
TRUSTS AND
RELATED TAX ISSUES
IN OFFSHORE
FINANCIAL LAW

ROSE-MARIE ANTOINE



OXFORD

TRUSTS AND RELATED TAX ISSUES IN OFFSHORE FINANCIAL LAW

ROSE-MARIE BELLE ANTOINE

LLB (UWI); LLM (Cambridge); D Phil (Oxon)

Attorney-at-Law

OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Great Clarendon Street, Oxford OX2 6DP

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide in

Oxford New York

Auckland Cape Town Dar es Salaam Hong Kong Karachi
Kuala Lumpur Madrid Melbourne Mexico City Nairobi
New Delhi Shanghai Taipei Toronto

With offices in

Argentina Austria Brazil Chile Czech Republic France Greece
Guatemala Hungary Italy Japan South Korea Poland Portugal
Singapore Switzerland Thailand Turkey Ukraine Vietnam

Oxford is a registered trade mark of Oxford University Press
in the UK and in certain other countries

Published in the United States
by Oxford University Press Inc., New York

© Rose-Marie Belle Antoine, 2005

The moral rights of the author has been asserted

Crown copyright material is reproduced under Class Licence
Number C01P0000148 with the permission of HMSO
and the Queen's Printer for Scotland

Database right Oxford University Press (maker)

First published 2005

All rights reserved. No part of this publication may be reproduced,
stored in a retrieval system, or transmitted, in any form or by any means,
without the prior permission in writing of Oxford University Press,
or as expressly permitted by law, or under terms agreed with the appropriate
reprographics rights organizations. Enquiries concerning reproduction
outside the scope of the above should be sent to the Rights Department,
Oxford University Press, at the address above

You must not circulate this book in any other binding or cover
and you must impose this same condition on any acquirer

British Library Cataloguing in Publication Data
Data available

Library of Congress Cataloging in Publication Data
Data available

ISBN 0-19-925222-X

1 3 5 7 9 10 8 6 4 2

Typeset by RefineCatch Limited, Bungay, Suffolk
Printed in Great Britain
on acid-free paper by
Biddles Ltd., King's Lynn

FOREWORD

Oliver Wendell Holmes, the father of the great judge of the same name, once wrote: 'Put not your trust in money, but put your money in trust.' We can imagine the enthusiasm with which he would have greeted that modern phenomenon, the offshore trust, which is the subject of this excellent new book.

Professor Ross Cranston and I had the pleasure of co-supervising Rose-Marie Antoine's doctoral thesis on offshore financial law, a thesis highly commended by the examiners, part of which later grew into a larger specialist work published under the title *Confidentiality in Offshore Financial Law*, by Oxford University Press. In that work Dr. Antoine graphically depicted the tension between the desire of offshore jurisdictions to respond to the needs of international business and finance, through strict confidentiality rules, tax advantages, and the like, and the concern of onshore jurisdictions to counter tax evasion and money laundering, and drew attention to the important constitutional issues involved. *Confidentiality in Offshore Financial Law*, a splendid work, is now followed by this second offering from Dr. Antoine's pen, an equally fine text which explores the distinctive characteristics of the offshore trust, an institution combining the traditional trust developed by the English common law with new features designed to protect the trust assets from the claims of creditors, bypass inconvenient rules on succession and counter challenges by onshore jurisdictions.

In this new book Dr. Antoine combines a rigorous analysis of the complex legal issues surrounding the offshore trust with a balanced policy perspective in which she stoutly defends the institution of the offshore trust as a legitimate instrument of estate planning based on freedom of contract and of property while acknowledging that it may be abused and that onshore jurisdictions have legitimate concerns which need to be addressed. The book is wide-ranging, covering matters as diverse as the liability of trustees and the validity of exculpatory clauses, tax implications, the use of human rights law to protect the essential features of the offshore trust, and issues of the conflict of laws, including an examination of the Hague Convention on the Recognition of Trusts. It is at once a challenging work for the scholar and a *vade mecum* for the practitioner, and I have no doubt that it will be welcomed as warmly as its predecessor.

Roy Goode
Oxford
November 2004

PREFACE

The idea or notion of a ‘statutory trust’ is to some heresy and to others a contradiction in terms. Since the trust is a creation of equity, then statute, by definition, cannot create a trust. Yet, it is precisely what the creators of the offshore trust have dared to do. It is little wonder, therefore, that the offshore trust has been described as a bastard offspring of equity.

This new creation, the offshore trust, is, in many ways, extraordinary. On the one hand, it borrows heavily from the traditional trust, created and fashioned by the principles of equity. Yet, on the other hand, it embodies unique concepts radical to the traditional trust. It has attempted to surmount the forced heirship regime of the civil law. It has created the original entity that is the ‘purpose trust’. It has embraced selected principles of company law, married these principles to equity, and created a vehicle for offshore investment. It has attempted to exploit universal principles of tax law which advance tax mitigation. It has promoted the cause of the freedom of disposition of property, even to the extent of prioritizing the interests of named beneficiaries and trust purposes over future, unidentifiable creditors. As the challenge to its existence mounts, its creators constantly seek to reshape it to enable it to adapt to its changing environment. Perhaps the best example of this is the so-called ‘VISA’ trust, recently created in the British Virgin Islands. All of these innovations and revolutions have been done in the name of commercial pragmatism and viability, to create an efficient mechanism suitable for the modern international business environment.

The fascinating legal framework of the offshore trust and its evolving jurisprudence is the subject of this book. It is a subject with which every trust practitioner and every person associated with the business environment should familiarize themselves. Notwithstanding its obvious usefulness to the practitioner, the very existence of this new trust, the first truly indigenous and carefully planned trust creation of modern times, should be a stimulating topic of inquiry for the academic and the student alike. The book serves also as a companion volume to *Confidentiality in Offshore Law*.

Part I explores the underlying principles of the offshore trust and explains its anatomy and functions. Special trust vehicles are described and examined. Inevitably, one is never far away from either defending or trying to explain the jurisprudential tensions surrounding the offshore trust. This leads to Part II,

which focuses on the challenges to the offshore trust, and the common pitfalls encountered by practitioners and others who seek to create such trusts, thereby giving advice as to how they should be avoided. How and why an offshore trust may be deemed a sham is a major subject of inquiry. Great attention is also given to the duties of trustees in managing offshore trusts, potential fraudulent conveyances, the liability of third parties to the trust, and the liability of directors of offshore corporate trustees.

Part III focuses on the offshore tax function. Here, I have chosen to explore, *inter alia*, the responses to the tax function of offshore trusts, the increasingly hostile counter-measures by onshore jurisdictions against offshore trusts, the reaction by offshore jurisdictions, and even the efforts at judicial engineering associated with the offshore tax function. This enables the reader to make a realistic and much needed assessment of how the offshore trust functions in the international tax sphere. Nowhere are the tensions between offshore and onshore jurisdictions more evident than in the tax functions of the offshore trust.

In Part IV, the book seeks to explore the intriguing issues that arise in conflict of laws as they relate to the offshore trust. It is perhaps the first time that this complex and important subject is explored in a major work. This includes new ideas as to how the offshore trust should be approached from a conflict of laws perspective, for example the initial question of the capacity to create an offshore trust. Hence, the ingenuity of the creators of the offshore trust is introduced as they try to create mechanisms through the offshore trust to override conflicts arising from competing legal traditions. Issues of the jurisdiction of the offshore trust, its proper law, and the recognition of the offshore trust in civil law countries invite investigation and exegesis. Perhaps the most fascinating aspect of the efforts of the offshore trust to be accommodated and accepted in the civil law tradition has been its efforts to contend with the principles of forced heirship, an essential initiative if the offshore trust is to be marketed successfully in a global environment.

The book concludes with an examination of two subjects, the capacity to create the offshore trust and the initial transfers of assets, and the non-enforcement of foreign judgments under offshore trust law. These areas of discussion are essential to understanding, and preparing for, the survivability and endurance of the offshore trust.

Offshore law is unquestionably comparative in scope, depth, and character. This alone makes this work comprehensive in the treatment of the subjects and themes selected for analysis. The book examines not only the offshore law current in the several offshore jurisdictions, but also assesses offshore law from an onshore law perspective, including pertinent issues that arise when that onshore law belongs to the civil law tradition.

Rose-Marie Belle Antoine, Saint Lucia
January 2005

ACKNOWLEDGEMENTS

I am deeply indebted to the persons who undertook the challenging task of reading the manuscript (rather larger than first envisioned), making several helpful suggestions and comments which have certainly enhanced this book. These are: my colleague, Ms Tracy Robinson; my brother, Dr Robin M Antoine; and my husband, Dr Kenny D Anthony. Many thanks must also go to the superb editorial and production staff at Oxford University Press for their hard work and patience, in particular to Katarina Wihlborg and Michelle Thompson, as well as to Catherine Minahan, the copy editor.

TABLES OF CASES

AUSTRALIA

Augustus v Permanent Trustee Co (Canberra Ltd) (1971) 124 CLR 245	20.05, 20.63
Australia Securities Commission v Cooke [1996] 1101 FCA 1, Fed Ct	19.20
Damberg v Damberg [2001] NSWCA 87	15.28, 16.35
Daniels v Anderson (1995) 16 ACSR 607, CA	12.50
Davis v Federal Commissioners of Taxation (1989) 86 ALR 195	15.16
Hartigan Nominees Pty Ltd v Rydge (1992) 29 NSWLR 405	7.75
Hill v Permanent Trustee Co of New South Wales Ltd [1930] AC 720, PC	10.69
Hurley and Another v BGH Nominees Party Ltd (1982) SASR 250 (SC)	12.14
Rothmore Farms Pty v Belgravia Pty Ltd (1999) 1 ITEL 159	8.57
Rouse and Others v IOOF Australia Trustees Ltd [1999] SASC 181, Supreme Ct	7.65, 7.98
Spellson v George (1987) 11 NSWLR 300	7.57, 7.75
Trustees Association of Australia v Roberts [1990] CR 732	20.41
Wily (Trustee of the Bankrupt Estate of Fuller) and another v Fuller and Others (2000–01) 3 ITEL 321	8.06, 8.33, 8.40, 8.80

BAHAMAS

Attorney General v Financial Clearing Corporation No 70 of 2001, CA ...	13.40, 13.43, 13.55
Bahamas International Trust Company Ltd and Others v Wyckoff No 466 of 1987, Sup Ct	10.83, 12.03, 19.32, 19.35
Banco Ambrosiano Holdings SA v Calvi, Sup Ct The Bahamas, No 237 of 1987	8.21, 8.45, 24.43
Bank of Nova Scotia Trust Company (Bahamas) Ltd v De Barletta, Sup Ct The Bahamas, No 550 of 1984	8.80
Bethel v Douglas [1995] WLR 974, PC	13.41
C v M (2002) 4 ITEL 548	10.94, 11.66
Commodore Electronics Ltd, Re No 473/581 of 1997, Sup Ct	19.69, 20.42
Continental Finance Trading Company SA v Geosurvey Holdings No 230 of 1997, Sup Ct	19.49, 19.64
Corso, Gonzales and Others v The Chase Manhattan Corporation Ltd No 1261 of 1992, Sup Ct, Bahamas	10.38, 10.116, 12.01
Krishna Books Publishing Trust Sutton v Fedorowsky (2002) 4 ITEL 665, Sup Ct, Bahamas	3.39, 3.59
Lambert and Pinto, Re No 962 of 1986, Sup Ct	16.16, 16.18, 16.23, 16.32
Meespierson (Bahamas) Ltd v Grupo Torras SA (1999) 2 ITEL 29, CA	24.55, 24.58, 24.59, 24.60, 24.63,
Pindling v Douglas No 318 of 1994, Sup Ct	13.41, 16.33, 24.15
Private Trust Corporation v Grupo Torras [1997–1998] 1 OFLR 443	2.51, 8.19, 8.26, 8.32, 8.44, 8.63, 8.66, 8.78, 9.98, 19.79, 24.41, 24.42, 24.44
Rawson Trust Co Ltd v Perlman and Others, Sup Ct, The Bahamas No 194 of 1989	4.06, 4.27

Roywest Trust Corp (Bahamas) Ltd v Savannah NV and Others, Sup Ct	10.102
Toukmanian v Ansbacher (Bahamas Ltd) No 561 of 1997	11.59
Walsh v Deloitte & Touche Inc [2001] UKPC 58	24.47, 24.64, 24.67
Wong v Morgan Trust Company of the Bahamas Ltd (2002) 4 ITEL 541, SC	10.68, 10.70, 10.71, 10.74, 10.81

BARBADOS

Bank of Nova Scotia Trust Company (Caribbean) Ltd v Tremblay (1998) 1 ITEL 673 (Barbados)	2.43, 2.44, 17.34, 17.36
Moss v Integro Trust [1997–1998] 1 OFLR 427, BVI	2.43, 20.21

BELIZE

Securities and Exchange Commission v Banner Fund International (1996) WIR 123, SC .	24.68
---	-------

BERMUDA

Muhl v Ardra Insurance Co Ltd [1997] 6 Re. L.R. 206, Sup Ct	24.15
Schindler v Garner and Bermuda Trust Co Ltd No 49 of 1992, CA	20.74, 22.23, 22.25, 23.18, 23.51
Star 1 & 2 (Revised) Trusts Von Knieriem v Bermuda Trust Co Ltd and Grosvenor Trust Co Ltd, Sup Ct (Bermuda) Nos 154 and 162 of 1994	4.03, 4.29, 4.32, 4.39, 4.47, 4.50, 8.72, 8.73, 8.78

BRITISH VIRGIN ISLANDS

Arawak Trust Company v Holden No 2 of 1994, CA	13.41, 13.55
Lisa SA v Lomas Trading Company Ltd, High Ct	24.68, 24.82
Moss and Pearce v Integro Trust No 261 of 1996	9.98

BRUNEI

Royal Brunei Airlines v Tan Kik Ming [1995] 3 WLR 64, PC Brunei	8.39, 9.121, 10.16, 10.18, 10.31, 10.112, 11.06, 11.11, 11.17, 11.18, 11.21, 11.22, 11.24, 11.25, 11.26, 11.28, 11.29, 11.33, 11.34, 11.35, 11.46, 11.47, 11.48, 11.59, 11.62, 12.43, 12.46, 12.47
---	--

CANADA

Air Canada v British Columbia [1993] 1 SCR 1161	11.49
Air Canada v M&L Travel Ltd Martin and Valiant [1993] 3 SCR 787	11.19, 11.49, 11.60
Alers-Hankey v Solomon et al [2002] BCCA 227, CA British Columbia ...	11.46, 11.49, 11.50
Anderson v Patten [1948] 2 DLR 202	8.15
Aspen Planers Ltd v Delsham Development Ltd (1981) 11 AC WS (2d) 128, BC Co Ct	9.13
Baby v Ross (1892) 14 OPR 440	9.52
Banco v Veira (1995) 8 ETR (2d) 49	20.06
Banque de Hochelaga v Patwin [1924] 1 DLR 678	9.13
Barna Estate, Re (1990) 24 ACWS (3d) 114, Sup Ct, British Columbia	17.47, 17.49
Bogg v Raper (1998–99) 1 ITEL 267, CA	10.36, 10.49, 10.99, 10.115
Canada Lac Minerals Ltd v International Corona Resources Ltd [1989] 2 SCR 574	11.49
Citadel General Insurance Company v Lloyd's Bank [1999] 3 SCR 805	11.49

Cross v Benitrust (1998–99) 1 ITEL 341, CA	11.62, 12.11, 12.17, 12.19, 12.38, 12.62, 12.63
Fudger, Re (1984) 18 ETR 12, Ontario High Ct of Justice	17.35, 17.45, 17.46
Gold v Rosenberg (1995) 86 OAC 116, CA Ontario	11.08
Green v Jernigan (2003) 6 ITEL 330, Sup Ct, British Columbia	19.61, 19.80, 20.62, 24.81
Kates v Wayant [2002] OJ No 503; 27 BLR (3d) 273	19.61
Katzschke v Walter (1995) 32 CBR (3d) 153, Sup Ct British Columbia	9.38, 9.39
Kilderkin Investments Ltd v Player [1984–85] CILR 180	24.39, 24.75
Lawrence v Berbier (2003) 5 ITEL 9	2.04, 7.36, 8.76, 8.77
Malisic, Re (1995) 117 DLR 4th, Ontario High Ct	9.41
Manrique v Fabori 493 So 2d 437	19.66
Martin v Martin [1937] 3 DLR 418, Ontario HC	9.32
Merrit v Klijn and Others Bar C Ranch and Cattle Co Ltd v Merrit (2003) 5 ITEL 461	11.60
People's Bank of Charlestown v Colburn 145 BR 85	9.13
Petrone v Jones (1995) 33 CBR (3d) 17, Ontario Ct of Justice	9.37
Pfrimmers Estate, Re [1936] 2 DLR 460	6.05
Reid, Re (1970) 17 DLR (3d) 199, Sup Ct, British Columbia	17.53, 17.54
Shephard v Shephard [1925] 2 DLR 897	9.52
Stone v Stone (2002) 4 ITEL 671	9.46
Stringham v Dubois [1993] 3 WWR 273	17.54
Tiedmann v Tiedmann 115 NSC 462	9.52
USA v Harden [1963] SCR 266	17.35
Wagner v Wagner Estate [1991] 85 DLR 699	9.54
Wagner v Wagner Estate 85 DLR 4th 699; DLR LEXIS 455	22.01
ZI Pompey Industrie v ECU Line NV [2003] SCJ 23	19.61

CAYMAN ISLANDS

Ansbacher (Cayman Islands) Ltd, Re [2001] CILR 16	16.51, 16.52
Attorney General of the Cayman Islands v McCorkle (1998–99) 1 ITEL 3	16.61
Barclays Bank v Kenton Capital [1994–95] CILR 489	19.68
Bertioli v Malone [1990–91] CILR 58	7.11
Bonotto v Boccaletti (2001–02) 4 ITEL 357, Grand Court	12.28, 12.29
Bridge Trust Company and Slatter v Attorney General [1996] CILR 52, Grand Ct	20.77, 23.48
Bridge Trust Company v AG [1996] CILR 52	6.12, 6.14, 10.134, 24.15
Canton of Berne, Re [1996] CILR 179, Grand Ct	13.55, 13.57
Contadorra Enterprises v Chile Holdings [1999] CILR 194, CA	19.77, 20.18
First American Corporation v Zayed [2000] CILR 57	16.51
Gibbs v John Mitchell Rea [1997–98] 1 OFLR 719, PC	10.95
H, Re [1996] CILR 237, Grand Ct	7.09, 16.16, 19.73, 24.24, 24.31
Hampshire Cosmetic and Mutschmann [1999] CILR 21, Grand Ct	11.38, 11.43, 11.44
Kilderkin Investments Ltd v Player [1984–85] CILR 180	24.39
Lemos v Coutts and Co [1992–93] CILR 5	7.99, 19.26, 22.06, 22.09, 24.41
Lemos Trust Settlement, Re [1992–93] CILR 26, CA	7.65, 7.67, 7.71, 22.52, 23.51
Matter of H, in the [1996] CILR 237, Grand Ct	7.72
Ojeh Trust, Re [1992–93] CILR 348, Grand Ct	7.64, 7.88
Peterdey v Dennis [1998] CILR N9, Grand Ct	24.09
Publishers Representatives Ltd and Lee Sku Kee v UBS (Cayman Islands) Ltd [2000] CILR 473	11.02, 11.22, 11.35, 11.36, 11.63
Rysaffe Trustee Co (Cayman Islands) v Inland Revenue Commissioners (2003) 5 ITEL 706, CA	14.44, 15.20

Stewart v Ask Securities [1986–87] CILR 28	19.23, 24.75
Stutts v Premier Benefits Capital Trust [1992–1993] CILR 605	16.17
Touche Ross v Bank International [1987] CILR 269	19.69
X Trust Co v Attorney General [1995] CILR 41	19.72
Z, Re [1997] CILR 242, Grand Ct	4.25

COOK ISLANDS

A Irrevocable Trust, Re (2000) 2 ITEL 482	4.60
E & B v A (2003) 5 ITEL 760, CA Cook Islands	7.14, 7.15, 9.88, 9.95, 9.97, 9.113, 9.116
Huntington v Atril [1893] AC 150, PC	24.26
South Orange Growers Association v Orange Grove Partners [1997–1998] 1 OFLR 3, 5, CA	1.06, 1.30, 6.11, 6.15, 9.93, 9.96, 9.113
United States of America v A Ltd (2002) 4 ITEL 797, High Ct	24.26, 24.27

EIRE

Buchanan Ltd v McVey [1955] AC 516, Sup Ct	16.37
Chaine-Nickson v Bank of Ireland [1976] IR 393	7.59, 7.75, 7.85

FRANCE

Bemberg v Fisc de la Province de Buenos Aires February 24, 1949	16.01
Caron v Ordell R 1983, 282 R 1986, 66	21.16
Courtois v De Ganay, Rev Cr de dr int pr 518 (1973), CA	21.09

EUROPEAN COURT OF HUMAN RIGHTS (ECHR)

APMP and TP v Switzerland (1997) 26 EHRR 541	13.50
Bendenoun v France (1994) 18 EHRR 54	13.50
Funke v France [1993] 1 CMLR 897	13.43, 13.46
Georgiou (t/a Marios Chippery) v UK [2001] STC 80, ECHR	13.50
Mailhe v France (1993) EHRR 332	13.43
Salabiaku v France (1988) 13 EHRR 379	13.53
Saunders v UK (1996) 23 EHRR 313	13.43

GERMANY

Rothwells Ltd (in liquidation) v Connell (1993) 119 ALR 538	16.37
---	-------

GIBRALTAR

Hess v Line Trust Corporation (1998–99) 1 ITEL 249, AC Gibraltar	8.60, 8.66, 8.89, 9.48
--	---------------------------

GUERNSEY

Federal Trust Co Ltd v Macdonald-Smith (2001–02) 4 ITEL 211 Court: Royal Ct	17.69
Lutea Trustees Ltd v Orbis Trustees Guernsey Ltd [1998–99] 2 OFLR 227	10.104
Segal v Edwards and Hartley (2000) 2 ITEL 575	12.58
Stuart-Hutcheson v Spread Trustee Company Ltd (2003) 5 ITEL 140, CA	7.76, 7.77, 7.89, 10.133
Trustee of Pehrsson (a bankrupt), Re (1999) 2 ITEL 230, PC Gibraltar	9.39, 9.40, 9.74

HONG KONG

HSBC (Hong Kong) Ltd v Secretary for Justice and Others [2001] 1 HKC 447	10.87
Mercedes-Benz v Leiduck [1996] AC 284	24.50, 24.51, 24.52, 24.53, 24.54, 24.56, 24.58, 24.59, 24.64, 24.67, 24.69
Pong Ten Un (deceased), Re (1998–99) 1 ITELR 79, HC	15.09

ISLE OF MAN

Abacus Trust Co (Isle of Man) Ltd v Barr (2003) 5 ITELR 602	10.52, 17.18, 17.20
Abacus Trust Co (Isle of Man) Ltd v NSPCC [2001] WTLR 953	10.60, 17.08, 17.13
Heginbotham's Petition, Re (1999) 2 ITELR 95, High Ct, Isle of Man	9.30, 9.43, 9.84
Petition of McLean, Re [1997–98] 1 OFLR 818	16.22
Rosewood Trust Ltd v Schmidt [2003] UKPC 26; [2003] 2 WLR 1442; (2002–03) 5 ITELR 715, PC (IoM)	2.24, 2.30, 7.24, 7.51, 7.59, 7.73, 7.74, 7.79, 7.80, 7.83, 7.84, 7.87, 7.92
Securities and Investments Board v Michael Ivor Braff (1997–98) 1 OFLR 553	24.54
Steele v Paz [1993] Manx LR 102	2.26, 2.44, 4.02, 4.24, 4.26, 4.27, 4.60, 6.03
Tucker (a bankrupt), Re [1987–88] Manx LR 220; Manx LR 8	16.25, 16.27, 24.75

ITALY

Casani v Mattei (1998–99) 1 ITELR 925, Tribunale of Lucca, Italy	6.07, 20.26, 21.20, 21.40, 22.04, 22.09, 22.24, 22.29, 22.35, 23.13, 23.20, 23.23, 23.49, 23.52, 23.53, 23.55, 23.56, 23.57, 23.60
--	--

JERSEY

Abacus CI Ltd (trustee of the Esteem Settlement) Grupo Torras SA v Al Sabah (2003) 6 ITELR 368, Royal Ct, Jersey	5.22, 8.05, 8.09, 8.26, 8.28, 8.37, 8.38, 8.54, 8.67, 8.88, 8.89, 9.14, 9.73, 15.41, 17.70, 24.21
Bhander v Barclays [1997–98] 1 OFLR 497	7.44
CA Settlement, Re [2002] JLR 312	7.31, 7.48, 7.68, 7.71, 22.52
Clapham v Mesurier [1990–1991] JLR 5	16.17
Colin Douglas 1990 Settlement, Re (2000) 2 ITELR 682; [2000] JLR 73, Royal Ct	17.65
Compass v McBurnett [2002] JLR 321, Royal Ct	22.41, 22.42, 24.16, 24.17
Den Haag Trust, Re [1997–98] 1 OFLR 495	7.44
EMN Capricorn Trustees Ltd v Compass Trustees Ltd (2001) 4 ITELR 34, Royal Ct	19.38, 19.39, 19.43, 19.47, 19.52, 19.57, 19.71
Esteem Settlement, Re [2001] JLR 7	22.43, 22.44, 22.45
Gheewala v Compendium Trust Company Ltd [1999] JLR 154	19.67
Green GLG, Re [2002] JLR 571; (2003) 5 ITELR 591, Royal Ct	17.05, 17.11, 17.12, 17.17, 17.22, 17.23
Hare Trust, Ukert v Interface Trustees Ltd and Another (2001) 4 ITELR 268, Royal Ct, Jersey	4.48
Johnson Matthey Bankers Ltd v Shamji [1985–1986] JLR 26, Royal Ct	4.54, 8.18
Koonmen v Bender and Others (2002) 5 ITELR 247, Royal Ct	19.32, 19.51, 19.52, 19.55, 19.57, 19.70
Krohn GmbH v Varna Shipyard (No 2) [1997–98] 1 OFLR 482, Royal Ct	24.52, 24.53, 24.56
Lane v Lane [1986–86] JLR 48, Royal Ct	24.17
Le Marquand and Backhurst v Chiltmead Ltd [1987–88] JLR 86	9.76, 16.25, 16.27

Tables of Cases

Marc Bolan Charitable Trust, Re [1981] J 117	17.39
Midland Bank Trustee (Jersey) Ltd & Others v Federated Pension Services Ltd [1995] JLR 352	10.11, 10.19, 10.39, 10.47, 10.101, 10.102, 10.103, 10.109
Moody Jersey A Settlement, Re [1990] JLR 264, Royal Ct	13.08, 15.40, 17.07
N, Re [1999] JLR 86	15.22, 16.34
Osias 1980 Settlements, Re [1987–88] JLR 389, Royal Ct	15.21, 15.23, 15.24, 15.25, 16.34
Prestwich v Royal Bank of Canada Trust Co (Jersey) Ltd (1998–99) 1 ITEL 671	10.58
R v Charlton et al [1993] JLR 360	16.21, 16.24
Rabaiotti 1989 Settlement, Re [2000] JLR 173, Royal Ct	7.28, 7.49, 7.54, 7.55, 7.57, 7.61, 7.65, 7.96, 24.18
Rahman v Chase Bank Trust Co Ltd [1991] JLR 103	8.07, 8.09, 8.16, 8.18, 8.27, 8.36, 8.40, 20.03
Richard Colin Douglas 1990 Settlement, Re [2000] JLR 73; (2000) 2 ITEL 682, Royal Ct	15.22, 15.23, 15.27, 16.34
Sidney Walmesley (deceased) [1983] J 35	17.42
Sociedad Franciera Sofimecca v Kleinworth Benson (Jersey) Trustees Ltd	4.28
Solvalub Ltd v Match Investments Ltd [1997–98] 1 OFLR 152, CA Jersey	7.11, 24.52, 24.53, 24.54, 24.56, 24.70, 24.78
State of Qatar v Sheikh Khalifa (1999) 2 ITEL 143, Royal Ct	24.56
T Settlement, Re [2002] WTLR 1529; (2001–02) 4 ITEL 820, Royal Ct	17.69
Tucker, Re [1987–88] JLR 473, Royal Ct	9.76, 16.21, 16.24
West Lazard Brothers & Company (Jersey) Ltd [1987–88] JLR 414	3.60, 10.109
WKR Trust (OD Bank (in liquidation) v Estate of Rey (a bankrupt) (1999) 4 ITEL 487	8.15, 8.21, 8.43, 20.69, 21.33, 21.36, 21.37, 21.38, 23.55, 23.57
X Charles Richard Blampied and Abacus (CI) Ltd, Re [1996] PCB 306	4.35, 16.28
X Trust, Re [2002] JLR 377	22.44, 22.46
X's Settlement, Re [1994] BOCM 600	17.36

NEVIS

Conway v Queensway Trustees Ltd, High Ct, Nevis No 16 of 1999	9.04, 9.89, 9.99, 9.105, 9.112
---	-----------------------------------

NEW ZEALAND

Adams v The Queen [1995] 1 WLR 52, PC	9.118, 12.50
Attorney General of New Zealand v Ortiz [1984] AC 1	24.30
Attorney General for the UK v Wellington Newspapers Ltd [1981] 1 NZLR 129	24.26
Commissioner of Inland Revenue v Bank of New Zealand Investments Ltd [2002] 1 NZLR 450	15.16
Comptroller & Auditor General v Davidson [1996] 2 NZLR 278	13.30, 16.26
Manukau City Council v Lawson [2001] 1 NZLR 599	10.69, 10.80
Mulligan (Deceased), Re [1998] 1 NZLR 481, HC	10.23, 10.24, 10.27, 10.29, 10.40, 10.50, 10.65, 10.74, 10.84, 10.89
Powell v Thompson [1991] 1 NZLR 597	11.33
Springfield Acres Ltd v Abacus (Hong Kong) Ltd [1994] 3 NZLR 503	9.118, 11.06, 11.14, 11.51, 12.44
Westpac Banking Corporation v Savin [1985] 2 NZLR 41	11.46

NORWAY

Norway v Olsen (2003) 5 ITEL 77	14.11, 14.16, 21.27
---------------------------------------	---------------------

SINGAPORE

Caltong (Australia) Pty Ltd (formerly Tong Tien See Holding (Australia) Pty Ltd) and Another v Tong Tien See Construction Pty Ltd (in liquidation) and Another (2002) 5 ITEL.R 187, CA Singapore	11.37
--	-------

SOUTH AFRICA

Fattorins v Johannesburg Bd of Executors and Trust Co [1948] (4) SA 806	20.76
South African Revenue Service v Woudlidge [2002] SAR 68, CA	14.25, 15.38

SWEDEN

Isle of Man Trust, Re (1998–99) 1 ITEL.R 103	14.17, 21.22, 22.06, 23.55
--	----------------------------

SWITZERLAND

G v C Trust Co (2002) 4 ITEL.R 779, First Civil Ct	21.35, 21.45
Harrison v Credit Suisse Bank ATF 96 (1970) II 79	21.38
Harrison, Re Arrêts du Tribunal Fédéral Suisse; Recueil Officiel (ATF) 1070, Journal des Tribunaux 1971	21.09

UNITED KINGDOM

A Company SIB Ltd, Re v Vwagh [1985] BCLC 333	8.50
A Company, Re [1985] BCLC 333	8.20, 12.25, 12.26, 12.28
Adams v Cape Industries plc [1991] 1 All ER 929	12.24
Agip (Africa) Ltd v Jackson & Others [1992] 4 All ER 451	8.24, 9.121, 11.16, 11.43, 11.44, 12.44
Alsopp Wilkinson (A Firm) v Neary [1996] 1 WLR 1220	10.132
Amin Rasheed Shipping Corporation v Kuwait Insurance Co [1984] AC 50	19.32
Anton Pillar KG v Manufacturing Processes Ltd [1976] Ch 55	24.36
Armenian Patriarch of Jerusalem v Sonsino (2002–03) 5 ITEL.R 125	2.04, 6.14, 20.23, 20.24, 20.28, 20.31, 20.32, 20.34, 20.36, 20.38, 21.48
Armitage v Nurse [1968] Ch 241, CA	10.28, 10.99, 10.103, 10.109, 10.113, 11.22, 11.34
Attorney General v Bellios [1928] 1 KB 798	23.17
Babanaft International Co SA v Bassatne [1989] 2 WLR 232	24.46
Baden v Societe Generale pour Favoriser le Developpement du Commerce et de l'Industrie en France SA [1992] 4 All ER 161	11.15, 11.46
Bank of Credit and Commerce International (Overseas) Ltd (in liquidation) v Akindele [2000] 4 All ER 221, CA	11.17, 11.41, 11.45, 11.46, 11.49
Bank of Credit and Commerce International SA (in liquidation) (No 15), Re; Morris and Others v Bank of India [2004] 2 BCLC 279	11.24
Barnes v Addy (1874) LR 9 Ch App 244	11.08, 11.28, 11.58
Bartlett v Barclays Bank Trust Co Ltd [1980] 1 All ER 139	4.04, 4.16, 10.07, 10.08, 10.11–10.15, 10.33, 10.126, 10.127, 10.128, 10.129
Bath v Standard Co Ltd [1911] 1 Ch 618, CA	12.11, 12.32
Belmont Finance Corporation v Williams Furniture Ltd (No 2) [1980] 1 All ER 393	11.61
BHP Petroleum Pty Ltd v Oil Basins Ltd [1985] VR 725	20.64
Bouch v Sproule (1885) 29 Ch D 635	10.69
Brooks v Brooks [1995] 2 FLR 13	22.43
Butt v Kelson [1952] 1 Ch 197	7.92
Butterworth, Re ex p Russel (1882) 19 Ch 588	9.10, 9.56
Cadogan v Cadogan [1977] 1 All ER 200	9.10

Canada Trust Company v Stolzenberg (No 2) [2002] 1 AC 1	19.18, 19.86, 24.52, 24.76
Carver v Duncan [1985] 2 All ER 645, HL	10.72
Chapman, Re 2 Ch 763	10.33
Chellaram v Chellaram (No.1) [1985] 2 WLR 510	19.14, 19.21, 19.34, 19.35, 19.71
Chellaram v Chellaram (No.2) (2002) 4 ITELR 729	19.09, 19.15, 19.18, 19.24, 19.71, 19.86, 20.34, 20.36, 20.39
Chevron International Oil Co Ltd v AS Sea Tram [1983] 2 Lloyd's Rep 356	22.19
City Equitable Fire Insurance Co Ltd [1925] Ch 407	10.106
Clore (deceased) No 3, Re; Inland Revenue Commissioners v Stupe Trustees (Jersey) Ltd [1985] 2 All ER 819; [1985] 1 WLR 1290; [1985] STC 394	17.57, 17.68
Cohen v Saggar [1992] BCC 307	9.68, 9.70
Cooper v Cooper (1888) 12 App Cas 88	23.17
Cowan de Groot Properties Ltd v Eagle Trust plc [1992] 4 All ER 700	11.26, 11.45, 11.47
Cowan v Scargill [1985] Ch 270	10.19, 10.50, 10.68, 10.74
Cowan, Re; Cowan v Grauert (1886) 36 Ch D 179	7.80
Credit Lyonnais Bank Nederland NV v Export Credits Guarantee Department [1998] 1 Lloyd's Rep 19	11.12
Credit Suisse Trust v Cuoghi [1997] 3 WLR 878	7.11, 24.66, 24.72, 24.77, 24.82
Dean, Re (1889) LR 41 Ch D 552	3.22
Denley, Re [1969] 1 Ch 373	3.25
Derby & Co v Weldon (No 6) [1990] 1 WLR 1139, CA	24.46
Doughty, Re [1947] 1 All ER 207	10.69
Dubai Aluminium Company Ltd v Salaam and Others [2003] 2 All ER 451	11.47, 11.52, 11.53, 11.56
Duke of Malborough v Attorney General (No 1) [1945] Ch 78	20.04, 20.30, 20.75
Eagle Trust plc v SBC Securities Ltd [1992] 4 All ER 488, Ch D	11.38, 11.45
Edge v Pensions Ombudsman [2000] Ch 602; [1999] 4 All ER 546	10.51, 10.73, 10.76, 10.81
Eighmie, Re [1935] Ch 524	3.22
El Anjou v Dollar Land Holdings plc [1994] 2 All ER 685	11.37
Emery's Investment Trusts, Re [1959] Ch 410	16.26
Ewing v Orr Ewing (1883) 9 App Cas 34	19.14
Finers (a firm) v Miro [1991] 1 All ER 182	9.119, 12.44
Fitzwilliam (Countess) v Inland Revenue Commissioners [1993] 3 All ER 184	15.08
Freeman v Pope (1870) LR 5 Ch 538	9.80
Fry v Fry (1859) 27 Beav 144	10.92
Garna and Grain Company Inc v HMF Faure and Fairclough Ltd [1966] 1 QB 650	8.34
Gencor ACP Ltd v Dalby [2000] 2 BCLC 734	12.24
Gibbon v Mitchell [1990] 3 All ER 338	17.16
Government of India v Taylor [1955] 1 AC 491	16.01, 16.11, 16.16, 16.36
Governor of the Bank of Scotland v A Ltd and Others (2001) 3 ITELR 503	10.97, 12.45
Green v Cobham [2002] STC 820; (2002) 4 ITELR 784	17.11, 17.14
Grimthorpe, Re [1985] 1 All ER 765	17.52
Hall, Re [1903] 2 Ch 226	10.78
Harrods (Buenos Aires) Ltd, Re [1992] Ch 72	19.17, 19.67
Hastings-Bass, Re [1970] 2 All ER 193	7.33, 10.55, 10.60, 17.10, 17.11, 17.14, 17.19, 17.22
Henderson v Merritt Syndicates Ltd [1995] 2 AC 145	12.40
Hetherington, Re [1990] Ch 1	3.22
Hitch v Stone (Inspector of Taxes) [2001] EWCA Civ 63; [2001] STC 214	8.06, 8.79
Houghton and Others v Fayers and Day (2000) ITELR 512	11.46
How, Re [1930] 1 Ch 66	3.31
HR and Others v JAPT [1997] PLR 99; [1998–99] 2 OFLR 252	12.15, 12.35, 12.40, 12.43, 12.48

Hurst, Re (1892) 67 LT 96	10.78
Hussey v Palmer [1972] 3 All ER 70, CA	11.09
Ideal Bedding Company v Holland [1907] 2 Ch 157	9.07
Inland Revenue Commissioners v Baddeley [1955] AC 572	3.64
Inland Revenue Commissioners v Duke of Westminster [1936] AC 1	15.03, 15.07, 15.11
Inland Revenue Commissioners v McGuckian [1997] 3 All ER 817; [1997] STC 908, HL	15.09, 15.22
Inland Revenue Commissioners v Schroeder [1983] SC 480	14.25
International Credit and Investment Co (Overseas) Ltd v Adham [1998] BCC 134	8.53
Iveagh v Inland Revenue Commissioners [1954] Ch 364	20.03, 20.06, 20.41
Jenkyn v Vaughan (1856) 3 Drew 413	9.33
Jogia, Re; The Trustee v Pennellier and Co Ltd [1988] 2 All ER 328	19.49
Jones v Lipman [1962] WLR 832	12.25
Kerr's Settlement Trust, Re [1863] Ch 553	20.70
King v Walden [2001] STC 822	13.48, 13.53
Kleinworts Settlements, Re [1951] Ch 860	10.70
Knott v Cottee (1852) 16 Beav 77	10.92
Konamament v Rolls Royce Ind Power (India) Ltd [2002] 1 All ER 979	19.71
Kuwait Asia Bank EC v National Mutual Life Nominee Ltd [1990] 3 All ER 404	9.118, 12.52
Londonderry, Re; Peat v Walsh [1965] 1 Ch 918; [1964] 3 All ER 855	7.52, 7.53, 7.54, 7.75
Lord Cable (Deceased), Re; Garratt v Waters [1976] 3 All ER 417; [1977] 1 WLR 7	17.55
Lucking's Will Trusts, Re [1967] 3 All ER 726	10.123, 10.128
Mackay v Douglas (1872) LR 14 Eq 106	9.56
Mackender and Others v Feldia [1967] 2 QB 590	19.56, 20.63
Mackinnon v Donaldson and Jenrette Securities Corporation [1986] Ch 482; [1986] 1 All ER 653	19.73
MacNiven (Inspector of Taxes) v Westmoreland Investments Ltd [2001] 1 All ER 865	13.39, 15.11, 15.12, 15.14
Manchester Trust v Furness [1895] 2 QB 539	11.45
Manolakaki v Constantinides [2004] 1 All ER 47	11.24
Mareva Cia Naviera SA v International Bulkcarriers SA [1975] 2 Lloyd's Rep 509, CA	24.36, 24.39, 24.41, 24.44, 24.46, 24.47, 24.48, 24.49, 24.52, 24.53, 24.56, 24.58, 24.59, 24.62, 24.64, 24.66, 24.67, 24.71, 24.74, 24.76, 24.78, 24.79, 24.81, 24.82
Massingberd's Settlement, Re (1890) 63 LT 296	10.92
McPhail v Poulton [1971] AC 424	7.75, 7.81
Melville v Inland Revenue Commissioners (2002) 4 ITELR 231	14.50
Mercedes-Benz v Leiduck [1996] AC 284	24.50
Mettoy Pensions Trustees v Evans [1990] 1 WLR 1587	4.31, 7.75
Midland Bank Executor & Trustee Co Ltd v Rose [1948] 2 All ER 971	2.57
Midland Bank v Wyatt [1995] 1 FLR 696; [1995] 3 FCR 11; [1994] EGCS 113, Ch D	8.41, 9.68, 9.69
Montague's Settlement Trusts, Duke of Manchester, Re v National Westminster Bank Ltd (1985) [1992] 4 All ER 308	11.41, 11.42, 11.45
Morice v Bishop of Durham (1805) 10 Ves Jr 522	3.09, 6.03
Murphy's Settlement, Re; Murphy v Murphy [1998] 3 All ER 1; [1998] 2 OFLR 725; [1999] 1 WLR 282	7.29, 7.57, 7.58, 7.75, 7.79
Nathan v Leonard [2003] 4 All ER 198; 1 WLR 827, Ch D	22.49
Nestle v National Westminster Bank [1993] 1 WLR 1260	10.14, 10.28, 10.29, 10.32, 10.38, 10.42, 10.43, 10.44, 10.46, 10.59, 10.64, 10.78, 17.07
Neville Estates Ltd v Madden [1962] Ch 832	3.22

Norwich Pharmacal Co v Customs and Excise Commissioners [1974] AC 133	7.32
O'Rourke v Derbshire [1920] AC 581	7.64, 7.75, 7.88
Official Receiver v Saebar [1972] ALR 612	9.67
Owens Bank v Bracco [1992] 2 AC 443	24.14
Paget's Settlement, Re [1965] 1 WLR 1046; [1965] 1 All ER 58	20.70, 20.71
Papamichael v National Westminster Bank plc [2003] EWHC 164	11.24
Paramount Airways Ltd, Re [1992] 3 All ER 1, CA	19.20
Parson's Settlement, Re [1917] 1 Ch 541	10.117
Pauling's Settlement Trusts (No 2), Re [1963] Ch 576	10.63
Pearse's Settlement, Re [1909] 1 Ch 304	23.14
Pinion, Re [1965] Ch 85	3.42
Prestwich v Royal Bank of Canada Trust Company (Jersey) Ltd (1998-99)	
1 ITEL 671	17.02, 17.25, 17.28, 17.66
QRS 1 Aps v Frandsen [1999] 3 All ER 289, CA	16.12, 16.30
R v Allen [2001] UKHL 46	10.94, 13.43, 13.44
R v Dimsey [2001] UKHL 46	13.44
Rae v Meek (1889) 14 AC 558	10.99
Ramsay Ltd v Inland Revenue Commissioners [1982] AC 300	15.08, 15.12, 15.14, 15.36
Republic of Haiti v Duvalier [1989] 2 WLR 261, CA	24.46
Rio Tinto Zinc Corporation v Westinghouse Electric Corporation [1978]	
1 All ER 435	24.32
Roome v Edwards [1981] 1 All ER 736, HL	10.45, 17.05, 17.06
Rose (deceased), Re; Rose v Inland Revenue Commission [1952] 1 All ER 1217	9.40
Rose v Inland Revenue Commissioners [1952] 1 All ER 1217	2.57
Salomon v Salomon [1897] AC 22	8.63, 12.02, 12.24
Saunders v Vautier (1842) 4 Beav 115, 49 ER 284	2.04, 2.40, 2.41, 2.42, 3.40, 17.35, 20.21, 20.68
Scott v National Trust [1998] 2 All ER 705	7.27
Scottish National Orchestra Society Ltd v Thomson's Executor 1969 SLT 325	10.75
Scottish National Orchestra Society v Thomson's Executor 1969 SLT 325	17.50
Sharrment Pty Ltd v Official Trustee in Bankruptcy (1988) 18 FCR 449	8.29, 8.34
Siskina The, Re [1979] AC 210	24.50, 24.51, 24.56, 24.58, 24.59, 24.60, 24.65, 24.70, 24.74
Slattery v Moore Stephens (a firm) [2003] STC 1379; [2003] EWHC 1869	11.70, 13.34
Smith v Dresser (1866) LR 1 Eq 651	9.07
Snook v London and West Riding Investments Ltd [1967] 2 QB 786, 802; [1967]	
1 All ER 518, 528	8.04, 8.06, 8.29
Societe Generale de Paris v Dreyfus Brothers (1885) 29 ChD 239	19.32
Special Commissioners of Income Tax v Pemsel [1891] AC 531	3.62
Spillada Maritime Corp v Cansoulex Ltd [1987] AC 460	19.67
State of Norway's Application, Re [1990] 1 AC 723	16.01, 16.20, 16.21, 16.22, 16.23, 16.24
Stuart-Hutcheson v Spread Trustee Co Ltd (2002-03) 5 ITEL 140	2.22
T v T and Others [1996] 2 FLR 356	24.07
Target Holdings Ltd v Redfern [1996] AC 421; [1995] 3 All ER 785, HL	10.41
Tod v Barton [1969] 1 Ch 223	20.71
Tournier v National Provincial Bank [1924] 1 KB 461	7.05
Traders Trust Co v Cohen [1927] 3 WLR 473; 8 CBR 513	9.09
Trendex Trading Corporation and Another v Credit Suisse [1982] AC 679, HL	19.65, 23.17
Trustor AB v Smallbone and Another No 2 [2001] 3 All ER 987	12.24
TSP Private Bank International SA v Chabra [1992] 1 WLR 231	8.20
Tucker, Re [1988] 2 All ER 339	8.65
Turner v Turner [1894] Ch 100	10.50