LIMITED

Plaintiff

-and-

- (1) ROBERT ARTHUR ALEXANDER (in his capacity as Protector of the Trust)**
- (2) GEORGE CHARLES STIRLING MORISON (in his capacity as Protector of the Trust)**

(3) THE HERMAN KASSINGER FOUNDATION

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(14) PETER AUGUST KASSINGER

(15) DORIS GALLUS

Defendants

ACKNOWLEDGMENT 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
this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE
TO BE RETURNED.

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

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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.

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

Colin Shaw & Co.,
Alamander Way,
Grand Pavilion,
West Bay Road,
P.O. Box 10173,
Grand Cayman,
KY1-1002,
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.

[Empty box for defendant's Attorney indorsement]