

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 175 OF 2019 ( )

IN THE MATTER OF a Deed Constituting The Tan Kim Choo Family Scholarship Trust dated 21 October 2002 made between Tan Kim Choo as Settlor and HSBC International Trustee Limited as Trustee establishing a trust known as The Tan Kim Choo Family Scholarship Trust, as amended by a Deed of Appointment of Beneficiary dated 21 August 2009

AND IN THE MATTER of the Trusts Law (2018 Revision, as amended) and GCR Order 85

BETWEEN

HSBC INTERNATIONAL TRUSTEE LIMITED

Plaintiff

AND

- (1) TAN POH LEE
- (2) TAN POH HUI
- (3) TAN BOON THIEN
- (4) TAN POH YEE
- (5) JCTW
- (6) JCZM
- (7) TJK
- (8) TJR
- (9) TYT
- (10) TZH



Defendants

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**ORIGINATING SUMMONS**

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LET ALL PARTIES CONCERNED attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the 16 day of Oct 2019, at 10 o'clock on the hearing of an application by HSBC International Trustee Limited (the "**Plaintiff**"), of c/o Ogier, 89 Nexus Way, Camana Bay, Grand Cayman, KY1-9009, Cayman Islands, in its capacity as trustee of the trust known as The Tan Kim Choo Family Scholarship Trust (the "**Trust**"), for the following orders, declarations, directions and relief pursuant to s.48 of the Trusts Law (2017 Revision) and/or GCR Order 85 and/or the inherent jurisdiction of the Court:

1. the Clerk of the Court be directed not to place on the Register of Writs and other Originating Process a copy of the unanonymised form of this Originating Summons;
2. the Clerk of the Court be directed to place on the Register of Writs and other Originating Process a copy of the anonymised form of this Originating Summons;

3. all information relating to this Originating Summons, including but not limited to the Originating Summons, 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 Plaintiff);
4. the names of the parties to this Originating Summons not be entered on the Register of Writs and other Originating Process;
5. the hearing of this Originating Summons be heard in private;
6. any ruling delivered in these proceedings be anonymised pursuant to Practice Direction 3 of 1997;
7. declarations that:
  - (a) the Trust is governed by the laws of the Cayman Islands;
  - (b) all questions concerning the Settlor's capacity, the identity of the Trustee, the administration of the Trust, any past or future distribution from the Trust, any decision to decline a distribution, and the termination of the Trust, or part thereof, must be determined in accordance with the law of the Cayman Islands without reference to any other law;
  - (c) the Courts of the Cayman Islands have exclusive jurisdiction in connection with all such questions both under the Trust instrument and as a matter of Cayman Islands law; and
  - (d) an order of a foreign court (including a court in Singapore) directing a distribution from the Trust, ordering the termination of the Trust or changing the trustee of the Trust will not be enforced, recognised or give rise to any estoppel in the Cayman Islands;
8. directions authorising the Plaintiff to defend proceedings brought by Tan Boon Thien in the High Court of the Republic of Singapore, with Cause numbers HC/S 471 of 2019 and HC/SUM 2427 of 2019 (the "**Proceedings**") and, in particular, directions authorising the Plaintiff to challenge the Proceedings on grounds of *forum non conveniens* as a

preliminary issue, in order to enable the matters in paragraph 9 below to be determined in the Cayman Islands;

9. directions to the Plaintiff on whether: (i) it should make the distribution sought by Tan Boon Thien in the Proceedings; (ii) it should terminate any part of the Trust; and, (iii) it should resign as trustee of the Trust;
10. an order that the Plaintiff be indemnified out of the assets of the Trust against all and any costs and expenses arising out of, and incidental to, the Proceedings, including, for the avoidance of doubt, any costs orders made in the Proceedings and its own professional charges in accordance with its terms and conditions as amended from time to time for the time of its own employees spent in dealing with the conduct of the Proceedings;
11. an order that the Plaintiff be at liberty to realise and/or raise funds from, wherever possible, the assets of the Trust for the purpose of settling the costs and expenses incurred by the Plaintiff arising out of, and incidental to, the Proceedings, as the Plaintiff thinks fit;
12. an order that the Plaintiff is entitled to recover its costs of these proceedings out of the assets of the Trust on an indemnity basis;
13. all further and other necessary orders and directions as this Court deems appropriate, including, if necessary, directions as to any representation orders and service of these proceedings; and
14. an order that the parties be at liberty to apply for further or other relief.

**AND LET THE DEFENDANTS** within 28 days after service of this summons on them counting the day of service, return the accompanying Acknowledgment of Service to the Courts office.

Dated the 11<sup>th</sup> day of September 2019



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**Ogier**  
Attorneys for the Plaintiff

**TIME ESTIMATE:** The estimated length of the hearing of this Summons is 1 day

**NOTES:-**

- (1) This 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 dated unless renewed by order of the Court.
- (2) If a Defendant does not acknowledge service, and does attend personally or by his attorney at the time and place above mentioned such order will be made as the Court may think just and expedient.

**IMPORTANT**

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

## 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, PO Box 495, 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, an originating summons 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.

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**HSBC INTERNATIONAL TRUSTEE LIMITED**

Plaintiff

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Defendants

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**ACKNOWLEDGMENT OF SERVICE  
OF ORIGINATING SUMMONS**

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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.

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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.

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

yes

no

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

Ogier  
89 Nexus Way  
Camana Bay  
Grand Cayman KY1-9009  
Cayman Islands  
Ref: 424809.00013/RAR/WJO/RP

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]