Neutral Citation Number: **[2010] EWHC 1653 (Ch)**

Case No: HC08C03132

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 01/07/2010

Before :

MR JUSTICE PETER SMITH

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Between :

Independent Trustee Service Ltd	**Claimant**
- and -	
(1) GP Noble Trustees Ltd **(2) BDC Trustees Ltd** **(3) Graham Pitcher** **(4) Gary Cordell** **(5) Peter Malmstrom** **(6) Anthony James Morris** **(7) Alexander Starkey** **(8) Christopher Webb** **(9) Aspect Invest & Finance Ltd** **(10) Whitepoint Ltd** **(11) South East Asia Real Estate (Thailand) Co Ltd** **(12) Amac Asset Management & Consultants Ltd** **(13) Number Thirty One SA** **(14) La Matze Consultants SA** **(15) La Matze Real Estate SA** **(16) Multiple & Unilateral Financial Futures (Thai Investments) Ltd** **(17) Mutual Financial Futures (Australia) Pty Ltd** **(18) Multiple & Unilateral Financial Futures Ltd** **(19) Morris Family Holdings Ltd** **(20) Newdale Investments Ltd** **(21) Edgerbury Investments Ltd** **(22) Caprio International Ltd** **(23) Davidia Global Ltd** **(24) Line Trust Corporation Ltd** **(25) Glencalvie Ltd** **(26) Benessia Global Ltd** **(27) Shellwind Holding Ltd**	**Defendants**

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Richard Spearman QC & Jonathan Hilliard (instructed by **Taylor Wessing**) for the **Claimant**
Graham Pitcher the **Third Defendant** appeared in person

Gary Cordell the **Fourth Defendant** appeared in person
Peter Malmstrom the **Fifth Defendant** appeared in person

Hearing dates: 13th, 14th, 17th, 18th, 19th, 20th and 24th May 2010

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Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

....

MR JUSTICE PETER SMITH

Peter Smith J :

INTRODUCTION

1. This judgment arises out of the trial of these proceedings which is a complaint made by the Claimant ("ITS") about the transfer out from a number of occupational pension schemes of £30,000,000 on 14th August 2007 and a further £22,000,000 on 18th – 21st April 2008 and about the Defendants' subsequent dealings with those monies or their traceable product.

2. Of those sums as will be set out £31,000,000 has been recovered to date and was held in court pending the trial. At the conclusion of ITS' closing submissions I indicated that I could see no defence to a claim for the return of those monies put forward by any of the Defendants but would give reasons for that conclusion later. I therefore made an order directing that the monies in court be paid out immediately to ITS' solicitors.

3. In addition £531,258.31 has already been paid out to ITS' solicitors by D13 ("Number Thirty One") which ITS was entitled to be paid pursuant to a Deed of Assignment dated 12th August 2009.

4. There are a total of 27 Defendants. The only one who participated in the trial was D5, Mr Malmstrom. He appeared in person during the trial but on 20th May 2010 after both ITS and he had opened their cases and after ITS had called its evidence but immediately before he was due to be called and subjected to cross examination Mr Malmstrom (without admission of liability) submitted to judgment of the entirety of the claims against him (£4,350,000 plus costs) on the terms of a Consent Order which I approved.

5. Mr Pitcher and Mr Cordell (D3 and D4 respectively) applied for an adjournment of the claims against them. They had made a similar application to Morgan J, the Interim Applications Judge, on 5th May 2010 and he adjourned their application for consideration on the first day of the trial. The main basis for the application was that they had been charged on 25th March 2010 following an investigation by the Serious Fraud Office ("the SFO") of a number of matters involving the funds the subject matter of the present claim. Mr Pitcher was a director of the First Defendant Trustee company ("GPN") Mr Cordell was also a director of GPN. The claims against them are that they together with Mr Malmstrom, Mr Morris (D6), Mr Starkey (D7) and Mr Webb (D8) carried out dealings with the assets of the pension funds pursuant to a dishonest scheme or a series of dishonest schemes by which they intended to generate secret profits for themselves and which they would conceal from the two pension trustees GPN and the Second Defendant BDC Trustees Ltd ("BDC"). Separately the allegations against them were that they in effect provided dishonest assistance to the decision of GPN and BDC to transfer assets as set out above. In fact they were the officers of GPN and BDC who approved the relevant transfers.

6. The justification for the application for an adjournment was primarily based on the fact that it was contended that if they were required to give evidence and participate in a civil trial in advance of their criminal trial (which could not take place apparently before April 2011) it would be unfair to them because it might prejudice the way in which they conducted their Defence.

7. There are various ways in which that problem can be addressed. In an unreported decision called ***Balfron Trustees*** and followed by me in ***Attorney General of Zambia v Meer Care Desai and Ors [2005] EWHC 2102 (Chancery)*** orders were made in effect ring fencing the civil trial until further order. Such orders then prevented any third party (including the Attorney General or the Serious Fraud Office) from having access to evidence that was given in the civil trial unless an order was made subsequently on application.

8. This is a drastic order to make when the primary view of the courts is that justice should be open and thus the public should have full access. To be balanced against that of course is the need for any party to the proceedings to have a fair trial and not be prejudiced. The ability of Defendants in criminal cases nowadays to invoke the right to silence is somewhat restricted. In the instant case Mr Pitcher and Mr Cordell are required to give their Defence statements by the end of July this year. In preparing those statements they will have access to all the material which is in effect in this case and such other material as the prosecuting authorities have provided them. In preparing their Defence statement in the criminal proceedings they will have access to lawyers with legal aid. They are unrepresented in the present action. It seemed to me therefore that the appropriate way to deal with the matter was not to make a ring fencing order but rather to adjourn the trial against them as it raises issues only as to whether or not they dishonestly assisted GPN and BDC in their breaches of trust. That is a self-contained part of the trial. It is not necessary to examine their conduct with specificity in order to establish the liability of the two trustees for what has gone on and to establish that they are vicariously liable for the actions of Messrs Pitcher and Cordell ***irrespective*** of their particular guilt. Thus if they were grossly negligent in carrying out their duties as officers of the trustee companies the trustee companies would be vicariously liable for those actions. If they are dishonest in the way in which they carried out their functions the companies will be vicariously liable for those actions also (I do not accept the assertion to the contrary in the Defence which GPN has served and which was adopted by BDC see ***Lloyd v Grace, Smith & Co [1912] AC 716*** and ***El Ajou v Dollar Holdings Plc [1994] 2 All ER 685*** at 695-696). It is not necessary therefore in my view for the purpose of determining the liability of GPN and BDC to examine the nature of the actions carried out by Mr Pitcher and Mr Cordell (i.e. their state of mind when carrying them out); the question is as to whether or not the actions they caused GPN and BDC to carry out were themselves breaches of trust by those two Defendants.

9. Mr Starkey sent a letter without an address and merely an email address to respond to, supporting the application for an adjournment. He asserted that he received no information about the court process but I do not accept that in light of the evidence provided by ITS as to service. I could see no reason in his letter justifying an adjournment of the case against him and I rejected it.

10. On 18th May 2010 a firm of Barristers and Attorneys in Victoria British Columbia (Heenan Blaikie LLP) sent ITS' lawyers an email attaching a copy of Mr Webb's Defence purportedly lodged with the court by their agent on 14th May 2010. Attached to that email was an undated 33 page document titled "***Defence of Christopher Webb***" which contained a statement that "the Defendant Christopher Webb believes that the facts stated in this Defence are true". It was not signed by Mr Webb but was signed by Mr John S Heaney of the above firm. This document was

produced on the 7th day of the trial counting pre reading days and on the 4th day of the hearing and was delivered long after the time for service of the Defence under the CPR and court orders had expired. It did not comply with the requirements of CPR 22.1 in that the statement of truth was not made by Mr Webb and was not made by a legal representative or litigation friend of his. Neither Mr Webb nor Mr Heaney stated that they believed the Defence contents were true as opposed to the facts stated.

11. Previously Heenan Blaikie filed an acknowledgment of service on behalf of Mr Webb on 12th October 2009 giving an address for service in the jurisdiction as a firm of solicitors in London. It was made clear to ITS' solicitors that those lawyers were merely asked to be just a mailing address as required for acknowledgment of service.

12. Thus Mr Webb has not provided a proper address for service of documents, and he has chosen not to participate in the proceedings until sending this late purported Defence which itself does not comply with the requirements of CPR as to a statement of truth (a somewhat vital requirement). In the circumstances I determined that I would take no notice of the document for those reasons. ITS' solicitors informed Heenan Blaikie of that decision the same day and have heard nothing more during the course of the trial.

13. The only other Defendant that participated initially in the proceedings was Line Trust Corporation ("LT") (D24). It is a Trustee of the Augusta Settlement a Trust for the benefit of the family of Mr Morris (D6). It is a 100% shareholder of Morris Family Holdings Ltd ("MFHL") which owned all of the shares in Multiple and Unilateral Financial Futures Ltd ("MUFF") (D18). This is a trust company owned and incorporated by the well known Gibraltar lawyers Hassans. ITS' claim against LT was limited to the sum of £675,000 (the Augusta funds) held by it or to its order. Those funds were paid into court by LT on 30th January 2009 and a further sum of $75,000 was also paid into court on 12th February 2009. The allegation against LT is that it did not provide any consideration for the money which Mr Morris transferred to the Augusta Settlement and that the Augusta funds plus interest are held subject to ITS' right to trace and claim. No claim is made against LT for knowing receipt or dishonest assistance. There is thus in effect a dispute as between the claims by ITS on the one hand and whether or not the Augusta Settlement can assert any right to retain funds.

14. In addition LT was subject to a Part 20 claim brought against it by Messrs Pitcher and Cordell. It challenges the legal validity of this Part 20 claim.

15. In the circumstances I ordered LT's application which was for relief in respect of the costs they incurred and for relief in respect of the Part 20 Notice to be adjourned to be heard at the same time as the balance of the trial against Messrs Pitcher and Cordell. In the light of that decision LT took no further part in the trial.

PARTICIPATION BY OTHER DEFENDANTS

16. GPN served a fully pleaded Defence settled by Counsel which was adopted by BDC. Its solicitors came off the record on 22nd December 2009 and it is now in liquidation without any funds to defend the claim. BDC's solicitors came off the record on 19th February 2009. As GPN is in a creditors' voluntary liquidation and has not been compulsorily wound up by the court there is no automatic stay under section 130 (2)

Insolvency Act 1986. A liquidator (a Mr Chamberlain) was appointed on 6th November 2009 but he has not sought a stay. I have already dealt with the position of Messrs Pitcher, Cordell and Malmstrom.

17. Mr Morris (the major participator in this affair) has taken no part in the proceedings. He currently resides in a rather large beachside residence in Sydney Australia. He rejected the allegations made against him by an email dated 8th December 2008. He has provided an account by letters that were addressed to Holman J in connection with proceedings for ancillary relief by his first wife ("Susan Morris").

18. He was interviewed by Channel Seven in Australia and I was provided with a video not only of the interview but also the conversations which took place off camera. In that interview Mr Morris told a number of obvious lies.

19. First he said that MUFF was set up by lawyers for GPN and was controlled by GPN and that he was asked by GPN to give advice on projects for over 5 years. He asserted that MUFF was just one of the projects and in response to a suggestion that MUFF was a vehicle for fraud he said that MUFF was owned by Hassans and their trust company LT.

20. In truth although Hassans accept that they represented GPN for the purpose of requesting monies to be transferred to them in early 2008 and although GPN would appear to be one of the persons to whom Hassans owed obligations in respect of those monies the following appears to be the case. First Hassans were long standing lawyers for Mr Morris. Second Hassans acquired MUFF not on the instructions of GPN but in accordance with his instructions as part of a structure of ownership of assets pursuant to which MUFF was wholly owned by MFHL which in turn was wholly owned by the Augusta Settlement and in accordance with the wishes or instructions of Mr Morris. Third Hassans did not sign off all investments involving MUFF. Fourth on the contrary Hassans made it clear to (among others) Mr Morris from 17th April 2008 that they were unwilling to sign off GPN's investments in ***MUFF*** on the terms of the first and second Bond instruments (see below). Fifth if any entity signed off any of MUFF's investments it was Pitt Capital Partners ("Pitt"). They are merchant bankers registered in Sydney Australia about which I shall have something more to say in this judgment.

21. The second lie was that he would be coming to the UK in the next week or two (the interview took place in mid April after Messrs Pitcher and Cordell had been charged). He has not gone to speak to the SFO and has also declined to take part in the present proceedings which afford him an ideal opportunity to explain his position.

22. Third he said that he had not been disqualified from being a company director in the UK but in truth by an order of Hart J dated 22nd July 2005 he was disqualified as a company director for 10 years in accordance with an undertaking he gave to the Secretary of State for Trade and Industry pursuant to section 1A of the Company Directors Disqualification Act 1986.

23. Fourth (this is perhaps a minor lie) he said he was an honest man in that he paid all his taxes. However on 29th May 2008 HMRC obtained a judgment in Northampton County Court against him for £98,693.89.

24. That is the extent to which Mr Morris voluntarily or involuntarily has participated in this trial.

25. I have dealt with Mr Webb above.

26. MUFF was represented by Lovells LLP but they came off the record on 28th January 2009. It has not served a Defence but its case is made out from the skeleton argument, affidavits and witness statements which were served in support of its application for permission to use yet more funds to bolster investments which it had purportedly made and for recourse thereto for costs. That was heard by Lewison J on 26th January 2009 and was rejected.

27. I have dealt with LT (D24). All other Defendants have been served as is set out in the documentation produced for the trial but none has acknowledged service.

ANNEXES TO THIS JUDGMENT

28. I have attached a number of annexes to this judgment. First there is a *dramatis personae*. Second is a Road Map produced by ITS pursuant to an order of Mann J made on 27th March 2009. This diagram shows the flow of assets ("the Trust Assets") representing or derived from the assets of 9 occupational pension schemes ("the Impacted Schemes"). Annex three shows the level of disinvestment from the Impacted Schemes in terms of percentage of disinvestment. The figures are extremely high. The one in respect of the Cuthbert Health Family Security Plan which shows 31.39% disinvested might be a conservative figure given the fact its funds were valued as at 31st December 2002 and the disinvestments took place in August 2007 and April 2008. The first wave in the annex are the amounts removed on 14th August 2007 (£30,000,000) and the second wave is the further £22,000,000 disinvested between 18th and 21st April 2008.

29. Annex 4 is a table showing the traceable assets or other assets received by the Defendants and the beneficial ownership of corporate Defendants and their country of registration or residence.

30. Annex 5 sets out the schedule of losses and the amounts recovered.

31. Finally annex 6 is a chronology of events provided by ITS.

OUTLINE OF CLAIM

32. ITS is a professional trustee company appointed independent trustee of a number of seriously under funded UK pension schemes by the Pensions Regulator. The appointment arose out of alleged fraudulent misapplication of around £52,000,000 of their assets by the two UK corporate former trustees namely GPN and BDC. ITS seeks to recover the traceable proceeds and other relief from the Defendants.

33. D3 and D4 (Messrs Pitcher and Cordell) worked for GPN and BDC and were the individuals responsible for the arrangement of the transactions in question. Mr Pitcher was the managing director of GPN; Mr Cordell was a director.

34. Mr Morris (D6) is a former business associate of theirs and ITS contends he is the orchestrator of the fraud. He established a number of offshore companies ultimately

owned by an offshore family settlement with D19 (MFHL) (a BVI company) at the next rung down of the structure and MUFF (another BVI company) one rung further down.

35. This structure received much of the assets transferred out of the schemes. It was MUFF an SPV with no assets and no investment or other track record that received approximately £23,000,000 of the £30,000,000 paid out under Wave One and £21,000,000 from GPN under Wave Two. In addition it received £1,000,000 at that time from BDC. It purported to give 2 Bonds in exchange for the receipt for the total sum of £45,000,000 many months later but ITS contends those Bonds are worthless.

36. D7 and D8 (Mr Starkey and Mr Webb respectively) were contended to be associates of Mr Morris and acted at his behest. Mr Malmstrom was involved in a company Cerberus Security Limited ("Cerberus") which received some £4,350,000 in loans from MUFF. Mr Malmstrom who at the time was not actually appointed director (but believed he was), entered into the Loan Agreement on its behalf with MUFF. Although ITS did not challenge the loan (and it has never instituted proceedings against Cerberus which had a legitimate background) Cerberus went into liquidation and ITS' complaint involves conclusions that are to be drawn from the advance. Of that advance of £4,350,000 in February 2008 £1,600,000 was dispersed for the benefit of Mr Morris. He received £1,450,000 direct. The balance (£150,000) was utilised to pay the outstanding instalments on an Aston Martin bought from Strattons in Mayfair. That vehicle was then transported to Australia and as appears from the video is still used by Mr Morris. The 22nd Defendant Caprio International Ltd ("Caprio") is the legal owner of the vehicle. The fraud in this claim was a dishonest statement that the £1,600,000 was due to Mr Morris as a reimbursement for monies he had advanced to Cerberus. In fact he had not advanced any such monies and the payment was in effect a fee up front for securing the loan. As will appear below that was disguised in the MUFF documentation and the actual loan agreement. As a result of this allegation of dishonesty as regards the £1,600,000 ITS claimed the entirety of the monies from Mr Malmstrom because it alleged that he had dishonestly assisted in the release of all the funds. Mr Malmstrom as I have said consented to a without admission of liability judgment in that amount together with costs.

37. The essence of the claims arises out of two decisions made by GPN and BDC to liquidate the vast amount of the Impacted Schemes. Their investments at that time were in fairly traditional conservative matters such as quoted stocks and more particularly gilts. Those were liquidated so as to provide the funds which were then transferred out.

LEGAL ISSUES

38. The legal issues arising in this claim (save the claims against Mr Pitcher and Mr Cordell which are adjourned) fall into 3 categories.

39. The first category is a claim against GPN/BDC for breach of trust and/or negligence and breach of duties concerning investment functions and powers.

40. The second area of claim relates to proprietary claims where assets have been identified (in some cases cash) and paid into MUFF's Credit Suisse account and passed on to for example Newdale Investments (D20). There are other claims to trace

into assets acquired using monies which can be found to have come from the Impacted Schemes.

41. The third area are claims that other parties have provided dishonest assistance to the breaches of trust.

42. GPN and BDC were trustees of the funds for the Impacted Schemes. The 3 claims against them are (1) an account of their use of the assets of the Impacted Schemes (2) breach of fiduciary duty and/or negligence and/or breach of duty as regards investments in accordance with sections 35-36 of the Pensions Act 1995 ("PA 1995") and the Occupational Pension Schemes Investment (Regulations 205 SI 2005/3378) ("the Investment Regs"). The third claim is if and to the extent necessary ITS contends that the breach of fiduciary duty of GPN and BDC were dishonest or fraudulent having regard to the dishonesty of Mr Pitcher and Mr Cordell. As to whether or not those breaches of duty if established (which I am satisfied as set out in this judgment they are) were dishonest or fraudulent does not arise for the purpose of this judgment. I am satisfied that GPN and BDC acted in breach of the fiduciary duties or were negligent or were in breach of duty in the exercise of their powers of investment. That is enough to establish liability on the part of GPN and BDC. Similarly by reason of their fiduciary status they have to account for their use of the assets. Finally by way of fall back in this area I am satisfied that none of the entities who received any of the assets of the Impacted Schemes was a bona fide purchaser for value so as to be able to set up an adverse title to any funds which have been discovered. It was for that reason that I ordered at the conclusion of the hearing that the monies paid into court on an interim basis should be paid out to ITS.

43. Irrespective of the terms of any trust exemption clause in the pension trust deeds liability cannot be excluded by those means for breach of the trustees duty of skill and care in the performance of investment functions (sections 33 PA 1995) or alternatively for dishonest and fraudulent breaches of trust. See ***Armitage v Nurse [1998] Ch*** 241 per Millett LJ at 251 and 253-4:-

> ***"It is the duty of a trustee to manage the trust property and deal with it in the interests of the beneficiaries. If he acts in a way which he does not honestly believe is in their interests then he is acting dishonestly. It does not matter whether he stands or thinks he stands to gain personally from his actions. A trustee who acts with the intention of benefiting persons who are not the objects of the trust is not the less dishonest because he does not intend to benefit himself.***
>
> ***… there is an irreducible core of obligations owed by the trustees to the beneficiaries and enforceable by them which is fundamental to the concept of a trust. If the beneficiaries have no rights enforceable against the trustees there are no trusts. But I do not accept the further submission that these core obligations include the duties of skill and care, prudence and diligence. The duty of the trustees to perform the trusts honestly and in good faith for the benefit of the beneficiaries is the minimum necessary to give substance to the trusts, but in my opinion it is sufficient".***

44. Consideration as to whether or not the breaches can be classified as dishonest and fraudulent will await the adjourned part of the trial.

45. Separately from that however is the question of whether strangers to the trust can be liable for dishonest assistance. The test required has received a considerable amount of scrutiny in recent years see ***Walker v Stones 2001] QB 902,*** the controversial decision of the House of Lords in ***Twinsectra Ltd v Yardley [2002] 2 AC 164*** which was clarified by the Privy Council in ***Barlow Clowes International v Euro Trust International [2006] 1 WLR 1476.***

46. The law in this area was reviewed by me in ***Attorney General of Zambia v Meer Care & Desai (a firm) & ors [2007] EWHC 953 (ch)*** at paragraphs 332-371. In particular I adopted the observation of Lord Clarke MR in an article ***"Claims Against Professionals: Negligence, Dishonesty and Fraud" [2006] 22 Professional Negligence 70/85*** as follows:-

> ***"This is an objective standard. At first sight this may seem surprising. Honesty has a connotation of subjectivity, as distinct from the objectivity of negligence. Honesty, indeed, does have a strong subjective element in that it is a description of a type of conduct assessed in the light of what a person actually knew at the time, as distinct from what a reasonable person would have known or appreciated. Further, honesty and its counterpart dishonesty are mostly concerned with advertent conduct, not inadvertent conduct. Carelessness is not dishonesty. Thus for the most part dishonesty is to be equated with conscious impropriety."***
>
> ***However, these subjective characteristics of honesty do not mean that individuals are free to set their own standards of honesty in particular circumstances. The standard of what constitutes honest conduct is not subjective. Honesty is not an optional scale, with higher or lower values according to the moral standards of each individual. If a person knowingly appropriates another's property, he will not escape a finding of dishonesty simply because he sees nothing wrong in such behaviour.***
>
> ***In most situations there is little difficulty in identifying how an honest person would behave. Honest people do not intentionally deceive others to their detriment. Honest people do not knowingly take others' property. Unless there is a very good and compelling reason, an honest person does not participate in a transaction if he knows it involves a misapplication of trust assets to the detriment of the beneficiaries. Nor does an honest person in such a case deliberately close his eyes and ears, or deliberately not ask questions, lest he learn something he would rather not know, and then proceed regardless. However, in the situations now under consideration the position is not always so***

straightforward. This can best be illustrated by considering one particular area: the taking of risks"

47. There was no challenge to that legal analysis in the subsequent Court of Appeal decision [2008] EWCA Civ 1007.

KNOWING RECEIPT

48. The principles are summarised in ***Lewin On Trusts*** paragraphs 42-21 and following. There are 6 requirements:-

1) There is property subject to a trust

2) The property is transferred

3) The transfer is in breach of trust

4) The property (or its traceable proceeds) is received by the Defendant

5) The receipt is for the Defendant's own benefit

6) The Defendant receives the property with the knowledge that the property is trust property and has been transferred in breach of trust or if not a bona fide purchaser of a legal estate without notice retains the property or deals with it inconsistently with the trust after acquiring such knowledge.

49. There is no doubt that conditions (1) and (2) are established in this case.

50. If knowing receipt is established then the remedies might either be proprietary to enable the beneficiary to recover property from the Defendant or by the equitable proprietary remedy of tracing. As set out above a bona fide purchaser Defence is available. In addition however a person who receives trust property with the requisite knowledge has a personal liability to account for the receipt of those proceeds.

51. The question of knowledge in the case of knowing receipt in English law is to be found in ***Bank of Credit and Commerce International (Overseas) Ltd v Akindele [2001] Ch 437*** at 455 namely the requirement of knowledge involves determining whether the Defendant has sufficient knowledge to make it unconscionable for him to retain the benefit of the receipt. Unconscionability or fault is therefore at present the basis of knowing receipt in this jurisdiction. However (in contrast to dishonest assistance) it is not necessary to establish dishonesty as against the Defendant. The law is not necessarily the same in other jurisdictions (see ***Lewin on Trusts*** paragraph 42-29).

TRACING

52. Separately from the claim for dishonest assistance and knowing receipt it is open to ITS on behalf of the Impacted Schemes to bring a proprietary claim in respect of the trust assets. A beneficiary in a trust is entitled to a continuing beneficial interest not merely in the trust property but in its traceable proceeds also and his interest binds everyone who takes the property or its traceable proceeds except a bona fide

purchaser for value without notice (***Foskett v Mckeown [2001] AC 103*** at page 127 per Lord Millett). Lord Brown-Wilkinson said the same (page 108).

53. The issue raised possibly as a Defence to any claim for return of the trust assets or a tracing claim into assets acquired is whether or not there is a bona fide purchaser for value without notice. The notice requirements are actual constructive or imputed. This again is in contrast to the dishonesty requirement in the case of dishonest assistance.

TRUSTEES DUTIES

54. GPN and BDC's duties as trustees when exercising powers of investment are to take ***"such care as an ordinary prudent man would take if he were minded to make (an investment) for other people for whom he felt morally bound to provide" (Cowan v Scargill [1984] 2 All ER 750*** per Sir Robert Megarry VC at 762).

55. The duty is codified in section 1 of the Trustee Act 2000 (including in addition to pre-existing trusts by section 7 (1)) which provides that:-

> ***"whenever the duty under this sub-section applies to a Trustee he must exercise such care and skill as is reasonable in the circumstances and have regard in particular:-***
>
> ***a) to any special knowledge or experience that he has or holds himself out as having, and***
>
> ***b) if he acts as a trustee in the course of a business or profession, to any special knowledge or experience that is reasonable to expect a person acting in the course of that kind of business or profession"***

56. GPN and BDC were both professional trustees and that should be taken into account when determining the standard of care applicable to them.

57. That duty is extended by a duty to take all reasonable steps to meet the requirements of sections 35-36 Pensions Act 1995 and the Investment Regulations.

58. Regulation 4 applies to 4 Impacted Schemes which had more than 100 members and applies so far as concerns a requirement for diversity to the other 5 Impacted Schemes. It provides as follows:-

> ***"Investment by trustees***
> ***4. —(1) The trustees of a trust scheme must exercise their powers of investment, and any fund manager to whom any discretion has been delegated under section 34 of the 1995 Act (power of investment and delegation) must exercise the discretion, in accordance with the following provisions of this regulation.***
>
> ***(2) The assets must be invested—***

> ***(a) in the best interests of members and beneficiaries; and***
>
> ***(b) in the case of a potential conflict of interest, in the sole interest of members and beneficiaries.***
>
> ***(3) The powers of investment, or the discretion, must be exercised in a manner calculated to ensure the security, quality, liquidity and profitability of the portfolio as a whole.***
>
> ***(4) Assets held to cover the scheme's technical provisions must also be invested in a manner appropriate to the nature and duration of the expected future retirement benefits payable under the scheme.***
>
> ***(5) The assets of the scheme must consist predominantly of investments admitted to trading on regulated markets.***
>
> ***(6) Investment in assets which are not admitted to trading on such markets must in any event be kept to a prudent level.***
>
> ***(7) The assets of the scheme must be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and so as to avoid accumulations of risk in the portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group must not expose the scheme to excessive risk concentration …***
>
> ***Partial disapplication of regulation 4 in respect of schemes being wound up***
> ***9. —(1) The requirements of paragraphs (3) to (7) of regulation 4 shall apply in respect of a scheme which is being wound up except to the extent that—***
>
> ***(a) they conflict with any obligations placed on the trustees arising in consequence of the winding up under or by virtue of the 1995 Act or the 2004 Act, or***
>
> ***(b) it is not reasonably practicable to give effect to them having regard to circumstances in connection with the winding up.***
>
> ***(2) For the purposes of paragraph (1), a scheme shall be taken to be being wound up during the period which—***
>
> ***(a) begins with the day on which the time immediately after the beginning of the winding up of the scheme falls, and***
>
> ***(b) ends when the winding up of the scheme is completed.”***

59. There is no question of regulation 4 being dis-applied by virtue of regulation 9 above.

60. It is necessary therefore to consider the investments against the general duties of investment of trustees as augmented by the Trustee Act 2000 and in the case of these

investments in particular the requirements as to liquidity and profitability and the nature of the investment with, in addition the need for diversification.

61. The first transfer occurred on 14th August 2007 ("Wave One").

BACKGROUND TO WAVE ONE

62. As at 10th July 2007 in addition to Mr Pitcher and Mr Cordell a Mr Easter was also a director at GPN. It was agreed on 10th July 2007 that all future board meetings for GPN would be attended by Mr Easter and his PA Natalie Varney with advance circulation of agendas. In early August 2007 an exchange of emails took place suggesting the next board meeting of GPN would take place on 14th August 2007. However on 6th August 2007 a purported board meeting of GPN attended only by Messrs Pitcher and Cordell resolved to give Mr Pitcher sole authority to transfer funds of the GPN Impacted Schemes and that an agenda would be circulated before the next meeting. That next meeting occurred purportedly on 8th August 2007. Mr Easter was not informed of the meeting. At that meeting Messrs Pitcher and Cordell alone resolved to accept details of ***"the attached term sheet"*** (i.e. the basis on which the assets of the Impacted Trust Funds were to be invested), and to approve the incorporation of a BVI company Fareston. It is a BVI company incorporated on 22nd June 2007 solely to receive the incoming monies from the Impacted Pension Schemes. The term sheet sets out the basis for the re-investment of the £30,000,000 to be liquidated. The investment manager is Aspect Investment and Finance Ltd ("Aspect") described as being based in Switzerland. In fact Aspect (D9) was incorporated in Nevis West Indies. This was done (according to contemporaneous emails) to put distance between it and the other BVI companies. The term sheet provided for the investment advisor to be Mr Webb and the administrator to be Bachmann Trust Company SA (a respected Geneva organisation). The sheet also provided the target assets were to be unquoted or quoted equity related investments. There was a clause that dealt with capital protection ***"as specified to provide principle (sic) protection to the value of 70% of the original investment as at the 3rd anniversary of the original investment"***.

63. Advice was sought on the advisability of this scheme exemplified by the term sheet from a gentleman called Quentin Russell. He provided so called letters of advice. I can refer to one example dated 13th August 2007 in respect of the R Taylor & Son Orthopaedic Ltd Pension Fund. Its proposed investment was to be £2,000,000 out of a total fund of £2,053,082 (i.e. 97.41% of its total assets). This letter was addressed to Mr Pitcher (as were all the others) and typed on writing paper ***"Finance 2 Professionals Ltd"***. According to the letter that company was stated to be authorised and regulated by the FSA. Mr Russell opines that the scheme proposed ***"might be a suitable vehicle for investment"***. However he also stated that he had not been provided with the entire size of the fund nor given full and detailed information in regard to the fund liabilities and merely reiterated that Mr Pitcher had told him that he thought this was an appropriate investment. Nevertheless he made no comment on nor took any responsibility for any decision to invest, the size of any investment made or the results of any such investment. Mr Russell has never been authorised by the FSA. A separate company ***"Finance to Professionals Ltd"*** is in existence and Mr Russell at sometime worked for the company. He was not working at the time of the letters for the company and as can be seen the title is different. Evidence brought by

ITS showed that Finance to Professionals Ltd had no dealings with GPN and did not authorise or have any knowledge of Mr Russell's involvement with them.

64. Finally the letter concluded on these terms ***"further I have no formal contract with your company and have not been paid by your company for my opinion….".***

65. In fact despite that statement the letters of advice included (separately of course) an invoice of £2,000 per letter of advice.

66. On that documentation the first wave of £30,000,000 on 14th August 2007 was transferred from the 6 schemes in question to Fareston by 6 payments from GPN's RBS bank account in London to Fareston's account with Union Bancaire Privee. Mr Cordell co-signed the request to RBS for the transfers to be made.

67. According to Mr Pitcher Mr Morris introduced Mr Webb to him and he or Mr Morris introduced Mr Russell. He claims to have been led to believe that both Mr Webb and Mr Russell were FSA regulated. There is evidence from investigations by the SFO that Mr Malmstrom knew Mr Russell. He may have had an involvement in the introduction of Mr Russell but that was not explored. Certainly he had lent money to him in the past to secure Mr Russell's school fees and was pressing him for repayment of those loans out of funds which Mr Russell received for providing these reports. The actual true position does not in my view matter.

68. I say that for a number of reasons. First the board meeting was not a board meeting at all. It was not valid because Mr Easter was never informed of it. Second it is impossible to accept that these large amounts of money could be removed from the safe investment where they were currently residing into Fareston on the strength of Mr Russell's letter. It provided absolutely no comfort at all and does not even amount to a recommendation that the investments are proper investments. Third GPN and BDC appear not to have made any investigations as to the background of Mr Russell and his expertise to give advice (even the limited "advice" he gave). I do not understand what the expression of capital protection was meant to cover. It is difficult to see how the decision by trustees of the Impacted Schemes to invest as at 26th August 2007 on this material could ever be a proper investment.

69. The common features of the circumstances of the Schemes were that:-

    1) Each sponsoring employee had gone into insolvency well before August 2007 (GPN or BDC were appointed as independent trustees following such insolvencies)

    2) The scheme was left with insufficient assets to meet the benefit provided from it in full.

    3) None of the schemes had any employer covenant to redress the funding deficit.

    4) The schemes both needed to adopt cautious investment strategies such strategies being sensible given the absence of any employer to redress the consequence of investment losses.

70. Further it is necessary to consider the impact of 2 statutory life boats introduced by the Pensions Act 2004 ("PA 2004") for under funded schemes. The first was the Financial Assistance Scheme ("FAS") which broadly speaking applied to under funded schemes whose sponsoring employers had entered into insolvency and the scheme entered wind up before 6th April 2005 and the Protection Pension Fund ("PPF") which applied to under funded schemes whose last employers entered into insolvency on or after 6th April 2005. Of the Impacted Schemes 6 were FAS eligible and 3 were PPF eligible.

71. The FAS operated by providing top up payments to members of under funded schemes on top of the pensions paid by the scheme so as to bring the total pensions paid to such members up to a specified percentage of pension benefits that they expect to receive from the scheme but PPF operated in a different manner by taking the assets of the under funded schemes and paying to members a specified level of statutory compensation in place of the pension that otherwise would have been received from the scheme. A scheme which appears to be eligible for PPF enters a period of assessment where the scheme is assessed to see whether it is sufficiently under funded to enter into the scheme.

72. There was contact about these two schemes and it is clear that all of the schemes ultimately would have transferred to either PPF or FAS schemes. It seems to me therefore given that likely exit the trustees ought to marshal the assets so as to minimise the exposure of the two schemes. Thus the FAS and PPF are the primary victims of the misapplication of assets. Although it is suggested that the presence of a lifeboat means that if investments are made and sustain losses no pensioner will thereby suffer a loss because of the two statutory pension lifeboats, this is not correct in fact and in law. First there are a number of pensioners who made Additional Voluntary Contributions ("AVCs") which will not be covered by either of the lifeboats. In law I agree with the rejection of this argument by Henderson J in his decision of ***Independent Trustees Services Ltd v Hope and Ors [2009] EWHC 2810*** at paragraphs 107 and 118-120.

73. The various disadvantages suffered by the pensioners were summarised in paragraphs 82 and 85 of the unchallenged witness evidence of Mr Martin the managing director of ITS dated 25th February 2010.

74. After this momentous non board meeting, the board meeting which had been scheduled for the 14th August 2007 was cancelled. On 13th August 2007 Mr Easter resigned as a director (not as a result of the purported meeting held on 8th August 2007 about which he knew nothing at the time).

DESTINY OF WAVE ONE FUNDS

75. Having received £30,000,000 Fareston then purported to deal with those funds. This is despite the fact that no documents were in place governing the receipt and subsequent disbursement of the monies it received.

76. On 8th August 2007 Messrs Pitcher and Cordell purportedly authorised Fareston to appoint an investment manager. On 14th August 2007 BTC Directors SA appointed Aspect a Nevis company to manage Fareston's assets. It executed a power of attorney in Aspect's favour ***"[authorising] (Aspect) to manage freely at his entire discretion***

and without restriction" Faretone's assets. Fareston was incorporated on 22nd June 2007 with BTC Directors SA its sole director and BTC Nominees SA (a Panamanian company) the sole shareholder of its 2 shares. They were presumably entities created by Bachmann Trust Company SA.

77. Mr Webb was one of Aspect's directors and he had a 90% shareholding.

PAYMENTS TO ASPECT

78. It is instructive to see what payments were made out to Aspect and where those monies paid out ended up. On 16th August 2007 a Mr McMullen emailed Mr Pitcher with a draft wording that Mr Morris had prepared to provide for each of the 6 Impacted Schemes to authorise Bachmann to release fees to Aspect. The first paragraph for the draft wording provided:-

> ***"…hereby authorise you to release the initial fees and total annual charges for the 3 year period to the Investment Manager. These fees are fixed and payable in any event and are calculated on the value of the initial investment as per the Term Sheet."***

79. This wording does not address the fact that there was no contract or any contract in draft form at that stage. It provided Aspect to be paid 3 years upfront (the management fees component which would alone amount to £1,800,000) irrespective of whether it performed 3 years service or not and that the fee would be based on the starting value of the portfolio even if it subsequently decreased in value. Mr Pitcher on 21st August 2007 provided such authorisation to Mr Pugh of Bachmann (co-signed by Mr Cordell) adopting Mr Morris's proposed wording verbatim. On the next day Aspect rendered invoices to Fareston for £80,000, £1,800,000 and £45,000 stating the sums were to be paid by 30th August 2007. On 29th August 2007 Mr Pugh emailed Mr Morris raising issues about these invoices and asked to discuss the fees so he could understand what was intended. Mr Morris (as the manuscript annotation at the bottom of the copy email shows) indicated that Mr Morris had confirmed Mr Pugh's understanding on 30th August 2007 ***("agree TM 30/8/07")***. Subsequent to that authorisation the fees totalling £2,187,500 were paid out to Aspect between 31st August and 13th November 2007. All of these payments were made before any investment agreement had been entered into with Aspect. It of course is a Nevis SPV with no assets and no ability (save in respect of receiving the funds) to repay any funds which it is not entitled to. As I have set out above this was authorised by Messrs Pitcher and Cordell without any investigation at all.

80. An investment management agreement between Aspect and Fareston was not executed until 19th November 2007 although there were drafts in place in August.

81. By this agreement Fareston appointed Aspect to be the exclusive investment manager. Aspect became entitled to the 3 years fees payable upfront based on a percentage of the value of the fund at the time of the management agreement. The total amount paid to Aspect was £2,188,000. There are provisions for termination but no provisions for repayment of any part of the 3 year advanced fees. The agreement was terminated by mutual agreement in February 2008 and Aspect kept the entirety of the fees. The agreement was stated to be covered by Swiss law despite the fact that the

parties were a BVI and Nevis company respectively. Finally the trustees (i.e. GPN) signed a declaration that they had read the contents of the agreement and confirmed that it was in accordance with the provisions of GPN. That was signed by Messrs Pitcher and Cordell.

82. The document was executed on behalf of Fareston and Aspect by the same persons who appear to be associated with Bachmann.

83. There is no reason to suggest that GPN or BDC or Messrs Pitcher or Cordell ever considered whether this was an advisable arrangement to enter into. I have already observed that Fareston was newly created solely for the purpose of receiving monies from the Impacted Schemes. Aspect was created solely to receive these management fees. It provided no service. It had no track record and there was no evidence showing it had any experience whatsoever. I cannot see any conceivable reason why the payment of 3 years fees can be justified in this case. This is enforced by the fact that as I have said there is no provision for repayment on early termination. In my view this was simply a way of siphoning off monies from the Pension Funds in exchange for non-existent services.

84. This is further reinforced when one looks at what actually happened to the money when Aspect received it.

85. On 24th September 2007 2 months before the agreement was actually executed Whitepoint a BVI registered company rendered an invoice or demand to Aspect for £1,800,000. The fee was described as ***"investment management fee at the agreed rate of 2% in relation to Faristone [sic] Ltd".*** On the same day Mr Sinclair (who was subsequently to sign the agreement both on behalf of Fareston and Aspect) asked UBP to make the transfer. It was transferred on the following day namely 25th September 2007.

86. It appears self evident Mr Morris was the beneficiary from an email dated 10th December 2007 from Mr Webb to Mr McMullen of UBP where he attached a note saying an Aspect meeting had taken place between Mr Webb, Mr McMullen and Mr Sinclair and it was confirmed that the beneficial owner of Whitepoint was a business partner and personal friend of the beneficial owner of Aspect. It was stated that the £1,800,000 transfer from Aspect to Whitepoint was to repay a prior loan agreement.

87. There is no evidence of a prior loan. It is clear that the friend in question is Mr Morris and as I have said the invoice described it as being in effect a 2% finders fee. This is not the only occasion as will appear further in this judgment where Mr Morris is paid sums purportedly in repayment of loans when in fact they are nothing more than fees paid to him for no apparent reason (see below under Cerberus).

88. Ultimately this money apparently was paid into the Augusta Settlement and at all times was therefore under the control of Mr Morris. I should say that the Augusta Settlement was a standard form Gibraltar settlement. Thus it is a discretionary trust with a Settlor, Trustees and significantly a Protector. The concept of protector is well known in offshore trusts but is now no longer known in trusts in England and Wales. The role of the protector was considered by the Staff Division of the Isle of Man Courts in ***Knox Darcy (Rawcliffe v Steele [1993-5] Manx LR 426).*** By these forms of trusts the First Protector is appointed or capable of being removed by the Settlor.

The Protector has the right to appoint or remove trustees. The Protector usually has regard to a letter of wishes prepared by the Settlor. The Settlor may or may not be a beneficiary. However by that structure the Settlor is able to retain control over the trust by insuring that all those appointed are controlled by him. Mr Picardo a partner in Hassans who gave evidence for ITS (and who actually set up the Augusta Settlement) confirmed this in his evidence.

89. In addition to receiving the £1,800,000 via Whitepoint Mr Morris received a further £1,600,000 via Cerberus. Finally Mr Morris received a figure of £1,494,067. This was paid out supposedly by way of a transfer of £1,400,000 from Newdale to Glencalvie on 9th July 2008 and a balance of £94,100 by transfer also to Glencalvie from MUFF on 14th July 2008. Newdale is a BVI company. It received almost all of the Wave Two payments and some of the Wave One payments totalling £22,620,000. Those funds were identified in an account in its name with Credit Suisse in Geneva and were repatriated to this court. It is the 20th Defendant. It was controlled at all material times by Mr Morris. Glencalvie is the 25th Defendant and was also incorporated in the BVI. Its director is Mr Picardo but it was controlled by Mr Morris.

90. Once again there is no evidence to show that either Newdale or MUFF had incurred any liability to Glencalvie for expenses or any other payments entitling it to receive money.

91. Further on 27th March 2009 Mann J made an order requiring an officer of Glencalvie to make an affidavit setting out its assets. That affidavit was sworn by Mr Picardo who as I have said is a partner in Hassans and director of Glencalvie. He explained that the monies were received by Glencalvie as set out above and that on 14th July 2008 £1,494,078.15 was transferred to Mr Morris' solicitors in matrimonial proceedings between himself and his former wife Susan Morris.

92. In divorce proceedings Mr Morris had consented to an order for ancillary relief on 16th July 2007. By that order (inter alia) he agreed to pay Susan Morris a lump sum of £1,200,000 by 31st December 2007. In fact on 1st February 2008 Mrs Morris issued an application seeking an order setting aside the consent order and a re-hearing of the ancillary relief application on the grounds of fraudulent concealment of assets by Mr Morris. Moylan J on 28th April 2009 determined that Mr Morris had indeed been guilty of deliberate default and that his assets and means statements were deliberately and materially deficient and that the consent order was therefore set aside save that the maintenance was to continue on an interim basis. In her affidavit dated 21st November 2008 Mrs Morris deposed by way of update of her application to set aside the consent order of 11th February 2007 that £1,481,920.53 of the above sum which had been transferred to Glencalvie and then transferred on to Mr Morris' solicitors (Alexiou Fisher Philips) on 14th July 2008 was transferred the same day to the client account of her matrimonial solicitors Blick & Co. Thus the Glencalvie monies were in effect used by Mr Morris to satisfy his obligations to Mrs Morris under the terms of the consent order.

93. Thus it is clear that Mr Morris received £1,800,000 via Whitepoint and Aspect. He received £1,481,920.53 via Glencalvie and a futher £1,600,000 via Cerberus. He provided no services for any of these monies. Although two of them were described

as repayments of loans there is no evidence to show that Mr Morris made any such loans.

94. The inevitable conclusion is that the documentation is entirely false and is simply created by Mr Morris to dress up the fact that he is simply helping himself to nearly £5,000,000 out of the trust assets for no justification whatsoever. As £32,000,000 was recovered that represents nearly 25% of the balance of the trust assets that were paid out to the BVI companies which in effect Mr Morris set up.

95. It is clear beyond peradventure that all of these arrangements were set up by Mr Morris and were controlled by him. In my view and I so determine these operations were set up by him as a fraud to enable him to acquire control of and his own use of the trust funds. It is clear that Mr Morris is controlling everything. I do not propose to set them out in this judgment but as appears from paragraph 25 of ITS' closing submissions and the detailed documentation referred to in ITS' opening the whole structure was set up and controlled by Mr Morris. As set out above the monies were transferred over in Wave One without any corresponding documentation being in place. The two Bond agreements came nearly a year later.

96. In January 2008 Mr Morris retained Hassans. They set up the structure of MUFF and all the other incorporated companies as Mr Picardo sets out in his evidence before me. Mr Pitcher had a role in this but that is for the second trial. In any event the corporate structure was set up by Hassans by Mr Picardo and his assistant Gemma Arias on the instructions of Mr Morris. His trusts were the ultimate beneficial owners of all relevant companies. The lack of genuineness in respect of the three transactions above demonstrates in my view that Mr Morris' conduct was essentially fraudulent. His design was to obtain control over the pension funds and to use them for his own benefit. He did this by the creation of false invoice trails for example as set out above. He also (contrary to what he said in his television interview) essentially controlled all of the companies that received the monies.

<u>FURTHER DEALINGS IN RESPECT OF WAVE ONE FUNDS</u>

97. Asset Management & Consultants Ltd ("Amac") received £24,000,000. It transferred £18,500,000 back to the LT (D24) and transferred a further £1,259,000 in respect of the MUFF second Bond.

98. The balance apart from the payment to Aspect was utilised to buy shares in Cerberus (£1,000,000), payment of a further £385,209.69 for expenses claimed by Amac and finally a transfer of £3,000,000 to Number Thirty One (D13). It was owned by Amac (D12) which was the custodian of Fareston and was owned as to 90% by Mr Webb and 10% by Mr Sinclair. The directors were Mr Sinclair and BTC Directors SA. It was a BVI company. Messrs Webb and Sinclair with Amac were also directors of Number Thirty One.

99. Number Thirty One is a Nevis company incorporated on 16th October 2007 and its directors at all relevant times were Messrs Webb and Sinclair.

100. On 23rd November 2007 Messrs Webb and Sinclair resolved as Amac directors to loan £3,000,000 to Number Thirty One. They then wrote to Number Thirty One confirming this the same day each signing the letter twice once as Amac directors,

offering the loan, and once as Number Thirty One directors accepting the loan. The letter was written to themselves. The loan was unsecured and carried interest of 10% payable in arrears. Pursuant to that loan £2,000,000 was advanced to Number Thirty One on 22nd November 2007 and a further £1,000,000 on 12th February 2008. These payments were out of the Wave One funds.

101. There can be no justification for such an arrangement. The idea that it is acceptable for trustees to allow monies of this magnitude to be advanced by way of unsecured loan to a nominal Nevis company with no ability to repay the monies in the future is untenable. It is further tainted by the fact that Messrs Webb and Sinclair clearly were self dealing as they were on both sides of the transactions.

DISSIPATION OF THE £3,000,000 BY NUMBER THIRTY ONE

102. First £600,000 was advanced by way of an unsecured loan to Swanbay Mobile Media (BVI) Limited ("Swanbay") which is another BVI company. Mr Webb appears to have an interest in Swanbay and was at least until 20th October 2008 held as the financial director of Swanbay Mobile SA (a different company incorporated under the laws of the Island of Nevis). By a deed of assignment dated 12th August 2009 between Number Thirty One as assignor and ITS as assignee the former assigned to ITS absolutely all of Number Thirty One's present and future right, title and interest in the benefit of the loan of £600,000. It also confirmed that the credit balance in its account 102983 with LP Swiss Privat Bank Zurich was held for the benefit of ITS. Pursuant to the deed the balance as at 17th October 2008 was £530,855.65 and $288.27 giving a total balance at the then prevailing USD/GBP rate of $919,464.51 that balance was transferred into court on 4th January 2010.

103. Number Thirty One made a £20,000 unsecured loan to Mr Webb. That too has been assigned to ITS.

104. It made an unsecured loan of £55,000 to Mr Pearson which has also been assigned to ITS.

105. It made an unsecured loan of £500,000 to La Matze Consultants SA a BVI company (D14). Mr Webb owned the majority of the shares in this company and was also a director along with Mr Sinclair and BTC Directors SA. This too has been assigned to ITS but has not been recovered. La Matze Consultants SA lent £300,000 to La Matze Real Estate SA (D15) used by it to invest in land in Switzerland. It too is owned and controlled by Messers Webb and Sinclair.

106. La Matze Consultants SA apparently lent money to a company called Complete Support Services Ltd ("CSSL") amounting in total to £172,000 by transfers between 20th November 2007 and 14th February 2008. There is no Loan Agreement as confirmed by Mr Webb and no basis for these transfers. Once again Number Thirty One assigned to ITS all benefit and interest in the loan of £171,719.

107. Around 11th February 2008 Number Thirty One made a loan of £650,000 to BFS Media Ltd ("BFS Media") a UK company pursuant to a convertible loan agreement. By the Number Thirty One assignment Number Thirty One assigned to ITS absolutely and unconditionally all its present and future right, title and interest in the benefit of those loans.

108. In around late 2007 Number Thirty One invested £1,000,000 in a "traded policies fund". I need not say anything about that save to say that it was redeemed on or around 7th January 2009 with a redemption sum of £978,070.79.

TRANSFERS FROM AMAC TO LINE TRUST/HASSANS

109. On 21st January 2008 Amac transferred £18,000,000 from Wave One to a bank account in the name of LT at Barclays Bank PLC Gibraltar ("the Line Trust account"). At that time it appears from documents provided by Hassans that the Line Trust account was the client account designated by Hassans for receipt of monies. LT being Hassans' professional trustee account. Further on 6th February 2008 Fareston transferred to the same account a further £2,500,000 of Wave One being part of the monies therefore that Fareston had received from GPN on 14th August 2007.

110. These transfers appear to have been the preamble to the creation of a new offshore structure through MUFF. It is plain this structure was set up by Hassans at the request of Mr Morris. Offshore trusts administered by LT for Mr Morris and others were the ultimate owners of MUFF. The arrangements were put in place by a Mr Picardo a partner of Hassans who gave evidence before me. He had a long standing relationship with Mr Morris and had set up and administered a number of his offshore structures. In so acting Mr Picardo at all times maintained that his client was Mr Morris. He was never acting he contended for the Impacted Schemes.

HASSANS BECOME INVOLVED

111. The first reference to a structure was early January 2008 when Messrs Morris and Pitcher were asking Mr Webb to organise for the transfer of £18,500,000 as soon as possible. Mr Webb stated he would do this with GPN instructions and told Hassans that a one side investment summary of the new proposed investments was necessary to understand what investments were being suggested. Mr Pitcher's response was to the point "***please move the £20,000,000 GBP".***

112. Mr Picardo then set out his instructions to Mr Webb:-

113. He was instructed in relation to a BVI entity called MF Corporation Ltd ("MFC").

114. His instructions were that Mr Webb would be transferring £21,000,000 to Hassans' client account.

115. The monies would be used by MFC to provide investment returns of 7.5% with the money deposited on a monthly basis and that a Bond would be provided by MFC in this respect. However in order to secure the relevant investments the money needed to be transferred by MFC in the early course of the week so the transfer needed to be made urgently.

116. There was a further exchange of emails. It appears that part of the problem was that Mr Webb had invested £800,000 of the Fareston money to pay a deposit on the contract it had entered into on behalf of SEAR (D11) for land in Thailand without the authorisation of either Mr Morris or Mr Pitcher. They had agreed to take on a continued investment and it is clear that Mr Webb's days were numbered.

117. The transfer of the £2,500,000 from Fareston to LT caused some concerns at the UBP and Bachmann end. UBP were Fareston's bankers. The administrators (Bachmann) appeared to be concerned about how Fareston money had been applied. On 5th February 2008 Mr Picardo drafted a letter for Mr Pitcher to send to UBP giving them an indemnity for any breach of duty other than gross negligence or fraud which was sent by Mr Pitcher to Mr Pugh and Mr Bachmann the same day. In addition a letter was sent explaining Mr Pitcher's role by Mr Picardo to UBP saying that Hassans were instructed by Mr Pitcher of GPN a regulated UK Pension Trustee.

118. After those letters were drafted there was a dialogue between Mr Webb and Mr Picardo about the importance of keeping Mr Morris' name off all the documents seen by Mr Pugh or UBP and in checking that such reference had not been made in previous documents. In addition there was an exchange referring to moving to Nevis because there was a good distance. This is a reference clearly to Fareston having engaged Aspect a Nevis company as an Investment Manager. The only directors of Aspect were Mr Webb and Mr Sinclair. This seems to me to be plain in an attempt further to hide Mr Morris' involvement. It appears that after receiving the indemnity letter drafted by Mr Picardo, Mr Pugh gave instructions to transfer the money on 5th February 2008 and the £2,500,000 were duly transferred the next day.

119. Shortly after steps were taken (an action plan) to close down or hide the existing operations. The UBP residual funds were to be transferred to Aspect (it being stated "***this will minimise paper trails"***) it was also stated that Whitepoint would be closed and all bank accounts. On 17th February 2008 Mr Webb emailed Mr Morris, Mr Picardo and Ms Rottier (a director of Mutual Financial Futures (Australia PTY Ltd) (D17) enclosing a power of attorney for Mr Morris to sign in his favour to allow him to close Whitepoint and transfer funds out of Aspect ***"to close the history in UBP issues" ".....of course.... if this is all ok with you and Tony".*** The agreement with Aspect was shortly thereafter (24th February 2008) terminated with immediate effect. This left Aspect with all the monies which had been paid up front yet it was not required to repay any of these funds which had thus been paid for future services which were never to be rendered. Equally no steps were taken to recoup any of the £9,000,000 which the Impacted Schemes had "invested". A further example of the fraud is that on 17th March 2008 Mr Webb sent a further email to Mr Picardo headed ***"Exit issues list".*** It pointed out that there was no relationship with Whitepoint apart from the £1,800,000 transfer on 19th September 2007 and he needed a contract to explain the reason for the transfer from Fareston then Aspect to Whitepoint. This is part of the money which ended up in Mr Morris' hands.

120. It is plain that this is an acknowledgment that there was no justification for any payments to Whitepoint when the monies were paid, that it was to be invented retrospectively and in reality was entirely bogus. It is plainly an attempt to provide a false paper trail to justify making these large payments. I cannot see there is any conclusion but that these are dishonest payments.

SETTING UP THE MUFF STRUCTURE

121. Hassans (via Mr Picardo and his assistant Gemma Arias) had the responsibility of setting up the structure. He did it on the instructions of Mr Morris as his evidence shows. In addition he set up a number of trust settlements one of which was the Augusta Settlement, but there appears to be another trust settlement for Mr Pitcher,

although that one might be the subject matter of dispute in the adjourned proceedings so I shall say nothing more about that at the moment. In addition there appear to be trusts for Ms Rottier, Mr Notaras and Mr Starkey. Mr Notaras was an employee of Pitt. Mr Starkey appears to have been an Estate Agent but significantly for this litigation became the sole director of MUFF from 23rd April 2008 as well as being Vice President and Secretary of the Worldwide Developments Incorporated, Vice President and Secretary of High Road (US Operations) LLC and a director of Multiple and United Financial Futures (Thai Investments) Ltd.

122. It is clear that the Augusta settlement was apparently created to hide its existence from Mrs Morris in divorce proceedings (see paragraph 39 of Mr Picardo's witness statement).

123. MUFF was owned 100% by Mr Morris through the Augusta settlement as I have said. There was initially supposed to be a shareholding in favour of the Pitcher settlement but that appears never to have been set up.

THE BONDS

124. The Impacted Schemes trustees having decided to disinvest themselves of the traditional securities they held made a decision to transfer an initial amount to Fareston which was invested (if that is the right word) in the various schemes that I have already referred to. None of those seems to me to be genuine schemes and I do not see how the investment can be considered a proper investment by the trustees of the Impacted Schemes. The balance as I have said was remitted to MUFF. As will be seen MUFF also received £22,000,000 further. This investment was clearly not in MUFF because MUFF was simply created to receive the monies, had no assets and had no ability to repay any monies due to the Impacted Schemes in the future without returning their own monies. Further of course the Impacted Schemes when the monies were transferred to MUFF lost control of them and they had no security.

125. The interesting question is what was given to the Impacted Schemes in exchange for the receipt of this large amount of money. The apparent intention was for MUFF to invest in certain loan notes that were to be listed on the CISX (the Channel Islands Stock Exchange). The benefit was apparently to be that the investment would be offshore but would fulfil the requirement of many of the pension schemes as their investments had to be in listed securities. The initial loan note according to Mr Picardo was to be for £130,000,000 with an interest coupon of 7%. Repayment was to be for 3 years from the date of issue to be redeemed at the nominal amount plus 7%. MUFF was to be the 100% owner of a Jersey company which would issue the loan notes. Each time a loan note was to be issued a new Jersey company would be incorporated. The proceeds of the issue would then be used for various investments. Apparently it was intended that the securities obtained onward on these investments would be the underlying security for the loan notes. I make two points on that. First the primary obligation to repay the Impacted Schemes would be the Jersey company which would have no assets and would be a creature of MUFF. Of course I have already said that MUFF would be unable to repay. Further releasing the monies to the Jersey company weakens its control theoretically over the assets. Second it is by no means clear that any security would be worthwhile as there has been no evaluation of the security of the ongoing schemes. The security would not of course be for the benefit of the Impacted Schemes; it would accrue for the benefit of the Jersey

company. Thus the monies are put out of the reach of the Impacted Schemes and I can see no point in doing all of this that can be justified in any credible way.

126. In any event this scheme did not proceed for the reasons that Mr Picardo set out in his evidence. Hassans were instructed to draft the deed but so many of the provisions were apparently removed on instructions (presumably by Mr Morris via Mr Starkey) that it was rendered unworkable.

127. Ultimately the scheme was abandoned and changed into what Mr Picardo called an unsecured Bond created on the instructions of Mr Morris with a 7% return with no uplift to investors. Mr Picardo pointed out both to Mr Morris and to Mr Pitcher that this return was no better than investing in a capital protected product with a High Street Bank such as Barclays Bank with a 7% return. He apparently queried why anyone therefore would wish to invest in an unsecured Bond.

128. Mr Picardo's concerns were not out of any concern to the Impacted Schemes. He appears to be concerned because the directors of MUFF were Cheam Directors Ltd ("CDL"). It is an SPV incorporated in Gibraltar and is a fiduciary services provider set up by Line Management Services. Line Management Services is a compay management company owned by Hassans. Thus Mr Picardo's concerns were solely related to the exposure potentially of companies associated with Hassans to the scheme and its consequences.

129. This led to Cheam removing itself as director on 23rd April 2008 when it was replaced by Mr Starkey. Despite this concern which was such a concern that Cheam ceased to be a director Mr Picardo continued to be involved in the drafting of the Bond. It must be appreciated that by April 2008 some £52,000,000 had been removed from the Impacted Schemes and not one document or agreement even was in place regulating the transfer of these funds. That only happened when the Bonds were created on 10th and 17th June 2008 respectively. Further as will be seen the Bonds were completely worthless in terms of security or valuable investment.

130. After all the various companies were set up by Hassans on 19th March 2008 an application was made to open accounts for them at Credit Suisse in Switzerland. Payments for setting up the companies and trusts appear to have been paid by distribution from the Augusta Settlement.

INTERNAL CONCERNS OF HASSANS

131. By early April Hassans' internal risk and assessment compliance team were becoming concerned. The question appeared to address pension trustees and how they fulfil their statutory duty. By 16th April 2008 Mr Picardo was emailing Mr Morris, Ms Rottier and Mr Pitcher suggesting (inter alia) the taking of an opinion from Leading Counsel to confirm that the process being set up met the standard requirement required for pension fund investments. It was at this stage that he raised the questionable purpose of an unsecured 7% Bond from MUFF when Hassans could obtain the same from Barclays Bank.

132. No opinion was ever sought from anybody let alone Leading Counsel. However I cannot believe that Hassans would seriously consider this speculative and high risk nature of these investments are the kind of investments trustees would wish to invest

virtually all of the trust fund in. On 17th April 2008 Mr Picardo emailed 3 letters to Mr Pitcher for him to sign copying in Mr Morris and Ms Rottier and the compliance/risk assessment team at Hassans. The first letter summarised discussions which had taken place the day before. The second related to a transfer of the Pitcher trust settlements supposed 10% interest in MUFF for no consideration to MFHL on the basis that it was an error. The third set out the uses to which the £22,000,000 transferred into the LT account had been put and asked Mr Pitcher to confirm that he was aware of these investments and was happy with them. Mr Pitcher signed and returned all 3 letters.

133. Immediately after this exchange Cheam was replaced by Mr Starkey as director of the MUFF structure and on 23rd and 24th April £10,000,000 and £48,814 was transferred by LT to MUFF Credit Suisse account. The other £10,951,186 was dealt with as set out earlier in this judgment.

134. After the replacement of Cheam by Mr Starkey on 23rd and 24th April £10,048,814 was transferred by LT to the MUFF Credit Suisse account. LT had received £18,500,000 from Amac which was part of the £24,000,000 it in turn had received from Fareston Ltd referred to earlier. In addition LT received £3,200,000 direct from Fareston. Both of those payments were funded out of the first wave. Those payments totalled some £21,790,000. Prior to the above £10,048,814 transferred to the Credit Suisse account a further £10,951,186 had already been paid away by MUFF it having received it from LT. The principal payments (which I shall set out below) were £5,120,000 to South East Asia Real Estate (Thailand) (D11) ("SEAR") and £4,350,000 to Cerberus.

135. All of these payments arose out of the setting up of the MUFF structure. Initially this scheme started in January 2008 when Mr Pitcher travelled to Australia to meet Mr Morris. He also met Mr Starkey and a number of MUFF personnel including Ms Rottier. He also met Mr Pash (of Pitt) and Mr Notaras (also of Pitt but shortly to join MUFF). There was then 3 day conference in Australia on 20-23 February 2008. In addition to the above persons Mr Malmstrom attended as did Mr Scully (he was a former army officer providing security services and was the chief executive of Cerberus but he left all of its financial transactions to Mr Malmstrom). After the conference Ms Rottier on 25th February 2008 sent a follow up email setting out the projects currently being worked upon. The proposals there involved a total of 14 schemes providing funds of up to £35,000,000. Mr Notaras who formally moved from Pitt to MUFF 4 days later on 29th February 2008 already had the benefit of a trust fund set up by Mr Morris for him and his family and was extremely junior. He was going to do the Term Sheets for these investments. That was supposed to set out what was happening to the Impacted Schemes' money and the returns and security (if any) to be offered.

136. In addition to the £5,120,132 paid by LT in respect of the Hilltop project (the Thai property) they transferred further sums namely £955,970.26 to Mr Lamgaskens Rutger in respect of the beach project and two further payments on 9th July 2008 of €3,827,746 and €2,125,526. This meant that by 9th July 2008 approximately £12-13,000,000 of the Impacted Schemes' money had been spent on the Thai projects and nobody else had provided any funding. It must be appreciated on its 10th December 2008 application MUFF applied for further funds totalling £7,110,000 to be released to enable it to complete the projects.

137. No evaluation was made as to the sense of this scheme. It appeared to have started with an £800,000 investment using Impacted Schemes' money by Mr Webb on his own account. It was faintly suggested that that was an improper investment but that the later investments were made to bolster it. There appears to be no advice in respect of this scheme. MUFF applied to the court for the release of yet more funds to put into this venture. Lewison J of course refused the application on 26th January 2009. As I shall set out below I cannot conceive it can be argued that these were proper investments for the Impacted Schemes to make.

CERBERUS

138. By a loan agreement dated 8th April 2008 purported to have been made between MUFF as lender and Cerberus as borrower, MUFF lent Cerberus £4,350,000. Once again the monies were transferred before the documentation was put in place on 28th February and 13th March 2008 respectively.

139. Of this sum £1,600,000 was transferred to Mr Morris and transferred on by him to the Augusta Settlement.

140. The background of this loan was discussed at the Australian Conference. Cerberus was to provide security services. It was a UK company but there was no evidence to show that it would ever be in a position to repay the loans in reality. Mr Malmstrom although not a director at the time signed the loan agreement. He retained Halliwells solicitors to act on Cerberus' behalf. Of the monies advanced to Cerberus £1,450,000 according to Mr Malmstrom's email to Mr Picardo dated 28th February 2008 was repayment of liabilities i.e. a previous loan to Cerberus and the £150,000 could be put down to an agents commission ***"if you think that that looks ok";*** in fact the £150,000 was to be used to purchase the Aston Martin from Strattons in Mayfair. Mr Picardo in an email to Haliwells referred to the £150,000 to be paid ***"on behalf of a person awaiting repayment of the present outstanding".*** Halliwells responded on the same day querying the £150,000 on the basis that it ***"[was] exactly the sort of thing that raises alarm bells…… We need more explanation before we can do anything at all with this money".***

141. A Term Sheet which bore the electronic signature of Mr Pash (of Pitt) set out the revised terms of the funding for Cerberus. Pitt assert that there is no record on their systems of this document. Mr Pash said he cannot recall drafting it and Pitt say there is no copy of it on their systems. On 17th March 2008 Mr Picardo asked Mr Malmstrom for the Loan Agreement or other documents showing the loan was documented for £1,600,000. Mr Malmstrom's response was to forward the email on to Mr Morris (he being the recipient of course) asking for a ***"heads up on how I should respond to this".*** Ultimately on 1st April 2008 a Loan Agreement was signed by Mr Malmstrom and Mr Morris stating that Mr Morris had previously loaned £1,600,000 to Cerberus. The Cerberus/MUFF Loan Agreement itself was executed on 8th April 2008 referring to an expansion amount of £1,600,000 being additional funding to be made available to the borrower to be used for the repayment of the creditor. No evidence of such loan was ever produced.

142. Mr Malmstrom at the trial suggested when he was cross examining Mr Picardo that he had been prevailed upon to sign the loan document at a meeting at a flat in London attended by Mr Morris and Mr Picardo. However following further disclosure

provided by Hassans during the trial Mr Malmstrom was compelled to accept that the agreement had actually been sent to him for signature by Hassans and signed and returned by him to Hassans between 5th – 10th April 2008 at a time when he was in Australia for the purpose of Mr Morris' wedding.

GESTATION OF CERBERUS DOCUMENTS

143. The relevant documents are twofold. First there was a document to be put in place to reflect the MUFF investment in Cerberus. Second there was the utilisation of that investment in Cerberus in part to pay Mr Morris £1,600,000. The Term Sheet prepared apparently by Mr Pash dated 23rd February 2008 provided for funding to be available (£3,200,000 on 26th February 2008) and £500,000 later. The security was to be a ***"secured funding instrument".*** No such secured funding agreement was ever put in place.

144. Hassans were responsible for drafting the Loan Agreement. During the course of that exercise (after the money had already been transferred over to Cerberus) the question of the £1,600,000 was raised. This was to be repayment of a loan it was said from Mr Morris to Cerberus. There was no record of such loan and as far as I am aware there is no evidence showing Mr Morris paid any money over to Cerberus. A document was created by Mr Picardo dated 1st April 2008 purportedly between Mr Morris and Cerberus. The loan was stated to have been made over the two year period ending on 29th February 2008. This document was signed by Mr Morris and Mr Malmstrom with the date on it of 1st April 2008.

145. On 2nd April 2008 Gemma Arias Mr Picardo's assistant, sent various documents to Ms Rottier. Mr Malmstrom had to sign a number of documents. The first of those was a Cerberus Security Loan document. Another of them was the Loan Letter document. The draft Loan Agreement between MUFF and Cerberus (clause 1.6) identified Mr Morris as being the sole creditor. Further clause 1.10 defined ***"expansion amount"*** as being the monies to be used for the repayment of Mr Morris.

146. Under the same email Ms Arias sent out the Loan Agreement between Mr Morris and Cerberus. It already had a date on it of 1st April 2008 but of course was not in existence on that date (she only sent it out on the 2nd). This simply confirms as I have said unproven lendings over a two year period amounting to £1,600,000. None of the documents had been signed by 6th April 2008 as is shown by Ms Arias' further email of that date to Ms Rottier. By the time the Loan Agreement between MUFF and Cerberus is executed with a date of 8th April 2008 Mr Morris has disappeared from the definition of creditors and a creditor is merely defined as ***"all creditors of the company from time to time".*** Mr Starkey did not sign this on behalf of MUFF until 20th May 2008. In fact Mr Malmstrom emailed the execution pages signed by him. Ms Arias (her email of 10th April 2008) shows that she cut and pasted that signature to the Loan Agreement.

147. Mr Malmstrom therefore signed the Loan Agreement before it appeared in its present form and Mr Morris disappeared from it by the time it came to be executed and completed. This disguising of the presence of Mr Morris as the recipient of the monies was perpetuated when there was a challenge to the transaction. Thus on 7th November 2008 Herbert Smith who were then retained by Cerberus wrote to ITS' solicitors Taylor Wessing referring to the transaction but did not identify Mr Morris

as being the creditor and referred to the £1,600,000 being used for the repayment of Cerberus' ***creditors.*** There was only one so called creditor namely Mr Morris. According to Mr Picardo it was Mr Morris' idea for his name to disappear from the ***"notepaper".*** It is also clear that Mr Malmstrom was aware of that change.

148. Why would Mr Morris want to disappear from the notepaper? The answer in my view is straightforward. This was a commission or bribe payment made to Mr Morris to obtain the funding for Cerberus. I do not accept that Cerberus was indebted to Mr Morris beforehand. Given that conclusion there can be no sense in Cerberus assuming a liability to repay part of the loan which it never received. Both the MUFF/Cerberus and Morris/Cerberus documentation came into existence after the payments had been received. Even then one was backdated and I am completely unconvinced that there was any antecedent loan arrangement between Mr Morris and Cerberus. In my view that document was created solely to give a piece of paper to Hassans and Halliwells which would provide a justification for making the repayments that were made.

149. Accordingly my conclusion is that the payment was a dishonest payment paid by MUFF to route monies to Mr Morris with a bogus justification of a non-existent earlier series of loans.

150. The reason why Mr Morris would have to disappear off the notepaper is of course that he is the beneficial owner of MUFF as well. He is thus on both sides of the transaction and would not want documents that MUFF had to show that MUFF was lending money to Cerberus which was then being passed onto him. How the change occurred is not clear but it was clearly changed by Gemma Arias as her email of 10th April 2008 shows ***"I attach the Cerberus Loan documentation …. I have cut and pasted and amended the extracts below…. Part of this sum (the Expansion Amount £1,600,000) was used to repay creditors (i.e. Tony Morris)".***

151. This is reinforced by what Mr Malmstrom said at the trial. He acknowledged (T4 68-94) that Mr Morris had not provided any antecedent loans. He further acknowledged that the Morris/Cerberus Loan Agreement was bogus and that in effect it was there to disguise the fact that Mr Morris was receiving a commission of £1,600,000 to enable Cerberus to obtain the loan.

152. At this time whilst Mr Morris was not an officer of MUFF he controlled it. He was also the beneficial shareholder of the company. He knew that the monies that Cerberus was passing on were from the Impacted Funds. He is disguising therefore the fact that he was receiving a bribe of £1,600,000 to enable Cerberus to obtain funds. Thus he wrongfully enables Cerberus to have any kind of loan.

153. It is clear as I have said there is no possible basis for the investment in Cerberus to be a proper investment by the Trustee or the Impacted Schemes. This is so in my view even if the securities were in place. However the securities were not in place which itself is a further reason why the sums were not properly invested. In addition of that sum £1,600,000 was nothing more than a bribe/commission which Mr Morris extracted for allowing the loan to be created by MUFF. That was dishonest in my view and no justification of that fee can be made out. The reason he hid it as being his benefit is twofold. First there was no loan being repaid and second he would not wish in documentation which MUFF had to show that he was receiving in effect a

bribe for investing monies which MUFF had received from the Impacted Schemes to invest.

154. In so concluding I refer to the Term Sheet which demonstrates the inadequacy of the loan in the first place. It also shows even then that the security document was never put in place which ordinarily one would expect to happen before monies are advanced. He is aware of a decision being made to conceal Mr Morris' presence.

155. Once again I can see no credible justification for this series of transactions when looked at from the point of view of the Impacted Schemes. Mr Morris plainly saw an opportunity to obtain a large sum of money for himself and unlike Clive of India he does not appear to be modest in his actions.

156. It follows therefore that the diversion of the sums in favour of the Thai investment and to Cerberus cannot be justified under any circumstances.

QUERIES UNDER SOME OF THE MONIES

157. On 25th January 2008 £18,500,000 of the Wave One was transferred by Amac to the Line Trust account. On 6th February 2008 a further sum of £2,500,000 was transferred by Fareston to the same trust account. However at that time MUFF had not been created (it was incorporated on 11th February 2008). The above sums in respect of the Thai investment and Cerberus were then paid out of the Line Trust account. Cheam was set up by Line Management Services a company associated to LT. It was therefore controlled indirectly by Hassans. Given the lack of incorporation of MUFF Mr Picardo in his evidence was confused as to the status of the money that his firm had received into the Line Trust account. He did not appear to understand whether or not the monies belonged beneficially to the Impacted Schemes and LT held them as a trustee for them or whether they held them as a trust for MUFF or whether MUFF held them on trust for the Impacted Schemes. He frankly never seemed properly to analyse the situation but was quite willing to follow instructions given by Mr Morris provided he had a piece of paper which justified them. A good example of that was the Morris/Cerberus loan which his assistant created retrospectively to justify the repayment of the so called loan. He did not appear to check whether such a loan had in fact taken place. This would have been quite easy by requiring Cerberus to produce documentary proof that it had received the loan from Mr Morris. It is of course now known (as Mr Malmstrom accepted) that no such documentation would ever be proved because no such loan exists. In August 2008 Hassans made a notification to the Gibraltar Anti-Money Laundering Authorities in respect of these transactions but for reasons which Mr Picardo was unable to explain he did not make any reference to the disappearance of Mr Morris from the documentation and the way in which the Morris/Cerberus loan documentation was obtained.

THE DISAPPEARANCE OF CHEAM

158. Despite the dispersal of over £10,000,000 as set out above without any documentation reflecting the terms upon which the Impacted Schemes Trustees provided MUFF with these monies. Hassans did not appear to have any concerns until mid April. On 16th April 2008 Mr Picardo sent an email to Mr Morris, Ms Rottier and Mr Pitcher. He

also copied in various internal Hassans people in particular his assistant and John Holliwell (a director of Line Trust Management Services).

159. First he stated that he was happy with the Cerberus loan in that ***"legally they create very little recourse to the director of MUFF but there are still issues to deal with that our compliance/risk assessment people wanted to sort out with [Mr Pitcher] who is not just a counterparty as you described him he is actually a 10% shareholder in MUFF via the trust (the Pitcher Settlement) that you have settled for him".*** When Mr Picardo says he is happy about the loan he is simply talking about the liability of Cheam as a director.

160. He then went on to raise the question of conflict of Mr Pitcher and suggested that an opinion of Leading Counsel in the UK be sought to confirm that the process met the standards required for pension fund investments. That was stated to be a requirement.

161. Next he raised the question of the need for the director of MUFF (i.e. Cheam) to understand the logic of investment in a Bond with a 7% target (i.e. not guaranteed) rate unsecured with the pension trustees obtaining no share of the upside if things go well but exposed to liability if it went wrong. The reason for his concern is that Hassans had been offered by Barclays, a 7% guaranteed deposit with zero risk.

162. He stressed that these were not ***"dry legal issues"*** but also fiduciary issues that created wider issues for the firm.

163. There was no written response to that from Mr Morris so far as I can discern. Nothing was done and by 18th April 2008 the internal Hassans suggestion was that Cheam should retire as a director of the company underlying the Augusta Settlement and that Tony Morris (and others?) become directors instead (email from Raquel Moss to Mr Picardo and others dated 18th April 2008). On the same day Mr Picardo sent a further detailed email to Mr Morris. In that he set out a list of issues. First under directorships Mr Morris was to provide confirmation that either he or Mr Starkey would wish to be appointed directors of MUFF in place of Cheam. Mr Picardo wanted Cheam's resignation to be on the basis that it was confirmed that there were no claims against it and that the Trustees (i.e. the Impacted Schemes Trustees) will be happy to deal with the new directors. In list 2 headed ***"other action required"*** he raised the issue of Pitt. He stated that it was essential to the structure of how MUFF operates but stressed that the decisions were to be made in MUFF and not in Australia (i.e. Pitt) there was also a question mark over the issue of Mr Pash (an employee of Pitt) and his role in the group and whether there were anymore conflicts. No-one else was copied into this email.

164. There was apparently a telephone conference on 16th April involving Mr Morris, Mr Pitcher, Ms Rottier, Mr Holliwell, Ms Nadine Collado (a director of Cheam and Line Management) and Mr Picardo. He summarised it in his 3rd letter of 17th April 2008 to Mr Pitcher. In that letter he set out the monies that had been remitted and where they had been dispersed. The purpose of this letter was to secure a written confirmation from Mr Pitcher that he was aware of the dispersements and was satisfied with them. It must be appreciated that at this time of course there was no document in existence which recorded any terms upon which the trustees of the Impacted Schemes decided to invest in these arrangements. The monies had been transferred to companies which had no assets and no ability to repay the monies other

than by use of the monies themselves. The monies themselves were then subsequently transferred on to other entities where they would appear to be a doubtful recovery (both the Thai investments and Cerberus do not appear to be capable of repaying any of the monies which were advanced to them, the latter having gone into liquidation). As far as I can see the purpose of this letter is simply to provide protection to Cheam. Mr Picardo had sent out his warning letter email of 16th April 2008; he was not comforted. Therefore Cheam was to remove itself and obtain documents to protect itself in the event of a subsequent claim.

165. On 23rd April 2008 Cheam resigned and was replaced by Mr Starkey as director of MUFF. In the period immediately before that date (between 18th and 21st April) £21,000,000 was transferred by GPN to MUFF's Credit Suisse account. A further £1,000,000 was transferred by BDC to the MUFF Credit Suisse account. This formed Wave Two. Further on 23rd April 2008 the balance then standing in the Line Trust account (£10,048,814) was transferred also to the MUFF Credit Suisse account. Two further sums were then transferred by Amac (£1,260,414.31 on 23rd April 2008) and Fareston (£793,000 on 14th May 2008) to the Line Trust account. Therefore by the end of these transfers a sum in excess of £34,000,000 had been transferred to the MUFF Credit Suisse account.

166. Some of the monies as can be seen went first to LT and then were transferred on. It is clear that Cheam is simply washing its hands of the scheme because no satisfactory answers were provided to Mr Picardo's letter of 16th April 2008. Hassans apparently were so concerned that their corporate trustee was removed from MUFF. However, their concerns were not apparently so serious as to require them to cease to act in for example creating the Bonds. I found this surprising and Mr Picardo was unable satisfactorily to explain this apparent paradox.

FURTHER ADVICE LETTERS

167. On 31st March 2008 Mr Russell sent over letters of advice bearing the date 13th August 2007. These are just as inadequate as the earlier ones. Further (save in respect of BDC) the letters of advice pre-dated the letters of instruction which were not sent out until 2nd April 2008.

168. On 21st April 2008 Mr Russell emailed further letters of advice with various earlier dates. Further in the case of BDC and Alenoy the transfers had already occurred. BDC transferred £1,000,000 and Alenoy £1,600,000. The usual invoices were sent by Mr Russell. They are all bogus in my view and no Trustee could rely on them under any circumstances.

OTHER ADVISORS – PITT

169. As I have said above Pitt is apparently (according to the witness statement of Michael Robert Pash dated 18th May 2010) an independent corporate advisory firm specialising in the provision of financial advice to clients.

170. Mr Pash had worked with Mr Morris in October 2007. He was apparently seconded to MUFF Australia for a period of 3 months in early 2008. Nevertheless at that time he remained an employee of Pitt but worked in the MUFF Australia offices. Pitt also employed James Notaras. He was employed from 13th November 2006 to 29th

February 2008 as a Corporate Finance Analyst. Mr Pash in his witness statement describes this post as being a relatively junior entry-level position. From 29th February 2008 he left Pitt and became employed by MUFF Australia to become an Investment Analyst.

171. There are a number of Term Sheets provided ostensibly by Pitt. Mr Starkey has relied upon these as justifying the investments that took place whilst he was a director of MUFF.

172. Mr Pash provided a witness statement as I have said during the course of the trial. However this was not tested. There are a number of issues raised by Mr Pash's witness statement. I am not convinced that he was as uninvolved as he suggests.

173. The first one is dated 28th January 2008 and is in reference to the Thai investment of £5,000,000. It is said that the security type was interest bearing and a secured loan. No such security was ever provided. A condition precedent to draw down was satisfactory investment holding structure execution of land purchase contract. That too was never provided. The final sentence says :-

> ***"this Term Sheet is provided as certification that Pitt Partners has reviewed the appropriate documentation including Exchange Contracts, Land Titles, Legal Advice regarding proposed structure of land holdings considering Thai Investment Regulations and an independent land valuation and is satisfied that the collateralised security requirement will be met".***

174. The letter is apparently electronically signed by Mr Pash. In his witness statement (paragraphs 18 and 19) he said that his signature was inserted without his permission or knowledge. He further stated that Pitt would not give a certificate of the type included in the letter.

175. In paragraph 8 he suggested a number of the documents purportedly written on Pitt letterhead were forged. He noted that Pitt deleted the reference to ***"Merchant Bankers"*** from its letterhead in February 2008. He therefore suggested that any letter which contained that reference after February 2008 was also a forgery. Some of the documents were signed by a Mr Christopher Photakis, Pitt's managing director from 2nd April 2007 to 7th August 2007 but regrettably he died of a heart attack on that last date.

176. In his witness statement like the one in relation to Koi Samui, Mr Pash challenged the authenticity of similar Term Sheets for other investments. He also challenged the letters from Pitt dated 31st March 2008 to Hassans regarding the loan notes to be issued. He pointed out that it was dated 31st March 2008 yet still had the designation ***"Merchant Bankers"*** which was discontinued the previous month. He also observed that the electronic signature does not follow his form of signature. This document contained a certificate purportedly by Pitt as follows:-

> ***"this Term Sheet is provided as certification that [Pitt] has conducted the necessary financial due diligence on the underlying investments of the Company [MUFF] Pitt is***

> ***satisfied that the collaterised security cover indicated in this Term Sheet has been met. "***

177. The letter is a draft. The Terms and Conditions are marked ***"subject to contract"*** and the relevant investors and amounts are not completed. It is clearly intended to be a template to be used for all of the Impacted Funds' investments. The security is stated to be ***"collaterised investments with security cover of greater than 100% of the value of the investment".*** The net target annual return is 7% repayable on the repayment date which is 3 years from the date of issue. A further version was sent out on 1st April 2008 from Mr Picardo to Mr Pitcher. Mr Morris, Mr Pash, Ms Arias, Ms Collado and Mr Notaras were all included in the copying. It appears to be a firming up of what it was suggested Pitt has done. Thus it stated that ***"Pitt as financial advisors to [MUFF] has reviewed the proposed investment supporting the issuance of …. Loan notes by [MUFF] ….. in evaluating the investment [Pitt] has undertaken the usual prudent high level due diligence investigations"*** (they are then set out). It then concluded ***"having regard to the above Pitt is [sic] considers that an investment on the following terms in the loan notes contemplated will be commercially prudent based on the information reviewed and the assumptions made".***

178. Mr Pash (paragraph 27) said that he did not recall receiving or seeing the document and that it was not Pitt's usual approved practice to have signatures inserted on drafts and templates. He also pointed out that the letter erroneously referred to Merchant Bankers. He did not explain the fact that he was copied in with the email.

179. As a result presumably of these Term Sheets MUFF issued a document also dated 31st March 2008 offering a subject to contract £30,000,000 loan note to GPN. It is stated that the Term Sheet had been prepared by Hassans on behalf of MUFF based on the due diligence provided by Pitt. It is stated that full research has been conducted with underlying documents and analysis reviewed and prepared by Pitt. The document is executed by Cheam.

180. Mr Pash referred to a document dated 9th April 2008 emanating from Pitt in relation to a proposal to acquire Cranfield Capital Trustees Ltd. This too is apparently signed by Mr Pash. He pointed out apparently that the mobile phone number above his signature was actually Mr Notaras'. However he did not explain how it came from his email address to Mr Notaras. He did say that he was involved in a proposed acquisition but does not recall drafting the relevant document. He points out again that the letter has the designation marks ***"Merchant Bankers"*** on it. There are other documents which he has referred to and similarly challenges.

181. The last document he referred to was a letter from Pitt to Mr Starkey dated 14th July 2008. This was a draft letter supposedly coming from Mr Photakis and Mr Pash. Mr Pash (paragraph 51) suggested that Mr Photakis drafted the document on the instructions of Mr Morris. The letter was completely at variance with the earlier letters which Mr Pash attempts to disown. This letter suggested a limited involvement of Pitt and in particular it would not have any power to decide whether or not an investment would or should be made.

182. On the evidence before me (and in the absence of Mr Pash) it is impossible for me to determine whether or not he is telling the truth. There are maybe 3 possibilities. First

he and Pitt were fully involved in the issuing of those Term Sheets. Second he (but not Pitt) together with Mr Notaras was involved in issuing the Term Sheets. Third neither he nor Pitt were involved in issuing the disputed Term Sheets as they were created by Mr Notaras.

183. This does not matter for the purpose of these proceedings in my view. There is nothing that shows any credibility could have been given to these Term Sheets. In my view they were created as mere pieces of paper to give an aura of vigorous evaluation over the proposed investments. As I have said I doubt whether the conditions precedent were ever satisfied but in any event I do not accept that these investments were proper investments for GPN to make as trustee of the Impacted Schemes. Either Pitt/Photakis and Mr Pash are involved together with Mr Notaras or Mr Notaras has gone on a frolic of his own (at least as regards the documents after he left Pitt employment).

184. It is plain however that none of the so called due diligence was ever carried out by Pitt. The letters were therefore entirely bogus. Even the minimal requirements set out in those documents were not achieved as I have said earlier in this judgment. I do not see therefore how a trustee for the Impacted Schemes could consider these investments on the skimpy contents of the Pitt letters even if they were genuine.

185. It seems to me clear however on the evidence of Mr Pash that the documents were not genuine documents and were created by Mr Notaras at the instigation of Mr Morris for whom he was working at the time. I am unsure whether or not Mr Pash and Mr Photakis were involved, nor whether Pitt was actually involved. None of that in my view matters for these proceedings. The investments were not proper investments and that is enough for liability on the part of GPN and BDC. Some of the documents were apparently forged documents and they were created at least with Mr Notaras' hand on them. He can only have forged documents for the purposes of a dishonest scheme where Mr Morris was the instigator of the scheme. That therefore in my view makes Mr Morris liable for these matters.

THE HAND OF MORRIS

186. I am quite satisfied that everything that was done was carried out by the instigation of Mr Morris. I refer to the numerous instances set out in paragraph 25 of ITS' closing. They demonstrate conclusively that Mr Morris was at the centre of all of the operations.

WAVE TWO

187. I have referred to above the amounts that were paid in to MUFF's Credit Suisse account in April 2008. Between 18th and 21st April Mr Starkey signed 7 receipts addressed to Mr Pitcher at GPN dated 18th April 2008. Each related to ***"Product: 7% Bond Instruments"***. Once again of course there is no documentation which sets out the basis for these funds being transferred from the Impacted Schemes to MUFF. The source of the payments is set out in the table annexed.

Scheme	**Amount Transferred in Wave Two**	**Date**	**Amount transferred in Wave One in**

			August 2007 (if any)
BDC	£1m	18 April 2008	-
Alenoy	£1.6m	18 April 2008	-
Ravenhead	£7m	18 April 2008	£9.9m
Melton Medes	£8.9m	18 April 2008	£9.9m
BBN	£1m	18 April 2008	£3m
Hill & Tyler	£2m	21 April 2008	-
Cuthbert Heath	£500,000	21 April 2008	£3m
	£22m		

188. These transfers arose as a result of the apparent agreement at the MUFF conference 20-23 February 2008 to make investments from 14 schemes. There appears to have been an urgency on the part of MUFF to receive the funds: see for example Mr Notaras' email to Mr Pitcher and Mr Picardo dated 29th March 2008. By this time he was working for MUFF. There was a change whereby MUFF is to issue the loan note directly and not through the Jersey company structure. The justification for this was saving 1-2 weeks but of course it was a radical change. MUFF giving the security by a Bond has no financial worth whatsoever. Nor would its shareholding all the Bonds become any quoted investments.

189. Mr Russell weighed in as I said with a fresh series of letters of advice.

190. As a result of the various transfers set out earlier in this judgment by the end of April £34,105,578 had been transferred to the MUFF Credit Suisse account. Of that sum £22,000,000 was second wave money, £10,048,814 was the balance of the first wave money and the other two lesser items were other funds derived from Wave One.

191. According to Mr Picardo's evidence (paragraph 92) Hassans were told by Mr Starkey that the balance of £10,048,186 uncommitted capital that was still held would be ***"rolled over"*** in to a second Bond which was also to be entered into by MUFF. They accepted instructions from Mr Starkey and apparently Mr Morris to draft the second Bond in substantially the same terms as the first Bond. Hassans accepted that retainer despite their concerns about the whole scheme which led to the removal of Cheam as the director of MUFF.

192. The initial urgency to receive the monies appears to be because it was envisaged that they would be used to acquire shares in TMP (i.e. The Money Portal) which were held through a Mr Morris settlement the JVK Settlement. However in response to Mr Notaras' pushing Mr Picardo responded setting out the difficulties of conflict. TMP

was the ultimate parent company of GPN. The conflicts appeared to be self evident and were never answered and the transaction never proceeded.

193. It is nevertheless demonstrative of the fact that Mr Morris with the assistance of Mr Notaras was plainly seeking to drive through transactions whereby the Impacted Schemes' monies were being used by him for his own purposes.

194. On 4th July 2008 instructions were given to Credit Suisse by Mr Starkey to make the following transfers from the MUFF Credit Suisse account:-

a) £33,000,000 to Edgerbury (D21)

b) £33,400,000 to Newdale (D20)

c) £1,400,000 to Glencalvie (D25)

The third of those was a transfer to enable Mr Morris to settle his liabilities to his former wife in the financial divorce settlement.

195. There were later attempts to transfer monies out of the Credit Suisse account but all accounts under MUFF's control had been frozen by the Swiss court on or around 6th August 2008 in aid of Mrs Morris' former spouse's application in the UK for a freezing order to assist her application for fresh ancillary relief.

196. In fact £30,000,000 was transferred to Edgerbury on 9th July 2008 and of that £29,900,000 was transferred on on the same day to Newdale. That represents the bulk of the monies caught by the freezing order and which were ultimately transferred to the court in this jurisdiction. They were the subject matter of the order I made at the conclusion of the submissions by way of interim payment.

197. The beneficial ownership of Newdale (a BVI company) is not known but it is controlled by Mr Morris. Edgerbury Investments (D21) is also controlled by Mr Morris. It is another BVI company and is beneficially owned by the Augusta Settlement. As set out in the affidavit of Mr Starkey sworn on 12th December 2008 pursuant to an order of Blackburne J dated 4th November 2008 those companies held significant sums. Mr Starkey was the joint signatory to all of the accounts with Credit Suisse of those companies with Ms Rottier. According to his affidavit the balance of the monies then held were earmarked to make advances to High Road Incorporated a US entity established to invest in film finance or would otherwise be held as cash. The injunction however stopped any such investments and the monies held as at the time of the injunction as I have said have all been patriated to this court.

198. Neither Newbury nor Edgerbury appeared to provide any consideration for the receipt of the monies and by virtue of their control by Mr Morris well knew the schemes were a dishonest design on his part as his knowledge would be attributed to them. It follows that whether or not there was no consideration for receipt of the funds or effectively participating dishonestly in the scheme neither company has any basis for retaining the monies as against ITS. That is why I made the order for transfer of the funds out of court to ITS on conclusion of the submissions.

MR STARKEY

199. Mr Starkey (D7) was the sole director of MUFF from 23rd April 2008. He also held offices in High Road (US Operation) LLC and MUFF (Thai Investments).

200. He appears to have spent a large amount of his time involved in investments in Thailand. He joined MUFF apparently to advise and organise the completion of 2 luxury property investments in Thailand. In his affidavits Mr Starkey sought to portray a picture of the Impacted Schemes Funds being invested in a secure development in Thailand. The purpose of the affidavits was to support the failed application before Lewison J for release of yet more monies to be invested in those schemes and the US film scheme. The main difficulty about his submission (apart from the fact that there is no evidence to show that any organisation has obtained a title to any of the properties in Thailand) is that the Impacted Schemes have secured no benefits at all arising out of these investments. Their monies were being used to fund the investment. If the investment failed (as shall be seen below when I consider the Bonds) their monies were lost by way of contrast any profits were not made available to them. An uplift of 10% was supposedly agreed as set out below but the fact is the vast bulk of the profits to be made using the Impacted Schemes' Funds was not going to enure for their benefit.

201. Mr Starkey has a major role in this exercise because he was the director who instructed Hassans to draft the Bonds and executed the same.

202. In this context Mr Starkey in his affidavits professed to know nothing about UK trust laws. Mr Starkey's attitude is demonstrated by an exchange of emails that took place between Mr Pitcher and him dated 12th June 2008. Mr Starkey asked Mr Pitcher ***"is it possible for you to send me through a copy of UK Pensions legislation for me to read through as well as reports that you may have done or commissioned in regards to the compliance of the Bond".*** This was 2 days after he had executed First Bond. Mr Pitcher replied :-

> ***"That is a massive ask.***
>
> ***There are elements of trust law, statutes, regulatory guidance, common law, accountancy, insolvency, actuarial and tax law. How long have you got?***
>
> ***I imagine your email was triggered by Fabians (i.e. Mr Picado's) epistle. I will provide a riposte to that email shortly.***
>
> ***In the meantime just to put your mind at rest investments by trustees are governed by the Trustee Investments Act 1961. However because the act is so restrictive most pension trustees allow the trustees to invest in virtually anything (which is normal) and allow trustees to borrow money. The main restriction is that no more than 5% of the scheme assets in the sponsoring employer.***
>
> ***I will forward a typical clause to prove my point."***

203. It does not appear that Mr Starkey ever received any further response. He clearly did not want to know.

THE BONDS

204. Mr Starkey instructed Hassans to draw up the Bonds in April 2008. By that time MUFF already had under its control £45,000,000 from the Impacted Schemes with no documents in place which he even governed the relationship between them.

205. That of itself is quite an extraordinary state of affairs. MUFF is a BVI incorporated company with no assets yet it received £45,000,000 with no restrictions on it preventing release of funds. Indeed as is set out above large amounts of the funds had already been transferred on to pay so called agents for commissions (in reality Mr Morris through the various guises as set out above).

206. Further Hassans appear to be acting for MUFF and reacting to the instructions of Mr Starkey and (more importantly) Mr Morris. GPN and BDC appear to have taken no legal advice whatsoever. They never ensured that there was any protection as regards removal of the funds pending finalisation of the Bond. For example if it was acceptable to hand over the money to MUFF (which I do not accept for one minute) in advance of the terms being agreed it would have been perfectly possible to require Hassans to hold the funds to the order of the Impacted Trustees pending finalisation of any Bond. If for example in this case the negotiations had broken down it would have been impossible for GPN/BDC to recover any funds which had already been dissipated without litigation of the type to which they have now been forced to resort. This is reflective of the decision making processes of the trustees. It is an extraordinary course of conduct in my view.

207. When one looks at the gestation of the Bonds the situation deteriorates even further.

GESTATION OF THE BONDS

208. Mr Picardo in his witness statement (paragraphs 63-68) sets out the difficulties he had with regard to the drafting of the Bonds. I set it out in full:-

1. ***"Upon receipt of the monies from Fareston in early January [2008], investments were made and authorised by CDL [Cheam] on behalf of MUFFL since we were informed by both Mr Morris as investment advisor and Mr Pitcher as trustee of the pension funds that were the ultimate investors, that the payments were to be made on a very urgent basis (§63);***

2. ***Since Mr Pitcher the pension trustee was aware of what the monies were being used for and was content and keen for the monies to continue to be used for this purpose, we deemed it satisfactory to make the payments for the investment, irrespective of the fact that there was no agreement securing the obligations of MUFFL to the pension funds (§63);***

3. ***Initially we were informed that the Bond instrument was to be executed imminently between MUFFL and Fareston/GPNT. It was***

only on the passage of several months that it became clear that the Bonds were not being executed by the parties, and we started to highlight the need to finally agree these and put in place the necessary documentation, however comfortable Mr Pitcher was with MUFFL Group and however transparent the investments made were to Mr Pitcher (§63);

4. ***There was never any sense of urgency in getting the Bond instrument executed by Mr Pitcher. Despite repeated chasing by my assistant, Gemma Arias, the terms were never finally negotiated by the parties. Although it is not normal practice for monies to be lent without documentation in place, Mr Pitcher- as the representative of the ultimate lender- did not appear concerned at all. This appear to me to be because of the close relationship he enjoyed with Mr Morris and the transparency that there had been with him in respect of the investments made (§64);***

5. ***At no stage did Mr Pitcher ask for the investment activity to cease until the Bonds were in place (§65);***

6. ***During the course of drafting the Bonds, my assistant would send out numerous emails chasing comments on the Bonds, or attempting to arrange an all parties call, as is common in transactions of this nature, to attempt to agree the terms of the Bond. Mr Morris would only give instructions on a piecemeal basis, through Ms Rottier. Often we would find that he would insist on the striking out of an entire clause of the agreement thereby rendering the Bonds unworkable. Ms Arias would then reply to Ms Rottier giving her the reasons as to why the clauses removed could not be simply removed in the manner desired by Mr Morris, to which Ms Rottier would not receive instructions to reply for months. This process continued for several months. In particular the clause relating to the capital guarantee in respect of the monies invested would become more obfuscated as the negotiations progressed (§66);***

7. ***After several months of my assistant chasing the parties to finalise the Bond, we received an executed version of the Bond instrument, which was entirely different to the document we had drafted. This version contained heavily amended capital guarantee provisions, the Bond was not executed by Fareston Limited (effectively the Lender) and the certificate confirming the lending had been removed. Even the term sheets on which the parties were stated to be relying on had been removed as an attachment. The Bond instrument was so different from that which we had drafted (and, we felt that it was ineffective) that we felt it appropriate to send Mr Starkey a letter in his capacity as director of MUFFL, stating that we could take no responsibility for the document as drafted" (§68).***

209. Initially the Bonds were supposed to be linked to Jersey in someway but that never materialised.

210. The first draft was sent out by Ms Arias on 31st March 2008. She describes it as a simple instrument. Between that date and the execution of the Bonds the forms changed considerably. Thus on the credit side MUFF agreed that the Bond holders (i.e. the Impacted Schemes) would be entitled to 10% of the profits made through the investment of the nominal account by the issue in the various assets. The profits were defined to mean the profits less set up fees, liabilities, taxes and other costs incurred by MUFF in respect of the Bond or the underlying assets. That to my mind is not a particularly generous provision. The primary repayment was an interest rate of 7.5% compounded on an annual basis over the 3 year period of the Bond. However the final form of the Bond said ***"the payment of the target rate of interest is not guaranteed"*** (clause 4).

211. That is one example of the ultimate Bond being altered for the benefit of MUFF. Thus from the point of view of an investment alone the rate was lower than the rate Hassans could obtain from Barclays Bank and was not even a guaranteed rate. MUFF is entitled to retain 90% of the profits it makes using the Impacted Schemes' monies.

212. The ultimate form of the Bond includes a number of expressions which when subject to analysis are incomprehensible. Thus for example the Bond is stated to be ***"a Principal Protected Bond"*** that is defined to mean that ***"the underlying capital investments made with the proceeds of the Bond will at all times provide a risk cover of 150% of the Nominal Amount. The Bond will be 70% Protected. The valuations used for the risk cover shall be based on the assumptions provided by the Pitt Term Sheets on the Underlying Investments attached to the Bond in Schedule 2".*** In fact there is no Schedule 2. There are no assumptions made out in the Pitt Term Sheets as I have set out above. It is not explained how 70% is Capital Protected. Nor does it explain what a risk cover of 150% means. In short this sentence is meaningless.

213. In clause 2 which sets out the amount and state of the Bonds, the following was inserted in the final form:-

> ***"the repayment of the Nominal Amount is not guaranteed. The Principal payable under this Bond on the event of default is limited to the amount protected under clause 3.1."***

214. There is no clause 3.1 which refers to financial covenants. Clause 3 provides :-

> ***"the Issuer shall ensure that the Risk Cover Ratio of the Bond at the date of the execution of this instrument shall be 1:2 to the value of the Nominal Amount. The Issuer shall ensure that the Risk Cover Ratio is met at all times throughout the relevant period "***

215. The definition of the Risk Cover Ratio means the ratio of a secured value of the underlying assets as per the assumptions in the Term Sheets to the Nominal Amount.

216. This is incoherent in my view. They are fine sounding words but which on examination mean absolutely nothing at all. The Pitt Term Sheets are of no use whatsoever for the reasons I have already set out earlier in this judgment. In short MUFF a limited BVI company has received the monies and it is not even

guaranteeing the repayments of the principal nor is it providing any security for the monies it has received. There is merely a nebulous statement of some kind of protection but it is illusory.

217. Even the amount of the target interest is not guaranteed nor is the repayment of the Nominal Amount.

218. In other words the Bond is structured so if the investments are successful MUFF takes 90% of the profits but if the investments are unsuccessful the Bond holders have no recourse and are not even guaranteed repayment of their capital nor their interest.

219. There are further restrictions on the Bond holders to recover in clause 15. First clause 15 excludes liability of the officers (save in respect of fraudulent conduct, misrepresentation, wilful default or gross negligence). However clause 15.2 provides:-

> ***"the liability of [MUFF] under this Instrument and all certificates issued hereunder shall be equal to the assets of [MUFF] from time to time less any sums which [it] maybe obliged to pay to all or any of its creditors whether actually or contingently ("the company net assets"). The Bond holders shall look solely to the [MUFF] net assets for payments to be made by [it] under this Instrument and all certificates issued hereunder and the Bond holders will have no further recourse to [MUFF] in respect thereof. In the event that the amount due and payable by [MUFF] under this Instrument and all certificates issued hereunder exceeds the Company net assets the right of any person to claim payment of any amount exceeding such amount shall be extinguished on the redemption date."***

220. This is quite an extraordinary clause. It relegates repayment by MUFF to an entirely optional basis. If by some chance MUFF's net assets do not match the amount due the excess is extinguished. This further demonstrates why no trustee of the Impacted Schemes could ever consider this would be a proper investment for the vast bulk of the Pension Scheme Funds.

221. Finally in this context clause 15.3 provides:-

> ***"The Bond holder shall not in relation to the matters contemplated by this Instrument institute or make any application against [MUFF] or join any other person in instituting or making any application against [MUFF] any winding up arrangement, reorganisation, liquidation, bankruptcy, insolvency or other proceedings under similar law anywhere in the world so long as this Instrument and all certificates issued hereunder shall remain in effect and in no event any earlier than one year after all or any amounts owing by [MUFF] to the Bond holders have been repaid".***

222. Thus if it is determined that no money is due because (for example) the amount due does not exceed the net assets a Bond holder cannot institute any proceedings for a year after that is determined.

223. All of these clauses in my view lead inexorably to the conclusion that the Bonds are simply instruments of fraud. It has to be recalled once again that these documents gestated (in the case of Wave One) nearly a year after the monies were handed over and in the case of Wave Two 2 months after the monies were handed over. GPN and BDC altered the Impacted Schemes' investments which were in gilts or cash deposits amounting to £52,000,000 to a right in 3 years time to have returned to it whatever the controllers of MUFF wished. Although there is a pretence that the capital is 70% protected there is in fact no such protection and clause 2.1 as I have said does not guarantee repayment of any amount of the Nominal Amount. The same applies to the interest. Finally no claims can be brought against MUFF that exceed its net assets. It is plain that the whole operation was designed to obtain the money and then offer worthless Bonds in exchange.

224. Hassans are not before me (save as Mr Picardo as a witness). However given their concerns in April which led to them removing Cheam their corporate trustee entity I am surprised that they were willing to continue to act and then were involved in redrafting these Bonds so that they achieved a worthless status. I have already alluded to Mr Picardo's letter dated 8th July 2008 attempting on behalf of Hassans to wash their hands of any responsibility for the documents issued. I cannot conceive of any trustee entering into these Bonds with no legal advice and on the terms put forward. It is a clear breach of the duties owed by GPN and BDC to the Impacted Schemes. Basically they handed over £52,000,000 to a fraudster who was able to spirit the monies away in exchange for irrelevant Bonds created many months after the control of the funds had already been surrendered to him. I can see no other explanation for this extraordinary course of dealing.

FACTUAL SUMMARY

225. I have had to set out necessarily at length the process whereby the vast majority of the funds of the Impacted Schemes which were invested in traditional conservative investments were then liquidated. As a result of the decision of GPN and BDC the vast majority of the Impacted Schemes' Funds were liquidated raising some £52,000,000. Those sums were then transferred in two tranches first to Fareston then on to Amac and second on to MUFF. At the time of the transfer of the monies no arrangements were in place governing the relationship between the parties in respect of the funds transferred. In the case of the first wave as I have set out large amounts were then transferred on (some £10,000,000) in advances to companies that were either connected to Mr Morris or were not viable or proper investments (Cerberus for example). Further Mr Morris indirectly obtained large up front fees for doing nothing.

226. The second tranche was saved from such actions purely by chance in June 2008. The evidence suggests that the bulk of the second wave would have ended up in the film business. Mr Morris received further funds in the second wave (via Glencalvie) to discharge his personal liabilities to his former wife.

227. All of these transactions took place without any document evidencing the terms on which GPN and BDC decided to hand over the funds which they were entrusted to manage on behalf of the Impacted Schemes.

228. When the terms were finally set out in exchange for the £52,000,000 GPN and BDC obtained Bonds 1 and 2. These were woeful documents and provided no security at all and in effect allowed MUFF to spirit away the funds on ventures decided by Mr Morris with no recourse against it if those ventures went sour and a 10% return only if the ventures proved profitable. In other words the funds were handed over to the control of Mr Morris for him to invest or use as he saw fit.

229. Neither Mr Russell nor Mr Pitt's Term Sheets provided any legitimate justification for these schemes. They were plainly fraudulent inventions. I do not accept that upon reading them properly GPN and BDC could have concluded any reliance on them as justifying this reckless dissipation of the Impacted Schemes' Funds.

DISCUSSIONS AND CONCLUSIONS

230. When one looks at the transactions which I have set out above it is clear to my mind that Mr Morris set about to acquire control over the funds dishonestly and to use the entirety of them for his own purposes.

231. It is difficult to conclude otherwise than that the investments so called were entirely bogus investments designed simply to enable Mr Morris to obtain control of £52,000,000 and then direct its utilisation or dissipation either in payments for his own benefit or investment in schemes where he took benefits but not the risk. I cannot see a more abject failure of the trustees.

232. The Pension Funds were virtually liquidated. The process of liquidation from Gilts and traditional investments were then handed over in two tranches to BVI formed companies controlled by Mr Morris. No terms were agreed even as to the basis upon which the trust funds were ***"invested"*** in these BVI companies. The monies were then utilised to benefit Mr Morris personally. Thus the 3 payments to him of £1,800,000 through Whitepoint, £1,600,000 through Cerberus and £1,490,000 through Glencalvie were in my view simply artificial and bogus transactions to create a piece of paper which could be put forward as a supposed justification for Mr Morris to help himself to £4,800,000 of the trust funds. There were no genuine transactions and that is demonstrated for example in the case of Aspect how ludicrous the supposed agency agreement was and how it was terminated. No trustee in their right mind would agree to pay a 3 year upfront payment, allow it to be terminated after a few months and not expect to have a large amount of the commission paid.

233. The other disbursements were simply (for example the Thai investment) in my view a speculative investment where Mr Morris stood to gain all the profits but not suffer any loss if the scheme did not prosper. That in my view is not an appropriate way to invest trust monies as required by the trustee duties that I have set out earlier in the judgment. Others (for example the Aspect payments) were simply fraudulent arrangements designed to masquerade the fact that Mr Morris was skimming off large amounts of money. The same applied to the Glencalvie payments. Cerberus is probably different in the sense that there was an underlying business. However the Cerberus transaction was clearly tainted by the fact that Mr Malmstrom knew that of

the monies being borrowed £1,600,000 was basically a bribe or a fee to enable Mr Morris to be the gatekeeper to enable Cerberus to obtain some of the Impacted Schemes' money. The payments were made by MUFF and of course MUFF ultimately was controlled by Mr Morris and he directed the payments. His actions were dishonest, he obviously knew that the invoice was false and MUFF therefore knew that the invoice was false because his knowledge in my view would be attributed to MUFF (despite the shallow attempt to hide his presence by re-drafting the MUFF/Cerberus loan agreement).

234. The final damning piece of evidence in my view is the Bonds and how they were created. GPN and BDC took no advice so far as I can see on these Bonds. They permitted the funds to be handed over to BVI companies with no security, no protection whatsoever, before even any terms of any investments were agreed. They then allowed funds to be removed as I have set out earlier in the judgment and finally allowed the wording of the Bonds to change from listed Bonds on the Jersey stock exchange in some way to be replaced by worthless promises to pay virtually nothing at all by MUFF. It is difficult to conceive of a more blatant breach of trust or fiduciary duty by GPN and BDC. I have not considered the role of Mr Pitcher and Mr Cordell. The claim against them is dishonest assistance. That will involve them explaining how they came to organise the assets of the Impacted Schemes in such a way to invest in these ventures. It will involve examining whether they provided dishonest assistance to the fraudulent activities of Mr Morris or in effect were merely (I use that word guardedly) duped by Mr Morris in some way into believing these were proper schemes to invest and were not merely engines for fraud by Mr Morris.

235. It follows that there is no valuable consideration for the Bonds because the Bonds actually provide nothing and are not genuine commercial documents in any event. There may be investment strategies behind them but the use of the monies (for example) investments in Thailand are part of the fraudulent schemes to misappropriate the Impacted Schemes' monies and to use them for their own benefit.

236. In light of those findings I go on to consider the liability of the individual Defendants.

GPN AND BDC

237. As I have set out above in my view the handing over of the £52,000,000 in the circumstances summarised in this judgment was a breach of trust and a breach of duty. Further GPN and BDC as part of their duties as trustees have to account for their dealings with the trust property. In addition in so far as ITS can establish any of the assets identified represent trust assets they are entitled to trace into them and trace into such other assets as are identified on a further inquiry. I can see no defence to any proprietary claim.

238. In addition they are liable to pay equitable compensation and so called damages for negligence and breach of duty. That will be the subject matter of a further inquiry.

MESSRS PITCHER, CORDELL AND MALMSTROM

239. There is no consideration for the first two of those until the adjourned trial. Mr Malmstrom has compromised the claim against him.

MR MORRIS

240. As I have set out above this was a dishonest scheme created and orchestrated by him. He is at the centre of the web and he is liable for providing dishonest assistance to the breach of trust. His actions were plainly dishonest as I have set out above. They clearly satisfy the test of Lord Clarke MR above. The two most compelling aspects showing his dishonesty are his milking of the trust funds for the 3 payments set out above and the successive dilution of the terms of the bond at his instigation so as to make the Bonds worthless documents.

MR STARKEY

241. He was not involved in MUFF until January 2008. He was involved apparently in the Thai projects in October/November 2007 when he was the General Manager of Horizon Homes.

242. ITS submits that Mr Starkey is liable for providing dishonest assistance to the first wave transactions although he was not involved in any of them at that time. It submits nevertheless that he is liable for providing dishonest assistance in relation to the first wave because he assisted in moving the assets further away from the original beneficial owners.

243. I have no difficulty in finding that Mr Starkey when he joined MUFF in January 2008 then took an active role in the dishonest scheme of Mr Morris. He is regularly and repeatedly involved in the email traffic. He is closely in Mr Morris' confidence quite plainly and in my view was clearly dishonest within the meaning of the legal requirements for dishonest assistance. When he joined MUFF I cannot believe he could possibly have any grounds whatsoever for thinking that these monies were coming from Pension Funds in an honest way. There are two further factors which in my view are conclusive. First there is his request for clarification of trust law from Mr Pitcher which went unanswered. Despite the lack of answers he went ahead. Second there is dilution of the Bonds in which he was involved with Mr Morris from the time when he became a director of MUFF. The whole purpose of the dilution of these Bonds (apart from their inherent worthlessness because of the valueless state of MUFF) was to make it difficult if not impossible for the Impacted Schemes without challenging all the documentation to have any recourse if the £52,000,000 disappeared in a black hole and never to be seen again. Mr Starkey's role is therefore significant: he would be aware of the purpose of the definition of the two Bonds.

244. He was further dishonest in my view as regards the first wave. It is not because he participated in the acquisition of the funds in the first wave (because he did not) but he actively and dishonestly participated in the creation of the Bonds which were created not merely to make the second wave funds incapable of recovery but also extended to the first wave. He can only have believed that the dilution of the Bonds was to aid the dishonest activities of Mr Morris. I therefore conclude that he provided dishonest assistance to the entirety of the funds removed from the Impacted Schemes. I accept ITS' contentions that his position is similar to those found in the 3 cases set out in paragraph 627 of its written openings.

MR WEBB

245. Mr Webb was involved in the first wave transactions. His involvement was central. He was a director and 90% shareholder of Aspect which received £2,180,000 immediately paid on £1,800,000 to Mr Morris via Whitepoint. He and/or Mr Webb received about £800,000 personally or through his company SEAR.

246. He was the principle officer and majority shareholder of Amac which had the £24,000,000 transferred to it from Fareston and was instrumental in the use of £385,309.69 of the Impacted Schemes monies for Amac expenses. I do not accept that any of the expenses were genuine. At least £190,914.30 relate to invoices rendered by REB Travel Services Ltd. Of that £167,913 relates to flight costs incurred between 5th November 2007 and 12th November 2008 and the balance relates to hotel expenses. A large amount of those expenses relate to expenses by Mr Morris and other people having the same surname, £28,181 for Mr Webb and another £3,456 for someone of the same surname and £22,715 flight expenses relating to Mr Malmstrom and Mr Sculley.

247. This seems to me a classic example of dishonesty. I cannot see that this level of expenditure can possibly be on business connected with investing of the Impacted Schemes' monies. It is simply persons abusing the fact that they have control of large amounts of cash and nobody can restrain them. Mr Webb as the officer of Amac knew about this (indeed he participated in it). It is plainly in my view a dishonest misappropriation of trust monies which he knew had been received from the Impacted Schemes as a result of the dishonest operations of Mr Morris.

248. He was intimately involved in all the matters in relation to Wave One. He knew or ought to have known the transfers to him and monies representing or derived from assets in the Impacted Schemes were made in breach of trust and none of them was a bona fide purchase for value. In addition he knew that the acquisition of the monies was a dishonest scheme created by Mr Morris to obtain control of the trust monies and spend it or dissipate it as he wished. He knew that that had no correct basis and he was therefore accordingly dishonest for the purposes of the dishonest assistance test set out above.

249. There will have to be of course an inquiry as to what assets he has received and the extent to which he dishonestly participated in the breaches of trust.

ASPECT

250. I accept that Aspect is a creature of Mr Webb's. It was used as a vehicle to extract cash for the benefit of Mr Morris via Whitepoint.

WHITEPOINT

251. It is a creature of Mr Morris and as such is liable for the knowing receipt and dishonest assistance in respect of the £1,800,000 transferred to it.

SEAR

252. The claims against the balance of the Defendants (i.e. D10-27) save D24 (LT) as set out in the Re-Amended Particulars of Claim are all made out. All acted at the behest of Mr Morris, Mr Webb or Mr Starkey on occasion. All those 3 individuals were dishonest for the reasons I have set out in this judgment. All actions of these individual Defendants were therefore done with the knowledge of the dishonesty of those individuals as appropriate attributable to them. In so far as they have received assets from the Impacted Schemes they are therefore liable to restore them if there are proprietary claims against them or alternatively they are liable for knowing receipt on a personal basis or they are liable for dishonest assistance. The full extent of the liability of those Defendants will have to be determined on subsequent inquiries.

LINE TRUST

253. It has not asserted any right to the £675,000 it paid into court. Accordingly I ordered that sum to be paid out at the start of the trial.

254. Similarly it does not assert any claim to the $74,881.88 that was also paid into court on 9th February 2009.

255. Both of these represent traceable proceeds from the Impacted Schemes' assets. LT does not assert having given value for the receipt of such sums and therefore has no defence to the proprietary claim.

256. As I have said at the start of this judgment it remains involved in the action for stage 2 because of the Part 20 Notices brought by Messrs Pitcher and Cordell.

257. In the light of the determination it is necessary to draw up an order of some complication.

258. I am grateful for the detail and comprehensive opening and the elucidation of that opening by Mr Spearman QC. His task has been made more difficult because apart from Mr Malmstrom there was no active Defendant which required him as part of his duty as Counsel to assist me in matters which Defendants might raise.

Independent Trustee Services Limited -v- GP Noble Limited and others
Claim number: HC08C03132

DRAMATIS PERSONAE

Name	Abbreviation	Title
Alcantara, Caireen	Ms Alcantara	An associate of Hassans International Law Firm specialising in trust management and administration within Line Trust Corporation Limited.
Alenoy Pension Scheme		Pension scheme formerly under the trusteeship of GP Noble Trustees Limited. Invested £1.6m into MUFF Bond 2.
AMAC Asset Management & Consultants Limited (Twelfth Defendant)	AMAC	Custodian of Fareston Limited registered in the British Virgin Islands.
Arias, Gemma	Ms Arias	An associate at Hassans International Law Firm.
Aspect Invest & Finance Limited (Ninth Defendant)	Aspect	Investment Manager of Fareston Limited registered in Nevis, West Indies.
Augusta Settlement		A discretionary trust set up in Gibraltar. The trustee of the Augusta Settlement is Line Trust Corporation Limited.
Bachmann Trust Company SA	Bachmann	Administrator of Fareston Limited registered in Switzerland. Martin Pugh is the Fareston Limited contact for ITS.
BDC Pension Scheme		Pension scheme formerly under the trusteeship of GP Noble Trustees Limited. Invested £1.0m in MUFF Bond 2.
BDC Trustees Limited (Second Defendant)		Trustees of the BDC Pension Scheme registered in England and Wales.
The Beach at Plai Laem or Armani Beach	The Beach	A real estate development in Koh Samui, Thailand owned and developed by Multiple & Unilateral Financial Futures Limited.
Benessia Global Limited (Intended Twenty-Sixth Defendant)	Benessia	Company incorporated in the British Virgin Islands. Owned by Christopher Webb on trust for Anthony Morris. Previous shareholder of Number Thirty One S.A. The company held 509,060 in International All Sports Limited.
BTC Directors S.A.	BTC Directors	A Bachmann Group company (administrated) and incorporated in Panama. Sole director of Fareston Limited. Director of Aspect Invest & Finance Limited.
BTC Nominees S.A.	BTC Nominees	A Bachmann Group company incorporated in Panama. BTC Nominees holds all of the ordinary shares in

Name	Abbreviation	Title
		Fareston Limited in trust on behalf of six Pension Schemes.
Caprio International Limited (Twenty-Second Defendant)	Caprio	A company incorporated in the British Virgin Islands and a wholly owned subsidiary of MFHL which holds the legal title to an Aston Martin motor car.
Cavalier Limited	Cavalier	A company to which Number Thirty One S.A. paid legal fees.
Cerberus Security Group Limited	Cerberus	A company registered in England and Wales which acquired security and intelligence companies (Andrew Kain Enterprises Limited, Omnis, Security Protection International Limited and Merchant International Group Limited). Fareston Limited and Multiple & Unilateral Financial Futures Limited have made investments (debt and preference shares) in Cerberus Security Group Limited.
Cheam Directors Limited	Cheam	A Special Purpose Vehicle company incorporated in Gibraltar. Cheam Directors Limited is a fiduciary service provider set up by Line Management Services Limited (a company associated to Line Trust Corporation Limited). Director of Multiple & Unilateral Financial Futures Limited from 11 February 2008 (incorporated) to 23 April 2008. Director of Multiple & Unilateral Financial Futures (Thai Investments) Limited.
Collado, Nadine	Ms Collado	Director of Cheam Directors Limited and Line Management Services Limited.
Complete Support Services Limited	CSSL	A Company registered in England and Wales which Number Thirty One S.A. has indirectly lent monies to. The company trades as "Pucci Pizza".
Cordell, Gary (Fourth Defendant)	Mr. Cordell	Director of GP Noble Trustees Limited.
Davidia Global Limited (Twenty-Third Defendant)	Davidia	A company incorporated in the British Virgin Islands and a wholly owned subsidiary of MFHL which purchased a pair of 10 year debentures at Twickenham rugby stadium.
Edgerbury Investments Limited (Twenty-First Defendant)	Edgerbury	A company incorporated in the British Virgin Islands which holds £100,385 in an account with Credit Suisse in Geneva.
Fareston Limited	Fareston	Incorporated as a Special Purpose Vehicle to receive investment from pension schemes on 22 June 2007 in the British Virgin Islands.
Glencalvie Limited (Twenty-Fifth Defendant)	Glencalvie	A company incorporated in the British Virgin Islands and which was paid the sum of £1,494,067.
GP Noble Trustees Limited (First Defendant)	GP Noble	A company registered in England and Wales which is a former trustee of the Pension Schemes prior to ITS's appointment.
Halliwells LLP Corporate Lawyers	Halliwells	Legal advisor to Number Thirty One S.A.. Registered in England and Wales.

Name	Abbreviation	Title
Hamilton, Frazer	Mr. Hamilton	Non-executive director and independent consultant advisor of Number Thirty One S.A.
Hassans International Law Firm	Hassans	Legal Advisors to Multiple & Unilateral Financial Futures Limited. Based in Gibraltar.
The Hilltop		A real estate development in Koh Samui, Thailand owned and developed by Multiple & Unilateral Financial Futures Limited.
Hyperfly Company Limited	Hyperfly	Thai company which Multiple & Unilateral Financial Futures Limited, through Multiple & Unilateral Financial Futures (Thai Investments) Limited, holds 73,500 preference shares. Sole director is Mr. Srisuwannapong. Registered owner of the two of the Hilltop land plots.
Independent Trustee Services Limited (The Claimant)	ITS	Appointed by the UK Pensions Regulator as trustee to twenty nine pension schemes on 4 and 9 July 2008 where GP Noble was the former trustee. Registered in England and Wales.
La Matze Consultants S.A. (Fourteenth Defendant)	La Matze Consultants	A company majority-owned by Christopher Webb who is also an appointed director. Received debt finance from Number Thirty One S.A.. Registered in the British Virgin Islands.
La Matze Real Estate S.A. (Fifteenth Defendant)	La Matze Real Estate	A special purpose vehicle of La Matze Consultants S.A. to purchase Swiss land. Registered in Switzerland.
Line Trust Corporation Limited (Twenty-Fourth Defendant)	Line Trust	The trustee of the Augusta Settlement. 100% shareholder of MFHL. The Morris Family Holdings Limited is the 100%shareholder of Multiple & Unilateral Financial Futures Limited. Owns preference shares in The Money Portal plc. Registered in Gibraltar.
Malmstrom, Peter (Fifth Defendant)	Mr. Malmstrom	Director of Cerberus Security Group Limited. Director of Pucci Pizza Limited. Director of Complete Support Services Limited.
Morris, Susan	Mrs Susan Morris	The first wife of Anthony Morris, they were divorced by a decree absolute dated 12 February 2007.
Morris, Vanessa		The second wife of Anthony Morris. Previously Vanessa Jackson.
Moss, Raquel	Ms Moss	An associate of Hassans International Law Firm with responsibility for heading the running of Line Trust Corporation Ltd.
The Money Portal Limited	Money Portal	Ultimate parent company of GP Noble Trustees Limited. Tony Morris is a former director and the founding shareholder. Registered in England and Wales.
Morris, Anthony/Tony James (Sixth Defendant)	Mr. Morris	Formal advisor to Multiple & Unilateral Financial Futures Limited and Line Trust Corporation Limited. Settler of the Augusta Settlement. Co-founder of The Money Portal plc.
Morris Family Holdings Limited	MFHL	Owns all of the shares in Multiple & Unilateral Financial Futures Limited. 100% owned by the Augusta

Name	Abbreviation	Title
Limited (Nineteenth Defendant)		Settlement. Registered in the British Virgin Islands and holds £2,802,008 in an account with Credit Suisse in Geneva.
Multiple & Unilateral Financial Futures Limited (Eighteenth Defendant)	MUFF	A BVI Special Purpose Vehicle created to provide a 7% Bond to Fareston Limited.
Multiple & Unilateral Financial Futures (Thai Investments) Limited (Sixteenth Defendant)	MUFF Thailand	A Multiple & Unilateral Financial Futures Limited (group company which purchased land plots (indirectly) in Thailand. Incorporated in the British Virgin Islands.
Mutual Financial Futures (Australia) Pty Limited (Seventeenth Defendant)	MUFF Australia	An entity responsible for the administration on behalf of the Multiple & Unilateral Financial Futures Limited group. Registered in Australia.
Newdale Investments Limited (Twentieth Defendant)	Newdale	A company incorporated in the British Virgin Islands which holds £22,619,672 in an account with Credit Suisse in Geneva.
Number Thirty One S.A. (Thirteenth Defendant)	Number 31	A private equity company owned by AMAC Asset Management &Consultants Limited (on behalf of Fareston Limited). Operated by Christopher Webb and Andrew Sinclair. Registered in the British Virgin Islands.
Notaras, James	Mr Notaras	Employee of Pitt Capital Partners Limited and Mutual Financial Futures (Australia) Pty Limited. Beneficiary of The Seraton Settlement.
Pash, Michael	Mr Pash	Executive Director of Pitt Capital Partners Limited
Pearson, Lester	Mr. Pearson	Director and Shareholder of Swanbay Mobile Media Limited (BVI). Receipt of loan from Number 31 S.A.
The Pensions Regulator	tPR	The United Kingdom regulator of work-based pension schemes.
Photakis, Christopher	Mr Photakis	Managing Director of Pitt Capital Partners Limited
Picardo, Fabian	Mr. Picardo	Partner of Hassans International Law Firm.
Pitcher, Graham (Third Defendant)	Mr. Pitcher	Director, GP Noble Trustees Limited.
Pitt Capital Partners Limited	Pitt Capital	Merchant Bankers registered in Sydney, Australia, and the financial and investment advisors to MUFF.
Profmil a group of companies including Profmil Company Limited, Profmil Services Company Limited, Profmil Design Company Limited and Profmil Hong Kong Limited	Profmil	A construction group (developer) from Koh Samui, Thailand. Profmil is the developer of the Beach at Plai Laem and the Hilltop.
Rottier, Louise	Mrs Rottier	Director of Mutual Financial Futures (Australia) Pty Limited.
Russell, Quentin A.	Mr. Russell	Employee of Finance 2 Professionals Limited (independent financial advisors). Asked by Graham Pitcher to review the investment strategy of Pension

Name	Abbreviation	Title
		Schemes and review investment opportunities in Fareston Limited and Multiple & Unilateral Financial Futures Limited.
de Scossa, Nick	Mr de Scossa	Head of Credit Suisse Family Office, Credit Suisse Private Banking. Geneva.
Scully, William	Mr Scully	Chief Executive Officer of Cerberus Security Group Limited.
Security Protection International Limited		Security company acquired by Cerberus Security Group Limited. Registered in the UK.
Shellwind Holding Limited (Intended Twenty-Seventh Defendant)	Shellwind	Company incorporated in the British Virgin Islands. Owned by Christopher Webb on trust for Anthony Morris. The company held 950,920 in International All Sports Limited.
Sinclair, Andrew	Mr. Sinclair	Director of AMAC Asset Management & Consultants Limited. Director of Number Thirty One S.A.
South East Asia Real Estate (Thailand) Company Limited (Eleventh Defendant)	SEAR	A Thai company (represented by Christopher Webb) which purchased (and temporarily held) land plots which are part of the Hilltop development.
Starkey, Alexander (Seventh Defendant)	Mr. Starkey	Sole Director of Multiple & Unilateral Financial Futures Limited from 23 April 2008. Vice President and Secretary of Worldwide Development Incorporated. Vice President and Secretary of High Road (US Operations) LLC. Director of Multiple & Unilateral Financial Futures (Thai Investments) Limited.
Swanbay Mobile Media (BVI) Limited	Swanbay	A company to which Number Thirty One S.A. has loaned money. Registered in the British Virgin Islands.
Taillefer International Limited	Taillefer	A company trading in the BVI which issued a payment request to Aspect Invest & Finance Limited.
Taylor Wessing LLP		Legal advisors to Independent Trustee Services Limited (the Claimant).
Webb, Christopher (Eighth Defendant)	Mr. Webb	Principle Officer for Aspect Invest & Finance Limited. Principal Officer (and Director) for AMAC Asset Management & Consultants Limited. Director of Number Thirty One S.A. Director and majority shareholder of La Matze Consultants S.A. (BVI). Director and majority shareholder of La Matze Real Estate S.A. Director of South East Asia Real Estate (Thailand) Company Limited. Holds a (beneficial) minority interest in Swanbay Mobile Media (BVI) Limited.
Whitepoint Limited (Tenth Defendant)	Whitepoint	An entity with a registered trading address in the BVI and possibly controlled by Tony Morris

The Impacted Pension Schemes

£52m

GP Noble Trustees Limited (D1) BDC Trustees Limited (D2)

£30m

14 Aug 07 CB1/21/770-5 CB1/22/777-82 CB1/38/1144 CB1/29/935-7 CB2/72/2144-2 CB6/244/11042-4

Fareston Limited

£2.5m and £0.793m

£2.5m on 6 Feb 07, £0.793m on 9 May 08 CB6/244/11042-4

Line Trust Corporation Limited (D24) (Trustee of the Augusta Settlement)

Net interest earned

£0.386m

CB2/72/2144-2

Net interest earned

£0.144m

27 Dec 08, 28 Mar 08 CB5/198/7315

Chris Webb (D8)

£0.372m

10 Jan 08 CB2/84/3018

£24m

£1m on 19 Nov 07, £3m on 26 Nov 07 £20m on 10 Dec 07 CB2/72/2144-2, CB2/75/2224, CB2/80/2291 CB2/82/2458-1 CB2/84/3018, CB6/244/11042-4

AMAC Asset Management & Consultants Limited (D12)

CB5/198/7316

£0.385m

Expenses

£1m preference shares

21 Nov 07 CB2/61/1901 CB2/68/2065-6 CB5/198/7316

Cerberus Security Group Limited

£18.5m

25 Jan 05 CB2/100/3251 CB3/108/3440

£2m on 28 Nov 07 £1m on 12 Feb 08

£3m loan

CB2/64/2015 CB2/75/2224

Bank Interest

£0.033m

CB8/265/13265

Number Thirty-One SA (D13)

£0.016m

Legal fees & expenses

£0.018m

Bank & admin charges

£0.02m

3 Dec 07 CB2/74/2221

Chris Webb (D8)

£0.055m

3 Dec 07 CB2/73/2219-20

Lester Pearson

£0.5m

£1m

19 May 08 CB5/231/10175 CB8/265/13625

Traded Policies Fund (GBP growth class)

8 Jan 08

£0.035m

CB2/87/3069 CB8/264/13614

Complete Support Services Limited (trading as Pucci Pizza UK)

£0.65m

15 Feb 08 CB8/265/13625

BFS Media Limited

£0.6m loan

30 Nov 07 CB5/231/10175 CB8/265/13625

Swanbay Mobile Media (BVI) Limited

12 Feb 08 CB3/110/3911-3 CB8/265/13625

£0.172m

£0.037m on 22 Nov 07 £0.035m on 8 Jan 08 £0.1m on 14 Feb 08 S9/3985-1, CB8/264/13614

La Matze Consultants SA (D14)

La Matze Real Estate SA (D15)

£0.328m

CB5/231/10175

UKMAT:12898678.1

£1.8m on 17 Aug 07, £0.08m on 31 Aug 07 £0.045m on 2 Oct 07, £0.012m on 2 Oct 07 £0.25m on 13 Nov 07 CB1/38/1144, CB1/55/1799, 4/1102-5 CB2/72/2144-2, CB2/82/2458-1 CB6/244/11042-4

£2.188m

Aspect Invest and Finance Limited (D9) (charges)

24 Sept 07 CB1/36/1103, 4/1102

£1.8m

Whitepoint Limited (D10)

Shares

14647-69

Vanessa Morris (2nd wife)

Shellwind Holding Limited (D27)

Benessia Global Limited (D26)

£0.905m

24 Sept 07 £0.105m £16m on 1 Oct 07, £15.2 returned on £15.2m CB2/72/2144-2, CB2/82/2458-1

£0.774m

7 Nov 07 CB1/53/1695, E2/9/215

Pensit and Laws

£22m

£18.5m on 18 Apr 08 £2.5m on 21 Apr 08 CB5/194/7177-82, CB5/196/7206-16 CB5/200/7341-2, CB5/228/10057-8

Professional advisors

£0.513m

£0.038m to Pitt £0.350m to Nelsons £0.125m to Baker & McKenzie E2/9/214-5

Consulting fees

£1.5m

49/13701

Morris Family Holdings Limited (D19)

£2.802m

Before 22 Aug 08 E2/9/212

£1.263m

7 May 08 (via Line Trust) CB5/231/10174, E2/9/216

16 May 08 E2/9/216

£0.793m

MUFF Bond 2 (Credit Swisse Account)

Edgerbury Investments Limited (D21)

£30m

9 July 08 J1/12, J2/8

£29.9m

9 July 08 J2/9

£18.5m and £2.5m

£10.049m

23 Apr 08 CB5/228/10057, E2/9/216

MUFF Bond 1

£4.7m

9 July £3m and £1.7m CB8/279/13704 62/63/506 62/58/466

The Beach Plots

£0.956m

10 July 08 52/14615

£1.495m

Glencalvie Limited (D25)

Newdale Investments Limited (D20)

£1.4m

9 July 08 J2/11, 52/14615

Alexiou Phillips

£1.495m

11 July 08 52/14615, J2/11

£0.4m on 12 Feb 08 £0.095m on 5 May 08 £0.185m on 16 May 08 £0.053m on 29 May 08

£0.680m

16/4466, J1/11, J1/13

Mutual Financial Futures (Australia) PTY Limited (D17)

£5.12m

29 Jan 08 16/4465 CB3/112/3915-23 CB5/203/7481

Pensit and Laws

£5.12m

South East Asia Real Estate (Thailand) Company Limited (D11)

£5.12m

26 Oct 07 CB1/47/1381-98 E2/9/213

The Hilltop Plots

£0.474m

£0.134m on 31 Jan 08 £0.135m on 5 Feb 08 £0.205m on 20 May 08 CB5/203/7481, J1/11

High Road International Limited

£4.35m loan

£3.85m on 28 Feb 08 £0.5m on 13 Mar 08 16/4466-7, CB5/203/7481

Cerberus Security Group Limited

£1.45m

29 Feb 08 18/4949

Anthony Morris (D6)

£0.15m (Car)

29 Feb 08 CB4/145/5183

CB4/153/5679

£0.3m

CB4/154/5709 21/5748

£1.45m

Augusta Settlement (of which Line Trust Corporation Limited is trustee)

£0.15m (Car)

52/14647-66-1 E2/11/226

Caprio International Limited (Car) (D22)

£0.15m

21/5789

Blick & Co

£0.3m

E2/11/226

Hassans (legal fees)

£0.675m

Payment into High Court

£0.15m

7 Mar 08 E2/11/225

Davidia Global Limited (Debentures) (D23)

Level of Dis-investment for Impacted Schemes

Scheme	Level of Assets Prior to Dis-investment	Amount Dis-invested			Percentage of Total Dis-investment for Scheme Assets %
		Wave 1	Wave 2	Total	
Alenoy Limited Pension and Insurance Scheme	£1,639,793.14 [1]	-	£1.6 million	£1.6 million	97.57
BDC Pension Scheme	£1,286,078[2]	-	£1 million	£1 million	77.76
Berry Birch & Noble Staff Pension Scheme	£6,631,870.14[3]	£3 million	£1 million	£4 million	60.31
The Cuthbert Heath Family Security Plan	£3,618,252.27[4]	£3 million	£0.5 million	£3.5 million	96.73
Hill & Tyler Limited Pension and Assurance Scheme	£2,395,510[5]	-	£2 million	£2 million	83.49
Melton Medes Group Pension and Life Assurance Scheme	£22,476,664[6]	£9.9 million	£8.9 million	£18.8 million	83.64

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[1] The Investment Solutions Unit Statement dated 29 June 2007 values the scheme's assets as £1,639,793.14 [1/237]
[2] BDC Pension Scheme Annual Report as at 31 March 2007 and signed on 29 October 2007 [6/1482-1503]
[3] Letter dated 6 August 2007 from Jenna Darler to the PPF states that the scheme's total assets as at 2 April 2007 was £6,631,870.14 [2/572]
[4] Trustee Bank Reconciliation Cover Sheet for July-August 2007 prepared by GP Noble Trustees Limited, dated 5 July 2007 [1/296.1]
[5] Hill & Tyler Limited Pension and Assurance Scheme Annual Report for the year ended 31 August 2007, signed on 28 March 2008 [22/6017.1-6017.18]

Ravenhead Company Plan	£18,273,013[7]	£9.9 million	£7 million	£16.9 million	92.48
R Taylor & Son (Orthopaedic) Limited Pension Fund	£2,053,082[8]	£2 million	-	£2 million	97.41
Venson Pension and Life Assurance Scheme	£2,404,958.64[9]	£2,397,101.17	-	£2,397,101.17[10]	99.67

[6] Melton Medes Group Pension Scheme Annual Report and Financial Statements for the year ended 30 June 2007 was £22,476,664 [4/980-982]

[7] Ravenhead Company Plan Annual Report for the year ended 31 May 2007, signed 21 December 2007 [9/2432-2454]

[8] R Taylor & Son (Orthopaedic) Limited Pension Fund Annual Report for the year ended 5 April 2006 and signed on 20 December 2007 states the net assets were £2,053,082 [9/2412-2427]

[9] Letter dated 12 September 2007 from GP Noble to PPF enclosing Asset Allocation Grid states that the scheme's assets as at 12 September 2007 was £2,404,958.64 [4/980-981]

[10] Email dated 16 February 2010 from Jodie Doughty to Karen Frost states that the total amount disinvested was £2,397,101.17 [52/14682.24]

Independent Trustee Services Limited -v- G P Noble Trustees Limited and others
Table of traceable monies or other assets received by Defendants and beneficial ownership of corporate defendants

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D1	GP Noble Trustees Limited (in liq.)	Falsifying the account; equitable compensation for breach of trust; compensation for (a) negligence; (b) breach of statutory duty	0	0	100% The Money Portal Limited	Richard Craven (D) James Pearson (D) Graham Pitcher (D) (resigned 07/08/08) Gary Cordell (D) (resigned 24/07/08)	England & Wales
D2	BDC Trustees Limited	Same as D1	0	0	100% Graham Pitcher	GP Noble Trustees Ltd (D) Gary Cordell (D) Graham Pitcher (S)	England & Wales
D3	Graham Pitcher	Equitable compensation for dishonest assistance	0	0	n/a	n/a	England
D4	Gary Cordell	Equitable compensation for dishonest assistance	0	0	n/a	n/a	England

[1] Where ITS has knowledge that traceable monies / other assets have been received by the D but then transferred on by it, we have not included it in this column.

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D5	Peter Malmstrom	Equitable compensation; Dishonest assistance; damages for fraud	0	0	n/a	n/a	England
D6	Anthony Morris	Equitable compensation for dishonest assistance; knowing receipt; damages for fraud; equitable proprietary claim	£1.49m[2] £1.6m £1.8m[3]	(i) £1,978,162.66 (ii) US$330,699.98	n/a	n/a	Australia (British national)
D7	Alexander Starkey	Equitable compensation for dishonest assistance	0	0	n/a	n/a	Thailand (British national)

[2] This £1.49m is the same £1.49m attributed to Glencalvie Limited (25) below.
[3] This £1.8m is the same £1.8m attributed to Whitepoint Limited (D10) below.

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D8	Christopher Webb	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£253,515 CHF 250,000 CHF 803,707 £20,000[4]	(i) £3,682.05 (ii) £39,418.13	n/a	n/a	Switzerland (British national)
D9	Aspect Invest & Finance Limited	Equitable compensation for dishonest assistance; knowing receipt	0	0	90% Christopher Webb 10% Andrew Sinclair	Christopher Webb (D) Andrew Sinclair (D) BTC Directors SA (D)	Nevis
D10	Whitepoint Limited	Equitable compensation for dishonest assistance; knowing receipt	£1.8m	0	Anthony Morris	Jason Bougard (D) Anthony Morris (C)	BVI
D11	South East Asia Real Estate (Thailand) Company Limited	Equitable compensation for dishonest assistance; knowing receipt	£540,000[5] £5,120,132	0	35% Alexander Armitage 65% Six Thai nationals	Christopher Webb (D) Alexander Starkey (C)	Thailand

[4] £20k loaned to Mr Webb by Number Thirty One SA (D13) and is also included in the £3m figure for Number Thirty One SA

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D12	AMAC Asset Management Consultants Limited	Equitable compensation for dishonest assistance; knowing receipt	0	0	90% Christopher Webb 10% Andrew Sinclair	Christopher Webb (D) Andrew Sinclair (D) BTC Directors SA (D)	BVI
D13	Number Thirty One SA	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£3m	(i) £978,070.79 (ii) £531,258.31	100% AMAC (D12)	Christopher Webb (D) Andrew Sinclair (D) AMAC (D)	BVI
D14	La Matze Consultants SA	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£500,000	0	100% Christopher Webb	Christopher Webb (D) Andrew Sinclair (D) BTC Directors SA (D)	BVI

[5] Being the sterling equivalent as at 26 October 2007 of Thai Baht 352,454,750.

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D15	La Matze Real Estate SA	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£328,000[6]	0	Christopher Webb Andrew Sinclair	Christopher Webb (D) Andrew Sinclair (D)	Switzerland
D16	Multiple & Unilateral Financial Futures (Thai Investments) Limited	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	49% shareholding in Hyperfly Limited	0	Augusta Settlement	Alexander Starkey (D) Anthony Morris (C)	BVI
D17	Multiple & Unilateral Financial Futures (Australia) Pty Limited	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£400,000 £136,695 £250,000	0	Augusta Settlement	Louise Rotier (D) (resigned) Anthony Morris (C)	Australia

[6] £328,000 loaned to La Matze Real Estate SA by La Matze Consultants SA (D14) and is also included in the £500,000 figure for La Matze Consultants SA

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D18	Multiple & Unilateral Financial Futures Limited	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£3,370,309.56	£3,370,709.56	Augusta Settlement	Alexander Starkey (D) Anthony Morris (C)	BVI
D19	Morris Family Holdings Limited	Equitable compensation for dishonest assistance; knowing receipt; equitable proprietary claim	£2,800,000	£1,177,460.92	Augusta Settlement	Alexander Starkey (D) Anthony Morris (C)	BVI
D20	Newdale Investments Limited	Equitable proprietary claim, knowing receipt, equitable compensation for dishonest assistance	£22,893,991.46	£22,893,991.46		Anthony Morris (C)	BVI
D21	Edgerbury Investments Limited	Equitable proprietary claim, knowing receipt, equitable compensation for dishonest assistance	£101,213.35	£101,213.35	Augusta Settlement	Anthony Morris (C)	BVI

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D22	Caprio International Limited	Equitable proprietary claim, knowing receipt, equitable compensation for dishonest assistance	Aston Martin Vantage reg V12 AMV	0	Augusta Settlement	Anthony Morris (C)	BVI
D23	Davidia Global Limited	Equitable proprietary claim, knowing receipt, equitable compensation for dishonest assistance	2x Twickenham debentures	0	Augusta Settlement	Anthony Morris (C)	BVI
D24	Line Trust Corporation Limited	Equitable proprietary claim	(i) £684,266.38 (ii) US$74,881.88	(i) £684,266.38 (ii) US$74,881.88	Hassans		Gibraltar
D25	Glencalvie Limited	Knowing receipt, equitable compensation for dishonest assistance	£1.491m	0	The JVK Settlement	Fabian Picardo (D) Anthony Morris (C)	BVI

	Defendant	Claims made against D. (in addition to an account)	Traceable monies or other assets that have ended up in D's hands to the knowledge of ITS[1]	Monies in Court	Beneficial ownership	Directors (D) /Secretary (S)/ Controller (C)	Country of registration or residence
D26	Benessia Global Limited	Knowing receipt, equitable compensation for dishonest assistance	0	0		Christopher Webb (C)	BVI
D27	Shellwind Holding Limited	Equitable proprietary claim, knowing receipt, equitable compensation for dishonest assistance	£294,637.22	£294,637.22	Christopher Webb in trust for Anthony Morris		BVI

IN THE HIGH COURT OF JUSTICE　　　　　　CLAIM NO. HC08CO3132

CHANCERY DIVISON

BETWEEN:

INDEPENDENT TRUSTEE SERVICES LIMITED

(suing as the trustee of the pension schemes listed in Appendix 1 to the Particulars of Claim)

Claimant

and

(1) GP NOBLE TRUSTEES LIMITED
(2) BDC TRUSTEES LIMITED
(3) GRAHAM PITCHER
(4) GARY CORDELL
(5) PETER MALMSTROM
(6) ANTHONY JAMES MORRIS
(7) ALEXANDER STARKEY
(8) CHRISTOPHER WEBB
(9) ASPECT INVEST & FINANCE LIMITED
(10) WHITEPOINT LIMITED
(11) SOUTH EAST ASIA REAL ESTATE (THAILAND) COMPANY LIMITED
(12) AMAC ASSET MANAGEMENT & CONSULTANTS LIMITED
(13) NUMBER THIRTY ONE SA
(14) LA MATZE CONSULTANTS SA
(15) LA MATZE REAL ESTATES SA
(16) MULTIPLE & UNILATERAL FINANCIAL FUTURES (THAI INVESTMENTS) LIMITED
(17) MUTUAL FINANCIAL FUTURES (AUSTRALIA) PTY LIMITED
(18) MULTIPLE & UNILATERAL FINANCIAL FUTURES LIMITED
(19) MORRIS FAMILY HOLDINGS LTD
(20) NEWDALE INVESTMENTS LTD
(21) EDGERBURY INVESTMENTS LTD
(22) CAPRIO INTERNATIONAL LTD
(23) DAVIDIA GLOBAL LTD
(24) LINE TRUST CORPORATION LTD
(25) GLENCALVIE LTD
(26) BENESSIA GLOBAL LIMITED
(27) SHELLWIND HOLDING LIMITED

Defendants

CLAIMANT'S SCHEDULE OF LOSS AS AT 3 MAY 2010

1. The Claimant claims the sum of £52,000,000, together with compound interest with monthly rests at 2% above the base rate.

2. Recoveries to date:

	AMOUNT	DESCRIPTION	DATE OF RECOVERY	RECOVERED TO
1	£978,070.79	Redemption of MPL Traded Policies Fund	7 January 2009	The Claimant
2	£684,266.38	Transfer from the Twenty-Fourth Defendant as trustee of the Augusta Settlement	30 January 2009	High Court Account
3	US$74,881.88	Transfer from the Twenty-Fourth Defendant in respect of a payment made to David Ozer (in respect of High Road International)	13 February 2009	High Court Account
4	£294,637.22	Proceeds from the sale of shares held in International All Sports Limited by Shellwind Holdings Limited	20 November 2009	High Court Account
5	£1,177,460.92	Monies received into Court from an account in the name of Morris Family Holdings Ltd held by Credit Suisse	18 December 2009	High Court Account
5	£3,370,709.56	Monies received into Court from an account in the name of Multiple & Unilateral Financial Futures Ltd held by Credit Suisse	22 December 2009	High Court Account
6	£22,893,991.46	Monies received into Court from an account in the name of Newdale Investments Ltd held by Credit Suisse	22 December 2009	High Court Account
7	£101,213.35	Monies received into Court from an account in the name of Edgerbury Investments Ltd held by Credit Suisse	22 December 2009	High Court Account
8	£531,258.31	Monies received into Court from an account in the name of Number Thirty One SA held by	4 January 2010	High Court Account

		LB (Swiss) Privatbank AG		
9	£1,978,162.66	Monies received into Court from an account in the name of Anthony James Morris held by Credit Suisse	5 January 2010	High Court Account
10	US$330,699.98	Monies received into Court from an account in the name of Anthony James Morris held by Credit Suisse	7 January 2010	High Court Account
11	£3,682.05 (being the sterling equivalent of US$5,690.37	Monies received by Claimant from Christopher Webb re RGB Inc	24 February 2010	The Claimant
12	£39,418.13 (being the sterling equivalent of US$59,989.14	Monies received by Claimant from Christopher Webb re RGB Inc	6 April 2010	The Claimant

3. The Claimant will also claim its costs on an indemnity basis.

Appendix 2 – Claimant's Chronology

10.7.07	Mr Pitcher and Alan Easter agree that there will be monthly board meetings of GPN attended by Mr Easter and his PA, Natalie Varney, with advance circulation of agendas **[2/307]**
19.7.07	Natalie Varney attempts, without success, to implement that decision **[2/331, 334]**
24.7.07	Letters from Mr Pitcher to Quentin Russell seeking his advice **[2/366-371]**
2.8.07	Exchange of emails ends by suggesting the next Board Meeting of GPN should take place on 14.8.07 **[2/542-544]**
6.8.07	Board meeting of GPN notified to, and attended by, Mr Pitcher and Mr Cordell alone, at which it is resolved to give Mr Pitcher sole authority to transfer funds of the GPN Impacted Schemes and that *"an agenda will be circulated before the next meeting"* (RAPC §17; **[CB1/10/574; also 2/560]**)
8.8.07	(1) Board meeting of GPN notified to, and attended by, Mr Pitcher and Mr Cordell alone, at which it is resolved to accept *"the attached term sheet"*, to approve the incorporation of Fareston, and to appoint Bachmann Trust Company SA to administer Fareston (RAPC §18; **[CB1/13/699; CB1/14/700]**); the term sheet relates to *"Unquoted or quoted equity investments"* and provides for Capital Protection *"As specified to provide principle (sic) protection to the value of 70% of the original investment as at the 3rd anniversary of the original investment"* (2) Letters from Mr Pitcher to Quentin Russell referring to *"a term sheet on a company which is being set up whose fund may meet*

	our requirements in relation to providing a degree of capital protection and also our timescales for investment" **[3/693-698]**
13.8.07	(1) Letters of advice from Quentin Russell – all but one of which states *"I ... have not been paid by [GPN] for my opinion"* - as well as invoices with a covering letter from Quentin Russell to GPN for £2,000 per letter of advice (RAPC §§25-26; **[2/728-738; CB1/17/745-756; CB1/16/739-744; CB1/18/757]**)
	(2) Board meeting of GPN on 14.8.07 cancelled **[3/722]**
	(3) Alan Easter resigns as a director of GPN **[3/757.1]**
14.8.07	(1) Further email with letters of advice from Quentin Russell to Mr Pitcher which omit the claims *""I ... have not been paid by [GPN] for my opinion"* **[CB1/20/758.1-758.13]**
	(2) £30m transferred by GPN to Fareston pursuant to authorisations signed by Mr Pitcher and Mr Cordell (RAPC §30; **[CB1/21/770-775; CB1/22/777-782; CB1/38/1144; 4/935-944]**)
28.8.07	GPN pays Quentin Russell £12,000 **[3/820-825]**
30.8.07	Mr Pitcher says that shares in Fareston are to be allocated to the GPN Impacted Schemes in the proportions of the paymente made by them comprising £30m **[3/828]**
31.8-13.11.07	£2,187,500 of the above £30m transferred by Fareston to Aspect pursuant to invoices rendered by Aspect dated 22.8.07 and 30.10.07 (RAPC §37; **[CB1/24/813-815; 4/1004; CB1/34/1005; CB1/38/1144; CB1/49/1519; CB1/50/1520-1521; CB2/82/2458.1; CB6/244/11042-11043]**)
8.9.07	Declaration by BTC Nominees SA that it holds the shares in Fareston on trust for the GPN Impacted Schemes **[CB1/967]**

24.9.07	(1) Whitepoint invoices Aspect for £1.8m of the above £2,187,500 for *"Investment Management Fee at the agreed rate of 2% in relation to Fariston (sic) Limited"* (RAPC §38; **[CB1/36/1103]**) (2) Aspect requests Union Bancaire Privee (**"UBP"**) to transfer £1.8m to Whitepoint in payment of that invoice **[4/1102]**
2.10.07	£16m of the above £30m transferred by Fareston to Benessia (RAPC §40(a); **[CB2/82/2458.1]**)
15.10.07	4,250,000 shares in International All Sports (**"IAS"**) acquired in the name of Benessia (held in an account in the name of Benessia created by Bachmann Trust Company SA and Mr Webb on the instructions of Mr Morris, given to them by him on behalf of Benessia) According to the IAS annual report dated 29.8.08, the shareholders in IAS included (a) Whitepoint (which held 3,000,000 shares, representing a 4.52% shareholding), (b) Vanessa Morris, who was formerly called Vanessa Jackson (who held 2,490,920 shares, representing a 3.75% shareholding), (c) Benessia (which held 509,080 shares, representing a 0.77% shareholding) and (d) Shellwind (which held 1,010,920 shares, representing a 1.52% shareholding). ITS's case is that all these shares were acquired with monies emanating from the Impacted Schemes (RAPC§§39A-39B)
16.10.07	Number 31 incorporated **[CB1/42/1318]**
18.10.07	Cerberus Security Group Limited (**"Cerberus"**) incorporated **[CB1/45/1328]**

26.10.07	Land sale and purchase agreement entered into by SEAR (represented by Mr Webb) **[CB1/47/1381ff; CB1/48/1399ff]**
31.10.07	Aspect invoice to Fareston for £250,000 sent to Mr Pitcher for approval **[CB1/50/1520]**
Nov.07	Fareston Manager's Report (sent to Mr Pitcher at GPN) **[CB1/1574ff]**; mentions 3 investments (land in Thailand; Number 31; Cerberus); compare with (a) the "INVESTMENT POLICY" and (b) "DUTIES OF INVESTMENT MANAGER"
1.11.07	£15.2m of the above £16m paid back by Benessia to Fareston (RAPC §40(b); **[CB2/82/2458.1; CB2/79/2285]**)
4.11.07	Amac invoice to Fareston for £27m for *"Castodial (sic) Cash Fund to be managed by [Aspect] as Investment Manager for and on behalf of [Fareston]"* authorised by Mr Pitcher **[CB1/52/1629]**
7.11.07	(1) Resolution signed by Mr Webb and Mr Sinclair as directors of Number 31, resolving that a share certificate for 2 shares in Number 31 of par value US $1 issued in the name of Benessia should be cancelled and that a new certificate for 2 shares in Number 31 of par value US $1 should be issued in the name of Amac (RAPC 45(b)) (2) Balance of £800,000 lent to SEAR on terms that it is to be repaid together with a return of £80,000 by March 2008 (RAPC §44; **[CB1/46/1371; CB1/53/1695-1696; CB5/231/10173, §2(a)(i)]**); Mr Starkey says this money was in fact used by MUFF for administration costs, with the result that *"MUFF has a debt due to Fareston for this amount"* (RAPC §46(c); **[E2/9/213-215]**)

8.11.07	Transaction report relating to payment of $1.5m by Benessia for investment in SEAR to enable it to purchase land **[CB1/53/1696]**
15.11.07	(1) Pitt engagement letters addressed to Amac (Mr Webb) concerning (a) Beaver Entertainment Group and (b) IAS **[CB2/57/1871-1876; CB2/58/1877-1884]**; note *"PCP's area of expertise is in investment banking matters. AMAC will be responsible for obtaining its own professional advice on legal, accounting, taxation, operational and other specialist matters outside PCP's area of expertise"* (2) Pitt invoices for the above services **[CB2/59/1887-1888]**
16.11.07	Amac applies for allotment of C and D Preference Shares in Cerberus for £1m **[CB2/61/1901]**
19.11.07	(1) Investment Management Agreement by which Fareston appoints Aspect as its investment manager with effect from August 2007 (RAPC §§32-36; **[CB2/62/1931-1952]**); Schedule D is a letter dated 21.8.07 from GPN, signed by Mr Pitcher and Mr Cordell, authorising the immediate release by Fareston to Aspect of *"the initial fees and total annual charges for the 3 year period"* **[CB2/62/1952]**; this wording stems from an email of 16.8.07 from Paul McMullen of UBP to Mr Pitcher, subject *"Draft wording dictated by Tony to your attention"* **[3/799]** (2) Custodian Agreement by which Fareston appoints Amac as custodian of *"all investments and assets transferred to and received by [Amac] which are owned by [Fareston] in its capacity as trustee"* (RAPC §§47-48; **[CB2/63/1953-1963]**)

	(3) Note that each of the agreements was executed by Mr Pitcher and Mr Cordell on behalf of GPN, having been sent to them for signature by Fareston on 16.11.07 **[CB2/60/1898]**
19.11-10.12.07	£24m of the above £30m transferred by Fareston to Amac (RAPC §49; **[CB2/82/2458.1; CB6/244/11044]**)
21.11.07	£1m of that £24m paid by Amac for C and D Preference Shares in Cerberus (RAPC §50; **[CB1/51/1574-1575; CB2/67/2063; CB2/68/2065-2066; 7/1989]**)
	Amac also claims that expenses in the total sum of £385,209.69 were incurred in respect of consultants' fees, legal fees and expenses, and travel expenses; this includes £190,914.30, of which about £167,913 relates to flight costs incurred between about 5.11.07 and 12.3.08 and the balance relates to hotel expenses; £25,208 of flight expenses relate to Mr Morris and £18,782 of flight expenses relate to individuals who have the same surname as him; £28,181 of flight expenses relate to Mr Webb, and £3,456 of flight expenses relate to an individual who has the same surname as him; £22,715 of flight expenses relate to Mr Malmstrom and William Scully (RAPC §§52-54; **[CB5/198/7312-7320]**)
22.11.07-12.2.08	£3m of the above £24m transferred by Amac to Number 31 (RAPC §§55-56; **[CB2/64/2015; CB1/81/1574; cp CB5/198/7312]**)
23.11.07	Amac provides Number 31 with loan facility (RAPC §56)
28.11.07	Two certificates, one in respect of the above C Preference Shares, and one in respect of the above D Preference Shares, issued to Amac (RAPC §51)

30.11.07	£600,000 of the above £3m lent by Number 31 to Swanbay Mobile Media (BVI) Limited (associated with Mr Webb) (RAPC §57(a); **[CB2/69/2102-2104]**)
Dec 07	Fareston Manager's Report (sent to GPN) **[CB2/2144.1ff]** mentions the same 3 investments as previously (land in Thailand; Number 31; Cerberus)
3.12.07	(1) £20,000 of the above £3m lent by Number 31 to Mr Webb (RAPC §57(b); **[CB2/74/2221-2222]**) (2) £55,000 of the above £3m lent by Number 31 to Lester Pearson (a director of Swanbay Mobile Media (BVI) Limited) (RAPC §57(c); **[CB2/73/2219-2220]**) (3) Pitt paid Aus $300,000 **[CB2/75/2223]**
10.12.07	(1) Mr Webb tells UBP that *"the beneficial owner of Whitepoint is a business partner and personal friend of the beneficial owners of [Aspect]"* and that *"The £1.8m transfer from Aspect to Whitepoint was to repay a prior loan agreement"* **[CB2/78/2282-2283]** (2) Amac receives £20m from Fareston **[CB2/80/2291; CB2/84/3018]**
Jan.08	Pitt term sheet concerning High Road Entertainment **[CB2/83/2596ff]**; note the signature is unlike any other signature for Michael Pash; note also the security warranty depends on pre-sales and valuation of intellectual property, but that there are conditions precedent to drawdown
8.1.08	Fareston pays £35,000 to CSSL **[CB2/87/3069]**
10.1.08	Amac pays CHF800,707 to Mr and Mrs Webb **[CB2/89/3081]**

19.1.08	(1) Email from Mr Picardo of solicitors in Gibraltar who acted for MUFF and Mr Morris (**"Hassans"**) to Mr Webb, copied to Mr Pitcher and Mr Morris **[CB2/91/3128]:** *"As you may be aware, I have spent a number of days in meetings with Tony Morris and Graham Pitcher. I have been acting for Mr Morris for a number of years. I am now instructed in respect of an investment entity incorporated in the British Virgin Islands by the name of MF Corporation Limited ("MFC"). My instructions are that you will be transferring a sum totalling £21m to our Clients' Account"*
	(2) Email from Mr Morris to Mr Pitcher *"have dealt with the Webb issue"* **[CB"/92/3141]**
22.1.08	Email from Hassans concerning the setting up of *"Morris New Trusts"* including *"The Pitchers' Settlement (Graham Pitcher)"* **[CB2/94/3183]**
24.1.08	Email from Mr Starkey: Hyperfly Ltd to be used to acquire land in Thailand **[CB2/95/3196]**
25.1.08	(1) Draft letter sent by Bachmann Group to UBP concerning the above £1.8m **[CB2/98/3218]**
	(2) Amac pays £18.5m to Line Trust **[CB2/100/3251]**
28.1.08	Pitt term sheets relating to (a) High Road Entertainment **[CB2/101/3267]** and (b) MUFF, Koh Samui **[CB2/102/3269]** and (c) Armani Casa **[CB2/103/3271]**
5.2.08	£500,000 of the above £3m lent by Number 31 to La Matze Consultants (also associated with Mr Webb) (RAPC §57(d); **[CB3/110/3911-3912; CB3/111/3913]**)
	La Matze Consultants lends £328,000 of that sum of £500,000 to La Matze Real Estate (also associated with Mr Webb) to invest

	in land and development in Switzerland (some of all of which is the subject of a Power of Attorney made by Mr Morris in favour of Mr Webb) (RAPC §58(b); **[ref]**)
	La Matze Consultants lends the balance of £172,000 to Complete Support Services Limited (**"CSSL"**), to which Mr Malmstrom and Mr Morris have previously provided funds (RAPC §§58(c)-(e); **[CB2/87/3069]**)
25.1.08	£18.5m of the above £24m transferred by Amac to the Line Trust Account (a client account of Hassans) (RAPC §§60-61; **[CB2/100/3251]**)
6.2.08	£2.5m of the above £30m transferred by Fareston to the Line Trust Account (RAPC §62; **[CB5/203/7481]**) (bringing the total transferred to the Line Trust Account up to £21m)
11.2.08	(1) MUFF incorporated **[CB120/4343]**
	(2) Convertible loan agreement between Number 31 and BFS Media Limited (**"BFS Media"**) (one subject of the Number 31 Assignment of 12.08.09 referred to below) (RAPC §57(f))
29.1-26.3.08	£10,951,186.00 of the above total sum of £21m paid by Amac and Fareston into the Line Trust Account is paid out by Hassans, reducing the balance to £10,048,814.00 (RAPC §64; **[CB5/203/7481]**)
	This includes:
	£5,120,132 paid out on 29.1.08 in respect of the Hilltop Site in Thailand (RAPC §§65(b)(1),66(a)-(h); **[CB5/188/7065; CB3/112/3915-3923]**)

£400,030 paid out on 12.2.08 to MUFF Australia (RAPC §71; **[CB5/188/7066]**); note that, according to Mr Starkey, (a) this sum of £400,030.00 was transferred to MUFF Australia on or about 20 May 2008, and (b) further sums of £136,695 and of about £250,000 (each also representing or derived from the assets of the GPN Impacted Schemes) were transferred to MUFF Australia on other dates (not specified by Mr Starkey)

£3,850,000 paid out on 28.2.08 and a further £500,000 paid out on 13.3.08 to Cerberus (RAPC §67; **[CB5/188/7066, §4; CB5/203/7481]**)

£955,975.26 (paid out on 26.308) and (possibly) further payments of €3,827,746 and €2,125,526 in respect of the Beach Site in Thailand (RAPC §§65(b)(2), 66(i); **[CB6/235/10600-10601]**)

24.2.08 Effective date of Termination Agreement made or intended to be made between (1) GPN on behalf of Fareston and (2) Aspect and (3) Amac, terminating both the above Investment Management Agreement and the above Custodian Agreement with effect from that date on the terms therein set out **[CB3/134/4917-4921]**

28.2.08 (1) £1.6m of the above total sum of £4.35m that was paid to Cerberus is paid to Mr Morris (see **[CB4/140/5082-5084; CB4/144/5089]**)

(2) Email from Mr Malmstrom to Halliwells : *"[questioning the distribution of the funds] will cause damage and consequential loss as I have provided personal guarantees regarding the timing and legitimate payment of £150,000 of those funds being repaid for the benefit of the owner of those funds"*

Feb	£150,000 of the above £1.6m is used to purchase a car, the legal title to which is currently held by Caprio, a further £150,000 is transferred to Davidia and used to purchase a pair of 10 year debentures at Twickenham stadium, and £675,000 is held by Line Trust (and on 30.1.09 is paid into Court) (RAPC §69(i))
1.4.08	Agreement between Mr Morris as "Lender" and Cerberus as "Borrower" which records that over a two year period ending on 29.2.08 Mr Morris had made several loans *"which add up together to [£1.6m]"* (Clause 1.1)
8.4.08	Loan agreement between MUFF and Cerberus relating to the above sum of £4.35m (RAPC §§67-70; **[CB4/170/6622-6634]**
16.4.08	Email from Mr Picardo of Hassans to Mr Morris, copied to Mr Pitcher, raises various concerns (RAPC §29(p); **[CB4/182/6985]**)
17.4.08	(1) Letter from Mr Picardo of Hassans to Mr Pitcher asking for confirmation of payments made up to that date **[CB5/188/7064]** (2) Further letter from Mr Picardo of Hassans to Mr Pitcher relating to the interest of PEL/the Pitcher Settlement in MUFF (RAPC §29(p); **[ref]**)
18.4.08	(1) Further letters of advice from Quentin Russell to GPN **[CB5/193/7172-7173]** (2) £1m transferred by BDC to the MUFF Credit Suisse Account (an account of MUFF) (RAPC §74; **[CB5/196/7212]**) (3) MUFF receipts signed by Mr Starkey for £21.5m **[CB5/194/7177-7182]**
18.4-21.4.08	£21m transferred by GPN to the MUFF Credit Suisse Account (RAPC §75; **[CB5/196/7205, 7213-7216]**)

21.4.08	MUFF receipt signed by Mr Starkey for £500,000 **[CB5/195/7183]**
23.4.08	(1) £10,048,814.00 (balance in the Line Trust Account) transferred by Hassans to the MUFF Credit Suisse Account (RAPC §79; **[CB5/203/7481]**) (2) Mr Starkey becomes sole director of MUFF in place of Cheam Directors Ltd (**"Cheam"**), a company administered by Hassans in Gibraltar **[ref]**
29.4.08	£1,263,414.31 (out of the £24m that Fareston had paid to Amac) transferred by Amac to the Line Trust Account (RAPC §80(a); **[CB5/203/7481]**)
7.5.08	£1,263,764 transferred by Hassans to the MUFF Credit Suisse Account (RAPC §80(b); **[CB5/203/7481]**)
8.5.08	Date when Mr Webb claims Number 31 paid £100,000 of the above £3m to Cavalier Limited ("**Cavalier**") in respect of legal fees; however, ITS does not believe this to be true (RAPC §59)
14.5.08	£793,000 (out of the £30m that GPN had paid to Fareston) transferred by Fareston to the Line Trust Account (RAPC §81(a))
16.5.08	£793,000 transferred by Hassans to the MUFF Credit Suisse Account (RAPC §80(b); **[CB5/203/7481]**)
10.6.08	Mr Starkey signs a *"Principal Protected Bond £21,000,000 7.5 per cent Bond Instrument"* (**"the First Bond Instrument"**) (RAPC §§83-84; **[CB5/219/9594-9600]**)

17.6.08	Mr Starkey signs a *"principal protected £36,500,000 7 per cent Target Yield Instrument"* (**"the Second Bond Instrument"**) (RAPC §§85-86; **[CB5/223/9847-9856]**)
9.7.08	(1) Date of Swift confirmation which partly supports the statement in Hassans' Report 2 dated 26 August 2008 that further payments in the sums of €3,827,746 and €2,125,526 were made by Hassans in respect of the acquisition or purported acquisition of the Beach Site (RAPC §66(i)(2)) (2) £1,400,000 received by Glencalvie as to £1,400,000 by way of a transfer from Newdale (RAPC §72D(e))
14.7.08	(1) £94,100 received by Glenclavie by way of a transfer from MUFF (RAPC §72D(e)) (2) Unsigned letter from Pitt to Mr Starkey at MUFF
7.11.08	Letter to TW from Herbert Smith (on behalf of Cerberus) confirming that £1.6m of the loan was made for the purpose of *"repayment of Cerberus' creditors"* and that those monies had been used for that purpose and that *"as far as Cerberus is concerned it entered into a genuine, arm's length transaction with MUFF which was commercially advantageous to both parties and featured no impropriety"*
21.1.09	Herbert Smith on behalf of Cerberus inform TW that, in fact, Mr Morris was not a creditor of Cerberus prior to the making of the loan agreement or purported loan agreement between MUFF and Cerberus, and that, instead, Mr Malmstrom had informed Cerberus that it was a condition of entering into that loan that Cerberus should pay £1.6m to Mr Morris

30.1.09	Line Trust transfer £675,000 into Court – this being the balance of the amount transferred into the Augusta Settlement which remained in the trust and was held by the Line Trust (RAPC §69(3))
12.8.09	Deed of Assignment between Number 31 as Assignor and ITS as Assignee (**"the Number 31 Assignment"**)(RAPC §57(a))