

Trustee's recovery of costs

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It's not my money so who cares? - Wrong.

In a recent Judgment delivered by the Bailiff, clear guidelines were given to trustees regarding the use of trust funds to pay lawyers' fees and other expenses. The Bailiff delivered his Judgment on 25 May 2006 in the case of *Alhamrani v Russa Management and others*. The Judgment was delivered as a result of an appeal against the decision of the Greffier Substitute in taxing five bills of costs arising from a number of orders made in the proceedings. The orders were made in favour of the trustee and the Greffier Substitute had significantly reduced the fees claimed as a result of the taxation exercise causing J P Morgan to appeal against his decision.

The facts of these proceedings are somewhat complex but for current purposes it is sufficient to say that the background to the appeal is a bitter family dispute involving nine brothers and sisters of the Alhamrani family. All nine brothers and sisters are beneficiaries of two Jersey Trusts namely the Internine Trust and the Intertraders Trust. The trustees are J P Morgan Trust Company Jersey Limited ("J P Morgan") and Russa Management Limited respectively.

There have been numerous interlocutory applications throughout these proceedings and numerous orders made by the Royal Court and the Court of Appeal. This particular appeal concerned costs orders relating to five applications that had been made in favour of J P Morgan and which had been significantly cut down as a result of the taxation exercise. It had previously been ordered:

1. in two instances, that J P Morgan could only recover a certain percentage of its legal fees from the trust fund; and
2. in three instances, that J P Morgan was not able to claim 100% of its bill from the other party to the litigation against whom it had won the application.

In both cases it meant that the trustee was looking at having personally to pay a proportion of the legal fees incurred. The question for the Bailiff was whether this was right in principle.

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