

## BERMUDA SUPREME COURT

### ***In The Matter of a Trust (Survival Of Overriding Power Of Appointment Despite Vesting Of Beneficial Interests) [2017] SC (Bda) 41 Civ (26 May 2017)***

TRUST- CONSTRUCTION - WHETHER VESTING OF  
BENEFICIARIES' INTERESTS EXTINGUISHES  
OVERRIDING POWER OF APPOINTMENT

By an Originating Summons, the Trustee sought an Order disapplying the perpetuity rule pursuant to Section 4 of the *Perpetuities and Accumulation Act, 2009* and extending the duration of a Trust by 1000 years. Although the application was unopposed, Gilead Cooper, QC, provided an Opinion which made certain submissions that were adopted by Counsel for the Plaintiff Trustee.

The primary question for the Court's consideration was where a beneficiary's interest had vested, did the power of appointment in respect of that interest cease to exist? Following an analysis of the relevant clauses in the Trust deed, the Opinion of leading counsel and the main persuasive authority on the point (*Howell & Others -v- Lees-Millais & Others* [2009] EWHC 1754 (Ch)), the Court was satisfied that in this instance the overriding power of appointment did survive any vesting of capital and income.

Conyers Dill & Pearman is a leading international law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands and Mauritius. Conyers has over 130 lawyers in eight offices worldwide and is affiliated with the Conyers Client Services group of companies which provide corporate administration, secretarial, trust and management services.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.