



In The Supreme Court of Bermuda

CIVIL JURISDICTION

2024: No. 336

IN THE MATTER OF THE L TRUST

REASON FOR ORDER (In Chambers)

Hearing Date	3 February 2025
Date of Judgement	20 February 2025

Appearances: *Sam Riihiluoma and Luisa Olander* of Appleby (Bermuda) Limited for the Trustee of the Trusts

REASONS of Martin, J

Reasons for Order

1. This application came on for hearing on an *ex parte* basis on the application of the corporate co-trustee under the inherent power of the court to regulate trusts and trustees. The Order was made in terms with brief reasons to follow.

2. The applicant is the corporate co-trustee of a Bermuda law trust (the L Trust) who seeks an order removing the other co-trustee who is a natural person on the grounds that legal guardians have been appointed over him as a result of a serious stroke which has sadly incapacitated him from being able to conduct his own affairs. In these circumstances, the incapacitated co-trustee is also no longer capable of serving in his capacity as the trustee of the L Trust.
3. The incapacitated co-trustee is also the Protector of the L trust.
4. Under the Deed of Settlement in this case, there is no procedural mechanism for the removal of a trustee. Furthermore, the appointment of a successor protector requires the Protector's consent. In addition, the trust cannot make any appointments to the beneficiaries without the Protector's consent.
5. The effect of this combination of factors means that the trust is incapable of proper operation in accordance with its terms. The corporate co-trustee has come to the Court to seek an order to remove the incapacitated co-trustee and to replace him as the Protector under the court's inherent jurisdiction to regulate the affairs of the trust.
6. It is well established that the court has an inherent jurisdiction to remove and replace a trustee when the court considers that it is necessary to do so to protect the interests of the beneficiaries¹. A similar power exists for the removal and replacement of fiduciaries, including protectors, on the same basic principle².
7. The corporate co-trustee has sought and obtained the agreement of the beneficiaries of the L Trust to make the application. The proposed new Protector is well known to the beneficiaries and the Court is satisfied that the proposed new Protector is properly experienced and appropriately qualified to serve in that capacity.
8. The guardians of the incapacitated co-trustee have been notified of this application and have not expressed any objection.

¹ *Letterstedt v Broers* (1884) 9 App Cas 371 and *Re X Trusts* [2018] Bda LR 72

² *Re H Trust* [2019] SC (Bda) 27 Com (30 April 2019)

9. In the circumstances, this is a clear case for the intervention of the Court to protect the interests of the beneficiaries and to ensure that the trust can operate in the manner it was intended to.
10. Accordingly, an order was made in terms of the application.

Dated this 20th day of February 2025



THE HON. JUSTICE MR. ANDREW MARTIN
PUISNE JUDGE