

**Cayman Conference 2020: Workshop joining details and problem questions**  
**Virtual Workshop 1: Trust applications in a commercial context**  
**Jonathan Hilliard QC and Tom Roscoe**

**Workshop 1 Zoom joining instructions (same details on both days)**

<https://wilberforce.zoom.us/j/98834688222?pwd=RDZqNFMwR1MxdnJ5czJVT3F6bllGUT09>

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## **Problem questions**

The workshops at this year's virtual conference are a short-and-sweet 30 minutes. To try to maximise the time available for discussion, we have dispensed with the usual longer-form problem scenario format.

We instead focus on four simpler fact patterns to try to illustrate some of the key points arising from the relevant authorities on difficulties which arise in situations like the following:

1. A corporate trustee acts by its two directors, Ms X and Ms Y. Ms X has a particularly fractious relationship with one branch of beneficiaries. The trustee resolves to proceed with a new strategic plan for the trust's investment portfolio, and seeks the Court's blessing. The strategy is objectively reasonable, but the branch which does not get on with Ms X objects, says it has been motivated by Ms X's animus towards them and applies for the trustee's removal. How might the Court approach this situation?
2. A trust holding company holds one third of the shares in AB Ltd. Mr A owns another third, and Mr B the balance. Messrs A & B are the settlors of the trust, and the beneficiaries of the trust are charities they have nominated. An offer has been received for the purchase of AB Ltd's business. It goes to a shareholder's vote. Mr A wants to sell, and urges the trustee to cause its

holding company to agree – contending it is in the interests of the charitable beneficiaries. Mr B opposes. The trustee, reasonably, considers the issue finely balanced – but sides with Mr B. Can Mr A compel the trustee or the holding company to vote with him?

- a. Would it make any difference if A and B were the trustees and couldn't agree, and A surrendered his discretion to the Court?
  - b. If so, say that there was a protector C whose consent was necessary. If the Court directed A and B as trustees to agree to the purchase, would C have to agree to it?
3. A trustee is faced with a hostile claim to the entirety of trust assets, alleging they are the proceeds of a fraud committed by the settlor, who has since died. The claim looks weak. The current beneficiaries are a wide class of charities, none of which is in a position to defend the claim. The settlor's letter of wishes indicated that his (currently minor) children might be added by the protector as beneficiaries in the future, but they do not have the financial resources to defend either. How should the trustee proceed?
4. A corporate trustee has a dormant trust on its books. The settlor and his wife, the main beneficiary, have not been heard from in years, cannot be located and are assumed dead. If they are, the only class of beneficiaries which remains capable benefit is the former employees of the settlor's long-defunct business. No such employees are currently known to the trustee either. To make matters worse, the trustee has a note on file (from a predecessor trustee) that the settlor was made bankrupt some years ago and his trustee in bankruptcy may have a claim to the entirety of the trust assets. How should the trustee proceed?