UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PASHA S. ANWAR, *et al.*, Plaintiffs, v. FAIRFIELD GREENWICH LIMITED, *et al.*, Defendant. This Document Relates To: All Actions	Master File No. 09-cv-118 (VM)

AFFIDAVIT OF ROBERT MILES, Q.C.

Exhibit 9

Privy Council

*Barlow Clowes International Ltd (in liquidation) and others *v* Eurotrust International Ltd

[2005] UKPC 37

2005 July 25, 26; Oct 10

Lord Nicholls of Birkenhead, Lord Steyn, Lord Hoffmann, Lord Walker of Gestingthorpe and Lord Carswell

Trusts — Constructive trust — Dishonesty — Respondent assisting in dishonest breach of trust by company — Test to be applied for determining whether respondent's assistance dishonest — Whether inquiry into respondent's view of standards of honesty required

The first appellant, a Gibraltar company in liquidation, had been used by C to operate a fraudulent offshore investment scheme which attracted £140m from mainly small United Kingdom investors. The scheme subsequently collapsed and C was convicted of fraud and imprisoned. Some of the investors' funds had been paid through bank accounts maintained by companies administered from the Isle of Man by the first respondent company, whose principal directors were the second and third respondents. In proceedings in the Common Law Division of the High Court of the Isle of Man, the first appellant claimed that the respondents had dishonestly assisted C to misappropriate the investors' funds. The acting deemster found that the respondents were liable for dishonestly assisting in the misappropriation of the funds. The respondents appealed to the Staff of Government Division of the High Court of the Isle of Man. The first and third respondents' appeals were dismissed. The second respondent's appeal against the finding that he had given dishonest assistance was allowed on the ground that it was not supported by the evidence.

On the first appellant's appeal to the Privy Council, the issue arose whether an inquiry into the second respondent's views about standards of honesty was required when determining his liability for dishonest assistance—

Held, allowing the appeal, that the test whether a person was consciously dishonest in providing assistance required him to have knowledge of the elements of the transaction which rendered his participation contrary to ordinary standards of honest behaviour, but did not require him to have reflections on what those normally acceptable standards were; that, in the circumstances, there was abundant evidence on which the acting deemster was entitled to conclude that the second respondent had given dishonest assistance; and that, accordingly, the decision of the Staff of Government Division would be set aside and the decision of the acting deemster restored (post, paras 15–18, 28–32).

Royal Brunei Airlines Sdn Bhd v Tan [1995] 2 AC 378, PC considered

Twinsectra Ltd v Yardley [2002] 2 AC 164, HL(E) explained.

Decision of the Staff of Government Division of the High Court of the Isle of Man reversed.

The following cases are referred to in the judgment of their Lordships:

Brinks Ltd v Abu-Saleh [1996] CLC 133, Rimer J

Manifest Shipping Co Ltd v Uni-Polaris Insurance Co Ltd [2001] UKHL 1; [2003] 1 AC 469; [2001] 2 WLR 170; [2001] 1 All ER 743, HL(E)

R v Lucas (Ruth) [1981] QB 720; [1981] 3 WLR 120; [1981] 2 All ER 1008, CA

Royal Brunei Airlines Sdn Bhd v Tan [1995] 2 AC 378; [1995] 3 WLR 64; [1995] 3 All ER 97, PC

Twinsectra Ltd v Yardley [2002] UKHL 12; [2002] 2 AC 164; [2002] 2 WLR 802; [2002] 2 All ER 377, HL(E)

A The following additional cases were cited in argument:

Agip (Africa) Ltd v Jackson [1990] Ch 265; [1989] 3 WLR 1367; [1992] 4 All ER 385
Assicurazioni Generali SpA v Arab Insurance Group (Practice Note) [2002] EWCA Civ 1642; [2003] 1 WLR 577; [2003] 1 All ER (Comm) 140, CA
Bankgesellschaft Berlin AG v Makris (unreported) 22 January 1998, Cresswell J
Benmax v Austin Motor Co Ltd [1955] AC 370; [1955] 2 WLR 418; [1955] 1 All ER 326, HL (E)
B *Carl Zeiss Stiftung v Herbert Smith & Co (No 2)* [1969] 2 Ch 276; [1969] 2 WLR 427; [1969] 2 All ER 367, CA
Edgington v Fitzmaurice (1885) 29 Ch D 459, CA
Grupo Torras SA v Al Sabah [1999] CLC 1469
Heinl v Jyske Bank (Gibraltar) Ltd [1999] Lloyd's Rep Bank 511, CA
Mortgage Express Ltd v S Newman & Co [2000] PNLR 298; [2000] Lloyd's Rep PN 745, CA
C *News International plc v Clinger* (unreported) 17 November 1998, Lindsay J
Potts v Hewison 1978–80 MLR 159
Western Trust & Savings Ltd v Strutt & Parker [1998] 3 EGLR 89, CA

APPEAL from the Staff of Government Division of the High Court of Justice of the Isle of Man

The appellants, Barlow Clowes International Ltd (in liquidation) and its
D receivers, Nigel James Hamilton and Michael Anthony Jordan, appealed from the decision of the Staff of Government Division, dated 17 July 2003, allowing the appeal of the second respondent, Peter Stephen William Henwood, from the decision of Acting Deemster Hazel Williamson QC, dated 11 February 2002, whereby she had found the second respondent liable for an amount, subsequently assessed at a sum in excess of £8·4m, for
E having dishonestly assisted in the disposition of three tranches of moneys belonging to Barlow Clowes' investors. The first respondent, Eurotrust International Ltd (formerly International Trust Corporation (Isle of Man) Ltd), and the third respondent, Andrew George Sebastian, took no part in the appeal before the Judicial Committee.

The facts are stated in the judgment of their Lordships.

F *Charles Aldous QC*, *Richard Gillis* and *Edmund Nourse* for the appellants.

Lord Neill of Bladen QC, *Andrew Moran* and *Mark Moroney* (of the Manx Bar) for the second respondent, Peter Henwood

Cur adv vult

G 10 October. The following judgment of their Lordships was delivered by **LORD HOFFMANN**

1 In the mid-1980s Mr Peter Clowes, through a Gibraltar company called Barlow Clowes International Ltd ("Barlow Clowes"), operated a fraudulent offshore investment scheme purporting to offer high returns from the skilled investment of funds in UK gilt-edged securities. He attracted
H about £140m, mainly from small UK investors. Most of the money was dissipated in the personal business ventures and extravagant living of Mr Clowes and his associates. In 1988 the scheme collapsed and Mr Clowes was afterwards convicted and sent to prison.

2 Some of the investors' funds were paid away during 1987 through bank accounts maintained by companies administered from the Isle of Man

by a company providing offshore financial services which was then called International Trust Corporation (Isle of Man) Ltd ("ITC"). The principal directors were Mr Peter Henwood and Mr Andrew Sebastian. In proceedings in the Common Law Division of the High Court of the Isle of Man, Barlow Clowes (now in liquidation) claimed that Mr Henwood, Mr Sebastian and, through them, ITC, dishonestly assisted Mr Clowes and one of his principal associates, Mr Cramer, to misappropriate the investors' funds.

3 After a trial lasting 31 days, during which Mr Henwood and Mr Sebastian gave evidence and were cross-examined at length, the Acting Deemster (Hazel Williamson QC) found that Mr Henwood was liable for dishonestly assisting in the misappropriation of three sums: £577,429 paid away on 8 June 1987, £6m paid away on 7 July 1987 and £205,329 paid away on 12 November 1987. She found Mr Sebastian similarly liable for the same sums and an additional £1,799,603·32 paid away on 22 June 1987 and ITC liable, through Mr Henwood and Mr Sebastian, for all four payments. She dismissed a limitation defence.

4 All three responents appealed to the Staff of Government Division of the High Court. Mr Sebastian and ITC appealed solely on the limitation point and their appeals were dismissed. Mr Henwood's appeal against the finding that he had given dishonest assistance was allowed on the ground that it was not supported by the evidence. Against that decision Barlow Clowes appeals to Her Majesty in Council. Mr Sebastian and ITC have taken no further part in the proceedings.

5 The circumstances in which Mr Henwood and ITC came to be involved in the affairs of Barlow Clowes are set out with exemplary clarity in the judgment of the Acting Deemster and only the briefest summary is necessary here. ITC provided offshore financial services. In particular, it formed and administered offshore companies, provided offshore directors who would act upon the instructions of beneficiaries, opened bank accounts and moved money, sometimes through its own client account. In 1985 it was introduced to Mr Guy Cramer, a young businessman who was an associate of Mr Clowes but who had ventures of his own, probably funded with Barlow Clowes investors' money. He instructed ITC to form and administer a number of offshore companies.

6 Between May 1986 and February 1987 ITC dealt with a series of payments from Barlow Clowes to offshore companies which they administered on behalf of Mr Cramer. The Acting Deemster considered ten such transactions, mostly in amounts of between £100,000 and £250,000, but with one payment of £1,137,500, from Barlow Clowes to companies under Mr Cramer's personal control. There was no apparent commercial purpose for these transactions, still less any reason for their being routed through the ITC client account or from one offshore Cramer company to another. Counsel for Barlow Clowes invited the judge to find that even at that stage Mr Henwood and Mr Sebastian must have entertained strong suspicion that the money had been misappropriated and that the services of ITC were being used to conceal its origins. The judge found that Mr Sebastian probably did have suspicions but refused to find that Mr Henwood did so. ITC had a good deal of other business besides that of Mr Cramer. Mr Henwood, she said, was not of a naturally curious

A disposition concerning matters which did not affect him personally and might not have applied his mind to what was happening

7 All this changed in the spring of 1987 when Mr Cramer and Mr Clowes decided to merge their interests by a "reverse takeover" by Barlow Clowes of a listed company called James Ferguson Holdings plc ("JFH") controlled by Mr Cramer. ITC began to provide offshore services for the combined entity and became much more involved in its affairs. On B 2 April 1987 Mr Henwood went to Gibraltar and met Mr Clowes. Later that month, Mr Henwood went to the Bahamas with Mr Cramer and they discussed the possibility of absorbing Mr Henwood's ITC business into the JFH group, providing financial services from the Barlow Clowes offices in Geneva. Mr Henwood saw the possibility of becoming virtually a partner of Mr Clowes and Mr Cramer and began to take a lively interest in their C business. On 5 June 1987 Mr Henwood went with Mr Clowes and Mr Cramer to Geneva to plan the development of the Barlow Clowes business, including the integration of ITC. Mr Henwood learned a great deal about the nature of the Barlow Clowes business and the source of its liquid funds.

8 It was during this summer of 1987 that the two impugned D transactions, referred to by the judge as transactions 11 and 15, took place. The first part of transaction 11 was the payment on 3 March 1987 of £1,886,415 from Barlow Clowes through ITC's client account to a Cramer company called Ryeman Ltd. The money was required to enable Ryeman to put itself forward as a sub-underwriter of a rights offer by JFH which formed part of the reverse takeover by which the Barlow Clowes companies were injected into JFH. The money was not required for sub-underwriting and E remained in the Ryeman account until 8 June 1987 when Mr Henwood authorised the payment of £577,429 for Mr Cramer's personal business. The judge found that by that time Mr Henwood knew enough about the origins of the money to have suspected misappropriation and that he acted dishonestly in assisting in its disposal

9 The first part of transaction 15 was the payment on 22 June 1987 by F Barlow Clowes to Ryeman of £7m in connection with a proposed bid for a brewery company which was being made by Mr Clowes and Mr Cramer. On 7 July 1987 Mr Henwood and Mr Sebastian authorised the transfer of £6m of this money to Mr Cramer's personal account. Here again, the judge held that Mr Henwood was acting dishonestly. In November 1987 Mr Henwood and Mr Sebastian authorised the payment of £205,329 of the remaining transaction 15 money to a company controlled by Mr Clowes G The judge found this also to be dishonest assistance.

10 The judge stated the law in terms largely derived from the advice of the Board given by Lord Nicholls of Birkenhead in *Royal Brunei Airlines Sdn Bhd v Tan* [1995] 2 AC 378. In summary, she said that liability for dishonest assistance requires a dishonest state of mind on the part of the person who assists in a breach of trust. Such a state of mind may consist in H knowledge that the transaction is one in which he cannot honestly participate (for example, a misappropriation of other people's money), or it may consist in suspicion combined with a conscious decision not to make inquiries which might result in knowledge: see *Manifest Shipping Co Ltd v Uni-Polaris Insurance Co Ltd* [2003] 1 AC 469 Although a dishonest state of mind is a subjective mental state, the standard by which the law

determines whether it is dishonest is objective. If by ordinary standards a defendant's mental state would be characterised as dishonest, it is irrelevant that the defendant judges by different standards. The Court of Appeal held this to be a correct state of the law and their Lordships agree.

11 The judge found that during and after June 1987 Mr Henwood strongly suspected that the funds passing through his hands were moneys which Barlow Clowes had received from members of the public who thought that they were subscribing to a scheme of investment in gilt-edged securities. If those suspicions were correct, no honest person could have assisted Mr Clowes and Mr Cramer to dispose of the funds for their personal use. But Mr Henwood consciously decided not to make inquiries because he preferred in his own interest not to run the risk of discovering the truth.

12 Their Lordships consider that by ordinary standards such a state of mind is dishonest. The judge found that Mr Henwood may well have lived by different standards and seen nothing wrong in what he was doing. He had an

> "exaggerated notion of dutiful service to clients, which produced a warped moral approach that it was not improper to treat carrying out clients' instructions as being all important. Mr Henwood may well have thought this to be an honest attitude, but, if so, he was wrong"

13 Lord Neill of Bladen, who appeared for Mr Henwood, submitted to their Lordships that such a state of mind was not dishonest unless Mr Henwood was aware that it would by ordinary standards be regarded as dishonest. Only in such a case could he be said to be *consciously* dishonest. But the judge made no finding about Mr Henwood's opinions about normal standards of honesty. The only finding was that by normal standards he had been dishonest but that his own standard was different.

14 In submitting that an inquiry into the defendant's views about standards of honesty is required, Lord Neill relied upon a statement by Lord Hutton in *Twinsectra Ltd v Yardley* [2002] 2 AC 164, 174, with which the majority of their Lordships agreed:

> "35. There is, in my opinion, a further consideration which supports the view that for liability as an accessory to arise the defendant must himself appreciate that what he was doing was dishonest by the standards of honest and reasonable men. A finding by a judge that a defendant has been dishonest is a grave finding, and it is particularly grave against a professional man, such as a solicitor. Notwithstanding that the issue arises in equity law and not in a criminal context, I think that it would be less than just for the law to permit a finding that a defendant had been 'dishonest' in assisting in a breach of trust where he knew of the facts which created the trust and its breach but had not been aware that what he was doing would be regarded by honest men as being dishonest.
>
> "36 . . . I consider that the courts should continue to apply that test and that your Lordships should state that dishonesty requires knowledge by the defendant that what he was doing would be regarded as dishonest by honest people, although he should not escape a finding of dishonesty because he sets his own standards of honesty and does not regard as dishonest what he knows would offend the normally accepted standards of honest conduct"

A 15 Their Lordships accept that there is an element of ambiguity in these remarks which may have encouraged a belief, expressed in some academic writing, that the *Twinsectra* case had departed from the law as previously understood and invited inquiry not merely into the defendant's mental state about the nature of the transaction in which he was participating but also into his views about generally acceptable standards of honesty. But they do
B not consider that this is what Lord Hutton meant. The reference to "what he knows would offend normally accepted standards of honest conduct" meant only that his knowledge of the transaction had to be such as to render his participation contrary to normally acceptable standards of honest conduct. It did not require that he should have had reflections about what those normally acceptable standards were.

16 Similarly in the speech of Lord Hoffmann, the statement (in para 20)
C that a dishonest state of mind meant "consciousness that one is transgressing ordinary standards of honest behaviour" was in their Lordships' view intended to require consciousness of those elements of the transaction which make participation transgress ordinary standards of honest behaviour. It did not also require him to have thought about what those standards were.

17 On the facts of the *Twinsectra* case, neither the judge who acquitted
D Mr Leach of dishonesty nor the House undertook any inquiry into the views of the defendant solicitor, Mr Leach, about ordinary standards of honest behaviour. He had received on behalf of his client a payment from another solicitor whom he knew had given an undertaking to pay it to Mr Leach's client only for a particular use. But the other solicitor had paid the money to Mr Leach without requiring any undertaking The judge found that he was
E not dishonest because he honestly believed that the undertaking did not, so to speak, run with the money and that, as between him and his client, he held it for his client unconditionally. He was therefore bound to pay it upon his client's instructions without restriction on its use. The majority in the House of Lords considered that a solicitor who held this view of the law, even though he knew all the facts, was not by normal standards dishonest.

18 Their Lordships therefore reject Lord Neill's submission that the
F judge failed to apply the principles of liability for dishonest assistance which had been laid down in the *Twinsectra* case. In their opinion they were no different from the principles stated in *Royal Brunei Airlines Sdn Bhd v Tan* [1995] 2 AC 378 which were correctly summarised by the judge.

19 Their Lordships now address the grounds upon which the Staff of Government Division allowed Mr Henwood's appeal Having set out the
G Acting Deemster's findings at some length, they said that she could not have held Mr Henwood liable unless she could find that he had "solid grounds for suspicion, which he consciously ignored, that the disposals in which Mr Henwood participated involved dealings with misappropriated trust funds".

20 Their Lordships think that, on the facts of this case, this was a substantially accurate way of putting the matter, although they will return to
H the question of whether Mr Henwood needed to have had any knowledge or suspicions about the precise terms on which the misappropriated moneys were held. The question for the Staff of Government Division was therefore whether there was evidence upon which the Acting Deemster could make her finding that he had the necessary state of mind

21 The court referred to the judge's findings that Mr Henwood had been made fully aware of the nature of Barlow Clowes's business by his visits to Gibraltar and Geneva, that he knew that over £1m had been "propelled" through an offshore shell company controlled by Mr Cramer in three tranches between 5 and 14 May 1987 and that in consequence of the talks about merging ITC into the Clowes/Cramer group, Mr Henwood had begun to wonder where all Mr Cramer's money came from. She concluded that

> "it did come home to Mr Henwood during this period that there must be some real possibility that the moneys which Mr Cramer was putting through ITC, emanating as he knew from Barlow Clowes, could well be gilt investors' money."

22 Another matter which the judge took into account was Mr Henwood's knowledge of previous dishonesty by Mr Cramer. No sooner had he become a client of ITC in 1985 than he enlisted their support (which was willingly given) in a fraudulent scheme to pretend that a company he controlled had entered into leases at substantial rents with independent tenants. The charade even included Mr Cramer (through ITC) placing advertisements in the "Financial Times" and answering them himself in the guise of a different company. The sub-underwriting agreement which led to the transaction in payment of £1,886,415 to Ryeman had also involved a pretence, which Mr Henwood knew to have been dishonest, that Ryeman was independent of Mr Cramer and Barlow Clowes.

23 Finally, the judge had regard to the lies which Mr Henwood told in evidence. In flat contradiction to what he had said on previous occasions, he denied that he had had any knowledge of the Barlow Clowes business or the money-laundering transactions which passed through ITC and the companies it was administering. With conspicuous fairness the judge noted that people sometimes tell lies for reasons other than a belief that they are necessary to conceal guilt: compare *R v Lucas (Ruth)* [1981] QB 720. She said of Mr Henwood's denial that he knew about the nature of the Barlow Clowes business:

> "This is quite obviously a lie, and it is so desperate a lie, that I ask myself why he should resort to it. It *could* be that when he learned about the nature of Barlow Clowes's business he was not prompted to be suspicious, and he is now lying out of fear that this would not be believed—or it could be that he did become suspicious and he is lying in such an extreme way because he does not think that merely denying that he drew suspicious conclusions is a credible position. This could only be because he himself would not think it potentially credible. Given that there is some evidence that Mr Henwood was, indeed, beginning to question the source of Mr Cramer's supposed wealth, I find that the latter is the more likely explanation. I think Mr Henwood lied about actually gaining knowledge of Barlow Clowes's business at this time precisely because such knowledge caused him to ask himself questions which he now realises are damning."

24 The Staff of Government Division dealt with this mass of evidence by saying:

A "The evidential basis for [the finding of suspicions which were consciously ignored] therefore wholly stems from the Acting Deemster's legitimate disbelief of much of Mr Henwood's oral testimony coupled with the inferences she draws from it. These are that he knew the money came from members of the Barlow Clowes group and because he knew the money came from this source and the general nature of the group's B business he must, as a matter of objective assessment, also have appreciated that the disposals were of money which had been misappropriated in breach of trust."

25 This is, with all respect, a travesty of the judge's findings. Her findings did not stem wholly from her disbelief of Mr Henwood's evidence. The appellate court had itself recounted the other matters upon which the C judge relied and which have been summarised above She did not say that "as a matter of objective assessment" Mr Henwood must have appreciated that the disposals were of misappropriated money. She said that as matter of Mr Henwood's subjective state of mind, he suspected this to have been the case.

26 The court went on to say that the judge's reasoning displayed the dangers of "drawing inferences from inferences", a process which they had D earlier said was "notoriously productive of injustice". Their Lordships have some difficulty in understanding what this means. Mr Henwood's various subjective states of mind—whether or not he suspected misappropriation and whether he consciously decided not to ask questions about the transactions in which he was assisting—were facts. Since there is no window into another mind, the only way to form a view on these matters is to draw E inferences from what Mr Henwood knew, said and did, both then and later, including what he said in evidence. That is what the judge did and it is hard to see what other method could have been adopted. The Acting Deemster, who had seen Mr Henwood giving evidence for six days, was in a far better position than the Staff of Government Division to arrive at the right answer.

27 The appellate court then went on to say that because Mr Henwood knew the general nature of the businesses of the members of the Barlow F Clowes group, it was not a necessary inference that he would have concluded that the disposals were of moneys held in trust. That was because there was no evidence that Mr Henwood

"knew anything about, for example, the actual conduct of the businesses of members of the Barlow Clowes group, the contractual arrangements made with investors, the mechanisms for management of G funds under the group's control, the investment and distribution policies and the precise involvement of Mr Cramer in the group's affairs."

28 Their Lordships consider that this passage displays two errors of law. First, it was not necessary (as the Staff of Government Division had themselves said earlier in the judgment) that Mr Henwood should have concluded that the disposals were of moneys held in trust. It was sufficient H that he should have entertained a clear suspicion that this was the case. Secondly, it is quite unreal to suppose that Mr Henwood needed to know all the details to which the court referred before he had grounds to suspect that Mr Clowes and Mr Cramer were misappropriating their investors' money. The money in Barlow Clowes was either held on trust for the investors or

else belonged to the company and was subject to fiduciary duties on the part of the directors. In either case, Mr Clowes and Mr Cramer could not have been entitled to make free with it as they pleased. In *Brinks Ltd v Abu-Saleh* [1996] CLC 133, 151 Rimer J expressed the opinion that a person cannot be liable for dishonest assistance in a breach of trust unless he knows of the existence of the trust or at least the facts giving rise to the trust. But their Lordships do not agree. Someone can know, and can certainly suspect, that he is assisting in a misappropriation of money without knowing that the money is held on trust or what a trust means: see the *Twinsectra* case [2002] 2 AC 164, para 19 (Lord Hoffmann) and para 135 (Lord Millett). And it was not necessary to know the "precise involvement" of Mr Cramer in the group's affairs in order to suspect that neither he nor anyone else had the right to use Barlow Clowes money for speculative investments of their own

29 Their Lordships accordingly consider that there was abundant evidence on which the judge was entitled to make the findings of fact which she did about the disposal of £577,429 of the transaction 11 money on 8 June 1987. The Staff of Government Division should not have set them aside.

30 By the time of the later transactions, Mr Henwood had even more reason to be suspicious. In particular, he had been told on 2 July 1987 by two employees in the Geneva office that Mr Clowes and Mr Cramer were misappropriating clients' money. Mr Clowes had subsequently persuaded the employees to say that they had been misunderstood, but Mr Henwood knew he had understood them perfectly well. The Staff of Government Division nevertheless found that even in these circumstances, the judge was not entitled to find that he must have entertained suspicions which he chose not to investigate. They said that he might have thought his suspicions would somehow be disabused or that he might have relied upon the word of Mr Clowes that all was well.

31 The difficulty about this reasoning is that Mr Henwood never said in evidence that he thought his suspicions might be disabused or that he had made inquiries of Mr Clowes and been given a reassuring answer. Mr Henwood's evidence, which the judge found to be untruthful, was that he knew nothing and had no reason to suspect anything. A state of mind in which suspicion had been allayed was entirely the invention of the Staff of Government Division. There was no evidence that Mr Henwood had tried to seek any explanation whatever and their Lordships consider that the judge was fully justified in concluding that this was the result of a deliberate and dishonest decision

32 Their Lordships will therefore humbly advise Her Majesty that the appeal should be allowed and the decision of the Acting Deemster restored. Mr Henwood must pay the appellants' costs in the Staff of Government Division and before their Lordships' Board.

Solicitors: Clifford Chance LLP; Alan Taylor & Co.

M F